

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION OF THE THIRTY-EIGHTH CONGRESS:

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

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BY F. & J. RIVES.

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# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

TUESDAY, DECEMBER 13, 1864.

NEW SERIES, No. 1.

THIS is the first number of THE CONGRESSIONAL GLOBE for this session—the second of the Thirty-Eighth Congress. It is stereotyped, and therefore the back numbers can be supplied at any time. Missing numbers, containing sixteen pages, will be sent to subscribers at five cents a number.

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## THIRTY-EIGHTH CONGRESS. SECOND SESSION.

### IN SENATE.

MONDAY, December 5, 1864.

The Senate commenced the second session of the Thirty-Eighth Congress this day, pursuant to the Constitution.

#### SENATORS PRESENT.

The following Senators were present. From the State of  
*Maine*—Hon. Lot M. Morrill.  
*New Hampshire*—Hon. Daniel Clark.  
*Vermont*—Hon. Solomon Foot and Hon. Jacob Collamer.  
*Massachusetts*—Hon. Charles Sumner and Hon. Henry Wilson.  
*Rhode Island*—Hon. Henry B. Anthony.  
*Connecticut*—Hon. Lafayette S. Foster and Hon. James Dixon.  
*New York*—Hon. Ira Harris and Hon. Edwin D. Morgan.  
*New Jersey*—Hon. John C. Ten Eyck.  
*Pennsylvania*—Hon. Edgar Cowan.  
*Maryland*—Hon. Reverdy Johnson and Hon. Thomas H. Hicks.  
*Kentucky*—Hon. Lazarus W. Powell and Hon. Garrett Davis.  
*Ohio*—Hon. Benjamin F. Wade and Hon. John Sherman.  
*Indiana*—Hon. Henry S. Lane and Hon. Thomas A. Hendricks.  
*Illinois*—Hon. Lyman Trumbull.  
*Michigan*—Hon. Zachariah Chandler.  
*Missouri*—Hon. John B. Henderson.  
*Wisconsin*—Hon. James R. Doolittle and Hon. Timothy O. Howe.  
*Iowa*—Hon. James W. Grimes.  
*Minnesota*—Hon. Morton S. Wilkinson and Hon. Alexander Ramsey.  
*California*—Hon. James A. McDougall and Hon. John Conness.  
*Oregon*—Hon. James W. Nesmith and Hon. Benjamin F. Harding.  
*Kansas*—Hon. Samuel C. Pomeroy and Hon. James H. Lane.  
*West Virginia*—Hon. Waitman T. Willey and Hon. Peter G. Van Winkle.

#### SENATORS ABSENT.

The following Senators were absent:  
 Mr. Hale, Mr. Sprague, Mr. Wright, Mr. Buckalew, Mr. Harlan, Mr. Saulsbury, Mr. Riddle, Mr. Carlile, Mr. Richardson, Mr. Howard, and Mr. Brown.  
 Hon. DANIEL CLARK, President *pro tempore*, a quorum of Senators being present, called the Senate to order at twelve o'clock, m.  
 Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

#### NOTIFICATION TO THE HOUSE.

On motion of Mr. FOOT, it was

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

#### CREDENTIALS.

Mr. MORRILL presented the credentials of Hon. NATHAN A. FARWELL, appointed a Senator of the United States by the Governor of the State of Maine, to fill, until the next session of the Legislature of that State, the vacancy occa-

sioned by the resignation of Hon. William Pitt Fessenden.

The credentials were read, and the oaths prescribed by law were administered to Mr. FARWELL, and he took his seat in the Senate.

#### HOOR OF MEETING.

On motion of Mr. FOOT, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock, m., until otherwise ordered.

#### ORGANIZATION OF THE HOUSE.

EDWARD McPHERSON, Esq., Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. PRESIDENT: I have been directed to inform the Senate that a quorum of the House of Representatives has assembled, and that the House is now ready to proceed to business.

The House has passed a resolution directing the appointment of a committee on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make; and has appointed Mr. E. B. WASHBURN of Illinois, Mr. GEORGE H. PENDLETON of Ohio, and Mr. REUBEN E. FENTON of New York, the committee on the part of the House.

#### NOTIFICATION TO THE PRESIDENT.

On motion of Mr. FOOT, it was

Resolved, That a committee, consisting of three members, be appointed to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States and inform him that a quorum of each House has assembled and that Congress is ready to receive any communication he may be pleased to make.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee; and Messrs. FOOT, CONNESS, and HENDRICKS were appointed.

#### BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 350) to authorize the purchase or construction of revenue cutters on the lakes; which was read twice by its title, and ordered to lie on the table.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 351) for the relief of the officers and soldiers of the militia of the States of Kansas and Missouri, in repelling the late invasion of those States by the rebel forces under General Sterling Price, and for other purposes; which was read twice by its title, and ordered to lie on the table and be printed.

#### PRESIDENT'S MESSAGE.

Mr. FOSTER, (at thirty-five minutes past twelve o'clock.) I move that the Senate take a recess until half past one o'clock.

Mr. POWELL. I should like to inquire of the Senator from Connecticut if he expects the President's message to come in to-day. If he does, it would be very well to take the recess; but if the message is not coming in until to-morrow we may as well adjourn.

Mr. FOSTER. I suppose no answer can be given until the committee return. I think it would be proper for us to be in session in order to receive the report of the committee, who will be back within an hour, I suppose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Connecticut. The motion was agreed to.

The PRESIDENT *pro tempore* again took the chair at half past one o'clock.

On motion of Mr. SUMNER, the Senate then adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 5, 1864.

In conformity to the Constitution the Thirty-Eighth Congress of the United States of America convened this day in its second session. At twelve o'clock, m., Hon. SCHUYLER COLFAX, the Speaker of the House of Representatives, a mem-

ber from the State of Indiana, called the House to order.

Rev. W. H. CHANNING, the Chaplain, then offered up prayer in these words:

Lord God omnipotent, Creator of the universe, Father of spirits, pour Thy blessing upon us, for we seek to enter Thy presence with praise and thanksgiving. O Giver of all good gifts, thanks for the bountiful mercies that were poured abroad through all the loyal States of this Union since last we assembled in these Halls. Thanks for health within our habitations and prosperity within our borders. Thanks for the rich profits of the harvest-fields and orchards, for workshops resounding with the cheerful notes of industry, and for wealth flowing free into the marts of commerce. Thanks that Thou hast enabled the nation to preserve peace with other nations, to establish the public dignity and honor of this free Republic, and for the proof which Thou hast given of the singleness of the will of this people to preserve its institutions in perpetuity. Thanks that Thou hast guarded our cities and our villages from destructive raids and invasion, from the torch of the incendiary, from the passions let loose by domestic traitors. Thanks that Thou hast been with our armies and navies, and crowned their heroic efforts with triumph. Thanks for the nation's life preserved, replenished, full of vital vigor to-day.

And now, O Giver of all good gifts, we implore Thy presence and the fullness of Thy blessing upon our beloved nation. Be with our soldiers be with our sailors everywhere they are under Thy providence seeking to guard our frontiers. Penetrate and encircle the rebellion and manifest the indomitable power of a free people trusting in Thy providence to restore and save to the uttermost.

Be, we pray Thee, with Thy servants here gathered in both Houses of legislation. Replenish them with wisdom from on high that they may crown a work so well begun by restoring this nation's life in purifying the bond of our constitutional Union from those seeds of death which have so long corrupted it and hindered its full free growth to symmetric power.

Be, we pray Thee, with him whom Thou hast, acting through the people's will, once more summoned to exercise the executive power of this nation; that, reinvigorated and re-inspired by these marks of confidence, he and his Cabinet may press straight onward to the grand duty that Thou hast imposed, the reestablishment of liberty and law throughout the domains of the Republic intrusted by Providence to our ancestors.

O Thou who hast, through Thy beloved Son, promised to all upon earth the kingdom of heaven, come down, Ancient of days, reign over us, hear us for Thy mercy's sake. Amen.

#### CALL OF THE ROLL.

The Clerk then called the roll, and the following Members and Delegates answered to their names:

#### MAINE.

Lorenzo D. M. Sweat,	John H. Rice,
Sidney Perham,	Frederick A. Pike.
James G. Blaine,	

#### NEW HAMPSHIRE.

Daniel Marcy,	James W. Patterson.
Edward H. Rollins,	

#### VERMONT.

Justin S. Morrill,	Portus Baxter.
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#### MASSACHUSETTS.

Thomas D. Eliot,	George S. Boutwell,
Oakes Ames,	John D. Baldwin,
Alexander H. Rice,	William B. Washburn,
Samuel Hooper,	Henry L. Dawes.

#### RHODE ISLAND.

Thomas A. Jenckes,	Nathan F. Dixon.
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#### CONNECTICUT.

Henry C. Deming,	John H. Hubbard.
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## NEW YORK.

Dwight Townsend,  
Martin Kalbfleisch,  
Moses F. Odell,  
Fernando Wood,  
Elijah Ward,  
John W. Chanler,  
James Brooks,  
Anson Herrick,  
William Radford,  
John B. Steele,

## NEW JERSEY.

John F. Starr,  
George Middleton,  
Andrew J. Rogers,  
Nehemiah Perry.

## PENNSYLVANIA.

Charles O'Neill,  
Leonard Myers,  
William D. Kelley,  
John D. Stiles,  
John M. Broomall,  
Sydenham E. Ancona,  
Thaddeus Stevens,  
Myer Strouse,  
Charles Denison,  
Henry W. Tracy,  
William H. Miller,  
Joseph Bailey,  
Alexander H. Croftroth,  
Glenn W. Scofield,  
John L. Dawson,  
James K. Moorhead,  
Thomas Williams.

## DELAWARE.

Nathaniel B. Smithers.

## MARYLAND.

Henry Winter Davis.

## OHIO.

George H. Pendleton,  
Robert C. Schenck,  
Francis C. LeBlond,  
Samuel S. Cox,  
Warren P. Noble,  
James M. Ashley,  
William E. Fluck,  
John O'Neill,  
George Bliss,  
James R. Morris,  
Ephraim R. Eckley,  
Rufus P. Spalding,  
James A. Garfield.

## KENTUCKY.

Lucien Anderson,  
George H. Yeaman,  
William H. Randall.

## INDIANA.

John Law,  
Henry W. Harrington,  
William S. Holman,  
George W. Julian,  
Godlove S. Orth,  
Schuyler Colfax.

## ILLINOIS.

Isaac N. Arnold,  
John F. Farnsworth,  
Elihu B. Washburne,  
Ebon C. Ingersoll,  
Jesse O. Norton,  
John R. Eden,  
William R. Morrison.

## MISSOURI.

Henry T. Blow,  
John G. Scott,  
Semprouns H. Boyd,  
Benjamin F. Loan.

## MICHIGAN.

Fernando C. Beaman,  
Charles Upson,  
John W. Longyear,  
Francis W. Kellogg,  
Augustus C. Baldwin.

## IOWA.

James F. Wilson,  
Hiram Price,  
William B. Allison,  
Josiah B. Grinnell,  
John A. Kasson,  
Asahel W. Hubbard.

## WISCONSIN.

James S. Brown,  
Ithamar C. Sloan,  
Amasa Cobb,  
Ezra Wheeler.

## CALIFORNIA.

Thomas B. Shannon,  
Cornelius Cole.

## MINNESOTA.

William Windom,  
Ignatius Donnelly.

## OREGON.

John R. McBride,  
A. Carter Wilder.

## WEST VIRGINIA.

Jacob B. Blair,  
Kellian V. Whaley.

## NEW MEXICO.

Francisco Perca,  
John F. Kinney.

## WASHINGTON.

George E. Cole,  
Hiram P. Bennett.

During the call,  
Mr. BROWN, of Wisconsin, stated that his colleague, Mr. ELDRIDGE, was detained at home by sickness.

Mr. MILLER, of Pennsylvania, stated that his colleagues, Messrs. RANDALL and THAYER, were paired.

The SPEAKER stated that one hundred and twenty members had answered to their names—more than a quorum—and that the House was ready to proceed to the transaction of business.

Mr. WASHBURNE, of Illinois, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk inform the Senate that a quorum of the House of Representatives has assembled, and that the House is ready to proceed to business.

## MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that a quorum of that body had assembled, and was ready to proceed with the business of the session.

## COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. WASHBURNE, of Illinois, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make.

The SPEAKER appointed Messrs. WASHBURNE of Illinois, PENDLETON, and FENTON as such committee on the part of the House.

## NEW MEMBERS.

Mr. ODELL announced that Hon. DWIGHT TOWNSEND, a member-elect from the first district of New York, to fill the vacancy occasioned by the resignation of Hon. Henry G. Stebbins, was present, and desired to be sworn in.

Mr. TOWNSEND presented himself at the Speaker's desk, and was sworn in.

Mr. PEREA announced that Hon. CHARLES D. POSTON, Delegate-elect from the Territory of Arizona, was present, and desired to be sworn in.

Mr. POSTON presented himself at the Speaker's desk, and was sworn in.

## REPRESENTATIVES FROM LOUISIANA.

The SPEAKER, by unanimous consent, laid before the House the credentials of W. D. MANN, T. M. WELLS, ROBERT W. TALIAFERRO, A. P. FIELD, and M. F. BONZANO, claiming seats as Representatives from the State of Louisiana, which were read and referred to the Committee of Elections.

Mr. DAWES. I now offer the customary resolution, that the gentlemen claiming seats as members from Louisiana be entitled to occupy seats upon the floor, and to speak to the merits of their claim to seats in this body. It is the ordinary resolution.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman that he modify his resolution so as to provide that they shall be entitled to the privileges of the floor.

Mr. DAWES. Such claimants have always been permitted to occupy seats and speak to the merits of the questions.

Mr. SCHENCK. I move to modify the resolution by inserting the words "when the report shall be made from the Committee of Elections."

Mr. WASHBURNE, of Illinois. I move, as a substitute for both propositions, that those gentlemen be granted the privileges of the Hall.

Mr. SCHENCK. I withdraw my amendment.  
Mr. DAWES. I accept the substitute, and ask a vote on it.

The resolution, as modified, was agreed to.

## LAWS OF THE TERRITORIES.

The SPEAKER, by unanimous consent, laid before the House the laws of the Territories of Washington, Nevada, and Nebraska; which were severally referred to the Committee on Territories.

## BILLS ON LEAVE, ETC.

The SPEAKER proceeded, as the next order of business, to call the States for bills on leave. No bills being offered, the States were next called for resolutions.

## DRAWING SEATS.

Mr. ELIOT introduced the following resolution, and demanded the previous question:

*Resolved*, That the Clerk of the House do now place in a box the name of each Member and Delegate of the House of Representatives written on a piece of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

Mr. COX. I move to lay the resolution on the table.

Mr. WASHBURNE, of Illinois. I think that

last session we drew seats for the whole Congress.

The SPEAKER. The Clerk will read the resolution of last session.

The Clerk read the resolution, as follows:

*Resolved*, That the Clerk of the House do now place in a box the name of each Member and Delegate of the House of Representatives, written on a piece of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

Mr. ELIOT. I would like to say a word.

The SPEAKER. No debate is in order except by unanimous consent.

Mr. ELIOT. That rule expired with the last session of Congress.

The SPEAKER. Objection is made, and remarks are not in order.

Mr. STEVENS. I hope the gentleman from Ohio will withdraw his motion and move to postpone the resolution until the first Monday of December next, when it will evidently be in order.

Mr. COX. I have no objection to that, as I do not expect to take a seat at that time. I will make that motion.

Mr. ELIOT. I rise to a question of order. I think it is a question of order to inquire of the Chair whether it has not been, with one exception, the practice for many years to draw seats at the commencement of each session. There has been one exception since I have been in Congress, and only one.

I think that gentlemen who have, during the long session, been on the outside away from the eye of the Speaker, have a fair right now to be within the Speaker's reach.

The SPEAKER. The Chair overrules the point of order, and thinks it is in the nature of debate.

Mr. A. W. CLARK. I renew the motion to lay on the table.

Mr. ELIOT. On that I demand the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to; and the resolution was laid on the table.

## AMENDMENT OF THE CONSTITUTION.

Mr. DAVIS, of Maryland. I offer the following resolution, and ask its reference to the Committee on the Judiciary:

*Resolved*, That the Judiciary Committee be instructed to report a bill for the amendment of the Constitution, providing that so much of the ninth section of the first article of the Constitution as declares that no tax or duty shall be laid on articles exported from any State be, and the same is hereby, annulled.

Mr. MORRILL. I hope the gentleman from Maryland will allow that resolution to be referred to the Committee of Ways and Means. It certainly is a subject over which that committee ought to have jurisdiction. I had already prepared a resolution upon that subject. I think the Committee of Ways and Means are prepared to consider it.

Mr. DAVIS, of Maryland. I have no objection to that reference, and I demand the previous question on the resolution.

Mr. STEVENS. I understand the gentleman to have modified the resolution.

Mr. DAVIS, of Maryland. I have done so so as to substitute the Committee of Ways and Means for the Committee on the Judiciary.

The previous question was seconded, and the main question ordered, and under the operation thereof the resolution was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the following resolution:

*Resolved*, That a committee consisting of three members be appointed to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled and that Congress is ready to receive any communication he may be pleased to make.

*Ordered*, That Mr. FOOT, Mr. CONNESS, and Mr. HENRICKS be the committee on the part of the Senate.

## REPRESENTATION OF LOUISIANA.

Mr. DAVIS, of Maryland. I suppose it is in order under this call to present a petition. I am



desired by certain citizens of Louisiana to present a petition protesting against the reception of the Representatives from that State whose credentials were presented this morning. I move that it be referred to the Committee of Elections, to whom the application presented this morning was properly referred.

The motion was agreed to, and the petition was referred accordingly.

#### EXCHANGE OF PRISONERS.

Mr. PENDLETON. I offer the following resolution:

*Resolved*, That the President of the United States be requested to communicate to this House, if not incompatible with the public interest, the report made by Colonel Thomas M. Key of an interview between himself and General Howell Cobb on the 14th day of June, 1862, on the bank of the Chickahominy, by authority of the War Department, on the subject of the exchange of prisoners of war.

The SPEAKER. This being a call for executive information, unanimous consent is required to consider it on this day.

Mr. WASHBURN, of Illinois. I object.

The SPEAKER. The resolution then lies over one day under the rule.

#### TARIFF AMENDMENT.

Mr. COX. I offer the following resolution, upon which I demand the previous question:

*Resolved*, That to lessen the cost of the necessities of life, the tariff upon coffee, sugar, tea, and similar articles should be reduced either by the payment of all customs in the paper currency of the Government instead of gold, or by a modification of the tariff so that an *ad valorem* and not a specific duty be laid upon said articles, and that the Committee of Ways and Means be requested to consider the above proposition with a view to legislative action.

Mr. STEVENS. Do I understand that this is a reference simply to the committee? Because the resolution seems in the first place to affirm a proposition. If the gentleman will modify it so as to say "that the Committee of Ways and Means be instructed to inquire into the expediency," &c., I shall have no objection to it.

Mr. COX. The design of the resolution is to refer this proposition to the committee for their consideration, and with a view to report a bill if they think favorably of the proposition.

Mr. STEVENS. The first part of the resolution affirms that this ought to be done. I think the resolution should be modified a little.

Mr. COX. I will modify the resolution in any way the gentleman suggests. I should be very glad to have his aid in the matter.

Mr. STEVENS. I move, then, to modify it so as to say "that the Committee of Ways and Means inquire into the expediency," &c.

Mr. COX. I have no objection to that. I will put the resolution in such shape as the gentleman suggests.

Mr. STEVENS. Let what I suggest precede the affirmation of the resolution.

Mr. COX. Yes, sir.

Mr. DAWES. I would like to hear the resolution read as modified.

The modified resolution was read, as follows:

*Resolved*, That the Committee of Ways and Means be instructed, with a view to lessen the cost of the necessities of life, to inquire into the expediency of reducing the tariff upon coffee, sugar, tea, and similar articles, either by the payment of all customs in the paper currency of the Government instead of gold, or by a modification of the tariff, so that an *ad valorem* and not a specific duty be laid upon said articles.

Mr. DAWES. I move to lay the resolution on the table.

Mr. COX. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 48, not voting 70; as follows:

YEAS—Messrs. Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Broomall, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Nixon, Donnelly, Eckley, Eliot, Farnsworth, Frank, Garfield, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, McBride, Samuel F. Miller, Moorhead, Morrill, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, William H. Randall, Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Spalding, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, and Wilder—64.

NAYS—Messrs. Allison, Ancona, Augustus C. Baldwin, Blair, Bliss, Boyd, Brooks, James S. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Coffroth, Cox, Dawson, Denison, Eden, Finck, Holman, Kalfleisch, Law, Le

Blond, Loan, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Price, Pruyn, Radford, John H. Rice, Rogers, Smithers, Stiles, Strouse, Sweet, Townsend, Ward, Whaley, Wilson, Windom, Fernando Wood, and Yeaman—48.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Blow, Brandegee, William G. Brown, Clay, Cravens, Creswell, Driggs, Dumont, Edgerton, Eldridge, English, Fenton, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herick, Higby, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Knox, Lazear, Littlejohn, Long, Mallory, Marvin, McAllister, McClurg, McDowell, McIndoe, McKinney, Daniel Morris, Amos Myers, Nelson, Pike, Pomeroy, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scofield, Scott, Smith, John B. Steele, William G. Steele, Stuart, Thayer, Thomas, Tracy, Voorhees, Wadsworth, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Woodbridge—70.

So the resolution was laid on the table.

During the vote,

Mr. L. MYERS stated that his colleague, Mr. THAYER, was detained at home in consequence of a death in his family, and was paired off with his colleague, Mr. RANDALL.

#### THE NATIONAL DEBT.

Mr. MORRILL offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of providing a sinking fund, at an early day, for the gradual extinguishment of the national debt.

#### TAXATION OF DOMESTIC LIQUORS.

Mr. WASHBURN, of Illinois, offered the following resolution, and moved the previous question on its adoption:

*Resolved*, That in any amendments to the revenue bill to be reported from the Committee of Ways and Means, the said committee is hereby instructed to incorporate a provision to tax all stocks of domestic liquors on hand.

Mr. MORRILL. I should have supposed that that subject was laid at rest last session. I move to lay the resolution on the table.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 63, not voting 72; as follows:

YEAS—Messrs. Ancona, Ashley, Bailey, Bliss, Blow, Boyd, Brooks, Broomall, Freeman Clarke, Henry Winter Davis, Thomas T. Davis, Denison, Finck, Holman, Hooper, Ingersoll, Kelley, LeBlond, Loan, Marcy, McBride, Middleton, Morrill, James L. Morris, Leonard Myers, Noble, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Perry, Pruyn, Alexander H. Rice, Schenck, Scott, Shannon, Smithers, Starr, Stevens, Stiles, Strouse, Townsend, Van Valkenburgh, Ward, Wheeler, and Wilder—47.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, James S. Brown, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Dawes, Dawson, Denning, Dixon, Donnelly, Eckley, Eden, Eliot, Farnsworth, Frank, Garfield, Grinnell, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kalfleisch, Francis W. Kellogg, Orlando Kellogg, Law, Longyear, Samuel F. Miller, Moorhead, Morrison, Norton, Perham, Pike, Price, Radford, William H. Randall, John H. Rice, Rogers, Edward H. Rollins, Scofield, Sloan, Spalding, John B. Steele, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilson, Windom, Fernando Wood, and Yeaman—63.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Blaine, Brandegee, William G. Brown, Clay, Cox, Cravens, Creswell, Driggs, Dumont, Edgerton, Eldridge, English, Fenton, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herick, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kasson, Kernan, King, Knapp, Knox, Lazear, Littlejohn, Long, Mallory, Marvin, McAllister, McClurg, McDowell, McIndoe, McKinney, William H. Miller, Daniel Morris, Amos Myers, Nelson, Patterson, Pomeroy, Samuel J. Randall, Robinson, James S. Rollins, Ross, Smith, William G. Steele, Stuart, Sweet, Thayer, Thomas, Tracy, Voorhees, Wadsworth, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Woodbridge—72.

So the House refused to lay the resolution on the table.

The question recurred on seconding the demand for the previous question.

Mr. MORRILL. I appeal to my friend from Illinois [Mr. WASHBURN] to postpone any action on this question until we shall receive the reports of the Secretary of the Treasury and the Commissioner of Internal Revenue. I think it would be altogether more courteous to them to do so. There is no need of any hurry in the matter.

Mr. WASHBURN, of Illinois. I think the Representatives of the people are prepared to judge of this matter for themselves. I therefore decline to accept the suggestion. I demand tellers upon seconding the demand for the previous question.

Tellers were ordered; and Messrs. WASHBURN of Illinois, and Cox, were appointed.

The House divided; and the tellers reported—ayes 48, noes 45.

The main question was then ordered.

Mr. COX. Would it be in order to move to refer the resolution to a committee?

The SPEAKER. The motion to refer is not now in order.

The question being upon the adoption of the resolution,

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I desire to say that I am going to the President on a committee, and that the gentleman from Ohio [Mr. PENDLETON] and myself have paired off on the question of the passage of this resolution.

The question was taken; and it was decided in the affirmative—yeas 53, nays 51, not voting 78; as follows:

YEAS—Messrs. Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Blair, Boutwell, James S. Brown, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Dawes, Dawson, Denning, Dixon, Donnelly, Eckley, Eden, Eliot, Farnsworth, Frank, Grinnell, John H. Hubbard, Hulburd, Jenckes, Julian, Kalfleisch, Francis W. Kellogg, Samuel F. Miller, Moorhead, Morrison, Norton, Odell, Perham, Pike, Price, Radford, William H. Randall, John H. Rice, Edward H. Rollins, Scofield, Sloan, Spalding, John B. Steele, Tracy, Upson, William B. Washburn, Williams, Wilson, Windom, and Fernando Wood—53.

NAYS—Messrs. Ancona, Ashley, Baxter, Blaine, Bliss, Blow, Brooks, Broomall, Cox, Henry Winter Davis, Thomas T. Davis, Denison, Finck, Garfield, Harrington, Holman, Hooper, Asahel W. Hubbard, Ingersoll, Kelley, Law, Le Blond, Longyear, Marcy, McBride, Middleton, Morrill, James R. Morris, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Perry, Pruyn, Alexander H. Rice, Schenck, Scott, Shannon, Smithers, Starr, Stevens, Stiles, Strouse, Townsend, Van Valkenburgh, Ward, Whaley, Wheeler, and Wilder—51.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Bailey, Boyd, Brandegee, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Driggs, Dumont, Edgerton, Eldridge, English, Fenton, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herick, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kasson, Orlando Kellogg, Kernan, King, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Mallory, Marvin, McAllister, McClurg, McDowell, McIndoe, McKinney, William H. Miller, Daniel Morris, Amos Myers, Nelson, Pendleton, Pomeroy, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Smith, William G. Steele, Stuart, Sweet, Thayer, Thomas, Voorhees, Wadsworth, Elihu B. Washburne, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Woodbridge, and Yeaman—78.

So the resolution was adopted.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. STEVENS demanded the yeas and nays on the motion to lay on the table.

Mr. WILSON. I withdraw the motion.

#### OVERLAND MAIL SERVICE.

Mr. KINNEY offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of introducing a bill, at an early day of the present session of Congress, repealing the following fourth section of an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes:"

"Sec. 4. *Be it further enacted*, That all available matter which may be conveyed by mail westward beyond the western boundary of Kansas, and eastward from the eastern boundary of California, shall be subject to prepaid letter postage: *Provided*, That this section shall not be held to extend to the transmission by mail of newspapers from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber, nor to franked matter to and from the intermediate points between the boundaries above named, at the usual rates: *Provided further*, That such franked matter shall be subject to such regulations as to its transmission and delivery as the Postmaster General shall prescribe."

And then, on motion of Mr. HOLMAN, (at twenty minutes to two o'clock, p. m.,) the House adjourned.

#### IN SENATE.

TUESDAY, December 6, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved. Hon. GEORGE READ RIDDLE, of Delaware, and Hon. JOHN S. CARLILE, of Virginia, appeared in their seats to-day.

#### NOTIFICATION TO THE PRESIDENT.

Mr. FOOT, from the joint committee of the two Houses appointed to wait on the President

of the United States and to inform him that a quorum of each House was present and ready to receive any communication he might be pleased to make to them, reported that they had performed that service, and received for answer from the President that he would make his annual communication to the respective Houses of Congress to-day at one o'clock.

#### RECESS.

**Mr. SUMNER.** I move that the Senate take a recess until one o'clock.

The motion was agreed to.

The **PRESIDENT pro tempore** again took the chair at one o'clock, and called the Senate to order.

#### PRESIDENT'S ANNUAL MESSAGE.

**JOHN G. NICOLAY**, esq., the President's Private Secretary, appeared below the bar and said:

**Mr. President:** I am directed by the President of the United States to deliver to the Senate several messages in writing.

The **PRESIDENT pro tempore** handed the President's annual message to the Secretary of the Senate, **JOHN W. FORNEY**, esq., by whom it was read. [It will be published in the Appendix.]

**Mr. ANTHONY.** I offer the following resolution:

*Resolved*, That the usual number of the message and documents be printed for the use of the Senate.

The resolution was considered by unanimous consent, and agreed to.

**Mr. ANTHONY.** I now move that five thousand additional copies be printed; and I ask that that motion be laid on the table until the Committee on Printing shall be appointed.

The motion was ordered to lie on the table.

#### REPORT ON THE FINANCES.

The **PRESIDENT pro tempore** laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances; which was ordered to lie on the table.

#### BRITISH AID TO THE REBELLION.

**Mr. SUMNER** submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested, if in his opinion not inconsistent with the public interest, to furnish to the Senate any information in the possession of the Department of State concerning any proposition or overture recently made by British subjects in aid of the rebellion.

#### EXECUTIVE SESSION.

**Mr. SHERMAN.** I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 6, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, **Rev. W. H. CHANNING**.

The Journal of yesterday was read and approved.

#### ORGANIZATION OF CONGRESS.

**Mr. WASHBURNE**, of Illinois, from the committee appointed to wait on the President and inform him that a quorum of the two Houses had assembled, and that Congress was ready to receive any communication he might be pleased to make, reported that the committee had discharged that duty, and that the President would send in a communication at one o'clock, p. m., to-day.

The **SPEAKER** proceeded, as the regular business in order, to call the States for bills on leave.

#### UNITED STATES CURRENCY.

**Mr. STEVENS**, in pursuance of previous notice, introduced a bill to prevent gold and silver coin and bullion from being paid or exchanged for a greater value than their real current value, and for preventing any note or bill issued by the United States and made lawful money and a legal tender from being received for a smaller sum than is therein specified; which was read a first and second time by its title.

**Mr. SPALDING** called for the reading of the bill.

The bill was accordingly read.

**Mr. STEVENS.** I move that the bill be or-

dered to be printed, and referred to the Committee of Ways and Means.

**Mr. KASSON.** I ask the gentleman from Pennsylvania whether, in the first proposition of his bill, he proposes to change the standard weight and fineness of the coins of the United States.

**Mr. STEVENS.** It does not change the values of the coins of the United States, but merely recites what they are.

The motion was agreed to; and the bill was ordered to be printed, and referred to the Committee of Ways and Means.

#### INTERNAL REVENUE LAW.

**Mr. STEVENS** also introduced a joint resolution explanatory of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

#### AMENDMENT TO TAX LAWS.

**Mr. BROOMALL** submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the laws of the United States imposing taxes on inheritance as to exempt from such taxation all estates and interests of widows in the estates of their husbands.

#### RED RIVER CAMPAIGN.

**Mr. SPALDING** submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the committee on the conduct of the war be instructed to inquire into the causes of the disastrous issues of the Red river campaign, under Major General Banks, and to report thereon at their earliest convenience.

#### OATH OF LOYALTY.

**Mr. JULIAN** introduced a bill prescribing an oath of loyalty to all persons practicing law in any of the States declared to be in rebellion; which was read a first and second time, and referred to the Committee on the Judiciary.

#### REBEL LANDHOLDERS.

**Mr. JULIAN** also introduced a bill to provide for the forfeiture of the fee of rebel landholders; which was read a first and second time, and referred to the Committee on the Judiciary.

#### FOREIGN MAILS.

**Mr. BENNET** introduced a bill to repeal the fourth section of an act to provide for carrying the mails from the United States to foreign ports, and for other purposes, approved March 25, 1864; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### TRADE WITH THE REBELLIOUS STATES.

**Mr. BOUTWELL** submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs consider the expediency of reporting a bill prohibiting the transit of goods, wares, or merchandise to any portion of the territory of the United States in possession of the persons engaged in rebellion and beyond the lines of the armies of the United States, and of prohibiting the sale of any goods, wares, or merchandise to persons resident upon said territory; and also the expediency of authorizing the purchase of the products of the territory occupied by the rebels in arms by any person not connected with the Army or Navy of the United States, nor otherwise in the service or employment of the United States, either upon credit or by the payment therefor in money or foreign exchange.

#### RECESS.

**Mr. WILSON** moved that the House take a recess till one o'clock, p. m.

On a division there were—ayes 57, noes 32; no quorum voting.

The **SPEAKER**, under the rules, ordered tellers, and appointed Messrs. **WILSON** and **PENDLETON**.

The motion was agreed to; the tellers having reported—ayes 66, noes 34.

So, at thirty-five minutes after twelve o'clock, m., the House took a recess till one o'clock, p. m.

The House resumed its session at one o'clock.

#### ESTIMATES FOR PRINTING.

The **SPEAKER**, by unanimous consent, laid before the House estimates of additional appropriations for the office of the Superintendent of Public Printing for the fiscal year ending June 30, 1865; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### EXCHANGE OF PRISONERS.

The **SPEAKER.** The business pending when the House took a recess, was the resolution offered yesterday by the gentleman from Ohio, [Mr. **PENDLETON**], which was laid over one day under the rules. The Clerk will read the resolution, again.

The resolution was read, as follows:

*Resolved*, That the President of the United States be requested to communicate to this House, if not incompatible with the public interest, the report made by Colonel Thomas M. Key of an interview between himself and General Howell Cobb on the 14th day of June, 1862, on the bank of the Chickahominy, by authority of the War Department, on the subject of the exchange of prisoners of war.

**Mr. WASHBURNE**, of Illinois. I move to refer the resolution to the committee on the conduct of the war. They can call those parties as witnesses, if they choose, and obtain all the evidence.

**Mr. MORRIS**, of Ohio. Would it be proper to move to lay that motion on the table?

The **SPEAKER.** It would not.

**Mr. MORRIS**, of Ohio. Then I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 82, nays 37, not voting 63; as follows:

**YEAS**—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Briggs, McKley, Elliot, Farnsworth, Frank, Garfield, Grinnell, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingelsoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loun, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Starr, Stevens, Thomas Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Wheeler, Williams, Wilder, Wilson, and Windom—82.

**NAYS**—Messrs. Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Chandler, Coffroth, Cox, Dawson, Denison, Eden, English, Finck, Harding, Harrington, Hoiman, Kalbfleisch, Law, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Perry, Radford, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Townsend, Ward, Fernando Wood, and Yeaman—37.

**NOT VOTING**—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Bliss, Boyd, Brandegee, William G. Brown, Clay, Cravens, Henry Winter Davis, Dumont, Edgerton, Eldridge, Fenton, Gasson, Gooch, Grider, Griswold, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Knox, Lazear, Le Blond, Littlejohn, Long, Mallory, McAllister, McDowell, McIndoe, McKimney, Amos Myers, Nelson, Pendleton, Pike, Pomeroy, Pray, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Smith, Thayer, Voorhees, Wadsworth, Whaley, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Woodbridge—63.

So the resolution was referred to the committee on the conduct of the war.

During the call,

**Mr. RANDALL**, of Pennsylvania, stated that he was paired off with **Mr. THAYER**; otherwise he would have voted in the negative.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by **Mr. NICOLAY**, his Private Secretary.

The **SPEAKER**, by unanimous consent, laid before the House the annual message of the President of the United States; which was read. [It will be published in the Appendix.]

**Mr. STEVENS.** I move that the usual number of copies of the message and accompanying documents be printed for the use of members, and that the message be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

**Mr. STEVENS.** I move that fifty thousand extra copies of the message alone be printed.

The motion was referred to the Committee on Printing, under the rules.

**Mr. WASHBURNE**, of Illinois. I move that the House adjourn.

#### REPORT OF THE SECRETARY OF THE TREASURY.

The **SPEAKER.** Before that motion is put, the Chair asks leave to lay before the House the annual report of the Secretary of the Treasury, which by law is ordered to be made directly to Congress.

The **SPEAKER** thereupon, by unanimous consent, laid before the House the annual report of



the Secretary of the Treasury on the state of the finances; which was ordered to be printed, and referred to the Committee of Ways and Means.

#### REPORT OF THE SECRETARY OF THE INTERIOR.

The SPEAKER also, by unanimous consent, laid before the House the annual report of the Secretary of the Interior; which was ordered to be printed, and referred to the Committee of Ways and Means.

#### REPORT OF THE SECRETARY OF THE NAVY.

The SPEAKER also, by unanimous consent, laid before the House the annual report of the Secretary of the Navy; which was ordered to be printed, and referred to the Committee of Ways and Means.

Mr. WASHBURNE, of Illinois. I renew my motion.

#### EXCHANGE OF PRISONERS.

Mr. PENDLETON. I desire to enter a motion to reconsider the vote by which the resolution in reference to the exchange of prisoners was this morning referred to the committee on the conduct of the war.

The SPEAKER. Did the gentleman vote with the prevailing side?

Mr. PENDLETON. I did not; and as I cannot make the motion I hope the gentleman from Illinois will.

Mr. WASHBURNE, of Illinois. I will examine the resolution, and if I see no objection, I will make the motion to-morrow.

#### PRESIDENT'S MESSAGE.

Mr. BROOKS. I move to reconsider the vote by which the President's annual message was referred to the Committee of the Whole on the state of the Union.

Mr. STEVENS. I move to lay the motion to reconsider on the table.

Mr. WASHBURNE, of Illinois. I have not withdrawn my motion to adjourn.

The SPEAKER. The Chair supposed the gentleman had done so.

Mr. WASHBURNE, of Illinois. No, sir, I did not. I did not yield to any one.

The SPEAKER. Then the motion to reconsider will not be entered. It can be made to-morrow.

The question was taken on Mr. WASHBURNE's motion, and it was agreed to; and thereupon (at three minutes to two o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, December 7, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

Hon. WILLIAM WRIGHT, of New Jersey, appeared in his seat to-day.

#### LAWS OF NEBRASKA.

The PRESIDENT *pro tempore* presented copies of the laws, joint resolutions, and memorials of the Territory of Nebraska, passed at the ninth session of the Legislative Assembly, with copies of the Journals of the Council and House of Representatives of the said Legislative Assembly for the same session; which were ordered to lie on the table.

#### BILLS INTRODUCED.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a bill, (S. No. 352,) authorizing the holding of a special session of the United States district court for the district of Indiana, and for other purposes; which was read twice by its title, and, with the accompanying papers, was ordered to lie on the table until the committees shall be appointed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill, (S. No. 353,) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864; which was read twice by its title, and ordered to lie on the table.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

Mr. POWELL. I offer the following resolution, and, if there be no objection, ask for its present consideration:

*Resolved*, That the Secretary of War be directed, if not

incompatible with the public interest, to transmit to the Senate the report and evidence taken by a military commission, of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine of the United States Army, in and about Paducah, Kentucky.

Mr. WILSON. Let that lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

#### SENATORS FROM LOUISIANA.

The PRESIDENT *pro tempore*. The Chair will present to the Senate certain proceedings by the Legislature of Louisiana, with a communication from the Governor, which will be read.

The Secretary read as follows:

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,  
New Orleans, November 22, 1864.

SIR: By the terms of a joint resolution adopted by the General Assembly of the State of Louisiana, it is made my duty to transmit to the Senate a copy of the proceedings therein referred to declaratory of the election of Hon. CHARLES SMITH and Hon. R. KING CUTLER as Senators of the United States from the State of Louisiana, as well as a certified copy of the joint resolution itself, all of which I have the honor to inclose you as directed, to which is added a copy of a subsequent joint resolution adopted by the General Assembly authorizing the Governor to deliver to the Senators their credentials.

I remain, with high respect, &c.

MICHAEL HAHN,  
Governor of the State of Louisiana.

To the PRESIDENT OF THE SENATE.

The PRESIDENT *pro tempore*. The papers will lie on the table unless otherwise ordered.

Mr. WADE. In connection with that subject I desire to present a memorial of citizens of Louisiana, numerous signed, remonstrating against the admission of Senators or Representatives from the pretended State of Louisiana into the Congress of the United States, and the reception of any electoral vote of that State in counting the votes for President and Vice President of the United States, and praying for the passage of an act guarantying republican government in the insurrectionary States, and I ask that it may have the same direction as the other papers. I present it now, and ask that it lie on the table.

The PRESIDENT *pro tempore*. That order will be made. It will lie on the table for the present.

Mr. MORGAN. I present what purport to be the credentials of Hon. CHARLES SMITH and Hon. R. KING CUTLER, Senators-elect from the State of Louisiana. I do not propose that these persons be now sworn in as members of this body, for the Senate will be much better qualified to judge in relation to all the proceedings connected with the election after they shall have been carefully examined, and a report made by a committee of this body. I shall, therefore, propose, when the committees are appointed, that the credentials be referred to the Committee on the Judiciary. In the mean time I ask that they lie on the table.

The PRESIDENT *pro tempore*. The credentials will be read, unless objection be made.

Mr. TRUMBULL. I understand that the papers just submitted are copies of the proceedings of the General Assembly of the State of Louisiana in this election, and they are somewhat voluminous, and as it is not proposed to take any action upon the subject at this time, unless some one desires the reading, I think the credentials might just as well be laid on the table and take the same course as the other papers.

The PRESIDENT *pro tempore*. If no Senator desires the reading, that order will be made.

Mr. WADE. These papers contain arguments on the subject, and I think, perhaps, it would be better to have them all printed. I move, therefore, that all the documents which have been presented on this subject be printed for the use of the Senate.

The motion was agreed to.

Mr. FOSTER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 7, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

The SPEAKER stated that the first business in order was the call of committees for reports.

#### FRAUDS IN PHILADELPHIA NAVY-YARD.

Mr. RANDALL, of Pennsylvania. I ask the unanimous consent of the House to offer a resolution.

The Clerk proceeded to read the resolution, as follows:

Whereas large frauds have been discovered in the Philadelphia navy-yard, and, furthermore, many persons holding important—

Mr. STEVENS. I must object to that at present. My colleague will have his time when the States are called.

Mr. RANDALL, of Pennsylvania. I do not want the States. I am for hunting up a few individuals who are thieves.

Mr. STEVENS. I think the gentleman had better postpone it.

Mr. RANDALL, of Pennsylvania. I have at least a right to have my resolution read.

The SPEAKER. Not if any gentleman objects; and the gentleman from Pennsylvania objects.

Mr. RANDALL, of Pennsylvania. But a portion of it had been read before the objection was made.

The SPEAKER. The objection could be made at any time.

Mr. RANDALL, of Pennsylvania. Well, my colleague has cut off the sting.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS. I rise to a privileged question. I move to reconsider the vote by which the message of the President was yesterday referred to the Committee of the Whole on the state of the Union, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GOLD BILL.

Mr. BLAINE. I move to reconsider the vote whereby the House yesterday referred to the Committee of Ways and Means a bill introduced by the gentleman from Pennsylvania [Mr. STEVENS] "to prevent gold and silver coin and bullion from being paid or exchanged for a greater value than their real current value, and for preventing any note or bill issued by the United States, and made lawful money and a legal tender, from being received for a smaller sum than is therein specified." I believe, Mr. Speaker, that this bill has been productive of great mischief in the brief twenty-four hours that it has been allowed to float before the public mind as a measure seriously entertained by this House. And I believe that still more mischief will ensue every day and every hour the House stands committed to such legislation, even by the motion of courtesy which refers the bill to a committee. The provisions of the bill are very extraordinary, and but for the respect I feel for the distinguished gentleman who introduced it, I should say they were absurd and monstrous. Let me read two or three of these provisions:

2. That a dollar note issued by the Government, declared lawful money and legal tender, is declared of equal value for all purposes as gold and silver coin of like denomination.

3. That a contract made payable in coin may be payable in legal-tender United States notes, and that no difference in sale or value shall be allowed between them.

5. That no person shall by any device, shift, or contrivance receive, or pay, or contract to receive or pay, any Treasury or other note issued by the United States for circulation as money, and declared legal tender, for less than their lawfully-expressed value; and any offender, upon conviction, shall suffer imprisonment not exceeding six months, and a fine equal to the full amount of the sum specified in said note.

6. That if any person shall, in the purchase or sale of gold or silver coin or bullion, agree to receive in payment notes of corporations or individuals at less than par value, he shall be deemed to have offended against the provisions of this act, and shall be punished accordingly.

I forbear to recite the remainder of the bill. I have read enough to show that if it should become a law the entire population on the Pacific coast would be liable to indictment and conviction for a criminal offense simply because they will persist in believing that in the present condition of our currency a gold dollar is worth more than a paper dollar. And still further, not limiting the scope of the bill to protection of Government currency, the gentleman from Pennsylvania proposes to punish, as for a misdemeanor, any one who shall agree to sell gold and receive in payment "notes of corporations or individuals at less than par value."

The whole bill, sir, aims at what is simply impossible. You cannot make a gold dollar worth less than it is, or a paper dollar worth more than it is, by a congressional declaration. I think we had experience enough in that direction with the famous gold bill at the last session. We passed that measure after a very severe pressure, and with great promises as to the wonders it would work in Wall street. It continued on the statute-book for some twelve days—gold advancing at a frightful rate every day until its repeal was effected. The bill now under consideration has already had a most pernicious effect, and should it become a law, no man can measure its fatal influence. It is for these reasons that I desire to have its reference reconsidered.

Mr. COX. It seems to me, if the gentleman wants to cut down the price of gold, that he had better not have this bill up again and have it discussed in Congress. He had better have it referred to the Committee of Ways and Means, and let it be disposed of at once.

Mr. BLAINE. I desire to get it before the House again simply for the purpose of laying it on the table, and thus removing it from the field of controversy.

Mr. COX. I will assist the gentleman from Maine in that. But I do not agree with him that this bill has had the effect of putting up the price of gold. I think the President played the bull in his message of yesterday.

Mr. BLAINE. I cannot stop now to discuss that proposition with the gentleman from Ohio. I shall be glad to have his aid in laying the bill on the table; and to that end he will of course vote to have the motion of reference reconsidered.

Mr. STEVENS. My friend from Maine [Mr. BLAINE] has an intuitive way of getting at a great national question; one which has exercised the thoughts of statesmen of several countries for many years; one which I think is at least worthy of consideration. I do not know how far the bill is practicable, or how far it ought to be modified. But that there ought to be some law which shall prevent gambling in gold, by which it is put at two and a half times its value, is just as clear as that that system is making every man who eats food pay three prices for it, and reduces the price of the lawful money of the country to less than one half its real value.

Now, sir, I know that the gold gamblers can take advantage of anything to put up the price of gold; and you cannot prevent it unless you legislate in some way. I do not say that the legislation proposed by this bill will reach it, or that it ought not to be very much modified, but I say that it is just the legislation which England adopted during her great wars with Napoleon, and continued as a system during the whole of those wars, and found it to act beneficially. How the gentleman from Maine, [Mr. BLAINE], by his intuitive knowledge of these things comes to understand at once what the ablest statesmen of England took months to mature, I cannot very well understand. It is a happy inspiration, but it is a summary way to dispose of the question. I move to lay the motion to reconsider on the table.

Mr. BLAINE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 51, nays 68, not voting 63; as follows:

YEAS—Messrs. Anderson, Ashley, Bailly, Baxter, Beaman, Blair, Blow, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ganson, Grinnell, Hooper, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Orlando Kellogg, Loan, Longyear, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Charles O'Neill, Orth, William H. Randall, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, Stevens, Thomas, Upson, Van Valkenburgh, and Wilder—51.

NAYS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, Broomall, James S. Brown, Chandler, Coffroth, Cox, Dawes, Dawson, Denison, Eden, English, Finck, Garfield, Grinnell, Harding, Harrington, Holman, Asahel W. Hubbard, Julian, Kalbfleisch, Francis W. Kellogg, Kernan, Law, Le Blond, Marcy, McBride, Middleton, William H. Miller, James R. Morris, Morrison, Norton, Odell, John O'Neill, Pendleton, Perham, Pike, Price, Pruyn, Radford, Rogers, Scofield, Scott, Smith, Starr, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Townsend, Elihu B. Washburn, William B. Washburn, Webster, Wheeler, Williams, Wilson, and Fernando Wood—68.

NOT VOTING—Messrs. William J. Allen, Arnold, William G. Brown, Freeman Clarke, Clay, Cravens, Cres-

well, Thomas T. Davis, Dumont, Edgerton, Eldridge, Fenton, Frank, Gooch, Grider, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kasson, King, Knapp, Knox, Lazear, Littlejohn, Long, Mallory, Marvin, McAllister, McDowell, Meludoe, McKinney, Amos Myers, Nelson, Noble, Patterson, Perry, Pomeroy, Samuel J. Randall, Alexander H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Thayer, Tracy, Voorhees, Wadsworth, Ward, Whaley, Chilton A. White, Joseph W. White, Windom, Winfield, Benjamin Wood, Woodbridge, and Yeaman—63.

So the motion to lay on the table was disagreed to.

Mr. BLAINE. I move the previous question upon the motion to reconsider.

The previous question was seconded, and the main question ordered to be put, and under the operation thereof the motion to reconsider was agreed to, there being, on a division—yeas 65, nays 41.

The question then recurred upon the reference of the bill to the Committee of Ways and Means.

Mr. STEVENS. I move to postpone the further consideration of the question for ten days.

Mr. COX. Would it be in order to move to lay the bill on the table?

The SPEAKER. It would.

Mr. BLAINE. I desire to make that motion.

Mr. STEVENS. Mr. Speaker, gentlemen are mistaken if they suppose that this bill contains any provision prohibiting the exportation of gold. It embraces no such provision whatever. It seems to me that the least the House could do would be to let the bill be printed and come up for consideration hereafter.

As to the statement that the gamblers in gold have carried the premium up twelve per cent. by reason of the fear that this bill may pass, those who choose to take their part may do so.

Mr. BLAINE. I move to lay the bill on the table.

Mr. STEVENS demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 52, not voting 57; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, Broomall, James S. Brown, Chandler, Coffroth, Cox, Dawes, Dawson, Denison, Eden, English, Finck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Holman, Law, Le Blond, Marcy, McBride, Middleton, William H. Miller, Daniel Morris, James R. Morris, Morrison, Noble, Norton, Odell, John O'Neill, Pendleton, Perham, Pike, Price, Pruyn, Radford, Alexander H. Rice, Rogers, Scofield, Scott, Starr, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Townsend, Elihu B. Washburn, William B. Washburn, Webster, Wheeler, Williams, Wilson, Fernando Wood, and Yeaman—73.

NAYS—Messrs. Ashley, Bailly, Baxter, Beaman, Blair, Blow, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Grinnell, Hooper, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Leonard Myers, Charles O'Neill, Orth, William H. Randall, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, Stevens, Upson, Van Valkenburgh, Whaley, and Wilder—52.

NOT VOTING—Messrs. William J. Allen, Anderson, Arnold, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Thomas T. Davis, Deming, Dumont, Edgerton, Eldridge, Fenton, Gooch, Hall, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, King, Knapp, Knox, Lazear, Littlejohn, Long, Mallory, McAllister, McDowell, Meludoe, McKinney, Amos Myers, Nelson, Patterson, Perry, Pomeroy, Samuel J. Randall, Robinson, Edward H. Rollins, James S. Rollins, Ross, Smith, Thayer, Tracy, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, Windom, Winfield, Benjamin Wood, and Woodbridge—57.

So the bill was laid on the table.

#### EXCHANGE OF PRISONERS.

Mr. WASHBURN, of Illinois. Mr. Speaker, at the request of the gentleman from Ohio, [Mr. PENDLETON,] I move to reconsider the vote by which the House referred to the committee on the conduct of the war his resolution calling on the President for information in relation to an interview on the bank of the Chickahominy on the subject of the exchange of prisoners of war. I am willing to make that motion, and have the vote reconsidered, provided the gentleman will agree to an amendment of his resolution.

Mr. PENDLETON. Will the gentleman please indicate the amendment he desires?

Mr. WASHBURN, of Illinois. I desire to amend it so as to call upon the President "in his discretion, and if not incompatible with the public

interest," to give this information—striking out that portion of the resolution which assumes that the conversation referred to was by authority of the War Department. I will send to the Clerk the resolution, modified as I propose.

The Clerk read, as follows:

Resolved, That the President of the United States be requested, in his discretion, and if not incompatible with the public interest, to communicate to this House the report made by Colonel Thomas M. Key of an interview between himself and General Howell Cobb on the 14th day of June, 1862, on the bank of the Chickahominy, on the subject of the exchange of prisoners of war.

Mr. PENDLETON. I shall be perfectly willing to accept the modifications proposed by the gentleman, as they do not, in my opinion, change the sense of the resolution.

Mr. WASHBURN, of Illinois. Then, Mr. Speaker, I hope that the vote by which the resolution was referred to the committee on the conduct of the war will be reconsidered, and that the resolution, modified as I suggest, will be adopted.

The motion to reconsider was agreed to.

The SPEAKER. If there is no objection, the resolution will be considered as adopted in the modified form proposed by the gentleman from Illinois.

There being no objection, the resolution as modified was adopted.

#### CALL OF COMMITTEES.

The SPEAKER proceeded, as the next business in order, to call the committees for reports; when no reports were presented.

#### COMMITTEE ON RULES.

The SPEAKER. The Chair will state that, on examining the Journal, he finds that the committee on rules, at the last session of Congress, was raised only for that session. It fell, as all committees do unless specially revived. Therefore, if it is the desire of the House that that committee shall be continued during this session, special action of the House is necessary.

Mr. WASHBURN, of Illinois. I move that the committee on rules, as raised at the last session, be continued during the present session.

The motion was agreed to.

#### UNITED STATES CURRENCY.

Mr. BLAINE. I move to reconsider the vote by which the House this morning laid on the table the bill to prevent gold and silver coin and bullion from being paid or exchanged for a greater value than their real current value, and for preventing any note or bill issued by the United States, and made lawful money and a legal tender, from being received for a smaller sum than is therein specified. I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CALL OF STATES.

The SPEAKER proceeded, as the regular order of business, to call the States and Territories for resolutions and bills on leave, commencing with the Territory of Idaho.

#### MAIL COMMUNICATION WITH CHINA.

Mr. COLE, of California, introduced a bill to authorize the establishment of ocean mail steamship service between the United States and China; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### APPORTIONMENT OF REPRESENTATIVES.

Mr. SLOAN offered the following resolution, and demanded the previous question on its adoption:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of so amending section two of article one of the Constitution of the United States, that Representatives in Congress shall be apportioned among the several States which may be included within the Union, according to their respective numbers of qualified electors, and to report by bill or otherwise.

The previous question was then seconded.

The main question was then ordered.

Mr. PENDLETON. Is it in order to move that the resolution be laid on the table?

The SPEAKER. It is.

Mr. PENDLETON. Then I submit that motion.

The motion was disagreed to.

The question then recurred on the adoption of the resolution.

Mr. BROOKS. I ask the gentleman from Wis-



consin to allow me to amend his resolution so that it shall provide that Senators in Congress shall be apportioned in the same way.

The SPEAKER. The main question having been ordered, amendment is not now in order.

On a division there were—ayes 34, noes 42; no quorum voting.

The SPEAKER, under the rules, ordered tellers, and appointed Messrs. SLOAN and BROOKS.

Mr. STEVENS. I do not know whether I understand the resolution, and I ask that it be again read. If it be a mere resolution of inquiry, there can, of course, be no objection to it.

The resolution was again read.

Mr. COX. Is it in order to call for the yeas and nays?

The SPEAKER. It is.

Mr. COX. Then I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 60, nays 55, not voting 67; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Arnold, Bailly, John B. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Garfield, Grinnell, Hooper, Ashael W. Hubbard, Hulbard, Ingersoll, Julian, Kasson, Kelley, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Price, William H. Randall, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Spaulding, Starr, Stevens, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, Wheeler, Williams, and Wilson—60.

NAYS.—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Blair, Bliss, Brandegee, Brooks, James S. Brown, Chanter, Coffroth, Cox, Dawes, Denning, Deming, Denison, Dixon, Eden, English, Finck, Frank, Ganson, Grider, Harding, Harrington, Holman, Jencks, Knabbeisch, Kernan, Law, Le Blond, Marey, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Pruy, Radford, Rogers, Scott, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Srouse, Stuart, Sweat, Townsend, Webster, Whaley, and Fernando Wood—55.

NOT VOTING.—Messrs. William J. Allen, Anderson, Ashley, Blaine, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dumont, Edgerton, Eldridge, Fenton, Gooch, Griswold, Hute, Hall, Hotchkiss, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Francis W. Kellogg, King, Knapp, Knox, Lazer, Littlejohn, Loan, Long, Mallory, McAllister, McDowell, McIndoe, McKinney, Samuel P. Miller, Amos Myers, Nelson, Perry, Pike, Pomerooy, Samuel J. Randall, Robinson, Edward H. Rollins, James S. Rollins, Ross, Scofield, Thayer, Tracy, Voorhes, Wadsworth, Ward, William B. Washburn, Chilton A. White, Joseph W. White, Wilder, Windom, Winfield, Benjamin Wood, Woodbridge, and Yeaman—67.

So the resolution was adopted.

During the vote,

Mr. RANDALL, of Pennsylvania, moved to dispense with the reading of the list.

Mr. HARRINGTON objected, stating that when the reading had been dispensed with he had often found his name not recorded.

The vote was then announced as above recorded.

Mr. SLOAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JURISDICTION OF DISTRICT COURTS.

Mr. WILSON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary consider and report whether any legislation is needed in reference to the jurisdiction and authority of the several district courts of the United States.

#### PROTECTION OF OVERLAND EMIGRATION.

Mr. WILSON introduced a bill to provide for the protection of overland emigration to the States and Territories of the Pacific; which was read a first and second time, and referred to the Committee on Military Affairs.

#### EXCHANGE OF PRISONERS.

Mr. INGERSOLL offered the following resolution:

*Resolved*, That the Secretary of War is hereby directed to report to this House what obstacles, if any, now interpose to prevent an early and full exchange of the prisoners of war now held by the rebels.

The SPEAKER. This being a call upon one of the Executive Departments for information must, under the rules, lie over for one day, unless there be unanimous consent to its adoption at this time.

Mr. COX. I ask the gentleman from Illinois to yield to me to offer an amendment.

Mr. INGERSOLL. I will hear the amendment.

Mr. STEVENS. I object to the consideration of the resolution on this day.

The SPEAKER. Then it will lie over until to-morrow.

Mr. COX. I give notice that when the resolution comes up I shall offer the following amendment:

*Resolved*, That (if not incompatible with the public interests) all communications in reference to the exchange of prisoners, not heretofore published, be communicated to this House by the Secretary of War.

#### NATURALIZATION OF SAILORS.

Mr. ARNOLD introduced a bill for an act to so amend the laws in regard to the naturalization of soldiers as to include sailors also in its provisions; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SALE OF MINERAL LANDS.

Mr. JULIAN introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for the sale of the mineral lands of the United States, and to report by bill or otherwise.

#### ENLISTMENT OF SOLDIERS.

Mr. HOLMAN introduced the following preamble and resolution, and demanded the previous question:

Whereas it is represented that many instances have occurred where soldiers have enlisted in the service of the United States during the present war to fill up old regiments, with the assurance given in some cases by the officers of such regiments, in others, by the Governors of the States where the enlistment was made, that such enlistment should be limited to the unexpired term of the regiment, being in most instances about two years, and such soldiers, by the inadvertence or fault of the mustering officers, mustered into the service for three years, contrary to the true intention of such enlistment: Therefore,

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the facts of such enlistments, and what legislation is necessary to enable, or require, the Secretary of War to do justice in the premises, and report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put.

Mr. SCHENCK. With the permission of the House I will say the inquiry is proper enough, but I would suggest a modification. Wherever the enlistment has been for three years, it has not been by the inadvertence of the mustering officer, but of the party who is mustered in. If promises were made by regimental officers, and Governors of States—and there is no question that such promises have been made, and improperly—they were made without authority of law; and if soldiers were intrapped and deceived it was owing to no fault in the mustering officers.

Mr. HOLMAN. My only object was to get the matter before the committee of which the gentleman from Ohio is chairman, that it might be considered. It is only a matter of inquiry, at any rate.

The resolution was agreed to.

The preamble was agreed to.

#### RESTORATION OF CIVIL AUTHORITY.

Mr. YEAMAN introduced a bill to provide for the restoration of the civil authority of the United States in certain States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### NAVY-YARD, ETC., AT CLEVELAND.

Mr. SPALDING introduced a bill to provide for the establishment of a navy-yard and navy depot at Cleveland, in the State of Ohio; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

#### EXCHANGE OF PRISONERS.

Mr. COX offered the following resolution:

*Resolved*, If not incompatible with the public interest, all communications with reference to the exchange of prisoners, not heretofore published, be communicated to this House by the Secretary of War.

The SPEAKER. This resolution being a call for executive information, requires unanimous consent to be considered this day.

Objection being made, the resolution was laid over under the rule.

#### FRAUDS IN PHILADELPHIA NAVY-YARD.

Mr. RANDALL, of Pennsylvania, introduced the following preamble and resolution:

Whereas large frauds have been discovered in the Philadelphia navy-yard, and, furthermore, many persons holding important positions therein, and heretofore supposed to be of character for honesty, have been placed in confinement for alleged complicity in such theft: Therefore,

*Resolved*, That a committee of—members of the House be appointed to investigate such frauds, and others that may be discovered, with power to send for persons and papers, and that it shall be the duty of such committee to report to this House the result of their inquiry.

Mr. RANDALL, of Pennsylvania. I do not like to demand the previous question; but if I do not, the resolution will go over.

Mr. STEVENS. I suggest to my colleague that the preamble affirms a fact which the House cannot be aware of, and he had better modify it in some way, so that, instead of affirming a fact, an inquiry into the fact shall be directed.

Mr. RANDALL, of Pennsylvania. I take it for granted that when a man is locked up he is locked up for some charge, and that there is some crime he has committed. There are sixteen men locked up.

The SPEAKER. If the resolution gives rise to discussion it goes over under the rule.

Mr. RANDALL, of Pennsylvania. I demand the previous question.

The previous question was seconded.

Mr. STEVENS. I move to lay the resolution on the table.

Mr. WASHBURN, of Illinois. I should like to have the resolution read again. When a member here offers a resolution charging frauds I hope the House will not refuse an investigation.

The resolution was again read.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Pennsylvania that he modify his resolution by inserting in the preamble the words "as is alleged." At present he makes the charge.

Mr. RANDALL, of Pennsylvania. No, sir; you have not listened to the reading of the resolution or you would have found that the interpolation proposed is unnecessary.

Mr. O'NEILL, of Pennsylvania. I think this resolution requires some debate. I am not prepared to vote on it at this time. There are many reasons why I think it should not be adopted by the House, and hence I hope that it will go over under the rules.

The SPEAKER. The gentleman's colleague has demanded the previous question on the resolution.

Mr. RANDALL, of Pennsylvania. I only wish light.

The SPEAKER. Debate is not in order.

Mr. RANDALL, of Pennsylvania. Well, I will modify the resolution by inserting the words "as is alleged."

The SPEAKER. There is a blank in the resolution. Of what number of members does the gentleman wish the committee to consist?

Mr. RANDALL, of Pennsylvania. Nine.

Mr. KELLEY. There are similar allegations made in regard to other navy-yards. I ask my colleague to modify his resolution so as to make the inquiry general.

Mr. RANDALL, of Pennsylvania. I will include the arsenal at Philadelphia.

Mr. SPALDING. I ask the gentleman to modify his resolution so as to refer this matter to the standing Committee on Naval Affairs, and save the expense to the country of a special committee.

Mr. RANDALL, of Pennsylvania. I ask no expense. I have not asked an appropriation. These frauds can be hunted up without any appropriation.

Mr. O'NEILL, of Pennsylvania. I should like to know if the resolution is debatable.

The SPEAKER. It is not.

Mr. O'NEILL, of Pennsylvania. If it is, I should like to have something to say upon the subject.

Mr. SPALDING. I hope the House will vote down the previous question. I call for tellers on the second.

Tellers were ordered; and Messrs. RANDALL, of Pennsylvania, and SPALDING, were appointed.

The House divided, and the tellers reported—ayes 52, noes 63.

So the House refused to second the demand for the previous question.



Mr. BROOMALL. I move to refer the subject-matter of the resolution to the Committee on Public Expenditures.

Mr. RANDALL, of Pennsylvania. I called the previous question, and therefore I am entitled to control my resolution.

The SPEAKER. The House, however, refused to second the previous question, whereby the gentleman loses his control of the resolution.

Mr. O'NEILL, of Pennsylvania. I rise to debate the resolution.

The SPEAKER. Then the resolution lies over under the rule.

Mr. RANDALL, of Pennsylvania. When can I get a record?

The SPEAKER. When the resolution again comes up, if any motion shall be before the House upon which the yeas and nays can be ordered.

Mr. O'NEILL, of Pennsylvania. I am willing to let the debate go on to-day if the House will permit it. I am ready to say to-day what I have to say.

Mr. RANDALL, of Pennsylvania. And I am ready to answer you.

The SPEAKER. The resolution cannot be debated upon the same day upon which it is presented except by unanimous consent.

#### ABOLITION OF BOUNTIES.

Mr. BROOMALL submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill abolishing and preventing the paying of bounties to soldiers enlisting in the service of the United States, and so raising the pay of soldiers as to compensate for the loss of bounties.

The previous question was seconded, and the main question ordered, and under the operation thereof the resolution was agreed to.

#### AMENDMENT OF INTERNAL REVENUE LAW.

Mr. ODELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of amending the internal revenue law, by providing for an *ad valorem* tax upon all sales of merchandise of every description, and to report by bill or otherwise.

#### ARREST OF SEAMEN.

Mr. ELIOT submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce inquire into the expediency of extending the provisions of the acts of July 20, 1790, and June 19, 1813, concerning the arrest of seamen, with leave to report by bill or otherwise.

#### EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of the Interior in regard to matters in the District of Columbia; which was referred to the Committee for the District of Columbia, and ordered to be printed.

And then, on motion of Mr. FARNSWORTH, (at twenty-five minutes to two o'clock, p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, December 8, 1864.

Prayer by Rev. THOMAS BOWMAN, Chaplain to the Senate.

The Journal of yesterday was read and approved. Hon. CHARLES R. BUCKALEW, of Pennsylvania, and Hon. B. GRATZ BROWN, of Missouri, appeared in their seats to-day.

#### NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a joint resolution for the restoration of peace and the Union, the vindication of the Constitution, and the construction of additional and adequate guarantees for the rights and liberties of the people of the United States.

#### STANDING COMMITTEES.

Mr. ANTHONY. I move that the Senate proceed to the election of the standing committees.

The motion was agreed to.

Mr. ANTHONY. I ask the unanimous consent of the Senate to suspend the 34th rule requiring the committees to be elected by ballot, in order that they may be elected by nomination.

The PRESIDENT *pro tempore*. Is there any objection to the suspension of the rule? The Chair hears none. The rule is suspended.

Mr. ANTHONY. I offer the following nominations for standing committees:

*On Foreign Relations*—Messrs. Sumner, (chairman,) Foster, Doolittle, Harris, Davis, Johnson, and McDougall.

*On Finance*—Messrs. Sherman, (chairman,) Howe, Cowan, Clark, Van Winkle, Conness, and Henderson.

*On Commerce*—Messrs. Chandler, (chairman,) Morrill, Ten Eyck, Morgan, Sprague, Saulsbury, and Lane of Kansas.

*On Agriculture*—Messrs. Lane of Kansas, (chairman,) Harlan, Wilson, Farwell, and Powell.

*On Military Affairs and the Militia*—Messrs. Wilson, (chairman,) Lane of Indiana, Howard, Nesmith, Morgan, Sprague, and Brown.

*On Naval Affairs*—Messrs. Grimes, (chairman,) Anthony, Willey, Ramsey, Harding, Hicks, and Hendricks.

*On Manufactures*—Messrs. Sprague, (chairman,) Morgan, Riddle, Wilkinson, and Hendricks.

*On the Judiciary*—Messrs. Trumbull, (chairman,) Foster, Ten Eyck, Harris, Foot, Powell, and Johnson.

*On Post Offices and Post Roads*—Messrs. Collamer, (chairman,) Dixon, Ramsey, Conness, Buckalew, Pomeroy, and Van Winkle.

*On Public Lands*—Messrs. Harlan, (chairman,) Pomeroy, Foot, Harding, Carlile, Hendricks, and Wright.

*On Private Land Claims*—Messrs. Harris, (chairman,) Sumner, Howard, Riddle, and Harding.

*On Indian Affairs*—Messrs. Doolittle, (chairman,) Wilkinson, Lane of Kansas, Harlan, Nesmith, Brown, and Buckalew.

*On Pensions*—Messrs. Foster, (chairman,) Lane of Indiana, Van Winkle, Saulsbury, Buckalew, Foot, and Brown.

*On Revolutionary Claims*—Messrs. Wilkinson, (chairman,) Chandler, Wilson, Nesmith, and Wright.

*On Claims*—Messrs. Clark, (chairman,) Howe, Pomeroy, Anthony, Morrill, Hicks, and Davis.

*On the District of Columbia*—Messrs. Hale, (chairman,) Dixon, Morrill, Wade, Willey, Henderson, and Richardson.

*On Patents and the Patent Office*—Messrs. Cowan, (chairman,) Ten Eyck, Ramsey, Lane of Indiana, and Saulsbury.

*On Public Buildings and Grounds*—Messrs. Foot, (chairman,) Trumbull, Grimes, Farwell, and Hendricks.

*On Territories*—Messrs. Wade, (chairman,) Wilkinson, Hale, Lane of Kansas, Carlile, Davis, and Richardson.

*On Pacific Railroad*—Messrs. Howard, (chairman,) Collamer, Johnson, Harlan, Trumbull, Sherman, Morgan, Conness, and Brown.

*To Audit and Control the Contingent Expenses of the Senate*—Messrs. Dixon, (chairman,) Clark, and Harding.

*On Engrossed Bills*—Messrs. Lane of Indiana, (chairman,) Sumner, and Willey.

*Joint Committee on Printing*—Messrs. Anthony, (chairman,) Morgan, and Powell.

*Joint Committee on Enrolled Bills*—Messrs. Howe, (chairman,) Cowan, and Hicks.

*Joint Committee on the Library*—Messrs. Collamer, (chairman,) Johnson, and Howard.

*Select Committee on Slavery and the Treatment of Freedmen*—Messrs. Sumner, (chairman,) Howard, Carlile, Pomeroy, Buckalew, Brown, and Conness.

The PRESIDENT *pro tempore*. The question will be, Will the Senate agree to the several nominations proposed by the Senator from Rhode Island?

The nominations were agreed to.

#### SENATORS FROM LOUISIANA.

Mr. MORGAN. I now desire that the credentials of Mr. Cutler and Mr. Smith, Senators-elect from Louisiana, which were presented yesterday and laid on the table in consequence of the committees not being appointed, be taken from the table and referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. That order will be made; and the other papers connected therewith will be referred to the same committee, unless otherwise ordered.

Mr. WADE. Is it understood that the protest

that I offered yesterday on that subject will be referred with the other papers?

The PRESIDENT *pro tempore*. It will be referred, with all the other papers, to the Committee on the Judiciary. There were three several documents presented, all of which will be referred to the same committee.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior transmitting a tabular statement furnishing the information called for by a resolution adopted by the Senate April 11, 1864, in regard to the number of cases commenced and pending in the courts of the United States; which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of the Interior transmitting a report in obedience to the joint resolution of Congress approved June 30, 1864, entitled "A joint resolution authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States;" which was ordered to lie on the table.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, communicating, in answer to the resolution of the Senate of the 6th instant, requesting information in regard to aid furnished to the rebellion by British subjects, a report from the Secretary of State and the documents by which it was accompanied; which were referred to the Committee on Foreign Relations, and ordered to be printed.

#### THANKS TO NAVAL OFFICERS.

The PRESIDENT *pro tempore* also laid before the Senate the following message from the President of the United States:

*To the Senate and House of Representatives:*

In conformity to the law of July 16, 1862, I most cordially recommend that Captain John A. Winslow, United States Navy, receive a vote of thanks from Congress for the skill and gallantry exhibited by him in the brilliant action, while in command of the United States steamer Kearsarge, which led to the total destruction of the piratical craft Alabama on the 19th June, 1864—a vessel superior in tonnage, superior in number of guns, and superior in number of crew.

This recommendation is specially made in order to comply with the requirements of the ninth section of the aforesaid act, which is in the following words, namely:

"That any line officer of the Navy or Marine corps may be advanced one grade, if, upon recommendation of the President by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession."

ABRAHAM LINCOLN.

WASHINGTON CITY, December 5, 1864.

The message was referred to the Committee on Naval Affairs.

The PRESIDENT *pro tempore* also laid before the Senate the following message from the President of the United States:

*To the Senate and House of Representatives:*

In conformity to the law of July 16, 1862, I most cordially recommend that Lieutenant William B. Cushing, United States Navy, receive a vote of thanks from Congress for his important, gallant, and perilous achievement in destroying the rebel iron-clad steamer Albemarle on the night of the 27th October, 1864, at Plymouth, North Carolina.

The destruction of so formidable a vessel, which had resisted the continued attacks of a number of our vessels on former occasions, is an important event touching our future naval and military operations, and would reflect honor on any officer, and redounds to the credit of this young officer and the few brave comrades who assisted in this successful and daring undertaking.

This recommendation is specially made in order to comply with the requirements of the ninth section of the aforesaid act, which is in the following words, namely:

"That any line officer of the Navy or Marine corps may be advanced one grade, if, upon recommendation of the President by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession."

ABRAHAM LINCOLN.

WASHINGTON CITY, December 5, 1864.

The message was referred to the Committee on Naval Affairs.

#### PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the memorial of the Washington Gas-Light Company, in which they represent that in 1860, and at a subsequent period, Congress limited the amount which they were authorized to collect from the consumers of gas; that since those acts were passed the expense of manufacturing gas has greatly increased; that the Senate has upon two occasions at the last session passed a bill allowing an addition to the amount

determined upon in those two acts of Congress, and praying that a similar bill may be passed and enacted into a law at the present session of Congress. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. MORGAN. I present the petition of William C. Bryant, Henry W. Longfellow, Horace Greeley, John A. Dix, U.S. Grant, Joseph Henry, Peter Cooper, George Bancroft, Henry J. Raymond, Stephen H. Tyng, Jonathan Sturges, William M. Evarts, and many others, citizens of New York and elsewhere, asking Congress to appropriate money for the founding and support of a National Home for the totally disabled soldiers and sailors in the Army and Navy of the United States. In consideration of the importance of the subject and the high character of the memorialists, I ask that this petition be printed and referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore*. It may be printed by unanimous consent. The Chair hears no objection. The order to print will be made, and the petition will be referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented the memorial of B. A. Froiseth, praying for further legislation to encourage foreign immigration; which was referred to the Committee on Foreign Relations.

Mr. ANTHONY presented additional papers in relation to the claim of George W. Hall and others, owners of the bark A. One, praying for indemnification for alleged losses occasioned by the seizure of that vessel at Philadelphia on the 18th of December, 1863; which were referred to the Committee on Claims.

#### BILL INTRODUCED.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 80) in relation to the distribution of prize money; which was read twice by its title, and referred to the Committee on Naval Affairs.

#### BILLS REFERRED.

On motion of Mr. SHERMAN, it was *Ordered*, That the bill (S. No. 350) to authorize the purchase or construction of revenue cutters on the lakes be referred to the Committee on Finance.

On motion of Mr. LANE, of Kansas, it was *Ordered*, That the bill (S. No. 351) for the relief of the officers and soldiers of the militia of the States of Kansas and Missouri in repelling the late invasion of those States by the rebel forces under General Sterling Price, and for other purposes, be referred to the Committee on Military Affairs and the Militia.

On motion of Mr. LANE, of Indiana, it was *Ordered*, That the bill (S. No. 352) authorizing the holding of a special session of the United States district court for the district of Indiana, and for other purposes, be referred to the Committee on the Judiciary.

On motion of Mr. LANE, of Indiana, it was *Ordered*, That the bill (S. No. 353) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company, in the District of Columbia," approved July 1, 1864, be referred to the Committee on the District of Columbia.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. SHERMAN, it was *Ordered*, That so much of the President's message as relates to the financial affairs of the United States be referred to the Committee on Finance.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. DOOLITTLE, it was *Ordered*, That when the Senate adjourns to-day it be to meet on Monday next.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

Mr. POWELL. I move that the resolution I introduced yesterday be now taken up. The motion was agreed to, and the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of War be directed, if not incompatible with the public interest, to transmit to the Senate the report and evidence taken by a military commission, of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine, United States Army, in and about Paducah, Kentucky.

Mr. TRUMBULL. I should like to inquire of the Senator from Kentucky whether he is aware of the character of the report which he has asked to be communicated to the Senate? I know that the resolution leaves it in the discretion of the Secretary of War to communicate the information or not, as he shall deem the public interest may justify; and I have full faith in the judicious ex-

ercise of any discretion vested in the War Department. I do not suppose that the Secretary of War would communicate anything for publication which it was improper to have published; but I should like to inquire of the Senator from Kentucky whether this report of a commission, as it is denominated in the resolution, which investigated the conduct of General Paine, is a report made by a commission of which General Paine had any notice whatever, or whether it is merely the private report of some officers designated, not by the Secretary of War, but by some officer in the field, making some inquiries in regard to General Paine's conduct in Kentucky and reporting it to the War Department for its private information, and the report of a commission that General Paine never knew anything about, and never had any opportunity to appear before. If it be a report of that character, I presume the Senator from Kentucky would be just as far as any other Senator from wishing to publish an *ex parte* report, made in the dark, reflecting upon any person. Therefore I think that this report, if it is of that character, ought not to be communicated for publication, and, unless the Senator from Kentucky is already advised as to the character of the report which was made by the commission, that this resolution ought to be referred to the Committee on Military Affairs, and let them inquire into it. I myself am very much opposed, and think it unjust to the character of any officer in the field, that a report with regard to his conduct, made out by a commission of which he had no knowledge, *ex parte*, and in the dark, should be published to the country to his prejudice.

Mr. POWELL. It will afford me very great pleasure to give the Senator from Illinois and the Senate all the information that I have on the subject of this report. I do not know what is in the report. I heard some persons who claimed to know state what was in it, and I have seen—

Mr. TRUMBULL. If the Senator will allow me, I did not ask what was in the report, but whether it was a report made without the knowledge of General Paine.

Mr. POWELL. I understood the Senator's question, and will endeavor to answer it. I have understood from persons in that locality, some of whom seemed to have some cognizance of the character of this report, that it contains such evidence as convicts this man, General Paine, of the most outrageous barbarities and cruelties that were ever inflicted on any people in any Christian or civilized age, and not only General Paine, but some of his subordinate officers, and some citizens, even, outside. Some of the citizens of that region of country seem to have been engaged in them. I have seen and conversed with persons who were present when this commission was in session, and from those persons I have learned the character of the evidence to some extent. It has also been a matter of a good deal of discussion in the newspapers in Kentucky. I understand that General Paine did have notice of the sitting of this commission; that he was notified that the commission was to come and assemble at the town of Paducah; and that he absented himself and took away his staff officers and others, who were equally guilty with himself. I understand from the report that there is no supposition about it, but that all the damning crimes with which this man is charged are fully proven.

Mr. DOOLITTLE. I will inquire of the Senator what General Paine he refers to.

Mr. POWELL. General Paine, of Illinois, I understand. I do not know the person. I never saw him.

Mr. DOOLITTLE. There is a General Paine of my own State, and I desire not to have any impression go out that may involve him. He certainly is not the General Paine that the Senator alludes to.

Mr. POWELL. I understand that the General Paine to whom the resolution refers is from Illinois. I do not know him, and I have no personal knowledge of the facts of the case. What I state in regard to him is upon information which I have received from others. Whether the statement I have made is true or not I am not prepared to say; for, as I said before, I have no personal knowledge of the case. I understand that General Paine had notice of the fact of the meeting of this commission before it met at Paducah; but he and others implicated absented themselves

from that place, and were not present when the commission made the investigation.

Mr. JOHNSON. Is he now in the service?

Mr. POWELL. In reply to the Senator from Maryland I will say that I have seen it stated in the newspapers that he has resigned, and his resignation has been accepted; but whether the fact is so or not I do not know.

I can say to the Senator from Illinois, without having any personal knowledge of the facts connected with General Paine and his administration in and about the city of Paducah, that if a tithe of the reports I have heard be true his offenses are such as should cause him to be brought before a military court and dealt with in the harshest manner. As I before stated, I have no personal knowledge of these facts, but I hear them from such sources as to cause me to give them full faith and credit. I believe that General Paine had notice of the assembling of this commission, and that he purposely avoided meeting the investigation.

I think the resolution should be adopted so that the evidence may be given to the country. I think those parties who have been guilty of the offenses charged ought to be held up to the scorn and contempt of the community. If they are innocent they ought to have an opportunity of meeting the charges and making their innocence manifest. I desire no *ex parte* statements published to injure any man. I desire that all men shall have meted out to them exact and even-handed justice. I hope, for the honor of the country and for the honor of the service, that this man Paine and others who are charged with having committed offenses in that region of the country may prove themselves innocent; but I firmly believe they will not be able to do so. The proof is most positive against them, and I understand that it is contained in this very record for which I ask. I hope the resolution will be adopted.

Mr. TRUMBULL. Mr. President, I have usually voted in favor of resolutions of inquiry, and am as much in favor of exposing the improper conduct of officers as the Senator from Kentucky; but it appears that the Senator from Kentucky is not informed at all on this subject, except by rumor. He has heard that General Paine absented himself from this commission. He admits that General Paine was not before the commission that made this report; but he has understood that he absented himself. I have understood that General Paine knew nothing about it; that this is a private, secret report of some officers, perhaps inimical to General Paine, before whom he has never appeared at all, and of whose report he had no knowledge whatever. The Senator from Kentucky has heard reports prejudicial to the character of General Paine. I have heard a very good account of General Paine, and the only complaint I ever heard in regard to him, from any source, was that coming from the enemies of the country, that he dealt with traitors and rebels in Kentucky as they deserved to be dealt with, and protected Union men. He was too severe upon the enemies of the country, in the opinions of the enemies themselves.

Sir, I do not propose to discuss General Paine's conduct. I am not sufficiently advised to do so. He is from my State; and I thought it unjust to him that a report should be published to the world reflecting upon him, (if it does so; I know not how that may be, for I know nothing that is in the report;) a report made by men acting in secret, and before whom General Paine never appeared, and never had an opportunity to appear, so far as I have been informed.

I move the reference of this resolution to the Committee on Military Affairs, and let them inquire; and if there is a report made that reflects upon General Paine and shows that he has committed outrages—a report by a competent tribunal before which he has had an opportunity to appear and defend himself—I shall be the last man to seek to cover it up, and I shall unite with the Senator from Kentucky in exposing his conduct and bringing him to punishment; but before any such publication shall be made, I want the committee to inquire and ascertain whether this is a secret *ex parte* report that it is sought to publish to the country, and if it is, I am opposed to the publication of any such document.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, to

refer the resolution to the Committee on Military Affairs and the Militia.

Mr. POWELL. I hope this resolution will not be referred. The Senator speaks of the investigation having been held in secret. Why, sir, there was no secrecy about it. It was a matter of notoriety in all the public journals of the West that this investigation was going on. The commission was appointed by the military authorities in that region of the country, as I understand. It was conducted by three officers of the Army of the United States, one of the rank of brigadier general, and the other two I think of the rank of colonel. The people in that region of country were invited to come up and make known all the facts touching and concerning the conduct of this man.

Mr. JOHNSON. Who ordered the commission?

Mr. POWELL. The military authorities, I understand. Brigadier General Fry was president of the tribunal, and Colonel Brown and Colonel Brannock, I think, were the associates. That was the manner in which the investigation was conducted. I am told that it was not secret. In the newspapers of the day, the general account was that General Paine was notified, but that he left and did not appear before the commission. I have no doubt that when the facts contained in the report shall be made known, they will reflect very severely on the conduct of General Paine and of others in and out of the military service. I understand that such is the character of the evidence, and I think it is meet and proper that the report with the evidence should be published.

The Senator speaks of entering into a vindication of General Paine from the assaults made upon him. I did not intend at this time to make any assault upon General Paine, and I shall make none now; but if the proper time for it shall come and the necessity for it shall exist, I think I shall be prepared to make an assault upon General Paine. Indeed, when the facts touching his administration at Paducah, and in and about Gallatin, Tennessee, shall be published, I think no man will be under the necessity of making an assault; I think the facts themselves will be crushing. I have in my possession some documents touching his administration in Tennessee, obtained from a gentleman of the very highest authority. I shall not introduce them here now, because I do not think this is the proper time; but I want the country to know what have been the actions and doings of these officials in that region.

The Senator says that General Paine has only been too severe on rebels, the enemies of the country. How does he know that? Only from report and rumor about this man's administration. I have no complaint to make against General Paine for what he may have done to rebels, but I want to see what have been his actions and doings in regard to loyal men, not only as to their persons but as to their property, for I understand that he has made very free use of the property of other people. These allegations are made. I want to see the evidence, to learn whether they are true or false. As I before said, I personally know nothing about General Paine or about these transactions; but he is represented as a heartless monster, and a robber of the people whom I have the honor in part to represent; and where men have violated the just laws of war, and trampled upon the rules of common honesty and common decency to the detriment and injury of my constituents, I deem it my duty in every proper manner to have the facts laid before the country in order that the guilty culprits shall be held up to the scorn and contempt of honest men. For that reason, and in order that the public service may be promoted, and that all in future may take warning by the infamy that shall attach to this man provided he has been guilty of the offenses charged against him, I want this evidence laid before the country. I should suppose that no friend of the Government would wish to withhold from the people evidence in regard to the conduct of its officials of such a character as every Senator here who has read the public journals must know the testimony is in relation to this man, General Paine. I do not know whether General Paine is guilty or not; I know that I have heard from innumerable persons in that region of the country that he is guilty, and I know that the public press has charged him most distinctly and

explicitly during the last two or three months with guilt, and that, too, on the assertions of gentlemen who were engaged in this commission taking the evidence.

I can see no good reason for referring the resolution to the Military Committee or any other committee. The resolution is carefully worded. If the Secretary of War should, in his discretion, think it would not be proper to give this testimony to the country, he can withhold it. It is left to his discretion, and I so framed the resolution for a purpose. I thought that per possibility the Government might wish to arrest some of the persons implicated in this record, and I did not wish to give them a chance to escape. If there are such persons at large it would be manifestly improper to publish the testimony, and hence the resolution leaves it to the discretion of the Secretary of War to give us the record or not, at his pleasure. I suppose, however, that the names of all or nearly all the persons implicated in these transactions have been before the country in the newspapers for months back. I know that the papers in Kentucky and in the gentleman's own State—Illinois—have been teeming with articles on this very subject. I trust the Senate will not hesitate to call for the record which is on file in the War Department.

Mr. DAVIS. Mr. President, I have read the report that was made by the commission referred to in the resolution, and it involves, if true, not only offenses but crimes of the deepest dye. I do not know whether the report be true or false. I should be exceedingly gratified if it were to turn out to be untrue, and if General Paine was guiltless of the offenses imputed to him in that report. I would now suggest to my colleague that it seems to me a discretion in relation to giving or withholding the report ought not to be confided to the Secretary of War. I think that discretion should never be confided to or exercised by any other officer than the President of the United States. It seems to me, too, that the Senate has the right to call for, and that there is a propriety in its having access to, any report that is made by a military commission and returned to the War Office. I therefore suggest that this report be called for, and after it is received by the Senate the Senate may make such disposition of it as it may please. If justice to General Paine requires that the report, when it is made to the Senate by the War Office, shall be referred to the Military Committee, it may then take that course, and the Military Committee would be authorized, as I think they ought to be, in justice to General Paine, especially as the investigation was made in his absence, to reinvestigate the truth of the charges and imputations made against him in the report. I think the Senate ought to call for the report, and that, when the report is made to the Senate, at the instance of any Senator whatever it should be referred to the Committee on Military Affairs for its examination and a report upon that report, and to hear additional testimony exculpatory of General Paine, if he or any of his friends desire that such proof shall be heard.

The PRESIDENT *pro tempore*. The question is on the motion to refer the resolution to the Committee on Military Affairs.

Mr. POWELL. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. The Senator from Kentucky [Mr. POWELL] speaks of this report as a "record," and of "evidence," and both the Senators from Kentucky tell us that this was an examination in the absence of General Paine. It is wrong to designate it as evidence or a record at all. One of the Senators tells us that he has seen it.

Mr. POWELL. It has been published in the newspapers.

Mr. TRUMBULL. This report has been published already! It is a very singular proceeding. I have never seen it, and I never will be a party to the publication, by the Senate, of a report reflecting upon any man, that is got up in his absence, and without an opportunity for him to exculpate himself, if he is charged with offenses in that report. Now, the Senators ask to have this report communicated to the Senate; and the object is to make public, I understand one of the Senators, that which has already been published in the newspapers. I should like to know who put it there. The truth about it is that no mil-

itary commission has ever sat upon the conduct of General Paine before whom he has appeared or had any opportunity to appear, or of whose sessions he has known anything; but somebody, inimical to General Paine, has got together a commission out in Kentucky somewhere, and made reports to the War Department reflecting upon his conduct in the management of his department, whatever it was, while he was in command there, as I understand.

Now, my proposition is that this resolution (which seeks to bring this partial, *ex parte*, inquisitorial report before the country for the purpose of damaging a man who has never had an opportunity to appear before the tribunal) shall first go to the Committee on Military Affairs that they may inquire at the War Department, and if it is a report that is proper to be communicated to the Senate, if it is a report made after investigation, where the party has had an opportunity to exculpate himself and he has not done so, let it be called for and published to the country, and let him take the consequences of his misconduct. The very object which the Senator from Kentucky [Mr. POWELL] has in view is not an investigation of the conduct of General Paine. The other Senator from Kentucky [Mr. DAVIS] speaks of it as if General Paine was on trial; but that is not the question; that is not the proposition before the Senate. The simple proposition here is to call out for publication an *ex parte*, inquisitorial report of some unauthorized commission, or, if authorized, probably authorized by some subordinate officer, but not authorized by the War Department. I am opposed to having any such report published or called for, as I understand this to be. But if I am mistaken as to the character of the report the Committee on Military Affairs can recommend the passage of the resolution, and the report can be called for.

Mr. JOHNSON. The Senator will permit me to ask him whether General Paine has requested a court of inquiry or a court-martial since the supposed report was made.

Mr. TRUMBULL. I am not aware that he has or that he knows of this report. I have had no communication with General Paine in reference to it. I know the gentleman; he is a highly respected citizen of my State; a gentleman of good reputation and standing. I know nothing about these imputations that are thrown out upon hearsay here. I have had no communication with General Paine; but inasmuch as this resolution pointed to the bringing before the public of a report which I have understood here in Washington reflects upon his conduct as a military officer in the discharge of his duties while in command in Kentucky and in Tennessee, and a report made without his knowledge, he having had no opportunity to appear before the commission, I thought it unjust to him that any such publication should be made. If I am misinformed as to the character of this commission and the character of the report, the Committee on Military Affairs, to whom the resolution will go if my motion prevails, will ascertain how the fact is and let the report be called for and published, for I am the last person to cover up or screen the misconduct of any official.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL and others. Let us dispose of this question.

#### EXECUTIVE SESSION.

Mr. LANE's motion was agreed to, and the Senate proceeded to the consideration of executive business; and after a short time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 8, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House the report of the chief of the Ordnance Bureau of the Navy Department; which was referred to the Committee on Naval Affairs, and ordered to be printed.



## DUTY ON CIGARS.

Mr. STEVENS. I am instructed by the Committee of Ways and Means to report to the House joint resolution (H. R. No. 124) explanatory of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; and ask its consideration at the present time.

The resolution provides that so much of the act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864, as refers to the tax or duty on cigars, shall be so construed that the tax shall be assessed on the real value, whenever the owner shall fix the value of the cigars. If the inspector or assessor shall deem such price below the real value, he may, subject to the approval of the Secretary of the Treasury, take the same at the price named, to be sold for the use of the Government, under authority of the Secretary of the Treasury.

Section two provides that returns relative to cigars may be made monthly or bi-monthly, instead of weekly, as may be directed by the assessor.

Section three provides that manufacturers of cigars may have their cigars inspected and stamped, and pay the tax upon the same at any time before as well as at the time of sale.

Section four provides that the stamp shall indicate the amount of tax paid or payable.

Mr. BROOKS. This is a very important bill; although I do not wish to delay whatever action may be necessary upon it, yet I would like to see the bill in a printed form.

Mr. STEVENS. The bill is already printed, but if there is any difficulty about it I would be willing to have it postponed until to-morrow.

Mr. BROOKS. It is a bill which I would like to have go before my constituents, and while upon the floor I would ask the gentleman from Pennsylvania [Mr. STEVENS] a question. Perhaps it is premature; but as the subject is suggested by the Secretary of the Treasury, I may ask the gentleman if it is likely that there will be any change of duty upon tobacco. The Secretary of the Treasury recommends that a tax be laid upon leaf tobacco. If such a tax be laid, it will change the duty upon cigars.

Mr. STEVENS. It is not for me to say whether there will be any change. It has been recommended by the Department that a tax be laid upon leaf tobacco. The committee have had some conversation upon the subject; but the committee have not been full, and therefore have not come to any conclusion. Nor can I inform the gentleman what the action of the committee will be; much less what will be the action of this House.

Mr. BROOKS. Would it not be wise to wait a few days, until we have some action of the committee upon the subject of leaf tobacco, before we change the duty on cigars?

Mr. STEVENS. Although I am willing to postpone the consideration of this joint resolution, if the gentleman from New York [Mr. BROOKS] desires it, I may suggest here that, in the opinion of those best acquainted with the subject, the Government has already lost millions by the construction put upon the act of last session by the Commissioner of Internal Revenue; that the tobacco dealers, instead of paying the duty of eight dollars which the law requires, are paying, and have been paying, but three dollars upon the millions and millions of cigars which have been sold. There has, therefore, been lost to the revenue the difference between three and eight dollars per thousand upon the large amount that have been manufactured and sold, or which may be now on hand. It is in my judgment essential that this joint resolution should be speedily passed. If any gentleman desires more time to consider the subject, I will move to postpone it until to-morrow.

Mr. WASHBURN, of Illinois. I presume the House will adjourn over until Monday next. I think that, after the statement which has been made by the chairman of the Committee of Ways and Means, [Mr. STEVENS,] we should all agree to pass this joint resolution to-day.

Mr. STEVENS. I will make a statement of the evil to be remedied; then I will not call the previous question, but allow the gentleman [Mr.

Brooks] time to move to postpone it until a future day.

Mr. BROOKS. This is a subject upon which I am now quite unprepared to act, and which I have but hastily considered. But I will say that, in the opinion of a large number of honest manufacturers of cigars, it will be quite impossible, under the principle of the law as it now stands, ever to have an honest taxation of cigars. The temptation to fraud is so immense, the duties are so great, and it is so impossible to detect those frauds, that with the principle by which the duty is now laid upon cigars, I do not believe there can be any legislation devised which will produce the result which the honorable gentleman suggests.

It has been suggested that it is practicable to have a stamp, like that of the post office, to be affixed to each cigar, so that whenever a duty is laid upon a cigar the stamp will show whether it has been paid or not. I have no doubt, from the best information I can obtain, that a stamp of one cent, like that used in the post office, on each cigar, will yield a larger revenue than can ever be obtained upon any principle like that contained in the old bill, or that suggested in the new one.

One great system of fraud under the present law, and which the remedy proposed by the honorable gentleman will not correct, is the use of old cigar boxes with the stamps upon them, in which are put new cigars which have not paid duty. I think if the honorable gentleman will take a little more time he will lose nothing, but will accomplish what he and I undoubtedly both desire.

I have no personal interest in this matter, not using tobacco in any form or shape whatever, and therefore I am entirely disinterested upon this subject. But if the honorable gentleman will consult with others who are practically acquainted with the subject, and give the House due time to consider it, I think he will come to the conclusion which has struck my mind, not irrevocably, but which has impressed me with considerable force, that the true way to collect the duty on cigars is to put a stamp upon each cigar.

Mr. STEVENS. I am not ready at this time to say what is the best mode of preventing frauds; and there is the great difficulty. At present, however, the committee do not propose to attempt any alteration of the law. They propose no more than that Congress shall declare what we suppose to have been the meaning of the act of Congress of last session, in contradistinction to what we consider the very erroneous decision of the Commissioner of Internal Revenue.

Mr. DAWES. I desire to ask my friend from Pennsylvania whether there is no way of correcting such decisions except by a joint resolution of Congress.

Mr. STEVENS. There may be some other way; but at any rate I consider this method the most effectual.

Mr. DAWES. I would suggest to my friend that the system devised in the law of last session seems, in its practical operation, to be so complicated, that, so far as I know, it is, among the cigar manufacturers of New England, found to be utterly impracticable. My friend will, I think, be very soon satisfied, in the course of the session, that this is not the only legislation that will be required upon the subject. Cigar manufacturing has been entirely, or almost entirely, stopped by the singular law of last session, or its more singular construction. The law was certainly sufficiently perplexing; but the construction of it has increased the difficulty instead of diminishing it. I have great apprehension that there will be required something more than a simple joint resolution to lead us out of this wilderness into which somebody has brought us. I hope that my friend will be patient, and will address himself and the labors of his committee to clearing up the smoke which surrounds this subject.

A MEMBER. What kind of smoke?

Mr. DAWES. Cigar smoke, of course. [Laughter.]

The SPEAKER. Does the Chair understand the gentleman from New York [Mr. Brooks] to object to the consideration of the bill at this time? If so, the bill must be referred to the Committee of the Whole on the state of the Union.

Mr. BROOKS. I should be glad if the gentleman from Pennsylvania would agree to postpone

the bill to a given day, so that there could be a little discussion on it. I would not object to a postponement to a given day some time next week.

The SPEAKER. The Chair understands the gentleman from New York to object only to the consideration of the bill at the present time.

Mr. BROOKS. I do not desire to object; but I trust the gentleman will consent to a postponement of the bill.

Mr. STEVENS. I have already said that if the gentleman will allow me to make the statement which I desire to make, I am willing that the consideration of the bill shall be postponed. I have no desire to press the matter unduly; but I think the subject should be acted on without any unnecessary delay, because the Government, under the present construction of the law, is losing every day some thousands of dollars of revenue on the manufacture of cigars.

Mr. BROOKS. I think that if the honorable gentleman from Pennsylvania will allow the bill to be postponed until Tuesday or Wednesday next, that will be soon enough to act upon it.

Mr. STEVENS. If the gentleman will allow the bill to be taken up now, I will state the evil which, in the opinion of the committee, it is important to remedy.

The SPEAKER. Is there objection to the consideration of the bill by the House at the present time?

Mr. BROOKS. I withdraw my objection, with the understanding that after the remarks of the gentleman from Pennsylvania the bill will be postponed until Tuesday next.

Mr. STEVENS. Mr. Speaker, among the provisions of the act of last session are the following laying a tax on cigars:

"On cigarettes made wholly of tobacco, and also on cigars known as cheroots or short sixes, valued in each case at not over five dollars per thousand, three dollars per thousand.

"On cigars valued at over five dollars and not over fifteen dollars per thousand, eight dollars per thousand.

"On cigars valued at over fifteen dollars and not over thirty dollars per thousand, fifteen dollars per thousand.

"On cigars valued at over thirty dollars per thousand and not over forty-five dollars, twenty-five dollars per thousand.

"On cigars at over forty-five dollars per thousand, forty dollars per thousand; and the valuation of cigars herein mentioned shall in all cases be the value of the cigars, exclusive of the tax."

It is under that clause of the law that the difficulty with the Commissioner of Internal Revenue has arisen. By his construction, he has declared that we must wait until the sale of the cigars, and that if they sell for less than thirteen dollars per thousand they are subject to a tax of only three dollars, although the law says that cigars valued at over five dollars per thousand shall pay a tax of eight dollars per thousand. The result is that all cigar manufacturers, so far as I know—certainly all the principal manufacturers—have stopped business, and have sold out or leased their establishments to their foremen. The manufacturer sells the tobacco to his foreman, who manufactures the cigars, and in that form sells the tobacco back to the dealer, the principal man, at thirteen dollars per thousand, and on these cigars a tax of three dollars per thousand is paid; whereas it is well known to every man who knows anything about the subject that at the present price of tobacco and the present cost of manufacturing there cannot be and is not a single thousand of cigars made for less than five dollars; and therefore if they were rated at their true value they would all be subjected to a tax of eight instead of three dollars per thousand.

But, under the idea which the Commissioner takes, that you must take it for what it sells as the value—and he instructs that that is conclusive—the sale governs the inspectors and assessors. Then, sir, nine tenths of the cigars manufactured since the last session of this Congress up to the present day—nine tenths, I venture to say, have paid but three dollars tax.

Now, what I propose, Mr. Speaker, is that instead of the sale actually made being the conclusive value for the tax, the tax shall be assessed by experienced inspectors, and that upon the value fixed by them the tax shall be assessed, although that tax will bring it above thirteen dollars.

That is all there is of it. It construes the mode of finding out what is the value of cigars.

I provide also, what is the provision of other

laws, that when the inspector or assessor suspects extensive frauds by undervaluation in the sale or purchase of cigars, he shall be at liberty to take the cigars at the price fixed on them by the owner, for the use of the Government. That is the system adopted by many foreign nations where there is a suspicion of undervaluation or fraud. It allows the Government to take the cigars at the price fixed upon them by the owner.

There is another reason why the present law should be amended. Making returns weekly may be very well in the large cities, but in counties as extensive as my own, where a great many hundred women and children manufacture cigars, it is very inconvenient for them to make returns every week. My proposition provides that, in the discretion of the assessor, monthly instead of weekly returns may be made.

Another evil exists under the present construction of the law: the stamp put upon cigars which pay a three-dollar tax, is an eight-dollar stamp; and they go forth to the world as having paid eight dollars when in reality they have only paid three dollars. This provides that the stamp shall state exactly what tax has been paid, and is payable, which tax shall be assessed before the sale, instead of waiting till the time of sale.

All the cigars which have been inspected since the passage of the act referred to—and there are hundreds and millions of them—have escaped the payment of the eight-dollar tax, for there is not a cigar made which, under the law, comes under the three-dollar tax.

I believe, sir, I have stated all of the evils and proposed remedies. The committee have not had time to consider all of the remedies that may be proposed. We have not seen the recommendations of the committee, although we know something of them. We will be glad to have suggestions from every member. Especially would we be indebted to the gentleman from Massachusetts [Mr. Dawes] for the right way of construing the law.

If the gentleman from New York [Mr. Brooks] desires it I am now willing that the matter shall be postponed to a day certain.

The SPEAKER. The Chair will state that there are seven postponements from the last session, which will take priority.

Mr. BROOKS. Mr. Speaker, I do not see that I do not concur in the general remarks of the gentleman from Pennsylvania. The evils he speaks of are well known, and were anticipated in some degree when the law was passed. The gentleman will recollect that at the time we had some discussion on the subject in the House. It was not a full discussion, for we were necessarily required to move with rapidity.

The honest manufacturers of cigars desire an amendment of this law; there is no doubt of that; but there are great difficulties in the whole matter, and I hope the Committee of Ways and Means will take time to consult in regard to some of them, and particularly in regard to the laying of a tax upon leaf tobacco and cigars in one and the same bill and at the same time. And I hope they will take into consideration the subject of a tax upon cigars, for I am informed by men well informed, honest manufacturers of cigars, that a tax of one cent upon each cigar will yield a larger revenue than it is possible for us to get in any other way. The fact is that the tax upon cigars is so enormous here and in all countries that unless the Government takes the whole subject into its hands, as in France, and regulates the production, purchase, and sale of tobacco, it will be impossible to prevent fraud and smuggling. Smuggling of cigars is about to be, and will be, immense from the Canadas, and no law or remedy of ours can prevent that smuggling except by putting a stamp upon each cigar.

Let me make another suggestion to the honorable gentleman from Pennsylvania, [Mr. Stevens.] His joint resolution provides that "whenever the owner or possessor (as agent) of cigars shall fix the value thereof, or allege a certain price for which he pretends to have purchased them or offers them for sale, if the inspector or assessor shall deem such price below the real value, he shall be at liberty to take the same at that price for the use of the Government, giving the owner or agent a certificate of the value, who shall be paid the same on presenting the certificate to the Treasurer of the United States or his deputy." Doubt-

less it is well known to the gentleman from Pennsylvania, and to all others, that the manufacturers of cigars are ingenious, and that the judges of cigars are few and far between, and that the assessors likely to be appointed by the Government to inspect these cigars are less likely to know anything of the subject than any other class of men who will be invested with authority upon the subject. And I should not be surprised, under that item of the bill, and under the prevailing high prices, if the royal characters of Spain should be imprinted frequently upon boxes of cigars in order to sell them to the assessors at three, four, or ten dollars more than the cigars are really worth. This is a subject which needs consideration and ought to be looked into immediately; and it is obvious to everybody who knows anything of the manufacture of cigars, that our Havana cigars, which bear so high a character for quality, are the production of the good people of Connecticut, and of tobacco grown upon the banks of the Connecticut river.

Mr. L. MYERS. I desire that a time for the consideration of this resolution shall be fixed at an early day. In my district the greatest interest is felt in the matter. The law and its construction have operated prejudicially to both the cigar manufacturers and to the Government, and the income has been greatly reduced thereby. I trust we will proceed to the consideration of the resolution at once, if an early day cannot be fixed for its discussion.

Mr. KASSON. I desire to call the attention of the gentleman from New York [Mr. Brooks] to one or two amendments not contained in the printed copy of the bill before him, one of which is designed to meet the objection he made touching the possibility of a misvaluation upon the part of the assessor and fraud upon the part of the owner. In the bill before the House is interlined after the word "liberty," in line seventeen, the words "subject to the approval of the Secretary of the Treasury," so that the inspector or assessor may take them subject to such approval. The object of that clause is to enable the owner, upon the one part, if injustice has been done, to appeal, or take proceedings in the nature of an appeal, to the Secretary of the Treasury, to enable him to dispose of the action of the assessor; and on the other hand to enable the assessor to take such action as, upon advice, he may deem best to secure the rights of the Government. I do not know anything safer than that. Every law is liable to be misadministered. This clause protects both.

A single word upon another point. As is well known, we expected by this measure to realize a considerable addition to the revenue. The law as passed is not the bill as it emanated from the Committee of Ways and Means. That bill, as it passed the House, was modified in the Senate, and that modification concurred in by the House. But the point of importance now to be considered is that where we ought to get eight dollars a thousand and we are getting only three; and that fact every day affects essentially the revenue of the Government, as stated by the chairman of the Committee of Ways and Means. The great object of the action now is, not to insist upon the permanence of the system itself, but to make it effectual, leaving the whole subject of a change of the system open to the action of the House and the committee having charge of it.

I hope, therefore, with the explanations made, the House will see fit at least to send this measure to the Senate as early as possible; and I think we are justified in asking as early a day as possible for its consideration, in order that the revenue may be saved that which it is admitted we are now losing. That is the whole object and purpose of the bill.

Mr. STEVENS. As it does not seem satisfactory to the gentleman from New York to consider this matter now, I ask the unanimous consent of the House that it be considered on Monday next.

Mr. KELLEY. Will that interfere with matters that were postponed at the last session?

The SPEAKER. It would if it should be made a special order, which would require unanimous consent. In that case it would take precedence of other business. The Chair has examined the Journal, and all the postponements from last session are simple postponements; there

are no special orders. Is there objection to this bill being postponed until Monday next and made the special order for that day?

No objection was made; and it was ordered accordingly.

#### ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

#### RESTORATION OF CIVIL AUTHORITY.

Mr. YEAMAN. I rise to a privileged question. Introduced yesterday a bill to provide for the restoration of the civil authority of the United States in certain States, and through inadvertence had it referred to the Committee on Military Affairs. The subject-matter would properly go before the Judiciary Committee. I move to reconsider the vote by which the bill was referred, with the view of giving it the proper reference.

The motion to reconsider prevailed, and the bill was then referred to the Committee on the Judiciary.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS. I ask the unanimous consent of the House to offer resolutions distributing the President's message to the various committees.

The SPEAKER. That requires unanimous consent.

Mr. BROOKS. I do not mean to object, but I want to avail myself of some early opportunity, with the consent of the other side of the House, to make some remarks on the President's message, and I desire that opportunity in the early part of the session, before we are pressed with business.

No objection being made, the resolutions presented by Mr. STEVENS were read and agreed to, as follows:

*Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the public debt, to the deficiencies in the revenues of the Post Office Department, to the receipts into the Treasury, to the public expenditures, to the national and State banking institutions and a uniform currency, to provision for increasing the revenue by additional taxation, to the regulation of imports fixed by the reciprocity treaty between Great Britain and the United States, of 5th June, 1854, to the issuing of bonds and their exemption from taxation and from seizure for debt, and for providing the ways and means for the support of the Government, be referred to the Committee of Ways and Means.

*Resolved*, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

*Resolved*, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

*Resolved*, That so much of said message and accompanying documents as relates to the subject of telegraphs, and to the Post Office Department, be referred to the Committee on the Post Office and Post Roads.

*Resolved*, That so much of said message and accompanying documents as relates to the Constitution and laws of the United States, to prize on our inland waters, and to judicial proceedings, be referred to the Committee on the Judiciary.

*Resolved*, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

*Resolved*, That so much of said message and accompanying documents as relates to agriculture, and to the Department of Agriculture, be referred to the Committee on Agriculture.

*Resolved*, That so much of said message and accompanying documents as relates to our intercourse with the Indian tribes, and additional legislation in remodeling the whole Indian system, be referred to the Committee on Indian Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Army of the United States, and to keeping up the military establishment of the Government, be referred to the Committee on Military Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence in relation thereto, be referred to the Committee on Foreign Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

*Resolved*, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

*Resolved*, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

*Resolved*, That so much of said message and accompanying documents as relates to the expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

*Resolved*, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

*Resolved*, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

*Resolved*, That so much of said message and accompanying documents as relates to coinage, and the subject of weights and measures, be referred to the Committee on a Uniform System of Coinage, Weights, and Measures.

*Resolved*, That so much of said message and accompanying documents as relates to Pacific railroads be referred to the Committee on the Pacific Railroad.

*Resolved*, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

*Resolved*, That so much of said message and accompanying documents as relates to emancipation be referred to the Committee on Emancipation.

*Resolved*, That so much of said message and accompanying documents as relates to immigration be referred to the Committee on Immigration.

*Resolved*, That so much of said message and accompanying documents as relates to the duty of the United States to guaranty a republican form of government to the States in which the governments recognized by the United States have been abrogated or overthrown be referred to the Committee on the Rebellious States.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States by Mr. NICOLAY, his Private Secretary.

#### THANKS TO CAPTAIN WINSLOW.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the Senate and House of Representatives:*

In conformity to the law of July 16, 1862, I most cordially recommend that Captain John A. Winslow, United States Navy, receive a vote of thanks from Congress for the skill and gallantry exhibited by him in the brilliant action, while in command of the United States steamer Kearsarge, which led to the total destruction of the piratical craft Alabama on the 19th June, 1864—a vessel superior in tonnage, superior in number of guns, and superior in number of crew.

This recommendation is specially made in order to comply with the requirements of the ninth section of the aforesaid act, which is in the following words, namely:

"That any line officer of the Navy or Marine corps may be advanced one grade, if, upon recommendation of the President by name, he receives the thanks of Congress for his important, gallant, and perilous achievement in destroying the rebel iron-clad steamer Albemarle, on the night of the 27th October, 1864, at Plymouth, North Carolina.

The destruction of so formidable a vessel, which had resisted the continued attacks of a number of our vessels on former occasions, is an important event touching our future naval and military operations, and would reflect honor on any officer, and redounds to the credit of this young officer and the few brave comrades who assisted in this successful and daring undertaking.

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which was laid on the table and ordered to be printed.

#### UNEMPLOYED GENERALS.

Mr. SCHENCK. I was not in the House when the Committee on Military Affairs was called, and I ask permission now to make a report from that committee.

No objection was made.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to report a bill to drop from the rolls of the Army unemployed general officers. I will state that the bill is a modification and extension of the joint resolution passed at the last session of this Congress, and I only ask that it be recommitted and be ordered to be printed.

The bill was read a first and second time by its title, recommitted to the Committee on Military Affairs, and ordered to be printed.

#### NATURALIZATION LAWS.

Mr. SCHENCK submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the naturalization laws as to provide that persons liable by law to the performance of military duty, who, during the existing rebellion, have left and continued absent from the United States, or may hereafter leave the United States, with a view to avoid any enrollment or draft for military service, or who, having been, or hereafter being, enlisted or drafted, or accepted as substitutes in the military service of the United States, may have been, or may be, guilty of desertion from such service, and shall have gone, and remained, until the passage of such amendatory law, in any foreign country, or may hereafter go to any foreign country, to escape arrest for such desertion, shall, from the date of such abandonment of their own country, either to avoid enrollment or draft, or to escape from arrest for desertion, be held to have forfeited and given up all rights and privileges of citizenship of the United States, and be only capable of naturalization thereafter by declaration of intention, oath of allegiance, and probation of five years, as in the case of other aliens; and that the committee report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### TRADE WITH REBELLIOUS STATES.

Mr. FERNANDO WOOD submitted the following resolution, which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be directed to inquire into the expediency of repealing the eighth section of the act entitled "An act in addition to the general acts concerning commercial intercourse between loyal and insurrectionary States," &c., approved July 2, 1864.

And then, on motion of Mr. HOLMAN, (at one o'clock, p. m.) the House adjourned till Monday next.

#### IN SENATE.

Monday, December 12, 1864.

Prayer by Rev. THOMAS BOWMAN, D.D., Chaplain to the Senate.

The Journal of Thursday last was read and approved.

Hon. JAMES HARLAN of Iowa, Hon. WILLIAM SPRAGUE of Rhode Island, and Hon. J. M. HOWARD of Michigan, appeared in their seats to-day.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a memorial of members of the bar of the supreme court of the District of Columbia, praying that authority may be granted to that court to employ a stenographic reporter; which was referred to the Committee on the Judiciary.

Mr. DOOLITTLE presented the petition of Frances Elliott, of Richland county, Wisconsin, praying to be remunerated for the loss of certain money in United States notes, occasioned by the burning of her house in January last; which was referred to the Committee on Claims.

Mr. HARLAN presented the petition of soldiers of the first and third Iowa cavalry, praying that they be mustered out of service on the expiration of the term of service of their regiments in pursuance of a promise, as they allege, made to them by the mustering officer at the time of muster in; which was referred to the Committee on Military Affairs and the Militia.

He also presented two petitions of citizens of California, praying for the passage of House bill No. 560 to amend an act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Soscol Ranch, in the State of

California;" which were referred to the Committee on Public Lands.

Mr. SHERMAN presented a memorial of the directors of the Western Associated Press, praying for a reduction of the duty on foreign printing paper; which was referred to the Committee on Finance.

Mr. JOHNSON presented the petition of James Crutchett, praying for compensation for the use of his property in Washington city by the Government; which was referred to the Committee on Claims.

Mr. WILSON. I present a petition of Major General Weitzel, late commander of the eighteenth Army corps, and four hundred and seventy officers of that corps, asking for an increase of the pay of officers to the extent of twenty dollars per month, and that the price of the ration may be commuted at fifty cents instead of thirty. I move the reference of this petition to the Committee on Military Affairs and the Militia, simply saying that the price of provisions has increased more than three hundred per cent. since the law was passed, making it extremely difficult for officers of the Army to get along.

The motion was agreed to.

Mr. WILSON. I present also the petition of Colonel T. W. Higginson, asking for the repeal of so much of the fourth section of the act approved July 4, 1864, as distinguishes between colored soldiers that were free and those that were slaves before the 19th of April, 1861. I move the reference of this petition to the same committee.

The motion was agreed to.

Mr. GRIMES. I present the petition of E. W. Moores, C. O. Morris, and J. M. Boyd, masters in the Navy not in the line of promotion, who represent that they have been attached to the New York, Washington, and Boston navy-yards seventeen, eighteen, and nineteen years, and have been from twenty to forty years in the naval service, and have been on constant duty. They now ask that they may be relieved from their present straitened circumstances in consequence of their small pay of \$1,200 not being sufficient to support their families, and they ask to be allowed \$1,609 50 per annum for shore duty, and \$1,200 as retired pay. I move the reference of this petition to the Committee on Naval Affairs.

The motion was agreed to.

Mr. GRIMES. I also present the petition of Charles Fosdick Fletcher, who represents himself to be a citizen of the United States, and prays Congress to pass a law at the present session for the establishment of a railroad along the line of the twenty-second parallel of latitude, following as nearly as practicable the surveyed route from New Orleans to San Diego, in California, with a branch to San Francisco, with like powers, privileges, and immunities to those which have been granted to other companies chartered by Congress. I move that this petition be referred to the standing Committee on the Pacific Railroad.

The motion was agreed to.

Mr. JOHNSON. I am requested to present—the Senate may dispose of it as they see proper—a memorial of William Cornell Jewett, showing the impossibility of peace through home action, and praying for a reference of the points at issue to an international congress.

The PRESIDENT *pro tempore*. Does the Senator propose any reference?

Mr. JOHNSON. No, sir.

Mr. SUMNER. Let it lie on the table.

The PRESIDENT *pro tempore*. The petition will lie on the table.

#### NAVY DEPARTMENT BUILDING.

Mr. FOOT. The Committee on Public Buildings and Grounds have had under consideration a joint resolution from the House of Representatives (No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building, and recommend its passage, and authorize me to ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Navy to expend so much of the contingent fund heretofore appropriated as may be necessary for the enlargement of the Navy Department building to meet the wants of the Department.



Mr. FOOT. If the Senate will indulge me in a word of explanation, this joint resolution passed the House of Representatives near the close of the last session, was sent to the Senate for concurrence, and referred to the appropriate committee. Through inadvertence on my part it was not then brought to the attention of the committee. During the last days and hours of the session, in the crowd of business, it was overlooked, and consequently failed of action in this body. The committee now direct me to report it and ask the unanimous consent of the Senate for its present consideration. I will state that it involves no appropriation, but merely authorizes the Secretary of the Navy to expend so much out of the contingent fund as may be necessary to erect a wing by way of enlargement of the Navy Department building. That addition is in process of construction, and now nearly completed. I understand its entire cost will be about fifty thousand dollars, which is about equivalent to the sum paid for two years' rent of buildings necessary for the accommodation of the clerical force and employes of that Department.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. DAVIS, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (S. No. 81) for the restoration of peace and the Union, the vindication of the Constitution, and the construction of additional and adequate guarantees of the rights and liberties of the people of the United States; which was read a first time by its title and passed to a second reading, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 354) extending the time for the completion of certain land-grant railroads in the State of Minnesota and regulating the disposal of lands heretofore granted said State to aid in the construction of such roads; which was read twice by its title and referred to the Committee on Public Lands.

Mr. FARWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 355) to amend "an act to regulate the admeasurement of tonnage of ships and vessels of the United States," passed May 6, 1864; which was read twice by its title, and referred to the Committee on Commerce.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. SUMNER, it was

Ordered, That so much of the President's annual message as concerns our foreign relations be referred to the Committee on Foreign Relations.

#### INCREASE OF THE REVENUE.

Mr. DOOLITTLE. I offer the following resolution:

Resolved, That the Committee on Finance be instructed to inquire into the propriety of the immediate passage of an act to increase the revenue, first, by an additional tax of one per cent. upon all sales of real and personal property, including also all bargains for the sale of merchandise, produce, gold or silver coin, or stocks of any description; second, by an additional tax of twenty-five per cent. upon the gross receipts, to be added to the present rates, of all railroad fares, including street railroads, steamboats, and ferries, to be collected by the companies or persons running the same, for the use of the Government. And that said committee be further instructed to inquire into the propriety of the passage of a law to prevent the further expansion of the currency by the organization of any new banking associations except when they may take the place of some existing State bank. And that said committee be further instructed to inquire into the propriety of redeeming all the outstanding interest-bearing legal-tender notes by issuing in their stead other notes, in denomination not less than fifty dollars each, bearing a uniform interest, from the 1st day of January in each year, of three and sixty-five one-hundredths per cent. per annum, with coupons attached, to be paid out, and to be made a legal tender for their face, with interest added.

As this is a simple resolution of inquiry, instructing the Committee on Finance to inquire into the subject, I ask for its present consideration.

Mr. CHANDLER. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

#### COASTING TRADE.

Mr. FARWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of consolidating the

three great districts, and for providing that licensed vessels may trade to ports on the Atlantic and Gulf coasts without clearance and entry at the custom-house.

#### AMERICAN SAILOR BOYS.

Mr. FARWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of providing by law that vessels engaged in foreign trade shall employ or take on board American boys, at least one for every five hundred tons measurement.

#### EXECUTIVE SESSION.

Mr. SHERMAN. If there is no further legislative business, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

On motion of Mr. POWELL, the Senate resumed the consideration of the following resolution submitted by him on the 7th instant:

Resolved, That the Secretary of War be directed, if not incompatible with the public interest, to transmit to the Senate the report and evidence taken by a military commission, of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine, of the United States Army, in and about Paducah, Kentucky.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Illinois [Mr. TRUMBULL] to refer the resolution to the Committee on Military Affairs and the Militia; and upon that question the yeas and nays have been ordered.

Mr. POWELL. It is not my purpose, sir, to discuss the question further, but simply to make a statement in answer to some interrogatories which were put to me when the resolution was up before. I was then asked by some Senator, I think the Senator from Maryland, [Mr. JOHNSON,] whether or not this General Paine was now in the service. I have written a note to the Adjutant General on the subject, and I am informed by that functionary that General Paine has tendered his resignation, but it has not been accepted, and he is still in the service. I had seen it stated in the newspapers that his resignation was accepted, but that seems to have been a mistake.

I was also asked by whom this commission was appointed, and I was unable to answer the question. I am now advised by the Adjutant General that it was appointed by Brevet Major General Burbridge, commanding the Department of Kentucky.

I will further remark that a little mistake appeared in the report in the Globe, and the Senator from Illinois seemed to catch my remark as the reporter did. I am made to say in the Globe that the report of this commission had been published in the newspapers. That was a mistake. The statement I made or intended to make, was that accounts of the report had been published in the newspapers.

Mr. TRUMBULL. I think it was the Senator's colleague who stated that.

Mr. POWELL. I am reported in the Globe as saying that the report had been published, and I understood the Senator from Illinois to comment on my remark as if I had said so. The idea I intended to convey was that I had seen accounts of this report, newspaper articles purporting to give some of the points in the report. I have never seen the report; it has not been published in the newspapers, to my knowledge. The mistake was a very trifling one, to be sure.

I think this document is of such a kind and character that we ought to have it. I hope the Senate will vote down the motion of the Senator from Illinois. I can see no reason for referring the resolution to a committee. I hope it will be adopted at once. The document is a public record in which the people of the country are very deeply interested, especially the people in the region where these transactions occurred.

The question being taken by yeas and nays, resulted—yeas 30, nays 8; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colamer, Connors, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howe, Lane, of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Teller, Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—30.

NAYS—Messrs. Buckalew, Davis, Hendricks, Johnson, Nesmith, Powell, Riddle, and Wright—8.

NOT VOTING—Messrs. Carlile, Cowan, Hale, Harding, Hicks, Howard, Lane, of Indiana, McDougall, Richardson, Saulsbury, and Wilkinson—11.

So the motion was agreed to, and the resolution was referred to the Committee on Military Affairs and the Militia.

#### EXECUTIVE SESSION.

Several executive messages in writing were received from the President of the United States, by Mr. NICOLAY, his Secretary.

Mr. HENDRICKS. A few moments since, my colleague stated to the Senate that he expected a communication from the President in relation to an important office in Indiana, upon which it is desirable to have immediate action. In order to ascertain whether such a communication has been received, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, December 12, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Thursday last was read and approved.

#### RESIGNATION OF A MEMBER.

The SPEAKER laid before the House the following communication, which was read:

WASHINGTON, D. C., December 10, 1864.

SIR: I have resigned my seat in Congress, to take effect on the 30th instant. I will leave for Albany on Monday next, and as it is not probable that I shall return in the mean time, I now tender my resignation as a member of the Committee of Ways and Means, and also on the committee on the rebellious States.

Very respectfully,

R. E. FENTON,

Thirty-First District New York.

Hon. SCHUYLER COLfax,  
Speaker House of Representatives.

#### VACANCIES ON COMMITTEES.

The SPEAKER announced the following appointments to fill vacancies upon sundry committees of the House:

On the Committee of Ways and Means, in place of Mr. Stebbins, Mr. J. V. L. PRUYN.

On the Committee of Ways and Means, in place of Mr. FENTON, Mr. D. C. LITTLEJOHN.

On the Committee on a Uniform System of Coinage, &c., in place of Mr. Stebbins, Mr. DWIGHT TOWNSEND.

On the select committee on the rebellious States, in place of Mr. FENTON, Mr. T. T. DAVIS.

The SPEAKER then proceeded to call the committees for reports to go on the Calendar, and not to be brought back into the House by a motion to reconsider.

The SPEAKER. This being the alternate Monday, and the morning business not having exhausted the morning hour, in accordance with the rule of the House the morning hour expires with the conclusion of the business appropriated to it. The Chair will therefore call up the special order for to-day, being the bill reported by the Committee of Ways and Means in relation to the duty on cigars.

#### DUTY ON CIGARS.

The House then proceeded to the consideration of the House joint resolution (No. 124) explanatory of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. STEVENS. Several gentlemen feel a difficulty about this question of the tax upon cigars, for, as they say, there is so much involved in it. After some conversation with the Commissioner of Internal Revenue I feel some apprehension that either he has misunderstood us or we have misunderstood him in reference to this subject. In order, therefore, to give farther opportunity for examination, I move to postpone this resolution until Thursday next.

Mr. BROOKS. If the gentleman from Pennsylvania [Mr. STEVENS] will permit me, I will read a note which I have received from a large national tobaccoists' association recently held in New York, and of which I have no doubt the members of this House have read notices in the

public prints. I read this in order to call the attention of the House to what they desire:

NEW YORK, December 9, 1864.

SIR: I am directed by the Tobaccoists' National Association to request that you move for a suspension of the consideration of the tax as relating to cigars and tobacco for about two weeks, when the association will be able to present a plan which was adopted in convention of all the interests in this city on the 7th and 8th instant, and which it is believed will be found satisfactory to the Government.

Very truly yours,

EDWARD BURKE,  
Corresponding Secretary.

HON. JAMES BROOKS, M. C.

Mr. STEVENS. Those gentlemen desire a postponement for two weeks. I fear we shall not be in session then. But I will say to the gentleman from New York [Mr. Brooks] that when it comes up on Thursday next, if there is any further difficulty about it I shall not object to its going over. I hope, therefore, this joint resolution will be postponed until Thursday next.

The question was taken upon the motion to postpone the further consideration of the joint resolution till Thursday next, and it was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, through Mr. HICKEY, its Chief Clerk, notifying the House that the Senate had passed, without amendment, joint resolution (H. R. No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles:

Joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned;

Joint resolution (H. R. No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building; and

An act (H. R. No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for the better execution of the third section thereof.

#### NAVAL DEPOT FOR IRON-CLADS.

The House then proceeded to the consideration of the bill (H. R. No. 536) authorizing a survey at and near New London, Connecticut, and the establishment of a navy-yard for iron-clad vessels thereat, postponed from the last session till this day by order of the House.

The bill was read at length.

Section one authorizes the Secretary of the Navy to appoint a competent engineer to designate and survey a site on the river Thames, at or above Winthrop's Point, near New London, Connecticut, for the establishment of a navy-yard and naval depot for the construction, docking, and repair of iron, iron-clad, and other naval vessels.

Section two authorizes the Secretary of the Navy, upon the completion of the survey, and a tender of a good title to the land designated, to accept the same, and establish thereat a naval depot.

The pending question was upon the following substitute proposed by Mr. KELLEY:

Strike out all after the enacting clause, and insert:

That the Secretary of the Navy be, and he is hereby, authorized and directed to accept from the city of Philadelphia a title to League Island on behalf of the Government, if said title be perfect, and to establish thereat a navy yard and depot for the construction, docking, and repair of iron, iron-clad, and other vessels.

Mr. KELLEY. Presuming, Mr. Speaker, that most of the members of the House have read the recent very able report of the Secretary of the Navy, I will spend no time in pressing upon their consideration the importance of the establishment of a yard or station for the construction, cleansing, and repair of iron and iron-clad vessels. I may, however, remark that it is not and has not at any time been the policy of the Navy Department, or of the Administration, to increase the number of navy-yards or stations. They have simply asked that Congress, recognizing the exigencies of a new age, an age of iron vessels and steam propulsion, should allow them to so enlarge and furnish an existing station as to enable them to meet those exigencies. There is, at Philadelphia, a station containing something more than

fifteen acres. It is the only station in the country lying upon pure fresh water, and in the vicinity of abundant supplies of coal and iron, and for the service of which the Government can at any time, upon an hour's or a few hours' notice, command an adequate supply of mechanical skill, experience, and power to execute any work required at such an establishment as the necessities of the Navy may require.

And the city of Philadelphia, finding its commercial growth impeded by the location of this yard, has tendered to the Government, not in exchange for the old and limited site, but as a free gift, an island, containing in all about six hundred acres, nearly one half of which is primitive land, and the remainder accretions made in the long course of centuries. It is known as League Island, and lies at the confluence of the Delaware and Schuylkill, the two rivers which connect that great emporium of coal and iron with the regions from which they come. It needs but about fifteen hundred yards of additional road to connect it by rail with every mine, and forge, and furnace that has been open twelve months within the broad limits of the State of Pennsylvania, and can, by two days' labor of an adequate gang of workmen, be connected with every street railroad that leads to the homes of the working masses of Philadelphia.

It is offered, I say, as a free gift to the Government; and while the people of Philadelphia will graffy their patriotic pride in making such a donation, they will find compensation for their munificence in the taxable value of the fifteen acres now occupied as a station, but which, it is hoped, the Government will, soon after accepting League Island, put into the market, to supply a fund wherewith to make the necessary improvements upon the new and extended site.

The substitute for the bill of the committee which I submitted does not, therefore, propose the creation of a new establishment. It does but propose the enlargement of the Philadelphia navy-yard, and the transfer of its site to a point about five miles lower down the river Delaware, though within the city limits. Objections have been made to the acceptance of this site. It is suggested that New London furnishes a more advantageous position, and such is the opinion of the majority of the Naval Committee. In general answer to this suggestion, I refer the House to the minority report made at the close of the last session of Congress.

In view of the opinions of the majority of my colleagues on the committee I make the broad assertion, and challenge sustained and advised contradiction to it, that New London offers no one of the great essential qualities for such a site, namely, adequate breadth of pure fresh water, perfect defensibility, cheap coal and iron, and an unvarying supply of skilled laborers in the metals, while they are all to be found in a greater degree and more striking combination at the point indicated by the substitute than at any other, not only in our broad country, but in the civilized world.

Mr. Speaker, permit me to bring a practical test to the judgment of the proposition I have just uttered. It is said that the men of New England are fond of making money; that they are given to enterprise, and are very astute in the discovery of judicious fields for enterprise. What the Government needs is a large workshop for iron and steel work; and it is proposed to locate it at New London, in the State of Connecticut. I turn to my native city, of which League Island is a part, and find in her, next to my country, the object of my pride and love. I look at Philadelphia and observe her steady and rapid growth, her intelligence, her productive power, the comfort with which her laboring people are housed, the affluence with which education is provided for their children, the number of churches of all the Christian denominations which they have erected for themselves; and I find enough to command the pride and affection of any son of hers, native or adopted. And I ascribe the grand results which I find her embodying to two conditions, mainly: first, that she lies in close proximity to the muscles of modern civilization, coal and iron, which have been given to her people in greater abundance than to those of any other of the American States. I find coal in greater variety than is found in the same space anywhere else in the wide world, and iron in equal abundance and rich va-

riety; so that her people, in this the agony of our country, have been able to establish and carry to magnificent results, in less than three years, factories for steel which already rival those of Sweden. When the war began we could not manufacture a first-class gun-barrel from American iron; while to-day we can make of Pennsylvania iron and export better barrel iron than we can import. There is no branch of industry, from the digging of the coal, the limestone, and the iron, to the manufacture of gun-barrel iron, steel, and the best imitation that has yet been produced of Russia sheet-iron, that does not abound within the city or at points near to it and connected with it by railroad.

These rich gifts of nature are one element of Philadelphia's increasing wealth, comfort, and importance. The enterprise, the energy, the skill of New England, traveling through New London to Philadelphia, have done much to give these elements development, and largely constitute the other condition alluded to. Who were the first great machinists of Philadelphia? They were New England men, who had scanned the advantages of New London before they left their native New England to come there—the Merricks. Whitney is a New England name. Bement is another. So you may go through scores of our leading workshops, and find that the enterprising sons of New England, seeking for a position in which to employ their skill and ability in iron and steel works with greatest advantage, have passed through the non coal-producing State of Connecticut to locate where we ask the Government to put its iron workshops. I find in this constantly-recurring fact proof of the correctness of my views. The shrewd, forecasting, enterprising, and skilled sons of New England, in their earnest purpose to succeed in life by availing themselves of nature's advantages, find no attraction at New London, but come in swarms to Philadelphia, and realize their golden dreams. Shall we, in defiance of the vindicated judgment of so many successful sons of New England, locate a fresh-water establishment in salt water? Shall we locate our iron-works in the city of a State in which there is no coal, while a fresh-water city so abounds in that essential article? Shall we locate our great machine shop in a city which produces no steam engines, and has no mechanician skilled in the branches of industry to be employed in such an establishment? Shall we locate it in a State which produces but about twenty-five per cent. of the amount of such products as are produced within the limits of the city of Philadelphia alone?

Shall we, if I may be permitted to repeat the pregnant question, fly in the face of the experience of the emigrating sons of New England connected with iron-works and machinery, and carry these great works to a point which has offered no temptation to him among them all who was most patriotically and affectionately devoted to his native New England?

Mr. Speaker, all the argument derived from abstract theory, and all the argument resulting from experience, proclaim New London a site that no practical business man would accept, and proclaim League Island to be a site to which they have come from every point of the compass to find their enterprise successful and their labor well rewarded.

And, sir, we may derive a lesson on this subject from the war now pending. Wherever our armies have had commanders that would permit them to fight they have driven the enemy before them; and at least one of the admirals of our Navy has written his name high above that of Nelson or of Collingwood. Farragut stands today in naval history without a peer. Our Navy is the grandest the world has yet seen. We have added to it more vessels during the last year than it numbered at the breaking out of this war—more by nearly twenty-five per cent.—and yet the blockade runner makes her way into the rebellious ports. We took New Orleans and opened the Mississippi river. We added to the glory of our country and our naval history the achievements before Mobile and Charleston, but how few insurgent cities have we taken? Is it not true that Sherman has just concluded or is about concluding the most marvelous march ever made by an army, a march from the banks of the Mississippi to the coast, in order that he might do what our Navy cannot—open an Atlantic port? And why



cannot so gallant and well supplied a Navy do it? Because the southern ports are not exposed, as New London, but, like League Island, lie at the head of rivers that may be obstructed. There is the whole secret of it. Our Navy can do whatever a naval force with skillful and dauntless officers can do, but they cannot open obstructed rivers, or perform other impossibilities; hence it is that Charleston has baffled them for years, and Mobile still baffles Farragut, the lion of the sea. And history, acknowledging these truths, will not disparage the Navy when she records the fact that the army of the West marched from the Mississippi to the Atlantic to open a port and give a base of supplies in one of the harbors of Georgia.

Yet in view of these glaring facts, the majority of the committee have reported in favor of putting the great iron-work shop of the country at one of the four most exposed points offered by our whole extended coast! There are along our thousands of miles of coast but four ports which La Gloire, the Warrior, and the other monstrous iron ships of Europe can enter; and New London is one of them. New London, lying about five miles from the open sea; New London, lying within two miles of the mouth of a tidal stream whose waters are driven back by the salt water of the Atlantic ocean; New London, lying within less than six miles of the broad surface of the Atlantic ocean, and about two miles from Long Island sound, into which those iron monsters could enter through two channels, one two miles and a half and the other two and a quarter miles wide, in either of which no single point can be found with less than thirty feet of water at low tide.

Who will obstruct two miles and a quarter of almost bottomless channel where the great ocean flows into our great American Mediterranean, Long Island sound? and who will simultaneously obstruct the other two miles and a half of deep water flowing under such a pressure? It is a result with which the imagination of man will not grapple, and none will say that it can be accomplished. This point is urged as an advantage, and we are told that New London will thus protect New York. Why, sir, New York finds her protection against approach by the sound at Hell-gate. The traveler of the sound will see that no large vessel can now approach New York from that point, and that it is there, and there alone, that the Government can give abundant protection to New York.

New London cannot protect itself, the Government of the United States cannot protect it, and hence with its magnificent harbor, commerce has never located a mart there; mechanical industry has never found it a fitting abiding place. It is a beautiful city of ten thousand inhabitants, and if by my word I could increase the value of its outlying lots I would do it. It will grow in time by its sea-side attractions, and I will rejoice at its prosperity, but I cannot consent to promote it by making it necessary for all time to come to keep an iron-clad fleet, able to cope with the fleets of the world, to protect the workshops and store-houses in which we shall gather implements and materials in time of peace to enable us to engage in naval warfare, if it shall be put upon us by the nations or by Providence.

It is said the Delaware river is not wide, and is tortuous. It is true it is not as wide as the Mississippi; it is true that upon a narrow bar running between shores not divided by five hundred yards there is, at low water, but twenty feet and five inches of water; at high water, some twenty-five feet or more. I think, Mr. Speaker, that the minority report demonstrates the fact that for warfare on the American coast no vessel is available which draws over twenty-three feet of water; and such I find to be the judgment of every experienced officer of the Navy with whom I have conversed.

The shallow bar and obstructions in question are among the great commendations of the point, for there, and just below them, we could sink those obstructions which we have found alike dangerous and impregnable in approaching southern cities. Of this advantage we could avail ourselves if necessary, though the river offers ample depth for every vessel constructed, constructing, or likely to be constructed, to be used in the service of any navy on the American coast, and ample verge and scope enough for free entrance and departure for any we shall ever build.

It would be well enough in the discussions which are to take place upon this subject—for I hope, as the question is an important one, it will be freely examined—to bear in mind the fact that salt water not only impairs the character of the iron on vessels, but that it so clogs it as to diminish essentially the speed of the vessel. So much as ten tons of barnacles have been taken from the bottom of a single vessel. Among the earlier monitors, two were sent home almost simultaneously, for cleaning; one went to the yard at Charlestown, and the other came to the yard at Washington. It was found almost impossible to clean the bottom of that which went to Boston. Indeed it was impossible to clean it without injuring the iron. The incumbrances were those which salt water naturally inflicts upon exposed iron surfaces. The other, as I have said, came to Washington, and after lying one week in the fresh water of the Potomac, a common spade was the only instrument used, and the surface was perfectly cleansed. The attachments are the disease inflicted upon iron by salt water, for which nature has provided one remedy only—fresh water.

If gentlemen will examine the minority report they will find that the British and French Governments have been engaged for years, with the aid of various scientific associations, in endeavoring to discover some means by which they may protect the bottoms of iron vessels against such parasites, and how they may free them from them; and uniformly the same result has been arrived at, namely, that salt water, coat them as or with what you may, affects iron surfaces, and that mechanism and science have not been able to suggest any means of relieving iron vessels of such matter without damaging the iron plate.

Now, if we adopt the project of establishing a new naval station, and of placing it east of the Hudson river, where there are already three; if we are determined that we will, against the protest of the Administration, and especially of the Navy Department, increase the number of naval stations upon the Atlantic coast, and crowd one more into New England, let us do it with our eyes open, knowing that when craft constructed there are ready to go to sea, if we wish them to use their fuel with economy, and make such speed as other vessels make, we must send them to the Delaware or some other fresh-water stream to clean them, and then let them go upon their march over the mountain wave. There, on the other hand, while vessels are being painted or refitted, nature would apply her own medicament, and the vessel would leave the wharf as she left the stocks upon which she had been built. If you wish to waste some months of every year of the life of your vessels by sending them into fresh water solely to be cleaned, put your station in salt water or at the mouth of a tidal stream, and lay your vessels up dismantled or in ordinary in the waters of the sound or the Atlantic.

If, on the other hand, as I have suggested, you wish the time required for refitment or repair to cleanse and purify and fit the vessel for a new cruise, you must put a station with ample anchorage and wharf room and repair shops upon fresh water. Again, if you would avoid another expense to which I have incidentally alluded, that of maintaining an iron-clad fleet equal to the iron-clad fleets of the world, do not put your repair and construction station at an exposed place. Do not put it where La Gloire, the Warrior, and other vessels of that class may move up to within two or three miles of your station and bombard it. Bear in mind that twelve hundred yards give impunity to an iron-clad against any ordnance yet tested by any Government, and that nothing short of a superior fleet, lying at all times to guard the wide entrance into the sound, can protect the proposed site at New London from bombardment by the fleet of any nation.

But again, do you want your great naval station to be held at the mercy of a few land monopolists and a few laborers? New London cannot furnish homes for the skilled workmen needed by such an establishment, and she is without population from which to draw laborers. But somebody may say, in reply, that the report of the so-called scientific commission shows that New London can call upon New York to supply these deficiencies. Permit me, in passing, to make this criticism upon that report—that it has failed to show

by what process one hundred and fifty miles is reduced to less than ninety-nine miles. That report, in the face of all the facts—of nature's great fact the distance, of railroad tables, of railroad charges, of the scale of time for mails—the majority of those impartial scientific men in their report have boldly announced that one hundred miles is a greater length than one hundred and fifty miles, and put New York and her skilled workmen nearer to New London than to Philadelphia.

Now, Mr. Speaker, permit me to call the attention of the House to a few parallels or comparisons between the two sites, with reference to skilled laborers, and to connect therewith the idea of the necessary force for the defense of the naval station if assailed by an army.

"The city of New London, as appears by the census of 1860, has a population of 10,115. The city of Philadelphia has over 11,000 skilled workers in iron and brass, and over 5,000 skilled machinists; while very few, if any, of the 10,000 people of New London are workers in iron and brass on a scale commensurate with establishments unrecognized as among the shops and foundries of Philadelphia. The navy-yard at Philadelphia is the smallest of our naval stations. It employs at this time about 2,500 workmen, almost every one of whom is the head of a family, and allowing them an average of five members to each family, it will be seen that, small as that station is, its workmen and their families constitute a population that could not be housed, in the Philadelphia fashion of a separate house for each family, in New London, were the entire population of that beautiful city to surrender their homes to them."

Where will you get the skilled workmen to construct the yard and build the shops at New London? You must import them, and build the homes in which they may dwell. And in these facts you find the key to the pertinacity with which New London is pressed on the attention of the Government. For I again affirm that it has no single one of the essential elements necessary for such a station. It has found the sanction of no single son of New England for establishing there a business such as the Government proposes to establish at the naval station in question.

"Philadelphia has more skilled machinists alone than New London has male population of all trades, callings, and ages; she has more workers in brass and iron than New London has population, male and female; and her adult workers in the metals and coal outnumber the entire population of New London, male and female, by more than one hundred per cent."

Sir, another very striking fact to be borne in mind in this discussion is that the annual growth of Philadelphia, for a long series of years, has been more than the entire population of New London, as ascertained by the census of 1860. Gentlemen will find this fact established by official tables set forth in the minority report.

What is the annual produce of Pennsylvania in coal and iron? In the year previous to the census of 1860, as shown by that census, she produced, of bituminous coal, 2,679,772 tons; of anthracite coal, 9,397,332 tons. While she produced nine millions and nearly one half of anthracite coal, all the other States in the Union yielded one thousand tons! While she produced 2,679,772 tons of bituminous coal, all the other States together produced but 3,162,000 tons. Connecticut, the State in which, and on a very exposed point of which, permit me to say, it is proposed to locate this establishment, be it remembered, produces, as I have said, not one ton of coal, and has not the promise that she ever can or will produce one. It is not even hinted that coal is hidden within her womb. In the matter of iron, Pennsylvania, during the year preceding the taking of the census of 1860, produced 1,706,476 tons of iron ore; and with that Connecticut compares 20,700 tons. Of pig iron, Pennsylvania produced 553,560 tons; Connecticut produced 11,000. Of bar iron, Pennsylvania gave 259,709 tons; Connecticut gave 2,060 tons.

Mr. Speaker, without examining such material facts more minutely, I ask what is there to induce this Government at this time to establish a new naval station? Are there not enough naval stations east of the Hudson, settle the question by which standard we may? If they be regarded as points of protection, are there not in the three lying east of the Hudson, enough, at least relatively with the number located or likely to be located along our coast, to give that protection? Has the water of New London special qualifications? You will be told that it is not salt; that the proposed site lies near the mouth of a tidal stream. I tell you, sir, that science has demonstrated that

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such a position is even worse than one of which the waters are salt to the very surface.

In the report made to the British Association for the Advancement of Science for 1863, on page 27 I find the following:

"The more sanguine advocates of iron ship-building have, in their anxiety to prove their durability to be such as to render protection needless, appealed to the existence of iron canal-boats of forty years of age or more, and to some of the earliest built iron vessels which have been occasionally in salt water. Most of the vessels alluded to, however, have been principally in fresh water, and on referring to Table XV it will be obvious how vast a difference there is in the durability of a ship of any given sort of iron exposed to the action of sea and of fresh water."

This statement is followed by tabular statements of the results of experiments decisive of the questions involved.

In another report, made by Mr. Mallet to the same Association, to be found in the Transactions for 1840, page 227, it is said:

"I would here remark a cause of increased corrosive action affecting castings, such as cast-iron piling, &c., at the mouths of tidal rivers, which has not to my knowledge struck previous observers: It is well known that the sea water, during the flowing of the tide, from its greater density, forces itself beneath the river water like a wedge, and slowly and imperceptibly mixes with it; hence two strata, one of fresh or brackish water, the other of salt water below it. Thus, while engaged in a diving-bell survey of part of the bed of the river Bann, in the north of Ireland, last year, I found, during the flow of tide, the water strongly saline at the bottom of the river, and yet fresh enough to drink within three feet of the surface; the total depth of water being about twenty-five feet; and in the proceedings of the Royal Society of Edinburgh (April, 1857), will be found a paper by Mr. Stevenson, C. E., in which he describes an analogous phenomenon as occurring at the mouth of the river Dee, at Aberdeen. In the rivers Forth and Tay, and at Loch Eil, where the Caledonian canal joins the western sea." On taking up water at various depths at Fort William he found the specific gravity:

At the surface.....	1008.2
At nine fathoms.....	1023.5
At thirty fathoms.....	1027.2
or completely fresh at the top, and salt as the sea itself beneath.	

"Now, Becquerel has proved that a homogeneous metallic surface, (a rod or line for instance,) exposed to the action of a fluid monstium, will assume a state of electrical tension, provided that the fluid in which it is immersed be of different density in two strata, i. e., of different corrosive power.

"In fact, the metal and the two layers of fluid constitute a voltaic pile of one solid and two fluid elements; hence, as one end of the metallic rod will be in a positive state with respect to the other, it will be corroded faster than the other.

"Now, this is precisely the condition of any casting reaching through a considerable depth of water at the mouth of a tidal river. The water being salt below and above, the part of the casting immersed therein (the lower end of a cast-iron pile, for instance,) will therefore be in an opposite electrical condition to that of the portion above, and the amount of corrosion of the positive element due to the kind of iron and the state of the water will be further increased or 'exalted' by the negative condition of the opposite end, which will be itself in the same proportion preserved.

"This principle extends to very many practical cases as to iron plates, &c., partly immersed in a solvent fluid, and partly exposed to moist air, &c.; and it suggests the importance of giving increased scrutiny to all castings intended to be so situated, to allow for this increased local destruction of material."

If gentlemen will have the kindness to refer to page 26 of the minority report, which I have caused to be laid on their desks, they will find evidence from the highest scientific authorities that such locations are even more destructive from the electric or magnetic effects they produce than those which bathe vessels so far as they are submerged in salt water.

Now, Mr. Speaker, I propose briefly to recapitulate the reasons why, in my judgment, the substitute, rather than the bill, should be adopted.

It is not proposed by the substitute, as it is by the bill, to increase the number of naval stations and add to the expenses of the Government the maintenance of the entire staff of a new station. It proposes to meet the exigencies of the case and avoid that increase of expenditure. It is not proposed to purchase a site, or to accept one on other conditions than those which propose by the sale of that now in use to create a fund adequate to make large improvements, at least to put the new site in a condition as useful as—nay, by reason of its length of wharfage and the broad and safe anchorage it affords at all seasons of the year, far more useful than—the present Philadelphia station.

It must be apparent to every person familiar with the market value of such property that the price which could be obtained for the Philadelphia yard would make, on the broad surface of League Island, a station infinitely more efficient than the present one. Therefore, while it offers an extension of facilities, it offers also the means of adding to their improvement. It is needed for iron-works. It is upon fresh water, and would be for that reason an infirmary or hospital, (if I may so say,) in which nature would be the physician, for iron or plated vessels which had contracted disease while lying off the mouth of the sound protecting the city of New London, or elsewhere in salt water.

We cannot keep an iron vessel in Long Island sound three months and not damage her speed by the barnacles that will accumulate upon her bottom. Every day she is there will, if we mean to keep up her speed, increase her demand for fuel; for every hour will increase the number, exposed surface, and weight of the insects which her corroding iron surface will attract, and create a necessity for heavier motive power to give her ordinary speed. This may go on for a little while—a few months at most—until the mass of accumulation shall have become so great that, put all the fuel you can, put all the steam you can upon her, you cannot move through the water the jagged mass of obstructions clinging to her at the speed which a clean vessel, just from a week's bath in fresh water, could make.

We would economize money and time by sending our vessels merely to lie in fresh water for the week that would cleanse them, and to go abroad again. No man upon this floor will assert that an iron vessel can be cleaned in any salt-water harbor except by taking her out of the water by heavy and expensive machinery, and then using expensive mechanical and scientific implements and processes. No man will advisedly assert that after such application has been made the bottom can be cleaned without detriment to the iron.

Next, League Island is a safe position; safe at all seasons; safe if combined Europe should thunder from its fleets upon our coast; safe as Charleston has been made by obstructions, as Mobile is, as Wilmington is, and yet so accessible that the commerce which reaches it every year equals the entire commerce of Long Island sound, embracing New London and every point between that and New York. It was Mr. Webster's proud but poetic boast that fifty thousand sails shadowed the waters of that sound. Year by year, month by month, and day by day, throughout each and every year the commerce of the Delaware maintains itself at a point numbering about fifty thousand arrivals and departures per annum. So that the river, to which the objection is made that it is narrow, that it is crooked, that it is shallow, sustains a commerce vastly greater in dollars and cents, and quite equal in the number of sails, to the entire commerce of the "American Mediterranean."

And, in my judgment, it is a proof of its fitness for the objects under consideration that the majority of the committee in support of their adverse conclusion have sought from every source of information, reliable and unreliable, evidence that occasionally, among the more than thirty-six thousand vessels arriving at and departing from Philadelphia annually, an occasional wreck occurs. That they have been able to find so few is, in my judgment, evidence of the fitness of the place.

The author of that report is so far forgetful of American law as not to remember that twenty-one years of continued residence may change the legal domicile of a citizen of the United States. On page 4 of that report it is alleged that Professor A. D. Bache is a citizen of Philadelphia. Now, that distinguished gentleman assures me that for twenty-one years he has been a resident voter of the District of Columbia. And I will inform the majority of the committee that Professor Bache, of Philadelphia, never was on any commission appointed by the Government. Happily those who know the distinguished head of

the coast survey will repel any insinuation against his integrity or patriotism.

But I must hasten to a close. League Island is on fresh water. It is in a safe position. It is where supplies of all kinds are abundant. It is where the commandant, at any and all times, upon a day's or an hour's notice, may summon the mechanic or artisan he needs for any of the branches of industry it is proposed to conduct at such a station as the Secretary of the Navy requests us to establish. The situation is a central one; New Jersey, Delaware, and Maryland would furnish supplies, workmen, and protection to it as well as Pennsylvania, and with her would feel its protecting power.

Mr. Speaker, we are acting for the United States and for posterity. We are not to legislate in any mean, narrow, or sectional spirit; not to punish one locality or reward another; not to canvass the patriotism of one people or signalize our detestation of the want of patriotism of another people. And did I believe that there was a superior site to League Island within the rebellious lines, which we might soon make available, I would say for our country and for posterity, let us go on for awhile as well as we can until we can secure to them those superior advantages. I believe, as I said in the beginning of my remarks, that not only our own country but the world does not present the same combination of cheap, abundant, and various supplies of material and labor for such a workshop as the Navy needs on fresh water. And so believing, and because I so believe, I shall urge as best I may the adoption of the substitute, and the acceptance of Philadelphia's munificent offer of League Island to the Government for a naval station and workshop.

Mr. BRANDEGEE. Mr. Speaker, on the 17th of last January the Committee on Naval Affairs were charged by the House with the duty of inquiring into and reporting to this House upon the expediency of the establishment of a new yard especially adapted to iron-clad vessels, and with the further duty of reporting to this House a proper site for the location of such a yard. The matter naturally divided itself into two branches of inquiry, and the resolution itself made that provision, in directing the committee to inquire, first, as to the necessity of such a yard, and secondly, the proper point of its location. With reference to those two branches of inquiry, the result of the investigation of the committee is now before the House in the bill and the report with which the bill is accompanied.

With reference to the first branch of inquiry, the committee, with very great unanimity, came to the conclusion that the establishment of a new navy-yard, such as is recommended by the naval authorities, adapted to the wants of what may be called an iron navy, had become a national necessity. It is not my purpose to enter into details now with reference to the considerations that controlled the committee in their conclusions in reference to the necessity of such a yard.

But it may be proper that I should state a few striking facts to the House from which each member may run out the argument himself as to the necessity of such a yard, which is the first branch of the inquiry. In the first place, it is a very striking fact that at the commencement of hostilities the American Navy consisted of but seventy-six vessels of all classes, principally wooden sailing ships. Of these only three were at the disposal of the Department at the firing upon Fort Sumter. We have now in the American Navy six hundred and seventy-one vessels, of which five hundred and fifty-nine are steamers, and seventy-one iron-clads. At the commencement of hostilities the American Navy consisted of less than six thousand seamen, of whom less than two hundred were at the disposal of the Navy Department for the purpose of managing the ships then under its control. The Navy now consists of more than six thousand officers and forty-five thousand seamen. And while this marvelous increase has been going on two of our naval estab-

lishments have been lost to the country and rendered useless. Now, these considerations are very strong with reference to the necessity for new naval facilities. But a much more striking argument, it seems to me, arises from the consideration of the change that has been effected in the whole system of naval architecture and naval warfare. The American Navy is now essentially a steam and iron Navy. Steam has become an indispensable element to all fighting ships. The days of those old wooden ships of war, those wooden walls rising tier above tier with their frowning batteries, those wonders of our childhood, those glories of our early naval history, and, it may be added, the terror of our foes, have passed away, and have passed forever, and their old hulks are now lying rotting at our navy-yards as practice ships for midshipmen or schools for naval apprentices. Steam and iron have revolutionized naval architecture and naval warfare the world over, and especially that of this country. And, as I heretofore observed, our Navy consists of five hundred and fifty-nine of these steamers, and seventy-one of these iron-clads.

And yet while this is true, we have not to-day, in the striking language of the Secretary of the Navy, a yard where a shaft can be made for a steamer, or a plate for an iron-clad. So far, to be sure, we have succeeded tolerably well in this warfare against a belligerent who is entirely destitute, or almost entirely destitute, of ships, men, and naval resources, and where the exigencies of the day call merely for the enforcement of a stringent blockade; but if the day should ever come—far distant may it be, sir—when, in a war with a first-class naval Power, it should become our duty, ship for ship, and fleet for fleet, upon the ocean to contend for the scepter and sovereignty of the seas, we should never sufficiently regret that we had not in time of peace prepared an ample yard for the repair of vessels disabled in ocean conflict, and for maintaining our position as a first-class Power upon the ocean.

I can only add to these considerations that, as a measure of economy alone, we have it from the most prudent naval authorities that the establishment of such a yard would be a saving of money year by year to the Government. We are now in the hands of private contractors entirely, both as to prices and as to the time for the completion of contracts; and the saving in demurrage, delay, and excess of prices since the commencement of the war, in the estimation of those whose opportunities are best for information, would have been equal nearly, if not quite, to the cost of such a yard as is recommended by the committee. As an instance, it has happened that one of the most efficient steamers in the Navy, the Niagara, lay for fourteen months entirely useless because repairs could not be effected in less time at private yards, and in another instance the gunboat R. R. Cuyler for ten months awaiting repairs which might have been completed in sixty days, and at an expense equalling the entire first cost of her machinery. The Secretary of the Navy, in his last report, tells us that two of our iron-clads, the Miantonomah and Tonawanda, are now two years behind the time promised for their completion by one of the most responsible of contractors, when their presence in the James river or the waters of the Carolina sounds might give a finishing blow to the tottering fortunes of the rebellion; and to obviate the pressing necessity, he has already established ten temporary stations along the Atlantic and Gulf coasts, namely, at Key West, Norfolk, Baltimore, New Orleans, Pensacola, Memphis, Baltimore, Hilton Head, and other places, whose aggregate cost would more than compensate for the current expenses of such a station as is contemplated.

Viewing, therefore, these considerations, which we have merely suggested rather than elaborated, governed by the fact that the Secretary of the Navy has in all his reports for the last three years urged it specially upon the consideration of Congress, and the further fact that the President of the United States has considered it of such prime importance as to give it special prominence in his last two annual messages, your committee could not avoid the conclusion that the time had come for the establishment of a great navy-yard and station to meet the enlarged wants of the service and the revolution in naval architecture.

With regard to the second branch of the in-

quiry, as to the proper site for the location of such yard, I think I have the judgment of the House with me when I say that a question of that sort, the location of a great naval station, involving an examination of the most complicated problems of engineering and naval science, involving an investigation of a great variety of facts, and important as it is in its consequences whether the decision be right or wrong—such a question is one upon the consideration of which a committee of this House, however able, might well hesitate to enter.

But it was our good fortune, in entering upon this path of inquiry, to find that it had been trodden before by a board of experts raised by Congress for the consideration of this very question; and that every step of our pathway was illumined by the light shed by that board of officers.

And here, if I can get the attention of the House, I should like to go back for one moment, in order to state to the House the history of the legislation upon this question of the location of a navy-yard, as all-important for the proper decision of the subject. The Secretary of the Navy first recommended this subject to the attention of Congress and the country on the 25th day of March, 1862, by a letter to the Naval Committee of the Senate. Immediately, with that alacrity of patriotism which always characterizes the "City of Brotherly Love," that city at once, with an eye to the advantages obtainable to the Government and to itself, tendered League Island to the Government for the purpose; and with a haste that admitted no delay, and a zeal that tolerated no modification, a bill was attempted to be forced upon the Senate fixing upon the country League Island as a place for this naval station. And, as an ominous feature in that bill, significant of the value of the "munificent gift," an appropriation of \$200,000 was put into it as the first installment for filling up League Island. It was only by the persistence of Senators in the other Chamber that, finally, the friends of that measure accepted a modification, and consented that a board of officers should be appointed by the Secretary of the Navy to examine all the sites that were named and that were prominent before the country, and to report to the Secretary by the "selection of which site the public interest would be best promoted." Congress directed the Secretary of the Navy to appoint that board, and the question being narrowed down, in the opinion of Congress, as shown by the debate in the Senate, and in the mind of the country, to the respective merits of League Island and New London, the Secretary of the Navy, in the recess of Congress, composed that board by appointing six men, officers and engineers, of whom three were from the city of Philadelphia.

I know the disclaimer of the gentleman from Pennsylvania [Mr. KELLEY] upon the floor this morning, that Professor Bache was not from the city of Philadelphia. But I have taken pains to examine the Blue Book that is distributed by the Government authorities, and find that Professor Bache hails from Philadelphia both as to birth and as to designation; and that his children and grandchildren holding offices in the Navy all hail from the same place, and are so designated in the book.

Now, Mr. Speaker, I allude to this fact, not for the purpose of impugning the character of the Secretary of the Navy. I am not to be drawn here to-day into a discussion of his motives, unless I am driven to do so in self-defense as the debate progresses. But I have a right to state facts, and I have a right to the benefit of the facts when stated. And I state that, the question being whether New London, Connecticut, or League Island, Philadelphia, was the proper place for a naval station, and that having by Congress been ordered to be decided by a board of officers, that board of officers was composed, by the Secretary, of three citizens of Philadelphia, one gentleman from New York, one from New Jersey, the engineer of the Department, and not a human being from all New England in it.

Mr. KELLEY. Will the gentleman yield one moment for a correction?

Mr. BRANDEGEE. I will; but the gentleman will bear me witness that I did not interrupt him.

Mr. KELLEY. I think that justice requires that the gentleman should name the three citizens of Philadelphia to whom he refers.

Mr. BRANDEGEE. Mr. Speaker, I shall

state no fact that I do not hold myself responsible for, both in debate and out of debate, here and elsewhere. I trust that the gentleman will chasten his impetuosity by his prudence and endeavor to moderate his zeal by his courtesy, and will allow me to pursue the course of my argument, as I have allowed him to pursue the plan of his own, without interruption. Inasmuch, however, as the gentleman has challenged me to name those gentlemen, I will do so. I name Captain Marston; I name Commodore Gardiner; I name Professor A. D. Bache.

I now go on further. Having alluded once before to the gentleman's disclaimer while the gentleman was out, and that is, I think, his only excuse for his interruption of me, I go on to state this fact, which cannot be disputed, and proof of which I hold in my hand, and challenge contradiction, that before his appointment to this commission Professor A. D. Bache had written a letter, which was published in the Congressional Globe, volume forty-nine, part four, page 3247, and used in the debate in the Senate of the United States, a copy of which was furnished to the Navy Department, in which he urged the acceptance of League Island as a highly eligible place, and gave his reasons for it; and that after that letter was published, after it was used in debate in the Senate, and after it was on file in the Department, Professor Bache was placed upon this board, and consented to act with that record before the world. Now, sir, why do I allude to this? Simply as a ground for the argument, which I think is legitimate, that that board thus constituted had no bias in favor of New London, and no bias against League Island. That is all. I impugn not the motives of the Secretary of the Navy. Let him stand or fall by the judgment of his countrymen; he has friends enough to defend him. I will not be either his defender or his accuser. Nor do I enter into questions of delicacy or decency with Professor Bache. I have a right to say that I am satisfied with that board, its constitution and its action. It was composed of gentlemen of great eminence in their professions. It had, as its president, Admiral Stringham, one of the soundest minds and honestest hearts in the Navy—a man who had just won the first naval victory of this war, who had advanced your drooping standard off that storm-vexed Bermoothes, Cape Hatteras, and inspired the heart of the country by the first naval victory achieved during the conflict. That board embraced, as another of its members, the engineer of Yards and Docks in the Navy Department—the very man whose business it is to select the sites for navy-yards, and to construct and engineer them after selection, and who had selected and engineered the construction of many of the present yards of the country; a man in the front rank of his own profession.

The board, thus constituted, with no bias in favor of New London, with all those natural feelings, which, while we may deny them, we all know we have, and which would lead them to prefer their own neighborhood and their own friends; just the feeling that will actuate the twenty-four gentlemen from Pennsylvania in this House to strive for the floor the minute I have left it in order to defend League Island; just the feeling that will probably actuate the small delegation on this floor from Connecticut to advocate New London—that board, with that bias, having made a careful examination of the subject for over two months, decided, by a resolution which they laid before Congress and the Navy Department, "that the public interests would not be promoted by the selection of League Island, but would be promoted by the selection of New London," which they recommended.

And now, right here, Mr. Speaker, I ask you, and through you the gentlemen of this House, do you think that you are more able here to-day to decide this question aright than that board of officers, selected by order of Congress for their special competency for this work? Is there anything in the temper of this House, in the habit of attention evinced by its members, at which (without saying anything disrespectful to this House) I was astonished when I first came here, is there anything in the past study or present profession of members on this floor, is there anything in the subject-matter, complicated as it is, by which this House thinks that, upon a debate here to-day, it can more intelligently decide this question, without ever seeing the localities, than it was decided



by that board of skilled officers, embracing engineers and gentlemen of high authority in naval matters, who had given it their undivided attention for more than two months? It is a subject involving the examination of tides and currents and soils and topography and defensibility, and questions of that complicated character; a critical examination of channels and of maps and of measurements, and the investigation of a vast and varied mass of facts. Do you feel yourselves more competent to decide it here to-day than that board, selected for their special adaptation for that purpose, and whose lives had been devoted to such pursuits?

The gentleman from Pennsylvania comes in here to-day, deliberately, with a confidence in himself which, to my mind, appears almost sublime, and asks you upon his argument and interested minority report, signed by himself and another gentleman from Pennsylvania, a member of the Committee on Naval Affairs—and it seems that Pennsylvania must always have two members on that committee, a double representation somewhere—he asks you, I repeat, to-day upon his report and speech to decide this great question that so seriously concerns the whole future of the Navy, and to decide it for him, and against the concurrent report of this board of officers and the Naval Committee of the House. Now, Mr. Speaker, I say that the nature of this question is such it cannot be decided and ought not to be decided here. The attention of the Thirty-Seventh Congress was called to it, and it provided for its decision. It ordered that board of commissioners to examine into the subject. It is patent to my mind, from the construction of the act, that it ordered them to decide it, and that they did decide it, and that it was the duty of the Secretary of the Navy to abide by that decision, and not to have appealed from them to the Committee on Naval Affairs, and to this House.

Now, sir, as I have said before, four out of the six, and it was an unusual number—six of a commission to decide a mooted controversy—four out of the six decided against League Island. My friend from Massachusetts, [Mr. Dawes,] who honors me with his attention, knows that, in a contested case in court that would be an exceedingly curious board of arbitration which consisted of six, with no one to give a casting vote, and of these six to have three who lived near the residence of one of the parties, and had an indirect interest in the decision, one of them having given an opinion on the case beforehand. Still, if that board, without any malfeasance or corruption, decided the case, four to two, and against the party to whom their bias inclined them, it would, I think, be strong evidence of the justice of that case. When the report of that commission came before Congress, and the Secretary of the Navy, in his annual report, stated that he should accept League Island despite the action of that commission, unless Congress should otherwise order, it will be recollected that the Senate immediately, by resolution, did otherwise order. He was instructed not to accept League Island until Congress should direct him to do so.

In the report of the Secretary of the Navy, just as in the report of the minority of the committee, you hear it insinuated that the finding of this commission was in favor of a navy-yard upon "the old plan;" in other words, a yard for wooden vessels, and not such a yard as the Secretary wanted and as was necessitated by the revolution in naval architecture. To break the force of the report of the board of officers, it is over and over asserted in the Secretary's reports and by the minority that the commission mistook their duties and were led to find for "an additional yard on the old plan," and this stereotyped phraseology is repeated and varied in every form of expression and insinuation.

The short and decisive answer to this charge is the resolution passed by the board themselves before proceeding to their duties, and by which they themselves limited and defined them:

"Resolved, That after giving full consideration to the objects for which they were appointed, as indicated by the law, and inviting instructions from the Department, considering the views of the Department as expressed in the letters of the Secretary of the Navy of March 25 and June 9, 1862, and the discussions by Hon. Mr. GRIMES, of the United States Senate, and others in Congress, the wants of the Navy and the country, and the circumstances of the times connected with the progress of naval warfare, the committee are of opinion that their duty requires them to

refer, in selecting a site for a navy-yard, to a first-class establishment for iron-clads and iron vessels, or to a site for laying the foundation of an establishment meeting all the requirements of an iron navy."

The gentleman who has just finished his speech as the advocate of League Island, following the path of the Secretary, has also repeated this charge against the "majority of the Naval Committee," and alleges that they also mistook their duty, and found for "an additional yard on the old plan;" and this, notwithstanding he is himself a member of that committee, and has for five months sat with them during their examination hearing witnesses, listening to arguments, gracing the committee by his presence and lightening their labors by his eloquence, during all which time they have confined their investigations to the proper site for an iron navy and an iron navy alone. And if proof of this were needed, I have only to refer to the other seven gentlemen who compose that committee, now within the sound of my voice, to the following language of their report:

"The committee cannot avoid the conclusion, therefore, in answer to the first branch of the inquiry with which they were charged, that the immediate establishment of a new yard, with special adaptation to the building and storing of iron vessels, has become a national necessity."

And to the unanswerable fact that the very bill reported by the committee, and now before the House, contemplates the establishment of a yard for an iron navy, and an iron navy alone.

Mr. Speaker, my time will not permit me to go further into the discussion of the history of that subject. Early in this Congress the matter was referred to the Naval Committee, consisting of one gentleman from Massachusetts, one from Connecticut, two from Pennsylvania, and the others from Missouri, Indiana, Ohio, New York, and various parts of the country. That committee personally visited these sites; and I affirm to-day that you cannot decide in reference to the propriety or otherwise of the selection of one of these sites without a personal examination of them. The committee visited them. They heard all of the proof and all the arguments. They started prepossessed in favor of League Island, from the fact of its central position, and from the further fact that it was favored by the Secretary of the Navy, as well as from its vicinity to coal and iron and the alleged advantage of fresh water. Starting with that prepossession, they have finally reported to this House that in their opinion League Island is entirely unadapted to the purposes for which the Government seeks to establish a depot for iron-clads.

If the House will listen to me for a few moments longer I will state what the committee found League Island to be. League Island is in the Delaware river, about four miles from the settled part of the city of Philadelphia, and is between three and four feet below the surface of the river at ordinary high tide. That is the first fact that struck the committee, as it struck the commission. And it struck them forcibly.

An island it is called by courtesy; an island it is entitled, out of abundant charity, in our report; and I undertake to say that if a writ of ejectment or trespass were brought against a wrongdoer thereon either would be abated on plea if the complainant described "the locus in quo" as an island unless it was added "covered with water." Now, the surface of that island is from three to four feet below the Delaware river at ordinary high tide, and but for the embankments which surround it it would be flowed at each recurring tide—a fact which is disputed by none.

Mr. KELLEY. As the gentleman says the fact is not denied, will he permit an interruption?

Mr. BRANDEGEE. The gentleman knows as well as I do that I have not one quarter of the time I need to set the case before the House.

Mr. KELLEY. The fact is denied that the island is four feet below high water.

Mr. BRANDEGEE. I will quote from the record, making no statement of my own, and accepting none from interested parties. I will read from the record of a board of competent officers appointed by the Secretary of the Navy:

"League Island is a reclaimed marsh, surrounded by a dry stone wall and embankment of earth raised to exclude the river. A portion of the island was reclaimed many years since, and is known as the old meadow. We have no positive information on this point, but presume that at the time the wall and embankment were built all the land worth reclaiming was embraced within the inclosure. Subsequently, and about eighteen years since, as we are in-

formed, the inclosure was extended so as to embrace an additional area, now known as the new meadow. According to a plan which has been submitted to the board by a committee from the Board of Trade, this old meadow contains two hundred and nineteen acres, and the new meadow one hundred and fifty-five acres. On the north of the island, and between it and the main, there is a channel which, we are told, was of sufficient depth in former days to float large ships-of-war; now it is a narrow and shallow channel, not sufficient to float vessels of any size used by the Navy. Large areas of marshes have formed on the east and west ends and on the north side of the island, and the whole appearance indicates a constant and rapid accumulation from the immense deposits of the Delaware river. To raise the surface of this island to a height which would render it safe from the incroachment of high tides, will require a filling of from one to ten feet over the whole area; and if, as has been suggested, a line of wharf front be carried out to the twenty-three feet line, it will involve an additional filling of a space one mile long, and averaging four hundred and eighty-one feet wide and nineteen feet deep. If this space is not filled, then the constant use of dredging machines will be required to maintain a sufficient depth of water to accommodate the vessels of the Navy. To furnish the materials for this immense filling, which will amount in the aggregate to several millions of cubic yards, it is said that an abundant supply can be had from Red Bank, on the opposite side of the river."

Two hundred and nineteen acres and one hundred and fifty-five acres, according to the old arithmetics, used to make three hundred and seventy-four acres. Where, then, are the six hundred acres the gentleman alludes to in his minority report; and where are the six hundred acres of "munificent gift" which the Secretary of the Navy urges upon Congress in his last report? It is a mud flat outside of the island, the recent accretions of the river—ooze, that ooze of which blind old John Milton might have sung as of another ooze just beyond the "burning marle" where was

"Neither sea nor air nor good dry land,  
But all these in their pregnant elements  
Mixed confusedly,"

or that "Serbonian bog," where great armies might have sunk. This ooze outside of the island is added in the minority report to make out the six hundred acres.

And in reference to the land which is inclosed, we have already seen what the commission say.

The water adjacent to the front of the island is but a few feet in depth; at low tide the bottom is entirely exposed.

You have got to get, then, twenty-three feet of water for your vessels to lie in, and to secure that depth will require the additional filling in of a space one mile long, four hundred and eighty-one feet wide, and nineteen feet deep. If this space is not filled in, the constant use of a dredging machine will be required to maintain a sufficient depth of water. The report goes on to say:

"The borings made by the board show that there is a depth of mud and fine sand varying from twenty-five to fifty-six feet in depth, under which is found gravel of good quality, and in sufficient quantities to sustain piles. It is undoubtedly true that no heavy structure can be erected on this island with any probability of safety without resorting to the expensive operation of piling."

"The board is therefore of opinion that, in this particular, New London is vastly superior to League Island."

I have taken the pains to get an engineer to estimate the number of cubic yards in three hundred and seventy-four acres, and it is 5,485,433; and at a dollar per cubic yard, the least price at which the dirt could be purchased, transferred across the river, rehandled, and spread upon the island, it would take more than five million dollars to fill up that island.

But the strongest fact by far is that upon an examination by a scientific process of boring, it is ascertained by the commission—and it is conceded by both branches of the board, majority and minority—that the whole island, or so much of it as is necessary for naval purposes, must be filled to the average depth of thirty-seven feet. The borings showed that the gravel bottom of that island is in some places twenty-five feet below the surface, and at other places fifty-six feet, an average of more than thirty-seven feet. Professor Bache, and the engineer of the Philadelphia yard, and the entire commission, disagreeing in other things, concur in this, that the island must be filled to that average depth.

If you add to the expense of filling the expense of piling, you make an island which, instead of being a gift to the Government, there is hardly money enough in its Treasury to pay for. The gentleman at the head of the Treasury Department has not capacity in his presses to issue greenbacks enough from day to day to pay for the filling and piling, as the work progresses. Millions are required to prepare a foundation.

These facts are conceded by the Secretary, by Admiral Smith, chief of the Bureau of Yards and Docks, and by both branches of the commission.

My friend [Mr. KELLEY] breaks, or attempts to break the force of this argument by asserting in his minority report that "a more accurate examination, such as a really scientific commission would have made," has demonstrated that the report of the original commission was inaccurate, and that the island can be used for Government purposes without being piled.

I ask the attention of the House, of the gentlemen who have examined these reports, and of those gentlemen who have interest enough left in the American Navy and in American navy-yards to decide this question right instead of wrong, with their eyes open instead of blindly; I ask them to consider the testimony by which the gentlemen of the minority of the committee attempt to break the force of the report of this scientific board of officers who examined the question. Who is the witness? Who was the person detailed to make this "accurate examination such as a truly scientific commission should have made?" One George Davidson; and perhaps "not to know him argues one's self unknown." And who is Mr. George Davidson, detailed by the Superintendent of the Coast Survey, whose own course has been criticised in the Senate pretty sharply, and in the press of the country, for acting on a board in a matter wherein he had already given an opinion in advance? This Superintendent detailed one George Davidson, of Philadelphia, to examine League Island and report his conclusions; and what are they? The conclusions of Mr. George Davidson as to the scientific results of his observations are precisely identical with those of the original commission. He finds that the alluvial soil attains a certain depth. So did the commission. He finds that then comes a stratum of fine sand. So did the commission. He finds that at the depth of thirty-seven feet, on an average, there comes gravel. So did the commission.

The difference between the commission and the witness is this, and solely this: he gives it as his opinion that the heavy work necessary for the Government may be placed upon the fine sand. Professor Bache, the engineer of Yards and Docks, the admiral of the bureau in charge of Yards and Docks, give it as their opinion that it would not be safe to put them on the sand, but that they must go down to the gravel. That is the only difference between them, and it is a difference of some thirty to fifty feet and of some millions of dollars. And this strictly scientific commission, consisting of one gentleman by the name of Davidson, of Germantown, a ward of Philadelphia, and who gives an opinion which, he says, "in my mind amounts to a conviction," goes for putting the workshops and forges upon the surface of the ooze, while Professor Bache and the engineer who is to build the yard, and the other gentlemen composing the commission, not so strictly scientific, think it unsafe to erect such structures without reaching a solid foundation. That is all; but suppose Congress, having rested the fate of our great Navy on the opinion of one George Davidson, (contradicted by all the other experts,) which, in his mind, "amounts to a conviction," should one day, after expending millions, find these foundations settling, should find your heavy mills and forges, workshops and trip-hammers, all crumbling into one mass of undistinguishable and irredeemable ruin, would it be any satisfaction to know that still, in the mind of Mr. George Davidson, that opinion amounted to a conviction? That is the result of the attempt to break the force of the scientific commission by introducing the testimony of Mr. Davidson.

I do not know but that I ought in fairness to add here that the minority of the committee has brought up another witness to support this view. He is a gentleman named Lewis Taws—of Philadelphia, of course. His testimony is so peculiar that I think the House should have the benefit of it. He says:

"PHILADELPHIA, March 29, 1864.

"DEAR SIR: Your letter of the 28th reached me at my house in Germantown too late for an answer by return mail. I hope I may still be in time, if my opinion can be of any use in establishing the fact that League Island is a proper place to locate a navy-yard for the general purposes of our Government."

He received the letter to which he refers on the

28th, and he hopes that in the morning of the 29th he may be still in time to secure to Philadelphia this inestimable boon of the great naval site of the country. This is one of a class of witnesses that my friend [Mr. DAWES] would hardly characterize as a slow witness. He goes on to say:

"In visiting the place for the first time with any view to an examination, I have no hesitation in saying"—

Of course such a witness would have no hesitation—

"from my experience in the location of our present establishment at Port Richmond that no difficulty will be found for the proper foundations for machinery or buildings at League Island."

This witness, who has an establishment at Port Richmond, ten miles off, asseverates here that, from his experience at Port Richmond, he has no hesitation in saying that the Government can safely put works at League Island, ten miles off. He goes on to add what the character of those works are, and closes with a foot note, which, like the postscript of a lady's letter, is the most important part of his testimony:

"I should have said that my buildings for boiler and smith shops stand on gravel foundation, running from five to ten feet toward the river."

So this witness, the question being whether you may safely put the Government buildings on sand instead of gravel, gives his testimony that they may be safely put upon sand, because his works, ten miles off, are put upon gravel. And well might the honorable gentleman, having a dim suspicion that the testimony was liable to exception, interpolate a picture of a steam anvil as a place for the mind to pause upon, before it arrives at the consideration of the next branch of the subject.

Now, while I am here upon that picture, I might as well say this, because the Secretary of the Navy in his annual report has alluded to that very picture. I do not know whether or not he made the reference by way of advertisement of the artist. If he did, in my opinion the picture is as valuable as the advertisement. But the Secretary has alluded to the fact that League Island is the best place for a naval station because "percussive machinery" can be put with better advantage upon sand than upon ground or stone. Now what is "percussive machinery?" A trip-hammer. How much space does that take? We have the scale upon the picture, and I have taken the trouble to measure that scale. It takes precisely fifteen feet. So that in order to have an elastic bedding of fifteen feet for a trip-hammer, you must take six hundred acres of ooze and mud and fill it in. And to do that you must throw away the best place upon this continent for a naval station, in order that your elastic machinery, as is alleged, may in fifteen feet of digging nowhere find rock. When I come to that part of the subject I shall show conclusively that the soil at New London is free from rock, consists of loam and gravel, and is remarkably adapted for all the uses of a yard. So much for the topography of League Island.

And now I undertake to say that that is the least objection to it. I undertake to say that the obstructions from ice in the Delaware river, the difficulty from the inadequate depth of the water in that river, its distance from the sea, each of them is a still stronger objection to it than the one just disposed of. The great argument that is urged is that it is a place of security for your vessels. So are the Alleghany mountains a place of security. But it would not be the part of wisdom in the House or in the Department to make a station for iron-clads there. And I can show that it would be almost as impossible for iron-clad vessels to get to sea in times of emergency from League Island as from the Alleghany mountains. The obstruction from ice at this point in the Delaware river is so formidable as to be insuperable. And the testimony comes from such a variety of sources, from witnesses so credible, so numerous, and so scattered, and from times when it was nobody's interest to manufacture testimony, that no man can discredit it. And the honorable gentleman has not undertaken even to meet it, except by saying that the force of that objection has been greatly exaggerated, not attempting at all to deny the fact.

The force of this difficulty can hardly be exaggerated; it is very strongly urged by the Secretary of the Navy himself. I refer to the ob-

struction from ice. It is strongly stated by the commission that originally examined it. There was presented to the committee, while they were examining this question, a list, and a long list, of vessels, taken from the records of the port wardens' office in Philadelphia, that within the past few years had been entirely destroyed by the ice. We found, from an examination of the records of the Corn Exchange, in Philadelphia, that the arrivals at the port of Philadelphia for the winter months were, upon an average, five hundred and two per month, while, for the summer months, they averaged thirty-five hundred per month—a rate of increase, I think, for the summer over the winter months of about six hundred per cent. I may not be precisely accurate in that statement, but gentlemen can turn to it in the report. Whatever the precise figures may be, there was an immense diminution of the coastwise and foreign arrivals at that port in the winter months as compared with the arrivals in the summer months, showing how the commerce of the country regarded that obstruction.

Senator RIDDLE—I do not know whether it is parliamentary to name a distinguished Senator from Delaware in the other Chamber—testified before the committee as a witness who had no bias outside of Delaware, certainly, that he himself had known the Delaware river to be frozen solid at League Island, and had driven across it himself in his sleigh. And he also stated what ought to be known to this House, and perhaps practiced as an example by some, that if he himself were a member of the Pennsylvania delegation he could not in conscience vote for this scheme—he himself being a distinguished engineer. Admiral Gregory laid testimony before the committee that he himself nearly lost the Raritan there a few years ago, from ice; and while the gentleman [Mr. KELLEY] was denying the difficulty from ice, and while I, in a humble way, though as ably as I could, was asserting it, while we were discussing this precise question in committee, the Government gunboat Galena, in attempting to go to sea, solved the question by being herself cut through by ice, and being compelled to be towed, almost in a sinking condition, to Fortress Monroe. The difficulty in this respect was so striking that the great coal-carrying lines of Pennsylvania felt compelled a few years ago to alter the location of their coal depots, and passing by League Island went down the river forty miles, I think, in the neighborhood, at any rate, of Chester or New Castle, and gave as a reason, in their published statement to their stockholders, that it was for the purpose of avoiding the delay, danger, and difficulty from ice. And there was laid before the committee the testimony of a civil engineer in the interest of the Pennsylvania Railroad Company, who had been employed by them to investigate this precise site to see whether it was adapted for their purposes. He says:

"You will perceive that the face of League Island is subjected to the full force of the flood tide from the long reach in the river, extending southwestwardly, the effect of which has been, as represented by the statements of those most familiar with our river, and its winds, currents, and bars, to pile up the drifting ice upon the entire island shore-line; and, indeed"—

he adds, (and the gentleman cannot discredit the testimony of a Pennsylvania witness, an engineer at that,)—

"I have before me evidence to the effect that in all times of obstruction by ice vessels can be brought with much less difficulty through the Horseshoe channel than to League Island. It may be stated that an ice-guard could be constructed that would relieve the front from the driving ice of the flood tide, but the effect of such breakwater would be to cause deposits within the surface affected, thus subjecting you to a continued and heavy expenditure for dredging."

And upon that report the company abandoned the project.

Now, Mr. Speaker, I ask this House whether such a site, in such a river, as I hope I shall have an opportunity to show the House by and by, in the further progress of this debate, is a place for a great naval station? It is well known that at a naval station vessels are constantly going into and out of commission. They come from abroad, and must have a broad front to lie in while awaiting orders or repairs. They must lie in the stream, and the stream is the channel, because there is not sufficient depth of water out of the channel. There they must lie, anchored in the channel, subject to the obstruction of fast ice, and danger from floating ice, at anchor, to be cut through by a down-

ward tide running at the rate of four miles an hour, and an upward tide running back at the rate of three miles an hour.

Gentlemen will remember that the length of the river is such that the ice passes down with one tide to be returned by another, because the length of the river is such that it does not go to the sea; and the experience of the commerce of the world is that, in that river, the ice goes down with one tide and is brought back by another, and so goes dashing everything in its path. I ask you, gentlemen, whether this is the place for your great naval station.

There is a difficulty as insuperable as this in the depth of the river. We had this matter before us. We examined it very minutely by the charts furnished by the Coast Survey department; and it is not denied, it will not be denied upon this floor, that at a point in the Delaware river, immediately below League Island, there is a depth of but eighteen feet of water; that at mean low tide you have in the Delaware river, at that point, but eighteen feet of water, but nineteen feet at Wilmington, nineteen and a half at New Castle, and varying at points down the river at some four or five bars of that description. Now, is this the place for a great naval station?

Mr. Speaker, we are to-day upon the very threshold of naval architecture. The revolution effected within the last ten years by the introduction of steam ceased to be wonderful, viewed in the light of that revolution that was effected by the introduction of iron for the mailing and armature of vessels. Who can cast the horoscope of the future, and doubt that within a few years naval architecture and naval warfare will disclose new problems which are now hidden to the eye of man? And who shall doubt that within this decade vessels will be built drawing twenty-five and thirty feet of water, just as now in England and France there are built large sea-going cruisers drawing twenty-five and twenty-seven feet of water? Donald McKay, a name foremost among the shipbuilders of our time, informed the committee that England and France were already deepening their docks for the reception of vessels drawing thirty feet and over. And the testimony of one of the most eminent of our naval constructors (Mr. Delano) was positive "that it was indispensable to a first-class naval station to have at least twenty-five feet of water at low tide"—seven feet more than the Delaware.

Yet my friend, who makes light of this objection, says that you can place the great naval station of the country for all time at a point where there is a depth of only eighteen feet of water, because we shall not build any of these "monsters" of the ocean. Who has told him that? How can he know it? We have built nineteen monsters already that draw over twenty feet of water. They are upon the catalogue of the Navy to-day. And nineteen of the most efficient steamers of the Navy draw from twenty to twenty-three feet of water. I have not time to give their names—they are spread out in the report of the majority of the committee. There is not one of them, sir, that can go to League Island or return without waiting for the rise of the tide. They could not pass the bars without waiting for the five feet rise by the tide. They can neither get to or from League Island except at high tide.

Mr. Speaker, shall we put the naval yard, the greatness of which has been so eloquently alluded to by the gentleman from Pennsylvania, and by which we are to wrest the trident of the seas from Neptune—shall we put it at a place where vessels drawing over eighteen feet of water cannot go to sea except by waiting for the rise of the tide?

It is claimed by the gentleman in his report that the Wabash went to sea from the Philadelphia navy-yard, and that she draws twenty-three feet of water. So she did. I have the statement of her captain that it took fifty hours to get her to the breakwater from the yard at Philadelphia on account of being compelled to wait at every bar until the rise of the tide enabled her to pass. Even then, sir, she dragged the bottom all of the time. The Wabash was then going to Port Royal to join in the attack which elevated the name of Du Pont to the roll of our naval heroes, and that great commander had to wait for this finest vessel of his fleet, as she was fifty hours in getting from Philadelphia to the mouth of the river.

I have, in a work called "Armored Vessels,"

published by order of Congress and with the approval of the Secretary of the Navy, a statement in reference to the New Ironsides, one of the most formidable mailed vessels in the Navy. She was built at the Philadelphia navy-yard, and was four days getting to the mouth of the river. That fact appears at large upon page 31 of the book I have indicated. The Sangamon, the Patapsco, and the Lehigh, three iron-clads, went to sea from Philadelphia, under tow of steamers, and were two days in getting to the capes. Yet this is the place for the repair and safe-keeping of the iron-clads which are to be the protection of our harbors and cities against foreign attack! It is admitted that this is the only service to which they can be applied, because we know at last, after much popular misapprehension, there is not one of them that has efficiency as an ocean steamer. So far they are simply floating batteries, to be put before cities on the coast and for harbor defense. These iron-clads, according to the gentleman and the Secretary of the Navy, ought to be placed one hundred miles from the ocean for security.

From a point so remote from the scene of their operations they could not get into the presence of a hostile fleet upon the coast sooner than four days through a channel which he admitted to be tortuous, (and I thank him for the admission,) with a tide running down freighted with obstructions. This type of vessels have but feeble motive power of their own, averaging a speed of only five miles an hour, scarcely enough to stem the tide of the Delaware, some having made seven and seven and a half, but mainly on trial trips. These vessels are unwieldy and unmaneuverable, they mind their rudder with the least fidelity, they have less deck room, and of all types of vessel require plain sailing, open sea room, and favorable conditions for either service or for safety. Such, sir, is the class of vessel which it is proposed to put up this tortuous stream, one hundred miles from the ocean, their object being to protect New York, the harbors of the Atlantic, and our seaboard cities at a moment of danger from hostile attack; and the excuse is that these invulnerable vessels must be put in a place of absolute security.

Let me read from the report of Captain Turner, of the New Ironsides, page 76. He says:

"You will, however, have observed how correct my representation was, that this ship could not be depended upon in a tide-way, and how unmanageable she became, compelling the pilot to order the anchor to be let go twice in order to avoid grounding, which would have involved the loss of the ship."

Captain Drayton, of the iron-clad Passaic, reports, page 33, as follows:

"Owing to the peculiar form of the vessel aft, the rudder has no power except through the water thrown on it by the propeller, and then only when it is going at full speed; when the engine is stowed down all means of direction seem to cease. This might become serious in a narrow channel, or one with sharp turns."

The SPEAKER. The gentleman's hour has expired.

Mr. O'NEILL, of Pennsylvania, obtained the floor.

Mr. BRANDEGEE. I wish the House would let me conclude now what I have to say. I have not troubled the House since I have been a member of it, nor shall I trouble them often, and I am charged by the committee with the duty of laying the whole subject before the House. I think it is due to me that I shall be allowed to proceed. As I have charge of the bill I will give ample opportunity for debate before demanding the previous question.

There was no objection, and Mr. BRANDEGEE was allowed to proceed.

Mr. BRANDEGEE. These are some of the objections which occurred to the committee and induced them to reverse their first impressions in favor of the site on the Delaware. They seemed to the committee to be not only formidable but insuperable. It seemed to us that the soil at that place was of such a character as to afford a strong reason, if there was no other site suggested, why Congress should not listen for a moment to the argument in favor of adopting that locality. There was such an array of testimony before the committee in reference to the obstruction from ice, and this difficulty was of so alarming a character and so undoubted in its existence, that the committee considered the objection insurmountable. And the nature of that stream is such that any

excavations which are made are filled up immediately. It is shown in the report of Professor Bache, in reference to the survey of that stream, that the channel has shifted more than two miles, opposite New Castle, during the last ten years. The fact that this place was so remote from the point of anticipated attack in time of war, and the fact that the peculiar construction of every vessel for which the yard was designed was such that they could not easily be got to the ocean or to the yard; the fact that all iron vessels must be towed to and from sea at an expense, as was represented from the highest authority, of \$1,000 the round trip, amounting to a very large annual expenditure; these and other considerations, both of economical and natural disadvantages, forced the committee to the conclusion that this site was totally inadmissible.

Mr. Speaker, the committee, after having examined other places, and after having made a personal examination, directed their attention to the site proposed at New London. I shall not go into a lengthy or elaborate statement of the advantages that obtain at that place. I believe it is well known to every member of this House that its advantages as a harbor are admitted and unrivaled. It must be in the recollection of many here that in their school-boy geographies it was laid down as one of the elements almost that New London harbor was one of the best in the world.

However that may be, it was in proof before the committee that from the earliest period the attention of the Government and the naval authorities had been directed to that harbor, its advantages, its capacity, and its great depth of water from the ocean, that depth being twenty-seven feet at the shallowest point, and that at only one place, all other depths being over thirty feet. The great practical advantage of vicinity to the ocean, and yet sufficiently removed therefrom as to be easily defensible against hostile attack; its contiguity to the great labor system of New England and the timber adapted for ship-building, said to be the best in the country; these considerations, when examined, strongly challenged the attention of the committee, as they had for years the best naval minds of the country.

I have heard the gentleman from Pennsylvania almost exhaust the statistics of the census reports in showing the immense amount of capital and skill invested in Philadelphia and Pennsylvania in the arts of labor. I do not propose to deny his assertion at all. It is not a part of my policy to deny any advantages which obtain as to that site. No doubt there is more skilled labor in Philadelphia than in the whole State of Connecticut. I rejoice at her prosperity; it is a pride to me as well as to him. But the question is, and is alone, can there be enough labor concentrated at New London to supply the wants of this establishment? And who believes that in immediate contiguity to the workshops of New England, hive of busy brains and busy arms, there would be any dearth of labor where capital sought its employment? The board of scientific men met that question, and they concluded that there can be no doubt but that an adequate amount of labor for the purposes of the Government can be obtained at that point; which taps every manufacturing village of New England.

I come now to the consideration of two points, and with the consideration of those two I shall close what I have to say at this time, which have been urged against New London. Those are the absence of fresh water, and the alleged indefensibility of that point against hostile attack. As the gentleman from Pennsylvania [Mr. KELLEY] compliments me with his attention, I hope he will answer me in the argument which I make upon these points, if he can. In regard to the first point, I undertake to say that the necessity and advantage of fresh water have been greatly exaggerated by the friends of the site in the Delaware river. But little is yet known in this country on the subject of the relative action of fresh and salt water upon iron bottoms. We are in the infancy of an iron navy. We have just commenced building such vessels. We have been so much in the sphere of action, the necessities of our position have driven us so much to practice constant in-exorable action that we have not had time to experiment much upon such matters or to find time to theorize. England has been for a century speculating and experimenting upon this precise



subject, and what is the result? I admit all the science the gentleman from Pennsylvania [Mr. KELLEY] possesses, and he has brought into his report much more, culled from the report of British associations, and it runs through ten or fifteen pages of his report. But what is the result to which they have arrived? That the prejudicial action of clear sea water upon iron bottoms for one hundred years is the two hundred and fifteen thousandth part of an inch. The prejudicial action of fresh water is twofold, first from oxidation, and secondly from the attachment of crustacea and other marine attachments to the iron bottom. If I state aright, the result of the tables is nearly inappreciable; but whether it be so or not, I shall undertake to show upon the highest authority that it does not affect iron bottoms in New London harbor. The prejudicial effect of marine attachment is very serious—not less so than the gentleman has stated—to the motive power and efficiency of a vessel.

In one hundred years, then, according to the experiments of England, which are the best lights we can have, the rusting of an iron bottom is the two hundred and fifteen thousandth part of an inch. If my friend's lease of life were as long as that, or if the deterioration of the human system were as slow as that, it seems to me, Mr. Speaker, that there would not be much use for life insurance offices. In one hundred years it is the two hundred and fifteen thousandth part of an inch. If our iron-clad navy lasts as long as that in clear salt water, the scale upon the surface will hardly pay for the one hundred miles of navigation up the Delaware.

Now there is an injury, and a very serious one, growing out of the attachment of marine plants and of marine animals. In southern seas they attach with a marvelous rapidity, and to a degree almost beyond belief; and they destroy or seriously impair the efficiency of an iron or of an iron-plated steamer. They do not, however, attach in any great degree to wooden hulls. There is no doubt that these barnacles, these algae, these sea-worms, these crustacea, of whatever species or genera, do lose their life in fresh water, and that the marine plant loses its life in fresh water. I assert, however, without fear of contradiction, that a condition of things does exist, from whatever cause, speculate on it as you please, summon up philosophy as you may, in the waters of New London, which destroys these crustacea, be they animal or vegetable.

If gentlemen have done me the honor to read the report of the Naval Committee they will have seen that the river Thames, on which the city is located, is a fresh-water stream—a very short one, to be sure—straight, and very deep, and that it is fresh to a point opposite the proposed site of the yard. There it meets the waters of New London harbor, and a brackish state of the water obtains. In that precise water, upon testimony which cannot be discredited, upon the testimony of Benjamin Silliman—a name known in this House and to the country; I might add, known where the English language is known—who himself examined the very site, crustacea do not exist. They are destroyed when brought into contact with those waters. The testimony of that eminent geologist and *savant* of this country is confirmed by the united testimony of every shipmaster in New London.

Some of them are known to gentlemen on the other side and some of them to gentlemen on this side—such men as Williams and Havens, Barnes and Williams, Frink and Prentiss, and others, whose business it has been to chase the leviathan of the seas around the Arctic circle. They have established this very fact, that the barnacles, the sea-worms, the crustacea, do not exist, and cannot live in the waters of New London harbor. The ship-timber men, the pile-drivers, the owners of wharves, all unite in testifying to that fact. The gentleman [Mr. KELLEY] has attempted to discredit the fact without producing a particle of evidence, but on a visionary theory of his own, that the Atlantic ocean pours its resistless tide into the Thames river, and drives the fresh water back up the river. The theory is ingenious enough if it were not met by the fact that Long Island and Fisher's Island lie across the harbor, and that those sounding waves of the Atlantic, of which the gentleman speaks in still more sounding phrase, are dashed upon "old Long Island's sea-

girt shore, and wash the beach at Rockaway" instead of into the harbor of New London.

The truth is, and the fact is testified to so that the committee did not for a moment doubt it, that this objection does not obtain in our waters; and further proof of it is that the whaling vessels that come from the Arctic circle and lie at our docks lose within two days their barnacles and the crustacea which attach to them.

Mr. L. MYERS. With the permission of my friend, I would like to ask him whether the vessels he speaks of were iron-clad?

Mr. BRANDEGEE. My friend, I hope, feels a glow of satisfaction in learning that they were not. One thing more has been urged against New London, its want of defensibility. If the House should be patient while I address myself to that branch of the subject, I will then relieve it from the further sound of my voice.

It is urged that the site in the Delaware river is thoroughly defensible. Perhaps it is, and perhaps it is not. But the shortest path to League Island, by an enemy, is not by the Delaware, though it may be the only path for us. It is not beyond the recollection of those who remember the history of our revolutionary war, that the enemy passed into Chesapeake bay, landing at Elkton, and flanked Philadelphia and took it, and held it for five months. I might here say, with reference to the obstructions which are relied upon as the chief defenses of the Delaware river, that what is good for defense is good for offense. And if the Delaware river can be obstructed at a certain point to prevent the entrance of an enemy's fleet, can anybody give me any reason why the enemy cannot obstruct the entrance at the mouth of the bay by chains, torpedoes, or other obstructions, and seal up your entire Navy, while they blockade the mouth as tight as in a bottle? How would you get to sea, with the enemy blockading the mouth of such a river as that, and with obstructions to aid the blockade?

It is said, indeed it is rather sung than said, (the Secretary having set the pitch and the whole choir having caught up the refrain,) that New London is indefensible in this, that an enemy's fleet with modern ordnance can lay off a short distance from the mouth of the harbor and shell out the navy-yard if it be established there. The committee have found, and the fact is so, and military gentlemen who were with the committee upon the investigation of that site will attest the fact, that the navy-yard site lies about three and seven eighth miles from the mouth of the river. Beyond the mouth are numerous islands and headlands admirably fitted for earth work batteries. An enemy, then, to lay within shelling distance of the navy-yard, must lay within short range of the plunging fire of the batteries upon these islands and headlands. In other words, to obtain a range of four miles, and do execution, he must himself lay within a hundred yards, or a hundred feet, it may be, of the batteries at the mouth of the harbor.

As to what the judgment of science and of practical minds is upon that subject, I will not follow the gentleman's example and introduce myself as a witness, but that of a board, the competency of whose testimony cannot be questioned for an instant. It is in this report on armored vessels, which contains a great deal of information, and I commend it to the consideration of my friends upon the other side. In the report of the board called together by the Secretary of the Navy for the purpose of investigating the very question we are now considering, whether an armored fleet can be kept off by local immovable batteries, this opinion is given on page 3:

"We do not hesitate to express our opinion, notwithstanding all that we have heard or seen written on the subject, that no ship or floating battery, however heavily she may be plated, can cope successfully with a properly constructed fortification. The one is fixed and immovable, and though constructed of a material which may be shattered by shot, can be covered, if need be, by a much heavier armor than the floating vessel can bear, while the other is subjected to the disturbance of wind and waves, and the powerful effect of tide and current."

"The problem proposed by the gentleman is, that a fleet can come from England or the Continent, weighed down by its weight of armor, cross the ocean thus weighed down, and then lay within a few hundred yards' range of batteries at the mouth of a river, and shell out the naval establishment of the country four miles above without danger to

itself. That problem would seem to be solved by the opinion just cited, if it had not been before decided by common sense. Added to this would be the presence of your own invulnerable iron-clad Navy, present for its protection with all the modern paraphernalia of torpedoes, rams, and engines of destruction created by the genius of our countrymen, stimulated to its wonderful advancement in all the arts of offense and defense.

The testimony the gentleman has cited for his assertion of the indefensibility of New London, and the only testimony, is that Colonel Ould recently, in a conversation with one of our officers in relation to the exchange of prisoners, asserted that Charleston was untenable from the fire of our batteries there. I must confess that it was with surprise bordering on astonishment that I heard that gentleman, above all others, cite on so important a point as this the testimony of rebels in arms against the Government of the United States. I well recollect at the last session with what wonderful indignation he pounced upon his friend and colleague from the same State [Mr. MILLER] because that colleague had made a charge upon him and had fortified it by the statement of one Robert Tyler, I think, whom my friend from Pennsylvania [Mr. KELLEY] denounced as a rebel in arms against the Government, and as unworthy of being cited as witness before this loyal House. And yet the only testimony he offers to the fact he asserts is the testimony of this rebel colonel, and to a fact that is contradicted by the knowledge of every man on this floor, because Charleston is still tenable against the fire of our naval batteries that have been operating against it now for more than a year and a day—the lifetime allowed by the laws.

And the truth is, right here, Mr. Speaker, that the effective range of modern ordnance is at such an elevation—I ask my friend opposite to take notice—as that it cannot apply to naval vessels. To propel a shot to do execution at a range of four or five miles you must elevate your ordnance to thirty or forty degrees. You cannot do that on board of an iron-clad vessel. The very moment that a port-hole is constructed for that purpose, or the hull of a vessel is constructed for that purpose, you have lost her efficiency as an iron-clad; and it is a fact known to every man on this floor that, from first to last, no iron-clad in our country, no iron-clad in Charleston harbor has attempted to throw a shot at that range toward the city of Charleston, for the reason that on board a vessel they could not elevate their guns at such a degree as to make their range effective. With batteries at the mouth of our harbor we could keep at sea four or five miles from shore an enemy's fleet by the very range spoken of.

Now, on this question of defensibility (and with this I shall close) I am willing to leave the case with the testimony of experts. My friend alleges that New London is not only undefended, but indefensible. That is his opinion. His opinion is entitled, I have no doubt, to great weight. I know that he has had some military experience. I recollect very well that the gentleman from Ohio [Mr. Cox] read here one of the most amusing pieces of military autobiography that I ever heard before a public body, wherein was given the military experience of my friend on that night, I believe either before or after the battle of Gettysburg, (my friend can correct me if I am wrong,) when my military critic lay, in his own language, upon his back, "gazing at the misty, mazy mysteries of the Milky Way." [Laughter.] When, therefore, my friend, relying upon that military experience, sets it up against the judgment of the authorities that are alluded to in the report of the majority of the committee, I must defer to him personally; but I must still claim that, before this House, the judgment of such authorities as we have cited is better than even his judgment.

And, sir, this question of defensibility is one that these lawyers here cannot determine. It is a question that the farmers here cannot determine. It is a question that the debaters here cannot determine. It is intrinsically a question of naval and military science and engineering, and a very uncertain one at the best. What say the military critics upon this question? General Cullen, chief of engineers of the army of the Potomac, who examined the subject with reference to this very question, gave the committee his opinion that no harbor in the United States was more easily defended. Major

General George B. McClellan, who, whatever may be said of his capacity to lead an army in the field, history will certainly, with one accord, proclaim as the ablest or one of the ablest engineering officers and military scholars that this country has ever produced—he himself examined this harbor, with precise reference to this very question, with a knowledge of improved ordnance and the revolution in naval architecture, and gave it as his opinion that it was a very eligible place for a naval station.

General Dix, within whose military department the place is, has also made an examination of it with reference to that question. Admiral Stringham also made a similar examination. Commodore Van Brunt, who afterward commanded the *Minnesota* in that gallant fight that she made for two days against that unseemly monster of the ocean, the first *Merrimack*, the first iron-clad of which we had knowledge—that monster of whom my classical friend might perhaps truly say, in the language of the poet, "*monstrum horrendum, informe, ingens, cui lumen ademptum*," that shapeless beast upon the waves, wallowing its way to the all but certain destruction of our Navy—he who fought her for two days in his wooden walls, has also given it as his opinion that this is a most eligible site for a naval station, and easily defended. And such was the judgment of Admiral Foote, of Commodore Ringgold, of Admiral Paulding, and that sound, sensible commander in the Navy to-day, who has charge of the entire iron-clad department of this country at the Brooklyn navy-yard, Admiral Gregory. So that, on the question of defensibility, I must wait until I see better authorities arrayed against such a multitude of witnesses as these, whose reputation is not inferior to that of any others in this or any other lands.

Mr. Speaker, this place is offered to the Government. I heard something fall from my friend, which I was sorry to hear, about land speculation. My friend generally speaks pretty clearly, and I think I have not misunderstood him. My friend has intimated that there is a land speculation at New London. He intimates on this floor that which he did not intimate in committee, and which was proved before him, in the committee, to be a gross slander upon the constituents whom I represent. It may not be parliamentary, but it is true, nevertheless; and I do not propose to abate anything of the declaration.

Mr. KELLEY. Will the gentleman yield to me a moment?

Mr. BRANDEGEE. Certainly.

Mr. KELLEY. It was argued, if it be proper to mention the matter, very elaborately before the committee that the establishment of an institution which would require more labor than there were people in the town must lead to inordinate speculation in land. You cannot, sir, double the population of a village without creating speculation in town lots. It is not possible to do so.

The SPEAKER. It is not in order to discuss what has occurred in committee.

Mr. BRANDEGEE. So I understand; and that sin is not upon my skirts.

Mr. Speaker, there is a fish which, I believe, is called the cuttle-fish—I am not now able to give the name by which it is known in natural history—and which, after it makes an attack and is pursued, surrounds itself with an inky cloud, and so attempts to escape from the assault which itself has provoked. I make, of course, no application of this fact of natural history to anything which has occurred within the last five minutes. But, sir, when a gentleman on this floor in a speech alludes to land speculation in connection with such a subject, I understand, (I don't know how it seems to other gentlemen,) but I understood an insinuation to be made against the parties proposing it, and to the effect that the Government is in some way to be cheated by these parties, and I did not understand the gentleman to refer to the legitimate increase of a city (which every man has a right to desire) arising from the location of a Government work. It may be that at some of the proposed sites there are harpies who would pick up the land, and interest themselves to make an unconscionable bargain with the Government. I understand that the gentleman does not mean that in reference to New London, by his disclaimer, and there is nothing left to reply to.

Mr. KELLEY. I did not mean that. I know

that this land was tendered as a gift to the Government; and I know that the mere doubling of the population of a town suddenly must create land speculations.

Mr. BRANDEGEE. That, Mr. Speaker, is a legitimate consideration. It naturally follows if there is any speculation in reference to land it is a speculation among themselves, where one man is the loser and another is the gainer, and with which the Government has nothing to do. My friend has taken back what I understood to be the natural inference from his remarks, that there was to be such land speculation as would be to the injury of the Government. I stated before the committee, and I state it now with a full knowledge of the business of that little town, that not a foot, not an inch of real estate or personal property there has changed hands since this subject was mentioned on account of the pending of this question. We always have felt that we have had too just a case to resort to any but fair means. Notwithstanding we had to contend against so great a city as Philadelphia in such a stormy forum as this, we have thought we could make it so clear to the House that they could not fail to see the merits of the case of New London.

I have only to say, Mr. Speaker, in conclusion, that we offer you to-day what I believe to be the best natural roadstead on the American continent, admitted by the naval authorities and by a vast majority of naval officers outside of the Department to be such. There is no speculation in the purchase. Connecticut, though small as she is—and I do not propose to allude to her past services or present position; I disclaim all that sort of Bancombe—the State of Connecticut has offered it to you for nothing. You have but to put your hand out and take it. That is all.

The question is now, with such a harbor as that, with such advantages, with soil remarkably adapted for Government works, as the engineer of the yard tells you, almost made to your hand by natural excavation for docks, in a healthful climate, in a genial latitude, because the temperature there is moderated by the Gulf stream, declared by Humboldt to be one of the most healthful spots in America; the question is whether you will refuse the best place for a naval depot for iron-clads that is offered to you for nothing. I beg of this House not to imitate the folly of the Roman emperor who turned away the Sibyl while presenting the leaves upon which the fate of the Roman empire depended. I ask you not to throw away this opportunity for obtaining the best place on the continent for a great naval station.

I ask you to consider it; if not now, to postpone it, that you may look at it more seriously and consider it from day to day, so that you may at last lay broad and deep the foundations of our Navy. You must do it. It is your duty to become a first-class naval Power, and if to-day you recklessly throw away the chance, at some hour when it is too late you will repent at the expense of your national honor and the position you ought to maintain as mistress of the seas. I ask you to pause before you decide, and to decide at last by merits and not by numbers. The action of to-day decides, for the illimitable future, the efficiency of your Navy, it may be, your position as a naval Power. It is at once your duty and your destiny to become a first-class naval nation. Lay, then, the foundations strong and deep, not in shallow waters or upon quicksands, but, seizing these great natural advantages, the want of which France vainly strives to supply by art, accept for the Government a station for that Navy which is yet to ride the mistress of the seas and wring from reluctant England the baton of the ocean.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, as the gentleman from Connecticut in his closing words speaks for New London, so, I say, argues the Secretary of the Navy, in his annual report just made to the President, in his remarks favoring the location at League Island for a "navy-yard for iron vessels and machinery," that if now the United States loses this generous offer of the city of Philadelphia, gone forever is the opportunity. When I wanted the floor a few minutes ago, it was not that I wished the House to understand that I was about to make a lengthy speech on the subject; not that I desired to advocate League Island because it happened to be located in a portion of the district I am endeavoring to represent,

but merely to state, based upon such arguments as I hope to adduce, beginning with the report of the commission to which the gentleman has referred, that I think League Island should be at once accepted, and that the minority report of the Committee on Naval Affairs should be adopted without delay, as recommending the place, of all others, most suited for the purposes of building an iron navy, and as offering reasons unsatisfactory, in my opinion, for the favorable action of the House.

There are several points in the majority report of the commission to which I ask your attention. I am not, Mr. Speaker, about to enter into an investigation of the birthplaces of its members. I do not intend to condescend to make such a small warfare upon worthy officers of the Navy who constituted it as to name for the sake of an argument against their fairness where they were born, but I will take occasion to say that Commodore John Marston, an able and accomplished gentleman, and a near relative of my friend and colleague from the first district of Pennsylvania, came from the State of Massachusetts; and that Commodore Gardiner, an equally meritorious officer, who signed the majority report of the commission, was a native of the State of Maryland. It does not matter to me that Rear Admiral Stringham, whose life has been passed in the Navy to the glory and honor of the country, was reared in the State of New York; nor will I stop to inquire for the birthplace of Engineer Sanger. Philadelphia does claim her honored son, Professor A. D. Bache; but claiming him she does not here or elsewhere impugn the motives of others whose lives have illustrated a conscientious discharge of duty, or attempt to fasten upon them the narrow and selfish argument of locality before country. I wish now to do justice to the members of the commission, and to protest against any remarks tending to reflect upon their action; and to disclaim for them, as I do for myself, any idea of being influenced on this subject otherwise than for the advantage of the Navy.

Mr. Speaker, I throw out of consideration this point of locality in selecting a site for such a navy-yard as the country really wants; but I will make an effort to show the House that the report of the majority of the commission proves almost conclusively, upon all the leading requirements necessary for a naval station for iron-clads, armature, and machinery, that League Island is unsurpassed in the depth and freshness of the waters flowing around it, in its nearness to every article used in building iron vessels, and its defensibility. The gentleman from Connecticut, I think, will, upon reflection, concede at least the latter point, and will not again speak of Philadelphia being outflanked in one of the earlier wars. He must look to the history of our revolutionary struggle, and not forget, when he attempts to undervalue the defenses of the Delaware river, that hostile fleets have visited his favorite harbor, and that armies have marched and fought successfully at his very threshold. He has not told us that New London was outflanked; that Fort Griswold, on Groton Heights, was outflanked. He forgot to state that in September, 1781, a British fleet left the eastern end of Long Island in the evening, and that upon the next morning it appeared in front of New London and almost burnt it to ashes; while at the same time a British army attacked Fort Griswold, took its garrison, after a gallant defense by New England patriots, and after its surrender basely murdered the brave Colonel Ledyard. I am quoting history.

Such was the defensibility of New London. There have been improvements in building fortifications and in constructing vessels of war. Steam and iron have changed the character of attack and defense; but relatively the Delaware river is more capable of withstanding attacks of armies or navies than New London. League Island is further from the ocean by many miles, and the approach of a hostile fleet is almost impossible. So much, Mr. Speaker, for the point of defensibility, and upon it the majority of the commission decides "that the two sites may be regarded as equal." I leave it to the House to say whether they can fail to determine that League Island artificially and naturally can be made unsailable. My opinion is that immense outlays of money will be necessary to put New London in a proper state of defense. But a few miles from the



ocean, within range of the gunnery now in use, what, with the continued improvements, will not be done? Five or six miles for projectiles will not secure any fort, while armored ships will in defiance make an attack, and will be secure from danger by the power of steam. Mr. Speaker, I have said that the greatest requisites for the location of a navy-yard for the construction of iron-clads are to be found more fully at League Island than at New London. I will go on further in my endeavor to prove this from the report of the commission.

#### BANKRUPT BILL.

Mr. JENCKES. I desire to interrupt the gentleman from Pennsylvania, and say to him that the final vote on the passage of the bankrupt bill was postponed from last session until to-day. I ask the consent of the gentleman from Pennsylvania, and of the House, to take up that matter, and put the bill upon its passage to-day.

There being no objection, the bill (H. R. No. 424) to establish a uniform system of bankruptcy throughout the United States was taken up for action.

Mr. JENCKES. By reason of the postponement, it becomes necessary to make an alteration in the last section of the bill in reference to the time when it shall take effect. I move to amend by striking out the words "1st of September, 1864," and inserting "1st of June, 1865."

The amendment was agreed to.

Mr. CRAVENS. I ask the gentleman from Rhode Island to let this bill be postponed till this day week.

Mr. JENCKES. I decline to yield the floor, and I move the previous question.

The previous question was seconded, and the main question ordered, which was on the passage of the bill.

Mr. CRAVENS demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 76, nays 56, not voting 50; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Brandegee, Brooks, James S. Brown, Chandler, Ambrose W. Clark, Cole, Creswell, Henry Winter Davis, Thomas F. Davis, Dawes, Denning, Dixon, Driggs, Eliot, English, Farnsworth, Frank, Ganson, Gooch, Grinnell, Griswold, Horrick, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knox, Littlejohn, Longyear, Marvin, McBride, McIndoe, Samuel F. Mills, Daniel Morris, Norton, Odell, Pike, Pomeroy, Pruyn, Radford, Alexander B. Rice, John H. Rice, James S. Rollins, Scofield, Scott, Shannon, Spaulding, Sweat, Thayer, Townsend, Upson, Van Valkenburgh, Ward, William B. Washburn, Webster, Williams, Windom, and Benjamin Wood—76.

NAYS—Messrs. James C. Allen, William J. Allen, Bailly, Blaine, Blair, Bliss, Boyd, Cobb, Cox, Cravens, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Finek, Garfield, Grider, Harding, Harrington, Holman, Ingersoll, Lazenar, Le Blond, Loan, Long, Mallory, Marcy, McClurg, McDowell, McKinney, Morrill, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Perham, Price, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Ross, Schenck, Smithers, William G. Steele, Stevens, Tracy, Wadsworth, Whaley, and Wilson—56.

NOT VOTING—Messrs. Ancona, Anderson, Broomall, William G. Brown, Freeman Clarke, Clay, Coffroth, Donnelly, Dumont, Fenton, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Higby, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Julian, Kufelreich, Knapp, Law, McAllister, Middleton, William H. Miller, Moorhead, Amos Myers, Nelson, Patterson, Perry, Robinson, Sloan, Smith, Starr, John B. Steele, Stiles, Strouse, Stuart, Thomas, Voorhees, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Wilder, Winfield, Fernando Wood, Woodbridge, and Yeaman—50.

So the bill was passed.

During the roll-call,

Mr. WILLIAMS stated that his colleague, Mr. Moorhead, was detained at home in consequence of sickness in his family.

Mr. ORTH stated that his colleague, Mr. JULIAN, was confined to his room by sickness.

The vote was announced as above recorded.

Mr. JENCKES moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. O'NEILL, of Pennsylvania, resumed the floor on the question of the naval depot for iron-clads, but yielded to

Mr. J. C. ALLEN, who moved that the House do now adjourn.

Mr. GRINNELL. I ask the gentleman to yield to me for a moment.

Mr. J. C. ALLEN. Certainly.

#### TAX ON DOMESTIC LIQUORS.

Mr. GRINNELL. I ask unanimous consent to introduce a bill to amend section five, chapter one hundred and seventy-three, of the laws of the Thirty-Eighth Congress, to increase the tax on whisky to be manufactured.

Mr. HOLMAN. Let the bill be read.

The bill was read. It enacts that the act referred to shall be so amended as that there shall be levied, collected, and paid, on all spirits that may be distilled and sold, or distilled and removed for consumption or sale, of first proof, on and after July 1, 1864, and prior to December 15, 1864, a duty of \$1 50 on each and every gallon, and on and after December 15, 1864, a duty of two dollars on each and every gallon.

Mr. HOLMAN. I object.

#### NAVY-YARD AT GRAND HAVEN.

Mr. KELLOGG, of Michigan, by unanimous consent, introduced a bill to provide for the establishment of a navy-yard and naval depot at Grand Haven, in the State of Michigan; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### IMPROVEMENT IN THE HARBOR OF ERIE.

Mr. SCOFIELD, by unanimous consent, introduced a bill making an appropriation for continuing the improvements in the harbor of Erie, in the State of Pennsylvania; which was read a first and second time, and referred to the Committee on Commerce.

#### DUTY ON MINERAL COAL.

Mr. CHANLER. I ask unanimous consent to offer the following resolution:

Whereas under the exhaustive plea of military necessity a new and burdensome system of taxation has been imposed upon the laboring classes and consumers throughout the country: Therefore,

Resolved, That the Committee of Ways and Means be, and are hereby, requested to take prompt and efficient means to lessen the sufferings of the industrial classes by reducing the tax on mineral coal, now become one of the prime necessities of life, and to report by bill or otherwise.

Objection was made.

#### BOUNTY LANDS TO SOLDIERS, ETC.

Mr. SPALDING, by unanimous consent, introduced a bill granting a quarter section of land to every soldier, sailor, and marine, whether citizen or alien, who shall have served one year in the Army or Navy of the United States during the war of rebellion; which was read a first and second time, and referred to the Committee on Public Lands.

#### BRIDGE ACROSS THE HUDSON.

Mr. DAVIS, of New York, by unanimous consent, introduced a bill relative to the construction and maintenance of a bridge across the Hudson river, at Albany, in the State of New York, and the establishment of the same as a post route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ST. LOUIS AND IRON MOUNTAIN RAILROAD.

Mr. BLOW, by unanimous consent, introduced a bill making a grant of public lands to aid in the construction of the St. Louis and Iron Mountain railroad; which was read a first and second time, and referred to the Committee on Public Lands.

#### PUBLIC LANDS TO SOLDIERS.

Mr. HOLMAN. I ask unanimous consent to offer the following resolution:

Resolved, That it would be just and expedient to set apart a portion of the public lands for the benefit of such soldiers of the United States as have been or shall be permanently disabled during the present war, and whose circumstances may require the generous aid of their country; and that the committee on Public Lands be instructed to report a bill granting to the several States portions of the public lands, the proceeds of which shall be applied to the exclusive benefit of such soldiers, either in founding homes for them in their respective States, or otherwise, as the several State Legislatures may determine; and that the said committee also inquire into the expediency of permitting the several States to apply the proceeds of the public lands granted to them by the act of Congress approved July 2, 1862, to the same purpose, or to the support and education of the orphan children of such soldiers as have died or shall die in the service of the United States during the present war, and to report by bill or otherwise.

Mr. FARNSWORTH. That resolution instructs the committee absolutely to report such a bill. I would suggest to the gentleman to so modify it as to direct the committee to inquire into the expediency of so doing.

Mr. HOLMAN. As to the diversion of the lands which have been appropriated for the purposes of agricultural colleges in the several States, that is to be merely a matter of inquiry. But as to the grant of lands for homes to disabled soldiers in the several States, I have made it imperative, and I would prefer to have it go to the committee in that form.

Mr. FARNSWORTH. It is the usual practice of the House, I believe, especially at such a time as this, when we have no time for full consideration, not to instruct a committee absolutely to report a bill. I refer to this as a mere matter of courtesy to the committee.

Mr. MORRILL. As the Secretary of the Treasury has referred to the public lands as a matter of considerable importance, in relation to a sinking fund, I must object to the introduction of this resolution at the present time.

Mr. HOLMAN. Is not the gentleman from Vermont [Mr. Morrill] too late with his objection?

The SPEAKER. He is too late. But the gentleman from Illinois [Mr. Farnsworth] was in time with his objection.

Mr. FARNSWORTH. I must object, unless the resolution is modified as I have suggested.

Mr. HOLMAN. I will not press it at this time; I will withdraw it.

#### OVERLAND CALIFORNIA MAIL.

Mr. DAILY. I ask unanimous consent to offer the following resolution:

Whereas it is charged by Joseph H. Burbank, who was a bidder at the last letting of the overland California mail service, that the late Postmaster General did him gross injustice in this, that he refused or failed to offer him the contract for more than thirty days after he could have easily done so, (when there were only ninety days given to prepare for so large a contract,) and after the Postmaster General did make to said Burbank a direct and explicit offer of said contract, both by telegraph and letter, said Burbank accepted the offer immediately and unconditionally, and at a large expense commenced preparation for the service, but when he sent his agent to Washington fully empowered to formally close up the contract, the late Postmaster General told him that the contract was given to Ben. Holladay: Therefore,

Resolved, That, if not inconsistent with the public service, the Postmaster General be requested to furnish this House with a full statement of all bids and bidders, letters, and telegrams, showing to whom and how the letting of the contract for the overland California mail was made, and the evidences of which may be in the Post Office Department.

Mr. BROOKS. It is not for me to defend the Administration; but it seems to me that the phraseology of that resolution is objectionable.

Mr. BENNET. I must object to the introduction of this resolution until it is so modified as to be addressed to the President or directly to the Postmaster General.

And then, on motion of Mr. B. WOOD, (at twenty minutes past three o'clock,) the House adjourned.

#### IN SENATE.

TUESDAY, December 13, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

#### CREDENTIALS.

Mr. SPRAGUE presented the credentials of Hon. HENRY B. ANTHONY, chosen by the Legislature of the State of Rhode Island a Senator from that State for the term of six years, commencing March 4, 1865; which were read and ordered to be filed.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER. I present the petition of Blake, Brothers & Co., bankers in Boston and New York, in which they set forth that they were the owners of certain certificates of indebtedness of the Government of the United States, amounting to the sum of \$10,000; that these certificates were lost; that evidence was furnished to the Treasury Department of the loss, but that down to this day they have not received full compensation for the loss. They pray Congress to provide a remedy in their special case, and also by further legislation to protect the interests of persons in such situation. As the questions involved in this petition

concern the finances and credit of the country, I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. HOWARD. I beg leave to present the petition of the grand and petit jurors of the eastern judicial district of Michigan, praying for additional compensation for their travel and attendance. They complain that the compensation at present allowed by law is not adequate to pay their expenses in attending court, and that they are obliged to pay a large balance out of their own pockets. I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOWARD. I present also the memorial of N. G. Isbell, collector of the port of Detroit, praying relief against the operation of the joint resolution of April 29, 1864, increasing the rate of duties upon imported articles fifty per cent., which I ask may be referred to the Committee on Finance.

It was so ordered.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred so much of the President's annual message as relates to our foreign relations, reported a bill (S. No. 356) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia; which was read and passed to second reading.

#### REVENUE CUTTERS ON THE LAKES.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (S. No. 350) to authorize the purchase or construction of revenue cutters on the lakes, direct me to report it back with an amendment, and, as there are reasons for its immediate consideration, I will ask the Senate to act upon it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to authorize the Secretary of the Treasury to construct or purchase not exceeding six steam revenue cutters for service on the lakes, and appropriate \$1,000,000, or so much thereof as may be necessary, for that purpose.

The amendment of the Committee on Finance was to insert the words "and alter" after the word "purchase."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. SHERMAN. I will ask for the reading of a letter from the Secretary of the Treasury on this subject.

The Secretary read the letter, as follows:

TREASURY DEPARTMENT, December 8, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, requesting information as to the number of revenue cutters now on the lakes, their efficiency, and the necessity for their increase.

The number of cutters heretofore maintained on the northern lakes was six. They were sailing vessels, and of such build and rig as to prevent their cruising with efficiency. In 1861 five of them were directed to be brought down the St. Lawrence to the Atlantic coast, in the hope that they might be used advantageously in the preventive service. One was left upon the lakes, but found to be worthless, and sold. During the last winter a contract was made with parties to build an efficient steamer for revenue service on Lake Erie, which vessel is so nearly completed that her trial trip has been ordered for to day. This is the only steamer belonging to the Government applicable to revenue purposes on all the lakes.

The necessity, however, for preventing smuggling along our northern frontier, which the Government has satisfactory evidence is carried on to a great extent, induced the Secretary to charter two steamers for temporary service, one on Lake Erie and one on Lake Ontario. One of these vessels was lost on entering the harbor of Cleveland, and the charter of the other has expired and she has gone out of service.

I therefore recommend that authority be given to build or purchase five efficient steam vessels for the use of the revenue department on the northern lakes, which, in addition to the one just completed, will make the number of cutters previously employed.

It is possible that the number here recommended may not all be required. The great length of the coast to be guarded, and in some parts its close proximity to the Canadian shore, demand constant vigilance, and the proper authority should be conferred to meet all contingencies.

It is possible such vessels should be completed and commissioned by the opening of navigation.

I am, very respectfully, your obedient servant,

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. JOHN SHERMAN.

Mr. FOSTER. I will ask the honorable Senator, the chairman of the Committee on Finance, if these are to be armed vessels.

Mr. SHERMAN. I understand that revenue cutters are usually armed with a pivot gun. They are not vessels of war, nor are they armed like naval vessels. They are not in the descriptive words of our treaty with Great Britain. They are usually armed, as I understand, with a light pivot gun, sufficiently powerful to answer the purpose of a revenue cutter, to stop a vessel or anything of that kind; nothing more.

Mr. FOSTER. The reason of my inquiry was that by an arrangement between the Government of the United States and the British Government, if I mistake not, in April, 1817, there were stipulations in regard to the armed forces which the Governments of Great Britain and the United States should have upon the lakes. If these vessels were armed, they would be contrary to the provisions of that arrangement. I made the inquiry simply with a view of understanding the facts.

Mr. SHERMAN. The Committee on Finance considered the arrangement referred to carefully before reporting the bill. I have it now before me. It provides:

"The naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side; that is:

"On Lake Ontario, to one vessel not exceeding one hundred tons burden, and armed with one 18-pound cannon.

"On the upper lakes, to two vessels, not exceeding like burden each, and armed with like force.

"On the waters of Lake Champlain, to one vessel not exceeding like burden, and armed with like force.

"All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels of war shall be there built or armed."

Under this arrangement both parties, both the United States and Great Britain, have kept revenue cutters on the lakes. We had six sailing revenue cutters there, but recently they have been inefficient, and within the last year—

Mr. JOHNSON. Were they armed?

Mr. SHERMAN. They were armed, as I have mentioned, with one light pivot gun. Five of them, under the direction of the Secretary, were brought to the sea coast, and found unsuitable for the service there, and the other was sold. This bill simply substitutes steam revenue cutters for sailing revenue cutters. I presume they will be armed in the ordinary way that revenue cutters on the ocean are, with some light arm.

I will state that the necessity for immediate action is that two vessels were chartered during the last summer for service on the lakes; the charter has expired; and the Secretary of the Treasury desires to either purchase or construct vessels, so that they may be ready for service at the opening of navigation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 82) to encourage enlistments, and promote the efficiency of the military forces of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. LANE, of Kansas, it was Ordered, That so much of the President's message as relates to foreign immigration be referred to the Committee on Agriculture.

#### DEBORAH JONES.

Mr. FOSTER. I move that the Senate proceed to the consideration of House bill No. 465. It came to the Senate during the last session, was referred to the Committee on Pensions, and has been reported back. It was my impression that it passed during the last session. It is a very short bill, and there is a short report connected with it.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 465) for the relief of Deborah Jones. It authorizes the Secretary of the Interior to place the name of Deborah Jones, the widow of the late Captain Ezekiel Jones, of the county of Osceola, New York, upon the pension roll, at the rate of twenty dollars per month,

according to the provisions of the act to grant pensions, approved July 14, 1862, which pension is to commence from the 6th of November, 1862.

Mr. FOSTER. A short report accompanies the bill which states the facts. I ask for the reading of the report.

The Secretary read it. It appears from the affidavits and other papers accompanying the memorial of the petitioner that the late Captain Ezekiel Jones began recruiting a company for the one hundred and forty-sixth regiment New York volunteers in the month of August, 1862; that he labored incessantly at this duty, and by his over-exertion brought on a fever, with which he was seized on the 5th of October, 1862, and of which he died on the 6th of November following; that he was not mustered into the service of the United States until the 10th of October, and, therefore, although he was technically in the service at the date of his death, and actually, though not technically, in the service when his disease was contracted, his case falls without the provisions of the pension laws. Had he been mustered in five days earlier, or had his system withstood the approach of the disease for five days longer, his widow, the petitioner, would have been entitled to a pension under existing laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill, in which the concurrence of the Senate was requested:

A bill (H. R. No. 424) to establish a uniform system of bankruptcy throughout the United States.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolutions, which thereupon received the signature of the President *pro tempore*, namely:

A bill (H. R. No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for the better execution of the third section thereof;

A joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned; and

A joint resolution (H. R. No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building.

#### BANKRUPT BILL.

The bill (H. R. No. 424) to establish a uniform system of bankruptcy throughout the United States, was read twice by its title, and, on motion of Mr. FOSTER, referred to the Committee on the Judiciary.

#### JUAN MIRANDA.

Mr. CARLILE. A bill (S. No. 238) to ascertain and settle certain private land claims in the State of California, reported from the Committee on Public Lands, was, before the adjournment of the last session, made the order of the day for this day. I understand from the Senator from California, [Mr. CONNESS,] whom I have consulted, this being a California matter, that he would prefer the bill should go over and be made the special order for some subsequent day of the session; and, with the approbation of the Senate, I suggest, if it meets the views of the Senator from California, that the 10th day of next month be fixed for its consideration.

Mr. CONNESS. I am informed this morning by a citizen of that State, deeply concerned in the passage of this bill, that he comes here with important facts and papers that relate directly to it, which were not before the Senate last year, when it was considered, and have never been before the committee which reported it. For this reason, I prefer at present, if the Senator will consent, that the bill be taken up and recommitment to the Committee on Public Lands, before which committee this gentleman, and indeed both parties to the case can appear, and by which it can be reexamined.

The PRESIDENT *pro tempore*. The first question will be on taking up the bill.

Mr. CONNESS. While I am up, I desire to say to the Senator, and to the Senate, that I feel

upon this question that I have performed nearly my whole duty in the premises. The Legislature of the State that I in part represent here passed resolutions against the passage of the bill, and those resolutions were presented, and I caused them to be read to the Senate, and in all other respects I feel that I have executed my duty in the premises; but in view of the new facts that are to be presented, I think it is the duty of the Senate to refer the bill, and my own duty to move that it be referred again to the committee, so that it may be fully examined and reported upon again.

Mr. JOHNSON. I agree with the Senator from California. No doubt he is right in saying that there are papers before the Senate now which were not before the committee on the former occasion, and that the bill had better be referred back to the Committee on Private Land Claims or the Committee on Public Lands, that the whole matter may be again examined.

The PRESIDENT *pro tempore*. The question is on the motion that the Senate take up the bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. Now the Senator from Virginia moves that the bill be postponed—

Mr. CARLILE. I withdraw that motion.

Mr. CONNESS. I move to recommit the bill to the Committee on Public Lands.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. TEN EYCK, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 13, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### RELIEF OF AMERICAN SEAMEN.

The SPEAKER, by unanimous consent, laid before the House a report of the State Department, transmitting returns of United States collectors relative to the relief and protection of American seamen; which was referred to the Committee on Commerce, and ordered to be printed.

#### EXTRA PAY OF HOUSE EMPLOYÉS.

The SPEAKER also laid before the House a letter from the Clerk of the House, explanatory of his reasons for failing to execute a resolution of the House adopted on the last day of the last session, relative to additional compensation of employés of the House; which was read, referred to the Committee of Ways and Means, and ordered to be printed.

#### RECORDING VOTES ON BANKRUPT BILL.

Mr. WASHBURN, of Illinois. I ask unanimous consent to record my vote on the passage of the bankrupt bill, on which the vote was taken yesterday.

Leave was granted; and Mr. WASHBURN, of Illinois, voted in the negative.

Messrs. STILES, ANCONA, MILLER of Pennsylvania, KNAPP, LAW, and A. MYERS, obtained similar leave, and voted in the negative.

Messrs. SLOAN, WILDER, and STARR, obtained similar leave, and voted in the affirmative.

#### POLITICAL RELATIONS OF LOUISIANA.

Mr. ELIOT, by unanimous consent, introduced a joint resolution declaring that the State of Louisiana may resume its political relations with the Government of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SELECTIONS OF LAND IN CALIFORNIA.

Mr. COLE, of California, by unanimous consent, introduced a bill to confirm to the State of California selections of land made in part satisfaction of donations by Congress; which was read a first and second time, and referred to the Committee on Public Lands.

#### AID TO RAILROADS IN CALIFORNIA.

Mr. COLE, of California, also, by unanimous consent, introduced a bill granting lands to aid

in the construction of certain railroads in the State of California; which was read a first and second time, and referred to the select committee on the Pacific railroad.

#### MINING DEPARTMENT.

Mr. COLE, of California, asked unanimous consent to introduce a bill to establish a Mining Department, and moved its reference to a select committee on mining, to consist of seven members.

Mr. BROOKS. I ask for the reading of the bill.

The bill was read.

Mr. BROOKS. I have no objection to the subject being taken under consideration by a special committee, if there can also be referred an inquiry as to the modes and means of obtaining a revenue from the mines, as well as the whole question of mining. If the whole subject can go to a special committee I think it should have the consideration of the House. We ought not to incur expenditures without obtaining some revenue.

Mr. WASHBURN, of Illinois. I ask the gentleman from California to send it to the Committee on Public Lands. What is the use of a reference to a special committee when we have a standing committee on the same subject? But I am opposed to the whole scheme.

Mr. COLE, of California. There is no purpose in this bill to take charge of the mineral lands, but only to promote the development of the minerals, and a special committee should have charge of it.

Mr. WADSWORTH. I object.

The SPEAKER. Then the bill is not before the House.

#### PRINTING OF TREASURY REPORT.

Mr. A. W. CLARK, by unanimous consent, submitted the following resolution; which was read, considered, and under the rules referred to the Committee on Printing:

Resolved, That fifteen hundred copies of the report of the Secretary of the Treasury, with the accompanying documents, and one hundred and fifty copies of the estimates of appropriations be printed for the use of the Treasury Department.

#### NAVY-YARD AT MILWAUKEE.

Mr. SLOAN, by unanimous consent, introduced a bill to provide for the establishment of a navy-yard and naval depot at Milwaukee, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### POLITICAL RELATIONS OF LOUISIANA—AGAIN.

Mr. J. C. ALLEN. Mr. Speaker, I move to reconsider the vote by which a joint resolution, introduced by the gentleman from Massachusetts, [Mr. ELIOT,] declaring that the State of Louisiana may resume its political relations with the Government of the United States was referred this morning to the Committee on the Judiciary. I only ask that the motion be entered. I do it for the purpose of having the resolution referred to the committee on the rebellious States, where I think it properly belongs.

Mr. ELIOT. I would say in reply that there has been a bill on the same general subject already referred to the Committee on the Judiciary, and it is highly desirable that examination should be had by that committee of a matter of so much importance. It is one of the standing committees of this House. I move that the motion to reconsider be laid on the table.

Mr. J. C. ALLEN demanded the yeas and nays.

The yeas and nays were not ordered, there being, on a division, only eighteen in the affirmative.

Mr. J. C. ALLEN demanded tellers on the nays and yeas.

Tellers were ordered, and Messrs. J. C. ALLEN and ELIOT were appointed.

The yeas and nays were ordered, the tellers having reported thirty-three in the affirmative, more than one fifth of those present.

The question was taken, and there was a tie vote—yeas 66, nays 66, not voting 50; as follows:

YEAS—Messrs. Alley, Allison, Ames, John D. Baldwin, Baxter, Blaine, Blair, Boutwell, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Garfield, Gooch, Grinnell, Highy, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley,

Francis W. Kellogg, King, Knox, Loan, Marvin, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Spalding, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, Wilson, and Windom—66.

NAYS—Messrs. James C. Allen, Ancona, Ashley, Augustus C. Baldwin, Beaman, Bliss, Blow, Brooks, Broomall, James S. Brown, Chanler, Cox, Henry Winter Davis, Dawson, Denison, Edson, Edgerton, Eldridge, English, Finck, Ganson, Griswold, Harding, Harrington, Herrick, Holman, Julian, Kernan, Knapp, Law, Lazear, Le Blond, Long, Longyear, Mallory, Marcy, McAllister, McDowell, Samuel F. Miller, William H. Miller, James R. Morris, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Radford, Samuel J. Randall, Rogers, Ross, Schenck, Scott, Sloan, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stevens, Stiles, Townsend, Wadsworth, Williams, Wilder, Benjamin Wood, and Yeaman—66.

NOT VOTING—Messrs. William J. Allen, Anderson, Arnold, Baily, Brandegee, William G. Brown, Clay, Coffroth, Cravens, Creswell, Thomas T. Davis, Driggs, Dumont, Fenton, Frank, Grider, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Orlando Kellogg, Littlejohn, McKinney, Middleton, Morrison, Nelson, Norton, Perry, Pruyn, Robinson, James S. Rollins, Strouse, Stuart, Sweet, Thayer, Thomas, Voorhees, Ward, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—50.

The SPEAKER recorded his vote in the negative, so that the motion to reconsider was not laid on the table.

Mr. J. C. ALLEN. I desire to state to the House my reason for moving to reconsider. It embraces a subject which, I think, properly belongs to the committee on rebellious States, as well in reference to Louisiana as any other of the rebellious States. I hope, therefore, the House will reconsider its vote of this morning.

Mr. ELIOT. In this connection I desire simply to say that, when I selected the Committee on the Judiciary as the proper committee to which this resolution should be referred, it was done for two reasons: first, because as a standing committee it seemed to be the proper one for an examination of this question; and, secondly, because a bill, looking to the same subject, had been referred to the Committee on the Judiciary.

I had no reason to suppose, nor have I any reason to believe, that the resolution will receive any other treatment than the kindest at the hands of the committee on the rebellious States; nor have I any reason to believe that there are gentlemen upon that committee who would be opposed to the principles of the resolution. I am as well satisfied to have the resolution referred to the committee on the rebellious States as to the Committee on the Judiciary. It was determined in my own mind to refer it to the Committee on the Judiciary for the reasons I have stated. As I have no objection, I therefore hope the House will at once refer the matter to the committee proposed by the gentleman from Illinois.

The question recurred on reconsidering the vote by which the bill was referred to the Committee on the Judiciary, and being put, it was decided in the affirmative.

The question recurring on the motion to refer the resolution to the Committee on the Judiciary,

Mr. J. C. ALLEN moved that it be referred to the committee on the rebellious States.

The motion to refer to a standing committee of the House having preference, it was first put and decided in the negative.

So the House refused to refer the resolution to the Committee on the Judiciary.

The resolution was then referred to the select committee on the rebellious States.

Mr. J. C. ALLEN moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VOTES ON THE BANKRUPT BILL.

Mr. YEAMAN. I rise to a privileged question. I yesterday voted distinctly in the negative on the passage of the bankrupt bill, as some of the clerks distinctly remember. My vote is not recorded, and I ask that it may be done.

No objection being made, the vote was recorded as requested.

Mr. MOORHEAD. I was detained from the House yesterday by sickness in my family. I ask consent to have my name recorded in the affirmative on the bankrupt bill.

No objection being made, the vote was recorded as requested.



## TAX ON MINERAL COAL.

Mr. CHANLER asked unanimous consent to introduce the following resolution:

*Resolved*, That the Committee of Ways and Means be, and is hereby, requested to take prompt and efficient means to reduce the tax on mineral coal, which bears with undue severity on the laboring classes throughout the country, and report by bill or otherwise.

Mr. STEVENS. If the gentleman will modify his resolution so as to instruct the committee to inquire into the expediency of doing so, I will not object.

Mr. CHANLER. Certainly I will.

Mr. STEVENS. If the resolution absolutely instructs the committee, I object.

The resolution being modified as requested, was received, and adopted by unanimous consent.

## PUNISHMENT OF CRIME IN THE DISTRICT.

Mr. WILSON, by unanimous consent, introduced a bill to amend an act entitled "An act for the punishment of crime in the District of Columbia," approved March 2, 1831; which was read a first and second time by its title.

The bill provides that the second section of said act shall be so amended as to provide that every person duly convicted of manslaughter, or any assault with intent to kill, shall be sentenced to imprisonment at labor for the first offense, for a period not less than two nor more than eight years; and for a second offense, not less than six nor more than fifteen years.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## NAVAL DEPOT ON THE LAKES.

Mr. BROWN, of Wisconsin, asked unanimous consent to introduce the following resolution:

*Resolved*, That there be appointed by the Speaker a select committee of seven, to whom, during this session, shall be referred all motions, resolutions, and petitions relative to a naval depot on the lakes, whose duty it shall be to select the most suitable site on the lakes for such naval depot, and report by bill or otherwise.

Mr. SPALDING and Mr. STEVENS objected.

## GOODS IN PUBLIC STORES.

Mr. STEVENS asked unanimous consent to introduce a bill to extend the time allowed for the withdrawal of certain goods therein named from the public stores.

The bill was read for information.

Mr. BROWN, of Wisconsin. I object to that.

The SPEAKER. Then the bill is not before the House.

## PRIVATE LAND CLAIMS IN ARIZONA.

Mr. POSTON, by unanimous consent, introduced a bill to provide for the settlement of private land claims in the Territory of Arizona; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, bill of the House No. 465, for the relief of Deborah Jones; also, that the Senate had passed a bill (No. 350) to authorize the purchase or construction of revenue cutters on the lakes; in which he was directed to ask the concurrence of the House.

Mr. HOLMAN called for the regular order of business.

## NAVAL DEPOT FOR IRON-CLADS.

The House resumed, as the regular order of business, the consideration of the bill (H. R. No. 536) authorizing a survey at and near New London, Connecticut, and the establishment of a navy-yard for iron-clad vessels thereat, the pending question being upon the following substitute proposed by Mr. KELLEY:

Strike out all after the enacting clause, and insert:

That the Secretary of the Navy be, and he is hereby, authorized and directed to accept from the city of Philadelphia a title to League Island on behalf of the Government, if said title be perfect, and to establish thereat a navy-yard and depot for the construction, docking, and repair of iron, iron-clad, and other vessels.

The SPEAKER stated that Mr. O'NEILL, of

Pennsylvania, was entitled to the floor for twenty-three minutes.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, the few remarks I made yesterday were on the point of the indefensibility of the harbor of New London and the entire defensibility of the Delaware river, especially at League Island. I shall endeavor to-day to prove, almost entirely from the report of this commission, that League Island is better in every respect, as a location for a navy-yard for the construction of iron-clads, than any other point which has been named for that purpose before the Committee on Naval Affairs of the House.

Mr. Speaker, let me call your attention and that of the House for a moment to the report of the Secretary of the Navy. I shall then go on and endeavor to establish my view of this case from the report of the naval commission. This House, I know, is ready to do justice to the integrity, the patriotism, and the unselfishness of the Secretary of the Navy. He, I am proud to say, stands above any local prejudices, and is influenced only by a desire to subserve the efficiency of the naval service, and to do whatever may lie within his power to bring us out of this war with a naval power sufficient for any purposes of any war hereafter to come upon us.

Now, Mr. Speaker, it cannot be urged that Philadelphia has any selfish view in desiring to have this naval station within her municipal limits. She made the tender to the Government of this territory of League Island after it had been suggested by the Secretary of the Navy in his earlier reports that a naval station for iron-clads was necessary. It was made not with any view of promoting the interests of private speculators; it was not made at the promptings of private interests; it was a noble and disinterested offer of that great metropolis to the Government of the United States for the purpose of having this navy-yard established in the location best fitted for it. I believe the people of New London afterwards tendered a portion of territory of that city or in the neighborhood of it for the same purpose. No gentleman upon this floor has protested against that. I say again that I cannot consent to the question of locality controlling the minds of members. I cannot consent that we shall bring into this House the issue of where the members of this commission came from, or where the interests of the members of the Naval Committee might lead them. I stand above all that, and I hope the House will decide this measure solely upon its merits, and not in view of the interests of any section of the country.

Upon turning to a paragraph in the recent report of the Secretary of the Navy it will be seen that it is not the design of the Navy Department to recommend that any new navy-yard shall be located, much less that it is the intention of the Department to locate a new yard where none already exists. This is a question of extending a navy-yard, not of creating a new one. Congress is only asked to authorize the transfer of the Philadelphia navy-yard from its present location to League Island for the purpose of erecting there a naval station for building iron-clads. It is a question of substitution and transfer, and not one of a new yard, and the gentleman from Connecticut [Mr. BRANDEGEE] is well aware of that fact. It is not remarkable that the Secretary of the Navy, who knows what the wants of the Navy are, and is constantly in consultation with those who know its requirements, should have recommended the selection of this location at League Island in the river Delaware. Almost from the date of his first report down to this time he has urged upon Congress the actual necessity of establishing such a naval depot, and has not wavered from his earliest impressions as to the proper site for its establishment. I take it for granted that he has examined thoroughly the majority and minority reports of the naval commission; that he has not overlooked the majority and minority reports of the Committee on Naval Affairs, and that from other testimony he has year by year become more fully confirmed in his opinion that League Island is the desirable locality.

But, Mr. Speaker, on page 13 of the report of this commission a proposition in reference to depth of water is discussed. That point has been

argued by my friend from Connecticut [Mr. BRANDEGEE] very extensively. The majority decides that the depth of water at both places—New London and League Island—is sufficient for the accommodation of any vessel of our Navy. My colleagues, [Mr. KELLEY and Mr. MOOREHEAD,] in their very convincing minority report from the Committee on Naval Affairs, tell you of this abundant supply of water at League Island. The Secretary of the Navy, in his annual report which has been so much referred to, tells you also of its twenty-three feet of depth of water. What better testimony than this does the House need? We do not pretend to say here that the Delaware river is the deepest river on the continent. Nor do I pretend to assert that it can be navigated a distance of eighty or ninety miles as quickly and easily as the five or six miles that intervene between New London and the ocean. No one makes such an allegation before the House.

But we tell you that now, when steam and iron are driving wooden and sailing vessels out of the Navy, a distance of seventy or eighty miles of navigation is of very little practical consequence. I say I will not argue that that distance can be navigated as quickly as a distance of five or six miles; but I do argue that, in view of its greater defensibility, League Island is a better location for a naval depot than New London. I have heard, and I believe, that a high officer in the engineering department of the Government—an officer at the very head of that department, if not its very head—after having looked over the majority and minority reports of the Naval Committee, and having investigated the subject, has stated to a distinguished member of Congress that New London harbor cannot be defended unless by the construction of a line of defenses extending five or six miles continuous and unbroken to the ocean. Let us, therefore, come down calmly and reasonably to the facts of the case, and not allow ourselves to be turned away from them by any side questions as to local interests.

I will now pass to another point, and will yet ask the attention of members to the report of the commission, the report of the Secretary of the Navy, and the report of my colleagues from the minority of the Naval Committee, and the report, in some respects, of the majority of that committee. They will satisfy the House, I am sure, that the Navy Department has taken the proper view of the case in endeavoring, within the last three years, to locate the naval depot for iron-clads at a place where there is no salt water. Well, Mr. Speaker, as to the freshness of the water. The majority of the commission on this subject say that the supply of fresh water at League Island is unquestionable. The report speaks of New London having an abundant supply near it—a mile north; but the shores of League Island are washed by fresh water. It is at the confluence of two streams, the Delaware river and the Schuylkill river, having also at the north of it a channel two hundred feet in width.

Then look at the facilities presented by League Island in regard to the supply of materials used in the building of ships. There you have the Schuylkill region emptying its treasures of iron and coal. You have the Delaware river bringing there the timber and coal of the Lehigh valley; while from the Susquehanna you carry to it the same exhaustless resources of Pennsylvania. By railroad, canal, and river everything required in the building of iron-clad vessels can be brought to the very point where the Secretary of the Navy recommends the establishment of this depot.

To be sure you can have all these materials carried to New London also. You can have them carried there from New York, a distance of at least one hundred and fifty miles. The distance between New York and New London is greater, I believe, than that between Philadelphia and New York by some fifty miles. But will this House go into the business of "carrying coal to New-castle?" Will it vote in favor of putting the country and the Navy Department to an extraordinary expense for transporting hundreds of thousands of tons of coal from its natural bed in the State of Pennsylvania to New London, some three hundred miles away? Will you favor such a proposition? Why, in that one item alone, the expense involved, at the present rate of charges for transportation, would be enormous.

So, Mr. Speaker, in regard to iron; you may

take it from any part of Pennsylvania. I speak of Pennsylvania in that respect, being better acquainted with its resources, perhaps, than with those of other States. And you must of necessity carry it either by railroad or canal from one hundred and fifty to two hundred miles further in going to New London than in going to League Island; to the latter place you have the two rivers, besides railroads and canals. This is looking at the financial view of the subject.

Now, Pennsylvania does not ask anything of this House; Philadelphia does not ask anything of this House; we do not come here to solicit this as a boon. No member of the delegation will crave this of you—will beg for this thing. It is the location decided upon by the Navy Department; it is the location almost recommended in plain words by those who have been attempting to impress upon you erroneous views of this subject by the naval commission.

And I again ask you to read the documents which have been placed before you for the last two or three years. I think they alone would convince the House that the country needs League Island. Sir, there have been other questions raised by these gentlemen, and I will beg leave to say here that I do not know whether a commission of naval officers is the best means of information in this instance, and from which we can receive the most practical ideas. I will take the testimony of a naval officer as to the propriety of building this or that kind of vessel, of using steam or sails, or of constructing iron or wooden ships; but when it comes to the matter of fact of selecting a site for a building, of testifying whether such or such soil is proper or not proper for laying foundations for buildings, I think the view of practical men, men living on the land, who have passed their lives on it, builders, might perhaps be more qualified to give a clearer judgment than the officer.

Now, in regard to the soil of League Island. I know what it is from having been on that island many times. It is located within the limits of the second congressional district of Pennsylvania. Many of my constituents live upon it, and have farms upon it. It is farming land. There is the soil, where it has been for years, and for a long period of time never has had any of the water of the Schuylkill or of the Delaware flowing upon it. Those who live there know this; and such is the experience of men who, for a lifetime, have farmed it, and gathered yearly crops from it.

And then its distance from the working population is another argument which has been forced upon us. Why, sir, many a man now employed at the navy-yard in Philadelphia walks that distance to his home in other directions. The city is vast in its extent; it covers a vast territory, perhaps a vaster territory than any other city in this country. Men who get their living by labor walk miles to perform it, excepting when they are aided by the street-car system; and if you build this navy-yard at League Island, just as is the case near the present yard, you will soon have the neighborhood built up with cottages such as are built in Philadelphia, in which our working people live and have their homes. It is but two and a half miles from the Baltimore depot. You can walk the distance in an hour, or in less than an hour.

Then, in regard to the objection relating to the health of the people living on that island, and in that vicinity. Why, sir, the health of those people is proverbial. It is not an unhealthy district of Philadelphia. I have never heard of any prevailing sickness in this locality, and I think my colleagues will bear me out in the statement. We do not know how such an idea could have got into the heads of this commission, or the minds of this Naval Committee. The workmen of Philadelphia will find their health at and near League Island, the same as those have found it who have lived in that vicinity heretofore, uniformly good.

And, Mr. Speaker, more than ten thousand skilled workmen live near there; skilled workmen in every respect, especially in all the metals and in wood. They constitute a body of men perhaps as skilled as any body of men in the country, ten thousand of them, equal to the entire population of New London. Oh, yes; the skilled workmen of the country would go to New London! New London is fifty miles further from

New York than Philadelphia is. It is only one hundred and fifty miles removed from the skilled workmen of New York. My friend, and the majority report of this naval commission, say that skilled workmen will go to New London. You will build a large city at New London, in time, no doubt. So you may. It has taken nearly two hundred years to build the city of Philadelphia; two hundred years has its population been increasing, until it now numbers over six hundred thousand souls. I will not attempt to demonstrate how long it will take New London to become a great city, and to contain a population in which will be found ten thousand skilled workmen. It will take you a long while to get up this great city; the present rebellion will be crushed, wars with England and France and the continental Powers will be fought out before New London will grow to the size of a respectable city, or grow to such an extent as to attract workmen from Philadelphia, with the comforts of life which they can obtain there, or even to draw them from New York.

Now, Mr. Speaker, I desire to say something as to the alleged difficulty of vessels getting in and out of the Delaware river to and from League Island, should it be selected as the location. Why, sir, you cannot, of course, get large vessels up a long river in an hour or two. You cannot rush to the city of Philadelphia with a fleet in a few hours. But I will tell you what you can do. When you have built iron-clads at Philadelphia, you can get them out; you can get them to their destination; you can save just one hundred and twenty miles of the rough coast of New Jersey, along which you must take them to the southern waters, if they be built at New London; you can save the anxiety of the families of officers and men in monitors and iron-clads, who in times past have in some instances looked in vain for the arrival of those ships at their destined ports. You can take them down this quiet, placid river, and take them out of it through twenty-three feet of water, over bars which, as the gentleman says, we have in that river. You have never failed to do it. My word for it, you have never failed to bring to the city of Philadelphia any vessel which, for purposes of commerce or trade, or for national purposes, it was desirable to bring there.

It is true, of course, that a few inches of water may make a difference. If the bed of the river is of rock it would make a material difference. But, sir, here is the bed of this Delaware river of soft mud or clay that will yield five or six or seven inches. If you have a vessel drawing twenty-three feet of water, or even more, you can bring it safely to the Philadelphia navy-yard, and somewhat easier to League Island. The naval commission, whose majority report seems to have been the basis of the action of the majority of the Naval Committee, does not deny this.

Mr. Speaker, I cheerfully take anything into consideration which has been said by the older officers of the Navy. I will not cease to admire those men; I will not cease to think that they are among the heroes of this country. I will not forget the services of Rear Admiral Smith, of Rear Admiral Paulding, of Rear Admiral Gregory, of Rear Admiral Stringham. But the experience of those men in their active lives was with wooden vessels with sails, of which our Navy a few years ago consisted, as did all the navies of the world. They perhaps might not have liked to come up the Delaware river with a sailing ship, for in doing so they may have been delayed.

The river is long and winding. I do not wonder that these officers may have a prejudice in their minds against the Delaware river, and that therefore they may have been disposed to throw their influence against League Island as a location for a navy-yard. Sir, those are men whose experience has not been with vessels constructed largely of steel and iron. The views of those gentlemen are views adopted forty or fifty years ago. They are gallant men all of them. I hope they may continue to live to adorn the Navy, and that they may have the opportunity of rendering service at our various naval stations, and in other positions of responsibility. I honor those men; but, sir, I cannot, at this day, in view of the modern improvements in naval architecture, deem it an important question whether their opinions are favorable or unfavorable to the location of the proposed navy-yard at League Island.

Mr. Speaker, there is one other point to which I wish to refer—that with regard to the building of docks and wharves. Sir, you cannot have a navy-yard upon the shore line of a river. If you select New London, you will not bring your vessels to the rough shore line. You must have docks and wharves for their reception. Wherever navy-yards have been established, either at Philadelphia, Brooklyn, or Charlestown, all have docks, wharves, and other artificial facilities. There must be means of protection for vessels building or repairing, conveniences for getting to and from them—all kinds of facilities must be placed there by artificial means. What, then, when you come to dig fifty and sixty feet into hard rock, will be the result? When you begin to excavate the solid rock at New London for wharves and docks, how enormous will be the expense in comparison with the expense of filling up two or three feet upon the soil of League Island, should that be necessary! Is not the statement of the facts an unanswerable argument?

Compare, sir, the cutting down of solid rock fifty and sixty feet, with the expense of filling up a few feet! Men who have been interested in railroads will tell you that rock excavation is costly to a great degree. The cost of filling up these two or three feet on League Island would be merely nominal in comparison, and no one will deny that at New London there will have to be excavation of rock for docks and wharves and other necessary works for a navy-yard.

Mr. Speaker, I do not and I have not looked upon this proposition from a mere local point of view. I have not been elected, or re-elected, to Congress, nor have my colleagues, on any issue connected with the establishment of a navy-yard at League Island. There is, and has been, no local issue on the subject. We and the citizens of Philadelphia are only interested in its establishment there because we are well satisfied that it is the very best place. I do not think we can do better than accept the reports of the Secretary of the Navy as to the desirability of League Island for a naval station. He has insisted upon it again and again, and if we adopt his views I think we will satisfy the whole country.

I believe, sir, every private ship-yard in the land has been building iron-clad vessels for our Navy. Some which have been ordered by the Government are yet unfinished. The gentleman from Connecticut [Mr. BRANDEGEE] asks, why was not this naval depot built years ago? Why was it not done within the last two years? Why have we not had a navy-yard for iron-clads before? Because, sir, of such arguments as have been used in the majority report of the naval commission and the report of the majority of the Committee on Naval Affairs. It was because of an effort to persuade members of Congress that we have no place for a naval station except New London. If Congress two years ago had passed an act authorizing the construction of a navy-yard for iron-clads at the point indicated by the Secretary of the Navy nearly all of these unfinished vessels would have been completed or near completion, and we would be able to bring this war sooner to a termination. But this has not been done, no navy-yard has been built, and Congress is responsible, and not the Navy Department, for the neglect.

Now, Mr. Speaker, I am merely going to repeat a few of the arguments I have advanced. My intention has been to present the matter in a practical point of view. There has been before the House a great deal of scientific discussion. I do not propose to enter into it. I propose to leave that out entirely. I need not inform the members of the House of the necessity that iron ships should be built for the Navy. I do not think any one controverts that fact. Now we can have such a navy-yard only in fresh water, in deep water, and for economy, near the materials used in the construction of the proposed vessels. We must have that navy-yard for iron-clads near a population which can rapidly furnish the requisite mechanical skill. We must look to all of these means, and, so far as I have seen and been able to examine, we can secure them better at League Island than at any other point named. There, within the city of Philadelphia, you have nearly six hundred acres of land, nearly every acre of which is suitable for being built upon. It may be necessary to drive piles, but it is better to drive piles

in a yielding soil for the purposes of machinery than to excavate solid foundations into the hard rock. That is the evidence of all men who are skilled in these things. There can be no doubt about that. Besides, you have given to you two miles of water front upon two broad rivers, the Delaware upon one side, and the Schuylkill on the other. League Island seems, indeed, to be a place marked out by nature for this navy-yard. I will now bring my remarks to a close, as other gentlemen may desire to address the House on this question. I think there is a general disposition to have a yard for iron-clads. We of Philadelphia want it established at the best place, which, according to the Secretary of the Navy, and others, is League Island. As I have said before, we ask for nothing as a mere local favor. We desire that the country should have its "navy-yard for iron vessels and machinery" located for the advantage of the Navy; and we have seen no arguments presented why this House should hesitate to decide for this most eligible and convenient locality.

Mr. BROOMALL. I offer the following amendment to the substitute:

Strike out all after the enacting clause, and insert the following:

That the President be, and he is hereby, empowered to appoint a commission of seven scientific and practical men, three of whom shall be officers of the Navy not below the rank of captain, who shall select a site for a navy-yard and naval station for iron-clad vessels, having regard to advantage of location as well as economy of construction, and make report to the President for his confirmation.

Sec. 2. And be it further enacted, That if said report shall be confirmed by the President, the Secretary of the Navy shall forthwith procure the title of such site to be properly vested in the United States, and adopt measures for the immediate commencement of the work.

No member of this body can have read the repeated recommendations of the Secretary of the Navy and the reports from the Naval Committee, and listened to the arguments on the question, without seeing the necessity for such a work as is contemplated by this bill. The only question, it seems to me, for us to decide is the best mode of fixing upon the proper site for the construction of such a navy-yard, and it is with a view of hitting upon what I conceive to be the best means that I have offered this amendment to the substitute of my colleague from Pennsylvania, [Mr. KELLEY.]

No member of this body can have read the majority and minority reports of this committee, and heard the able arguments upon this subject, without feeling that there are serious and perhaps insurmountable objections to both the sites named, the city of New London and League Island. I will proceed to consider shortly some of the objections which have been urged against each; and first upon the question of salt water. It has seemed to me, from the Secretary's recommendation, and from the arguments made here upon both sides, that fresh water is at least best adapted to the business of iron ship-building. I find in the report of the majority of the committee—and I believe the statement made by that majority to be correct upon that subject—that the corrosion of iron from the action of salt water is, as they say, one half inch upon the surface in every ninety-one years.

I find, also, that the influence of the sea water upon such surfaces, where the surfaces are sometimes wet and sometimes dry, is one half more than the influence of clear salt water; which would make the amount of corrosion three fourths of an inch in ninety-one years upon surfaces so exposed.

I find, also, from the same report—and I believe it, by other authorities I have read, to be correct in this particular—that foul sea water, such as is found in the holds of vessels, and which attacks the iron upon the inside, corrodes the iron at the rate of one inch in ninety-one years.

Now, when we consider that the inside of a vessel comes constantly in contact with foul weather, and foul sea water, and that the outer armored portion comes in contact almost exclusively with the sea weather outside, that is with water and air alternating, we will find by a simple calculation that the iron upon the inside and outside together, affected upon the outside by the clear sea water, and upon the inside by foul water, and in each instance by the air, will corrode at the rate of one and three quarters of an inch in ninety-one years, two inches in one hundred and four years, or one quarter of an inch in thirteen years, which is a small portion of the life of a sea-going vessel.

I find again that the action of sea weather and sea water upon the surface of iron is not regular; that in some places the corrosion will scarcely be seen, while in other places it will be very material; that in some instances the iron upon the same plate will corrode away three times as fast as the average, and in other instances scarcely be corroded at all. The calculations and statements of the committee are based upon the average. We have to take into account the maximum of corrosion, because we must guard all points of the iron against attack. The maximum will then be three quarters of an inch in thirteen years. The gentleman from Connecticut [Mr. BRANDEGEE] speaks of the effect of sea water upon iron as not a material matter. He treats it as of little consequence, and thinks it has been greatly exaggerated by the advocates of a fresh-water site. I think if he will turn to his own statement and make the calculation that I have made of the time in which the effect of sea water upon the armor of an ironed vessel will almost absolutely destroy it, he will see that it will be done in the course of thirteen years.

It is said, however, by the gentleman from Connecticut, as an argument against the corrosion of iron by sea water, and as an argument in favor of the existence of fresh water at New London, that a certain chain, belonging to a marine railway, after being in the water for twelve years, was taken up and found to be scarcely corroded. The answer to that is that this particular iron may have been of a kind not likely to be corroded by salt water; because some iron is scarcely perceptibly affected by the sea; some portions even of the same plate are scarcely perceptibly affected, while others are absolutely destroyed. It is to be borne in mind, moreover, that this chain was a chain belonging to a marine railway, upon the shore of a river, where, if anywhere, the fresh water of the river above would float upon the surface of the salt water. Everybody knows the difficulty with which different waters mingle with one another. Everybody who has seen the waters of the Missouri and Mississippi passing down the river after the junction of the two, side by side for miles, with a distinct line of demarcation between them, will admit with me that waters do not readily mix; and where two waters are of different specific gravity, as in the case of fresh and salt water, the difficulty of mixing is even still greater, and a considerable length of time will elapse, and a considerable commotion of the waters must be had, before the salt and the fresh water will mingle. Now, the fresh water of the river Thames, flowing down into the sound below, naturally overflows the salt, at the shore and in the middle of the channel. Now, the returning tide, as every one familiar with the action of tides well knows, floats everything lighter than the sea water itself to the shore, so that the shore would have the fresh water from above while the tide is running down, and it would have the fresh water turned from the middle of the channel while the tide is running up. We may therefore set it down as fact, that if there is any fresh water in that harbor at all, it is upon the surface of the water, and at the shore. The argument drawn from that chain at the shore, therefore, falls to the ground.

But the gentleman from Connecticut denies that the waters are salt at New London. He cites, and cites as powerful authority upon all other subjects, the commission which examined New London, as well as the waters of the Delaware river, and that commission expressly say that the waters at New London are salt. I do not know what better means of information the gentleman from Connecticut has than the commission. I do know that both the gentleman from Connecticut and the commission have better means of information than I have, and I am not going to vote upon questions involving these disputed facts in favor of or against New London or League Island without further inquiry. The gentleman visited New London with the Committee on Naval Affairs. I had not the good fortune to be with them upon that occasion. I requested the gentleman, if my recollection serves me, to bring me a bottle of the water, in order that I might test it, and see whether it was salt or not. Whether the gentleman found all the bottles at New London filled with other fluids, so that there was no room for salt water, I know not; but certain it is that the bottle did not come, and therefore we are left in the dark on that question.

But the gentleman from Connecticut, and those who argue on his side of this question, and the commission also, I believe, propose various means of avoiding this difficulty of salt water at New London. They propose, in the first place, that vessels when not in use shall be raised out of the water. I suppose the idea is to elevate them some fifty or sixty feet above the water on Long Island sound and let them stand there on stilts. Another proposition from the same source is this. Somewhere near this proposed site at New London there is a basin of fresh water elevated at some one hundred feet above the level of the tide. The gentleman proposes to use that as a means of obviating this difficulty of the salt water. He does not tell us exactly how it is to be contrived, but I suppose the only way would be to put the vessels in the basin at the elevation of a hundred feet above the tide. Well, I rather incline to think that that would avoid the difficulty to a very considerable extent, but I would like to know in what state of readiness the gentleman would be with his armored fleet in the harbor of New London, one half perched upon stilts a hundred or a hundred and fifty feet high, and the other half in the basin, if the harbor should be suddenly attacked.

These contrivances for obviating the effect of salt water upon armored vessels show that the gentlemen themselves hardly believe what they say when they say that salt water is not injurious, and also, that the river water at New London is not salt.

Again, some argument has been used by the gentleman from Connecticut [Mr. BRANDEGEE] against the peculiar topography of League Island. Some argument, equally strong, has been used by my colleague [Mr. KELLEY] against the topography of the site proposed at New London. Let us look at them a moment. It is said, and I will not dispute that here, because it is not necessary to do so for the purpose of my amendment, that League Island will require to be raised some nine feet by filling before it can be adapted to the purpose of a navy-yard. Grant that; and grant, too, that the calculation made by the gentleman from Connecticut [Mr. BRANDEGEE] is correct—that the raising two hundred acres to the height of nine feet, at the cost of one dollar per cubic foot, will require an outlay of \$3,120,000. We have that as an argument against the adoption of League Island. But, on the other hand, it is alleged by my colleague [Mr. KELLEY] that New London is between twenty and one hundred and twenty feet above high tide. Every one knows that the site for a navy-yard should not be more than six or seven feet above high tide, at the most. The lower the better, so as not to be liable to overflow. Now, to cut down this average of sixty feet to the proper level, at the same rate of cost, would require an outlay of \$20,800,000. I do not see, therefore, that, in this respect, the argument is in favor of New London. It should rather lead us to look for some site where such enormous outlay would not be necessary.

But the gentleman from Connecticut [Mr. BRANDEGEE] denies the height of the site of New London, as alleged by my colleague from Pennsylvania, [Mr. KELLEY.] So, also, does the gentleman from Pennsylvania [Mr. KELLEY] deny the depth assigned to League Island; and I, for one, for the purpose of my argument, am perfectly willing to set off these disadvantages against one another. I suppose that if New London could exchange a part of its height for the lowness of League Island, if the earth and rock of New London could be transported to League Island, we might, in the course of a century or so, have very good sites for navy-yards, as far as that point is concerned, at both of these places.

In favor of the alleged height of New London, I will remark that the gentleman from Connecticut speaks of a basin a hundred feet in height, covering a hundred acres of ground, supplied by a river which enters just above and contiguous to the proposed site. The height of that position would argue, at least, that the assertions of the gentleman from Pennsylvania [Mr. KELLEY] are not so wide of the mark, when he says, in effect, that the excavation at New London will be, at least, an average of sixty feet.

Something, too, has been said about the defensibility of these points. It is said, on the one hand, that New London is not easily defensible, while,



on the other hand, it is said that League Island is not easily defensible. I am willing to set off these assertions against one another, and to find a place which is easily defensible for this navy-yard. Both sites, for aught I care, may be considered to be wanting in that particular. But there is this to be borne in mind as a difference between them, that if the harbor of New London should be blockaded at tide-water, there would be no way for vessels in the harbor to escape. They would either have to run the blockading squadron or remain in the harbor; whereas vessels at Philadelphia, or anywhere in the Delaware river, have either of two alternatives to get to sea. The Delaware and Raritan canal could be enlarged and made a ship canal of, so that vessels could get to New York in that way, or a ship canal could be cut between the Delaware and Chesapeake bays, and vessels could escape by that way, so that an enemy would have to blockade the Delaware, the Chesapeake, and the harbor of New York to prevent the escape of vessels from the vicinity of Philadelphia, whereas the blockading of the harbor of New London would effectually prevent vessels escaping from that harbor. So much upon that question.

Again, it is urged, and with a good deal of propriety and force, on the part of the gentleman from Pennsylvania [Mr. O'NEILL] who has just addressed the House so ably, that the materials for building these ships are furnished largely by the State of Pennsylvania, and he asks, with a good deal of force, why this business should be taken so far away from the materials. Let me look for a moment at the figures in the report. I find by that that Pennsylvania furnishes sixty-three per cent. of all the iron furnished by the entire United States. I find also that it furnishes seventy-three per cent. of all the coal furnished by the United States. It is also a truth that the Delaware river furnishes greater facilities for obtaining timber for the building of ships than probably any other river emptying into the Atlantic. The ship-building timber from the State of Delaware, and the State of Maryland, is brought without any transshipment by railroad to any site upon the Delaware river, because the Philadelphia, Wilmington, and Baltimore railroad touches the Delaware almost the entire way from Philadelphia to Wilmington.

Why, I ask again, should this business be taken directly away from the material to a place where the material will have to be transferred at a very considerable expense, the extent of which I will not now take time to consider? Why should it be taken to a place where, it seems to me, there are no advantages at all commensurate with the expense of such transfer?

Again, it is admitted by the gentleman from Connecticut [Mr. BRANDEGEE] that the town of New London contains but about ten thousand population. He admits that that population affords a very insufficient supply of workmen for the business contemplated here. But he says that workmen can be brought from the city of New York, a point which is nearer by fifty miles to any proposed site on the Delaware river than is New London. I do not know whether the gentleman contemplates the workmen living in New York, and visiting their homes every night and returning every morning to their work. Probably he does not. It would be about as feasible as his project of a navy upon stilts.

Now, in regard to the facility of obtaining workmen, any point upon the Delaware river presents advantages which can hardly be found anywhere else, which no point upon this continent that I know of presents; and Philadelphia, which embraces League Island, is within half an hour's ride by railroad, at an expense of only eight cents per man, of any site upon the Delaware river which has been presented. Why then take the workmen and the material from the place where they now are and remove them to a site which, to say the least of it, does not show advantages commensurate with the expense?

But the gentleman from Connecticut [Mr. BRANDEGEE] complains of the tortuous character of the channel in the Delaware river. Why, sir, that very tortuous channel is one of the means of the defense of the sites on the river. The Government of the United States can have a knowledge of that channel that no one outside of this country can obtain. The city of Philadelphia can furnish pilots to take vessels where they can

pass without difficulty, while the attacking force, ignorant of the channel, would probably be wholly wrecked in trying to avoid the crooks and turns in it. The gentleman from Connecticut also points out that there are certain shoals in the river Delaware below Philadelphia which are objectionable. Those, too, give an advantage in the way of defense. They increase the defensibility of a navy-yard on the Delaware river, provided only that those shoals are not such as to prevent the passage of vessels of the requisite size.

Now, by looking at the reports, and at the coast survey, you will find that the channel of the river Delaware is eighteen and a half feet deep at low tide, and twenty-five feet at high tide, and that these points occupy a very small portion, indeed, of the channel between the mouth of the Delaware and the city of Philadelphia. It is not necessary that a vessel passing out of the river should choose extreme low tide. A vessel drawing twenty feet of water can readily enough pass out over these few shoals, which are well known to the Government. All they have to do is to avoid extreme low tide and take advantage of high tide.

If you will turn to the report you will find enumerated there the harbors of the United States, and that not more than five or six of them will admit the entrance of vessels of more than twenty feet draught of water. The harbor of Charleston has only eleven feet depth of water at low tide; that of Savannah but eleven feet—I mean at the entrance of the harbor; Mobile has twelve feet; Galveston twelve feet; the Mississippi river thirteen feet; Portland sixteen feet; Boston eighteen feet; Salem nineteen feet; and then come about as many harbors which will admit the passage of vessels of more than twenty feet draught of water.

Now, we must adapt our vessels to the purpose for which they are intended, and with this considerable list of harbors which have only a small depth of water, it is the duty of the Government to adapt vessels to this small draught of water. It is not intended by the United States to build vessels for the purpose of having armies transported across the ocean and invading foreign waters. The object of our iron-clads is to defend our own country and its harbors, and a considerable portion of their effectiveness in this respect will consist in their being of sufficiently light draught of water to enable them to enter the most of the harbors.

I therefore throw aside the argument that the Delaware river is too shallow, that shallowness being an advantage upon the score of defensibility, and no disadvantage when we consider that our vessels must be adapted to the harbors that they are destined to defend.

But the gentleman from Connecticut complains that the ice of the Delaware river affords obstructions to the passage of vessels and renders the site ineligible upon that account. Why, sir, I do not know what the gentleman means by going further north to avoid ice. I have always been under the impression that the way to avoid ice was to get nearer the equator. I have yet to learn that, in fresh water, at the latitude of New London, there ought to be less ice than in the Delaware river, at the latitude of Philadelphia. But probably the explanation of the matter may be found in the fact that the water of New London is too salt to freeze. If so, I answer it is too salt to build iron-clad vessels in. But the ice upon the Delaware river is no formidable obstruction. The ice upon that river is rarely found fast at the town of Chester; it is never found fast below it. I remember, during the course of my life, but two instances in which the Delaware was frozen over as far down as the town of Chester. Those instances were in 1856 and 1857, two very cold winters in succession, during both of which, if I remember aright, the ice was so thick in the Susquehanna, at the crossing of the Philadelphia, Wilmington, and Baltimore railroad, that the track was actually laid upon the ice, and the locomotive and cars were for a considerable time taken across in that way. Only on those occasions, within my recollection, has the Delaware river been frozen over as far down as the town of Chester. It is usually kept open all the way to Philadelphia during all seasons of all years. I remember only those instances in which it has not been. Those instances may probably operate to the disadvantage of a site nearer to Philadelphia than the town of Chester,

but they cannot operate to the disadvantage of any site that may be chosen below it.

But the gentleman from Connecticut lays great stress upon the report of this commission that was appointed to visit these sites and choose between them. A commission appointed by a resolution of this House visited New London and League Island, and, after extended examination and discussion, found considerable disadvantages in each place, but preferred New London, not so much because it was the best, as because it was the least bad of the two. If the gentleman will turn now to the resolution by which that commission was appointed he will find that it differed widely from what I propose now. He will find that its jurisdiction, if I may so term it, was limited to the two sites—League Island, upon the Delaware river, and New London, with power to look at Narragansett bay. Such was the duty of the commission. They had no power to select the best site in the United States as I propose that this commission shall have. They had only the power to choose between those two; and after enumerating and admitting the manifold disadvantages of both they chose New London as the least bad.

Again, the gentleman argues something upon the services of the Naval Committee who visited both these sites, and preferred New London as the least bad. I do not know what peculiar facilities the Naval Committee may have for judging of sites for iron-clad navy-yards. My experience in reference to traveling committees of this House and of other bodies would lead me to suppose that the chief business of such a committee is of an entirely different character from that of looking at sites for navy-yards; and I will do justice to this committee by saying that, so far as I saw their operations, they performed the duty, which I believe is the general duty of such committees, most admirably. They did eat and drink in a manner that would do credit to any committee of this House. I do not attach any great weight to the opinion of the Naval Committee, any more than to the opinion of a like number of gentlemen selected anywhere in this House. Not a man of them, so far as I know, is either a scientific or a practical man in reference to this question. The members of that committee could have very little means of information that this House itself cannot have; and I am sure I do them entire justice when I say that I admit their claims to statesmanship, but I do not believe that they know how to drive a bolt in a vessel.

Now, it would appear to me almost impossible that, throughout the entire territory of the United States there should not be places that would avoid the difficulties of both these sites. Are there not points that are not at least four, six, or eight feet below the level of the tide, and, as they say, marshy at that? Are there not points that are not liable to the objections alleged on account of ice? Are there not points better in all requisite particulars than either of the places alluded to? Are there not places that will not require cutting down from twenty to one hundred and twenty feet to make them eligible at all? Is there not some eligible point within the limits of fresh water? I cannot believe there is not. But if a commission such as I contemplate in my proposition should fix upon New London, I, for one, would be satisfied. If, on the other hand, it should fix upon League Island, I shall also be satisfied. I shall then believe that these places, while they are bad, are still the best within the reach of the Government of the United States, and on that ground only will I consent to such a selection.

Now, there are two or three sites on the Delaware river, a considerable distance below the city of Philadelphia, which are not liable to some of the objections that operate against League Island. One of them is Chester; another, Marcus Hook; another, New Castle. This traveling committee looked at one of these sites and then condemned them all. They do not say upon what ground they condemned them. They do not say that these sites are open to most of the objections alleged against League Island. They do not pretend to say that any of these sites require filling. They do not pretend to say that either of them can be charged with lacking proper foundation. Yet these things are assumed by a general sweeping condemnation. They will admit, too, these

sites are nearer the ocean than League Island, and therefore less objectionable, according to their argument, on that account.

Why these gentlemen did not visit all of these sites it is difficult for me to say. The Naval Committee was not limited, as the commission was, and might and ought to have visited all of these sites. What I complain of, then, is that they did not, but condemned them without examination.

Let me say to this House that Chester or Marcus Hook furnishes all of the advantages which I know of for an iron-clad navy-yard. The population of that vicinity is about equal to that of New London, somewhere between eight and ten thousand. They are upon the Philadelphia, Wilmington, and Baltimore railroad. Workmen can come from Philadelphia or Wilmington in half an hour, at an expense of only eight cents by buying a season ticket.

I wish to add that at the point of Chester, of which I speak, the building of iron-clads has been going on since the commencement of this war, and from eight hundred to a thousand men have been so employed. Why, sir, more iron-clads have been turned out from the town of Chester than perhaps the gentleman from Connecticut has ever seen. Materials, too, can be brought from the very mines and furnaces, and landed upon the very spot where they are to be used, at either of these sites, or at the town of New Castle below, without the cost of a single transshipment.

So, then, these towns are within the vicinity of workmen. They are within the vicinity of materials. They are in fresh water. They are free from the danger of ice. They are better defensible than New London. They present advantages which it is worth while for a commission to look at. All I ask is that all places be examined, and that selected which is best adapted to the purpose. It is with that view I offer the amendment, and I sincerely trust the House will adopt it.

Mr. PIKE. Whoever reads the lucid and very able report of the Secretary of the Navy must be gratified, if not surprised, at the rapid and enormous increase of the Navy since the commencement of this rebellion. It now consists of over five hundred thousand tons of shipping—a very considerable fraction of the whole tonnage of the country. All sizes of vessels are embraced, from the tug of one hundred tons up to the Dunderberg of Mr. Webb, of more than seven thousand tons burden. Almost all of the kinds of ships known to naval architecture can be found in our Navy—all the practicable shapes and models, if not some which are entirely impracticable. Machinery of all the approved patterns has been introduced to propel these ships. The Navy Department has called upon the whole mechanical genius of the country for the construction of these admirable engines of war. It has gone into the widest variety of experiment in order to bring about the completest vessels which can be obtained. Any one disposed to criticise its action would say that it has been too experimental. I know that this is not the general opinion, but those who have watched the detailed action of the Department must come to the conclusion that if it has erred at all—and I do not say that it has—it has been in being too experimental, in trying too many new devices rather than in adhering to the old models.

In accomplishing this purpose, Mr. Speaker, there will have been expended during this Administration \$230,000,000, a very generous sum, and one which would startle us were it not that we have become accustomed to the bewildering figures of the War Department. This large sum, on the whole, has been wisely and prudently expended. The most rigorous examination has been made by committees of both branches of Congress, some of them constituted strongly adverse to the present officers in charge of the Department, and nothing of misconduct worthy of the attention of Congress has been found. Frauds, of course, there have been, but they have been ferreted out in the Department itself, and the guilty punished; and, Mr. Speaker, in reviewing the action of the Navy since hostilities broke out, it is only bare justice to say that it has accomplished all that could have been expected of it. It had to do the dull, tedious labor of the blockade, according to the strictest of the latest decisions on that vexed subject—a blockade of a coast over thirty-five hundred miles in extent, and which was pronounced impossible by the European diplomats.

You will recollect the surprise of Lord Lyons, when he asked whether this Government really intended to blockade the whole southern coast. It had in addition to that to hunt the piratical cruisers of the first naval Power into their various hiding-places, all over the world of waters; and when it came to warfare, it was the most difficult kind of naval warfare, that of attacking land batteries; and who will say that in all of these particulars the Navy has not accomplished its purpose?

The enormous price in the confederacy of articles which have to run the blockade, and the nineteen hundred and seventy-nine prizes taken by our vessels, tell with a certainty that the blockade has been most perfect. And we have seen, in following the history of the war, that in its various attacks upon land batteries the Navy has been equally successful. The genius of Du Pont devised a new mode, and a most successful one, at Port Royal, of attacking land forces, and this added greatly both to his own fame and that of our Navy; while the gallantry and intrepidity of Farragut at New Orleans and Mobile placed our Navy foremost in the annals of marine warfare. And we all but lately felt that the gleams of victory streaming across the Atlantic from the guns of the Kearsarge off Cherbourg strengthened the loyal heart of the country at a time when it was greatly given to despondency.

The blockade has been rigorously enforced, the warfare against land forces has been successfully conducted, and the British pirates sunk and driven into confederate ports, as the ocean with its myriad hiding-places was no longer safe for them. A brilliant record for our gallant Navy.

And the conclusion, Mr. Speaker, at which I arrive from the brief survey of the increase, the present condition, and the action of the Navy for the last four years, is that we have vessels enough for the present. We can afford fifty steamers lying off and on to blockade the port of Wilmington. We fill the harbors of Charleston and of Savannah, and the bay of Mobile, with our armed ships, and still have enough to protect northern ports against the possibility of attack.

It is apparently idle to talk about taking any of the principal southern ports without the assistance of the Army, but when Lieutenant General Grant is ready to detail a sufficient force for the purpose, the Navy will be, as it always has been, ready to furnish vessels of the fittest class for coöperation in the work of the capture of Wilmington, Charleston, or Mobile.

And now, having accomplished thus much, I insist that for the purposes of this rebellion we need not stretch another keel, at any rate not for any vessel of considerable size. All we have to do now with our Navy is to keep the present force in repair. With six hundred and seventy-one vessels now in the service, the larger portion built since 1860, and with an ordnance production during the last year of more than fifteen hundred guns, I say our private and public ship-yards are abundantly sufficient for present purposes. We need no other facilities for the production of still more vessels. Let us finish those we have on the stocks, and then keep the whole in fighting trim, and we shall not lack in this branch of our great war.

Why then, I ask this House, should we enter upon this enlarged expenditure for the purpose of creating additional monsters of the sea, for fear of some possible future foreign war? Is it wise? Have we not enough to do now to furnish means to carry on this war? It is with the greatest reluctance that we now tax our constituents enough to pay one third the current expenditures of the Government. Shall we rush into the unknown sea of new expenditures, which can be demonstrated to be wholly unnecessary, in order to compass the present great purpose of the country? I hope not.

The surest guarantee against future war is to succeed in this. The suppression of the rebellion is worth more to us, both for defense and offense, than a thousand ships. When that is done no nation will care to attack us, and we need not fear the combined attack of all Europe.

With all due deference to the superior wisdom of the gentleman in charge of the Navy Department, I do not hesitate to express the opinion that our expenditures in that branch of our war—so necessary and so well made—have reached

their highest point, and should, hereafter, be retrenched. It will be a glorious day for the country when the same thing can, with truth, be said of the War Department.

For the purpose, then, of adjourning this subject until some time in the future, a time of which I cannot but be hopeful, when the national obligations may run up to at least fifty per cent. of their face in the most favorable markets, I shall move to lay the subject on the table. In the mean time the investigation can go on, and we can ascertain in the large and broad expanse of this country where is the best site where in some future time we will establish a grand navy-yard where we can produce those perfect maritime creations which, at the same time that they are invulnerable at sea, shall possess that admirable power of propulsion which will make them the most rapid of vessels, and the most destructive to the enemies of our country.

I move to lay the bill on the table.

Mr. THAYER demanded the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL, of Pennsylvania. Having been summarily cut off from the remarks I intended to make upon this subject, I ask leave to print them.

No objection was made.

[The remarks will be published in the Appendix.]

The question was taken on Mr. PIKE's motion, and it was decided in the affirmative—yeas 80, nays 53, not voting 49; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ashley, Augustus C. Baldwin, Baxter, Benham, Blair, Blow, Boutwell, Brooks, James S. Brown, Chandler, Ambrose V. Clark, Cobb, Colc, Cox, Cravens, Thomas T. Davis, Driggs, Eckley, Eden, Eldridge, Elliot, Farnsworth, Finck, Ganson, Gooch, Grider, Grinnell, Harding, Herrick, Higby, Holman, Asahel W. Hubbard, Hubbard, Orlando Kellogg, Kernan, Knapp, Knox, Le Blond, Littlejohn, Long, Longyear, Malory, Marcy, McDowell, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, James R. Morris, Morrison, Noble, Odell, John O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Edward H. Rollins, Ross, Scott, Shannon, Sloan, John B. Steele, Stuart, Sweet, Townsend, Tracy, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburne, Whaley, Wilson, and Benjamin Wood—80.

NAYS—Messrs. Ancona, Arnold, Baily, John D. Baldwin, Blaine, Boyd, Branderage, Broomall, Henry Winter Davis, Dawes, Dawson, Deming, Denison, Edgerton, English, Frank, Hooper, John H. Hubbard, Ingersoll, Kelley, Francis W. Kellogg, Law, Loan, Marvin, McAllister, McBride, McClurg, William H. Miller, Moorhead, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Pendleton, Samuel J. Randall, Alexander H. Rice, Schenck, Scofield, Smith, Smithers, Spalding, Starr, William G. Steele, Stevens, Stiles, Thayer, Unson, Webster, Wheeler, Williams, Wilder, Windom, and Yeaman—53.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Bliss, William G. Brown, Freeman Clarke, Clay, Coffroth, Cresswell, Dixon, Donnelly, Dumont, Fenton, Garfield, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Hutchins, Jencks, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kasson, King, Lazear, McKinney, Middleton, Nelson, Perry, Pruyn, Radford, William H. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Strouse, Thomas, Voorhees, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—49.

So the whole subject was laid on the table.

Mr. PIKE moved to reconsider the vote by which the motion to lay on the table was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was adopted.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 464)\* for the relief of Deborah Jones; when the Speaker signed the same.

RECIPROCITY TREATY.

The SPEAKER stated that the business next in order was the consideration of joint resolution (H. R. No. 56) authorizing the President to give the requisite notice for terminating the treaty made by Great Britain on behalf of the British provinces in North America, and to appoint commissioners to negotiate a new treaty with the British Government based upon the true principles of reciprocity, said resolution having been postponed on the 1st of April last until this day.

Mr. WASHBURN, of Illinois. What is the precise position of the joint resolution?

The SPEAKER. The question is, Shall it pass? Mr. WASHBURN, of Illinois. Is it open to amendment?

The SPEAKER. It is not.



Mr. MORRILL. Is it not in order for the gentleman from New York, [Mr. WARD,] who has charge of the joint resolution, to allow me to offer as a substitute the joint resolution for unconditional notice?

The SPEAKER. Not unless the vote by which the joint resolution was ordered to be engrossed and read a third time, shall be reconsidered by general consent.

Mr. FARNSWORTH. Is that motion in order?

The SPEAKER. It is if the gentleman voted for the third reading.

Mr. FARNSWORTH. I think I did, and I make the motion to reconsider.

Mr. WARD. The preamble was adopted, and before the previous question was moved on the passage of the joint resolution the gentleman from Pennsylvania [Mr. STEVENS] moved to postpone it. The question now is on its passage, and on that I demand the previous question.

Mr. MORRILL. I appeal to the gentleman to withdraw the previous question for a moment. I merely want to make an explanation.

Mr. WASHBURN, of Illinois. The previous question can be voted down.

The SPEAKER. The demand for the previous question would not cut off the privileged motion to reconsider the third reading, although the second of the previous question would.

Mr. WASHBURN, of Illinois. I think the House is now prepared to adopt the resolution for notice pure and simple. It came within a vote or two of it last session, and from what has transpired since, I think we must all agree that the notice ought to be given. I hope, therefore, that the House will allow me to offer that proposition again.

Mr. WARD. Mr. Speaker, I shall object to having that proposition again submitted. It was voted down at the last session of Congress.

Mr. WASHBURN, of Illinois. By a very close vote.

Mr. WARD. I shall therefore object to it. I propose to have a direct vote upon this joint resolution.

Mr. MORRILL. I hope the gentleman will not object.

The SPEAKER. Debate is not in order.

Mr. WASHBURN, of Illinois. What would be the condition of the bill in case the previous question be not seconded?

The SPEAKER. The joint resolution would be open to discussion and amendment.

Mr. WASHBURN, of Illinois. Then I hope the previous question will be voted down.

Mr. STEVENS. I ask the gentleman from New York [Mr. WARD] whether he will agree to allow a motion to strike out of the joint resolution all after and including the word "unless," so as to make it simply direct notice to be given of the termination of the treaty. I will be then willing to vote for the proposition. The idea of authorizing a commission is against the genius of all our legislation. Such a matter is solely within the province of the Government.

Mr. WARD. I insist upon the previous question on the passage of the joint resolution.

Mr. STEVENS. Then I move to lay the joint resolution on the table.

Mr. MORRILL. I hope the gentleman from Pennsylvania will withdraw that motion.

Mr. STEVENS. I will withdraw it for the present.

The SPEAKER. The Chair is informed by the Journal clerk that the yeas and nays were not taken on ordering the joint resolution to be read a third time. The yeas and nays were taken on the amendments. Any gentleman, therefore, can move to reconsider the vote by which the joint resolution was ordered to be read a third time.

Mr. FARNSWORTH. I move to reconsider the vote by which the joint resolution was ordered to be read a third time.

The motion was agreed to.

The question recurred on ordering the joint resolution to be engrossed and read a third time.

Mr. MORRILL. I offer the following as a substitute for the joint resolution, and I move the previous question on the whole subject.

Mr. WARD. Is not that substitute the same as was voted down at the last session?

The SPEAKER. There is an important change from the one voted down at last session.

Mr. WARD. Is it a different proposition?

The SPEAKER. It is a different proposition.

The substitute was read, as follows:

Whereas by the reciprocity treaty, concluded the 5th day of June, and ratified on the 9th day of September, A. D. 1854, between the United States of America and the Queen of Great Britain, for the period of ten years from the date at which it should come into operation; and further, until the expiration of twelve months after either of the high contracting parties should give notice to the other of its wish to terminate the same, each of the high contracting parties, according to the provisions of article fifth of said treaty, being at liberty to give such notice to the other at the end of said term of ten years, or at any time afterwards, and thereby annul and abrogate said treaty; and whereas it has become desirable to terminate said treaty in the manner therein provided for, as its terms no longer appear reciprocally beneficial or satisfactory: With a view, therefore, that steps be taken for the termination of the said treaty of the 5th of June, A. D. 1854, in the mode prescribed in its fifth article, at the earliest practicable period therein provided for, and that the attention of the Governments of both countries may be directed to the adoption of all proper measures for an amicable adjustment of any matters of difference or dispute which may remain or arise in consequence of the termination of said treaty,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and requested to give to the Government of the United Kingdom of Great Britain and Ireland the notice required by the fifth article of the said reciprocity treaty of the 5th of June, A. D. 1854, for the termination of the same.

Mr. WARD. Mr. Speaker, I hope the gentleman from Vermont will explain the difference between his substitute and the proposition voted down at last session. I cannot perceive the difference.

The SPEAKER. The difference is that the words "at his discretion" are struck out, and the words "and requested" inserted; also that the words "Government of Great Britain" are changed into the words "Government of the United Kingdom of Great Britain and Ireland."

Mr. WARD. There is another point of order. The preamble has been already adopted, and there has been no motion to reconsider it.

The SPEAKER. The whole joint resolution is thrown open by the reconsideration of the vote ordering it to be engrossed and read a third time.

The previous question was seconded, and the main question ordered, which was on agreeing to Mr. MORRILL's substitute.

The question was then taken upon the substitute offered by Mr. MORRILL to the original resolution; and it was agreed to.

Mr. MORRILL. I now move to reconsider the vote by which the preamble was adopted.

Mr. WARD. I submit that it is not proper, after this lapse of time, to move a reconsideration.

The SPEAKER. The Chair thinks the point of order of the gentleman from New York [Mr. WARD] is well taken. After one day the motion to reconsider cannot be submitted except on Monday on a motion to suspend the rules. No objection having been made to reconsider the vote by which the joint resolution was ordered to a third reading, the Chair considered the motion to reconsider as having been entertained by unanimous consent.

Mr. FARNSWORTH moved to reconsider the vote by which the House adopted the substitute of the gentleman from Vermont, [Mr. MORRILL,] and also moved to lay that motion on the table; which was agreed to.

Mr. MORRILL. I hope this joint resolution will not be sent to the Senate until we can have an opportunity to move a reconsideration of the preamble on Monday next.

The SPEAKER. As the majority of the House evidently seems desirous to get at this resolution in some shape, the Chair will suggest that a motion to recommit is in order after the third reading has been ordered.

Mr. WARD. I will then move to recommit this joint resolution to the Committee on Commerce.

Mr. MORRILL. I move to amend that motion by substituting the Committee of Ways and Means for the Committee on Commerce.

Mr. WARD. Would it be in order at this time to move to lay the whole subject on the table?

The SPEAKER. It would.

Mr. WARD. I then move that the whole subject be laid on the table, and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in

the negative—yeas 45, nays 84, not voting 53; as follows:

YEAS—Messrs. Arnold, Baily, Augustus C. Baldwin, Chanler, Freeman Clarke, Cobb, Cox, Cravens, Thomas T. Davis, Donnelly, Eden, Edgerton, Eldridge, Finck, Frank, Grider, Harrington, Herriek, Knapp, Law, Littlejohn, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Samuel J. Randall, Ross, Scott, William G. Steele, Stiles, Stuart, Sweat, Townsend, Wadsworth, Ward, Wheeler, Windom, and Benjamin Wood—45.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, Ambrose W. Clark, Cole, Henry Winter Davis, Dawes, Dawson, Denison, Dixon, Eckley, English, Farnsworth, Ganson, Gooch, Grinnell, High, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Francis W. Kellogg, Kernan, Knox, Marvin, McAllister, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, and Wilson—84.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blair, Bliss, William G. Brown, Clay, Coffroth, Griswold, Deering, Driggs, Dumont, Elliot, Fenton, Garfield, Creswell, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hutchins, Jencks, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Orlando Kellogg, King, Lazear, Le Blond, Loan, Longyear, McBride, Middleton, Nelson, Perry, Pruyn, William H. Randall, Robinson, Rogers, James S. Rollins, Strouse, Voorhees, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, Woodbridge, and Yeaman—53.

So the motion to lay on the table was not agreed to.

Mr. MORRILL. I call for the previous question upon the passage of the joint resolution.

Mr. WARD. I made a motion to recommit to the Committee on Commerce. The gentleman from Vermont [Mr. MORRILL] moved to amend by referring the subject to the Committee on Ways and Means.

Mr. MORRILL. I withdraw any motion or suggestion of that kind which I made. I prefer to have it passed now.

The demand for the previous question was then seconded, and the main question was ordered.

The question was then taken upon the motion of Mr. WARD to recommit to the Committee on Commerce, and it was not agreed to.

The question recurred upon ordering the joint resolution to be read a third time, and being taken it was agreed to.

The joint resolution was read the third time.

The question was upon the passage of the joint resolution.

Upon this question Mr. MORRILL called for the previous question.

Mr. WARD. I understand we are now to take a vote simply upon the resolution, and not upon the preamble.

The SPEAKER. The preamble was read the third time on the 1st of April last. A motion to reconsider the preamble was made by the gentleman from Vermont, [Mr. MORRILL,] and the gentleman from New York [Mr. WARD] raised the point of order that the motion to reconsider could not be entertained at this time, which point the Chair sustained. The question is now upon the passage of the joint resolution and the preamble together, upon which the gentleman from Vermont [Mr. MORRILL] demands the previous question.

The demand for the previous question was then seconded, and the main question ordered.

Mr. WARD. I call for the yeas and nays upon the passage of this joint resolution.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 85, nays 57, not voting 40; as follows:

YEAS—Messrs. Allison, Ames, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, Ambrose W. Clark, Cole, Henry Winter Davis, Dawes, Dixon, Eckley, English, Farnsworth, Ganson, Gooch, Grinnell, High, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Loan, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Yeaman—85.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, DECEMBER 16, 1864.

NEW SERIES.....No. 3.

NAYS—Messrs. Alley, Ancona, Arnold, James S. Brown, Chandler, Cobb, Cox, Thomas T. Davis, Denison, Donnelly, Eden, Edgerton, Eldridge, Eliot, Finck, Frank, Garfield, Harding, Harrington, Harlick, Knapp, Law, Lazear, Littlejohn, Long, Mallory, Marcy, McDowell, McIndoe, McKinney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Stuart, Sweat, Townsend, Wadsworth, Ward, Wheeler, Windom, and Benjamin Wood—57.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blair, Bliss, William G. Brown, Freeman Clarke, Clay, Coffroth, Graves, Creswell, Dawson, Deming, Driggs, Dumont, Fenton, Grider, Griswold, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kasson, King, LeBlond, Longyear, McAllister, McBride, Middleton, Nelson, Perry, Pruyn, William H. Randall, Rogers, Strouse, Voorhees, Webster, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—40.

So the preamble and joint resolution were passed.

Mr. MORRILL moved to reconsider the vote just taken, and also to lay the motion to reconsider on the table; which was agreed to.

Mr. MORRILL. I move to amend the title so as to read as follows:

A joint resolution authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the treaty of reciprocity of the 5th day of June, A. D. 1854.

The motion was agreed to.

MAJOR N. S. BRINTON.

By unanimous consent, the House took from the Speaker's table and proceeded to consider a joint resolution (H. R. No. 104) reported from the Committee on Military Affairs for the relief of Major N. S. Brinton.

Mr. GARFIELD. As a bill has already been passed for the relief of Major Brinton, I move to lay this joint resolution on the table.

The motion to lay on the table was agreed to.

PRINTING TREASURY REPORT.

Mr. A. W. CLARK reported back from the Committee on Printing the following resolution; which was read, considered, and agreed to:

Resolved, That fifteen hundred copies of the report of the Secretary of the Treasury, with the accompanying documents, and one hundred and fifty copies of the estimates of appropriation, be printed for the use of the Treasury Department.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRESENTATION OF LOUISIANA.

Mr. DAWES. I move that the remonstrance, referred some days ago to the Committee of Elections, against the claim of certain gentlemen to represent the State of Louisiana, be printed.

The motion was agreed to.

And then, on motion of Mr. SCHENCK, the House (at twenty minutes after three o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, December 14, 1864.

Prayer by Rev. W. H. CHANNING, D. D., Chaplain to the House of Representatives.

Hon. WILLARD SAULSBURY, of Delaware, appeared in his seat to-day.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. NESMITH presented a memorial of the Legislature of Oregon in favor of the location of a national foundry, arsenal, and manufactory of arms at the falls of the Willamette, near Oregon City, in that State; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a memorial of medical storekeepers praying to be allowed the pay and emoluments of surgeons in the Army; which was referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred

the joint resolution (S. No. 83) to encourage enlistments and promote the efficiency of the military forces of the United States, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a resolution relative to the pardon indorsed by the President of the United States on the petition of Lucien Anderson and others in behalf of William Yocum, now confined in the penitentiary at Albany, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of the members of the grand and petit juries in attendance at the circuit and district courts of the United States in the district of Michigan praying for an increase of their compensation, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of members of the bar of the District of Columbia praying that the supreme court of the District be authorized to appoint a stenographic reporter, asked to be discharged from its further consideration; which was agreed to.

THANKS TO CAPTAIN WINSLOW.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the message of the President of the United States, of the 5th instant, recommending the passage of a vote of thanks to Captain John A. Winslow, of the United States Navy, to report a joint resolution to that effect. The facts in regard to this matter are known to all the members of the Senate, and I presume that I shall be only carrying out the views of this body in asking that the resolution may now be considered.

By unanimous consent the joint resolution (S. No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in the conflict with the piratical craft, the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864, was read three times and passed.

THANKS TO LIEUTENANT CUSHING.

Mr. GRIMES. I am also instructed by the same committee, to whom was referred a similar message of the President recommending a vote of thanks to Lieutenant William B. Cushing, of the United States Navy, to report a joint resolution; and if there be no objection I will make the same motion in regard to it, that the Senate now proceed to its consideration.

There being no objection, the joint resolution (S. No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, United States Navy, and to the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albemarle, in compliance with the President's recommendation to Congress of the 5th of December, 1864, was read three times and passed.

DISTRICT COURT OF INDIANA.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 352) authorizing the holding of a special session of the United States district court for the district of Indiana, and for other purposes, have directed me to report it back with amendments. The only object of the bill is to hold a special term of the district court in the State of Indiana, which has been rendered necessary in consequence of the decease of the judge, and as the term is fixed for an early day, at the request of the Senators from that State, I ask the Senate to consider the bill at this time.

Mr. BROWN. Is the bill going to give rise to discussion?

Mr. TRUMBULL. None at all. It merely proposes to authorize the holding of a special term of the court.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the

bill. It provides that a special session of the United States district court for the State of Indiana shall be holden at the usual place of holding the court on the third Tuesday of December, 1864.

The second section provides that all suits and proceedings of a civil or criminal nature now pending in, or returnable to, the court, shall be proceeded in, heard, tried, and determined by the court at the special session in the same manner as at a regular term, and the judge is empowered to order the impaneling of a petit and grand jury for the session.

The third section provides that the judge of a district court may, at any time, order a special session upon due notice, given in such manner as he may by order direct, for the transaction of any business embraced in the order directing the special session.

The first amendment of the Committee on the Judiciary was to strike out, at the end of the first section, the following words, "the third Tuesday in December, in the year of our Lord 1864," and to insert in lieu thereof, "the first Tuesday of January, 1865."

The amendment was agreed to.

The next amendment of the committee was to strike out the third section of the bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. TRUMBULL, the title of the bill was amended by striking out the words "and for other purposes," so as to read: A bill authorizing the holding of a special session of the United States district court for the district of Indiana.

RAIDS FROM THE BRITISH PROVINCES.

Mr. CHANDLER. Mr. President, I see in this morning's paper the following announcement:

"TORONTO, December 13.—The St. Albans raiders have been discharged for want of jurisdiction. There is much excitement."

I desire to offer a couple of resolutions this morning bearing upon this subject, one of them particularly; but I do not expect to make the Senate understand the state of feeling that exists on the Canadian border. I have a great number of letters in my possession from gentlemen living upon that border. In my own city, which is within musket range of the Canadian shore, thousands of the citizens have been under arms for a long time, and we have been under a continuous state of alarm for fear of incendiaries, murderers, burglars, and robbers from the Canadian frontier. From the announcement that I have read it would seem to appear that the Canadian authorities have made up their minds to protect these raiders. As I understand it, a man goes from the South to Canada with a commission purporting to be issued by Mr. Davis, enlists his raiding party, crosses the frontier, murders, robs, burns, destroys, returns again to Canada, and is there protected by the authorities. The letters which I have in my possession are all bearing upon that point. The one I now hold in my hand is from one of our most respectable citizens in the city of Detroit, a gentleman of great wealth, of high political and social position, and who earnestly desires to avoid a difficulty with Great Britain at this time. He says:

"The anxiety growing out of the mist and doubt enshrouding every rumor that reaches us is not to be endured, and upon some slight provocation, one of these days, regardless of neutral lines, our people will be found in Canada engaged in some act that the Canadian Government will say is wrong, and, sooner or later, war will be the result; this we do not want."

Again he says:

"Will you give it your attention, for I think it involves, sooner or later, if not properly heeded, war with England."

As I said when I commenced, I have no expectation of making the Senate comprehend this state of excitement, this intense state of feeling which exists on that border. Vermont may, for

ought I know, quietly submit to have her towns robbed and burned and her citizens murdered, but the Northwest will not. The people cannot be restrained unless the Government takes prompt and immediate action upon this subject; and I desire to offer the following resolution on the subject. It may not meet the views of the Senate, but I offer it for the purpose of having the subject referred to a committee; and I have another to follow it:

Whereas raids have been organized in the Canadas and Nova Scotia, and men enlisted in said British provinces by men purporting to hold commissions from the rebels of the United States for the purpose of robbing and murdering peaceable citizens of the United States; of burning cities and villages, of piratically capturing merchant vessels and murdering their crews, being a general system of murder, arson, robberies, and plunders of the peaceable and unarmed citizens of the United States; and whereas the people of the British provinces seem disposed to protect these thieves, robbers, incendiaries, pirates, and murderers, not only in their individual capacity, but by the quibbles of the law: Therefore,

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of immediately enlisting an Army corps to watch and defend our territory bordering on the lakes and Canadian line from all hostile demonstrations.

I ask for the present consideration of the resolution.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection is made, and the resolution will lie over until tomorrow.

Mr. CHANDLER. I move that the resolution be printed.

The motion was agreed to.

#### RECLAMATION ON GREAT BRITAIN.

Mr. CHANDLER. I had hoped that that resolution would pass unanimously this morning; but as it is objected to, of course it must lie over. I now offer the following resolution:

Whereas at the commencement of the present rebellion the United States were at peace with the Governments of the world, and upon terms of comity and good-will with Great Britain; and whereas that nation, before the arrival on her soil of our minister accredited by the administration of President Lincoln, precipitately acknowledged the rebels as belligerents, thus recognizing their flag upon the ocean, without which recognition it would have been regarded and treated as piratical by all other Powers; and whereas she then proclaimed perfect neutrality between a Republic with which she had entertained friendly relations for upward of half a century and its treasonable subjects; and whereas numbers of her subjects, with the knowledge of her Government, commenced fitting out British fast-sailing ships, loaded with munitions of war, for the purpose of running into our blockaded ports to the rebels, thus furnishing them the means of organizing and continuing the rebellion, and without which it could not have sustained itself six months; and whereas, in addition to the above, and with the knowledge of the Government, British subjects and members of Parliament engaged in the manufacture of piratical English ships, owned by British subjects, manned by British seamen, and sailing under British colors, for the purpose of burning, destroying, and utterly driving from the ocean all peaceful merchant vessels sailing under the United States flag; and whereas many private and unarmed American ships have been burned and destroyed by these pirates from British ports, thus causing great loss and damage to the citizens of the United States: Therefore,

Resolved, That the Secretary of State be instructed immediately to make out a list of each ship and cargo thus destroyed, with a fair and separate valuation thereof, and interest thereon at the rate of six per cent. per annum from the date of capture or destruction to the date of presentation, and that he be directed to demand from the British Government payment in full for all ships and cargoes destroyed as aforesaid.

I ask for the present consideration of the resolution, and move that it be referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution at the present time. Is there objection?

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection being made, it will lie over.

Mr. CHANDLER. I move that the resolution be printed.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (No. 595) to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831; and

A joint resolution (No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for

the termination of the treaty of the 5th of June, A. D. 1854.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill, which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 465) for the relief of Deborah Jones.

#### ST. LOUIS ARSENAL.

Mr. BROWN submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be, and they are hereby, instructed to inquire into the expediency of repealing the act of Congress of March 2, 1861, entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located," and report by bill or otherwise.

#### PRINTING OF A BILL.

On motion of Mr. RAMSEY, it was

Ordered, That the bill (S. No. 354) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and regulating the disposal of lands heretofore granted said State to aid in the construction of such roads, be printed for the use of the Senate.

#### INCREASE OF THE REVENUE.

Mr. DOOLITTLE. I move to take up the resolution that I offered the other day, which upon the request of the Senator from Michigan [Mr. CHANDLER] was laid over. The Senator from Michigan, I believe, did not understand fully the purport of the resolution. It is merely one of inquiry, and I understand he has now no objection to its being passed. It will give rise to no discussion.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. DOOLITTLE on the 12th instant:

Resolved, That the Committee on Finance be instructed to inquire into the propriety of the immediate passage of an act to increase the revenue, first, by an additional tax of one per cent. upon all sales of real and personal property, including also all bargains for the sale of merchandise, produce, gold or silver coin, or stocks of any description; second, by an additional tax of twenty-five per cent. upon the gross receipts, to be added to the present rates, of all railroad fares, including street railroads, steamboats, and ferries, to be collected by the companies or persons running the same for the use of the Government. And that said committee be further instructed to inquire into the propriety of the passage of a law to prevent the further expansion of the currency by the organization of any new banking associations except when they may take the place of some existing State bank. And that said committee be further instructed to inquire into the propriety of redeeming all the outstanding interest-bearing legal-tender notes, by issuing in their stead other notes, in denomination not less than fifty dollars each, bearing a uniform interest, from the 1st day of January in each year, of three and sixty-five one hundredths per cent. per annum, with coupons attached, to be paid out, and to be made a legal tender for their face, with interest added.

Mr. DOOLITTLE. I desire to call the attention of the members of the Committee on Finance specially to the points mentioned without at all entering into a discussion. The resolution instructs the committee to inquire into the propriety of a tax on all sales both of real and personal property. According to the lowest estimate which can be made, that of itself would produce a revenue of \$75,000,000 every year. It not only proposes a tax upon sales actually made, but upon all bargains or contracts to sell stocks, gold, and produce, which will have more of a restraining effect upon speculations in gold than any gold bills which can be passed making it a penal offense to sell gold in the market, or to make any distinction between gold and paper currency.

It also proposes that the committee shall inquire into the propriety of adding twenty-five per cent. tax to all the railroad fares in the country, including street railroads, steamboats, and ferries, and making the companies the tax-gatherers for the benefit of the Government. Here is a source of income and of revenue which is the most immediately accessible, perhaps, of any upon which the Government can lay its hand. It will be received in large quantities from powerful companies, rich companies, and the revenue to flow into the Treasury of the Government will be immense. And this is the time, Mr. President, of all others, when we should seize hold of those means which will produce the revenue, for the money we must have.

Another point in the resolution is an inquiry

whether it is not best to prevent the organization of any more new banking associations with power to put their notes afloat and still further expand the circulating medium, allowing at the same time those State banks that are now in existence, by withdrawing their circulation, to go into operation under the general law.

The fourth point is—and to that I desire specially to call the attention of the chairman of the Committee on Finance—to attempt in some way to substitute some notes of the Government in place of all those legal-tender interest-bearing notes which now bear interest from the date of their issue, and the date of their issue may occur in any month during the whole year, producing "confusion worse confounded" in all money transactions so far as concerns the computation of the interest that may have accrued on these notes between individuals as they pass from hand to hand. In their stead, I should like to substitute interest-bearing legal-tender notes for a uniform rate of interest, bearing date from a given date within a year, for instance the 1st day of January; bearing an interest of 3.65 per cent., which can easily be calculated: upon \$100, a cent a day; upon \$50, half a cent a day; and bearing interest from that given day, no matter when issued by the Government, and to be a legal tender not only for the face but for the accrued interest, so that when the Government pays them out it pays them out for their real value, and then they pass from hand to hand, and any individual who happens to take them takes them for the face and the interest, and if he chooses to keep them in his hands they are all the while accumulating.

Mr. President, I have simply called the attention of the Committee on Finance to these four points; I do not intend to go into a discussion of them. I deem each and every one of them exceedingly important; and it is still more important that we act, or, if possible, that we induce Congress to act upon this great subject of finance, even before we take the usual adjournment for the holidays. I do not know that it is possible for this body to originate any bill on this subject; but the committee may inquire into it, and can report upon these questions. It is for the other House to originate revenue measures, I am aware; but I hope that it is possible that this Congress, before we take the Christmas adjournment, can pass some revenue measure that shall bring money into the Treasury.

Mr. SHERMAN. Before the vote is taken upon the passage of the resolution, I will say a word or two, but not detain the Senate. I have no objection to the reference of the resolution, but will state that the Committee on Finance have already had this subject under consideration by the reference of the report of the Secretary of the Treasury and of the President's message. All the points indicated by the Senator's resolution will be considered in the Committee on Finance without the resolution.

I desire further to say that, while it is well enough for Senators to submit their propositions upon this subject, yet we are restrained in our action by the provision of the Constitution which requires that all bills for raising revenue shall originate in the House of Representatives. At the last session the Senate attempted to indicate its desire to increase the tax on incomes, and sent a proposition of that kind, as an amendment to one of the military bills, to the other House, but it was resented by the House, the bill was laid upon the table, and they sent us back a new proposition. I think, therefore, we ought to avoid any controversy with the House of Representatives upon a matter the origination of which the Constitution vests in them exclusively. We must await their action. They will, necessarily, soon send to the Senate bills providing additional revenue, and then we can propose amendments of various kinds increasing the taxes.

I desire now to say for myself that I believe the true remedy for our financial difficulties is a very large increase of taxes. Perhaps my views in this respect will not be sustained by the Senate. From the beginning of the war I have thought that the true mode was to pay as we go, as far as possible. There are various reasons for this; I will state but one that operates very strongly on my mind. The soldiers that are serving in the field are enduring all the hardships of this war; those at home are more prosperous than ever



before; persons engaged in ordinary business are now doing better than they have done for years; and I think it but right that they who are now reaping profits from the condition of war should pay very largely in taxes in order to bear their share of the burdens of a great war. If we increase our national debt, and put these taxes upon future generations, we compel the descendants of the very soldiers who have fought our battles also to pay the expenses of the war. I think we ought to be willing to endure a very large amount of taxation, far in excess of any we have had heretofore.

At the proper time, when these questions properly come before the Senate, the Senator will have an opportunity to present his views on the various details connected with the general subject of taxation, and they will then be fully considered; but at present we are not able to act upon them, and shall not be until bills come to us from the House of Representatives.

Mr. BROWN. Mr. President, I should have no objection to the reference of this resolution especially, to the Committee on Finance, if it was introduced simply for the purpose of setting forth the views entertained by the Senator from Wisconsin, and of indicating the direction in which he thought inquiry should be made; but if it is going to that committee by general consent, and is to be taken as any indication that the Senate concur in the suggestions made, I wish for one to say that I do not, that I differ very widely in regard to the policies which he has indicated and the effects to flow from them which he seems to anticipate.

I will add only one other word, and say this, that I think gentlemen are perhaps somewhat mistaken in regard to the extent to which taxation can be carried, and that we are perhaps nearer the limit at which it can be properly borne than many persons imagine. I think that in the conduct of this war, in the carrying on of our system for the future, we have got to look in another direction; in other words, it has become an expense account, and we have got to look to a reduction of expenditure to enable us to sustain our financial system. I believe that is a direction in which inquiry should more properly be made. I do not desire to oppose the passage of the resolution, but simply to say that I trust it will be taken as no indication, in regard to the points mooted, of a general concurrence on the part of the Senate.

Mr. DOOLITTLE. I agree with the Senator from Missouri entirely in what he says, that it is necessary to reduce the expenses in every possible way, and I will go with him in the effort to reduce them, and to compel the administration of every department of the Government on principles of the strictest economy possible. At the same time, our necessary expenses are so great and must be so great that we are compelled to seize hold of every source that will certainly bring us revenue; and while I do not expect, of course, that the Senate, by allowing this resolution to go to the committee now, express their opinion on the points I have presented, still the points are of sufficient consequence and magnitude to be well considered by the committee, and therefore I hope the resolution will pass without any objection.

Mr. FOSTER. Mr. President, I do not rise to prolong the discussion; I only wish to say one word, and that is, one of the most certain modes of promoting economy in our affairs is to make the people pay as we go.

The resolution was agreed to.

#### HOUSE BILLS REFERRED.

The bill (No. 595) to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831, was read twice by its title and referred to the Committee on the Judiciary.

The joint resolution (No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854, was read twice by its title.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Foreign Relations if there be no objection.

Mr. GRIMES. I think that resolution ought to be referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. Does the Senator make that motion?

Mr. GRIMES. I do.

Mr. SUMNER. It refers to a treaty.

Mr. GRIMES. It refers purely to commercial relations existing between this country and the provinces of Great Britain.

Mr. SUMNER. Then every question of commerce between the two countries, even if it is the subject of negotiation, must be referred to the Committee on Commerce, and you may as well dismiss your Committee on Foreign Relations. That subject is at this moment under the consideration of the Committee on Foreign Relations. It was referred by the Senate several times during the last session by several different resolutions and petitions.

The PRESIDENT *pro tempore*. It is moved by the Senator from Iowa that the joint resolution be referred to the Committee on Commerce.

The question being put, the motion was not agreed to.

The joint resolution was referred to the Committee on Foreign Relations.

#### UNFINISHED BUSINESS.

Mr. DOOLITTLE. I move that those matters which were pending at the adjournment of the last session of Congress, with the papers accompanying them, be referred by the Chair to their appropriate committees.

The PRESIDENT *pro tempore*. That order is already made.

Mr. COLLAMER. Some question has arisen among us about the referring of papers to the committees. I understand that by the rule of the Senate the business is to be taken up in the state of completion in which it was when we adjourned at the last session. I take it, of course, that those bills which were reported and on the Calendar at the close of the last session are not again to be sent to the committees, but the Senate will take them up in the order in which they stood on the Calendar at the time of our adjournment.

The PRESIDENT *pro tempore*. That is the understanding of the Chair.

Mr. DOOLITTLE. I understand, then, that according to the rules all those matters which were in the hands of the committees, not reported upon, are to be again sent to the committees, with the accompanying papers.

The PRESIDENT *pro tempore*. All unfinished business before the committees at the adjournment of the last session goes back to the committees, of course.

#### EXECUTIVE SESSION.

Several executive messages were received from the President of the United States by Mr. NICOLAY, his Secretary.

On motion of Mr. POMEROY, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 14, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. BOWMAN, Chaplain of the Senate. The Journal of yesterday was read and approved.

#### RECIPROCITY TREATY—RECORDING VOTES.

Mr. KASSON. I ask leave to record my vote on the passage of the joint resolution authorizing the President to give the requisite notice for terminating the treaty made by Great Britain on behalf of the British provinces in North America.

Mr. STEVENS. Before this permission be granted, I would like to inquire whether it is true that the Canadian authorities have discharged all the rebels whose cases have been under investigation there.

Mr. WASHBURNE, of Illinois. It is so stated in a dispatch from Toronto.

Mr. STEVENS. Then I hope that all gentlemen who voted against the bill will change their votes and make the passage of the bill unanimous.

Leave was granted to Mr. KASSON to record his vote, and he voted in the affirmative.

MESSRS. DEMING, DRIGGS, BLAIR, and LONGYEAR obtained similar leave, and voted in the affirmative.

MESSRS. J. C. ALLEN, LE BLOND, and KALBFLEISCH obtained similar leave, and voted in the negative.

Mr. DAVIS, of New York, obtained leave to

change his vote on the same question, and voted in the affirmative.

#### NATURALIZATION OF SOLDIERS AND SAILORS.

Mr. WILSON, by unanimous consent, reported from the Committee on the Judiciary, with an amendment in the nature of a substitute, a bill (H. R. No. 583) to so amend the law in regard to the naturalization of soldiers as to include sailors also in its provisions.

On motion of Mr. WILSON the House proceeded to the consideration of the bill.

The substitute reported by the committee was read. It provides that the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, be so amended as to read as follows:

That any alien of the age of twenty-one years and upwards, who has enlisted or shall enlist in the armies of the United States, either the volunteer or regular forces, or in the naval or marine forces, and has been or shall hereafter be honorably discharged, may be admitted to become a citizen of the United States upon his petition without any proof of the declaration of his intention to become a citizen of the United States, and that he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and that the court admitting such alien shall, in addition to the proof of residence and good moral character as is now provided by law, be satisfied, by competent proof, or such person having been honorably discharged from the service of the United States as aforesaid.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The amended title, as reported by the committee, was agreed to as follows:

A bill to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Mr. WILSON moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COMMITTEE OF WAYS AND MEANS.

Mr. STEVENS. I move that the Committee of Ways and Means have leave to sit during the sessions of the House.

The motion was agreed to.

#### INVALID PENSIONS, ETC.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1866.

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman from Pennsylvania [Mr. STEVENS] whether this bill contains any other provisions than those necessary to carry out existing laws.

Mr. STEVENS. It is simply a bill to pay pensions authorized by law. It contains no other provisions.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that this bill be made a special order for to-morrow.

The motion was agreed to.

#### CONSULAR AND DIPLOMATIC EXPENSES.

Mr. STEVENS also reported from the Committee of Ways and Means a bill making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866.

Mr. HOLMAN. I wish to make the same inquiry in reference to this bill that was made with regard to the other—whether it contains any appropriation not authorized by existing law.

Mr. STEVENS. It does not; it contains no appropriations but such as are authorized by laws already existing.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that this bill also be made a special order for to-morrow. They are both short bills.

The motion was agreed to.

#### SHIP CANAL AROUND NIAGARA FALLS.

The SPEAKER. The first bill in order is a bill (H. R. No. 126) to construct a ship canal

around the Falls of Niagara, postponed from last session until this day.

Mr. SPALDING. I move that the consideration of that bill be postponed, and that it be made the special order for Tuesday, the 24th day of January, after the morning hour.

Mr. WASHBURNE, of Illinois. And be continued from day to day until disposed of.

Mr. HOLMAN. It is not proposed to make it a special order.

The SPEAKER. It is not.

Mr. BROOKS. Has the subject been disposed of?

\*The SPEAKER. It has not; the question of postponement being still pending.

Mr. SPALDING. I ask that it be made a special order.

Mr. HOLMAN. I object.

The SPEAKER. Unanimous consent is required to make it a special order, except on Mondays.

The motion to postpone was then agreed to.

#### PROTECTION OF CANADIAN FRONTIER.

Mr. BROOKS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be requested to inquire into the expediency of forthwith providing, by negotiation or otherwise, for the protection of our Canadian and provincial frontier from murder, arson, and burglary, under the pretense of rebel invasion.

#### PUBLIC BUILDINGS AND GROUNDS.

Mr. RICE, of Maine, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That so much of the annual message of the President to the two Houses of Congress at the present session, together with the accompanying documents, as relates to public edifices and grounds in the city of Washington, be referred to the Committee on Public Buildings and Grounds.

#### SHIP CANAL.

The SPEAKER stated the next business in order to be a bill (H. R. No. 322) to construct a ship canal for the passage of armed naval vessels from the Mississippi river to Lake Michigan, and for other purposes, reported by the gentleman from Illinois [Mr. ARNOLD] from the Committee on Roads and Canals, and the further consideration of which was postponed until Tuesday, December 13.

Mr. ARNOLD. I move that the same order be made in reference to that bill that was made in reference to the bill for a ship canal around the Falls of Niagara.

Mr. WASHBURNE, of Illinois. To what day does my colleague propose to postpone it?

Mr. ARNOLD. To the same day.

The motion was agreed to.

#### COMMITTEE OF WAYS AND MEANS.

The SPEAKER stated that the Calendar having been exhausted, the next business in order was a call of the committees for reports.

Mr. STEVENS. I ask that, by unanimous consent, the Committee of Ways and Means shall have the privilege of reporting at a subsequent period of the day.

There was no objection, and the motion was agreed to.

#### REPEAL OF COMMUTATION CLAUSE.

Mr. SCHENCK, from the Committee on Military Affairs, reported back the remonstrance of J. L. Reilly, and two hundred others, against the repeal of the commutation clause; which was laid on the table, and the report ordered to be printed.

#### UNEMPLOYED GENERAL OFFICERS.

Mr. SCHENCK, from the same committee, reported back House bill No. 586, to drop from the rolls of the Army unemployed general officers, with the recommendation that it do pass.

The bill was read.

Mr. SCHENCK. The committee recommend an amendment to strike out the 1st and substitute the 15th day of February.

Mr. COX. I will ask my colleague whether this is the same bill which was proposed by him at the last session of Congress.

Mr. SCHENCK. I was about to explain. The first section is the same, with only the change of date, so as to make it prospective now as it was then.

There is, however, a second section to make

the bill continuous in its operation, so that on the last day of next February, and the last day of each month thereafter, there shall be a revision of the rolls of the Army, and all general officers who may be found on the last day of any month not to have been employed in any way corresponding to their rank, for the three months then next preceding, shall be dropped as provided in other cases in the first section. The effect of the second section is to make the bill continuous in its character. That is the only amendment to the bill of last year.

Mr. COX. I remember when my colleague introduced his bill at the last session, my friend from New York, [Mr. KERNAN,] as well as myself, offered amendments. I do not know whether they are pertinent to this bill or not; and I want to understand whether this is entirely a new bill.

Mr. SCHENCK. It is a new bill.

Mr. COX. What has become of the old one? Mr. SCHENCK. That bill hangs in the Senate. The old joint resolution, for this is a bill and that was a joint resolution, is substantially the same with the exception of the date.

Mr. COX. I would have no objection to vote for this bill, provided the proper guards are thrown around it by which the officers who are to be dropped shall have a fair trial. That was the amendment of my friend from New York, [Mr. KERNAN,] at the last session. The President of the United States can now, at any time, drop any of these officers for incompetency and inefficiency.

I have not learned the necessity, since the last session of Congress, of passing this measure, when the head of the Army has already the right to drop these officers. I do not know why the Senate does not pass the bill sent to them by this House; perhaps my colleague can inform me. They may have some reason for not passing it that the minority did not comprehend last year. I would ask my colleague to state, if he knows, why it is that the Senate does not pass it.

Mr. SCHENCK. It is as much as I can do to answer for the action of this House so far as I am concerned as one of its component parts. I certainly cannot tell why the Senate does or does not legislate upon any given subject.

Mr. COX. I think my question was hardly a proper one to my colleague, and I withdraw it. But I am opposed to the measure.

Mr. SCHENCK. I do not propose to reargue the merits of the proposition reported from the Military Committee. The joint resolution, as passed by us last session, was discussed until no one seemed desirous of discussing it any longer; and amendments were proposed and disagreed to by the House. The joint resolution was passed, but the evil continuing to a very considerable extent, though not to quite so great an extent as at that time, and the committee, not knowing why the Senate have not acted upon that joint resolution, have embodied the substance of it in a section of the bill they have now reported. They have further added to the provision a section which will make the operation of the bill continuous in its application. There are no new principles involved, no new questions to be raised, and as the subject was thus discussed last session, and subsequently presented to the House again by the committee, I will move the previous question upon the passage of this bill.

The previous question was seconded and the main question ordered.

The question occurred on the amendment to strike out "1st of February" and insert "15th of February;" and it was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was put, and it was decided in the affirmative—yeas 99, nays 38, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Branderage, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Cravens, Thomas T. Davis, Dawes, Dawson, Deming, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, English, Farnsworth, Fick, Garfield, Grinnell, Griswold, Hate, Harrington, Higby, Holman, Hooper, Hutchins, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingalls, Jenckes, Kasson, Francis W. Kellogg, Orlando Kellogg, Knox, Law, Lazear, Le Blond, Littlejohn, Longyear, Marvin, McAllister, McClurg, McJude, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers,

Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stuart, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Benjamin Wood, and Yeaman—89.

NAYS—Messrs. James C. Allen, Augustus C. Baldwin, Brooks, James S. Brown, Chauler, Cox, Denison, Eden, Eldridge, Ganson, Grider, Harding, Herriek, Kathfisch Kernan, King, Knapp, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, Norton, John O'Neill, Pendleton, Samuel J. Randall, Ross, Scott, John B. Steele, William G. Steele, Stevens, Stiles, Townsend, and Wadsworth—38.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Bliss, William G. Brown, Clay, Coffroth, Creswell, Henry Winter Davis, Dumont, Fenton, Frank, Gooch, Hall, Benjamin G. Harris, Charles M. Harris, Hutchins, Philip Johnson, William Johnson, Julian, Kelley, Loan, McBride, Middleton, Samuel F. Miller, Nelson, Odell, Perry, Pruyn, Radford, William H. Randall, Robinson, Rogers, Strouse, Sweet, Tracy, Voorhees, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—45.

So the bill was passed.

Mr. SCHENCK moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MAJOR WILLIAM H. JAMESON.

Mr. GARFIELD, from the Committee on Military Affairs, reported back a bill (S. No. 329) for the relief of William H. Jameson, a paymaster in the United States Army.

The bill, which was read, requires the proper accounting officer of the Treasury to allow Major William H. Jameson, on settlement, a credit of \$959 14, for money in his hands as paymaster of the Army, on board the steamer Ruth, destroyed by fire on the night of the 4th of August, 1863.

Mr. HOLMAN. I should like to hear some explanation of that bill.

Mr. GARFIELD. A bill passed both Houses of Congress at the last session, in connection with which there was a full investigation of the circumstances attending the burning of the steamer Ruth, and a credit was given to Major N. S. Brinton of \$2,600,000, for currency which was in wooden boxes, burned on board that steamer.

It was also in evidence before the committee, as will be found in the printed report of last session, that there were several paymasters' safes on board the Ruth at the time of her destruction, and that these were in part recovered, and that some fragments of bills, not entirely destroyed, were delivered up to the Treasury agent. This bill has reference to one of the paymasters, who had his money in one of these safes. There was only about nine hundred dollars of it, and he had paid out of that sum about two hundred and fifty dollars to two officers whose names he had entirely forgotten, and the vouchers for these payments were in the safe and were destroyed.

Mr. WASHBURNE, of Illinois. If the gentleman will permit me, this, I believe, is one of a class of cases in regard to money which was lost on board the Ruth. During the last days of last session this House passed a bill, which I think became a law, for the relief of Major N. S. Brinton, but that bill contained a provision which is not in this bill, but which I shall ask leave to have incorporated in it, that the case should be examined by the Paymaster General, and that the allowance of the credit should be subject to his approval.

Mr. GARFIELD. I do not remember such a provision in the bill, though it may be there. The gentleman will find it on page 10 of the Private Acts of the last Congress.

Mr. WASHBURNE, of Illinois. Well, I know that the House put that provision in.

Mr. GARFIELD. I have no objection at all to having it inserted in this bill. It has passed the Senate, and has been examined by the Committee on Military Affairs. On comparing the facts in this case with the report in the other case, we find that it belongs to the same class.

Mr. FARNSWORTH. I will ask the gentleman from Ohio if it is not understood that this matter has already been fully examined at the Department.

Mr. GARFIELD. It has passed through all the Departments of the Government, and they have referred the party to Congress as his only remedy. The evidence is full and satisfactory that this money was utterly destroyed except such payments as were returned to the Treasury agent

who was on the ground when the divers examined the wreck, and those were returned to the Treasury and destroyed, so that fraud is hardly possible.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio referred me to the act in relation to Major Brinton, and I understood him to say that it did not contain any such provision as I suggested.

Mr. GARFIELD. I have not looked at the act. It may be there.

Mr. WASHBURNE, of Illinois. I will read the act:

"That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to allow Major N. S. Brinton, on the settlement of his accounts, a credit of \$2,600,000 for money in his hands as paymaster in the Army, on board the steamer Ruth, and destroyed by fire on the night of the 4th of August, 1863."

Now, this is the part of the act to which I referred, and I thought I was not mistaken:

"if, on examining the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to such credit; but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof."

That is an amendment which I drew up. The gentleman from Pennsylvania [Mr. STEVENS] accepted it, and the House embodied it in the law. I only desire to have this claim put upon the same footing, and I presume the gentleman will have no objection to that.

Mr. GARFIELD. I will say to the gentleman from Illinois that the bill, as introduced by the Military Committee of the House, did not contain the clause which he has read; I remember now that the bill that finally passed came from the Senate.

Mr. WASHBURNE, of Illinois. I knew that I was not mistaken. If the gentleman from Ohio will consent to this amendment, I will offer no further opposition to his bill.

Mr. GARFIELD. I will do so. Let that clause be added to the bill.

Mr. WASHBURNE, of Illinois. The amendment is, to add to the bill the words, "if, on examining the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to said credit; but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof."

Mr. GARFIELD moved the previous question. The previous question was seconded and the main question ordered, which was first on the amendment.

The amendment was agreed to.

The bill, as amended, was then ordered to be read a third time, and was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BUSINESS ON SPEAKER'S TABLE.

Mr. STEVENS. I move that the House do now proceed to the business on the Speaker's table.

There being no objection, the motion was agreed to.

#### COMMISSION ON TAXATION.

The House proceeded, as the first business on the Speaker's table, to the consideration of a joint resolution (S. No. 78) providing for the appointment of a commission on the subject of raising revenue by taxation.

The joint resolution was read. It authorizes the Secretary of the Treasury to appoint a commission, consisting of three persons, to inquire and report, at the earliest practicable moment, as to the best and most efficient mode of raising, by taxation, such additional revenue as may hereafter be found necessary to supply the wants of the Government, having regard to the sources from which the same shall be derived, and gives power to the commission to take testimony in such manner and under such regulations as may be prescribed by the Secretary of the Treasury, and appropriates such sum as may be necessary to defray the expenses of the commission, including the pay of witnesses.

The SPEAKER. On the 4th of July last the previous question was ordered on the passage of the joint resolution. The gentleman from Ohio [Mr. LeBlond] moved that the joint resolution

be laid on the table. On that motion the yeas and nays were ordered, and the House then adjourned. The question is now on the motion to lay the joint resolution on the table, on which the yeas and nays have been ordered.

Mr. MORRILL. If the motion to lay on the table be voted down will not the question then be on the passage of the joint resolution?

The SPEAKER. It will be.

Mr. FARNSWORTH. I wish to inquire if we have not got a committee of the House for the very purpose contemplated by the joint resolution.

The SPEAKER. The Chair will state that the House is acting under the previous question.

The question was taken, and it was decided in the affirmative—yeas 69, nays 65, not voting, 48; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Blow, Brandegee, Cobb, Cole, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Dixon, Eckley, Eden, Edgerton, Eldridge, English, Farnsworth, Fluck, Ganson, Grider, Harding, Harrington, Higby, Holman, Asahel W. Hubbard, Jenckes, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Knapp, Le Blond, Long, Mallory, Marvin, McClurg, McDowell, McIndoe, McKinney, Daniel Morris, James R. Morris, Morrison, Noble, John O'Neill, Samuel J. Randall, James S. Rollins, Ross, Shannon, Spalding, Starr, William G. Steele, Stevens, Stiles, Stuart, Thayer, Thomas, Wadsworth, Elihu B. Washburne, Williams, Wilder, Wilson, Benjamin Wood, and Yeaman—69.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blair, Boutwell, Boyd, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Thomas T. Davis, Deming, Donnelly, Driggs, Eliot, Frank, Garfield, Griswold, Herrick, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Ingersoll, Kelley, Littlejohn, Longyear, McAllister, McBride, William H. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Pendleton, Perham, Pike, Pomeroy, Price, Radford, John H. Rice, Schenck, Scofield, Scott, Sloan, Smith, Smithers, John B. Steele, Townsend, Upson, Van Valkenburgh, William B. Washburn, Whaley, Wheeler, and Windom—65.

NOT VOTING—Messrs. Baily, Baxter, Blaine, Brooks, William G. Brown, Clay, Coffroth, Creswell, Dawes, Dumont, Fenton, Gooch, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Hutchins, William Johnson, Julian, King, Knox, Law, Lazear, Loan, Marcy, Middleton, Samuel F. Miller, Nelson, Odell, Patterson, Perry, Pruyn, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Strouse, Sweet, Tracy, Voorhees, Ward, Webster, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—48.

So the joint resolution was laid on the table.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was laid on the table, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REVENUE CUTTERS FOR THE LAKES.

The SPEAKER. The next bill on the table is Senate bill No. 350, to authorize the purchase or construction of revenue cutters on the lakes.

The bill was read a first and second time. It proposes to authorize the Secretary of the Treasury to construct or purchase and alter not exceeding six steam revenue cutters for service on the lakes, and appropriates \$1,000,000, or so much thereof as may be necessary, for that purpose.

Mr. WASHBURNE, of Illinois. This bill contains an appropriation of money, and if there be any objection to its consideration, it must, as a matter of course, go to the Committee of the Whole on the state of the Union. I hope, however, that the House will hear read the letter of the Secretary of the Treasury on this subject which I send to the Clerk's desk, and that there will be no objection to the immediate passage of this bill for the protection of our commerce and to prevent smuggling on the lakes.

The SPEAKER. As this bill contains an appropriation, it will require unanimous consent for its consideration by the House at the present time. The letter of the Secretary of the Treasury will be read, after which the Chair will ask for objections, if any.

The Clerk read the following letter:

TREASURY DEPARTMENT, December 8, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, requesting information as to the number of revenue cutters now on the lakes, their efficiency, and the necessity for their increase.

The number of cutters heretofore maintained on the northern lakes was six. They were sailing vessels, and of such build and rig as to prevent their cruising with efficiency. In 1861 five of them were directed to be brought down the St. Lawrence to the Atlantic coast, in the hope that they might be used advantageously in the preventive service. One was left upon the lakes, but found to be worthless, and sold. During the last winter a contract was made with parties to build an efficient steamer for revenue

service on Lake Erie, which vessel is so nearly completed that her trial trip has been ordered for to-day. This is the only steamer belonging to the Government applicable to revenue purposes on all the lakes.

The necessity, however, for preventing smuggling along our northern frontier, which the Government has satisfactory evidence is carried on to a great extent, induced the Secretary to charter two steamers for temporary service, one on Lake Erie and one on Lake Ontario. One of these vessels was lost on entering the harbor of Cleveland, and the charter of the other has expired and she has gone out of service.

I therefore recommend that authority be given to build or purchase five efficient steam vessels for the use of the revenue department on the northern lakes, which, in addition to the one just completed, will make the number of cutters previously employed.

It is possible that the number here recommended may not all be required. The great length of the coast to be guarded, and in some parts its close proximity to the Canadian shore, demand constant vigilance, and the proper authority should be conferred to meet all contingencies.

If possible such vessels should be completed and commissioned by the opening of navigation.

I am, very respectfully, your obedient servant,

W. P. FESSENDEN,  
Secretary of the Treasury.

HON. JOHN SHERMAN.

The SPEAKER. Is there objection to the consideration of this bill by the House at the present time? The Chair hears no objection.

There being no objection, the bill was read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote on the passage of the bill, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

Mr. BALDWIN, of Massachusetts. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. Is it in order to move that when the House adjourns it adjourn to meet on Friday next?

The SPEAKER. Yes, sir; that motion would take precedence of the motion to adjourn.

Mr. BROOKS. I make that motion.

A MEMBER. Say till the 4th of January.

Mr. BROOKS. The Constitution forbids that; otherwise I would.

The motion of Mr. Brooks was not agreed to.

The question was taken on the motion to adjourn, and it was decided in the negative—yeas 55, nays 82, not voting 45; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Allison, Ancona, Anderson, Arnold, Baily, Beaman, Boutwell, Boyd, Brandegee, James S. Brown, Chanler, Freeman Clarke, Dixon, Driggs, Eckley, Eden, Eldridge, Farnsworth, Gooch, Grider, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Kalbfleisch, Kelley, Francis W. Kellogg, Knapp, Lazear, Le Blond, Longyear, Marcy, McAllister, McDowell, McIndoe, James R. Morris, Morrison, Norton, John O'Neill, Pike, John H. Rice, Scott, Smith, Smithers, Spalding, John B. Steele, William G. Steele, Stevens, Stuart, Van Valkenburgh, Wadsworth, Elihu B. Washburne, and Wilson—55.

NAYS—Messrs. Alley, Ames, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Blair, Brooks, Broomall, Ambrose W. Clark, Cobb, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Denison, Donnelly, Edgerton, Eliot, English, Finck, Frank, Ganson, Griswold, Hale, Harding, Herrick, Higby, Holman, John H. Hubbard, Hulburd, Philip Johnson, Orlando Kellogg, Kernan, Knox, Law, Littlejohn, Loan, Long, Mallory, Marvin, McClurg, McKinney, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, Orth, Perham, Pomeroy, Price, Radford, Samuel J. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Ross, Shannon, Sloan, Starr, Stiles, Sweet, Thayer, Thomas, Townsend, Tracy, Upson, William B. Washburn, Whaley, Wheeler, Williams, Wilder, and Windom—82.

NOT VOTING—Messrs. Bliss, Blow, William G. Brown, Clay, Coffroth, Cravens, Creswell, Dumont, Fenton, Garfield, Griswold, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hutchins, Jenckes, William Johnson, Julian, Kasson, King, McBride, Middleton, Samuel F. Miller, Nelson, Patterson, Pendleton, Perry, Pruyn, William H. Randall, Robinson, Rogers, Schenck, Scofield, Strouse, Voorhees, Ward, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—45.

So the House refused to adjourn.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill and joint resolutions of the following titles, in which they asked the concurrence of the House:

A bill (No. 352) to authorize the holding of a special session of the United States district court for the district of Indiana;



Joint resolution (No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in her conflict with the piratical craft, the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864;

Joint resolution (No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, United States Navy, and to the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albatross, in compliance with the President's recommendation to Congress of the 5th of December, 1864.

#### SURVIVING SOLDIERS OF WAR OF 1812.

Mr. FARNSWORTH moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WASHBURNE, of Illinois. I hope that it will be the understanding that no business shall be done.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair.)

The CHAIRMAN stated the first business in order to be the annual message of the President relative to the condition of the country.

Mr. SPALDING. I move that all preceding orders be laid aside, and that the committee take up House bill No. 266, granting pensions to the surviving soldiers of the war of 1812, which was introduced by me at the last session.

The CHAIRMAN. That can only be done by disposing of the preceding bills one at a time.

Mr. COX. Is it in order to move to take up the question of taxing whisky on hand? [Laughter.]

The CHAIRMAN. Not at this time; it is too early in the day.

Mr. SPALDING moved that the annual message of the President be laid aside.

The motion was disagreed to.

#### PRESIDENT'S MESSAGE.

Mr. BROOKS. Mr. Chairman, I intimated my design, when the President's annual message was received, to make some remarks on it; but I have lost some of the interest which might have been inspired at that moment. And yet if I do not take advantage of this opportunity now, when there is nothing to do, the topics of the message may pass beyond my reach, so that little time may be left for me to say anything if the message should ever come up again. I avail myself, then, of this early period of the session not to waste time, and when it is the good fortune of the House and of the country not to have anything to do.

There are, sir, two cardinal topics in the message of the President to which I wish particularly to solicit attention; and these are, first, that the war must go on without further negotiation; and, second, that the war must go on until the abolition of slavery is made perpetual throughout all portions of the old United States.

Mr. GRINNELL. I make the point of order that it is not in order to discuss the President's message of this year upon the Calendar of the last session.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BROOKS. I intend to discuss the President's message of this year, and the topics therein set forth. Permit me, first, to call the attention of the House to the numerous amendments which are proposed to the Constitution. One of them is to change the principle of representation, proposed by the gentleman from Wisconsin, [Mr. SLOAN;] another is to change the great principle of the Constitution as to export duties, proposed by the honorable member from Maryland, [Mr. DAVIS;] and another comes down to us from the Senate, with the sanction of the President of the United States, and that is, to alter the Constitution on the subject of slavery. No time seems to me more inauspicious than in the midst of civil war, with the clangor of arms all around us, with comparatively but a small territorial part of our whole country assembled by their Representatives upon the floor of this House; no time, sir, seems to me more inauspicious to make great

fundamental changes of the Constitution of the United States.

But it is said that slavery is the stumbling-block in the way of the restoration of the Union, and that without the abolition of slavery it is not possible for us, now or hereafter, to live on terms of amity and peace with our former southern countrymen. I do not now, or at any time this session, propose to rediscuss this topic of slavery. I have nothing new to say upon it, or but little to take back. I adhere to the opinions which I have heretofore advanced on that subject on the floor of this House, and, in the main, to the opinions which I have held for twenty-five to thirty years, and which some not unkind friend has reproduced for the reading of the House from a newspaper I wrote for, years and years ago. These opinions are but little changed. I do not, however, intend to discuss the abstract question of slavery at all, or its political or constitutional connections with the Government of the land.

The approval of the system of slavery, Mr. Chairman, and the acceptance of it as an institution existing, are very different things. I accept it, if I do not approve. The Constitution of my country teaches me to be tolerant in all things, even in the most important of all matters, that of religion. Intolerance is criminal at all times; but intolerance is repelled under our form of Government in every line and letter of the Constitution under which we live; and if the Constitution did not teach me that, the Bible does. Sir, when the Saviour was on earth He lived under a Government where there were sixty million slaves; and when, from the Mount of Olives, He ascended into heaven, His eyes looked down upon Jerusalem and Judea, full of thousands and tens of thousands of slaves. And when the Apostle Paul stood upon Mars' hill, after wandering among the magnificent temples of the Acropolis, some of them dedicated to the unknown God, he preached to the Athenians, surrounded by their masses of slaves, no intolerance, no persecution, no civil war for the abolition of slavery; but if not there, elsewhere, Servants, obey your masters. The teachings of our Saviour were also to render unto Caesar the things that are Caesar's, and to God the things that are God's, with submission to civil government and the Christian obedience even of slaves to their masters. The whole spirit of the evangelists is full of like toleration to an institution which, in the end, the lessons of Christianity were to subvert, but the overthrow of which, by violence and force, is there everywhere condemned.

If, then, the Saviour of the world and His apostles were thus tolerant upon the subject of slavery, why cannot there be equal toleration among His professed people in their administration of the Government in this country? Toleration, indeed, is the essential principle of our institutions. Toleration pervades every part of our social organizations. We are tolerant of the Jew, who does not believe in the Saviour. We are tolerant of those Christians who do not respect our Sabbath. We are tolerant of a great and rising State in the center of this continent, which has now one hundred and twenty-five thousand inhabitants, and a city of twenty thousand people. We are tolerant there upon the subject of polygamy, expressly forbidden in the New Testament, if tolerated in the Old; tolerant, though expressly forbidden by the Saviour and His apostles; and these people from this great Territory are admitted to a seat upon the floor of this House, and take part in our deliberations and debates, while we are in a frightful civil war now seemingly only to abolish negro slavery.

And now are we to be told at this day and hour that we cannot be tolerant upon this subject of slavery, when not only the Saviour and apostles tolerated it, but when the patriarchs Abraham, Isaac, and Jacob were holders of bondmen and bondwomen? Let me not be misunderstood; I do not mean to be understood as saying that the spirit of the Bible upholds slavery, and I do not mean to say there are not teachings in the sermons of our Saviour and the apostles which in the end would abolish slavery through the whole earth; but I do mean to say that not only the Saviour and the apostles, but that the fathers of the Church were tolerant with slavery, and that for more than a thousand years the fathers of the Church exercised a religious and political influence through the emperors of Rome in uphold-

ing the institution of slavery from abolition by force or violence, while they left it to be abolished by the peaceful and graceful influences of Christianity.

Mr. PRICE. As the gentleman quotes scripture so glibly, and refers to the fathers of the Church so readily, I wish to ask him if he has read where it is written that the time of this ignorance was winked at, but that now He commands all men, everywhere, even McClellan Democrats, to repent?

Mr. BROOKS. I do not know who has given the gentleman any superior wisdom that enables him to say that this is a wiser age than the age of our Saviour, of the apostles, and of Abraham, and Isaac, and Jacob.

I was about to say that the Church was over a thousand years in abolishing Roman slavery. And yet here in six months, by constitutional proclamation, or in five or six years by civil war, we propose to abolish it in blood and by violence through an empire almost as vast as the empire of Rome. Slavery was not abolished in England until 1102, by the council of London, and in Ireland until 1172, by the council of Armagh. As a matter of admonition, if not for history, let me here state that when, in 451, or 456, in the council of St. Patrick, held in Ireland, there was a proposition from some of the clergy to induce slaves to run away, the thirty-second canon of that council was expressly issued, ordaining that to steal slaves by inducing them to run away was to expose the clergy to be considered as thieves and robbers. The Church, then, while sapping the foundation of slavery, expressly forbade all violence, all wrong.

But homogeneity, we are told, must exist through the hitherto thirty-four States of this Union. The Union cannot exist unless we are a homogeneous people. No matter whether slavery be right or wrong, Christian or unchristian, it must be abolished, we are told, this day and this hour, in order to make us a homogeneous, a united, a one and indivisible people. Sir, homogeneity can never exist in a great nation, among a great people. Look at the great nations now covering large extents of the globe. There is the Russian empire—what an empire! what different institutions, what various tribes! How unlike—unlike in manners, unlike in character, frequently unlike in origin. And there is the great empire of Austria, which, stretching from Italy to Hungary, contains races of all varieties of character. Twelve different languages are spoken in that empire, and its institutions are as diverse as can well be imagined; its people are unlike, various, and different—more different than any people that exist in this country. And there is Switzerland, too, the only republic existing in Europe, except that little one perched on the Apennines—an old republic of twenty-five cantons, in which are spoken three different languages—the Italian, the German, and the French—the debates, at times, in their general congress going on in all these three tongues. The habits, the customs, the costumes, too, of the Swiss are more or less diverse. The canton of Zug varies more from the canton of Neuchâtel than Massachusetts and South Carolina. The religion is Catholic and Protestant, and Protestant of various creeds and characters, and yet in that republic no effort whatsoever has ever been made by that republican people to have homogeneous institutions or one people alike in all respects as to their character. Then there is Great Britain, that vast empire which stretches from the arctic regions of the north to the Ganges and the Himalaya mountains, and which embraces even in India over a hundred million people; what empire is more tolerant than that in its diverse and varied institutions? There is Catholic Canada, with French institutions yet existing there, and with no right of trial by jury among many portions of the people of Canada. In India there are diverse and innumerable religions and peoples; the Hindoos, the Brahmins, the Sepoys. I should but consume time were I even to enumerate them. No nation has been more tolerant of religion, of prejudices, of politics and passion than the British people have been. This vast empire of Britain has only been maintained by the tolerant spirit of the British Parliament and the British Government extending throughout the whole earth, in all the varied domains of that vast empire. No effort has ever been made in England by any edict

of the British Parliament at any time, or on any occasion, to have a homogeneous people. There is no centralization, no consolidation there. Even when the Sepoy went to war, civil war, against the empire of Great Britain, because he was compelled to bite greased cartridges contrary to his religion, the empire and authorities of Great Britain respected the miserable prejudices of the Sepoy, abolished the order, and restored peace throughout all that vast empire.

Mr. KASSON. Will the gentleman allow me one word? If I understand the direction of his argument, it relates to the necessity of the abolition of slavery in order to result in the homogeneity of the American people. In connection with his review of European systems, I ask him to explain, if he can consistently with his theory, why it has been found necessary in England, and France, and Denmark, and Russia, and Holland, to abolish the institution of slavery in order to establish satisfactorily to them what they consider the homogeneity of their institutions?

Mr. BROOKS. The gentleman cannot yet comprehend the whole course of my argument, but I will answer his question by saying, so far as Great Britain is concerned, that, in my judgment, slavery was abolished in her distant British West India colonies mainly to destroy this country and to rend this Union, and for no other purpose. [Laughter on the Republican side of the House.]

Mr. KASSON. How with France, and Denmark, and Holland, and Russia?

Mr. BROOKS. The system of servitude which exists in Russia is not slavery. The people there are not slaves; they are *adscripti glebe*—servants belonging to the soil—and that system has been changed, or is being slowly changed gradually, and not by civil war. But those institutions were not abolished in order to make or unmake the homogeneity of institutions in Europe, but for other purposes. It would divert me too far, however, from the line of my argument to enter upon that point now.

But, sir, I was about to say that not only throughout the vast empire of Great Britain there existed none of this homogeneity of institutions, but that even in the little islands of Great Britain and Ireland there was no homogeneity there. There is the Celt who speaks one tongue across the Irish Channel; there is the Welshman who looks over across that Channel, and speaking another tongue; then there are Englishmen with their various dialects in Lancashire and Yorkshire and in other counties; and there are the Gaels in Scotland who speak a language utterly incomprehensible to the great mass of the English people. Any man who has traveled over that country, as I did twenty-five years ago with a pack upon my back, throughout the whole of Lancashire and Yorkshire and those border countries, can bear testimony to this fact, that in a day's or half a day's travel among the people in that part of the country, you pass among men whose institutions not only differ far more than the institutions of the North and the South, but you go among a people speaking a language not only incomprehensible to you, but to those who are upon their borders. Thus any traveler who passes beyond the Lowlands, perhaps with some Lady of the Lake for his guide-book, into the Highlands of Scotland, will soon find that as he goes north from Stirling castle he goes among a foreign people, with foreign institutions, speaking tongues far different from those of the great majority of the English people. The wise people of England, the wise Government of England have never attempted to have homogeneity of institutions; not only throughout their vast empire, but even in their own little islands, they have respected the rights, the privileges, the prerogatives of the Welsh, the Celts, the Gaels, and the other varieties of men throughout all parts of England, and it is only by this spirit of toleration, this noble spirit of toleration, this worthy conciliatory spirit of the nation that that vast empire of England has been able to stretch its power beyond its own little domain all over the earth, encircling the globe, as has been well said, by the beat of its drums that greet the rising of the morning sun.

Homogeneity never existed throughout the vast Roman empire. It was not attempted by the dictators of Rome; and it never was attempted subsequently by the emperors of Rome. But

autonomy, or self-independence, was the principle on which the great Roman empire was reared and maintained, and not only so, but it was the only principle on which that Government was enabled to sustain itself in its vast aggregation of territory. When Julius Cæsar conquered the Gauls he did not take away from the barbarian people of Gaul their local institutions, their self-government, the government of their chieftains. He left all that to them. And when Pompey invaded the Asiatic cities and subjected them to the Roman empire, he left to those Asiatic cities the government and control of their own local institutions; and their self-government in that manner attached them to the empire. To the Ionians were reserved their archons and prytanes; to the Dorians, their ephori and cosmi; ay, to all the Grecian cities and States, more or less, their local institutions, their magistrates, their self-government, their peculiar institutions. Coining was allowed to some; fiscal regulations to others. Confederations were allowed to exist in Greece long after the domination of the Roman empire. There was not only the well-known Amphictyonic, but the Panionian, the Bæotian, the Achæan. Autonomy, as far as possible, homogeneity seldom, if ever, was the Roman rule. The self-government of the subject States was as much as possible preserved. Their local institutions were maintained and invigorated. And it was by the preservation of their self-government, and of those local institutions, that the vast empire of Rome was maintained for so many years, and was perpetuated from age to age, often even under the worst of emperors.

Mr. BOUTWELL. I would like to ask the gentleman from New York whether he did not state in this House at the last session that the institution of slavery was dead in this country.

Mr. BROOKS. I stated in the opening of my remarks that I have nothing to unsay in what I said in that speech.

Mr. BOUTWELL. I would like a distinct answer to the question which I put.

Mr. BROOKS. My speech is on record; and I have not a word to take back of it.

Mr. BOUTWELL. Will the gentleman allow me a single moment?

Mr. BROOKS. Certainly.

Mr. BOUTWELL. If the statement of the gentleman at last session be a fact, that the institution of slavery is dead, I would like to know how any action of the Government can affect the local institution of slavery in this country.

Mr. BROOKS. Then why should you try to kill a dead body?

Mr. STEVENS. But we ought to bury it lest it become noxious.

Mr. BROOKS. But that is no reason why we should have a wake over it. The whole country has become intoxicated on this subject of slavery, and in the midst of that intoxication this civil war is kept up.

I am calling the attention of the House, Mr. Chairman, to these historical facts because they are perfectly applicable to our times, and to our day. History but repeats itself. There is but little new in the history of man. Man but repeats over what preceding man has done. I was about to say, when interrupted, that the great Augustus Cæsar, whose empire stretched in the west from the pillars of Hercules to the Tigris and Euphrates in the east, from the hundred-gated Thebes in the south to the Ultima Thule of Britain in the north, embracing an empire so vast that Ovid wrote of it, "when Jupiter looked out from the portals of heaven he saw nothing but what was Roman," *nil nisi Romanum*; that great founder of the Roman empire over millions of human beings, that wise and wonderful man, never attempted any homogeneity of institutions. But, throughout all that vast territory, as far as was possible, there was left to the people of the empire their autonomy or self-government, their local institutions. The Parthian, the Indian, the Scythian, the Sarmatian, the Briton, the Egyptian, each and all had reserved to them their local institutions, their local religions, their local governments. The gods of Egypt and the gods of Gaul, the gods of Athens and the gods of Asia, were worshipped, if not in the Capitol of Rome, at least in its close vicinity. And Augustus Cæsar himself caused sacrifice to be offered in the holy temple of the living God, in Jerusalem. All religions, all policies, more or less, were tolerated, only in subordination

to the great head of the empire at Rome. And it was the foundation of that empire in the spirit of toleration that kept it together for hundreds and hundreds of years, and which made the name of Cæsar illustrious, not only throughout that whole land, but sent down that name immortal to all posterity as the name for czars and kaisers in the royal houses of kings and emperors.

I repeat, then, that if we pay attention to the teachings, to these examples of history, we must see that homogeneity is not a possible condition for a great people. Centralization, consolidation, are the English words which we substitute for the term homogeneity. Centralization and consolidation is nothing but unlimited despotism. There is no freedom for the people, no self-government, no municipal government, no household government, no family government under such a system. There is no other government worthy of a free people; there is no other government which can maintain the rights and prerogatives of the people but one which shall be founded on some other principle than that of consolidation and centralization. It was not possible for Rome; it was not possible for Athens; it will not be possible for the Government at Washington, with all the telescopes which they may mount upon the highest pinnacles in this city, to look over the vast territory from Passamaquoddy to the Rio Grande and Oregon, and to regulate the local rights and privileges of the millions and millions of people that not only exist now, but are hereafter to exist throughout this vast territory. Even the Puritans taught us better lessons than consolidation and centralization, though their sons have forgotten that lesson. Liberty was cradled in their municipal institutions; and liberty is cradled in the family, in the county, the town, the city, and the State, and not in the federal central Government. The federal Government is to maintain liberty, but it is not its birthplace, its cradle, its nursing mother. For the cradle of human liberty, I repeat, is in the household, in the family, in the home, in the city, the county, and the State; and wherever other institutions, the product of centralization or consolidation, exist, as in France or in Russia, there must exist despotism.

Mr. L. MYERS. Will the gentleman from New York [Mr. Brooks] permit me to ask him a question?

Mr. BROOKS. Certainly.

Mr. L. MYERS. I should like to know if at the last session the gentleman did not tell us that we were taught intolerance by the Puritans.

Mr. BROOKS. That may be true. But they taught us many good things. They had some virtues as well as faults. They were right in their local institutions.

Now I have dwelt thus long upon this subject in order to approach another topic, and that is to say that if this homogeneity, this centralization is persisted in, this war must go on until the subjugation of the South follows. In my judgment no two more fatal errors exist, or have existed, or can exist, than that this is to be a short civil war, or that our hitherto southern countrymen can ever be subjugated to this empire of centralization and consolidation. Civil wars are never short when a people are in earnest, as the people of the North and the people of the South are now; we, in earnest for anti-slavery and consolidation; they, in earnest, as they say, for the maintenance of self-government. No war like that can be ended in ninety days, or in a summer's campaign, but is to be a war of years and years. Whatever we may say of the South, the earnestness of that people, their indomitable and furious character, show that in a war to subjugate them extermination must follow.

All civil wars of like character, and waged with like spirit, have lasted for years. The Peloponnesian war lasted twenty-seven years, and ended in the ruin of Greece. The civil wars of Rome lasted for years and years. The wars of the houses of York and Lancaster lasted thirty years. The war of the German confederation lasted thirty years; and for over forty years raged the civil war in Holland and the Netherlands, when an effort was made by the King of Spain, under the Duke of Alva, to subjugate the people of Holland and the Netherlands to the Inquisition and taxation of Spain. All history shows that our civil war is to be long, if not endless, if it is to be conducted in the spirit in which it is conducted now. It is not

to be a war, then, of ninety days, nor of four years, nor of this Administration alone; but it is to be a war to be passed on from Administration to Administration, throughout all time, until the spirit of toleration is once more revived in this country, and we learn to revere the lessons our fathers left to us.

The subjugation of eight million people! It is an utter impossibility; it cannot be done. The outward man may be subjugated. He may be made to bend, to cinge, to bow, to take the oaths of allegiance. With bayonets surrounding him, you may for a time take from him all outward manliness. But the spirit within him, with which God has inspired him, can never be subjugated by mortal man. The soul is indomitable, although you may have the outward profession of obedience. This subjugation can never be even apparently perfected only by the constant outward exhibit of bayonets. But whenever that exhibit is withdrawn insurrection and armed rebellion will follow. This nation may be made a nation of soldiers, but if it be made a nation of soldiers altogether, I repeat again that men of our kith and kin, men of our blood and our soul, men educated in our institutions, and inspired by the education which has been given to us by our ancestors, such men, whether right or wrong, can never be subjugated. God never made the race we are born of to be subjects or slaves.

All Europe—France, England, Russia, all combined—can never subdue my own native State of Maine. You may drive the people from the seacoast, but they will go to the mountains; you may desolate their hills and their valleys, but the spirit of the noble people of that gallant State can never, never be subjugated by the whole earth combined. Eight millions of like men, for like we are, with the same blood coursing in our veins, and spread over territory reaching from the Potomac to the Rio Grande, never, never can be subjugated by men of the same kith and kin. Not only human courage, but climate, soil, and a territory fortified by swamp and forest and malaria all forbid. Every wood in Virginia is a fortress. Every swamp in Carolina and Georgia is a ditch. The vastness of the territory to be subjugated is its great defense. Marion and Sumter in the swamps of South Carolina kept at bay for months the finest infantry of England under Lord Rawdon, and the best cavalry in the world under Colonel Tarleton.

I know that these truths are unpalatable; but it is quite time that they should be preached to our countrymen even if they do not like to hear. They are not new. They have all been preached in the English tongue before, and in another great civil war. I speak but the words which our noble ancestors upon the other side of the ocean spoke in the days of the Revolution, when they said that three millions of Englishmen in the American colonies of Great Britain could never, never be subjugated by the armed empire of England. Subjugation they pronounced to be utterly impossible in 1774-75, as I pronounce it now, in 1864.

But I am asked, "What are we to do? Are we to submit to rebels and the rebellion? Are we to lie down and let the rebels of the South ride over us? Are we to give up this great contest, and to surrender our holy Union and our sacred institutions?" I say, never; no, never! Never, I repeat—never are we to surrender the institutions that our fathers bequeathed us, or the unity that they bestowed upon us. But we are to resort to their lessons and their instructions for the salvation, the redemption, and the reintegration of this Union. What the people of the North desire is reunion and peace. What the people of the South desire is peace, not with dishonor, but peace with honor. We both desire peace; and why not, then, try to agree upon terms? Negotiation is the preliminary step to reconciliation. This is the lesson that our fathers have bequeathed to us. Convention, consultation—these are the great prevailing principles of our Government, and the only principles upon which that Government can be maintained and handed down to our children, unless we intend to be eternally in arms.

Tell me not that I am premature in these remarks. They are the words of Burke, and Fox, and Chatham, and Camden, and other illustrious Englishmen in the beginning of our Revolution, in 1772, in 1774, in 1776, and until the treaty of

peace in 1783. Let me call the attention of this House and of the country to some of the motions made in the British Parliament prior to the outbreak of our Revolution in 1776, and pending that Revolution.

In 1774, April 15, Lord North introduced into the House of Commons a bill to provide for the trial of Boston people who might be charged with violating the laws of England, not in Massachusetts, not in Boston, but providing for taking them to England and elsewhere to be tried. Loud was the remonstrance from Boston, and from Massachusetts generally, and from all parts of this then colonial country. But Lord North was sustained; the bill was carried in the House of Commons by a vote of 127 to 44, and in the House of Lords by a vote of 49 to 12.

In 1774, April 19, there was introduced a motion to repeal the tea duty, and Edmund Burke seconded that resolution. But Burke and those who agreed with him did not succeed. The people of England were no more willing to reason then than the people of the North or South are willing to reason now. The proposition was voted down—ayes 49, noes 182.

In 1774, November 30, in the new Parliament, the king sent in a speech adverse to the colonies—utterly adverse to their right to control their local institutions, their right of local self-government. There was great debate upon that; but the address was carried in the House of Commons by a vote of 264 to 73, and in the House of Lords by a vote of 63 to 13.

In 1775, January 20, in the beginning of the outbreak of our Revolution, Lord Chatham made his great effort in the House of Lords to have the British troops withdrawn from the city of Boston—to stop fighting, for fighting had begun in the city of Boston, and try consultation and conciliation with the good people of Massachusetts, in order to avoid the effusion of human blood. But Lord Chatham if heard was not heeded. The proposition was voted down (as a like proposition has been voted down in this House) by a vote of 68 to 18. On that occasion Lord Chatham said:

"Resistance to your act was as necessary as it was just, and your declaration of the omnipotence of Parliament, and your imperious doctrine of the necessity of submission, will be found equally incompetent to convince or enslave your fellow-subjects in America, who feel that tyranny, whether ambitioned by an individual part of the Legislature or the bodies who compose it, is equally intolerable to British subjects."

"I trust it is obvious to your lordships that all attempts to impose servitude upon such men, to establish despotism over such a mighty continental nation, must be vain, must be fatal. We shall be forced ultimately to retract. Let us retract while we can, not when we must."

The proposition of Lord Chatham was supported by Lords Shelburne, Camden, Rockingham, and Richmond, but was supported in vain. The British ministry was deaf to the eloquence of Chatham, and deaf to the reasoning of the surrounding nobility.

Lord Chatham then took another step. He proposed, if the colonies would recognize the supreme Government of England, to invite from the colonies a free gift of revenue; but this was rejected by a vote of 61 to 32.

In 1775, January 29, there appeared before the British Parliament, claiming a hearing, the illustrious Franklin, the well-known Butler, and the distinguished Lee. They asked to be heard at the bar of the House of Commons in behalf of the colonies of the United States, but they were not heard. They were refused a hearing because the British Parliament would not recognize the legal existence of any Congress of the United States.

In 1775, February 2, Lord North moved his address to the king against the colonies; Fox moved to amend that by censuring the ministry, but he failed by a vote of 304 to 105. The address was carried by a vote in the House of Commons of 296 to 106, and in the House of Lords of 87 to 27.

In 1775, March 22, Burke proposed concession, conciliation, and addressed the House on the subject. He was heard undoubtedly with far less patience than I am heard here to-day. His motion was rejected, 270 to 78. Lord North then exclaimed—and the like of which we often hear on the floor of this House—that Burke was but helping the rebellion.

In 1776, Congress petitioned the king to be

heard, and the petition was rejected as from an illegal body.

The Duke of Grafton then left the party in power, and joined the Opposition. The address to the king, however, was carried by a vote in the House of Commons of 176 to 72, and in the House of Lords of 75 to 32.

Burke then proposed conciliation again, and asked for the calling of a congress by royal authority to settle the difficulties. His proposition was lost by a large majority. It is a proposition which seems to me at this time, in the omnipotence of our power and the abundance of our victories, ought to come—I will not say from this, but from the other side of the House—that there may be consultation with the people of the South to see whether this horrible effusion of human blood cannot be stopped. But the proposition of Burke was lost by a large majority, although it was supported by Barré, Fox, and others; and Lord North was said at heart to favor Burke's proposition.

Lord North, however, soon after, as an organ of the king and ministry, introduced a bill prohibiting intercourse with the colonies. Martial law was declared, and the proposition was carried by a vote of 112 to 16 in the House of Commons, and 78 to 19 in the House of Lords. And it was about that time that the British ministry resolved not to trust to the people of England, of Scotland, and of Ireland for the restoration of harmony and peace, but to rely upon the Hessians. The Landgrave of Hesse-Cassel furnished 12,104; the Duke of Brunswick 4,084; the Prince of Hesse 668; and the Prince of Waldeck 670—17,526 Hessians in all. This proposition to employ these Hessians was carried in the House of Commons by a vote of 242 to 88. There exists at this time in Hesse-Cassel a beautiful palace, with beautiful grounds, called Wilhemshoe, and surpasses, in my judgment, Versailles, even, built by the purchase-money of these Hessians—money obtained from the British treasury; but no Englishman looks at it, beautiful as it is, without the blush of shame that the money of England was used to employ Hessians to subjugate the colonies.

In 1778, after Burgoyne's defeat, the people of England, for the first time, began to have some sense of the magnitude of the war they were undertaking.

Mr. BROOMALL. Let me ask the gentleman whether those movements to which he is referring did not lead to the success of the rebellion in the colonies.

Mr. BROOKS. I will say to the gentleman that Lord North, the Earl of Temple, and the Tories of England generally used the very words that we have heard so often on the other side of the House, "You are helping the rebellion." But if these men had been heard and heeded in the beginning of the American Revolution there would have been no war. If the wisdom of Chatham had been confided in the colonies would not have rebelled, and there would have been no separation from Great Britain. It was because the people of England and the ministry would not listen to the admonitions of these wise statesmen that the empire was broken up, and we became independent States instead of loyal colonies.

After the defeat of Burgoyne there once more arose a great debate in the British Parliament, in which Fox and Germaine participated. The words of Fox were admonitory, and so well worth remembering that I will read them. Fox was comparing Germaine to Dr. Sangrado—

"Bleeding, he said, has been his only prescription. Forten years that he has presided over American affairs, the most violent, seeping, tomahawking measures have been taken. If a people deprived of their ancient rights have grown tumultuous, bleed them. If they are attacked with a spirit of insurrection, bleed them. If they fever should have run into rebellion, bleed them, cries the State physician. More blood! More blood! Still more blood!"

This was the remedy of Lord Germaine. I will not say it is the only remedy of any member upon the floor of this House of Congress.

In 1778 Lord North, now awakened to the perils of the empire, proposed a consultation, but it was then too late. He proposed to repeal every anti-colonial act of Great Britain from 1763 to 1778, and he proposed to treat the Congress of the colonies as a body to be consulted. But it was too late. And here I beg gentlemen upon the other side to recall history, to be admonished by it, for history in this day is but a repetition of the past. Holland and France and Spain were



awakening, and Franklin and Laurens and Lee and others were in consultation with the rivals of the English monarch, and those monarchs were prepared to interfere in the contest between England and these colonies. Our Congress, aware of its strength for the first time, refused to listen to Lord North. So the storm may be gathering now. Yes, the storm is gathering beyond the Rio Grande—a foreboding storm—and the empire of France established there through Maximilian will soon be stretching its vast arms over the Rio Grande and interfering with these States of America.

But before anybody has interfered, before England, or Holland, or Spain, or France has interfered, I beseech my countrymen, in view of these lessons of history, in the spirit of forbearance and conciliation, to endeavor to end this war, now, when we are strong, and when no foreign arm is actually upraised, the more to rend asunder the Union.

Commissioners were sent to Philadelphia, but sent in vain. The emissaries of France were in Philadelphia, not to heal the breach, but to widen it, and in 1783 England was obliged to grant to these colonies their independence. I advise no such grant; I desire the acceptance of no such proposition. I am indisposed ever to receive such a proffer of peace as that; but at this day, and at this hour, holding up the lessons of history, I beseech this honorable House to study these lessons of history before it is too late, and secure a peace when it can be done by mingled kindness and conciliation as well as by force of arms.

Mr. WILSON. I desire to ask the gentleman a question: suppose the Government of the United States should adopt the plan he suggests for restoring peace to the country, and that plan should fail, is the gentleman ready then to wage war against this rebellion until it shall have been crushed and the authority of the Government maintained; or would he then acknowledge the independence of the rebel States?

Mr. BROOKS. Never will I consent to acknowledge their independence. We are one people, one country, and have one destiny; it is written out by the finger of Omnipotence.

Mr. WILSON. With all respect to the gentleman from New York, I desire an answer. I wish to know whether, if these means should fail, the gentleman would then be willing to wage this war for the suppression of the rebellion. If not, what means would the gentleman have the Government adopt?

Mr. BROOKS. I am coming to that. I was about to say, when the gentleman interrupted me, that God made this for one country. Omnipotence seems to have written out for it one destiny and one law. It is written out in the rock-ribbed Alleghenies, which extend from the Hudson almost to the Mississippi; it is written out on the great father of the waters with its hundred thousand miles of navigation. We are made for one people, and what God has put together no man can put asunder.

But more, war is not the remedy; it is not the Christian, it is not the civilized remedy for this disaster and trouble in which we are involved at the present hour. Our first duty is to try conciliation and kindness; our first duty is to imitate the proposition of Burke in the British Parliament—negotiation. If we offer negotiation, and the South refuse to hear negotiation upon just and equitable terms, the South will be divided and we shall be united. The war will then be there a war at the ballot-box, and in the southern country; not here a war of blood and devastation. Our remedy is not the sword, it is not the cartridge-box, until all other remedies whatsoever have been exhausted.

Then, as Christians, if we are Christians, or profess Christianity, our first duty to God, our first duty to our institutions, is to assemble in convention and to try reconciliation.

[Here the hammer fell.]

Mr. PRICE obtained the floor.

Mr. BROOKS. I should like to have a little more time to conclude my remarks.

Mr. GARFIELD. I move that the gentleman have leave to go on.

The CHAIRMAN. Leave can be granted by unanimous consent.

No objection was made.

Mr. BROOKS. Whenever the day and hour come when Christianity fails to restore peace,

when the example of our fathers who assembled in convention fails to restore peace, I shall be ready to mark out the course that I will pursue, and I tell the honorable gentleman again that I never, never will consent to a severance of this Union. I wish to be so understood, not only here, but everywhere. I wish my voice, if possible, to be heard South as well as North. Every human effort that can be made by the arts of peace should be made, and if the Union cannot be restored exactly as it was, in the same words and in the same letters, I am prepared for some other bargain which will again be satisfactory to all sections of this Union.

Mr. WILSON. I desire to ask whether, in any event, under any circumstances, the gentleman is in favor of maintaining the Union by war against the rebellion.

Mr. BROOKS. I repeat that under no circumstances will I ever consent to ask for a passport to go to Mount Vernon or Monticello or to the tomb of Marshall, or to demand one to go to Concord and Lexington and Bunker Hill. Under no circumstance, if I descend or ascend the Mississippi, will I ever consent to have my baggage examined by the officers of a foreign country upon the banks of that river.

Mr. WILSON. I submit that the gentleman has not answered my question directly. I ask again whether the gentleman is willing, under any circumstances, to secure to himself the enjoyment of the privilege he has mentioned through force of arms against the rebellion.

Mr. BROOKS. If it be necessary; if the South has no reason; if it will hear nothing of peace; if it will obstruct the Mississippi and the Chesapeake, and is determined to take from us the rights which we have had from our ancestors, then a new case will arise; but until that case arises in the rebellion, I do not propose to mark out the course which I will pursue hereafter.

Mr. WILSON. I now ask if in any event, in the new case, he would then be willing to wage war against those now in rebellion against the authority of the Government.

Mr. BROOKS. I do not believe that after any of these efforts for peace there would be any such new case. But, on the contrary, if the war should be persisted in, I am ready and willing to maintain those rights as they have been handed down to us by our ancestors. I know the astuteness of the gentleman from Iowa, and I see the coterie of *claqueurs* by which he is surrounded in this effort to catch me.

Mr. BOUTWELL. I call the gentleman to order.

Mr. BROOKS. I am afraid the gentleman does not give a right interpretation to my words. I mean nothing objectionable to the gentleman. I do not wish to say anything that may be offensive. I think I have expressed myself clearly. What I object to is laying down what I would do in a certain contingency; because what may happen hereafter I cannot say. I cannot lay down a programme for the future; but as explicitly as a man can say it, I have said, and repeat, that under no circumstances will I ever consent to a severance of the Union of these States.

Mr. WILSON. But the gentleman did state a case which may occur in the future, and I ask him again, in the event of that case occurring, is he willing to meet it by force of arms?

Mr. BROOKS. Whenever the South refuses all proffers of peace whatsoever, I am ready, upon the reserved rights of this nation, to maintain its legitimate constitutional authority by force of arms. [Several MEMBERS. "Now you've got it."] There may be various ways of settling the difficulties with the South; even the slave question may be got over. The honorable gentleman from Wisconsin may be gratified by refusing the South the right of representation for its slaves on the three-fifths principle. I think the South would willingly consent to that and to have every negro there count one, as at the North. I think there will be no difficulty about that. I think that the subject of the fugitive slave law, which is so offensive to the great mass of the northern people, may be arranged. I see no essential difficulty in that.

The great object in the formation of the Union was commerce and trade. Commerce and trade formed this Union, not patriotism altogether. It was because of the difficulty of having an equal

system of duties between Rhode Island and New York and Connecticut, and between Annapolis, in Maryland, and the eastern coast of Virginia, so as to have one commerce, that this Constitution was made.

We might have a *zollverein*, as they have in Germany, for the collection of our duties. All those difficulties that exist now between ourselves and our southern countrymen might be adjusted in convention, by peaceable negotiation. But, as I have shown before by the example of nations that have gone before us, in my judgment they never can be adjusted by arms. In the end, as the President of the United States said in his inaugural address, we must come to terms by negotiation.

Mr. KASSON. Will the gentleman from New York, with a view to get his opinion on the subject, permit me to ask him a question?

Mr. BROOKS. Certainly.

Mr. KASSON. It is this. The gentleman from New York has run a parallel, instead of a contrast, between this causeless and infamous rebellion and that of our fathers against the English Government for a cause which they avowed with a list of their grievances. He now asserts it as a fact that, with a proper proffer of terms on our part, the Union can be restored. I ask him to give to the House the benefit of his information on that point. What evidence has he got that the South will come back into the Union on any terms consistent with the preservation of the Constitution and the Union? The evidence is what I desire.

Mr. BROOKS. What evidence could I have? If I should speak to some southern man, or if I should write to some southern man, I should, in doing so, be violating the laws of the country. I cannot write to any man in the South. I cannot commune with anybody in the South. That is one of the difficulties of the position.

Mr. KASSON. The distinguished gentleman from New York has affirmed the fact that peace can be restored on that basis. I wish the evidence of the fact on which the whole argument rests.

Mr. BROOKS. Suppose we try. At an early period of the war a gentleman from the State of Georgia, well known in this House, a gentleman who is now vice president of the so-called southern confederacy, made an effort to be heard in the interest of peace, and was refused an audience. Another effort was made from the Canadian frontier, but the President of the United States did not permit it to come to any conclusion. Under the laws of our country, I repeat, it is impossible for an individual legitimately to obtain information from the southern country. Hence it is impossible for me to answer the question of the gentleman from Iowa. All that I can say is—try, try. If we succeed, immortality will rest upon our efforts. If we fail, we shall be right as against the South; and the responsibility will be on southern heads.

Mr. KASSON. Do I understand the gentleman from New York to say that any authorized commission to treat for peace on the basis of the Union has ever been refused to be received by this Government, either from Canada, Fortress Monroe, or elsewhere—any authorized commission to treat for peace on the basis of the Union?

Mr. BROOKS. Mr. Stephens, of Georgia, had a commission which was understood to be for peace, and he was not received.

Mr. KASSON. It is denied by the head of that rebel government himself.

Mr. BROOKS. And is affirmed by Mr. Stephens in a speech which he has made in the South.

Mr. KASSON. I have not seen that speech. I differ with the gentleman from New York on the point of fact.

Mr. BROOKS. Mr. Chairman, I am well aware that at this period of the history of the country it is in vain to make such speeches as I am now making. I make them, not for the present moment, but to sow the seeds of thought and of consideration for the people of this great country. I make them to be considered and dwelt upon hereafter, and I hope that they will lead to reflection throughout the country. I hope the Republican side of the House will cease to cherish that feeling against us on this side of the House in which they have hitherto indulged. We desire Union as much as they do; but we do not see, in their

mode and manner of obtaining that Union, any good result possible, and we do not believe that it is possible. I address my remarks to the House, in accordance with my purpose to try and produce some community of feeling, some community of action, which may, hereafter, be useful to our constituents. If I were acting the mere rôle of an Opposition member, I should do nothing but throw obstacles in the way of the other side of the House; but I hold it to be the duty of a man in the Opposition to propose as well as to oppose; and hence the propositions which I have put out.

No man on that side of the House, I call God to witness, desires the reunion of these States more ardently than I desire it. No man would make greater sacrifices than I would make to restore to peace and harmony this now bleeding country. But I speak in vain. I am in a minority on the floor of this House, and will be in a greater minority hereafter. I can only appeal to my countrymen, to their good feeling, to their reason and their sense. To them I appeal as to Americans having a great history, not now, I trust, to end. I appeal more especially to New England men, for independence, self-action, and individuality upon this floor. I appeal to that State in which I was born—the State of Massachusetts—which sometimes thinks and acts for herself, independent even of party chains. Let her step forth and act now on this great occasion, and immortalize herself, as she has heretofore done.

Mr. ELIOT. I would ask the gentleman from New York [Mr. Brooks] if it is not true that the part of Massachusetts in which he was born belongs now to the State of Maine?

Mr. BROOKS. I do not think the gentleman should ask so impertinent a question as that. The wit of the remark does not compensate for the time of the House occupied by it.

Mr. ELIOT. It has truth in it, at all events.

Mr. BROOKS. I am happy to say that I was not born in that part of Massachusetts which the gentleman represents. These personalities are wholly uncalled for.

There was a period in the history of Massachusetts when that State, great and powerful in her control over the Revolution of 1776, forgetting the rival claims of her own eminent sons, and even forgetful of the good city of Boston, in the person of John Adams nominated a slaveholder, George Washington, of Virginia, to be the Commander-in-Chief of the armies of the United States. It is in that spirit that I invoke Massachusetts men to act now; I implore Massachusetts men to look back to these antecedents of their history and emulate the glory of that era. And I also appeal to other New England men upon the floor of this House; and to those who come from the far distant shores of the Pacific I thus appeal, because this Government is now a New England Government, and, in the main, in the hands of New England men.

Throughout the vast regions of the lakes, across the Rocky mountains, the New England element governs and controls this country. I appeal, therefore, to the three New England men from the State of Iowa, and to the honorable gentleman, the leading member from the State of Illinois. I appeal to the honorable gentleman from Pennsylvania, [Mr. STEVENS,] the monitor and the Mentor of this House, who was born among the Green mountains of Vermont, and who exercises so omnipotent an influence in controlling the deliberations of this body; to him I appeal for support of this effort to bring peace again to our people. Let us together try to do honor to New England men and New England history, forgetful of those provincialisms which have been fostered by this civil war, and, if possible, accomplish the restoration of this Union.

Oh, that it was within my power to go within the portals of the White House, and to approach the Chief Magistrate there; I would do what, alas! as an impenitent sinner, I do not dare do to my Maker—on bended knees implore him in his now almost omnipotent authority to exercise all the powers of Christianity, all the lessons, all the arts of peace for the restoration of this now divided and broken Union, and to stop the further effusion of human blood. In the name of that great patriot whom we once in common revered, whose voice has been so often heard in the deliberations of this Capitol, in the name of Henry Clay, in

whose company, in the better days of the Republic, we both marched together, I would invoke him to remember the history of that great man.

Thrice by efforts of conciliation he averted the evils of civil war. First upon the Missouri question in 1820; then in 1832, in the Senate, by his action upon the tariff, in eloquence which stirred the nation's heart, and which had an omnipotent and controlling influence then over both Houses of Congress, he again stopped the threatened effusion of human blood. And in the great compromise questions of 1850, by his eloquence, his power, his wisdom, his social influence, as well as by his omnipotence in debate, by the respect which all portions of this country had for that great and illustrious man, civil war was again averted from this unhappy land.

Oh, that I could approach the White House, and repeat to the Chief Magistrate the lessons of our illustrious teacher, and invoke him to follow that illustrious example, and to do himself the immortal honor, to be, not the last President of the United States, but the saviour and restorer of this divided, distracted, and bleeding Union.

Mr. PRICE. Mr. Chairman, I have heard it said that genius is the crowning diadem on the brow of manhood; but if I had ever been induced to believe the declaration, I should have changed my opinion since I became a member of this House. I have listened, sir, as this House has done, frequently—again and again—to the honorable gentleman from New York, [Mr. BROOKS,] when he has held spell-bound the members of this body upon questions that have agitated this country from its center to its circumference; and when I have returned to my home on the western bank of the Mississippi, and my constituents have asked me concerning the members and the doings of this House, and when they have asked me the question "Who is the best orator in the lower House of Congress?" I have invariably referred them to the gentleman from New York who has just taken his seat. His silvery accents, his smooth sentences, his well-informed mind, enlightened not only from history, but from his travels in foreign lands, qualify him admirably to entertain and to instruct an audience of this or any other kind.

But, sir, I regret to say, and I say it with sincere sorrow, that his ingenuity is equal, if not superior, to his genius. Sir, there is not a man upon either side of this House to-day, who has listened to the honorable gentleman's speech of an hour and a half, his eloquence, his rhetoric, his oratory, but must be satisfied that the entire aim and intent of the whole speech and the desire of the man are that it shall aid the enemies of our country, and as a consequence depress the friends of the Administration and of the Government and of the civil and religious institutions with which we are blessed in this land. Slavery—the very thing that the honorable gentleman told us in that very place at the last session of Congress was dead—slavery is the alpha and the omega of that speech. That speech, I undertake to say, without fear of successful contradiction, is intended to strengthen the hands of the slaveholders and the hands of the rebels; and in just so much as it strengthens their hands it weakens ours, and causes the blood of patriot hearts to flow upon southern soil. No other conclusion can be arrived at.

Sir, I like to meet gentlemen with their own arguments. What I may say in reference to that gentleman or any other gentleman on this floor upon this question would have but a tinge of the weight (if it had so much) that would attach to a declaration coming from the gentleman's self upon this question. And I want nothing stronger, I want nothing clearer, I want nothing more conclusive than what the gentleman who has just taken his seat after his eloquent effort has given to the American people upon this subject. It is fortunate for some men that they write; it is very unfortunate for others that they write and publish their writings; and I now can understand, if I never did before, the force of the sentiment long since expressed by an eminent individual, "Oh, that mine adversary had written a book!" My friend from New York has written, if not a book, at least a good many pieces in newspapers, and if they were put together and bound they would make a book. But whether a book or not, they are equally binding, and of equal force on this occasion.

Slavery—that thing that was "dead," and

which the gentleman from New York now seeks to resurrect—is not the blessed boon to the human family that he and others would have us believe at this day, if he is to be believed in his declarations made a few years since upon this same question. I read from his own language.

"Washington, March 8, 1833," is the date. This is December 14, 1864. Strange that a little less than thirty-one years should change so greatly a man's sentiments, change his opinions, change his language, change his very being, if that were possible. Now, sir, let me tell that gentleman that, although I have never been across the Atlantic, although I claim not his knowledge of the languages or his polished, silver-tongued oratory, there is one truth that outweighs all these—that is, that principles are eternal. What was right in 1833 cannot be wrong to-day. What was right a thousand years ago must be right to-day, and will be if we live a billion of years in the future. Now, sir, what was right in 1833 in reference to that question, the gentleman himself being the judge in the case? He is posted upon this question. It is not a matter of yesterday with him. It is a question to which he has given the attention of his life and one upon which he is at this day eminently qualified to instruct the American people. He says:

"Slavery carries with it its own afflictions, its own punishments. It is a dead drag to the body-politic."

Ay, sir, and I think that some of the gentlemen's friends on the 8th of last November found it to be so much of a "dead drag" that the party who attempted to drag it found themselves dead.

"It is a dead drag to the body-politic. It is impossible for any community to prosper with it in its bosom."

So I think, so think the majority of the American people—that it is impossible for them to prosper with that "dead drag" hung upon their backs; and therefore they now feel disposed to get rid of it.

"The affliction bears as heavily upon the master as upon the slave."

Yea, verily, does it! It does bear heavily upon the master as well as upon the slave, and thousands and tens of thousands of the free and loyal men of this land have suffered not only in their rights but have gone down to their graves because slavery has existed in this country.

"It endangers the peace and happiness of the master."

Does the gentleman wish to endanger the peace and happiness of his friends in the South? If not, why does he come into this Congress and continue his present course of conduct?

"And robs the slave of his freedom and his birthright."

So we think.

"As to prosperity and the accumulation of property, it keeps the master in the rear of others in a like situation exempt from this evil, and thus depresses him when it depresses his servant. It is demonstrable, in my opinion, that that community of whites, taken as a whole, must be happier, more prosperous, and richer, where slavery is prohibited than where it is allowed."

Now I wish to say to the gentleman from New York that we are in favor of prohibiting slavery. Does he say that is wrong? He says that it produces unhappiness. It is his own language—not dictated to him by me; not dictated to him by any gentleman on this side of the House, or any gentleman upon this floor, for it was written at a time when no man who occupies a seat here now was a member of this House. It was his candid opinion on the question.

It may be replied that the effort to-day, and the efforts heretofore, have not been made with the intention of strengthening slavery. Then what have they been made for? Is it only an exhibition of oratory and eloquence? The gentleman has traveled over the continents of Europe and Asia and Africa, he has quoted the history of ancient and modern times, and, not content with profane history, he has given us ample quotations from the Scriptures. I am astonished, utterly astonished, and unable to account for it, that after quoting from the Old Testament and from the New Testament, yet in the same speech, before the words had scarcely passed from his lips, he tells you he does not bow the knee to his Saviour. Well, I say, God save me from the man who quotes Scripture and yet denies its force. It may be right for some men, but I am earnest and sincere when I make the prayer that I want to be saved from men of that kind. I want to be saved from them morally, religiously, and politically.

There may be sincerity there, but I lack the apprehension to see it.

But that is not all. There is a great deal which the time of the House will not justify me in reading. But I do not intend that his speech shall go to the world, ingenious as it is, without being contradicted. I do not want that it shall be contradicted by any gentleman in this House, and there are many more able to reply to it than I am. I am not satisfied with that kind of answer; for I tell you, Mr. Chairman, and I tell this House to-day, that when the Globe shall go to the world with the speech of the gentleman from New York, which is intended to undermine the fair fabric of our free institutions by embarrassing the Government, it shall carry the poison and the antidote in his own language. I want the gentleman from New York answered by the same gentleman from New York. I hope the reporters will take particular pains to report this part of my speech.

"Who does not see, then, that it is for the interest of the North to have the South a slaveholding people? Cupidity and meanness and avarice all point that way. Give the South, with the climate, the free labor of the North, and the North, with her rocks and her ice, must yield. The South must become more prosperous. The people must become richer. The country must become better populated; for it is a law of our nature that what we do for ourselves we do with a better heart than what we do for others. Northern people, then, have no interest in liberating the slaves of the South."

Is that the reason why the gentleman opposes the liberation of the slaves? I do not say that it is, but it is the fair inference from what he wrote in 1833.

Again he says:

"I do not agree with many whom I meet with here, and who say, judging from what they see, that the negroes are an inferior race of men, and therefore we have a right to make them subservient to us."

I call the attention of the House to that language. The gentleman believes the negroes are not an inferior race. If he does not believe them inferior he must believe they are at least equal to us.

"I deny the premises, or, granting them, deny the inference. I can find negroes, very many, even here, who are active and bright, and who, if educated, would make a figure in the world;"

Ay, "make a figure in the world." And are the chains to be riveted and the shackles fastened upon those men who, if free and possessed of the advantages of education would make a figure in the world?

"who are better gifted, and better instructed also, than some of the whites on the sand hills or the pine barrens."

Why, it seems to me that the vision of some departed old abolitionist appeared to the gentleman from New York when he wrote these lines. It would seem as if he had imbibed the spirit of Phillips, or some other abolitionist, when he penned these lines to a friend in New York:

"But the great mass of the whole black race are deplorably ignorant, deplorably incapable. Some of the freed negroes are the most stupid animated matter I ever met with. The well-trained dog has more intelligence than they have. Others about house, who come in daily contact with their masters and their families, are bright, more or less, comparatively speaking; thus showing that it is ignorance, want of education or association with educated men that brutifies them; and I have observed very often that where there is the greatest mass of ignorance there is the most brutified race. Southern gentlemen sometimes inquire if you would set such a mass of ignorance loose at once, and give it freedom. I have never made up any opinion upon this question, or any other, than this, that it is none of my business, but theirs;"

Now the gentleman thinks it is his business; that is, his business to keep them in slavery, but not to set them free—

"and that I would not live in a country where such a state of things existed, and where there was so much danger."

And while he would not live in a country in which slavery existed, yet he has quoted from the Old Testament and the New Testament to uphold it; and though I have in the last thirty years often heard Paul's speech on Mars' hill preached from, I never before heard such a conclusion drawn from it as has been drawn from it by the gentleman from New York to-day.

"Southern gentlemen in general affect to despise the danger. But if they do, their wives and daughters do not. Indeed they do not. They dare not speak freely on this subject at a dinner table, when a slave is within hearing. Such conversation is obscure, or in whispers. So far they are slaves themselves, that in the presence of their slaves they must keep a guard on their conversation. They do not go to bed at night with the same ease and freedom we do. They call their military to their aid, and keep their slaves under martial law. The cities of Richmond, Charleston, and Savannah keep up a military guard. No small portion

of the white population must watch under arms while the other portion sleeps."

And this was in 1833, when enjoying all the blessings of slavery, and when they had the control of the entire Government.

"Tell me there is no belief of danger when the military watches over one's body and one's property."

That is a part of the gentleman's language upon the subject of slavery, and yet, in the last session of Congress, speech after speech made by that gentleman, and characterized by his usual ability and eloquence, was telegraphed over the wires to the southern confederacy. And the wires will transmit this speech, but at the same time it will carry the news that but a small portion of the House concurs in his opinion. We are treated here to-day with the hackneyed phrase that we cannot conquer the rebels, that we cannot subdue eight millions; and the gentleman quotes from Roman history. I must say that either Gibbon or he must be mistaken in regard to some of the numbers and figures. I presume Gibbon is in error.

Do we here want to know that we cannot conquer the South? Is that declaration made to strengthen our arms and encourage our hearts? No, sir; I charge it upon the gentleman, and all others who dare make that assertion, that it is intended to encourage those who are in arms against the Government; who are endeavoring to tear down the best Government ever given to mankind. Outside of this Hall I never heard—

Mr. McKINNEY. I rise to a point of order. It is that the gentleman charges the gentleman from New York with intending to strengthen the rebels in arms. It is not in order to make such a charge.

Mr. PRICE. That I believe he intended it.

The CHAIRMAN *pro tempore*, (Mr. BLAINE in the chair.) The point of order is well taken, in the judgment of the Chair. It is not in order for one gentleman to characterize the remarks of another gentleman in that way.

Mr. PRICE. Mr. Chairman—

Mr. McKINNEY. I insist that the gentleman shall not go on until the House gives its consent.

Mr. BRANDEGEE. I move that the gentleman have leave to proceed in order.

The motion was agreed to.

Mr. PRICE. I believe this is the first time in my life—and I am fifty years old—that I was ever called to order.

Mr. McKINNEY. The gentleman has been left to run free too long.

Mr. PRICE. I will say, for the information of members of the House who are not acquainted with me, that it is not my intention to be out of order, and I say, also, positively and emphatically, that it is my intention not to shirk the truth, and if I cannot talk the truth here, I will not talk at all; but I shall speak inside the line of order if I know how.

I was saying—and this must be in order—that outside of this Hall I never heard—

Mr. CHANLER. I want to ask the gentleman a question in this connection.

Mr. PRICE. I cannot yield.

Mr. CHANLER, (amid cries of "Order!") Did the gentleman vote for the expulsion of Mr. LONG, of Ohio?

Mr. PRICE. Oh, yes. I will answer that question, certainly. I did vote for the resolution of expulsion, and I am only sorry that it did not succeed.

I was proceeding to say—and hope this will be in order—that outside of this Hall I have never heard language that I would call rubbing up along so close to treasonable language as I have heard here. It is rather a difficult matter for a man who wants to say just what he thinks, and is afraid of getting over the line of order, to so fashion his words and trim his sails as to keep within the channel. I shall try, however, to do it, and will say to gentlemen on the other side of the House that I have not risen for the purpose of making a speech. I had not any intention of saying a word upon this subject, but I thought I would let the language of the gentleman from New York spoken in 1833 go on the record with the language he has used to-day on this subject. Three fourths of the speech of the gentleman had reference to Russia, and France, and England, and Austria, and parts of Asia.

A MEMBER. And Rome.

Mr. PRICE. Yes, and Rome. I would not forget Rome for a great deal, because there is the point where the gentleman from New York and Gibbon disagree. But I do not intend to reply to any of these things; my sole purpose was to place the language used by the gentleman to-day in juxtaposition with language used by the same gentleman on the same subject on a former occasion. And then I was proceeding to talk about what I had heard again, and again, and again, and had supposed to be disposed of and laid away on the shelf only to be resurrected some generations hence, about our inability to conquer the rebels, that we must exterminate them, and that the history of the world proves in the first place that we cannot exterminate them, and in the next place that we cannot subdue them without extermination, and then of course we shall have to give it up. That is as much as to say to the people of Richmond and to Jeff. Davis that here, in the high council chamber of the nation where the Representatives of the whole people are assembled, a gentleman who is one of the best orators on the floor, if not the best, stands up and tells this House and the country that Jeff. Davis and his friends cannot be subdued. When you can make our people believe that, why, as a matter of course, we shall have to give the rebels their own terms.

And this brings me to another part of the gentleman's speech. He says that when *all proffers of peace*—mark the words, gentlemen, for they seem to cover an immense amount, *all proper proffers* and all *improper ones*—when all proffers of peace shall have been extended to the rebels and rejected by them, then he will—well, he will do something, he does not say what. My colleague from Iowa [Mr. WILSON] asks him again and again would he in that case be in favor of putting down this armed rebellion by force of arms, and he dodges the question. Is that in order? He dodges it; he has not answered the question. When "all proffers" are made! What are we to understand by that? Are we to go to the South with hat in hand and say "You have been our masters, lo! these many years, and this is the first time in the history of the Government when you have tried to coerce us and we did not yield; you are now trying to break up the Government; we ask you now to resume your mastery on your own terms; 'what will you have us do?'" Is that what we are to do? There never was a time in the history of the Government when the slave States demanded anything of the free States that was not yielded until 1861 when they saw proper to fire upon the old flag of the Union, the ensign of our nationality, and when that infamous scoundrel Pickens—is that in order?—boasted that South Carolina was the first State in the Union that had trailed the stars and stripes in the dust. Who would be the apologist or advocate of men like that? The man who would do it I think would be aiding and abetting treason. I presume that is in order.

I have heard the gentleman from New York, not only to-day, but in the last session of this Congress in his place here, talk about the statesmen of England, and the enviable position that they occupied toward the colonies, and say that they had built themselves a monument of fame undying. Does he wish us to understand—I would like to have an answer to that question—that he occupies the same position toward the southern confederacy, so called, that the English statesmen that he has quoted occupied toward the colonies? Is he the advocate and apologist for the southern confederacy? If not, I fail to see the force of his argument. And then, as was justly remarked by another of my colleagues, [Mr. KASSON] does he wish to draw a parallel between this infamous and uncalled-for rebellion and the Revolution of 1776? Why, every school-boy ten years old knows that there is no parallel at all. There are contrasts, wide, marked, and unmistakable, but no parallel. They made our laws for us in England, and sent over our officers. We had no voice in the matter, and when the burden became too oppressive and intolerable longer to be borne, then, as freemen exercising the right of freemen, we contended for an adjustment of those rights, and a return of what was justly due us. These men of the South, whom my friend from New York compares with the men of the Revolution, have made the laws of this country for the last fifty or seventy-five years. For three



fourths of that time they have held the offices, both judicial and executive. They made the laws, and when it did not suit them any longer to abide by those laws and by the Constitution given to us by our fathers they revolted, they rebelled, and they took up arms against the Government. Where is the parallel between them and the men of the Revolution? There is a contrast wide as the gulf between heaven and hell; but there is no parallel at all.

Mr. Chairman, I have said more than I intended to say on this matter. It does appear to me that very little need be said upon it. There is but one thing to be said of the true men of the nation, I care not by what name they may be called. They are the men who stand up for the flag of their country, and against oppression. They are the men who, coming from all denominations of Christians and all parties, rally around the flag of the Union, and who are determined to carry forward this war to a successful termination, whatever it may cost, even though the institution of slavery shall go down with it.

On the other side are the apologists of slavery. They are the men who claim to be Union men, but who, in all their speeches, all their actions, and all their efforts, are forever finding fault with what is done on the side of the Union, and by Union men, while they have never a word against treason, or traitors, or against Jeff. Davis's government. I think it is time that the people of the United States, and particularly the men sent to Congress to represent their constituents, throughout the length and breadth of the land, should take this matter in a different light. I think it is time that they should rally together as one man, and that when speeches are to be made on this floor, whether in Committee of the Whole on the state of the Union, or in the House, men shall talk loyally, so that they shall be above suspicion; that the words they have to say, if of cheer, shall be for their own Government; and that their words of condemnation shall not be for this Government, but for the enemies of the country who are in arms against that Government. When that shall come about, and when the South shall be satisfied that we stand as a unit, shoulder to shoulder, hand to hand, eye to eye, in this matter; when they see that we are determined that they shall go down to the shades of oblivion, or shall obey the laws of the land; when, I say, they are satisfied of that, there will be no longer any rebellion in the South. But just as long as they are satisfied that they have friends at the North, and in the national Capitol, just as long as speeches are made here which can be easily interpreted to mean that the South is not wrong in its course of action, just so long may the rebels be expected to have heart and hope for the infamous and traitorous war they are waging.

I have a hope, therefore—nay, it is only a half hope—that hereafter the speeches to be made on this floor by members on the other side of the House will have a little more of the ring of the true metal of patriotism unalloyed; that they will contain words of cheer for their country and for the brave men who are carrying the flag of freedom in the forefront of advancing columns, charging on the enemy in the battle-field; and that they will contain no words of cheer for those who are endeavoring to destroy our civil and religious institutions.

Mr. SPALDING. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the last annual message of the President of the United States, and had come to no conclusion thereon.

#### POST OFFICE FINES.

The SPEAKER laid before the House a letter from the Postmaster General, transmitting, in compliance with an act of Congress approved July 2, 1836, a report of all fines imposed and deductions from the pay of contractors for carrying the mails during the preceding year; which was laid on the table.

The SPEAKER. By a law passed at the last session this report is not to be printed except by special order.

Mr. HOLMAN. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at twenty minutes past three o'clock, p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, December 15, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

Hon. WILLIAM A. RICHARDSON, of Illinois, appeared in his seat to-day.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. WILLEY presented the memorial of the Franklin Insurance Company of Washington city, District of Columbia, praying for an extension and amendment of its charter; which was referred to the Committee on the District of Columbia.

Mr. WILSON presented the petition of Charles K. Graham, a brigadier general in the army of the James, and other officers, praying for an increase of the pay proper, of the allowance for servants, and of the price of the ration allowed to officers of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented a petition of members of the Cigar Makers' Union of Philadelphia, praying for a repeal of the law taxing cigars, and that the duties imposed thereon may be placed upon the raw material; which was referred to the Committee on Finance.

Mr. FOOT presented the petition of James B. Royce, praying to be allowed the bounty of \$100 provided by law in cases of discharge for disability occasioned by wounds received in battle; which was referred to the Committee on Pensions.

#### NAVAL FORCE ON THE LAKES.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested, if not inconsistent with the public interest, to furnish to the Senate any information on the files of the Department of State concerning the paper published in the volume of Treaties and entitled "Arrangement between the United States and Great Britain, between Richard Rush, Esq., acting as Secretary of State, and Charles Bagot, her Britannic Majesty's envoy extraordinary," relating to the naval force to be maintained upon the American lakes.

#### DISLOYAL GOVERNMENT EMPLOYÉS.

Mr. LANE, of Kansas. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the committee on the conduct of the war be instructed to inquire as to the truth of the alleged charge that large numbers of disloyal persons are in the employ of the Government in the various navy-yards and quartermasters' and ordnance depots throughout the country, to the exclusion of loyal men, with power on the part of said committee to send for persons and papers.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. LANE, of Kansas. I desire to repeat a statement that was made in my presence last night to a large assembly of gentlemen in a public speech, that a few days ago the son of a soldier who had perished in a rebel prison applied at the navy-yard in Philadelphia for employment, that employment being necessary for the maintenance of the family left by this soldier who had died of starvation; that he was refused, while at the moment of his refusal there were thousands of disloyal men in the employment of that navy-yard. I make this statement in the hearing of the chairman of the Committee on Naval Affairs and call his attention to it. I ask for the passage of the resolution.

Mr. CHANDLER. I would suggest to the Senator from Kansas that perhaps he had better take a special committee. This resolution will open a very broad field of inquiry, and probably a broader field than the committee on the conduct of the war can occupy during the present session. If the Senator will ask for a special committee to make this investigation, I shall certainly vote for his resolution. The committee on the conduct of the war is already instructed to investigate many very important matters, and probably will not have time during the remainder of this short session to take up this great subject. It is at the present moment under orders from the

two Houses of Congress to investigate perhaps as much as it can possibly accomplish between now and the 4th day of March.

Mr. LANE, of Kansas. My object in offering the resolution is to have this investigation and a report made on the subject before the installation of the new Administration. If there is such an evil as that referred to in the resolution, it ought to be known and the policy of the Administration to be changed, on its installation at least. I am one of the men who believe that no Government can be successfully administered unless it surrounds itself by officeholders in sympathy with it, and I want this report made before the 4th day of March next, if it can be done.

Mr. JOHNSON. Mr. President, I do not know that I have any peculiar confidence in the Administration, or any greater confidence than is possessed by any member of the Senate; but notwithstanding that, I am perfectly willing to trust the executive administration of the Government to the President of the United States. If that is not done in the instance referred to by the honorable member from Kansas, it must be because he is not advised of it, and the offering of the resolution itself will bring the fact to his attention, and will cause him, as I am sure he is himself loyal, to see that every department of the Government under his charge is properly and loyally administered. What may be the fact in relation to this particular navy-yard I am not advised of, nor did I ever hear it questioned until this moment by the honorable Senator from Kansas; but I certainly understood, a day or two after the last election, that every employé of that navy-yard voted for the reelection of the present incumbent of the presidential chair. That, I suppose, is some evidence of loyalty, as the converse of the proposition is, with some, supposed to be true, that those who did not so vote are to be considered as disloyal.

What I object to is, that we should, as a Senate, interfere with what I think is a peculiar duty of the executive department. Suppose the investigation turns out as the honorable member supposes it may be, and we express an opinion. That has no legal binding bearing upon the President of the United States. He may or may not disregard it, either because he thinks it immaterial or because he does not concur in the conclusion to which your committee may come; and if, upon either ground, he refuses, what are you to do? Are you to go to the other House and suggest that he be impeached, when, by doing so, you, in advance, pronounce a judgment against him upon that subsequent possible impeachment?

The Government, according to my understanding of the relations in which the departments stand to each other, cannot get on unless each is left to the full and fair and unimpeded discharge of its separate official duties. And while I know that the Senate of the United States, now and ever, when the honor of the country has been at stake, has never failed in loyalty or in patriotism, and is especially patriotic at the present time, I am willing to believe, and I do believe, that in that particular they are not at all superior to the Executive of the United States. He is equally loyal and equally patriotic. Whatever differences of opinion I might entertain in relation to him and his policy, are differences wholly irrespective of the question whether he is loyal or not loyal. I never doubted it from the beginning of his administration; I do not doubt it now; and I have no reason to suppose that I shall be brought to doubt it hereafter. But what I protest is, that we should, not at his instance, but apparently as against his conduct, constitute a committee for the purpose of getting the material by which we are to control his administration in the future.

The honorable member talks of inaugurating a new Administration on the 4th of March. Who is to inaugurate it? What authority have we over the manner in which that Administration shall conduct the affairs of the nation except what the Constitution gives? Try him if he comes before us properly under the provisions of the Constitution, by an impeachment presented by the House of Representatives; try him only; not in advance pronounce a judgment, holding him up before the people of the United States as having been already recreant to his duty.

Mr. President, the condition of the country now requires forbearance upon the part of every

member who is here in the council of the Government—forbearance and confidence. The dreadful civil strife in which we have been engaged now for nearly four years is going on, when to terminate God only knows. That it will terminate at some future day, and terminate so as to bring about a restored Union and a peace such as will be permanent, I have no doubt now, as I never have had a doubt, provided the councils of the country, legislative and executive, are true to their own constitutional duty; and I am far from suspecting that the President of the United States will in either particular which falls within the hypothetical condemnation of this resolution fail to be true to his duty.

Mr. LANE, of Kansas. Mr. President, I have adopted this plan for the purpose of bringing the information to the attention of the President, believing that he will remedy it when it is shown him. There is no better way to furnish it to him than through a committee of this body.

Forbearance, the honorable Senator from Maryland suggests! Forbearance to employ disloyal men in our navy-yards to the exclusion of loyal men! Forbearance ceases to be a virtue when carried thus far. In my opinion, sir, Congress itself is not without a remedy. I am one of the men who believe that a navy-yard that cannot be run without the employment of disloyal men should be abated. I am one of the men who believe that any position that has to be filled by a disloyal man should be abolished. Having entire confidence in the loyalty of the President, it is with no other view than to bring this existing evil to his attention in a tangible form that I have introduced the resolution, and I trust it will be adopted.

The resolution was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (No. 350) to authorize the purchase or construction of revenue cutters on the lakes.

The message further announced that the House had passed the following bill of the Senate with an amendment in which it requested the concurrence of the Senate:

A bill (No. 329) for the relief of William H. Jameson, a paymaster in the United States Army.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862; and

A bill (No. 586) to drop from the rolls of the Army unemployed general officers.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 123) to correct certain clerical errors in the Internal Revenue act, and it was thereupon signed by the President *pro tempore*.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. FOOT, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

#### RAIDS FROM THE BRITISH PROVINCES.

Mr. CHANDLER. I desire now to call up the resolutions I offered yesterday in order to move their reference to a committee. If Senators will permit the reference to be made unanimously, without debate, I am perfectly willing to wave debate, but if it is desired to enter on a discussion of the subject now, I am prepared to do that. I will first move to take up the one in relation to the Canada frontiers.

The motion was agreed to, and the Senate proceeded to consider the following resolution:

Whereas raids have been organized in the Canadas and Nova Scotia, and men enlisted in said British provinces by men purporting to hold commissions from the rebels of the United States, for the purpose of robbing and murdering peaceable citizens of the United States, of burning cities and villages, of practically capturing merchant vessels and murdering their crews, and for a general system of murder, arson, robberies, and plunder of the peaceable and unarmed citizens of the United States; and whereas the people of the British provinces seem disposed to protect these thieves,

robbers, incendiaries, pirates, and murderers, not only in their individual capacities, but by the quibbles of the law: Therefore,

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of immediately enlisting an Army corps to watch and defend our territory bordering on the lakes and Canadian line from all hostile demonstrations and incursions.

Mr. CHANDLER. I now move its reference to the Committee on Military Affairs.

Mr. SUMNER. Allow me to suggest to my friend that it should be referred to the Committee on Foreign Relations.

Mr. CHANDLER. I do not object to that.

The PRESIDENT *pro tempore*. Does the Senator so modify his motion?

Mr. CHANDLER. Yes, sir.

Mr. SUMNER. If it is allowed to go in that direction I shall have nothing to say; otherwise I might have something to say upon it.

The PRESIDENT *pro tempore*. It is moved that the resolution be referred to the Committee on Foreign Relations.

The motion was agreed to.

#### RECLAMATION ON GREAT BRITAIN.

Mr. CHANDLER. I now move to take up the other resolution that I offered yesterday.

The motion was agreed to, and the Senate proceeded to consider the following resolution:

Whereas at the commencement of the present rebellion the United States were at peace with all the Governments of the world, and upon terms of comity and good-will with Great Britain; and whereas that nation, before the arrival on her soil of our minister accredited by the administration of President Lincoln, precipitately acknowledged the rebels as belligerents, thus recognizing their flag upon the ocean, without which recognition it would have been regarded and treated as piratical by all other Powers; and whereas she then proclaimed perfect neutrality between a Republic with which she had entertained friendly relations for upward of a half century and its unreasonable subjects; and whereas numbers of her subjects, with the knowledge of her Government, commenced fitting out British fast-sailing ships, loaded with munitions of war, for the purpose of running into our blockaded ports to the rebels, thus furnishing them the means of organizing and continuing the rebellion, and without which it could not have sustained itself six months; and whereas, in addition to the above, and with the knowledge of the Government, British subjects and members of Parliament engaged in the manufacture of piratical English ships, owned by British subjects, manned by British seamen, and sailing under British colors, for the purpose of burning, destroying, and utterly driving from the ocean all peaceful merchant vessels sailing under the United States flag; and whereas many private and unarmed American ships have been burned and destroyed by these pirates from British ports, thus causing great loss and damage to the citizens of the United States: Therefore,

Resolved, That the Secretary of State be instructed immediately to make out a list of each ship and cargo thus destroyed, with a fair and separate valuation thereof, and interest thereon at the rate of six per cent. per annum, from the date of capture or destruction to the date of presentation, and that he be directed to demand from the British Government payment in full for all ships and cargoes destroyed as aforesaid.

Mr. CHANDLER. I now move that this resolution take the same direction as the other.

The motion was agreed to; and the resolution was referred to the Committee on Foreign Relations.

#### ENROLLMENT OF MILITIA.

Mr. BROWN. I offer the following resolution:

Resolved, That the Committee on Military Affairs and the Militia be, and they are hereby, instructed to inquire into the expediency of so amending the act of Congress of March 8, 1792, entitled "An act more effectually to provide for the national defense by establishing a uniform militia throughout the United States," and also the several acts amendatory of the same, as shall provide for the enrollment of all male citizens between the ages of eighteen and forty-five, resident in the respective States, without respect to color; and also to submit such other provisions as may tend more efficiently to organize the militia system of the United States, and report by bill or otherwise.

As this is simply a resolution of instruction to the committee to inquire into the expediency of passing a law on this subject, I will ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to.

#### ALEXANDER J. ATOTCHA.

Mr. FOSTER. I move that the Senate proceed to the consideration of Senate bill No. 281.

The motion was agreed to; and the bill (S. No. 281) for the relief of Alexander J. Atotcha was read a second time and considered as in Committee of the Whole. It directs the Court of Claims to examine into the claims of Alexander J. Atotcha against the Government of Mexico for losses sustained by him by reason of his expulsion from that republic in 1845, and to fix and determine

their amount; and when the loss or damage so sustained is adjudicated and determined by the court, it is to be paid to him, provided the amount so to be paid shall in no event exceed the balance of the \$3,250,000 provided by the fifteenth article of the treaty of Guadalupe Hidalgo for the payment of claims of citizens of the United States against the Government of Mexico which still remains unapplied to that object.

Mr. FOSTER. The bill does not propose to appropriate any money. It proposes to authorize the petitioner to have his claim heard and adjudicated by the Court of Claims, and if they should find any amount due, that amount is to be paid if it shall not exceed the sum already provided in the fifteenth article of the treaty referred to in the bill set apart for the payment of this class of claims. The Committee on Foreign Relations, without undertaking to determine whether any amount was due to the petitioner or not, were satisfied, and I believe unanimously satisfied, that there was at least merit enough in the claim to have it heard before the proper court. I hope, therefore, the bill will be allowed to pass.

Mr. COLLAMER. By the treaty of Guadalupe Hidalgo with Mexico, the United States undertook to pay the claims which existed in favor of our citizens against Mexico, provided they did not exceed the sum of \$3,000,000—I think that was the sum. Whatever there is of that sum remaining in the Treasury of the United States is the property of the United States, unless it becomes necessary to pay just claims due our citizens from Mexico. This bill contains an appropriation to be paid out of that money. The justice of it all depends upon whether this is a just claim. The commissioners created by the treaty for the purpose of settling, auditing, and allowing these claims, have long since performed that duty, and all claims that they found to be just have been paid. I do not know whether this claim was ever adjudicated upon by them or not; but if it was, it was rejected, as it has not been paid. I do not know what reason is given why the claim was not presented and adjudicated and settled there.

But, sir, I desire more particularly to call attention to the expression made use of in this bill:

"That the Court of Claims be and the said court is hereby directed to examine into the claims of Alexander J. Atotcha against the Government of Mexico for losses sustained by him by reason of his expulsion from that republic in 1845, and to fix and determine the amount of the same; and that the loss or damage so sustained, being adjudicated and determined by said court, the same shall be paid," &c.

That, as I understand the words, does not ask of the court to inquire into the merits of the claim. It directs the court to ascertain the amount which the man suffered by being sent out of Mexico, without saying whether his being sent out was right or wrong. That has been the great issue in the case of Atotcha. It was always insisted by Mexico that this was no just claim against her; that she had a right to remove him in the relation in which he stood and the manner in which he conducted himself; that she did remove him, and had the right to remove him, and that there was no just claim about it at all. Now it is proposed to take up this claim which the commissioners of Mexico when they were sitting with ours disallowed, disclaimed, and never agreed to, and, as I understand the bill, to direct the Court of Claims to ascertain how much that man suffered by being sent out of the then republic of Mexico at a certain time, and then, the amount being so adjudicated, it is to be paid, when the merits of it, or whether he was properly or improperly sent out of Mexico, is not by the bill submitted to the court at all. So far as my recollection of it goes, the very essence of the case is not so much in regard to the amount, as the merits of the claim upon Mexico as falling within the terms of our treaty. I am not prepared at this moment to submit an amendment to the bill, but if we submit the question at all to the Court of Claims, I desire that some phraseology may be used by which we shall submit it upon the merit that belongs to it, and not merely the amount which they might find resulting from his being sent from that country.

Mr. FOSTER. The object of the committee was directly to arrive at the result suggested by the Senator from Vermont, and to have the court instructed to inquire into this case—not merely into the amount of damage or loss sustained by Mr. Atotcha, but into the question of the merits

of his claim, and unless he were unjustly treated by the Government of Mexico, he would have no claim upon that Government. We certainly were not of the opinion that he should be paid any loss that he might have justly suffered. If the bill is not so framed, it is my wish, and I am sure the wish of the committee, as it would be of the Senate, that it should be; and, under the suggestion of the Senator from Vermont, I am perfectly willing that the bill should be laid aside until he may propose any amendment that will meet his views. Certainly, any amendment that embodies that principle only, is as much in accordance with the views of the committee as it can be with his. I am willing, therefore, and move, that it be laid on the table for that purpose.

The PRESIDENT *pro tempore*. The bill will be postponed, if there be no objection.

Mr. FOSTER subsequently said: I move now that the Senate resume the consideration of the bill (S. No. 281) for the relief of A. J. Atocha, which was laid aside a few moments since at the instance of the Senator from Vermont.

The motion was agreed to.

Mr. FOSTER. I move to amend the bill by striking out in the seventh line the words "and to" before "fix," and inserting in lieu of them, "and if they shall be of opinion that the said claim was a just one against Mexico when the treaty of 1848 was ratified, and was embraced by said treaty, they shall then." This amendment has been shown to the Senator from Vermont and meets his approval. I hope, therefore, that it will be adopted.

The amendment was agreed to.

Mr. CHANDLER. This case was familiar to me some years ago, but I have forgotten the details of it. I move that the further consideration of the bill be postponed until to-morrow; I desire time to reexamine it. It covers, if I remember rightly, several hundred thousand dollars. It is a long-contested, dubious old claim, which I should like to look into thoroughly before voting upon the bill.

Mr. FOSTER. I have, of course, no objection to the motion of the Senator from Michigan if he wishes to examine the case. If, however, he is under the apprehension that the bill takes any money from the Treasury, I assure him that he is mistaken; it takes not a cent from the Treasury.

Mr. CHANDLER. Does it from the fund provided for by the treaty?

Mr. FOSTER. Not a cent from the fund. It simply authorizes this individual to try his case in the Court of Claims; and if he has no case, I am sure that court will say he has none. It does not take a dollar from the Treasury.

Mr. CHANDLER. The case was up once before, and I should like to examine it again thoroughly.

Mr. FOSTER. I have no objection to a postponement if the Senator wishes to take time to examine the bill, but I thought he was under a mistake as to its effect.

Mr. CHANDLER. I may be; but I wish to look into it.

Mr. FOSTER. Very well; I have no objection to the postponement.

The motion to postpone was agreed to.

GEORGE W. MURRAY.

Mr. FOSTER. I move that the Senate proceed to the consideration of House bill No. 380. It is a bill reported from the Committee on Pensions.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 380) for the relief of George W. Murray. It directs the Commissioner of Pensions to pay to George W. Murray the pension to which he was entitled by the act of Congress approved March 3, 1837, entitled "An act for the more equitable administration of the Navy pension fund."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

REUBEN CLOUGH.

On motion of Mr. FOSTER, the Senate proceeded to the consideration of the bill (S. No. 316) for the relief of Reuben Clough, which was read a second time, and considered as in Com-

mittee of the Whole. It directs the Secretary of the Interior to place the name of Reuben Clough on the invalid pension roll, at the rate of eight dollars per month, commencing on the 15th of May, 1815, and ending on the 29th of December, 1848, when his present pension was allowed him at the Pension Bureau.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### COMMERCE AMONG THE STATES.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. CHANDLER. I understand that there are several Senators who desire to be heard at length upon this bill, among others the Senator from Maryland, [Mr. JOHNSON.] As I desire to give every Senator a full opportunity to discuss this bill, I move that its further consideration be postponed, and that it be made the special order for Tuesday next, on which day the debate may go on.

Mr. GRIMES. Fix a day beyond the holidays; for until then the bill cannot be satisfactorily considered.

Mr. CHANDLER. If we find on Tuesday next that further postponement is desirable it can then be postponed to a subsequent day.

Mr. JOHNSON. I would suggest to the Senator from Michigan whether he had not better postpone it a few days later. The Senate may not be in session on Tuesday next.

Mr. CHANDLER. Will the first Tuesday in January suit the Senator better?

Mr. JOHNSON. Certainly; though any time will suit me.

Mr. CHANDLER. Very well, then, I will consent to that.

Mr. BROWN. Say the first Wednesday in January.

Mr. JOHNSON. I think it would be better to say the first Wednesday or Thursday in January.

Mr. CHANDLER. I will so vary my motion as to designate the first Wednesday in January next.

The further consideration of the bill was postponed to and it was made the special order for Wednesday, the 4th day of January next, two thirds of the Senate agreeing thereto.

#### GUNBOAT FOR LIBERIA.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of the bill (S. No. 356) to authorize the President of the United States to transfer a gunboat to the Government of Liberia.

The bill was read a second time and considered as in Committee of the Whole. It authorizes the President of the United States to transfer to the Government of the republic of Liberia any one of the gunboats now or hereafter included in the Navy of the United States, her armament, tackle, apparel, and furniture, which may be acceptable to that Government, and can, in the judgment of the Secretary of the Navy, be conveniently spared for that purpose, and upon a valuation to be fixed by him. The Secretary of the Navy is also to be directed to enter into a contract with any person duly empowered by the Government of that republic, by which that Government shall engage to repay to the United States the value of the gunboat to be transferred; and the contract is to stipulate for the full reimbursement to the United States of the value of such gunboat in annual installments, not exceeding ten in number, with interest on each at six per cent. per annum from the date of the contract.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. POWELL. I am under the impression that this bill ought not to pass. I do not think this Government, while engaged in this war, should send gunboats off to any foreign Power. I think it would be impolitic to do so. As I am opposed to it, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. SUMNER. I shall not enter into any debate on this question; I shall content myself with calling attention to the words of the President in his annual message. A very short paragraph on this subject there, it seems to me, is a complete

answer to the suggestion of the Senator from Kentucky. It is as follows:

"Official correspondence has been freely opened with Liberia, and it gives us a pleasing view of social and political progress in that republic. It may be expected to derive new vigor from American influence, improved by the rapid disappearance of slavery in the United States.

"I solicit your authority to furnish to the republic a gunboat at moderate cost, to be reimbursed to the United States by installments. Such a vessel is needed for the safety of that State against the native African races; and in Liberian hands it would be more effective in arresting the African slave trade than a squadron in our own hands. The possession of the least organized naval force would stimulate a generous ambition in the republic, and the confidence which we should manifest by furnishing it would win forbearance and favor toward the colony from all civilized nations."

Mr. POWELL. The portion of the President's message which has been read by the Senator from Massachusetts has not caused me to change my opinion. I had before noticed that recommendation in the message, and I thought it most singular at the time the message was read at the desk. I do not think this Government ought to be taking charge of the interests of other countries; it certainly is as much as we can do to take care of our own. I think one of the evils of the time in this Confederacy has grown out of the fact that some of the States and the people of some of the States have been intermeddling with the institutions of other States and sections. I think it is wrong in every aspect of the case that we should take the guardianship of other countries or interfere with them. If they want gunboats, let them build them; if they want ships of the line, let them build them. They ought to know all about their own policies. If they have the money to pay for gunboats, they can have them built, or any other description of vessels of war. If they choose to come and hire our ship-builders to build them in their private docks, all very well; but for this Government to set about to regulate the policies of other people, and to turn trader in gunboats, I think is highly impolitic. It is a thing which the Senate ought not to concur in for a moment. It is not my purpose to make a speech on the subject; I merely wish to put on record my opposition to any such intermeddling policy.

The yeas and nays were taken, and resulted—yeas 33, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colman, Conness, Cowan, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—33.

NAYS—Messrs. Buckalew, Carlile, Davis, Harding, Hendricks, Nesmith, Powell, Riddle, and Wright—9.

NOT VOTING—Messrs. Hale, Hicks, Howe, McDougall, Morrill, Richardson, and Saulsbury—7.

So the bill was passed.

Mr. GRIMES rose when Mr. MORRILL's name was called and said: I desire to say that the Senator from Maine has been called home by a telegraphic dispatch announcing the extreme illness of a member of his family; that is the reason of his absence at this time.

#### TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate copies of the laws, memorials, and resolutions of the Territory of Dakota, passed at the third session of the Legislative Assembly; which were referred to the Committee on Territories.

#### BILL INTRODUCED.

Mr. RIDDLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 357) for the relief of Olivia W. Cannon, widow of Joseph S. Cannon, late a midshipman in the United States Navy; which was read twice by its title, and referred to the Committee on Pensions.

#### BILLS RECOMMITTED.

On motion of Mr. WILSON, the following joint resolution and bills were taken up and recommitted to the Committee on Military Affairs and the Militia:

A joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861;

A bill (S. No. 103) to define the pay and emoluments of chaplains in the United States Army and volunteer forces, and for other purposes;

A bill (H. R. No. 261) to provide for the voluntary enlistment of any persons, residents of certain States, into the regiments of other States;



A bill (S. No. 231) concerning the subsistence and pay of the Army; and

A bill (S. No. 284) to increase the efficiency of the staff of the Army.

On motion of Mr. SUMNER, the bill (S. No. 93) to repeal so much of the acts of Congress, approved March 3, 1845, and August 6, 1846, as authorize the transportation of goods imported from foreign countries through the United States to the Canadas, or from the Canadas through the United States to be exported to foreign countries, was recommitted to the Committee on Foreign Relations.

#### HOUSE BILLS REFERRED.

The bill (No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, and the bill (No. 586) to drop from the rolls of the Army unemployed general officers, were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia.

#### WILLIAM H. JAMESON.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 329) for the relief of William H. Jameson, a paymaster in the United States Army.

Mr. GRIMES. What is the bill?

The PRESIDENT *pro tempore*. It will be read.

The Secretary read the bill, which provides for the allowance to Paymaster Jameson, in the settlement of his accounts, of a credit of \$959 14 for money in his hands on board the steamer Ruth, which was destroyed by fire on the night of August 4, 1863.

The amendment of the House of Representatives was to add to the bill the following words:

If, on examination of the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to said credit; but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof.

The amendment was concurred in.

#### ATTACK ON PETERSBURG.

Mr. ANTHONY submitted the following resolution, which was considered by unanimous consent, and agreed to:

*Resolved*, That the joint committee on the conduct of the war be directed to inquire into and report the facts concerning the attack on Petersburg on the 30th day of July, 1864.

#### FREEDOM OF SOLDIERS' FAMILIES.

Mr. WILSON. I move to take up the joint resolution (S. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States, with the view of leaving it as the unfinished business to come up on Monday morning, for I desire to get the vote of the Senate upon it at the earliest possible time. The motion was agreed to.

The PRESIDENT *pro tempore*. The joint resolution is before the Senate as in Committee of the Whole.

Mr. WILSON. I now move that the Senate proceed to the consideration of executive business. The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 15, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting estimates of appropriations needed for the Department for the fiscal year commencing July 1, 1865; which was read, and referred to the Committee of Ways and Means.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had agreed to the amendment of the House to Senate bill No. 329, for the relief of William H. Jameson, a paymaster in the United States Army.

Also, that the Senate had passed, without amendment, House bill No. 380, being an act for the relief of George W. Murray.

Also, that the Senate had passed the following bills, in which they asked the concurrence of the House:

An act (No. 316) for the relief of Reuben Clough; and

An act (No. 356) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia.

#### ENLISTMENTS.

Mr. HOLMAN. I ask unanimous consent of the House to introduce the following resolution, which is merely one of inquiry:

*Resolved*, That the Secretary of War be directed to furnish to the House copies of the order issued from his Department on the 21st day of December, 1863, in regard to recruits enlisted with conditions that they should be discharged when their regiments were mustered out of service; also copy of order or letter dated 22d day of December, 1863, and addressed to the Governor of the State of Massachusetts, in regard to recruits to fill up old regiments, and that he inform the House whether the principles announced in the order above mentioned have been applied to all soldiers mustered into the service to fill up those regiments.

Mr. SCHENCK. I move that that resolution be referred to the Committee on Military Affairs.

Mr. HOLMAN. My only object is to obtain information. When that shall be furnished the House, I shall have no objection to have it referred to the Committee on Military Affairs.

Mr. SCHENCK. I have no objection to the inquiry being made. But the Committee on Military Affairs have this very morning been engaged in this investigation. We are gathering information from the War Department, and I think it better that the resolution be referred to our committee. If there be anything embraced in the resolution which has not been the subject of inquiry already, and upon which information has not been obtained through the committee, we will report it back and have that additional information called for by the House.

Mr. HOLMAN. I think that this is a subject in the disposition of which the whole country has some interest. I trust the gentleman will allow the information to be obtained, and have it referred to his committee.

Mr. SCHENCK. A portion of the information called for has already been obtained by the committee. We are now in consultation with the Secretary of War upon the subject, and a report is now in course of preparation. I know this is a subject which requires investigation, and we are now engaged in that investigation. I am perfectly willing to have this resolution referred to the committee; otherwise I must insist upon my objection to the passage of this resolution at this time.

Mr. SCHENCK subsequently said: I propose, Mr. Speaker, to withdraw my objection to the resolution offered by the gentleman from Indiana, [Mr. HOLMAN,] with the understanding that he will simply introduce the order and the letter, copies of which he has, and have them referred to the committee. My only object is to have the Military Committee enabled to expedite the matter and make an early report upon the subject.

Mr. HOLMAN. That is all that I desire.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] withdraws his objection, and if there be no other objection, the resolution will be considered as introduced and agreed to.

There was no objection.

Mr. HOLMAN. I now call for the regular order of business.

Mr. MALLORY. I hope the gentleman will withdraw his motion until I can submit a resolution.

Mr. HOLMAN. I will withdraw it.

#### PREEMPTION AND HOMESTEAD LAWS.

Mr. DONNELLY, by unanimous consent, introduced a bill entitled "An act to prevent deserters and others, therein named, from acquiring public lands under the preemption and homestead laws;" which was read a first and second time, and referred to the Committee on Public Lands.

#### ARREST OF LIEUT. GOVERNOR JACOB, ETC.

Mr. MALLORY. I ask the unanimous consent of the House to offer this resolution:

*Resolved*, That the President be requested to communicate to this House all information in his possession bear-

ing on the arrest and imprisonment of R. T. Jacob, Lieutenant Governor of the State of Kentucky, and Frank Wolford, one of the presidential electors of that State; and particularly by whose order they were arrested and imprisoned, where they are at present confined, and what offenses are charged against them.

Mr. STEVENS objected.

#### INVALID PENSIONS.

Mr. GRISWOLD. I ask the unanimous consent of the House to offer the following resolutions:

Whereas the increasing number of pensioners, and the increasing burdens necessarily falling upon the country for their support, render it advisable to devise some means whereby this class of persons may be provided with such life employments or opportunities for industrial enterprises as may induce them to make an effort at self-support independent of a Government pension: Now, therefore,

*Be it resolved*, That a committee of seven be appointed to investigate all the facts and circumstances relating to the practical working of our pension laws, as a system of permanent relief to military or naval invalids; to inquire into the actual and present condition of such invalids, and to report what measures, relating to their future disposition, will best secure to such of them as are able to labor a life support independent of a Government pension.

*Resolved*, That this committee be authorized to take testimony, and for this purpose have power to send for persons and papers.

Mr. STEVENS. I should have no objection to have those resolutions referred to the Committee on Pensions, but this raising committees with power to send for persons and papers upon subjects of this character seems to me to be a bad practice. I suggest to the gentleman from New York [Mr. GRISWOLD] to have these resolutions referred to the Committee on Pensions.

Mr. GRISWOLD. I observe that petitions, signed by several distinguished individuals, have been presented to the Senate asking for appropriations for this very purpose. My object is to have such investigation made, so that when action comes to be taken upon this subject it can be taken understandingly.

Mr. STEVENS. I have certainly no hostility to the object of the gentleman, but I would suggest to the gentleman that the Committee on Pensions is the proper committee to consider this subject, and I hope the gentleman will so alter his resolution as to instruct that committee to investigate this subject.

Mr. GRISWOLD. I would prefer to have a special committee. It is simply for the purpose of obtaining information. I would suggest to the gentleman that there is no money involved in this matter.

Mr. STEVENS. I never knew a proposition to send for persons and papers that did not involve money.

Mr. GRISWOLD. Then I will waive that part, and will modify my resolutions by leaving out that one which authorizes the sending for persons and papers.

The resolution, as modified, was then agreed to.

#### UNITED STATES DISTRICT COURT IN INDIANA.

Mr. ORTH. I move that the House proceed to the consideration of Senate bill No. 352, to authorize the holding of a special session of the United States district court for the district of Indiana.

The motion was agreed to; and the bill was read a first and second time.

The bill was read at length. The first section provides that a special session of the United States district court for the State of Indiana shall be held at the usual place of holding the court on the first Tuesday of January, 1865.

The second section provides that all suits and proceedings of a civil or criminal nature now pending in, or returnable to, the court, shall be proceeded in, heard, tried, and determined by the court at the special session in the same manner as at a regular term, and the judge is empowered to order the impaneling of a petit and grand jury for the session.

The bill was ordered to a third reading, was read the third time, and passed.

#### DIFFICULTIES ON THE NORTHERN BORDER.

Mr. COX. I ask unanimous consent to offer the following resolution:

*Resolved*, That, if not incompatible with the public service, the Secretary of State be directed to communicate to this House all correspondence on file in his office with reference to the difficulties upon our northern border, and whose consideration has been referred to the Committee on Foreign Affairs.

The SPEAKER. Is there objection to the presentation of the resolution?

Mr. COX. I will state, in order to obviate any objection, that the Committee on Foreign Affairs have charge of this subject, and this resolution is offered with the view of assisting them in the examination of the question.

The SPEAKER. If there is no objection, the resolution will be considered as introduced and agreed to.

There was no objection.

#### TAXATION OF SAILING VESSELS.

Mr. BLAINE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of exempting sailing vessels of five hundred tons and upwards from the two per cent. tax imposed in the ninety-fourth section of the Internal revenue act of 1864.

#### TAX COMMISSIONERS FOR FLORIDA.

Mr. SLOAN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to transmit to this House a copy of the report of Hon. Austin Smith, appointed by the Treasury Department to investigate the conduct of the board of tax commissioners for the district of Florida, together with the evidence accompanying the same; and also to transmit copies of any communications made by the surators of any such tax commissioners, asking to be relieved from liability on the official bonds, said commission; and to inform the House what, if any, action has been taken on said report and communications, and the reasons therefor.

#### NAVY-YARD AT OSWEGO, NEW YORK.

Mr. LITTLEJOHN, by unanimous consent, introduced a bill to provide for the establishment of a navy-yard and depot at Oswego, in the State of New York; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### SUBSISTENCE DEPARTMENT.

Mr. SCHENCK, by unanimous consent, reported to the Committee on Military Affairs a bill for the better organization of the subsistence department; which was read a first and second time.

Mr. SCHENCK moved that the bill be recommended, and ordered to be printed.

The motion was agreed to.

#### CAPTAIN WINSLOW AND LIEUTENANT CUSHING.

Mr. RICE, of Massachusetts. Mr. Speaker, the Committee on Naval Affairs have instructed me to report a joint resolution tendering the thanks of Congress to Captain John A. Winslow, and also a joint resolution tendering similar thanks to Lieutenant William B. Cushing. It was my intention to report those resolutions whenever the Committee on Naval Affairs should be called upon for reports. In the mean time, however, the Senate has passed joint resolutions of the same nature, and those resolutions are now on the Speaker's table. I move that they be taken up and considered at this time.

The motion was agreed to; and the House proceeded to the consideration of Senate joint resolution No. 83, tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in her conflict with the piratical craft, the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864.

The joint resolution was read a first and second time, ordered to a third reading, read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DESTRUCTION OF THE ALBEMARLE.

The SPEAKER also laid before the House Senate joint resolution No. 84, tendering the thanks of Congress to Lieutenant William B. Cushing, of the United States Navy, and the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albemarle, in compliance with the President's recommendation of December 5, 1864; which was read a first and second time, ordered to be read

a third time, and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FOREIGN POLICY OF THE UNITED STATES.

Mr. DAVIS, of Maryland, from the Committee on Foreign Affairs, reported the following resolution, and demanded the previous question on its adoption:

*Resolved*, That Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognition of new Powers as in other matters; and it is the constitutional duty of the President to respect that policy not less in diplomatic negotiations than in the use of the national force when authorized by law; and the propriety of any declaration of foreign policy by Congress is sufficiently proved by the vote which pronounces it; and such proposition while pending and undetermined is not a fit topic of diplomatic explanation with any foreign Power.

The previous question was seconded, and the main question ordered.

Mr. COX demanded the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The resolution was again read.

Mr. FARNSWORTH moved that the resolution be laid on the table.

Mr. COX demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 63, not voting 50; as follows:

YEAS—Messrs. Alley, Ames, Anderson, Arnold, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Grinnell, Hale, Higby, Hotchkiss, John H. Hubbard, Hulburd, Ingersoll, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McBride, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perlman, Pike, Pomerooy, Price, Alexander H. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Spalding, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Wilson, Windom, and Woodbridge—69.

NAYS—Messrs. James C. Allen, William J. Allen, Allison, Ancona, Ashley, Augustus C. Baldwin, Bliss, Blow, Brooks, James S. Brown, Chanler, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Edson, Edgerton, Eldridge, Finck, Ganson, Garfield, Griswold, Harding, Herrick, Holman, Asahel W. Hubbard, Jencks, Philip Johnson, Kallfeltsch, Keruan, King, Knox, Law, Le Blond, Loan, Mallory, Marcy, McAllister, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Orth, Pendleton, Perry, Radford, Samuel J. Randall, Schenck, Sloan, Smithers, Starr, John B. Steele, William G. Steele, Stevens, Stiles, Stuart, Sweat, Townsend, Wadsworth, and Yeaman—63.

NOT VOTING—Messrs. Brandegee, William G. Brown, Freeman Clarke, Clay, Coffroth, Creswell, Dumont, English, Fenton, Frank, Gooch, Grider, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, William Johnson, Julian, Kasson, Knapp, Lazear, Long, McClurg, McDowell, McKinney, Middleton, Nelson, Pruyn, William H. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Ross, Scott, Strouse, Thayer, Van Valkenburgh, Voorhees, Ward, Webster, Chilton A. White, Joseph W. White, Williams, Wilder, Winfield, Benjamin Wood, and Fernando Wood—50.

So the resolution was laid on the table.

During the vote,

Mr. RICE, of Maine, not being within the bar when his name was called, asked leave to record his vote.

Mr. LE BLOND objected.

The vote was announced as above recorded.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRIVILEGED QUESTION.

Mr. DAVIS, of Maryland. Mr. Speaker, I rise to a privileged question. I desire to be relieved by the House of Representatives from further service on the Committee on Foreign Affairs.

I am willing, sir, to take all of the responsibilities that are connected with any service upon which the House of Representatives shall place me; but when in the course of the discharge of those duties I find myself unfortunately differing in opinion from the majority of the House, I do not consider it proper I should longer continue to hold any such position. The vote which has been just passed by the House is one which will allow of no other construction.

The House, on my motion, on the unanimous recommendation of the Committee on Foreign Affairs, at the last session, passed a resolution declaring the policy of this Government touching the republics of America. It was adopted unanimously. It went to the Senate, and there it lies. It had not been passed three days before the officer charged with the foreign correspondence of this Government directed our representatives abroad virtually to apologize to the French Government for the resolution adopted by the Representatives of the people, and in that correspondence presumed to impeach Congress of usurpation in undertaking to prescribe to the President the rules which should guide him in the foreign policy of the United States.

That correspondence was made the subject of a circular by the French Government to all of the Governments of the world, to let them understand that the Congress of the United States had no right to speak with authority in the foreign affairs of the Government, and that nothing was to be regarded except the will and declarations of the Executive. In the debates that took place in the French Assembly the world was given to understand, by the member representing the emperor, that the passage of the resolution touching Mexican affairs and French intrusion into Mexico was a momentary outburst of passion on the part of the Representatives of the American people like that which occurred when Messrs. Mason and Sidel were arrested on board the Trent, but which did not prevent the Federal Government from giving up the two prisoners. The world was given to understand, on the authority of the Secretary of State, by the imperial Government, that Congress is such a thing as the French Assembly, the docile reflex of the executive will, its resolution a vain and presumptuous usurpation. The letter of the Secretary of State was in a tone that was not respectful to the dignity and the authority of the House of Representatives. And if that letter lays down the law of the land—and this House by its vote to-day says it does—then you have no right to a Committee on Foreign Affairs, and I am no child to play at doing that which you have no right to do. The Secretary of State, before all Europe, in a matter of the greatest moment, slapped the House of Representatives in the face in his correspondence with the French Government, and the House of Representatives says it will not even assert its dignity. The House of Representatives is the appropriate and adequate guardian of its own dignity. Sir, I am the only guardian of my own dignity; and after this vote and that correspondence I most humbly but respectfully ask to be excused from further service upon the Committee on Foreign Affairs.

Mr. COX. I feel constrained to object to relieving my colleague from service on the Committee on Foreign Affairs, but if the House insist upon excusing him, I ask the same privilege myself, and desire to be excused from service upon that committee. I have no doubt gentlemen will accord that privilege to me very readily, and perhaps excuse me from all committees, if that is their pleasure. The Committee on Foreign Affairs have had little to do since this Congress began. The House sent them this resolution for their consideration. The gentleman from Maryland examined the question committed to the committee with great care, great deliberation, and great learning, as his report, which has been sent to this House, will show. That report will challenge the admiration of everybody except those who are not perhaps diligent enough to read the proceedings of Congress, or too ignorant to understand the diplomatic history of the country.

Mr. Speaker, by an examination of that report, which has nothing of a partisan character in it, everybody would be satisfied that Congress has some voice, at least, in the foreign affairs of this country, and in the diplomatic arrangements by which our peace is kept with all the world. Precedent after precedent is cited where Congress has again and again recognized foreign Governments, and we all know the precedents with respect to voting appropriations to carry out treaties, in which the voice of Congress has been omnipotent with respect to our foreign relations. And there is no reason why the voice of the chairman of our committee, or the voice of that committee itself, should not have been treated respectfully in this House. The House passed a resolution vindicat-

# THE CONGRESSIONAL GLOBE.

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ing our continental policy and the Monroe doctrine from the infringement of foreign Powers, and especially France. It went to the Senate; there, for certain reasons, it sleeps—sleeps the sleep of death, and will know no waking. The country was insulted, the continent was insulted, by this French intervention, and the House of Representatives, in a moment of pride of nationality, of true dignity, asserted its proper prerogative with respect to this question. The Committee on Foreign Affairs but carried out their wishes. How our resolution was treated by the Executive and by the House in their action this day we know. But, sir, I do not think this action of the House a good reason why the gentleman from Maryland should be excused, or that the House should excuse him, unless he holds this House and this Congress in utter and absolute contempt. I hope, Mr. Speaker, there will be something done to vindicate the privileges of at least the lower House of Congress from the executive, and, if you please, diplomatic aggrandizement. We have had in this country within the last two years the same old question which they have had in England for a great many years and centuries—the old contest between the royal prerogative and parliamentary privilege, with this exception, whereas in England Parliament is paramount, in this country we are, or ought to be, limited by a written constitution. In England and in this country that contest has been waged between executive usurpation and congressional privilege; and the gentleman from Maryland, not only in this matter but in other matters, has asserted the congressional right against executive usurpation, and he deserves the thanks of every national man of every party for it.

It is time, sir, that the rights and privileges of the national Legislature were respected, and I would appeal to the self-respect of members upon both sides to vindicate their own dignity and the dignity of the Constitution. There is no question in my mind but that Congress has, if not a controlling, a large voice in diplomatic and foreign relations. But it seems, by the vote just taken on laying this resolution on the table, that the House thinks otherwise. If it chooses to think so, very well, but do not let the gentleman from Maryland, after such action, take umbrage at anything this House may do. He can vindicate his own self-respect and dignity, as he has done before, when our rights were intruded upon by the Executive in his famous manifesto, which he is bold enough at all times to vindicate before the people.

Mr. Speaker, there are a good many questions pertaining to congressional privileges which will arise before this session is over. They will require us to vindicate our rights here against the Executive. It was only yesterday that the House adopted the resolution of the honorable gentleman from New York, [Mr. Brooks,] committing to the Committee on Foreign Affairs an inquiry as to what is necessary to be done to protect our northern boundary from the arson, robbery, and raids of the sneaking scoundrels upon our borders. Why was that resolution sent to us? Why should Congress take any action on the subject if we are to have no voice and no control in these foreign matters? Suppose we should make a report sustaining the action of General Dix, and the true interpretation of international law—is such a report to be null and void because this House has no control over the subject referred? Suppose we demand that Federal force should follow these rascally raiders across the border into the continuous jurisdiction of England, where they have been sheltered—are we to be told we have no business to meddle with it, as it is “purely an executive question?” The true doctrine, as it is laid down by Vattel, Phillimore, Wheaton, and by all international writers, and assented to by Webster in the Caroline case, would give this Government the right, for self-protection, of pursuit across the border, in precisely a case of this kind, where, in civil war, rebels are harbored on one side and make incursions upon the other; and if we report such a resolution asserting this right, are we then to be told it is not within the

purview of our powers? Yet this matter has been referred to us, and if we make a report upon it, is that report to have any emphasis? Has Congress any right or control over the matter? If not, why did the House refer this matter to the Committee on Foreign Affairs? Why pass on such matters at all, and then table a resolution which only vindicates our rights and privileges?

I have no doubt that the House would willingly excuse me from serving on that committee. If they excuse the gentleman from Maryland, of course they will excuse the lesser and insignificant member of the committee; but I hope that they will not pass a vote of censure upon the committee by excusing him. If they do, this House sinks to the lowest level of any national Legislature that ever assembled here or in any other country. They deserve only to be on their knees perpetually in the dust at the footstool of power, and to be kicked and thrust aside by the Executive whenever he chooses to exercise any of its functions, diplomatic or otherwise. Let us vindicate our own rights. If we have the right to pass upon these matters let us exercise that right. If we have not, let us stop this mockery of sending to the Committee on Foreign Affairs these and kindred resolutions pertaining to Canada such as you sent to us yesterday. I shall, therefore, in courtesy to the honorable chairman of the committee to which I belong, vote against excusing him. I can testify to his ability, to his earnestness, to his energy, and to his outspoken integrity, and, so far as these foreign questions are concerned, to his nationality; and, Mr. Speaker, we need such a man, and may need him more hereafter upon that committee.

Mr. BLAINE. A single word, Mr. Speaker, on the other side. Parallels in history are always interesting, and often instructive. A recent correspondence on a threatened difficulty with France has brought this question before the House. Three quarters of a century ago we had troubles with the same nation, and those troubles were attended with an incident which, if not precisely parallel, at least involves the same general principle now under discussion. It is an incident connected with a name whose mention commands respect everywhere, and which I have peculiar confidence in presenting to the attention of gentlemen on the other side of the Chamber. The very same objections and the very same appeals to the power of Congress were made in the French difficulties during the Administration of Washington, in the discussion between the French minister, Citizen Genet, and the American Secretary of State, Mr. Jefferson; and it is to Mr. Jefferson's declarations that I especially invite attention. I beg the privilege of reading from Randolph's *Life of Jefferson*, volume two, pages 158 and 159, as follows:

“Genet took up the subject instantly in a very high tone, and for a time proceeded with such volubility that Jefferson found all efforts to take some part in the conversation were quite ineffectual.” The latter thus subsequently reported the substance of the conversation to the President:

“He charged us with having violated the treaties between the two nations, and so went into the cases which had before been subjects of discussion; complained that we suffered our flag to be insulted and disregarded by the English; that they stopped all our vessels, and took out of them whatever they suspected to be French property; that they had taken all the provisions he had embarked in American vessels for the colonies; that if we were not able to protect their vessels in our ports, nor their property on the high seas, we ought to permit them to protect themselves; and they, on the contrary, paid the highest respect to our flag; that, though it was notorious that most of the cargoes sent from America were British property, yet, being in American vessels, or pretended American vessels, they never touched it, and thus had no chance of retaliating on their enemies; that he had been thwarted and opposed in everything he had to do with the Government; that he found himself in so disagreeable a situation that he sometimes thought of packing up and going away, as he found that he could not be useful to his nation in anything.”

“After expatiating on the friendly propositions he had brought from his nation, and affirming that such a return to them ought not to have been made by the Executive without consulting Congress, he declared that on the President's return he would certainly press him to convene Congress. Having got into a more moderate tone, Jefferson now stopped him at the mention of Congress, explained to him the functions of the several departments of the Government, and that all the questions which had arisen between

him and it belonged to the executive department, and if Congress had been sitting could not have been carried to them, nor would they have taken notice of them. Jefferson's further report of the conversation solicits a smile: “He [Genet] asked if they [Congress] were not the sovereign. I told him no; they were sovereign in making laws only; the Executive was sovereign in executing them; and the judiciary in construing them, where they related to their department.” “But,” said he, “at least Congress are bound to see that the treaties are observed.” I told him no; there were very few cases indeed, arising out of treaties, which they could take notice of; that the President is to see that treaties are observed. “If he decides against the treaty, to whom is a nation to appeal?” I told him the Constitution had made the President the last appeal. He made me a bow, and said that indeed he would not make him his compliments on such a Constitution, expressed the utmost astonishment at it, and seemed never before to have had such an idea.”

Well, Mr. Speaker, we have got the same Constitution to-day that excited the smiles of Citizen Genet in 1793. I can conceive of nothing more mischievous, more entirely mischievous, in the working of this Government than for Congress to plant itself on this resolution, and for this simple reason: in effect, it absolutely denies to the Executive a concurrent power in the foreign affairs of the Government. It ties up the Foreign Department of the Government just whenever any member chooses to bring a question before Congress, and so long as that question is pending in either House of Congress the Executive Department is stopped by the very terms of the resolution from making it even a subject of diplomatic correspondence. The resolution, indeed, specifically declares that “such proposition,” (that is, whatever may be introduced in either branch of Congress,) “while pending and undetermined, is not a fit topic of diplomatic explanation with any foreign Power.” To adopt this principle is to start out with a new theory in the administration of our foreign affairs, and I think the House has justified its sense of self-respect and its just appreciation of the spheres of the coördinate departments of Government by promptly laying the resolution on the table.

I think our foreign correspondence has been conducted wisely and well by the very distinguished statesman at the head of the Department of State. His highest eulogy is to be found in the eminent success that has attended his labors in a time of peculiar and unparalleled trial and trouble. It is wise to “let well enough alone,” and for one, I can never consent to a resolution passing this House that contains even an implied censure upon one to whom the country owes so much.

In regard to the resignation of the gentleman from Maryland [Mr. DAVIS] from the chairmanship of the Committee on Foreign Affairs, my own feeling is but that of the entire House, when I express myself warmly against it. A gentleman of his ability cannot be spared from his responsible position, and I feel sure the House will insist on his continued service.

Mr. STEVENS. Mr. Speaker, I am so obtuse that I cannot see the least analogy between the case cited by the gentleman from Maine [Mr. BLAINE] and the case now under consideration. The one was the interference of a foreigner, a proposal by him to ask Congress to interfere with treaty stipulations. Mr. Jefferson very properly told him that Congress had no right to interfere with treaty stipulations; for, as we all know, treaties are, by the Constitution, the supreme law of the land. That is the whole extent of the precedent to which the gentleman has referred; and how it has any bearing on this question I am unable to perceive.

Suppose Congress were to pass a law that no foreign Power should be permitted to establish a monarchy on the continent of North America—has not Congress the power to do it? Is that interfering with the executive or any other department of the Government? Is it not legitimately within the power of Congress to say that we will or we will not suffer thrones to be erected within our dominions or adjacent to them? If we can enforce it, well. I am not speaking of its policy. I am speaking of the powers of Congress. If such a declaration lead to war, then in



Congress, and in Congress alone, lies the power to declare war. The President cannot do it. How, then, does it interfere with the executive prerogative for Congress to declare, by a joint resolution—which is a law of the land—a certain line of policy for the Government to pursue in this matter?

Sir, the question is as clear as the sun at noon-day, unless we are willing to stultify ourselves. Why was not this thought of at the last session of Congress, when the gentleman [Mr. BLAINE] and other gentlemen were present and suffered that resolution to pass unanimously? Why is it that they have just now waked up to a sense of their error, unless it is because, not the President—and that is wherein I somewhat censure this resolution—but one branch of the Executive Government took upon it to rebuke this body, and to inform foreign nations that we were an impertinent set of intermeddlers, and that the Executive of the nation would pay no respect to the action of this body, or, if you please, to the action of Congress, if the joint resolution had passed the Senate? I have no censure for anybody. We unanimously declared that a certain policy should be the policy of this nation, and we proposed to make it the law of the land. Foreign nations took some offense at it, as everybody knows that it was not in favor of foreign nations who have come on this continent against the traditional policy of the nation from the time of Monroe to the present time, and who are establishing thrones to surround this Republic in order that they may eventually establish them here. Does it not become this body and this Congress to say to them, *Procul, Oprocul este, profani*? "Keep out of the way, ye monarchical heretics, and do not attempt to interfere with the grand policy of the republicans of this country."

And are we to be intimidated because a foreign monarch chooses to find fault, and shall an agent of this Government humble the nation before him, and say that the action of this body means nothing; that the Representatives of the people recently chosen from all the districts of the nation are nothing; that their sense of policy means nothing; and that he need not trouble himself any further about it, but that the Secretary of State will take care that these impertinent boys shall do no harm? For that is precisely what he said; not perhaps in exactly that language, for I do not remember the language exactly.

Now, sir, the President does not interfere with the Foreign Minister in his policy. He is allowed to carry it on himself, and to be responsible for it. And it is only bringing him up to his responsibility that the Committee on Foreign Affairs, very much to their credit, brought in their resolution: to vindicate the dignity of this House and the dignity of this country, and to raise it from the low depth of degradation in which it had been placed by its Foreign Minister.

Now, I should have liked to have the resolution read a little differently; for it reads, "and it is the duty of the President to respect that policy." I think that is an unfortunate expression. The President probably had nothing to do with the matter. And when I have the opportunity I will test the sense of the House upon a little alteration of the phraseology of the same resolution, so that it shall read, "and it is the duty of the Executive Departments to respect that policy." Therefore, when I get the opportunity, I will again ask the sense of the House upon that question.

If we are mere nobodies in this matter, if we are mere mischief-makers, then let our lord and master in the chair of State rule and control us, and let us ask the pardon of the world for endeavoring to interfere somewhat in one of the most vital questions which can ever affect this nation.

I do not think I shall vote to excuse the gentleman from Maryland [Mr. DAVIS] as chairman of the Committee on Foreign Affairs. I do not look upon the vote of this House as any insult to that gentleman; I do not look upon that vote as any censure upon him. We have thoughtlessly acted upon the matter, perhaps, without having taken full opportunity for its consideration; and if the chairman of a committee is to consider himself personally offended when the House votes down propositions which he brings forward for our consideration, some of us would have been out of employment some time ago. [Laughter.] Why, sir,

when my friend here [Mr. WASHBURN, of Illinois] introduced his proposition to tax the stock of whisky on hand, and rode triumphantly through this House upon the head of the liquor, while I was completely submerged, I did not ask to be excused; it was a gentle ducking from which I expected to recover, hoping to come out renovated by the bath. [Laughter.] And I hope the gentleman from Maryland [Mr. DAVIS] will receive this in the same way, and consider that he can still serve the country with advantage in the position he now occupies, for I am sure that no man in this House or in the nation can be more properly put at the head of that committee.

Mr. ROUTWELL. Mr. Speaker, it was my misfortune to vote with the majority of this House upon the question of laying upon the table the resolution submitted by the chairman of the Committee on Foreign Affairs. It may not, therefore, be inappropriate for me to state at least the impressions rather than opinions by which I was controlled. In the first place, I may say with reference to the important question before the House, that I cannot for one consent to the inference that the vote given by the majority was in any sense a reflection upon the honorable chairman of that committee. In this particular case the judgment of the House differs from the wishes of that gentleman. It is but a repetition of what has so often occurred in our experience, and I should be extremely sorry if the precedent should now be set that whenever a measure proposed by a committee of this House does not meet the approval of a majority of the members of this House, the chairman of that committee is to assume that it is a personal reflection upon him.

I know very well in this case that there is no gentleman upon this floor who enjoys to a greater, if to an equal, extent the respect and confidence of the members upon this side of the House, and, so far as I know, the respect and confidence of members on the other side. I trust, therefore, that the request made by the chairman of the Committee on Foreign Affairs [Mr. DAVIS] will not be granted.

Further, it seems to me that there is a slight misapprehension as to the force and nature of the fact involved in this subject. It is very well known that this House passed a resolution which was, in a certain sense, a redeclaration of the Monroe doctrine. That declaration was not sustained by the other branch of the national Legislature. Therefore the resolution could not be taken as in any sense the expression of the will of Congress; it was merely the expression of the will of the House.

Now, the resolution which the House has laid upon the table this morning is peculiar in its language upon that point. It is that "Congress," not this House, but that "Congress has a constitutional right and an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognizing of new Powers" as in other matters. If the resolution had stopped there I presume there would have been no gentleman upon this floor disposed to question the propriety of the resolution, supposing that there were facts existing, or supposed to exist, upon which the resolution could be properly based.

But it proceeds further, and declares that "it is the constitutional duty of the President to respect that policy, not less in diplomatic negotiations than in the use of the national force when authorized by law." This part of the resolution conveyed, by implication at least, the impression that the President has neglected to obey Congress in the exercise of the constitutional right of Congress to declare and prescribe, with an authoritative voice, the policy of the Government in reference to foreign affairs; while, in truth, the complaint made of the President, or of his Secretary of State, is that he neglected to obey the voice of this House when it undertook, by resolution, to set forth what the foreign policy of the country should be upon a particular matter, the judgment of this House having never been concurred in by the other branch of Congress. Therefore the President, so far as I know, at least upon the facts stated thus far in this discussion, is not subject to the imputation, even by implication, that he has neglected to obey the constitutionally expressed judgment of Congress in reference to the foreign policy of this country, but that merely

he has neglected to obey the expressed judgment of this House, that judgment not having been concurred in by the other branch of Congress.

I admit that the manner in which the Secretary of State expressed his opinion as to the rights of this House in respect to foreign affairs was not agreeable to me; I should be glad, in some proper way, to protest against it; but I do not see how we are justified, even upon the language which he saw fit to employ, in arraigning the President for the neglect of the constitutional duty enjoined upon him to obey the will of Congress in reference to our foreign policy. He has neglected, as well as his Secretary, to be guided by the will of this House; but so far as I know, upon the facts stated in this debate, he has not disregarded the constitutionally expressed judgment of Congress in reference to our foreign policy.

Mr. FARNSWORTH. Mr. Speaker, as I moved the tabling of the resolution reported by the gentleman from Maryland, [Mr. DAVIS,] I wish simply to say that I made that motion from no disrespect to that gentleman—none whatever. I did not intend that the motion should be regarded at all as an attack upon either the gentleman from Maryland or the committee. There is no member of this House whose ability and fidelity command from me higher respect and admiration than I entertain for the gentleman from Maryland. As has been said here, if, when the House differs in judgment with a committee that reports a bill or a resolution, that fact is to be regarded as an indignity, on account of which members of the committee are to resign, there would be few committees left in this House. I do not think that, because the House differs in opinion with a gentleman as to the propriety of passing an abstract proposition such as was contained in this resolution, that fact should be regarded as an attack upon the judgment or the character or fidelity of the member.

I rose simply to say this in justice to myself as well as to the gentleman from Maryland.

Mr. COX. I desire to ask the gentleman from Illinois [Mr. FARNSWORTH] whether he will not make the motion to reconsider the vote on the resolution.

Mr. FARNSWORTH. I made the motion to reconsider, and to lay the motion to reconsider on the table.

Mr. COX. Will not the gentleman move to reconsider that?

Mr. FARNSWORTH. I am not willing to do so.

The SPEAKER. Such a motion would be impossible under the rules.

Mr. SPALDING. I wish barely to say, Mr. Speaker, that I have the utmost confidence in the Committee on Foreign Affairs—the chairman and all the members of that committee; and I joined most heartily in the action of this House upon the resolution which emanated from that committee at the last session of Congress, carrying out what we supposed to have been the policy of our Government for a long series of years, and protesting against any foreign interference upon this continent in the establishment of monarchical Governments. I wish to stand, and I wish to live and die, by that doctrine. I should vote for that resolution again to-day, if it were brought before this House, notwithstanding what has occurred in the diplomacy of the country. I do think, also, that the action, perhaps, of one member of the Cabinet was uncalled for, when he reflected in a measure upon the action of this House of Congress. I believe that it was perfectly legitimate for us to express our views in regard to the interposition of France, irrespective of any action on the part of the coördinate branch, the Senate.

Now, sir, when this proposition came up this morning from the Committee on Foreign Affairs, I was inclined to vote for its adoption. I voted against laying the proposition on the table. But upon further reflection, and upon an examination of the resolution, I was fearful that its phraseology conveyed a direct attack upon the Chief Executive of our nation; and, sir, I do not wish to lend my aid at this time to any such legislation as that. I verily believe that we have an Executive who is doing his utmost in a patriotic spirit to preserve unimpaired all the institutions of our country. I cannot, in view of the conduct of that man, consent to any vote upon the floor of this House that shall impugn his integrity in any respect whatsoever.

ever. If the phraseology of the resolution had been modified in some sort as suggested by the gentleman from Pennsylvania, [Mr. STEVENS,] I should most cheerfully have voted for it; but I could not vote for it impugning the conduct of the President or any member of his Cabinet. That was the reason for my asking to change my vote and voting that the resolution should be laid on the table.

I do hope that the chairman of the Committee on Foreign Affairs will reconsider his intention to retire from that committee. I think that the House has the most entire confidence in his wisdom and patriotism; and I ask him, as one member of that committee, to reconsider and withdraw his application to be discharged from it. If he does not feel inclined to do it—and I say the same to my colleague, [Mr. COX,] I say to all of the members of that committee, retain your position; but, sir, if they do not, if they ask to be discharged—I hope that the majority of the House will vote in the negative.

Mr. ROSS. I wish leave to record my vote on the motion that the resolution be laid on the table.

Mr. DAWES. I object. Mr. Speaker, I deem it incumbent now to object to a practice which has grown up of recording votes after the announcement of the decision of the House by the Chair, and especially the habit of recording votes on the next day. It has grown to such an extent as to seem to me to be full of mischief. I do not intend any personal application of the present suggestion; and I hope members will not consider it as any matter of ill nature on my part if I am constrained to object hereafter to the practice.

Mr. WASHBURN, of Illinois. If the gentleman from Massachusetts will permit me, I will suggest that he offer a resolution on this subject, and let it go to the committee on the rules in order that we may establish a rule in that regard, in reference to changing votes, and also in reference to permitting members to vote who were not within the bar when their names were called. I think we will all agree that it is necessary, and will be beneficial, to have some rule on the subject.

Mr. DAWES. On that point I am satisfied with the rules as they were administered up to the present Congress. Till then they were not productive of any mischief. I think that a proper regard for the rules as they stand will be better than any effort of ours to change them. We have made one or two ineffectual efforts on that subject already. I think that we had better conform to the rules that we have.

Mr. WASHBURN, of Illinois. If the gentleman from Massachusetts will object at all times to members voting the day afterwards, and when they were not within the bar when their names were called, I shall be very much obliged to him.

Mr. DAWES. That was the purport of what I said I proposed to do, although I am much indisposed to place myself in that position. I only wish to call the attention of the House to it at this present moment. Pending the vote on laying the resolution of the gentleman from Maryland [Mr. DAVIS] on the table, although members on both sides of the House were permitted to record their votes in contravention of the rules of the House, yet, when it appeared there was going to be a close vote, objection was made to members recording their vote.

Mr. J. C. ALLEN. I call the gentleman from Massachusetts to order. Neither the gentleman from Illinois nor the gentleman from Massachusetts has been discussing the question before us.

The SPEAKER. The debate has taken a very wide range, and the Chair has not felt it to be proper to check it, as the question is a very delicate one that has been presented by the chairman of the Committee on Foreign Affairs. Debate can properly only extend to whether the gentleman from Maryland shall be excused from service on that committee, and not to the merits of the resolution laid on the table.

Mr. DAWES. I did not propose to participate in the debate as to whether we shall excuse the gentleman from Maryland from serving on that committee; but now that I am up perhaps I should say a few words.

The SPEAKER. The Chair will not restrict gentlemen unless objection be made.

Mr. DAWES. I was disposed at first, when the gentleman from Maryland asked to be excused from serving further upon the Committee on For-

eign Affairs, for the reasons stated, to acquiesce and vote for excusing him; not from any national consideration, but from a desire to gratify the gentleman from Maryland. But I must say that when my friend from Ohio [Mr. COX] addressed the House in such feeling and pathetic terms, I was entirely overcome. The scene between the gentlemen from Maryland and Ohio was enough to affect the heart of almost any man who has not a heart of adamant. The distance from the sublime to the ridiculous, we are told, is but a step always; and I must say that the indignation which was manifested in the manner and in the matter of the gentleman from Maryland escaped me when the smooth and silver tones of the gentleman from Ohio announced to the House that he trusted the House would not yield to the request of the gentleman from Maryland because it would bring the House to the necessity of excusing him also. I changed my mind upon that, because I had not the heart to excuse both those gentlemen for the little time remaining of their services in the House. I thought it better that we should try to bear yet a little longer with their presence here, and not to part company with them before it had been so ordered by the people of their districts.

And I recollected, and my friend from Maryland will bear with me while I submit that I recollected, that the gentleman from Maryland never differed from committees in their reports; that the gentleman from Maryland always agreed with committees in their reports, and felt bound to respect them; and never, except when called upon by a high sense of duty, when the committee was present, or in their absence, denounced either the chairman or any member of a committee. And I recollected too, that he never went even so far as to announce to the House, in the absence of the chairman of a committee, that the committee themselves had so far violated and shocked the sense, not only of the House but of their constituents, that he was kind enough to commend—so I read in the Globe—the chairman and the committee to look to their positions at home rather than attend to their duties here.

How can I, with all these experiences and recollections, if the gentleman will bear with a member new in experiences of this kind, vote to excuse him merely because the House happened to differ with him upon the propriety of adopting this resolution? Why did not the gentleman, with such a record for the information of the House, recollect that when he on a former occasion asked leave of the House to report a resolution, the House suggested that he had better not report it; and that is the recorded judgment of the House to-day.

The gentleman has thrown himself upon the thick bosses of the buckle of the House this morning, and has got jilted. But I cannot see why he should not be permitted to occupy that place still longer, and therefore I shall vote against excusing him.

Mr. DAVIS, of Maryland, obtained the floor.

Mr. COX. Will the gentleman allow me one word, as he will have the privilege of closing the debate?

Mr. DAVIS, of Maryland. I yield.

Mr. COX. I would not have troubled the House again but for the allusions of my friend from Massachusetts. Nature has so constituted him that he has been the first of all the members in this House to display his magnanimity by referring to our side of the House as the defeated portion of Congress. The gentleman might have had an opportunity to display his vindictive feeling upon that subject, and perhaps have done it a little more in order, on a question a little more connected with parliamentary decorum.

But it is true, as the gentleman intimates, that the places which now know many of us will soon know us no more forever; and we bow to it, if not with political yet with Christian resignation. We do not see anything in the Constitution by which we are bound to quit at the end of one year, after being elected for two. On the contrary we seemed to be compelled by the choice of our constituents, constitutionally made, to serve out the full term. It would be a little inconvenient in a pecuniary sense for a member, after serving here one year, to go home to his constituents, and by some strange freak of fancy on their part, by some popular fallacy, by some ingenious sophistry sent there, perhaps, by the gentleman

from Massachusetts, and finding his constituents against him, suddenly to resign.

But, sir, that is not pertinent to the matter before us. Whether I remain here any longer or not is not the question. I have been here about as long as my friend from Massachusetts thus far. New England controls this Government now, and he may be here for eight years longer. I remember that when he first came to Congress with myself, we were both placed upon the same committee. I was chairman of that committee, and the gentleman was then my subordinate. [Laughter.] He ought to recall those past associations, and not be so severe upon his former superior. [Laughter.]

Mr. Speaker, the gentleman from Massachusetts has done what no other gentleman on that side of the House, I venture to say, would have done, and that was to remind us here that we are beaten, to trample upon us again after we are defeated. [Laughter.] That is not brave. You will find only one illustration of it in all history and literature, and that was old Sir John Falstaff who killed Hotspur after he was dead. [Laughter.]

But the point in the debate to which I wish to reply was something more pertinent than this. I do not mean by that to say that the remarks of my friend from Massachusetts were impertinent in any bad sense, though they might be considered to be so by persons who do not understand our amicable relations. [Laughter.]

The other gentleman from Massachusetts [Mr. BOWWELL] who discussed this matter, cannot have carefully or critically examined this record. In my judgment, the President, when he called in question, not the action of Congress, but the power of Congress, raised an issue with this Congress. What the Secretary of State did the President did; and my colleague from Ohio [Mr. SPALDING] ought not to shield his vote behind so flimsy a cloak as that the President is not responsible for the Secretary of State, who acts for the President only as the chief clerk of the Executive Department. The gentleman from Massachusetts could not have remembered the language of the chief clerk of the Executive when he said that this question of recognizing a monarchical Government, imposed on a neighboring republic, is a "purely executive question, and the decision of it constitutionally belongs, not to the House of Representatives, nor even to Congress, but to the President of the United States;" thus claiming exclusive power and jurisdiction over these questions, ignoring utterly the right of Congress to pass on them, notwithstanding all the precedents of our history from the beginning of this Government down to the present time. He ought especially to have remembered those capital precedents made by Monroe, and Madison, and Clay, and John Quincy Adams, with respect to the Spanish American States, when Congress inaugurated the system of recognizing other republics and passing upon these matters of foreign relations. In spite of all these precedents, the Chief Executive lays down the rule that Congress has no power over this subject, but that it is purely an executive question. It is not a question whether the Senate has passed this measure of ours, or not, though I believe the Senate has not acted on it at all; it is not a question whether the resolution has become a law or not; it is a question between the Executive and Congress as to the power of Congress over this and other matters of a foreign nature.

If the gentleman will only read the learned report of the chairman of the Committee on Foreign Affairs, he will find that from February 9, 1821, when Henry Clay made a motion in the House of Representatives with reference to recognizing the Governments of Spanish America, running all the way through our history down to the bill for which the gentleman from Massachusetts voted himself, to recognize the black republics of Hayti and Liberia, Congress has always expressed itself, by bills, resolutions, and appropriations, upon these questions of international concernment. And yet my colleague from Ohio says that he would vote again for the resolution of last session as to Mexico and Maximilian, and in the same breath says that he would vote, and did vote, to table this resolution which declares "that Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the

recognition of new Powers as in other matters." How can my colleague be consistent? He says that he would vote for resolutions connected with foreign affairs, and yet he votes to discard a resolution which declares our power to interfere in such affairs! I leave it to the logic of my colleague to get out of this dilemma in which he places himself.

This resolution reported by our committee is not obnoxious on any ground except this, that it would seem in some way or other to strike at one of the Cabinet officers of the Administration. This is the only ground, I venture to say, upon which gentlemen can defend their votes, and one of the members upon the other side put it upon that ground.

What has become of our independence as a body? What has become of that old parliamentary dignity and fearlessness in criticism which belonged in the past to bodies of this nature, bodies for deliberation and debate? Are we to bow to the Executive in every behest which he may make?

The discarded resolution goes on to say "that it is the constitutional duty of the President to respect that policy." The "duty of the President," that includes all his clerks, his chief clerk and all his Cabinet officers, so called.

Gentlemen say that they would have voted for this resolution if it were modified so as to read "the Executive Department." The gentleman from Pennsylvania [Mr. STEVENS] said that. But the word "Executive," or "President," includes all these officers; and there was no reason for tabling the resolution except this, that it strikes at the policy of the Secretary of State, or the President for whom he speaks. And what is that policy? A policy which humiliates this country in the eyes of the world; a policy which placed us before France on our knees, with our mouths in the dust; which told the Emperor of France that we, the Congress of the United States, had no voice in this matter, but that this Government would humiliate itself in the dust before a foreign Power, and allow that Power to overturn all the cherished traditions of our nation, and to place and to perpetuate a throne upon this continent. Not such, sir, was the old policy of the better days of this Republic, when another policy and another party ruled in this country.

I was opposed to the excusing of my colleague on the Committee on Foreign Affairs, because we need in this House fair, bold, open discussion from men like himself who dares to have his own opinion, even though his opinion may not coincide with that of the men in power. Let not this House, by its vote, cringe before the executive power. Let it stand up in its own self-defense and for its own privileges, for its own self-respect and its own dignity. Let it emulate something of the dignity and self-respect of the old parliamentarians of the better days of England, when men dared to go to the Tower, when men were drawn and quartered because they criticised the royal prerogatives which were unconstitutionally exercised. I hope my friend from Maryland will never have to go to any Bastille, and will never have to be drawn and quartered for any opinions that he may hold. But I do believe that he is of that fearless mold, having run counter to the sentiment of his own State, having belonged to organizations that had a good deal of physical and mental pluck about them, that he dare tell the truth even to the men in power. He did it last summer. And although I did not approve of his position then, nor of the position of the Executive, which sought to overthrow the privileges and powers of the House; although I did not believe that Congress had any power to reconstruct States any more than the Executive had, yet I did applaud his bold courage in speaking out for the rights of Congress in that regard, as I do to-day applaud his fearless criticism in that report of the conduct of the Secretary of State.

What the gentleman from Massachusetts [Mr. DAWES] said with regard to myself personally, and of the great difference between the member from Maryland and myself, no one appreciates more than I do; and I throw myself in an attitude of perfect humiliation before such a demi-god as the gentleman from Massachusetts. [Laughter.] He has the advantage, which I have not, of being a member of the next House of Representatives. He is plumed for a fight in the next

Congress. Let him wear his plume, but let him wear it gracefully. I have nothing to remark in regard to that gentleman's antecedents. I may, at some other time, have occasion to do that as fearlessly as I speak in favor of another member of the same party—the same who now asks to be excused from service on the Committee on Foreign Affairs.

I hope, Mr. Speaker, that the House will, by its action on this question, sustain its own dignity; and with that I shall be content.

Mr. DAVIS, of Maryland. Mr. Speaker, I regret that, in the discussion which has taken place, several topics have been introduced that were not very intimately connected with the simple and earnest application made to the House to relieve me from further service on the Committee on Foreign Affairs.

It was made in all earnestness and simplicity, from a profound sense of duty, and not from any personal feeling of discontent with the vote of the House. I was not in the least degree ruffled in my temper by the circumstance that the House has now, as it has done on so many occasions, differed from me in judgment. I have been brought up on defeats. I have lived in minorities. I always submit, and I trust with perfect humility, to the better judgment of the House. If any gentleman, in the course of my eight years' service in this House, has ever seen in my conduct any manifestation of personal spleen or personal disappointment, then may the observations of the gentleman from Massachusetts [Mr. DAWES] be justified. If no man has on any occasion seen that, then I shall be pardoned for taking no further notice of the mean malice that prompted them.

But, I do not wish to be misunderstood upon another point. It has been repeatedly stated that this resolution assails the President. Well, sir, I am ready to assail the President or anybody else who stands across the broad track of republican principles. I need not say that in this House. And yet, sir, there is no word in that resolution which assails the President. Nor was it contemplated to assail him. It was carefully, deliberately, critically prepared, and received the approval of every member of the Committee on Foreign Affairs, with the dissenting voice alone of the gentleman from New York, [Mr. POMEROY.]

I beg the attention of the House to the language of the resolution. The rights that it asserts I do not now pretend to debate. The judgment of the House has been rendered, to which I shall bow, and bow without an argument.

The resolution was not a cobweb of my brain, brought here to hang fine dissertations upon about the abstract rights of different departments of the Government. This House had asserted its authority in matters of the gravest national importance, events which had arrested the attention of the civilized world, and made anxious the heart of every friend of liberty in it. A free nation on our borders lay bleeding in the talons of the French eagle, and a vagrant adventurer who had never seen the soil of Mexico called himself her emperor. The American House of Representatives had declared that it did not accord with our policy to recognize any monarchical Government erected on the ruins of any republican Government in America, least of all in Mexico, our neighbor and our friend. It did not relate to remote or possible contingencies, but to a bloody, awful reality, the ruin of a free nation by European violence, under false pretenses, and with an insolent hostility to our power; a ruin now more nearly consummated, and by our fault, ay, and still more by the fault of those charged with the conduct of our diplomatic intercourse. But that resolution had rested in the Senate. We had done all that we could, and we were obliged to rest in silence.

But when the Secretary of State of the United States sent abroad a dispatch to a foreign Government, relative to a matter then pending within the legislative department of the United States, where the Executive eye has no right to penetrate; respecting the vote on which, until communicated to him in the regular form, he has no right to know anything; when at that stage the Secretary of State saw fit to enter into diplomatic communication with a foreign Government, in order to rob the vote of this House of its legitimate moral power before it had acquired any legislative authority, and in doing that not only questioned the wisdom and

expediency, but the right of this House, and of both Houses, to say one word upon that subject, I could not sit in silence, and the House will find, I think, that they will be unable to do so, if they have a due regard to their dignity as one of the branches of this Government.

And it was in deference to that practical, actual case that the resolution was drawn; drawn carefully, drawn critically, drawn with a studious avoidance of every innuendo against the personal character either of the President of the United States or of the distinguished gentleman who presides so ably over the Department of State; and the language of his letter, to which the language of the resolution refers, will show how carefully it was adapted to this object, and how completely it accomplished it. The Secretary of State says:

"It is, however, another and a distinct question whether the United States would think it necessary or proper to express themselves in the form adopted by the House of Representatives at this time."

If it be another question whether the United States would think proper to express themselves at this time and in the form that the House of Representatives have seen fit to use, who speaks for the United States?

The Secretary says:

"This is a practical and purely executive question"—

There the Executive speaks for the United States!—

"and the decision of it constitutionally belongs, not to the House of Representatives, nor even to Congress, but to the President of the United States."

Then the President is the United States! Do gentlemen now understand how the word "President" came there? It was because the Secretary of State had told the French Government, with a view to break the force of the vote of the House of Representatives that it belonged, not to the House of Representatives, nor to Congress, but exclusively to the President of the United States, to declare what the United States thought, and when it was expedient to declare what it thought in reference to our foreign affairs; and foreign affairs mean war, and peace, and alliances, and recognitions, and neutrality, and every interest and every right by which we touch the nations of the world, and that in the face of the formal words of the Constitution, ascribing those functions in whole or in part to one or both Houses of Congress.

It was that declaration, in conflict with all the precedents of the United States, that the Secretary of State saw fit not merely to express here in the ordinary intercourse between the departments of the Government, but to send abroad to our minister in France, and lay before a foreign Government, and to impeach and discredit the judgment of Congress before it was pronounced, which imperatively required to be rebuked. And it was at that language that the resolution was pointed. Now, judge ye, whether it be true or not, that Congress has a constitutional right to an authoritative voice in our foreign affairs. That raises the issue directly, does it not, with the language, not with the person even of the Secretary of State, whether "Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognition of new Powers as in other matters, and it is the constitutional duty of the President to respect that policy, not less in matters of negotiation than in the use of the national force when authorized."

It was no blow aimed at the President. But a right had been asserted for the President by the Secretary of State. He first impeached the right of Congress to do what it has always done, and usurped its right for one of the flowers of the presidential prerogative. I deny his law and his fact. I make the question of right and not of person, either with the Secretary of State or with the President.

And then, "whether the United States would think it necessary or proper to express themselves in the form adopted by the House of Representatives," the Secretary tells the world is an executive question! We cannot allow our votes to be received other than in the constitutional form of a veto by the President; then he has the right to approve or refuse to approve them in the forms of his constitutional authority.

But I have yet to learn that it is the right of the President to say what is necessary and proper, or what is wise or what is unwise with reference to



any vote of this House or of both Houses of Congress, except when our votes are communicated for his approval or disapproval; therefore, to make the issue direct with the other portion of the Secretary's letter, this clause is introduced:

"And the propriety of any declaration of foreign policy by Congress is sufficiently proved by the vote which pronounces it."

That is the assertion, that our vote is not the subject of executive criticism; that it is the right of the people of the United States to say what they will upon their foreign policy, and it is the duty of the President to veto or obey it. But, sir, if Congress have sunk so low that it must look beyond the limits of its own Halls to vindicate the necessity and propriety of this solemn declaration of national policy at this time in the form we adopted, perhaps we can find no arbiter between us and the Executive Government which it will recognize so readily as the Baltimore convention; and that enlightened body, forced by public opinion, thought it necessary and proper to echo the resolution for which the Secretary apologized—only in attempting to give a rebuke the form of a compliment, they converted it into a sarcasm.

That is the substance of the resolution. Now, sir, I say again that I do not mean to debate the policy of the resolution or any matter connected with it. Nobody except the gentleman from Maine [Mr. BLAINE] has impeached it here upon historical grounds. With great respect to that gentleman, I say that the precedent which he quotes is frivolously irrelevant, and that, from the beginning of the Government until this day, there is no vote of either House of Congress, there is no claim by any President of the United States, there is no assertion by any Secretary of State, there is no expression by any respectable public man of any party, that it does not belong to the Congress of the United States to declare and prescribe the foreign policy of the United States; and from the time of the Panama mission, when John Quincy Adams asked and obtained the authority and support of Congress for that great mission which we must soon repeat, until this day, we have vote on vote of Congress, under almost every Administration, affirming, implying, asserting, or exerting that prerogative without question from any quarter; and under this Administration more than one act approved by President Lincoln himself add to the unbroken law of precedents. The recognition of Hayti and Liberia was not the spontaneous act of the President, but he, like his predecessors, waited till Congress had authorized him to open with them international relations.

Sir, there is but one judgment and one course of precedent from the beginning to the end of American history. Monroe concurred in it; the messages of John Quincy Adams are replete with it; General Jackson, in the case of Texas, recognized it; Mr. Clay asserted it; Mr. Webster asserted it. What other authorities are worthy of notice, after we have named these? That, sir, is all I have to say on that subject.

Now, sir, one other word. I have already said that, in asking to be excused from further service on the Committee on Foreign Affairs, I act from no feeling of personal pique. I make that request from my sense of public duty, in view of the relations that the chairman of the committee necessarily bears to the House of Representatives. It is possible, sir, upon many occasions for the House to differ, not only with the chairman of a committee, but with the committee. They are bound to take the instructions of the House; they are bound to conform to such instructions. They are bound by the judgment of the House, and they must act in conformity with it.

But the position of the chairman of a committee means that he stands there as the representative of the political views of the majority of the House of Representatives. He is to the House of Representatives what a member of the Cabinet is to the President. An absolute conformity on all essential principles between the chairman of a committee and the House on a subject respecting which the committee is raised, is essential to a due discharge of his duties, just as a similar relation between a Cabinet officer and the President is essential to the due conduct of executive affairs. *I am not the representative of the House upon this question.* The vote of this morning places a great gulf between me and the House

of Representatives. I cheerfully admit that they may be right and I may be wrong; but the criterion of my conduct must be my own judgment, and I cannot separate myself from the history of America to conform to the vote of the House of Representatives.

And, sir, I go a step further. Not only is it impossible that I should continue to represent the House in that responsible situation without misrepresenting myself, but, insignificant as I may be personally, I am unwilling, when this matter crosses the ocean, as it will cross it, I cannot consent to seem to submit to or acquiesce in or to have part or lot with this grave surrender of the power of the people. For, Mr. Speaker, whatever the insignificance of the person who moves this question, his connection with this vote elevates him to its importance; and I tell you there is more than one crowned head in Europe that now looks anxiously to the conduct of this House upon this very question, and a shout will go up from one end of despotic Europe to the other when it is known that the House of Representatives has confessed that its resolves are vain breath before the dictation of the President, and that the President is the United States, as Louis Napoleon is France. Insignificant though I be, I am not humble enough to allow my name to be associated with that humiliating abdication.

With all kindness to the gentlemen who have so kindly expressed themselves here to-day; a kindness which overwhelms me sensibly; a kindness frequently expressed heretofore in private, but never before so publicly, I beg that they will not let that kindly feeling enter into consideration on this vote, but will do as I ask them—simply relieve me from acting longer in this responsible situation where I so gravely misrepresent the House which has honored me.

Mr. LITTLEJOHN. Mr. Speaker, I was one of the members of this House who voted to lay this resolution on the table. It has been assumed in this debate that that vote indicated an opinion upon the subject-matter of the resolution itself. For one, sir, I wish it understood that I have advanced no opinion upon the resolution. The chairman of the Committee on Foreign Affairs introduced a resolution of very grave importance; he immediately moved the previous question; and, without the right to discuss the resolution, without the right to improve its phraseology, we were put upon a vote. So long as I hold a seat on this floor I never will, under such circumstances, be forced to give an opinion upon a grave national question. I voted, therefore, to lay the resolution on the table, first, because there was no opportunity for discussion, and secondly, because I believed it inexpedient at this time, in this crisis of our country's history, to bring up here any such disturbing question.

Sir, the time will come when England and France will understand the position of the American people on the question referred to by the gentleman from Maryland.

Now, sir, no man entertains more respect for the private character, the public position, and the integrity of the gentleman from Maryland than myself, and I trust this House will unanimously vote not to excuse him from serving on that committee.

The motion was disagreed to, and Mr. Davis, of Maryland, was not excused.

#### ADJOURNMENT OVER THE HOLIDAYS.

Mr. STEVENS. I rise to a privileged question, and submit the following concurrent resolution:

*Resolved, (the Senate concurring.) That when this House adjourns on Thursday, the 22d instant, it adjourn to meet on Thursday, January 5, 1865.*

Mr. Speaker, allow me to say one word. It is pretty clear that we shall adjourn over the Christmas holidays. It would be impossible to keep the House together, and we should gain nothing by refusing to adjourn. On consultation, we have supposed that it would be better to fix the time as I have suggested. I have fixed, first, Thursday next, so that members living at a distance shall have opportunity to reach their homes. New Year's day comes on a Sunday, and of course members cannot leave or travel on that day, and I have fixed on Thursday, the 5th, for their return.

For myself, I am willing to sit here all the time and attend to the public business.

The resolution was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NEVADA.

Mr. BEAMAN. Mr. Speaker, I ask the unanimous consent of the House to introduce, and put on its passage, a bill supplementary to an act to enable the people of the Territory of Nevada to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States.

Mr. HOLMAN. Is the bill reported from the Committee on Territories?

Mr. BEAMAN. No, sir; but I will make a statement which I think will be satisfactory. In the act which was passed enabling the people of the Territory of Nevada to form a constitution for admission as a State into the Union there was an entire omission to save the proceedings in the Supreme Court arising by appeal or otherwise from the courts in that Territory. I understand that there are appeals now pending in the Supreme Court, and there being no provision to save them it becomes necessary to pass this supplementary act. I think, sir, there can be no objection to its immediate passage.

There being no objection, the bill was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEAMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REBELLIOUS STATES.

Mr. ASHLEY. I ask the unanimous consent of the House for leave to report from the committee on the rebellious States a bill to guaranty to certain States whose governments have been usurped or overthrown, a republican form of government, in order that it may be recommitted and ordered to be printed.

Mr. PENDLETON. If the gentleman will move to reconsider and lay that motion on the table I will not object.

Mr. ASHLEY. I have no desire to bring the bill back by a motion to reconsider.

Mr. PENDLETON. Very well, then.

The bill was received, read a first and second time, ordered to be printed, and recommitted to the same committee.

#### MARINE HOSPITAL AT ERIE.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:

*Resolved, That the Committee on Commerce be requested to inquire into the expediency of establishing a marine hospital at Erie, on Lake Erie, in the State of Pennsylvania.*

#### INTERNAL REVENUE.

Mr. STEVENS. I now call up House joint resolution No. 124, explanatory of an act entitled "An act providing internal revenue for the support of the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMENDMENT OF THE CONSTITUTION.

Mr. ASHLEY. I desire to give notice to the House that on Friday, the 6th of January, I propose to call up the motion to reconsider the vote by which the resolution for amending the Constitution of the United States was rejected, and at that time to put the bill upon its passage.

Mr. COX. To take a vote upon it that day?

Mr. ASHLEY. To take it up for consideration.

Mr. COX. I desire to say to the gentleman that members on this side of the House, generally, would prefer that he postpone the consideration of the matter until the Monday following the day named by him.

Mr. ASHLEY. Upon consultation with a

number of members upon that side of the House favorable to the motion, I give notice that the vote will be taken on the Monday following the day I first named.

#### INVALID PENSION BILL.

Mr. STEVENS. I ask unanimous consent of the House to take up and consider the bill of the House No. 597, in the House, and not in the Committee of the Whole on the state of the Union.

The SPEAKER. Yesterday the Committee of Ways and Means reported the invalid pension bill, which was referred to the Committee of the Whole on the state of the Union, and made the special order for to-day. The gentleman asks unanimous consent that it may be taken up and considered in the House. The Chair hears no objection.

The bill (H. R. No. 597) making appropriations for the payment of invalid pensions of the United States for the year ending the 30th of June, 1866, was accordingly taken up for consideration, and read *in extenso*.

Mr. BROOKS. I presume there is nothing in this bill except what is contained in the estimates of the Department?

Mr. STEVENS. Nothing else.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. STEVENS. I ask that bill No. 598, the consular and diplomatic bill, which was referred to the Committee of the Whole on the state of the Union, and made the special order for to-day, be taken up and considered in the same way as the last.

There being no objection, the bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866, was taken up and read *in extenso*.

Mr. HOLMAN. I do not desire to have this bill read through again for amendments, for I presume there are few to be offered. I have, however, an amendment to offer to the last section of the bill.

The SPEAKER. If there be no objection the bill will be considered as opened to amendment generally. The Chair hears no objection.

Mr. HOLMAN. I move to amend by adding at the end of the bill the following proviso:

*Provided, however, That in the payment of the salaries provided for by this bill, the same shall be paid upon the basis of the currency of the United States, as other salaries are paid, including the usual exchange only.*

The only question presented by the amendment is one which has frequently been before the House before; and that is whether these salaries of agents abroad shall be paid upon a gold basis, instead of the basis of the currency of the country. It has always seemed to me that there was no reason for this discrimination, and that these salaries ought to be paid upon exactly the same basis with other salaries of the country, and upon the same ground.

Mr. STEVENS. I must oppose that amendment. This Government already, by one portion of its legislation, has created a distinction between different kinds of the lawful money of the United States, and by that we have made one article three times as valuable as the other, and by that legislation alone, as I contend. Now, by law there is no difference between coin and legal-tender notes. The Government has a right to pay in whatever it chooses, and if it chooses to pay in legal-tender notes, it can do so; if it chooses to pay in coin it can do so. And there is no exception to this rule except that we unwisely made it in the payment of duties and of interest on the public debt. I am unwilling to recognize any further distinction, and thus depreciate what we have declared to be lawful money and legal tender of the United States. I would leave the Government to make these payments according to their judgment.

The amendment was not agreed to.

Mr. BROOKS. I wish to call the attention of the House once more to the provisions contained

in lines thirteen, fourteen, and fifteen. I did it last session, and shall do it now in all probability with as little use as I did it then. It is a provision for missions in Guatemala, Nicaragua, Costa Rica, Honduras, and San Salvador, five of the Central American States, most of which have not a population as large as some of the wards of Cincinnati, Philadelphia, or New York. To those five States we have five distinct ministers, when one minister to Central America could transact all the necessary business. I make now the same proposition that I made last year, to strike out the names of these five States and insert "Central America."

Mr. STEVENS. It is impossible to get at what the gentleman desires in this way. We have a law authorizing the appointment of these ministers; they are appointed in pursuance of law, and we are bound to make the appropriation to pay them. We cannot change that law in an appropriation bill. If the gentleman wishes to get at it, let him bring in a bill to repeal the law authorizing these several missions and concentrate them, and then we will make the appropriation accordingly.

Mr. BROOKS. I will say to the gentleman from Pennsylvania that that is precisely what I propose to do. If he will look to the Statutes he will find that these missions were never created by any express statute law, but were created in this very appropriation bill. The missions were created here, and I propose to repeal them.

Mr. STEVENS. The gentleman is mistaken. The general law authorizes the Executive to send ministers to certain places, and to select those places.

Mr. BROOKS. I beg the gentleman from Pennsylvania to show me any other law except that in an appropriation bill.

Mr. STEVENS. I refer to the general law for the appointment of ministers.

Mr. BROOKS. The gentleman can show me no law whatsoever except in appropriation bills of precisely this character. The statute-books are before him, he has an assistant and a clerk, and I challenge him to produce any other law except laws in appropriation bills.

Mr. COX. The gentleman from Pennsylvania [Mr. STEVENS] is entirely right about the matter. There is a general law providing for these various ministers, and they are to be appointed by the President. Whenever the President chooses to send ministers to these various second-class missions he does so in pursuance of the general law.

Mr. WASHBURN, of Illinois. If the gentleman from Ohio will permit me, the power of the President of the United States is derived from the Constitution of the United States, as he will see by reading the second section.

Mr. COX. And the law passed in pursuance thereof.

Mr. WASHBURN, of Illinois. It has been decided over and over again that without any law, under the provisions of the Constitution, the President can send ministers anywhere.

Mr. BROOKS. And who is to pay them?

Mr. WASHBURN, of Illinois. The President having appointed a minister, under the Constitution, it then becomes the duty of Congress to appropriate the money to pay him.

Mr. BROOKS. That is the old story we had this morning over again—the same principle—that the President of the United States can do anything, that he can appoint a minister to any place whatsoever, and that all we have to do is to perform the clerk's duty of making a record of appropriations for such missions as he may direct.

Now, the President may have the power under the Constitution of the United States to send ministers anywhere abroad, but the right is reserved to this House—the great right of making an appropriation therefor or not making it as we deem best.

Now, in reply to the gentleman from Ohio, [Mr. Cox,] I wish him to show me a statute law which creates missions to Guatemala, Nicaragua, Costa Rica, Honduras, and San Salvador.

Mr. COX. The gentleman from New York is probably familiar with the law passed in 1861, I think, drawn by Judge Perkins, of Louisiana. That was while the gentleman was a member of Congress, and that law divides the missions up into various classes. That carries out the con-

stitutional provision by the action of Congress and gives Congress control of the matter.

If the gentleman wants to get rid of these various missions, the way to do it is to repeal the law declaring these second-class missions and fixing the salaries thereof.

The gentleman proposes to unite all these several second-class missions into one mission to Central America. That was done a good many years ago, before we had any commerce on the Isthmus, before the railroad was made, and before commerce was quite as great as it now is in New York and other places. But at this time there are interests on the Isthmus and in Central America connected with all these Governments that require ministers at these various points. There are claims against these Governments, some of them no doubt held by constituents of the honorable gentleman, and treaties are to be made, and conventions are to be held, and these claims are to be adjusted.

There are claims springing out of the old troubles in Nicaragua, the troubles which occurred with General Walker, and in all of which our countrymen were more or less mixed up. All these matters are to be settled by ministers, and you cannot have one minister traveling all around in that volcanic and thinly settled region.

Mr. DAWES. We did have one.

Mr. COX. Yes; we had one traveling there once, who got lost, and did not turn up for four or five years after his time expired. But even if the objection raised by the gentleman from New York were rightly taken, it would not be proper, through an appropriation bill, to strike out these salaries, for the ministers are there now doing their duty, and that duty is very valuable to the Government.

Mr. STEVENS. Mr. Speaker, I think we all understand how our ministers abroad are created and appointed. Their appointment is vested by the Constitution in the President. But Congress undertook to classify these ministers, to fix the point at which most of them should be kept, and to fix their salaries. The ministers to France and England have their salaries fixed by law, and so have the ministers to these Central American States. Until that law is repealed or changed the ministers appointed by the President are entitled to their salaries, and it is the duty of Congress to make appropriations to pay them. The President has a right to appoint them, and he has appointed them and sent them to their respective stations, their salaries having been fixed by Congress in an act passed twelve or fourteen years ago. Now what have we to do? Simply to make an appropriation to fulfill the law. The law says that these men shall have certain salaries. If the gentleman from New York will bring in a law repealing or changing that fixing these salaries of ministers, well and good. Then there will be no appropriations made to pay them. But, as the gentleman from Ohio [Mr. Cox] has well said, that would be very unwise in the present condition of our affairs and in the present condition of Europe, with Spain making war upon some portions of South America and France having designs upon other portions. It would be, I say, very unwise for us to withdraw our ministers at those places.

Now, as to fixing one particular place for a minister to Central America, where the interests of States are diverse, and where war constantly exists between them, it would seem to me very unwise and impracticable. I do not know but that it was the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, who was engaged in a two-years hunt to find the seat of government of the Argentine Confederation, and I believe he did not find it then, though he come upon some fresh symptoms of where it had recently been.

Mr. SCHENCK. The gentleman's illustration is not a good one. The Government of the Argentine Confederation was found and recognized, and treaties were made with it.

Mr. STEVENS. Well, there was somebody, I remember, though it could not have been the gentleman from Ohio, who was for three years engaged in hunting for some Central American Government.

A MEMBER. Mr. Smith.

Mr. STEVENS. Ah, yes—Mr. Smith. That is the man I mean. It is said that he never

returned, but is in search of that Government yet. [Laughter.] I do not know how it is. I should be entirely satisfied if he never found it, and never returned. But I think we had better leave this thing as it is.

Mr. BROOKS. The idea of the gentleman from Ohio, [Mr. Cox,] that Central America needs these five ministers because it is necessary to have somebody to do business at each place, is well answered by this very appropriation bill. If the gentleman will look over it he will find among the consulates, in schedule B, handsome appropriations made for a consul at Panama, at San Juan del Sur, at Balize, at Aspinwall, at San Juan del Norte, and at various other places—without entering into an enumeration of them—appropriations for a consulate in every part of Central America. Now, I can understand that which seems to be the argument of the gentleman from Pennsylvania, [Mr. Stevens,] and will reply to it by and by, but I do not understand the argument of the gentleman from Ohio, [Mr. Cox.] I can well understand why the gentleman from Pennsylvania does not desire to cut down missions, does not desire to deprive men of places, does not desire to bring home anybody who is enjoying the patronage and expenditure of this Government. And I cannot understand how the people on that side of the House, who pay income taxes, and taxes of all kinds, as well as those on this side of the House, should desire to keep up five expensive missions in Central America, to a people who have a consulate in every important port, or to States which, I repeat, have not so large a population as many of the wards in the several cities of this Union.

These missions were created at a very late period, and almost always, not only by the Democratic party, but by the Republican party, in order to provide places for certain office seekers; not because of any necessity that existed for the missions, but to give place to people who could not be provided for in Europe, Asia, Africa, or in South America, and for whom, therefore, places were invented in this Central America. The mission for Honduras, I think, was created especially for a gentleman from my own State, for whom no other place could be provided, and to whom this special mission was given, long after this general law of which the gentleman from Ohio [Mr. Cox] speaks. It was introduced here by a gentleman who was then a member of Congress from the State of Louisiana. The gentleman, I am quite sure, will not find any record of that mission in the general law he speaks of, if he searches through the statute from beginning to end.

Now, I have no wish to deprive any gentleman of place. There are places enough for everybody; there are good offices enough, in connection with our annual expenditure of \$1,000,000,000, to provide places for almost everybody who is in search of them in our own domain, upon our own coast, to prevent the smuggling of goods into Canada and the provinces, and in connection with our own internal revenue. And if these gentlemen must have places, then I repeat they ought to be brought home, except one to preside over our interests in Central America, and the consulates to be left behind, and places given them upon the frontier of Canada to prevent smuggling, and in our own land to collect our internal revenue.

But I will not make any further opposition. I have brought this subject to the attention of members, and the responsibility is now upon the other side of the House.

Mr. KELLEY. The proposition of the gentleman from New York [Mr. Brooks] is but a renewal—

Mr. HOLMAN. I rise to a point of order; that further debate on this amendment is not in order.

The SPEAKER. The point of order is well taken. The same rules in regard to debate upon this bill prevail in the House as in the Committee of the Whole, limiting debate to one speech on each side of the amendment.

Mr. KELLEY. Then I will move an amendment to the amendment.

Mr. HOLMAN. I will insist upon the rule, and that the gentleman from Pennsylvania [Mr. KELLEY] shall confine his remarks to his amendment.

Mr. KELLEY. I move to strike out "six"

instead of "five," and to insert the words "and to the Sandwich Islands."

Mr. COX. I raise the point of order upon the amendment of the gentleman from New York, [Mr. Brooks,] that there is no such place as Central America.

Mr. BROOKS. I suggest that the Sandwich Islands are already in.

Mr. KELLEY. Then I move to strike it out.

Mr. COX. I would suggest to the gentleman from Pennsylvania [Mr. KELLEY] to move to insert "League Island." [Laughter.]

Mr. KELLEY. The proposition of the gentleman from New York [Mr. Brooks] is one that came before us last year from the same source, and it seems to me that the objections that were raised against the proposed amendment then are peculiarly strengthened now. I do not know but the gentleman's objection to homogeneity influences him in this motion. He may be afraid that American ideas, the English language, our thoughts, our habits, our customs may become fixed in those American States. There never was a time for many reasons when we wanted the influence of America in each of those States so much as now. The influence of France is felt in every one of them.

It was but this morning that I was reading a letter at my desk from one of the most intelligent of our American people who have ever been engaged in the missionary cause in that section of the country, or upon this continent, deploring the fact that we had not those able statesmen, men speaking our language and the language of the country, to counteract the influence of France, which is penetrating and permeating those States.

And it struck me as the message of the President was read, that for once we had got a truly American message. It relates to the States of this continent, and one after another our relations to them are indicated and explained. France is only so far recognized as to say that civil war still exists in Mexico. The French empire is recognized as a belligerent only; and at this time the policy of the country should be to Americanize those States. The effort now making is a part of the general effort to prevent the extension of civilization, of republican ideas, and of American thought to the Central American States. The probability of homogeneity there has already been recognized. It is the old battle that was fought against Liberia and against Hayti. We were not to recognize them; we were not to treat with them. We were to have neither connection nor intercourse with them, because we did not like the complexion of the people.

And to strike from this bill those States which may receive a minister, those States which have people whose institutions and whose course of policy we may influence and control, and to insert the name of a Government which does not exist, which three ministers consecutively have been unable to find, is to say that for the coming year we shall be voiceless in Central America—that we shall have no official agent to indicate to us the encroachments of France. And why? Is it because gentlemen believe that a great empire is yet to be constructed south of the Potomac? Is it because gentlemen have been impregnated with the views of Louis Napoleon in behalf of a Latin empire? Or is it for fear that the influence of our country in those States may show that "homogeneity" may be attained while freedom of religion prevails, while manifold forms of government prevail, and in spite of the fact that men in tropical climates intermingle irrespectively of the question of complexion.

I simply wished to renew this train of suggestion, which I presented when this same insidious move was made last year; and in doing so, I have accomplished my purpose.

Mr. MORRILL. I rise for the purpose of moving that the debate on the pending amendment be terminated in one minute; but, before making that motion, I desire to say a single word.

I am opposed to the amendment of the gentleman from Pennsylvania, [Mr. KELLEY,] as well as that of the gentleman from New York, [Mr. Brooks.] At the present time our relations with all these Governments are of the most friendly character; and it is very important to us that we shall keep them so. It would be a little singular, if we are to dispense with our missions to any point, that we should first select American re-

publics, about which so much solicitude has been manifested in this House this morning.

Now, Mr. Speaker, I believe that, at the present time, it is almost impossible for a minister at some of these Governments to do any duty in connection with others, in consequence of the difficulty of changing places of abode. The transit from one to another takes so much time that it would be utterly impossible for these ministers to discharge their duties acceptably, either to the Government or the parties interested, if they should be obliged to travel from one place to another in the attempt to perform duty in connection with several Governments.

I now move that all debate upon the pending amendment be terminated in one minute.

The motion was agreed to.

Mr. KELLEY's amendment to the amendment of Mr. Brooks was not agreed to.

Mr. Brooks's amendment was not agreed to.

Mr. COX. With the view of making a remark in reply to my friend from New York, I move to amend by striking out "Paraguay" and "Costa Rica." This is perhaps the only occasion on which we shall have the opportunity to discuss these matters with reference to these republics. The House seems to have declared, by the vote of this morning, that it is not within the province of Congress to look much, if at all, after foreign affairs; yet now we are at it, within scarcely more than an hour after the House has voted in that way.

I would remind my friend from New York that it is exceedingly important for us to continue all our ministers at these various points in Central America, if for no other reason than that suggested by the gentleman from Pennsylvania, [Mr. KELLEY.] Those Governments in Central America to-day stand well with all the world. They are improving, both in their stability and in their credit—Costa Rica especially.

The gentleman from New York is a little confused about his geography. He says that we have a consul at Panama, &c., and that those officers could attend to all the business connected with these various missions. The gentleman ought to understand that Panama is in South America, in the United States of Colombia, formerly New Granada; and he could not expect any business at Panama to refer to the Central American States.

We have, sir, other relations upon the Isthmus, besides those of Panama. We have relations growing out of the Nicaragua transit and canal; and just now it is exceedingly significant, after steps are being taken by the Central American States with a view to prevent French interference and French domination there, as well as in Mexico, that the present action should be proposed in this House. If there ever was a time when we should have American diplomats at all of those courts, it is now, when the power of the French emperor and the Archduke Maximilian is being pushed in those regions.

There are a great many matters in relation to those States yet to be determined by the State Department. That Isthmus is the most important part of the world, speaking commercially and diplomatically. There has been as much diplomacy about it as any of the larger empires of Europe, because it will be one day the great center of the oriental and occidental traffic of the world. We ought to have our ministers there strengthened at all times. It is the connecting link between our eastern or Atlantic and our Pacific States. It is important that we should have our ministers strengthened at every Government. It is not merely necessary that we should strengthen our consuls, because those Governments will not correspond with consuls on matters connected with arrests of traitors, with the passage of troops across the Isthmus, and with all of the questions growing up connected with our civil war. I submit that the proposition should not only be received with an earnest protest, but should be voted down.

I withdraw my amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.



## WITHDRAWAL OF GOODS.

Mr. STEVENS. Mr. Speaker, I am instructed by the Committee of Ways and Means to report a bill asked by the Treasury Department, which it is necessary should be passed before the holidays or there will be a forfeiture of goods. If this is passed the Committee of Ways and Means will have no objection to an adjournment over till Monday next. It is a bill to extend the time allowed for the withdrawal of certain goods therein named from certain stores.

Mr. HOLMAN. Is this bill to be considered in connection with the act passed at the last session of Congress? How does it affect that act?

Mr. STEVENS. I will state in a single word the effect of the bill. By the law, as it now stands, all goods in the bonded warehouses were to be exported or sent to the Pacific coast within three years, the duties were to be paid, and they were to be debarred from the privilege of exportation. A great many goods were in the warehouses then, and the time virtually expired in January. Among these goods were arms and munitions of war. By the proclamation of the President, owners were prohibited from exporting these goods. They were compelled, therefore, to leave them where they were, and by the original law unless they were exported before January they were forfeited to the United States. All that is now asked is that the time during which, by the proclamation of the President, they were prohibited from exporting them, shall not be counted against them, and that they shall be allowed the same time they would have had if the proclamation had never been made. In other words, it is asked that that time shall not be charged against them so as to work a forfeiture of their goods for not exporting them when they were unable to do it.

Mr. HOLMAN. My impression was that this conflicted with the law of the last session; but I find it does not, and I therefore do not object.

The bill was received, read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. After the statement that the Committee of Ways and Means has no more business to present, I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

## METROPOLITAN RAILROAD.

Mr. DAVIS, of New York. I ask unanimous consent to report from the Committee for the District of Columbia a bill to amend an act entitled "An act to incorporate the Metropolitan railroad of the District of Columbia," approved July 1, 1864.

The bill, which was read for information, provides that the seventeenth section of the act to incorporate the Metropolitan Railroad Company be amended so as to extend the time for the completion of said railroad for two years from the passage of said act; and furthermore repeals all acts and parts of acts inconsistent with this bill.

Mr. DAVIS, of New York. The company desires this for the reason that their vessel containing lumber has been carried out to sea, and they have not been able to get the lumber.

Mr. WASHBURN, of Illinois, objected.

And then, on motion of Mr. STEVENS, (at twenty minutes past three o'clock, p. m.,) the House adjourned.

## IN SENATE.

Monday, December 19, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

Hon. JOHN P. HALE, of New Hampshire, appeared in his seat to-day.

## PETITIONS AND MEMORIALS.

Mr. TEN EYCK. I ask leave to present the petition of Elias H. Chambers, praying to be indemnified for the loss of certain Treasury notes destroyed by fire. There are many cases of this kind occurring, and I think it would be well to

refer the petition to the Committee on the Judiciary, that they may inquire into the propriety of making some general law on this subject. I therefore move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. RAMSEY. I present the memorial of ex-General Willis A. Gorman, who represents that an act passed at the last session giving R. G. Murphy \$800, was accompanied by a remarkable and unusual averment, that "that account" was "charged to, and paid by him, as agent for the Sioux Indians upon false vouchers transmitted to the Indian Bureau by Willis A. Gorman, late superintendent of Indian affairs for the north-western superintendency." He says this does him gross injustice, and that he has long been ready and able to make the matter clear, and he asks that he may be relieved from this imputation. I move that the memorial be referred to the Committee on Claims, from which the bill emanated.

The motion was agreed to.

Mr. SUMNER. I present a petition which is in the following terms:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

We, the undersigned, your petitioners, pray you to enact a law to secure a republican form of government and abolish and forever prohibit slavery in the United States.

This is signed by Henry Ward Beecher, of No. 82 Columbia street, Brooklyn, New York, and some three thousand citizens of New York. I move that it be referred to the select Committee on Slavery and Freedmen.

The motion was agreed to.

Mr. WILSON presented two petitions of officers of the Army, praying for an increase of their pay and allowances; which were referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES presented a petition of citizens of Henry county, Iowa, and a petition of citizens of Clayton county, Iowa, praying for a repeal of the reciprocity treaty with Great Britain as a matter of justice to the agricultural interests of the North-west; which were referred to the Committee on Foreign Relations.

He also presented a petition of acting assistant paymasters of the Navy praying to be allowed the rank and pay of lieutenants in the Navy; which was referred to the Committee on Naval Affairs.

Mr. ANTHONY presented the petition of Surgeon Benjamin Vreeland, United States Navy, praying to be allowed the difference between the compensation of a surgeon and a passed assistant surgeon from the date when he was entitled to his examination by law to the date of his passing the examination; which was referred to the Committee on Naval Affairs.

Mr. TRUMBULL presented a petition of citizens of Cook county, Illinois, praying for the passage of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. HENDRICKS presented a petition of citizens of California praying for the passage of House bill No. 560, to amend the "Act to grant the right of preemption to certain settlers on the Soseol ranche," which was referred to the Committee on Public Lands.

Mr. HARLAN presented the proceedings of a meeting of citizens of Colorado Territory, urging the adoption of legislation by which the title to mineral lands may be confirmed to the occupants; which were referred to the Committee on Public Lands.

He also presented a memorial of the presbytery of Cincinnati, praying that the Constitution may be so amended as to recognize the existence of God; which was referred to the Committee on the Judiciary.

Mr. HENDERSON presented a memorial of the Western Associated Press, praying for a repeal of the duty on foreign printing paper; which was referred to the Committee on Finance.

## REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emolument of certain officers of the Army, and for other purposes," approved July 18, 1862, reported it without amendment.

He also, from the same committee, to whom

was recommitted the bill (S. No. 103) to define the pay and emolument of chaplains in the United States Army and volunteer forces, and for other purposes, asked to be discharged from its further consideration, the subject having been acted on at the last session of Congress; which was agreed to.

He also, from the same committee, to whom was recommitted the joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was recommitted the bill (H. R. No. 261) to provide for the voluntary enlistment of any persons, residents of certain States, into the regiments of other States, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was recommitted the bill (S. No. 231) concerning the subsistence and pay of the Army, asked to be discharged from its further consideration; which was agreed to.

## COMMITTEE SERVICE.

Mr. FOOT. I ask to be excused from service upon the Committee on the Judiciary. Being placed on four of the standing committees of the body, I find it impracticable to attend the meetings and the duties assigned to these several committees, and I therefore ask to be excused from that one.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that he be excused from further service upon the Committee on the Judiciary.

The motion was agreed to.

Mr. FOOT. I move that the vacancy be filled by the Chair.

The motion was agreed to by unanimous consent.

Mr. HALE. I notice in the proceedings of the Senate; that during my absence the Senate have done me the honor to place me in the position of chairman of the Committee on the District of Columbia. I must throw myself upon the indulgence of the Senate to excuse me from that service. In making this request, I do not ask to be discharged from serving on the committee; I am ready to render such service as I may to the Senate and to the committee; but it is a committee of which I have never been a member, and I have known nothing of its business, and I see upon the committee several gentlemen who have been for some years members of the committee, perfectly acquainted with the character of the business and its routine, and vastly better able to discharge the responsible duties of chairman of the committee than I am myself. I therefore hope the Senate will excuse me from serving as chairman of the committee.

The request was granted.

On motion of Mr. DIXON, it was

Ordered, That so much of the 35th rule of the Senate as relates to the appointment of the chairman of committees be suspended, as regards the appointment of the chairman of the committee on the District of Columbia, and that the said chairman be appointed by the President *pro tempore* of the Senate.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions of the Senate:

A bill (S. No. 222) authorizing the holding of a special session of the United States district court for the district of Indiana;

A joint resolution (S. No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in the conflict with the piratical craft the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864; and

A joint resolution (S. No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, United States Navy, and to the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albemarle, in compliance with the President's recommendation to Congress of the 5th of December, 1864.

The message further announced that the House of Representatives had passed the following bills

and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 597) making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1866;

A bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1866;

A bill (H. R. No. 601) supplementary to an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;"

A bill (H. R. No. 603) to extend the time allowed for the withdrawal of certain goods therein named from public stores; and

A joint resolution (H. R. No. 124) explanatory of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

#### ADJOURNMENT FOR THE HOLIDAYS.

The message further announced that the House had passed the following resolution:

*Resolved*, (the Senate concurring,) That when this House adjourns on Thursday, the 22d of December, 1864, it adjourn to meet on Thursday, January 5, 1865.

#### DEFENSE OF THE NORTHERN FRONTIER.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 361) to enable the President to expend the sum of \$10,000,000, or so much thereof as may be necessary, in his opinion, in building fortifications and floating batteries to defend our northern frontier and the commerce of the lakes against the attacks of piratical and hostile expeditions organized in the British provinces by the enemies of the United States; which was read twice by its title.

Mr. DOOLITTLE. I move that the bill be referred to the Committee on Finance.

Mr. SUMNER. Should that go to the Committee on Finance?

Mr. DOOLITTLE. It is not material to me.

Mr. HOWE. I suggest the Committee on Naval Affairs.

Mr. DOOLITTLE. I am not on the Committee of Naval Affairs.

Mr. SUMNER. It seems to me it should go to the Committee on Military Affairs or the Committee on Foreign Relations. I think it had better go to the Committee on Foreign Relations.

Mr. DOOLITTLE. I have no objection to adopting the suggestion of the Senator from Massachusetts, and letting it go to the Committee on Foreign Relations.

Mr. SUMNER. I will suggest to the Senator that that question has already been submitted to the Committee on Foreign Relations, and this might therefore properly follow what has already been done.

Mr. SUMNER. I think, probably, a reference to the Committee on Military Affairs will be better; but I hope the Senator from Massachusetts [Mr. SUMNER] will report speedily upon the subject of the general defenses of the lakes, and also upon the question of the reciprocity treaty. I do not wish to discuss it now; but there is a great deal of anxiety on the border, which is increasing daily, and which will probably lead to breaches of the peace and infractions of international law. I hope, therefore, the Senator will act on the question of the reciprocity treaty and those other questions as speedily as possible, in order to allay the apprehensions that are felt on the border.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on Foreign Relations.

Mr. HOWARD. I concur entirely with the Senator from Ohio in the expression of the hope that the committee to whom this bill shall be referred will make as early a report as practicable on the subject; for, as has been justly observed by the Senator from Ohio, there is indeed and in truth a state of very great anxiety and concern along the whole frontier, and we are in daily and almost hourly danger of repetitions from Canada of those raids and outrages which have been so frequently committed upon our peaceful people on the borders. I think it is high time that there should be an expression of opinion and of feel-

ing on the part of the Congress of the United States, at least by way of remonstrance, against those raids and outrages to which I have referred. In order to keep peace along our border, we must show our power. The lion must show his teeth on this side of the border in order to preserve the peace, and teach those men who have been harboring these rebel vipers in their bosoms, that even Canada, with its so-called neutrality, cannot be permitted to be a place of refuge for such characters. I desire to say this on the present occasion, and when another occasion shall present itself I shall go more extensively into a consideration of the subject.

Mr. FOSTER. I am sorry to differ from the honorable chairman of the Committee on Foreign Relations if he thinks this subject should go to that committee; but it seems to me it is not the appropriate committee. This is a question which concerns the defenses of the country. It is true we have the reciprocity treaty before the Committee on Foreign Relations at the suggestion of the honorable chairman, and with great propriety. I observe that I was reported in one of the papers as suggesting that that subject should go to the Committee on Commerce. That suggestion did not come from me. I think the appropriate committee was the Committee on Foreign Relations, as the honorable chairman suggested. But, I repeat, a matter concerning the defenses of the country does not belong to us. I see no reason why the subject of the defenses on the lakes should be referred to the Committee on Foreign Relations any more than the defenses on the Pacific coast or the Atlantic coast; and surely those do not belong to us.

I hope the Senator from Massachusetts will concur in the motion to send this bill to the Committee on Military Affairs, the appropriate committee certainly to consider the matter of the defenses of the country. As it regards the reciprocity treaty, that concerns our relations with a foreign country by negotiation, and properly belongs to us, but not so as it regards the defenses of the country. That is a totally different question, and one which should be investigated by another committee.

Mr. DOOLITTLE. I was myself somewhat in doubt as to which committee this bill should be referred. My first impression was that it had better go to the Committee on Finance, as it involves the expenditure of a large sum of money; but the truth is, that either one of four committees could properly take jurisdiction of the subject-matter contained in this bill. The Committee on Finance could properly take jurisdiction of it, for there is a large amount of money to be appropriated by it. So could the Committee on Military Affairs, for it concerns the erection of fortifications. So could the Committee on Naval Affairs, because it concerns the building of floating batteries. So, too, in my opinion, the Committee on Foreign Relations could very properly have the subject referred to them, in the existing state of the country and in the existing state of the business of the Senate. Other questions, growing out of our relations to the British provinces of Canada, have been referred to that committee; and what has transpired on the frontier, and the late issuance of an order from the executive department of the Government forbidding any persons coming into the United States from the British provinces without a passport, unless they are immigrants coming to reside in the United States, have raised questions involving our relations with those provinces, and, as a matter of course, as they belong to Great Britain, with Great Britain herself. To either of these committees, I think, this bill could very properly be referred. When I first asked that it should be referred to the Committee on Finance, I looked upon it mainly as an appropriation of money; but as the question of the reciprocity treaty is now pending before the Committee on Foreign Relations, and as I happen to be a member of that committee, and am not a member of either of those other committees, perhaps it would not be asking too much, on the whole, after what has been said, to ask that this bill be referred to the Committee on Foreign Relations.

Mr. JOHNSON. I suppose it is in a great measure immaterial to whom the inquiry is submitted. Either of the committees suggested (which I am sure would be the case with the whole of the Senate) would at all times be willing to claim the

rights and protect the honor of the United States. If these are seriously threatened at the present time, or if there is any well-grounded reason to suppose that they will be assailed hereafter, we should all be at once desirous of placing the United States in a situation to maintain that protection effectually.

I am not at all surprised that the citizens who are upon the border of Canada should be somewhat alive to the manifestations of hostility which from time to time have been made or threatened from that colony. I think, however, it may now be assumed as true that the colonial government itself is very far from justifying the acts of which we have so much reason to complain, and I cannot doubt but that the home Government, when they come to know exactly what is the situation of the colony toward the United States, will be equally desirous of doing all that their determination to observe a strict neutrality imposes as a duty upon them.

If these raids are continued, I think there is no doubt that under the law of nations, if the parties cannot be arrested within the limits of the United States, they may be pursued into the adjoining territory. I believe that right is just as firmly settled as any other question can be settled by the law of nations. It was under the impression that the right existed that the excellent and patriotic soldier, General Dix, issued the order authorizing his officers to pursue these raiders, if they should appear on this side of the border and they should prove unable to capture them on this side of the border, into the limits of Canada; but I see by the papers that the President of the United States, or the Secretary of State, better informed, I suppose, of the disposition of the Canadian government, and better informed as to what in all probability will be the conduct of the home Government, has directed General Dix to rescind that part of his order.

The country was a good deal excited, and naturally excited, by the release of those who made the piratical attack upon St. Albans. That judge apparently—for it is not fair to assume that he acted corruptly—acted honestly in the belief, strange as the opinion may be, that he possessed no jurisdiction over the matter. That that decision was clearly erroneous I was satisfied at the time it was announced to us, and I am now better satisfied, because, as I see, the colonial government and all the officers of the colonial government hold that his decision was altogether erroneous, and they have directed writs to be issued for the rearrest of those parties. Whether that arrest can be made or not is doubtful. In all probability they have made their escape and gone elsewhere. But I cannot but believe that the whole power of the colonial government, and with the sanction of the mother Government, will be exerted to arrest these raids in the future; but still it is proper, perhaps due to ourselves, especially in the peculiar position in which we are, that we should take every possible measure which may be calculated in our opinion to prevent their repetition, or that failing, that will enable us to vindicate ourselves, either within our own limits or within the limits of the contiguous territory; for it can never be tolerated by the United States—it never should be, and I am sure never will be; certainly not by the Senate of the United States—that these inroads should be made upon the limits of the United States, and those acts of piratical warfare, thieving, and murder be carried on with impunity.

Mr. DOOLITTLE. Mr. President, the piratical expeditions by land which may be organized and carried out, if things are permitted to go on as they have gone on, on the Canadian frontier would be very disastrous, it is true, to the peace of our citizens and dangerous to their lives and their property; but those little land expeditions that might be organized in Canada along our frontier would be as nothing compared to what might be organized should they be able in the Georgian bay or some of the remote bays around Lake Huron to catch hold of a vessel and put on board of it cannon and all the enginery of war to destroy our cities and towns bordering upon the great lakes. One single vessel seized by those pirates upon the lakes could lay the whole city of Chicago in ashes; and the same is true of the city where I live and the city of Milwaukee, for there is no way in which we could prevent their passage through the

straits of Mackinaw, which are two or three miles broad, in deep water, running out into Lake Huron. It is therefore necessary for our safety that we should put it in the power of the Executive to build the floating batteries which may be necessary to defend the straits of Mackinaw and defend the commerce of Lake Michigan as well as the commerce of the other great lakes.

But, Mr. President, I will not enter into a discussion now. I hope for one that the Canadian government and the Canadian authorities are in earnest in their determination to prevent in the future any further hostile or piratical excursions from those provinces into the United States; but if they do not prevent them we all know what the consequence is—it is war. God grant that war may be averted! I hope and trust it may be, and will labor and do all in my power consistent with the honor of the country to prevent it and to save the peace of this Government and to save civilization and the world from the great shock which must follow a war between the United States and Great Britain; but if the terrible necessity, through their negligence or smothered hostility or from any other cause, must come, let it come. We will end the question whenever it does come by perfect free trade between Canada and the United States, and by putting an end to the jurisdiction of Great Britain in any of these provinces in North America. But, sir, I desire no war; far from it. I would do all that can be reasonably done to prevent it, and I believe it can be prevented; but the wise mode in which to prevent ourselves from being involved is to be prepared for any contingencies.

I hope, sir, that the bill will be referred to the Committee on Foreign Relations.

Mr. SUMNER. The question before the Senate is simply on the reference of this bill. It is a question of the order of business.

Now, looking at its character, it is plain that it concerns primarily and essentially our foreign relations. It is this circumstance that gives to it a peculiar interest. If it merely concerned an additional levy of troops, or the building of new forts, or a change in our commercial policy, there would have been no question with regard to its reference, nor would the Senator from Wisconsin have accompanied it by any remarks calling attention to the outrage at St. Albans. I assume, then, that it concerns our foreign relations, and, therefore, according to the usages of the Senate, should be referred to the committee having that subject in charge.

This is all that I have to say on the question of reference; but the Senate will pardon me if I glance for one moment at the outrage to which the Senator referred. Only a few weeks ago the village of St. Albans, in Vermont, was disturbed by a band of murderers, highwaymen, house-breakers, horse-thieves, and bank-robbers coming from Canada. After breaking open the banks and obtaining a certain amount of spoils, attended by the murder of a citizen, they succeeded in making their way back to Canada, where they declared themselves to be agents of the rebel government. Such are the main facts. Now, Mr. President, does any one suppose that these agents of the rebel government were moved to their criminal enterprise merely by considerations of plunder—that they risked life and everything merely to rob a bank? No such thing. Their object was much higher and more far-reaching. In one word, it was to embroil the Government of the United States with the Government of Great Britain. I cannot doubt that this was their object. To my mind it is as plain as noonday.

These agents, or rather the men behind who set them on, knew the sensitiveness of our people, and how naturally they would be aroused against the foreign country in which the enterprise had its origin. They saw that excitement, passion, anger on our part were inevitable; that out of these some complication or collision might ensue; that any such complication or collision must necessarily help the rebellion more than a victory on the field of battle. All this they saw, and acted accordingly. *The whole proceeding was a trap in which to catch the Government of our country.* It was hoped that in this way the rebellion would gain that powerful British intervention which would help restore its failing fortunes.

For myself, sir, I am determined not to be caught in any such trap. There are many things

which Great Britain has done since the outbreak of our rebellion which to my mind are most unfriendly; but I am unwilling that anything should be done on our side to furnish any seeming apology for that foreign intervention which has been so constantly menaced, and which was foreshadowed in the most hasty and utterly unjustifiable concession of ocean belligerency to rebel slave-mongers who had but a single port or prize-court. Nobody sees the wrongs we have suffered more clearly than I do; but I see other wrongs also. While never ceasing to claim all our just rights, and reminding this Power always of duties which it has plainly neglected, I cannot forget that we are engaged at this moment in a war for the suppression of a long-continued and most virulent rebellion, which has thus far tasked our best energies. To this work let us now dedicate ourselves, without arousing another enemy, through whose alliance the rebellion may be encouraged and strengthened. Let us put down the rebellion. Do this, and we shall do everything.

Meanwhile I trust that the Senate will not be moved by passion into any hasty action on any of the measures now before it, but that each will be considered carefully and calmly on its merits, according to the usage of this body. This surely is the dictate of prudence, and I cannot doubt that it is the dictate of patriotism also.

Washington in his farewell address warns against "the insidious wiles of foreign influence;" but the "insidious wiles" of our rebels, seeking to embroil us with foreign Powers, are as deadly as any influence now brought against us. Forewarned is forearmed. Let us be steadfast against them.

Mr. SHERMAN. The Senator from Massachusetts alludes to only one of the troubles we have had on the border, and that the least significant. He alludes to the march of certain marauders into Vermont, and the capture of banks and the destruction of property there. He probably has forgotten for the moment a much more serious affair that took place almost within my own sight. I happened to be at Toledo at the time of the capture of the Philo Parsons and the Bay City. Senators will remember that an armed band entered on one of our vessels engaged in a peaceful commerce between the city of Detroit and the city of Sandusky, their arms concealed, partly on their bodies and partly in boxes, and when they had got upon the vessel, and the vessel in its usual course had gone into American waters, the arms suddenly appeared, the vessel was seized, was manned, and became at once a vessel of war under the confederate flag. Thus, in the course of a few hours, the confederate flag floated almost within sight of three respectable cities of the State of Ohio.

Another vessel, the Bay City, also engaged in peaceful commerce, was seized on the same day; and these two vessels lay off the harbor of Sandusky, within ten miles of where three thousand rebel officers were held as prisoners of war. They were only guarded by the solitary vessel of war of the United States upon the lakes, the steamer Michigan; and it was a part of the plan of the raiders, marauders, or confederates to seize the steamer Michigan. They had made their arrangements with persons in the city of Sandusky and scattered along the lakes to seize that, the only vessel of war on the lakes. If they had accomplished their object they might have laid under tribute Detroit, Toledo, Sandusky, and Cleveland in twenty-four hours; they might have destroyed a commerce equal at this moment to our entire commerce on the ocean.

I desire the Senator when he considers this subject to remember another fact, that when, for some reason not yet disclosed, this plot failed, and these marauders went back into Canada from whence they came, the authorities there shielded them and discharged them from even an ordinary arrest, and they go this day equipped in Canada, and will be received almost anywhere in Canada with plaudits, while our citizens are watched with jealousy and suspicion.

Is it to be wondered at that the people of the border, when these things have occurred in their midst, should feel anxiety and care? Why, sir, if this plot had succeeded, property to an untold amount would have been destroyed; they might have seized vessel upon vessel. Hundreds of vessels were floating between Buffalo and Detroit at

that very time; and if they had succeeded in their plot so far as to capture the steamer Michigan they might have seized fifty or one hundred vessels upon the lakes, and we should have been entirely powerless. There is not an armed vessel on Lake Erie except this steamer Michigan; there is not a gun or a fort or any means of defense along that whole border; and when our Canadian neighbors will thus harbor pirates and desperadoes who seize our vessels in peaceful commerce, trading at their own ports, is it to be wondered at that we on the border should feel the deepest interest in this question?

For ten years our citizens have believed that they have been robbed by what is called the "reciprocity treaty." They know that lands in Canada have more than doubled in value under the operation of the reciprocity treaty. They know that under the peculiar provisions of that treaty the bargain is all on one side. But, as long as we were at peace, we did not care for that. The reciprocity treaty tended to develop our neighbor, tended to bring large colonies into Canada; we had no objection to it. I myself never moved in the matter, although I saw that the effect of that reciprocity treaty was all on one side. But when we find that these people who have been fed by our commerce, who have made money by our trade, will protect these pirates floating upon our common boundaries, then a different feeling springs up, and the people along the border will maintain and defend themselves.

I must express my sincere regret that the order of General Dix, which was in the very language of Mr. Phillimore, one of the best writers on international law, and an English writer, should have been revoked. I believe that the spirit of the order of General Dix is the only way in which we can meet these marauders; and now it is rather the fear of war—I will not say the fear of war, because no proud nation is influenced by that, but it is the fear of the consequences of war and the consequences of pressing this policy in Canada any further than will probably induce the Canadian authorities to respect our rights as a nation, and probably to punish and prevent like instances in the future. But until they show some such spirit, I think that our Government ought to assume and exercise all the rights which, under the laws of nations, we have, to pursue pirates and robbers into any country that harbors them, whether it may be the kingdom of Great Britain or any other country.

I desire also to call the attention of the honorable chairman of the Committee on Foreign Relations to a very significant article here before me, which probably he read two or three years ago, but which may have escaped his recollection. When there was some fear that we should be involved in difficulty with Great Britain on account of the Trent affair, the honorable Senator will remember that an article appeared in the London Times of the date of January 7, 1862, which was semi-official in its character, showing the advantages that Great Britain would have over us in the event of a collision, and among the rest referred to the treaty and arrangement that are now about to be referred to the Committee on Foreign Relations. By the treaty of 1815, it was agreed that the two Powers, Great Britain and the United States, should dismantle their fleets upon the lakes and their forts, and subsequently, by an arrangement made in 1817, not in the form of a treaty, and which was never ratified by the Senate, so far as I can find, a stipulation was made as to the amount of force which should be kept upon the lakes. Under that arrangement we have gone on, we have no vessels of war on the lakes; but on the other hand, while Great Britain has nominally kept this treaty intact, she has substantially enabled herself, by building canals around the falls, to throw upon the lakes within thirty days fifty or a hundred men-of-war; and in this significant article I have before me, it is alluded to that Great Britain can, in case of a conflict with the United States, throw her gunboats from the river Thames right on to the upper lakes, and in thirty days make a more complete blockade of all our ports on the lakes than even now we maintain on the southern coast, and destroy our cities. This article is very significant. It speaks of the power of Canada to build rapidly vessels of war on the lakes, and also of our power to build rapidly vessels on the lakes, but very properly says that we have no means of throwing



vessels from the sea into the lakes. We cannot do that, but they can.

With this threat, made at a time when we were in danger of war, staring us in the face, I ask whether it is not the part of prudence and of caution, even dealing with a friendly nation, that we should place ourselves on equal terms. If Great Britain can throw vessels upon the upper lakes in derogation of a treaty which was made to prevent this force of mutual invasion and recrimination, I say we ought to prepare ourselves for the like security; and there is no other preparation that I know of except to give the President full authority and means to place suddenly upon the lakes the necessary force.

I do not anticipate a war with Great Britain. I would dread it. I think no man ought to say anything that would contribute to the hostile feeling between this country and Great Britain. When Great Britain and the United States fight with each other, as they may in the course of the future, though I trust not, it will be a battle of giants. We have shown by our power in this war our ability to carry on war fearfully and with great physical strength; and when we come to fight England again, if in the course of Providence we ever do, it will not be a fight such as the war of 1812, or the war of the Revolution; but it will be a fight between the two greatest physical Powers of the globe, with the single exception, probably, of France. Such a war ought to be avoided, and no man in public life ought to say anything that would excite feelings of hostility between these two great nations speaking the same language; but yet it is a mark of prudence, it is a mark of caution, to prepare ourselves for this exigency; and therefore I think there is nothing that will go before the Committee on Foreign Relations which will be more important, or which ought to demand more careful consideration, than the question raised by the reference now moved by the honorable Senator from Wisconsin.

Mr. SUMNER. Will the Senator please read the article to which he has alluded?

Mr. SHERMAN. The article is a long one, but for the purpose of recalling it to the memory of Senators, I will read it. It is, as I have said, from the London Times of January 7, 1862.

"THE NAVAL RE-ENFORCEMENTS FOR NORTH AMERICA.—If praise is due to the War Department for their rapid and energetic action in sending out military stores and reinforcements for Canada, the same tribute can unquestionably be claimed by the Admiralty for the rapidity which they have shown in preparing for the impending struggle, strengthening our fleet on the North American station, and bringing forward the vessels that will be fit for service on the lakes of Canada. It is just five weeks since we laid before our readers a list of the naval force, under the command of Admiral Milne, on the North American and West India stations. That list comprised five line-of-battle ships, ten first-class frigates, and seventeen powerfully armed corvettes and sloops, all steamers, and mounting in all eighty-five guns. This fleet is, in fact, equal to the whole Federal Navy, whether steam or sailing. As we have said, only five weeks have elapsed since that list was given, and already the preparations are far advanced toward reinforcing this fleet with two line-of-battle ships, twenty-three of the largest, fastest, and heaviest screw frigates, and eight powerful corvettes, mounting among them one thousand guns. Some of these vessels have sailed, and are already on the station, others are on their way out, others only await their sailing orders to start at a moment's notice; some are in commission and will be ready and off in a very short time, and only one or two, such as the Black Prince, though rapidly fitting, are not sufficiently forward to be commissioned yet.

"Of the squadron of frigates, each vessel has been carefully chosen for its great sailing speed, high steam power, and heavy armament, and never yet has such a fleet of picked cruisers been sent against any enemy. Among them are the Shannon, 51 guns; Leander, 51; the Euryalus, 51; Sutley, 51; Orlando, 51; Severn, 51; Phoebe, 51; Warrior, 40; Black Prince, 40; Galatea, 28, (sister to the formidable Ariadne); Defiance, 22; Defense, (iron), 22; Resistance, (iron), 22; Satellite, 21; Orpheus, 21; Barrosa, 21; Pyriades, 21; Rattlesnake, 21; Chanticleer, 17; Greyhound, 17; Zebra, 17; and Magicienne, 16. The two line-of-battle ships are the Hero, 91 guns, and the Meenae, 81. The sloops, very heavily armed, are the Styx, 7 guns; Stromboli, 7; Devastation, 7; Petrel, 11; Rapid, 11; Rosario, 11; Pandora, 5; and Vigilant, 4. All these ships, like those already on the stations, are screws or paddles, so that by the beginning of February, Admiral Milne will have at his disposal sixty-five sail—namely, seven line-of-battle ships, thirty-three frigates, and twenty-five corvettes and sloops. Of the seven line-of-battle ships, four—the St. George, Conqueror, Donagel, and Hero—both steam and sail as fast as the best frigates in the service. With such a force a total and most effective blockade of all the Federal ports could be established in a single week; for, unlike the coast line of the confederate States, which is protected by myriads of little islands, and countless inlets and channels leading to the great rivers beyond, all the great Federal harbors have such narrow entrances that a single vessel would be sufficient to stop all passage in or

out. With the Warrior at Sandy Hook, what could enter New York, or rather what effectual resistance could Fort Hamilton and the batteries on Staten Island offer to a combined attack of the four iron frigates, in case the Government wished to force the passage, and dictate their own terms of peace by laying the fleet broadside on to the streets of New York and Hoboken? That the Warrior and Black Prince, Resistance and Defense, could engage and destroy these batteries without the smallest risk to themselves, the experiments against the Warrior target have proved conclusively. A single vessel at each port closes Boston and Portland, and two off Cape May would be ample for the Delaware river and the trade of Philadelphia. Admiral Milne, we believe, has already made very complete arrangements as to the disposition of his squadron, so that, in the event of war, the Federal cruisers off the southern coast may be promptly and satisfactorily accounted for.

"The worst part of the struggle, however, will not be on the north Atlantic seaboard, but on the great lakes of Upper Canada and North America. It was said truly in the last war that whoever was master of these lakes would be the master of all. The knowledge of this may have led to the clause in the treaty of 1815, by which both Powers agreed to build no war vessels on the lakes in time of peace, and this clause again accounts for the fact that the New Orleans, eighty-four guns, commenced in 1814 in Sackett's Harbor, on Lake Ontario, has remained unfinished to this day. Of course, from this vessel, left unfinished nearly fifty years ago, (though it is to this hour reckoned in the Federal Navy List as an effective line-of-battle ship,) we have nothing to fear. It is, however, most important to remember that the Federals have a navy-yard on Lake Ontario, and that, to avert the ravages of war from Upper Canada, we must be careful to maintain as absolute a supremacy on Lakes Erie and Ontario as we shall do on the American coast, from the Bay of Fundy to the Chesapeake. This, as concerns our success in the struggle, is a point of vital interest, and we are glad, therefore, to be able to tell our readers that this danger has been foreseen and amply provided against, and that within a week after the breaking up of the ice in the rivers and canals a whole fleet of gunboats, with the most powerful of the screw corvettes sent out to Admiral Milne, will carry the protection of the English flag from Montreal to Detroit.

"Between Lake Ontario and Montreal the navigation of the St. Lawrence is rendered difficult and somewhat dangerous to vessels coming down the stream by the rapids of Long Sault, the Cedars, Cascades, and Lachine, places where there are sudden rapids formed by a series of declivities in the bed of the river, and where the waters rush down, sometimes for a distance of one or two miles, with a velocity of from twenty to nearly twenty-five miles an hour. Until within the last few years these rapids were considered too dangerous for any vessel to attempt to descend them, and, of course, getting up them again is impossible. To overcome the obstacles which these currents offered to water communication by the great highway of the St. Lawrence to the lakes above, the Canadian government, with British assistance, have formed a series of canals with innumerable lock-gates above Montreal, by which the rapids are avoided, and easy communication obtained with Lakes Ontario, Erie, and Michigan. The first canal is about two miles long, through the southern extremity of the island of Montreal, and this avoids the rapids of Lachine. The next, in order to avoid the Cascades and Cedars rapids, is much longer, and, unfortunately, it is made on the right or American bank of the river, and only some twelve or fifteen miles distance from the frontier itself. This extends from Beauharnais to Hungry bay, and is called the Beauharnais canal. The next, the Cornwall canal, extends from Cornwall to Dickensons's landing, to avoid the Long Sault. Beyond this are short detached canals at Farrand's Point, the Platte, Iroquois, and Galops rapids. After these the navigation is clear through the Thousand Islands into Lake Ontario. The tall, wide, three-storied river steamers which ply between Ontario and Montreal go up these canals every day; and up these canals, too, the gunboats, sloops, and corvettes must pass to protect the shores and trade of Western Canada. They may do so with ease, since all the locks in these canals are built to pass vessels one hundred and eighty-six feet long, forty-four and a half feet beam, and nine feet draught.

"On this important point we can speak with certainty, as we have an official engineer's plan, with the dimensions of the locks and canals, before us. All our smaller twenty-one-gun frigates, such as the Pyriades, Rattlesnake, Barrosa, Satellite, &c., could, we think, with perfect ease pass up these locks, if lightened of their heavy stores and armaments, which could, of course, be taken up with them on timber rafts, or flat-bottomed country boats. Once on the waters of Lake Ontario, all our difficulties would be at an end, for at the western extremity of Lake Ontario is the Welland canal, connecting Port Dalhousie, on Lake Ontario, with Port Colborne, on Lake Erie. The length of this canal is about thirty-five miles, and it passes entirely through British territory. The lock-gates on this are capable of passing vessels of one hundred and forty-two feet long, twenty-six feet beam, and ten feet draught, an ample accommodation for the heavy-armed six-gun screw dispatch gunboat vessels like the Flying Fish, or even for the heavy-armed eleven-gun sloops of the class to which the Rapid, Petrel, and Rosario belong. From Lake Erie the River St. Clair leads direct between Detroit, on the American side, and Chatham, on the Canadian side, into Lake Michigan. Across Lake St. Clair and down the St. Clair river two thirds of the corn and provision traffic between the States of the far West and the Atlantic seaboard is carried on, and one or two corvettes on Lake St. Clair would be sufficient to stop it all. The Grand Trunk railway has a line to the settlement of Sarnia, on Lake Huron, around the shores of which grows any quantity of the finest timber. If shipwrights were employed to build a few gunboats at this place, (their machinery and armaments could be forwarded by rail,) they could steam at once, by a passage as wide as the straits of Dover, into Lake Michigan, and find not only the enormous traffic of this great lake, but even such towns as Chicago and Milwaukee, entirely at their mercy. It may be said, perhaps, that in case of war it is

equally open to the Federalists to do all this as to ourselves; but this is not so. Undoubtedly, if we built gunboats on Lake Huron, the Federals could build others to check them on Lakes Michigan and Superior quite as fast. But it is equally certain that they cannot possibly build steam frigates and corvettes on Lakes Erie and Ontario as fast as we can send them up through the canals we have mentioned ready-built, manned, and equipped. There is, moreover, only one practicable means of communication between Ontario and Erie, which is through the Welland canal we have spoken of, held by the British. As soon as the ice breaks, therefore, if the war goes on, we may expect to find these lakes covered with cruisers, and each Federal port on them as closely blockaded as Boston and New York.

"It must not be supposed, however, that the Federals will quietly acquiesce in our supremacy. In the time that would intervene between the declaration of war and the thawing of the canals on the St. Lawrence, the Federals would be masters of the situation, and would be certain to fit out something like the mosquito fleet that swarmed over the West India station when the 'sensation' as to the slaver right of search ran high. Such vessels, however ridiculous when opposed to steam frigates, would be very formidable when there was nothing to resist them, and we cannot meet them in the lakes before next April. Kingston, with its Fort Henry and some still more formidable batteries, a *fleur d'eau*, can take care of itself, and a couple of guns on the long spit of land which shuts in the splendid harbor of Hamilton would well shield that fine town. But Whitby, Coburg, Delville, even Toronto itself, might be laid in ashes by a couple of ferry-boats carrying long-range guns, if immediate steps are not taken to defend them with earth-works when it is first seen that war is inevitable. However, as the Canadian government have direct telegraphic communication with Lord Lyons at Washington, we may trust they are not likely to be taken by surprise on this point.

"But there are other means of carrying the war into the enemy's territory besides by the Welland and St. Lawrence canals. Lake Ontario can be reached from Montreal by the Ottawa and Rideau canal. This is the longest in Canada or America, about one hundred and twenty miles in length, running from Ottawa to Kingston. The locks on this accommodate vessels of one hundred feet length, nineteen feet beam, and five and a half feet draught, so that by this route our gunboats might gain Ontario and Erie, while the corvettes and short frigates came up by the St. Lawrence. At Sorel, also, about twenty miles below Montreal, is a river which leads through the St. Ours lock and through the Chambly canal direct on to the head of Lake Champlain. The locks on this canal admit ships of one hundred and thirteen feet length, twenty-two and a half feet beam, and six and a half feet draught—so that by this route also any number of gunboats might be sent into Lake Champlain, on the waters of which there is not a single vessel larger than a steam ferry, and on the shores of which are large, rich, and utterly unprotected towns, such as Burlington, New Haven, &c. All these canals are British property, on British soil, and held by the Canadian government as the keys which give access to our ships to the most distant provinces of the West. In our previous notice of the military reinforcements for Canada we omitted, in speaking of the high efficiency of the military train, to mention the name of Colonel McMurdo, to whom, as having been intrusted with its organization from the commencement until very recently, so much praise is most justly due."

Mr. SUMNER. Mr. President, there are two additional topics which the Senator from Ohio has introduced into the discussion on which I wish to make a single remark, not by way of argument, not even to express any difference from that Senator. He has called attention to the recent order of General Dix, and has averred that it is supported by the eminent authority of Mr. Phillimore, the latest English writer on the law of nations. The words of Mr. Phillimore have been quoted in the Canadian press and also in some of the newspapers of our country. They do seem to sanction the order of General Dix. But perhaps the Senator from Ohio has not had his attention called to another authority of our own country which is in a different sense. I refer to the recent work of General Halleck on the law of nations, which, take it all in all, is perhaps the best practical manual on that subject extant. If Senators refer to that, they will see that this writer, after quoting the very words of Mr. Phillimore, takes exception to them as too broad, and doubts whether any enterprise in pursuance of that authority would be sustained by the law of nations. In short, he says that anything done in that sense would be an act of war.

Now, sir, I do not intend myself on this occasion to express any opinion on that question. There is no occasion for it.

Mr. HOWARD. Will my honorable friend from Massachusetts have the goodness, if the book of General Halleck is at hand, to read the passage to which he refers? It is certainly a very important principle that General Halleck announces.

Mr. SUMNER. The Senator knows very well that the debate has come up to-day accidentally; I have not the book of General Halleck here. I dare say it is in the Congressional Library, and I can have it within a reasonable time, and I shall

have great pleasure in calling the attention of the Senator to the passage and section on this subject.

Mr. JOHNSON. Will the Senator from Massachusetts pardon me for asking if General Halleck cites any authority for the opinion?

Mr. SUMNER. I think he does not; I think he goes into a criticism of the English authority. Mr. JOHNSON. He is clearly wrong.

Mr. SUMNER. As I say, I do not wish now to be drawn into any opinion on the question; I merely call attention to the difference of opinion among important authorities, and I show that while the Englishman would seem to sustain General Dix, the American authority does not sustain him; that is all.

There is one other topic to which the Senator from Ohio referred, and that is the naval forces on the lakes. He is aware that the "arrangement" on that subject is anomalous, abnormal in its character; that it does not appear to have ever received the sanction of the Senate; that in the statute-book it is only printed in small type; it is a small type arrangement; that it does seem to have been proclaimed at the time by the President; but the origin, and history, and character of that arrangement are still subjects of doubt. It was on this account that only the other day I introduced a resolution into the Senate calling for all information on the files of the Department of State with reference to that anomalous paper, as it may be characterized. When that information is received, the Senate will then have the proper information to proceed, as they should, to annul it. I have no doubt that they will act promptly as soon as ever they are in a condition to act at all.

Mr. GRIMES. There is one subject that has been introduced into this debate to which I desire to direct the special attention of the Committee on Foreign Relations when this question shall be referred to them, and that is as to the truth of the allegations set forth in the editorial of the London Times. In the language which has been quoted by the Senator from Ohio, the article says:

"But it is equally certain that they [the United States] cannot possibly build steam frigates and corvettes on Lakes Erie and Ontario as fast as we can send them up through the canals we have mentioned, ready built, manned, and equipped."

Now, I assert that Great Britain has not got a corvette, or a sloop, or any steam vessel of war that has the capacity to go through the canals into the upper lakes.

Mr. SHERMAN. If my friend from Iowa will allow me to read an extract from that same editorial he will find that it gives information on that very point. It speaks of the Welland canal connecting Lakes Erie and Ontario, which is the smallest of the canals, and says of it:

"The length of this canal is about thirty-five miles, and it passes entirely through British territory. The lock-gates on this are capable of passing vessels of one hundred and forty-two feet long, twenty-six feet beam, and ten feet draught—an ample accommodation for the heavy-armed six-gun screw dispatch gunboat vessels like the Flying Fish, or even for the heavy-armed eleven-gun sloops of the class to which the Rapid, Petrel, and Rosario belong."

Thus the writer gives the size of the locks of the canal and designates the class of vessels that can pass through those locks, and quite a number of vessels are named as those that could go through into the upper lakes.

Mr. GRIMES. Then the writer goes on and speaks about the capacity of the British to send through frigates and corvettes. Everybody knows that they cannot send those through; and everybody who is familiar with the British navy knows that the class of gunboats they built during the Crimean war and which had capacity to go through these canals, have now been entirely broken up and destroyed. I remember having had my attention called to this matter when the project of building a ship canal from the Atlantic to the Mississippi was under consideration, and it was urged in the section of the country in which I reside that it was necessary that we should expend millions of dollars to build a ship canal in order that we might have in that counterpoise for the power which Great Britain had in her canals; and my attention having been thus directed to it, I satisfied my own mind that Great Britain had not the power to molest us in this way.

The true mode, Mr. President, to defend ourselves on the northern frontier and on the lakes is to have arsenals and armories there. On the

lakes we have ten tons of shipping where the British have one; we own nearly all the steamboats that ply there, and we shall continue to own them so long as we maintain our present navigation laws, giving to our own people the power to transport the traffic of that country. All you want, whenever difficulties shall occur between us and Great Britain, is to have armaments which you can immediately throw on board these vessels. Take possession of the mouth of the Welland canal, and what power will the British have? Where the necessity, therefore, of deciding in advance that we must go and build fortifications at the mouth of every river, or near every harbor on the whole upper lakes?

Mr. President, the true way to settle this whole thing is to repeal the reciprocity treaty. Great Britain is not going to fight for Canada. Canada was an apple ripe and ready to drop into our hands when the reciprocity treaty was agreed to. It was consummated through the instrumentality of the men who are now in rebellion against this Government, with a little aid that was furnished to them by the people of the North. Repeal the reciprocity treaty and you will find that in less than twenty-four months the people of the Canadas and of the British provinces generally to the north and northeast of us will be clamorous to come back to us. I trust that the Committee on Foreign Relations will direct their attention specially to that branch of the subject that is committed to them.

Mr. SUMNER. The committee meet to-morrow expressly to consider that.

Mr. GRIMES. I am glad to hear it, and I hope we shall have speedy action on that matter. Sir, the newspapers tell us that there is a panic in Canada. I have no doubt of it. It does not proceed from any fear that they have of war; it proceeds from the fear that they have of their pockets. The moment you repeal the reciprocity treaty, that moment the stock of every railroad in all Canada will become utterly worthless; every man of wealth and means there will become bankrupt. It is caused by the fear they have of the repeal of that treaty which gives them the carrying trade of the produce from the West, and gives them the power to compete with us in the eastern markets, which is very much to our injury.

Mr. HOWE. Mr. President, before this proposition goes to any committee, I want to avail myself of the occasion to make two, possibly three remarks, if I do not forget the third.

The first is that I am glad at last to see attention called, for some reason or by any means, to the defenseless condition of our northern lakes. It is said that there is a panic in Canada. I hope there is no panic here to prevent our considering the subject coolly and calmly, and with a tolerable share of wisdom. When the first fortification bill that ever I heard considered in the Senate was under consideration here, in the winter of 1862, I then took occasion to call the attention of the Senate to the very condition of things which we hear spoken of to-day, and I then called the attention of the Senate to the very article which the Senator from Ohio has read this morning. It seemed to be then the general opinion of the Senate and of the country that the Northwest was all oak, and could stand alone, and therefore no provision whatever was made for our protection or our defense. It seems to be now admitted that a hostile fleet thrown in on those lakes could operate disastrously on other portions of the country than the Northwest itself; and it is of national importance, it seems to be conceded this morning, that there should be some protection to that section of the country. That is all I have to say upon that head.

The next suggestion I want to make is by way of reminder to the Senate that for the last two years you have had almost the whole country here knocking at the doors of the Legislature and begging you to make an appropriation (and I believe they have never asked for more than one third of the appropriation which is contemplated by this bill) in order to provide an avenue through which you can throw gunboats from the Hudson river into the lakes as readily and as promptly as they can be thrown by way of the St. Lawrence canals. Those calls have not been heeded. My deliberate judgment is that that is the cheapest mode of defending the northern lakes and the countries adjacent thereto. When you have such

an avenue open, you will not have to keep useless fortifications or useless fleets there.

The third remark I wish to make is that I do not believe with the Senator from Iowa [Mr. GRIMES] that the repeal of the reciprocity treaty will afford ample protection either to the States adjacent to the great lakes or to any other portion of the country. If it is to be conceded that the repeal of the reciprocity treaty must be had, if that is a foregone conclusion, which I shall regret very much to know as a single individual, I trust no one will be persuaded either by the Senator from Iowa, or in any other way, to rest with the repeal of that treaty. I think other measures will be just as necessary for our protection after that is repealed as before. The repeal of a treaty which it is said has proved beneficial to these provinces, our neighbors, I do not think will make them any more friendly to us. If I believed that that treaty was more beneficial to them than to us I should say that of itself was a good reason for the repeal of the treaty; but the repeal of the treaty is no reason why these other measures of defense should not be prosecuted.

Mr. HALE. I rise, Mr. President, to say a word in regard to a matter which has incidentally been brought in. I entirely agree with the Senator from Wisconsin [Mr. Howe] in regard to the reciprocity treaty, and I wish to make one or two suggestions to the Senate on that subject. I think that at the last session an attempt was made very perseveringly, and I may say obstinately, to repeal the fishing bounties. It was resisted in this body, and successfully resisted, on the ground that those bounties were necessary in order to encourage the fisheries as a school for seamen. Now, sir, the reciprocity treaty encourages the fisheries of our northeastern States ten times what all your fishing bounties do, and I hope that the representatives in the Senate from those States will see what it is before they consent to its repeal. The very first article in the treaty, and one of the most important, is in these words:

"It is agreed by the high contracting parties that, in addition to the liberties secured to the United States fishermen by the above-mentioned convention of October 20, 1813, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish."

This is one of the most important privileges ever secured to the fishing interest of this country, and the Senator from Maine before me [Mr. FARWELL] knows it as well as I do. I was recently in the office of the American consul at Halifax, and I think I speak within bounds when I say that of the American captains who called there for the purpose of exhibiting their manifests and making their entries, more than nineteen twentieths of all the commerce that was thus officially registered at the office of the American consul at Halifax consisted of fish. It is a very important item, and it was an item that was placed first in consideration in the treaty.

Again, sir, another provision should be borne in mind in view of the present high price of coal, which is an article of prime necessity for the people of this country, and especially for the poor people. That article, under this treaty, comes into the United States free of duty; and anybody who is acquainted with the necessity that humanity itself demands in the matter of fuel in the cities and on the northeastern coast will be slow, I think, before consenting to repeal a treaty which has so beneficent a provision in it as that which allows coal to come in free of duty. This treaty gives us coal, and gives our fishermen a privilege which they never had before, and I should look upon it as one of the most unwise measures this nation could possibly adopt, if we were to repeal the reciprocity treaty for the purpose of inflicting any injury upon the British colonies. The fact is we shall injure ourselves ten times more than we shall the inhabitants of those provinces by repealing the reciprocity treaty. I hope that whatever else we may do, we shall not, in any fancied feeling of wrong that we have suffered at the hands

of those colonies, undertake to repeal so beneficent a measure for ourselves as is the reciprocity treaty. It may in some cases, in some localities, and in regard to some interests, have operated disadvantageously; I do not doubt that it has, because that seems to be the judgment of some gentlemen; but in a great national point of view, and particularly with reference to that great national consideration, the nurture of seamen, the privilege that this treaty gives to the fishermen of the United States of fishing within three miles of the British coasts and going upon British territory to cure their fish, is a privilege that I think Massachusetts and Maine will deliberate a very long time before they will consent to give up.

Now, Mr. President, while I am up I want to say another word in regard to the matter of this bill. I do not care much to what committee it may be referred, but I do hope that the Senate will consider, and consider maturely, the condition of things; and that because we are smarting under the unjust decision of a British magistrate in a matter in regard to which the public mind has been exceedingly excited, we will not, under a temporary irritation for this cause, enter upon a system of hasty legislation, one that will be calculated to excite rather than to allay the animosities of these contiguous peoples.

Sir, I believe to-day that the sentiment of the authorities in the British provinces is for discharging their duty in regard to this country. I know that in some parts of the provinces the feeling among the people is different; and I can explain something of what makes it so. Go into Halifax, for instance, which is the great depot for blockade runners at the present time, where they load their vessels to go to Bermuda and Nassau, and then take the chance of running them into Wilmington. At Halifax they get their supplies of groceries, meat, and everything of that sort. The consequence has been to raise the market price of those articles in the British ports; and those who deal in them, and find the prices of them raised, necessarily have their sympathies and their feelings enlisted on the side that puts money in their pockets, more than on the other side. But that there is any settled feeling of hostility to this country among those who control the provincial governments, or control public sentiment there, I do not believe.

I regret as much as anybody the things that have occurred; I feel as indignant as anybody, and I have felt so for a long time; but I think the time has gone by for us to get angry without reason. The time was when we could have got mad with grace and dignity, and it was when the insolent demand was made by Great Britain upon us, in an insolent manner, for the surrender of Mason and Slidell. Then we could have stood before heaven and earth, and we ought to have stood there. That was my opinion then, it is my opinion now. Great Britain demanded the surrender of Mason and Slidell, and in the same breath in which she made the demand she sent her troops in a threatening aspect into her provinces here, ready to back up by force of arms the demand which she had made. My honorable friend from Massachusetts [Mr. SUMNER] made on that occasion, as he always makes, a very able speech on that subject; and it was my intention, in my poor way and with such feeble suggestions as I could make, to suggest the fallacy and the infirmity of the argument which he submitted to the Senate. But, sir, I did not want, even by implication, to do anything which should add fuel to the flames that seemed to be threatening a general conflagration. Let me tell the Senator here now, however, though I have not read his speech, I am sorry to say, since it was delivered, that Great Britain had been in the habit of doing the very same thing year after year and year after year. She had met American vessels sailing under the American flag, and claimed the right to stop them and to take anybody that the captain of the British cruiser judged to be an English subject from under the protection of our flag and transfer him to theirs. The Senator says "that is true," that is what they had done. The infirmity of his argument was this, that when Great Britain came to have that very same thing practiced on her, then she would not submit; then it was another bull that had gored the ox, and she was prepared to examine the question, and if, and if, and if, and so on. Now, sir, what was it?

The whole matter was that Great Britain had practiced upon one interpretation of national law when her cruisers took her alleged subjects out of our vessels, and when our vessels undertook to apply the same rule, to take men that owed allegiance to this country and were in rebellion against it out of her vessels, she assumed another and a totally different policy, and the Senator from Massachusetts construed that as an abandonment of the piratical doctrine that she had lived upon for so many years before. He will excuse me (for nobody has more respect for him than I have) when I say that that is an answer to his whole speech, beautiful as it was, though it may be presumptuous for me to suppose that an off-hand utterance of mine can answer so elaborate an argument as that; but it is there, sir. We ought to have resisted that, and we ought to have resisted it the more for the insolent and the threatening manner in which it was made. If we had stood up then we should have had the sympathies of the civilized world with us, because we should have then said "we will not submit to have a rule one way for you and another way for us."

Mr. President, let no man say anything lightly that will have a tendency to provoke a war between these two great countries; let no man and no body of men do anything lightly that shall have a tendency to disturb the relations of peace between this country and Great Britain. I should look upon it as one of the greatest calamities that could befall the civilized world. But, sir, we are now at war, we are in the desperate contingencies of national life or death, and I say that if national life cannot be preserved with national honor, then come national death; the loss of national honor can never be retrieved. I say, therefore, we should not hastily, even by any words of debate, say anything which shall have a tendency to excite such a feeling and to provoke such a result.

Mr. President, I believe that by wise counsels, and by prudent and by firm counsels, we can do everything that the emergencies of the time require. I rejoice to notice in the papers which have come to hand since the order of General Dix was made, and before the order of the President countermanning it, that the tone of the leading presses in the provinces, in Canada especially, was one of justification of General Dix's order. They did not feel that it was an infringement upon the dignity or the power of Great Britain, but, so far as I have seen, and I have seen numbers of them, the tone of the press in the Canadas was almost universal in sustaining the position which General Dix had taken. The President thought differently, and I am content with that.

But, sir, while we would do nothing rashly, and while I would counsel nothing rashly, I would counsel firmness; and I confess I regret (though upon the whole I agree with the general tenor of the letter) that our minister at Brazil, in the communication which he made touching the seizure of the vessel Florida by our cruiser, admits so boldly and so baldly as he does that we had submitted to wrong and insolence from Great Britain because we were not in a situation to resist it. It may possibly be true; but if it be true, it should have been kept in the most secret recesses of the patriotic heart, and never should have been uttered until we were in a situation to enforce that which we believed to be our right.

Now, Mr. President, I have said thus much because I have totally disagreed with those who would repeal this reciprocity treaty. I think it is a great measure of good, not only to the comfort but to the military ability and to the naval force of the country. Now, when everybody feels aggrieved, when everybody feels that we have been treated by the subordinates of the Canadian government as no independent nation should submit to be treated, I hope that in such an hour and such a time as this, while we take counsel of that patriotic indignation which burns in every American breast at this great outrage, we will still take counsel of prudence as well as firmness. I believe that this feeling of indignation at the treatment we have received from Canada, although unofficial, is not confined to this country; I believe it is the universal expression of the public mind of the best classes and of the leading classes in the Canadas; and I hope, to say the least, that this Government, or the Senate, or any official of this Government, will not commit itself to any

action until we have heard from the imperial Government and seen what they say on the other side of the water in regard to the wrong that have been inflicted upon us. Let us not do what our minister at Brazil complains that Great Britain did. He complains that when the rebellion broke out, before our minister had been received, before there had been an opportunity to say a word from this Government in regard to the state of things, in hot haste, as soon as the war commenced, Great Britain acknowledged the rebels as belligerents. Well, sir, it was a great wrong, it was a great outrage; but let us not do what amounts to the same thing in a similar case. Let us not put ourselves in any position that can be construed as offensive to Great Britain, until we know how Great Britain herself looks upon the transaction of which we complain.

Mr. FARWELL. I did not propose to take any part in this discussion; but as the Senator from New Hampshire has called upon me, I will state for the information of that Senator and of the Senate that my impression is that the fishermen of New England would be very well content to have the reciprocity treaty repealed. To be sure, the reciprocity treaty gives them some privileges which were denied them under former treaties; for instance, the privilege of fishing within three miles of the coast of the provinces; but, upon the other hand, the duty on salt which our fishermen have to pay is at this time very heavy. Salt costs on board fishing vessels this year one dollar a bushel. Then they are obliged to go on the coast of the provinces to get their fares of fish, with considerable loss of time and expense. The provincial fishermen put their salt on board at about one third the cost of ours; they go out from their own harbors right upon the coast and catch their fares of fish; they bring them duty free into our market to compete with our fishermen. Therefore I think that our fishermen would be the last men to complain of the repeal of the reciprocity treaty.

I was content with the reference of this question to the Committee on Foreign Relations, and I wish to say here that I have great admiration for the manner in which the foreign relations of this country have been managed, both by the executive department and by the two Houses of Congress. If by any forbearance short of the loss of national honor we can prevent at this time any collision or any complication of our affairs with foreign countries, it is not good policy to bring about any such collision or complication.

This discussion has taken a wide range, and I propose now to allude to one or two things which have occurred here without any remark from me. A resolution of inquiry was presented last week in regard to making a list of vessels destroyed by the pirates which have been fitted out from England, and calling upon England to pay us for those vessels. The people of my State are very much interested in that subject. We have had a good many vessels destroyed by these pirates, and I hope the time will come when England will pay every dollar of the value of our vessels destroyed; but I would not advise the making of a claim directly on England for the payment of those vessels at the present time. If the Government should collect the money, to whom would it be paid? To whom does it belong? As a general thing the vessels that have been destroyed were insured. The insurance companies have paid for them.

The insurance companies have collected the money in the shape of war premiums from the whole commerce of the country. It is, therefore, a loss to the commerce of the country, and not to the men who have individually lost the vessels or to the insurance companies which have paid for them; but there may be cases of individual hardship, where Congress may think proper to grant relief. I hope to see this money collected in another way. I have noticed a movement in the other House for the repeal of that clause of the Constitution which prohibits the laying of an export duty, and I hope the prohibition may be repealed. More than forty years ago cotton was proclaimed king in this country, and it was king; but now, like another king that we read of, it is driven out to eat grass for a season. But, sir, it will be king again, it will be crowned again as king, and this country is to rule the king that will rule the world; and, sir, when this vast southern country shall be opened, and when free labor shall



go down and occupy it, when cotton can be produced for eight or nine cents a pound, and laid down in our harbors ready for export, then it will be for the interest of the men who raise the cotton, and the interest of this whole country, to put an export duty of at least five cents a pound upon cotton. Then, sir, instead of England controlling the market for cotton by taking the great bulk of the crop, the manufacturing interest both North and South will spring up, and at least half the crop will be manufactured at home, and the price will not be exclusively in the control of British merchants and British manufacturers, where with cheap money they hoard up their millions of bales and hold them in order to govern the price. Sir, I trust that all our vessels which have been destroyed will be paid for, together with a large amount of the interest of our debt, by an export duty upon cotton.

But, sir, if there shall be war between England and this country, it will be a war upon the ocean, and I wish here to say one word to Senators upon this topic. The legislation of the last two years has been extremely cruel to our commerce. Hemp, iron, copper, everything that goes into the construction of ships is highly taxed, and then there is a special tax laid upon the construction, a tonnage duty laid every time a vessel comes into port; and further, Congress has required every man who owns a ship which has been once measured and registered by the Government to go on at a large expense and have her remeasured for the pleasure of the Government, or for their accommodation, or for some other purpose, unasked for by the commercial men of the country. The result has been, with the war premiums which we are obliged to pay not only on the hull but practically upon every cargo carried, for no merchant will ship his goods in an American bottom unless he gets the freight enough cheaper to cover the extra war premium on the cargo—the result practically is that we are unfitting ourselves for a war with England; we are driving commerce from the country; our shipping is being sold every day to foreigners, and what is not being sold is being denationalized by a transfer to a foreigner and a foreign flag hoisted over it.

Senators will see by looking at the report of the Secretary of the Navy that we have now fifty one thousand sailors in our Navy, and I think there can be but very few more than that now engaged in the commercial marine of the country. Nearly half of all the sailors are taken from the commercial marine and transferred to the Navy. Then, besides all the other obstacles in the way of the commercial marine of the country, is the great advance in wages caused by the high bounties and the large inducements offered for men to go into the Navy. I trust that the committee who are to have this subject under consideration will as far as possible endeavor to relieve the commerce of the country from all charges which are not paid by foreigners with whom we have to compete. I would, however, assure our friends at the West that they need not be alarmed in the event of a rupture with England. At the first speck of war, with our superior land force to any she can put on foot on this continent, we should take possession of the ingress to the lakes, and with our commercial marine, our steamers so easily converted into war vessels, we should have entire control of the lakes.

Mr. SUMNER. The Senator from Michigan [Mr. HOWARD] asked me to read to the Senate the important words of General Halleck to which I referred in debate. I told him that I had not the book then with me. Since then I have sent to the Congressional Library, and I now have it before me. I do not wish to trespass upon the time of the Senate, but perhaps it would not be uninteresting to Senators to hear the precise statement of this learned authority on the question which is now one of practical interest to the whole country. General Halleck begins on page 94 by citing the words of Mr. Phillimore, the English authority, as follows:

"A rebellion, or a civil commotion, it may happen, agitates a nation; while the authorities are engaged in repressing it, bands of rebels pass the frontier, shelter themselves under the protection of the contiguous State, and from thence, with restored strength and fresh appliances, renew their invasions upon the State from which they have escaped. The invaded State remonstrates. The remonstrance, whether from favor to the rebels, or feebleness of the Executive, is unheeded, or, at least, the evil complained of remains undressed. In this state of things

the invaded State is warranted by international law in crossing the frontier, and in taking the necessary means for her safety, whether these be the capture or dispersion of the rebels, or the destruction of their stronghold, as the exigencies of the case may fairly require."

These are the words of the English authority, already referred to by the Senator from Ohio, quoted by General Halleck. He then proceeds:

"This is certainly a very extraordinary pretension; let us examine the reasons by which it has been attempted to sustain this right of extra-territorial jurisdiction. (Phillimore, On Int. Law, vol. 1, § 213; Phillimore, letter to Lord Ashburton, p. 27, et seq.)

"Mr. Phillimore has himself pointed out what he conceives to be the principle of international law, from which he derives this pretended right of one State to transgress the borders of its neighbor's territory in time of peace, not as an act of hostility, but as a kind of pacifico-belligerent right of territorial violability; pacific with respect to the State whose territory is invaded, and belligerent with respect to the particular powers and places attacked or destroyed."

He then proceeds to quote some other words from Mr. Phillimore, and goes on as follows:

"The defect of Mr. Phillimore's argument consists in the assumption of a false principle for its basis, and his erroneous premises necessarily lead him to an erroneous conclusion. There can be no conflict of rights, *stricti juris*, between States in time of peace. No such principle is admitted in the code of public international law. It is a maxim of that law that every right is followed by corresponding duties and obligations. If, therefore, one State has a right to violate the territory of a neighbor in time of peace, for what it sees fit to consider the purposes of self-defense, that neighbor is bound to permit its territory to be so violated as often as the other party may conceive that the necessity exists. But it is an established principle that every sovereign State has a right to protect the inviolability of its territory, and that any invasion of it is an act of hostility which may be repelled by force. So, the other party may also enforce, with arms, if need be, its own right of territorial transgression, incident to its paramount right of self-defense! Here, then, we have force repelling force in the pacific exercise of established public international rights! This is the legitimate and necessary consequence of Mr. Phillimore's argument. Its defects are too manifest to require any extended discussion. Webster, On Int. Law, vol. 1, §§ 213, 218; Wildman, Int. Law, vol. 1, ch. 2, § 7."

But the author does not consider us without a remedy. He proceeds:

"But it may be asked, shall the State, which is suffering from the piratical incursions organized in and emanating from a neighboring State, do nothing in self-defense and for self-preservation? Must she wait till the invading force crosses her own borders before she can attack or destroy it? Not at all. If the neighboring State, from the want either of the will or of the ability, neglects to prevent such excursions, or to suppress such organizations, the threatened State may cross the frontier and attack or destroy the threatened danger. But the act is one of hostility, and she performs it in the exercise of her belligerent rights, not in the exercise of a pacific right of self-defense. It is not necessary that such act should be preceded by a declaration of war, nor, indeed, that it should be followed by a public and solemn war in form; nevertheless, it is a belligerent act, justifiable, perhaps, by the circumstances of the case and the culpable neglect of the other party, and, as such, belongs to that class of hostile operations known in international jurisprudence as *imperfect war*, and which will be more particularly discussed in another chapter. (Wheaton, Elem. Int. Law, pt. 2, ch. 1, § 13; Grotius, de Jur. Bel. ac Pac. lib. 1, cap. 3, § 1; Burlamaqui, Droit de la Nat., &c., tome 5, pt. 4, ch. 3; Vattel, Droit des Gens, liv. 3, ch. 6, § 72.)"

My object is simply to call attention to the words of this learned writer, without myself expressing any opinion upon the point in question.

Mr. JOHNSON. Mr. President, as I supposed the fact to be, from recollection, no authority is cited by Halleck in support of his criticism on Phillimore. And, in truth, it will be seen that he differs with Phillimore as to the character of the right rather than as to the right itself, as to its proper designation rather than its existence. Phillimore considers it as a peaceful remedy, a peaceful right, of which the Government whose territory is invaded cannot justly complain. General Halleck considers it a belligerent right, and if it be a belligerent right it cannot be a just subject of complaint. Whether, therefore, it be called a belligerent right or a peaceful right is perfectly immaterial. All that I maintained, and all that General Dix evidently thought when he issued his order, was that there existed a right in the United States to take the course which he directed his officers to take.

A word in relation to what fell from the honorable member from New Hampshire, [Mr. HALE.] It is very desirable, of course, that while we are determined to exact justice of all nations, we should see that we are not doing injustice ourselves in the particular of which we may complain. The honorable member says that our Government was wrong in surrendering Slidell and Mason. Perhaps the general sentiment of the people of the United States

at that time was in accordance with that opinion. He supposes that the surrender was not justified; that England had no right to demand it, because she had been, before our war with her of 1812, in the habit of taking from the protection of our own flag those whom she claimed to owe allegiance to her. It is true that she made such a claim and acted upon it, but we never admitted it; on the contrary, from the first we denied it, and finally we went to war because of it; and although the asserted right was not formally surrendered by her at the termination of that war, yet in point of fact she has never since exercised it. It is indeed as effectually extinguished as if it had been expressly renounced, and I think the honorable member will find, if he will read the correspondence that passed between England and the United States in relation to her once asserted right, that the fixed opinion of the American people and Government was that such right was entirely without foundation.

A word more. It has been over and over again asserted by the press, and by many of our public men, that England did us great wrong in recognizing the confederate government at all as an existing government, and as such entitled to belligerent rights; that she did this too speedily. Now, we should remember that the doctrine is perfectly well settled with us that in the case of a civil revolution, if the revolting people are presented before the world as having a government in fact, and evincing a determination to maintain it intact, and apparently an ability to maintain it, its existence is to be admitted by all foreign nations, and all the consequent belligerent rights recognized. We did it in the case of South America. We have done it, and are now doing it, as the President tells us, if I recollect, in his message, in a much more recent instance. Maximilian put upon the throne, or attempted to be put upon the throne of Mexico by Napoleon, and a civil war waging between him and the former republic, the President tells us that he recognizes and observes strict neutrality between the two. This is precisely what England has done in our civil war, and it was done at the earliest moment, too, by us.

Now, I submit, under all the circumstances, can we justly complain that England acted too speedily? We should not forget what we have done ourselves. But what have we done in our war? This insurrection began in April, 1861. In July, 1861, the Congress of the United States by legislation recognized the existence of the war, and the Supreme Court in their decision in the prize cases at December term, 1862, relied upon that act as conclusive that the confederate government was a government *de facto*, and that we had the right to proceed against it by embargo, or by blockade, or in any other way known to the laws of nations, the same that we would have against a foreign nation with whom we might at any time be at war. And from that day to this, and indeed even before the 13th of July, 1861, when your first act was passed, we have recognized the confederate government as a government *de facto*, giving us for the time being every belligerent right. We have, therefore, been very quick in our own movements in following the example of Great Britain in the matter; in truth, we anticipated her, and that being the case, perhaps it would be as well for us not to complain very bitterly of what she has done.

The motion to refer the bill to the Committee on Foreign Relations was agreed to.

#### NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to increase the number of cadets in and raise the standard of admission to the Military Academy.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 358) to establish the grade of vice admiral in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 360) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read twice by its title, and referred to the Committee on Territories.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to issue certain bonds to the Secretary of the Interior for feeding the refugee Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 362) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes," approved July 2, 1864; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 86) to provide against periodical rebel invasions of Missouri, and to protect the interests of the Government on the western border; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### DEPARTMENT OF ARKANSAS.

Mr. BROWN submitted the following resolution, which was considered, by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to transmit to the Senate, if not incompatible with the public service, the report made by Major General Herron, in compliance with orders instructing him to inspect the military department of Arkansas.

#### ARRESTS IN KENTUCKY.

Mr. POWELL submitted the following resolution, and asked for its present consideration:

*Resolved*, That the President be requested to communicate to the Senate all information in his possession bearing on the arrest and imprisonment of Colonel Richard J. Jacobs, Lieutenant Governor of the State of Kentucky, and Colonel Frank Woolford, one of the presidential electors of that State; particularly by whose order they were arrested and imprisoned, where they are at present confined, and what offenses are charged against them.

Mr. WILSON objected to the consideration of the resolution, and it lies over under the rules.

#### ADJOURNMENT FOR THE HOLIDAYS.

Mr. HENDRICKS. I move to take up the resolution which came from the House of Representatives this morning, proposing an adjournment over from Thursday next.

The motion was agreed to; and the Senate proceeded to consider the following resolution of the House of Representatives:

*Resolved*, (the Senate concurring,) That when this House adjourns on Thursday, the 22d instant, it adjourn to meet on Thursday, January 5, 1865.

Mr. HOWE. If there be no objection, I prefer to have the resolution so amended that when the two Houses adjourn on Wednesday next, they adjourn over. ["Oh, no."] Very well, I will not move the amendment.

Mr. BROWN. I ask that the resolution be again reported.

The Secretary read the resolution.

Mr. BROWN. Cannot the resolution be so amended as to include both Houses?

The PRESIDENT *pro tempore*. Undoubtedly it is in the power of the Senate to amend it as they may choose.

Mr. SHERMAN. It has been usual at different sessions to amend it in that way. The House of Representatives usually, under the Constitution, ask leave of the Senate to adjourn themselves, and it is usual for the Senate to amend it so as to include both Houses. I move to amend the resolution so as to make it read:

That when the two Houses adjourn on Thursday, the 22d instant, they adjourn to meet on Thursday, January 5, 1865.

The amendment was agreed to, and the resolution, as amended, was concurred in.

#### NATIONAL UNION INSURANCE COMPANY.

Mr. HARLAN. I move to take up for consideration the bill (H. R. No. 517) to incorporate the National Union Insurance Company, of Washington.

The PRESIDENT *pro tempore*. The Chair is informed that that bill has not been reported from the Committee on the District of Columbia, to which it was referred.

Mr. HARLAN. I move that the committee be discharged from the further consideration of the bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate as in Committee of the Whole.

Mr. GRIMES. This bill was passed by the House of Representatives, and referred by the Senate to our Committee on the District of Columbia at the last session, according to my recollection. By that committee it was referred to a special sub-committee, consisting of the Senator from Maine [Mr. MORRILL] and another member. I think the Senator from Maine prepared some amendments to be submitted, which he thought were necessary as checks and guards to secure the public interest and to protect the persons who might be insured. I suggest to my colleague that he let the bill lie over until the Senator from Maine returns. I know that it was the sentiment of the committee that the bill as it came from the other House was defective. It does not correspond with the best regulated charters granted in the States, and it confers some extraordinary powers on the corporations.

Mr. HARLAN. I will say to my colleague that I conversed with the Senator from Maine, to whom he refers, at the close of the last session, and at that time he was prepared to vote for the bill, and would have reported it from the committee, and asked for its consideration by the Senate, if time had allowed; but lest I may be in error now, lest since then he may have discovered something that needs amendment, I will conform to the suggestion of my colleague, and move that the bill be postponed until to-morrow.

The motion was agreed to.

#### DISQUALIFICATION OF COLOR.

On motion of Mr. SUMNER, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 62) to remove all disqualification of color in carrying the mails, the pending question being on the amendment submitted by Mr. POWELL to the amendment reported from the Committee on Post Offices and Post Roads, after the words "United States" to insert the words, "in all cases for robbing or violating the mails of the United States;" so that the amendment of the committee will read:

SEC. 2. *And be it further enacted*, That in the courts of the United States, in all cases for robbing or violating the mails of the United States, there shall be no exclusion of any witness on account of color.

Mr. SUMNER. I propose that the amendment of the Committee be non-concurred in, as a bill on that subject has already been passed.

The PRESIDENT *pro tempore*. The first question is on the amendment to the amendment.

Mr. HENDRICKS. I wish to suggest to the Senator that a proposition of that sort became a law at the last session, I think.

Mr. SUMNER. I have already stated—the Senator perhaps did not hear what I said—that the amendment of the committee is now the law of the land, and therefore I propose that the Senate non-concur in the amendment and pass the bill.

The amendment to the amendment was agreed to.

The amendment as amended was rejected.

Mr. POWELL. I should like to have the bill read as it stands.

The Secretary read it, as follows:

*Be it enacted, &c.*, That from and after the passage of this act no person, by reason of color, shall be disqualified from employment in carrying the mails, and all acts and parts of acts establishing such disqualification, including especially the seventh section of the act of March 3, 1825, are hereby repealed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wilkinson, Willey, and Wilson—26.

NAYS—Messrs. Davis, Powell, Richardson, Riddle, and Wright—5.

ABSENT—Messrs. Buckalow, Carlile, Chandler, Colman, Cowan, Hale, Harding, Hendricks, Hicks, Howard, Johnson, McQuiggall, Morrill, Nesmith, Saulsbury, Ten Eyck, Trumbull, and Wade—18.

So the bill was passed.

Mr. JOHNSON. Perhaps I am too late to vote. I came in for the purpose of voting.

The PRESIDENT *pro tempore*. The result had been announced before the Senator addressed the Chair.

Mr. JOHNSON. I ask leave to vote with the consent of the Senate.

Mr. LANE, of Indiana. The Senator from Maryland was in the Chamber before the result was announced, and I hope he will be permitted to vote.

The PRESIDENT *pro tempore*. The Chair will read the rule.

Mr. FOSTER, (to Mr. JOHNSON.) The rule is positive.

Mr. JOHNSON. Then I waive the motion. I understand it is against the rule.

The PRESIDENT *pro tempore*. The rule is very explicit. The Chair will read it for the information of the Senator.

"17. When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the Chair."

Mr. JOHNSON. In point of fact I was making the motion before the result was announced. I should have voted "ay;" that is all.

The PRESIDENT *pro tempore*. It might have been possible that the Chair did not hear the Senator.

#### MARY SCALES ACCARDI.

Mr. FOSTER. There are on the Calendar a few private bills, mostly House bills, reported from the Committee on Pensions. They are not of great public importance, but they are of very much importance to the individuals interested, and if they can be passed before the holidays, they will make a good many hearts glad. I hope the Senate will indulge me in calling them up. I move that the Senate proceed to the consideration of House bill No. 394, for the relief of Mary Scales Accardi.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Interior to place the name of Mary Scales Accardi, the widow of Salvador Accardi, upon the roll of widows of invalid pensioners, and that she be paid a pension, at the rate of six dollars per month, commencing with the date of the decease of her husband.

The Committee on Pensions reported the bill with an amendment to strike out the words "with the date of the decease of her husband," and to insert "July 1, 1862."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### HARRIS WELCH.

On motion of Mr. FOSTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 542) to grant a pension of eight dollars per month to Harris Welch. The bill provides that Harris Welch, of Charlestown, Massachusetts, a sergeant of company B, in a New York regiment of volunteers known as the Leslie Guards, shall be entitled to a pension of eight dollars per month, to commence from the 1st day of October, 1861, and to be continued and paid to him during his life.

Mr. FOSTER. This bill has been reported adversely by the Committee on Pensions. I therefore move that it be indefinitely postponed.

The motion was agreed to.

#### EMILY A. LYON.

On motion of Mr. FOSTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 390) for the relief of Emily A. Lyon, which had been reported from the Committee on Pensions with an amendment, to strike out all of the original bill after the enacting clause, in the following words:

That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Emily A. Lyon, widow of Alfred M. Lyon, late a sutler in the twenty-third Iowa regiment of infantry, and who died in the

service of his country the 17th day of May, 1863, upon the pension roll, at the rate of eight dollars per month, from the said 17th day of May, 1863, to continue during her widowhood: *Provided*, That proof satisfactory to the Commissioner of Pensions be made of the material facts above related.

And to insert in lieu thereof:

That the Secretary of the Interior be, and he is hereby, directed to place upon the pension roll the name of Emily A. Lyon, widow of Alfred M. Lyon, a late sutler in the twenty-third regiment of Iowa volunteers, but who volunteered as a private in company A of the said regiment, and while serving in that capacity was mortally wounded at the battle of Black river, Mississippi, on the 17th day of May, 1863, and died on the field; the said pension to be at the rate of eight dollars per month, commencing on the 17th day of May, 1863, and continuing during the widowhood of the pensioner.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

CHARLES M. POTT.

On motion of Mr. FOSTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 478) for the relief of Charles M. Pott, which requires the Secretary of the Interior to place the name of Charles M. Pott, late of company K, one hundred and seventy-ninth Pennsylvania militia, on the pension roll, at the rate of eight dollars per month, from the date of his discharge, March 7, 1863, for total disability sustained by the loss of an arm by accident while in the hospital detained for his pay after his discharge had been ordered.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REBECCA S. HARRISON.

On motion of Mr. FOSTER, the bill (S. No. 347) for the relief of Rebecca S. Harrison was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place upon the naval pension roll the name of Rebecca S. Harrison, widow of the late Lieutenant Horace N. Harrison, at the rate of twenty-five dollars per month, to commence from the 1st of April, 1864, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 597) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1866—to the Committee on Finance.

A bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1866—to the Committee on Finance.

A bill (H. R. No. 601) supplementary to an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States"—to the Committee on the Judiciary.

A bill (H. R. No. 603) to extend the time allowed for the withdrawal of certain goods therein named from public stores—to the Committee on Finance.

A joint resolution (H. R. No. 124) explanatory of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864—to the Committee on Finance.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 329) for the relief of William H. Jameson, a paymaster in the United States Army;

A bill (S. No. 350) to authorize the purchase or construction of revenue cutters on the lakes;

A bill (S. No. 352) authorizing the holding of a special session of the United States district court for the district of Indiana;

A joint resolution (S. R. No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in the conflict with the piratical craft the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864; and

A joint resolution (S. R. No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, United States Navy, and to the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albemarle, in compliance with the President's recommendation to Congress of the 5th of December, 1864.

FREEDOM OF SOLDIERS' FAMILIES.

Mr. WILSON. I now move to take up Senate joint resolution No. 82.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States. For the purpose of encouraging enlistments and promoting the efficiency of the military and naval forces of the United States, the resolution provides that the wife and children, if any he have, of any person that has been, or may be, mustered into the military or naval service of the United States, shall, from and after its passage, be forever free, any law, usage, or custom whatsoever to the contrary notwithstanding; and in determining who is or was the wife and who are the children of an enlisted person, evidence that he and the woman claimed to be his wife have cohabited together, or associated as husband and wife, and so continued to cohabit or associate at the time of the enlistment, or evidence that a form or ceremony of marriage (whether such marriage was or was not authorized or recognized by law) has been entered into or celebrated by them, and that the parties thereto thereafter lived together, or associated or cohabited as husband and wife, and so continued to live, cohabit, or associate at the time of the enlistment, shall be deemed sufficient proof of marriage, and the children born during the continuance of any such marriage shall be deemed and taken to be the children embraced within the provisions of the act, whether such marriage shall or shall not have been dissolved at the time of such enlistment.

Mr. WILSON. I desire simply to amend the resolution by striking out after the word "born," in the twenty-second line, the words "during the continuance;" so that it will read:

And the children born of any such marriage shall be deemed and taken to be the children embraced within the provisions of this act, &c.

The amendment was agreed to.

Mr. DAVIS. I move that the resolution be recommitted to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. Did it come from the Committee on the Judiciary?

Mr. WILSON. No, sir; it came from the Committee on Military Affairs.

The PRESIDENT *pro tempore*. Then the question will be on referring it to the Committee on the Judiciary.

Mr. WILKINSON. I hope it will not be referred. I think this is a measure that ought to have been passed three years ago. I tried one or two years ago to have the principles embodied in this joint resolution incorporated in a bill which was before the Senate at that time in relation to enlistments. I do not want to see any further delay in this matter. I think the resolution ought to be passed immediately.

Mr. WILSON. Mr. President, I rise simply to express the earnest hope that this joint resolution will not be referred to the Committee on the Judiciary, or any other committee. The Committee on Military Affairs have three times reported the substance of this resolution in other bills. It simply provides that the wives and children of the soldiers of the Republic shall be made free. The needs of the country, more than justice or humanity, have weaponed the hand of the slave. We have enlisted many thousands of them. They are to-day in the trenches before Richmond and Petersburg, and on the shores of the Carolinas; and they keep watch and ward over the Mississippi from Cairo to the Gulf. They are every-

where doing their duty, and their whole duty, bravely and well. Butler and Banks, Meade and Burnside, Warren and Hancock, and Lieutenant General Grant have all borne testimony to their fidelity, their courage, and their services. Officers who have served with the best regiments of the armies of the East and of the West, officers who have fought in many battles, say that these colored troops, for industry, obedience, courage, and conduct, are surpassed by no troops in the service of the country. The Government could not dispense with their services without periling the cause of the country.

It is estimated that from seventy-five to one hundred thousand wives and children of these soldiers are now held in slavery. It is a burning shame to this country; it is an indecency for the American people to hold the wives and the children in slavery of men who are periling their lives before the rebel legions. This measure of patriotism, justice, and humanity ought to have been passed many months ago; it surely ought to have been passed early in the last session. We have made the slave free when he becomes a soldier. Whenever the slave enlists, he is a freeman forever more; and thousands of them have enlisted since we passed that beneficent act. At least twenty thousand slaves have enlisted since that act was passed giving personal freedom to the slave who enrolls his name on the muster-rolls of the country's defenders.

The nation now needs defenders. For the purpose of encouraging enlistments it is proposed that the wife and the child of the slave who will fight the battles of the country, shall, like himself, be free. Heart, reason, and conscience demand it. Self-respect and decency require it. The right to do it is unquestionable. There is no doubt, there can be no doubt, of the right of the Government of the country to give freedom to the man who will fight its battles, or to give freedom to his wife and child to encourage him to fight. There is no doubt, there can be no doubt, that the nation has the right to encourage the slave to enlist, or to inspire him to deeds of heroic daring for his country, by making the wife he loves, and the children who bear his name and inherit his blood, free evermore. That the freedom of wife and child will encourage the husband and father to enlist none can doubt; that it will inspire the soldier to the performance of duty, to deeds of heroism, none can question. Wasting diseases, weary marches and bloody battles are decimating our armies. The country needs soldiers, must have soldiers. Let the Senate then act now. Let us hasten the enactment of this beneficent measure, inspired by patriotism and hallowed by justice and humanity, so that ere merry Christmas shall come the intelligence shall be flashed over the land, to cheer the hearts of the nation's defenders, and arouse the manhood of the bondman, that on the forehead of the soldier's wife and the soldier's child no man can write slave.

Mr. HENDRICKS. I understand the question before the Senate to be upon the motion made by the Senator from Kentucky that this joint resolution be referred to the Judiciary Committee. I do not understand that upon that motion the merits of the measure come up, nor am I able to see the force of the argument of the Senator from Massachusetts which he draws from the fact, as he alleges it to be, that the negroes have proved themselves to be good soldiers in the field; nor do I think the question of humanity toward the family arises upon this particular motion.

The question is, ought this resolution to be referred to the Committee on the Judiciary? I think it should go there. I am not able to see how, under the Constitution of the United States, Congress can free the servant who is held to servitude by the laws of a State. I do not understand that Congress has ever done that, and in former days it was not claimed by any of the statesmen who peculiarly held the confidence of the country. This particular question, whether we have the constitutional power to pass the resolution ought not to be considered by the Military Committee. The Senator says this measure has been considered by that committee some three times. That committee is not the organ of this body to bring before the body information upon a question of constitutional power. That information we expect to derive through the labors of the Judiciary Committee.



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THURSDAY, DECEMBER 21, 1864.

NEW SERIES....No. 5.

I believe the bill of the last session providing for the enlistment of negro troops did also provide that they should become free; but that, as I understood it at the time, was placed upon the ground that the Government took from the citizen property to be used in war, and that the Government made compensation to the loyal owner. It is not proposed now to take the persons whom this resolution proposes to make free for the use of the Government. This is the exercise of the power to free the slaves in the States without reference to their use in the Army. This question, I think, ought to be considered by the Judiciary Committee, and for that reason I shall support the motion of the Senator from Kentucky.

Mr. POWELL. I concur with the Senator from Indiana, that this resolution should go to the Committee on the Judiciary. The Senator from Massachusetts says there is no doubt about our power to pass this resolution. With deference to the Senator, I think there are the gravest doubts. I have no doubt myself on the subject. I think it is palpably unconstitutional. The Judiciary Committee is certainly the proper organ of this Senate to give us information on that subject.

The Senator, by this resolution, proposes to free the wives and children of those who have enlisted in the Army heretofore, as well as those who may hereafter enlist in the Army, and he has entitled the resolution "A resolution to encourage enlistments." You certainly would not encourage enlistments so far as those persons are in the Army of the United States, and the larger portion of the negroes in the border States able to bear arms are already in the Army. The passage of this resolution could not encourage those persons to go into the Army. But it proceeds to emancipate and set free the wives and the children of those who are already in the Army. Where is the power, under the Constitution, to do that? You admit that in those States where they are property. Has this Congress any power by a legislative enactment to divest a citizen of any State of this Union of his property? Certainly not, except upon one contingency, and that is when it is required for the public use, and making compensation for it. If you take private property for public use, you must make compensation for it first. That is the Constitution of your country. When Congress passed the bill to enlist those persons in the Army, the bill was accompanied with a provision pretending to make some compensation, indicating a commission that should give to their masters, in certain cases, not over \$300, and \$100 in other cases. Meager and insignificant as was the compensation held out to the country in that bill, no compensation has ever yet been made.

But, sir, this proposition does not provide for any compensation at all. The other, I admit, was a mere bagatelle, providing for the payment of an insignificant amount (which the Government has never paid, within my knowledge,) for the purpose of quieting the consciences of Senators who might vote for it. But I ask Senators if there is any power in this Congress to take private property without making just compensation therefor? There certainly is not, unless your Constitution is a dead letter; and, Senators, if you pass this measure, you will have to do it by walking over the plain provisions of the Constitution of your country.

The Senator from Massachusetts cannot say that so far as these persons are in the service this is a measure encouraging enlistments, because they are already in the service; and in my State the husbands and fathers of four fifths of those whom it is proposed to emancipate by this resolution are already in the Army. You do not propose to give one shilling of compensation. Senators, if you pass this resolution, in my humble judgment those who vote for it will be faithless to the Constitution of their country. I verily believe that all the woes that are now upon us have arisen because the people and the politicians have been faithless to the fundamental law of the land. I

know that in these times those who stand up for the Constitution of the country and the constitutional liberties of the people are rather mocked and derided; but while I am here I shall obey that Constitution.

I hope, sir, that this resolution may be referred to the Committee on the Judiciary, and that we may have the opinion of that committee as to its constitutionality. I hope the motion of my colleague will prevail.

## EXECUTIVE SESSION.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business, inasmuch as this question is likely to lead to a protracted debate, which will not be settled to-day.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 19, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. PRESTLEY, of Pennsylvania.

The Journal of Thursday last was read and approved.

The SPEAKER proceeded, as the first business in order, to call the States for bills on leave to be referred to appropriate committees without debate, and not to be brought back by motion to reconsider; under which the following bills were introduced:

### PAY OF MIDSHIPMEN.

Mr. RICE, of Massachusetts, introduced a bill to increase the pay of midshipmen, and for other purposes; which was read a first and second time, and referred to the Committee on Naval Affairs.

### GRADE OF VICE ADMIRAL.

Mr. RICE, of Massachusetts, also introduced a bill to create the grade of vice admiral in the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

### NAVY AND MARINE CORPS.

Mr. RICE, of Massachusetts, also introduced a bill making further legislation in regard to the Navy and Marine corps; which was read a first and second time, and referred to the Committee on Naval Affairs.

### PAUL S. FORBES.

Mr. CHANLER introduced a bill for the relief of Paul S. Forbes, of New York; which was read a first and second time, and referred to the Committee on Naval Affairs.

### JURORS IN UNITED STATES COURTS.

Mr. SPALDING introduced a bill to prescribe the mode of designating citizens of the United States who shall serve as jurors in the circuit and district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

### COMMUTATION VALUE OF RATIONS.

Mr. YEAMAN introduced a bill to define the commutation value of rations, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

### NAVY-YARD, ETC., AT CHICAGO.

Mr. ARNOLD introduced a bill to establish a navy-yard and naval depot at Chicago, Illinois; which was read a first and second time, and referred to the Committee on Naval Affairs.

### JOSEPH WHEATON.

Mr. FARNSWORTH introduced a bill for the relief of the estate of Lieutenant Joseph Wheaton, deceased; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

### PUBLIC LANDS TO MICHIGAN.

Mr. UPSON introduced a bill to amend an act entitled "An act making a grant of alternate sec-

tions of the public lands to the State of Michigan, to aid in the construction of certain railroads, in said State, and for other purposes," approved June 16, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

## REPRESENTATION IN THE ELECTORAL COLLEGE.

Mr. WILSON introduced a joint resolution declaring certain States not entitled to representation in the electoral college; which was read a first and second time, and referred to the Committee on the Judiciary.

## TAX ON WHISKY.

Mr. GRINNELL introduced a bill to amend the revenue laws by changing the time for levying the tax on whisky to be manufactured; which was read a first and second time, and referred to the Committee of Ways and Means.

## MAIL CARRIERS.

Mr. GRINNELL also introduced a bill to repeal the act of the 3d of March, 1825, disqualifying certain persons from carrying the mails; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## LAKE HARBORS.

Mr. BROWN, of Wisconsin, introduced a bill making appropriations for the repair and preservation of Government harbors on Lakes Erie and Michigan; which was read a first and second time by its title, and referred to the Committee on Commerce.

## MINING DEPARTMENT.

Mr. COLE, of California, introduced a bill to establish a Mining Department; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. COLE, of California, moved that the bill be printed.

The motion was agreed to.

The call of the States for bills on leave having been completed, the Speaker proceeded, as the next business in order, to call the States and Territories for resolutions, resuming the call with the State of Delaware, where it was last suspended.

## FOREIGN POLICY OF THE UNITED STATES.

Mr. DAVIS, of Maryland. I offer the resolution which I send to the desk, and ask its adoption. I desire to say that it is the same resolution that was laid on the table on Thursday last, I am inclined to believe partly from misapprehension on the part of the House and partly by my own fault. I ask the previous question on the resolution.

The resolution was read, as follows:

*Resolved*, That Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognition of new Powers as in other matters; and it is the constitutional duty of the President to respect that policy not less in diplomatic negotiations than in the use of the national force when authorized by law; and the propriety of any declaration of foreign policy by Congress is sufficiently proved by the vote which pronounces it; and such proposition while pending and undetermined is not a fit topic of diplomatic explanation with any foreign Power.

Mr. STEVENS. I ask the gentleman to withdraw the call for the previous question until I can make a motion to amend, and then I will renew the call for the previous question.

Mr. DAVIS, of Maryland. I will do so.

Mr. STEVENS. I move to strike out the word "President" and to insert "Executive Departments" in lieu thereof, and upon that I call the previous question.

Mr. DAVIS, of Maryland. I have no objection to that modification.

Mr. FARNSWORTH. I rise to debate the resolution.

The SPEAKER. The previous question is demanded.

Mr. FARNSWORTH. If the previous question be not sustained, will the resolution go over?

The SPEAKER. It will if debate arises.

Mr. PRUYN. I do not rise to debate, but to ask the gentleman from Maryland to make one other modification of his resolution by striking

out the last clause. There may, under certain circumstances, be occasion for diplomatic explanation. It strikes me that the broad language used there is objectionable.

Mr. DAVIS, of Maryland. I cannot agree to that modification. It is one of the first and most important principles in the popular body in a free Government that its proceedings, while pending, shall not be made the subject of diplomatic explanation.

The previous question was seconded—ayes 68, noes 43.

Mr. FARNSWORTH. I move to lay the resolution on the table, and on that motion I demand the yeas and nays.

Mr. STEVENS. I have not distinctly understood whether the gentleman from Maryland accepted the amendment I proposed.

The SPEAKER. The Chair so understands.

Mr. DAVIS, of Maryland. I did accept it.

The yeas and nays were ordered.

The question was taken on Mr. FARNSWORTH'S motion, and it was decided in the negative—yeas 49, nays 73, not voting 60; as follows:

YEAS—Messrs. Alley, Arnold, Bailly, John D. Baldwin, Beaman, Blair, Boutwell, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Hale, John H. Hubbard, Hulburd, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McBride, McIndoe, Amos Myers, Leonard Myers, Charles O'Neill, Pike, Pomeroy, Alexander H. Rice, Edward H. Rollins, Smith, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elithu B. Washburne, William B. Washburn, Wilson, and Windom—49.

NAYS—Messrs. William J. Allen, Allison, Ames, Ancona, Anderson, Augustus C. Baldwin, Baxter, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Henry Winter Davis, Dawson, Deming, Denison, Eden, Eldridge, Finck, Ganson, Garfield, Grider, Harding, Harrington, Charles M. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, Jenckes, Kernan, Knapp, Knox, Law, LeBlond, Mallory, Marcy, McClurg, McKinney, Moorhead, James R. Morris, Nelson, Noble, John O'Neill, Orth, Pendleton, Perry, Price, Pruyn, Samuel J. Randall, Ross, Schenck, Scofield, Scott, Sloan, Smithers, Spalding, John B. Steele, Stevens, Strouse, Stuart, Sweat, Townsend, Voorhees, Wadsworth, Whaley, Joseph W. White, Williams, and Yeaman—73.

NOT VOTING—Messrs. James C. Allen, Ashley, Blaine, Brandegee, William G. Brown, Freeman Clarke, Clay, Donnelly, Dumont, Edgerton, English, Fenton, Gooch, Grinnell, Griswold, Hall, Benjamin G. Harris, Hooper, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kibbelsch, King, Lazenar, Loan, Long, McAllister, McDowell, Middleton, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, Morrison, Norton, Odell, Patterson, Perham, Radford, William H. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Shannon, Starr, William G. Steele, Stiles, Ward, Webster, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—60.

So the House refused to lay the resolution on the table.

During the roll-call, Mr. SLOAN stated that Mr. WHEELER was detained at home by sickness.

Mr. ANCONA made a similar statement in regard to Mr. MILLER, of Pennsylvania.

Mr. SHANNON, who was not within the bar when his name was called, asked leave to vote.

Mr. DAWES objected.

The result of the vote having been announced as above recorded, the question recurred upon ordering the main question.

Mr. PRUYN. I wish to ask the consent of the gentleman from Maryland to modify the resolution by inserting the words "policy of" before the words "such proposition," near the close of the resolution. That was what I meant when I rose before, but it appears my meaning was not quite understood by him.

The SPEAKER. It is beyond the power of the gentleman from Maryland to accept any modification of the resolution.

Mr. DAVIS, of Maryland. It is beyond my power, and I would not make that modification if I had the power.

Mr. WASHBURN, of Illinois. I desire to know if this resolution comes from the Committee on Foreign Affairs.

The SPEAKER. It is offered by the gentleman from Maryland.

Mr. WASHBURN, of Illinois. I think it ought to be referred to the Committee on Foreign Affairs.

Mr. COX. It was referred to that committee, and reported back.

Mr. DAVIS, of Maryland. It was reported unanimously from the Committee on Foreign Affairs, with one exception. To-day I offer it

as the Representative of the third district of Maryland.

Mr. WASHBURN, of Illinois. That is what I supposed, and as the Representative of the third district of Illinois, I move to reconsider the vote by which the previous question was seconded, in order to move to refer the resolution to the Committee on Foreign Affairs.

Mr. DAVIS, of Maryland. I move to lay the motion to reconsider on the table.

Mr. COX. I call for the yeas and nays on that motion.

The SPEAKER. The Chair will state to the gentleman from Ohio that the yeas and nays could not be taken on a motion to reconsider the vote by which the previous question was seconded, because the yeas and nays could not be taken on the original question, which was on seconding the previous question. The motion to reconsider is governed by the same rules, and must be decided by tellers or by a division of the House.

Mr. WASHBURN, of Illinois. I withdraw the motion to reconsider, and call for the yeas and nays on ordering the main question.

Mr. SCHENCK. I desire to make an inquiry, in order that I may understand the resolution. I understand it to be the same resolution that was reported last week from the Committee on Foreign Affairs, with the single exception that this morning, in order to obviate some objection made, when it was under consideration before, as to the use of the word "President," which was thought to point at the Chief Executive, particularly, and perhaps invidiously, the modification proposed was accepted, on the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS,] which was, to strike out the word "President" and insert the words "Executive Departments." I think it stands in that way now.

The SPEAKER. The gentleman from Ohio is correct.

Mr. SCHENCK. And that it is precisely the resolution that came from the Committee on Foreign Affairs, excepting that modification of the language, to remove the objection then taken.

Mr. WASHBURN, of Illinois. And which resolution the House voted to lay on the table when the question was last up.

Mr. SCHENCK. Precisely.

The SPEAKER. If the resolution had not been modified it would not be in order, as the previous resolution had been laid on the table by a vote of the House. The gentleman from Maryland having modified the resolution, brings it within the rules.

Mr. ARNOLD. I desire to know what would be the effect of the House refusing to order the main question to be now put.

The SPEAKER. That would divest the resolution of the force of the previous question.

Mr. ARNOLD. And the resolution would then go over?

The SPEAKER. Yes, if any gentleman rose to debate it.

Mr. ARNOLD. I desire to debate the resolution.

The SPEAKER. It is not in order, at present, to rise to debate it, the previous question having been seconded.

Mr. DAVIS, of Maryland. What is the question now?

The SPEAKER. The question is "Shall the main question be now ordered?" on which the gentleman from Illinois [Mr. WASHBURN] demanded the yeas and nays.

The yeas and nays were ordered.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that the President had approved and signed an act (H. R. No. 563) in addition to the "Act respecting quarantine and health laws" approved February 25, 1799, and for the better execution of the third section thereof;

Joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned; and

Joint resolution authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department Building.

#### FOREIGN POLICY OF THE UNITED STATES.

The House resumed the consideration of the

resolution offered by Mr. DAVIS, of Maryland, the question being, "Shall the main question be now put?" on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 56, not voting 55; as follows:

YEAS—Messrs. William J. Allen, Allison, Ames, Ancona, Augustus C. Baldwin, Baxter, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Henry Winter Davis, Dawson, Deming, Denison, Eden, Eldridge, Finck, Ganson, Garfield, Grider, Harding, Harrington, Charles M. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, Jenckes, Kernan, Knapp, Knox, Law, Lazenar, LeBlond, Mallory, Marcy, McClurg, McKinney, Moorhead, James R. Morris, Nelson, Noble, John O'Neill, Orth, Pendleton, Perry, Price, Pruyn, Samuel J. Randall, Ross, Schenck, Scott, Sloan, Smithers, Spalding, Stevens, Strouse, Stuart, Sweat, Townsend, Voorhees, Wadsworth, Whaley, Joseph W. White, and Williams—71.

NAYS—Messrs. Alley, Arnold, John D. Baldwin, Beaman, Blair, Boutwell, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Driggs, Eckley, Eliot, Farnsworth, Frank, Hale, Hotchkiss, John H. Hubbard, Hulburd, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McBride, McIndoe, Samuel F. Miller, Amos Myers, Leonard Myers, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elithu B. Washburne, William B. Washburn, Wilson, and Windom—56.

NOT VOTING—Messrs. James C. Allen, Anderson, Ashley, Bailly, Blaine, Brandegee, William G. Brown, Freeman Clarke, Clay, Dixon, Donnelly, Dumont, Edgerton, English, Fenton, Gooch, Grinnell, Griswold, Hall, Benjamin G. Harris, Hooper, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kibbelsch, King, Loan, Long, McAllister, McDowell, Middleton, William H. Miller, Morrill, Daniel Morris, Morrison, Norton, Odell, Radford, William H. Randall, Robinson, Rogers, James S. Rollins, Starr, John B. Steele, William G. Steele, Stiles, Ward, Webster, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—55.

So the main question was ordered, which was on the adoption of the resolution.

Mr. DAVIS, of Maryland, and Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN, of Wisconsin. I call for a division of the resolution.

The SPEAKER. The Chair will see whether it is susceptible of division.

Mr. BROWN, of Wisconsin. I withdraw the call for a division.

The SPEAKER. The Chair will state that the last clause of the resolution is not a substantive proposition, but the last two clauses are.

Mr. PRUYN. The last two lines, "and such proposition, while pending and undetermined, is not a fit topic of diplomatic explanation with any foreign Power," contain, I think, a substantive proposition.

The SPEAKER. The Chair will ask the gentleman to state what the effect would be if the first part of the resolution were rejected and the last part adopted. That must be the test.

Mr. PRUYN. I respectfully submit that the Chair has no right to suppose the House would be guilty of such a proceeding.

The SPEAKER. The Chair cannot suppose what the House may or may not do, but the division of a resolution must be of such a character as that either part can stand by itself.

Mr. WILSON. I call for a vote on the first proposition, and on the last two.

The SPEAKER. The Clerk will read the resolution in the only manner in which the Chair thinks it can be divided.

Mr. DAVIS, of Maryland. Is it not too late to ask for a division?

The SPEAKER. It is not. At any time previous to the vote a division can be demanded.

The Clerk read the following portion of the resolution:

Resolved, That Congress has a constitutional right to an authoritative voice in declaring and proscribing the foreign policy of the United States, as well in the recognition of new Powers as in other matters; and it is the constitutional duty of the executive department to respect that policy, not less in diplomatic negotiations than in the use of national force when authorized by law.

The SPEAKER. This first part of the resolution can be voted upon separately. The Clerk will now read the last part, which can also be voted upon separately.

The Clerk read, as follows:

And the propriety of any declaration of foreign policy by Congress is sufficiently proved by the vote which pronounces it; and such proposition, while pending and undetermined, is not a fit topic of diplomatic explanation with any foreign Power.

Mr. WILSON. I ask for a division of the resolution in the manner indicated by the Chair.

Mr. COX. I call for the yeas and nays on both divisions of the resolution.

The SPEAKER. The question is on ordering the yeas and nays upon the first division of the resolution.

Mr. FARNSWORTH. It is not necessary to take the yeas and nays on that. We will all vote for it.

The yeas and nays were ordered.

The question was taken upon agreeing to the first division of the resolution; and it was decided in the affirmative—yeas 118, nays 8, not voting 56; as follows:

YEAS—Messrs. William J. Allen, Alley, Allison, Ames, Ancona, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Bliss, Blow, Boyd, Brandegee, Brooks, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Denison, Dixon, Driggs, Eckley, Eden, Eldridge, Eldridge, Farnsworth, Finck, Frank, Ganson, Garfield, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Jencks, Kasson, Kelley, Orlando Kellogg, Kernan, Knapp, Knox, Law, Lazear, Le Blond, Longyear, Mallory, Marcy, Marvin, McClurg, McDowell, McIndoe, McKinney, Samuel F. Miller, Moorhead, Morrill, James R. Morris, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Perry, Pike, Price, Pruyn, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stevens, Strouse, Stuart, Thayer, Thomas, Townsend, Tracy, Upson, Voorhees, Wadsworth, Elihu B. Washburne, Whaley, Joseph W. White, Williams, Wilson, Windom, and Yeaman—118.

NAYS—Messrs. Blair, Boutwell, Cole, Francis W. Kellogg, Littlejohn, Pomeroy, Smith, and Van Valkenburgh—8.

NOT VOTING—Messrs. James C. Allen, Ashley, Bailly, Blaine, William G. Brown, Freeman Clarke, Clay, Donnelly, Dumont, Elliot, English, Fenton, Gooch, Grinnell, Hall, Benjamin G. Harris, Hooper, Hotchkiss, Hubbard, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kaulbach, King, Loan, Long, McAllister, McBride, Middleton, William H. Miller, Daniel Morris, Morrison, Norton, Odell, Pendleton, Perham, Radford, Robinson, Rogers, James S. Rollins, Scott, Starr, William G. Steele, Stiles, Ward, William B. Washburn, Webster, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—56.

So the first division of the resolution was agreed to.

The question then recurred on agreeing to the second division of the resolution.

The yeas and nays, having been demanded by Mr. Cox, were ordered.

Mr. BROOMALL. Is it in order to lay this branch of the resolution on the table?

The SPEAKER. It would be in order.

A MEMBER. We may just as well vote it down.

Mr. BROOMALL. I move that the second division of the resolution be laid on the table.

Mr. COX. Do I understand the Speaker to decide that that motion is in order?

The SPEAKER. Yes, sir.

Mr. COX. Will the adoption of that motion lay the whole resolution on the table?

The SPEAKER. It will not. The first part has been adopted. The latter part is subject to the action of the House in the same manner as an independent proposition.

Mr. COX. I demand the yeas and nays on the motion to lay this part of the resolution on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 67, not voting 54; as follows:

YEAS—Messrs. Alley, Ames, Arnold, Bailly, John D. Baldwin, Beaman, Blair, Boutwell, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Elliot, Farnsworth, Frank, Grinnell, Hale, Hotchkiss, John H. Hubbard, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Amos Myers, Leonard Myers, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Spalding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wilson, Windom, and Yeaman—61.

NAYS—Messrs. William J. Allen, Allison, Ancona, Anderson, Augustus C. Baldwin, Baxter, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Garfield, Grider, Griswold, Harding, Harrington, Herrick, Higby, Holman, Asahel W. Hubbard, Jencks, Kernan, Knapp, Knox, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, Moorhead, James R. Morris, Nelson, Noble, John O'Neill, Orth, Pendleton, Perry, Price, Pruyn, Samuel J. Randall, Ross, Schenck, Sloan, Smithers, John B. Steele, Stevens, Strouse, Stuart,

Sweet, Townsend, Voorhees, Wadsworth, Joseph W. White, and Williams—67.

NOT VOTING—Messrs. James C. Allen, Ashley, Blaine, Brandegee, William G. Brown, Freeman Clarke, Clay, Deming, Donnelly, Dumont, Edgerton, English, Fenton, Gooch, Hall, Benjamin G. Harris, Charles M. Harris, Hooper, Hubbard, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kaulbach, King, Loan, Long, McAllister, Middleton, William H. Miller, Morrill, Daniel Morris, Morrison, Norton, Odell, Radford, William H. Randall, Robinson, Rogers, James S. Rollins, Scott, Starr, William G. Steele, Stiles, Ward, Webster, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—54.

So the House refused to lay on the table the second division of the resolution.

When the call of the roll had been concluded, Mr. HARRIS, of Illinois, asked unanimous consent to record his vote.

Mr. DAWES objected.

The question then recurred on agreeing to the last part of the resolution, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 58, not voting 56; as follows:

YEAS—Messrs. William J. Allen, Allison, Ames, Ancona, Anderson, Augustus C. Baldwin, Baxter, Bliss, Blow, Boyd, Chanler, Coffroth, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Garfield, Grider, Griswold, Harrington, Charles M. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, Jencks, Kernan, Knapp, Knox, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, Moorhead, Morrill, James R. Morris, Nelson, Noble, John O'Neill, Orth, Pendleton, Perry, Price, Pruyn, Samuel J. Randall, Ross, Schenck, Scott, Sloan, Smithers, John B. Steele, Stevens, Strouse, Stuart, Sweet, Townsend, Voorhees, Wadsworth, Joseph W. White, and Williams—68.

NAYS—Messrs. Alley, Bailly, John D. Baldwin, Beaman, Blair, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Elliot, Frank, Grinnell, Hale, Hotchkiss, John H. Hubbard, Hubbard, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Marvin, McBride, McClurg, McIndoe, Amos Myers, Leonard Myers, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Spalding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wilson, Windom, and Yeaman—58.

NOT VOTING—Messrs. James C. Allen, Arnold, Ashley, Blaine, Brooks, James S. Brown, William G. Brown, Freeman Clarke, Clay, Deming, Donnelly, Dumont, Edgerton, English, Farnsworth, Fenton, Gooch, Hall, Harding, Benjamin G. Harris, Hooper, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kaulbach, King, Loan, Long, Longyear, McAllister, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, Morrison, Norton, Odell, Radford, William H. Randall, Robinson, Rogers, James S. Rollins, Starr, William G. Steele, Stiles, Ward, Webster, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—56.

So the latter part of the resolution was agreed to.

During the vote,

Mr. LONGYEAR, not being within the bar when his name was called, asked leave to vote.

Mr. DAWES objected.

The vote was then announced as above recorded.

Mr. DAVIS, of Maryland, moved to reconsider the several votes by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 350) authorizing the purchase or construction of revenue cutters on the lakes; and

An act (S. No. 229) for the relief of William H. Jameson, a paymaster of the United States Army.

#### BROOKLYN NAVY-YARD.

The SPEAKER laid before the House a communication from the Secretary of the Navy, asking an appropriation of \$75,000 for addition to the Brooklyn navy-yard, which was ordered to be printed and referred to the Committee of Ways and Means.

#### DIFFICULTIES ON CANADIAN BORDER.

The SPEAKER also laid before the House a communication from the Secretary of State, in answer to a resolution of the House relative to the difficulties on our northern border, which was referred to the Committee on Foreign Affairs.

#### TAX ON WHISKY.

Mr. STEVENS. Mr. Speaker, I ask unanimous consent of the House to report from the

Committee of Ways and Means a bill to amend the act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864.

The bill, which was read, provides that section fifty-five of the act referred to be amended by striking out the word "February," wherever it occurs in said section, and inserting in lieu thereof the word "January;" and further, that in addition to the duty now imposed by law, all spirits of domestic production held for sale on the 1st of January, 1865, shall be subject to a duty of fifty cents per gallon.

Mr. HOLMAN. I object to the bill.

Mr. STEVENS. I move to suspend the rules in order that I may have leave to report the bill and have it considered.

The House divided, and there were—ayes 79, noes 20.

Mr. HOLMAN demanded the yeas and nays.

Mr. ANCONA demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

So the rules were suspended.

The bill was received, and read a first and second time.

Mr. STEVENS. Mr. Speaker, I desire immediate action on that bill. If it is to be acted on at all before the holidays, it must be acted on now. Therefore I move that we proceed at once to consider it.

I beg to say that the Committee of Ways and Means have reported this bill, one portion according to their idea of what will be for the benefit of the revenue—that is the first section—and the other portion under the instructions of this House. If there is no disposition to go into the Committee of the Whole on the state of the Union, I ask that we now act on the bill.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. COX. I would like to have the first section explained by the gentleman from Pennsylvania. It is not fully understood.

Mr. ANCONA. I make the point of order that the bill must go to the Committee of the Whole on the state of the Union.

The SPEAKER. That would be a good point of order if the House had not suspended the rules for the purpose of proceeding to the consideration of the bill in the House at the present time.

Mr. HOLMAN. I hope the gentleman from Pennsylvania will let me ask a question.

Mr. STEVENS. I understand the gentleman from Illinois to withdraw the previous question until I can make a statement, and then I will renew it.

Mr. WASHBURN, of Illinois. I withdraw the previous question for that purpose.

Mr. STEVENS obtained the floor.

Mr. HOLMAN. The language of the second section imposes the additional tax of fifty cents per gallon on all spirits held for sale on the 1st day of January. It is a well-known fact that throughout the western section of the country, where large amounts of spirits have been accumulated by the distillers themselves, those stocks are in the bonded warehouses with scarcely an exception, and held with the intention of holding them as heretofore for such markets as may turn up. Do I understand that the effect of that section is that on the 1st of January all spirits held by the original manufacturers shall be taxed an additional fifty cents, but that that which is held by speculators shall not be subject to the additional tax?

Mr. STEVENS. I will explain what I understand by the bill, and after having done so, unless some gentleman desires to ask some question, I will call the previous question.

The first section of the bill contains the views of the Committee of Ways and Means, while the second section has been reported, against the judgment of the Committee of Ways and Means, but in obedience to the instructions of the House, under a resolution offered by the gentleman from Illinois, [Mr. WASHBURN.] We could not, under that resolution, report any amended revenue bill without inserting what we have, namely, a tax on whisky on hand. We have thought that perhaps this House, as a final adjustment of this whole question, would be content to anticipate,



by one month, the tax of two dollars upon what will be largely distilled between this and the 1st of February, and agree with the committee to strike out the second section—which motion I now make—which we have reported in obedience to the instructions of the House. But if they choose to retain both, it is not in the power of the committee to say it shall not be done. The committee, however, ask that the House will pass the first section, laying the tax of two dollars upon all distilled after the 1st of January, because we think the Government will thereby obtain a very large revenue, as the distillation season is just commencing. If we pass it speedily, there will be no delay until after the holidays, and everybody will be prepared to go on and distill under that arrangement.

The second section, of course I need not say to the House who have seen our previous record here, is repugnant to the views of the Committee of Ways and Means. I now ask that they will strike it out.

Mr. WASHBURN, of Illinois. I did not withdraw the demand for the previous question with the expectation that the gentleman would make any motion, but only that he would submit his remarks. I demanded the previous question for the purpose of preventing any such thing.

Mr. STEVENS. Then I hope the House will refuse to sustain the previous question so that I can move the amendment.

Mr. WASHBURN, of Illinois. I renew the demand for the previous question.

Mr. COX. The House cannot understand this section from the explanation made by the gentleman from Pennsylvania.

Mr. WASHBURN, of Illinois. The gentleman from Ohio is not in order.

The SPEAKER. Debate is not in order after the demand for the previous question.

Mr. WASHBURN, of Illinois, demanded tellers on seconding the previous question.

Tellers were ordered; and Mr. STEVENS, and Mr. WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 46, noes 62.

So the previous question was not seconded.

Mr. MORRILL. I suppose the House will very well understand that if this bill is passed with both sections embraced, it will be impossible for it to be acted upon in this House and the other before the adjournment for the holidays.

Mr. WASHBURN, of Illinois. We will not adjourn, then.

Mr. MORRILL. It has become important that this question should be settled, and settled now. It is important to the revenue that this whole question should be put at rest. For three or four months past we have obtained no revenue from the manufacture of this article, and as long as the question is agitated we shall obtain none. The bill reported by the Committee of Ways and Means merely antedates the amount of duties to be levied on the 1st of February, and proposes that they shall be levied on the 1st of January.

The last section of the bill is in the precise language of the proposition introduced at the last session taxing stocks on hand. It is not drawn with remarkable skill, but we thought that if the House was satisfied with it at the last session they would be as well satisfied with it at this.

Now, Mr. Speaker, I believe that many gentlemen in this House who have heretofore voted for this tax upon stocks on hand have essentially changed their minds; certainly more than enough to change the result on the last vote have so expressed themselves to me. The Commissioner of Internal Revenue, who was for this tax at the last session, is decidedly of the opinion that it would be wise now to abandon it.

I move to strike out the last section of the bill, and upon that question and upon the whole bill I demand the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman to withdraw the demand for the previous question for a few moments, to allow me to say a word or two.

Mr. MORRILL. The gentleman was not very accommodating to my colleague on the committee, [Mr. STEVENS,] and I decline to withdraw it.

Mr. COX. I move to lay the bill on the table.

Mr. WASHBURN, of Illinois. I again appeal to the gentleman from Vermont to yield to me for a few moments.

Mr. MORRILL. I will withdraw the demand for the previous question, holding the floor myself.

The SPEAKER. Does the gentleman from Ohio withdraw the motion to lay the bill on the table?

Mr. WASHBURN, of Illinois. I have the floor.

The SPEAKER. The gentleman from Ohio had the floor and moved to lay the bill on the table.

Mr. WASHBURN, of Illinois. I do not understand how the gentleman got the floor.

The SPEAKER. The gentleman from Vermont demanded the previous question and took his seat, whereupon the gentleman from Ohio moved to lay the bill on the table.

Mr. WASHBURN, of Illinois. That was pending a negotiation between the gentleman from Vermont and myself. [Laughter.]

The SPEAKER. The gentleman from Vermont had stated that he refused to withdraw the demand for the previous question.

Mr. COX. I withdraw the motion to lay the bill on the table in the hope that the obnoxious section will be stricken out.

Mr. WASHBURN, of Illinois. I only desire to say one word upon this question, because I have spoken on it times enough for the House to understand fully my position, and the country too, although that, perhaps, is of little importance.

This House, on the first day of the session, instructed the Committee of Ways and Means to bring in this very proposition by a majority of two or three votes. The committee have brought it in and coupled it with another proposition by which, it seems to me, they seek to avoid the responsibility of imposing this tax upon stocks on hand.

Mr. STEVENS. The gentleman's original resolution instructed us to couple it with other amendments. It instructed us to include in any amendments we might propose. We were not at liberty to report it by itself.

Mr. WASHBURN, of Illinois. The proposition is brought in here by the Committee of Ways and Means in obedience to a vote of instructions by this House. The gentleman from Vermont says there have been a sufficient number of changes, according to his own knowledge, to change that vote of the House which was had on the first day of the session. Who those gentlemen are who have had new light on the subject of course will be seen by the vote.

Now, sir, I stand upon this proposition the same as I have always stood. I have advocated it as a measure of revenue, and in a conversation with the chairman of the Finance Committee of the Senate but a few days since, he said that he could demonstrate that by the refusal of Congress to impose this tax, the Government had lost \$70,000,000.

Mr. COX. I rise to a point of order. The gentleman has no right to quote the action of any member of a committee in the other House to influence us here.

Mr. WASHBURN, of Illinois. I am not quoting the action of any member of a committee. I am speaking of the man himself.

Mr. COX. I submit to the Chair if that is in order.

The SPEAKER. It is not in order to quote the transactions of the Senate.

Mr. MORRILL. I would ask the gentleman from Illinois if the same gentleman did not advise him to give up this contest.

Mr. WASHBURN, of Illinois. No, sir; the same gentleman agrees with me on the subject. The same gentleman desires to see the revenues of the country increased, and he desires that these gamblers and speculators shall pay their portion. They have made millions, and tens of millions, which have come out of the pockets of the people; and we now have this proposition here which is reported from the Committee of Ways and Means, and I appeal to the Representatives of the people to stand up to it, and vote it through. I have understood that it has been asserted that a sort of compromise has been entered into, that if the first section of the bill be adopted the other section will be abandoned.

Mr. STEVENS. Does the gentleman from Illinois charge that against the Committee of Ways and Means?

Mr. WASHBURN, of Illinois. Not at all, sir. I did not refer to the committee.

Mr. STEVENS. I expected the gentleman from Illinois to say that, while the chairman of the Committee on Finance in the other House thought there had been \$70,000,000 lost to the Government by the failure to tax the stock on hand, the chairman of the Committee of Ways and Means in this House thought there had been \$30,000,000 lost by the agitation of the subject.

Mr. WASHBURN, of Illinois. Even according to that there would be a balance of \$40,000,000 on my side. I desire to say, Mr. Speaker, that I know nothing of any compromises on this question. I make no compromises on it myself, and I do not know that anybody else is disposed to compromise it.

Mr. MORRILL. Mr. Speaker, I have this to say in reply to the gentleman from Illinois. The question, as now presented, is very different from the question as presented at the last session of Congress. If a tax had been levied on the stock on hand at that time it might have reached a large amount. At present it would not do so. The Commissioner of Internal Revenue is of the opinion that the stock on hand has been nearly consumed. Under these circumstances gentlemen may very well be pardoned for changing their minds on this subject. If there were no other reason against taxing the stock on hand, the fact that we can obtain so much more revenue, that the distilleries would go into operation if the question were only at once settled, and settled finally, is a sufficient argument against it.

Mr. WASHBURN, of Illinois. The best way in the world to settle it is to impose the tax.

Mr. MORRILL. I think the House understands the question fully. I have no sort of feeling on the subject. I am as much in favor of raising the largest amount of revenue as any man in this House can be. I would be willing, for one, that we should raise the entire amount of the annual expenditure for the war by taxation. I only want that the wisest modes shall be selected. I do not believe that this is one of them. I now renew my previous motion to strike out the second section of the bill; and on that, and the whole bill, I move the previous question.

The previous question was seconded, and the main question ordered; which was first on the motion to strike out the second section of the bill.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 60, not voting 57; as follows:

YEAS—Messrs. Ames, Aucona, Ashley, Bailey, Bliss, Blow, Boyd, Brooks, Broomall, Freeman Clarke, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Denison, Eldridge, Finck, Garfield, Grider, Griswold, Hale, Harding, Harrington, Holman, Hooper, Keweenaw, Kelley, Lazear, Le Blond, Long, Longyear, Mahory, Marcy, McBride, McDade, Morrill, James R. Morris, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perry, Pike, Pomeroy, Pruyn, Samuel J. Randall, Alexander H. Rice, Scott, Shannon, Smith, Smithers, Stevens, Strouse, Stuart, Thayer, Townsend, Van Valkenburgh, Voorhees, Ward, and Yeaman—65.

NAYS—Messrs. William J. Allen, Alley, Allison, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, Brandegee, James S. Brown, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Creswell, Dawes, Dawson, Deming, Dixon, Eckley, Eden, Eliot, Frank, Ganson, Grinnell, Hotchkiss, John H. Hubbard, Hulburd, Jenckes, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, McClurg, Samuel F. Miller, Moorhead, Amos Myers, Perham, Price, William H. Randall, John H. Rice, Edward L. Rollins, James S. Rollins, Ross, Scofield, Sloan, Spalding, John B. Steele, Wadsworth, Elihu B. Washburne, William B. Washburn, Williams, Wilson, and Windom—60.

NOT VOTING—Messrs. James C. Allen, Blaine, William G. Brown, Clay, Donnelly, Driggs, Dumont, Edgarton, English, Farnsworth, Fenton, Gooch, Hall, Herrick, Higby, Asabel W. Hubbard, Hutchins, Ingalls, Philip Johnson, William Johnson, Kibbelsch, King, Knapp, Loan, Marvin, McAllister, McDowell, McKim, Middleton, William H. Miller, Daniel Morris, Morrison, Nelson, Norton, Odeit, Radford, Robinson, Rogers, Schenck, Starr, William G. Steele, Stiles, Swent, Thomas, Tracy, Webster, Whaley, Wheeler, Clifton A. White, Joseph W. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—57.

So the second section of the bill was struck out.

Messrs. SCHENCK and FARNSWORTH, not being within the bar when their names were called, asked leave to vote.

Mr. DAWES objected.

Mr. STEVENS moved to reconsider the vote

by which the second section of the bill was struck out; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois, called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 56, not voting 61; as follows:

YEAS.—Messrs. Ames, Ancona, Ashley, Baily, John D. Baldwin, Bliss, Blow, Boyd, Brooks, Broomall, Freeman Clarke, Cox, Henry Winter Davis, Thomas T. Davis, Denison, Eldridge, Finck, Garfield, Grinnell, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hooper, Kasson, Kelley, Knapp, Lazear, Le Blond, Long, Longyear, Mallory, Marcy, McBride, McIndoe, Morrill, James R. Morris, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Perry, Pike, Pomerooy, Pruyn, Samuel J. Randall, Alexander H. Rice, Schenck, Scott, Shannon, Smithers, Stevens, Strouse, Stuart, Thayer, Townsend, Van Valkenburgh, Voorhees, Ward, and Yeaman—65.

NAYS.—Messrs. William J. Allen, Alley, Allison, Anderson, Arnold, Baxter, Deannan, Blair, Boutwell, Brandergee, James S. Brown, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Dawes, Dawson, Deming, Dixon, Driggs, Eckley, Eden, Eliot, Farasworth, Frank, Ganson, Hotchkiss, John H. Hubbard, Hulburd, Jenckes, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, McClurg, Samuel F. Miller, Moorhead, Perlman, Price, William H. Randall, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Scofield, Spaulding, John B. Steele, Tracy, Upton, Wadsworth, Elihu B. Washburne, William B. Washburn, Williams, Wilson, and Windom—56.

NOT VOTING.—Messrs. James C. Allen, Augustus C. Baldwin, Blaine, William G. Brown, Clay, Cravens, Creswell, Donnelly, Dumont, Edgerton, English, Fenton, Gooch, Gridler, Hall, Benjamin G. Harris, Higby, Asahel W. Hubbard, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kernan, King, Law, Loan, Marvin, McAllister, McDowell, McKinney, Middleton, William H. Miller, Daniel Morris, Morrison, Amos Myers, Nelson, Norton, Odell, Patterson, Radford, Robinson, Rogers, Sloan, Smith, Starr, William G. Steele, Stiles, Sweet, Thomas, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—61.

So the motion to reconsider was laid on the table.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois. I desire to give notice that, if that section be stricken out, I shall offer it to every proposition to which it may be appropriate.

The bill was then passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

Joint resolution (S. No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in her conflict with the piratical craft the Alabama, in compliance with the President's recommendation to Congress of the 5th of December, 1864;

Joint resolution (S. No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, of the United States Navy, and the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albatross, in compliance with the President's recommendation of December 5, 1864; and

An act (S. No. 222) authorizing the holding of a special session of the United States district court for the district of Indiana.

Mr. WASHBURN, of Illinois. I move that the House adjourn.

Mr. STEVENS. I hope the gentleman will withdraw that motion. I want to move to go into the Committee of the Whole on the state of the Union. There is some business that ought to be done in the Committee of the Whole.

Mr. WASHBURN, of Illinois. I understand that the gentleman from Ohio, [Mr. SPALDING,] desires to make a speech in the Committee of the Whole, and I therefore withdraw my motion for the purpose of permitting the gentleman from Pennsylvania to make the motion that the House go into the Committee of the Whole on the state of the Union.

Mr. STEVENS. I move that the House go into the Committee of the Whole on the state of the Union.

Mr. PRICE. I ask the gentleman to withdraw that motion for a moment in order that I may offer a resolution.

Mr. STEVENS. I withdraw my motion for that purpose.

#### UNITED STATES CHRISTIAN COMMISSION.

Mr. PRICE. I ask leave to offer the following resolution:

*Resolved*, That the use of the Hall of the House of Representatives be, and is hereby, granted to the United States Christian Commission for their public anniversary meeting, to be held on Sunday evening, January 29, 1865.

Mr. WASHBURN, of Illinois. I am compelled to object to that, and all other similar propositions.

Mr. PRICE. I move to suspend the rules in order to allow the introduction of the resolution. I do not see why the resolution should be objectionable to any one. On the motion to suspend the rules I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. PRICE demanded tellers.

Tellers were ordered; and Messrs. PRICE and ELDRIDGE were appointed.

The House divided; and the tellers reported—aye forty-six, noes not counted.

Less than two thirds voting in favor of the motion, the rules were not suspended.

Mr. STEVENS. I renew the motion to go into Committee of the Whole on the state of the Union.

Mr. HALE. I ask my colleague to withdraw the motion for a moment, to allow me to offer a resolution.

Mr. STEVENS. I withdraw for that purpose.

#### DICTIONARY OF CONGRESS.

Mr. HALE. I ask leave to offer the following resolution:

*Resolved*, That there be printed for the use of the members of this House a sufficient number of extra copies of the Dictionary of Congress to make the quota of the House equal to that already ordered by the Senate: *Provided*, That the copyright hereby directed to be paid by the Clerk shall not exceed per copy what was heretofore allowed for the same work.

Several MEMBERS objected to the introduction of the resolution.

The SPEAKER. The resolution being objected to, is not before the House.

Mr. HALE. Does it not go to the Committee on Printing under the rules?

The SPEAKER. It would, if it were regularly introduced; but any member can object to its introduction.

Mr. STEVENS. I now renew the motion to go into the Committee of the Whole on the state of the Union.

Mr. W. J. ALLEN. I hope the gentleman from Pennsylvania will allow me to introduce a bill simply for reference.

Mr. STEVENS. I yield for that purpose.

#### UNITED STATES COURT IN ILLINOIS.

Mr. W. J. ALLEN, by unanimous consent, introduced a bill to provide for additional terms of the United States circuit and district courts in the southern district of Illinois; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. STEVENS. I now again renew the motion to go into Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I understand the object in going into Committee of the Whole is simply for the purpose of allowing speeches to be made. I therefore ask that, by unanimous consent, it be understood that when the Committee of the Whole shall rise no further business shall be done in the House this afternoon.

No objection was made.

The question being taken on Mr. STEVENS's motion, it was agreed to.

#### PRESIDENT'S MESSAGE.

So the rules were suspended; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. FARNSWORTH in the chair,) and resumed the consideration of the President's annual message.

Mr. SPALDING. Mr. Chairman, when, at the last sitting of the Committee of the Whole House on the state of the Union, I submitted the motion which at this time gives me the floor, my only purpose was to bring about an adjournment of the House. But as, by parliamentary rule, the privilege of speaking is accorded to me, I shall improve the opportunity to congratulate the committee and the country upon the dignified and patriotic character of the President's message, which is, by a like rule, made the first subject for our consideration.

The President gives us to understand in this, his annual message, that the condition of our foreign affairs is "reasonably satisfactory"—that is to say, that amicable relations with all foreign Powers are still preserved through the arts of diplomacy. He says, however, that unforeseen political difficulties have arisen on the "northern boundary of the United States," and, "in view of the insecurity of life and property in the region adjacent to the Canadian border, by reason of recent assaults and depredations, committed by inimical and desperate persons, who are harbored there, it has been thought proper to give notice that, after the expiration of six months, the period conditionally stipulated in the existing arrangement with Great Britain, the United States must hold themselves at liberty to increase their naval armament upon the lakes if they shall find that proceeding necessary."

Mr. Chairman, as the Representative of a wealthy, intelligent, and highly patriotic population in the immediate vicinity of one of these great lakes, whose peaceful waters have the last summer been rudely violated by the marauders from Canada, I desire to thank the President for this signal manifestation of executive firmness and sagacity.

It should not be forgotten that this House of Representatives at its last session adopted with a good degree of unanimity a joint resolution, emanating from the Committee on Naval Affairs, requesting the Executive to give to Great Britain this very notice so vitally important to the commerce of the lakes and to the security of the inhabitants living upon their borders. This resolution "fell asleep" in the Senate.

Another resolution touching the interests of the British provinces in a strictly commercial point, and giving reciprocity in fact where none existed but in name, has recently passed this House in accordance with the just expectations of the people, and they seem now to be waiting somewhat impatiently the further action of coördinate branches of the Government.

Mr. Chairman, I am fully aware of the delicacy of our relations with Great Britain, and have no disposition at this moment to provoke open hostilities with her; but I am free to confess that I do not look upon that Power as a friend to the United States. She is greatly ambitious to be the leader of the nations by means of her supremacy on the ocean, and she is preëminently selfish in all that appertains to commerce and trade. In both of these particulars, a Navy and commercial marine, the United States having peace within her own borders, would speedily overshadow her. Neither do I fear Great Britain. This Government has no occasion to fear her, for, with all her wealth and military and naval strength, the loyal people of the United States are at this moment, with the "great rebellion" on their hands, more than a match for her. While we deprecate war with foreign nations, we should always remember that the surest way to avoid that calamity is to be fully prepared for the emergency. Pusillanimous legislation and pusillanimous diplomacy will bring ruin upon a nation sooner than armed legions. It is therefore the true policy of our Republic to be continually "girding on her armor," to erect fortifications upon her exposed coasts and borders, to establish dock-yards and depots upon the shores of our inland seas, as well as upon the shores of our two great oceans.

The message informs us that the financial affairs of the Government have been beneficially affected by the legislation of the last session of Congress. The receipts into the Treasury from all sources during the year, in cash, were \$834,076,646, of which there was derived from customs \$102,316,152; from lands, \$589,333; from direct taxes, \$475,648; from internal revenue,

\$109,741,134; from miscellaneous sources, \$47,511,448; and from loans, \$623,443,929. The disbursements were, in the sum total, \$865,234,087, of which the War Department consumed \$690,791,842, and the Navy Department \$85,733,292. These estimates, it will be noted, were made on the 1st day of July, 1864, at which time the increased tariff and internal duties were hardly felt at the national Treasury. The national debt, at that date, was \$1,740,630,489. It is believed that by a judicious revision of the system of tariff and taxation, and especially by the imposition of a reasonable duty upon sales of all sorts, the internal revenue may be made to exceed the sum of \$300,000,000 a year, without being burdensome to our people. What a picture that will present of the unfathomable resources of our great nation! Not yet fourscore years of age, and with one third of the States in open and active rebellion for four years, sustaining an Army of a million men, and a Navy of seven hundred ships of war, and yet not one dollar borrowed, except from our own loyal citizens! And still we have but a faint conception of the wonderful resources of the United States Government and people. I am persuaded that I speak within the bounds of modesty and truth when I say that a single article of commerce, almost unknown to the arts at the breaking out of the rebellion, will command annually, in the market, money enough to pay the interest on our national debt.

It is gratifying to learn from the message that notwithstanding the exactions for the military service, some nine thousand persons had been enabled to enter lands for farms during the five quarters preceding the 30th day of September last, under the benign provisions of the homestead law. This is the only legitimate mode of making sovereigns in our country—lords of the soil—and they will be very apt to stand by the Government whence they have derived their title of aggrandizement.

It is painful to hear of the devastating effects of war upon our fighting population; and, at the same time, we are happy to know that republics are not, all of them, ungrateful. The President tells us there have been placed on the Army pension rolls, during the year, twenty-two thousand one hundred and ninety-eight widows, orphans, and mothers. The number seems large, but we must increase the list until every dependent relative of a deceased soldier shall, by the bounty of the Government, be made secure against want. Then, and not till then, shall we be permitted to sing—

"How sleep the brave, who sink to rest,  
By all their country's wishes blest."

We are told by the President, in his own peculiar style, that society is "being molded for durability in the Union;" and as evidence of the fact, he points to the Monumental City, and says, in words that thrill the patriotic breast, "Maryland is secure to liberty and Union for all the future. The genius of rebellion will no more claim Maryland." All honor to Maryland! All honor to the noble men who have been instrumental in rescuing that old and respected Commonwealth from the incubus of slavery! Henceforth Maryland is destined to shine, in the galaxy of States, as a star of the first magnitude.

With respectful submission I here venture to suggest that the President has himself performed an official act since the commencement of the present session of Congress that will do more in the future toward "molding society for durability in the Union" than any conceivable action of any one State.

The President adverts in his message to the recent quadrennial election as evidence of the will of the people in favor of the constitutional amendment for the prohibition of slavery throughout the United States. He is clearly right in this, so far as regards the sentiments of at least three fourths of the voters in the loyal States. It is in vain that politicians plant themselves upon the track of progress and attempt to impede the car of freedom! It is in vain that the learned, eloquent, but erratic Representative from the city of New York invokes "toleration" in behalf of an institution that he says "was tolerated by the Saviour and His apostles." The enlightened sense of the age in which we live imperatively demands the complete extinction of slavery; the

voices of two hundred thousand of our sons who have fallen a sacrifice upon the altar of freedom cry to us from their graves, "Extinguish slavery!" The widows and orphans of the slaughtered soldiers implore us to "abolish slavery." Two hundred thousand stalwart men with bayonets in their hands, once slaves, but now soldiers of the Union, admonish us to wipe out the foul stain of slavery; but, above all, right and justice and the perpetuity of our free institutions of government call upon us to remove this curse from the land.

And why should gentlemen on the other side of this House hesitate in this matter? Have they not always, as partisan politicians, expressed a desire to abolish slavery so soon as they could do it in a constitutional manner? And now what are they asked to do by their votes? Simply to aid the majority in giving a two-thirds vote, so that the proposition to amend the Constitution may be submitted to the people of the States through their Representatives in the legislative bodies. If they refuse to do this, what is the just inference? That they are so wedded to the institution of slavery that they will not trust the people with the privilege of saying whether or not it shall continue its existence in the land. If they refuse to do this, what is the inevitable consequence? The Thirty-Ninth Congress will adopt the measure within one week of its organization, and then the issue will be with the country, in all time to come, which body most truly represented the wishes and interests of the great American people.

In connection with this subject of amending the Constitution so as to prohibit slavery in the land, I commend to the consideration of gentlemen on both sides of the House the following historical fact: Colonel George Mason, of Virginia, one of the distinguished statesmen who assisted in framing the Constitution, nevertheless refused to give it the sanction of his name, and protested against its adoption for this among other reasons by him publicly assigned:

"The general Legislature [Congress] is restrained from prohibiting the further importation of slaves for twenty odd years; though such importations render the United States weaker, more vulnerable, and less capable of defense."

Is it not passing strange that one of the fathers in the days of Virginia's manhood should object to our national charter because it contained "a negative" upon prohibition of the slave trade, and, at this day, after three fourths of a century's experience of the wisdom of that objection there should be found in this Hall men nurtured in the lap of freedom and blessed with all the precious privileges appertaining to free institutions who by their voices and their votes express a determination to scourge their posterity as we in our day are scourged with the curse of human slavery?

Mr. Chairman, I did not intend to make an anti-slavery speech on this floor. I agree with the gentleman from New York in his declaration publicly made at the last session, that "SLAVERY IS DEAD."

But I do desire to "set a seal" upon the door of its tomb. Such a seal, in my judgment, will require the proposed amendment of the Constitution.

I do not advert, Mr. Chairman, to the long string of hallucinations introduced by the gentleman from New York into his speech to show a pretended parallelism between the patriotic efforts of "Burke and Fox and Chatham and Camden" and others of the British Parliament, in the early days of the American Revolution, and the treasonable ravings of disappointed politicians in another and different arena. I turn all such contestants over to another and different tribunal where more summary justice may be administered. I will stop long enough, however, to say to the gentleman from New York that since he made his proud boast, on Wednesday last, that his "southern brethren could never be subjugated," very much evidence has accumulated on that point. I send to the Clerk the remarks of a morning paper on the present aspect of military affairs, and beg leave to say that I heartily agree with the patriotic editor in his ascriptions of praise to the heads of the War and Navy Departments, and to the officers and soldiers of our armies.

The Clerk read, as follows:

"THE SITUATION.—The cause looks grandly upward.

From every quarter of the theater of war come glorious tidings. Everywhere where the flag of the nation floats over the embattled hosts of the Union, it is borne in triumph. We give this morning the proudest bulletin of the war. It makes a noble record for the presiding genius whose masterly intellect controls the movements of the Union armies from his unobtrusive headquarters at City Point, for the executive talent of the great War Minister and his subordinates, whose unwearied activity and promptitude furnish in abundance the requisite material for so many distant armies, for the military talent and aptitude for command of the leaders who are so nobly guiding our troops to victory, and for the daring endurance and patriotic enthusiasm of the rank and file, whose achievements will stand comparison with the best soldiers of any age or clime. Nor should the valuable coöperation of the Navy be forgotten—the energy and skill which have placed the United States in the foremost rank of the naval Powers of the world, the ability and heroic zeal of the officers, and the indomitable pluck of our gallant tars. The news which we publish this morning, confirmatory of the glad tidings which has sent a thrill of exultant triumph throughout the land, is the sure precursor of the approaching doom of the rebellion.

"Sherman has made his devastating swath of sixty miles in breadth through the very heart of Georgia, breaking up workshops and factories, destroying stores and supplies, scattering the panic-stricken Legislature, and assuring the Empire State of the South that war is no child's play, and that though it has been long free from its ravages, it is idle to defy the Government of our fathers and to cope with the resources of a people bent on the maintenance of its nationality. He has reached his objective point on the coast. Fort McAllister is in his hands. Savannah is partially invested, and its fate sealed.

"In the mean time General Foster has moved up from Beaufort, has laid devastating hands on the railroad connection with Charleston, and is ready to coöperate with Sherman in an attack on Savannah, while the Navy is moving up its ships and gunboats into Ossabaw sound for like purpose. Further on, in the far South-west, General Canby has dispatched a force from Vicksburg, which has destroyed the bridge over the Big Black river, with thirty miles of the track of the Mississippi Central railroad, twenty-six hundred bales of cotton, and over a hundred and sixty thousand dollars' worth of property, cutting off Hood's connection with Mobile and endangering his supplies.

"Breckinridge has been checked in his demonstrations in Tennessee, by a daring raid under Stowman and Burbridge in his rear, who seized Abingdon, Glade Springs, and other points along the East Tennessee and Virginia railroad, destroying the track and valuable property, and spreading universal consternation among the rebels, and threatening, according to their accounts, their invaluable salt-works at Saltville and vicinity.

"Along the Roanoke a joint land and naval expedition, despite the torpedoes which blew up three of our vessels, are pushing up into the interior, laying waste rebel supplies to the amount of a million dollars and more, and scattering dismay among a people who thought navigation entirely obstructed.

"In Tennessee the gallant Thomas is giving the finishing blows to that grand stroke of the Davis-Hood-Beauregard policy which was to annihilate Sherman and ignominiously expel the Federal troops from the soil of Tennessee. Sherman paid no heed to the vain boast, but pursued his march, leaving the vaunting enemy to the care of Thomas and his gallant men, and right nobly have they done their duty. Falling back, as if under compulsion, Thomas administered a severe check to the enemy at Franklin, and concentrated his lines on the Cumberland. When Hood sent out his detached parties, expecting to flank the old veteran into further retreat, he was suddenly pounced down upon and vanquished. We give his official dispatch this morning. Forrest, too, the chief of the Fort Pillow massacre, is reported as killed.

"While thus from other quarters of the military horizon we are cheered by tidings of success, the army of the Potomac is not idle. The gallant Warren has just returned from a damaging raid upon the Weldon road, and the great leader of our armies is steadily maturing his preparations for the final demonstration against the rebel capital. Its fate may be postponed, but it cannot be averted."

Mr. SPALDING. Mr. Chairman, I do not adopt the term "subjugate" as used by the gentleman from New York but in the last necessity. I heartily concur with our excellent Chief Magistrate in the sentiment embodied in the last paragraph of his message, and commend it especially to the gentleman from New York, and all who may sympathize with him in his efforts to inspire the supporters of a bad cause with confidence:

"In stating a single condition of peace, I mean simply to say, that THE WAR WILL CEASE, ON THE PART OF THE GOVERNMENT, WHENEVER IT SHALL HAVE CEASED ON THE PART OF THOSE WHO BEGAN IT."

Mr. HOLMAN. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FARNSWORTH reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. HOLMAN, (at ten minutes past three o'clock p. m.) the House adjourned.



## IN SENATE.

TUESDAY, December 20, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. MORGAN presented the memorial of A. M. Convey and H. S. Jaudon, praying that the Secretary of the Treasury may be authorized to pay to them a certain amount of money seized by Major General Butler at New Orleans, and remitted by him to the Treasury Department, the same having been previously confiscated in the hands of the Southern Bank of New Orleans, by the rebel government; which was referred to the Committee on Claims.

He also presented the memorial of Catharine Harleston, praying to be remunerated for damages to her house and furniture, occasioned by the shelling of her house on the Seventh street road, in the District of Columbia, in the month of July last, as is alleged, by order of the President of the United States; which was referred to the Committee on Claims.

Mr. HENDRICKS presented a petition of officers in the subsistence department of the Army, praying that that department may be placed on an equality with the quartermaster's department in respect to promotion; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented three petitions of officers in the military service of the United States, praying for an increase of their pay and allowances; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Selina Barclay, praying for remuneration for the loss of her property occasioned by the burning of the navy-yard at Portsmouth, Virginia, in April, 1861; which was referred to the Committee on Claims.

He also presented the memorial of James N. Carpenter, paymaster United States Navy, praying to be compensated for losses sustained by him by reason of the rebellion, in consequence of his absence on duty on board the United States ship Saratoga; which was referred to the Committee on Claims.

Mr. GRIMES presented the petition of J. B. Parker and forty others, acting assistant surgeons in the United States Navy, praying for an increase of their pay; which was referred to the Committee on Naval Affairs.

Mr. HALE. I have received and been requested to present to the Senate the memorial of Edmund F. Brown, a notary public and United States commissioner of Washington city, asking for the payment of a balance due him by the Interior Department for taking depositions in matters connected with the Washington aqueduct. My own impression is that it should be referred to the Committee on Claims; but it has been transmitted to me with a request to have it referred to the Committee on the District of Columbia. If they, on examination, find that it does not belong to them, they will send it to the Committee on Claims. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HALE. I have received, and been requested to present to the Senate, a memorial from Sister Ann Simeon Norris, mother superior of the Sisters of Charity, which represents that by the discipline of their order they are obliged to wear a uniform of a certain description, which is manufactured only in France, and that the duties upon it are now so oppressive that they are not able to receive the importation. They represent that they spend their lives, a great many of them, in gratuitous service in the hospitals, and there are, I believe, some three or four hundred of them who devote their whole time to purposes of charity in the Army. They request that the duties on that material may be remedied. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. RAMSEY. I present the memorial of the board of managers of the Soldiers' National Cemetery Association, asking for a slight appropriation on the part of the Government to aid in the erection of the monument at Gettysburg. As the facts contained in the memorial are very interesting, and the memorial itself is quite brief, I move

that it be printed and referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

## PAPERS WITHDRAWN AND REFERRED.

Mr. TRUMBULL. I move that permission be granted to withdraw from the files of the Senate the petition of Charles Taylor, praying compensation for service rendered and supplies advanced to the United States, at Chicago, Illinois, during the Black Hawk war, in 1832, and that it be referred to the Committee on Claims. No report has been made upon the case.

The motion was agreed to.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, pay interest on the public debt, and for other purposes," approved June 30, 1864; and that the House had concurred in the amendment of the Senate to the resolution proposing an adjournment from the 22d instant to the 5th of January, 1864.

## REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 560) to amend the act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Socol Ranch, in the State of California," reported it with amendments.

He, also, from the same committee, to whom were referred various petitions from citizens of California on that subject, asked to be discharged from their further consideration, which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 354) extending the time for the completion of certain land-grant railroads in Minnesota, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 33) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City, and Territory of Nevada, for the purposes of a branch mint located in said place, reported it without amendment.

## THE RECIPROCITY TREATY.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854, have had the same under consideration, and directed me to report it back to the Senate with an amendment striking out all after the words "joint resolution" and inserting a substitute. I am further directed to ask for the consideration of the resolution to-morrow, and, if the Senate will give me permission, I shall call it up at some convenient moment to-morrow.

The same committee, to whom were referred a memorial of the Chamber of Commerce of St. Paul, Minnesota, remonstrating against any action at the present session of Congress terminating the reciprocity treaty, and also sundry petitions from Connecticut, from Wisconsin, from the Chamber of Commerce of Milwaukee, and sundry other papers on the same subject, having had them under consideration direct me to report them all back to the Senate, with a request to be discharged from the further consideration thereof.

The committee was discharged.

Mr. FOOT. I desire to present the petitions of a large number of citizens from various towns in the State of Vermont, praying for the abrogation of the reciprocity treaty, so called. As that subject has been reported upon this morning by the Committee on Foreign Relations, I move that the petitions lie on the table.

The motion was agreed to.

## WITHDRAWAL OF BONDED GOODS.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 603) to extend the time allowed for the withdrawal of certain goods therein named from public stores, have had the same under consideration, and directed me to report it back without amendment and to ask that it may be put on its passage at once.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to provide that in computing the three years allowed by the twenty-first section of the "act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, for the withdrawal of goods from any public store or bonded warehouse for exportation to foreign countries or transshipment to any port of the Pacific or western coast of the United States, if such exportation or transshipment of any goods shall, either for the whole or any part of the term of three years, have been prevented by reason of any order of the President of the United States, the time during which such exportation or transshipment shall have been so prevented shall be excluded from the computation.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## WASHINGTON GAS-LIGHT COMPANY.

Mr. DIXON. The Committee on the District of Columbia, to whom was referred the memorial of the Washington Gas-Light Company, praying for the repeal of certain amendments to their charter, have had the same under consideration, and have instructed me to report a bill on the subject and to ask for its immediate consideration of the Senate. It is a matter of very great public as well as private importance.

By unanimous consent, the bill (S. No. 363) to amend the charter of the Washington Gas-Light Company was read twice by its title and considered as in Committee of the Whole. It proposes to repeal so much of the acts of June 25, 1860, and July 11, 1862, as relate to the price of gas furnished by the Washington Gas-Light Company, and to amend the act incorporating the company so as to prohibit the company from receiving, on and after December 1, 1864, for the benefit of its stockholders, a greater price for gas than the average net or cash price which may be charged in the capitals of the States of Maryland, Pennsylvania, New Jersey, and New York, and from that price five per cent. is to be deducted on all gas furnished to the General Government.

The bill was reported to the Senate without amendment.

Mr. SHERMAN. It seems to me that if we are to change the charter of this company we ought to fix definitely the price of the gas consumed. The gas consumed by the Government of the United States now amounts to somewhere between fifty and one hundred thousand dollars per annum; and this bill affects also the price paid by every consumer in the city of Washington. I think all of us are more or less interested in it. If the price now allowed by law is not sufficient, certainly the Committee on the District of Columbia ought to fix the price, and not make it so uncertain as to depend upon the legislation of three or four different States—a standard that no citizen interested in the subject can fix. How would it be possible for a citizen of Washington to know what is the law of these various States? It would be impossible for him to ascertain it. It seems to me, therefore, that if the price allowed is not sufficient, the Committee on the District of Columbia should fix a definite price per thousand feet, and then every citizen will know precisely whether they charge him according to law or not.

Mr. JOHNSON. Is there no limit?

Mr. SHERMAN. No. It is to be fixed, as I understand it, by what is allowed in the capitals of Maryland, Pennsylvania, New Jersey, and New York.

Mr. JOHNSON. They charge differently in the cities to which reference is made.

Mr. WILSON. I think we had better not pass this bill this morning. Let us have a little time to reflect upon it and to inquire into it. It seems to me, however, that some action ought to be had not only in regard to the price, but especially in regard to the quality of the gas. The quality of the gas of this city is of the very poorest description. Everybody sees it, feels it, tastes it, and smells it. I think we had better let the bill lie over, and we shall probably hear something about it in a few days and can make the bill what it ought to be; but I am sure that some action ought to be had in regard to this matter of gas in this city.

Mr. DIXON. I have a letter here from the sec-

retary of the company with regard to the quality of the gas, and I may as well, perhaps, allude to that, as the Senator from Massachusetts has referred to it. It is true that about one week ago there was a very great defect in the character of the gas, which was probably perceived by every person who had occasion to use it; but I believe, with that exception, there has been no complaint. The secretary of the company, Mr. Brown, wrote me a note in regard to that, which I will read to the Senate. He says:

OFFICE OF THE WASHINGTON GAS-LIGHT COMPANY,  
No. 483 TENTH STREET WEST,  
WASHINGTON CITY, December 19, 1864.

DEAR SIR: Last week we received a cargo of coal from Nova Scotia, out of the Glace bay mines, from which there has been sent us about a thousand tons in 1864, all good coal, such as is used in Boston and other eastern cities. Being scarce of coal we commenced using it at once, and did not observe the unpleasant odor of the gas until we had carbonized some fifty tons; it was immediately stopped as soon as discovered, but one hundred and seventy-five thousand feet of the gas had passed into the holders and affected the whole supply for forty-eight hours. This coal cost more than the coal from West Virginia, and nearly as much as that from Pittsburgh, and was only ordered because we could not get our winter supply from the United States. This company has always furnished purer and better gas than was used any other place, and it is our intention to do so regardless of the cost of coal, as long as we can furnish any at all. The cargo of coal referred to will not be used for manufacturing gas, and every care will be taken to prevent the production of an article of the character complained of.

I am, &c., J. F. BROWN, Secretary, &c.  
Hon. JAMES DIXON, United States Senator.

That is with regard to the quality of the gas. Now, as to the question of postponing this matter, I will state to the Senate, and I think the Senate will see, that immediate or at least early action is required on this subject, after hearing the facts.

On the 25th of June, 1860, a bill was passed limiting the price of gas to be furnished by this company to \$3 50 per thousand feet. In 1862 an amendment was adopted to an appropriation bill limiting the company to \$2 80 per thousand feet to the Government and \$3 to other consumers, with ten per cent. deducted, leaving the price to be paid by the Government \$2 52, which is now paid, and by other consumers \$2 70. It is perfectly obvious that, with the present price of coal and the present price of labor, it is utterly impossible for this company to furnish the public with gas at these rates. They are, as the committee were informed and believe, at this time actually losing a very large sum of money monthly. They have not made a dividend for eighteen months, and they will not only make no dividends hereafter, at the present prices, but the committee were satisfied they would be compelled to abandon their works, and perhaps give them up to the Government, and the Government will be compelled to furnish its own gas, which we believe could not be furnished at this time at a price less than six dollars per thousand.

Now, sir, this company present their bills monthly. They must present their bills at the commencement of the next month, and if no action is had now the subject must go over, and they will be compelled by the Government to furnish gas for another month at a losing rate. It does not seem to me that that is just or right.

As to the objection of the Senator from Ohio, the committee would have preferred to fix a certain rate of price; but they found it very difficult to do so in consequence of the fact that materials and labor are constantly rising. It would be impossible for the committee to say what would now and six months hence, and perhaps a year hence, be a fair price. It was therefore thought if we adopted as a criterion for the price, the price in several cities where coal is twenty or thirty per cent. cheaper always than here, as in Harrisburg, Trenton, and Annapolis, that that would be a fair rate, and then there would be no occasion for this company to come to Congress again and ask that the limitation be removed. Still, if the Senate prefer to fix a rate, of course the committee would have no objection to it; but the reason why they adopted this mode was that it seemed difficult at this time to fix a rate which would be just at a future time as well as just now.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed, and read a third time?

Mr. HARLAN. I move that the further consideration of the bill be postponed until to-morrow. The committee that have had this bill un-

der consideration doubtless are quite familiar with all the facts connected with it, but it is manifest that a majority of the Senators present are not; and it is not unreasonable, I think, that it should go over a few days until we can become somewhat acquainted with the facts. I believe this company has a monopoly of this whole business in the city of Washington, and if so, we ought to be a little careful in our legislation.

Mr. DIXON. The Senator is mistaken; that is not so. Another company has been chartered, and has the privilege at any time of laying down pipes and supplying gas.

Mr. HARLAN. But practically at this time this company furnishes all the gas consumed in Washington.

Mr. DIXON. They do so at this time.

Mr. GRIMES. The other company has forfeited its charter.

Mr. HARLAN. My colleague remarks that the other company has forfeited its charter, so that this company has a monopoly of the whole business. The legislation on the subject, therefore, I think, ought to be prudent and careful. I think it is probable that the price of gas ought to be increased, but we ought to be well informed on the subject before legislation is had. I hope, therefore, that the bill may go over for a few days.

Mr. DIXON. I merely wish to call the attention of the Senate to the fact that here is an existing law compelling this company to furnish gas at a price at which they cannot afford to do it. When that fact is considered, it seems to me that is a reason why the subject should not be delayed. They merely ask a repeal of the restriction upon them. Is it just or right, I ask the Senate, to compel this company to furnish gas at a rate at which we all know they cannot afford to do it?

Mr. HENDERSON. As a member of the Committee on the District of Columbia, when this proposition was laid before it, I took some pains to ascertain what charge the proposed bill would make. I did not know that the bill would be called up this morning. The bill under consideration proposes to allow this company to charge the average price of gas in Annapolis, Trenton, Albany, and Harrisburg. When the bill was first presented I was unable to ascertain the price of gas in Trenton and Albany. I have since that time ascertained it. I knew the price of gas in the other two cities. I find that in Annapolis it is \$4 50 per thousand feet; at Trenton, \$4; at Albany, \$3 80; and at Harrisburg, \$3 50. The average price, therefore, if we pass this bill, would be \$3 95 per thousand feet in the city of Washington. We now allow the gas company \$2 80. Hence the passage of the bill will involve an increase of price of \$1 15 per thousand feet. That is just exactly the bill that is now before the Senate.

I have before me a statement of the price of gas in the various cities of the Union. It varies very much. In a great many places the price is higher than the proposed price here, and in a great many others it is a great deal lower. For instance, at Augusta, Maine, it is \$5 15; at Portland, \$3 61; at Manchester, New Hampshire, \$4; at Portsmouth, \$4 46; at Boston, Massachusetts, \$2 75; at Providence, Rhode Island, \$4; at Newport, \$4 30; at Hartford, Connecticut, \$3 80; at Burlington, Vermont, \$6 50; at Buffalo, New York, \$3 50; at Syracuse, \$4; at Troy, \$3 80; at Pittsburg, Pennsylvania, \$1 60; at Wilmington, Delaware, \$3 30; at Baltimore, \$3, &c.

The Senate will see at once what change this bill will make if it should be passed. It will be an increase of \$1 15 per thousand feet. I am satisfied that if the prices I have read be but a fair remuneration for furnishing gas in the other cities of the Union, the price ought to be increased here. I do not know whether that remuneration is but a fair remuneration or not. That is for the Senate to judge. Certainly the price of gas is as high as we propose to make it here in a great many cities of the Union where coal and labor can be furnished much more cheaply than they can be in Washington. At other points, again, it seems to me it is lower where it should be really higher than here. It is for the Senate to determine the matter. I do not know much about this subject, but before I consented to the reporting of this bill I felt it to be my duty to look into the

matter, so that Senators might be apprised of the true state of the facts.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa [Mr. HARLAN] to postpone the bill until to-morrow.

The motion was agreed to.

#### VICE ADMIRAL.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the bill (S. No. 358) to establish the grade of vice admiral in the United States Navy, to report the same back without amendment and recommend its passage; and I move that the Senate proceed, by unanimous consent, to the consideration of the bill now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint one vice admiral who is to be selected from the list of active rear admirals, and who is to be the ranking officer in the Navy of the United States, and whose relative rank with the officers of the Army is to be that of lieutenant general in the Army.

The second section provides that the pay of the vice admiral of the Navy shall be \$7,000 when at sea; \$6,000 when on shore duty; and \$5,000 when waiting orders.

The third section provides that the section of an act approved December 21, 1861, entitled "An act further to promote the efficiency of the Navy," shall not be so construed as to apply to any one holding a commission as a vice admiral in the Navy.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 365) in relation to pensions; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 364) to increase the number of cadets in and to raise the standard of admission to the Military Academy; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### OATH OF ALLEGIANCE.

Mr. HARLAN. I offer the following resolution, and ask for its consideration:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the expediency and propriety of requiring all residents of the District of Columbia to take and file with the provost marshal of said District an oath of allegiance or fidelity to the United States similar to the oath required by law of members and Senators in Congress and other officers of the Government, and also the expediency and propriety of prohibiting all persons from doing business in said District or with the several Departments of the Government who have not or may not take and file such oath; and that said committee have leave to report by bill or otherwise.

Mr. HENDRICKS. I am not one of those who believe that the increase of oaths by citizens promotes either individual or public virtue, and I object to the consideration of the resolution at this time.

The PRESIDENT *pro tempore*. Objection being made, it will lie over under the rule.

#### LAND SALES IN KANSAS.

Mr. LANE, of Kansas, submitted the following resolution, which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be instructed to communicate to the Senate as to the quantity of land which has been actually sold under the provisions of the fourth and fifth articles of the treaty made by the United States with the Sac and Fox Indians of the Mississippi, October 1, A. D. 1839, and ratified July 9, A. D. 1860; the price per acre at which said lands were sold; what opportunity the people of Kansas have had to compete in the purchase of the same; whether any bids are now on file in the Interior Department for the purchase of any portions of said lands; if so, then for what amount of land, and whether at a price above or below the appraised value of said lands; if any of said lands have been sold, what was received for them, money or scrip; if scrip, then what kind of scrip; if any bids for the purchase of any of said lands are now before the Department, what is it proposed by the Department to receive in pay for lands on said bids, money or scrip; if scrip, then what kind of scrip; was the land already sold purchased by citizens of Kansas or speculators; and also

to communicate to the Senate any and all other information the said Secretary of the Interior may have as to the sale of said lands, and the probability of selling the same so as to pay therefrom the indebtedness of the said Indians.

#### TREATMENT OF PRISONERS OF WAR.

Mr. WILKINSON. I offer the following resolution:

Whereas the large number of officers and enlisted men belonging to the armies of the United States who are now held as prisoners of war by our enemies are being treated in the most cruel and barbarous manner, deprived of necessary food and clothing, often left exposed to the weather without fuel, blankets, or clothing, or even a shelter over them; and whereas from such inhuman treatment thousands of our brave soldiers have died from starvation and unnecessary exposure, while thousands who survive are from their extreme sufferings wholly unable to render further service in the Army; and whereas every possible effort has been made by the Government and people of the United States to induce the rebel authorities to pursue a more humane policy toward these prisoners and to relieve their sufferings, which efforts have been of no avail, while on the other hand supplies of food and clothing which have been forwarded to them have seldom reached their destination but have been appropriated to the use of the enemy, thus proving that the rebel authorities not only refused to feed and clothe our soldiers themselves, but they refuse to let the Government or the people of the United States do so: Therefore,

*Resolved*, That in the opinion of Congress it would be wise and proper for the Secretary of War to direct that the rations, clothing, and supplies to be furnished to the rebel prisoners in our hands be limited in amount and kind to those furnished by the rebel authorities to Union troops held by them as prisoners of war, and that they be treated in all respects as the Union prisoners are treated by the rebel authorities.

I should like to have the resolution put upon its passage this morning.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection being made, it must lie over.

Mr. WILKINSON. I wish to say a word or two in regard to the resolution.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent of the Senate.

Mr. JOHNSON. I waive the objection.

Mr. WILKINSON. It is well understood throughout the country, and has been for nearly two years, that the Union soldiers, officers and enlisted men, have been treated in the most barbarous and inhuman manner by the rebel authorities. The Government of the United States, on the other hand, have not retaliated, but have endeavored to get through supplies and medicines, and the Sanitary Commission and the Christian Commission have been at work and have endeavored to alleviate or relieve the sufferings of our soldiers who are prisoners in the South. Through the negotiations of the Government every effort has been made to induce the rebel authorities to pursue a different policy in regard to the treatment of our soldiers, until it has become apparent to my mind that their principal object is to reduce these men by suffering, by starvation, by inhuman and barbarous treatment, to so low a physical condition that it will be utterly impossible for them hereafter ever to enter into the service of the United States in the Army, while on the other hand the Government of the United States have been pursuing the course which all enlightened Christian nations pursue in the treatment of captives which are held by them as prisoners of war.

The other night I met the assistant adjutant general upon the staff of the brave and gallant General Custer, who was taken prisoner in September last, and was taken to Columbia, South Carolina, on the 7th day of October, 1864, and he told me that fifteen hundred officers were placed upon an area of five acres of ground one third of which was swamp, without any shelter; that his coat, boots, blanket, and everything of that kind were taken from him, and they were placed in this stockade without axes, without shovels, even without anything to cook their rations or to provide them the least shelter. For two weeks they could not obtain an ax even to cut wood with which to cook their rations, and after that time six axes and some few shovels were distributed among those fifteen hundred officers, which enabled them, by combining their efforts, to get a little wood to cook their food, and by the use of the shovels to dig some holes in the dirt where they could lie in the night and be somewhat protected from the October frost. He also stated that in the months of July and August the deaths at Andersonville, for he was afterwards at Andersonville, from starvation and suffering were eight thousand out

of thirty-five thousand prisoners, and the number of deaths which have occurred at Andersonville, through the inhumanity, the barbarism of the rebel authorities, is thirteen thousand four hundred and eighty. When he was brought to the city of Charleston to be exchanged in company with Captain E. M. Lee, of the fifth Michigan cavalry—

The PRESIDENT *pro tempore*. The Senator will pause; it becomes the duty of the Chair to call up the special order of the day, being the unfinished business of yesterday, Senate joint resolution No. 82.

Mr. WILSON. Let that be passed over informally.

The PRESIDENT *pro tempore*. It may be laid aside informally.

Mr. WILKINSON. When he came to Charleston to be transferred to the receiving ship, the City of New York, he came in company with Captain E. M. Lee, of the fifth Michigan cavalry. The rebel steamer Celt came down the harbor, and while they were transferring the Union prisoners to the Union boat, the City of New York, there were eleven dead men: they were either dead before they were carried over the plank from one boat to another, or they died immediately after being laid upon the deck of the City of New York. A newspaper in the city of Columbia, South Carolina, published an article about the time of the exchange of those prisoners, wherein it boasted that the Union prisoners held by them which were sent North and exchanged would never render any more service for the cause of the Union and the cause of their country; and it also stated that the prisoners which were held by the United States and exchanged for those prisoners who had been physically destroyed, were in good condition to enter the rebel service at once.

I know that southern people have sometimes made misrepresentations respecting our treatment of prisoners from their armies, and hence, in addition to the testimony of the editor of a South Carolina paper, to which I have just referred, it may be proper that I should quote a few lines from a work now before me which furnishes the testimony of a well-known philanthropic lady:

"Point Lookout was still another post which had been subjected to the rebel statement that the prisoners there suffered from cruelty and neglect. Miss Dix, who visited those very prisoners, sufficiently disposes of the slander. She says: 'They were supplied with vegetables, with the best wheat bread, and fresh and salt meat three times daily in abundant measure—the full Government ration.'

"In the camp of about nine thousand rebel prisoners there were but four hundred reported to the surgeon. Of these one hundred were confined to their beds, thirty were very sick, and perhaps fifteen or twenty would never recover."

"The hospital food consisted of beef tea, beef soup, rice, milk punch, milk, gruel, lemonade, stewed fruits, beef-steak, vegetables, and mutton. White sugar was employed in cooking. The supplies were, in fact, more ample and abundant than in hospitals where our own men were under treatment."

"The surgeons of the various hospitals, in several instances, alluded to the excellent condition of the prisoners when discharged and exchanged; and in the statement of Miss Dix will be found a brief description of their appearance when leaving the flag-of-truce boat for their own lines: 'All were in vigorous health, equipped in clothes furnished by the United States Government, many of them with blankets and haversacks.'"

Now, Mr. President, this thing has gone too far. It may not be right for us to starve their men because they starve ours, for retaliation merely. I think the laws of war would justify a course of retaliation on the part of our Government; still, perhaps the higher law of Christian civilization would not justify it upon the ground of retaliation alone; but while we are exchanging these prisoners and turning over ten thousand healthy men to enter their armies at once to fight against the cause of this Union, they are sending back in their places ten thousand men physically destroyed, ten thousand men who can render no service to the Union and to the cause of the country. Therefore, in a double sense, the Government of the United States should teach these men that this thing can go on no longer. For the purpose of preventing them from gaining an advantage over us in the field, and giving them the power of strengthening their armies, while ours are not strengthened at all, and also for the purpose of protecting, as far as we are able to do, the brave men who have been fighting for the cause of their country, I think that this course ought to be adopted, and that there should be no delay in regard to the policy which this Government should

adopt. I ask the Senate to take up my resolution and act upon it now.

The PRESIDENT *pro tempore*. The Chair understands objection to be made.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection is still made.

Mr. WILKINSON afterwards moved that the resolution be referred to the Committee on Military Affairs and the Militia, and the objection to the consideration of the resolution being withdrawn, the motion to refer was agreed to.

#### ARRESTS IN KENTUCKY.

The PRESIDENT *pro tempore*. The special order of the day, being the unfinished business of yesterday, will now be taken up.

Mr. POWELL. I move to postpone all pending and prior orders for the purpose of proceeding to the consideration of the resolution I offered yesterday calling for information as to the arrest and imprisonment of Lieutenant Governor Jacobs and Colonel Wolford of Kentucky.

Mr. WILSON. I hope that will not be done.

The question being put, a division was called for.

Mr. POWELL asked for the yeas and nays, and they were ordered.

Mr. CONNESS. What is the resolution? Let it be read.

The Secretary read the resolution submitted yesterday by Mr. POWELL, as follows:

*Resolved*, That the President be requested to communicate to the Senate all information in his possession bearing on the arrest and imprisonment of Colonel Richard T. Jacobs, Lieutenant Governor of the State of Kentucky, and Colonel Frank Wolford, one of the presidential electors of that State; particularly by whose order they were arrested and imprisoned, where they are at present confined, and what offenses are charged against them.

Mr. POWELL. I desire to say only a word. I had not supposed that such a resolution as this would meet with opposition in the Senate of the United States. It simply proposes an inquiry concerning the arrest and imprisonment of two citizens of the United States, both of them well known to be strong Union men. Both of them have served in the Army of the United States with distinguished honor. Both of them have been more than once wounded in conflict at the front. They were both soldiers of distinguished ability. They were active friends of General McClellan at the last presidential election. Both canvassed the State of Kentucky to a considerable extent. Soon after the election, without any cause known to their friends, they were arrested, and without any trial, placed in prison. Colonel Wolford, I understand, is closely confined at Covington, Kentucky. It is not known where Lieutenant Governor Jacobs is. He seems to have been spirited away in some manner or other. I saw three days ago a telegraphic dispatch to one of my colleagues, from the Governor of Kentucky, which said that Colonel Wolford was confined at Covington, and that it was not known where Lieutenant Governor Jacobs was.

This resolution simply asks the President by what authority they were arrested, and where they are. It strikes me that such a gross violation of all the rights of the citizen should not be passed idly by in this body. I can see no possible objection to the passage of the resolution. If these gentlemen have committed any crime, if they have been guilty of the violation of any law, let them be brought before the legal tribunals and tried and punished. But that citizens, civilians, for they are now both out of the Army, one of them holding the second office in the gift of the people of Kentucky, should be arrested without warrant and without charge, and thrown into prison, in my judgment is the grossest violation of the rights of an American citizen; and we, at least, should pass a resolution asking the cause of the arrest, and the charges upon which it was made, and by whom it was done. We know that they were arrested by the military authorities there, but for what they were arrested we are profoundly ignorant.

I trust, sir, that Senators in favor of the Administration will not longer think that they can promote the interest of their party and their country by allowing the rights of citizens thus to be trampled down. There is no man who can truthfully say that either Colonel Wolford or Lieutenant Governor Jacobs is not loyal to the Constitution



and the Union of these States. No man can say that either of them is friendly to the rebellion. They have both, publicly and privately, on all occasions denounced the rebellion, and they have by the most gallant achievements in the field shown that they are devoted to the flag and to the Union. That such men as these should be seized and imprisoned without warrant and without trial is a disgrace to the American people. That Lieutenant Governor Jacobs should be thus arrested and taken away and imprisoned, so that none of his friends in the State know where he is, is certainly disgraceful to those who have thus treated him. We desire to know by whose authority these gentlemen were arrested; we desire to know the offenses laid to their charge; and we desire further, and I know that these two noble and gallant soldiers desire, if they have committed any offense, to be brought face to face with their accusers and to be allowed to answer the charges against them. All that their friends ask for them is that before they shall be deprived of their liberty they shall know the cause, and that they shall be brought before some legally-constituted tribunal and there tried in the manner prescribed by the Constitution and laws of their country. There is no man in America, I trust, who desires that these citizens shall languish in prison if they are innocent; and on the other hand, if they have violated any law of the land, there is none who desires them to be free from that punishment which the law inflicts, provided it be inflicted in a lawful manner.

I am amazed that the Senator from Massachusetts [Mr. WILSON] objects to the taking up of this resolution. There is certainly nothing in it to which a man who loves civil liberty should object. Why is it that you desire that citizens of their position and standing, who have shed their blood on many battle-fields in this strife under the Union flag, should be deprived of their liberty and their rights, and one of them taken whither his friends know not? Why do you desire that the President, the Commander-in-Chief of the Army, should not answer such a resolution as this, and say to the Senate where they are and for what they have been arrested?

I say again that I am amazed that the Senator from Massachusetts, or any other Senator, should object to the passage of this resolution. I hope it may be passed, as it certainly ought to be. The Senate owes it to itself to pass the resolution, and let the President answer and give us the information if he has it. It may be, and I believe the fact is, that some of the subordinates of the President have done this thing, perhaps without his knowledge or connivance. If so, let the matter be investigated, and let those guilty violators of the law be punished, for whoever arrested these gentlemen and treated them in this way is certainly a guilty violator of the laws of the land.

It was not my purpose to say a word on this subject, and I should not have said anything now if it had not been for the indication which was manifested to give the resolution the go-by, and not allow it to be passed.

Mr. WILSON. I assure the Senator from Kentucky that I have no objection to acting on his resolution, other than this: we have now pending before us what I regard as a very important bill, to make free the wives and children of the soldiers of the Republic; and I do not wish to displace that bill, which is the order of the day, by taking up this resolution, which may as well be taken up at any other time. That is the reason why I made the objection. Now, however, as the Senator has made his motion, and it is before us, I am ready and willing to take the vote on the resolution; but I propose first to amend it by inserting after the word "Senate" the words, "if in his judgment not incompatible with the public interest." I have no doubt that the President will be disposed to regard the request of the Senate; but it may be that the public interest may require that all the facts should not go to the country. If the resolution be taken up and amended in this way, I shall have no objection to its passage.

The PRESIDENT *pro tempore*. The question is on postponing the prior orders and proceeding to the consideration of the resolution indicated by the Senator from Kentucky.

Mr. WILSON. If there be no objection, let

the order of the day be passed over informally to take action on the resolution.

Mr. POWELL. I am willing to do that; I do not wish to displace the order of the day; and I withdraw the call for the yeas and nays, if I am at liberty to do so.

The PRESIDENT *pro tempore*. The yeas and nays were ordered by the Senate; the order may be withdrawn by unanimous consent. ["Agreed!"] The call is withdrawn. The question is on the motion of the Senator from Kentucky.

Mr. HOWARD. I do not wish to occupy the time of the Senate on the motion now before it more than a moment; but I must confess that I see no necessity for the passage of the resolution of the honorable Senator from Kentucky. What would he have us do? Does he propose to convert the Senate into a sort of inquisition to use its power in the enforcement of inquiries into matters which pertain, I may say exclusively, to the Executive? Does he intend to use the power of this body to make inquiry into the nature of criminal prosecutions that have been instituted or that may hereafter be instituted against persons offending against the military laws of the United States, or against persons who are in league with the enemy, against spies or any other class of public enemies?

It seems to me that the honorable Senator from Kentucky may very properly take it for granted that there must be some *prima facie* evidence of criminality against these gentlemen whose names appear in his resolution. He can, I think, without any extraordinary stretch of his charity, believe that the military authorities who have occasioned these arrests have proceeded upon reasonable and sufficient grounds. He cannot presume, as it appears to me, although he seems so to presume, that these arrests are entirely without cause, flagrant and wanton. And, sir, I object to the taking up of such a resolution as this, for the very reason that it is expending the time of the Senate upon a subject-matter in which we can do nothing, and in reference to which I do not understand that the Senator from Kentucky has offered any bill, or is preparing to bring in any measure of legislation to remedy the evil of which he complains. I move, Mr. President, if it be in order, to lay the whole subject on the table.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The Chair would suggest that there is nothing now to lay on the table, the motion being to take up the resolution. The resolution itself is not yet before the Senate.

Mr. HOWARD. Very well, sir.

Mr. GRIMES. Mr. President, a gentleman who comes here accredited from the State of Kentucky as the representative of that State, rises in his place and says that two eminent men of that State have been arrested, he knows not by whom, he knows not for what purpose they were arrested, and he knows not whether they have been taken; and as a representative of that State he asks the Senate of the United States to institute an inquiry that it may be learned by the people of that State what disposition has been made of them. Now I say, sir, that it is the right and the duty of this Senate to give to the Senator from Kentucky the answer that he demands. We are not going to institute judicial proceedings, as the Senator from Michigan seems to indicate; we are not going to pursue any illegitimate or improper inquiry. The Senator from Kentucky representing his State says that two men in that State have been arrested, and he knows not for what they have been arrested. He says that they have been spirited away, and he knows not whether they have been carried. Is it not our duty to make some inquiry in regard to a question of that kind? Are we going to be entirely indifferent to the liberties of the people of this country? I am not sent here, Mr. President, for the purpose of sitting with my arms folded in silence and in quiet, and giving no vote in favor of an inquiry of this kind. I have no doubt that when the inquiry shall be pursued properly there will be a perfect vindication of the officers of the Government; I have no sort of question that these men were properly arrested, and after the statements that have been made here by the Senator from Kentucky, I am anxious that his resolution shall be adopted in order that they may be thoroughly vindicated, and I am satisfied that the inquiry will vindicate them; but if it be otherwise, if these men have

been improperly arrested, then it is the duty of the Senate to say so, and to put its seal of reprobation upon those who have thus improperly arrested them.

Mr. President, I trust that this Senate is not going to sit quietly by and, when charges are made here by a Senator representing a State, of arbitrary conduct on the part of any of the officers of this Government, refuse to make any inquiry because it is claimed that to do so would be a proceeding of a quasi judicial character. It is one of the prerogatives of this body to protect the liberties of the people of the States and the rights and interests of the States themselves.

Mr. DAVIS. Mr. President, I am well acquainted with both of the gentlemen who have been arrested; they are both strictly and eminently loyal to the country and to the Government; they both have commanded regiments in the service of the United States in the war to put down this rebellion, and Colonel Wolford served out the term of three years. In the course of his service he has been in upward of three hundred battles and skirmishes; he has received six wounds. He has by his command, the first Kentucky regiment of cavalry, captured more prisoners than any other command of the same strength in the war. He has rendered more service, and successful service, in enlisting soldiers in the Union Army than any man in the State of Kentucky, or, I believe, in the United States. There is no man more firm or unyielding in his support of the war, or in his opposition to and determination to put down this rebellion, than Colonel Wolford. I am at a loss myself to know where he is. I met with a gentleman who was with him in the car between Lexington and Covington, after his arrest, and when he was taken on in the custody of soldiers. He was not allowed to communicate with counsel; he was not allowed to communicate with a friend; he was not allowed to interchange a solitary word with any individual upon the car. I have been informed since that he is in utter ignorance of the cause of his last arrest, and that there have been no charges or complaints of offense or crime made or filed against him to justify that arrest. When he was arrested, he had been elected an elector for the State of Kentucky, for the State at large, in the presidential election. He was arrested without charge, without offense, much less without warrant or process, dragged forcibly from his residence, deprived of the opportunity of performing his legal office as an elector of the State of Kentucky, in casting the vote of that State; carried into imprisonment, where he is now secretly held, and no man, as far as I can learn, has been informed of any charge of any offense against the laws or against military rule or military orders that he has committed.

Now, sir, in relation to Colonel Jacobs: he raised a regiment of mounted men and served twelve months in the war. Both of them have served out their time and have received honorable discharges. Colonel Jacobs was in many battles; he was wounded two or three times; his blood flowed in this cause to support the authority of the Government of the United States. In addition to holding the office of colonel and discharging its duties with signal courage and ability on the battle-field, he also held the civil office of Lieutenant Governor of that State, and as such he presides over the Senate of the State of Kentucky. That Legislature is to convene on the first Wednesday in January. As my colleague has well remarked, this man was arrested under the same circumstances that Colonel Wolford was. He was dragged from his residence, he was denied all communication with friends or counsel or countrymen, and has been spirited away, and now is, nobody in Kentucky knows where.

That men of the character of these two gentlemen, holding their official positions, faithful and true to the Government and to the war, and who have rendered such signal and eminent service in the war, should be arrested under such circumstances, is one of the strangest among the strange features of this strange day; and, sir, when their case is brought before the Senate of the United States by resolution, in the terms offered by my colleague, simply asking of the Executive for information in relation to their arrest, by whose authority it was made, the charges or offenses that they had committed, their whereabouts at this time, that the Senate should pause an instant in

passing a resolution asking for such information, is stranger than the arrest and the imprisonment themselves. Sir, if any two negroes in America were arrested under the same circumstances and in the same manner, and were held in secret confinement as these two eminent men and patriots have been and still are, this Senate, a majority of its members, at least, would be glowing with the most virtuous indignation at the enormity of such acts, and would denounce, as they ought to denounce, any attempt to suppress all information in relation to the fact of arrest, the cause of arrest, and the place where the persons arrested were still held in imprisonment.

Sir, I trust that the resolution will pass. In our party zeal, in our efforts to sustain or to oppose this Administration, are we to lose all sense of human right, and of the liberty of the citizen? Are we to become demented by passion, or prejudice, or fury? Sir, a case could not be presented on the part of any individual, however humble, whether black or white, imprisoned under such circumstances, asking information in the terms of this resolution, that I would not feel it my especial and sacred duty to vote for. In asking for the passage of this resolution, we are not asserting the liberty of these two citizens alone, nor that of the white man alone, but we are attempting to uphold and to assert the universal liberty of the people of the United States. It would be monstrous, one of the strangest and most iniquitous exhibitions that the world has ever presented, if men arrested as these have been are still to be held in imprisonment, and no information, no light whatever, be thrown upon their arrest, its cause, or the place of their imprisonment. I hope that the resolution will pass.

Mr. HOWE. Mr. President, I beg leave to say that for one I do not believe the universal liberty of the citizens of the United States depends at all upon a resolution of the Senate, and therefore I do not believe with the Senator from Iowa [Mr. GRIMES] that it is any part of our duty as a Senate to vindicate the liberty of the citizens of the United States. I understand that the liberties of the citizens of the United States are already provided for and guaranteed by the Constitution of the United States and the laws which have been passed in accordance with that Constitution, and I believe that those liberties are entirely secure under those guarantees, and therefore I do not think that the passage or the defeat of this resolution will add anything to or abstract anything from the measure of the liberty we enjoy. Nevertheless I entirely concur in the advice that is given by the Senator from Iowa, and by the Senator from Massachusetts, that this resolution had better be passed since we are invited to pass it—not because any citizen of Kentucky will be safer after it is passed, or any citizen of any other State, but because it is said that certain citizens of the United States have been arrested and certain friends of theirs would like to know, they tell us, why they have been arrested, and if the resolution be amended as suggested by the Senator from Massachusetts, and the President of the United States, supposing he has any information upon the point, is notified that he is to consult the public interests before giving that information, I am entirely willing that he should be called upon to inform the friends of these gentlemen what is the occasion of their arrest.

It is said that that arrest is contrary to law. If it be so, what resolution of the Senate will make the arrest any more illegal? I do understand that the President of the United States, and every officer commanding in any department of the service, civil or military or naval, is bound by the laws of the United States; that he is a mere agent of the people acting within the sphere prescribed to him by existing law, and when he steps outside of those limits he is without any protection in whatever he does, just as much as if any one of ourselves, or any private citizen, did an act which transcended the laws of the land. But it is not for us to vindicate or enforce those laws. It is for us, in conjunction with other tribunals, to enact them. When they are once enacted, it is for very different and distinct tribunals to enforce and to apply them; and if we undertake to do these things, if we undertake to vindicate instead of declare, to protect by specific action the liberties of the citizen instead of declaring what shall be the liberties and the rights

of the citizen, we are usurpers as plainly and as clearly as it is said that those who have made these arrests are usurpers. If, therefore, it were conceded that these arrests were illegal, I really think it would not become the Senate of the United States to call upon the parties making the arrests to state why they had done it, or state the fact of their having done it, for thus we should make them criminate themselves if we had the power to enforce obedience to our resolution, and I do not understand that our laws require any man to criminate himself, either upon a resolution of the Senate or upon an order of a court.

But, because I do not believe this resolution if passed will call for any confession of guilt whatever, and because I am entirely willing that the friends of these gentlemen should be told the cause of their arrest, I think, as has been said by other Senators, we had better let the resolution pass. I believe myself it would have been vastly better if the country had been told specifically in the case of every arrest what the cause of it was. I do not assert that positively, because I do not know that it would not have resulted in laying before the country the story of so much conspiracy, the story of so much plotting, the story of so much of the most cowardly kind of treason that the world has ever witnessed, as would have done more to appall the country than all the open and declared treason, all the avowed and armed treason which we have been called upon to witness. There would have been just that mischief. That it would have laid before the country a vast amount of rottenness I do not doubt, from the little I know myself; but whether it was better to expose the whole or to keep part of it back, I shall not undertake to say; but believing in the sobriety, the wisdom, the integrity, and the purity of the American people as I do, and as all men ought to do after witnessing their action during the last summer, I am inclined to think that it would have been better to tell the whole story and let them see the truth for themselves. I think they would have known how to meet it and deal with it. We have not done this heretofore. My own private opinion is that we had better begin to do it now. So I think it is better to pass this resolution.

Mr. HENDERSON. I rise merely to express the wish that this resolution may be passed.

The PRESIDING OFFICER. The Chair will suggest that the resolution has not yet been taken up.

Mr. HENDERSON. Well, that it may be taken up and passed, I desire simply to make a remark. Either these two gentlemen have been properly or improperly arrested, as was very appropriately stated by the Senator from Iowa. If they have been arrested for cause, I apprehend that the President will be perfectly able to send the reasons to the Senate; and in doing that he will be able to satisfy the members of this body who are now dissatisfied, and in all probability a large number who are dissatisfied in the country in consequence of arrests for which no reasons are given.

Then, Mr. President, there can be no harm provided the arrests have been made for cause; but suppose, on the other hand, that these arrests have been made without any cause. I apprehend that the Senate has some right to speak; and if it should so turn out, as I have no idea it will turn out, because I do not believe these arrests have been made without sufficient cause, let us remember that the very same rule may be applied to any one of us tomorrow. If these gentlemen have been arrested without cause may not I be arrested, may not any member of this body be arrested and thrown into prison and there kept during the residue of this war? Why not?

I say the Senate has a perfect right to speak; and why should we not do so? How can it injure the Union cause to pass a resolution of this character? I apprehend that it will give pleasure to the President to assure the Senate that he has made these arrests for some cause and for some sufficient reason, if they have been made in consequence of orders from him. I live in a country where arrests are very frequently made, and where they are properly made, and where, unless they were made, every Union man in the State, in all probability, would be in danger of losing his life. I am not, therefore, so easily touched about arrests; I know the necessity for them; but I believe that in my own State thousands and thou-

sands of arrests have been made during this war that have done the Union cause an injury, and have done no good whatever. I am satisfied of it. Men are taken and thrown into prison; kept there perhaps for two or three weeks, and their friends and relatives create a very great disturbance in their respective neighborhoods, allege the fact that they have been Union men all the time, and that without cause or reason they have been thrown into the military bastilles of the country. It creates very great sympathy for the party who is imprisoned, and it does the Union cause, in the long run, no good whatever. They are generally kept for a short time and turned loose again, and then they are lionized in the community to a very great extent.

In my impression, the best way to treat the resolution, now that it is before us, is to pass it, and let us ascertain the cause of these arrests. As I have stated, it can do nobody any harm, and it may do a great deal of good.

Mr. President, if there is one thing throughout this broad land to-day that is interfering in a moral point of view with the prosecution of the present war, it is a belief on the part of a great many people that unlawful, illegal, and improper arrests are being indulged in to too great an extent. I do not say that such is the case, but we know that there is a great feeling pervading the country on that subject and in that direction. Now, I think that it is high time, it is the proper time, for us to look into it. It certainly cannot offend the President to ask him to give his reasons for the arrests. These are not men taken in arms; they are men who have performed distinguished service in defense of the country; they are citizens living at home, and one of them is an elector who has been chosen by his State to cast her electoral vote, and I presume in all probability he has not been able to cast the electoral vote of the State.

Mr. POWELL. That is so.

Mr. HENDERSON. I did not vote for General McClellan, and were it to be done over again I should vote as I did before, for Mr. Lincoln; but, sir, Kentucky had a right to vote for George B. McClellan if she desired to do so. Now, although every member of this body knows that it is not the desire of the Administration to arrest any man to prevent his casting his vote for its opponents, such charges may be made. I am satisfied that no such feeling actuates the President, and I further feel almost convinced that the President has not ordered these arrests, but they have been made by the military authorities without his knowledge and without his consent. Now, sir, would it not be better, under the circumstances, to let the resolution pass, and let us understand why these men have been arrested?

Mr. POWELL. Mr. President, it was not my purpose to take up the time of the Senate, and I shall now say but a word or two. I desire to return my thanks to the honorable Senator from Iowa for the speech that he has made. The speech of that Senator, in my judgment, was certainly well-timed, and he spoke as a Senator of the United States should speak when the constitutional and civil liberties of the people are involved. I would, sir, that the feelings which animate that Senator animated this whole body; and on the part of my State, and of these two distinguished and gallant soldiers who now languish in prison, I thank him for his speech.

I was amazed at the position taken by the Senator from Michigan and the Senator from Wisconsin, when they indicated that this is a kind of judicial proceeding which we are instituting here. I have always supposed, sir, that it was within the province of the Senate of the United States to inquire into the actions and doings of the officers of this Government when they are charged with casting down the liberty of the citizen. I thought that it was one of our prerogatives, and, indeed, a duty imperative upon every Senator and every Representative of the people, to inquire into such transactions. I do not suppose these gentlemen were arrested by order of the President of the United States; but whether or not I am right in that supposition I do not certainly know. They were undoubtedly arrested by the military authorities in Kentucky. I hope, and I believe, that the President of the United States gave no special order for their arrest; but about that I may be mistaken. Those who made the arrest were officers of the Government of the United States;

the President is Commander-in-Chief of the armies and is their superior. We certainly have the right, in defense of the liberty of the citizen, to inquire of him why men have been wrongfully and unlawfully deprived of their liberty by his subordinates. We owe at least that much to the liberty of the citizen; we owe it to ourselves as a legislative body, because when the President shall state the facts, if it shall appear from that statement that these officers of the Government have transcended their authority, and have, without constitutional or legal warrant, trampled upon the civil liberty of the citizen, it may then be our duty by legislation to apply the corrective and to pass laws punishing those who thus trample on the dearest rights of freemen.

The Senator from Wisconsin says he is not so much in favor of "universal liberty," perhaps, as my colleague. I had supposed that that gentleman was very much in favor of universal liberty.

Mr. HOWE. The Senator misunderstood me if he understood me to make any such remark.

Mr. POWELL. I stand corrected.

Mr. HOWE. Universal liberty is a pet of mine.

Mr. POWELL. I was about, however, to reply to the Senator that perhaps his sentiments would be a little governed by this consideration: if some of his friends were arrested, he might change his notions. The Senator from Missouri, the Senator from Iowa, and others have said that they believe that when the facts shall be made known to us by his Excellency the President, the military authorities will be vindicated for these arrests. That may be, but I do not think it will be so. I believe that these gentlemen have been arrested wrongfully. They were certainly arrested without warrant as prescribed in the Constitution and laws of their country, and I know them well enough to know that if they are charged with any crime or offense, all they want is to be brought before a legally-constituted tribunal and tried. As a personal and political friend of Lieutenant Governor Jacobs and Colonel Wolford, I court the investigation. They are Christian gentlemen; they are men of ability; they are men of honor; they are brave men, and they have attested their valor on many a well-fought battlefield. Such men cannot be guilty of crime; and I will say here for them, as their friend and as their representative, that all they ask is to meet their accusers face to face. If they are charged with any offense, take them before the constituted tribunals of the land, try them, and, if they do not make their innocence manifest, punish them. It is the duty of the Government which arrests them to do that. If they are innocent, it is a crying shame that they should languish in prison. One of them we know to be in close confinement; we know not where the other is; he was ordered through the lines, and it was said in the newspapers that the confederate authorities refused to receive him, and he was brought back again, and where he is now we do not know. He is the second civil officer in the government of Kentucky, and he ought to be there to attend to his official duties.

These gentlemen, when they were arrested, were both citizens. Though they had been in the Army, and had rendered distinguished service, they were both out of the military service and engaged in civil pursuits. One of them, as I before said, was Lieutenant Governor of the State, and the other had been but a few days before his arrest chosen one of the electors on the McClellan presidential ticket; but he was thrown into prison and not permitted to exercise the functions of the office to which an overwhelming majority of the people of Kentucky had elevated him.

Sir, I did not expect that any opposition would be made to this resolution in the Senate Chamber of the United States. I had supposed that here at least there was still left some lingering love for the constitutional and civil liberties of the citizen. I had supposed there was still some regard felt here for those who, during this rebellion, had periled their lives in the Union cause in a hundred battles. Everybody knows that for more than two years Wolford's name was synonymous with deeds of noble daring. He was in the front for all that time, and he has fought in more than a hundred battles and skirmishes. Jacobs, too, was in the field, and he bears to-day upon his person wounds received

in the gallant charges that he made upon the confederates. That such men as these are arrested without warrant and without charge, so far as they or their friends know, and one sent we know not where and the other left to languish in close confinement, is, in my judgment, a crying sin and a shame. Let us pass this resolution and call the matter to the attention of the President; let him look into the action of his subordinates, and if he finds that true and good men have been wrongfully dealt with, let him set them at liberty, and punish the guilty official who deprived them of their liberty. If he finds that there is reason to suppose them to be guilty of any offense, let him hand them over to the legally-constituted tribunals to be tried, convicted, and punished. But, sir, as their friend, I fear not investigation; I court it; for I know that whenever Wolford and Jacobs are allowed to be tried by any just and honorable tribunal they will come out unsathed, and their reputation will be hereafter, as it has been heretofore, that of men of honor, of dignity, of courage, and of ability. They are really above suspicion with all honorable and patriotic men.

Mr. JOHNSON. Mr. President, I take for granted, from the indications we have had, that this resolution will be called up and passed; and I concur in thinking that it is all-important that inquiries of this sort should be made, because in point of fact very great injustice has been done in the past, and is now being done. I believe, however, that in those cases the President has had no participation whatever. The misconduct, where there was misconduct, has been the act of his officers, his subalterns; and, as far as I am advised, in the general, whenever the matter has been brought before him, he has applied the proper remedy.

Congress passed, some two years ago, I think, an act which was intended to put an end, in a measure, to the principal injustice which was the result, and sure to be the result, of these military arrests; and in all cases, as provided for by that act, where the parties were not liable to military control, the persons charged were to be handed over to the civil tribunal, and if an indictment was not found within a limited period they were to be discharged. I speak knowingly when I say to the Senate that that law has been altogether disregarded in Maryland, and that it has equally been disregarded within this District. Men without number have been arrested, and have been handed over, not to the civil tribunals for trial, but to military commissions, and have been convicted and sentenced to the penitentiary, and are now, some of them, suffering under those sentences. These military gentlemen—I speak not of the President of the United States—seem to think that they are under no obligation at all to observe the civil laws; not only not bound to observe the laws of the States where they happen to be located at the time, but not bound to observe the laws of Congress; and they not only assume jurisdiction, but I know, if I know anything of law, that they have from time to time, and indeed constantly, convicted upon evidence that would not be received in any court of civil justice in the country.

But I rose more especially to state a case which will show the Senate the great extent to which this usurpation of authority has been extended. At the late election in Maryland, when the question before the people was whether the constitution framed by the convention who had that subject under their consideration should be adopted by the people or not, a gentleman of Caroline county, Union from the beginning of this civil strife and Union still, offered to vote, and took the oaths prescribed, every one of them, answered every question propounded to him, but was refused, and he sued the judge of election, as he had a perfect right to do. The military commander in Baltimore, by some persons immediately in the neighborhood where the fact occurred, being informed of it, the gentleman was arrested, having committed no offense at all unless (if that be an offense) suing the judge for refusing to receive his vote, brought to the city of Baltimore, thrown into prison, and I believe is there still. He was not only thrown into prison and kept in prison, but his friends were not permitted to see him, and have not been permitted, as I believe, since to see him.

That is one case. The last election in our State for members of our Legislature resulted in the

choice of a majority of citizens who were called Democrats. There was a majority of two in the Senate of Maryland. One of them, elected from one of our counties, said to be a timid man, was threatened with arrest if he did not resign, and he resigned. But that left a majority still. In the county of Somerset, where a Democrat was elected, receiving a majority of between three and four thousand votes, he received a very polite letter from the general in command, asking him in substance whether he thought it was right that he should take his seat in the Senate of Maryland, as he had raised a rebel flag in April, 1861, upon his own premises. He replied to it—I have the reply by me—courteously, denying the charge, protesting that it was altogether false, asking permission to satisfy the major general that it was false, saying that he would come up at any moment in order to lay before him the proofs which he said he had to establish the fact of its falsehood; and the reply to the request was a file of soldiers and his arrest; and he was brought to the city of Baltimore, thrown into the most loathsome dungeon, which had formerly been used as a mere slave pen, without bed-clothing to lie upon, and the next day, without investigation and opportunity for defense, he was sent South by order of the major general.

Mr. POWELL. Will the Senator from Maryland allow me to ask who that major general was?

Mr. JOHNSON. Major General Wallace. The President was informed of it, and at the time he was informed of it he was told that the order had not been executed. He immediately sent a dispatch requesting that nothing more should be done, and the answer to the dispatch was that the man had been sent South already! Now, whether he was guilty of raising the rebel flag in 1861 or not, I have no personal knowledge; nor have I any personal knowledge of the gentleman himself; but he is represented to me to be a man of the highest possible character, a man of unimpeached integrity, and whose word would be taken by everybody who knows him.

I have no doubt that General Wallace has acted under the impression that he was discharging a duty; representations have been made to him upon the faith of which he has acted; but in his desire to perform his duty, and to rid Maryland of those whom he supposed were traitors, he forgot that every citizen of Maryland has a right to be heard when he is charged with an offense.

It may be, Mr. President, that upon the ground of military necessity in the beginning of this dreadful war, aiming as it did at the very life of the nation, these arrests were unavoidable; but, thank God, it is not so now; thank God, it seems now to be approaching its end, and the end will be the restoration of the Union; but let the Senate of the United States, if upon reasons of military necessity they have heretofore refused to interfere, say now that in suppressing the rebellion they mean to preserve the rights of the loyal citizens. The case to which I have adverted is now under the examination, as I understand, of the President of the United States; and I have confidence in him as a lawyer and as a humane man, as one willing, to the extent of his knowledge, to maintain the rights of the citizen, and as a man anxious, as much as any other man living, to execute justice in mercy, that he will see that no possible harm shall fall upon a citizen of Maryland without cause.

Mr. HOWE. Will the Senator from Maryland allow me to ask what power the President of the United States has to redress the wrong which he says has been committed against the rights of this citizen of Maryland?

Mr. JOHNSON. Take him out of prison—discharge him.

Mr. HOWE. Will the Senator allow me to inquire if that is redress?

Mr. JOHNSON. Redress! It is not ample redress. It is the only redress in the power of the President. There is another mode of redress: to sue the wrong-doer—the only way to obtain full indemnity if he happens to be able to meet the proper indemnity. But if my honorable friend himself were thrown into a loathsome prison, and he were by himself or his friends to apply to the President of the United States to take him out, I suppose he would have no doubt that to a certain extent the taking of him out would put an end to the injury done him, would be a redress.



But, Mr. President, I was about to say with reference to the honorable member from Michigan, as well as to the one from Wisconsin, that information of that sort is necessary in order to satisfy the Senate whether it is not important, if the laws as they are now upon the statute-book are not sufficient to meet the exigency, to provide for it by further legislation. We cannot know what the mischiefs are in any other way as authoritatively as we may know it when the President shall send an answer to a resolution of this description. Suppose the President states a wholly unjustifiable cause for keeping these parties in prison, will it not be the duty of the Congress of the United States, the Senate being a component part of the legislative department, to pass a law to cover such cases in the future? And if the President—I mention it by way of supposition, hypothetically, with no idea that the President will ever be guilty of an offense of that description—if the President shall think proper to violate such a law, then the Constitution furnishes a mode by which the people of the United States can redress the wrong—impeachment, trial, conviction, and dismissal from office.

Mr. President, it is very strange that at this time of day, after we have been, up to the beginning of this rebellion, the freest people upon the face of God's earth, protected by every guarantee deemed at all material to secure individual liberty, we should be seriously disputing whether it is in the power of the Executive of the United States, or anybody professing to act under the authority of the United States, to seize a citizen, and incarcerate him, and punish him without trial. Why, sir, if such a doctrine was announced in the House of Commons, in England, or in the House of Lords, it would strike with dismay and astonishment the men who are entitled to the privileges and the rights of Magna Charta; and our rights are just as extensive, if not more extensive. Let us then say to the President, if it be necessary to say it to him, but above all, let us say it to those who are acting in subordinate capacities under him, "Your arms shall not be laid upon a single American citizen without cause, and he shall be at liberty, if you assign a cause, to prove its falsehood."

Mr. WILSON. I hope we shall now take a vote on this question.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the order of the day for the purpose of taking up the resolution which has been indicated.

The motion was agreed to—ayes thirty, noes not counted.

The PRESIDENT *pro tempore*. There is an amendment offered by the Senator from Massachusetts, [Mr. Wilson,] which is the pending question, to insert after the word "Senate" the words "if not in his opinion incompatible with the public interest;" so that the resolution will then read:

*Resolved*, That the President be requested to communicate to the Senate, if not in his opinion incompatible with the public interest, all information in his possession bearing on the arrest and imprisonment of Colonel Richard T. Jacobs, Lieutenant Governor of the State of Kentucky, and Colonel Frank Wolford, one of the presidential electors of that State; particularly by whose order they were arrested and imprisoned, where they are at present confined, and what offenses are charged against them.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1854, was read twice by its title, and referred to the Committee on Finance.

#### COMMITTEE SERVICE.

The PRESIDENT *pro tempore* announced the following appointments to supply vacancies in committees:

Mr. DIXON as chairman of the Committee on the District of Columbia; and Mr. HALE to fill the vacancy in the Committee on the Judiciary.

#### MANUFACTURE OF BUNTING.

Mr. SPRAGUE. Mr. President, I rise to submit a motion, but before doing so I ask leave to read an extract from the report of the Secretary of the Navy:

"The chief of the Bureau of Navigation submits the

usual reports of the Naval Observatory, Nautical Almanac office, and the general administration of his department. Nearly all the nautical instruments used in the Navy, which, prior to the war, were procured abroad, are now of American manufacture, not excepting chronometers and comparing watches. The same gratifying advance cannot be stated with reference to material for flags, as we still sail under foreign bunting. Notwithstanding the large quantity used by the Army, the Navy, and the commercial marine, scarcely any progress has been had in inducing American establishments to undertake its manufacture."

My motion is that so much of the report of the Secretary of the Navy as relates to sailing under foreign bunting, and so much of the President's message and its accompanying reports as relate to the manufactures of the country, be referred to the Senate committee on that subject.

American nationality, it will be observed, is recognized and defended under a banner the materials of which are fashioned by the skill and labor of a people who are our only rivals, and whose Government, participating in the doubtful honor with one other, is believed to be our greatest and most dangerous enemy.

Be that belief well or insufficiently grounded, I concur with the views expressed by the Secretary, and I partake of his feeling of dissatisfaction in the failure to induce American citizens to produce materials for the manufacture of the flag of our country.

This sentiment cannot but animate the breast of every Senator. It must have a place in the heart of every American, whether born upon its soil or naturalized into its interests.

Should not the hope be coupled with a resolution that when the next annual report shall be presented to the country our flag will be wrought into its beautiful proportions upon American soil, by heads and hands which are true to the great principles it represents, true to the heroic dead, and to the brave heroes now banded under its folds, and true to the soil, every foot of which, God helping, will soon acknowledge its original sway?

It has become far dearer, far more sacred to loyal hearts, by the great deeds and greater sacrifices which have been offered up under it at the shrine of democratic liberty and republican government. Let it come to us free, free from even the atmospheric contact of a people not pledged to progress and a better civilization; a people not yet freed from decayed aristocracies or modern despotism. I disclaim all sentiment, yet I do not believe but that our victories will be more triumphant, our peace more permanent, if every fiber of our flag is handled in its construction by brave men and fair women, whose prayers will ascend to a just God to defend it; and while it rests in their hands it may gather some of the strength, resolution, and devotion of a great people, which when it must be laid the hour of strife may better inspire its defenders to braver deeds and stronger resolutions in support of the greatest of human struggles.

The PRESIDENT *pro tempore*. The order of reference will be made if there be no objection.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 358) to establish the grade of vice admiral in the United States Navy.

The message further announced that the House had passed a bill (H. R. No. 622) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864; in which the concurrence of the Senate was requested.

The message further announced that the House non-concurred in the amendments of the Senate to the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, asked a conference with the Senate on the disagreeing votes of the two Houses, and had appointed Mr. THOMAS D. ELIOT of Massachusetts, Mr. WILLIAM D. KELLEY of Pennsylvania, and Mr. WARREN P. NOBLE of Ohio, managers on its part.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 380) for the relief of George W. Murray; which thereupon received the signature of the President *pro tempore* of the Senate.

#### FREEDOM TO SOLDIERS' FAMILIES.

Mr. WILSON. I now move to proceed to the consideration of the joint resolution which was the special order of the day.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States, the pending question being the motion of Mr. DAVIS to refer the joint resolution to the Committee on the Judiciary.

Mr. DAVIS. Mr. President, I would like the Senator from Minnesota, [Mr. WILKINSON,] or any Senator who is a lawyer, and who supports this measure, to inform us of the clause in the Constitution that invests Congress with the power to pass it. I will read two or three lines of the resolution:

*Resolved, &c.*, That, for the purpose of encouraging enlistments and promoting the efficiency of the military and naval forces of the United States, it is hereby enacted that the wife and children, if any he have, of any person that has been, or may be, mustered into the military or naval service of the United States, shall, from and after the passage of this act, be forever free, any law, usage, or custom whatsoever to the contrary notwithstanding, &c.

I want to know what provision of the Constitution confers on Congress the power to pass such a measure. If my friend from Minnesota will answer that question at the present time I will with pleasure give way that he may respond.

The Congress of the United States is not clothed with plenary legislative power. The whole Government is a Government of delegated powers, and Congress can pass no law whatever on any subject unless it has the power delegated to it by the Constitution. That position no gentleman who has any, the smallest, pretensions to legal reading will deny. Congress, though, has two classes of powers. The first are those which are delegated to it by express language. They are enumerated in the instrument, such as to lay and collect taxes, borrow money, regulate commerce, establish a uniform rule of bankruptcy, raise and support armies, &c. Unless the words of the Constitution express or import a power to pass a law, Congress has no power whatever to pass it, except under another clause of the Constitution, which I will read:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

This clause of the Constitution establishes a large and undefined class of legislative powers, which by Chief Justice Marshall and other judges of the Supreme Court and jurists generally are termed the incidental powers of Congress. Now, sir, I deny that there is any express enumerated power given by the Constitution to Congress which authorizes it to pass this measure, and no Senator can produce a clause of the Constitution that confers the power in terms, or by language which imports such a power.

We are driven, then, to this conclusion: that if Congress have the power to pass this resolution it is under the clause which vests Congress with the incidental powers to pass all laws necessary and proper to carry those which are expressly enumerated into execution. Does that clause vest Congress with the power to pass this measure? I maintain that it does not; and why? Because the exercise of that power in this particular case would be in direct conflict with express provisions of the Constitution which guaranty the rights of property to the citizen.

The fifth amendment of the Constitution, which has been quoted countless times within the last two or three years in this body, I will advert to again, and will read:

"Nor shall private property be taken for public use without just compensation."

Now, sir, I state this principle, that where there is a right secured to the citizen by the express language of the Constitution, that right cannot be destroyed or impaired by any implication or by any incidental power which Congress may claim or attempt to exercise. I lay down that proposition in accordance with the opinion of Chief Justice Marshall in the case of *McCulloch vs. The State of Maryland*. I will read a short paragraph from that opinion:

"We admit, as all must admit, that the powers of the

Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in a manner most beneficial to the people. Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

I concede this principle, that where there is an express power to be executed by Congress, any incidental power appropriate to the execution of that express primary power which is not prohibited by or which is not in conflict with the letter or the spirit of the Constitution, may be adopted as an auxiliary power; but, on the other hand, I maintain as a principle of constitutional law not to be shaken, that where the incidental power claimed is in direct conflict with an express provision of the Constitution, with a right of the citizen expressly guaranteed by it, according to the principle laid down by Chief Justice Marshall, such incidental power is unauthorized by the Constitution, and Congress has no power to adopt it. This principle clearly forbids the passage of the pending resolution. It proposes to set free the wife and children of all negro soldiers who have heretofore, or who may hereafter, enlist into the armies of the United States; to take such property from their owners, not to be put into the service, not to be applied to any public use; although the Government has no power to take private property except for public use, with a positive prohibition to take it for the public service without just compensation to the owner.

I concede that Congress has the express power to raise armies; as an incidental power, can offer bounties in the form of money and land to persons that will enlist in the military service. Why has Congress the power to resort to this incidental means of promoting enlistments in aid of the execution of that great and primary power of raising armies? Because there is nothing in the express provisions or the spirit of the Constitution, there is no right expressly guaranteed by it to the citizen, that comes into conflict with the exercise of the incidental power of offering such bounties. But the pending is altogether a different measure. There are express clauses of the Constitution which guaranty to every citizen his rights of property, one of which clauses declares that he shall not forfeit life, liberty, or property except by due process of law, and another, that private property shall not be taken for public use without just compensation, that would be directly and to the extent of a large amount of property infringed by it.

Mr. President, the only seeming color of authority on the part of Congress to pass this measure is to promote enlistments in the Army. It presents some analogy to the power of Congress to offer bounties for that purpose. It may be considered as in the nature of a bounty. But the exercise of a power by Congress to offer a bounty in any form is not an express power of Congress, but it is one of its incidental powers, and cannot be exercised or executed in any form so as to abrogate or impair the right of any kind of property.

Now, sir, I might, if I chose, offer an amendment to this joint resolution in something like these terms:

And whereas the State of Massachusetts has had much travail in her efforts to raise her quota of troops to put down the wicked rebellion, and in her great stress she sent agents into many States, both rebel and loyal, to enlist negroes; and into foreign countries to contract with the subjects of alien Governments to become substitutes for her own citizens in the armies of the United States; and whereas some of her sons in high places had a strong disposition, though not quite enough of stomach to do battle in this holy war, whereby much of humiliation, sorrow, and remorse came upon the old Bay State: Now, for remedy thereof, and to encourage enlistments in that State, and to cause the highways and the alleys to swarm with her patriotic sons marching on to put down this accursed rebellion,

Be it further enacted, That any and all persons of the proper military age, who will enlist into and as part of the Massachusetts troops, to serve in the United States Army for the term of three years or during the war, shall after such enlistment, and on so electing and declaring, become a full and equal partner, associate, or incorporator with any individual or individuals, partners, company, corporations, or other associates whatever in said State, whose pursuit and business is or may be banking, brokering, merchandising, shipping, trading, fishing, manufacturing, house-building, ship building, of whole or component parts, or making or fabricating anything whatever, whether by hand or by machinery, or by whatever power, agency, or means; such enlistment entitling every person to elect and determine

for himself with what individual or individuals, firms, partnerships, corporations, or other associations, in any form whatever he may attach himself; and thereupon to become as fully interested in all property and estate, real or personal, money, debts, stock, machinery, and every interest and right connected with such business as though he were an original partner, corporator, or associate.

I ask you, sir, if an amendment like that were offered to this joint resolution, would it not have as much and more effect to encourage enlistments in Massachusetts than this joint resolution will have anywhere? Can any man doubt that the prediction of the Governor of Massachusetts, that if a certain measure was adopted by the President of the United States the highways and the alleys would swarm with her patriotic soldiers rushing to the Army, would be realized, and more than realized, if an amendment like this should be adopted as a part of this joint resolution? A proposition authorizing any man who enlisted into the service in Massachusetts, upon the fact of so enlisting to be thereby and thereupon entitled to associate himself as a partner with any individual, firm, partnership, corporation, or association whatever, and to become equally and fully interested in all the estate, property, and means of that individual, firm, partnership, corporation, or association, would be a measure eminently calculated to encourage enlistments. Pass such a measure as that, and its efficiency in calling troops into the military service of the United States would be manifold more operative and successful than the measure under consideration. So far as you waive objections to its constitutionality and its justice, so far as you consider it as a practical measure only, to encourage enlistments, no man can doubt its eminent efficiency.

Sir, why should not this be adopted as an amendment to the pending measure? It also would be a war measure—a measure calculated to fill up the ranks of our Army, to increase its numbers and efficiency, and to bring the rebellion to a more speedy close. In all of its practical operations and results it would be signally an effective war measure. What objection can be made to it? No possible objection except those which I make to the present measure.

I concede that Congress has not the power to pass such a measure as is expressed in this supposed amendment, because of the objections that I have urged to the measure itself. It would be in conflict with the rights of property of the people of Massachusetts guaranteed to them by the Constitution, and it would be flagitiously unjust; but in neither respect would it be more flagitiously unjust.

Indeed, any objection that may be made to the proposition which I have just read can be made with more truth and force in principle to the measure under consideration. The great and principal effect of this resolution would be in Kentucky, and upon her people I presume it is intended. In 1860 we had two hundred and twenty-five thousand four hundred and eighty-three slaves in that State. In my own county we had six thousand seven hundred and sixty-seven. I have no doubt from the number of enlistments that have been made from the slaves of Kentucky that three fourths of that population fit for military service are now in the Army or some employment of the United States. That such is the proportion in my own county I do not entertain a doubt. The military portion of that population in the county of Bourbon was something the rise of six hundred before any of them were recruited. By actual enumeration about six hundred of her slaves have already attached themselves to the Army. They were recruited without any regard to order, form, or principle. The whole object seemed to be to demoralize the institution, and to get every slave man who could be seduced to join the service by any mode of operation whatever, to do so. They sent their recruiting agents, foreigners principally, mostly Dutchmen, all over the county, and pretty well over the State. They received and enrolled every slave negro who could be inveigled to give his consent. Some that were over age and some that were not proper military material because of disease, and females disguised in male clothes, were admitted. At least three fourths of the slaves suited for military service in that county have already attached themselves to the Army. They have enlisted, and they now belong to the armies of the United States, as much so as if their wives and their children were declared to be free.

Pass this measure, and its application would not be to one fourth of the male slave population of Bourbon, or, I believe, of the State of Kentucky to be enlisted, but would be mainly upon those that are now in the military service by freeing their wives and children.

What, then, is the object of the measure? It is not much to encourage enlistments. We have already sent more than our proportion of negroes to the field. We have but a small remnant yet remaining. The measure does not propose to be limited to those who have not enlisted and who may yet be enlisted, but it proposes to comprehend those who have enlisted as well as those who may hereafter enlist. The object is to deprive slave owners of their property; it is still further to demoralize the institution; it is to break it up *per fas aut nefas*; it is utterly to disregard the Constitution and the laws which secure equally with every other this description of property to their owners, and trample them under foot, lawlessly, unjustly, without answering any wise policy of the Government, and utterly to destroy slave property.

Is the Senate going to lend itself to the passage of such a measure? Before doing so, ought it not to ask seriously and gravely whence is its power to pass so extraordinary a measure?

Sir, the precedents of to-day become the law of to-morrow. The precedents that are set and established by one party are transferred to its successor, and by its successor they are taken up and enforced as law against those who have made them. Are the members of the Senate ready to have this poisoned chalice which they are now concocting and mixing for other lips tendered to their own? Sir, there is a retributive justice even in human affairs. The wrongs and iniquities which one party in power perpetrate upon another out of power sooner or later return to plague themselves. That law of retribution is tardy, but it is certain; it comes sooner or later. Would to God it could come with more promptitude and with full measure in every case.

Sir, I do not contend for this great principle, the inviolability of private property and the guarantee which the Constitution makes to its owner, for myself or the people of my own State alone, nor for this generation alone. It is a great and enduring principle of right and of just and enlightened government. It is one of the principal ends for which government is formed, and no Government that essentially and continuously violates it could ever receive the permanent support of a free, enlightened, and virtuous people.

What does this joint resolution propose to do? Utterly to disregard this great fundamental principle of the Constitution, this guarantee of the right of property to the citizen. Sir, property may be taken from the citizen by the Government in two modes. It may be taken in the form of taxation or in the exercise of the power of eminent domain. In the first place, wise legislation aims at equality, and makes the law imposing the tax bear upon the people as generally, as equitably, and as impartially as possible. But whenever property is taken from a citizen by the exercise of the power of eminent domain, that citizen is asked to contribute to the public service something more than the rest of the citizens are required to render; and there is not a decision in any of the courts of the United States, or in any of the States, upon this point, in relation to taking property from the citizen in the exercise of the power of eminent domain, but what expressly lays down the principle that it is his right to receive a full and fair compensation for his property thus taken. Nearly every State in the Union has decided and maintained that principle; yea, more, they have gone on and decided, further to fortify that sacred right of property, that the citizen cannot be deprived of the possession of his property without payment of its full and fair price, or without that price is then secured to him. This loose practice of the Government from its foundation, to take property upon its own valuation, or even upon the valuation of a court or commissioners, and to make no arrangement, no provision, by law or otherwise, to secure to the owner the value of the property, is an unauthorized and an unconstitutional exercise of power.

Sir, this position will not be controverted by any man who has legal learning at all respectable: that this provision of the Constitution secures

not only the right of property, but the possession of the property to the citizen, and that the right of the citizen to this property is not divested, and cannot be divested, unless he receives full compensation for it, or unless that full compensation is secured to him before the property is taken. Whenever there are courts in this country sufficiently enlightened, impartial, and firm, to administer the constitutional principle, they will decide that it is the duty of Congress to pass laws, having general application to every case where private property is or may be taken for public use, to pay, or to secure to the owner of that property before he is forced to part with the possession, its full and fair value. If I had time I could adduce a dozen cases from courts, running from Massachusetts to California, establishing that principle, and establishing in addition that unless these conditions be complied with, the chancellor will issue his injunction to hold the owner of the property in his possession and to prevent it being taken from him. Is not that the law of the Constitution? Is it not the law of reason and justice? What objection can there be made to it?

Why, sir, has Congress the power to pass any law that in its judgment would promote the efficiency of the Army and help to bring this war to a speedy and successful close? Why then does not Congress pass a law to seize all the money in the banks of the United States? Why does it not pass a law authorizing its military officers to go abroad through the land to gather up according to their discretion and power all the necessary supplies for the Army? Why does it not pass a law authorizing the President, by his will and by his dictum, to conscript any or all the military population of the United States?

Mr. President, the views that I have here offered, I think, establish conclusively the propriety of the Senate referring this joint resolution and the proposition that I have read in connection with it as instructions to the Committee on the Judiciary, that we may have the benefit of a report of that committee in relation to the question of the constitutionality and validity of this measure if Congress should pass it.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, in which the concurrence of the Senate was requested.

#### FREEDMEN'S BUREAU.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, disagreed to by the House of Representatives; and on motion of Mr. SUMNER, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SUMNER, Mr. HOWARD, and Mr. BUCKALEW.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 623) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864, was read twice by its title, and referred to the Committee on the District of Columbia.

#### EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 20, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### APPOINTMENT OF COMMITTEES.

The SPEAKER stated that Mr. PRUYN, having been placed upon the Committee of Ways and

Means, asked to be excused from further service on the Committee of Claims.

There was no objection; and it was ordered accordingly.

The SPEAKER then appointed Mr. TOWNSEND to fill the vacancy on the Committee of Claims.

The SPEAKER also announced the following as the select committee on pensioners:

MESSRS. GRISWOLD, WHALEY, PERHAM, WASHBURN of Massachusetts, MILLER of Pennsylvania, HUBBARD of Connecticut, and ROSS.

#### PRISONERS OF WAR.

Mr. ROLLINS, of New Hampshire. I ask the unanimous consent of the House to submit the following resolution:

Whereas, the Government of the United States has treated rebel prisoners of war with the utmost care, retaining them in suitable and healthy places of confinement, supplying them with ample rations of the best and most nutritious quality, attending them with skillful medical treatment and care in cases of sickness and wounds, and affording them every proper facility for improving their condition and alleviating their imprisonment; and whereas the rebel authorities have confined Union prisoners in unhealthy and loathsome prisons, and in pestilential camps without shelter; have furnished rations scanty and unwholesome; have neglected to furnish suitable medical attendance; have withheld from them clothing, provisions, and money sent to them from their friends at home, so that thousands have died from starvation, and contagious and other diseases caused by such barbarous neglect and maltreatment; and this notwithstanding the continuous and earnest efforts of the Government of the United States to procure an alleviation of their sufferings while in imprisonment, or a just and equitable exchange: Therefore,

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law, if such treatment of Union prisoners is persisted in, for confining rebel prisoners in our hands in such prisons, and allowing them such kind and quality of rations, as may be adopted by the rebel government, to the end that the rebel authorities may be thereby compelled to treat the Union prisoners in their hands according to the rules and usages of civilized warfare.

Mr. COX. I do not wish to object to the resolution of the gentleman from New Hampshire, but he will remember there is now pending a resolution calling upon the Secretary of War for all correspondence in reference to the exchange of prisoners. It was offered by myself the other day, and was laid over. I should like to see that correspondence before voting, although I believe the resolution of the gentleman to be eminently correct.

I was loth to believe, sir, that such barbarities were practiced by the rebels upon our prisoners, but I do know that the asseverations of the gentleman in that resolution are true, and that some action is demanded in the name of humanity on behalf of our prisoners. I should prefer to see a wholesale exchange of them. We tried again and again in this House—

Mr. ROLLINS, of New Hampshire. I do not yield for the purpose of debate.

The SPEAKER. Does the gentleman from Ohio object to the resolution?

Mr. COX. I do not.

The resolution was adopted.

Mr. ROLLINS, of New Hampshire, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL REVENUE STAMPS.

Mr. THAYER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law, that instruments required by the one hundred and fifty-first section of said law to be stamped, but which have not, through inadvertence or other cause, been stamped at the time of making or issuing the same, may, upon the payment of a proper penalty, be subsequently stamped and thereby rendered legal and valid; and that they leave to report by bill or otherwise.

#### BOUNTY LAND.

Mr. HOLMAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of setting apart a portion of the public lands for the benefit of such soldiers of the United States as have been, or shall be, permanently disabled during the present war, and whose circumstances may require the generous aid of their country, by granting to the several States such lands, the proceeds of which shall be applied to the exclusive benefit of said soldiers, either in founding homes for them in their respective States, or otherwise, as the several State Legislatures may determine, and shall report by bill or otherwise.

#### VICE ADMIRAL.

Mr. RICE, of Massachusetts. I ask unanimous consent to report back from the Committee on Naval Affairs House bill No. 606, to create the grade of vice admiral in the Navy.

Mr. COX. I object, and call for the regular order of business.

J. C. CARTER.

Mr. SCOTFIELD. I ask leave to offer a joint resolution for reference.

Objection was made.

Cries of "Regular order!"

Mr. SCOTFIELD. I want to let the parties go home. There will be no objection to it, I am sure.

Objection being withdrawn,

Mr. SCOTFIELD introduced a joint resolution relative to J. C. Carter, captain in the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

Mr. SPALDING. I now demand the regular order of business.

#### BUREAU OF FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business is the consideration of the Senate amendments to House bill No. 51, to establish a Bureau of Freedmen's Affairs, which was postponed from the last session to this day.

Mr. ELIOT. This bill was returned from the Senate with a great variety of amendments. I am instructed to move that the House non-concur in the amendments of the Senate, and ask a committee of conference.

Mr. PENDLETON. I would like to hear the amendments read.

Mr. ELIOT. I believe they were read before the adjournment at the last session.

The SPEAKER. The impression of the Chair is that they have not been read—that the reading was suspended at that time.

Mr. COX. How does this bill come before the House?

The SPEAKER. It was passed by the House, came back from the Senate with various amendments, and was postponed until to-day.

Mr. PENDLETON. Have the amendments been printed?

The SPEAKER. The Chair is not informed.

Mr. SPALDING. I would suggest the propriety of having them printed.

Mr. ELIOT. The amendments have all been printed, and are in the form of a new bill attached to House bill No. 51.

The amendments were to strike out all after the enacting clause, and insert the following:

That an office, to continue during the existing war, is hereby created in the Treasury Department, to be called the Bureau of Freedmen, meaning thereby such persons as have once been slaves, under the care of a Commissioner, with an annual salary of \$4,000, who shall be appointed by the President, by and with the advice and consent of the Senate; and there shall be a chief clerk, acting also as disbursing officer, under bond to the United States for the faithful discharge of his duties, with an annual salary of \$2,000, and also such number of clerks, not exceeding two of each class, as shall be necessary, all of whom shall be appointed by the Secretary of the Treasury.

Sec. 2. And be it further enacted, That the Commissioner shall have authority, under the direction of the Secretary of the Treasury, to create departments of freedmen within the rebel States, not to exceed two in each State, so far as the same may be brought under the military power of the United States; and each department shall be under the supervision of an assistant commissioner, with an annual salary of \$2,000, under bond as required by the chief clerk, to be appointed by the President of the United States, with the advice and consent of the Senate, and with authority to appoint local superintendents and clerks, so far as the same may be needed, not, however, to exceed four in each district, at a compensation not exceeding \$1,500.

Sec. 3. And be it further enacted, That the military commander within any department shall, on the application of the assistant commissioner thereof, supply all useful military support in the discharge of the duties of such assistant commissioner, unless there are controlling military reasons for withholding the same; and any military commander may be appointed assistant commissioner, without increase of salary.

Sec. 4. And be it further enacted, That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments, and it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty. And every such freedman shall be treated in every respect as a freedman,



with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

SEC. 5. *And be it further enacted*, That the assistant commissioners shall have authority, under the direction of the Secretary of the Treasury, within their respective departments, to take possession of all abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses; and also to take possession of all personal property found on and belonging to such estate, and to rent or lease all such real estate, or any part thereof, with the personal property aforesaid, and to act as inspectors of the same; or in case no proper lessees can be found, then to permit the same to be cultivated or occupied by the freedmen, on such terms, in either case, and under such regulations, as the commissioner and such freedmen may agree: *Provided*, That no freedmen shall be employed on any estate above mentioned otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent, nor shall any such contract be for a longer period than twelve months; but nothing in this section contained shall be construed to prevent the due execution of process against the real estate and personal property before mentioned, issued in due course of law from courts of competent jurisdiction: *And provided further*, That no lease and no permit to be given under the provisions of this act shall continue for a longer time than one year without renewal, nor shall any such lease or permit bind the United States to pay damages for any military dispossession or because of title paramount to that of the United States.

SEC. 6. *And be it further enacted*, That the assistant commissioners and local superintendents shall be ready, as advisory guardians, to aid the freedmen in the adjustment of their wages, or, where they have rented plantations or small holdings, in the application of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; that they shall further do what they can as arbitrators, to reconcile and settle any differences in which freedmen may be involved, whether among themselves or between themselves and other persons; and in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

SEC. 7. *And be it further enacted*, That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order 331, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; but such lease shall not continue beyond the period of one year from its date; and immediately upon the organization of any department of freedmen, such agents shall cease to execute their functions within such department, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any department, prior to its organization under this act, shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

SEC. 8. *And be it further enacted*, That the Commissioner shall apply the proceeds arising from leases in the several departments to pay the salaries and other expenses under this act, so that the bureau herein established may become at an early day self-supporting; and any proceeds over and above the annual expense thereof shall be paid into the Treasury of the United States.

SEC. 9. *And be it further enacted*, That it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen, not mustered into, nor regularly engaged in, the military service, to make return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

SEC. 10. *And be it further enacted*, That the Commissioner shall, before the commencement of each session of Congress, make full report of his proceedings to the Secretary of the Treasury, who shall communicate the same to Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

SEC. 11. *And be it further enacted*, That all assistant commissioners, local superintendents, and clerks, as well as the supervising special agents, appointed within the States within which the insurrection exists and the authority of the civil tribunals is overthrown, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony; for any act of embezzlement, or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value for any act done or omitted by them in their official capacity; or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act; or in carrying on any business or being in any manner, directly or indirectly, interested in any business carried on under the superintendence of the officers appointed under this act, or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

SEC. 12. *And be it further enacted*, That whenever the said Commissioner cannot find abandoned real estate on which to employ all of the freedmen who may come under

his care and control by virtue of this act, it shall be his duty, so far as may be practicable, to provide for them homes and employment, with humane and suitable persons, at fair and just compensation for their services.

SEC. 13. *And be it further enacted*, That the last clause of a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1863, be, and the same hereby is, repealed.

Mr. ELIOT. I do not think that it is worth while at this time to occupy the attention of the House by calling it to the various differences between the bill adopted by the Senate and that reported to them from the House. My object now in rising is to ask the House to non-concur in the action of the Senate for the purpose of asking that a committee of conference be appointed.

I have no doubt it will be found, upon conference, that it will be practicable from the two bills to frame one which will be more satisfactory to the House than either of the bills now before the House. I move a non-concurrence in the Senate amendments, and unless some gentleman desires to speak, I will call the previous question.

Mr. BROOKS. I want to suggest to the gentleman from Massachusetts that the House has some right to time for a consideration of these amendments before they go before a committee of conference. This is the first time I have been able to obtain a copy of the bill, though it may have been printed before, and I suggest a postponement to a certain day, or the making it the special order for some given day.

The result of these committees of conference, as the gentleman well knows, is to take away all substantial action from this and the other body, and to intrust the main legislation to a committee selected by the Speaker and a committee appointed by the Senate, and then, under the pressure of the previous question, we are obliged to accede to or reject some bill which the committee has agreed to, but which the House may not have agreed to. I suggest that the gentleman give us an opportunity, by a postponement to some given day, to consider the provisions of this bill.

Mr. ELIOT. In reply to the gentleman from New York, I will say that the bill which has just been read has been in fact printed since last June. When the bill was sent back from the Senate it was ordered, upon my motion, to be printed, and it has been within the reach of members of the House from that time to the present. It was very desirable that there should have been action upon this bill before the close of last session, but it had been delayed in the committee of the Senate from the early part of March until the early part of June, and it did not come back to the House until it was too late to act upon it last session. Upon a motion made on this side, the bill was postponed until to-day.

Now, on the 3d of July, I think, a bill passed both Houses, under which certain proceedings are now being had which make it very desirable that the action of the House upon this bill in reference to a Bureau of Freedmen's Affairs should be speedy. I cannot agree to the proposition of the gentleman from New York, to postpone this bill in its present form. It will necessarily have to be the subject of action before a conference committee, and I am quite satisfied that the interest of the public and of that class of people who are now suffering very much for want of public care, will be better promoted by action now, so far as to send the bill to a committee of conference.

Mr. KASSON. Upon the first reading of the amendment, it struck me that the first section of the Senate bill made no discrimination between the custody of those freedmen who are made free by State action and those made free by United States action. I simply call his attention to it in order that in the conference committee that point may be considered, which may be essential to the coöperation of at least some portion of the House in the general object. I would be glad to be corrected, if I am in error touching that provision of the Senate bill, by the gentleman, who has given it more attention than I have.

Mr. ELIOT. The gentleman from Iowa is perfectly correct in this, that the bill does not purport to affect any freedmen other than those who belong to States which are in rebellion. It does not affect, as it stands now, the freedmen of Maryland, or of Kentucky, or of Missouri.

Mr. KELLEY. Unless such a one should

stray within the territorial limits of the rebellion. Those limits bound the jurisdiction of the bill.

Mr. ELIOT. I move the previous question.

The previous question was seconded.

Mr. HOLMAN. I move to lay the amendment of the Senate on the table.

Mr. ELIOT. Would that carry the bill with it?

The SPEAKER. It would.

Mr. HOLMAN. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 71, not voting 60; as follows:

YEAS.—Messrs. Ancona, Baily, Augustus C. Baldwin, Blair, Biles, Brooks, James S. Brown, William G. Brown, Chanler, Cox, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Grider, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Kernan, Law, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, William H. Miller, James R. Morris, Nelson, Noble, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, James S. Rollins, Ross, Smith, John B. Steele, Strouse, Stuart, Sweet, Thomas, Townsend, Webster, Joseph W. White, Williams, and Yeaman—51.

NAYS.—Messrs. Allison, Ames, Ashley, John D. Baldwin, Beaman, Blow, Boutwell, Boyd, Brodhead, Ambrose W. Clark, Cole, Thomas T. Davis, Daves, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Grinnell, Higby, Hopper, Hotchkiss, John H. Hubbard, Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McClurg, McInnis, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norfon, Charles O'Neill, Orth, Patterson, Perlman, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Starr, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wilson, and Windom—71.

NOT VOTING.—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Baxter, Blaine, Brandegee, Freeman Clarke, Clay, Cobb, Coffroth, Cravens, Creswell, Henry Winter Davis, Deming, Dumont, Edgerton, English, Fenton, Gooch, Griswold, Hale, Hall, Harrington, Asahel W. Hubbard, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kulbickisch, King, Knapp, Loan, Mallory, McBride, McKinney, Middleton, Daniel Morris, Morrison, Odell, Perry, Pike, Radford, Robinson, Rogers, Scott, William G. Steele, Stiles, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—60.

So the House refused to lay the amendment of the Senate on the table.

During the roll-call,

Messrs. HARRINGTON, COFFROTH, BAXTER, COBB, and VOORHEES, who were not within the bar when their names were called, severally asked leave to vote.

Mr. DAWES objected.

Mr. ORTH stated that Mr. JULIAN was detained from the House by sickness.

The result of the vote having been announced as above recorded, the question recurred upon ordering the main question to be now put.

The main question was ordered; and being put, the House voted to non-concur in the amendment of the Senate, and ask a committee of conference on the disagreeing votes of the two Houses.

Mr. ELIOT moved to reconsider the vote by which the amendment was non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the resolution of the House providing for an adjournment of the House from the 22d instant until the 5th of January next, with an amendment including the Senate in said adjournment over, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed bill of the House No. 394, for the relief of Mary Scales Accardi, and House bill No. 399, for the relief of Emily A. Lyon, severally with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed without amendment bill of the House No. 478, for the relief of Charles M. Pott, and bill of the House No. 603, to extend the time allowed for the withdrawal of certain goods therein named from the public stores.

The message further announced that the Senate had indefinitely postponed the bill of the House (No. 452) to grant a pension of eight dollars per month to Harris Welch.

Also, that the Senate had passed bills of the fol-

# THE CONGRESSIONAL GLOBE.

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THURSDAY, DECEMBER 21, 1864.

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lowing titles, in which he was directed to ask the concurrence of the House:

A bill (S. No. 62) to remove all disqualifications of color in carrying the mails; and

A bill (S. No. 347) for the relief of Rebecca S. Harrison.

## ADJOURNMENT FOR THE HOLIDAYS.

Mr. STEVENS called up, as a privileged question, the message from the Senate in reference to the adjournment, which was to amend the concurrent resolution so as to make it read as follows: That when the two Houses adjourn on Thursday, the 22d instant, they adjourn to meet on Thursday, January 5, 1865.

Mr. STEVENS. The only change in the resolution is that it now allows the Senate to adjourn as well as the House. The House had thought at the time it passed the resolution, that so grave a body as the Senate might not desire to have a holiday, and therefore the resolution only provided for the House. The Senate, however, took it into its head to amend the resolution by making it apply to both Houses, and I do not know why we should not assent to that.

The Senate amendment was concurred in.

Mr. STEVENS moved to reconsider the vote by which the Senate amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## DEFICIENCY BILL.

Mr. STEVENS, from the Committee of Ways and Means, also reported a bill to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1865, and asked that it be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for to-morrow.

Mr. HOLMAN. To avoid the necessity of having the bill read through at the present time, I rise to inquire whether this bill contains any appropriations not authorized by existing law.

Mr. STEVENS. I believe not, sir. The Committee of Ways and Means has left out one or two matters which were thought to be doubtful.

Mr. WASHBURNE, of Illinois. I suggest that it shall be the understanding that objection may be taken in the Committee of the Whole on the state of the Union as well as if the bill were in the House under the rules.

Mr. STEVENS. I have no objection to that.

Mr. BROOKS. I do not wish to have a deficiency bill put through to-morrow. It is impossible to look over and compare the estimates. Indeed, we have not yet received copies of the Secretary of the Treasury's report and accompanying documents. They are not yet printed. It is impossible to act on an appropriation bill intelligently in this kind of way. If I am well informed, there are many deficiencies in this bill which are not provided for by law. I do not wish to cause any delay in the passage of the bill, but without having the report of the Secretary of the Treasury before us, and with no opportunity save the few hours one may have this evening to compare the estimates with the bill, it is quite impossible to act to-morrow with any deliberation on so important a matter as the deficiency bill.

Mr. STEVENS. We have agreed to the suggestion of the gentleman from Illinois to allow objections to be made in the Committee of the Whole on the state of the Union. There are some items in the bill which it is almost absolutely necessary to have provided for before the adjournment, and hence we have left out items which we supposed might be contested. I ask that the bill may be considered to-morrow. There is not a great deal in it.

Mr. BROOKS. All that I want is that there shall be due deliberation, and due time for the House to act on it.

Mr. STEVENS. If, when it is printed and taken up to-morrow there should be found any difficulty in it, the gentleman from New York can suggest what further course he desires.

The bill was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for to-morrow.

Mr. WASHBURNE, of Illinois. That is with the understanding that all questions of order are reserved.

The SPEAKER. That is understood.

## MILITARY ACADEMY APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, also reported a bill making appropriations for the support of the Military Academy for the year ending 30th June, 1866, and asked that it be referred to the Committee of the Whole on the state of the Union, printed, and made the special order for the 9th day of January next.

Mr. HOLMAN. I trust it will be understood that this bill comes in on exactly the same terms as the other bill.

Mr. STEVENS. I have no objection to that.

The bill was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for the 9th of January next.

## METROPOLITAN RAILWAY COMPANY.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported a bill to amend the act to incorporate the Metropolitan Railway Company of the District of Columbia, approved July 1, 1864, which was read a first and second time. It so amends the seventeenth section of the act of incorporation as to extend the time for the completion of the railroad line, except that part thereof between Seventeenth street and the Capitol, for one year, provided that the line between Seventeenth street and the Capitol be completed, equipped, and running within ten days. The second section repeals all acts and parts of acts inconsistent with it.

Mr. CHANLER. Is there anything in the bill in reference to the cars running on Sunday?

The SPEAKER. The Chair understands that there is not.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GANSON. I desire to suggest the propriety of striking out the second section. That section is wholly unnecessary, and if enacted it may go further than we intend. If any prior act is inconsistent with this, this necessarily repeals that.

Mr. DAVIS, of New York. I have no objection to that.

The SPEAKER. If there be no objection, the second section will be stricken out.

There was no objection.

The bill was then passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BEAMAN. I call for the regular order of business.

Mr. PIKE. I ask the gentleman to withdraw that call for a moment, that I may offer a resolution.

Mr. BEAMAN. I yield to the gentleman.

## TAXATION OF COASTING VESSELS.

Mr. PIKE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of amending Section one hundred and three of the internal revenue act, so that coasting vessels which shall pay an annual tonnage tax shall be exempt from the tax of two and a half per cent. upon freight, &c., and thus placed upon the same footing as provincial vessels bringing cargoes to our ports.

## SALARIES IN EXECUTIVE DEPARTMENTS.

Mr. BEAMAN again called for the regular order of business, but withdrew the call at the request of

Mr. SLOAN, who asked unanimous consent to offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire as to the expediency of equalizing the salaries of the first or sole assistants in the respective Executive Departments whose duty it is to act as the head of the Departments in the absence, sickness, or other disability of the chief of such Departments, by fixing said salaries at the sum paid to the Assistant Secretary of the Navy, or such other sum as said committee may think proper.

Objection being made, the resolution was not received.

## REPORTS FROM COMMITTEES.

Mr. SPALDING demanded the regular order of business; and the Speaker proceeded, as the regular order, to call the committees for reports.

## GOVERNMENT OF REBELLIOUS STATES.

Mr. ASHLEY. I am directed by the select committee on the rebellious States to report back, with certain amendments, the bill (H. R. No. 602) to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government; and I ask that it be now put upon its passage.

The Clerk proceeded to read the bill. While the reading was in progress,

The SPEAKER said: The Chair is obliged to ask whether this bill, which is a printed bill with written interlineations, is the same bill that was reported on the 15th day of December. As to the interlineations it is a different bill from that reported on the day mentioned.

Mr. ASHLEY. The interlineations are the amendments proposed by the committee.

The SPEAKER. Then the bill will first be read as printed, and afterwards the amendments proposed by the committee will be read.

Mr. WILSON. I suggest to the gentleman from Ohio [Mr. ASHLEY] that, instead of having the bill read, it be postponed until the 10th day of January. I do not think that we can satisfactorily act on it to-day. Let the bill be printed, with the amendments proposed by the committee. I think that the bill is too important to be disposed of to-day. Some gentlemen around me suggest that the bill be postponed till the 5th of January. I have no objection to that.

Mr. HOLMAN. I hope that the 5th of January will not be fixed. That is too early a day.

Mr. WILSON. If there is objection, I will adhere to my first suggestion, that it be postponed until the 10th. That will be Tuesday.

Mr. ASHLEY. If it be the opinion of gentlemen on this side of the House that the bill had better be postponed, I prefer that it should be postponed until Friday, the 6th of January.

Mr. WILSON. I have no objection to that, if it will satisfy the gentleman.

Mr. ASHLEY. If that is the understanding on this side of the House, and is satisfactory to gentlemen on the other, let it be postponed until Friday, the 6th, and be made a special order.

Mr. HOLMAN. That is too early a day.

Mr. COX. I object to so early a day, and I will state the reason of my objection. Reports are expected from other committees on subjects cognate to this—among others, the report of the Committee of Elections on the Louisiana case. I would like to have all these reports and bills before the House, and then all these questions might be considered very well together. Therefore, I think the gentleman had better name some time about the 1st of February, or certainly not earlier than the middle of January.

Mr. ASHLEY. Then I move that the bill be postponed until the 10th of January, and be the special order for that day after the morning hour and until disposed of.

The motion of Mr. ASHLEY was agreed to.

Mr. FARNSWORTH. I desire to offer to this bill an amendment emancipating the wives and children of all persons who shall enlist in the armies of the United States, or who may now be in the armies of the United States, whether in the rebellious States or any other.

The SPEAKER. The gentleman can give notice of that amendment. At the present time

the bill has passed from the consideration of the House.

Mr. FARNSWORTH. Well, I give notice that I will offer such an amendment.

#### LEAVE TO VOTE.

Mr. NORTON. Mr. Speaker, I was detained from the House yesterday on account of illness; and I now ask unanimous consent for leave to record my vote on the several propositions on which the yeas and nays were called during my absence.

There was no objection, and it was ordered accordingly.

#### MAIL CARRIER SYSTEM.

Mr. ALLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of so far modifying the post office laws in relation to the carrier system as to confine free delivery of mail matter to those places only which give promise of its being self-sustaining at an early day.

Mr. BOYD. I ask leave to present a private bill.

Mr. WASHBURN, of Illinois. Have we concluded the call of committees for reports?

The SPEAKER. The call has not yet been completed.

Mr. WASHBURN, of Illinois. Then I object, and insist on the call of committees for reports.

#### FOREIGN MAILS.

Mr. ALLEY. I am directed by the Committee on the Post Office and Post Roads to report a bill to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, with the recommendation that it do pass.

The bill was read a first and second time.

Mr. ALLEY. I ask that the bill be put on its passage, and call for the previous question.

Mr. STEVENS. I hope the gentleman will not insist on his demand for the previous question until we have had some explanation of the object and extent of the bill.

Mr. ALLEY. I withdraw the demand for the previous question.

Mr. Speaker, I will say, in explanation of the bill, that at the last session of Congress we adopted a measure for the transportation of the mails to the Pacific coast overland and by sea, in which is a provision to the effect that all mail matter sent from the western boundary of Kansas, or from the eastern boundary of California, shall not be carried, except at the price of letter postage, except one newspaper to bona fide subscribers from a place of publication. Under the ruling of the Postmaster General, that newspapers only, and a single one at that to subscribers, should be transmitted through the mails to those points from any of the offices, excluding periodicals, magazines, and exchanges, great complaint has arisen on the part of persons living in the Territories. It has been found that its practical operation has been to do great injustice to the people who are residents of the Territories, and it is to provide against that injustice that the pending bill has been proposed. I presume there can be no objection, as the committee have agreed to the bill unanimously.

The bill was read in *extenso*.

Mr. STEVENS. At the last session of Congress we adopted a proposition for the continuance of the overland mail for one year. I want to know whether, after we passed that bill, a contract was given to Mr. Holladay for one year or for the whole time. I want to know whether this has reference to that matter. If it does, I shall ask time to consider it.

Mr. ALLEY. I will say that the pending proposition has no reference whatever to the bill to which the gentleman refers. I have no official information on the subject. I have not had any correspondence or conversation with the Postmaster General in relation to that matter, but I have reason to believe, from conversation with other parties who claimed to know, that the contract was given to Mr. Holladay for the full term at \$750,000 per annum.

Mr. STEVENS. And not given in accordance with our vote for one year?

Mr. ALLEY. So I am informed.

Mr. FARNSWORTH. Does the pending bill in any way affirm or recognize that contract?

Mr. ALLEY. This bill has nothing whatever to do with it.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTORAL COLLEGE.

Mr. WILSON, from the Committee on the Judiciary, reported back House joint resolution No. 126, declaring certain States not entitled to representation in the electoral college, and moved that it be ordered to be printed and recommitted to the same committee.

The motion was agreed to.

Mr. PENDLETON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate bill No. 358, to establish the grade of vice admiral in the United States Navy; and in which he was directed to ask the concurrence of the House.

#### STENOGRAPHER FOR DISTRICT SUPREME COURT.

Mr. WILSON, from the Committee on the Judiciary, reported back the petition of Joseph H. Bradley and thirty-six others, members of the bar, for appointment of a short-hand reporter for the supreme court of the District of Columbia, and moved that the committee be discharged from its further consideration.

The motion was agreed to.

#### INDIAN RESERVATIONS.

Mr. McBRIDE, from the Committee on Indian Affairs, reported a bill to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington, and asked that it be put on its passage.

The bill was read a first and second time.

Mr. HOLMAN. The bill contains an appropriation, and must, under the rules, go to the Committee of the Whole House on the Private Calendar. If the gentleman has a written report I have no objection to its being read.

Mr. McBRIDE. I ask the Clerk to read the letter I send to his desk.

The letter was read.

Mr. HOLMAN. It seems to me we ought to have some time for the examination of this claim, and I must hence insist upon my point of order.

The SPEAKER. The Chair sustains the point of order. As this is an appropriation bill it must be first considered in the Committee of the Whole on the state of the Union.

Mr. McBRIDE. I ask that a certain time be fixed for its consideration.

The SPEAKER. That can only be done by unanimous consent; and there is already a page and a half of bills on the Calendar which precede it.

Mr. McBRIDE. I ask unanimous consent that it may be set down for consideration on Friday, the 6th day of January, in Committee of the Whole House on the Private Calendar.

No objection being made, it was so ordered.

#### PAY OF COLORED SOLDIERS, ETC.

Mr. GARFIELD, from the Committee on Military Affairs, reported a bill to amend an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1865, and for other purposes," approved June 16, 1864; which was read a first and second time.

The bill so amends the act referred to as to provide that all persons of color who have been enlisted and mustered into the military service of the United States shall from the time of their enlistment be entitled to receive the pay, bounty, and clothing allowed to such persons by the laws existing at the time of their enlistment; and also authorizes the Attorney General to determine any question of law arising under this provision, and if the Attorney General shall determine that such enlisted persons are credited with or entitled to

any pay, bounty, or clothing in addition to what they have already received, the Secretary of War shall make all necessary regulations, in connection with the pay department, to make pay in accordance with such determination.

Mr. GARFIELD. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. COX. I would like to have the gentleman explain the bill.

The SPEAKER. It can be done only by unanimous consent, after the previous question is ordered.

No objection was made.

Mr. GARFIELD. If the gentleman will turn to page 129 of the Statutes of last session, he will find in section four of the statute referred to, a provision which was intended to cover cases of negro regiments raised in the North that had been promised full soldiers' pay when they went into the service. In order to cover those cases, the section provided that all persons of color who were free on the 19th of April, 1861, and had enlisted subsequently, should be paid according as the Attorney General should interpret the law in existence at the time of their enlistment. It is found that the section met the wants of those colored regiments raised in Massachusetts and Ohio; but there are some colored soldiers who did not become free until a date subsequent to the 19th of April, but were enlisted on precisely the same terms and pledges as those who have received full pay. A petition which is now in my hands, and which has been referred to the Committee on Military Affairs, drawn by Colonel Higginson, states that his regiment and two or three others come under this description, and cannot obtain relief under the provisions of this bill by the clause restricting its action to those who were "free on the 19th of April." I have therefore recast the section, leaving out the words "who were free on the 19th of April." That cures the evil complained of, and does not otherwise change the law.

Mr. COX. As I understand it, it puts the negro soldiers on an equality.

Mr. GARFIELD. Yes, sir.

Mr. COX. I have no objection to negro equality where it is confined to the negro race.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VICE ADMIRAL IN THE NAVY.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back with an amendment a bill (H. R. No. 606) to create the grade of vice admiral in the Navy.

Mr. RICE, of Massachusetts. I would state that the amendment, in the nature of a substitute, is in precisely the same terms as the bill which passed the Senate this morning, and which is now on the Speaker's table. I ask unanimous consent to take up that bill and pass upon it in lieu of the bill I have reported.

No objection being made, the bill of the Senate (No. 358) to establish the grade of vice admiral in the Navy of the United States was taken from the Speaker's table for consideration, and read a first and second time.

Mr. RICE, of Massachusetts. I presume that there can be no objection whatever to the passage of this bill. I have no disposition to discuss it, and call the previous question.

Mr. GARFIELD. I would like to have the gentleman from Massachusetts explain what that exception in the last section is. The last section states that some section of an act shall not apply to the vice admiral. What is that?

Mr. RICE, of Massachusetts. It simply provides that the incumbent of the office of vice admiral shall not be subject to be retired.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.



The bill on the same subject reported by the Committee on Naval Affairs was then laid on the table.

#### RANK OF NAVAL OFFICERS.

Mr. RICE, of Massachusetts, also, from the Committee on Naval Affairs, reported a bill to provide for an advance of rank to officers of the Navy and Marine corps for distinguished conduct, &c., which was read a first and second time.

The first section of the bill provides that any officer of the Navy or Marine corps, by and with the advice and consent of the Senate, may be advanced not exceeding fifty numbers in rank for having exhibited eminent and conspicuous conduct in battle, or extraordinary heroism.

The second section provides that any officer of the Navy or Marine corps who shall be nominated to higher grade under the provisions of the first section of this act, or that of section nine of an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862, shall be promoted, notwithstanding the number of said grade may be full, but no further promotion shall take place in that grade except for like cause until the number is reduced to that provided by law.

The third section repeals all acts and parts of acts inconsistent with the foregoing.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman from Massachusetts if this bill includes volunteers in the Navy?

Mr. RICE, of Massachusetts. No, sir.

Mr. WASHBURN, of Illinois. I shall move to amend it so as to give the volunteers a chance. Mr. RICE, of Massachusetts. This bill is in accordance with the provisions of the existing law, with the exception that it changes the number from thirty to fifty; the present law requires that the person to be promoted shall be advanced thirty numbers in his own grade. It will be apparent, of course, that if the officer to be promoted is within thirty numbers of the head of his grade, he cannot be promoted the whole number to which he would be entitled, and this provision is that he may be advanced in rank instead of grade; that is, if advancing him thirty numbers will carry him into the grade next above his, it may so carry him. That is the only difference from the present law.

Mr. WASHBURN, of Illinois. All I desire is that the volunteers shall be placed on an equal footing and have a fair chance. I will frame an amendment which I think will meet the approbation of the gentleman from Massachusetts.

Mr. COX. I suggest to the gentleman that he postpone the consideration of this bill until it can be printed and examined.

Mr. RICE, of Massachusetts. I would state, in reply to the gentleman from Ohio, that the particular object in passing this bill at the present time is to allow the President to promote Captain Winslow, to whom Congress has already passed a vote of thanks for his gallant conduct in destroying the rebel pirate Alabama. Captain Winslow holds the rank of captain. The next grade above that is commodore. The grade of commodore is already full. He cannot, therefore, be promoted under the present law until after this bill has passed, which permits him to be made a commodore notwithstanding the limit of the number by the existing law.

Mr. COX. I do not wish to make any objection to any proper reward of Captain Winslow, or of Admiral Farragut, or anybody else, but it seems to me a wrong principle of legislation to create offices in order properly to recompense our soldiers or the officers of our Navy. We have created the office, this morning, of vice admiral without proper consideration, simply because it was recommended by the President and the distinguished gentleman from Massachusetts. I did not like to oppose it, not because I did not think the policy wrong, but because it might seem to be an attack upon the gallant naval officer who is to be rewarded by the office.

I think this legislation in relation to naval matters needs to be overhauled. We ought not to do it up by piecemeal. I do not know, and I cannot tell from the casual reading of the bill, precisely what its provisions are. It may be a radical reconstruction of the naval service, or it may not be.

Mr. RICE, of Massachusetts. If the gentleman will permit me to explain right here, I will

state that it does not create any radical change whatever. The first section provides that an officer receiving the thanks of Congress may be advanced in rank fifty numbers instead of thirty numbers, as is provided by the existing law.

The second section of the bill is necessary so that Captain Winslow may be made a commodore, notwithstanding that the number of commodores provided by law is already full. That is the whole object of the bill.

Mr. WASHBURN, of Illinois. The amendment which I propose will not interfere with the gentleman's object, but it will give a sort of recognition to the volunteer officers of the Navy. I ask the gentleman from Massachusetts to accept an amendment adding after the words "Navy or Marine corps" the words "either volunteer or otherwise."

Mr. RICE, of Massachusetts. I accept the amendment. The Committee on Naval Affairs has a bill before it contemplating that object.

The SPEAKER. The bill having been reported from the Committee on Naval Affairs, the gentleman from Massachusetts cannot accept the amendment.

Mr. WASHBURN, of Illinois. Then I offer the amendment.

The amendment was agreed to.

Mr. COX. I move that the bill be laid on the table.

Mr. RICE, of Massachusetts. I trust that motion will not prevail. There is nothing radical in the bill. It is simply to enable the President to carry out the act in regard to Captain Winslow.

Mr. COX. I have not had a chance to discuss the bill here, but I think I can show the gentleman that it is objectionable.

The question was taken on Mr. Cox's motion, and it was not agreed to.

Mr. RICE, of Massachusetts, moved the previous question.

The previous question was seconded, and the main question ordered, and under the operation of the previous question the bill was engrossed, read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 280) for the relief of George W. Murray; when the Speaker signed the same.

#### CHIEF ENGINEER KING'S REPORT.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be requested to communicate to this House the report made to him by Chief Engineer King in reference to the iron-clad vessels and dock-yards of Europe.

#### WESTERN NAVY-YARDS.

Mr. SPALDING, from the Committee on Naval Affairs, to whom were referred House bill No. 985, providing for a navy-yard at Cleveland, Ohio; House bill No. 594, providing for a navy-yard at Milwaukee, Wisconsin; House bill No. 587, providing for a navy-yard at Grand Haven, Michigan; House bill No. 611, providing for the establishment of a navy-yard at Chicago, Illinois; House bill No. 599, to provide for a navy-yard at Oswego, New York; House bill No. —, providing for a navy-yard at Erie, Pennsylvania; the memorial of the mayor and city council of Sandusky, Ohio, and various resolutions on the same subjects, reported a joint resolution providing for a commission to locate navy-yards.

The joint resolution was read a first and second time. It authorizes the President to appoint a commission, consisting of three competent officers of the Navy and two competent officers of the engineer corps of the Army, to examine the different ports and harbors on the northern and northwestern lakes, and on the navigable waters connecting the same, with a view to the establishment of one or more navy-yards and naval depots on such lakes and waters, according to the public exigency, and directs such commissioners to report to Congress on the first Monday of December next.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SPALDING moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. L. MYERS. I move to lay the whole subject on the table.

Mr. SCOTFIELD. I hope my colleague will withdraw the motion.

Mr. L. MYERS. I think the commission provided for in this joint resolution should be directed to examine other sites for navy-yards—for instance, sites recommended by the President and Secretary of the Navy.

Mr. SCOTFIELD. The Northwest will do something for League Island at some other time. We want these navy-yards at the Northwest. I hope my colleague will withdraw his motion.

Mr. L. MYERS. At the suggestion of my friend from Pennsylvania I withdraw the motion.

Mr. O'NEILL, of Pennsylvania. I renew the motion. I desire an opportunity to say—

The SPEAKER. The question is not debatable. There are two undebatable motions pending—the previous question and the motion to lay on the table.

The question was taken on the motion to lay on the table, and it was not agreed to.

The previous question was seconded, and the main question ordered; and under the operation of the previous question the joint resolution was passed.

Mr. SPALDING moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SALARIES OF GOVERNMENT EMPLOYÉS.

Mr. COBB. I ask unanimous consent to offer the following resolution:

*Resolved*, That in view of the enormous expenses of the Government rendered necessary for the maintenance of the Army and Navy for the defense of the Government against the existing rebellion, and the onerous taxes imposed upon the people for the purpose of meeting such expenses, it is the sense of this House that no law ought to be enacted whereby the salary or compensation of any class of employes of the Government shall be raised or increased.

Objection was made, and the resolution was not received.

#### DISCHARGE OF COMMISSIONED OFFICERS.

Mr. ORTH, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the discharge of commissioned officers in the volunteer service, if desired by such officers, at the expiration of their original term of enlistment, without reference to intervening promotion.

Mr. WASHBURN, of Illinois. I insist on the regular order of business.

The SPEAKER. The next order is resolutions calling for information from the Executive Departments lying over under the rule.

Mr. WASHBURN, of Illinois. I think that we have gone far enough with the regular order, and I move that the orders be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. PENDLETON. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Illinois. I will do so.

#### CABINET OFFICERS IN CONGRESS.

Mr. PENDLETON. When the committees were called this morning, I neglected to make a statement to the House, which I desire now to make—that the select committee on admitting heads of Executive Departments upon the floor of the House have made their report, which is in the hands of the printer; and I shall ask the action of the House on it at the earliest possible moment after the holidays.

Mr. FRANK. I ask the gentleman from Illinois [Mr. WASHBURN] to yield to me a moment.

Mr. WASHBURN, of Illinois. I will do so.

#### TRADE WITH CANADA.

Mr. FRANK, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed

to inform this House under what law goods, wares, merchandise, produce, &c., are permitted to pass from the United States through Canada, and again into the United States.

#### CARE OF REFUGEE INDIANS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting, in accordance with the proviso of the second section of the act of June 25, 1864, accounts of the superintendent and agents of the southern superintendency having charge of refugee Indians, for the second quarter of 1864; which was laid on the table, and ordered to be printed.

#### SALE OF GOLD BY GOVERNMENT.

Mr. COX. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to communicate to this House what, if any, amount of gold in the Treasury of the United States, not necessary for the payment of interest on the public debt, has been disposed of under the joint resolution approved March 17, 1864, what amounts and the various times when the same were disposed of, at what rates, and what agents were employed in the transaction.

Mr. STEVENS. I do not know that I understand altogether the object of this resolution, and therefore I insist on the regular order of business.

Mr. COX. I do not wish to cast any reflection on the Secretary of the Treasury or on any officer connected with the Treasury Department; but I think that these facts are necessary for future legislation.

Mr. STEVENS. It may be so; and perhaps by to-morrow, when I shall have examined the matter, I may think so myself; but I prefer that the resolution should go over.

Mr. COX. If the resolution be offered now it will go over, under the rule, until to-morrow; and meanwhile the gentleman can examine it.

Mr. STEVENS. I do not object to its being offered, but to its consideration at the present time.

The SPEAKER. If there be no objection, the resolution will be considered as offered, and will go over under the rules.

There was no objection.

#### BUREAU OF EDUCATIONAL STATISTICS.

Mr. PRUYN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That it be referred to the Committee of Ways and Means to inquire into and report upon the expediency of creating in the Department of the Interior a bureau on the statistics of education.

Mr. WASHBURN, of Illinois. I now insist on my motion that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union; and before that motion is put, I trust it will be understood by unanimous consent that no business shall be transacted after the committee rise.

The SPEAKER. Is there objection to that understanding?

Objection was made.

The motion of Mr. WASHBURN, of Illinois, to go into the Committee of the Whole on the state of the Union was agreed to.

#### PRESIDENT'S MESSAGE.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the President's annual message.

Mr. A. MYERS. Mr. Chairman, I shall, without having made any special preparation, trouble the committee this afternoon with a few remarks in reference to that great question of "homogeneity" which seems to have so much attracted the attention of this House. When, sir, on Wednesday last, the honorable gentleman from New York [Mr. Brooks] rose in his place, I have no doubt that this House expected to hear an argument filled with statistics, sparkling with poetry, and glowing with eloquence, in favor of the constitutional amendment for the abolition of slavery. But, sir, how much were we disappointed to find that that able effort was vainly spent—may I be allowed to use that language?—in the attempt to show that "homogeneity" among the different sections of the same nation is a fallacy; that the slaveholding rebels of the aristocratic South and the liberty-loving fathers of this Republic had somewhat analogous causes of quarrel; that those southern rebels could not be con-

quered; that, had their complaints been listened to, this war might have been averted; that negotiations might cure our national ills; and yet no remedy was proposed provided the rebels would accept peace only on the basis of their independence.

Is it not singular, Mr. Chairman, that those who are acknowledged able statesmen and historians either do not know, or, in their forensic efforts against the right conceal, the distinction between a revolutionist and a rebel?

I presume, sir, since we last met we have all had the pleasure of getting off our stump speeches in our different districts and although I occupy that lamentable position, so that it may be said, "never again will I be heard here," yet I rejoice when I know I come not back, not because I hated treason too much, while others come not back because they loved it, "not wisely but too well."

Sir, we all love that doctrine that far down in the strata of society there exists the right of revolution. The true revolutionist is always the truly loyal man; he hates treason as much as tyranny, and both as he does Satan. What does such a citizen first do? He carries his case to the judiciary of the country; he pleads with and petitions the delegated sovereignty of his nation, wherever it may be lodged, again and again for a redress of grievances; and after all that he can do agreeably to either the form or spirit of law has failed—and his rights still trampled upon, his wrongs unredressed, tyranny yet inplacable, and despotism unmoved by his appeals, prayers, or petitions, then he resorts to his last remedy—then he asserts the rights to which his and nature's God entitle him, and justly becomes the revolutionist. Like such a man were the signers of the Declaration of Independence—they were revolutionists, not rebels.

The rebel is one who, having no real and often not even an imaginary grievance, but because he cannot always mold the social compact to which he belongs into that form which his diabolical heart, tyrannical head, and unclean hands desire, determines that such Government shall either be changed to suit his purposes or he will, without judicial sanction, without petition, forcibly, beligerently, and treasonably, set up a Government of his own, antagonistic to that to which he owes allegiance. Such a man, sir, is not a revolutionist, but a rebel, a traitor. He does not believe in the homogeneity of a nation unless it is homogeneous with himself. To such a class belong Breckinridge—John C., I mean—Lee, Wigfall, Jeff. Davis, and the devil, [laughter,] and, Mr. Chairman, all, all who agree with them.

We were asked, Why not have toleration? Toleration, it is said, is the very essence of religion. Yet, sir, who ever heard that true religion of any kind ever sanctioned slavery? Nay, more, who ever heard that a false religion sanctioned the slavery of its own votaries at all? Who ever heard that the doctrine of any kind of religion believed in the enslavement of its own race and religion?

It is said that the New Testament and the great Founder of our religion did not wish to destroy slavery. If that be so, was it not because it would produce a greater evil, and that was, the destruction of the Government in which it existed? So, sir, of us. So, sir, of the American Union. The love of country has ever been spoken of by the poet and orator as next to that principle which stands next to the love of God. Will you tell me that this country is an exception? Is it true that the American loves his country as much as the citizen of any other land? So true was it that the love of country was the paramount feeling of citizens of the United States, that we adhered to a Union even when some of the fathers of the country said that the Union protected slavery, and in order to save that Union we were sold to slavery. We bowed before it. We yielded; we yielded to its demands. But when slavery undertakes to destroy the life of the Union, as it has done; when that principle boldly declares that it is the assassin of this Union, the loyal man swears upon his country's altar that slavery itself shall die.

Why, sir, are we told that had their complaints been listened to this war might have been averted? Now, sir, to use a plain expression, I defy any man, any member of this House, any man who occupies a position either upon this floor or elsewhere in the country, I appeal even to the hon-

orable gentleman from New York, [Mr. Brooks,] and now is the time, and this the occasion, to tell me what cause of complaint the rebels have. It cannot be done. No honorable gentleman upon this floor can tell this House what cause of complaint the rebels have. They cannot do more than Alexander H. Stephens, the brightest intellect of the southern confederacy, could do. He admitted, down to November, 1860, that they had no cause of complaint. Why, then, assert it again and again, here and elsewhere?

Why, sir, not only in these Halls, but before the people, public men have stated that the South had claims to which the North refused to listen, listening to which we could have avoided this war. The honorable gentleman from New York, able as he is, great as are his powers, cannot mention one just cause of complaint which the South had.

But they tell us we cannot conquer the South. Ah, sir, I thought that the Chicago convention and its platform had been forgotten here, since the seal of condemnation had so significantly been placed upon it by the people. I had the pleasure of addressing the people of Philadelphia a few nights before the November election. I told them they must stretch stronger telegraph wires from pole to pole, for when the thundering voice of the Union majority should come over those wires they would be found too weak to carry the news. And, sure enough, the storm of Union victories came sweeping along and broke down those wires, so that away up in the country we were kept in suspense several days before we knew what was the exact result. True, we heard the thunder, but had to wait for the lightning. When it did come, however, it was all on one side. Yes, sir, there was homogeneity on that occasion, and it was of a very satisfactory character to all who loved country more than party.

Cannot conquer the South! It is but a reiteration of the doctrine laid down at Chicago, which started out with the assertion of a falsehood—a small one, not near as large a one as I should have expected from the source from which it emanated. It was asserted that four years of war had been a failure, while at that time four years of war had not existed. But the most stupendous falsehood is found in the fact that at the outbreak of the rebellion the rebels claimed about eight hundred and fifty thousand square miles of territory, while at the time of the holding the Chicago convention they could claim only two hundred and fifty thousand square miles. And now, I ask, was ever there so great a falsehood as that—a lie six hundred thousand square miles in extent? [Laughter.]

We cannot conquer the rebels! Sir, it looks very much now as though that prophetic declaration was about to be proved untrue. We are told that we must have an armistice, negotiation, must exhaust all the arts of statesmanship, and have a national convention. Sir, we have peace commissioners. They are Grant, Sherman, Sheridan, Thomas, and Farragut. We have our national convention, and the delegates to it are the invincible soldiers and sailors of the Union, clothed in the royal purple of the nation, the Union blue; and they are now debating that question, and with all their powers are attempting its adjudication. Sir, they are calling the previous question on the rebels, and will soon table them effectually.

A national convention! Sir, that is but a repetition, as I said before, of the doctrine of the Chicago platform. And yet the whole matter is embraced in a negative. Even the able gentleman from New York, [Mr. Brooks,] after his eloquent argument—based upon many facts, I admit—thrilling as it did this House, what did he say? He says he does not know what he will do. He just says he proposes no remedy. That is the doctrine of negation, with all due respect to the gentleman. It is but the fish that was warmed into life in the sea of politics in which Buchanan existed. There was war before Abraham Lincoln took the oath of office or James Buchanan ceased to warm the presidential chair. Actual war existed in this country, and while that was the case, James Buchanan said, According to the Constitution of the United States, you have no right to secede, but according to that Constitution I cannot prevent you from seceding. Every school-boy knows that two negatives are equivalent to an affirmative, and therefore, "Go ahead," said James Buchanan. The doctrine of negation has

ever since been the doctrine of that party; they are in favor positively of nothing, and negatively opposed to all things. Give me a positive man, give me a man who is in favor of some doctrine, and can give a reason for it.

But it was intimated by the gentleman from New York that after having exhausted everything else, falling back upon the reserved rights of this nation, in a certain contingency he might be in favor of war.

State rights! Will some able statesman please tell us when the States obtained their sovereignty? Will some student of the history of this Government and philosopher of the history of nations please inform us whether the colonies, separated as they were and tied to the mother country, had sovereignty before they were independent colonies and united as States of this Union? Will gentlemen please let us know whether, during their existence as colonies, they had any sovereignty at all; if they did not owe allegiance to the mother country, and were not bound to it by a ligament which held them until, by their own power as revolutionists, they tore it asunder? I say that when they became United States they were not born each independent and sovereign, but were all born together into the union of these States. I would like some gentleman to show us where he gets the doctrine of the sovereignty of each State. "Homogeneity!" Why, Mr. Chairman, before this Congress we hardly knew how to pronounce that word. It is almost like that other tremendous, jaw-breaking, terrible word, "miscegenation;" I do not know whether I have got it right. Homogeneity! And yet the honorable gentleman from New York, just at the close of his speech, in that eloquent appeal of his when he took Massachusetts upon her blind side and thrilled her to her very extremities, appealed to her, because he was born on some of her hills, to come to the rescue. He argued for an hour and twenty minutes against homogeneity, and how did he close? Ah! Mr. Chairman, how easily the ingenuity of the head is sometimes overthrown by the honesty of the heart. He appealed to the House to come together and vote together, you from Massachusetts, you from New York, and you from the West. What is that but an appeal to this House to become homogeneous? Homogeneity in the House of Representatives is a powerful thing; it is a thing of force; but homogeneity in the American nation is an absurdity, a chimera. Philosophers and geographers, we are told, are to utter no such nonsense as that. *Mirabile dictu!*

I see now why the Chicago convention adopted the planks and nominated the candidates it did. It was because that convention took up the idea of the honorable gentleman from New York, that the old scriptural notion that "a house divided against itself cannot stand" is an absurdity, and that the reverse is the way to make a powerful nation; that a house divided against itself is necessary for that purpose. Hence the Chicago convention had one candidate who was for peace and one who was for war; a candidate who wrote a letter of acceptance and one who wrote no letter of acceptance.

Sir, we have heard before, and perhaps in this very speech of the gentleman from New York, of the quarrel between the two roses, differing in disposition as much as in color; we have heard of the contest between the houses of York and Lancaster; but who, until the able speech of the honorable gentleman from New York, or rather until the assembling of the Chicago convention, ever before heard of the quarrel between the two Georges?

We are told that the head and front of that ticket—and here let me say, and I say it sincerely, that the second person on that ticket contained much the most head there was in it; they say, however, that the head and front of that ticket wrote a letter of acceptance. This doctrine of want of homogeneity was the idea of that convention, and it was upon that principle they expected their party to succeed. Now, what kind of a letter was that letter of acceptance? The design was to have it a war letter. Did you read that letter? If you read it downwards from the date, it does look a little warlike and runs smoothly along; but just turn it upside down and it is like what the Irishman said about the bumble bee; when it came at him head-foremost he cried out

"What a beautiful bird it is," but when it backed up against him, "Oh, what hot fat the wee thing has." [Laughter.] And so of McClellan's letter of acceptance. But the idea was that this want of homogeneity was to be the great doctrine which should be successful; and no wonder the honorable gentleman from New York supported the party; he is sincere in his theory. Men who are sincere in their theories put them into practice. If it be true that nations should not be homogeneous, certainly it must be true that parties should not.

The second candidate on the platform, having more head, did not write a letter of acceptance, carrying out the doctrine of State rights. What business had the national committee of the great Democratic party with that nomination? That is a national doctrine. That is concentration. That is federalization. That is anti-State rightsization. But after the results of the first elections in Ohio, Pennsylvania, and Indiana began to be known, a certain candidate for the Governorship of the State of New York said to himself, "General McClellan is gone; but there is a little chance for me if I can get something to show that both these candidates are for war." Hence, upon the State rights idea, the chairman of the New York State central committee writes a letter to the excellent gentleman who stands number two on the Chicago platform ticket, and thereto he receives a reply containing a larger gun of war than the famous letter of the ancient Napoleon; some people call him the modern Napoleon, but I call him the ancient one, for a deadlier man, a more deeply buried man than the former favorite of the soldiers is not to be found.

Jefferson Davis and Governor Brown do not seem to believe in the idea of homogeneity. They are quarreling with each other over the doctrine. The idea which Governor Brown and the gentleman from New York [Mr. Brooks] seem to have of a strong Government is that it shall not be homogeneous, but that there shall be kept up an eternal antagonism. Sir, that is the cause of all our troubles. We had an antagonism of words for a while. Now treason has brought that antagonism to the cannon's mouth, and the lover of his country swears that treason must "perish by the sword, because it has taken up the sword."

Perhaps I ought to ask, on this question of homogeneity, why it was that these two kinds of principles were enunciated at the Chicago convention. The leaders of the party, the able men, the sincere and eloquent men who believed that homogeneity was not a principle of strength in the Government, were shrewd enough to know that in order to get the votes of both wings of the Democratic party they must have a war plank and a peace plank. They knew that the peace plank would certainly carry all the peace men. Then they must have a little thunder, a little war, a little flag, some stars glittering on their banner, with which to go to the American soldier for his vote. Hence they got up these two propositions. They were not quite so successful, however, in curing their patients of the malady of Unionism, and infecting them with the disease of State rights, as an Irishman was whom I once heard of. He saw a friend of his in the street one day wheezing, coughing, and sneezing, just as a great many people did after the election. Said he to him, "Jimmy, you have a very bad cold." "Yes, Jake," said he, "a very large cold." "And I can tell you a first-rate cure," said the other. "I wish you would, for I have been using expectorants, and Holloway's pills, and cough candies, and such things, and I cannot afford them," said Jimmy. "Just follow my directions. Take about a gallon of first-rate whisky—not any of the tanglefoot article. Put it in a pot on the fire, and let it boil a good while. After you boil it for an hour or so put in a little sugar and a tablespoonful of water; not a drop more, or you'll spoil the mixture. After you've got it boiled down to half a gallon, put it in a bottle by your bedside. Take your hat off and hang it upon the bed-post. Then commence drinking the whisky and looking at the hat, and looking at the hat and drinking the whisky till you see two hats, and you're a sound man." [Laughter.]

Sir, you will allow me to change the illustration of the anecdote—to point the moral and adorn the tale. These gentlemen, expecting to get the votes of all Union lovers in the Democratic party and the votes of the peace men in the same

party, hung up over the bedside of that great old party not one hat but two hats. And then they mixed up a mess of partisanship, and, after doing their followers with that, they thought they would change the recipe a little. They would look upon both hats, and, lying supinely and nicely on their bed, they would jump up on election day and cheer and hurrah for the success of the great Democratic party. Sir, the medicine failed. Why? Because there existed still, as I say there ever will exist in this country, far down in the hearts of the American people, the love of the Union which is greater than the love of party.

But, sir, men tell us sometimes that this is an abolition war, a Republican war. Sir, I tell you that if this were nothing but an abolition or Republican war, if this war had to depend upon our party alone, we would have gone under as a nation; we would have been submerged, lost, and lost forever. But, sir, there are noble men in that old Democratic party who will still, when you touch their love of country, "rally round the flag;" and they did it in this case. Sir, partisan effort failed of its purpose and of the effect it was designed to have.

We want "homogeneity" as a nation. Those who do not wish it as a party are welcome to the fruits which the want of it brings. The leaders of the Chicago peace party thought that convention was to be the cradle of a new-born child, and a great organization, and supposed that everything was going right; but when the winds of October and November came, they shook the bough upon which it hung, and, I was going to say, "down came baby and cradle and all." [Laughter.] We want the homogeneity of patriotism, and not of treason; of Unionism, and not of disseveration; that of geographical and social attachment, and not of physical disintegration and governmental antagonism. And, sir, after having attained that, we will take care of the defenders of the nation.

I was a little amused at that same Chicago platform when it declared, in glowing terms, sympathy with the soldiers of the nation. "When we get the power," said the members of that convention, "we will see that the soldiers are rewarded." Oh, cheap promise! "When they get the power!" I met a man on the street a few days before I came here, and he said, "Well, you used us up at the last election." "I think that we did," I replied. "But just wait," said he, "until 1868." Was not that a consolation? Oh! how sweetly we turn back to old memories, and how fondly hope looks forward to future party triumphs.

Sir, I ask this House who will take care of the defenders of the nation? Is it those who on every occasion, in every legislative assembly, by every judicial and executive power, obstruct the effort to grant to the soldiers the exercise of the right of suffrage? Can the soldiers justly look to such a party for aid, for sympathy, for reward? Now, Mr. Chairman, there is, I understand, one very troublesome question to be agitated in this House, and that is with reference to increasing the salaries of clerks in the Departments. I do not know whether I ought to commit myself on that question, but a man who may never come back here can talk pretty independently on these matters. Sir, if our party does what is right, I should be in favor of a very large increase of the salaries of those clerks, for I desire that those places shall be occupied by the brave men who have stood in the forefront of the battle, until a shattered arm or an amputated leg has qualified them for the position. Sir, if such a measure were adopted there is no extent to which this House would not be sustained in voting for an increase of these salaries. I merely allude to this incidentally, and to say that in such a way can we show our sympathy for the soldier and our disposition to stand by him and support him. I mean, sir, by recommending him in preference to all others for these places and positions, and then paying him well for his time, talents, and labor. And, sir, we must take care—and I think the honorable gentleman from Ohio [Mr. SPALDING] yesterday announced this position—we must take care of the soldiers' orphan children, and of their widowed mothers. This is the duty of this House, and by measures to that end we can, as a party, show our sympathy for the defenders of our flag.

Do you tell me to be kind, to be lenient, to be merciful to those traitors in arms who have de-



stroyed the lives of thousands and tens of thousands of our patriotic fellow citizens? Sir, look at our prisoners as they return from the South, with nothing upon their persons but the skin that covers their bones, and that pierced by the cruelty of slavery and of treason. Do you tell me to be kind to men who engage in such amusements as dragging the corpses of our soldiers from their graves, and afterward ornamenting their fiendish fingers by trinkets made from the bones of Union men? Do you tell me to be tolerant toward such fiends as these? Oh! sir, no wonder that John Wesley said that slavery is the "sum of all villainies." No wonder that Senator Sumner grew eloquent when talking of its barbarity. And no wonder that the American people have determined that it shall die.

Yes, sir, we must take care of the defenders of the nation. Sir, I suppose that the honorable gentleman from New York, and many of those on the other side who agree with him, ought to have knowledge of many a case, presented by the correspondence received at their desks from day to day; and, sir, when we visit those hospitals where we are called from time to time in the discharge of our duty to our constituents, we see the brave men who have periled all in defense of their country, and whom we are bound to defend by our legislation, sincerely, honestly, truly—not by whining, hypocritical declarations, as was done, I fear, by the Chicago convention. Sir, why did not the honorable gentleman from New York have some tears to shed over the sufferings of our brave soldiers? Why should we have lamentations and funeral panegyrics over that old institution of slavery, which, if not dead, is, like error wounded, "writhing in pain, and dying amid its worshippers?"

Sir, I hope gentlemen will take other cases to weep over. Going to the hospital near the battle-field of Gettysburg they might have seen the case of a young man who had left the home of his mother when the war began, he, too, her only support, sending her ten dollars per month in what some gentlemen call the *depreciated currency* of the country, he upon that battle-field was shot down, that shot coming from rebel hands and rebel guns, when laid upon his couch and carried to the hospital, though his cheek had never blanched before, though a tear had not coursed down his face—who ever hears a Union soldier complain?—yet when the surgeon said that he could live no longer, thinking of his widowed mother, tears coursed down his cheeks, and rising on his pallet bed exclaimed: "Who will take care of mother now?" The Christian commission, by its agent, was there to tell him what honorable gentlemen ought to tell him, what this House ought to tell him, and what the Union party does tell, that "God and a grateful country will take care of your mother now." That is the duty of our party. Such is the duty of this House.

Shall we look to the future? I should like to paint a picture of a few years to come. Let me advert to one thing, however, before I come to that. Did it belong to this doctrine of homogeneity, did it belong to the doctrine of antagonism that the Governor of New York, after his party said that they sympathized with the soldiers, went to the field and there by fraudulent ballot-boxes attempted to defraud them of the right of suffrage? Was that not a glorious punishment of Donahoe and Ferry? They were imprisoned for life. I hope that they will live for a hundred years. I hope when the soldier's child stands up in the mother's parlor and asks "What picture is that?" he will be told "That is the picture of Donahoe and Ferry, the miserable miscreants who were in favor of the Chicago platform and in favor of cheating the soldier out of his vote." I want them to live a hundred years. It is a glorious sentence. It is a good thing to speak about. It will afford fourth-of-July orations to the end of time. Our children and our children's children will talk about Donahoe and Ferry, and they will know to which party Donahoe and Ferry belonged.

Sir, there is to be a future of our country, a future more grand and more glorious than anything we have yet had, and I wish that all of us might live fifteen, twenty, or thirty years longer. Then when walking along our streets, let us ask that young man a question: "Where, young man, is your father?" See him hesitate and scowl

as he answers, "My father, sir! I have not heard of my father since 1864, and then I was a child; they tell me, however, that my father was a copperhead." Look at that other young man; ask him where his father is? See how his eyes sparkle. "They tell me," he replies, "my father went down on board the Cumberland; the winds of the ocean sang the requiem of his death." There is another youth, and let us ask where is his father. He replies, "My father was with the legions of liberty on the 3d day of July, at the battle of Gettysburg, there, where the Union soldiers, under a Pennsylvania leader, vanquished the hosts of slavery, there my father was killed, and now lies buried in the national cemetery." Ask another where his father is. "My father, sir, in 1863, was with the western army under the gallant Hooker, and with the rest of them went up, and on, and up still to Lookout mountains, and there, above the clouds, with God looking down upon the legions of the Union, as He was inclosed in clouds when He gave the law to Moses, so the army of freedom was enveloped by the clouds when it gave forth the law of liberty by the thunders of its artillery. There, sir, my father died—upon that mountain top; and I thank God he did his duty." That is the way the Union men will speak in after days. You write an epitaph upon your grave-stone, which, after your death, will sound sweetly to the ears of your children. Ah, do not the members of this House many of them regret that they will at least have not served as you have who occupy that chair? [Mr. GARFIELD in the chair.] The fathers among us will have to regret that our children cannot say that we have fought the battles of our country. Ah, but when we are gone will not our children, when they come around our graves, be able to say "Our father loved his country?"

Mr. Chairman, I would like to trouble the House a little longer in showing the absurdity of this doctrine that it is best for a nation not to be homogeneous. Now, whether the gentleman from New York shall remain in this House for years to come or not; whoever, even of those whom the storm of Unionism may have swept away for the while, shall come back here, four, six, or ten years hence, will have learned this lesson from the people at least, that our people are homogeneous in this, that treason and slavery—being the same thing now—must die, because they have attempted the life of the nation. And when the cause of the present evil shall have been done away with the nation will go on and prosper and be still more prosperous, and then they will hear no more from able and eloquent statesmen of the absurd ideas of State rights, and that a want of homogeneity, a want of unity of purpose, and a want of unity of thought and action, is the strength of the nation.

Mr. ROSS. I had flattered myself that after the assembling of this session of Congress we would be able calmly and dispassionately to examine and investigate the great questions which are now agitating and distracting the public mind of the nation. I regret very much the temper and spirit with which the honorable gentleman from Pennsylvania [Mr. A. MYERS] has seen fit to entertain this House. I believe that gentleman and one other, the gentleman from Massachusetts, [Mr. DAWES], are the only two who have seen fit to allude to certain individuals who were defeated in the late canvass, and to bring forward the old dead issues which were discussed in the late political campaign.

I say, sir, I flattered myself we would come together in such a temper and spirit that we would respond in some degree to the expectations of our constituents by aiming to give peace and harmony and prosperity again to this distracted country. But the gentleman has chosen a different line of argument. He has seen fit to allude to the action of a certain political party in their national convention at Chicago. He has, in my judgment, given a very wrong and improper construction as to the true theory of the Government itself. He ignores any rights in the States of this Union. I know it is becoming a favorite theory with gentlemen upon that side of the House that the States of this Union have no rights, but that we are a consolidated Government.

Sir, such a theory is not sustained by the history of this country. These States were sovereign and independent, but they surrendered certain portions

of their powers and rights to the General Government, and the General Government is paramount and supreme to the extent of such delegated powers, while all the powers not conferred upon the General Government by the sovereign States themselves, are held and maintained by the States and the people respectively. So jealous were our fathers in framing the Constitution that they provided a limit to the extent to which the General Government might be permitted to go in the exercise of its functions.

Then, I take it, it cannot be successfully controverted that those powers not conferred on the General Government still remain in the States and in the people of this Union. There is nothing wrong in the formation of the Government. The ills which now surround our once glorious and happy country do not grow out of any inherent defect in the organic law under which we live. The Constitution of the country is all right; it is a perversion of the great principles of the Constitution that has brought on the difficulties which now surround and discompose this once glorious and happy country.

I say that the General Government is limited in its powers. Let the General Government exercise only those powers which are delegated to it, and, sirs, there will be no collision between the Federal Government and the respective States of the Union; we may go on, as we have done for seventy-five years past, the States revolving around the Union as a common center, without collision or conflict, and no State will ever desire to sever its connection with the General Government.

Why, sir, it was one of my boyhood's fancies that I would live to see the day when we would have an ocean-bound Republic. The idea that the character of our Government endangers its perpetuity is not true, if the Government is properly administered. We may take in Canada, and Cuba, and South America, and the islands of the sea, and they may harmoniously revolve with the States around the common center without any more danger of collision and conflict than there is in the solar system itself, if the Government is properly administered.

The gentleman from Pennsylvania has seen fit to allude to the action of the Chicago convention, and very unjustly too. The Chicago convention did not resolve that the war had been a failure. What they did resolve was the simple truth that must be admitted and acknowledged by every gentleman upon the Republican side of the House, and that was that the war had proved a *failure to restore the Union*. That is what they said, and all they said. I should like to see any gentleman controvert satisfactorily the position there laid down by the Chicago convention that this war had proved a failure for the purpose of restoring the Union. No such thing has ever been done.

The gentleman speaks of the extraordinary love that he has for the soldier, and says that our pretenses of love for the soldier are hypocritical. I would call the attention of the committee and of the country to the action of this body at its last session upon some of these points. When I made a personal appeal to the chairman of the Committee on Military Affairs to permit me to introduce a proposition to amend a bill reported by him, increasing the compensation of soldiers up to twenty dollars a month, he refused to give me that privilege, but called the previous question, and the Republican majority sustained that call, thereby cutting off either amendment or debate upon the subject.

These men who love the soldier so well, as they tell you, will permit him to undergo the fatigues and hardships of camp life for the paltry sum of fifty-three and one third cents a day; and when we upon our side of the House asked that that compensation should be increased to at least half what the soldiers might get for ordinary labor at home, the majority upon the other side refused to permit us to make any such motion, or to entertain the proposition.

Mr. FARNSWORTH. Will my colleague allow me to ask him a question?

Mr. ROSS. Yes, sir.

Mr. FARNSWORTH. I want to ask him if he ever voted for an appropriation bill to pay the soldiers?

Mr. ROSS. I will answer that question. I have uniformly voted for every appropriation that has come up to pay the soldiers of the Army, un-

less it has been coupled with something so objectionable and obnoxious that I could not vote for it.

Mr. FARNSWORTH. I want to know if my colleague has voted for a single appropriation bill for the Army—to provide means for paying the Army?

Mr. ROSS. I have never voted for any appropriation for freedmen, or for putting the negro upon an equality with the white man in the ranks. Against all such measures I have voted; but I will tell my colleague, as he is one of the Committee on Military Affairs, that if he will introduce a bill, naked and alone, to increase the pay of soldiers, he will find no man in this House who will give it a more ardent support than I will.

Mr. FARNSWORTH. I understand the gentleman to take the ground that the war is a failure, and that our soldiers are engaged in prosecuting an unholy and unjust and unconstitutional war. I understand that he never voted for an appropriation bill to provide means for paying the soldiers. It is true that he did upon one occasion offer an amendment or resolution to increase the pay of the soldiers to twenty or thirty dollars a month. The purpose of the gentleman in that proceeding is, it seems to me, very apparent. If the gentleman is opposed to the war, and thinks that the soldier is engaged in an unholy, unjust, and unconstitutional war—"a hellish crusade against liberty," as it has been denominated by some members on the other side—can he be justly regarded as a friend of the soldier who is engaged in the war? I think that the gentleman's constituents and mine well understand our relative positions.

Mr. ROSS. Mr. Chairman, the gentleman assumes too much when he says that I have ever declared that this was an unholy, an unrighteous, or an unjust war. I have never, at home or abroad, enunciated any such doctrine. I have said that, in my humble judgment, if this Government had been properly administered this bitter cup might have been turned from our lips, and we might not have been required to drain it to the very dregs. Such is my judgment in regard to this matter. But I am the last man, with one hundred and fifty or two hundred thousand of our gallant Illinois soldiers in the field, to turn my back upon them.

Mr. FARNSWORTH. I want to ask my colleague how he voted on the bill reported last session from the Committee on Military Affairs, for the speedy punishment of those infernal rascals known as guerrillas, who shoot our soldiers in the back as they are dragging their weary and blood-stained feet to the hospitals in the rear. Did my colleague vote for that bill or against it?

Mr. ROSS. The gentleman seems desirous of breaking the thread of my discussion, but I will tell him—

Mr. FARNSWORTH. Not at all; but you are on the question of the soldier.

Mr. ROSS. The bill introduced for the purpose of giving to the commanders of petty posts, perhaps not above the grade of lieutenant, the authority to execute men called "guerrillas." I did vote against, and I would vote against it again, because all that was necessary, even without its passage, was to report to the authorities at Washington, and thus get a confirmation of the sentence. What kind of war would we have if that policy were to be pursued? There would be a system of vengeance and retaliation in both armies. The war would become a ten-fold more cruel and bloody war than it now is. Consequently I voted against that bill. But I have voted for the soldier. I have voted to increase his pay; and I have appealed to members of this House to increase his pay. And I ask the honorable gentleman from Illinois [Mr. FARNSWORTH] how he will explain to his constituents why, when I proposed to increase the soldiers' pay twenty per cent. he voted to sustain the previous question, thereby keeping one hundred and fifty thousand Illinois men in the field on fifty-three and a third cents a day, while their wages are worth from one dollar and a half to two dollars a day at home? I want my colleague to answer this to his constituents at home.

Mr. FARNSWORTH. Does my colleague desire an answer to it now?

Mr. ROSS. I do not propose that you shall make a speech now.

Mr. FARNSWORTH. I am willing to answer that now. I was one of those who voted for and advocated the payment to our soldiers of

all that they could be paid with the means at the disposal of the Government. I always voted for appropriation bills to provide means to pay the soldier. I voted for tax bills. I voted for every revenue bill to provide means for carrying on this war.

My colleague complains that the soldiers are paid too little. Why, sir, there is not a Government on earth that pays its soldiers half as well as the Government of the United States pays its soldier. There is not a Government on earth that feeds or clothes its soldiers so well as the Government of the United States does. Nothing like it. Our soldiers now get sixteen dollars a month, their clothing, and rations. You cannot find any other Government on the face of the earth that pays its soldiers ten dollars a month, with rations and clothing.

Mr. ROSS. Then I understand this matter differently from my colleague, and I will leave him to settle it with his constituents. He thinks that the pay of the soldier is high enough; that we have gone ahead of all other Governments in that respect. He is willing to say to one hundred and fifty thousand Illinoisans in the field, who, if at home, could command from one dollar and fifty cents to two dollars a day for farm labor, that they shall stay in the service, and bear the trials and hardships of camp life for fifty-three and one third cents per day. That is what my honorable colleague says to his constituency. For my part, sir, I think that the noble boys in the field, who are bearing the toils and hardships of war, are entitled to at least as much compensation as they would receive for ordinary labor at home.

Mr. FARNSWORTH. Mr. Chairman—  
The CHAIRMAN. Will the gentleman give way to his colleague?

Mr. ROSS. If he wants to ask me a question, I will give way.

Mr. FARNSWORTH. I have served with our soldiers for nearly two years in the field—

Mr. ROSS. I do not propose to give way for the gentleman to make a speech.

Mr. FARNSWORTH. I propose to premise my question by a few words.

Mr. ROSS. I cannot yield to the gentleman, except to ask briefly a question.

Mr. FARNSWORTH. Well, I want to ask my colleague whether any Illinois soldiers have ever complained to him of the lack of sufficient pay?

Mr. WASHBURN, of Illinois. Of twelve thousand from my district not one has ever made any such complaint.

Mr. FARNSWORTH. I have never in my life received a letter from a soldier complaining in regard to the insufficiency of his pay.

Mr. ROSS. I suppose that the reason why the gentleman has not received any application from soldiers for increase of pay is, that the soldiers have understood that he is opposed to such increase. I have received such letters in abundance from my constituents, asking that they should at least be allowed such pay as will enable them to send home to their wives and children a small pittance to keep them from becoming objects of charity.

Mr. FARNSWORTH. Why did not my colleague have those letters or petitions referred to the Committee on Military Affairs? We never saw any of them.

Mr. ROSS. I showed one of those letters to the honorable gentleman last winter and he turned me off very coolly.

Mr. FARNSWORTH. The truth is these complaints come from the men who oppose the war; they come from those of the party represented on the other side of the House who have resolved upon everything that can embarrass the Government, prevent the success of the Army, and throw obstacles in the way of the prosecution of the war.

Mr. ROSS. I think, sir, that the meager pay of the soldier is manifestly unjust. I have little faith in loud professions of love for the soldier, when those who make them refuse to allow him enough pay to sustain his wife and children at home, so that they are left naked and starving.

But they did increase the pay of the soldier! They increased it by the extraordinarily munificent sum of ten cents a day! Mr. Chairman, I think that the appellation that was formerly ap-

plied to Mr. Buchanan, when he was a candidate for the presidency, might with propriety be applied to the other side of the House; they might be called the "ten cent" party. They actually, in their munificence, increased the pay of the soldier ten cents a day—enough to buy a quarter of a yard of common calico, or a quarter of a yard of brown domestic muslin, to assist in clothing his wife and little ones at home. This is the love that these men have shown toward the soldiers in our Army.

I will tell you another thing that was done at the last session. We passed through this House a bill introduced by the Committee on Invalid Pensions, to increase the pay of the pensioner to eleven dollars a month. It had been eight dollars before. As all the necessities of life had been raised in price by the war, we thought that increase in the amount of pension was demanded. I knew that in Illinois widows and orphans of our soldiers who had fallen in battle had in some instances become objects of charity in the neighborhood where they lived. I was not willing that they should be so regarded. We passed in this House a bill to increase the amount of pension to eleven dollars a month. When that bill went to the Senate, that body by a majority vote—a party vote—struck out the provision for eleven dollars a month and reduced the amount to eight dollars a month. This House, by a majority vote, concurred in that amendment. By this circumstance the armless and legless soldiers throughout the country, and the widows and orphans of soldiers who have died in the service, may know and understand the reason why they do not get eleven dollars a month instead of eight dollars a month. It is because the party in power in this House so voted and determined.

But, sir, the Senate made another amendment to that bill. You know, sir, that, as our law previously stood, the widow of a soldier, in order to draw her pay and pension, was obliged to produce a certificate of record to establish the fact of her marriage. There have been hanging in the Department hundreds of applications of widows who, because they were married in the rebellious States, or for some other reason, found it inconvenient or impossible to get a certificate, and who therefore cannot get a pension.

But this House and the Senate last winter proposed a new plan, which was, that persons living together as husband and wife for the space of two years should be entitled to a life pension under the pension act. That was to be considered as *prima facie* evidence of marriage. Strange to tell, they did not apply that beneficial privilege to the white woman; but a black woman who proved that she had lived with a negro two years is placed upon a higher and more lofty position than the white women of this country, because the one can get a pension on such evidence, and the other is compelled to have record evidence. It is the ground agreed upon by the Senate and the House of Representatives.

Mr. Chairman, it is not in accordance with my feelings to indulge in the discussion of these old questions which have passed into history. As a Representative of the people in Congress, I should have never alluded to them if other gentlemen had not brought them up. The great practical question which the people are desirous their Representatives should act on, is that in some way we should have a restored and united Government. I am not one of those who believe that there is any necessary conflict in the institutions of this country. I know the doctrine has been enunciated by distinguished men, that there was an irrepressible conflict in the institutions of this country. I say, sir, that it is a slander upon the patriot fathers who framed and molded those institutions. They did not make them as temporary experiments of government. They made them to last and endure as long as water ran and grass grew. They did not imagine that they were forming a Government which, in the first century, was to totter to its fall. I say that it is a slander upon our fathers. It is a base calumny upon the Government to say that there is any irrepressible conflict or collision in our institutions. This Government may go on, and go on till time shall be no more, without collision or conflict, if we confine ourselves within the legitimate jurisdiction of the Government itself. There is the trouble.

Mr. Chairman, the question of slavery was not one of those which were delegated by the States

to Congress. Congress has not that power, that power having been reserved to the States themselves. I do not stand here as the apologist for slavery. I recognize the soundness of the doctrine enunciated by Stephen A. Douglas, when he said that he did not care whether Congress voted slavery up or down, for the reason that it is none of our business. When we govern ourselves in Illinois, we are content. We have no right to attempt to control the domestic institutions of Kentucky and Missouri. That is a sovereign right which they have never surrendered to the General Government.

I ask you, Mr. Chairman, and the honorable members of this House, whether we had not better content ourselves with standing by the Government as it came from the hands of our fathers? We recognize the principle that each State has the right to control and manage its own domestic institutions in its own way. It is not hard to get back to the fundamental principles of our fathers, under which we prospered and flourished for the last seventy-five years. It is a simple question of attending to our own business, and letting every one else alone. That is all. When you narrow down the contest, it comes to this, that each State shall attend to its own affairs, and leave those of others alone. I submit to the consideration of the House whether it is not better to so determine.

We are engaged in one of the most extraordinary wars the world has ever seen. Is it not a time that we should attempt to conciliate and harmonize the public sentiment of the country? I believe that there may be reconciliation, and that we may grow happy and prosperous as in years past. Such is the desire of my heart. It is the great object I have in view, and I shall do all I can to bring about so desirable a result.

A time of civil war is no time in which to change the institutions of this country. I know that alterations of the Constitution are urged. This is no time to change our organic law. Let us stand by our Government as our fathers made it. Let us abide by the Constitution as it came from their hands. Why, I would as soon trust Washington, and Jefferson, and Adams, and Franklin, as I would the distinguished gentlemen of this House, for whom I have so high a regard. And I submit to the House whether it is not better that we should attempt, by some conciliating means, to restore this Government. I know gentlemen tell us "You talk about compromise; we are opposed to compromise." Now, I want you to think a little about that, as calm and candid men. You say you are opposed to compromise. Do not you know that this Government was founded on compromises? Do not you know that this Government could never have been formed except by compromise? Washington, and Jefferson, and Madison, and Franklin, and their illustrious contemporaries were not afraid of compromise. They were men who were willing to compromise. The Government was not only made by compromises, but it has been maintained by compromise from that day to this.

In 1833, when there was danger of a collision in this country, you know the action of Henry Clay, the idol of his party at that day. He came forward and proposed to reduce the tariff to twenty per cent. as a peace offering. You recollect that in 1820, when the Missouri question was distracting this country, Henry Clay came in with his compromise and peace measures, extending the line of 36° 30' to the Pacific ocean.

Mr. FARNSWORTH. I desire to ask my colleague what kind of a compromise he would propose, which would lead in his opinion to a restoration of the Union. I have failed to ascertain from him or from anybody else the sort of compromise which will answer.

Mr. ROSS. I am wedded to no particular plan. What I desire is a restoration of the Government, and I will tell the gentleman what I believe I would do. I believe I would ask an armistice and a national convention with a view to settling our difficulties, and in my judgment the people of this country never would permit that national convention to adjourn until they had agreed upon peace and a restored Union.

Mr. FARNSWORTH. If my colleague were a member of that convention what sort of a basis would he propose by way of compromise?

Mr. ROSS. I would propose the old Consti-

tution, the old Union, the old flag, and the old Democratic party to administer it. [Laughter.]

Mr. FARNSWORTH. They had all that when they went out. They had the whole of that under Buchanan.

Mr. VOORHEES. I object to further interruption.

Mr. ROSS. I am not disposed to experiment in this matter a great deal. We got along very well for seventy-five years, and I do not want a better condition of things than we had then. We had peace, nationality, and such an extent of prosperity as never before blessed any nation. We astonished ourselves at the magnitude of our prosperity.

Now, what is the use of throwing all that away by experiment? What is the use of attempting to better a condition of things already good enough? Daniel Webster, I think it was, said it was best to let well enough alone.

Mr. FARNSWORTH. Did not the rebels have the old Constitution, the old flag, and the old Democratic party in power?

Mr. VOORHEES. I object to interruption.

Mr. ROSS. And the trouble is that you turned them out. We had peace and prosperity all over this country during the reign of the Democratic party. They had the reins of this Government for sixty years, and we never infringed upon the rights of any man. Our name was respected at home and abroad, upon land and sea. Wherever our flag took our citizens, their rights were respected. When these gentlemen made an onslaught upon the Democratic party on account of the Mexican war we did not imprison any of them, or stop their presses; but gave them the right of the writ of *habeas corpus*. And I propose to extend that right to them again when we get into power once more. What we want now is the restored flag, the old Union, the old nationality.

I know those gentlemen tell us all the time there can be no compromise made. I have heard it said upon every street corner that if you would give the rebels a sheet of blank paper, and let them write out the terms of peace, they would not write any terms except those of absolute independence.

Now, sir, I want it distinctly understood that I never have been in favor of a division of this Government, and I am not now. I want the whole Union—every part of it. But I would rather have it by compromise than by fighting. I would rather have restored peace and union by compromise than by war.

Gentlemen know very well the danger which we are all the time incurring by the prosecution of this civil war. The despotisms of the Old World do not love us. Some people thought it strange that they should take the side of the South, but there was nothing strange about it. They took the side of the South because the South was the weakest; and whenever we are the weakest they will take our side. They want us destroyed and to see this Government used up.

Well, now, we have run a great many narrow risks since this war commenced of complications with foreign Governments. We have been on the very eve of such difficulties all the time. I ask gentlemen if it would not be better to do as Washington and Jefferson and Madison and Jackson and Clay and Webster and all those great men did, and say that we are not too great to compromise. They were not too great to compromise; they were willing to compromise; they compromised in making the Government, and in upholding and maintaining it.

Gentlemen asked, "what do you want?" I want whatever is right and fair, and I want a national convention of honest men to determine what is right and fair. I think we have been in some degree, perhaps, in the wrong. The gentleman from Pennsylvania says that you cannot point to anything that the South had a right to complain of. I ask if they had no right to complain of the violation of the principle of the fugitive slave law. It was a constitutional provision and was the law of the land. But you know that they passed "personal liberty bills" in New England by which they confined persons in prison who undertook to carry out that law and attorneys who would take the cases of those men who attempted to recover fugitive slaves. I ask if there is no cause of complaint in that. I think there is; and these things might be settled.

I am willing to let them have their institution of slavery until they get tired of it. I do not want it in Illinois, but I take it that it is the right of each State in the Union to have and maintain slavery if they desire it. When you strike down this right you violate the principle of the Government, which is that the States shall have the right to determine for themselves the kind of institutions they will have.

Now, what objection can there be to having a national convention? Gentlemen tell us that we cannot get peace from the South by such means. Well, what hurt will it do to make an offer of it? Suppose we make the proposition. You know that a great many men think differently on the subject. I have thought at times that the reason why you did not make any propositions of peace with a restored Union was that you were afraid they would be accepted. That is my theory; I hope I am mistaken.

Now, I am not disposed to give up this Government any more than you are. It is my Government; I intend to maintain it in every way I can; but I submit to you in all candor if we cannot do it better by compromise than by fighting. What use will this southern country be to us after our armies have conquered it? We must have the consent of the people before it will be of any service to us. Your bill which provides for the appointment of governors and other officers there is in violation of the principle of our Government. The principle on which our Government is founded is the consent of the governed. You must have the hearts and affections of the people or you cannot maintain a Government like this. We set out on the hypothesis that we could maintain a Government here without any great standing army or powerful navy. It worked beautifully for seventy-five years. We did not tax the people as they do in the despotisms of the Old World to keep up a large standing army and a navy. The people loved the Government. They did not require an army to keep them in subjection. When you have to force the people to remain under the government, you must have a large army and navy, which necessarily involves great expenditures of money and high taxes.

I submit to you, Mr. Chairman, whether we ought not now to fall back on common sense and on the principles of the Government as our fathers made it. Let us settle with these men in the South if we can do it on honorable and fair terms. Then we will not have cause to be afraid of foreign intervention. I want to maintain the old Monroe doctrine which has grown obsolete since the present Administration came into power. I want to restore that great principle. Suppose we settle up our own internal difficulties and place Grant, Sherman, Lee, and our other great generals with consolidated and combined armies in Mexico and run the French out—can we do anything else that will so nationalize the popular heart and give peace and quiet to the country? Let us not be wasting our time and energies in quarreling about old issues until some foreign Government steps in and takes our liberties from us. These foreign Governments do not like us. They would like to see the failure of this experiment of free government on this continent.

I submit, then, Mr. Chairman, whether it would not be better for us to have a national convention.

Mr. BALDWIN, of Massachusetts. Will the gentleman permit me to ask him a question?

The CHAIRMAN. The gentleman's colleague [Mr. EDEN] objects to his being interrupted.

Mr. ROSS. I have no objection to answering any legitimate and proper question.

Mr. EDEN. I withdraw my objection.

Mr. BALDWIN, of Massachusetts. My question is this: how are you to get at this national convention?

Mr. ROSS. I think that if a national convention were proposed by our Government, and refused by the confederate government, there would be some difference in the feelings of some men in the country in regard to the prosecution of the war.

Mr. BALDWIN, of Massachusetts. By what authority can our Government propose it—where is the power?

Mr. GANSON. In "military necessity." [Laughter.]

Mr. ROSS. I suppose there is the same kind



of authority for it as that under which the war is prosecuted—the Executive will. I do not see any objection to the proposition.

Mr. BALDWIN, of Massachusetts. What power is there to call such a convention without violating the Constitution, which provides that, on application of two thirds of the States, Congress shall call a national convention?

Mr. ROSS. I think there is no difficulty in the matter whenever this is desired. But the trouble with the gentleman from Massachusetts and his friends is that they do not want such a thing.

Mr. BALDWIN, of Massachusetts. I want to proceed according to the Constitution.

Mr. ROSS. So do I. I am for the Constitution and for the Union, maintaining it in all its parts just as it was, with such amendments as we may see fit to make. If it is defective I am willing that it shall be amended. There is nothing strange or novel in my position. I have been for the Union all the time. I have not been very fierce in the prosecution of this war. [Laughter.] I have no disposition to disguise my feelings on the subject. I will tell you why I have not been. Because I thought the war might have been honorably avoided. I knew that peace propositions introduced by Mr. Crittenden, Mr. Douglas, and Mr. Kellogg, of Illinois, were voted down in this House. I noticed that when Mr. Clemens, of Virginia, introduced a proposition to submit the Crittenden compromise to a vote of the people of the United States the majority in this House voted it down. And I was irresistibly led to the conclusion that they desired war and not peace.

Another thing brought me to this conclusion. At the time the peace convention was in session in Washington city, a distinguished member of the Republican party telegraphed home, "Send us stiff-backed men or none." Said he, "Illinois and New Jersey are caving in. Without a little blood-letting this country will not be worth a curse." From these facts I have been drawn to the conclusion that there were many in the country who desired war and not peace. I am as willing as anybody to have war when it is necessary to have it. Whenever I am satisfied that this Government cannot be maintained except by war, then I am for war. While it can be maintained by peaceful measures, I prefer to avoid war. I have no disposition to disguise the fact that I prefer a peaceful adjustment of our difficulties rather than war. If any gentleman would rather adjust them by war than by peace, he is entitled to his opinion. I will ask my colleague [Mr. Farnsworth] whether he would prefer now that our difficulties should be settled by peace or by war. Let him just answer that question without a speech.

Mr. FARNSWORTH. No man in the wide world excels me in a strong desire for peace. Every soldier, and I take it, every reasonable man, wants peace. I think, however, that the only way out of our present troubles is to conquer a peace. I am entirely satisfied that the method proposed by my colleague [Mr. Ross]—an armistice and a convention—would simply lead to a further prolongation of the war. Being entirely satisfied of that, and inasmuch as the rebels may at any time, by simply laying down their arms and abiding by the Constitution, have peace, with all the rights that they ever had, except such as they have forfeited by their rebellion, I see no necessity for an armistice or a convention, which, in my opinion, would subserve no purpose except to throw obstacles in the way of the further prosecution of the war.

Mr. ROSS. The gentleman has not answered the question which I propounded.

Now, I would like to exhaust all peaceful measures before we should prosecute this war much longer. We have been about four years engaged in war, and it has been crippling our resources very greatly. We are heaping upon our people a very heavy debt. Now, if there is any possibility of avoiding this it appears to me that we should all concur in an effort toward that end. Why not try it? Why not see whether we cannot make peace? Gentlemen on the other side of the House are not so much greater than Washington and Jefferson and Adams and Jackson and Clay and Webster. All these were willing to compromise. How does it happen that such superior wisdom has sprung into existence within the last three or four years?

Mr. FARNSWORTH. How did Jackson compromise with South Carolina nullification?

Mr. ROSS. Well, I will tell you. Jackson issued his proclamation against the nullifiers, which was all right; but he concurred in the peace measures offered by Mr. Clay about the same time. While he sent forth the sword, he also sent forth the olive-branch. That is what I want now.

A MEMBER. It is what we have now.

Mr. ROSS. Why do you not issue a proclamation telling these men in rebellion that if they will lay down their arms they shall be entitled to all the rights which they enjoyed under the Government before the war? In my judgment, the reason is that you are afraid that it will be accepted. I am afraid that there are too many in this country who want to prosecute this war for the purpose of place and emolument. I fear that this is the great danger.

Now, I submit, Mr. Chairman, whether we had better not bury, for the time being, our party prejudices, rise above party, and act like patriots for the restoration of our Government. I am willing to join hands with any who are in favor of a restored Government as our fathers made it. I am willing to cooperate and consult, to do whatever may be best to secure the restoration of our glorious Government. I want to hand it down as a precious legacy to my children. Houses, or lands, or anything else that we can give them, are worthless when compared with free government and free institutions. No man in this House is more attached to our form of government and the institutions under which we live than I am; none would make greater sacrifices to maintain them.

Gentlemen on the other side taunt us with the fact that we have been beaten at the last election. Be it so. We submit gracefully. We come here to do what we can to restore the Government. The great interests of the country now hang tremblingly in the balance in your hands. The responsibility of determining whether we shall have a restored Government rests upon you. I will throw no obstacles in the way. I will do what I can to aid the Union men of this country in the restoration of this Government. I am a Union man without an "if" or a "but." I am for the Union, whether slavery lives or dies. I do not care whether slavery be voted up or voted down. I am for the Government and the Constitution and the Union as our fathers gave them to us. I would ask my colleagues here whether the time has not come when we should bury our party prejudices beneath the rubbish of ages, and come together as true men to consult for the restoration of our Government and an honorable and enduring peace.

Mr. FARNSWORTH. Mr. Chairman, I think that the time has come when these old rusty party prejudices should be buried, and that the time has come also when this rusty old fossil of a party should be buried, as it has been pretty much by the votes of the people.

My colleague talks about his love for the soldier. Strangely it happens that the soldiers do not reciprocate that attachment. We find from the votes in our own State of Illinois, as in every State of this Union, whether the soldiers have been at home or in the field, they have spewed the Chicago platform and its nominees out of their mouth with disgust; and my colleague is the only one left of all my colleagues on that side of the House to tell the tale. He has taken the first opportunity to tell it, and he tells it well. I am not surprised that he has gathered a portion of courage from the vote in his district. He is the "last of the Mohicans," the last of the tribe. [Laughter.] I have no disposition to take his scalp, for I am entirely willing that one should be left.

Mr. ROSS. Let me correct my colleague. I am not the only one, for there are three Democratic members from Illinois.

Mr. FARNSWORTH. I said that my colleague is the only one of those now here who is left to tell the tale. That is true.

My colleague talks about an armistice and a convention to arrange terms of peace. Peace at a time like this! Shall we lay down our arms and recall our victorious soldiers from the field just at the time when light is breaking through the rebellion; when we see around it and through it, and it is becoming transparent; when its resources

are tumbling; when the bottom of the tub is near out; at a time when we have, as the President says, detached a large army, holding on to what we have conquered, to go curving back and forth through the confederacy without let or hindrance; at a time when Sherman has made his triumphant march through Georgia, when his guns are thundering away at Savannah, when it is a question of time, and that brief time, when Savannah falls, when he sweeps up and takes Charleston, and then, unstayed in his onward progress, joins the veteran hosts of Grant at Richmond? At such a time my colleague talks about an armistice! He talks about withdrawing his army. I regret that any voice from my own State, that glorious, gallant State of Illinois which has given so many soldiers to this war, and has so many more to give—I regret, sir, that any voice from that State should croak about an armistice and peace. That, too, when the people have thundered their verdict in his ears, and when that verdict has reached the ears of the despots across the water, who, he says, are wishing so anxiously for us to fall to pieces. Yes, sir, and that is the reason they gave every aid and comfort to the gentleman's party in the last election, because they want us to tumble to pieces.

Mr. Chairman, I am in favor of peace, as I have already told my colleague. There is not a soldier among all the gallant host from Illinois, who marches back and forth upon his silent watch at midnight and thinks of his home and fireside, who does not pray for peace; but there is not one of them, with all their anxiety for peace, who is willing to turn his back to his foe at this moment for armistice and peace. He the friend of the soldier! The soldier does not reciprocate his attachment by any manner of means. The soldier does not want an armistice, for in it he sees a prolongation of the war. He can see no peace in anything patched up by the builders of the Chicago platform. He believes it would result in chronic war. I, for my part, see no road to peace but the road of war; and I am in favor of prosecuting this war day by day, month by month, and year by year, if necessary. We have shown that our resources are scarcely touched, and we have made the rebel flag bite the dust.

My colleague talks about the Constitution and the flag. All that is necessary is for the rebels to submit to that Constitution and flag, lay down the instruments of war and take up those of peace, and the war is ended. Why, sir, they had the old Constitution; they had the old flag, and I am sorry to say it, they had the old Democratic party in power when they broke up the Union. They had the friend of my colleague, James Buchanan, at the head of the Government, and his thieving, traitorous crew in all the Departments.

I failed to get an answer to the question I put to my colleague as to what kind of a compromise he would propose. I have heard these gentlemen talk much about compromise. But, Oh no, it is an armistice, a convention; and then they will see what terms they can make. What do they propose to compromise? What have we done? The gentleman says they complain of our action in reference to the fugitive slave law. But it happens that those States which had the most reason to complain have not gone out of the Union. Maryland, Kentucky, and Missouri did not complain; or, if they did, they did not complain to the extent of seceding. South Carolina was the leader in this rebellion—the first State that seceded. Will my colleague tell me how many slaves South Carolina ever lost by reason of the non-execution of the fugitive slave law?

Mr. ROSS. Did not the former Governor of Ohio, the present Postmaster General, say he would resist the execution of the fugitive slave law by force?

Mr. FARNSWORTH. I do not know what he said; I never heard him say so; but if he did, I do not know that that is any reason why South Carolina should secede.

I hear it said by gentlemen on this side that South Carolina lost ten slaves in thirteen years. I did not suppose it was so many; but those she did lose were those who concealed themselves on board of vessels at Charleston, or who were barreled up, or stuffed into old dry-goods boxes, to be sent off. She never lost by the non-execution of the fugitive slave law. Nor did Georgia. It was said on the floor of this House, by the lead-

ers of this rebellion, that it was not that that they cared for. I heard a member from Alabama say, upon the floor of this House, that he came here, as a member of that Congress, for the purpose of breaking up the Union, and not on account of the non-execution of the fugitive slave law. And I have lived to hear my colleague from the old glorious State of Illinois get up upon the floor of the House and apologize for those men who, with lips yet warm with the oath they had taken upon the Holy Evangel of Almighty God that they would support the Constitution and perform their duties as members of Congress to the best of their ability, made their boasts openly and above-board, under a Democratic Administration, and in the presence of those voting with the Democratic party, that they came here only for the purpose of trying to break up the Government.

I rose only to throw out these few remarks by way of brief reply to my colleague, and I yield the floor.

Mr. COX obtained the floor, and moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the President's annual message, and had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced to the House that the Senate insist upon their amendments to the bill of the House (No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," agree to the conference committee asked for by the House, and had appointed Mr. SUMNER, Mr. HOWARD, and Mr. BUCKALEW, the committee of conference upon the part of the Senate.

#### OVERLAND MAIL TO CALIFORNIA.

Mr. DAILEY asked unanimous consent to introduce the following resolution:

*Resolved*, That the Postmaster General be requested to furnish to this House copies of all advertisements by the Post Office Department for the letting of the late contract for carrying the overland California mail, with a list of all bids and bidders under any or all of said advertisements; also, a copy of all correspondence with the Department in relation to said contract, the date when, and to whom, the contract was finally let.

Objection was made.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. EDEN, leave was granted for the withdrawal from the files of the House of the papers in the case of M. W. Twiss; and the same were referred to the Committee of Claims.

#### HEIRS OF JOHN A. STEVENS.

Mr. BOYD, by unanimous consent, introduced a bill for the relief of the widow and heirs of John A. Stevens, deceased, of Springfield, Missouri; which was read a first and second time by its title, and referred to the Committee of Claims.

And then, on motion of Mr. COX, (at four o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, December 21, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with law, a statement of the appropriations to the credit of that Department July 1, 1863, and the unexpended balances on the 30th of June, 1864; which was ordered to lie on the table.

He also laid before the Senate a communication of the Secretary of the Interior, transmitting, in obedience to law, copies of the accounts of the superintendent and agents charged with the disbursement of the funds for the relief of the refugee Choctaw, Chickasaw, and Seminole Indians for the second quarter of the year 1864; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

Mr. COLLAMER presented a petition of Harper & Brothers, and others, and a petition of

George W. Matsell & Co., and others, citizens of New York, praying for the repeal of the fourth section of the "Act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, imposing restrictions upon mailable matter; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWARD presented a petition of surgeons and assistant surgeons in the United States Army, praying for an increase of compensation; which was referred to the Committee on Finance.

He also presented a petition of clerks in the Treasury Department, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. SAULSBURY presented the petition of Benjamin S. Compton, praying for compensation for seven hundred and eighty-two bales of cotton alleged to have been seized by a military expedition under the command of General Ransom, and shipped to Memphis and sold on account of the Government; which was referred to the Committee on Claims.

Mr. ANTHONY presented the petition of Edwin M. Chaffee, praying for an extension of letters patent granted to him August 31, 1836, for the "machine patent," so called, used in the manufacture of india rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. TRUMBULL presented the petition of R. B. Hughes and others, bailiffs of the United States courts in the District of Columbia, praying for an increase of pay; which was referred to the Committee on the Judiciary.

Mr. SHERMAN. I desire to present a petition on behalf of the widow of Rev. Samuel Hibben. It appears that he was duly commissioned chaplain of the fourth Illinois volunteers, and served as such, and died in the service, but by reason of the failure to have him mustered in according to the regulations, he has not been paid. I move that the petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### REPORT FROM COMMITTEE.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 597) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1866, reported it without amendment.

#### MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed the following bills and joint resolution, in which the concurrence of the Senate was requested.

A bill (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit;

A bill (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

A bill (H. R. No. 625) to amend an act entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1865, and for other purposes," approved June 15, 1864; and

A joint resolution (H. R. No. 126) providing for the appointment of a commission to locate one or more navy-yards and depots on the north-western waters.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (S. No. 358) to establish the grade of vice admiral in the United States Navy;

A bill (H. R. No. 478) for the relief of Charles M. Pott; and

A bill (H. R. No. 603) to extend the time allowed for the withdrawal of certain goods therein named from public stores.

#### INTERNAL REVENUE.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 618) to amend the act entitled "An act to provide in-

ternal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, commonly known as the amendment to the whisky tax, have had the same under consideration, and directed me to report it back without amendment. The committee have also instructed me to ask for its present consideration, so that it may be disposed of before the adjournment, as otherwise the effect of it will be lost.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to amend section fifty-five of the internal revenue act of June 30, 1864, by striking out the word "February," wherever it occurs in that section, and inserting in lieu thereof the word "January."

Mr. SHERMAN. It is due to the Committee on Finance that I should make a brief statement in regard to this matter, as it is a very important question. The bill proposes to anticipate the two dollars a gallon tax on spirits, so as to make it commence on the 1st of January instead of the 1st of February. Several objections are very strongly urged to the measure. One is that it is a change of legislation, indicating a want of stability in the action of Congress on the subject. It is also urged that it will interfere with the arrangements already made by the manufacturers of spirits in anticipation of the existing law, that it operates as a snap-judgment, to use a cant phrase, on these men engaged in an ordinary business.

On the other hand, it is alleged, that if this bill be not passed, the manufacture of whisky will be enormously increased, probably to the amount of ten or fifteen million gallons, which will pay but a dollar and a half a gallon, and thus, at a diminished rate of duty, fill the market for months to come, and that the effect would be that no whisky would be manufactured after the 1st of February, when the increased tax is to take effect under the present law. The committee, after a very patient and careful examination of this subject, feeling that there was a great deal to be said on both sides, thought that the interests of the Government would be subserved by passing the bill, that it was better to have the matter settled, and settled permanently at once, rather than to have it continued so as to make uncertainty and confusion in the manufacture of whisky and uncertainty in the revenue. If this increased tax be made to take effect on the 1st day of January, the Government, as a matter of course, will get two dollars on every gallon of whisky manufactured after that time. If it be postponed until the 1st of February, according to the law as it now stands, the Government, it is true, will get one dollar and a half on the largely increased manufacture during January, but none will be manufactured after the 1st of February for some time, until the stock on hand shall be exhausted.

It is a question on which there was a difference of opinion in the Committee on Finance, but we deemed it our duty to report the bill for the action of the Senate. I make this statement in behalf of the committee, without giving my own opinion, so that the Senate may take such action as they may deem proper. It is proper for me to say further, that whatever action is taken should be taken to-day, so that the bill may be disposed of at once. If it be postponed after to-morrow, the bill falls as a matter of course.

Mr. POMEROY. It may perhaps be interesting to the Senate and to the country to know whether this is all the legislation that is intended on this question. At the last session we had it up twice, and I supposed the settlement made in the bill we then passed was final, but of course I have no objection to any improved legislation on the subject. The point with me is to learn whether it is understood by the Committee on Finance that the bill is to terminate our legislation on this question for the session.

I have always believed that this manufacture would bear an increase of tax, even beyond two dollars a gallon. I know that when we first began to tax it, we commenced at twenty cents, and that was struggled against. We then went up to sixty cents, and then to a dollar, and prospectively to a dollar and a half, and finally to two dollars as the rate from the 1st of February next. I should like to have the final point reached at once in one measure, and then let the country rest.

I do not wish to embarrass this bill, but I believe that we might put \$2 50 a gallon tax on all

spirits manufactured after the 1st day of January, and rest there, and then let the revenue come as fast as the whisky shall be manufactured. But if this is all the measure we are to have for this session, and if the Committee on Finance will tell us that this is all they anticipate, I am very willing to go for this: It will increase the revenue fifty cents on every gallon manufactured between the 1st day of January and the 1st day of February. We shall get \$1 50 at any rate, but if this bill passes it will add fifty cents on every gallon.

Mr. SHERMAN. As a matter of course there can be no understanding between the two Houses on a question of this kind, nor would it be in order for me to state the opinions of members of the House of Representatives on this subject; but I can state what I believe from the legislation of Congress, and perhaps what I believe also from conversations with various members of the other House and also of this body, that this bill was intended in the House of Representatives as a kind of compromise or settlement between the various opinions on this subject. There is a feeling in the House that there ought to be a tax on spirits on hand. That has been a controverted point here in the Senate for a long time. Many of those who were friendly to the proposition to tax the stock on hand were satisfied with this proposition, and hoped that during the month of January the increased duty of fifty cents would furnish us some additional revenue at least, and would compensate for what was lost by the failure to tax spirits on hand. As a matter of course there can be no understanding about it. Any member of the House, or any member of the Senate, may introduce a proposition to tax spirits on hand. My impression is that if this bill passes it will be the end of the whisky question.

Mr. POMEROY. That was all I wanted to know.

The bill was reported to the Senate without amendment.

Mr. McDUGALL. I should like to have the bill read.

The Secretary again read it.

Mr. McDUGALL. It strikes me that there is an injustice in this change, because our legislation in that respect is somewhat in the nature of a contract with the people who are engaged in this business. I am not disposed to discuss the matter, but I know it is radically wrong.

Mr. GRIMES. I have not anything to say in regard to the merits of the measure proposed, but I trust that this is the last bill we shall be called upon to give our sanction to that contains such phraseology as is embodied in this. This bill proposes to strike out the word "February" wherever it occurs in a certain act of Congress passed twelve months ago, and to substitute the word "January." What would be thought of a bill to strike out the word "February" in an act passed twenty years ago, and which had been standing on our statute-book that length of time, and to substitute the word "July?" Why, sir, it is the most inartificial manner of drawing a bill, and would not be creditable to any Legislature.

I have not anything to say about the merits of the proposition. I am prepared to vote for it, and am going to vote for the bill as it stands, unless it be amended; but this is a kind of phraseology that ought not to be indulged in.

Mr. McDUGALL. I object to this bill, not for its phraseology but for its substance. When the bill of the last session was passed, we gave notice to the people who engaged in this kind of enterprise that we had made certain assessments and certain rules whereby their commerce might be governed. Now, by active legislation we propose to anticipate their business by a month, which will interfere, I suppose, very materially with the business of the men engaged in that department of commerce. It is unjust, and its rectitude cannot be maintained by any force of argument. I therefore object to it, and shall not vote for it even if it does add some dollars to the Treasury.

Mr. FARWELL. I propose to vote for this bill as the best thing we can get at the present time, although I regret exceedingly, and I believe the people of the country regret exceedingly, the legislation upon this subject at the last session. The effect of that legislation, in exempting from taxation the amount of spirits on hand, has taken from the Treasury of the nation sufficient to pay

every soldier now in the field all that is due him. And who has it given it to? It has given it to the speculators in whisky; and, ordinarily, they are not the best class of citizens. What injustice, I would ask, would be done these men by taxing the stock of whisky on hand? If the Government established an additional tax, and the manufacturers had to pay it, would not the amount of the tax be at once added to the cost of production and be added to the price of the article? And, sir, it has been added. The men who held these large stocks of whisky have added the prospective tax that was to go upon it, and have sold it with this addition, and made the profits that should have gone into the Treasury.

But, sir, as this bill goes into operation at the earliest possible day, only a week hence, I think it is the best thing, under the circumstances, that can be had, and I shall vote for it.

Mr. JOHNSON. I think, with the Senator from California, that the principle of this bill is altogether wrong. I do not rise to maintain that by anything of argument, but to say that the criticism made by the Senator from Iowa is, I think, entitled to such weight that we ought to amend the bill. There is no difficulty in amending it. The whole object of the bill is to impose the tax of two dollars upon domestic spirits on the 1st of January instead of the 1st of February, as it stands under the act. We may do that by saying that the "1st of February" in a certain section of the original act is to be stricken out and the "1st of January" substituted. If it is agreeable to the honorable chairman of the Committee on Finance, I will ask that the bill be laid on the table for a moment to see if we cannot amend it so as to avoid that defect. It can be done in a moment.

Mr. SHERMAN. I have no objection.

Mr. McDUGALL. Why not amend it so as to make the tax on the 1st of February two dollars?

Mr. SHERMAN. That is the present law.

Mr. JOHNSON. I move that the bill be passed over for the present.

The PRESIDING OFFICER, (Mr. Foot in the chair.) It will lie on the table for the present.

#### OATH OF ALLEGIANCE.

On motion of Mr. HARLAN, the Senate proceeded to consider the following resolution submitted by him yesterday:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the expediency and propriety of requiring all residents of the District of Columbia to take and file with the provost marshal of said District an oath of allegiance or fidelity to the Government of the United States similar to the oath required by law of Members and Senators in Congress and other officers of the Government; and also the expediency and propriety of prohibiting all persons from doing business in said District or with the several Departments of the Government who have not or may not take and file such oath; and that said committee have leave to report by bill or otherwise.

Mr. SUMNER. I wish to thank the Senator from Iowa for introducing this proposition, and at the same time to call the attention of the Senate to a bill which is on their Calendar, which I had the honor of introducing at the last session, but which, for some unaccountable reason unknown to me, has been reported upon adversely by the Committee on the Judiciary, requiring that same oath to be taken by the practitioners in the courts of the United States. I am told that there are lawyers in the city of Washington who decline to practice in the courts here because they are unwilling to take the oath which you, sir, have taken, and which the Chief Justice of the United States only the other day took before he entered upon his functions; and yet these same lawyers flaunt in the Supreme Court of the United States. That ought to be stopped; and I give notice therefore that, carrying out the spirit of the resolution of the Senator from Iowa, I shall ask the attention of the Senate as soon as possible to that bill.

Mr. SAULSBURY. It is not my intention to discuss at any length this resolution, but simply to ask for the yeas and nays on its adoption. I would take that oath myself very willingly, although I believe, as far as relates to members of Congress, it is wholly unconstitutional. I do not object to it, as far as it could relate to myself, because of anything other than its unconstitutionality contained in it; but I regard it, if it should pass, as one of those acts of unnecessary oppression on the part of the Government which in times like

these ought to be avoided. Is there any evidence before this Senate that the old inhabitants of this city, those of them who are living here, have given any trouble to this Government, or even to this Administration? They are without a voice in the Government, and they have been sitting quietly at home, doing naught, as appears from any evidence, that is wrong toward this Government; and shall not this Administration and its supporters just coming into power again, flushed with victory, and dreaming perhaps of the perpetuation of their power for years to come, be satisfied with present victory over political opponents, but shall they pursue them into the quiet walks of life, seek out the high-toned, honorable men and women of this city, and compel them to subscribe to any form of oath that may be dictated by a member of this Senate, or by a supporter of this Administration, or by anybody else? When a man is quietly pursuing his business, will you not let him rest in peace if he is doing naught against you, or will you hunt him down? Will you try to drive him out from the community?

Sir, I do not say that the honorable Senator who introduced this resolution meant it as an act of oppression, but it is such in its nature and in its character, and it ought not to be tolerated by this Senate. The honorable Senator must have a very high appreciation of the enemies of this Government, whom he regards as traitors, if he supposes that a simple oath would bind them. Does the honorable Senator think that the man who would be guilty of treason would be bound by an oath? What is the object, therefore, of introducing it?

Sir, when I first came to this city six years ago, the population in it was very different from what it is now. Gentlemen engaged here in business, it may be, are envious of their situation by persons from distant States and distant sections of the country, who think they are living prosperously, and who suppose that by their removal from business their own private stores will be increased. If the object be, therefore, to give to the supporters of this Administration all the business of this city, if it be to drive out everybody from this city who will not tamely and quietly submit to take any and every oath which may be presented them—if that be the object, I submit that the Senator ought to reflect at least before he attempts to force the passage of such a measure through this body.

Sir, I will not discuss the question further. Regarding it simply as an act of oppression, believing that no possible good, but only evil, can result from it, I shall content myself with simply objecting to its passage, and calling for the yeas and nays upon it, in order that I may record my vote in opposition to it.

Mr. HARLAN. I think the Senator from Delaware misapprehends the purport of the resolution.

The PRESIDENT *pro tempore*. Will the Senator allow the Chair to ascertain whether the call for the yeas and nays on the adoption of the resolution is seconded?

Mr. HARLAN. I think the Senator from Delaware will withdraw that on reflection. This is merely a resolution instructing the Committee on the District of Columbia to inquire into the expediency and propriety of such a measure.

The PRESIDENT *pro tempore*. Does the Senator withdraw the call for the yeas and nays?

Mr. SAULSBURY. No, sir.

The yeas and nays were ordered.

Mr. HARLAN. I have but one observation to make in addition to the remark made to the Senator from Delaware, [Mr. SAULSBURY,] that this is a resolution instructing the committee to make an inquiry on this subject. It is barely possible that the committee might report adversely to any legislation. I am frank to state, however, that I think some such legislation is necessary, and ought to be had. I did not suppose a resolution of this kind would implicate any member of this body. It is not intended to require opponents of the Administration *per se* to take an oath of fidelity to the Administration as a political organization, but an oath of fidelity to the Government itself during the existence of a gigantic rebellion. I am inclined to think that a casual listener to the speech of the Senator would suppose that he regarded himself as implicated in the inquiry; that, because he opposed some of the political measures of the Administration, therefore he must be considered



as an opponent of the Government itself, and therefore is in alliance or in sympathy with the rebels. He argues as if he supposed all opponents of the Administration were rebels. I apprehend that no Senator on this floor would maintain for a moment that an alien enemy has a right to remain here and do business in the capital of the nation in time of war, and that the Government would have no right to make use of the necessary means to expel him. And if so, why may not the Government expel from the capital a domestic enemy during the existence of a great armed rebellion? The right to do so, in my opinion, is clear. The only question is one of expediency and propriety. And this question I propose to refer to a standing committee of this body.

While, then, I maintain that in my opinion some such legislation may be necessary, and I desire the inquiry to be made by one of the standing committees of this body, I do not think it can be properly denominated a measure of persecution against political opponents of the party in power; and I think the Senator does himself and his political friends gross injustice in throwing out such an intimation. He surely does not desire the mass of the people of this country to understand that he and his political associates are opponents of the Government of the United States and are in sympathy and alliance with the rebels. And yet he argues as if in his judgment opposition to the rebels was in some way detrimental to the Democratic party. But if that is not what he means his whole speech is without pertinence.

I think this inquiry would be well enough, and in my opinion such legislation would be proper. The committee may differ with me in opinion; and if the committee should agree with me in opinion, a majority of the Senate might differ with me. I think that no evil at least can grow out of the inquiry, and I therefore desire the passage of the resolution.

Mr. SAULSBURY. Mr. President, I shall make no reference to the personal allusions of the honorable Senator to myself. If he really is pained at the idea that by any remarks I have made public suspicion, or even private suspicion, may be aroused that I am not true to the Government of the United States, and am in sympathy with those whom he styles rebels, let me tell him that his sympathy is wasted. I have seen enough since the commencement of these troubles to care but very little what either private individuals or masses of individuals think of my political course or my political principles. I do not seek for instructions in patriotism or in duty either from individual men or from large masses of men. Though God Almighty has given me but a feeble intellect, and but little light to discover the path of truth, such as He has given me governs me, and not the intellect of others, or the opinions of others, however much I may respect the opinions of my fellow-men.

Sir, those who choose to regard me and my political associates as in sympathy with rebellion are welcome to the indulgence of their very charitable opinion. I shall do naught, as a member of this body or in private life, to remove any such suspicion from their minds. I know very well the distinction between the Government of the United States and the Administration at the present time. I know they are asunder as far as the polls; that they approach each other no nearer than heaven and earth approach each other; but I know the doctrine attempted to be inculcated at the present day by a large number of people in this country and by a very influential press, and that is, that the Government is the Administration, and the Administration is the Government.

I see no objection on all proper occasions to any man and every man in the United States taking an oath to support the Government of the United States and the Constitution of the United States. But, sir, the honorable Senator does not live in the section that some of us do. He has not seen the progress that these measures have made. He has not heard it announced, perhaps, as we have, that it is traitorous to oppose the actions of the Administration in times like these. He has not heard voters at the polls questioned in reference to their fidelity to an Administration, not their fidelity to a Government or to a Constitution. Sir, had the honorable Senator lived in the section from which I come, had he lived in what was once the glorious and gallant State of Maryland—if the

Senator from Maryland [Mr. Johnson] will pardon me—which is now the province of Maryland, under the acts of this Administration, he would have seen how the very inception of such measures as this worked injury, and how in their progress they work harder.

But, sir, I do not intend to be provoked (if I may use that term) into any lengthy discussion on this question. I believe the proposition is wrong in principle, unprecedented in practice, can be attended with no possible good, and will be oppressive in its operation.

Mr. McDUGALL. Mr. President, during the period of the present lamentable war there has been no time when the people of the District of Columbia have made any demonstration against the Government or the Administration. That is a simple fact bound to be admitted. What occasion there can be for this special legislation, I cannot comprehend. That the people of the District of Columbia, a people who are to a certain extent ignored in our Government, and who have no right of suffrage in the establishment of the Federal Government, should be particularly proscribed or called upon specially to take special oaths, man by man, is something which I do not understand. I cannot understand it, particularly at this time, when if there ever was a time for it the policy of conciliation should be the policy of the Government. We have triumphed in arms; jubilate has been said from north to south, from east to west throughout all the land for what we have accomplished; and why require this particular thing of the people of this District? what is the occasion which has demanded it? I would think it strange if I were demanded to go through that same process, but to demand it of the people of the District of Columbia to go through the whole population and require them to do this thing in order that they may maintain the right of citizenship in this District is a strange proposition to me. I should like to know from some one the good reason for it.

We have been here, most of us, during the whole period of this war. We have seen no disturbance here. We have heard of men going to the Capitol prison, &c., but we have seen no disturbance, we have seen nothing that required any particular legislation to compel the people of the District of Columbia, who are deprived of a portion of the rights of American citizens by virtue of their residence, to do things which are not required of the other citizens of the Republic. I look upon it, I cannot otherwise than look upon it, as an oppressive and wrongful act. Of course this is only a resolution of inquiry, but all these things tend to agitation. I say that to-day our policy is or should be a policy of conciliation.

Mr. HENDRICKS. Mr. President, when the Senator from Iowa yesterday submitted this resolution I felt it to be my duty to object to its consideration at that time. I do not intend now to enter into this debate at any length, but I wish to say that the suggestion, in my judgment, which he has made that this was but an inquiry is not a sufficient argument to support his resolution unless in addition to that he is able to state to the Senate that the true interests of the Government require the people of this District to be placed in an attitude not occupied by the rest of the citizens of the United States. Does the Senator say that? He has not said it so far as I have heard his argument.

When this war broke out I have no doubt that there were many citizens of the District of Columbia who sympathized with the southern movement; but the proceedings of the Administration, not then supported by law, in many instances, have sent many of these people to the prisons—some have been sent across the lines—and now, within the last year, is the Senator able to say that the people of the District of Columbia are less true to the Government in the discharge of all their obligations than the citizens of any other portion of the country? I take it, sir, that although this is a mere inquiry, the adoption of the resolution casts a suspicion upon the fidelity of the people of this District to their obligations to the Government. If the Senator from Iowa proposed a resolution instructing one of the committees to inquire into the propriety of requiring the citizens of Indiana to take such an oath as is not required of the rest of the people of the country, would it not be my duty, and the duty of my col-

league, if that proposition were not supported by a strong array of facts to justify it, to protest against an imputation by the Senate against the fidelity of the people of that State to their Government? If, then, as the representative of that State, such would be my duty, is it not the duty of the Senators who do not believe that the people of the District of Columbia are untrue in their obligation to the Government to protest, as their representatives? They have no special representative on this floor; there is no Senator here whose duty it is specially to stand up for their honor. I think it is the duty, then, of every Senator to see that no unjust imputation is made against them.

I know nothing in the history of this District of Columbia, or in the conduct of the people in this District for the last year, that justifies the resolution which the Senator from Iowa has proposed to the Senate. When we instruct a committee to inquire into a thing of that sort, the presumption arises that there is some ground for that inquiry. What is the ground? Men have been arrested here; they have been sent to prison. They have been arrested in the Senator's own State; they have been charged with disloyalty there, and have been sent to the prisons; but is that arbitrary conduct on the part of the Administration a reason why the Senate should place a brand of suspicion on a part of the people of this country?

As I suggested yesterday, I am opposed to a resolution that contemplates the increase of oaths in this country. Why does the Senator intimate by his resolution that it is necessary to pass a law to require the people to take an oath of this sort? Have these oaths been required of the people without authority of law all over the country? It has been done in Indiana, in Kentucky, and, I venture to say, in the Senator's own State, without authority of law. Then does the Senator by this inquiry intend to be understood as saying that the Administration has pursued a course not authorized by law in this respect? Very many men, very many honest men, very many true citizens have been required to subscribe oaths to protect their persons and their property. The Senator by this resolution intimates that that is all wrong and illegal. I grant that it is. It is a shame that without authority of law any man has been required to take an oath which is not required of the rest of the people.

But, sir, in my judgment it does not promote the fidelity of the people to the institutions of the country to require an oath like this. It tends to promote and encourage perjury. Swearing men upon every trivial occasion does not promote the cause of truth, in my judgment, and I think one of the evils of the country is that we require men to swear upon almost every occasion, when entering into the most unimportant office and discharging the most trivial duties. I find my views upon that particular point so well expressed by one of the ablest writers in our language that I will read from "Buckle's History of Civilization in England" a short extract.

Mr. SUMNER. Which volume?

Mr. HENDRICKS. The first volume, page 259.

"It is this suspicion as to the motives of others which has given rise to oaths of every kind and in every direction. In England, even the boy at college is forced to swear about matters which he cannot understand, and which far wiser minds are unable to master. If he afterwards goes into Parliament, he must again swear about his religion."

As we Senators are required to swear that we are true to our country.

"And at nearly every stage of political life he must take fresh oaths, the solemnity of which is often strangely contrasted with the trivial functions to which they are the prelude. A solemn adjuration of the Deity being thus made at every turn, it has happened, as might have been expected, that oaths, regarded as a matter of course, have at length degenerated into a matter of form. What is lightly taken is easily broken. And the best observers of English society—observers, too, whose characters are very different, and who hold the most opposite opinions—are all agreed on this, that the perjury habitually practiced in England, and of which Government is the immediate creator, is so general that it has become a source of national corruption, has diminished the value of human testimony, and shaken the confidence which men naturally place in the word of their fellow-creatures."

Mr. SHERMAN. I will appeal to the courtesy of the Senator from Indiana to allow the bill which I reported this morning to be acted on now.

Mr. HENDRICKS. I will finish what I have to say in a few minutes.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) It is the duty of the Chair at this time to announce that the unfinished business of yesterday is the order of the day.

Mr. HENDRICKS. If the Senator will indulge me for three minutes I will conclude all I desire to say on this question.

Mr. WILSON. Let the special order be laid aside informally.

The PRESIDING OFFICER. That will be done; and the Senator from Indiana will proceed.

Mr. HENDRICKS. What does the Senator from Iowa wish to reach by his proposition, the opinions or the conduct of men? If he wishes to strike at the conduct of men, that is properly reached through the courts. If men in the District of Columbia have been guilty of such acts as the law condemns, the courts in the District of Columbia are open; they can be tried and convicted. If the Senator wishes to reach the opinions, the convictions of citizens, I protest against a policy which has proved prejudicial and hurtful to Government wherever it has been adopted. You cannot correct the opinions of men by requiring them to take oaths. It is one of the evils that England for the last twenty years has been abandoning, and I hope that our own country will not adopt a policy which experience has shown that the older Governments of the world ought to abandon and are abandoning.

Mr. HARLAN. Mr. President—

Mr. SHERMAN. I ask the Senator from Iowa to allow us to dispose of the important matter which was temporarily laid aside, that must be acted on now if at all.

Mr. HARLAN. I shall not occupy more than a few moments; but the Senator from Indiana addressed himself so directly and personally to me that I ought to respond.

Mr. SHERMAN. The bill to which I refer will not take long.

Mr. HARLAN. When I conclude I shall have no objection to laying this resolution aside for the purpose of taking up that bill.

The Senator from Indiana addressed himself very directly, and I thought somewhat personally, to me. He propounded a number of inquiries, one of which was whether I was disposed to cast suspicion on the people of the District of Columbia as to their loyalty. I do not think that this is a legitimate logical conclusion to be drawn from the adoption of the resolution, no more than it would have been from the passage of the law requiring members of Congress to take a similar oath. I did not infer from the passage of that law that any person voting for it supposed that a majority of the members of this body, or any of them, were unfaithful to the Government; but it was supposed to be barely possible that some one or more persons might present themselves here and claim seats who had been engaged in this rebellion, and for the purpose of ferreting out the few possible cases the general rule was adopted requiring all to take the prescribed oath.

Now, sir, this is not unusual. It is not unusual for communities to institute a search of every house in a town or a city where a burglary or theft may have been committed, not that it is supposed that the majority of the people of the town or city are thieves or burglars, but because it is known that the law has been violated, and that goods have been stolen and hidden away, and that there is probably a thief in the community, and that the stolen goods are concealed, and for the purpose of ferreting out the thief and ascertaining where the goods are, all the citizens submit to a search, and do it voluntarily. No man permitting his house to be searched supposes he will be regarded as in complicity with the thieves. The general search is made for the purpose of protecting each one from the consequences of unjust suspicion. If the search was made of the house of the suspected party alone, it would wound his feelings, and probably ruin his character for all time to come; and for the purpose of preserving him from the consequences of a possible unjust suspicion, the general search is made. And so I apprehend we may justify the passage of a law requiring every member of Congress to take an oath of fidelity to the Government, not because it is supposed that a majority of them, or any considerable number of them, lack fidelity, but because it is believed that some may possibly present themselves who are unworthy of trust;

and to avoid the consequences of unjust suspicion on any one member, the general rule is adopted requiring all to take the oath. Now, sir, the proposition that I make, if adopted by Congress, will screen each individual from unjust suspicion, and yet afford means of detecting the guilty parties, whose continuance in our midst may enable them to afford assistance to the public enemy.

The Senator desired me to state whether I knew of any facts that would justify the passage of any such law as the resolution contemplates. I am amazed that any one could ask such a question as that who has lived in this District for a single month. We all know that there are people living in this District who are not only in sympathy with the rebellion, but who embrace every available opportunity to aid the rebels in arms against their Government, who carry goods through the lines on every occasion that they can make available, and who send the proceeds of their trades and of their professions to their sons, and brothers, and husbands in the rebel army, so that we are, in harboring them in our midst, indirectly supporting the rebellion. In my opinion, we have a right to drive them from this community.

But the Senator inquired whether I would propose any such law for Indiana. There is a marked difference between the political condition of this District and that of a State. Congress has "exclusive jurisdiction" over this District, has a right to prescribe all its laws. It has not the right thus to legislate for a sovereign State. And hence the distinction is clear between the political condition of the people of a State and the political condition of the people of this District. He said that the people of the District had no representatives in this body. Sir, we are all the representatives of this District, and are bound by our oaths to legislate in good faith for their welfare; and in my opinion every loyal citizen of this District would thank Congress for the adoption of any measure calculated to drive from their midst aiders and abettors of the rebellion. In my opinion this resolution ought to pass; I think a law on this subject ought to be enacted, but I am content to leave that question with the committee appointed to take the immediate oversight of the interests of the District.

Mr. SAULSBURY. I wish to ask the Senator from Iowa a question, if he will be kind enough to answer it. Suppose his resolution should be passed and an inhabitant of this District should refuse to take the prescribed oath, what does he propose to do in such a case as that?

Mr. HARLAN. I think the Senator from Delaware misapprehends the whole purport of the resolution. It is a resolution of instruction, instructing the Committee on the District of Columbia to inquire into the propriety and expediency of such a law, and that is the whole of it. If they should report a bill on the subject, and the question should then pertinently arise which has been propounded by the Senator, I should take great pleasure in attempting to answer it.

Mr. SAULSBURY. The experience of Senators in this body shows that when an inquiry of this character is directed, the committees generally report in accordance with the suggestions contained in the resolutions directing the inquiry. The Senator suggests that this is only a simple inquiry, and that no harm can result from it. For myself, believing that a report of the character that he wishes made will be made, and as he himself says it is barely possible the committee will not report favorably, I have felt it my duty to oppose even the inquiry.

Now, sir, I shall be justified in opposing it here on its passage, because the committee cannot report a bill upon this subject that will not be in violation of the Constitution of the United States. I know that it is an able committee, and I know that it can do on this subject whatever any other committee of this body or any other body can do; but is there a propriety in making an inquiry whether a thing should not be done, which, if done, would be violative of the Constitution of the United States? Why do I say that? If the committee report a bill saying that an oath of this character shall be administered to every inhabitant of this District, and to every person doing business in this District, they must provide some mode of compelling the party to take it in case of refusal. Now, what is the Constitution of the United States, and wherein would a bill with any penalty, a penalty, for instance, of removal from

the District in case of non-compliance with it, be violative of the Constitution? In this respect the Constitution provides that:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury." \* \* \* "nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

Now, I apprehend it will be very difficult for the District Committee to frame a law allowing a trial by jury for the purpose of compelling a person to take the oath. I presume the punishment would be more summary than such as could be administered by a court upon conviction by a jury. It might be exportation from the District, and that would be depriving a person of his liberty without due process of law. It might be taking away his property, and clearly that would be a violation of the Constitution.

The question being taken by yeas and nays, resulted—yeas 24, nays 10; as follows:

YEAS—Messrs. Anthony, Clark, Collier, Conness, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, Howard, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wickliffe, and Wiley—24.

NAYS—Messrs. Brown, Buckalew, Cowan, Davis, Henderson, Hendricks, Johnson, Powell, Richardson, and Saulsbury—10.

ABSENT—Messrs. Canine, Chandler, Doolittle, Harding, Harris, Hicks, Howe, McDougall, Morrill, Nesmith, Rainey, Riddle, Wade, Wilson, and Wright—15.

So the resolution was agreed to.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had yesterday approved and signed the following bills and joint resolutions:

A bill (S. No. 329) for the relief of William H. Jameson, a paymaster in the United States Army;

A bill (S. No. 350) to authorize the purchase or construction of revenue cutters on the lakes;

A bill (S. No. 352) authorizing the holding of a special session of the United States district court for the district of Indiana;

A joint resolution (S. R. No. 83) tendering the thanks of Congress to Captain John A. Winslow, United States Navy, and to the officers and men under his command on board the United States steamer Kearsarge, in the conflict with the piratical craft the Alabama; and

A joint resolution (S. R. No. 84) tendering the thanks of Congress to Lieutenant William B. Cushing, United States Navy, and to the officers and men who assisted him in his gallant and perilous achievement in destroying the rebel steamer Albemarle.

#### INTERNAL REVENUE.

Mr. WILSON. I now call for the regular order of the day.

Mr. JOHNSON. Will the Senator waive his call for a moment, to enable us take up the bill from the House of Representatives imposing the two-dollar tax on whisky? If it is to be passed it is important that it should be passed to-day.

Mr. WILSON. I suppose I shall have to give way to that bill.

Mr. JOHNSON. I only ask that the Senator give way to that as it was laid aside on my motion. I have now prepared an amendment to carry out the suggestion which I made. I move to take it up.

The motion was agreed to, and the Senate resumed the consideration of the bill (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, and to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. JOHNSON. I move to amend the bill by striking out all after the enacting clause and inserting the following:

That the tax of two dollars on spirits imposed by the fifty-fifth section of the act "to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, be levied, collected, and paid on and after the 1st day of January, 1865, instead of the 1st day of February in said year as provided by said original act.

Mr. SHERMAN. This is an amendment simply of phraseology. I like the language used by the Senator from Maryland better than the language sent to us from the other House; but I submit to him whether it is worth while to raise a question of phraseology on a bill that must be acted upon to-day or to-morrow. I think if a

majority of the Senate is in favor of the substance of the bill we had better pass it in the language used by the House of Representatives. I have no objection to the amendment except that it tends to delay and possibly produce the defeat of the bill.

Mr. JOHNSON. Personally, as a member of this body, without meaning to reflect at all on the House of Representatives or any member of it, I should be very unwilling to vote for the bill in the form in which it comes from that House. We are responsible for the phraseology of our legislation as well as that House itself. If, as I understand was the fact, the House was very decided in opinion that the tax should be levied on the 1st of January instead of the 1st of February, it will at once adopt the amendment if the bill be returned with the amendment.

Mr. SHERMAN. I submit again to the Senate whether we had not better, as it is merely a question of phraseology, only a choice of words, take the substance of the proposition, if we are in favor of it, and not amend it.

Mr. DAVIS. I understand the object of this bill to be in substance to impose in January the maximum tax on whisky, which by the present law will not be subject to the additional tax until the month of February; in other words, to impose the increased tax a month previous to the time proposed by the law that was passed at the last session. I am opposed to the passage of this bill, and I am opposed to this mode of legislation, upon what I deem to be two very substantial considerations. The first is stability in legislation; the second, good faith to the people in the legislation of Congress.

The people who were interested in the whisky trade have made themselves familiar with this provision of the law; they have adapted their contracts and their business to it; and you cannot change the law now by imposing the tax in February instead of January, thus giving it practical operation a month sooner than by the law as passed it was to go into operation, without seriously deranging the business of some men, and probably a great many of them, and producing considerable loss to them. All the dealers in this article—and they are very numerous, and their transactions are very large and valuable to themselves and to the country generally, but especially to themselves—have made their contracts and their arrangements with a view to the fact that this increased tax was to take effect in February. I think that the consideration of stability in legislation ought to induce Congress to forego the amount of increased revenue that might be obtained by giving this clause in the law a month's earlier operation.

The other principle to which I referred is the question of good faith on the part of the Government to the people in its legislation. No man who has any information or intelligence in relation to this subject can suppose that this proposed change in the law can take effect without producing very serious loss to many individuals. If Congress in passing the original law had established the date of January, no man would have had the right to complain; every man would have been duly notified of the law some months before it went into operation, and he would have had time to conform his contracts and his interests to the law and to the time fixed by Congress for its taking effect. But when Congress has passed the law in this form, pledged its faith to one date, and has thus induced traders and dealers in this great article to make their contracts and arrangements with a view to that date, it seems to me that it would not be good faith, on the contrary it would be bad faith, in Congress now to change the law and subject these men to the loss that must be inevitable upon the change.

Gentlemen in the Senate speak as though all the property in the country belonged to the Government, and the Government had the sovereign right to dispose of all the property of the people, so far, at least, as regards imposing taxes upon it, according to its sovereign will and pleasure. Now, sir, my principle is that the property of the people of the United States belongs to the people themselves, and not to the Government, and it is their option, their will, that votes any of this property in the form of taxes or in any other form whatever to the Government. The Government is not the master, it is the agent, it is the servant, and its action and

its laws ought to be in obedience to the will and to the interests of the people, and especially ought to be in obedience to the rule of good faith with the people.

I hope that this measure will not pass either in the form of the amendment proposed by the Senator from Maryland or in the form of the bill as reported by the chairman of the Committee on Finance. I trust that stability in legislation and good faith to the people will be adhered to in relation to this matter and all other matters of law and legislation by Congress.

Mr. CONNESS. I think with the chairman of the Committee on Finance, that perhaps the phraseology offered as a substitute by the Senator from Maryland is the best; but under the circumstances of the pending adjournment of Congress and the necessity for passing the bill, I hope that it will not be adopted now, but that the phraseology of the bill will be adhered to.

The amendment was rejected, there being, on a division—ayes 9, noes 19.

Mr. HENDRICKS. I wish to inquire of the chairman of the Finance Committee whether this is to be the last legislation on the subject of the whisky tax for this session, so far as he knows the purpose of his committee and of the two Houses. It is exceedingly prejudicial to any interest of this magnitude to have it legislated upon so frequently. I see that it is here taken up as a special matter; it does not come in the regular revenue bill. If this is to be the tax, no more and no less, permanently for the future, it is well that the country should know it; but if it is the purpose of the committee to bring in a bill proposing an increased tax at some future day of the session, it had better be done now. The course pursued in regard to this article has facilitated speculation in the country and has not brought that revenue which another policy, in my judgment, would have produced. I think it is to the interest of the people, as well as of the Government, that we should know whether this is to be all the legislation on the subject of whisky taxation for the session.

Mr. SHERMAN. I answered the inquiry when the Senator from Indiana was not present, when it was put to me by the gentleman who now occupies the chair, [Mr. POMEROY,] but I have no objection to answer it again. I would not have introduced any bill on the subject of the tax on whisky, but would have left it to the law of last year, if I had my own way, and I will reply now to the Senator from Maine. He was not present when this subject was considered at the last session, and I may perhaps say that if it had not been for his distinguished predecessor the result might have been different. I was then, as I am now, in favor of taxing whisky on hand; I think we lost a very large source of revenue in delaying the tax; but that has passed by. This bill comes to us from the House of Representatives in its present form. I cannot state what is the understanding of that House, but I presume, from what I hear and what I see in the newspapers, that this bill was rather the result of a compromise of the various conflicting interests. It was first introduced in the form of a bill taxing the stock on hand, which was referred to the Committee of Ways and Means, with instructions to report back that bill. The Committee of Ways and Means reported back this bill with a second section containing a tax upon the stock on hand; and the first section of the reported bill, which is the bill now before us, was finally adopted by the other House, perhaps not as a compromise altogether, but as a kind of settlement of the matter. This is what I gather from the debates of Congress. As a matter of course any Senator or any member of the other House may introduce the question at any time, and invoke the action of the committees of the two Houses and force us to consider it. I cannot, therefore, say that this is a final settlement. I can only say for myself that I hope it is a final settlement, and that I, certainly, as an individual Senator, will not introduce the subject again.

Mr. TRUMBULL. This bill comes before the Senate without any very strong endorsement by the chairman of the committee who brings it to our notice, and I think there was a great deal of force in what was said by the Senator from Kentucky, and I propose to state in a very few words why I shall vote against it.

As I understand the object of the bill, it is to obtain an increased revenue by imposing fifty cents additional tax upon whisky which shall be manufactured during the next month. I was not at all satisfied with the legislation on this subject at the last session of Congress. We have lost the entire revenue which might have been derived from whisky during the last six months, as I understand. I know that in the State of Illinois, where a great deal of whisky had been manufactured previously, the distilleries have all stopped. If any of them are in operation now I am not aware of it. Certainly they are not in operation to any very considerable extent.

Mr. RICHARDSON. I will state to my colleague, having investigated that matter, that there are three, out of hundreds that have been running.

Mr. TRUMBULL. Running to their full capacity?

Mr. RICHARDSON. Not at all. I will state, if my colleague will permit me, that they are awaiting the action of Congress. Any change of the law is detrimental to the revenue which the Government will derive from that source.

Mr. TRUMBULL. That is not different from what I had supposed. I was not aware, however, that there were even three distilleries in operation in the State of Illinois, but it seems that those are not running to their full capacity. Now, sir, having adopted the legislation which we did at the last session of Congress, I think it would be very injudicious and prejudicial to interfere with it at this time in the mode proposed. It has been stated in the Senate that our legislation at the last session led to speculation in this article of whisky. It is known to every one that the distilleries were running to their fullest capacity for some time previous to the legislation of Congress, in anticipation of that legislation; and vast fortunes are understood to have been made out of whisky by speculators. If you now pass this bill, what will be the effect? It will add the amount of the tax, or very nearly that, to the value of the whisky on hand. No considerable amount of whisky will be manufactured between now and February, I apprehend. The Senator from Ohio shakes his head. Experience ought to teach us about that. If it will be manufactured between now and February, why has it not been manufactured the last month, and the month before that? Why have all the distilleries in the country stopped? Because the quantity on hand was sufficient to supply the demand for such a length of time that the manufacturers could not afford to manufacture it, so as to compete with those who held it on hand, and hold the manufactured article till the quantity on hand should be exhausted so that they could demand for it a price that would justify their paying the tax. November and December are as good months as any in which to manufacture whisky. I think there is no danger of any considerable quantity of whisky being manufactured between now and February for the purpose of escaping the additional tax. Whisky has been worth very little more than the tax that is now laid upon it for the last three months. It has run up within a few days in anticipation of this very legislation. The men who have the whisky on hand want the tax increased on that which is to be manufactured hereafter. They would be willing to have a tax of five dollars a gallon imposed. They have made fortunes already, and if you put a tax of five dollars per gallon on all that shall be manufactured after to-morrow, they will make additional fortunes on what they now have, and none will be manufactured until the whisky on hand is exhausted.

Sir, I think you will gain but little, in fact nothing, to your revenues by the passage of this bill, while you adopt an unstable mode of legislation and swell the fortunes of speculators who have dealt in this article and have large quantities of it on hand, for they are to be benefited by the passage of this law rather than your revenue.

For these reasons, without going any length into the subject, I shall vote against the bill.

Mr. SHERMAN. The Senator from Illinois correctly says that the proposition is not pressed very strongly by the Committee on Finance, because they were divided on the question. All the considerations that he has now presented were considered by us, and I think I can reply at least to some of the suggestions made by the Senator from Illinois, perhaps satisfactorily to him.



We saw that the effect of this legislation would be to add to the price of the article on hand, and thus add to the profits of the holders of whisky on hand. Our previous legislation had done that, and this was an argument, certainly, which would tend to prevent us from doing anything for their special benefit. But, on the other hand, we became convinced by examination that if this bill was not passed, a very large amount of whisky would be manufactured in the month of January, the information being very clear that nearly all the distillers in the United States were prepared to run and would commence running as soon as it was certain that Congress would not put a tax upon the stock on hand. We are informed, and I have no doubt it is true, that what has kept the price of whisky below the natural standard is the fact that holders were afraid that Congress at the present session would review its action of the last session, and put a tax upon spirits on hand; and that fear has operated to keep down the price of spirits. I have no doubt that but for that fear the price of spirits would have advanced above two dollars a gallon. The only reason and the strong reason why I am in favor of this proposition is that if it is not passed at once, a very large amount of whisky will be manufactured between now and the 1st of February; from ten to twenty million gallons may be manufactured by the distilleries in the country; they will be run night and day, and they will supply the market for a long time, paying but a dollar and a half revenue to the Government, and then on the 1st of February, when the two-dollar tax goes into operation according to the present law, the business will stop and no more will be manufactured for several months afterwards. It is true that during the month of January, under the operation of the present law, the Government will get a very large revenue. If ten million gallons should be manufactured in January the Government would derive \$15,000,000 revenue from the article during that month; but if then the revenue should be entirely cut off for some time to come, we should lose a great deal more than we should gain by continuing the duty at a dollar and a half. On the whole the Commissioner of Internal Revenue, and I may say all the officers of the revenue, were satisfied that it would be more for the interest of the Government at once to commence to lay the tax of two dollars on the 1st of January, and then consider the matter settled, so that all persons may arrange their trade and business on that basis, and adapt themselves to a fixed tax of two dollars from the 1st of January. As I said before, there are considerations which make me hesitate somewhat, but that was the result of my deliberate judgment after mature reflection. If, however, a majority of the Senate shall come to a different conclusion, I shall not complain.

The bill was ordered to a third reading, and was read the third time.

Mr. JOHNSON. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Collamer, Conness, Dixon, Farwell, Font, Foster, Hale, Harlan, Henderson, Howard, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Wilkinson, and Wiley—23.

NAYS—Messrs. Buckalew, Cowan, Davis, Grimes, Hendricks, Johnson, McDougall, Powell, Richardson, Saulsbury, Tamm, and Van Winkle—12.

ABSENT—Messrs. Carlile, Chandler, Clarke, Doolittle, Harding, Harris, Hicks, Howe, Morrill, Nesmith, Riddle, Wade, Wilson, and Wright—14.

So the bill was passed.

#### WEARING OF UNIFORM.

Mr. McDOUGALL submitted the following resolution; which was considered, and by unanimous consent agreed to:

*Resolved*, That the Committee on Military Affairs and the Militia be directed to inquire into the expediency of requiring by law that all officers not on leave of absence be required to carry on their persons their uniform.

#### BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 366) to remit certain duties on clothing materials imported for the use of the Sisters of Charity of St. Joseph; which was read twice by its title, and referred to the Committee on Finance.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a joint

resolution (S. R. No. 87) in reference to paymasters' accounts; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### WASHINGTON GAS-LIGHT COMPANY.

Mr. DIXON. I now move to take up the bill (S. No. 363) to amend the charter of the Washington Gas-Light Company.

Mr. SUMNER. Will not that displace the bill of my colleague, which is the order of the day?

The PRESIDING OFFICER, (Mr. POMEROY.) The motion of the Senator from Connecticut is to postpone all prior orders and take up the bill indicated by him.

Mr. SUMNER. My colleague went a few moments ago to the House of Representatives with the understanding that I should be allowed to call up the joint resolution which was postponed yesterday from the Committee on Foreign Relations, and which it is desired should be acted on to-day.

The PRESIDING OFFICER. The order of business is in the control of a majority of the Senate.

Mr. DIXON. If the bill to which I have referred be taken up, I shall offer an amendment which I think will obviate all objections to it; and it is a bill which ought to be acted on now if at all.

Mr. SUMNER. I think the Senator had better let it come up after the public business to which I have referred.

Mr. DIXON. I beg the Senator's pardon; this is public business. I insist upon my motion.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 363) to amend the charter of the Washington Gas-Light Company.

Mr. DIXON. It was objected yesterday that this bill does not fix a definite price for gas, to be charged by this company, but refers to the price in other cities as the standard. I propose to amend the bill by fixing a maximum price forty cents per hundred feet, with a deduction of ten per cent. for the Government and five per cent. for private consumers, bearing the price of \$3 80 per thousand to private consumers and \$3 60 to the Government as the maximum. My amendment is to strike out the following words in the twelfth, thirteenth, and fourteenth lines of the bill:

The average net or cash price which may be charged, as aforesaid, in the capitals of the States of Maryland, Pennsylvania, New Jersey, and New York, and that from the above price five per cent. shall be deducted on all gas furnished to the General Government.

And to insert in lieu of them the following:

Forty cents per hundred cubic feet, subject to a discount of ten per cent. on all bills for gas furnished to the Government, and five per cent. on all bills for gas furnished to other consumers, if paid at the office of the company within seven days from the rendition thereof.

Mr. JOHNSON. I did not hear the honorable chairman of the District Committee, and I should like to know what is the increase upon the present rate that the company will be authorized to charge.

Mr. DIXON. The present rate on bills charged to the Government is \$2 52 per thousand feet, and on bills to private consumers \$2 70. The Senator can very readily see what the increase is. It is a little over one dollar per thousand. The bill makes the rate \$3 60 per thousand feet for the Government and \$3 80 for private consumers, which I believe is less than the average price charged in most cities in the Union where coal is cheaper than here.

Mr. SHERMAN. I have here a letter from the president of the company, in which he says the present rate is \$2 61. This will be an increase of about fifty per cent. This is a letter from Mr. Bartol—I do not know him, but he signs himself as president—in which he says the price of gas in 1860 was \$3 50, and now the average is \$2 61.

Mr. DIXON. That is after the deduction. It is \$2 52 to the Government and \$2 70 to private individuals; \$2 61 is the average.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

#### RECIPROCITY TREATY.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the joint resolution from the House of Representatives (No. 56)

which was reported from the Committee on Foreign Relations yesterday.

Mr. HALE. That is the resolution giving notice to terminate the reciprocity treaty; as I understand.

Mr. SUMNER. Yes.

Mr. HALE. I do not see why there should be hot haste in pushing that matter through to-day. I am opposed to it; I am decidedly opposed to it. I do not want to make any factious opposition to it, but I think it is hardly fair to go into so important a measure as that at this time. I wish to have it lie over. I understand if the notice is given there is nearly a year and a half before the treaty can be terminated.

Mr. SUMNER. A year from the 16th of March next.

Mr. HALE. Then there can be no harm done by letting this resolution lie over until the 1st of January. I desire to examine a little into the operations of the treaty. In my humble judgment this is a step that the Senate ought not to take, and particularly ought they not to take it under an excited state of feeling which exists now in consequence of what we conceive to be a great wrong inflicted on us by the authorities of some of those provinces that are particularly affected by this treaty. I know that when this treaty was negotiated, when the reciprocity principle was established, it was looked upon by the enlightened statesmen of this country and of England as an advance in the social progress of society, and as a step in the onward march which should unfree the shackles of commerce, and give greater liberty and greater progress to commercial intercourse between this country and those provinces. The objections which were suggested the other day by the honorable Senator from Maine [Mr. FARWELL] in regard to its operations upon the fisheries of New England exist at the present time only because of an accidental, temporary circumstance, to wit, the duty that we have felt compelled by the necessities of the Government at this time to impose on salt. That is a difficulty growing not out of the subject itself but out of the accidental state of things incident to and dependent upon the war which unhappily rages in this country.

Mr. President, there are very important privileges secured to the people of the United States, and especially to some of the eastern States, by this treaty, which it is proposed now rashly and inconsiderately, in my humble judgment, to throw away and to give up. Let me state one of them. In the first place, by this treaty the people of the United States, and all the United States, have the free use of the navigation of the St. Lawrence and of the canals which are made around Niagara falls, and by which the commerce of all the West may find free egress to and ingress from the ocean. That is one thing. The matter of the fisheries I alluded to yesterday, and there is another important privilege—

Mr. SUMNER. I suggest to the Senator that if the resolution shall be taken up, as he desires to speak, he can then speak upon it, because what he is saying now is rather pertinent to the main question than to the mere question of taking up.

Mr. CONNESS. I desire simply to suggest that the course proposed by the Senator from Massachusetts be taken, that the resolution be taken up, and that the Senator from New Hampshire address the Senate on the subject-matter, as he really is doing.

Mr. HALE. The difficulty is that I am not prepared at this time to do that. I am mentioning some of the considerations that would be pertinent, but I do not know what has been the operation of this treaty. It will appear from our published reports of Commerce and Navigation coming from the Secretary of the Treasury. I have not had time to examine them; I am not prepared at this time to discuss this matter, and I did not suppose it was to be taken up at this time.

Mr. JOHNSON. I ask if it is the purpose of the Senator from Massachusetts to press a decision on the resolution now.

Mr. SUMNER. I hope to have a vote at once.

Mr. CONNESS. Why not?

Mr. JOHNSON. I have no objection individually to taking it up and having it considered at this time; but I hope that the honorable chairman will not press it to a vote to-day. Perhaps

it is desirable, and I individually think it is, that the subject should pass over until we meet again after the holidays. There is some uneasiness in the public mind already because of wrongs which we have suffered as it is supposed in consequence of the failure to do its whole duty on the part of the colonial authority in Canada. Whether that is justifiable or not, I am not prepared to say; but if we pass this resolution at this time terminating this treaty, it might be considered as rather an unfriendly act now—not that we have not a right to do it under the treaty. But I submit to my friend from Massachusetts whether it would not be better under all the circumstances to consider it more maturely than it can be considered as I suppose during the short period that the session of to-day will continue.

I have not the slightest objection, as I repeat, to taking up the question, and as I said in committee I say again, whether notice shall be given or not is a matter on which I am without a very settled opinion. My impression was when the treaty was entered into that it would be very beneficial to the country, and for a long time it was considered to operate advantageously to the country. I know that Mr. Webster was of opinion that it was a very advantageous arrangement. Whether it has ceased to be advantageous now, because of its intrinsic character, or whether it has become so because of subsequent legislation on the part of the colonial government, is a matter upon which I have no settled opinion.

Mr. FOOT. Mr. Webster died before the treaty was made.

Mr. SUMNER. Several years before.

Mr. JOHNSON. I understand that perfectly well; but he expressed his opinion about it long before; he talked about it to me over and over. I ought to have said that his statement was that such an arrangement would be very advantageous.

Mr. SUMNER. I would simply remark that I was instructed by the committee to ask for immediate action on this resolution, and there was a reason for it in this circumstance: that it had been long pending before both branches of Congress and before the committee itself, and that during the present session the other House has already acted, and the resolution reported by the committee is in the nature of a substitute for that of the House, and it was desirable that we should complete the action on the matter before the adjournment for the holidays. I hope there will be no question, but that we may proceed with it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854.

The amendment reported by the Committee on Foreign Relations was to strike out the original preamble and resolution, in the following words:

Whereas under the treaty made by the United States with Great Britain, proclamation of which was made by the President of the United States on the 11th of September, 1851, for the purpose of extending reciprocal trade between the British North American colonies and the United States, nearly all the articles which Canada has to sell are admitted into the United States free of duty, while heavy duties are now imposed upon many of those articles which the people of the United States have to sell, with the intention of excluding them from the Canadian markets; and whereas the President of the United States, in the first session of the Thirty-Sixth Congress, caused to be submitted to the House of Representatives an official report setting forth the inequality and injustice existing in our present intercourse with Canada, subversive of the true intent of the treaty, owing to the subsequent legislation of Canada; and whereas by the fifth article of the treaty provision was made that it should remain in force for ten years from the date on which it should go into operation, and further until the expiration of twelve months after either of the high contracting parties should give notice to the other of its wish to terminate the same, each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards; and whereas by a further proclamation issued by the President of the United States, bearing date the 16th day of March, 1855, it was declared that the said treaty should go into effect and be observed on the part of the United States; and whereas it is desirable that friendly relations should be continued between the United States and the British North American provinces, and that commercial intercourse should be hereafter carried on between them upon principles reciprocally beneficial and satisfactory to both parties: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the President of the United States be, and he is hereby, authorized and requested to give to the Government of the United Kingdom of Great Britain and Ireland the notice required by the fifth article of the said reciprocity treaty of the 5th of June, A. D. 1854, for the termination of the same.

And in lieu thereof to insert:

Whereas it is provided in the reciprocity treaty concluded at Washington, the 5th of June, 1854, between the United States of the one part, and the United Kingdom of Great Britain and Ireland of the other part, that this treaty "shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same;" and whereas it appears, by a proclamation of the President of the United States, bearing date 16th March, 1855, that the treaty came into operation on that day; and whereas, further, it is no longer for the interests of the United States to continue the same in force: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice be given of the termination of the reciprocity treaty, according to the provision therein contained for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.*

The amendment was agreed to.

Mr. SUMNER. I had originally intended, on the consideration of this proposition, to review the whole subject, and to exhibit at length the history of the reciprocity treaty, and the existing reasons for its termination. But after the debate of a few days ago, and considering the apparent unanimity in the Senate, I have felt unwilling to occupy the time by any protracted remarks. They are not needed.

The people of the United States have been uneasy under the reciprocity treaty for several years; I may almost say from its date. There was a feeling that it was more advantageous to Canada than to the United States; that, in short, it was unilateral. This feeling has of late ripened into conviction. At the same time the exigencies of the present war, requiring so large an expenditure, make it unreasonable for us to continue a treaty by which the revenues of the country unquestionably suffer. It is such considerations as these which have brought the public mind to its present position. The unamicable feelings manifested toward us by the people of Canada have had little influence on the question, unless, perhaps, they may have conspired to compel us to look at it in the light of reason rather than of sentiment.

The question of the fisheries is included in this treaty. But it is not doubted that before the termination of the treaty some arrangement, either by reciprocal legislation or by further negotiation, can be made on this matter so far as it may be needed.

The committee, after careful consideration at a full meeting, was unanimous in its report. And as the committee represents all parts of the country and all sentiments of the Senate, I have thought that perhaps there might be a similar unanimity among Senators. Therefore I forbear all further remarks, and ask for a vote.

Mr. FARWELL. I wish to say one word in reference to this subject. I regard the matter of the fishing interest as having very little to do with it anyway; but there are many reasons which might be adduced, I think conclusive reasons, why this reciprocity treaty should be terminated. I only propose to allude to one reason. Owing to the condition of our country, it has been found necessary to put very heavy taxes upon many articles which are brought from the provinces. Take, for example, the article of friction matches, upon which, by our internal revenue law, a duty of \$1 44 a gross is imposed. The consumption is very great, and the manufacture would yield a very large revenue to the Government if they were made at home; and heretofore they have been largely manufactured in our country. By the reciprocity treaty, however, they can be made in the provinces and brought here duty free, and we cannot tax them. There are many other articles in the same position, if I am not mistaken, and the Government will suffer very much by the continuance of the present state of things, and the manufacturers of these articles will be driven from the business. In fact, I am informed that some manufacturers of matches and goods of that description have actually broken up their establishments in the States, and have moved into the provinces, and are there manufacturing and sending them to the States for sale. I believe

there is no doubt about the opinion of the Senate, and therefore I do not regard it as necessary to enter into the discussion.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the joint resolution to be read a third time.

Mr. HALE. Can this resolution be read a third time to-day without unanimous consent?

The PRESIDENT *pro tempore*. It can. It has been read twice on a previous day. The third reading is the only reading to-day.

Mr. HALE. I do not wish to complain of this course, nor to ask for any delay. I believe that this is an important step; it is a step that does not accord with my judgment; but if the Senate think it is of such importance that it should be passed at once, I shall simply content myself with voting against it.

Mr. SUMNER. I call for the yeas and nays on its passage.

Mr. HALE. I want to express my views upon it. I do not care about the Journal. I suppose there are not many people who read the Journal. This is the first time that I have ever known so important a measure as this pressed through the Senate under these circumstances; but I do not know that it is of any great consequence. I do not know whether the rule of the Senate with reference to these matters is the same in regard to a member just going out as one coming in, but I am ready to submit to the practice, whatever it is.

Mr. SUMNER. The Senator knows the fact that I would not be guilty of discourtesy to him. I feel embarrassed by his suggestion, but in the responsibilities of public business which have been cast upon me I think I ought to press this resolution to a vote.

The joint resolution was read the third time.

Mr. HALE. I move to postpone the further consideration of this resolution until the 6th day of January.

Mr. DAVIS. I concurred in this resolution being reported, and I expect to vote for its passage, but I think, in all courtesy, the Senator from New Hampshire ought to have time to examine the subject and to address the Senate upon it. I hope that the motion he makes will be allowed.

Mr. FOSTER. As a member of the Committee on Foreign Relations I was in favor of this resolution, and am in favor of its passage now; but whether it passes to-day or the 6th of January can make no difference to the public interests, in my belief. The Senator from New Hampshire requests an opportunity to address the Senate on the subject. I have never known such a request denied under like circumstances, even where, as it would seem, it sometimes made a very considerable difference to the public interests. To me it seems apparent that it will make none now. I, therefore, shall certainly vote to postpone it at his request.

Mr. TRUMBULL. I was surprised, after the statement made by the Senator from New Hampshire, and the little experience I have had in the Senate, to see an attempt to press this resolution to a vote to-day. Like the Senator from Connecticut, I have never known an instance where a measure of this character, regarded as important in the country, has been brought to the notice of the Senate, and on a member rising in his place and stating before it was taken up that he wished to examine it, and that he asked but a reasonable time to make his examination and address the Senate upon it, his application was refused. I shall certainly vote to postpone the resolution until the Senator from New Hampshire can have a reasonable opportunity to address the Senate in reference to it. I would not vote to postpone it for any factious opposition; but where there is no such spirit displayed, but a reasonable request, as I conceive, and one that I never saw refused in the Senate, I shall vote for the postponement.

Mr. FOOT. I am in favor of the proposition before the Senate, and I represent a people who I think are unanimously in favor of terminating what they regard as an unequal and one-sided contract between this country and the provinces of Great Britain. But, sir, as I understand it, whether the joint resolution is passed to-day, or a fortnight hence, or a month hence, makes no sort of difference as to the period of time within which this contract can be terminated; and as a matter of courtesy to the Senator from New

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NEW SERIES, No. 7

Hampshire I must vote in favor of the postponement.

Mr. CONNESS. My recollection of the progress of this measure, and the period at which the request of the honorable gentleman from New Hampshire was made, was that it was made upon the proposition to take up the resolution, and then it was that I took the liberty to suggest that it had better be taken up and then a determination arrived at as to whether a vote would be asked to-day or not. I then understood that the Senator, although with some little reluctance, to some extent withdrew his desire for a postponement; but before I had that understanding it had occurred to my own mind to move its postponement until the 5th of January, if he were in earnest in his desire to discuss the question. If he really does desire to discuss the question, of course no Senator would press the resolution to a vote, under the circumstances, against that request.

I say this not only for myself, but I think for the honorable chairman of the Committee on Foreign Relations. I understood that to be the temper of the Senator from New Hampshire. We know that he is always ready to make a speech without preparation; and while he felt it to be his duty to make a speech on the subject before it should be determined and voted upon definitely, I rather took it by the Senator's manner (which is not difficult to be read, I think,) that he was half willing to withdraw it and allow a vote to be had. I think that there is no conflict on the simple proposition of allowing the Senator time if he desires it.

Mr. SUMNER. After the explanations that have been made, I am entirely in the hands of my friend from New Hampshire. I supposed that in the remarks he made on the question of taking up the joint resolution he had substantially stated his objection, and that he was not disposed to continue the discussion further. Had I supposed that he desired a further opportunity then, I should not have pressed to take up the proposition. Having had it taken up, I naturally desired to press it to a vote in obedience to the instructions that I had received from the committee which I represent on this floor. But I have now said that the whole question, so far as I am concerned at least, is in the hands of the Senator from New Hampshire. If he desires its postponement that he may have an opportunity to deliver his views upon it, I hope there will be no objection.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of the joint resolution until the 6th of January next.

The motion was agreed to.

## NAVAL ACADEMY.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate the report of the board of visitors of the Naval Academy for the present year.

## METROPOLITAN RAILROAD.

Mr. DIXON. A bill was passed by the House of Representatives yesterday to amend the charter of the Metropolitan Railroad Company of this city, so as to extend the time for the completion of their road between Seventeenth street and the Capitol for ten days. The Committee on the District of Columbia, of the Senate, to whom that bill was referred, have directed me to report it back, and to ask for its consideration at the present time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 622) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company, of the District of Columbia," approved July 1, 1864. It proposes to amend section seventeen of the act to incorporate the Metropolitan Railroad Company, of the District of Columbia, so as to extend the time for the completion of their railroad line, except the part be-

tween Seventeenth street and the Capitol, for one year from the passage of this act; but the line from Seventeenth street and the Capitol is to be completed, equipped, and running within ten days from the passage of this act.

Mr. DIXON. I will state that the extension for one year referred to in the bill for part of the road from here to the navy-yard, is really but an extension of three months, because the charter of the company already allows them until the 1st day of September next to complete that portion of the road. As regards the other portion of the road, I believe they are compelled to have it finished by this time, or at any rate by the 1st of January, and they desire an extension of that time. This bill as it comes to us from the House of Representatives gives them but ten days to finish this portion of the road. I move to strike out "ten" and insert "thirty," so as to give them thirty days within which to complete the road from Seventeenth street to the Capitol.

The amendment was agreed to—ayes sixteen, noes not counted.

Mr. SUMNER. I should like to ask the Senator from Connecticut whether this concerns the F street railroad or the Pennsylvania avenue railroad?

Mr. DIXON. The F street road. That portion for which the time is extended is on F street.

Mr. GRIMES. I desire to be informed by the chairman of the Committee on the District of Columbia if the friends of the road desire the change to be made that he has suggested. I am very well aware that the change is going to jeopard the passage of the bill in the House of Representatives, where I understand there is no quorum, or is likely to be none, and that the charter will be forfeited by our amending the bill and thus sending it back to the House. I think the gentlemen who are interested in this project were satisfied with the proposition as it came to us from the House of Representatives, and my mind is inclined to the opinion that we had better allow it to go back to the House of Representatives as they passed it, without amendment, and let it become a law.

Mr. DIXON. I suppose the friends of the road are in favor of this change. I have received a note, which to be sure is not signed, but was handed to me by the Senator from New Hampshire, and represented by him to come from the friends of the measure, in which they state that the F street road cannot be completed in ten days in the present unsettled condition of the weather. The company ask that the bill be amended in the Senate as follows: strike out "ten days" and insert "thirty days" for the F street road; and strike out "one year" and insert "two years" for the branches. That I have not done, because I thought that as they have already three months from September next, they might ask for an extension at any future time with regard to that. It is very apparent, as is stated in this note, that in the present condition of the weather it is very difficult to work upon the road, and probably it will be impossible to finish it in ten days. It seemed to me, therefore, and to the committee, that the extension of thirty days should be made.

Mr. CLARK. I think I can answer directly the question proposed by the Senator from Iowa. The friends of the road do desire this extension. They will go on and complete the road at the earliest possible moment, but they fear the weather may be such that they may want more than ten days, and may have to ask for more; and so, as a matter of precaution, they ask for thirty days at this time.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read the third time. It was read the third time, and passed.

## REGENTS OF SMITHSONIAN INSTITUTE.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 367) to repeal the provision of law requiring certain regents of the Smithsonian Institution to be

members of the National Institute, which was read twice by its title.

Mr. TRUMBULL. I scarcely know to what committee it would be desirable to refer this bill, and unless somebody wishes it referred, I shall ask the Senate to act upon it at once. If the Senate will indulge me for one moment in making an explanation of it, I think there will be no objection to it.

The act establishing the Smithsonian Institution provided that two of the regents should be residents of the city of Washington and members of the National Institute in the city of Washington. The National Institute was an incorporated association, and its charter has expired. It did not meet with much success; it has been dissolved; and there are now no members of the National Institute. There is a vacancy in the board of regents, occasioned by the death of General Totten, which needs to be filled, but it cannot be filled by the appointment of a resident of Washington and a member of this Institute, as there are no longer any members of this Institute. The object of this bill is to repeal that provision of the law which requires that two regents should be members of the National Institute. I hope the Senate will let the bill pass at once, as it is desirable to fill that vacancy.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. COLLAMER. I do not know that I understand the gentleman aright. Is it proposed to repeal that part of the law which requires them to be inhabitants of Washington?

Mr. TRUMBULL. No, sir; not at all. I ask the Secretary to read the bill again, so that the Senator from Vermont may see that it does not repeal that part of the law requiring them to be residents of Washington.

The Secretary read the bill, as follows:

*Be it enacted, &c.*, That so much of the "Act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men" as requires that two of the regents of said Institution shall be members of the National Institute in the city of Washington, be, and the same is, hereby, repealed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## COMMITTEE SERVICE.

Mr. DIXON. Having been appointed chairman of the Committee on the District of Columbia, I ask to be excused from service on the Committee to Audit and Control the Contingent Expenses of the Senate, of which committee I have also the honor of being chairman.

The request was granted.

On motion of Mr. DIXON, it was

*Ordered*, That so much of the 35th rule of the Senate as relates to the appointment of the chairmen of committees be suspended as regards the appointment of the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate, and that the said chairman be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. MORRILL.

## ENROLLED BILL SIGNED.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the enrolled bill (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; which thereupon received the signature of the President *pro tempore* of the Senate.

## BILL BECAME A LAW.

A message from the President of the United States, by Mr. JOHN G. NICOLAY, his Secretary, announced that he had this day approved and signed the bill (S. No. 358) to establish the grade of vice admiral in the United States Navy.

## FREEDOM TO SOLDIERS' FAMILIES.

Mr. WILSON. Senate joint resolution No. 82 was the special order for to-day at one o'clock,



but was temporarily laid aside to take up other business. I move now to proceed to the consideration of that joint resolution.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

#### EXECUTIVE SESSION.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business. That will leave the resolution of my colleague the order of the day for to-morrow. There is important business which must be acted on to-day in executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 21, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read.

#### CORRECTION OF THE JOURNAL.

Mr. COX. I rise to a question of privilege. I move to strike out such portion of the Journal as refers to the resolution offered yesterday by the gentleman from New Hampshire, [Mr. ROLLINS,] with reference to retaliation upon rebel prisoners for the treatment of our prisoners in their hands. I am placed in the predicament, according to the report of the Globe, of having acquiesced in the passage of the resolution. I was cut off by the objection of the gentleman from New Hampshire before I could make the objection. My friend from New York [Mr. PRUYN] also sought the floor to make objection, and I think if the House understood the tenor of the resolution would reject it at once.

Mr. WASHBURN, of Illinois. What is the question before the House?

Mr. COX. I move to correct the proceedings of the House, under the rules, so as to strike out all the proceedings with reference to the resolution of the gentleman from New Hampshire, [Mr. ROLLINS.]

The SPEAKER. Does the gentleman state that the Journal is incorrectly made up by the Journal clerk?

Mr. COX. I am not talking on that question. The SPEAKER. Then the Chair decides that the gentleman's motion is not in order.

Mr. COX. I move to expunge that resolution from the Journal.

Mr. WASHBURN, of Illinois. I raise the question of order that that motion is not in order.

The SPEAKER. The Chair sustains the point of order. The Chair will state to the gentleman from Ohio that the 39th rule requires that every written motion made in the House shall be inserted on the Journal, and that the Speaker shall revise and correct the Journal every morning before it is read to the House. There is a question of privilege if the charge is made that the Speaker has mutilated the Journal. That was decided in the Thirty-First Congress to be a question of privilege. If the gentleman wishes to expunge the resolution he must wait until resolutions are in order. But the Journal must state what occurred, and it is not a question of privilege to move to strike out what did occur.

Mr. COX. I call the attention of the Speaker to that rule which says that the House may judge of what are or are not its proceedings. I hope, in the interest of humanity, that the House will look at this resolution and reject it.

The SPEAKER. The rule just quoted does not apply to this point.

Mr. PRUYN. I hope the gentleman from Ohio will permit me to make a statement on this point, inasmuch as he has referred to me.

The SPEAKER. The Chair decides that this is not a question of privilege. The Chair has no objection to this conversational debate if the House has none. But if the point is made by any member debate must be arrested.

Mr. WASHBURN, of Illinois. I believe the gentleman from Ohio did not object to the resolution yesterday. I see so in the Globe.

Mr. COX. That is it. I wish to correct that.

I intended to have objected to that resolution, but the Speaker was rather prompt, I think, upon me. I have no complaint, however, to make of his general good conduct, but I think that if the House had heard the resolution of the gentleman from New Hampshire read again, there would have been a whole chorus of objections. I am induced now to make this motion by gentlemen upon both sides of the House.

The SPEAKER. There is no question before the House. The Chair must state that so far from being over-prompt on the gentleman from Ohio, the rule states that no resolution shall be debated on the day on which it is presented, and no debate was therefore allowable. The gentleman from New Hampshire [Mr. ROLLINS] asked the unanimous consent of the House to offer a resolution. The gentleman from Ohio rose and debated it at some little length, giving his views in regard to the proposition. The Chair was not disposed to check him until the gentleman from New Hampshire rose and objected to debate. The Chair then asked the gentleman from Ohio if he objected or not, and the gentleman did not object, and the Chair then put the question to the House.

Mr. PRUYN. I desired and asked for a second reading of the resolution, because it was so imperfectly heard by me at the distance that I sat from the Chair that I did not understand its entire purport. The Speaker, of course, did not hear me express the desire to have the resolution read a second time. I certainly should have objected if I had understood its character.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The SPEAKER. The Chair will state, in reply to the gentleman from New York, [Mr. PRUYN,] that probably the reason why the gentleman was not recognized was because the gentleman from Ohio [Mr. Cox] was speaking, as he was from the moment the resolution was introduced by the gentleman from New Hampshire.

Mr. PRUYN. I did not mean to impute to the Chair any discourtesy; certainly not.

#### CONFERENCE COMMITTEE.

The SPEAKER appointed Messrs. ELIOT, KELLEY, and NOBLE managers on the part of the House of the conference committee on the disagreeing votes of the two Houses on the bill of the House (No. 51) to establish a Bureau of Freedmen's Affairs.

#### DUTIES ON TOBACCO.

Mr. KASSON. I ask leave to introduce a bill for reference to the Committee of Ways and Means.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has demanded the regular order of business.

Mr. KASSON. I ask the gentleman from Illinois to withdraw the call for the regular order of business.

Mr. WASHBURN, of Illinois. I withdraw it.

Mr. KASSON then, by unanimous consent, introduced a bill for an act to levy duties upon tobacco and its manufactures; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### MUSTERING OF SUBSTITUTES.

Mr. COFFROTH asked unanimous consent to offer the following resolution:

*Resolved*, That the Military Committee is hereby instructed to report, by bill or otherwise, an additional section to "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, to allow any person or persons drafted or subject to draft to muster into the service of the United States substitutes at any place where a mustering officer is stationed, and such substitute shall be credited to any town, township, ward of a city, precinct, or election district of the congressional district in which the person or persons reside at the time said substitute is accepted.

Mr. SCHENCK. That resolution instructs the committee absolutely to report. I will object to it unless it be modified so as to instruct the committee to inquire into the propriety of reporting.

Mr. COFFROTH. I will modify it in that sense.

The resolution was accordingly modified; and there being no objection, it was read, considered, and agreed to.

#### NAVAL EXPENDITURES.

The SPEAKER laid before the House a communication from the Secretary of the Navy, transmitting the report of the First Comptroller, showing the appropriations and expenditures of that Department for the fiscal year ending June 30, 1864; which was laid on the table, and ordered to be printed.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act for the relief of Charles M. Pott, and an act to extend the time allowed for the withdrawal of certain goods therein named from public stores; when the Speaker signed the same.

#### POST OFFICE EMPLOYEES.

Mr. HIGBY, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of prohibiting by law all persons connected with the Post Office Department, as postmasters or carriers of the mail, from having any pecuniary or business interest in any express office or express company for the transfer of express matter, and report their conclusions to the House by bill or otherwise.

#### LETTER-CARRIER SYSTEM.

Mr. BALDWIN, of Massachusetts, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be directed to consider the expediency of repealing so much of the existing postal laws as requires and provides for the free delivery of letters in cities and large towns, and restoring the system of delivery which existed previous to the enactment of the Thirty-Seventh Congress.

#### CLAIMS OF NAVAL CONTRACTORS.

Mr. PERHAM. I ask the unanimous consent of the House to introduce a joint resolution authorizing the appointment of a commission to settle and adjust the claims of certain contractors with the Navy Department.

Mr. CHANLER. I object.  
Mr. HOLMAN. I call for the regular order of business.

#### EXCHANGE OF NAVAL PRISONERS.

Mr. RICE, of Massachusetts. I hope the gentleman from Indiana will withdraw that call.

Mr. HOLMAN. I withdraw it.  
Mr. RICE, of Massachusetts. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Navy be requested to communicate to the House, if not inconsistent with the public welfare, what measures, if any, have been taken to exchange the officers and men belonging to the United States Navy now held as prisoners by the rebels, and what obstacles, if any, now exist to the exchange of such prisoners.

Mr. WASHBURN, of Illinois. I suggest that the resolution be amended by striking out the word "requested" and inserting the word "directed."

The SPEAKER. Is there any objection to the introduction of the resolution?

Mr. WILSON. I object, unless the change suggested by the gentleman from Illinois be made.

Mr. RICE, of Massachusetts. I accept the modification.

There being no objection, the resolution, as modified, was read, considered, and agreed to.

Mr. COX. What has become of the other resolution on the subject?

The SPEAKER. It has been laid over under the rule.

Mr. COX. Is not this a resolution to the same purport?

The SPEAKER. It is.

Mr. COX. Well, I object, unless—

The SPEAKER. The Chair thinks the objection is too late. The resolution has been introduced and agreed to.

#### DUTY ON PRINTING PAPER.

Mr. ANCONA, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be requested to inquire into the expediency of reducing or suspending the import duties upon printing paper; and that they be, and are hereby, requested to report by bill or otherwise at an early day.

#### REPRESENTATIVE FROM NEVADA.

Mr. HIGBY stated that Mr. HENRY G. WORTHINGTON, member-elect from the State of Ne-

vada, was present and ready to take the oath of office.

Mr. WORTHINGTON presented himself, and the prescribed oath was administered to him by the Speaker.

#### WINNEBAGO INDIANS.

Mr. WINDOM, by unanimous consent, introduced a joint resolution to amend an act for the removal of the Winnebago Indians, and for the sale of their reservation in Minnesota, for their benefit; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### CALL OF COMMITTEES.

Mr. WASHBURNE, of Illinois, called for the regular order of business; and the Speaker proceeded, as the first business in order, to call the committees for reports, beginning with the Committee on Territories, where the call had previously been suspended.

The call of the committees was concluded, no reports being presented.

#### EXCHANGE OF PRISONERS.

The SPEAKER. The next business in order is the consideration of resolutions calling for information, and lying over under the rules. The first in order is that presented on the 7th day of December by the gentleman from Illinois, [Mr. INGERSOLL.]

The Clerk read the resolution, as follows:

*Resolved*, That the Secretary of War is hereby directed to report to this House what obstacles, if any, now interpose to prevent an early and full exchange of prisoners of war now held by the rebels.

Mr. COX. Mr. Speaker, when that resolution was presented, I moved to amend it by substituting a resolution which I subsequently offered and which was accepted by the gentleman who offered this.

The SPEAKER. The Chair will state to the gentleman from Ohio that the motion to amend was not in order at that time, when the resolution was lying over under the rules. The gentleman from Ohio on the same day offered a resolution relating to the same subject. He can now offer that as an amendment.

Mr. COX. I will do so. I move to amend this resolution by striking out all after the word "resolved," and inserting in lieu of the words stricken out the following:

That, if not incompatible with the public interest, all communications in reference to the exchange of prisoners, not heretofore published, be communicated to this House by the Secretary of War.

My object in offering this amendment is, not that we may have the suppositions or inferences of the Secretary of War as to obstacles in reference to an exchange of prisoners, but that we may have all the facts and correspondence in his possession relating to this matter.

As the House is aware, there is a long history connected with this subject. Soon after the beginning of the war we adopted, in the interest of decency and humanity, a joint resolution recognizing a full, fair exchange of prisoners; and a cartel was made for that purpose. I am not now here to inquire what obstructions have been supposed to impede this exchange. It has been stated that difficulties have occurred on account of the negro soldiers. Perhaps that is to some extent true. There may be other reasons why the rebels have not been prompt, or why our Government has not been prompt, to exchange prisoners. We ought to have all the correspondence on this subject, and not merely the ideas of the Secretary of War as to what may be an impediment or obstruction to the making of exchanges.

In connection with this matter I desire to say a word in reference to the resolution offered yesterday by the gentleman from New Hampshire [Mr. ROLLINS.] I presume that it is in order to refer to that. I think that if that resolution had been fully understood it would have been recognized by gentlemen on both sides of the House as revolting to a proper sense of humanity. It provides for inflicting upon the rebel prisoners who may be in our hands the same horrible, inhuman, barbarous treatment which has been inflicted upon our soldiers held as prisoners by the rebels. It is proposed, in other words, that we shall adopt, to the fullest extent, the law of retaliation.

Now, Mr. Speaker, it does not follow that, be-

cause the rebels have made brutes and fiends of themselves, we are bound to do the same thing; but this House should, I think, at once have signalized its abhorrence of such a resolution by expunging it from the Journal.

There is a certain law of retaliation in war, I know, but no man will stand up here and say, after due reflection, that he would reduce these prisoners thrown into our hands into the same condition exhibited by these skeletons, these pictures, these anatomies brought to our attention and laid upon the desks of members of Congress.

I know, Mr. Speaker, from men returned from Andersonville, and other prisons in the South, that there is good foundation for their terrible reports in relation to the treatment of our prisoners, and, as a man who has a heart, and as a man who has brothers in our Army liable any moment to be treated in the most abhorrent way by the rebels, I make my protest here against the passage of that resolution, or to its being reported back from the Committee on Military Affairs except for its emphatic rejection. We on this side of the House have no power to stop this war, and for the next four years it will likely go on, but we can mitigate its severity by introducing a humane code.

Mr. GARFIELD rose.

Mr. COX. I hope my friend will not raise the point of order.

Mr. GARFIELD. I wish to suggest to my colleague that the resolution adopted yesterday is only one of inquiry. It does not call for retaliation, but only asks the Committee on Military Affairs to report as to the propriety or impropriety of retaliation.

Mr. COX. I would not have the committee consider so horrible and atrocious a proposition.

Mr. ROLLINS, of New Hampshire. Will the gentleman yield to me?

Mr. COX. Certainly.

Mr. ROLLINS, of New Hampshire. I wish to state to the House that when I submitted my resolution, yesterday, the Speaker asked the gentleman whether he objected to it, and he distinctly replied that he did not. And no objection was made to my resolution from that side of the House.

Mr. COX. That is true so far as the gentleman states it, but I intended in the further debate to say that I would not object to it provided it could be debated; and if it had been debated I knew it would have been rejected by gentlemen on that side of the House. I was cut off by the gentleman from further debate. Members around me do not hear distinctly all that is done. I could not hear the gentleman's proposition when it was first read. Gentlemen on that side heard it themselves, and supposed that we heard it. My friend from New York [Mr. PRYOR] could not catch the purport of it. But it is before the House, before the country, as having been passed by the House at least as a subject of inquiry by one of our committees, and I hope the House will in some way give its stamp of disapprobation to the resolution. It is laid down by all respectable authorities that when revolution reaches such a formidable height as this the laws of humanity or the laws of moderation obtain as between two belligerents; and there is no law of humanity more sacred than that in reference to the treatment of prisoners, and it does not follow, because our prisoners are treated in the way represented, and no doubt truthfully represented, in the preamble to the gentleman's resolution, that our Government should make itself the brate that the gentleman charges upon the rebel authorities. I do not believe that the President or the Secretary of War would sanction any such proceeding. I am sure that the distinguished chairman of the Committee on Military Affairs would not do so. Indeed, I have heard that he disapprobates the resolution; and I hope, Mr. Speaker, the House will in some emphatic way express its opinion of it by rejecting it at once when it comes before them.

We are at this time in need of all the information in the hands of the War Department. There has been a good deal of trouble about it. Why were not these exchanges made? Is there any portion of responsibility for these horrible atrocities upon our Government because we did not exchange prisoners in time? I do not make that charge, but I say that we want all the correspondence on the subject, that such an imputation may be refuted. Our prisoners want to know that the

Government has not been derelict in this matter. I call the previous question if gentlemen do not wish to discuss it.

Mr. STEVENS. I do not know that I have any objection to the amendment now offered by the gentleman from Ohio if he prefers it to the original, though I do not very well see what advantage will result to have this resolution adopted. All this matter is, under our system, intrusted to the Executive and the War Department. I do not precisely see what this House is to do upon receiving the information. Is the information asked for as a matter of curiosity, or is there some action to be taken upon it?

Mr. COX. If the gentleman asks me I will say that I would predicate some action upon it if the facts demanded it. I think the gentleman from Pennsylvania, as a humane man, would insist on a fair exchange of prisoners, and would stir up the War Department to that end if they have been backward.

Mr. STEVENS. This resolution seems to imply, by its being offered, that the War Department has been remiss. Now, sir, unless I have some such suspicion, I do not know why I should interfere with them. If I believed they were derelict in their duty, if I thought they were not doing all that, under the laws of war, and the laws of humanity, they ought to do, I would pass some censure upon them. But I have not yet seen anything to induce me to believe that.

I understand the gentleman to condemn the system of retaliation, and to find fault with the resolution already passed from discussion, the resolution of the gentleman from New Hampshire, [Mr. ROLLINS,] because it looks to retaliation. Now, sir, I do not agree to that doctrine at all. Retaliation is one of the laws of war. It has been exercised ever since wars existed, whether in barbarian or civilized countries; and it may be that it will be absolutely necessary to retaliate upon the enemy in order to compel them to be humane. And although retaliation may sometimes operate very severely upon innocent persons who may be the subjects of it, it may become essential to practice it; but the Government which has caused the necessity is the one responsible for it. If any Government executes any of our soldiers contrary to the laws of war, is it not a matter of fair retaliation to execute as many of their men, although innocent; and is there any other way to check it? I know of none. To say, therefore, that retaliation is not humane, is not in accordance with the general sense of civilized warfare. Nor do I see how it would be possible to keep a savage and cruel enemy within the rules of humanity unless retaliation were allowed, and unless it were known that it would be practiced.

As to the causes which have retarded the exchange of prisoners, I do not know whether there is any one who is censurable. I do not know that it is alleged. If there is, it would be well enough to inquire into it; and if the gentleman thinks there is anything not communicated to the public upon that subject I should certainly have no objection to ask for that correspondence. I cannot at the present see precisely what good is to come from it. The resolution of the gentleman from New Hampshire has been referred to the Committee on Military Affairs to inquire into the expediency of all these things, and it seems to me that it will be properly met at the Department. I therefore move to refer this resolution to the Committee on Military Affairs. I suppose that will answer the purpose of the gentleman.

Mr. PENDLETON. I hope that course will not be adopted, and I hope this resolution will be passed. The gentleman from Pennsylvania says, and says very properly, that unless this inquiry is prompted by a vain curiosity the information should be furnished to the House. There is one fact I suppose well known to every gentleman upon this floor, and that is that great discontent prevails in relation to this exchange. A deep impression has been produced upon the people of the country, and these accounts of barbarities inflicted upon Union prisoners by the South have filled the country with horror. They are discontented with the condition of affairs. They think it ought not so to continue, and they believe it is not necessary that it should continue. I am not prepared to say that anybody is at fault; but I am prepared to say that the people believe somebody is at fault, and if nobody is at fault the War Department should

be prepared to show to the country that everything has been done that can be done to relieve the people from their suspicions that our citizens who are captured are needlessly suffering.

Now, I happen to have before me a newspaper containing an account of the sufferings of two citizens of Cincinnati who have been eight and ten months in Libby prison, and who have not been exchanged, and cannot be exchanged; and this paper, though friendly to the Administration, and to the gentleman having charge of the War Department, charges upon them that they have been derelict in duty. I am not prepared to say that the paper is right; I do not make any charge of that kind; but I say that we should furnish to the people of the country a knowledge of the facts, and the only way is to give the Administration and the War Department an opportunity to let the people see what efforts they have made to relieve the condition of affairs. I trust, therefore, that the resolution will not be referred, but that opportunity will be given to the War Department to do itself justice, if injustice has been done it; and if not, it will give us an opportunity to predicate that action which will require that justice shall be done to our citizens.

Mr. COX. I think I can answer the gentleman from Pennsylvania [Mr. STEVENS] in such a way as to get his assistance in the passage of this resolution. He thinks that there is some imputation in the introduction of this resolution, or by its terms, upon the Secretary of War. That is not the case. The resolution simply asks the Secretary of War, if not incompatible with the public interest, to send us all the correspondence upon this subject. There is no imputation contained in it, direct or implied; and if the gentleman from Pennsylvania is in favor of this system of retaliation—

Mr. STEVENS. Let me say to the gentleman that if I were quite sure that the amendment would prevail I would withdraw my motion; and I will do so for the purpose of trying it.

Mr. COX. Very well. I will add but one more remark in response to another made by the gentleman. The resolution of the gentleman from New Hampshire [Mr. ROLLINS] has been referred, and the gentleman from Pennsylvania wants it considered. I am surprised that the gentleman from Pennsylvania justifies that resolution on the ground of retaliation as something known to the laws of civilized warfare. There are laws for war, and one of the laws of war provides for the humane, kind, and just treatment of all prisoners taken even in civil war. I know that the gentleman from Pennsylvania would not put the torture or the thumb-screw or reduce to skeletons the prisoners in our hands because the other side have done it. I do not believe so ill of the gentleman from Pennsylvania as that. But as he wants the matter investigated by the committee, this correspondence would evidently assist that committee in the investigation. Let them have all the light which the War Department can throw upon the subject, so that the gentleman from New Hampshire may have the subject of his resolution properly investigated.

Mr. KASSON. Will the gentleman from Ohio allow me to offer an amendment, which he may accept or allow me to take a vote upon?

Mr. COX. I will hear it read.

The proposed amendment was read, as follows:

And that he report therewith whether the treatment by the United States Government of rebel prisoners under its control is better in respect to food, clothing, care, and attention than the treatment extended by the rebel authorities to prisoners captured by them; and whether, in his judgment, the same provisions for the custody and care of rebel prisoners extended by these authorities to our captured soldiers may be properly extended to their soldiers when captured by us, with a view to secure more humane treatment of prisoners by the rebels.

Mr. KASSON. I desire to say to the gentleman from Ohio that my object is that his application for information, to which I think there is no valid objection, shall go to the same committee to which the other resolution was referred, so that we may have the benefit of a full statement from the Secretary of War of the facts upon each side, and that he may state the opinion of himself, as the head of that Department, whether the proposed measure would have the effect to increase humanity toward our prisoners in the South. I can see no objection to taking the opinion of the War Department upon that subject.

I renew the motion withdrawn by my colleague, [Mr. STEVENS.] to refer this whole subject to the Committee on Military Affairs.

The SPEAKER. The gentleman from Ohio [Mr. Cox] is on the floor.

Mr. COX. I only yielded to my friend from Iowa to offer his amendment.

Mr. KASSON. I ought to add, in the hearing of the gentleman from Ohio, that the difference in the treatment of prisoners is notorious to the people of the United States, but my object is to get a specific statement of that difference not merely that it may go to the people of the United States, but to Europe, where there has been a recent manifesto of the rebel authorities touching our inhumanity toward these prisoners. I wish to call out a full statement, showing the rations, care, place of custody, and all the facts in contrast to the inhumanity practiced by the rebels.

Mr. COX. I have no objection to the gentleman's amendment, except the last clause. I do not care, and I do not think the House would care, to have the opinion of the Secretary of War as to the subject of retaliation; whether it would bring about a more humane treatment of our prisoners or not. I will accept the first clause of the gentleman's amendment, so that the Secretary can report on the comparative treatment of prisoners on either side.

Mr. KASSON. I suggest to him that the last clause is important, because we wish to know whether such action on our part would be practicable.

Mr. COX. I do not care anything about the opinion of the Secretary of War, with all due courtesy to him. I want the facts. I will accept the first part of the gentleman's amendment as an amendment to mine; but I cannot accept the last part of it.

The SPEAKER. Did the gentleman from Ohio yield the floor to the gentleman from Iowa to allow him to offer an amendment? If so, the whole of the amendment can be voted on.

Mr. COX. I only yielded for the purpose of having it read.

The SPEAKER. Then the latter part of the amendment is not pending before the House.

Mr. COX. I modify my own amendment so as to take in the first part of the amendment suggested by the gentleman from Iowa.

Mr. THAYER. Mr. Speaker, I do not propose to discuss at the present time the subject of retaliation. I do not understand that that question is properly before the House. When that subject shall be presented in any practical shape for the action of the House it will present a very grave and serious question; one which, I trust, this House will not act upon without due deliberation and consideration. But, sir, with reference to the resolution which is now before the House, I desire to say that it is a resolution which, in my opinion, is demanded by the public sentiment of the country. There is hardly a fire-side, sir, in the land which is not painfully interested, immediately or remotely, in the question raised by this resolution—the question of a speedy and general exchange of prisoners. I do not regard the resolution or the amendment of the gentleman from Ohio [Mr. Cox] as containing any imputation either on the Administration or on the War Department of the Administration. It conveys no such imputation. It simply calls for information with reference to that in which the people of the country feel a very deep and earnest interest. I have never yet seen the man who has been able to give me an intelligible account of what has occurred with reference to the negotiations that have taken place in regard to the exchange of prisoners, or what have been precisely the obstacles in the way of a general exchange of prisoners. The people of the country desire information upon this subject—nay, I may use a stronger term—they demand information on this subject; and the resolution being properly guarded so as not to require the Secretary of War to impart any information that may be detrimental to the public interests, I am in favor of the resolution of the gentleman from Ohio.

Sir, we cannot conduct the Government on the idea that a call for information from a Department of the Government is, as has been suggested, a reflection on the integrity of the Government or on the ability with which the functions of that Department has been discharged. We cannot

administer the Government on any such false idea. It has been always administered heretofore on a totally different principle; and that principle has been that the people are entitled to and shall have full, complete, and perfect information on all matters relating to public affairs, so far as such information is not for the time being incompatible with the general interests of the country or the proper administration of the Government.

In my view, therefore, sir, the amendment offered by the gentleman from Ohio calling for the correspondence on this subject conveys no imputation upon the Government. It calls for nothing that could be detrimental to the public interests. It calls for information on a subject in which the people of this country feel a very deep interest, and for the correspondence of their public agents upon that subject. For these reasons I am in favor of the amendment of the gentleman from Ohio, and shall vote for it.

Mr. CHANLER. Mr. Speaker, in regard to this resolution I accept the remarks of the honorable gentleman from Pennsylvania [Mr. THAYER] as the indication of a new era in the conduct of this war. He stands forth in bold relief on this floor and in this debate as compared with his colleague, [Mr. STEVENS.] It is impossible, on this or on any question relative to the treatment of men, prisoners or otherwise, arrayed in arms against us or with us, to separate the motive from the practice. I am astonished at the coolness and the somewhat callous character of the remarks of the gentleman from Pennsylvania, [Mr. STEVENS.] who, while defending by his words, though perhaps not by his motive, the barbarous resolution which gave rise to the present debate, introduced by the gentleman from New Hampshire, [Mr. ROLLINS,] favored the barbarous principle of the *lex talionis*, declaring it to be one of the principles of civilized war.

Retaliation is indeed practiced in civilized warfare, but there is a wide and clear distinction between such retaliation and the horrors which the resolution just introduced called on us to imitate in a spirit of resentment. The gentleman from Pennsylvania, [Mr. STEVENS,] to my astonishment, seems to make no such distinction in his remarks just made.

And I regret to say, sir, that his word has been, in more than one instance, carried out by a systematic practice during the whole course of this war with regard to the treatment of prisoners, not only on our side but also on the other side. It is under just this principle that the abominable acts described in the pamphlets which are circulated throughout the country have been brought about. The massacre at Fort Pillow and the outrages which have been carried on by the soldiery on both sides in the heat of conflict should not find support and palliation here. Sir, I should have been disposed to remain silent and wait until the accumulation of evidence had crushed the cruel spirit from the Administration party on this floor by the mere weight of public odium; but the occasion has occurred, and I deem it due to a portion of this House, on the other side as well as on this, to show a spirit to join them now, even at this late day, in an effort to stop the horrid system of carnage, torture, and barbarity which this civil war has developed.

Upon the field of battle, and in the victory which follows, the soldier is comparatively safe from the infliction of these barbarities; but in the retreat, whether we look upon the record of the fearful consequences of the expedition on the Red river under General Banks, or whether we look to the fearful system carried on by our victorious generals in the State of Georgia, we find that the women and the children are the victims. While the brave men who do the fighting march in column in the discharge of their duty, the mercantile camp-follower plunders, robs, and tortures, and he accepts the palliation given here, under the law of retaliation, as his shield. Under that he toils day and night with blood upon his hands without courage in his heart.

I am glad to find, sir, that gentlemen on the other side are ready to come forward and to vindicate their humanity on this question. Their courage has been proved here. Now, in the hour of triumph, amenity should crown their glorious deeds. We will give you all the credit of your achievements in this war; we will allow you to bestow on your successful generals the highest



honors; we will remain silent as you pass onward in your triumphal marches from the Alban mount to the Capitol. But do not let barbarity mark the train of your victories. Do not imitate, as the gentleman from Pennsylvania [Mr. STEVENS] would seem to urge, the *leat talionis* of the Romans. Let no shackled victim, no bleeding corse, be chained to your car of victory. In that spirit I accept the remarks of the gentleman from Pennsylvania [Mr. THAYER] who has last spoken.

But, sir, there is more. There is a future to which we must look. I would ask that hereafter, as now, that spirit might prevail on this floor. I deem it the duty of this House, without regard to what may be the private sentiments of the Secretary of War, to assert that, as men, we are opposed to any law which is not recognized as binding upon a Christian people. "An eye for an eye, and a tooth for a tooth," should not be engraven upon our banners, nor practiced in our persons.

Mr. COX. I call the previous question.

Mr. SCHENCK addressed the Chair.

Mr. COX. I yield to the gentleman, and withdraw the call for the previous question.

Mr. SCHENCK. Mr. Speaker, during the last session of this Congress a resolution was adopted directing the Committee on Military Affairs to inquire concerning the treatment of our prisoners in the hands of the rebels. In obedience to that order of the House the committee proceeded, as opportunity presented itself, in the midst of other engagements, to take a large mass of testimony, which accumulated upon their hands, in relation to this matter. The end of the session found us with this testimony partially arranged and with a report partly prepared. That report would have been made in the course of this session, and probably at an early day, with such material as we had then obtained for the purpose, if it had not been for the revival of the subject here at this time. Now it is hard to say when, where, and how we may report, for the subject of the inquiry is continually spreading itself as we turn our attention to it. The treatment of our prisoners—horrible enough, as it had come to our knowledge during the last session—has been increased in horror and barbarity since; and the testimony (much as there was of it) which we then obtained would be added to tenfold now if all the facts could be developed. Yesterday the House referred to that committee, or sent to that committee, a resolution directing them to inquire again in relation to this subject. The committee have already had the matter under consideration, and propose to make the examination as thorough as possible, and to report to the House according to the lights before them.

Now, sir, so far as this resolution is concerned, as a member of that committee, and its chairman, I must say to the House that I care very little whether the House makes the call directly upon the Secretary of War or leaves the committee to do so. The House may be sure, and my colleague and gentlemen upon both sides of the Hall, that that committee will seek from the proper Department, and from all quarters connected with that Department, all information on that subject, in order to an enlightened presentment of it for the consideration of the House. I have nothing further to say on that. The House may make the inquiry directly, or leave the committee to make the inquiry by referring this resolution to them with the others that have been referred; and I think that the House may be assured, if this resolution as it stands, indicating a direction of inquiry which gentlemen on either side of the House may think proper, be referred to that committee, the committee will follow that direction, as they probably would have done if the resolution had not been offered. On the whole, I prefer, however, that the subject should be referred to the committee, hoping that we shall make the earliest report possible after we have procured all the information on the subject.

Mr. THAYER. Does the resolution to which the gentleman refers provide for obtaining this correspondence?

Mr. SCHENCK. I do not know that it does; but we will get all the information we can. I believe that the resolution passed yesterday looks to an inquiry into the question whether we ought to resort to some form of retaliation by way of deterring the rebels from such treatment of our prisoners as have fallen into their hands. I am glad that it was referred only as a subject of in-

quiry, and that the committee were not directed absolutely to report any system of retaliation. I am glad of it because it will require a great deal of consideration by members of the committee, by the members of the House, and by the country, how far it will be proper to resort to any retaliatory measures. I confess that to myself the idea of retaliating in kind is abhorrent to every feeling of my nature. I do not propose to starve, to leave in nakedness, to pen up like cattle, to expose in every form to a lingering death, the prisoners in our hands. I would prefer to kill them at once; to look upon the war as a war of extermination, giving no quarter and expecting none.

I admit that something must be done; but the nearer you approach the question, as we have discovered in some degree, you will find it surrounded with difficulties, and surrounded with difficulties arising out of this single fact, which gentlemen, some of them, in this Hall for the first time discover, that we are making war with savages and fiends, and that, therefore, so long as we recognize the rules of humanity it becomes difficult for us to meet those who know no such principles, no such rules of conduct, no such warfare as has been recognized heretofore between civilized nations. I know that I do not state the case too strongly. Gentlemen are mistaken—and I was sorry to hear a political view given to the subject by the gentleman from New York [Mr. CHANLER]—in supposing that we have just waked up to some new consciousness concerning the matter on this side of the House. It is themselves who seem now, for the first time, to have discovered the fact that we are dealing with savages and fiends who do not understand, and would repel approaches, when made, of a humane character. Within the last fifteen minutes I have conversed in the lobby of this House with a young man, the near relative of a member on this floor, who has just returned from Savannah, and who, when lying grievously wounded upon the ground, crippled for life, was stripped to the skin by a rebel major, and was then turned into one of these rebel pens where thousands of our brave fellows were confined, and where he saw eighty-six hundred of them die from starvation and exposure.

Mr. CHANLER. Honored by the notice of the chairman of the Committee on Military Affairs, I will for a moment, in reply to him, state why I spoke as I did. It was not alone with regard to our enemies in their treatment of our prisoners that I spoke, but it was to the systematic barbarity of the principles which have appeared in the reports emanating from the Military Committee, over which the gentleman from Ohio presides, that I referred in reference to the barbaric nature of the proposition for the enrollment of our troops; and I defy any civilized nation to surpass it, though some have equaled it, in the intolerable cruelty of the gentleman's own proposition, when, upon this floor, in the face of the American people, he declared—though it was voted down by the House as an indignity to itself—that he intended to kick the people on the one hand and coax them on the other. That was the sentiment I understood him to utter, and I refer to the records of the House to sustain my charge. By this proposition to exclude from any chance of obtaining substitutes all but sons and brothers he has branded his name with infamy.

Let him go to France. This country was made to glow with the torch of the French invader long before the system of political retaliation induced the court of Louis to take arms against England for vengeance for the loss of Canada, and this whole country was made red with the barbarities of the French army. And are we to follow the military system of that nation now and forever? Sir, there are two sides to this question of cruelty. Sir, I allude to this as the first instance—and I maintain that so far as the honorable gentleman from Ohio is concerned it is the first instance—of the manifestation of one glimmering ray of light in his own mind that we have as a nation a humane duty to perform in the conduct of this war. We have been instrumental, through the policy shaped in his committee, of reducing this war to one of extermination, and, in his own words, now propose to show no quarter or consideration to the enemy, and at the same time, as he has already shown, no consideration to the poor victims who under the enrollment law have been forced

into our armies against their will and contrary to their sense of right and duty.

Mr. SCHENCK. I did not intend to yield my time to the gentleman to discuss questions outside of the debate as it has progressed thus far.

Mr. CHANLER. I beg the gentleman's pardon, and I will not pursue the subject further. I was only answering the gentleman's imputations.

Mr. SCHENCK. If the gentleman wants to make any inquiry as to what I have stated, or any suggestion as to my statement about the treatment of prisoners, I will yield to him.

Mr. CHANLER. It was in regard to the allegation of the awakening sense of propriety upon my part that I was making my own defense.

The SPEAKER. The gentleman has the right to the floor if he insists upon it.

Mr. COX. I believe I had the floor.

The SPEAKER. The gentleman from Ohio [Mr. Cox] has spoken once, and the gentleman from Ohio [Mr. SCHENCK] has the floor by right.

Mr. SCHENCK. I do not wish to be misunderstood. I yield to any remarks the gentleman desires to make in regard to an awakening sense of propriety upon my part.

Mr. COX. For the information of my colleague I want to say one word. I intended to call the previous question before this debate took its present turn of a partisan character.

Mr. SCHENCK. The gentleman is not responsible for that.

Mr. COX. And I never have since this question was mooted in this Congress; I have always presented propositions in the interest solely of our soldiers, and I believe my colleague will so regard all that I have said, and I will accept all he says in the same spirit. I have had near and dear friends, as he has had, in these prisons, and from time to time I have been permitted to make inquiries, in order, if possible, to keep these Departments up to their proper work. Weary months have transpired without anything being done by the War Department to facilitate the exchange of prisoners, and although there are rebel barbarities, and although all my colleague may say is true, I am not sure that a large part of this responsibility may not rest upon the War Department for not exchanging prisoners; but in order to answer any such imputations made by the people and made by partisans, the gentleman, my colleague, should not seek to stifle any proper inquiry. He says he may make an inquiry for himself and for his committee. I prefer to have it made with more authority for the House and for the corresponding public, not only that Congress may know, but that the people and the friends of the prisoners may know, why this exchange has been so long obstructed.

Mr. SCHENCK. There can be no misunderstanding about this matter. I made the remark when I was up before—and if the gentleman from New York had not interrupted me I do not know that I should have continued these remarks further—that I was perhaps almost indifferent upon the question whether the call be made directly by the House or be left to be made by the committee. I recognize the propriety of getting this information, and I only thought that it would expedite possibly the means by which it should be obtained if we should go on with our inquiry, and call, perhaps, the Commissary General of Prisoners before us, as well as make inquiries and seek responses from the head of the Department. But all that I leave with the House, promising only that we will go on to the best of our ability and make investigation of and report upon this subject in whatever form it comes before the committee.

Mr. GANSON. I would like to ask the chairman of the Committee on Military Affairs whether he thinks that the Department would furnish this correspondence to the committee as readily as it would to the House.

Mr. SCHENCK. I should think they would not refuse it.

Mr. GANSON. I did not know whether any inquiry had been made by the committee for this correspondence.

Mr. SCHENCK. I confess, myself, that we are, up to this point, all of us pretty much in the dark in regard to knowing precisely what have been at least all of the obstructions in the way of exchange.

There is this, however, that I feel it due to the Department to state to the House, that while

during the past summer no exchanges had been made, and our friends, and the people at large, and all of us, were becoming impatient on that subject, and it seemed almost to be a fair conclusion that it would be proper to swap man for man, because we had more men to spare than the rebels, yet if any such policy or thought did impress itself upon the Department or those who have the administration of our military affairs, every such idea seems to be given up now, and I do not know that any such idea ever was really entertained. There has now been set on foot a system of exchange, and the matter is in some degree expedited and facilities are afforded upon the one side and the other looking to the better treatment of prisoners and to the continuance of the exchange, which indicates that the whole subject is upon a somewhat better footing than ever before up to this time. I do not say that it might not and may not be put upon a still better footing; but that being all that I can say upon the subject, said only in these general terms, I am not prepared to substitute it for the information which the House or the committee should seek in the matter.

One word only in answer to the gentleman from New York, [Mr. CHANLER.] The House will bear me witness that the allusion that I made to this subject as having any political aspect given to it, was one only of regret. An honorable member from Pennsylvania [Mr. THAYER] had spoken upon the subject, and was congratulated then by the gentlemen upon the other side of the House with the assertion that there seemed to be, as indicated by his remarks, a new era arisen when gentlemen upon this side of the House were awake to the propriety of looking to the condition of our poor fellows held in this miserable and horrible bondage. I felt that that was an improper bringing in of a political view to be mixed up with this subject; and I thought I administered a very proper and deserved reprehension to the gentleman by turning his attention to the fact that, for the first time now, he seems to have waked up to the fact that we are dealing, as we have always said upon this side, with savages and fiends, in their conduct upon this subject which we are discussing, and they are yet the very men toward whom he has never thought of anything except breathing conciliation and kindness and sympathy, if not actual and direct cooperation.

Mr. CHANLER. I rise to a point of order. The gentleman has imputed motives to me with regard to this matter which is disorderly, according to my notion.

The SPEAKER. The words excepted to will be taken down.

Mr. CHANLER, (the words having been taken down.) The words excepted to are these, "and they are yet the very men toward whom he has never thought of anything except breathing conciliation and kindness and sympathy, if not actual and direct cooperation." I claim, sir, that these words are out of order as imputing to me motives unworthy of a member upon this floor.

The SPEAKER. The Chair overrules the point of order. The gentleman from New York in the course of his remarks stated that the gentleman from Ohio had branded himself with infamy. If the gentleman from New York had been called to order the Chair would have sustained the point of order. The words to which the gentleman takes exception the Chair thinks are in order and within the limits of legitimate debate. The Chair thinks they are certainly justifiable, on the principle of retaliation, which appears to be the subject of debate now. [Laughter.]

Mr. CHANLER. Retaliation as exercised by the Presiding Officer?

The SPEAKER. The gentleman must permit the Chair to finish the ruling on the point of order. The Chair does not think, even apart from the subject under discussion, that the words complained of are in violation of the rules of debate. They may be correct or not correct, but the Chair does not think that they come under the character of disorderly words.

Mr. CHANLER. I hope the gentleman will allow me to reply.

Mr. SCHENCK. I believe, Mr. Speaker, that I am released from my parole. [Laughter.]

The SPEAKER. The gentleman from Ohio will proceed.

Mr. SCHENCK. Since the words have been brought so conspicuously before the House, let

me be clearly understood, so that the gentleman himself may not fail to have had due explanation. I had inferred from the previous course of that gentleman that he had manifested sympathy, kindness, and conciliation toward those rebels whose conduct is now, on all hands, admitted to be fiendish. I said, therefore, that those had been his relations to the rebels in my opinion, if there had not been direct cooperation with them on his part. I meant to distinguish between direct cooperation and the other. I have never suspected that the gentleman from New York would fight out his principles on the side of the rebels by direct cooperation. I wanted to draw that distinction clearly, that the gentleman, while not taking part by direct cooperation, while not carrying a musket to defend that which he contended for, has done all that he could, by a gentlemanly and amiable courtesy and sympathy with the rebels, to encourage those who carried muskets on their shoulders in that cause.

The gentleman from New York went out of the way to charge me with tyranny, and I do not know but that on the next occasion I am to be introduced into some resolution of inquiry for having undertaken a system of savage tyranny over the people of the country, by seeking to make as stringent as possible a system of enrollment by which our Army should be kept full. Sir, I have heard all that before, inside of this House and outside of this House; and all that I have to say about it is that it is not the soldiers enlisted, not the soldiers in the field, not those who bear the brunt of the battle and who expose themselves to wounds, to death even, in this cause, who ever complain of the laws being too stringent to fill up the ranks of the Army. Those complaints never come from the parties directly interested, nor from their friends who hold up their hands while they are engaged in this great battle for liberty, for human rights, and for the preservation of the country and of its institutions. The complaints come only from political demagogues, who seek, by stimulating the soldier into dissatisfaction, and by inflaming the popular mind against legislators or against any one legislator, to prevent our giving this aid to our armies. They do not come from those who constitute the armies themselves. That is all that I have to say on that subject. I will not go into any discussion of the enrollment law here. I am much obliged to my colleague for having yielded to me on this subject. I regret that the debate should have taken this turn. It was provoked on the other side, but I am glad to say by only one gentleman on the other side. Whatever may be the course of the House, either in making this call for information directly or in leaving the Committee on Military Affairs to make it, I hope the information which my colleague seeks will be obtained, and that as much light as possible will be thrown on the subject for our guidance.

Mr. COX. I move the previous question.

Mr. WASHBURN, of Illinois. I ask to have the amendment of the gentleman from Ohio read now. I think the House on all sides will consent to the adoption of his amendment, pure and simple.

The amendment was again read.

Mr. COX. Before the previous question is seconded, my friend from New York [Mr. CHANLER] feels a personal grievance in the remarks of the gentleman from Ohio, [Mr. SCHENCK,] and I consent to yield to him for a reply.

Mr. CHANLER. Mr. Speaker, I shall say but a few words.

I deny any implied or direct cooperation with the enemies of my country at any time, in any place; and I demand the proof from the gentleman who has made this imputation. I hold his insinuation as unfair. Sir, I have borne a musket; and I never should have alluded to it but for the ungenerous and unjust imputation with which the gentleman from Ohio closed his remarks. I am ready now to do what I can for the defense of my country, as I was at the very first call. I was among the first who came here in response to that call. I slept in the Halls of this Capitol with the first regiment from my city. I came as a citizen, bearing a musket. I never expected to mention here this humble service to my country; but, in vindication of myself, I feel called upon now to say what, but for the peculiar circumstances, I never would have uttered. I did bear a musket,

and I was willing to act so long as I was able. I served out the time of the first call with my regiment. I went still further, (and General Dix can confirm what I now say.) I applied to that general for a position on his staff; but deeming my services not of sufficient importance, he not only refused that application, but was utterly silent as to another request which I made, that he would seek for me an appointment on one of the staffs under him. I blush that I am called upon to make these remarks, but they are in justification of myself. I hope that the gentleman from Ohio will be magnanimous, and apologize for the remarks which he has made.

Mr. COX. I suppose that this matter is now satisfactorily adjusted. No doubt my colleague on the other side [Mr. SCHENCK] is sufficiently ashamed of having attacked a soldier of the Republic. [Laughter.] I therefore call the previous question.

The previous question was seconded, and the main question ordered.

The Clerk read the amendment in its modified form, as follows:

*Resolved*, That, if not incompatible with the public interest, all communications in reference to the exchange of prisoners, not heretofore published, be communicated to this House by the Secretary of War; and that he report therewith whether the treatment by the United States Government of rebel prisoners under its control is better in reference to food, clothing, care, and attention than the treatment extended by the rebel authorities to prisoners captured by them.

Mr. FARNSWORTH. Some of us would desire a separate vote upon that portion of the amendment which proposes to inquire of the Secretary of War whether the Union prisoners have been treated any worse than the rebel prisoners in our hands. We do not want any information on that point. Everybody knows the fact.

The SPEAKER. The gentleman from Ohio [Mr. Cox] moved an amendment to the resolution of the gentleman from Illinois, [Mr. INGER-SOLL,] and then surrendered the floor temporarily to the gentleman from Iowa, [Mr. KASSON,] who proposed to move an amendment to the amendment, part of which was accepted by the gentleman from Ohio. The remainder was not accepted, and therefore was not moved, the gentleman from Ohio being in possession of the floor.

Mr. SCHENCK. Will we not have an opportunity to vote down the amendment of the gentleman from Iowa and permit the amendment of my colleague to pass?

The SPEAKER. No amendment of the gentleman from Iowa is pending. He did not obtain the floor for the purpose of offering an amendment. There is only one amendment pending, that of the gentleman from Ohio, to which he added part of the amendment which the gentleman from Iowa desired to offer.

Mr. WASHBURN, of Illinois. Is it too late to amend the amendment by striking out that portion?

The SPEAKER. It is too late. The main question has been ordered.

Mr. SCHENCK. I would ask whether this amendment is not susceptible of division, so that we can vote separately on the second proposition which was accepted as a modification. I prefer the amendment of my colleague precisely as he introduced it.

Mr. COX. The gentleman will see that the portion which I accepted at the suggestion of the gentleman from Iowa calls for some facts in addition to the correspondence. It does not deprive us of the correspondence.

A MEMBER. It interferes with the committee.

Mr. COX. It does not interfere with the committee. The committee can use all the facts and correspondence.

The SPEAKER. The amendment of the gentleman from Ohio is not divisible. If the latter portion embraced the words "the Secretary of War" instead of the word "he," the amendment would be divisible. It embraces two different propositions, but the language is such that they must be voted on together.

The Clerk again read the amendment as modified.

Mr. WASHBURN, of Illinois. It seems to me that the first part of that is a separate proposition.

The SPEAKER. But each part must be a substantive proposition. If the House should reject

the first part, the last, if adopted, would be a senseless proposition.

Mr. WASHBURN, of Illinois. The Speaker will find, by examining the amendment, that if the last part be stricken out a substantive proposition will remain.

The SPEAKER. But suppose that the first part be stricken out and the last adopted.

Mr. WASHBURN, of Illinois. We do not ask that; we ask that the last part shall be stricken out.

The SPEAKER. If it be divided, it must be so that either branch, if passed, will make perfect sense by itself. The last branch would not be a substantive proposition, because it says, "and that he report therewith." If, by unanimous consent, "he" were stricken out and "the Secretary of War" inserted, the amendment would be divisible.

Mr. COX. I withdraw that portion of the resolution suggested by the gentleman from Iowa. I want a vote on the resolution as I offered it, and on that I demand the previous question.

The SPEAKER. If there be no objection the gentleman will be permitted to withdraw that portion of his resolution.

There was no objection; so it was ordered accordingly.

The SPEAKER stated that the question recurred on the following amendment:

*Resolved, (if not incompatible with the public interest,) All communications in reference to the exchange of prisoners not heretofore published be communicated to this House by the Secretary of War.*

The amendment was agreed to.

The resolution, as amended, was then adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, notifying the House that he had approved and signed bills of the following titles:

An act (H. R. No. 380) for the relief of George W. Murray; and

An act (H. R. No. 465) for the relief of Deborah Jones.

#### MESSAGE FROM THE SENATE.

A message was also received from the Senate, by Mr. HICKEY, Chief Clerk, notifying the House that that body had passed, without amendment, an act (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

#### DEFICIENCY BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to take up and consider the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair.)

The CHAIRMAN stated the first business in order to be the consideration of the special order, being House bill No. 620, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865.

The bill was read through a first time for information.

Mr. BROOKS obtained the floor.

Mr. HOLMAN. Mr. Chairman, I believe it is understood that, by order of the House, the bill is open to points of order on the several items. I wish to raise a point of order, but do not wish to interfere with the gentleman from New York.

The CHAIRMAN. The Chair understands that by order of the House the bill is open to any exception as to relevancy of the items under the rules of the House.

Mr. HOLMAN. I have a point of order to submit.

The CHAIRMAN. It will be received when the paragraph to which it applies is reached.

Mr. HOLMAN. I suppose the gentleman from New York rises for the purpose of general debate, and I will not present my point of order at this time.

Mr. BROOKS. Mr. Chairman, I do not think it would be worth while for me to object to these several items, although they involve the appropriation out of the Treasury of \$93,600,000, which is the sum total of the deficiencies provided in this bill. These items are not calculated to excite the attention of the House as compared with other and more exciting questions which have been brought before it. Millions have become things of minor importance. Therefore I do not propose to enter into any discussion of them; nor do I propose to renew at this day before this House the remarks I made at the last session of Congress upon these enormous deficiency bills; not only enormous in amount, but in reference to money which has been expended by public officers without any authority of Congress for so doing whatsoever.

I shall not, then, enter into any analysis of this particular deficiency bill—this bill of millions—because I do not think it will avail anything further than the consumption of the time of the House. There are on bills like these only two courses for a member of the Opposition to pursue; and the first of them is to say nothing on appropriations like these, but to encourage gentlemen to offer amendments so as to exhaust as soon as possible the Treasury of the country, and to leave no means for carrying on this war. This is not my mode of opposition. I shall never enter into any opposition of the sort, and I only say that the most effective opposition would be to bankrupt the Treasury and deprive the country by the enormity of these expenditures of any means to carry on the war. I repeat that this is not my mode of opposition. Mine would be to carefully analyze the bill, and call the attention of the House, and especially of the dominant party of the House, to the magnitude of its appropriations. I know if I entered into any such analysis at this time that but little attention would be paid to any exposure I should make. If I did it I should only be wasting the time of the House which might be better appropriated to other purposes.

It is the misfortune of this House—I speak it with no disrespect to any member—that there is not upon that side of the House what has hitherto almost always existed in the dominant party of the country, having control of vast sums of money to appropriate, objectors, cavilers, and debaters of appropriation bills; such men as existed in the Democratic party in former times, when it was in a large majority; one gentleman from the State of North Carolina, one gentleman from the State of Virginia, and another still from the State of Tennessee; men who, though in the dominant party of the country, yet by comparison, by estimates, by analysis, by investigation, and thorough examination from beginning to end, unraveled every item of the appropriation bills, and made the Committee of Ways and Means throughout answer for every item of those bills, for their exactness and their fidelity, before they were satisfied with the appropriations and would assume the responsibility of voting for them.

With the exception of one gentleman on that side of the House, whom I will not name, I regret to say that no such examination is given to their own appropriation bills by the dominant party as has hitherto, through all eras of the Republic, been given by the Democratic party controlling this House, or by the Whigs when they had the majority here. It is a misfortune to the country that there are not more gentlemen upon that side of the House who will exert all their powers and information in investigating, studying, and thoroughly looking into all these bills; for, whatever I may say, and whatever vote may be given by this side of the House, will be imputed to opposition, and will not have respect given to them by gentlemen upon that side.

I see in this bill, as appropriations for deficiencies, four or five several items for this House alone, in the aggregate amounting to \$65,000. One of them, without any detail whatever, is mentioned as "miscellaneous items, \$34,005 52." The bill containing this miscellaneous item, without any specification of details so far as I know, without any report, without any explanation, was yesterday suddenly brought before this House and set down for action to-day.

"For folding documents, \$25,000," is another item in the deficiency bill—an amount expended without any appropriation whatever—and the

House is called upon to make up that deficiency for documents already folded for the House. I will not say what the appropriation is for; and if I were to say it was solely for political purposes I should disarm myself of all power of claiming that attention from that side of the House which ought to be given to an item like this. And if I belonged to that side of the House I would certainly condemn an expenditure of \$25,000 in the recess of the House, without any authority of law whatever, and out of a fund to be appropriated here in a deficiency bill.

In an item to supply deficiencies for printing there is the enormous appropriation of \$720,000. I do not doubt the expenditure was a good degree necessary, but I do say that under a proper administration of this Government, when the public printer has not received authority for the expenditure of public money, it is quite time to stop the public printing until Congress again reassembles and names the necessary expenditure and makes the proper appropriation therefor.

The items of appropriations for the war are enormous, amounting in this bill, from a cursory examination and rough addition, to \$92,000,000. I will enter into no examination of those expenditures or of those items, other than to comment upon one, because if I did it would be said that I was in opposition to the war. What I have to say upon that subject is that the Secretary of War ought to comprehend the work which is before him, and in the annual estimates which he submits to Congress estimate sufficient in advance to meet what are likely to be his expenditures, and not, as now, present here this year a deficiency of \$92,000,000, when in the deficiency bill of last year I think we appropriated over one hundred million dollars to make up the deficiency in the War Department of the year before. Sir, if there can be expenditures like these without responsibility, or like any of these without appropriations, the whole form of government is ended, and we are but the recording clerks to execute items of appropriation which the Secretary of War may desire, or which other branches of the Government may command.

The money is spent and gone. We shall be told that our generals have found it necessary to expend this money; but here is an expenditure of over \$92,000,000, for war purposes without any authority whatsoever from this House, and without any responsibility upon the part of this House. We are called upon in this House to do what an omnipotent British Parliament alone can do, pass a bill of indemnity to the Government for a violation of law—an exercise of power never contemplated by our Constitution, and never intended to be exercised by the House of Representatives.

Mr. KASSON. Does the gentleman from New York mean to say that the proposed appropriation for a deficiency of \$92,000,000 is to reimburse what has been already expended without authority of law? That is what I understand him to say.

Mr. BROOKS. What is a deficiency bill?

Mr. KASSON. It is a deficiency for the fiscal year ending the 30th of June next. The amount already appropriated is not yet expended, and this is an additional amount required to carry on the Government up to the 30th of June next. I certainly thought the gentleman from New York understood the terms of the bill.

Mr. BROOKS. How do I know that, and how does the gentleman know it?

Mr. KASSON. By reading the title of the bill.

Mr. BROOKS. It is a bill for deficiencies, and a deficiency is a deficiency; I cannot define it further than that.

Mr. KASSON. Will the gentleman from New York be kind enough to read or to allow me to read the title of the bill? It is "A bill to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1865."

And so it is every year. These appropriations are to carry on the public printing office and the other Departments to the end of the current fiscal year, as on making estimates they find that the present appropriations are not sufficient.

Mr. BROOKS. That is the very same point the gentleman made last year, and he compels me to repeat what I said last year on that subject. The Secretary of War, and the Secretary of the Navy, and all the other Secretaries, in a book I have before me of no inconsiderable size,



make their estimates of what should be the annual expenditures of the Government, and those estimates, we are informed, are sufficient to carry on the Government for the fiscal year, and hitherto, with the exception perhaps of two hundred and fifty or three hundred thousand dollars, the estimates of the Secretaries have been sufficient.

What I complain of in the gentleman from Iowa, and those who are associated with him on the Committee of Ways and Means, is that they do not in preparing the annual appropriation bills search the question and look into the expenditures of the Government, and, if they are not satisfied with the estimates of the Secretaries, allow enough in the annual bills to maintain the Government throughout the fiscal year without presenting to us here at the end, or the middle, or the beginning of the session of Congress, a deficiency bill, as was the case last year, of one hundred and three or one hundred and four million dollars, and here a deficiency of \$93,000,000.

A new custom has been introduced; we have two appropriation bills now instead of one. Hitherto the custom has been to have but one. Either the estimates of the Secretary of War and the other Secretaries are all wrong and erroneous or those of the Committee of Ways and Means are, so that the Secretary of the Treasury cannot know what are to be the expenditures of the Government when he looks at these estimates.

The *modus operandi* in the Treasury I take to be this—indeed, I know it is: the Secretary of War and the Secretary of the Navy place before the Secretary of the Treasury, in November or December, their estimates of what will be required for their Departments. The Secretary of the Treasury receives these estimates and submits them to Congress as the expenditures of the Government for the fiscal year. The predecessor of the honorable gentleman who is now Secretary of the Treasury complained, and justly complained, that he knew nothing of what were to be the expenditures of the War Department; that the estimates came in sometimes in the regular form, but oftener in an irregular form; that they came not through him, but often through the Committee of Ways and Means, so that he was obliged to carry on the Government and ask for loans and issue paper money to carry on the Government, while the Secretary of War was all the time deceiving him; I mean it in no offensive sense, but deceiving him as to the expenditures necessary to be made. Under this mode of doing business, the Secretary of the Treasury can know nothing of what is called for. The Secretary of War last year asked for an appropriation of \$108,000,000 for deficiencies, which was appropriated; and when these appropriations came in through the deficiency bill, Mr. Chase promptly and justly complained that the Secretary of War had upset his whole system for administering the fiscal Department of this Government. Therefore I say that until the Secretaries make their proper estimates, and until the Committee of Ways and Means give those estimates proper and sufficient attention, it is impossible to carry on the fiscal administration of this Government without the appearance and reappearance in Wall street of the Government demanding loans, or without a call on the Treasury to flood the country with more and more irredeemable paper money.

Mr. Chairman, there are other items in this bill which illustrate, in insignificant detail—so insignificant that I am almost ashamed to mention them—the remarks which I have made or am about to make. There are items for office furniture, for carpeting, for miscellaneous items in the office of the Third Auditor, for the hire of carts, for the police of the Capitol, and for a thousand other little things, which ought not to be in a deficiency bill unless they have been already expended, and which, if expended, ought not to have been expended but by due sanction of law. The Secretary of the Treasury has no right to have a single carpet laid down in his building without due authority of law. This is a Government, or is intended to be a Government, of law; and all the power which this House has left, all that it is likely to have left it, (and that not long, unless it puts its foot down here,) is the holding of the public purse through these appropriation bills. The House should insist that there shall be no expenditures whatsoever without appropri-

ation by law. Neither the President of the United States, the humblest officer within the walls of the Capitol, nor any officer anywhere, however high or low may be his position, has a right, under our theory of Government, to expend a single cent of public money without due appropriation by law. And yet here, in this deficiency bill, all through it, are miscellaneous items unknowing and unknown—appropriations for fuel, labor, light, the extension of the Treasury building, incidental expenses, compensation to clerks, building bridges, stationery, and blank-books—innumerable items. If they have been already expended, it has been without any appropriation by law, and if not already expended, they have no right whatever to be in a deficiency bill, but ought to be in the regular appropriation bill.

Mr. Chairman, I know that I am wasting and consuming the time of the House in trying to arrest these wheels of expenditure, and in calling the attention of the committee to these items. I feel, I know, that I am unnecessarily consuming time; and I only do it in the faint hope that I may awaken on the part of the majority a disposition to analyze all the expenditures of the Government. As a mere member of the Opposition, if I desired to throw that party out of power I would rejoice at appropriations such as are presented, and which must in the end lead, if not better guarded, to the bankruptcy of the Treasury. But as I wish to maintain the honor and credit of the Government, and as I am only for economy in the expenditure, I feel it to be my duty to my country, even if I do waste time in it, to try and awaken a spirit in the other side of the House that will prompt the dominant party to exercise that authority and supervision over appropriation bills which has always hitherto been given them by members of the party in power.

Mr. STEVENS. Mr. Chairman, I do not very well understand how a gentleman on this floor can justify himself in occupying the time of the House, and wasting the money of the country, when he tells us on rising and on sitting down that he knows he is doing a vain thing, and that he is just expending time for nothing. If I thought that, sir, I would hold my tongue; unless, indeed, the eloquence of the gentleman from New York, which has been so highly eulogized, and properly, all over the western country, be a sufficient excuse for him in making a dissertation without any specific object, and which he knows can have no effect.

Now, Mr. Chairman, the gentleman from New York has not moved to strike out a single item, and has not discussed a single item. But he has read a very wholesome lesson to all the members on this side of the House but one (I do not know who that is) because they do not sufficiently object to items in these bills, and he has particular objection to the action of the Committee of Ways and Means for not scrutinizing them. Will the gentleman tell us what the Committee of Ways and Means have overlooked? Will he tell us in what that committee have been derelict in their duty in reporting these bills? I understand the gentleman to say that the Departments are at fault because they did not make their annual estimates large enough.

Mr. BROOKS. If the gentleman puts to me a question for the purpose of being answered, I will answer him. In this bill I find the following item, beginning at the sixteenth line:

For contingent expenses under the act of August 6, 1846, for the collection, safe-keeping, transfer, and disbursement of the public revenue, provided that no part of said sum shall be expended for clerical services, \$50,000.

Now, I think that if the Committee of Ways and Means had given the subject due attention, they could have saved that item of \$50,000, and made the national banks, which are receiving large favors from the Government, provide for all these expenditures in connection with the transfer and disbursement of the public revenue. That is what I mean.

Mr. STEVENS. Then the gentleman means that which means nothing; for the Committee of Ways and Means could not pass a law upon that subject. There is an existing law of Congress providing that these expenses shall be met in a certain way; and all that the Committee of Ways and Means had to do was to report an appropriation in accordance with the provision of the law. It was not the province of the Committee of

Ways and Means to inquire whether that law was wise or unwise.

Mr. BROOKS. I know that I do not interrupt the gentleman, and therefore I will suggest to him that the committee might simply have added a proviso somewhat in this form: "Provided; That no further sum be appropriated from the Treasury, but that all such collection and safe-keeping, transfer, disbursement, &c., be through the national banks."

Mr. STEVENS. If we had embraced in the bill such a provision, my friend on my right, [Mr. WASHBURN, of Illinois,] or the gentleman across the way, [Mr. HOLMAN,] would have told us that it was not within our province to report such a provision, for it would alter an existing law. Almost any member would raise that objection. The gentleman, therefore, would have us do what almost every member at all acquainted with the rules of this House knows to be out of order, and knows that we could not do. Now, sir, before a teacher undertakes to instruct his pupils, he had better learn his own lesson; he had better know how to work out the problem before he undertakes to teach its solution to others. The Committee of Ways and Means, therefore, could not have done, in reference to these two items, what the gentleman censures us for not doing. It was not within our power to do so if we had desired to do it.

But, sir, it is said that the Departments were derelict in not making their annual estimates large enough. Mr. Chairman, if they had over-estimated, it would have very well become the Committee of Ways and Means, had they known the fact, to cut down the amounts; but who ever heard of the Committee of Ways and Means being called upon to enlarge the estimates of appropriations? Are we to be censured because last year, when the estimates were sent in to us, we did not say to the Departments, "These estimates ought to be doubled?" that we did not say to the War Department, "You ought to make your estimates \$92,000,000 more?" (for that is the deficiency in that Department); that we did not say to the printing department, "You ought to have embraced in your estimates two or three hundred thousand dollars more?" How would that have become the Committee of Ways and Means? And if we had assumed to propose appropriations in excess of the departmental estimates, how long would the gentleman from New York have kept his seat before he would have lectured the Committee of Ways and Means for exceeding in extravagance even the extravagant Departments that had submitted those estimates? Sir, it seems to me that the gentleman's lecture is absurd. In saying this I do not mean any offense; but I think that it is absurd for him to say to us, "You ought last year to have made the appropriations greater," or to say to the Departments that they ought to have made their estimates larger.

Now, sir, it is always better that there should be a deficiency bill than that there should be a large surplus to be expended by the Departments. We meet here now within five months after the termination of the previous session. It was well known that when Congress should meet not half the time for which these appropriations were made would have expired, and that if they should prove insufficient there would be ample time to supply the deficiency by a deficiency bill.

Now, sir, there are always deficiency bills. You can hardly refer to any period in the history of our Government when there were not deficiency bills. It is always better that there should be a necessity for a deficiency bill than that there should be voted upon general estimates a large surplus to be placed at the disposal of the different disbursing officers.

Now, sir, in regard to what is said about these large items. There is a large deficiency in the War Department, I think of \$92,000,000. When the different heads of bureaus furnished the estimates for the last annual estimate the Secretary of War cut them down \$400,000,000, and reported the balance. We made appropriations for \$400,000,000 less than the heads of bureaus reported to be necessary. It turns out that the Secretary of War, without injury to anybody, for there was time to make the appropriation, reported \$92,000,000 too little, and when you have made that appropriation in this bill you will fall more than three hundred million dollars under the estimates made by the heads of the different bureaus

of the War Department for the last year. What is there here that is wrong? If there be error anywhere it was in the heads of bureaus making their estimates too high. It was wise to cut them down. If they are too low we can remedy that difficulty.

How can the Secretary of War tell how much is necessary when he does not know how many troops will be called into the field, when he does not know how many guns will be lost, when he does not know how many head of cattle will be captured, when he does not know these and many other things? To say that he could foresee them is to induce him with omniscience. No one could do it.

Now as to the deficiency in printing, which is the next large deficiency. Since last year the price of labor has increased less in that department than in any other. I believe the increase has been only twelve and a half per cent. But the price of paper has increased sixty-six per cent.

Mr. WASHBURN, of Illinois. I would like to have the gentleman from Pennsylvania explain to me his theory in reference to the increase in the price of paper. I understand that we have imposed a duty upon paper so high that none can be imported, and that paper manufacturers have combined to put the price of paper up to this enormous extent, to a price utterly ruinous to the newspaper interest, and which must eventually destroy the local papers in the country unless Congress shall by a joint resolution repeal that duty.

Mr. STEVENS. I agree with the gentleman from Illinois that a great deal of fault lies with what I suppose—I do not know the fact—to be a combination among the paper makers. The duty was laid upon paper in hopes of getting some revenue from it. It seems that instead of stimulating that branch of industry, as has been the case with other branches, the reverse has been the case.

Mr. KELLEY. I beg leave to say to my colleague that in a great degree it has stimulated that branch of manufacture, and that at this time works are operating and producing paper for newspapers from wood by a process not known two years ago. There is being erected at this time, to my knowledge, one of the most extensive establishments in the country to produce paper from pulp obtained from wood, and now producing many tons a day from imperfect works.

Mr. RICE, of Massachusetts. I should like to inquire of my friend from Illinois [Mr. WASHBURN] what evidence he has of a combination on the part of paper manufacturers to advance the price of paper. I think, unless he is prepared with facts and statistics, he has no right to present so serious a charge against any branch of industry. I have heard intimations, here and elsewhere, that such was the case, but I have not yet heard any substantial facts which give evidence of any such combination on the part of paper manufacturers.

Mr. Chairman, I do not know how this subject has arisen at the present time, as I was called out of the House; but I am prepared to say that to my belief there is no branch of American industry, employing the same amount of capital and labor, that is so unremunerative as the manufacture of paper. A large number of paper mills have been broken down during the past four or five years. If gentlemen would turn their attention to furnishing the manufacturers of paper with the raw material at a less price than they can now obtain it all this difficulty about the price of printing paper would disappear. The fact is that paper manufacturers are not deriving great profits from the manufacture of paper. On the contrary, a large portion of the power employed in making paper in this country has broken down. I could point this House to establishment after establishment that has been broken down because the business has been unremunerative during the last year.

Mr. WASHBURN, of Illinois. I would inquire if they have not been broken down by these combinations.

Mr. RICE, of Massachusetts. No, sir. I have no idea the gentleman from Illinois would willingly make any misstatement whatever upon this subject. I have no desire to keep up the price of paper, but I have a desire that this House shall not, by any hasty or unfair legislation, strike a

blow at a struggling branch of American industry by destroying the means of producing this article, and by making the burden upon the men employed in making newspaper paper greater than it is now. What will the newspaper interest of this country depend upon if the mills are all broken up? Will they depend upon supplies of paper brought across the Atlantic ocean; and are the members of the American Congress prepared in this time of war to strike down a branch of American industry, and to send this money which is now distributed among our own fellow-citizens across the waters to support the laborers of a foreign and perhaps unfriendly Power?

The whole theory upon this subject is fallacious. It is all wrong. What we want is a greater amount of raw material. No gentleman can say that the employes of these factories receive an unreasonable recompense for their labor without the proprietors of those establishments receive an improper or more than remunerative return. This subject has attracted public attention a great deal within the last few years. Let me illustrate for a moment some of the difficulties which lie in the way of a complete supply of paper. Before the commencement of this war, when cotton was obtainable at a low price, we had a large number of cotton mills running, and they produced a large amount of cotton-waste, and that was the material used for making paper, and, next to rags, was the very best material that could be obtained.

In addition to the raw material, we were deriving from the various States of the Union a large quantity of domestic cotton and linen rags; but the same cause which has wiped out altogether the waste from cotton factories, so that there is no raw material from that source for paper, has also led the people of the country to practice unusual economy in the use of their cotton clothing, and they mend up and make it last as long as possible, so that a very large portion of the supply of domestic rags has also been taken away from the paper manufacturers.

We are then producing less raw material than we were before the war. We have a large number of men, formerly clothed more or less in cotton, who are now clothed entirely in wool, and they make no rags for the paper maker's use.

We are now dependent largely upon foreign markets for rags, and since the stringency came upon the American manufacturer for his raw material, every device has been resorted to to supply the deficiency. The result is that great progress has been made in working straw and wood, and I think there is now every prospect that within a very short time—within a few years, and probably within a few months—there will be a very considerable accession to the raw material for paper making from straw and from wood. But if Congress is going to so legislate as to destroy this branch of American industry, there will be no American capitalists, no American manufacturers, who will risk their capital and direct their enterprise to this unpromising, and indeed ruinous, branch of business.

I hope there will be no modification whatever of the tariff on paper; and if there shall be any reduction of the tariff on imported paper, I hope Congress will at least make a corresponding reduction in the internal duty imposed upon that article. I believe that the true way to a reduction of the price of paper, and an abundant supply, is for Congress to turn its attention to the development of this branch of manufacture at home, and particularly in the western country, where the raw material is so much more abundant than it is at the East. I have no interests in this question which are subserved by a high duty on foreign paper, and I am entirely willing to give whatever influence I have in the direction of securing to the consumers of paper an abundant and cheap supply. And the way to do that is to protect the interests of our own manufacturers at home.

Mr. WASHBURN, of Illinois. In making the inquiry I did of the chairman of the Committee of Ways and Means I had no idea of being precipitated into a discussion of this paper question; and I had no idea of waking up my friend from Massachusetts, of whose politeness I have been the recipient at Boston, in looking through his magnificent paper warehouse in that beautiful city. My idea was—and I think it is one which has pervaded this House to a very considerable extent—that the price of paper had risen to such

an extent that it was impossible for the country to live under it, in consequence of the imposition of the present tariff, which is prohibitory. That leaves it to the domestic manufacturers; and I have understood from the best authorities that there is a combination of paper makers who have controlled this whole matter and who have brought up the price of paper from twelve and fifteen cents a pound to twenty-five and twenty-six cents per pound. That there has been such an advance in price I presume the gentleman will not deny.

Mr. DAWES. I would like to ask my friend a question if he will permit me.

Mr. WASHBURN, of Illinois. Certainly.

Mr. DAWES. If he will answer my question satisfactorily with his own theory, perhaps we shall get some light on this subject. If he knows anything about the manufacturing of paper he knows this, that it takes two pounds of rags to make one pound of paper. He knows also that the paper manufacturer is dependent upon the foreign article, and he knows also that such is the price of exchange that it now costs more than twice as much to obtain a pound of the foreign article that it did before the war. How can it possibly be, then, that two pounds of rags, costing twice as much as they did before the war, can be made into paper now and the paper cost less than twice as much as it did before the war? You must also put into the computation the fact that there is a large amount of chemicals entering into the manufacture of paper that are bought abroad at the same double price, and more too, from the necessity growing out of the cost of exchange.

The gentleman from Pennsylvania [Mr. KELLEY] hit this matter precisely. The discovery of new materials here at home from which the manufacture of paper is being successfully carried on is a means whereby the price of paper will be brought down here at home; but never can it be manufactured at a less rate than double what it could be manufactured for before the war so long as you have to give two dollars for one for all the rags you bring into this country, and so long as the circumstances alluded to by my colleague [Mr. RICE] are such that we are dependent on foreign rags for this manufacture. It cannot be otherwise, unless my friend has genius enough to explain how it can be done.

The CHAIRMAN. The Chair takes occasion to state two things: first, that the interruptions of the gentleman from Illinois [Mr. WASHBURN] and other gentlemen are coming out of the hour of the gentleman from Pennsylvania, [Mr. STEVENS]; and further, the Chair will be compelled, if it assumes a much wider range, to arrest the whole of this debate upon the ground that in the Committee of the Whole on the state of the Union all debate on a special order must be confined strictly to the measure under consideration. This being an appropriation for the purchase of stationery, it is scarcely competent to go into the question of the duty on paper.

Mr. WASHBURN, of Illinois. No question of order of that kind has been raised.

The CHAIRMAN. No, but the Chair will feel compelled to raise that point of order from the chair if the debate takes a much wider range. The gentleman from Illinois will proceed.

Mr. WASHBURN, of Illinois. I will try to keep within the rules.

In regard to the point made by the gentleman from Massachusetts, [Mr. DAWES], in relation to the enhanced price of the material from which paper is manufactured, let me say this in reply: before the war, the price of paper was eight and nine cents a pound, and the enhanced price of the material would have brought it up, say to fifteen or sixteen cents a pound; but not being satisfied with that, these paper monopolists and manufacturers have run it up to twenty-five and twenty-seven cents per pound.

The gentleman from the Boston district [Mr. RICE] spoke of the hardship and injury suffered by the paper manufacturers, and their failure to make money at the present prices. Let me tell him some facts which I know of my own knowledge. There is a paper-mill in the State of Illinois, half of which was proposed to be sold six months ago for \$15,000, and the party now asks \$75,000, and says that at that price it will pay an interest of forty per cent.

This question does not come before us here because this is an appropriation which we are bound

to make for this deficiency arising from the enhanced price of paper. I understand from the Superintendent of Public Printing—and if I am wrong the chairman of the Committee of Ways and Means will correct me—that he made his estimate at eighteen cents per pound, but instead of paying eighteen cents per pound he is obliged by these enhanced prices to pay from thirty-one to thirty-seven cents per pound. But we have got to meet this question.

Mr. RICE, of Massachusetts. I would like to ask my friend from Illinois whether the law does not require that the Superintendent of Public Printing shall advertise for proposals for paper, and whether his contracts are not based upon the returns made to that advertisement; and if so, and if he entered into contracts for paper at eighteen cents a pound; I would like to know where is his authority for paying thirty cents a pound?

Mr. STEVENS. The gentleman does not understand me as saying that the Superintendent entered into contracts at that rate. I said he made his estimates at that rate.

Mr. WASHBURN, of Illinois. He made the estimates on which I suppose he would have to base his contracts.

Mr. RICE, of Massachusetts. I should suppose that the Superintendent of Public Printing, whose business it is to be acquainted with the price of paper, would come nearer to the mark than estimating paper at eighteen cents and paying for it over thirty cents.

Mr. WASHBURN, of Illinois. That has nothing to do with the great fact that the Superintendent of Public Printing, who has full knowledge of the matter, instead of buying paper at eighteen cents a pound, which he estimated as a fair price, states to the Committee of Ways and Means that he is obliged to pay from thirty-one to thirty-seven cents a pound. That has nothing to do with the law in regard to the contract system. We have got to meet this question, not here in this deficiency bill, but when it shall come before the House. Then it will be for Representatives to say whether the country shall have to submit to the present high price of paper by continuing the high prohibitory duty, thus imposing a tax upon education, a tax upon knowledge, a tax upon newspapers, a tax which will, in fact, destroy all our local newspapers if it be continued.

Mr. MORRILL. May I be allowed to ask the gentleman from Illinois, as he has spoken of the high tariff on paper, what that tariff is?

Mr. BALDWIN, of Massachusetts. It is prohibitory.

Mr. WASHBURN, of Illinois. It is high enough to prevent the importation of paper. I think it is twenty per cent., payable, as a matter of course, in gold.

Mr. COX. I think I can answer that question.

Mr. MORRILL. I did not ask the gentleman from Ohio. [Laughter.]

Mr. STEVENS. I am very sorry to have to cut off this debate.

Mr. COX. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Ohio?

Mr. STEVENS. If my time on this floor were not very short, Mr. Chairman, I might; but, as it is, I must be excused. I am very glad that this debate has sprung up, because it has given us information which may be of use hereafter. Now, however, we are dealing only with this bill; and the actual price of paper is what we have to consider, not as to how we shall reduce the price hereafter, as I hope we shall do. At present, however, its increased price has caused this deficiency, and makes an appropriation necessary. That is why it is in this bill.

There is another item of some ninety millions for the ordnance department. That arises from the fact that it is impossible to tell in advance what forts may be finished and will need armament. As works have been finished ordnance has been supplied, and that has caused the deficiency now asked for. As we have discussed the whole bill without any particular objection to any part of it, I hope we will go on and pass it.

Mr. MORRILL. Mr. Chairman, as the subject has come up for discussion, I desire to say, upon the paper question, that it is not entirely in consequence of the increased price of paper that this large deficiency has occurred. A very considerable part of the blame is to be put upon this

House. Whenever the question of printing arises we find the gentlemen on the other side as well as on this side of the Chamber ready to make the largest appropriations asked for. At the last session I endeavored on two or three occasions to arrest this, but without avail. One proposition came in to print two hundred and fifty thousand extra copies of the report on agriculture, which required the work to be reprinted; and although the usual number of extra copies had been already distributed that proposition passed the House.

Mr. BALDWIN, of Massachusetts. I wish to say that the printing ordered by the House is but a small item of the expense. The great mass of public printing is done for the Departments.

Mr. MORRILL. I do not wish to censure the gentlemen who are on the Committee on Public Printing so much as the action of the House, if I may be allowed to express myself in that way.

Mr. STEVENS. I think I must call the gentleman to order.

Mr. MORRILL. I withdraw the remark.

Mr. STEVENS. The gentleman, coming from a little stony hill in Vermont, which cannot be plowed, and which is not capable of agricultural development, is always attacking this agricultural report. [Laughter.]

Mr. MORRILL. Mr. Chairman, I am willing to concede that the work itself is perhaps one which we ought to publish, and of which we ought to publish a liberal number.

Then there was another proposition, and that was to print ten thousand extra copies of the volume from the Secretary of State. That passed. Subsequently there was another proposition—to print the Dictionary of Congress; and every gentleman who wished to see his name in print of course supported that, although the work had no more to do with our legislative business than Worcester's or Webster's Dictionary.

Mr. WILSON. I would like to ask the gentleman whether he voted for that proposition.

Mr. MORRILL. I did not.

Mr. WILSON. Well, very many others did.

Mr. MORRILL. But, Mr. Chairman, there are evils in the establishment of this office. It enables all the Departments of the Government to go there whenever they are hungry. Whenever they want a little job all they have to do is to make an order for it, and it is done. We strove at the last session to regulate that somewhat by providing that nothing should be printed except under the order of the chief of a Department. It does happen to be true that a large amount of printing is required for the War Office, a much larger amount than was anticipated. The whole of this increase has not arisen in consequence of the rise in the price of paper. It has arisen in part from the increased amount of orders for printing, mainly from the War Department.

Mr. HOLMAN. On the item extending from the one hundred and second to the one hundred and eleventh line of the bill, I raise the point of order, under the 120th rule of the House, that the appropriation is not authorized by any existing law. I regret to be obliged to raise this point, because the appropriation applies to a very meritorious class of gentlemen connected with this House.

The CHAIRMAN. The Clerk will read the clause which is objected to.

The Clerk read, as follows:

"To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for that purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives."

The CHAIRMAN. The Clerk will also read the 120th rule.

The Clerk read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

The CHAIRMAN. The gentleman from Indiana [Mr. HOLMAN] objects to the clause of the bill which has been read, providing for increasing by twenty per cent. the compensation of the officers, clerks, and other employes of this House.

The Chair overrules the point of order, as made under the provisions of the 120th rule, for this reason: The House of Representatives is a portion of one of the departments of the Government. The pay of its officers, clerks, and other employes, is a contingency attending the carrying on of that department of the Government. A question whether, in order to carry on the department, greater remuneration is necessary in order to secure the continued service of these employes or to properly compensate them, is a question which relates to the carrying on of that department. The last clause of the 120th rule is in these terms:

"Unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

The Chair decides that it is a contingency relating to carrying on the legislative department of the Government, if the House thinks proper and the Senate thinks proper to increase the remuneration of their servants in order to secure their services, or in order better to reward those services.

Mr. STEVENS. I move that the committee rise for the purpose of closing the general debate on this bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 620, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and had come to no resolution thereon.

Mr. STEVENS moved that when the Committee of the Whole on the state of the Union resumed the consideration of the bill, all general debate should be closed in one minute.

The motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the deficiency bill, on which further general debate had been limited to one minute.

Mr. HOLMAN. I call the attention of the committee to the following:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for that purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives.

I would ask the chairman of the Committee of Ways and Means whether that increase of twenty per cent. embraces the Commissioner of Public Buildings and the officers under him.

Mr. STEVENS. My recollection is that the police under him are embraced, but that the Commissioner himself is not.

Mr. HOLMAN. His salary is \$2,000.

Mr. STEVENS. He is not embraced.

Mr. WASHBURN, of Illinois. I should like to have the original resolution read, to see how broad it is.

Mr. HOLMAN. In order to get the matter before the committee, I move to strike out these words:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for that purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives.

I ask that the Clerk will read the resolution of July 4, 1864; but before it is read I desire to say that I am well aware of the faithfulness in the discharge of their duties of the class of officers designated in this appropriation. They are a meritorious class of our citizens. The salary paid to them is equal to that paid in the other departments of the Government, and equal to that heretofore paid to like servants of the country. It is



equal to that paid to other officers in various employments under the Government. It seems to me, then, that this House ought not to favor its own particular employes by increasing their salaries at a time when economy is demanded.

I appeal to the House. Here is an appropriation bill of \$93,000,000 to supply a deficit for the present fiscal year ending the 30th of June next. It also contains a proposition to increase the salaries of a large class of officers to the extent of over thirty-seven thousand dollars. I do insist, Mr. Chairman, that we are not sufficiently mindful as a body, although we may be as members, of the condition of the country in reference to that most material feature, its finances. We have a tremendous war upon us demanding the whole resources of the country, and it does seem to me that we should husband those resources, and that there should, if possible, be retrenchment of extravagant and unnecessary expenses in all departments of the public service. We ought not certainly to increase expenditures in departments having no connection with the war whatever. So far as the War and Navy Departments are concerned, I have not raised my voice against appropriations for them. What I condemn, and what I protest against, is the enormous increase made during the last four years in those departments of the Government not at all affected by the ravages and operations of war.

I now ask for the reading of the resolution which was adopted on the 4th of July last when scarcely any members were present. There was no dissenting voice at the time, and I presume only a few were aware of its passage.

The resolution was read, as follows:

*Resolved*, That the Clerk pay, at the close of this session, out of the contingent fund of the House, to the officers, clerks, and other employes of the House, a sum equal to twenty per cent. of their annual compensation respectively; or, where not receiving an annual compensation, on the amount received by them during the session.

Mr. WASHBURN, of Illinois. From the reading of that resolution it will be perceived that it differs from this clause in the bill in this, that while the resolution provides for paying the clerks, officers, and other employes of the House, the bill provides also for paying the additional compensation to the reporters of the House for the Congressional Globe.

The CHAIRMAN. The Chair understands that there is another resolution which embraced them.

Mr. WASHBURN, of Illinois. I would like to hear that resolution read.

The resolution was read, as follows:

*Resolved*, That the Clerk pay out of the contingent fund to the reporters of the House for the Congressional Globe an amount equal to twenty per cent. of their compensation as such reporters, for the present session of Congress.

Mr. WASHBURN, of Illinois. If the others go in I certainly shall not object to including the reporters for the Globe; but I wish to call the attention of the House to the original resolution, and to the section of the bill now under consideration, and, to prevent the possibility of any other payments being made, I ask the gentleman [Mr. STEVENS] to consent to an amendment of the clause, by adding thereto the following:

But no payment shall be made under this provision to any other persons than the officers, clerks, and other employes of the House, and the reporters for the Congressional Globe.

Mr. STEVENS. I believe the appropriation is intended to embrace none other than those enumerated in the two resolutions which have been read.

Mr. WASHBURN, of Illinois. Does the gentleman object to my amendment?

Mr. HOLMAN. Does that amendment exclude the Capitol police?

Mr. WASHBURN, of Illinois. It does.

Mr. STEVENS. I have no objection to that amendment.

Mr. HOLMAN. I am opposed to the amendment, simply because it does not amount to anything at all. The same construction will be placed upon the gentleman's amendment that is placed upon the original proposition. The amendment uses the words "other employes of the House;" and that is the precise language of the appropriation. The Capitol police on this side of the Capitol have always been considered employes of the House; and the Senate make appropriations of

extra compensation for the Capitol police employed at that end of the Capitol.

Mr. WASHBURN, of Illinois. The gentleman certainly must be mistaken. I have never heard that they were considered as being employes of the House, or that they have received the extra compensation which has usually been voted to the employes of the House. Yet I want this amendment adopted, so that it will exclude them from the benefit of the appropriation.

Mr. HOLMAN. Who, then, will be embraced besides the officers, clerks, doorkeepers, and other officers immediately connected with the House? Who are meant by "employes?" Who are the employes who are to be paid? Probably the gentleman from Illinois can tell.

The amendment was agreed to.

The motion to strike out the appropriation was not agreed to.

Mr. KERNAN. For the purpose of calling the attention of the committee to the amount of money we are appropriating for furnishing the Treasury Department, I move to amend by striking out lines sixty-six and sixty-seven, as follows:

For furniture, carpets, and miscellaneous items for the Treasury building, \$15,000.

If gentlemen will look at last year's deficiency bill, they will see that they appropriated, for furniture, carpets, and miscellaneous items for the Treasury building, \$25,000; and immediately below, for furniture, repairs of furniture in the Treasury Department, \$5,000. There is \$30,000. Then they will find in the same bill an appropriation for refunding to the appropriation for the Treasury extension the amount paid out of that appropriation of \$150,000 for similar purposes. So that in last year's deficiency bill we appropriated absolutely \$30,000, and so much of the \$150,000 as was used. And in the regular appropriation bill for the year ending June 30, 1865, we appropriated for the same purpose \$40,000; and now in this bill we appropriate the amounts I have alluded to, the \$15,000, and in the clause before that, \$16,911 53, for refunding to the Treasury extension the amount of payments made for furniture, and, on the first page, \$5,000 more for furniture, carpeting, preserving files, and miscellaneous items in the office of the Third Auditor; making in this bill \$36,911 53.

So it appears that at the last session and this we appropriated for furnishing this building \$106,900 in addition to what was paid out of the \$150,000. It does seem to me, considering that it was a building pretty well furnished before we came into office, that the appropriation of last session of over \$70,000 specifically, in addition to what was paid out of the \$150,000, and that of \$36,900 now, is too much.

Mr. STEVENS. Mr. Chairman, all the members of this House know that we have gone on furnishing room after room in the Treasury building as fast as they were finished. The furniture has been necessary in order to enable the clerks to occupy the rooms. Since our meeting here last year, many of these rooms have been completed, and of course new furniture has been necessary. I presume there has not been an article bought that was not necessary to furnish some of these new rooms so as to enable the clerks to occupy them and go on with their business.

The amendment was disagreed to.

Mr. PIKE. I move to amend the bill by striking out the following clause:

For salary of the commissioner for codifying the naval laws under joint resolution of March 3, 1863, from July 1, 1864, to March 3, 1865, \$2,025.

I call the attention of the Chairman of the Committee of Ways and Means to that item. It contains an appropriation for the salary of the commissioner for codifying the naval laws. As I understood it, that commissioner made his report at the last session of Congress and prior to the 1st day of July last. What he has had to do since I know not. There was nothing in the tenor of his appointment or the duties with which he was charged which should call upon us to pay him any salary after he made his report.

Mr. STEVENS. Mr. Chairman, I have seen the commissioner and he tells me that he has been busily engaged ever since the adjournment of Congress in the revision of his report, and expects to be so engaged until the end of the fiscal year,

when he hopes to have it completed. He had but partially finished it, and he states that the work he has been doing since was necessary to make it perfect, and that he has been constantly engaged upon it.

The amendment was disagreed to.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House (No. 620,) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and had directed him to report the same to the House, with an amendment.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered.

The amendment reported from the Committee of the Whole on the state of the Union was agreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON GAS COMPANY.

Mr. DAVIS, of New York. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 363, for the purpose of putting it upon its passage. It is a bill for the relief of the Gas Company of the city of Washington.

Mr. PIKE. I object.

#### AMENDMENT OF INTERNAL REVENUE LAW.

Mr. STROUSE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be requested to inquire into the expediency of amending section one hundred and three of the internal revenue act, so that canal boats and barges now paying a tonnage tax shall be exempt from the tax of two and a half per cent. upon freight, &c., and be thus placed upon the same footing as provincial vessels bringing cargoes to our ports.

#### NORTHERN INDIAN SUPERINTENDENCY.

Mr. HUBBARD, of Iowa, by unanimous consent, and in pursuance of previous notice, introduced a bill to abolish the northern Indian superintendency; which was read a first and second time by its title, and referred to the Committee on Indian Affairs.

#### CONFISCATION OF CONSCRIPTS' PROPERTY.

Mr. GRINNELL. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Military Affairs be instructed to report at an early day upon the expediency of a law to confiscate for the Government, when practicable, so much of the property of conscripts who have failed to report for duty as may be required to secure the services of a soldier in their stead.

Mr. ELDRIDGE. I object.

#### THE NATIONAL BANKS.

Mr. RANDALL, of Pennsylvania, by unanimous consent, introduced a bill to authorize national banks to close their banking institutions on certain days named, and to make all notes and other negotiable instruments, under the laws of the United States, falling due and payable on such days, due and payable on the preceding secular day respectively; which was read a first and second time, and referred to the Committee on the Judiciary.

#### COMPENSATION OF POSTMASTERS.

Mr. HUBBARD, of Iowa, asked unanimous consent to offer the following resolution:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of so amending the act of July 1, 1864, regulating the compensation of postmasters, as to allow postmasters of the third class a reasonable sum for the necessary cost of rent, fuel, lights, and clerks.

Mr. HOLMAN objected.

## MILITARY ROAD IN ARIZONA.

Mr. POSTON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be directed to inquire into the expediency of making a grant of public lands to aid in the construction of a military road from the head of navigation on the Colorado river to Great Salt Lake City, and from some point on the said river to Prescott, the capital of Arizona; and also as to the propriety of an appropriation of lands for the improvement of the navigation of Colorado river.

## FRIENDLY INDIANS OF ARIZONA.

Mr. POSTON also, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be directed to inquire into the expediency of making an appropriation for the purpose of colonizing the friendly Indians of Arizona on a reservation to be selected from the public lands.

## TAX ON MILEAGE.

Mr. DRIGGS asked unanimous consent to offer the following resolution:

Whereas the Sergeant-at-Arms has deducted the five per cent. tax from the mileage of members as well as from the salary: Therefore,

*Resolved*, That the Committee of Ways and Means be directed to inquire by what authority the same has been done, and to report to this House.

Mr. HOLMAN. I object.

## ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; when the Speaker signed the same.

## BUSINESS OF THE HOUSE.

Mr. WASHBURN, of Illinois. I move that when the House adjourns to-day it adjourn to meet on Friday next.

The SPEAKER. That motion cannot be entertained, from the fact that the House has already decided that it will not meet on Friday.

Mr. WASHBURN, of Illinois. Then I ask unanimous consent that there shall be no business transacted to-morrow.

Objection was made.

And then, on motion of Mr. HOLMAN, (at twenty-five minutes to four o'clock, p. m.) the House adjourned.

## IN SENATE.

THURSDAY, December 22, 1864.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. BUCKALEW. I present the petition of William Appelman, of Pennsylvania, with accompanying papers, reciting his conviction before a military commission, and praying that the fine imposed by it may be refunded. I move that the petition and papers be laid on the table and printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. GRIMES. I object to printing solely on the ground that I hear no statement made by the Senator from Pennsylvania that will make this an exception to the general rule, which is that petitions shall not be printed.

Mr. BUCKALEW. I have no objection to waive the motion to print.

The PRESIDENT *pro tempore*. The motion to print is waived, and the petition lies on the table.

Mr. SPRAGUE. I hold in my hand a letter from the Secretary of the Treasury, and a report from the Light-House Board, upon a petition of citizens of Rhode Island and New York, praying for the establishment of fog signals at Point Judith, Rhode Island, and at Execution Rocks, and Hart Island, New York. The subject is of public interest, and I move that the letter and the report be read and referred, with the accompanying papers, to the Committee on Commerce.

The motion was agreed to; and the following documents were read:

TREASURY DEPARTMENT, December 20, 1864.

SIR: Your letter of the 13th instant, with accompanying petitions from citizens of Providence, Rhode Island, and New York, engaged in commercial pursuits in said cities, requesting the erection of "fog signals" at Point Judith, Execution Rocks, Hart Island, and Beaver Tail, having been referred to the Light-House Board, I have the honor to transmit a copy of their report on the subject.

I am, very respectfully,

W. P. FESSENDEN,  
Secretary of the Treasury.

HON. WILLIAM SPRAGUE, United States Senate.

TREASURY DEPARTMENT,

OFFICE LIGHT-HOUSE BOARD, December 19, 1864.

SIR: I have the honor to acknowledge the receipt of a letter from Hon. WILLIAM SPRAGUE to the honorable Secretary of the Treasury, with a petition from citizens of Providence, Rhode Island, and New York, engaged in commercial pursuits in said cities, also addressed to the honorable Secretary of the Treasury, and both addressed to this board "for a report."

These papers have been submitted to the board, and I am instructed respectfully to report that the attention of the board has been anxiously drawn to the subject of ear signals of different kinds as aids to navigation in those waters of the bays and rivers of the United States where fogs most prevail.

In 1860 an appropriation of \$6,000 was made by Congress to enable the board to experiment in the matter of fog signals. Of this appropriation \$4,500 are yet on hand, and further experiments are necessary to enable the board to decide on the relative advantages of bells, whistles, and trumpets. It has been deemed that the excellent light on Point Judith and the large buoy on the Great Eastern Rock were sufficient for vessels entering or leaving the waters of the United States by that passage, but a bell or whistle will be immediately placed near the light if an appropriation can be obtained in accordance with an estimate submitted with this.

The fog signal at Beaver Tail was discontinued temporarily, but will again be put in operation.

The bell on Execution Rocks has been ordered to be replaced by a larger one.

Measures are being taken for the erection of a light-house on Hart Island, and a fog signal, either a bell or whistle, will be placed there.

The papers are herewith returned.

Very respectfully,

W. B. SHUBRICK, Chairman.

HON. WILLIAM P. FESSENDEN, Secretary of the Treasury.

## Estimate.

For fog signals at Point Judith, Rhode Island, Execution Rocks and Hart Island, New York, \$10,000.

Mr. SUMNER. I offer a petition from Rev. John Beeson, who is well known to have interested himself very much in the welfare of the Indians, in which he asks Congress that a proclamation of amnesty and protection for all Indians who will cease their hostility against the people and Government of the United States may be speedily issued. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of Mrs. Catharine Spear, widow of the late Rev. Charles Spear, who devoted his life to persons in prison, asking Congress to make provision for the care and reformation of juvenile offenders here in the District of Columbia, and setting forth the necessity of such provision. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. WILSON presented a petition of officers of the Army praying for an increase of their pay and allowances; which was referred to the Committee on Military Affairs and the Militia.

## REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 586) to drop from the rolls of the Army unemployed general officers, reported adversely thereon, and submitted a report, which was ordered to be printed.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred two petitions of citizens of Iowa, praying for the abrogation of the reciprocity treaty, asked to be discharged from their further consideration; which was agreed to.

## THE SOLDIERS' HOME.

Mr. WILSON submitted the following resolution by unanimous consent:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of continuing the relief to soldiers at the Soldiers' Home, inquiring into the manner in which the funds for the said institution have been managed, the present condition of the same, and also whether the benevolent purposes of the Govern-

ment in establishing the same might not be better carried out by repealing the law, abandoning that mode of relief, and substituting therefor pensions to those at present by law entitled to its benefits.

Mr. HALE. My impression is that a resolution of this kind, and perhaps in these very words, was passed at the last session; but I have no objection to this resolution; let it go.

The resolution was agreed to.

## MILITARY SERVICE.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862. The bill proposes to amend the section referred to, so as to make it read as follows:

That any alien, of the age of twenty-one years and upwards, who has enlisted or shall enlist in the armies of the United States, either the volunteer or regular forces, or in the naval or marine forces, and has been or shall hereafter be honorably discharged, may be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become a citizen of the United States, and that he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and that the court admitting such alien shall, in addition to the proof of residence and good moral character, as is now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States as aforesaid.

Mr. WILSON. I do not desire to put the bill on its passage now, but to move two sections as amendments to it, in order to have them printed. I do not think there will be any objection to them; but I wish Senators to have them before them, so that they may know what they are. The amendments are to add to the bill the following additional sections:

SEC. 1. *And be it further enacted*, That it is not within the intent of the first section of the act of March 3, 1863, entitled "An act to authorize the brevetting of volunteer and other officers in the United States service," authorizing the President to confer brevet rank for gallant actions and meritorious conduct, to make a distinction as to pay between the officers of volunteers and other forces, including the regular Army; but that such brevet rank does not entitle any officer, either of the regular Army or volunteers, to any increase of pay or emoluments.

SEC. 3. *And be it further enacted*, That if a soldier discharged for wounds received in battle die before receiving the bounty provided by the act of March 3, 1863, entitled "An act to amend an act to authorize the employment of volunteers," &c., the bounty due shall descend to his heirs in the same manner and order of succession as if he had died in service.

The amendments were ordered to be printed, and the further consideration of the bill was postponed until to-morrow.

## BILL INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 363) to incorporate the Association of the Sisters of Mercy in the city of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

## LAND SALES IN KANSAS.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 88) suspending the sale by sealed bids of the lands of the Kansas and the Sac and Fox Indians; which was read twice by its title.

Mr. LANE, of Kansas. I desire the unanimous consent of the Senate to put the joint resolution on its passage at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to postpone the sales of the lands of the Kansas and Sac and Fox tribes of Indians of the State of Kansas by sealed bids until the 14th of December, 1865, any treaty or law to the contrary notwithstanding.

Mr. HARLAN. Has that resolution been reported from any committee?

The PRESIDENT *pro tempore*. It has not. It has just been introduced by the Senator from Kansas.

Mr. LANE, of Kansas. It is a copy of a resolution that was passed on the same subject at the second session of a former Congress. I desire to state to the chairman of the Committee on Public Lands that these lands were advertised while our people were engaged in resisting Price's invasion of the State. To-morrow is the day appointed

for the opening of the bids, and unless the sale is postponed our people will have had no opportunity whatever of competing for the lands. The sales were postponed on the last day of the session of 1862, and this is an exact copy of that resolution. To-morrow is the termination of the period when the bids are to be opened, and unless this resolution is passed, the lands will all go into the hands of speculators, our people not having had an opportunity of bidding for them.

The joint resolution was reported to the Senate without amendment.

Mr. HARLAN. I prefer that the resolution should be passed over for a few moments until we can look into it a little.

The PRESIDENT *pro tempore*. It will be laid aside informally, if there be no objection.

Mr. LANE, of Kansas. I have no objection to its being passed over for a few moments, but I am very anxious that it should be passed to-day.

Mr. HARLAN. It is not my purpose to defer action to-day, but I learn from the chairman of the Committee on Indian Affairs that he has not been consulted in relation to it, and I have not, as chairman of the Committee on Public Lands, and I would prefer to look into it.

Mr. LANE, of Kansas. In explanation, I will state that I have just this moment returned from the Interior Department, and have just learned that to-morrow is the last day. The former resolution to which I have referred, and of which this is an exact copy, was referred to the Committee on Indian Affairs, and reported by that committee. You will find it the very last act of the second session of the former Congress. I have just sent for the statute. The sales were then postponed for the same reason: the people of Kansas had had no opportunity to bid; and I ask a postponement now for the same reason. They were advertised for three weeks.

Mr. DOOLITTLE. I will ask the honorable Senator from Kansas whether the Department of the Interior recommends the suspension.

Mr. LANE, of Kansas. I copied this resolution in Judge Usher's room.

Mr. DOOLITTLE. We will look into it.

Mr. LANE, of Kansas. Do I understand the Senator to object to it?

Mr. DOOLITTLE. Let it lie over for a short time. The other Senator from Kansas [Mr. POMEROY] has just taken his seat, and I should like to consult with him.

The PRESIDENT *pro tempore*. The resolution will be laid aside informally.

#### DELAWARE VOLUNTEERS.

Mr. SAULSBURY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate whether volunteers for thirty days and for one hundred days were called for by order of his Department, at any time preceding the last two drafts in the State of Delaware, from that State, and if so, for what purpose, and under what authority of law; whether such volunteers were promised as an inducement to volunteer exemption from said drafts; whether said volunteers were exempted from said drafts when they volunteered; whether they were kept within the limits of said State, and whether they were promised as a further inducement to volunteer that they should not be sent without the limits of said State, or that they should not be employed in active service in the field.

#### OATH FOR LAWYERS.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 72.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, which had been reported upon adversely by the Committee on the Judiciary. It provides that no person, after the date of this act, shall be admitted to the bar of the Supreme Court of the United States, or of any circuit or district court of the United States, or of the Court of Claims, as an attorney or counselor of such court, or shall be allowed to appear and be heard in any such court, by virtue of any previous admission or any special power of attorney, unless he shall have first taken and subscribed the oath prescribed in "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, according to the forms and in the manner provided in that act; which oath so taken and subscribed is to be preserved among the files of such court, and any per-

son who shall falsely take the oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury, and the additional pains and penalties in that act provided.

The bill was reported to the Senate without amendment.

Mr. JOHNSON. I do not rise to oppose the passage of the bill, but to suggest to the honorable member from Massachusetts that perhaps it would be as well to make it operate at some future day. It applies to all circuit and district courts of the United States; and between now and the time when the courts will know of the existence of such a law, there will be hundreds, perhaps, of lawyers admitted. It does not require those who have been admitted to take the oath. I think the bill had better be limited to some future day.

Mr. SUMNER. What day would the Senator propose?

Mr. JOHNSON. Any day that would give sufficient time to enable the courts to have a knowledge of the existence of this law.

Mr. SUMNER. How would it do to say, "so soon as the law shall reach them?"

Mr. JOHNSON. Then you would make it a matter of fact, you know. I suggest the 1st of February. That will be time enough.

Mr. SUMNER. By the telegraph the knowledge can come to any court now in twenty-four hours.

Mr. JOHNSON. If I were the court I would not be governed by telegraphic dispatches in these times; you cannot rely upon them; and some of these courts are situated where there is no telegraph.

Mr. SUMNER. Not United States courts.

Mr. JOHNSON. Oh yes. There are all the United States courts in the Territories. I suggest the 1st of February.

Mr. SUMNER. I should like to have it act immediately in this capital.

Mr. JOHNSON. You can say it shall act in the Supreme Court now, and in the other courts of the United States on and after the 1st of February or the 4th of March.

The honorable member from Massachusetts yesterday—I did not hear him at the time very distinctly—referring to the bill which is now before the Senate, and which he said was at that time on the table, stated that he understood some lawyers had refused to take a similar oath prescribed by the local courts. I know of but one member of the bar who is in that situation; and it is due to him to say, (and I am sure the honorable member from Massachusetts will agree that the reason assigned was sufficient,) that he had no objection at all to take the oath if it was legally exacted, but he objected to its being administered by the mere order of the supreme court for this District, he thinking (whether he was right or not, I am not prepared to say) that as the law creating the court as it now exists transferred all the causes to the new court from the old, the lawyers who were concerned in the old court, and entitled to try those causes, were necessarily also entitled to appear in the new court without taking the oath, as Congress had provided no law to the contrary. I am satisfied from what I heard him say long before the bill was introduced by the honorable member from Massachusetts, and what I have heard him say still more recently, that he never had or would have the slightest objection to take the oath when the oath should be prescribed by any law passed by Congress. And, as far as I am advised, speaking for the profession generally, I do not know that there is a member of the bar in the United States who will hesitate to take this oath after Congress shall have passed the law.

But my principal object in rising was to suggest to the honorable member the propriety of extending the operation of this bill, at least in relation to the other courts, to some distant day when all the courts can have knowledge of its existence, so that the rule upon the subject may be uniform.

Mr. SUMNER. I accept the suggestion of the Senator, and move to insert after the word "or," in the fourth line, the words "at any time after the 4th of March next shall be admitted to the bar;" so that the whole clause will read:

That no person, after the date of this act, shall be admitted to the bar of the Supreme Court of the United

States, or at any time after the 4th of March next shall be admitted to the bar of any circuit or district court of the United States, &c.

Mr. JOHNSON. That satisfies me.

The amendment was agreed to.

Mr. DAVIS. I feel a very great indifference about this matter, whether it passes or fails; but I suppose it will pass as a matter of course. My own experience is that official oaths are of very little value; and I do not think they are of any more value upon the parties who propose them than they are upon those whom it is intended should take them. This seems to be the day of imposing oaths. We have test oaths and special oaths and general oaths connected with office and official duty without number. For myself, with some experience in relation to the value of oaths, I would not give a fig for all that could be imposed in connection with the performance of official duties. I think it is trifling with and bringing into contempt, if not derision, what was intended to be a very sacred and solemn obligation, and that one effort will be to deprive it of all of its moral power, in a great degree at least.

But there is one special objection which I would suggest to this measure. I care not whether it passes or not. I understand that lawyers and practitioners in the courts of the British provinces are permitted to practice in the courts of some of the adjacent States and in some of the United States courts held in those States, and that this is a matter of mutual comity. I do not know personally that such is the fact, but from all the information I have received on that point, I believe it to be so; and I think this comity would be unnecessarily and without the least profit in any consideration whatever interfered with by the passage of this bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SAULSBURY. I was one of the members of this body who thought the Congress of the United States had not the authority constitutionally to pass the act indicated in this bill. I thought it was *ex post facto* in some, and in my judgment objectionable in all, of its provisions. I believe if there is one evil more than another in this country, it is the administering of these oaths so freely. Go back a few years ago, and you find that political societies were organized throughout the length and breadth of this land bound together by secret oaths taken at midnight, in out-of-the-way places sometimes. I think you can trace from the experience of that day some of the evil consequences which afflict us now. I believe that a measure of this kind can be attended with no possible good.

I will not, however, Mr. President, discuss the question. My purpose in rising was simply to call for the yeas and nays on the passage of the bill, so that I might record my vote against a measure of this character. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. JOHNSON (when his name was called) said: I suppose I am at liberty to say a word before voting.

The PRESIDENT *pro tempore*. By unanimous consent. The Chair hears no objection.

Mr. JOHNSON. This bill was referred to the Committee on the Judiciary at the last session; and it was, I think, the almost unanimous opinion of the committee that it was not at all necessary to the security of the country that this oath should be required to be prescribed, and they therefore failed to recommend the passage of the bill. We were under the impression, as well as I remember, that if it was necessary to prescribe such an oath to members of the bar, it was equally necessary, and perhaps more necessary, (because the members of the bar, comparatively, in numbers, are very small with reference to the whole population of the United States who are concerned in business of various descriptions,) that it should be prescribed to every man in the United States; not only to any man who pursues any other profession, but any man who pursues any calling. The doctor should not be permitted to practice unless he took an oath of this description; the clergyman should not be permitted to preach unless he took an oath of this description; the merchant should not be permitted to carry on his particular business; and so in reference to all the relations in which men may be placed in society. But as the



honorable member seems to think that it may in some measure serve to render the condition of the country more safe or less perilous than it would be without this oath being taken by the members of the bar, I for one am willing to let him silence his own fears on that subject and let the law be passed. I say, "Yea."

The call of the roll was concluded, and the result announced—yeas 27, nays 4; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Willey, and Wilson—27.

NAYS—Messrs. Buckalew, Davis, Richardson, and Salisbury—4.

ABSENT—Messrs. Carlile, Chandler, Cowan, Hale, Harding, Hendricks, Hicks, Howard, Howe, McDougall, Morrill, Nesmith, Powell, Riddle, Trumbull, Wade, Wilkinson, and Wright—18.

So the bill was passed.

#### LAND SALES IN KANSAS.

Mr. POMEROY. I move to proceed to the consideration of the joint resolution offered by my colleague, that was laid aside informally so that we might examine the treaty.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of that joint resolution, (S. No. 88,) it having been laid aside informally.

Mr. POMEROY. I move to amend the resolution by striking out "14th day of December" and inserting "1st day of July."

Mr. LANE, of Kansas. I accept that amendment.

Mr. POMEROY. I will only remark to the Senate that I have had my attention called to the treaty this morning, and I do not see that the lands can be sold at less than \$1 25 an acre; but being informed that there is an effort to get the lands into the hands of speculators and not settlers, I desire to have the matter postponed for six months, so as to give every body a fair opportunity. I do not think that can work any injury, but it may work some good to our citizens. I do not think it is good policy to prevent the people getting their titles at an early day, because until the titles are perfected the people will not improve, and the country will not settle up. I want the titles perfected at an early day, and that is the reason why I propose a postponement of six months instead of a year. I think a delay of six months will give any contesting parties time enough to prove their claims and perfect their titles. I cannot see, however, that any injury could result if the provisions of the treaty were adhered to strictly; but to prevent anything of that kind I am willing to vote for the passage of the resolution with this amendment.

The PRESIDENT *pro tempore*. The Senator from Kansas [Mr. LANE] accepts the amendment of his colleague, [Mr. POMEROY,] and the resolution will be regarded as so modified.

Mr. DOOLITTLE. This question in 1862 was before the Committee on Indian Affairs, and at that time we recommended the passage of a similar resolution. I do not from any knowledge which has come to me know that it can in any way prejudice the interests of the tribe of Indians; and as both the Senators from Kansas concur in the resolution and desire its passage, and I suppose as a matter of course they represent, and properly represent, the interests of the people of Kansas, and I do not know of any objection to the passage of the resolution, I shall vote for it. It came up suddenly, and being asked to be passed immediately without reference to a committee, I was cautious upon that subject and desired some little examination of it. With my present information, unless in the course of the day some further information should come to me, I shall consent now that the resolution may be taken up and passed; but if any further information shall come to me showing that, in my judgment, the resolution ought not to have been passed, I shall reserve to myself the right to move a reconsideration.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### EXTRA COMPENSATION TO EMPLOYÉS.

The PRESIDENT *pro tempore*. The hour has arrived for the special order, which is the Senate joint resolution No. 82.

Mr. HENDERSON. I move to postpone all

prior orders and take up the House joint resolution No. 121.

Mr. GRIMES. What is that?

The PRESIDENT *pro tempore*. The resolution proposed to be taken up is a joint resolution (H. R. No. 121) granting additional compensation to the employés of the two Houses of Congress.

Mr. HENDERSON. The resolution that I desire now to call up is only in reference to the employés of the two Houses of Congress. I will state for the information of the Senator from Iowa that I do not desire now to press the consideration of the resolution against the views of the Senate, but I am very well satisfied that something in some cases ought to be done. I am very well satisfied that additional compensation in some cases ought to be allowed, and the Senator, I apprehend, will agree with me in that. If, when the resolution is called up, as I believe it has not ever been sent to a committee, if it be desired by the Senator from Iowa or any other Senator to take that course, and to send it to a committee for examination, and to include other employés of the Government in regard to whom it is absolutely essential that something should be done, I shall have no objection to that course. I am satisfied that additional compensation in some cases, not only here but in the Departments, will have to be allowed. The Secretary of the Treasury calls attention to the fact, and I think the time has come when we must all admit that some additional compensation should be allowed in some cases, and therefore we had better either take up the resolution and perfect it here, or else send it to a committee and let it be examined. I have no objection to either course.

Mr. GRIMES. I have no objection to the joint resolution being taken up if the purpose the Senator desires to accomplish is to refer it to a committee for examination, but I am opposed to taking it up for consideration by the Senate with a view to pass it at this time. If the purpose of the Senator is to refer it to a committee, I have no objection to its being taken up; but this question of increasing compensation is a very broad one; and if we begin it in one Department, or with one man, it will have to run through all the employés of the Government. It ought to begin with the men in the field, with the soldiers and the sailors, and not with the men who are here receiving ten times their compensation as employés about the Capitol; and I prefer to see this subject, if it is to be touched at all, brought to the attention of the Senate from the committees representing the Army and Navy rather than from those that represent the personal friends of the Senators.

Mr. COLLAMER. I desire to know whether it is proposed to take up the resolution for action by the body, or merely for the purpose of reference.

Mr. HENDERSON. I desire to call up the resolution for consideration now, but if the Senator from Iowa, or any other Senator, desires to refer it to a committee I shall make no opposition to that course being taken.

Mr. COLLAMER. I have no objection to taking up the resolution for the purpose indicated by the Senator from Iowa, but I am opposed to direct action on it at this time.

The PRESIDENT *pro tempore*. The question is on postponing the special order of the day, with a view of taking up the joint resolution indicated by the Senator from Missouri.

The motion was agreed to.

The PRESIDENT *pro tempore*. The House joint resolution is now before the Senate as in Committee of the Whole.

Mr. SHERMAN. I move that it be referred to the Committee on Finance.

The motion was agreed to.

#### DEFICIENCY BILL.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed a bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865.

The bill was read twice by its title, and referred to the Committee on Finance.

#### FREEDOM OF SOLDIERS' FAMILIES.

Mr. TRUMBULL, (after a pause.) There seems to be no business before the Senate, and I

believe there was a sort of tacit understanding that no business of importance should be done to-day. I move that the Senate adjourn.

Mr. WILSON. Will the Senator withdraw that motion to allow a joint resolution to be taken up, which was just now laid aside, so that it may not lose its place?

Mr. TRUMBULL. Certainly. If there is any business that we can properly do now, let it be done.

Mr. WILSON. I move to take up the unfinished business of yesterday.

The motion was agreed to; and the consideration of the joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States, was resumed as in Committee of the Whole.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senate stands adjourned to meet on Thursday, the 5th day of January next, at twelve o'clock, m.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 22, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### COAST SURVEY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting the number and names of persons employed in the coast survey during the last fiscal year; which was laid on the table, and ordered to be printed.

#### EUROPEAN IRON-CLAD VESSELS.

The SPEAKER also, by unanimous consent, laid before the House a letter of the Secretary of the Navy, transmitting, in compliance with a resolution of the House of the 20th instant, the report made by Chief Engineer J. W. King, in relation to the iron-clad vessels and dock-yards of Europe; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### LAWS OF DAKOTA TERRITORY.

The Speaker also, by unanimous consent, laid before the House the laws of the Territory of Dakota; which were referred to the Committee on the Territories.

#### TRADE WITH INSURRECTIONARY STATES.

Mr. ELIOT, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House, if not inconsistent with the public interest, the report of Major General E. R. C. Canby, commanding the military division of Western Mississippi, concerning the purchase by the United States of products of States declared to be in insurrection.

#### BOARD OF ADMIRALTY.

Mr. DAVIS, of Maryland, obtained the floor.

Mr. FARNSWORTH. I rise to a privileged question. I move a call of the House.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] cannot move a call of the House while the gentleman from Maryland [Mr. DAVIS] is on the floor.

Mr. DAVIS, of Maryland. I move that the bill for the creation of a Board of Admiralty, which has been referred to the Committee on Naval Affairs, be printed for the information of the House.

The motion was agreed to.

#### ADJOURNMENT.

Mr. LAW. I ask unanimous consent to offer a resolution—

Mr. FARNSWORTH. I must object until it be ascertained whether a quorum is present. When the House determined to adjourn to-day for two weeks, it did not mean that it should adjourn yesterday. I insist that we shall not do business here without a quorum.

The SPEAKER. The gentleman from Illinois objects; therefore the resolution of the gentleman from Indiana [Mr. LAW] cannot be received.

Mr. STEVENS. Mr. Speaker, unless there is a motion pending, I ask leave to offer the following resolution—

Mr. FARNSWORTH. I object.

Mr. COX. I move that the House do now adjourn.

Mr. MORRILL. I understand that the gentleman from Pennsylvania [Mr. STEVENS] desires to submit some remarks. I hope that my friend from Illinois will not press his objection.

Mr. STEVENS. I do not ask any action upon the resolution.

The SPEAKER. The gentleman from Illinois objects.

Mr. FARNSWORTH. I do. We have no right to do business without a quorum.

Mr. COX. I move that the House adjourn.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill of the following title, in which they requested the concurrence of the House:

An act (S. No. 367) to repeal the provision of the law requiring certain regents in the Smithsonian Institution to be members of the National Institute.

#### ADJOURNMENT—AGAIN.

The SPEAKER. The gentleman from Ohio [Mr. Cox] moves to adjourn.

Mr. FARNSWORTH. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. COX. I withdraw the motion.

Mr. FARNSWORTH. I move a call of the House, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 13, nays 70, not voting 99; as follows:

YEAS—Messrs. Ancona, Cole, Eckley, Farnsworth, John H. Hubbard, Amos Myers, Orth, Pike, Scofield, Spalding, Stevens, Williams, and Worthington—13.

NAYS—Messrs. William J. Allen, Ames, Anderson, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Boyd, Brooks, Broomall, William G. Brown, Chanler, Cobb, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Eden, Eldridge, Eliot, Frank, Grider, Hale, Harding, Charles M. Harris, Higby, Hooper, Asahel W. Hubbard, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Law, Le Blond, Longyear, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Nelson, Noble, Charles O'Neill, Pendleton, Pruyn, Samuel J. Randall, William H. Randall, John H. Rice, Shannon, Smithers, Starr, John B. Steele, Strouse, Stuart, Sweet, Thomas, Townsend, Van Valkenburgh, Webster, Whaley, Wilson, Windom, Winfield, and Yeaman—70.

NOT VOTING—Messrs. James C. Allen, Alley, Allison, Arnold, Blaine, Bliss, Blow, Boutwell, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Creswell, Dawson, Deming, Driggs, Dumont, Edgerton, English, Finck, Ganson, Gooch, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hulburd, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Kernan, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison, Leonard Myers, Norton, Odell, John O'Neill, Patterson, Perham, Perry, Pomeroy, Price, Radford, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Sloan, Smith, William G. Steele, Stiles, Thayer, Tracy, Upson, Voorhees, Wadsworth, Ward, Elihu B. Washburne, William B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Wilder, Benjamin Wood, Fernando Wood, and Woodbridge—99.

During the call,

Mr. ORTH stated that his colleague, Mr. JULIAN, was confined to his room by sickness.

Mr. HIGBY stated that Mr. WOODBRIDGE was absent on account of sickness.

Mr. HUBBARD, of Iowa, made a similar statement in reference to Mr. ALLISON.

When the result of the vote had been announced,

Mr. FARNSWORTH said: Mr. Speaker, is there a quorum?

The SPEAKER. A quorum is not in attendance.

Mr. STEVENS rose.

Mr. FARNSWORTH. I rise to a question of order.

The SPEAKER. The gentleman will state it. Mr. FARNSWORTH. No quorum appeared on the last vote, and business is not in order.

Mr. WILSON. I move to reconsider the vote by which the House refused to order a call of the House.

The SPEAKER. No quorum being present arrests business.

Mr. CRAVENS. I move that the House do now adjourn.

The House refused to adjourn, there being, on a division—yeas 37, nays 39.

The SPEAKER. The motion to reconsider the vote by which the House refused to order a call of the House has not been received generally, although under the strict language of the rule it may be; for under the rules a motion for a call of the House may be renewed, like a motion to adjourn, after other business has transpired.

Mr. WILSON. I withdraw my motion, and move that there be a call of the House.

The motion was agreed to.

Mr. ELDRIDGE. It is apparent that we can do no business, and I therefore move that the House do now adjourn.

The motion was disagreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. James C. Allen, Allison, Arnold, Blaine, Bliss, Boutwell, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Creswell, Dawson, Deming, Driggs, Dumont, Edgerton, English, Fenton, Finck, Ganson, Gooch, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hulburd, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Kernan, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison, Leonard Myers, Norton, Odell, Patterson, Pendleton, Perham, Perry, Pomeroy, Price, Radford, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scott, Sloan, Smith, William G. Steele, Stiles, Thayer, Upson, Voorhees, Wadsworth, Ward, Elihu B. Washburne, William B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Wilder, Benjamin Wood, Fernando Wood, and Woodbridge.

Mr. BEAMAN moved that all further proceedings under the call be dispensed with.

Mr. HUBBARD, of Iowa, stated that his colleague, Mr. ALLISON, was detained from the House by illness.

The SPEAKER announced that eighty-nine members had answered to their names, three less than a quorum.

Mr. STEVENS. Probably we shall not be able to get a quorum to-day. It does seem unkind, after we have granted so liberal an adjournment of two weeks for the holidays, that gentlemen should not stay here, and that we should thus lose one more day. But I do not see any remedy for it, and I therefore move that the House do now adjourn.

Mr. FARNSWORTH. I make no point of order, and I trust the House will not adjourn. I understand the gentleman from Pennsylvania is desirous to speak to-day.

Mr. STEVENS. I do not wish to speak unless a quorum be present.

The SPEAKER. The Chair is not aware how, after a call of the House and no quorum appearing, the matter can be waived by unanimous consent. The House is in that dilemma that it must send for the absentees or adjourn.

Mr. FARNSWORTH. I desire to say a word in explanation of the motion I made. The House was liberal when it agreed to an adjournment of two weeks for the Christmas holidays. Yesterday unanimous consent was asked by some member of the House that no business should be transacted to-day, and it was refused. We came here supposing there would be a quorum present for the transaction of business, and find that members have left. I think that the practice growing up is a bad one, that when we adjourn to a particular day members regard it as an adjournment from the day before and go off leaving the House without a quorum. It is unfair to the members who remain. It is unfair to the country.

Mr. WILSON. I insist on the motion that the House do now adjourn.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 22, nays 64, not voting 96; as follows:

YEAS—Messrs. William J. Allen, Anderson, Cobb, Cox, Cravens, Denison, Dixon, Eden, Eldridge, Harding, King, Law, Le Blond, McBride, Nelson, Noble, Pike, Pruyn, Shannon, Sweet, Townsend, and Winfield—22.

NAYS—Messrs. Ames, Ancona, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boyd, Brooks, Broomall, William G. Brown, Chanler, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Grider, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Kasson, Francis W. Kellogg, Orlando Kellogg, Longyear, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth,

Samuel J. Randall, William H. Randall, John H. Rice, James S. Rollins, Schenck, Scofield, Smith, Smithers, Spalding, John B. Steele, Stevens, Strouse, Stuart, Thomas, Tracy, Van Valkenburgh, Williams, Wilson, Windom, Worthington, and Yeaman—64.

NOT VOTING—Messrs. James C. Allen, Alley, Allison, Blaine, Bliss, Boutwell, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Creswell, Dawson, Deming, Dumont, Edgerton, English, Finck, Ganson, Gooch, Grinnell, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hooper, Hotchkiss, Hulburd, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Kernan, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison, Leonard Myers, Norton, Odell, John O'Neill, Patterson, Pendleton, Perham, Perry, Pomeroy, Price, Radford, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Ross, Scott, Sloan, Starr, William G. Steele, Stiles, Thayer, Upson, Voorhees, Wadsworth, Ward, Elihu B. Washburne, William B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Benjamin Wood, Fernando Wood, and Woodbridge—96.

So the House refused to adjourn.

The question recurring upon the motion of Mr. BEAMAN, that all further proceedings under the call be dispensed with, it was put and decided in the affirmative.

Mr. NOBLE. I move that the House do now adjourn.

The motion was not agreed to.

Mr. RANDALL, of Pennsylvania. By way of compromise, I have a suggestion to make. I would like to inquire of the Speaker whether it is not possible that we can go into the Committee of the Whole on the state of the Union, so as to give to any gentleman who desires to speak the opportunity to do so, with an understanding that after we come out of the Committee of the Whole no further proceedings of a business character shall be had in the House.

The SPEAKER. The Chair will state that he is unaware of any mode by which the House, in its present dilemma, can proceed to do any business unless a quorum is present. It is a constitutional provision that a quorum shall be present to do business.

Mr. RANDALL, of Pennsylvania. Cannot we suspend the Constitution a moment or two? [Laughter.]

Mr. WILSON. I move there be a call of the House, and upon it demand the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. I move that the House do now adjourn.

Mr. SPALDING. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. No. 88) suspending the sale, by sealed bids, of the lands of the Kansas and Sac and Fox Indians, in which the concurrence of the House was requested.

#### ADJOURNMENT—AGAIN.

The question was then put on the motion to adjourn; and it was decided in the affirmative—yeas 45, nays 43, not voting 94; as follows:

YEAS—Messrs. William J. Allen, Anderson, Baily, Beaman, Broomall, William G. Brown, Chanler, Cobb, Cox, Cravens, Thomas T. Davis, Denison, Dixon, Driggs, Eden, Eldridge, Farnsworth, Grider, Harding, Hooper, Jenckes, Kasson, Law, Le Blond, Longyear, McAllister, McBride, Samuel F. Miller, Morrill, Daniel Morris, Nelson, Noble, Pike, Pruyn, William H. Randall, John H. Rice, Smith, Stevens, Strouse, Townsend, Tracy, Webster, Wilson, Windom, and Winfield—45.

NAYS—Messrs. Ames, Ancona, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Blow, Boyd, Brooks, Cole, Henry Winter Davis, Dawes, Donnelly, Eckley, Eliot, Frank, Garfield, Hale, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Francis W. Kellogg, Orlando Kellogg, King, McIndoe, James S. Rollins, Schenck, Scofield, Smithers, Spalding, Starr, John B. Steele, Stuart, Thomas, Van Valkenburgh, Whaley, Williams, and Worthington—43.

NOT VOTING—Messrs. James C. Allen, Alley, Allison, Arnold, Blaine, Blair, Bliss, Boutwell, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Creswell, Dawson, Deming, Dumont, Edgerton, English, Finck, Ganson, Gooch, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hulburd, Hutchins, Ingersoll, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Kernan, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison, Leonard Myers, Norton, Odell, John O'Neill, Patterson, Pendleton, Perham, Perry, Pomeroy, Price, Radford, Alexander H.

Rice, Robinson, Rogers, Edward H. Rollins, Ross, Scott, Shannon, Sloan, William G. Steele, Stiles, Sweat, Thayer, Upton, Voorhees, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Wilder, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—34.

So the motion was agreed to; and the House accordingly, in pursuance to a concurrent resolution of the two Houses, adjourned until the 5th day of January next.

## IN SENATE.

THURSDAY, January 5, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The VICE PRESIDENT (Hon. H. HAMLIN) resumed the chair.

The Journal of Thursday, the 22d ultimo, was read and approved.

## EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, in response to a resolution of the Senate of the 19th of December, 1864, calling for the report of Major General Herron relative to the military department of Arkansas, stating that the report had not yet been received. The communication was ordered to lie on the table, and be printed.

He also laid before the Senate a letter of the Secretary of the Treasury transmitting, in obedience to law, the report of Professor A. D. Bache, Superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1864.

Mr. WILSON submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed of the report of the Superintendent of the Coast Survey for the year 1864 twelve hundred extra copies for the use of the Senate, and three thousand copies for distribution from the office of the Coast Survey.

## TERRITORIAL LAWS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Territory of New Mexico, transmitting two copies of the laws passed by the Legislative Assembly of New Mexico at its last session. One copy was referred to the Committee on Territories, and the other ordered to be filed.

## PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of Mrs. P. J. Howard, praying that her husband, John Howard, a soldier, who enlisted, as she alleges, for two years, and is now held for three, contrary to the representation of the recruiting officers, may be discharged; which was referred to the Committee on Pensions.

He also presented a telegraphic dispatch from the Governor of the State of Nevada, transmitting a resolution of the Legislature of that State, asking for the postponement of any action in reference to the taxation and disposal of mineral lands or taxation of the mines, or the proceeds thereof, until the Senators-elect from that State [Messrs. W. M. Stewart and J. W. Nye] shall take their seats in the Senate; which was ordered to lie on the table.

Mr. WADE presented several petitions of citizens of Geauga and Lake counties, Ohio, praying for the passage of the preamble and resolution offered by Mr. Chandler in the United States Senate, December 14, 1864, directing inquiry into the expediency of enlisting an Army corps to watch and defend our territory bordering on the Canadian frontier; which were referred to the Committee on Foreign Relations.

Mr. FOSTER presented a petition of Acting Assistant Surgeons in the United States Army, praying that they may be placed on the same footing as Assistant Surgeons of Volunteers, so far at least as regards pay and allowances; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of George B. Cheever and others, citizens of New York, praying for the passage of a law to secure a republican form of government, and abolish and forever prohibit slavery in the United States; which was referred to the select committee on slavery and freedmen.

Mr. POMEROY presented a petition of George J. Stubblefield praying payment for chewing to-

bacco delivered by him to the United States at Atlanta, Georgia, and issued to the army under General Sherman; which was referred to the Committee on Claims.

Mr. WILSON presented a petition of Major General E. O. C. Ord and others, officers in the service of the United States with the army of the James, praying for an increase of pay to Army officers; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of ordnance sergeants stationed at the various fortifications within and around the city of Washington, praying for an increase of the pay of ordnance sergeants; which was referred to the Committee on Military Affairs and the Militia.

He also presented fifteen petitions of officers in the service of the United States in the army of the James, praying for an increase of the pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

Mr. DAVIS presented the petition of James Guthrie, president of the Louisville and Nashville Railroad Company, and D. Ricketts, president of the Jeffersonville Railroad Company, praying for an amendment of the law authorizing the construction of bridges across the Ohio river so that their companies may be allowed to construct a railroad bridge at the head of the falls of the Ohio fifty-four or fifty-six feet above low-water mark, without the required span of three hundred feet, and that it be made a postal route for the United States mail; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a memorial of the commissioned officers of the fourth brigade, first division, twenty-fourth Army corps, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDRICKS presented a memorial of a committee appointed at a meeting of the clerks representing the several bureaus of the Treasury Department, praying for an increase of salary; which was referred to the Committee on Finance.

## BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 369) for the relief of the occupants of the lands of the mission of San José, in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONNESS also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California;" which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. CONNESS also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 371) to regulate the salaries of steamboat inspectors on the Pacific coast of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) allowing mileage to the Justices of the Supreme Court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 373) to aid in the construction of a telegraphic line from St. Cloud, in Minnesota, to the British possessions; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 374) supplemental to an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" which was read twice by its title, and referred to the Committee on the Judiciary.

## CREDITS FOR NAVAL ENLISTMENTS.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to in-

form the Senate the number of men enlisted into the naval service of the United States that have been credited upon the military quotas of the respective States, and upon what principles, in what manner, and upon what evidence such credits were made.

## COTTON CAPTURED AT SAVANNAH.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of appropriating the avails of the sales of such cotton captured at Savannah as may be confiscated to the United States among the officers and men composing the army of General Sherman, on principles analogous to those adopted in the distribution of prize money in the naval service.

## PENSION APPROPRIATION BILL.

Mr. SHERMAN. I move that the prior orders, if there are any, be postponed with a view that the pension appropriation bill may be now considered.

The motion was agreed to; and the bill (H. R. No. 597) making appropriation for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1866, was considered as in Committee of the Whole. It proposes to appropriate the following sums for the payment of pensions for the year ending June 30, 1866: for invalid pensions under various acts, \$4,000,000; for revolutionary pensions, per acts of March 18, 1818, May 15, 1828, June 7, 1832, third section of act of July 7, 1838, March 3, 1843, June 17, 1844, February 2, and July 29, 1848, and second section of act of February 3, 1853, \$230,000; for pensions to widows, mothers, children, and sisters, under the first section of the act of July 4, 1836, act of July 21, 1848, first section of the act of February 3, 1853, June 3, 1858, and July 14, 1862, \$7,000,000.

Mr. SHERMAN. I am directed by the Committee on Finance to offer the following amendment as a new section:

*And be it further enacted*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the present fiscal year:

For the payment of pensions under the acts of March 18, 1818, May 15, 1828, June 7, 1832, the third section of the act of July 4, 1836, July 7, 1838, June 17, 1844, March 3, 1843, February 2, and July 29, 1848, and the second section of the act of February 3, 1853, \$65,000.

For the payment of pensions under the first section of the act of July 4, 1836, act of July 20, 1848, the first section of the act of February 3, 1853, June 3, 1858, and July 14, 1862, \$3,500,000.

Before action is had upon this amendment I will ask the Secretary to read two letters explaining the reason of this very large deficiency in pensions.

The Secretary read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, December 10, 1864.

SIR: I have the honor to transmit to you, herewith, a copy of a communication addressed to the Department on the 6th instant, by the Commissioner of Pensions, relative to the state of the appropriations for the payment of invalid and other pensions during the present fiscal year; from which it will be perceived that a large deficiency exists, which it is very desirable should be provided for as early a day in the session as may be practicable.

I have, therefore, the honor to recommend the following additional appropriations for the service of the present fiscal year, namely:

To supply a deficiency in the appropriations for the payment of pensions under the acts of March 18, 1818, May 15, 1828, June 7, 1832, third section of act July 4, 1836, July 7, 1838, June 17, 1844, March 3, 1843, February 2, and July 29, 1848, and second section of act February 3, 1853, \$65,000.

Under acts first section July 4, 1836, July 21, 1848, first section February 3, 1853, and the acts of June 3, 1858, and July 14, 1862, \$3,500,000.

I have the honor to be, with great respect, your obedient servant,

J. P. USHER, Secretary.

Hon. JOHN SHERMAN, Chairman of the Committee on Finance, Senate of the United States.

DEPARTMENT OF THE INTERIOR,  
PENSION OFFICE, December 6, 1864.

SIR: I have the honor to state that the additional compensation to agents for paying pensions provided by the act of June 30, 1864, (page 325,) is payable out of the appropriation for paying pensions allowed to soldiers in the revolutionary war, and to their widows.

The amount of appropriations under those acts remaining unexpended on the 30th day of June, 1864, was \$171,432 31. The amount that has been already drawn from the Treasury to December 1, 1864, is \$109,300, leaving for the service of the succeeding seven months \$62,132 31.

It is estimated that there will be required for this fiscal year \$230,000; making a deficiency under these acts the sum of say \$65,000.

The amount of unexpended appropriation to pay pensions, under the various acts, for widows, children, mothers, and sisters in the wars subsequent to the Revolution was, on the 30th day of June, 1864, \$891,622 31. Add



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

SATURDAY, JANUARY 7, 1865.

NEW SERIES.....No. 8.

appropriation for the current year, \$2,200,000. Total for service of the present year, \$3,691,622 31. During the five months to December 1, 1864, there has been drawn from the Treasury \$2,927,165 23, leaving on hand \$164,457 08, which will probably be exhausted by the middle of January next.

The estimates of this class of pensioners for the fiscal year 1863-64 were based on the 4,820 already on the rolls and 11,000 to be added during the year, amounting to \$3,709,000. On the 30th June, 1864, there were actually on the rolls 25,433 pensioners, making the addition of new pensioners nearly double the estimates. The estimates for new pensioners for 1864-65 were 10,000, but the actual number for five months to December 1, 1864, is 9,208, showing that there will be a large deficiency in the appropriation, and not less probably than \$3,500,000.

In view of these facts I have respectfully to ask that an additional appropriation may be requested of Congress for the service of the present fiscal year, as follows:

Under acts March 18, 1818, May 15, 1823, June 7, 1832, third section July 4, 1836, July 7, 1838, June 17, 1844, March 3, 1843, February 2, and July 29, 1848, and second section February 3, 1853, \$65,000. Under acts first section July 4, 1833, July 31, 1848, first section February 3, 1853, June 3, 1858, and July 14, 1852, \$3,500,000.

In order to give time to the agents to make their arrangements and to remit the money from the Treasury, the requisitions are made during the first week in February for the payments due on the 4th of March following. As there will be no appropriation from which to pay widows' pensions at that semi-annual payment, it is desirable that this deficiency be provided for at an early period of the session of Congress.

Very respectfully, your obedient servant,  
JOSEPH H. BARRETT, Commissioner.  
Hon. J. P. USHER, Secretary of the Interior.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

## FREEDOM OF SOLDIERS' FAMILIES.

The VICE PRESIDENT. If there be no other business of the morning hour, the unfinished business of the Senate at its last adjournment was Senate joint resolution No. 82, to encourage enlistments and to promote the efficiency of the military forces of the United States, which is now before the Senate as in Committee of the Whole; the pending question being on the motion of the Senator from Kentucky, [Mr. DAVIS], to refer the resolution to the Committee on the Judiciary.

Mr. WILSON. I hope it will not be referred. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. FOOT. Let the resolution be read at length to give the Senate an understanding of what it is.

The Secretary read it.

Mr. WILSON. I desire simply to say that this resolution in substance has been three times reported, has been debated in the Senate, and was debated at the last session. I hope it will be referred to no committee, but that we shall pass it at the earliest possible moment. Since its introduction here, I have received letters from officers in the Army, and persons who are engaged in recruiting, all approving and indorsing the idea embodied in it. I do not wish to detain the Senate by discussing the question at this time. If Senators will refer to the Globe, they will find that it was debated for hours at the last session of Congress, and fully debated. I hope now for action instead of words.

Mr. DAVIS. If I recollect aright, when this subject was last before the Senate, one of the Senators from Delaware took the floor and occupied it, when the Senate adjourned, on that subject. That is my recollection. I do not feel confident that such is the state of facts. I will thank the Clerk to inform the Chair whether I am right or not. If I am right in my recollection, I would suggest that this resolution be laid over until tomorrow, to enable that Senator to get into his seat. I know he wishes to be heard on the subject, and has made preparation to make a speech. I hope, if that be the fact, that the courtesy will be extended to him of continuing the subject over until tomorrow.

Mr. WILSON. I do not know whether that be the fact or not. If it be so, I certainly do not desire to take the floor from the Senator from Delaware. A motion has been made, however, to

commit the resolution to the Committee on the Judiciary; the yeas and nays have been ordered, and I hope we shall take the vote and have that matter out of the way. Let us decide that motion one way or the other.

Mr. DOOLITTLE. I shall vote to refer this joint resolution to the Committee on the Judiciary, and my reasons are very simple and very direct. The Senate has already passed a proposition to amend the Constitution of the United States, so as to put an end to the slavery question, in all its forms, by an amendment of the fundamental law of the land, which is above Congress, above the Supreme Court, and above the President; and which when once established, no change of Presidents, no change of the decisions of the Supreme Court, and no change of the legislation of Congress can affect at all. That measure, sir, which passed the Senate at the last session, is now pending in the House of Representatives; and, as I am informed—and I believe the Journals of the House show it to be so—next Monday is fixed as the day upon which that House is to act. Of course I do not know what will be the decision of that House; but I have strong hopes, and, I think, good reasons to believe, that the House of Representatives will adopt that proposition. It will at once, if adopted by the House, be submitted to the Legislatures of the several States, and passed upon undoubtedly during the present winter, before the adjournment of the Legislatures in the Spring; and thus the vexed question, and the whole of it, will be disposed of and put outside of Congress, and outside of its power or control, and there will be an end to the agitation of the question.

Why, Mr. President, although perhaps at the last session some of the members of the Democratic party in the House of Representatives were disposed to resist the adoption of this constitutional amendment, I have good reason to believe that some of them, at least, will favor it now, for when Jefferson Davis himself, with his cabinet and the press at Richmond, recommend the abandonment of the institution of slavery in the southern confederacy, why should the Democracy in the northern States have any reason to hold on to it any longer? Sir, they will have no reason for it and no excuse for it, and I believe that the proposition will triumph, and when it triumphs here in Congress I have just as little doubt that it will receive the sanction of three fourths of the States; and when that is done, this great question, the cause of all our troubles, the question which, like sin, has brought into this our paradise "death and all our woe," covering the land with blood and ashes, will be finally settled, and settled forever, by the supreme judgment of the great American people, expressed in the constitutional form, by an amendment to the Constitution itself.

I therefore hope that my honorable friend will consent to allow this resolution to be referred to the Judiciary Committee, that the House of Representatives may pass on the main question, and let us not be all the while disturbing ourselves with the mere incident, but let the whole question pass from Congress and go to the Legislatures and to the people of the country, and be settled at once and forever. Hence I shall vote for the motion to refer.

Mr. President, there is one other suggestion I wish to make. There are those who seriously doubt whether we have the constitutional power to do what is now proposed by this measure. Among our friends—just as earnest friends of our cause, and opposed to slavery as much as my friend from Massachusetts—there are those who seriously doubt whether you have the constitutional power to pass this resolution in the form in which it is placed; but no one can have any doubt that it is constitutional to amend the Constitution. All can agree in that, when perhaps this, pressed to a vote, might produce a division among the real friends of freedom in the country.

Mr. WILSON. Mr. President, I certainly cannot consent to have this resolution referred to the

Committee on the Judiciary without the vote of the Senate to do so; I cannot agree to it. The Senator from Wisconsin tells us that there is an amendment to the Constitution pending; that he has strong hopes that it will pass the House of Representatives on Monday next or next week. Well, sir, I had hoped that that measure would pass next week; I have more doubt about it now; but whether it passes or not the Senator from Wisconsin knows, and we all know, that it cannot and will not become a part of the Constitution for many months; I think not for about two years, at least, and it may be three or four years; certainly not within the next eighteen months.

Mr. DOOLITTLE. During the next spring.

Mr. WILSON. The Senator is very much mistaken. The fact is, sir, that the Congress of the United States, at the last session, did decide that the man who would enlist in the armies of the United States should be free, free forever, free by the fiat of the Government of the United States. If anybody doubts the constitutionality of that law, let him test it. Now, sir, the wife and the children of the men we have made free are held as slaves. We had the evidence, at the last session of Congress, how they were treated in Missouri, from Army officers. The facts were presented to the Senate, and shocked the sense of humanity of every man who heard the recital, or who read what was going on there. What we had then in Missouri has been doubled and trebled since, and the wrongs and the outrages that have been perpetrated during the last year upon the wives and children of the soldiers who are fighting the battles of the country, if known to the people of the country, would shock their humanity and their sense of justice.

Of the power to do this I do not entertain a doubt, and the most eminent lawyers of this country concur in this opinion. We may and probably shall have to pay for them. The masters may have a claim against the Government. They will no doubt come here with the claim, and it may be that the claim will be fully allowed, though of course I cannot say how that will be; the claim is an open one; but I have no doubt of our power to pass this resolution, and I think we should not hesitate a moment in doing so at a time when we want soldiers, when we are calling for men to join the Army, when we are pressing the want of men upon the country. We read already—the Senator has referred to it—what is taking place in the rebel States, what Jefferson Davis proposes, what the Richmond papers propose, to give freedom to the slaves, and to give them an interest in lands. They who commenced this revolution for the purpose of making slavery eternal now in their necessities are talking about making slaves freemen to fight the battles of the rebellion! I think that we owe it to the country, we owe it to the cause of the country, to liberty, to justice, and to patriotism, to offer every inducement to every black man who can fight the battles of the country to join our armies. You have offered him his freedom, and he is to go and leave his wife and children to the tender mercy of others. Wife and children appeal now to him not to go and abandon them. Make that wife and those children free and they will appeal to him to enroll his name among the defenders of the country to win his own liberty and theirs.

Now, sir, this is a simple, plain proposition. It is before the Senate; it has been considered many days in this Congress, and I hope it will not now be again referred to a committee, but that we shall consider it and pass it promptly.

Mr. DAVIS. I am happy to see my friend from Delaware in his place, and as he is now in his place, I withdraw the suggestion which I made a short time since that the resolution should be laid over, in courtesy to him.

Mr. SAULSBURY. Mr. President, when this resolution of the honorable Senator from Massachusetts was presented to the Senate it was my intention to address the body on the subject; and it is still my intention to do so, not to-day, however. I understand that the pending proposition

is to refer the resolution to a committee. To me it is a matter of personal indifference whether it is referred to a committee or whether it is considered directly by the body. On the whole, I would rather address the Senate to-morrow than to-day, as I have been traveling for a couple of days past, and have just arrived in the city.

Mr. President, when this question comes up for bold, manly discussion before the Senate of the United States, I hope it will be discussed in a spirit of charity, with no bitterness of feeling on either side. I should like the advocates of this measure to present arguments to the Senate to convince them, if possible, that it is within their power, as the legislators of the country, to pass a measure of this kind. I do not wish to hear, if I may be pardoned the remark, speeches upon the evils of slavery, upon the wickedness of slavery; but I wish the question to be met in this light: have we the power, have we the authority, under the Constitution of the United States, to enact a law of this kind? Has the Congress of the United States the constitutional authority to enter within the limits of the respective States, and to declare that any person who is held in slavery under the constitution and laws of that particular State shall be free? Has the modern doctrine of "military necessity" gone so far that when we are in a state of war, whatever the Congress of the United States shall decree, is constitutionally decreed? I ask the honorable Senator from Massachusetts, the chairman of the Military Committee, who has introduced this bill, when he comes to present his reasons for its passage to the American people and to the Congress of the United States, to point us out the authority to pass it.

Sir, there are some questions which, in law, are settled; there are some questions which, as constitutional questions, have been settled, and long settled. When this question shall legitimately come before the Senate for full discussion, I shall maintain the doctrine that not only have you not the power to decree the freedom of the wife and the children of negroes who volunteer in your Army, if they are from States where slavery is recognized, but you cannot give permanent freedom to the negro volunteer himself if he be a slave. There is no principle more clearly recognized in international law than this, that if a slave be captured from his lawful owner by one belligerent, and he afterwards comes back into the possession of the other belligerent by recapture, he reverts, according to the doctrine of the *jus postluminii*, not to the belligerent Power, but to his original owner. So, sir, I say to-day that if you go into a State of the southern confederacy and dress up a slave in your uniform and put him in your Army, although you may by all the solemnity of an act of Congress say that he shall be forever free, yet if he be recaptured, when recaptured he is no longer a free man; he does not belong to the southern confederacy; but the southern confederacy is bound to deliver him to his original owner.

That, sir, is the international law. It is the law which a great and distinguished statesman from the honorable Senator's own State maintained when he was a member of the Cabinet; it is the doctrine which he maintained when he was minister abroad. John Quincy Adams, from the Senator's own State, gave to this doctrine his sanction. When, during our last war with Great Britain, the British forces undertook to carry away slaves from this country, no man was more earnest than was John Quincy Adams in demanding from the British Government compensation for the value of those slaves. Sir, he was strong in his language; he said it was just as lawful to use poisoned weapons in warfare as it was to take slaves under the pretense that they had the right, under the law of nations, and in the exercise of military authority, to do so. The doctrine which John Quincy Adams then avowed, and which through his efforts was recognized by the English Government, has been the settled doctrine of the American nation, not only from that time to the present, but it was settled even anterior to that period. When John Jay was minister of foreign affairs of this country, he proclaimed the same doctrine, and he made foreign nations recognize it; and through every page in the diplomatic history of the country you find the same doctrine avowed without a dis-

senting voice. And yet, sir, simply because we are engaged in a gigantic civil war; one which pals the imagination; one at which the thoughtful statesman stands aghast; a war the issue of which no man living can see; a war in which everything that is dear to the American heart and to the American mind is being overthrown, we find propositions of this nature presented to the American Senate!

It seems to me that we have lost sight entirely of the character of our Federal system; pardon me, sir, of our federated system. We are considering this as a great central power; such things as States and State rights are wholly ignored. We seem to think that the States of the American Union are nothing more than simply the counties of particular States. If that doctrine is to prevail; if the doctrine that we are not to have "the Union as it was and the Constitution as it is," is to prevail, but that we are simply to have the Union as it shall be, and the Constitution as it will be made, there is the death of constitutional American liberty.

Mr. SUMNER. Mr. President, there was a call only a few days ago for three hundred thousand more troops. The country needs them, and it is the duty of Congress to help supply them. To this end there must be no difficulty, impediment, or embarrassment in the way. All these must be removed. But this is not all. There must be encouragement of every kind; and such is the character of the present proposition.

There can be no delay. The country cannot wait the slow action of a constitutional amendment, as has been proposed by the Senator from Wisconsin, [Mr. DOOLITTLE.] Congress must act to the extent of its power, and any abdication of its power on this question will be injurious to the public interests.

All must confess the humanity of the proposition to enfranchise the families of colored persons who have borne arms for their country. All must confess the hardship of continuing them in slavery.

But the question is asked by many, and even by the Senator from Wisconsin, what power has Congress to set the families free?

Mr. DOOLITTLE. I did not ask that question.

Mr. SUMNER. I understood—

Mr. DOOLITTLE. The Senator is entirely mistaken. He is putting a question himself and then answering it. I have not put it at all.

Mr. SUMNER. The question has been put again and again, and the whole purport of the speech of the Senator from Wisconsin was in that sense. He argued that we were about to have a constitutional amendment which was to supersede everything; that therefore this proposition was unnecessary, if not injurious. I so understood the argument of the Senator, and that it pointed directly to the question of the power of Congress on this occasion, because I know the patriotism of that Senator too well to suppose that, if in his opinion the power of Congress on this occasion was beyond question, he would hesitate. I do not therefore do the Senator any injustice. I say, then, the question is asked, what power has Congress to set the families free? This is the single point on which I shall express an opinion.

My answer is that Congress has precisely the same power to enfranchise the families that it has to enfranchise the colored soldier. The two powers are coincident and from the same source.

It has been already assumed that Congress may enfranchise the colored soldier. This has been done by solemn statute, without any reference to the conduct of his pretended owner. If we were asked the reason for such enfranchisement, it must be found, first, in its practical necessity, that we may secure the best services of the slaves, and secondly, in its intrinsic justice and humanity. In brief, Government cannot be so improvident and so foolish as to attempt to obtain the services of the slave at the hazard of life, without securing to him the boon of freedom. Now, if Government were so bereft of common sense as to forego this temptation to enlistment and efficient service, could it be guilty of the unutterable meanness of using the slave in the national defense and then returning him to bondage? Therefore the slave who fights is enfranchised.

But every argument, every consideration, which

pleads for the enfranchisement of the slave pleads also for the enfranchisement of the family. There is the same practical necessity for doing it, and the same unutterable shabbiness in not doing it.

There is no principle of law better established than the rule that any acknowledged right carries with it all incidents essential to its exercise. I do not employ technical language; but I give the idea, which is founded in reason and the nature of things. It would be vain to confer a right, or a power, if the means for its enjoyment were denied. From this simple statement the conclusion is irresistible.

In conferring upon Congress the power to create an Army, the Constitution conferred therewith all the powers essential to the exercise of the principal power. If Congress can authorize the enlistment of slaves, as it unquestionably can, it may at the same time authorize their enfranchisement, and by the same reason it may authorize the enfranchisement of their families; and all this from the necessity of the case, and to prevent an intolerable meanness.

An English patriot, nearly two centuries ago, exclaimed in memorable words that he would give his life to serve his country, but he would not do a mean thing to save it. If there be any value in this declaration it may well be invoked when it is deliberately argued that the national Government can create an Army, and in this service can enfranchise the slave which it enlists, but that it is impotent to enfranchise his family. I know not how we can use his right arm and ask him to shed his blood in our defense and then hand over his wife and child to bondage. The case is too clear for argument. The human heart rejects the insufferable pretension.

But it is said that the slave has no family. Such is the argument of slavery. For all that he has, as well as all that he is, even wife and child, belong to another. Surely this unrighteous pretension will not be made the apology for a denial of rights. If the family of the slave be not designated by law, or by the forms of legal marriage, then it must be ascertained by the next best evidence possible; that is, by cohabitation and mutual recognition as man and wife. And any uncertainty in this evidence must be regarded as a natural incident to slavery. As men cannot take advantage of their own wrong, so slave masters, on this occasion, cannot take advantage of slavery. Any other rule would practically unite with slavery in denying to the slave wife and child.

There is a well-known French maxim, that "it is only the first step which costs"—*ce n'est que le premier pas qui coûte*—and on this occasion, permit me to say, it is only the first stage of the argument which merits attention. Concede that the soldier may be enfranchised, and it follows that by the same constitutional power his family may be admitted to an equal liberty. Any other conclusion would be as illogical as inhuman; discreditable alike to the head and the heart. There is no argument, whether of reason or of humanity, for the enfranchisement of the soldier which does not plead equally for that of his family. Nay, more; I know not how we can expect a blessing on our arms while we fail to perform this duty.

I cannot close what I have to say without adding that, in my opinion, Congress at this moment is complete master of the whole question of slavery everywhere in the United States, even without any constitutional amendment. It can sweep it all out of existence, precisely as it can remove any other obstruction to the national defense, and all this by virtue of a power as indisputable as the power to raise armies or to suspend the *habeas corpus*. Future generations will read with amazement that a great people, when national life was assailed, hesitated to exercise a power so simple and beneficent; and this amazement will know no bounds as they learn that Congress higgled for months on the question whether the wife and children of the colored soldier should be admitted to freedom.

Mr. SAULSBURY. I move that the further consideration of this resolution be postponed until to-morrow at one o'clock.

Mr. WILSON. Understand the Senator from Delaware desires to address the Senate to-morrow on this subject, and I am willing that it should go over for that purpose; but I should like to take the vote now on the question of reference.

The VICE PRESIDENT. The question is on

the motion of the Senator from Kentucky [Mr. DAVIS] to refer this joint resolution to the Committee on the Judiciary.

The question being taken by yeas and nays, resulted—yeas 15, nays 19; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Harris, Henderson, Hendricks, Hicks, Nesmith, Powell, Richardson, Sainsbury, Trumbull, Van Winkle, and Willey—15.

NAYS—Messrs. Brown, Clark, Conness, Dixon, Farwell, Foot, Foster, Grimes, Harlan, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sumner, Wade, and Wilson—19.

ABSENT—Messrs. Anthony, Carlile, Chandler, Collamer, Hale, Harding, Howard, Howe, Lane of Kansas, McDougall, Riddle, Sprague, Ten Eyck, Wilkinson, and Wright—15.

So the motion was not agreed to.

The VICE PRESIDENT. The question now is on the motion of the Senator from Delaware, [Mr. SAULSBURY,] to postpone the further consideration of the joint resolution until to-morrow.

The motion was agreed to.

#### MILITARY SERVICE.

Mr. WILSON. I move to take up the House bill No. 583.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862; which proposes to amend that section so as to read as follows:

"That any alien, of the age of twenty-one years and upward, who has enlisted or shall enlist in the armies of the United States, either volunteer or regular forces, or in the naval or marine forces, and has been, or shall hereafter be, honorably discharged, may be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become a citizen of the United States, and that he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and that the court admitting such alien shall, in addition to the proof of residence and good moral character, as is now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States as aforesaid.

Mr. WILSON. I move to amend the bill by adding the following as additional sections:

SEC. —. *And be it further enacted*, That it is not within the intent of the first section of the act of March 3, 1863, entitled "An act to authorize the brevetting of volunteer and other officers in the United States service," authorizing the President to confer brevet rank for gallant actions and meritorious conduct, to make a distinction as to pay between officers of volunteers and other forces, including the regular Army; but that such brevet rank does not entitle any officer, either of the regular Army or volunteers, to any increase of pay or emoluments.

SEC. —. *And be it further enacted*, That if a soldier, discharged for wounds received in battle, die before receiving the bounty provided by the act of March 3, 1863, entitled "An act to amend an act to authorize the employment of volunteers," &c., the bounty due shall descend to his heirs in the same manner and order of succession as if he had died in the service.

Mr. JOHNSON. I do not know that there is any objection to the amendment proposed by the honorable member from Massachusetts, but it appears to me it is rather out of place on this bill. The bill itself is a bill to naturalize foreigners. He proposes to insert an amendment which looks to brevet rank in the Army. It is always desirable, as everybody knows who has had occasion to consult acts of Congress, that the laws should be so framed that we should know by their titles exactly where to look for them. It seems to me better, therefore, that the honorable member from Massachusetts should introduce his proposition as a separate bill.

Mr. WILSON. I will state to the Senator from Maryland that the bill, as it comes to us from the House of Representatives, is a bill to construe a certain section of another act. Both the sections of my amendment are of a similar character. They refer to other acts, and say how they shall be understood. I thought it was fit that these propositions should go together. I certainly see no reason why they should not. This bill, as it comes from the House of Representatives, simply provides for putting alien sailors on the same footing with alien soldiers, and construes the law to read hereafter in that form. I simply propose by this amendment to provide that the act authorizing brevetting shall not be construed to make any distinction between volunteer officers and officers of the regular Army. I understand that there has been some construction of the De-

partment recently which makes a distinction between the regular Army and the volunteers. I am sure none was intended by Congress, and that none ought to exist.

Mr. GRIMES. I think there can be no objection to the original bill; that is, to include among the persons who shall be naturalized by entering into the service of the United States during the war persons serving in the Navy as well as in the Army. The section which I should object to being called upon to pass at this time more particularly is the second section of the amendment, that which regulates the descent of the bounty of a soldier. I have in my possession, but not here, a letter which I received a couple of weeks ago from the Second Comptroller of the Treasury, in which he explains the complexities there are at this time existing, growing out of the various laws we now have on this subject. I think at the last session of Congress, or at any rate during the last two sessions of Congress, we established by our enactments three different methods for the descent of the bounty due to soldiers and sailors. He has sent to me a copy of a bill which he threw out as suggestions for gentlemen to consider, and I would prefer, if the Senator from Massachusetts would assent to it, that this amendment, or at any rate this second section, which relates to the descent of the bounty, should be postponed until we can give further consideration to the subject. At present the laws are very conflicting on that subject, and now there is a different order of descent for the bounty that is paid to a sailor from that which is paid to a soldier. They ought to be uniform, and I think they could easily be made uniform if we had a few hours to consider the subject.

Mr. WILSON. That being the case, I have no desire to press the question now. On the suggestion of the Senator from Iowa, I am willing to let the whole subject go over in order to give him an opportunity to look into it.

Mr. SHERMAN. Before the subject goes over I desire to submit an amendment to this bill, which probably had better be printed, because I wish to call the attention of the Senate to it. I may modify the language; but I will submit it now so that it may be under consideration:

*And be it further enacted*, That no alien who has resided in the United States for five years continuously before the 19th day of April, 1861, shall be naturalized under the laws of the United States after the 1st day of April, 1865, anything in any act to the contrary notwithstanding.

The idea I wish to embody—perhaps the proposition should be expressed in different language—is this: there are, especially in the large cities, large numbers of able-bodied aliens, many of whom have made enormous fortunes by engaging in trade, who, the very moment the war broke out, refused to perfect their naturalization, and thus evaded all military service. Such men ought to be denied the privilege hereafter of citizenship. It is a plain and obvious matter of justice. I want to provide for that very numerous class of people in this country.

The VICE PRESIDENT. If there be no objection, the further consideration of this subject will be postponed until to-morrow.

#### EXECUTIVE SESSION.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and, after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, January 5, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Thursday, December 22, 1864, was read and approved.

#### COAST SURVEY REPORT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting the report of the Superintendent of the Coast Survey for the year 1864; which was laid on the table, and ordered to be printed.

#### TRADE WITH REBELLIOUS STATES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of Major General

E. R. S. Canby, commanding the military division of West Mississippi, concerning the purchase by the United States of the products of States declared to be in insurrection, called for by the resolution of the House of Representatives of December 22, 1864.

Mr. ELIOT. I move that that communication be referred to the Committee on Commerce.

Mr. FARNSWORTH. I think that communication should be referred to the Committee on Military Affairs, and I make that motion. We have this whole subject before us. A resolution was introduced by the gentleman's colleague [Mr. BUTTWELL] instructing the Committee on Military Affairs to inquire into this whole matter of trade with the rebellious States. The subject is now before the committee and is being investigated. The committee sent a similar inquiry to the Secretary of War, wider in its scope than the resolution of the gentleman from Massachusetts. The Secretary determined that he would answer the whole in reply to the resolution of the gentleman from Massachusetts, and so notified us. I think it proper that the communication should go to the Committee on Military Affairs.

Mr. ELIOT. I am inclined to think that the suggestions of the gentleman from the Military Committee are correct, and, under the circumstances, I shall not object to the reference of the communication to the Committee on Military Affairs. I withdraw my motion.

The communication was referred to the Committee on Military Affairs, and ordered to be printed.

#### LAWS OF NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House the laws of the Territory of New Mexico; which were referred to the Committee on Territories.

#### SOLDIERS' PAY.

Mr. WILSON, by unanimous consent, introduced a bill to amend an act entitled "An act to increase the pay of soldiers of the United States Army, and for other purposes," approved June 20, 1864, and to increase the commutation value of rations for general and post hospitals; which was read a first and second time, and referred to the Committee on Military Affairs.

#### COAST SURVEY REPORT.

Mr. DAVIS, of Maryland, by unanimous consent, offered the following resolution; which was referred, under the rule, to the Committee on Printing:

*Resolved*, That there be printed three thousand copies of the report of the Superintendent of the Coast Survey for the year 1864; two thousand for distribution by the Coast Survey and one thousand for the use of the members of this House.

#### BURSTING OF GUNS.

Mr. HUBBARD, of Connecticut, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be requested to communicate to this House, so far as he has knowledge, what number of guns were burst on board our fleet in the late bombardment of Fort Fisher; on what ships they were mounted; the cause of their failure; the number of persons killed and wounded thereby; and whether any of such guns were of unwrought iron construction.

#### RANK OF LIEUTENANT GENERAL.

Mr. BLAINE. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the appointment of another lieutenant general, to be selected from the list of major generals now in the service, whose rank shall be inferior to the lieutenant general commanding the armies, and superior to all other officers in the service.

Mr. COX. I object.

#### DISTRICT COURTS IN MISSOURI.

Mr. LOAN, by unanimous consent, introduced a bill to provide for holding courts in the western district of Missouri, and to prescribe the times thereof; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ST. JOSEPH, MISSOURI.

Mr. LOAN also introduced, by unanimous consent, a bill to constitute the city of St. Joseph, in the State of Missouri, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.



## CLERICAL APPOINTMENTS.

Mr. A. W. CLARK, by unanimous consent, introduced a joint resolution relative to appointments in the various Departments; which was read a first and second time.

The joint resolution provides that all vacancies which may hereafter occur in the clerical force in the War, Navy, Treasury, Interior, and Post Office Departments, shall be filled proportionately by soldiers and sailors disabled by wounds received in battle, who are competent to perform the duties, or who may quickly be instructed therein; and also that the places of the present incumbents shall be filled by similar appointments as rapidly as changes can be made without detriment to the public service.

Mr. A. W. CLARK demanded the previous question.

Mr. STEVENS. Would the gentleman from New York [Mr. A. W. CLARK] have any objection to refer this joint resolution to a committee? It is taking upon ourselves great power.

Mr. A. W. CLARK. I think the House is prepared to act upon it now.

Mr. STEVENS. I hope the previous question will not be sustained. This is a very good clap-trap thing, I know; but it is a great stretch of power.

Mr. COX. I wish to ask the gentleman from New York [Mr. A. W. CLARK] one question in reference to one phrase in this resolution. To what does the word "proportionately" refer—to the Army or the civil service?

Mr. A. W. CLARK. Proportionate to the number of applicants presenting themselves.

Mr. GANSON. I would inquire if it is intended to throw out all the females now employed in the Departments.

Mr. COX. I hope the gentleman from New York [Mr. A. W. CLARK] will strike out the word "proportionately;" otherwise I must move to refer this joint resolution to the Committee on the Judiciary.

The SPEAKER. That cannot be done now except by unanimous consent.

The question was then taken upon seconding the demand for the previous question, and it was not agreed to.

Mr. STEVENS. I move to refer the joint resolution to the Judiciary Committee.

The question was taken, and the motion to refer was agreed to.

## TERRITORY OF WYOMING.

Mr. ASHLEY, by unanimous consent, introduced a bill to provide a temporary government for the Territory of Wyoming; which was read a first and second time, and referred to the Committee on Territories.

## NATIONAL MISSISSIPPI BRIDGE COMPANY.

Mr. KNOX, by unanimous consent, introduced a bill to incorporate the National Mississippi Bridge Company; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## INCREASE OF PAY TO OFFICERS, ETC.

Mr. ROSS, by unanimous consent, introduced a bill to increase the pay of officers and soldiers in the United States Army, twenty-five per cent. from and after the 1st day of January, 1865; which was read a first and second time, and referred to the Committee on Military Affairs.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed an act (S. No. 72) supplementary to an act to prescribe an oath of office, and for other purposes, approved July 2, 1863, in which they asked the concurrence of the House.

## NATIONAL TELEGRAPH UNION.

Mr. MORRIS, of Ohio, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of reporting a bill to incorporate the National Telegraph Union.

## REFUGEES FROM REBELLIOUS STATES.

Mr. LAW, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be,

and they are hereby, instructed to inquire whether any, and if so, what, legislative action is necessary on the part of Congress to afford relief to the distressed and destitute women and children, refugees from the rebel States, who have located within the Union States; with leave to report by bill or otherwise.

## NAVAL RECRUITS.

Mr. PIKE, by unanimous consent, offered the following resolution:

*Resolved*, That the Secretary of War be directed to report to the House the rule adopted by him, if any, in apportioning naval recruits among the different enrollment districts under section eight of an act further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes, approved July 4, 1864, and to state further the proof of residence required by him in making assignments of naval recruits under that section.

Mr. STEVENS. I move to amend the resolution by adding the words "and by what provision of law in apportioning in the Army a man enlisted for three years is counted as three men."

Mr. PIKE. I accept that amendment.

The resolution, as amended, was then adopted.

## BOUNTIES TO SOLDIERS.

Mr. LAW, by unanimous consent, offered the following resolution:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, instructed to inquire, when a soldier is discharged on account of wounds received in battle, and dying before receiving the bounty provided by the act of March 3, 1863, entitled "An act to authorize the employment of volunteers," whether the bounty due to him should not descend to his heirs in the same manner and succession as if the soldier had died in service.

Mr. JOHNSON, of Pennsylvania. I move to amend the resolution so that the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill for the purpose indicated in the resolution.

Mr. LAW. I accept the amendment.

The resolution, as amended, was then adopted.

## RECRUITING BROKERS.

Mr. MORRIS, of New York, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for dispensing with the services of recruiting brokers, and prohibiting their pay or reward for any such services or pretended services.

## WASHINGTON GAS-LIGHT COMPANY.

Mr. DAVIS, of New York. I move that, by unanimous consent, Senate bill No. 363, an act to amend the charter of the Washington Gas-Light Company, be taken from the Speaker's table and put upon its passage.

Mr. COBB. I object.

Mr. DAVIS, of New York. I move to suspend the rules in order to take up the bill.

The SPEAKER. That motion cannot be made on Thursday.

## OVERLAND CALIFORNIA MAIL.

Mr. DAILY, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Postmaster General be requested to furnish to this House copies of all advertisements for the late letting of the contract for carrying the overland California mail, with all the bids, the names of bidders, and all correspondence relating to the same (with any offers to contract) by the Department, and the name of the party, and the amount at which the contract was finally let.

## RAILROAD FARE IN NEW YORK CITY.

Mr. HERRICK, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas the city railroad companies in the city of New York, whose rates of fare are prescribed by the laws of the State and the ordinances of the city, have increased such rates twenty per cent., by authority of the last proviso of section one hundred and three of the act of Congress entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, upon the pretense that they can in no other way collect from their passengers the internal revenue tax of two and a half per cent. imposed upon the gross receipts of said railroad companies, as authorized by said act: Therefore,

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of the act to provide internal revenue, to pay interest on the public debt, and for other purposes, approved June 30, 1864, as empowers railroad companies to increase their rates of passenger fare beyond the rates established by local laws, or of so amending the last proviso of the one hundred and third section of such act that it will not be capable of being construed into a permission for the New York city railroad companies to collect from passengers a

higher rate of fare than is prescribed for them by the laws of the State of New York and the ordinances of the city of New York.

## THANKS TO GENERAL SHERMAN.

Mr. COLE, of California. I ask unanimous consent to introduce the following joint resolution, and ask that it be put upon its passage:

*Resolved by the Senate and House of Representatives, &c.*, That the thanks of the people and of the Congress of the United States are due and are hereby tendered to Major General William T. Sherman, and through him to the officers and men under his command, for their gallantry and good conduct in their late brilliant expedition through Georgia; and that the President cause a copy of this joint resolution to be engrossed and forwarded to Major General Sherman.

There being no objection, the joint resolution was read a first and second time.

Mr. GARFIELD. I move that this joint resolution be referred to the Committee on Military Affairs.

Mr. FARNSWORTH. I hope that it will be passed without a reference.

Mr. GARFIELD. I make this motion only because I object to any resolution of this nature going through without being properly referred, not because I am not in favor of this resolution. I am in favor of it. But I desire that, as a rule, all resolutions of this character shall be referred.

The motion of Mr. GARFIELD was agreed to; and the joint resolution was referred to the Committee on Military Affairs.

## CREDITS FOR RECRUITS AND CONSRIPTS.

Mr. BALDWIN, of Massachusetts, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be directed to consider the expediency of providing by an act of Congress that cannot be misinterpreted or evaded, that all men enlisted or drafted into the military service shall be credited to the city, ward, town, or district to which they belong by residence, provided they have a legal residence in any duly organized enrollment district.

## WAGON ROAD IN MONTANA.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill to provide for the construction of a wagon road from the Missouri river to Virginia City, in Montana; which was read a first and second time, and referred to the Committee on Roads and Canals.

## COMPENSATION OF POSTMASTERS.

Mr. HUBBARD, of Iowa, by unanimous consent, also offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of so amending the act of July 1, 1864, relating to the compensation of postmasters, as to allow postmasters of the third class a reasonable sum for the necessary cost of rent, fuel, lights, and clerks.

## STENOGRAPHER FOR COMMITTEES.

Mr. WILSON. I ask unanimous consent of the House to submit the following resolution:

*Resolved*, That the Speaker appoint a competent stenographic reporter, to continue in office until otherwise ordered by the House, whose duty it shall be to report in shorthand on the order of any of the standing or special committees of the House such proceedings as they may deem necessary, and when ordered to be printed, properly index and supervise the publication of the same, and who shall receive therefor an annual compensation at the rate now allowed by regulation for reporting court-martial proceedings.

There was no objection, and the resolution was received.

Mr. WILSON demanded the previous question on its adoption.

The previous question was seconded and the main question ordered, and under the operation thereof the resolution was adopted.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## EXCUSED FROM COMMITTEE SERVICE.

Mr. MORRILL. I ask unanimous consent of the House to be excused from further service on the special committee in reference to the ventilation of the two Halls of Congress. I find that I shall be unable to attend to my duties on other standing committees if I remain on that committee; and I hope that the House will excuse me.

There was no objection; and it was ordered accordingly.

## GOLD BILL.

Mr. STEVENS. I ask unanimous consent of the House to introduce the following resolution for reference:

*Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of bringing in a bill to prevent combinations being formed to raise the price of coin and depreciate the value of lawful money of the United States.*

Mr. BROOMALL. I object.

Mr. STEVENS. I ask my colleague to withdraw his objection, so that I may be heard on my resolution.

Mr. BROOMALL. I withdraw my objection.

Mr. STEVENS. Mr. Speaker, it will be recollected that the Secretary of the Treasury, in his recent annual report, calls the attention of Congress to combinations of men to raise the price of coin and depreciate the value of the lawful money of the United States, and asks us to provide some remedy for the evil. It may possibly be recollected that on the second day of the session I had the honor to introduce a bill which was designed to accomplish that object. The next morning, as soon as the Journal was read, my excellent friend from Maine, [Mr. BLAINE,] in an alarmed and excited manner informed the House that that bill was fraught with innumerable mischiefs; that it would destroy the interests of the country. I do not speak exactly as he spoke. He said that it would prevent and prohibit importation. In that I think he made a mistake. He said that it was fraught with all of the evils—not in this language—of the fabled Pandora's box. It was an unheard-of bill, and he modestly stated that it was an absurdity. The House, partaking of the magnetic manner of my friend from Maine—he seemed to be distracted on the subject—and wishing to escape the evils of this gunpowder plot, immediately laid it on the table.

Mr. PIKE. I wish to call the attention of the gentleman from Pennsylvania to the fact that my colleague to whom he refers is not now present.

Mr. STEVENS. He is now sitting before me. [Laughter.] If he had not been present I would not have referred to him. It is because he is present that I have so freely referred to the gentleman. I mean kindly all that I have said.

Mr. Speaker, I was saying, when interrupted, that the House, being magnetized by the excited manner of the gentleman from Maine, [Mr. BLAINE,] became alarmed and immediately laid the bill on the table, without its being presented, and without a single member having had an opportunity to read a word of it. I remember the gentleman stated that the very announcement of the bill the day before had raised the price of gold twelve per cent. He stated that there were telegrams to that effect. I remember what was said by the able editors, sciolists who prate deeply in reference to things of which they know nothing. I know that they repeated what my excellent friend had taught them. We were told that it was an anomalous proceeding never heard of before. It was likened to an effort to regulate the course of the planets, to guide the sun and moon. I remember to have heard an excellent friend, in a *solito voce*, say that it was like an attempt to make the mercury in a thermometer regulate the weather.

Mr. Speaker, all these suggestions, all these imputations, all the statements that my proposition was preposterous and absurd, of course had no effect upon me. I have heard too much of that in the past to care for it. I disregard all these imputations. But, sir, it is due to the respectable gentlemen who, on that occasion, to the number of fifty or sixty, voted with me, that I should lay some facts before this House, and the country, to rescue them from the imputation of ignorance, and to expose the ignorance of those who made the assertions I have mentioned. I only detain the House for that purpose.

It will be remembered, Mr. Speaker, by every member of this House that in 1793 England entered into a war with France, and that finally she entered single-handed into a war with the whole of continental Europe. At that time the Bank of England was her fiscal agent. The bank for a while went on prosperously under these circumstances, the Bank of England notes being at par and there being no demand for coin at that time, as the Government had not fallen into the error of making a portion of their debt payable in coin and

part in paper. But about 1797 there came to be a continental loan, which England found it necessary to contract with continental nations, and gold became necessary. Then it was that class of men called "gold gamblers," as they are now named, saw proper in England to combine for the purpose of raising the price of gold, and in 1809 it went up, I think, to eight or nine per cent., and was going on; and as the armies of Great Britain went upon the Continent it was necessary to supply them with gold, which increased the demand and enabled these persons to make use of their power to raise the price of the article, and in 1810 and 1811 it was at sixteen and seventeen per cent., and finally at one period, I think, it rose as high as forty per cent.

The British Parliament became alarmed at the action of this combination, for in 1797, when gold had become so high, the Government by an Order in Council restricted and prohibited the Bank of England from paying cash until after the meeting of Parliament, and upon the meeting of Parliament a law was passed making valid the Order in Council and prohibiting the payment of coin until six months after the final proclamation of peace. And at the same time, although the Bank of England notes were not made a legal tender, yet a law was passed which took away the remedy by arrest or by distraint of any creditor who refused to receive Bank of England notes when tendered. A Bank of England note was not a full tender, as our note is, but the law prohibited all process of protection in case of a refusal to receive the notes of the Bank of England.

This took place, as I have said, in 1797, but still there was very little rise in the price of gold until the time I have mentioned, up to 1809, 1810, and 1811; then, when gold was sent to subsidize the armies of Great Britain in Europe, the gold gamblers combined to raise the price of gold and depress the price of Bank of England notes; and the wise statesmen of England, who never thought of attempting to regulate the moon or stars in the British Parliament, put their heads together to see if some law could be devised which would correct this evil and check the rise in gold.

I remember that Lord Stanhope, then an eminent British statesman, was the first to move a bill in 1811 for that purpose, which was supported, not by ignorant men, not by men guilty of absurdities, but by the great Lord Chancellor Eldon, and by the great financier Vansittart. That bill passed the British Parliament in 1811. I admit that it was an experiment only, and was limited to three months after the next meeting of Parliament, and then it was found to have worked so beneficially that it was enlarged, and improved, and reenacted.

Now, if gentlemen will not think that I am attempting to expose their want of knowledge, I will send to the desk and ask the Clerk to read the bills of the British Parliament, which are exact copies of the bill which I presented to this House for a similar purpose, and under the similar circumstances of the country.

Before the Clerk reads, however, I will simply say that I looked at the money article in the New York Tribune to see how much gold rose on the day that I introduced my bill, and I found the following paragraph in the paper of the 7th of December:

"Gold opened at 229½, sold up to 232½, and closed at 232. The leading buyers were 'seecesh houses,' encouraged by the proposition to prohibit the export of gold coin."

I see by the same authority that after my bill was laid on the table, hardly had the knowledge of it reached New York than gold went up to 240, and remained so for ten days.

Mr. BLAINE. If the gentleman from Pennsylvania [Mr. STEVENS] will allow me a word, I think he will admit the correctness of what I stated. The gentleman introduced his bill on Tuesday, December 6, near the hour of one o'clock. The intelligence of it was not known in New York city, on the street, until three o'clock, after banking and brokers' hours. The next morning, when the contents and scope of that bill were fully made known in Wall street, gold opened at twelve per cent. advance on the rate of the day before. That advance took place, therefore, several hours before the House took action on the bill on my motion. Now, when the gentleman speaks of the laying that bill on the table as the cause of the rise in gold—

Mr. STEVENS. I did not say it was the cause. I stated as a fact that the one followed the other. I do not think either the introduction of the bill, or the laying it on the table, was the cause of the rise in gold. I can very well understand how the gold gamblers could take advantage of that to run gold up.

However, I will now proceed to give the House the facts to which I have referred. I will ask the Clerk to read the several passages which I have marked in the books I send to him.

The Clerk accordingly read the following sections of statutes of Great Britain and Ireland:

"Whereas it is expedient to enact as hereinafter provided:

"*Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, no person shall receive or pay for any gold coin lawfully current within the realm, any more in value, benefit, profit, or advantage, than the true lawful value which such gold coin doth or shall by its denomination import, whether such value, benefit, profit, or advantage be paid, made, or taken in lawful money, or in any note or notes, bill or bills of the governor and company of the Bank of England, or in any silver token or tokens issued by the said governor and company, or by any or all of the said means, wholly or partly, or by any other means, device, shift, or contrivance whatever; and every person who shall offend herein shall be deemed and adjudged guilty of a misdemeanor.*

"*And he it further enacted by the authority aforesaid, That no person shall by any means, device, shift, or contrivance whatsoever, receive or pay any note or notes, bill or bills of the governor and company of the Bank of England for less than the amount of lawful money expressed therein, and to be thereby made payable, except only lawful discount on such note or bill as shall not be expressed to be payable on demand; and every person who shall offend herein shall be deemed and adjudged guilty of a misdemeanor.*"

"*VI. Provided always, and he it further enacted, That this act shall continue and be in force and until the 25th day of March, 1812, and no longer.*" (24th July, 1811.)

"Whereas an act passed in the fifty-first year of the reign of his present Majesty entitled 'An act for making more effectual provision for preventing the current gold coin of the realm from being paid or accepted for a greater value than the current value of such coin; for preventing any note or bill of the governor and company of the Bank of England from being received for any smaller sum than the sum therein specified; and for staying proceedings upon any distress by tender of such notes; and whereas it is expedient that the said act should be continued and amended and extended to Ireland:

"*Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, no person shall receive or pay for any gold coin lawfully current within the United Kingdom any more in value, benefit, profit, or advantage than the true lawful value which such gold coin doth or shall by its denomination import, whether such value, benefit, profit, or advantage be paid, made, or taken in lawful money, or if paid or taken in Great Britain in any note or notes, bill or bills of the governor and company of the Bank of England, or in any silver token or tokens issued by the said governor and company, or if paid or taken in Ireland in any note or notes, bill or bills of the governor and company of the Bank of Ireland, or in any silver token or tokens issued by the said last-mentioned governor and company, or by any or all of the said means, wholly or partly, or by any other means, device, shift, or contrivance whatever; and every person who shall offend herein shall be deemed and adjudged guilty of a misdemeanor, and being thereof convicted by due course of law, shall suffer six months' imprisonment, and find sureties for his or her good behavior for one year more, to be computed from the end of the said six months; and if the same person shall afterwards be convicted a second time of the like offense, such person shall, for such second offense, suffer one year's imprisonment, and find sureties for his or her good behavior for one year more, to be computed from the end of the said last-mentioned year; and if the same person shall afterwards offend against this act, and shall by due course of law be convicted of any subsequent offense, he or she shall be imprisoned for the term of two years for every such subsequent offense.*

"*And he it hereby further enacted, That if any person shall be convicted of receiving or paying any such gold coin, contrary to the said recited act or this act, and shall afterwards be guilty of the like offense, the clerk of the assize or clerk of the peace for the county, city, or place where such conviction was so had, shall, at the request of the prosecutor or any other person on his Majesty's behalf, certify such conviction, for which certificate two shillings and sixpence, and no more, shall be paid; and such certificate being produced in court shall be sufficient proof of such former conviction.*"

"*And he it further enacted, That no person shall, by any means, device, shift, or contrivance whatsoever, receive or pay in Great Britain any note or notes, bill or bills of the governor and company of the Bank of England, or receive or pay in Ireland any note or notes, bill or bills of the governor and company of the Bank of Ireland, for less than the amount of lawful money expressed therein, and to be thereby made payable, except only lawful discount on such note or bill as shall not be expressed to be payable on demand; and every person who shall offend herein shall be deemed and adjudged guilty of a misdemeanor, and being convicted by due course of law shall be subject to a fine of double the amount of the sum of money specified in such*

bill or note, and made payable thereby, and shall suffer imprisonment for a time not exceeding two months."

"X1. *Provided always, and he it further enacted*, That this act shall continue and be in force to and until three months after the commencement of the next session of Parliament, and no longer." (5th May, 1812.)

"An act to continue until the 25th day of March, 1814, an act of the last session of Parliament for making more effectual provision for preventing the current gold coin of the realm from being paid or accepted for a greater value than the current value of such coin; for preventing any note or bill of the governor and company of the Bank of England, or of the governor and company of the Bank of Ireland from being received for any smaller sum than the sum therein specified; and for staying proceedings upon any distress by tender of such notes. (22d December, 1812.)

"Whereas an act was made in the last session of Parliament entitled 'An act to continue until three months after the commencement of the next session of Parliament and amend an act of the last session of Parliament for making more effectual provision for preventing the current gold coin of the realm from being paid or accepted for a greater value than the current value of such coin; for preventing any note or bill of the governor and company of the Bank of England from being received for any smaller sum than the sum therein specified; and for staying proceedings upon any distress by tender of such notes; and to extend the same to Ireland;' and whereas it is expedient that the said act should be continued:

*"Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by authority of the same, That the said act shall be, and the same is hereby, continued until the 25th day of March, 1814."*

"An act to revive and continue, during the continuance of any act imposing any restriction on the governor and company of the Bank of England with respect to payments in cash, an act of the fifty-second year of his present Majesty, for making more effectual provision for preventing the current gold coin of the realm from being paid or accepted for a greater value than the current value of such coin; and for other purposes therein mentioned. (4th May, 1814.)

"Whereas an act was made in the fifty-second year of his present Majesty entitled 'An act to continue until three months after the commencement of the next session of Parliament and amend an act of the last session of Parliament for making more effectual provision for preventing the current gold coin of the realm from being paid or accepted for a greater value than the current value of such coin; for preventing any note or bill of the governor and company of the Bank of England from being received for any smaller sum than the sum therein specified; and for staying proceedings upon any distress by tender of such notes; and to extend the same to Ireland;' and whereas the said act was continued by an act of the last session of Parliament until the 25th day of March, 1814; and whereas it is expedient that the said act should be revived and further continued:

*"Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said act shall be, and the same is hereby, revived from the said 25th day of March, 1814, and be further continued from thence during the continuance of any act imposing any restriction on the governor and company of the Bank of England with respect to payments in cash."*

Mr. STEVENS. Mr. Speaker, I have asked for the reading of these acts, not for the purpose of making them the subject of any remarks of my own, but to place before the House the facts, lest there should remain in the minds of any portion of the House the idea that the bill which I introduced was a proposition to legislate without consideration and without examination; was an absurd bill which was justly subject to the jeers of wittlings out of Congress. My bill was formed precisely upon the principle of the acts of Parliament which have been read, adapting the provisions to the condition of this country. There were one or two amendments which I thought ought to be made, more particularly to except the contracts of the Government from the operation of one of its provisions. Hence, instead of presuming to act upon my own judgment, I asked that the bill should be referred to the Committee of Ways and Means for deliberate consideration. Yet a hornet's nest was stirred up about the gold-rooms; some of our friends here were stung, and acting without consideration, believing that a most unheard-of measure had been introduced, they precipitately killed the bill, without a word of it being understood.

Now, sir, I do not say that that bill, if passed, would have been effectual to cure the evils against which it was directed; but I thought the measure worthy of consideration, inasmuch as the English Parliament, under precisely similar circumstances, in a most arduous and difficult war, had four times enacted a bill of a similar nature, and had continued it not only through the war, but until 1823, the period of the resumption of specie payments in Great Britain. I do not say, sir,

that that measure in England was an entire cure of the evil which it sought to remove; for such is not history. But it was a great palliation of the evil; and instead of gold reaching 250, it stopped at the rate which it had attained, and when that law was made perpetual, gold sunk to six above par, and before long—eight years before the resumption of specie payments—it was but two and a half above par; and three or four years before the resumption it was at par. Now, sir, I thought it worthy of consideration whether a similar measure might not have a similar effect here.

Certainly I should never have complained on my own account of the action of the House in this matter; but I did deem it due to gentlemen who acted with me, and whom I have seen assailed in print for their vote on this subject, as being an ignorant and unwitting one, that I should show that the great statesmen of England introduced these very provisions into a bill in 1811 as an experiment, and found them to operate so well that they reenacted them in 1812, and again in 1813, and finally in 1814 made them perpetual. Those provisions might not have had the same effect here; but I thought it possible that they might, and I could think of no other means of reaching the evil. I have shown that my friends were justified by their knowledge of history and legislation, by their acquaintance with the wisdom of the ablest men that ever lived in England, in voting against the summary execution of the bill which was then before the House, and that those wittlings abroad who are so profoundly foolish on most things about which they write knew but little, and were learning but little wisdom either from history or experience when they treated this subject in the manner in which they did. I have introduced these acts for that, and nothing else; for I have no complaint to make of the action of the House. I did think, however, that it might be an act of benevolence to let the shallow sciolists know what big fools they had made of themselves. They may not learn anything, and I do not undertake to say that they will; but they have the opportunity.

But let it not be thought that I intend to urge this resolution, (for I have promised my friend here to withdraw it,) or to press any future action on the subject by the House. I would not willingly again throw my excellent friend from Maine [Mr. BLAINE] into convulsions, or the House into epileptic fits. No, sir; let it stand as it is; and, in the mean time, let this conspiracy go on, making sad havoc of the best interests of this nation, compelling the poor man and the rich to pay three prices for all the necessities of life, compelling the Government to pay three prices for all its supplies and munitions of war, and swelling the amount of the public debt, while we sit here, bound, helpless, trembling before the shoddy descendants of the sweat-cloth tribe of money-changers who were scourged from the temple.

Mr. BLAINE. Mr. Speaker, I desire to say a single word in correction of what has been said by the gentleman from Pennsylvania, [Mr. STEVENS.] I know that he did not intend to misrepresent the facts, but on one important point his statements are inaccurate.

The gentleman stated that the House had voted upon that resolution before it was printed, and before a single member had become acquainted with its provisions. I desire to call the attention of the gentleman to the fact that the Washington Chronicle of that morning contained the bill in full, and that in the brief remarks I had to make about it I read from the Chronicle several of its sections, among which were the following:

"2. That a dollar note issued by the Government, declared lawful money and legal tender, is declared of equal value for all purposes as gold and silver coin of like denomination.

"3. That a contract made payable in coin may be payable in legal-tender United States notes, and that no difference in sale or value shall be allowed between them."

And I may remark here, somewhat parenthetically, that these provisions at once negatived and condemned the law of the United States requiring duties on imports to be paid in gold.

Mr. STEVENS. I hope the gentleman from Maine will allow me to say a word. I have said already in my remarks that I believed my bill needed some amendment, and that for that purpose I wanted it to be referred to the Committee of Ways and Means. I stated explicitly that I wanted the proposition carefully revised.

Mr. BLAINE. I presume the gentleman from Pennsylvania intended to correct those provisions. I only quote them now to show the crude character of the bill as originally introduced, and to show the gentleman that the House understood it when it tabled the measure by so decisive a vote.

In regard to the specific line of the gentleman's argument to-day, let me say, Mr. Speaker, that I have read English history on this subject with different conclusions from those so confidently expressed by him. My impression is that the judgment of the British people, both contemporaneous and subsequent, was and is, that such prohibitory statutes as the gentleman has cited had no favorable effect upon the price of gold. That they did not have a prejudicial and disastrous effect is due to the existence of other powerful causes in England, whose operation and effect were most beneficial. Those causes for the decline and continued low price of gold are found, sir, in the fact that the British Parliament raised by taxation half, and sometimes more than half, of the vast amount annually expended in her gigantic struggle with Napoleon Bonaparte; and British arms were at the same time blessed with a series of brilliant and decisive victories. Indeed, the gentleman from Pennsylvania himself, somewhat unconsciously perhaps, admits the whole force of my position on this point; for he states that eight years before the English people resumed specie payment, in 1823, the premium on gold had fallen to a mere nominal rate. Yes, sir, I admit it; and I ask the gentleman what brought it there? Unconsciously, as I have said, the gentleman named the precise date of the battle of Waterloo, and the British victory on that memorable field was the cause of gold ruling low in London in 1815. By the battle of Waterloo England's supremacy was established; she had broken and beaten all coalitions against her, and was confessedly mistress of land and sea. It was her proud military position and her resolute system of finance that thus raised the value of her bonds and brought down the price of gold. It was not her prohibitory legislation at all; and no intelligent English historian has ever stated that it was.

Let us, sir, imitate England in raising our credit by wise legislation here, and by continued victories in the field. If we could raise half of our expenses by taxation, and could add to our many triumphs on land and sea a Waterloo victory over the hosts of the rebellion, we should need no such legislation as the gentleman has proposed to keep down the price of gold. When we reach that happy period of final triumph the gentleman's bill, if enacted, might prove harmless; but until then its manifest effect can be only injurious to the cause it seeks to serve.

Mr. STEVENS. I did not rise to discuss the provisions of the bill. I have already disclaimed all such intention. The gentleman has therefore mistaken me, as he has also mistaken in reference to the universal judgment of the British nation. I should like to know how the British debt reached £4,000,000,000 if one half was raised by taxes and one half by loans? I say that if we were raising by taxation the interest upon our public debt, and the world were satisfied of that fact, there would be no necessity of raising anything more by taxation of the people. That is not the difficulty. The confidence of the people in the Government remains unchanged. The difficulty is in the Government being compelled to buy gold, and to go abroad to the gold gamblers, who say that they hold so much money, and that the Government shall not have it unless it pays a high premium for it. I will not go back to our legislation on the subject; but I feel that England never had so absurd a law as to pay one part in gold and another part in Bank of England notes.

Mr. BLAINE. I ask the gentleman whether the bonds negotiated by England upon the Continent were not payable in gold?

Mr. STEVENS. I do not know.

Mr. BLAINE. Every one of them negotiated upon the Continent was payable in gold, both principal and interest. Every one negotiated at the Hague, at Frankfort-on-the-Maine, and elsewhere upon the Continent, was negotiated upon the gold basis exclusively.

Mr. STEVENS. She, of course, could not pay their Bank of England notes. She had to borrow money, and they were themselves a loan. I know that Austria pursued the same course that



we have done, part payable in gold, and the rest in paper, and that in consequence her paper money stood, in 1828, just as ours does to-day, as 250 to 100. That I know, for I have examined into the subject.

As I have said before, I do not rise up for any other purpose than to put my views on record, as I have done.

Mr. BROOKS rose.

The SPEAKER. Does the gentleman from Pennsylvania withdraw his resolution?

Mr. STEVENS. I have not heard what the gentleman from New York desires.

Mr. BROOKS. I want to speak five or six minutes.

Mr. STEVENS. Then I will allow it to remain before the House.

Mr. BROOKS. Mr. Speaker, the position of the gentleman from Pennsylvania, [Mr. STEVENS,] not only before this House but before the country, gives the highest importance to everything he does in reference to financial questions, more especially to the delicate relation of gold to paper money; and hence as the agitation he has created this morning is calculated to have effect upon an over-sensitive money market, he makes it necessary for us to correct any errors into which he may have fallen.

Mr. STEVENS. I have stated distinctly already, at the beginning and close of my remarks, that I designed to have no action on the subject.

Mr. BROOKS. I am glad of that. It affords some source of satisfaction.

But, permit me to say, while I am up, that when the gentleman alludes to the history of England as an example of financial action for us, he must take into consideration the difference which exists between our currency and our continental position and that of England, or else he will be led astray. In the history of British legislation on the subject of gold and paper he certainly finds precedents for the bad bill he here introduced, while he will find in France, throughout her revolutionary history, precedents which if followed here would be utterly destructive of currency, property, labor, and capital. The worst kind of anti-gold or paper laws are on the records of France, and the worst sort of laws as to legal tender, which I am sure the gentleman from Pennsylvania would never ask this House to adopt. Neither British nor French financial precedents can be useful to us, save to warn us from the rocks on which they were often wrecked.

And now, as to this history of England, there are three differences between us, which suggest themselves to me at the moment, and to which I ask the attention of the gentleman and of the House. The first is, that the notes of the Bank of England were accepted at the custom-houses and in the payment of duties throughout all Great Britain, making no unnecessary or extraordinary demand for gold, while here in this country a lively demand is constantly created by the action of the Federal Government in making gold and silver alone receivable at the custom-houses. Our bank notes are refused, while the Bank of England notes, I repeat, paid all duties in any of the ports of England, Ireland, or Scotland, and then these became as good as gold or silver.

Another great difference between us and England, and in consequence of which gold rises high here, while gold in England was low throughout the twenty odd years of the suspension of specie payment, was this great fact, that during all that time, or almost all of it, what is called the balance of trade was very decidedly in favor of England. England was the great export country. She had the carrying trade, more or less, throughout the whole world. The commerce of the earth was hers, while France, and other continental nations under French dominion, were altogether excluded therefrom. The manufactures of England were exported not only to Russia, and Austria, and Prussia, but throughout Spain and all the East. The consequence was, that during the greater part of the period of the suspension of specie payment the whole world was more or less indebted to Great Britain, and gold was rushing into England to pay for her surplus manufactures and exports. But that is not our history. I have not the figures before me this moment, but as near as I can recollect the financial history of New York for the past year (1864) made up to the 1st of January, I am substantially accurate when I state

that our imports and exports were two to one against us, reckoning in gold and silver. Our dry goods imports alone, freight and duty unadded, were about two hundred million dollars in gold, and our exports only \$100,000,000 in gold; so that any effort by law to forcibly regulate or control the market for gold, in view of the difference of exchange and the balance of trade, would only exasperate an already over-sensitive mercantile community, and raise the price of gold rather than assuage the demand.

Another great difference between us and Great Britain, and this is the third, is, that throughout nearly the whole of those twenty odd years of the suspension of specie payments the circulation of the Bank of England was limited almost, and in some fair proportion, to the specie or bullion in its vaults. The managers of the Bank of England, not always wise, very often unwise, were wise nevertheless in a curtailment of the circulation of the Bank of England notes as much as possible throughout that long period of suspension, while our policy from the beginning to the end has been an increase of the currency, an expansion of the currency, and the creation and manufacture of paper money of all kinds and characters, in quantities unknown to the world since the days of John Law and of the French assignats. The result of this excessive expansion of the currency is that this is the dearest market in the world to which things can be sent from abroad for sale, and hence, as luxuries are tempted here by paper, gold must be sent abroad to pay for them.

These are facts to which I wish to call the attention of the country, and the attention of the gentleman from Pennsylvania, [Mr. STEVENS,] to show what will be the effect of a gold bill like his in this country, based upon any logic of facts derived from the Old World.

Mr. STEVENS. The gentleman is arguing the main question, which I carefully avoided.

Mr. BROOKS. I understand that, but I want to show to the gentleman and to the country that the gold legislation of England would not be wise legislation here, and could not be wise legislation for a country so differently situated as ours is, nor do I think it possible to ordain by statute law the price of gold in this country. I do not believe that any penal laws whatsoever of ours can reach the dealers in gold. As I have before said in the House and in another debate, gold next to God is omnipotent in the land, above all law, above all sovereigns, and far beyond the reach of this or any other Congress whatsoever. Indeed, all those attempts which were made in Great Britain to regulate the price of gold were made in vain, as has been said by the gentleman from Maine, [Mr. BLAINE,] they had no practical effect whatsoever over the people of England, or over the commerce of England, except to increase the value of gold and increase illegal traffic to such an extent that at one period the light guineas of England actually passed in public for more than the heavy guineas of England, in consequence of such legislation.

Let me say to the honorable gentleman from Pennsylvania [Mr. STEVENS] that this high price of gold is a necessity of our position. I regret it; we all regret it; we all suffer from it. There is no consumer of any article whatsoever who does not pay the penalty of this high price of gold. But in my judgment no violent legislation, no threats of penal laws, will do aught but aggravate the price of gold, and increase the speculation. And if imprisonment, or even death, as was sometimes the case in France, are suspended over the speculators in gold, these transactions of commerce would then be turned into the hands of some new species of man, like our bounty-jumpers, and needy, profligate, reckless men, without responsibility, who would demand and receive high premiums for the risks which they were encountering in evading the law. Our true way to reduce the price of gold is to stop the inflation of the currency. There is no other way, in my judgment, certainly none so effectual as that.

However, I rose only from a misapprehension of the purpose of the honorable gentleman from Pennsylvania, [Mr. STEVENS,] I probably should not have risen if I had known that he intended to press for no legislation. I rose only to express my objection to any violent attempt to legislate against this omnipotence of gold, by which we

would but aggravate the very evil of which we all complain.

Mr. STEVENS. I said when I was up before that I would not enter into the merits of this question, although the country will doubtless be obliged to the gentleman from New York [Mr. Brooks] for having done so in his argument.

I do not believe, however, that the high price of gold is a necessity of our position. It arises, I think, from our vicious legislation. But excuse me from rambling from the point before the House. As I told you before, I will not detain the House, but will withdraw my resolution after my colleague [Mr. BROOMALL] has made what remarks he desires to submit.

Mr. BROOMALL. I opposed the introduction of this resolution upon the same principle that I opposed all such legislation at the last session, because I believe that while the action of Congress would not have the effect expected by my learned colleague, [Mr. STEVENS,] yet it would have a mischievous effect by raising the price of the commodity which he proposes to lower by it.

I do not propose at this time to enter into any argument upon this subject, but simply to say that I have devoted some attention to this question since the introduction of the gentleman's first bill, and I intend to take the earliest opportunity of demonstrating to the House, as far as my feeble powers will allow, that the price of gold is just as much beyond the reach of Congress, so far as any lowering of it is concerned, with the laws of trade operating in their present manner, as would be the regulating of the courses of the planets in their orbits. I intend to take that opportunity, when it shall arise, to give my views upon the subject.

Mr. STEVENS. I withdraw my resolution.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, through Mr. HAY, his Private Secretary; also a message announcing that he had approved and signed bills of the following titles:

An act (H. R. No. 478) for the relief of Charles M. Pott;

An act (H. R. No. 603) to extend the time allowed for the withdrawal of certain goods therein named from public stores;

An act (H. R. No. 618) to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

I herewith return to your honorable body, in which it originated, a "joint resolution to correct certain clerical errors in the internal revenue act" without my approval.

My reason for doing so is, that I am informed that this joint resolution was proposed during the last moments of the last session of Congress, for the purpose of correcting certain errors of reference in the internal revenue act, which were discovered on an examination of an official copy procured from the State Department a few hours only before the adjournment. It passed the House and went to the Senate, where a vote was taken upon it; but, by some accident, it was not presented to the President of the Senate for his signature.

Since the adjournment of the last session of Congress, other errors of a kind similar to those which this resolution was designed to correct have been discovered in the law, and it is now thought most expedient to include all the necessary corrections in one act or resolution.

The attention of the proper committee of the House has, I am informed, been already directed to the preparation of a bill for this purpose.

ABRAHAM LINCOLN.  
EXECUTIVE MANSION, January 6, 1865.

The SPEAKER announced that the first question was upon reconsidering the vote by which the House passed the joint resolution referred to in the message of the President.

The joint resolution was then read.

On motion of Mr. STEVENS, the message of the President of the United States, together with the joint resolution, was referred to the Committee of Ways and Means.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, announcing that they had passed the House bill entitled "An act making appropriations for the payment of invalid and other pensions of the United States for the year

ending the 30th of June, 1866," with an amendment, in which they requested the concurrence of the House.

#### PUBLIC BUILDINGS IN TERRITORIES.

The SPEAKER. The morning hour having expired, the next business in order is the consideration of House bill No. 342, making appropriations for public buildings in the Territories of Colorado, Nevada, Dakota, Idaho, Arizona, and Montana, that bill having been postponed till the 19th of December, after the morning hour.

Mr. RICE, of Maine. I move the further postponement of that bill until the first Tuesday in February.

The motion was agreed to.

#### WRITS OF ERROR AND APPEALS.

Mr. BOUTWELL, by unanimous consent, introduced a bill to facilitate judicial proceedings on writs of error and appeals; which was read a first and second time, and referred to the Committee on the Judiciary.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, in order that we may resume the consideration of the President's message. There are one or two gentlemen who desire to be heard on that subject, and I do not know that there will be any better opportunity.

Mr. DAVIS, of New York. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield for a few moments. I desire to move to take up House bill No. 622, returned from the Senate with amendments.

Mr. STEVENS. I cannot give way for that purpose.

The motion of Mr. STEVENS was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DONNELLY in the chair,) and resumed the consideration of the President's annual message.

Mr. CRESWELL. Mr. Chairman, the result of the recent election expresses the deliberate purpose of the American people that slavery shall be abolished. Slowly and painfully, but yet surely, has the nation advanced to that determination.

It was the settled conviction, often expressed, of a large majority of the framers of our Constitution that slavery was an unmitigated evil, to be tolerated for a time only, that it might be the better abrogated. But in later times certain of the political priesthood, seduced by the Circean lures of a new deity, quarreled with an opinion which, however sound in morals and politics, must, they said, be denounced as false in principle, because it set at naught the craft of those who made silver shrines, and prevented the spread of the worship of that great goddess whose snowy robes the zephyrs had wafted down from Jupiter. These new guides soon informed the country that an irresistible sense of duty compelled them to undertake the reform of an error so palpable and mischievous. Selecting Whitney's laborious invention as the emblem of the most advanced civilization, they inscribed thereon an epitome of their improved creed in these words: "Slavery is right and ordained of God. Whoever will not accept this faith is an infidel. Let him be accursed;" and when they had done so, much people cried with one voice for the space of many years, "Great is Cotton of South Carolina!"

Vanquished by their fears; trembling lest harm might come to the Republic; willing to accept any system, however monstrous, if only the Union might be preserved, men everywhere gave way to the exactions of slavery, until it ruled with imperious sway Congress, court, and President alike, and held at its beck and call all the power of a mighty Government. But not content with its absolute authority; not content that it had conquered in almost every struggle with freedom, and by sanction of law could stretch its iron scepter over half the States and all the Territories; in an hour big with the fate of the western world slavery summoned its hosts to arms, hurled defiance full in the face of the starled nation, and insolently boasted that by the power of the sword it would soon plant its throne upon the ruins of the Republic.

Thousands who would fain have spared slavery,

so long as it was peaceful, were compelled to take up arms for their country when slavery became belligerent; but even then they were unwilling that the monster, who had incited to "foul revolt," should be unaviled. From every section of the land where loyalty still held sway, the cry at first went up, "Down with treason and rebellion, but spare the institutions of the South;" and when they said "institutions" they meant slavery. They had been so long accustomed to hear the "peculiar institution" lauded as altogether harmless and immaculate, that they would not believe that it could ever appear in any other garb than that of peaceful industry. In their eyes the slave, sitting in the ashes of his servitude, was the "lars et penates" of every slave-owner's household, and it was necessary to protect the "right of property" in order to preserve the sanctity of the homes of "our southern brethren." While thus fondly dreaming of conducting war upon strictly fraternal principles, the first Bull Run was fought and lost, and "our southern brethren" celebrated their triumph by snaking finger-rings and drinking-cups out of the bones of the Yankee barbarians whom they had slain in battle; and the chivalrous Beauregard, swaggering like any blatant bully beneath the doubtful honors of his accidental victory, could find in his soldier's vocabulary no words but those of insult and brutality wherewith to respond to the simple request of a heart-broken sister who had asked to be permitted to recover an honored brother's dead body for the purpose of Christian burial. Can you recall an instance where a drop of water or a morsel of food was given to one of our unfortunate brothers who fell into the hands of the enemy on that field because he was a conservative and would save slavery? Did a single hero of all who were stricken down in the bloody battles before Richmond, or in the campaign of the second Bull Run, or at South Mountain, or Antietam, receive from a rebel foe one generous act of kindness because of his moderation on the subject of slavery? I venture to say, no. With the rebels nothing has been known but determined, inveterate, revengeful, malignant, savage war. Their conduct, persisted in with every aggravation of cruelty, at last forced the most unwilling minds to the conclusion that it was folly to continue the effort to put down armed rebellion by moral suasion.

Satisfied that they were engaged in a struggle of life or death the people could no longer deny that if they would not be destroyed they must inflict every injury upon their enemy consistent with the laws of war. The stern necessity of self-defense first secured a reluctant support to the President's proclamation of emancipation. Momentous considerations of political economy, morality, and religion, though for a long time held at bay, since then have been gradually forcing themselves upon the public mind, and steadily widening and strengthening the grounds of opposition to slavery. After two years' trial, such as nations are rarely subjected to, the people have risen to a clearer sense of their duty, and now desire to dispel all legal doubts, and to make that proclamation good for all time, and universal in its application, by amendment of the Constitution.

Whatever may have been heretofore our obligations, express or implied, to tolerate slavery, and not to expose its true character, we are now absolved from all such obligations by its own wickedness. Slavery's oath of fealty to the Union has been falsified by its treason. We are no longer bound to protect it from harm or shield it from scrutiny. It is our foe, and in order that we may ascertain whether it can ever become our friend it is now our duty to lay bare its whole life and record.

What, then, is slavery? The picture would be too crowded, were I to attempt to portray it as it has existed in all the States of this Union. I shall speak only for Maryland, a slave State for more than two and a quarter centuries. I am a native of Maryland. I have lived all my days within her limits, and I hope when my appointed time shall come to be buried beside my forefathers, who, for generations back, sleep upon her bosom. I love my State as ardently as any man can love the spot of his nativity. I love her for much of her past history, to me a glorious record of manly deeds and noble heroism. But more than all do I love her, because, though in these

latter days, tempted, deceived, almost betrayed by some of her own most trusted sons, who, after making her drunk with passion, strove to lead her off into rebellion, and to array her children, brother against brother, in deadly strife, yet I now have the glorious assurance that she has risen above these pernicious influences; that she has expelled her mischief, and purged "off the baser fire victorious;" that, "clothed and in her right mind," though still pale and suffering from her wounds, self-inflicted in her terrible folly, she has come in good time to renew her faith once before pledged to the sacred covenant of our Constitution, and has told the story of her victory, thus: "O Freedom! I have abjured all association with the foul superstition of slavery. My sacrifice I now lay upon thy altar. Here are the chains which once held in bondage eighty-seven thousand human beings. I have stricken them off with my own hands, and throughout my fair domain there is not a being in the image of God who is not free."

Thus slavery in Maryland is of the past. Let our statutes and law reports, still uncleansed, tell what it was.

The Legislature by the act of 1715, chapter forty-four, section twenty-three, declared it to be the law "that all negroes and other slaves already imported, or hereafter to be imported into this province, and all children now born or hereafter to be born of such negroes and slaves, shall be slaves during their natural lives;" and the Maryland Code, volume one, article sixty-six, section one, reaffirms that declaration. The full import of this simple provision is not seen until you are told that every negro was presumed to be a slave; that no negro or mulatto was admitted as evidence in any matter depending in any court, or before any justice of the peace, where any white person was concerned; and that the fact of a negro's going at large and acting as free, or not being claimed by an owner, was not admissible as evidence of freedom. Nothing could relieve a negro from any claim set up by a white person, unless he could establish his freedom, or the freedom of his ancestor, by the grant or devise of his former owner. (Code, volume one, article thirty-seven, section one, and article sixty-six, section forty-two.) A slave could have no rights adverse to his master. He could neither sue personally nor by *prochein ami*, nor be sued, nor acquire any rights under a deed which either a court of law or equity could enforce. Nor could he enter into any binding contract with his master, (4 H. & J. 507, 9 G. & J. 19.) The only standing which a negro, claimed as a slave, could have in any court of civil jurisdiction was as a petitioner for freedom; but even in that case he was such a legal nonentity that he could not make an affidavit in support of his prayer, while the most exclusive and arbitrary rules of evidence were brought to bear against him, so as to confine him to strict record proof.

The master was *absolute lord*; the slave and the slave's posterity were *abject bondmen*. The master had not only a right to the labor and service, but he had an absolute property in the flesh and blood and bones of his slave, and, if a female, of her issue. (Sutton vs. Crain, 10 G. and J. 458.) Thus a bequest for life of the use of a female slave vested in the legatee a property in the issue, born during the existence of the life estate, for the life of such issue; and the issue of a female slave for a term of years, or for one year only, was a slave for life. The slave could sustain none of those relations which give life all its charms. He could not say my home, my father, my mother, my wife, my child, my body. It is for God to judge whether he could say my soul. The law pronounced him a chattel, and these are not the rights or attributes of chattels.

To seek his freedom by flight made the slave a felon; and, as if to reward barbarity and place a premium on human blood, the slave-owners, when they made law in Maryland, wrote it down:

"If any runaway slave shall resist the person who attempts to arrest him, and such slave happens to be slain for refusing to surrender himself, such killing shall be deemed justifiable; and any slave so killed shall be paid for by the State, his value to be ascertained by two impartial and reputable men, not of kin to the owner, who shall be appointed by a justice of the peace, and sworn to value such slave at his fair value, and who shall certify their valuation to such justice, who shall certify such valuation, oath, and appointment, to the comptroller, who shall thereupon issue his warrant to the treasurer to pay the same."—Code, vol. 1, art. 65, sec. 11.

That provision stands upon the statute-book of Maryland to-day. The last Legislature refused to repeal it, because, they said, it was necessary to preserve the system. "Thou shalt not kill," thundered God from Sinai. Cursed, then, be the system that cannot endure save by wanton homicide. It reads, "and any slave so killed shall be paid for." Paid for by whom? By the slave-owners? No. By all the people of Maryland, of whom 503,000 were non-slaveholders and less than 14,000 were slaveholders. But patience! the last few months have changed all that. This famous section eleven of article sixty-six of the Code of Public General Laws, which justified murder and extorted tribute from the despised mechanic and the toiling laborer to pay the wealthy slave-owner for the negro whom he, or his myrmidon, had *happened* to slay, has been deprived of its death-dealing virus. It is no longer the law; it is but the shameful record of an overthrown tyranny.

But from this galling servitude was there no deliverance? Could not the faithful and devoted slave, who had been obedient unto his master in singleness of heart as unto Christ; who had aided in supporting the burdens of the family; had felt all its sorrows, and shared in his humble way in all its joys; who had nursed the master's children one by one, and had borne them "on his back a thousand times;" who had fondly watched each stalwart son as he grew up to man's estate, and gave him his blessing as he went out from the old homestead into the battle of life; who had toiled on, adding to the master's wealth from year to year until the gray hairs, gathering upon the temples of master and slave alike (for time, like God, has no respect of persons) had admonished them that their days of active life were almost numbered—could not such a slave (and there are such, for I have seen them,) be granted his liberty? Could not he be made a freeman, and be allowed to sit in his own cabin during the evening of his days, and gather his wife and children about him and call it *home*? Such a question would have been deemed an insult in the days of our fathers. They were humane. They made a law and confirmed it over and over again, that the slave could be manumitted. From the beginning of our State history, they were accustomed to grant freedom as the best of all gifts to the meritorious bondman. So liberal were they, that besides the freedmen, whom they prevailed upon to return to Africa and settle in the colony of Liberia, there were 83,942 free colored people still among us in 1860—a number almost equal to that of the slaves.

These free colored people, laborious and inoffensive, peaceful and unobtrusive, with no political rights, yet yielding implicit obedience to the laws, which in turn secured them in their persons and property—these people were marked for destruction by these modern partisans of slavery. They had determined that Maryland, in despite of all the honored traditions and Christian sentiments of her people, should be devoted to perpetual slavery, and that every interest, no matter how great or vital, that stood in the way of their designs, should be sacrificed. They dominated everywhere, and at their bidding the Legislature passed an act of Assembly (1860, chapter two hundred and thirty-two,) presenting to the free colored population of the State the unrelenting alternative of banishment or slavery. So shocking to humanity, so horrible in its consequences, was this atrocious iniquity, that even they dared not attempt to enforce it without first securing the approval of a popular vote. To this end they submitted their scheme to the trial by ballot in eleven counties, and endeavored to cajole the honest masses into its support; but the people turned with loathing from a measure so utterly unjust, and recorded their condemnation of it by overwhelming majorities. And so this infamous project for the enslavement of all the free of a helpless race failed, and failed signally.

But the slave-owners did not abandon their purpose. Ten years before they had made a constitution for Maryland, into which they had incorporated these provisions, side by side:

"The Legislature shall not pass any law abolishing the relation of master and slave as it now exists in this State."

"No person shall be imprisoned for debt."

With one hand they riveted still more strongly the shackles of the slave; with the other they opened the prison doors of the debtor. With one

breath they declared that the white man never should be a slave, and with the next that the black man never should be a freeman. They abolished one relic of barbarism and perpetuated another; and in this they were working for themselves, for while they owned the negroes they owed the debts.

Having, as they believed, secured slavery from the assaults of the people, who were becoming more and more in favor of emancipation, they did not waste a thought upon the inconsistency which they had thus recorded. But when, in 1860, they found that during the last decade the free negroes had increased from 74,723 to 83,942, and that the slaves had decreased from 90,368 to 87,189, they saw that, if they would perpetuate their sway, they must either cease selling the increase of their slaves to the South, or stop all manumissions. Once more in the history of slavery, humanity was trampled under foot by avarice, and they chose, of course, the latter alternative. Forth with they again invoked the aid of the Legislature, and that assembly, ever obedient to their summons, was not slow to respond. This band of most skillful political prestidigitators, after manipulating the whole body of our statutes for months under the direction of their master, suddenly threw down to the people the present code, which they declared by solemn legislative act contained the entire revised statute law of the State; and to make good that declaration, they repealed all laws and parts of laws not contained therein. When the people came to examine this grand treasure-house of legal lore, they found, under the heading Manumission, printed in large letters, but very little of the old law left. Two sections only remained, of which the first said, "No slave shall henceforth be manumitted," and the second, "Any free negro before the age of eighteen may become a slave for life." This was manumission with a vengeance. This was a piece of legislative plesantry that for eighty-seven thousand men, women, and children, converted all the future into eternal night. But they did not stop there. They fortified their joke by penalties, and passed other laws making it criminal for any owner of a slave to permit such slave to go at large, or hire himself, or for any person to make any contract with a slave for his services. These provisions finished the business, and condemned the slave and all his posterity to interminable bondage, or starvation, under the penalty of death, if seen attempting to escape; and made every master, in spite of the dictates of his judgment or the stings of his conscience, a slaveholder, living or dying.

All this was done when slavery was omnipotent in Maryland, when it brooded over our legislative assemblies and courts of justice like death, and with its "mace petrific" remorselessly smote down into political obscurity every man who would not strangle the better instincts of his nature and applaud their merciless code as the perfection of wisdom and loving-kindness. Little did these conspirators against the human race think that they were but God's instruments for the downfall of their own cherished system. So soon has the retribution come, that had they listened even in the hour of their imagined triumph they might have heard the quickening footsteps of outraged justice, at last tortured into action and forced to assume the part of the avenger, hurrying onward to interpose her sword between the pitiless and exacting master and his wretched and hopeless slave.

The deliverer came, and at the sound of her voice every shackle fell and the slave was transformed into a freeman and a soldier. Ten thousand of Maryland's black men have joined our armies. How worthily they have worn their uniform of blue and borne the standard of the Republic onward to the gates of death, let the stricken field of Olustee, and the war-blasted hills around Petersburg, and the blood-baptized parapets of Fort Gillmore answer. The only eulogium they need is what history, scorning to falsify, shall write down with her iron pen.

If we inquire how could a Christian people be reconciled to a series of laws so cruel and despotic, the first answer that will suggest itself will be, slavery is profitable. Let us examine into that.

Maryland has an area of 11,000 square miles, with unsurpassed advantages for commerce and manufactures, with an agreeable climate and fertile soil, with valuable mineral deposits and immense supplies of timber, with ready access to

the ocean, and with navigable streams traversing in almost every direction her entire eastern and southern sections. She has the great bay of the Chesapeake, stretching its full length from north to south. The Potomac river forms her southern boundary. She lies almost between the three great emporiums of the country, New York, Philadelphia, and Baltimore; the latter city being her own commercial center. Massachusetts, with a severer climate, a more sterile soil, and with commercial and manufacturing interests scarcely equal to those of Maryland, has an area of only 7,250 square miles. In 1790 Maryland had a total population of 319,728, and Massachusetts of 378,717, the difference being less than sixty thousand. But in the race of the next seventy years the old Bay State far outstripped "My Maryland." In 1860 Maryland had a population, the State over, of only 687,049, while Massachusetts could muster 1,231,066, and could fairly boast of more than double the wealth of Maryland.

Compare New Jersey, with but three fifths of the area of Maryland, lying almost between the same parallels of latitude, with a territory almost contiguous, and a soil of like character and capacity, with no great central city as a nucleus for her wealth and trade, and not relieved from the blighting influence of slavery until 1820; and it will appear, that though in 1790 New Jersey had a population of only 184,139, but little more than half that of Maryland, yet in 1860 she made returns of 672,035 inhabitants, only 15,000 behind Maryland, and showed her wealth to be \$467,918,324, exceeding that of Maryland by more than one fourth.

But it is unnecessary to make contrasts between different States. Our own presents the most complete demonstration of the unprofitableness of slavery. Freedom has for many years past been gradually gaining on slavery in Maryland. For the last decade our State has been substantially half free and half slave. From the counties north and west of the Patapsco and Sassafras rivers nearly all the slaves had disappeared, while almost the entire slave population had been gathered to the south and east of those rivers. Down to the boundary line between slavery and freedom marched the conquering spirit of progress, carrying in her train the blessings of prosperity and industry, and there halted as peremptorily as though a fiend in the way had barred all further advance.

The free counties contained in 1850, 980,147 cultivated acres, while the slave counties had 1,747,623; but the free lands were valued at \$47,851,615, while the slave lands were worth only \$41,779,616. The farms in the slave counties average 143 acres, and are each worth \$3,433. The free farms, averaging only 101 acres, were yet worth \$4,935 each. The free land was worth \$48, the slave land \$23 per acre.

But the increase in population is still more marked. Exclusive of Baltimore city, there was in 1790 in the seven free counties a population of 105,457, which in 1860 had swelled to 232,301—an increase of one hundred and twenty per cent. The total population in the fourteen slave counties amounted in 1790 to 200,612, in 1860 to only 242,330—an increase of only twenty per cent. In seventy years the whole slave section had added but 41,718 to its population, while in the same time that of the entire free portion had increased 325,693. It thus appears that the increment of population in the slave counties was much less than might have been expected from natural causes alone; and that if the increase throughout the State had been only in proportion to that of the slave counties, our aggregate population in 1860 would have been only 383,674 instead of 687,049.

In 1860, the total foreign population of the State was 77,536, of which about one third, to wit, 24,248, was increase since 1850; but this immigration was confined almost exclusively to the free counties. In Cecil county, the only free county of the Eastern Shore, there were in 1860 1,343 foreigners; in the other seven counties of the same shore, all being slave counties and containing together more than five times the population of Cecil, there were in all only 641 foreigners. Not only did slavery prohibit immigration; it did worse. It condemned our own native-born citizens to banishment. In 1860 there were 137,258 native Marylanders living in the other States of the Union, while, on the other hand, we had re-



ceived from the other States but 40,694, of whom by far the larger part had settled in the free counties and Baltimore city, leaving a deficit of 96,564.

Why need we look further into the record? Figures always condemn slavery, and statistics are its irreconcilable foe. Travel through our State at your leisure and you will clearly see that slavery has been a most ungrateful mistress for Maryland. It has wasted our resources, paralyzed our industry, checked our growth in wealth, population, and all substantial interests, refused ingress to the intelligent and enterprising of other States and countries, and has even driven our own young men into exile. So far as we have advanced at all we have done so in spite of slavery, and by driving it before us. And so it is everywhere. Says Cochran:

"This history of slavery knows no change. It is in all places, it has been at every epoch, an obstacle to the systematic peopling of the earth, an obstacle to the propagation of the gospel, an obstacle to the modest elevation of the inferior races, an obstacle to the progressive civilization of the superior races. The moralist calls it a crime, the historian and economist a scourge."

But Maryland has been liberated from her servitude of centuries. Her limbs, so long benumbed beneath the weight of an unendurable burden, are fast assuming the vigor of a new life. In the presence of treason and rebellion traditional prejudices could no longer steep the minds of men in forgetfulness. Startled patriotism invoked the aid of religion and humanity, and, uniting in the discharge of a sacred duty, they totally destroyed every vestige of slavery. Our new constitution on the 1st day of November last decreed freedom, unrestricted, unconditional, uncompensated, absolute, and universal throughout the State. In cordial recognition of that glorious achievement the President has proclaimed to the world that "Maryland presents the example of complete success. Maryland is secure to liberty and Union for all the future. The genius of rebellion will no more claim Maryland. Like another foul spirit, being driven out it may seek to tear her, but will woo her no more."

Already she has begun to reap the advantages of emancipation. The worthy, the industrious, and the provident are hastening to settle among us. To illustrate the practical effects of the change, I read the following extract from the Baltimore American of a late date:

"ONE OF THE RESULTS.—The abolition of slavery in Maryland is being attended with the good results the friends of emancipation expected. A steady stream of emigrants from our sister States, particularly Pennsylvania, is pouring in upon us, now that 'free labor' has become a settled fact. In every county of the State large sales of land have taken place during the past two months, and the purchasers are men who intend to settle in our midst, and who do not purchase for the sake of speculation. The worn-out and half-tilled tracts of the large slaveholder, in the hands of farmers who till their grounds by free labor—who encourage free schools, and all the accompaniments of free institutions—will soon place Maryland in the position among the free States that she should have occupied long ago. The following, from the Denton Union, published in Caroline county, is an indication of the revolution taking place: 'Mr. James G. Redden has sold his farm near the town, containing near three hundred acres, to Mr. Jacob L. Zook, of Cumberland county, Pennsylvania, for \$9,000. It is a healthy and desirable residence.'

"Mr. Redden has also sold the 'Mansion Farm,' formerly the residence of the late William Jones, near Andersonstown, to Mr. J. W. Clive, of Cumberland county, Pennsylvania, but at what price we have not learned."

"Mr. Redden also sold his Burnsville farm, near the Delaware line, to Mr. Tobias Miller, of Cumberland county, Pennsylvania, containing one hundred acres, for \$3,500."

"We have always understood that the land in Caroline is among the poorest in the State, and believe that the prices above specified are remarkably good. 'The Union,' in commenting on the above sales, says: 'We would advise all persons, whether residents here or elsewhere, who wish to purchase farms in this country, to do so speedily, before the price of lands goes up. They are cheap at present, but how long they will remain so, now that Maryland is a free State, no one can tell.' 'The Somerset Herald,' in an extract which we published yesterday, says that 'more land is wanted; northerners continue to visit this county, [Somerset,] looking for farms.' Well may the President say that 'the genius of rebellion will no more claim Maryland.' That day is gone forever."

We extend to all who are anxious to better their condition a most cordial invitation to come and cast in their lot with us. We have no fears of the "barbarous hordes" of the North. On the contrary we say ho! all Yankeeedom, and every other land under the sun where boys are taught, and men practice, the lesson, that honest labor is not discreditable. Send down your hardy sons, and we will greet them right heartily. We want your enterprise and capital, your strong arms, your courageous hearts, and your ever-active

brains. Come on, then, Mr. Yankee, cheat us if you can; my word for it, you will not do so more than once. We shall soon learn to take care of ourselves. Meanwhile we will receive you as equals, and take the chances at a bargain. But remember, we shall impose one condition, a violation of which will work a perpetual forfeiture of all the rights and privileges ever granted you; that is, that you shall swear eternal hatred to slavery and to its offspring, the rebellion.

Gentlemen of distinguished ability have urged objections against this amendment of the Constitution which they assert are insuperable. They exclaim, "Oh, the terrible change! You will take these poor negroes from their comfortable homes, provided by the watchful care of their masters with abundant supplies of all the necessities of life, and cast them forth upon the world utterly destitute and naked. They will perish." I accept as genuine the protestation that this objection is prompted by an honest feeling of sympathy, and will endeavor to answer it as it deserves.

We must bear in mind that the negro race does not stand at as low a point in the estimation of the ethnologist as it did five years ago. At that time it was claimed that all experience in this country established the assertion that the negro could not exist without the watchful supervision of his master, and that the black race was a necessary complement of the white race in the southern States, the one furnishing the physical and the other the intellectual power. But war is as subversive of theories as it is of mere physical obstacles, and under its stern mandates life-long convictions may be stormed as easily as military positions which before were deemed impregnable. Who now will assert, in the face of the facts transpiring everywhere, that the negro cannot be made a soldier? That nonsense has been exploded by the rebels themselves, many of whom, and it is said General Lee among them, now clamor for a general arming of the slaves. If they so order it, well; men who have handled muskets do not willingly become slaves; least of all will they become again the slaves of masters whose cause, when lost, they were armed to win; nor will they win a cause which, if won, will reward their prowess with fetters. Who now will assert that the negro will at the first opportunity rush into insurrection and every excess of barbarism? Answer me fairly—who, since the negro has been permitted to bear arms, has been most distinguished for the display of the Christian virtues in the field, the former slave or the former master? When you can prove against the negro soldier the horrible atrocities of Fort Pillow, Libby prison, Belle Isle, or Andersonville, I will grant you he is a savage, and should be banished from civilized life.

I do not deny but that in this great tempest of the social elements there may be in some localities much suffering among the freedmen. So there has been perhaps to an equal amount among the white refugees. The war has imposed many and appalling hardships. They are already upon us. We must provide for them whether we adopt this amendment of the Constitution or not. But let peace be restored, revive the industrial pursuits, say to the negro, hereafter you shall work for hire, and shall receive and appropriate your own wages; and as sure as it is the law of God for the white man that truth is better than error, and freedom better than slavery, so will experience vindicate the same great principles for the black man.

This point needs no elaboration. You must either permit the blacks to be free or return them to bondage. Suppose you reenslave them after having enjoyed a taste of liberty, would they not suffer tenfold more than if they remained free? Undoubtedly they would.

In my own State the freedmen properly appreciate their position. In fact, the slaves, for the most part, knew beforehand from actual intercourse with those of their race previously manumitted what would be expected of them after their emancipation. I have heard no complaints of their idleness or dissipation. All of them with whom I have conversed seem to understand that they must work for an honest livelihood. They were never better behaved. Obedient, cheerful, and happy, they appear anxious by their good conduct to reward the efforts of those who labored to make them free. I regret nothing that

I have done for them. On the contrary, I rejoice that I have been able to contribute to the restoration of the rights of humanity to a down-trodden race. When passing along through life I encounter these poor freedmen, and hear one of them say, "Master, God bless you," I feel none the worse that the prayer of a fellow-mortal, black though he be, upon whom I have aided in conferring something more of happiness, has been offered up in my behalf.

The helplessness of the blacks used to be a favorite topic of conversation among the slaveholders of Maryland, but since emancipation has been in course of development very little has been heard from them on that subject. When Jeff. Davis's statesmanship had begun to bear fruit, and a fearful suspicion had gradually dawned upon the enlightened understanding of his followers, that instead of making slavery supreme, he had simply knocked out its brains and given its carcass to the dogs, fear made them tell the truth, and we then discovered that helplessness was chargeable more to the masters than to the slaves. "Gracious Heaven!" they exclaimed, "if we lose our slaves, how shall we get along? Why, we never worked a day in our lives." And when in the course of events the loyal white people of Maryland for nearly three years had been marching their fathers and sons and brothers to the war, many of them to return no more, and when at the board of almost every loyal family the place of some loved one could be filled only by the cherished memory of a gallant soldier who had nobly died for his country, those who had suffered thus, seeing the slave-owners actually profiting by the scarcity of white labor, began to ask, Why are not the burdens of this war made equal? Why are not the slaves put into the Army and allowed to fight? At the mere asking of such grossly unconstitutional questions a wail went up from the slave-owners (except a few, to whom all honor) that rent the heavens. They cried out "Oh! spare us, spare us; our work is to be done, and our slaves must do it. Go on with the draft, and let the white men who are unable to pay commutation go to the war." But notwithstanding these most affecting entreaties, the able-bodied male slaves nearly all volunteered. After they had gone the owners were indiscreet enough to complain, because, as they said, all the strong men having been taken they would be taxed with the support of the women and children, the helpless and infirm, and they piteously asked to be relieved from so much unrequited expense and care. This alleged grievance coming to the ears of one having the power to remedy it, he at once made it known that he would relieve the owners from the charge of all the negroes whom they were unwilling to retain, and would provide for their transportation by sending a steamer to any accessible point that might be designated. Strange to relate, not one application was made for transportation. There was an instantaneous conversion of all who before complained; and like good Christians they forthwith acknowledged the obligation resting upon them to protect and provide for the imbecile creatures over whom Providence had placed them. But the most ludicrous refutation of all such complaints was given the other day. Even before the election for the adoption of the constitution had been held, the slave-owners, profiting by the signs of the times, began to ransack the statutes of the State in search of some legal device that would enable them to secure for a few years more the services of the infant slaves. Scarcely had they fished up an old apprentice law, which the lawyers told them would answer their purpose, when lo! and behold, they gathered up the little darkeys of both sexes and crowded them into all conceivable kinds of vehicles until they looked like over-populous nests of blackbirds, and then conveyed them with all possible haste before the orphan's courts and had them bound out to their former masters. Many of the owners, although the result of the election was then unknown, actually manumitted the children before the 1st of November, and had them bound immediately in order that they might deprive their parents, who were still slaves, of the right of being consulted after their emancipation as to the disposition of their own offspring.

You will not wonder at my confidence in the improvement of the negro race when I relate an incident which came under my own observation.

Our struggle for emancipation was fierce and closely contested. For a long time the result was in doubt. The soldiers' vote finally settled it in our favor by a majority of more than four hundred; but the advocates of slavery, unwilling, though fairly beaten, to surrender a field which they had held so long without dispute, did their utmost, after the election, to defeat the voice of the people, by a resort to protests, and injunctions, and writs of mandamus, and every other device which the ingenuity of counsel could invent. The Governor's proclamation, declaring the triumph of the friends of freedom, in spite of rebel votes and the "law's delay," did not reach the southern section of the State until Monday, the 31st October, when a steamer from Baltimore brought the official document. A Union meeting was held that day at Cambridge, in Dorchester county, at which it was made known, to the infinite disgust of every faithful follower of Jeff. Davis, that the next day would see Maryland a free State. I know not how the word passed; I saw no flashing beacon, nor flaming brand, nor speeding courier; but as I traveled in open carriage that night to fill an appointment next day, more than fifty miles away, it seemed as if the very air had borne the glad tidings before me. All Africa was abroad; some on horseback, some in wagons, but nearly all on foot, moving along, singing and joyful. When, later in the night, I was journeying wearily through the sighing pines, my curiosity was excited by the fact that ever and anon a bright light would suddenly burst upon me. Knowing that country people were usually at that hour a-bed, these lights were a mystery to me. Turning to my companion, I asked an explanation. He replied, "The lights you see are at the meeting-houses of the negroes, who have met for the purpose of holding watch-meetings to welcome in the 1st of November." The mystery was explained. The negroes had assembled at midnight, in their rude churches, hastily built by the roadside, in the woods, or down at the marshes, to watch for the advent of their day of jubilee, in order that they might receive their earliest experience of Heaven's priceless gift to man—thrice-blessed liberty—while on their knees before the Father of all. Surely, a people who will thus dedicate the first moments of their freedom to God are worthy to be free.

But it has been urged with great earnestness that it is not within the scope of constitutional amendment to interfere with the domestic institutions of a State; and that in no event should slavery be abolished without compensation. That the Convention which framed the Constitution did not sustain either branch of this objection will not remain in controversy if we but refer to the debates of that body.

On the 8th September, 1787, Mr. Madison moved to postpone the consideration of the proposition then pending, in order to take up the following:

"The Legislature of the United States, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States, shall propose amendments to this Constitution, which shall be valid, to all intents and purposes, as part thereof, when the same shall have been ratified by three fourths, at least, of the Legislatures of the several States, or by conventions in three fourths thereof, or by one or the other mode of ratification may be proposed by the Legislature of the United States."

This is the same as the text of the main clause of article five, with an amendment afterward introduced, so as to require a convention on application of two thirds of the States, and with a few merely verbal amendments.

Mr. Hamilton seconded the motion, so that it was supported in the beginning by two of the clearest minds of the Convention.

Mr. Rutledge said he never could agree to give a power by which the articles relating to *slaves* might be altered by the States not interested in that property and prejudiced against it. In order to obviate this objection, the first proviso was added, in these words:

"Provided, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses of the ninth section of the first article."

It will be observed that by its own terms this proviso ceased to operate after 1808.

When the same article again came up for consideration, on the 15th September, Mr. Sherman said he thought it reasonable that the *proviso in*

*favor of the States importing slaves should be extended* so as to provide that *no State should be affected in its internal police, or deprived of its equality in the Senate*; and he forthwith moved to add the following, as a further proviso:

"That no State shall, without its consent, be affected in its internal police or deprived of its equal suffrage in the Senate."

Whereupon Mr. Madison said, "Begin with these special provisos, and every State will insist on them for its boundaries, exports, &c." The motion of Mr. Sherman was then negatived by a vote of three States to eight. Mr. Sherman then moved to strike out the article altogether, but this was negatived by a vote of two States to eight, and one divided. It was then that, on motion of Mr. Gouverneur Morris, the second proviso, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate," was carried without a dissenting voice. This second proviso, mark you, differed from Mr. Sherman's proposition in this only, that it omitted the words "be affected in its internal police."

Now, here is an express refusal by the Convention to impose upon the power of amendment a restriction that would have exempted the "internal police" of a State from its operation. The restriction was asked for as a concession to slavery, was opposed by Mr. Madison, and was voted down largely. It cannot be said that the South did not then desire some security in the Constitution against emancipation; for Mr. Pinckney, on three occasions, asked for just such a provision; and it was frequently urged by Mr. Rutledge, and others, that North Carolina, South Carolina, and Georgia, would demand even more, and would never agree to the Constitution unless their right to *import slaves* be untouched. In regard to all which demands and threats the sentiment of the Convention could not be better shown than by citing the ever-memorable remark of Mr. Madison that "he thought it wrong to admit in the Constitution the idea that there could be property in men." (Elliot's Debates, volume 5, pages 357, 457, 478; 487, 531, and 551.) It is but fair to infer from the admitted opposition of a large majority of the framers of the Constitution to slavery that they intended that the country should ultimately get rid of that evil by a resort to the power of amendment, and more especially is that inference justified when the further fact is considered, that the Convention actually refused to except "the internal police of the States" from the operation of the clause of amendment.

If, then, the power of amendment extends to the abolition of slavery, and that it does is too clear to admit of a suspicion of a doubt, with what propriety can any slaveholder ask for compensation? They entered the Union with a full knowledge of the existence of that power, and they held their slaves afterward subject to the right of the people of the United States in accordance with the forms prescribed to prohibit human bondage. How then can the slaveholders complain of injustice if the people shall choose to exercise their notorious privilege of amendment? But the case is infinitely worse when we advert to the many efforts at conciliation made in the beginning of the rebellion, and find that before the insolence of the slave power had culminated in actual war the Congress proposed, by the necessary majority, an amendment to the Legislatures of the States, whereby the people were to be deprived of all power of interference with slavery in the States by amendment of the Constitution of the United States, and that this proposition, which, if accepted, would have been a perpetual guarantee, was scornfully rejected. Nothing would satisfy the propagandists of slavery but war, terrible war. And now, after the nation has been compelled in defense of its life to expend its treasure by thousands of millions, and sacrifice hundreds of its best and bravest on almost every hill-top and in almost every valley of the South, who is so craven as to speak of compensation for slaves when their emancipation was made necessary by the rebellion of their masters?

I have heard it said of the rebels, "Woe them with gifts. Pay them for their losses." Is it meant that we shall load our already heavily burdened constituents with one more subsidy that defeated traitors may not suffer the penalties of their own acts? Is it meant that we shall charm

them back to loyalty by paying them the money of a people whom in striving to ruin they have ruined themselves? I would rather say with King Henry of Bolingbroke,

"Shall our coffers then  
Be emptied, to redeem a traitor home?  
Shall we buy treason? and indent with foes,  
When they have lost and forfeited themselves?  
No, on the barren mountains let them starve;  
For I shall never hold that man my friend,  
Whose tongue shall ask me for one penny cost  
To ransom home revolted!" [Davis and his crew.]

Who is so weak as to believe that the rebels can be appeased by concessions to slavery, or that the war can be ended otherwise than by destroying their military power? Have they ever given us reason to entertain any such expectations? Their president, their congress, the chiefs of their armies, all of their officials, high or low, who have spoken upon the subject, have always insisted that they will tolerate but one plan of adjustment, namely, that which provides for separation and disunion. Where is the evidence that the rebels will stop the war and return to the Union if we will not destroy slavery? I challenge its production. It nowhere exists. The issue is sharply defined between the rebellion and the United States. On the one side is disunion for the sake of slavery; on the other is freedom for the sake of the Union. In the beginning of the war the rebels, to justify their resort to arms, seized the priestess of prophecy, and compelled her to adopt the sentiment that the Union could not continue with the States part slave and part free. They construed the words literally, and then, by their own voluntary acts, verified the prophecy as they interpreted it. They have demonstrated that the conflicting systems of free and slave labor cannot be reconciled under a republican form of government, but rather that they will develop into political antipathies, which will ultimately, like smoldering, but inextinguishable fires, burst into the full blaze of civil war.

Others may doubt and fear, but I believe that slavery is doomed. In my judgment, if the people of the southern confederacy, so called, were made independent to-morrow they could not preserve their favorite institution. If this Congress were to promise to protect it for them, could that promise be redeemed? Could you ever again enforce a fugitive slave law? No human power can again so far stifle the voice of nature as to hush into submission the denunciations of slavery, which rise like exhalations from all parts of the land. Civilization everywhere speaks for liberty. Russia, by her grand act of emancipation, has banished serfdom from Europe. England, France, Denmark, Sweden, Holland, and Portugal, have all crossed the ocean to liberate the bondman. Less than seven millions of slaves remain within the bounds of Christendom; and for four millions of these we stand responsible in the sight of God and man. Knowing all this, the enlightened, determined, and irrepressible sentiment of the nation cries aloud, "Away with slavery, away with slavery!" So long as we hesitate and delay this great work we can have no peace. Whether we would or not, we must *establish freedom* if we would *exterminate treason*. Events have left us no choice. The people have learned their duty, and have instructed us accordingly. Let us do our part, and, as their heralds, proclaim universal freedom. Having thus declared a policy, plain, but imperishable, our armies, while winning a glorious and enduring peace, will secure by the same crowning victories the enfranchisement of the human race, and so brighten the future with blessings for the oppressed and enslaved of all the earth, that posterity, amazed at the magnitude of their achievements, will record that as they marched,

"High in front advanced,  
The brandished sword of God before them blazed  
Fierce as a comet."

"The brandished sword of God?" ay, "the brandished sword of God!" He has led this holy crusade for country and for freedom. When men despaired because they could discover no solution of the dreadful enigma which slavery propounded; when even the churches quailed before it and prostituted the Bible to the propitiation of the monster, God came to the rescue, and solved the riddle by destroying the sphinx. If God is nowhere else recognized in the Constitution, nevertheless He

will speak in every word of this amendment. His providence has nursed it into being. Out of the hard discipline of civil war He has evoked and made intelligible to all men a thought divine, which will ever serve as a guiding inspiration for the nation in its toilsome search to discover by the lights of experience the true philosophy of free government. Therefore, when peace shall again reign with unbroken sway from ocean to ocean and from the lakes to the gulf, and freedom, no longer vexed by the sight of a slave, shall sanctify to perfect fruition the inestimable fruits of labor, then, mindful of their great deliverance, let all the people, as they emerge from the stormy waters and tread again the dry land, join in the song of him who aforetime led his brethren out of bondage:

"Who is like unto Thee, O Lord, among the gods? who is like Thee, glorious in holiness, fearful in praises, doing wonders?"

"Thou in Thy mercy hast led forth the people which Thou hast redeemed; Thou hast guided them in Thy strength unto Thy holy habitation."

Mr. STEVENS. Mr. Chairman, I beg leave to detain the House but ten minutes. If I had a speech to make I should have too much prudence to deliver it until the eloquence of the gentleman from Maryland [Mr. CRESWELL] had ceased ringing in our ears. But I wish to say a few words upon the President's message. It is brief, (a great virtue in public documents,) it treats of subjects of deep importance, not only to this nation but to the whole family of man. I do not think I am extravagant when I say that it is the most important and best message that has been communicated to Congress for the last sixty years. The style of an executive document is not always expected to be of the highest order, but is often criticised by a carping Opposition. Although the President has never made much pretension to a polished education, yet I nowhere see the least fault found with the composition of his late message. So deeply was he impressed with the greatness of his subject, so free from that vain-glorious and selfish ambition that leads to an inflated and vicious taste, that he expressed his ideas in the purest and simplest English, which, in my judgment, is hardly surpassed by the happiest efforts of Addison. This, however, is of but little importance compared with its principles.

The gentleman from New York [Mr. Brooks] condemns two positions taken by the President. I shall not attempt to answer his elaborate speech, so full of literary and historic allusions, which in superficial scholars might look like pedantry, but in the learned gentleman are but the natural and graceful overflow of a well-stored mind.

The two topics which he condemns are, first, that the war must go on without seeking negotiation; and second, that the war must continue until slavery is abolished throughout the United States.

I think the gentleman will find but few loyal men who will agree with him that this Government should sue for peace. For it must be remembered that very few of those who voted for General McClellan were peace men. A few very respectable members of the Democratic party were desirous that the North should submit rather than continue this civil strife. Mr. Vallandigham was among the most prominent of that class. Whatever may be said of him now, I have always looked upon him as among the most able, sincere, and gentlemanly of his party; yet when he lately ran for office in his own State the people almost unanimously deserted him. What could have left my excellent and able colleagues on the Committee of Ways and Means so far behind the distance-pole at the late election? Their personal accomplishments and high characters deserved a better fate. But so hateful (to the people) was the cowardly suggestion that we should lay down our arms to armed rebels, that even their virtues did not save them from the overwhelming condemnation of the people. And yet when the intelligent electors of the nation so gloriously and bravely determined that there should be no compromise with armed traitors, the gentleman from New York condemns the President because he did not disregard that instruction and seek reconciliation with parricides and rebels.

Sir, I give the President all honor for his course on this question. Never had a man to decide so

important a question under such difficulties. He was obliged to decide it for himself, not only unaided, but in the midst of the most distracting counsels. I am disclosing no secret when I state that his Cabinet has never been a unit. He could receive no aid from them; and I am mortified to be obliged to say that elsewhere, where he had a right to expect wise suggestions, he found nothing but timidity, hesitancy, and moral cowardice. From the moment the great victory was known, while salvos of cannon were proclaiming to the world the virtue and firmness of the people, the controlling journals of the party, and able gentlemen whose standing seemed to justify them in tendering their advice, joined in urging the President to pursue the very course which the gentleman from New York now condemns him for not doing.

It is easy to see what perplexities surrounded him. The peace party of copperheads, and the Chicago convention before the election, and his own leading friends after the election, all beseeched him to humble the nation before defiant traitors and ask a compromise. He took counsel of his own wiser judgment, stood firmly erect, and saved the nation from disgrace. There never was a day since Abraham Lincoln was elected President that he stood so high, or deserved to stand so high in the estimation of the people as at this moment. For purity of heart and firmness of character he would compare well with the best of the conscript fathers. But the chief anxiety of the gentleman is to save from destruction the darling institution of the Democratic party, the institution of human bondage. The gentleman condemns the President's determination to insist on the abandonment of slavery.

In this every man of real humanity and justice throughout the whole world will differ with the gentleman, and posterity will record their abhorrence of his doctrines in impartial history.

There was a time in our history when the gentleman might excuse himself for protecting slavery by the provisions of the Constitution. But as war, declared by the rebel belligerent, has abrogated that obligation, and broken the ligament that tied us to that infamous institution, he can have no excuse, no palliation for his defense of it but his innate love of its horrid principles. And yet the gentleman has exhausted the stores of ancient and modern history, sacred and profane, in its defense.

He declares its extinction impossible, and says that no nation ever attempted to produce homogeneity among its inhabitants. He tells us that neither Rome nor Greece, neither the Achaean league, nor any other confederate nation, found homogeneity possible, and hence it is not possible here.

If the gentleman means by homogeneity that all the people must be of one race, then he is right. Confederations are supposed to be of different tribes and languages. But Rome did not hesitate to incorporate conquered nations among her own citizens. She seized the Sabine women for their wives. When she conquered Alba she not only transported the inhabitants to Rome, but colonized the conquered country. But the question of homogeneity has nothing to do with the abolition of slavery. If the gentleman had shown that confederations could have no uniform laws operating over all their members, he would have argued to the point. This is a question of the *uniformity* of national laws operating over the whole republic. If our national organic law be so improved as to exclude slavery from the nation, what is there to prevent its uniformity throughout the Republic? When the assembly of the Achaean league passed a law, it bound every member of the confederation. When the Amphictyonic council decreed, it pervaded every State within its jurisdiction. When the Swiss council pass laws, they operate equally through every canton. In all of these cases the municipal laws of each member of the confederacy remained, except where they were in conflict with the national law. In our Republic we have laws acting uniformly over every State. Where they are in conflict with the local municipal laws, the latter must give way. In all things else the States are supreme. Our revenue laws are uniform—the same in South Carolina as in Massachusetts; and any adverse municipal law of the State would be void.

Our laws regulating the Army and Navy are uniform. Our national bankrupt laws reach over the whole Union, and annihilate any opposing State bankrupt law. The Constitution itself provides for its own amendment. There is no subject with reference to which it cannot be amended. If, then, the amendment recommended by the President, and supported by the Republican party, abolishing and forever prohibiting slavery within the Republic should prevail, what is there to prevent its operating uniformly over every State? The local laws, where not controlled by the paramount Constitution, would still exist. It will take sharp eyes to see anything in the historical cases cited by the gentleman that militates against the possibility or feasibility of such a homogeneity, if the gentleman calls it by that name. Uniformity in the laws relative to slavery is all that is asked; that is rendered impossible only by the sturdy defense which the gentleman and his associates make for the most inhuman and now the most despised of human villainies. The gentleman wishes the war to cease; so do we all. There is one way by which the gentleman and his friends can end it.

Those who believe that a righteous Providence punishes nations for national sins believe that this terrible plague is brought upon us as a punishment for our oppression of a harmless race of men inflicted without cause and without excuse for ages. I accept this belief; for I remember that an ancient despot, not so cruel as this Republic, held a people in bondage—a bondage much lighter than American slavery; that the Lord ordered him to liberate them. He refused. His whole people were punished. Plague after plague was sent upon the land until the seventh slew the first-born of every household; nor did they cease until the tyrant "let the people go." We have suffered more than all the plagues of Egypt; more than the first-born of every household has been taken. We still harden our hearts and refuse to let the people go. The scourge still continues, nor do I expect it to cease until we obey the high behest of the Father of men. We are about to have another opportunity to obey this command. We are about to ascertain the national will by another vote to amend the Constitution. If gentlemen opposite will yield to the voice of God and humanity and vote for it, I verily believe the sword of the destroying angel will be stayed and this people be reunited. If we still harden our hearts and blood must still flow, may the ghosts of the slaughtered victims sit heavily upon the souls of those who cause it. If it were given to man to look back from a future world and know what posterity will say of them, I fear the gentleman from New York, when he has gone hence and left nothing but his fame behind, would blush at the record which impartial history will make on this subject.

Mr. COX. Mr. Chairman, this debate has been confined hitherto to the other side. I dislike to interrupt its fraternal tone; nor shall I call attention to questions that are foregone, discussed, and disposed of in the late election. But after the remarks of gentlemen something should be heard from this side of the Chamber.

The gentleman from Pennsylvania [Mr. STEVENS] follows the example of the President in his message; he makes an earnest appeal to us of this side to vote for the constitutional amendment abolishing slavery. He has made that appeal in a well-digested speech and with more than usual solemnity—in the name of God and humanity. He has also referred to the gentleman from New York, [Mr. Brooks], who will no doubt give him a fitting answer. It is only my purpose now to return the interest taken by gentlemen in our opinions and future action, and to make an appeal to my friend from Pennsylvania and to the gentlemen with whom he is so paternal. I make this appeal with all the earnestness of my nature; not in the name of the avenging God whom he invokes, but in the name of the God of mercy, that if it be possible, the further effusion of blood in this most unhappy country shall be stayed.

The gentleman will tell me, as the gentleman from Maryland [Mr. CRESWELL] has said, that there is no opportunity of producing such a result without making a peace that would be dishonorable; that we have no sign from the rebel authorities at Richmond indicating anything except that



they will adhere to their ideas of national independence.

Without expressing my own opinion on that point, I ask gentlemen to consider carefully what they ask of us. Do you not wish our aid in carrying a proposition to change the Constitution and the form and structure of our federative system in its most essential feature? Do you not wish us to annul the municipal control of each State over domestic matters? Is your proposition simply to abolish slavery? Or is it a measure to invest the Federal Government with authority to enslave the local white citizen, hold him in vassalage to a central power, and assume the right to dictate to the States what their home policy shall be on home affairs? In fine, is it not an abstract scheme to enfranchise the black, who is really being freed by war, by a total change in the very genius, soul, and body of our Government?

When you make a request so momentous, may I not respectfully demand that you should first try, in real, genuine, honest, *bona fide* earnestness, to reach the men in the South who are refractory, insurgent, and belligerent; that you should endeavor to bring them back, if you can, to their old fealty to an unchanged charter and to an unmutated Union? Ah! do gentlemen tell me that such a suggestion is disloyal and traitorous? Does the gentleman from Pennsylvania characterize it by the ordinary political language which, in the heat of party strife and passion, is applied to the Democratic party?

He refers to a distinguished journal on the other side. I refer him now to a journal of the Republican persuasion, edited by a gentleman now upon this floor, (Mr. Horace Greeley.)

Mr. STEVENS. The gentleman will allow me to say that when I referred to distinguished journals they were journals of the Republican and not of the opposite party.

Mr. COX. I was about to refer to a journal of that character to answer the gentleman. When he stigmatized gentlemen upon this side with epithets which in decorous debate I will not repeat, I ask him to read the New York Tribune of yesterday morning. It is edited by a gentleman who I now see in this Chamber conferring with members on that side in reference to a *project* of peace. [Laughter.] Will he peruse that article and then reproach the leading editor of his own party for holding precisely the same opinions entertained by members upon this side?

Mr. STEVENS. Will the gentleman allow me?

Mr. COX. In one moment.

Mr. STEVENS. I do not wish to interrupt the gentleman. I wish merely to say that I know the opinions of the gentleman to whom reference is made. He is distinguished, patriotic, able. He does not want me to refrain from saying what I think, and I do not want him not to say what he thinks. I never agreed with him in reference to proposing peace.

Mr. COX. I know that the gentleman does not agree with the "distinguished, patriotic, able" editor of the New York Tribune; but that same distinguished, patriotic, able editor was voted for by his party for elector for the State of New York at large. He will soon cast his vote for the President whom the gentleman has just now so highly eulogized. And now I tell the gentleman from Pennsylvania that it is hardly consistent or just for him to speak as he does of my colleague [Mr. PENDLETON] and the party which upheld him; to characterize members upon this side of the House as "copperheads" and "traitors" because they have been peacefully inclined at proper times, on proper occasions, and for patriotic purposes, when they only hold to the identical doctrine contained in the New York Tribune, whose editor is so able and patriotic! But let the article speak for itself. I will send it to the Clerk's desk to be read for the information and instruction of gentlemen on that side.

The Clerk read, as follows:

"Our special Washington dispatch gives, we have no doubt, along with many bits of idle gossip, the true explanation of Mr. F. P. Blair's abortive mission toward Richmond. The gist of the matter is, that Mr. Blair, believing that he might, by visiting Richmond, pave the way to a just and lasting pacification of the country, proposed to go there, and the President, while he declined to give the visit an official character, saw no reason for preventing it.

Mr. Blair, accompanied by his son Montgomery, accordingly repaired to General Grant's headquarters before Richmond, but was not allowed to proceed further because the Secretary of War, believing no good could be effected by his proposed conference with the confederate chiefs, saw fit to intimate to General Grant that he did not approve Mr. Blair's proceeding, nor believe that it could result in any good; which General Grant very naturally interpreted as a hint from his immediate superior not to allow Mr. Blair to pass his lines on his way to Richmond. Mr. Blair has thereupon returned, per force, to Washington.

"Assuming this to be substantially the truth of the matter, we cannot doubt that a majority of the American people will regret Mr. Stanton's decision. We do not know, and have at no time felt confident, that the rebels are yet prepared to agree to any terms of pacification that our Government either would or should deem acceptable; but we can imagine no possible harm that could result from ascertaining precisely what they are ready to do. The recognized object of war, at least among civilized and Christian nations, is an honorable and satisfactory peace; and how are we to know when this end has been rendered attainable unless we take some means to ascertain? An established, rightfully constituted Government, combating an armed and menacing rebellion, should strain every nerve to overcome at the earliest moment the resistance it encounters, and should not merely welcome but seek satisfactory (however informal) assurances that its end has been attained. It cannot afford to give countenance to even a groundless imputation that it contemplates with satisfaction a continuance of hostilities for their own sake, on any ground of mere punctilio, or for any other reason than because it is compelled, by an absorbing regard for the very ends of its existence. In our judgment, therefore, assuming that we have a correct apprehension of the leading facts, Mr. Stanton has made a grave mistake, one that the country will not be inclined permanently to acquiesce in."

Mr. COX. Now my friend from Pennsylvania characterizes the author of that publication as a distinguished and able patriot. He does not even now, after hearing the editorial read, withdraw that expression from Mr. Greeley. Yet for holding and propagating the same opinions held by the delegates who met at Chicago and nominated General McClellan; held by my colleague [Mr. PENDLETON] who was on the ticket with him, enunciated in the letter of acceptance of General McClellan when he spoke of "exhausting all the resources of statesmanship practiced by civilized nations and taught by the traditions of the American people consistent with the honor and interests of the country, to secure peace and reestablish the Union;" enunciated in that letter with even more emphasis and distinctness than in the platform adopted at Chicago, and whose transcript in letter and spirit is to be found in the very language of the editor of the New York Tribune; for entertaining and stating these Christian and statesmanlike sentiments, the gentleman from Pennsylvania regards a Republican as a distinguished patriot but a Democrat as a traitorous "copperhead."

Why does not the gentleman, who is always bold and defiant in his expression, denounce that editor who is now conferring with his brother Republicans about peace? Why does he not have the rules of the House read and drive him as an interloper from this Chamber? [Laughter.] Why does he confer with Mr. Blair, the supposititious ambassador, who, even now as I speak, is also present in the Chamber? Why are ye all in conference here, so suspiciously near and fraternal, if it is not to carry out the very ideas promulgated at Chicago, and for which one million seven hundred and fifty thousand people in this country gave their patriotic votes? What answer can the gentleman from Pennsylvania make? None, unless he heaps reproaches upon his own party and the very able, distinguished, and patriotic elector, who will cast his vote for Mr. Lincoln, or unless he withdraws the unhandsome language used by him toward the Democratic party and its nominees.

Mr. Chairman, I am not insensible to the appeal of the gentleman from Pennsylvania. I answer his appeal in the name of God and humanity to vote for the abolition amendment by beseeching him, in the first place, before he asks us to disturb our political system and the established order, and to change the old ideas and forms connected with municipal liberty, and the legislation of domestic matters by State sovereignty; before he asks us to change the organic law of this land for seventy years, I beseech him that he will, at least, try to ascertain, formally or informally, whether there is any hope of these insurgent States, yet in most formidable, consuming, and flagrant war, returning to the "established and rightfully constituted Government." I beseech this in the name of civilization and Christianity—

God and humanity! I pray for it on behalf of nearly two million white men who have voted these enlightened sentiments.

Do you tell me that you will only hear from Mr. Davis that he will only stand on the independence of his republic? Very well, let us hear that. It will be unwelcome; but let us know it. There is a million of people who believe that Davis and the men associated with him would treat upon the basis of the old Union, or at least that however negotiations might begin, they would thus terminate. I do not say that I believe it. I do not say that members upon this side believe it; but I say, in the language of this able, distinguished, and patriotic editor, let us at least "take some means to ascertain" that fact. Let us discard punctilio and reach the fact. No harm can come from its ascertainment. If the confederate president refuses to confer upon the basis of the unamended Constitution and old Union; if he will not help to reestablish peace upon the old order, or at least as near to it as the passion and strife of men have made it possible and practicable, will not our knowledge of that fact inspire a more healthful and united sentiment among the people, even if it do not influence our votes upon the amendment as to slavery? Therefore, I ask the gentleman from Pennsylvania whether it would not have been best before he makes these pathetic appeals in the name of the Father of men and the God of humanity to have made an attempt by Christian and rational methods to stanch the bleeding wounds of the body-politic, to save the shedding of blood, to stop the increase of taxation, the accumulation of debt, the destruction of values, and the everlasting iteration of penal laws on our Federal statute, to stay, if possible, the maiming and killing of men, and the tears of widows and orphans, the desolation by fire and sword of our land, and to save, oh! yes, before it is too late forever, to save the Union while it may be worth the sacrifices made for its salvation. Will he not give up something on his part? Give up his doctrine of negro equality? Give up his idea of breaking down State institutions by Federal law?

Mr. STEVENS. The gentleman will allow me to say that I never held to that doctrine of negro equality.

Mr. COX. Then I understand the gentleman from Pennsylvania not to hold that all men are created equal?

Mr. STEVENS. Yes, sir, but not equality in all things—simply before the laws, nothing else.

Mr. COX. I ask the gentleman to give up his idea of the equality of the black and white races before the law.

Mr. STEVENS. I won't do it. [Laughter.]

Mr. COX. When you make such touching appeals as you have just made to us, may I not ask you in return, in the name of the white race of America, to yield something on your part and in their behalf?

Mr. Chairman, I did intend this morning, had the opportunity offered, to present some resolutions. I have them here, drawn up in the language of the "patriotic, able, and distinguished" editor of the New York Tribune. I shall offer them at a convenient opportunity. I would not deprive gentlemen upon the other side of a chance to show their civilization, their Christianity, their hatred of rapine, desolation, and bloodshed, their love for the Union and the Constitution, by voting for at least some effort, as Mr. Greeley recommends, to ascertain the disposition of the insurgent States.

I am not clear as to the best mode to ascertain this disposition. Perhaps it would be best to send the honorable Mr. Blair and his venerable father to Richmond. Perhaps it would be best to send the distinguished gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. Oh, no; I do not think I would get back. [Laughter.]

Mr. COX. I do not know. The gentleman has such a persuasive way. He can appeal with such pathos to God and humanity; he would make such kindly and pious appeals to those in rebellion against God and humanity, that he might induce them at least to consider a proposition for peace, founded upon their old allegiance.

Mr. Greeley is not specific as to the best way of ascertaining what we desire; judge ye, there-

fore, whether it is best to send commissioners or agents, or receive from them commissioners here; whether by ascertaining if they will meet us in national convention and abide by its judgment in all points in dispute, or whether we should, to use the language of General McClellan, echoed now by Mr. Greeley, exhaust all the arts of Christian and civilized statesmanship and the traditions of our nation to bring these recusants back to their old Constitution. Civilization as practiced by the most refined nations regards every effort at peace as humane and honorable; and Christianity would regard, even toward the heathen, and certainly toward our brethren, all such efforts as inspired by the very genius of humanity, moderation, and mercy. In this spirit let us make some effort. Try it. No harm can come from trying; and if it fail, we on this side of the Chamber will be better ready to consider your proposition to change the organic law.

Mr. Chairman, I would like before I conclude to have read from the Clerk's desk the resolutions which I shall hereafter propose to the House. They are almost in the language of the editorial in the Tribune, modified to suit the circumstances under which they are offered. The civilized or Christian portion of the Republican party shall have a chance of putting themselves on the record before they ask formally for a vote on the constitutional amendment. I ask to have the resolutions read.

The resolutions were read by the Clerk, as follows:

Whereas the country hails with manifestations of patriotic joy and congratulation the victories recently achieved by our brave armies; and whereas "the recognized object of war, at least among civilized and Christian nations, is an honorable and satisfactory peace; and that although we do not know that the insurgents are yet prepared to agree to any terms of pacification that our Government either would or should deem acceptable, yet as there can be no possible harm resulting from ascertaining precisely what they are ready to do; and in order to refute the imputation that the Administration contemplates with satisfaction a continuance of hostilities for their own sake, on any ground of mere punctilio, or for any reason than because it is compelled, by an absorbing regard for the very ends of its existence; and whereas "an established and rightly constituted Government, combating armed and menacing rebellion, should strain every nerve to overcome at the earliest moment the resistance it encounters, and should not merely welcome, but seek, satisfactory (however informal) assurances that its ends has been attained;" Therefore,

Resolved, That now, in this hour of victory, which is the hour of magnanimity, and before any action be taken to change the Constitution of the United States, it is eminently the duty of the President, on the basis of the present "rightfully constituted Government," either to send or receive commissioners or agents, with a view to national pacification and tranquillity, or by some other rational means known to civilized and Christian nations, secure the cessation of hostilities and the union of the States.

Mr. MORRILL. I move that the committee do now rise.

Mr. PRUYN. Will the gentleman from Vermont be kind enough to withdraw that motion for a few moments?

Mr. MORRILL. Certainly, if the gentleman desires it.

Mr. PRUYN. I have only a very few words to say, and I am sorry that the distinguished gentleman from Pennsylvania [Mr. STEVENS] is not present to hear them.

Mr. STEVENS. I am here.

Mr. PRUYN. I beg your pardon, sir. I am very glad that you are here.

I have only to call attention to the very great change that has taken place in the sentiments of the gentleman from Pennsylvania on the subject of the rebellion and of the status of the people of the southern States. We on this side of the Chamber—I, at least, speaking for myself, and I believe for the body of my friends—claim that the Union has never been dissolved, but that it exists in its integrity till this day; that the people of the South are rebels against the laws and the Constitution; and that the whole object of the present struggle is to put down that rebellion and bring the rebels back to obedience.

In the very memorable speech which the gentleman from Pennsylvania made to this House at the last session, perhaps the most memorable of the session, and which was listened to with the greatest interest on both sides of the House, he told us, in substance, that by the proclamation of blockade in 1861 we had acknowledged the South as belligerents; that they were a foreign Power; that the war was a war between nationalities, and

was not a war to put down the rebellion, and, consequently, that the rebels had all the rights of belligerents, were entitled to be treated as such, and had been treated as such by all the Powers of Europe; and that we, in consequence of the act of our own Government, were bound to treat them in the same way. But now I understand that gentleman to have entirely reversed his position, and to claim that the people of the South are simply rebels against our laws, and that the war is carried on to put down the rebellion. In that he does not occupy the position which he occupied during the last session.

Mr. STEVENS. Mr. Chairman, how did I make myself so misunderstood? From what does the gentleman infer that I have changed my opinion?

Mr. PRUYN. I will quote the language which the gentleman used last year.

Mr. STEVENS. I remember very well what I said last year; but wherein have I changed? I have only said that the South having for a time maintained their independent government and raised armies, and we having blockaded their ports and Europe having deemed them belligerents, they were by the laws of nations belligerents. I tried to prove that, and thought I had done so. I tried to prove that they stood in relation to us, in their belligerent character, the same as any foreign nation. I hold the same now, and I do not know to what the gentleman refers when he supposes that I have changed that opinion. I hold still just what I held then. And I hold further that they shall never, by my vote, come back into the Union unless as new States organized from conquered territory.

Mr. PRUYN. I am quite right, Mr. Chairman, in the view that I took, and I will quote only one or two paragraphs from the gentleman's speech of last year, to show that if I understood correctly what he said this morning—and I think the committee agrees with me in that understanding—his position now is utterly inconsistent with the ground he assumed last year. Speaking of the rebel States, the gentleman says:

"No one acquainted with the magnitude of this contest can deny to it the character of a civil war. For nearly three years the confederate States have maintained their declaration of independence by force of arms. True, they have met with sad defeats. But success has not been all on one side. But what renders their position beyond controversy is, the great Powers of Europe have acknowledged them as belligerents, entitled from foreign nations to equal rights with the parent Government. What is still more conclusive, we have acknowledged them as belligerents ourselves. With unfortunate haste we blockaded their ports. A blockade is declared only against a foreign nation. If they were still members of the Union we should repeal the laws establishing ports of entry. A nation does not blockade itself. We have treated their captive soldiers as prisoners of war, not as rebels; we have exchanged prisoners; we have sent and received flags of truce. This is not the usage awarded to an unorganized banditti."

Now the gentleman comes here this morning and claims that they are not a foreign nation.

Mr. STEVENS. No, sir, I made use of no such expression, and nothing which can be tortured into it.

Mr. PRUYN. Very well; then the gentleman's position is not quite so favorable as I supposed it to be. What does he claim? For what were his citations from Scripture brought before this House, except to show that we were to execute vengeance upon these people? He spoke of them this morning as rebels, if I am not mistaken.

Mr. STEVENS. I cited Scripture to show that the Lord punished us for not abolishing slavery; and that He would continue to punish us until we did abolish it; not that He was punishing the South.

Mr. PRUYN. Not in one view of the case, I grant. But I certainly understood the gentleman to say, as well as I could understand him at the distance I sat from him, that it was our duty, our moral duty, our religious duty, to go and put down this rebellion as a rebellion, and not as a contest with a foreign Power. If I misunderstood him I beg his pardon. But I certainly think the House will concur with me in that view of the matter, and that the report of the debate will bear out that view.

Now, in reference to this point, which is one of the most important which was ever discussed in this House, and which brought the administration of this Government before foreign nations in the light of having virtually, through its promi-

nent public men, admitted the South to be belligerents. Now, if such be the construction given by this Government to our position toward the South, what right have we to complain of the conduct of the Powers of Europe in acknowledging the South as belligerents?

Shortly after this discussion took place, I referred to it in a conversation with a distinguished officer of the Army, one who stands high in the estimation of the Republican party, not only as a military but as a political leader. He said he perfectly understood the position of Mr. STEVENS, and that he had thought much of the views he had expressed. I said to him, "What right have we to find fault with the conduct of England in reference to the acknowledgment of the belligerent rights of the South?" And his prompt reply was, "None, whatever." Now we are to look upon these belligerents as one thing or the other.

Mr. STEVENS. I will ask the gentleman whether, after a people have maintained three years of civil war, have formed a government, have raised armies and maintained their existence for three years, does the gentleman blame England, France, or anybody else, for acknowledging them as belligerents—not acknowledging their independence? Does the gentleman so understand the law of nations?

Mr. PRUYN. I did not. I was only stating the position assumed by the gentleman from Pennsylvania, [Mr. STEVENS,] and others who hold with him.

Mr. STEVENS. I never assumed that position.

Mr. PRUYN. I claim that we are putting down a rebellion, not fighting a foreign nation, not fighting another nation. We commenced the attempt to enforce our Constitution and our laws. In that we are engaged. Every nation enforces its laws as it pleases. If there is a street brawl, you send out the police force of the city to put it down. If the sheriff is resisted in the serving of his process, you call out a competent posse comitatus to aid him. If it assumes larger proportions you call out the military. Yet the gentleman thinks that because we instituted the blockade to assist in the enforcement of our laws, we thereby acknowledge the South to be belligerents. I deny the inference; for in that proclamation of blockade, as I have before stated to the House, the occasion of it is distinctly set forth; the world is told that it is one of the means employed to put down the rebellion; and it closes with this significant declaration, which no publicist in the world can misconstrue: that when any person claiming any right on the high seas under this pretended confederation of States shall molest the commerce of the United States, that person shall be deemed guilty of piracy. Is that the language which one belligerent holds with regard to another? No, never; and I insist upon it that the President, by his proclamation of blockade, issued in 1861, never meant to acknowledge the South as belligerents, and by no fair construction of that instrument can they be made such.

Now, sir, the remarks made this morning by the gentleman from Maryland, [Mr. CRESWELL,] in advance of the remarks of the gentleman from Pennsylvania—and I had supposed those of the latter gentleman to partake somewhat of the same character, but he denies it, and I am bound to believe his statement—treated this controversy as one in which we were to inflict upon the South not only subjugation, but, as it were, vengeance. Now, sir, I utterly detest any such doctrine. Vengeance is not for us. The Almighty, in His wisdom, may inflict upon man such penalties and judgments as He pleases. We are bound down to certain rules of humanity and religion; for He has said to us, in words which cannot be mistaken, "Vengeance is mine; I will repay."

Mr. GRINNELL moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DONNELLY reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. DAVIS, of New York, the House (at twenty-five minutes after three o'clock, p. m.) adjourned.

## IN SENATE.

FRIDAY, January 6, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 20th of December, 1864, information in relation to the disposition of the land of the Sac and Fox Indians of the Mississippi, under the treaty of October 1, 1859; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in pursuance of the proviso to the first section of the act of Congress of March 3, 1869, a statement exhibiting the various amounts transferred from and to appropriations during the fiscal year ending the 30th of June, 1864; which, on motion of Mr. SHERMAN, was ordered to lie on the table, and be printed.

Mr. FOSTER presented a petition of non-commissioned officers and privates of the second Connecticut light battery, stationed at the mouth of White river, Arkansas, praying that the Army ration of 1863 may be restored, the present quantity of bread, flour, potatoes, and rice allowed being deficient; which was referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented a petition of officers of the Army, in the service of the United States with the army of the James, praying an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CLARK presented a petition of officers of New Hampshire regiments now in the field, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a petition of Brevet Brigadier General T. M. Harris and other officers of the Army, in the service of the United States on the James, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

He also presented fourteen petitions of officers in the military service of the United States, praying an increase of pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Charles Colburn, praying payment of a balance claimed to be due him for service in the United States Navy as yeoman of the receiving ship Ohio, from which it is alleged he was unlawfully discharged by the abolishment of the office by the President of the United States on the 31st of January, 1847, without authority of Congress; which was referred to the Committee on Claims.

Mr. HARLAN presented a letter of the Secretary of the Interior, addressed to the chairman of the Committee on Public Lands, transmitting a letter of the Commissioner of the General Land Office in relation to the grade and compensation of clerks in that bureau; which was referred to the Committee on Public Lands.

Mr. SUMNER. I offer a petition of citizens of Worcester, Massachusetts, calling on Congress to enact a law to secure a republican form of government and abolish and forever prohibit slavery in the United States. This is signed by Ichabod Washburn, a gentleman connected with business and affairs on a very large scale, one of the largest contributors to the internal revenue of the country that we have in New England. I move that the petition be referred to the select committee on slavery and freedmen.

The motion was agreed to.

Mr. MORGAN presented the petition of R. Reynolds and Charles Young, praying that the Commissioner of Patents may be authorized to issue a patent to them for an improved hay elevator, the application having lapsed, as is alleged, through an error by which the second patent fee was misapplied; which was referred to the Committee on Patents and the Patent Office.

## REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the petition of Blake

Brothers & Co., praying for the allowance of interest on certain certificates of indebtedness, reported adversely thereon.

He also, from the same committee, to whom was referred a petition of surgeons and assistant surgeons in the Army, praying for an increase of rank and pay, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 366) to remit certain duties on clothing materials imported for the use of the Sisters of Charity of St. Joseph, asked to be discharged from its further consideration; which was agreed to.

Mr. MORGAN, from the Committee on Printing, to whom was referred the resolution yesterday submitted by Mr. Wilson, that there be printed of the report of the Superintendent of the Coast Survey for the year 1864 twelve hundred extra copies for the use of the Senate, and three thousand copies for distribution from the office of the Coast Survey, reported it without amendment; and the resolution was agreed to.

## PENSION AGENTS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to inform the Senate how many agents for paying pensions there are in the employment of the Government; how many in each State; what their pay is; how they are appointed, and under what law, and whether there are any limits as to number.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed, without amendment, the bill (S. No. 367) to repeal the provision of law requiring certain regents of the Smithsonian Institution to be members of the National Institute.

## BILL RECOMMENDED.

On motion of Mr. DOOLITTLE, the joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan, the sum of \$192,850, was recommended to the Committee on Indian Affairs.

## PACIFIC DEPARTMENT.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to send to the Senate copies of all letters received from the commander of the Pacific department relating to a recent attempt to send arms and munitions of war out of that department to Mexico.

## BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 375) levying internal duties on tobacco; which was read twice by its title.

Mr. FOSTER. I will ask the Senator whether he proposes to have the bill printed. It relates to a subject which interests the community very much.

Mr. SHERMAN. I do. I will state further that the bill was not prepared by me, but by the Commissioner of Internal Revenue. I desire to have it printed and referred to the Committee on Finance.

The VICE PRESIDENT. It will be so referred, and the order to print will be made if there be no objection.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864; which was read twice by its title, and referred to the Committee on the District of Columbia.

## PROCEEDINGS IN CRIMINAL CASES.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 88) regulating proceedings in criminal cases, and for other purposes.

The VICE PRESIDENT. The pending amendment will be read.

The SECRETARY. The amendment is in line

five of section two, to strike out the word "ten" and insert "five;" so as to make the clause read:

On a trial for any other offense the defendant shall be entitled to five and the United States to two peremptory challenges.

Mr. HENDRICKS. I should like to inquire of the chairman of the Committee on the Judiciary what is the effect of this amendment.

Mr. TRUMBULL. The effect of the amendment of the committee which is now pending, is to reduce the number of challenges on the part of the Government allowed by the bill as it was originally introduced, from ten to five, I think.

There is some diversity of opinion in the different circuits, as the committee were informed, as to the practice in this respect; and it was thought better to have it uniform. The bill was reported at the last session. The Senator from Maryland [Mr. JOHNSON] has particular charge of it, and he can inform the Senator from Indiana in regard to it, if he desires any information as to the particular effect of each of the amendments.

I see that the Secretary is under a misapprehension; the amendment reported is by way of substitute for the whole bill. It strikes out the whole of it and inserts a substitute, and one of the provisions of the substitute makes this change from what the bill was as it was originally introduced. If the Senator from Indiana will send for a copy of the bill No. 88, he will find that the amendment reported by the committee is a substitute for the original bill. I ask that the substitute be read to the Senate; it will then be better understood.

Mr. JOHNSON. The chairman is right. The bill as it was originally introduced consisted of eighteen sections. The Committee on the Judiciary reported that the whole of that bill should be stricken out, and as a substitute for it that there should be inserted all that follows it in the printed copy from the 6th page onward, printed in italics, beginning with the words "that from the persons summoned," &c.

The VICE PRESIDENT. That is the subject-matter now before the body, and the question is on amending that amendment. The Senator from Illinois asks that the amendment be again read. It will be if there be no objection. Does the Chair understand the Senator as asking that the entire amendment be read?

Mr. TRUMBULL. There is but one amendment, which is a substitute for the whole bill.

The VICE PRESIDENT. There is a pending amendment to that amendment.

Mr. TRUMBULL. It does not appear so on the printed copy before me.

Mr. JOHNSON. That was an amendment offered in the Senate.

Mr. TRUMBULL. I was not aware of that. Then I ask that the amendment to the amendment be again read.

The SECRETARY. It is proposed to amend section two of the amendment of the committee in line five, by striking out the word "ten" and inserting the word "five;" so that the clause will read:

On a trial for any other offense the defendant shall be entitled to five and the United States to two peremptory challenges.

Mr. HENDRICKS. I desire to ask if that is an amendment recommended by the committee.

Mr. JOHNSON. No, it is not.

Mr. TRUMBULL. That is an amendment of which I was not aware. I do not think the committee reported it, and I shall vote against it.

The VICE PRESIDENT. The papers show that the amendment was offered by the Senator from New Jersey, [Mr. TEN Eyck.]

Mr. HENDRICKS. I cannot see the propriety of that amendment. I think the original number proposed by the committee is right enough.

The amendment to the amendment was rejected. The amendment of the committee was agreed to.

The bill was reported to the Senate as amended.

Mr. JOHNSON. As well as I recollect, and the Secretary confirms my recollection in that particular, I suggested an amendment to the bill as it came from the committee when it was considered at the last session. It has not been printed, and perhaps the Senate are not aware that the printed bill does not exactly show the bill upon which they are about to act. I ask that the words which were inserted on my motion, by general consent be now read to the Senate.



The VICE PRESIDENT. The amendment suggested by the Senator from Maryland will be read.

The SECRETARY. The amendment was in line four of the reported amendment, after the word "offense" to insert "in which the right of peremptory challenge now exists;" so as to read:

On a trial for any other offense in which the right of peremptory challenge now exists, the defendant shall be entitled to ten and the United States to two peremptory challenges.

The amendment was concurred in, and is to strike out all of the original bill after the enacting clause and insert the following:

That from the persons summoned and accepted as grand jurors in any district or circuit court of the United States the court shall appoint the foreman, who shall have power to administer oaths and affirmations to witnesses appearing before the grand jury.

Sec. 2. *And be it further enacted,* That when the offense charged be treason or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges. On a trial for any other offense in which the right of peremptory challenge now exists, the defendant shall be entitled to ten and the United States to two peremptory challenges. All challenges, whether to the array or panel or to individual jurors for cause or favor, shall be tried by the court without the aid of triers.

Sec. 3. *And be it further enacted,* That in every case where any person convicted of any offense against the United States shall be sentenced to imprisonment for a period longer than one year, it shall be lawful for the court by which the sentence is passed to order the same to be executed in any State prison or penitentiary within the district or State where such court is held, the use of which prison or penitentiary is allowed by the Legislature of such State for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

Sec. 4. *And be it further enacted,* That issues of fact in civil cases in any circuit court of the United States may be tried and determined by the court without the intervention of a jury, whenever the parties, or their attorneys of record, file a stipulation in writing with the clerk of the court waiving a jury. The finding of the court upon the facts, which finding may be either general or special, shall have the same effect as the verdict of a jury. The rulings of the court in the progress of the trial, when excepted to at the time, may be reviewed by the Supreme Court of the United States upon a writ of error, or upon appeal, provided the rulings be duly presented by a bill of exceptions. When the finding is special, the review may also extend to the determination of the sufficiency of the facts found to support the judgment.

Sec. 5. *And be it further enacted,* That all acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

Sec. 6. *And be it further enacted,* That this act shall take effect on the 1st day of June, 1864.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

Mr. JOHNSON, (subsequently.) I ask the unanimous consent of the Senate to take up the bill upon which the Senate have just acted, for the purpose of making an amendment to correct what would be an obvious absurdity in the bill.

The VICE PRESIDENT. The Senator from Maryland moves to reconsider the vote by which Senate bill No. 83 was passed.

The motion was agreed to.

The VICE PRESIDENT. The bill will be regarded as before the Senate on its third reading, without any further motion to reconsider, if there be no objection.

Mr. JOHNSON. I now move to strike out the word "four," in the sixth section, and to insert the word "five." As it stands now the bill is to go into operation on the 1st day of June, 1861, which is past.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### UNEMPLOYED GENERALS.

Mr. WILSON. I move to take up House bill No. 586, to drop from the rolls of the Army unemployed general officers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

As it appears that many general officers in the regular and volunteer forces of the Army of the United States are, and have been for some time past, either entirely unemployed or not on duty corresponding to their rank, thus holding commissions and drawing pay and allowances without any equivalent services rendered to the Government, and at the same time standing in the way of the promotion and consequent increase of compensation of the officers of inferior grade who are performing the duties proper to such general officers, the bill therefore provides that all major generals and all brigadier generals in the military

service of the United States who on the 1st of February, 1865, shall not be in the performance of duty or service corresponding to their respective grades and rank, and who shall not have been engaged in such duty or service for three months continuously next prior to that date, shall then be dropped from the rolls of the Army, and all the pay and emoluments, or allowances, of such general officers, so dropped, shall cease from that date, and the vacancies thus occasioned may be filled by new promotions and appointments as in other cases. But no officer is to be considered as included in the foregoing provision whose absence from duty shall have been occasioned by wounds received, or disease contracted, in the line of his duty while in the military service of the United States, or by his being a prisoner of war in the hands of the enemy or under parole; and any major general of volunteers, or brigadier general of volunteers, who may have been appointed from the regular Army under the authority given in section four of the act approved July 22, 1861, "to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," and the acts amendatory thereto, who shall be so dropped from the rolls, shall not thereby be discharged from the service of the United States, but shall be remitted to his position and duty as an officer of the regular Army.

The second section provides that hereafter, continuously, until the termination of the existing war of rebellion, on the last day of each month after the 15th of February, 1865, the provisions of the foregoing section shall be made applicable to any general officer in the military service of the United States who shall not on that day have been engaged in the performance of duty or service corresponding to his proper rank for three months consecutively then next preceding.

Mr. WILSON. The Committee on Military Affairs made a report adverse to the passage of the bill, which I ask may be read.

The Secretary read it, as follows:

"The Committee on Military Affairs and the Militia, to whom was referred House bill No. 586, being an act to drop from the rolls of the Army unemployed general officers, beg leave to report:

"That many general officers in the regular and volunteer forces of the Army of the United States have been and now are unemployed or not on duty corresponding with their rank, thus holding commissions and drawing pay and allowances without any equivalent services rendered to the Government; and, at the same time, these officers stand in the way of the promotion and consequent increase of compensation of the officers of inferior grade who are performing the duties proper to such general officers. This is burdensome to the Treasury, unjust to meritorious officers in the field, and should be speedily remedied. The right and power to create vacancies in the rolls of the Army, and to fill such vacancies by appointments and promotions, are vested in the President of the United States. No additional powers are asked for by the President, nor demanded by the needs of the service.

"The committee are unanimously of the opinion that economy, justice, and the efficiency and general interests of the military service alike demand that where general officers in the regular and volunteer forces of the United States are found to be unfit for commands, and who are consequently unemployed or employed on duty not corresponding to their rank, they should be mustered out of the service, and that the vacancies thus created should be filled by new promotions and appointments, in order that the officers of an inferior grade who are performing the duties proper to such general officers may be promoted to the rank and receive the pay, allowances, and emoluments of such general officers. But the committee are of opinion that no fixed, inflexible rule of discrimination, such as is embodied in the joint resolution of the House of Representatives, could be adopted and executed consistently with equal and exact justice toward individual officers and with the interests of the military service of the country. Justice and the public interests demand that the power to muster general officers out of the service of the United States should be exercised with much discrimination and care. The power of removal and the responsibility of action being now fully and completely vested in the President, the committee unanimously report against the passage of the bill of the House of Representatives."

Mr. WILSON. I now move the indefinite postponement of the bill.

Mr. TRUMBULL. Mr. President, I am sorry that the Committee on Military Affairs have arrived at the conclusion to which they have come in regard to this bill. I am not prepared to controvert the soundness of the positions which the committee have assumed, or to deny that the Executive has competent authority to dismiss generals from the public service, but it is an authority which the Executive, and any Executive, would probably be very slow to exercise. I believe it has been customary in the history of the Government for Congress to exercise such a power as this; and upon that point the Committee on

Military Affairs can correct me if I am in error. I understand that after the war of the Revolution, and after the war of 1812, Congress, by legislation, provided for disposing of the officers who had been found necessary and had been placed in positions during a time of war. They did not leave it to the President; and if we adopt this precedent now, and determine that it shall be left entirely to the Executive, is Congress to surrender up its authority to reduce the Army and to discharge the officers when this war is over? I should like to inquire of the chairman of the Committee on Military Affairs whether, at the close of our former wars, there has not always been legislation to get rid of supernumerary officers who would not be necessary in a time of peace? It will not be pretended, upon the principle laid down in this report, but that the President might have dismissed those officers without any action of Congress; and yet if it has been the practice to have such action, why depart from it now?

Mr. GRIMES. It has not been the practice.

Mr. TRUMBULL. I was informed by a Senator sitting near me that in 1816 or 1817 such an act of Congress was passed. I have not looked into the precedents, and do not know that such is the fact.

Mr. GRIMES. During the last war we created several regiments of the line, regular regiments, some thirty or forty, as we have during the present war. At the expiration of the war it became necessary for us to reduce the Army, and that required legislation; but the volunteer officers went out at the end of the war as a matter of course. So again we reduced the Army in 1819, down to some eight regiments of infantry, four regiments of artillery, and none of cavalry. Since that time we have been gradually increasing it. But that legislation was in regard to regular officers in the regular line of the Army. This legislation applies to all officers, both of volunteers and regulars.

Mr. TRUMBULL. I should like the Senator from Iowa to tell me the difference between the power of the President to dismiss an officer of the regular Army and an officer in the volunteer service.

Mr. GRIMES. That is not the issue.

Mr. TRUMBULL. If he cannot do it in reference to the regular Army, can he in reference to the volunteer service?

Mr. GRIMES. That is not the issue the Senator raises. He undertakes to draw a parallel between the case now before the Senate and the case that was before the country after the war of 1812, and says because we found it necessary in 1814 or 1815 to adopt legislation in order to get rid of regular officers, captains, majors, and colonels, hence it is right and proper that we should follow that precedent and now adopt some legislation in order to get rid of supernumerary generals. My point is that there is no analogy between that case and the one at bar. It is in the power of the President. There is no controversy about that. I acknowledge the power of the President. The power is vested in him by the Constitution and laws, and if he has improper generals it is his duty to dismiss them, and he is responsible to the country for the manner in which they perform their duties to the country, and not us.

Mr. TRUMBULL. Mr. President, if I understand the report of the committee, it goes entirely upon the ground that the President has authority to relieve the country of this evil of idle officers receiving pay from the Government in this hour of its distress and performing no service to the Government. That is the whole point of the report of the Committee on Military Affairs. It is placed upon that ground.

The Senator from Iowa admits "that the President of the United States has the same authority over the regular Army as over the volunteer force to dismiss an officer," and he says that nobody disputes it. Then will the Senator from Iowa tell the Senate and the country why the legislation of 1815 or 1816—I have not time to refer to the statutes—was necessary to get rid of regular Army officers, any more than legislation is necessary now to get rid of volunteer officers?

Mr. GRIMES. I will answer that question. The law of Congress, at that time, created either fifteen or twenty new regiments, and directed that they should be officered by appointments by the President, to be confirmed by the Senate.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2d Session.

SATURDAY, JANUARY 7, 1865.

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The President had no power to abrogate those regiments. That legislation of 1819, and the legislation earlier than that, immediately after the war of 1812, was to get rid of those regiments that had been created; and of course when the regiments were disposed of their officers went with them. That is not this case. Here the proposition is to step in and interfere with the prerogative of the President of the United States, and say that any officer who has been for any purpose on furlough or on leave of absence for three months must necessarily be disbanded and go out of the public service. There is no analogy between the legislation at an earlier period of our history and that which is now proposed.

Mr. FOSTER. We propose to increase our Army, instead of diminishing it, by calling for three hundred thousand more men.

Mr. GRIMES. As the Senator from Connecticut has well said, we are calling for more men; we are calling for three hundred thousand more, I believe; so that these general officers will be required for the public service doubtless. At any rate, is it not best to allow the War Department and the President of the United States to determine for themselves whether they are not necessary for public service, whether it will not be necessary to retain them that they may command this new three hundred thousand levy when it shall be raised? Shall we step in and undertake to say, because a man has been put on furlough for three months—for nobody can tell the reason why—that that very fact incapacitates him for further public service in command?

Mr. TRUMBULL. Mr. President, I fail to see, notwithstanding what the Senator from Iowa has said, the want of analogy between the cases. The Senator from Iowa says that the regular regiments during the last war with Great Britain were created by law. They were not created one particle more by law than the volunteers. The major generals and the brigadier generals now holding office, and doing nothing for the country excepting to draw their salaries, are the creatures of law, and as completely an enactment of law as were the forces called out during the war of 1812, whether called regular soldiers or volunteers.

What is the distinction between your regular soldiers and your volunteers? I wish for one that that distinction was broken down. I believe it has been an injury to the service of the country. Your volunteers are enlisted for three years. So are your regular soldiers enlisted for three years. What is the difference between them? They are both brought out in pursuance of law. Will the Senator from Iowa tell me that one of these organizations is a creature of law more than the other, and that the rule that the President has not competent authority to act in reference to one is any more absolute than in reference to the other? Why, sir, I regard it as a misfortune entirely that this distinction should have been kept up. I think that the analogy, if you will look into the legislation, will be found to be complete. At any rate I fail to see how it makes a distinction upon the basis on which the Senator from Iowa places it, that those were regular forces called out in pursuance of law. So they all are; and the volunteers are just as brave, just as patriotic, and just as able to save the country, in my judgment, as what are called regular Army soldiers. The distinction that has been kept up in the Army between them, in my judgment has only been prolific of difficulty, and I wish it did not exist.

I have very little hope of being able to pass this bill with the unanimous report of the Committee on Military Affairs against it; but I think it a very valuable bill. I think it is one that is called for by the interests of the country. I think it becomes us in this time of financial difficulty, when we want to husband the resources of the country, to see to it that supernumerary officers are not employed by the Government simply to receive salaries and not perform service. The

fact set forth in the preamble to this bill cannot be controverted. What does it recite?

Whereas it appears that many general officers in the regular—

It applies to the regular as well as the volunteer force—

and volunteer forces of the Army of the United States are, and have been for some time past, either entirely unemployed, or not on duty corresponding to their rank, thus holding commissions and drawing pay and allowances without any equivalent services rendered to the Government, and at the same time standing in the way of the promotion and consequent increase of compensation of the officers of inferior grade who are performing the duties proper to such general officers: Now, therefore, &c.

I should like to inquire of the Senator from Iowa, who seems to take a special interest in keeping these persons in office, what is the objection to the bill? Certainly the Senator from Iowa is not in favor of keeping that class of persons in office designated and referred to in the preamble to this bill. What is the objection to the bill? An encroachment on the executive prerogative? Not at all. I venture to say that the Executive will feel relieved rather than that his prerogative will be encroached upon by the passage of this act.

Mr. CONNESS. That is the very point and purpose of the act.

Mr. TRUMBULL. It is to relieve him, as my friend from California says. This bill does not necessarily and arbitrarily put out of service every unemployed officer. The President can retain him. He can put him in command if he does not wish to have him discharged. It will only apply to that class of officers whom the Executive and the military authorities have no use for, and will afford the means of ridding the country of them, and enabling gallant and meritorious officers, who are performing service, to take the places to which they are entitled. I do not regard it, therefore, in the light of an encroachment upon executive authority, but rather as a bill in aid of the execution of his duties by the Executive, affording an easy way, without heart-burnings, without special discriminations on the part of the Executive, which would prove injurious to the interests of the country, to get rid of these unnecessary officers.

Not being aware that the bill would come up this morning, I have not had an opportunity to look into the former legislation on this subject, but I think that this bill, when it is examined, will be found not inconsistent with the former legislation of the country. It certainly is not inconsistent in the points alluded to by the Senator from Iowa.

I should prefer to have the bill go over rather than take a vote upon it to-day, that we might look into the history of the Government on this subject a little further; but as it is brought up now, and there is very little hope, I presume, with this unanimous report of the Committee on Military Affairs against it, of being able to pass the bill, I do not know that I shall ask for its postponement; but I desired, at least, to call the attention of the Senate to it as one of great importance to the public service not only in the saving of money, but in opening to the men who deserve them the places occupied by men who do not deserve them.

Mr. GRIMES. When the Senator from Illinois shall coolly read the remarks he has made here to-day he will be able to judge for himself with how much fairness and ingenuousness he has treated this subject and put arguments into my mouth that I have not used. I have not intimated that I was the advocate of the worthless character of generals that are sought to be described in the preamble of this bill.

Mr. TRUMBULL. I said you were not.

Mr. GRIMES. The Senator used language that carried the idea that I stood here as the advocate of those men; and he put the inquiry to me whether or not I was the advocate of them, in that kind of manner and with that tone that indicated to the Senate, and to others who heard him, that I was the particular advocate and friend of that class of men.

Mr. TRUMBULL. If the Senator will allow me, I said expressly that I did not suppose the Senator from Iowa wanted to keep those persons in the Army.

Mr. GRIMES. I think, too, the Senator was kind enough in his remarks to undertake to raise with me an issue between volunteer and regular soldiers, as though I stood here as the advocate of the regulars in contradistinction to the volunteer soldiers in the United States Army.

Now, sir, what is the history of this matter? This bill was brought before the Senate by the Senator from Massachusetts. He moved to indefinitely postpone it. The Senator from Illinois rose to oppose that motion. He insisted that the bill ought to pass instead of being indefinitely postponed, and as an argument in that behalf he quoted the authority of Congress at previous sessions. In reply to that I intimated to him that he was mistaken as to what the history of Congress was on this subject. According to my recollection, I have not refreshed it for some years, but according to my recollection there have been four different revisions of the Army; once immediately after the revolutionary war, again in 1798, again in 1815, and again in 1819, when we reduced it to the minimum at which we have ever had an Army in this country. The Army then was composed of regulars. Congress had declared that so many regiments, of such and such arms of the public service, should exist. Of course, therefore, as I stated to the Senator, it required some legislation of Congress in order to get rid of those regiments. The President had no authority to disband those regiments. Congress, therefore, adopted a form of legislation in order to get rid of them, and they provided some means by which those who might be regarded as the better officers in the various regiments should be retained to command the regiments that remained after the other regiments had been disbanded.

I insist that there is no analogy whatever between the legislation that was had at either one of those periods and that which is sought to be had at this time. What is it that we propose now? We propose to declare by a solemn act of Congress that every major and brigadier general who has not been in active service during the period of ninety days, I believe, shall immediately upon the passage of this act lose his commission. One man may have been wounded; another, as in a case within my own knowledge, has been stricken by a paralysis caused by exposure in the field, and from which he is past recovery. This bill takes the commission out of that man's pocket and returns him to his family and his constituents a disgraced man.

Mr. TRUMBULL. The Senator is mistaken. The bill provides for just such cases. There is a clause in it which covers them.

Mr. GRIMES. Does not the bill go into effect absolutely?

Mr. FOSTER. Unless the President or somebody interferes with the operation of it.

Mr. TRUMBULL. The bill is, "but no officer is to be considered as included in the foregoing provision whose absence from duty shall have been occasioned by wounds received or disease contracted in the line of his duty," &c.

Mr. GRIMES. Why not allow the President to settle that question under the law as it now stands? Is it to be inferred that all the men who are not now actively employed, and have not been actively employed for the period designated in the bill, are not valuable public servants; that they have not done the best that they could according to their capacity in the respective commands that they have heretofore held? Are you going to allow every man who happens to have fallen under the pique of a commanding officer, and therefore has been relieved for a little while, to be stricken from the rolls? Does not the Senate know that some of our major generals or commanders of divisions and commanders of corps have their prejudices and prepossessions as well as other men, and that for some trivial cause many men

in the different corps of the Army have been sent home from duty, and have remained off duty during the length of three months? Is the Senate willing that all that class of men shall at one fell swoop be stricken from your Army register? Is that fair? Why does not the Senator propose that these men shall be sent before a military board, and let that board pass upon their capacity? If they have been derelict in their duty in the past, let them be condemned. If they have been wounded or stricken with paralysis, or are afflicted in any way so that they would be incapacitated for commands in the future, let a military board, composed partly of medical officers, so decide; let these men be treated fairly; and not let us here, the Senate of the United States, without any sort of evidence before us, declare that every man who may have been relieved from and off duty for the space of three months in consequence, perhaps, of the prejudice of his superior officer against him, shall be stricken from the rolls, and shall no longer be used in the public service. It strikes me, Mr. President, that a more unfair bill could not come under the consideration of the Senate.

Mr. LANE, of Indiana. Mr. President, having sanctioned this report of the Committee on Military Affairs, I deem it proper to say a word in reference to the past legislation and present position of this question. At the last session of Congress a similar joint resolution passed the House of Representatives and failed to pass the Senate. Early in the present session this bill was passed, and was referred to the Committee on Military Affairs, mustering out, by an act of Congress, arbitrarily, every officer who had not been employed for the last three months in a command commensurate with his rank in the Army. The committee thought that unjust, and unwise, and impolitic. Under the rules and regulations of the Army prior to 1862 an officer could not be mustered out of the service of the United States except upon report of a court-martial sanctioned by the President; but it was thought at that time that discretion should be lodged somewhere to muster unworthy officers out of the service, and Congress, by a general and sweeping law, conferred that power upon the President, the Commander-in-Chief of the Army and Navy, and that law is now in full force and full effect. It is proposed, however, by this bill now to take that power from the President, or if Senators prefer this statement of the case, to throw the responsibility upon Congress to do what the President has already been fully authorized to do by law.

This discretion must be lodged somewhere; and the question is whether it is more properly lodged with the Commander-in-Chief of the Army than with the Congress of the United States. Your officers in the field, your corps commanders, and division commanders, and commanders of departments, are required to report to the President through the Secretary of War, and they are supposed to know the efficiency and capacity of their officers, a knowledge which Congress, except from common report, the most fallible of all possible means of information, can never possess. Here is a bill aimed at what I admit is an abuse, the keeping in office of incompetent or unworthy officers. It is an abuse we wish to correct. We have already provided for its correction by giving to the President an unlimited discretion as to the mustering out of officers, and the discretion, it seems to me, is properly lodged with the President, because all the reports of the subaltern officers are made to him, and not to Congress. How are we to know whether an officer is incompetent or unfaithful except through reports of his superior commanders? Those reports only go to the President through the Department of the Secretary of War.

We are asked, then, to legislate in the dark, to muster out every man who has not been in active command commensurate with his rank for ninety days. Is the Senate prepared to take any such responsibility, to act in the dark? What does this bill effect in terms and in spirit? Who assigns these men to active command? First, the President may assign any officer in the Army to any command that he chooses under the law. Then the Secretary of War; then the corps commanders, the Commander-in-Chief of the Army in the field, and division commanders; and any one of these men may, by a stroke of the pen, strike

out of existence any officer in the Army; and we are now required to do precisely that thing by an act of Congress.

This abuse is to be remedied—a great abuse; but how shall we remedy it most properly? By referring it to the Commander-in-Chief, I think. Whether it may be exercised properly and judiciously or not I am not prepared to say, for it does not, thank God, affect one single officer of the noble Commonwealth which I in part represent upon this floor. They have their proper and commensurate commands, and have stood nobly up to those commands upon a hundred battle-fields, from Cape Hatteras to the frontiers of Arkansas. I then have no personal interest in this matter, but I ask the Senate not by a sweeping act of legislation to strike out of existence some twenty or thirty officers without trial, who by possibility may have fallen under the displeasure of their division or their corps commanders or of the Secretary of War. It is not the way to remedy the evil. You have already done all that Congress is required to do; you have given the President that power, and it is his responsibility and not ours, and I am not willing to roll this responsibility off upon Congress and legislate in the dark, when no officer is compelled to report to us.

Mr. CONNESS. Mr. President, I do not agree fully with the honorable Senator from Indiana, that if this bill should be passed the entire responsibility will necessarily be taken from the executive department and thrown upon the Senate and House of Representatives, because, as was suggested by the honorable Senator from Illinois, there are three months within which the Executive and the War Department may save any generals to whom this can apply, if these departments deem them fit for public employment in the field; therefore, by the passage of this bill, the responsibility will be still divided, and will not be thrown upon the legislative department of the Government.

Now, sir, one word as to the origin and necessity of this act. It originated in the House of Representatives, I believe, early last session. Under what class of circumstances did it originate? Let us direct our attention to those circumstances. Early in the conduct of this war nominations for high ranks were easily obtained; the result was that inefficient men, men unable and unfit to conduct our armies to victory and success, obtained the highest rank in the Army, and the consequences were losses in every direction to the national cause. Why, sir, at a certain period during the last session of Congress we desired a new department commander for the Pacific department, and, anxious to send an officer there of good ability, of high military skill, that that country might be organized and prepared for an emergency likely to arise, possible at least to arise, I had several conferences with the Secretary of War; I had an examination with that officer of the long list of unemployed major generals and brigadier generals then under the pay of the Government and without public employment, and if I were at liberty here to repeat the comment that followed the name of each in those various conferences it would demonstrate the necessity of action somewhere to rid the country of the unnecessary and profitless burden that those gentlemen in high rank, holding high commissions under the Government, imposed upon it. It was five months before an officer deemed competent to send to that department could be selected by the exercise of the greatest wisdom from the long list of the then unemployed generals in the United States Army.

It was at that period of time, under that class of circumstances and facts, that this bill, or a like bill, originated in the House of Representatives, and was passed by that body. Pending the consideration of the measure before Congress, I was appealed to by the friends of generals out of employment, but yet in commission, more than once, lest it should pass, and their heads should thus drop into the basket. My answer was, the only one I could give, "My action upon this measure cannot depend upon its effect upon any officer in the employ of the Government." The executive department, it is true, has now full power to say whom it will employ, when they shall be employed, or whether it will employ them at all or not; but if this is the condition of things,

if there are men doing nothing, and unfit to do anything, who are drawing hundreds of thousands of dollars from the public Treasury while we are nearly in a condition of public bankruptcy, and the executive department will not brush them out, as it should do, promptly and decidedly, then I say, as I said to them, "It is the duty of Congress, and I will perform my part of it, to rid the country of the incubus of gentlemen holding high rank and performing duties, in consideration of their pay, upon courts-martial and upon funeral occasions and other like occasions."

Sir, there was and is a necessity for the passage of such an act. Senators may, if they choose, argue that that necessity was begotten by the non-exercise of the power given by Congress to the executive department. I answer that thus: when any departments of this Government will not promptly perform the duty that is theirs, and exercise the power that Congress imposes upon them, I hold it to be still the additional duty of Congress to come forward and speak and act and see that that power is exercised. Congress is but in the pursuit, in my opinion, of the proper exercise of that power in the passage of the act now before us, and proposed to be indefinitely postponed by the honorable Committee on Military Affairs.

Why, sir, the list of unemployed general officers was so great as to preclude, as the honorable Senator from Illinois properly says, from public employment in high military capacities the best and noblest men that have been in the military service since this war began. I will direct the attention of the honorable Senator who is chairman of the Committee on Military Affairs to a single case; I have spoken about it elsewhere before this; I now undertake to speak of it here. A colonel commanding a Massachusetts regiment, whom I well know, a graduate of West Point, a man in the prime of life, a man full of animal life and full of moral and physical daring, full of courage, full of wisdom, full of military knowledge, led his regiment at the battle of Fredericksburg and stormed its heights where his men were cut to pieces, and he, himself, was almost cut to pieces; but afterward, recovering and regaining his health, and being again fit for the field, no manner of recommendation or presentation could secure a brigadier's commission for him, and he was mustered out of the service, and passed through the streets of Washington during the June days of last summer with the perspiration streaming from him as he led the noble little band of about one hundred and fifty that remained of his regiment back to their homes. I only state this as a single case. I can state another case. Recently we are informed that General Sherman has called for a particular officer to be sent to him in his department—I mean Colonel Bowman, who commands at Wilmington—because of his efficiency in a particular line of service, and than whom there is not a more intelligent, able, or honest man or officer in the employment of the United States. He cannot be sent. Why? He cannot get rank. Why? Because these miserable incumbrances are in the way. That is it, sir, and that is stated as the reason. The law permits but the nomination and appointment of a certain number of major and brigadier generals, and if that number is filled up, and from motives of delicacy or regard for the friends of those who secure the appointments the appointees are to be kept in commission without regard to their capacity, the result is that the noblest and most splendid material that we have within the country is kept out of its service, and the public interests are thus embarrassed, obstructed, and injured.

Now, sir, I happen to have no personal feeling in the case; but I cannot stand by and be the advocate of keeping any man in the public employment that the Government having the power to employ fails persistently to employ, and by that failure testifies to us his inability for high public employment.

I know, Mr. President, that it is a serious proposition to favor the passage of a bill the indefinite postponement of which is recommended by one of the highest committees of this body. I know that it is against the usage of the body, and I do not take position against the gentlemen composing the Military Committee, or against the committee's report, without doing it under great difficulty;



but I most heartily join hands with the Senator from Illinois in the stand that he takes in favor of doing here what has been left undone by the executive department, but what is most necessary to the country shall be done; for, sir, the country and its services are worth more to us than the executive and all the other departments of the Government put together. The one you can reorganize and have again, for the country always furnishes material; but defeated upon the battlefields of the country in the present contest, you have no country and no Army reorganization.

Sir, I hope that this bill will not be voted upon to-day, but that it will be more seriously considered before a vote shall be taken, particularly a vote that shall result in its indefinite postponement. Let each department of the Government courageously do its part; and let us go further than that; let us press each other's department up to the performance of its duty, and then we can live against the world.

Mr. WILSON. Mr. President, I assure the Senator from California that he need have no delicacy in opposing the action of the Committee on Military Affairs in this case. The committee acted according to its best convictions. It presented its reasons to the Senate. If they are satisfactory I hope the Senate will sustain the committee in the indefinite postponement of the bill. If they are not, I hope the Senate will act up to its convictions, as the committee acted up to its idea of public duty.

We all admit, sir, that there are officers in commission as major generals and brigadier generals that ought to be mustered out of the service. Some of these officers are doing nothing, are out of employment. Others are attempting to do something; they are in employment, and some of our poorest officers of the country are to-day in the public service and ought to be mustered out. Some of the officers that are not in actual service ought to be mustered out, but not all of them. The responsibility is with the President of the United States, and the President ought to exercise the responsibility that rests upon him.

Several officers have been mustered out during the past year. Some, I think, have been mustered out within the last four or five weeks, or have resigned, knowing that otherwise they would be mustered out. All the facts in regard to the different officers are in the possession of the War Department, in the possession of the President of the United States; and in view of all the facts, in justice to the officers, and, above all, in justice to the country, the President ought to act. The responsibility is upon him, and I want him to take it, and I am not willing to shift the responsibility that belongs to him from him upon the Congress of the United States by the passage of a law which will allow any commander of an army, or any commander of a corps, to throw a general officer out of the service, with the expectation that by the lapse of time this law will punish him and dismiss him absolutely from the service.

I think, sir, that the passage of such a law will intensify and increase the rivalries and jealousies among the officers which already exist in the Army of the United States to a great extent. It is a fact, and we may as well admit it and act upon it, that in the Army there is more ambition, more rivalry, more jealousy, and more intrigue among high officers than there is in any other portion of our countrymen. I do not believe that in the most intensely excited political canvasses of our country the ambitions and rivalries that belong to public men in civil life bear any comparison to the jealousies and rivalries and ambitions that manifest themselves in the Army of the United States. And, sir, I know that to be the opinion of all men who are acquainted with the Army and acquainted with the civil affairs of the country, and they will tell you so. At present an officer may be thrown out of actual service by the reorganization of corps, or divisions, or brigades, or from some other cause. I think it is the duty of the Executive to see whether the officer is out of service for good cause, or whether he is out of service by an accident, or out of service by reason of the opposition, jealousy, rivalry, or ill-feeling of his superior officer, and to act so as to do justice to the individual, and at the same time take care of the interests of the country. We ought to suppose that by the President all these officers will be justly treated and the public ser-

vice promoted. But now adopt this law, adopt this iron rule, and what will be the consequence? It is proposed to dismiss from the service those who are out of employment and have been so for three months. Some of them, I know, ought to be dismissed, but others ought not to be, and the very mention of their names would satisfy the Senate of that fact. Adopt this iron rule, dismiss them, and I think the effect in the Army will be to induce men in superior commands to crush out officers whom they do not like by putting them out of service, knowing that by the expiration of a certain time they will be dropped from the rolls by the standing law of the country. I think too much power already exists with the commanders of armies and of corps over the fortunes of officers under their command. Their power is great, necessarily great in the field, and it ought to be exercised justly, but it is not always so exercised. There are to-day able officers who are not in the public service, or, if in the public service, in positions where they ought not to be, owing to differences of opinion or rivalries on the part of officers who have been more fortunate than they, but who at one time were regarded as in no way their superiors.

Now, sir, I do not believe that justice will be promoted by the passage of this bill, and I doubt very much whether the public service can in any way be promoted by it. There is no doubt about the power of the President to dismiss an officer; he has been exercising it, and I think that he should exercise it on all proper occasions. The power is with him; the responsibility is with him, and I want him to bear it, and not shirk it or have any of his friends thrust it off upon a rigid iron rule adopted by Congress as a law. That, I think, was the view of the members of the Military Committee. We briefly stated in the report, which has been already read, our reasons for the recommendation we have made. I trust, at any rate, that the bill will not be passed without the greatest deliberation, and, in my judgment, it ought to be postponed indefinitely.

Mr. POWELL. Mr. President, I have looked into this bill somewhat, and I am very clearly of the opinion that the report of the Military Committee is correct, and I therefore hope that the motion made by the Senator from Massachusetts will prevail.

The Senator from Illinois and the Senator from California have both stated to the Senate that there are very many incompetent officers out of employment who are receiving pay. I dare say that is the truth; but it is equally certain that the power to dismiss those parties from the service is now, by the law of the land, lodged in the President of the United States. I think that if the power to dismiss, without cause and without trial, is lodged anywhere, it should be with the President, and upon that high functionary devolves the duty; and he, and he alone, is, and should be, responsible to the country if inefficient men are kept in the service.

I understood from the Senator from Illinois that he thought that, perhaps, if these men were turned out it would lessen the number of officers of the rank of major general and brigadier general. I do not so understand the bill. It does not decrease the number of brigadier generals or major generals. The very bill before us provides that when these persons shall be dismissed in the manner provided by it, the vacancy thereby occasioned shall be filled by promotions or new appointments, as in other cases. If we were engaged in reducing the Army it would be eminently proper, as Congress has done in several cases heretofore, to pass laws regulating the matter; but the object of the bill is not to reduce the number of general officers, but to displace them whenever they have been out of service for the space of three months, and let their places be filled by other appointments.

I do not think that we should amend the present law upon this subject. By the statute passed in 1862 we clothed the President with the power of dismissal, without even having a military commission to investigate the conduct of the officer charged. I thought when that law was passed it was a great stretch of power; but such is the law, and the President has the power, before the setting of the sun, to strike from the rolls of the Army every incompetent man; and if he does not do it the responsibility rests upon him, and him alone.

He has the means of knowing whether they have discharged their functions properly more readily than the Senate has. As Senators have stated, the reports are all made to him through the War Office. I do not think that any man should be dismissed except for causes the most flagrant and almost self-evident, unless his conduct has first been investigated by a military court; but the law is not that way. That the President has the power to remove officers without trial we know from every day's practice. I fully concur with the Senator from Massachusetts when he says that the responsibility is on the President, and he should take it. I have no doubt that if these officers should be dismissed the President will exercise the power according to the present law; but if you pass this bill you place every officer in the Army who falls under the displeasure of a corps commander, or of the Secretary of War, at the disposal of either of those functionaries; and he may be put out of the service by being kept from active duty for three months. He will go out at the end of that time by the mere operation of the law. We never should lodge such a power with those authorities. The power should be vested in the President, and in no one else. If it is made known to him that an officer is out of the service, and is incompetent to reënter the service, it is his duty to dismiss him; and he is unworthy to be President, in times like these particularly, or, indeed, in any times, unless he will exercise the power in such a case. If he has doubts whether the party is inefficient and incompetent, let him call a court of inquiry to investigate the case, and let that court report to him so as to fully satisfy him, and then let him exercise the power. If it is a case in which he has no doubt about the incompetency of the man, let him decide without the intervention of a court of inquiry. He is now clothed with all the power necessary; and I think the report of the Military Committee is wise and eminently proper.

It was not my purpose in rising to go into any lengthy discussion of the bill, but merely to express in a very brief manner my views upon the subject. I shall vote for the indefinite postponement of the bill; and I think the Military Committee deserve the thanks of the country for the very prompt manner in which they have acted, and the very pointed and sensible report they have made on this subject. Let Mr. Lincoln, the President of the United States, if these parties are incompetent, turn them out of office and fill their places by competent men.

Mr. HOWE. Mr. President, I do not allow myself very often to vote against a recommendation submitted here by the Committee on Military Affairs, and since I am called upon to do so at this time, I feel obliged to state as briefly as I can the reason why I shall do so. And I say in the outset that I am controlled by the facts and mainly by the logic submitted here by the committee. There is one conclusion of theirs with which I disagree, but all the rest of their report I cordially agree with. What is the position of the committee? It is, that a great abuse exists which imposes a heavy burden upon the Treasury and a great wrong upon our Army. This bill proposes to terminate it. If it is enacted, it will terminate that abuse. The abuse is that we have a large number of officers holding very high rank and drawing very heavy salaries and doing no work. If we say "ay" to this bill which is now before the Senate, that abuse will be terminated, it will be ended. The committee recommended, however, that we say "no" and not "ay," and the only reason, I believe, which they assign why we should thus vote is that we have already authorized the President of the United States to do the very thing that this bill proposes to do. Hence Senators say over and over again, "We have left the responsibility with the President; do not allow him to shirk it." Why, sir, I humbly conceive that we have not thrown the responsibility off ourselves at all. The President of the United States has no more power to do this thing than we have; all the authority he has he derived from us. Do we get rid of the responsibility ourselves when we authorize another agent of the Government to do this work? It ought to be done, say the committee; the abuse ought to be speedily remedied, say the committee; but they say, "We will not remedy it because we have authorized another agent of the Government to remedy it." But it is not remedied, and since the original

power is in us, we are not discharged of that responsibility until we have applied that power and corrected the abuse. So long, therefore, as the committee tell me that the abuse exists, and tell me that by my vote I may correct it, I feel called upon to give my vote so that it will correct it.

But it is said that it is doing great injustice to those officers whose commissions will be taken away from them by the passage of this bill; it is said that it subjects them to the arbitrary control of corps, division, and army commanders, and of the Secretary of War. I conceive that it does no such thing. A division commander may arbitrarily and irrationally deprive the commander of a brigade of his command temporarily, but that order of his is not final; the President can correct it; and if the brigadier desires to retain his commission he has only to appeal to the Commander-in-Chief of the Army, and if he is fitted for it his command is given to him, which saves him from the operation of this bill.

They talk to us very touchingly about the disgrace to which officers are to be subjected by being hurled out of the Army under the iron rule of an act of the Legislature. Sir, when does disgrace fall upon an officer? Is it when he is struck from the pay-roll, or when he is struck out of the service of the Government? Is it when the paymaster says to him "I can give you your salary no longer," or is it when his superior officer tells him "You are no longer fit to command the armies of the United States?" I should suppose that an officer who was built upon the proper model would think that the last disgrace had fallen upon him when he was dismissed from his command; when he was told finally by ultimate authority that he was not fit to command. And I want to say further, that according to my understanding of the thing, the man who will submit to hold a commission and to draw his pay month after month and year after year after he has been told by the Government that he is not fit for the command that his rank would otherwise entitle him to, is not fit to hold any commission in the Army of the United States. If he has a proper spirit, when he is told authoritatively by the Government that he cannot be allowed to serve in its armies, he will tell the Government "I do not any longer want your pay."

This is no fanciful rule of action. I have seen it illustrated in the course of this war, and I take pleasure in saying that I know to-day of one officer who resides in the State of Wisconsin who once held the commission of a major general in your armies, who led your arms to victory at Iuka—a man without a bad habit and almost without a weakness in his profession, educated to the profession of arms, as gallant a man as I know—in point of fact weighing not less than one hundred and eighty-five pounds of concentrated chivalry and capacity; but the command of the very troops that he had led to victory was taken away from him. I think it was a grave error of judgment, not a malicious one, by any manner of means; but the command was taken away from him, and when he was told by the Government that he was not suitable to command, he told the Government that he was not worthy of their pay, and he tendered his resignation at once, which was accepted. I think any officer who feels accurately what belongs to his position would take the same course.

But what is the injustice that can be done? First, he is dismissed from his command. He is earning nothing for the Government. This bill, if it is enacted, proposes then to take away from him his commission. What does that do? It does not disgrace him, as I have said, because the disgrace has already been inflicted upon him. It takes away from him the responsibilities of an officer; it remits him to his usual employment, his usual avocation. It says to him, "You are no longer under any obligation to serve the Government of the United States, and therefore the Government of the United States does not pay you any more; go about your own pursuits." What is the injustice done him in the matter of dollars and cents? You deprive him simply of that excess which the Government pays him as a brigadier or major general over what he can earn as a private citizen. I believe that pretty much all of them tell us that they could earn a great deal more in private life than they get from the Treasury, and pretty much all of them tell us that they want their compensation increased. Upon their own

theory, you are doing them only solid, substantial justice by saying to them "We will not keep you on our rolls any longer, we will not hold you under any obligation to serve us any longer; go about your own work, attend to your own business, make your own fortunes."

There is, therefore, no disgrace possible under the operations of the act, and, as it seems to me, no injustice of any kind possible under the operations of it. It will terminate that which the committee tell us is still a crying abuse, and is the only way we do absolutely know in which that abuse can be terminated. And yet Senators reason that no sort of responsibility attaches to them in the premises, although they may vote down a measure that will put an end to the very evil of which we all have so much reason to complain. I think I shall feel better satisfied with my own course if I vote in favor of the passage of the bill which will end the evil, rather than vote against it.

Mr. DAVIS. Mr. President, I occupy the same position with the Senator from Wisconsin who has just taken his seat. I will vote for this measure. I believe that Congress has unquestionable power to pass it, and that Congress ought to pass it. It has been a good while since I looked at that portion of our legislative history to which I am about to refer; but, according to my recollection, some time after the close of the last war with Great Britain Congress by its legislation provided for the reduction of the United States Army. At that time we had two major generals, General Brown and General Jackson; and the legislation of Congress was in such form that it arraigned General Jackson out of his office. That is my recollection; but I may not be entirely exact in relation to the facts. But, sir, I find in the Constitution this clause giving plain power to Congress to act upon the subject:

"The Congress shall have power to make rules for the government and regulation of the land and naval forces."

Now, sir, what would be the effect of this bill if it were to pass? It would be simply to establish an additional rule and regulation for the government of the Army. It would provide that if a general officer is out of service for a certain length of time (and if the time named is too short it may be extended) the President shall be required to dismiss him from the service. It is admitted on all hands that this bill if passed will rid the Army and the Government of a large number of incompetent officers. If that would be the result it certainly ought to pass. Those officers were incompetent at the beginning; they are incompetent now. Their incompetence was just as well known when they were appointed as it is at this time. They were not appointed for military reasons, but they were appointed for political effect. The case, though, is stronger against them, because they have demonstrated in repeated fields of practical failure their utter incompetence for their commands; and notwithstanding the dishonor that is brought upon a high and chivalrous soldier, according to the principle suggested by the Senator from Wisconsin, by having his name withdrawn from the list of high officers in actual command, they have had the callousness to hold on to their commissions and to their stations merely for emolument, regardless of the true honor of a soldier. Now, I say that these men ought to be reached; they ought to be displaced from positions in which they are drawing high salaries, and which they are altogether incompetent to fill.

I concede that the President had the power before the passage of the law adverted to by the honorable Senator from Indiana to dismiss these men from office. I think so; not by any legislation, I admit, but I maintain that he had the power as Commander-in-Chief. Waiving, however, that point, the act to which my honorable friend has referred gives him the plain and unquestioned right to dismiss these men. He ought to have done so before this. It was incumbent upon him to do so, I think, in the proper performance of his duty. It was his own act that placed incompetent men in office; and when their incompetence was demonstrated by repeated failures, and the Congress of the United States had authorized and instructed him by a positive law to dismiss them from office, he ought to have stood up to the performance of his duty, and he ought to have dismissed them from offices which they were unable to fill.

Sir, I wish this measure could have a more

speedy operation, and I would like to have it apply to some men who have been in the service for the last three months, as well as some who have been out of it. The great incompetent, whose cowardice and want of military capacity has brought nothing but discomfiture and dishonor upon his country's arms from the battle of Big Bethel to the siege of Fort Fisher, ought to walk the plank under some such regulation as this; and not only he, but many others.

I think that the members of the House of Representatives who got up this measure, and whose persevering advocacy succeeded in passing it through that House, deserve the commendation of Congress and of the country; and instead of the bill being postponed indefinitely, I think it ought to be taken up and passed by the Senate. And, sir, I am in favor of it for a greater and a much more important consideration than any which has yet been adverted to. The Congress of the United States have the power to raise and disband armies; they have the power to authorize and to create offices; they have the power to abolish those offices, and to remove, by the abolition of an office, the officer from it. They have a right, by their repeal of laws passed, or by a modification of existing laws, to disband armies, and, in my judgment, it is going to become the most momentous question of the day, of the country, and of the Government, how far this power of disbanding armies shall be exercised by Congress. The time is approaching, I hope, when we shall have peace in the land, when the rebellion will be put down, when the authority of the United States will be reasserted in all the States and in every square foot of territory of the United States. When that time comes it will leave in the field and in the service of the nation from half a million to a million of men in arms. How can you, safely for the country, safely for its liberties, for its Constitution, and for its Government, and for the public welfare, disband such a vast army? It is one of the gravest questions, in my judgment, that will commend itself hereafter to the serious attention of American statesmen and legislators.

We all know the *esprit du corps* of military men. We all know how the officers and soldiers of an army become attached to their profession, and the feeling is now growing and being consummated in the country that the Army is the profession of the men who now constitute it. They are looking to it for their future support. The officers are looking to it for promotion, for additional authority and compensation and consideration by promotion. The privates and all who are attached to the Army are looking to it as their profession, distinct from the other professions in the country. They are looking to it as a matter in which they have a peculiar interest, an interest steady, chivalrous, and persevering as that which has always characterized the votaries of all the armies of all the countries of the earth to their profession, to their army.

I want the Congress of the United States to familiarize themselves with the power by its exercise. I want them to understand and appreciate that they have an unlimited discretion and right to legislate in relation to the Army, and in relation to the repeal of laws authorizing the organization of the Army, either in its men or its officers, and a full right to pass laws to dispose of that Army, and to disband it by the peaceful legislation of the law-making power. The time is coming when that power will have to be exercised; and whether it will be permitted by the Army to be peacefully exercised for the good of the country and the maintenance in perpetuity of the Government and the liberties of the people is a question that is fraught with immense doubt and difficulty in my mind, and I fear that that doubt and difficulty will become practical and obvious to the whole land in the course of a very few years.

I have merely adverted to this as the leading idea upon which I am induced to give my support to this measure. If the measure is wrong in any of its details, if it will work injustice or injury to meritorious men, let the bill be referred back to the same committee or to the Committee on the Judiciary, and there let it be amended so that no such injurious results to individuals can arise from it. But, sir, when the country is about to come into a condition where the principle involved in this measure will be of immeasurable importance to our Government and people, to give it the go-by

by an indefinite postponement would in my judgment be eminently unjust both to the country and to Congress.

Mr. HENDRICKS. Mr. President, I was gratified when the committee made this report. I had hoped that it would have satisfied the judgment of the distinguished Senator from Kentucky [Mr. Davis] in favor of the motion made by the Senator from Massachusetts. I always listen to the Senator from Kentucky with pleasure, but the argument which he has presented has failed to satisfy me that the committee in their recommendation are wrong. Indeed, I think the Senator has met his own argument. He says that the officers coming within the provisions of this bill who are found unworthy of the public service ought to be immediately dismissed. That is very true; all Senators will agree to that proposition; but is the Senator right sure that officers not qualified for the rank which they have attained are found in larger numbers out of service than those having commands at this time?

The Senator has illustrated to some extent by a reference to a very distinguished military commander who sent a force to Bethel and recently commanded at Fort Fisher, and the Senator says that that commander ought to be dismissed from the service. I am not going to controvert his position in that regard; but this bill will not reach him. This bill will not reach another distinguished commander who lost an army in the department of Louisiana last year under circumstances that shocked the whole country. This bill will not reach another commander wearing one star that I know of, who has two or three times been ordered to the front, as is understood, yet, because he could command a political influence here in Washington, has been allowed to discharge duties that ought to be discharged by a provost marshal alone for two years since he has been made brigadier. I think, sir, if we run over the whole list of officers we shall find more men who have been able to command political power and influence enough to hold them in command than men out of command to-day who are unfit for the service.

I understand that prior to 1862 the President of the United States possessed the power to dismiss from the Army any officer, but the usage had been so uniform that the President should not so dismiss except upon a finding of a court-martial or court of inquiry, that it became almost the common law of the Army, and the President dared not, in the presence of the Army dismiss a man without the support of the finding of some military court. The act of 1862 was intended to relieve him from that embarrassment, as I understand, and to allow him arbitrarily, and without reason, to dismiss an officer from the public service. That power has been exercised. It is now possessed to the broadest extent. I dare say that Senators at the time observed the remarkable exercise of this power in respect to a lieutenant in New Hampshire. I happen to have in my drawer the order:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, March 13, 1863.

[Special Order, No. 119.]

33. By direction of the President the following officers are hereby dismissed the service of the United States:

\* Lieutenant A. G. Edgerly, fourth New Hampshire volunteers, for circulating copperhead tickets. \*

By order of the Secretary of War:  
L. THOMAS, Adjutant General.  
To the GOVERNOR OF NEW HAMPSHIRE.

No reason is given connected with the service of this lieutenant, and I take it no reason could be found for his dismissal connected with the service, else it would have been assigned. A political reason alone could be assigned. I am not going to comment upon the language that is here used, which ought not to be found in any mouth except that of a scavenger who does the dirty work of a political party; nor am I going to speak of the hardship done to the lieutenant, who, I understand, had stood in the roughest scenes of battle, and carried upon his body wounds received in the public service. I think the order could not have been known to the President, and I hope not to the Secretary of War. I allude to it simply to show that the President now, by the action of Congress, is clothed with power to dismiss officers from the service without a reason, and that that power has been exercised in the case of

not a very high officer, but one against whom I understand no accusation could be brought, or else that accusation would have found its way into this order instead of a political reason.

The VICE PRESIDENT. The Senator will pause to allow the Chair to receive a message from the House of Representatives.

THANKS TO GENERAL W. T. SHERMAN.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed a joint resolution (H. R. No. 131) tendering the thanks of the people and of Congress to Major General William T. Sherman, and the officers and soldiers of his command, for their gallant conduct in their late brilliant movement through Georgia.

Mr. LANE, of Indiana. If my colleague will pardon me for a moment, I desire to ask the Senate to take up the resolution of thanks to General Sherman and his army, which has just come from the House of Representatives, for the purpose of having it passed immediately.

Mr. HENDRICKS. Certainly, I yield.

Mr. LANE, of Indiana. I move that that joint resolution be taken up and passed at once, without reference to a committee, for I think the country understands it.

The VICE PRESIDENT. The Senator from Indiana asks unanimous consent to proceed to the consideration of the resolution just communicated from the House of Representatives. Is there any objection?

Mr. TRUMBULL. I think we referred the other resolutions in regard to the Lieutenant General and Admiral Farragut, and this had better take the usual course.

Mr. LANE, of Indiana. In some instances we have referred such resolutions and in some not.

The VICE PRESIDENT. Is there any objection to proceeding to the consideration of the resolution? The Chair hears none.

By unanimous consent, the joint resolution (H. R. No. 31) tendering the thanks of the people and of Congress to Major General William T. Sherman, and the officers and soldiers of his command, for their gallant conduct in their late brilliant movement through Georgia, was read twice.

Mr. TRUMBULL. Is it now proper to move to commit the resolution? I believe the proper stage for that motion is when the joint resolution has been read a second time.

The VICE PRESIDENT. A motion to refer is now in order.

Mr. TRUMBULL. I move that the joint resolution be referred to the Committee on Military Affairs and the Militia; and in making that motion I wish to say that I do so in accordance with what I think has been the practice of the Senate, and not because I have any opposition to the resolution. The whole country appreciates—I certainly do—the distinguished services of Major General Sherman; but I think we had better not take the resolution out of the ordinary course. The committee can report it back to-morrow. The reference will not delay it. I think we pursued a similar course in regard to the resolutions of thanks to the other high officers to whom we have tendered the thanks of Congress. It is simply with that view, and not out of hostility to the resolution, that I make the motion to refer.

Mr. JOHNSON. It has not been the uniform course to refer resolutions of this description to a committee; and even if it was a general rule to make such a reference, there are certainly occasions which should be considered exceptional, and if there could be any exception to a rule of that description, admitting a general rule to exist, it is furnished, perhaps, by the case before the Senate. Not only was the campaign from Chattanooga to Atlanta almost unrivaled for the gallantry and skill displayed, and its successful termination, but the progress of the march from Atlanta through Georgia a distance of three hundred miles, with an army of fifty or sixty thousand men, without losing a man hardly, and finally capturing the city of Savannah without firing a gun, will, in the history of military affairs, the world over, be considered not only as without example, but as an achievement that the imagination of man, in advance, hardly thought to be possible. Not only did the press of this country look upon that march with the greatest solicitude, but the European press, the military press of Eng-

land as well as of France thought that it was a dubious undertaking, and would, in all human probability, terminate in defeat. It has, however, terminated most brilliantly and successfully, and it has not merely terminated in the example of a brilliant military achievement, but it seems from the indications of the day to have brought about very strong grounds for believing that it will contribute very largely to putting an end to the rebellion. We see by the papers of to-day that the citizens of Savannah, nearly all of whom have remained, (for the population of the city is said to be now some twenty or twenty-five thousand, and it never exceeded the latter number,) are rallying around the standard planted by Sherman in their midst, and are anxious to return to its protection, and have petitioned the Governor of the State to call a convention for the purpose of considering whether it is not the interest, as well as the high moral and political duty of the State herself, to lay down her arms and again become one of the United States, protected by the Constitution and by the banner known to the Constitution.

A word more, sir, and I shall take my seat. However proper it might have been, even if there was a uniform rule, to make the reference suggested by the Senator from Illinois, yet as the motion of the Senator from Indiana was to take the resolution up that it might be acted upon at once, a delay now in acting upon it, (although I am sure such is not the motive that governs the Senator from Illinois or would govern any other member of the Senate,) would be considered perhaps by the public as an intimation or an indication that there was on the part of some one member of the Senate an unwillingness to award this tribute to that gallant officer and his men.

For these reasons I trust that my friend from Illinois will withdraw his motion, or if he cannot consent to do that from the sense of duty, which I am sure actuates him, that the Senate will refuse the reference.

Mr. FOSTER. Mr. President, the thanks of Congress to an officer for gallant service I deem to be an honor and a great honor; but it is only when they are cordially, and without hesitation, offered. If we are to hesitate and higgie about thanking an officer or an army, I think we had better do nothing about it. I hope we shall act upon this resolution without a reference.

Mr. CLARK. Mr. President, when General Sherman cut loose from Atlanta, and marched upon the coast, it was said that he violated all the proprieties and rules of the military service. I would be glad, in this instance, to violate the practice of the Senate, and give him the thanks of Congress at once.

Mr. TRUMBULL. Mr. President, it is a very unpleasant position for a member of the Senate to be placed in, to endeavor to preserve its rules and regulations and ordinary course of proceeding in a case like this. It is a very awkward position to object to giving the thanks of Congress to any of our gallant officers who have performed valuable service in the field, when the motion is made. We have had several motions of this character since this war began; and it has been said in the Senate and it has been thought that it would be more complimentary to the officer that the thanks of Congress should be deliberately expressed rather than that in the excitement of the moment when a resolution is introduced the vote should be taken upon it immediately. I presume that this resolution will receive the unanimous vote of this body, the vote of every member in it; but if you pass it now in this way, some Senator to-morrow may propose a vote of thanks to another officer and call upon the Senate to act on it immediately, and will anybody object then to immediate action? You will now have adopted the principle of allowing these resolutions to go through without receiving the ordinary consideration of Congress; and having adopted that rule, then if a member of the Senate objects he will be understood as hostile to the vote of thanks.

Notwithstanding what the Senator from Maryland has said would be understood by the country, there can be no such understanding in this case. I took occasion to state distinctly, when I moved to refer this resolution, that the country acknowledged the gallant services of General Sherman, that I certainly did, and that the motion was



made with no such view, but with a view to make these thanks, when they are given, worth something, not to cheapen the thanks of Congress and have them given on mere motion without consideration, but let the deliberate thanks of the representatives of the people and of the States be given to this commander after consideration. There is no haste about this, whether it is to-day or to-morrow. Let the resolution come back to-morrow reported by the Senator from Indiana with the unanimous indorsement of the Committee on Military Affairs, and let us then give it the unanimous sanction of the Senate. I think it would then be more valuable. I think that is the course which the Senate ought to adopt upon this occasion; but I shall not vote against the resolution of thanks because it is pressed to a vote to-day, if the Senate think proper to do so, for whenever the question comes I shall vote for the resolution, and am quite as much for it as any of those gentlemen who would hasten it through without its taking the ordinary course, and I think the usual course would be more complimentary to the gallant commander whom it is intended to compliment than if the resolution is passed in this hasty and, perhaps I may say, indecent way.

Mr. DAVIS. I concur in everything that the honorable Senator from Illinois has said. There is not a member of this body that will give a more cordial vote in favor of the resolution than I will, because I believe that the gallant general who is made its subject has rendered more brilliant and important service to his country in the conduct of the armies than any other who is now or has been heretofore in the service; but notwithstanding that is my opinion I would much prefer that this resolution should pass in the order and with the deliberation that would give it the highest moral value to the hero whom it is intended to honor, and that it would be most acceptable to his feelings, and I think if it was done deliberately it would have more effect upon his just estimate of the tribute than by its being hurried through the Senate.

The motion to refer was not agreed to.

The joint resolution was considered as in Committee of the Whole, reported to the Senate without amendment, ordered to a third reading, read the third time, and passed unanimously.

#### UNEMPLOYED GENERALS—AGAIN.

The Senate resumed the consideration of the bill (H. R. No. 586) to drop from the rolls of the Army unemployed general officers, the pending question being on the motion of Mr. Wilson to postpone the bill indefinitely.

Mr. HENDRICKS. By the act of 1862 all officers of the Army were made dependent directly upon the pleasure of the President for their positions. In order to hold their positions, as well as to secure promotion, they had to be in favor at the city of Washington. I do not believe that the public service was promoted thereby; but the President in the exercise of the power conferred upon him by that law was answerable directly to the country. If he dismissed a man high in command, the friends of that individual would to some extent vindicate his reputation, if it was an arbitrary and unjust act; and therefore there was some security to the officer even in the exercise of so high a power as that law confers. But what is now proposed? Not to do this thing directly, but indirectly. The Secretary of War, desiring to strike at some officer in the Army (if such a thing can be presumed) will not dismiss the officer, which would attract public attention, and would rally his friends to his vindication, but will simply withdraw him from command. The country may say "For the time being the services of this man are not required, there is no place for him." That might be the judgment for the time being of the country; but at the end of three months this man is found out of the service by an indirect proceeding, and the responsibility attaches nowhere. I say, sir, that under such a law the honor of the officer in the field is not safe. I prefer that the arbitrary power shall be possessed by the President, to be exercised under his responsibility to the country, rather than to enact a sweeping law like this. I shall vote for the motion made by the Senator from Massachusetts.

Mr. TRUMBULL. Mr. President, when this bill was first brought to the consideration of the Senate to-day I had not had time to look into the

law to see what the precedents had been, nor to consider the phraseology of the bill very particularly. Since the discussion has been going on I have looked back at the former legislation of Congress somewhat, and have examined the bill more carefully. Now, sir, I cannot expect, with this unanimous report of the Committee on Military Affairs, that anything I may say will be likely to change their opinion, or what will probably be the opinion of the Senate; but I wish to come back to the evil which is complained of and to show to Senators, if they will give me their attention, and to the country, the exact position which we occupy in defeating this bill; to show that so far from the bill being inconsistent with precedent it is sustained by the direct action of Congress at a former period of the history of the Government; that it is a duty as much incumbent upon us as upon the Executive to remedy an evil, and the committee themselves, in their own report, confess that it is an evil which ought to be remedied.

Now, sir, what say this committee unanimously? The Committee on Military Affairs say that "many general officers in the regular and volunteer forces of the Army of the United States have been and now are unemployed, or not on duty corresponding with their rank." The Committee on Military Affairs unanimously say that these officers "hold commissions and draw pay and allowances without any equivalent service rendered to the Government;" and the Committee on Military Affairs unanimously say that "at the same time these officers stand in the way of the promotion and consequent increase of compensation of the officers of inferior grade who are performing the duties proper to such general officers." The Committee on Military Affairs further say that "this is burdensome to the Treasury, unjust to meritorious officers in the field, and should be speedily remedied;" yet they propose to do nothing to remedy it. The Committee on Military Affairs further say that—

"Economy, justice, and the efficiency and general interests of the military service alike demand that where general officers in the regular and volunteer forces of the United States are found to be unfit for commands, and who are consequently unemployed or employed on duty not corresponding to their rank, they should be mustered out of the service, and that the vacancies thus created should be filled by new promotions and appointments, in order that the officers of an inferior grade who are performing the duties proper to such general officers may be promoted to the rank and receive the pay, allowances, and emoluments of such general officers."

After stating that, after recapitulating the evil, saying that economy and justice and the efficiency and general interests of the military service require that this evil should be remedied, what is the conclusion? Therefore we, the Committee on Military Affairs, recommend the indefinite postponement of the bill which proposes to remedy it! That is the logic. That is exactly what the committee recommend. We acknowledge the evil, and therefore we propose indefinitely to postpone the bill which will remedy it! Why? Because the President of the United States has the power to remedy it. Well, sir, but he does not exercise his power. You say in your report that he does not; that these men are holding office; you remit it to the President, as you have been remitting it to him, and it has not been done. The evil exists. The efficiency of the military service requires it to be remedied. You have the power to remedy it; but somebody else has the power; and because somebody else will not exercise it, therefore we will not exercise it, but will let the military service suffer and let unemployed officers receive pay, let injustice be done to inferior officers who are performing the duty which belongs to those superiors; we will not remedy it though we have the power, because, forsooth, the President of the United States has the power, and yet he will not remedy it! Is not that the position? Can we go before the country, can we go before officers of the Army, can we do justice to ourselves while we occupy such a position?

I have before me a letter from the Secretary of War, communicated to the House of Representatives on the 31st of March last, in which he states that there were in the service of the Government of the United States one hundred and sixty-two colonels commanding brigades and divisions in your Army. One hundred and sixty-two colonels; the very men who have led your brigades and your divisions in battle, who have borne your flag in triumph from the mouth of the

Ohio to the Gulf, and from Atlanta to Savannah, who have carried your flag to the heart of Arkansas, and have nearly crushed out this rebellion; and for two years and more, many of them bearing wounds upon their person, and having led divisions in battle time and again, are not permitted to have either the rank or the pay of a general, because somebody else at home in the State of Illinois or the State of New Hampshire or the State of Massachusetts, draws the pay and has the rank of general! Is this right? And shall we stand here quibbling whether we shall do our duty and complain of the Executive that he does not do his? Sir, let us go along hand in hand with the Executive; let us move on shoulder to shoulder with the Executive; and if he fails in any of the great responsibilities devolved upon him, and we have the power to uphold his hands, let us exercise and assert that power.

Mr. LANE, of Indiana. Will the Senator pardon me for one moment? This bill, if it passes, does not compel the mustering out of service of anybody. It only provides for mustering out of service those who are not employed for three months. Who has the right to employ them? The President has the right to assign them to commands or not, precisely as he pleases, and so has the corps commander and the department commander; and, after all, the discretion rests with the President; and your bill is utterly ineffective unless the President chooses to carry it out.

Mr. TRUMBULL. What, then, becomes of this complaint of an arbitrary rule, and this talk of a Procrustean bed that is to be applied to everybody, and to strike men out at the end of three months at any rate? What becomes of the argument of the Senator from Iowa, whom I am sorry not to see now in his seat [Mr. GRIMES] that this was an arbitrary rule; and of the remarks of the Senator from Kentucky, [Mr. POWELL;] and I had almost said, of the remarks of the Senator from Indiana himself, but I am not sure that he made use of that argument? We have been told that this is an arbitrary rule to dismiss men from the service; and now, lo and behold! it is merely a bill leaving it, after all, to the discretion of the President. I think this bill would amount to something. I agree that a discretion is left by the bill to the Executive, and it does not dismiss from the public service every officer who has been unemployed for three months. It provides expressly that "no officer is to be considered as included in the foregoing provision whose absence from duty shall have been occasioned by wounds received or disease contracted in the line of his duty while in the military service of the United States, or by his being a prisoner of war in the hands of the enemy, or under parole." It does not provide for dismissing any of these persons who are thus disabled from performing their duty. It applies only to such as shall have been continuously out of the service for three months prior to the 15th day of February, 1865. If the President wishes to retain in the service any of these officers who are not now performing actual service, it is easy enough for him to give them employment between now and the 15th of February; or, if that is too soon, put it the 4th day of July next. It is not the detail of the bill that is objected to, but the principle of the bill is objected to by the Military Committee. For myself, whenever there is evil existing in the country, and the legislative authority has the power to correct that evil, I hold it to be our duty to exercise that power.

But it has been said that some division commander may retire a man from service for three months, and then he will be dropped by the effect of this bill. How can a division commander retire him from service after the passage of the bill any more than now? This bill gives him no additional power to retire a general from service. If the division commander is that unjust officer represented here, actuated by malicious and improper motives, he can retire a general now as well as he can after the passage of this bill; and will you gain anything by keeping that general officer in your pay, and holding the rank while another performs the duty? It seems to me not.

But, sir, it has seemed to be supposed that this was unprecedented; and such was the view of the Senator from Iowa. This bill, drawn, as I think, with very considerable care, and which comes to us with the indorsement of the House of Repre-

sentatives, the immediate representatives of the people, designed to correct an admitted evil, does not arbitrarily muster these officers out of service. It leaves it, as the Senator from Indiana has well remarked, at last in the discretion of the President, but it controls that discretion to some extent. It enables him to determine which shall go out, and it compels the leaving of the service by men whom he will not place in positions to discharge duties corresponding to the ranks they hold. Now, sir, what was the legislation of 1815, soon after the close of the last war with England? I ask the attention of the Senator from Kentucky, [Mr. POWELL,] who seems so anxious to throw responsibility upon the President to this provision of the law. The fifth section of the act of March 3, 1815, declares:

"Sec. 5. And be it further enacted, That the President of the United States cause to be arranged the officers, non-commissioned officers, musicians, and privates of the several corps of troops now in the service of the United States in such a manner as to form and complete out of the same the corps authorized by this act, and cause the supernumerary officers, non-commissioned officers, musicians, and privates to be discharged from the service of the United States from and after the 1st day of May next, or as soon as circumstances may permit."

Here was a law requiring the President, by a certain day, to dismiss a portion of the Army, just as the bill now under consideration requires that by a certain day, unless the President, in his discretion, puts these officers into command, they shall go out of the service. The law of 1815 directed that the President should arrange the officers of the Army, and should, by a certain day, dismiss the supernumeraries. In principle, how do these laws differ? There is a precedent for the action contemplated by this bill. The principle is the same. The present bill does not use the word "discretion," but the Senator from Indiana admits that it is left at last in the discretion of the President, because, he says, it is competent for the President to put the officer in command, and then he cannot be mustered out. He has the discretion, therefore, but this will stimulate the activity of the President.

The effect of this bill will be to give place to deserving officers. I can use no better language than the committee themselves have used for the purpose of showing the necessity of the passage of just such a bill as this. I am in favor of it because I want to do justice to meritorious officers in the field. This is the great motive with me. I confess it would be a sufficient motive to be able to discharge from the service men who are drawing pay and holding rank and rendering no service to the country; but I am actuated by another motive in wishing the passage of this bill. I want your gallant commanders recognized; I want your colonels, near two hundred of them who have performed the duties of these idle generals for two years and more, exposing their persons upon every battle-field, to have the rank, and I want to give them the pay belonging to the duties they have performed. I want to take from their shoulders the eagle and place upon them the stars they have earned; and, sir, in their behalf, in behalf of the Army and the good of the public service, in the language of the report of this committee, I ask Senators to pass this bill.

Mr. WILSON. I desire to say to the Senator from Illinois that the committee admit, as they have stated in their report, that incompetent officers ought to be dismissed, not officers out of employment, but incompetent officers. I do not think the fact that an officer is out of employment for a few weeks an evidence that he ought to be dismissed from the public service; and I think that any person who will look at the record, at the names of the officers now out of employment, will say that all of those officers ought not to be dismissed. Some of them are among our bravest and our best officers, men who have distinguished themselves on many a battle-field. There are officers to-day in the service of the United States in the field who ought not to be in that service, men who are admitted on all hands to be inferior officers.

The position of the committee is this: that incompetent officers ought to be mustered out of the service, whether they are now in service, or not in service; and the committee go further, and say this on the ground of the good of the public service, and as an act to make way for deserving inferior officers. But the committee take this posi-

tion, that the President of the United States is clothed with ample powers now on this subject; that he is the responsible man, and ought to be held to his just responsibility.

Mr. HOWE. Will the Senator allow me to inquire if the President has any more authority over this thing than we have?

Mr. WILSON. No, sir. On the 17th of July, 1862, Congress passed "An act to define the pay and emoluments of certain officers of the Army, and for other purposes." The seventeenth section of that act is in these words:

"That the President of the United States be, and hereby is, authorized and requested to dismiss and discharge from the military service either in the Army, Navy, Marine corps, or volunteer force in the United States service, any officer for any cause which, in his judgment, either renders such officer unsuitable for or whose dismissal would promote the public service."

There is the law saying to the President of the United States, "You are authorized to dismiss any officer in the service, and you are requested to do it if, in your judgment, the public good will be promoted by so doing." There is his warrant of action; there is the authority; there is the request of the Congress of the United States; and if there is a man to-day in the public service, or in commission who is not in service, who is unworthy of the commission he bears, the responsibility is with the President of the United States, and not with Congress. I do not wish to relieve the President of that responsibility. He is Commander-in-Chief of the Army; he has the means of knowing the worth of every officer in the military and naval service of the country; he has all the means of information; and let him exercise it according to his sense of justice and his sense of public duty.

It is now proposed to relieve the President from this responsibility. We all say that there are officers in the service who ought to be mustered out. I admit that most of the general officers to be reached by this bill, if it should pass, ought to be mustered out of the service at once, but there are several of those officers whom everybody would say ought not to be. Now, sir, if you leave it with the President, let him exercise it. I understand that several were dismissed but a few weeks ago, and that with regard to some dozen or fifteen others, the matter is in course of examination, and they will be discharged probably in a very short time. I think there are some men who are employed in the service to-day, who would not be reached by this bill, who ought to go also, and I believe that to be the judgment of the War Department and of the officers in the field who know the worth of these men.

Nobody doubts that we have the authority to pass this bill. The simple question is, whether we ought to pass it; whether we ought to adopt this iron rule, and put on the law the responsibility that now belongs to the Commander-in-Chief of the armies of the United States, who ought to exercise in all these matters a wise discretion, governed by a sense of public duty and of justice to officers. I believe that the passage of this bill will do injustice to some men who are now out of employment, and will do injustice in its operation in the future on men who are now in the service, and who may be put in this position in order to work them out of the public service, when the President, or no man responsible to the country, would muster them out of the service, and then the responsibility of injustice, if injustice should be done, will rest upon the law, upon the action of the Congress of the United States.

The question of our power to pass such a bill has been referred to, and the Senator from Illinois brings in here an act passed in 1815 when the Army of the United States was reduced. We do not propose to reduce the number of general officers. We have seventy major generals of volunteers and two hundred and seventy-five brigadier generals of volunteers. It is not proposed to reduce the number. It is simply to muster some out in order to make room for the promotion of others.

The Senator from Kentucky [Mr. DAVIS] referred to what he regarded as a sort of question about the reduction of the Army by Congress. I do not believe there is any question about that. If the war closed to-day, there would be no difficulty here in reducing the Army to the size Congress believed the good of the country required.

I do not believe that is a possible disturbing question in the country. I believe that nearly all the soldiers and an overwhelming majority of the officers of the Army would be glad to-day if the war closed and they could retire to the duties of private life.

There is no occasion to pass this bill in order to exercise the authority of Congress over the Army, or to show that Congress ought to direct and control the President. Congress has given him all the power now. He is clothed with it. We have reelected him President of the United States, and I am for holding him to his just responsibility on this and on all other questions, and not, because he shall fail to do what we believe to be his duty, come in here and pass a law that shall relieve the President and put the burden upon us, or upon a law that we choose to pass. I do not, for one, wish to relieve him from any of the just responsibilities of the high position to which he has been reelected. Therefore, sir, I believe it wise not to pass this bill, but to leave the matter as it is, and let the President of the United States take the responsibility that the law of the country now devolves upon him.

Mr. FARWELL. I am somewhat embarrassed about voting upon this question. The committee state in their report that there are many officers who ought to be relieved from the service. The law authorizing the President to dismiss these officers has been upon the statute-book for over two years, and he has not, it appears, acted upon that law even to the satisfaction of the committee. I rise for the purpose of suggesting to the honorable chairman of the committee that he withdraw his motion to indefinitely postpone the bill, and then let us postpone its further consideration for thirty days. I believe if the President shall neglect or refuse to act under that law, and dismiss from the service officers whom the good of the service and justice to men of inferior rank in the service require should be dismissed, that then it will be the duty of Congress to take this matter in hand and act for themselves. The discussion of this matter perhaps will call the attention of the Executive, the Commander-in-Chief, to it. His duties are very severe; he calls upon his time for the consideration of various subjects must engross it nearly all; but the discussion which has been held here to-day will undoubtedly call his attention to this matter, and I trust that such action will be taken upon it as shall satisfy the Senate that the postponement of it was a wise measure. I hope the Senator will withdraw his motion, and then I will make a motion to postpone the further consideration of the bill for the present.

Mr. JOHNSON. Mr. President, at one time it was a question of doubt whether the President of the United States had the authority as President, without legislative sanction, to remove an officer of the Army. The general practice was not to take a step of that sort without a preceding court of inquiry or a court-martial. But the better opinion, as well as I recollect, or what was supposed to be the better opinion, was that the officers of the Army stood toward the President in the same relation in which the civil officers of the country stand, that although they are appointed by and with the advice and consent of the Senate, they could be removed by the President alone; and the President frequently, or occasionally, I know, has exercised that power. There was a case that excited a good deal of interest, as the Senate will remember when I mention it, because of the particular circumstances attending it, in which General Jackson exercised that power. In going from here to Alexandria on board a steamboat, he was very rudely assaulted by a lieutenant in the Navy or in the Marine corps, I forget which, a Lieutenant Randolph. He offered him a very gross indignity, and the President at once struck him from the roll. In several other cases the President has done the same thing.

But, although it has been done occasionally, when the act of 1862 was passed there was an impression that it could not be done except under the authority of some act of Congress, and to give the power so as to satisfy those who thought that the power did not exist without legislation, or to satisfy those who doubted whether the power existed, the act of 1862 was passed, and, as the Senate have seen from the reading of that act, it gives to the President the right, without any cause, if he in his judgment thinks the public ser-

vice demands it, to dismiss any officer of the Army or Navy or the Marine corps, and I suppose since the passage of that act there can be no doubt that the President possesses the power.

I can very readily see that it might become a question whether Congress has the authority to pass such a bill as the one upon its table. My own opinion is that it has that power; but it may be considered, and perhaps would be considered by some, that the power which Congress would assume to exercise by a bill of that description is in its nature an executive power, and, as all executive power by the Constitution is vested in the President, that it would be an interference with the executive prerogative.

What was done by the act referred to by the honorable member from Illinois was not what is proposed to be done by this bill. The cases are entirely unlike. Congress then determined that the public service demanded that the Army itself should be diminished. We had gone through the war of 1812, and we had come out of that war with an army not demanded by a state of peace. It was necessary, therefore, to diminish the Army; and in order to accomplish that purpose Congress passed the law referred to by the honorable member from Illinois, as the President, without legislation, would have no authority to that extent. He might dismiss the officers under his executive authority if he thought they were unfit to discharge the duties pertaining to the office, but he could not disband the Army. The Army, therefore, would have remained until Congress by its own legislation should direct that it should be disbanded. What they did by the act of 1815 was merely to provide a mode by which the Army should be diminished, and it did it by authorizing the President to arrange the different officers who were then in the service, the Army being about to be diminished, and to retain only such a number as would be found necessary for the Army as it was about to be reduced, and of course to dismiss the rest.

Mr. DOOLITTLE. If the honorable Senator will allow me to interrupt him, my recollection may be at fault; but did not an act of Congress authorize a certain board to be constituted, consisting of officers of the Army, and perhaps some civilians with them; and had not that board certain authority in relation to the disposition of officers?

Mr. JOHNSON. It did; but that is not the act of 1816; that is another one. The act of 1816, if I recollect aright, and I think I do, gives to the President the authority to dispose of the officers as he thinks proper, without any preliminary inquiry.

Mr. DOOLITTLE. My recollection is that General Scott was a member of such a board.

Mr. JOHNSON. There has been a board at different periods when the Army has been lessened to decide what officers should be retained and what should not.

But this bill is not for the purpose of diminishing the Army. It assumes that the Army is not too large. It therefore assumes that the number of officers already in service is not too large. But it provides that if any portion of those officers necessary to the service in point of number are not called into actual service to a command suited to their respective ranks, and remain in that condition for three months, they are then to be dropped.

I do not know what the President would do if a bill like this was passed; but I think I am not mistaken in the opinion of what he should do. You have given him the power by the act of 1862 to strike from the rolls of the Army every incompetent man, and if this bill is offered to him, and he sees that he is not to decide whether they are incompetent or not, that you will decide it, and if the officer from any cause whatever, no matter what, whether with reference to his competency to the command, or from any other cause, is not in actual service commanding such a command as is suited to his rank, he must be dropped, I think he ought to say, "I have got the power to drop him now; I think this is a reflection upon me, whether designed by Congress or not; you have by your act of 1862 quieted all doubts upon the subject of my power, if there were any well-founded doubts before; you have told me that you give me the authority; I am now keeping in service these men, and you interpose a bill now

which says virtually to me that I am not doing my duty; I cannot approve of a bill that carries with it such a reflection upon myself."

Mr. President, I am far from believing, notwithstanding the very positive manner in which it has been stated, that the President has not done his duty. Gentlemen assume that there are officers now in the Army of the United States who are not worthy to be there, and whose dismissal is called for by the interest of the public. How do we know that? How am I to know it? By public rumor? Who is the man vested with the means of ascertaining whether they are fit for the service or not? Is it not the President himself? And if he thinks proper to keep them in the service of the United States, unless the absolute necessities of the country demand it, is it toward him decorous—I speak it with no sense to find fault with the Senators who advocate this bill, or the House of Representatives who have adopted it—is it decorous to the Executive to say, "You are now failing in a clear and obvious duty; you are keeping now in the military service of the country at this period, when the life of the nation is at stake and depending upon the success of your armies, incompetent men, and we are compelled by a sense of duty to the nation, in order to save the nation from the peril in which it is, to assume ourselves the authority which it is your duty to exercise, which we have authorized you to exercise, but which we see that you will not exercise?"

The honorable gentleman from Illinois says he wants the bill passed because it would stimulate the President to do what the President ought to do. Sir, if a high sense of official duty, if his sworn official duty, if his obligations to the true honor and necessities of the country, are not sufficient to stimulate him to the discharge of his duty, he will not be stimulated by anything you can do. He may leave these officers to go out under the operation of your bill, and if he is capable of keeping in the service officers who are unfit, then when they go out, and they and their friends appeal to him for redress, or come to him complaining of the outrage which they will say has been perpetrated upon them, he will say, "I have not done it; Congress has done it; I never would have turned you out; I had no command that I wanted you to fill; the public service did not require you to be in the field; you have not been in the field; I never would have dismissed you; you are dismissed by the fiat of Congress, and not by the judgment or the conduct of the Executive."

With the honorable member, the chairman of the Committee on Military Affairs, and with all possible confidence in the President—all the confidence that a member of a coördinate department of the Government should have in another department of the Government—I hold him to his responsibility, believing that he will discharge it. If he shall fail to discharge it he will be called to that responsibility by the public judgment, and the public judgment will be pronounced in such terms that he will be obliged to listen to it. But I am not under the impression that he needs to be awakened to the discharge of his duty by any voice spoken either here or spoken by the people of the United States. If I were a member of the House of Representatives, and I believed that he knowingly kept in service major generals and brigadier generals who are wholly unfit for such commands, I should move his impeachment; and if he was brought before this body charged with an offense of that description, and he was convicted of that offense by the proof, we should be bound to pronounce but the one judgment, the judgment of guilty. But as long as he is the President of the United States, for one, however much I was opposed to his reelection, having been reelected, I give him the benefit of the presumption that he is willing to discharge his whole executive duty.

Mr. HOWE. I do not propose to prosecute this debate much further, but the last remark submitted by the Senator from Maryland suggests one reflection to my mind that I think proper to state. He says that if he were a member of the House of Representatives, and it was brought to his knowledge that the President had deliberately declined under the authority which Congress has conferred upon him to withdraw the commissions of officers whom he knew to be unfitted for the discharge of their duties, he should be prepared to move for the impeachment of the President.

He would regard it as a wanton neglect of official duty. The question occurs to my mind, if impeachment would be the just penalty of the President for refusing to discharge that duty which you say you have imposed upon him by a law which simply authorizes him to do it, what penalty ought to be imposed upon a Senator or a Representative who shall decline to discharge the very same duty, for the discharge of which they have the very same authority, or an authority higher than that? If it be an offense against the administration of public justice in the President to allow these men to hold their commissions and take their pay, is it not an offense against the administration of public justice in the Senator to allow these things to be done?

It is intimated here that this bill contains a reflection upon the President of the United States. How so, sir? It is simply doing the work ourselves which we have at one time said the President might do if he saw fit. If there be any reflection upon the character of the Commander-in-Chief, it is in the report of the Committee on Military Affairs which states specifically that there are officers holding high commissions and drawing high salaries, doing no duty, and not interfered with by the Commander-in-Chief. The reflection is in the report, not in the bill. The bill is plain matter of legislation, and reflects upon nobody. In point of fact, there is nothing in the report or in the bill which necessarily reflects upon the President of the United States; and I do not suppose anybody who had any hand in drawing either the bill or the report intended any such reflection.

There are two or three facts patent before us; nobody disputes them; to wit, we are paying a large amount of money every year for which we get no service whatever. It was said by the Senator from Indiana that after we had passed the bill the President might assign these men to duty within the three months. That is very true. Then, he says, nobody would be discharged. That is very true; but we would either get service or we would save money, one of the two. I do not insist upon anybody being mustered out of the service. If we can have them mustered into service, that will answer my purpose. But let us have the work or let us save the money. We do have the work. The trouble is the work is done by one class of men and the money goes to another class. I want those men to have the money who do the work.

Mr. POMEROY. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The VICE PRESIDENT. That motion is not now in order.

Mr. POMEROY. I ask unanimous consent to make that motion.

Mr. WILSON and Mr. LANE, of Indiana. I object.

The VICE PRESIDENT. Objection being made, the motion cannot now be entertained.

Mr. CONNESS. I should like to know whether the Senator from Massachusetts, the chairman of the Committee on Military Affairs, will accede to the request of the Senator from Maine, and withdraw his motion to indefinitely postpone the bill before the Senate.

Mr. WILSON. It seems to me we had better settle the matter now. We have a great many important questions which will soon be crowding upon us.

Mr. CONNESS. This is not in the way of any question.

Mr. GRIMES. If it is postponed now, we shall have to debate it all over again hereafter.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business. ["Oh no!"]

The motion was not agreed to.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts, to postpone the bill indefinitely.

Mr. CONNESS. Let us have the yeas and nays upon that.

The yeas and nays were ordered.

Mr. TRUMBULL. I am a little surprised that anybody should object when a Senator asks to have a bill go over which the objectors do not want to pass. I can understand why, when a member of the Senate is anxious to pass a bill, he should think a delay was injurious to its passage; but if this bill is never called up, it will do



no harm. The object of the Senator is, not to pass the bill; the motion is to defeat it. I have said all that I design to say upon it; but it seems to me that if a Senator wants a bill to go over, where nobody wants to pass it, and will not urge action upon it, it is a very singular proceeding to urge the Senate to a vote to defeat the bill.

Mr. WILSON. I will state to the Senator the particular reason why I wish to have this matter settled now. I believe, and that we all have admitted, that there ought to be some action on this subject. I do not think this is the proper way. I think we should reject this bill for the reason that the power and responsibility are with the President, and he ought to exercise his power, and exercise it now. If this bill is pending along here for week after week, he may take no action about it, and look to Congress to settle this matter. I want it rejected, if we can reject it, if that is the sentiment of Congress, to defeat the bill, and let the President understand that the responsibility is upon him, and we look to him to do his duty.

The question being taken by yeas and nays, resulted—yeas 28, nays 8; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Clark, Dixon, Doolittle, Foot, Foster, Grimes, Harding, Harris, Henderson, Hendricks, Hicks, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Powell, Ramsey, Richardson, Saulsbury, Sherman, Sumner, Van Winkle, Willey, and Wilson—28.

NAYS—Messrs. Conness, Davis, Farwell, Harlan, Howe, Pomeroy, Trumbull, and Wade—8.

ABSENT—Messrs. Anthony, Chandler, Collamer, Cowan, Hale, Howard, Lane of Kansas, McDougall, Riddle, Sprague, Ten Eyck, Wilkinson, and Wright—13.

So the bill was indefinitely postponed.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. TRUMBULL, it was

Ordered, That when the Senate adjourns to-day it adjourn to meet on Monday next.

#### EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Friday, January 6, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### TRANSFER OF APPROPRIATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with the act of Congress of March 3, 1869, a statement exhibiting the various amounts transferred from and to appropriations during the year ending June 30, 1864; which was laid on the table, and ordered to be printed.

#### FLORIDA TAX COMMISSIONERS.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, a copy of the report of Hon. Austin Smith on the conduct of the tax commissioners for the district of Florida, &c.; which was, on motion of Mr. SLOAN, referred to the committee on the rebellious States.

#### INCREASE OF PENSIONS.

Mr. ROSS, by unanimous consent, introduced a bill to increase the pay of pensioners twenty-five per cent. from and after the 1st day of January, 1865; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### COLUMBIA AND SNAKE RIVERS.

Mr. WALLACE, by unanimous consent, introduced a bill to improve the Columbia and Snake rivers; which was read a first and second time, and referred to the Committee on Roads and Canals.

#### REGENTS OF SMITHSONIAN INSTITUTION.

Mr. COX. I ask unanimous consent to take from the Speaker's table Senate bill No. 367, entitled "An act to repeal the provision of law requiring certain regents of the Smithsonian Institution to be members of the National Institute."

There being no objection, the bill was taken up, and was read a first and second time. It provides

for the repeal of so much of the act to establish the Smithsonian Institution, for the increase and diffusion of knowledge among men as requires that two of the regents of said Institution shall be members of the National Institute in the city of Washington.

Mr. COX. I may state that the object of this bill is to repeal that provision of law which requires that two of the regents of the Smithsonian Institution shall be members of the National Institute—an institution which is now obsolete.

The bill was ordered to a third reading, read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### UNITED STATES COURTS IN NEVADA.

Mr. WORTHINGTON, by unanimous consent, introduced a bill providing for a district and circuit court of the United States for the district of Nevada, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### REVISION OF TAX SYSTEM.

Mr. KASSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means consider and report, by joint resolution or otherwise, upon the expediency of providing for a commission, to consist of—members of the Senate and—members of the House, with leave to sit in vacation, to examine and report upon a system and details of taxation which shall bear equally upon the property and industry of the country, and shall best provide for maintaining the credit of the United States unimpaired, and yield a revenue adequate to the necessities of the Government; and whose duty it shall be to report by bill at the commencement of the first session of the Thirty-Ninth Congress.

#### DUTIES ON IMPORTED PRINTING PAPER.

Mr. KASSON, by unanimous consent, also introduced a joint resolution to promote the diffusion of knowledge in the United States by the suspension of duties on imported printing paper; which was read a first and second time, and referred to the Committee of Ways and Means.

#### THANKS TO GENERAL SHERMAN.

Mr. SCHENCK. I ask unanimous consent to report back from the Committee on Military Affairs the joint resolution tendering thanks to Major General Sherman and his army.

There was no objection.

Mr. SCHENCK. The committee have directed me to report the joint resolution back with a substitute enlarging its scope so as to include the campaign from Chattanooga to Atlanta.

The original resolution, which was read, provides that the thanks of the people and of the Congress of the United States are due and are hereby tendered to Major General William T. Sherman, and through him to the officers and men under his command, for their gallantry and good conduct in their late brilliant expedition through Georgia; and that the President cause a copy of this joint resolution to be engrossed and forwarded to Major General Sherman.

The substitute provides that the thanks of the people and of the Congress of the United States are hereby tendered to Major General William T. Sherman, and through him to the officers and men under his command, for their gallantry and good conduct in their late campaign from Chattanooga to Atlanta, and the triumphal march thence through Georgia to Savannah, terminating in the capture and occupation of that city; and that the President cause a copy of this joint resolution to be engrossed and forwarded to General Sherman.

The substitute was agreed to; and the joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed unanimously.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIRCUIT COURT OF ARKANSAS.

Mr. WILSON, by unanimous consent, introduced a bill to provide for another term of the circuit court of the United States for the district

of Arkansas, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

#### NEW STANDING COMMITTEES.

Mr. WILSON, by unanimous consent, also submitted the following resolution:

*Resolved*, That the committee on rules be instructed to inquire into the expediency of so amending the rules of the House as to create two additional standing committees, namely, a Committee on Internal Revenue and a Committee on Banking and Currency; and that the committee further inquire into the expediency of converting the select committee on a Pacific railroad into a standing committee, and report the conclusions of the committee to the House at as early a day as practicable.

Mr. KASSON. I ask my colleague whether a resolution of the same character was not offered at the last session.

Mr. WILSON. This is more comprehensive in its character than any previous resolution.

Mr. PENDLETON. Has the committee on rules leave to report at any time?

The SPEAKER. They have not, although it has been the usage to allow them to report at the convenience of the House.

The resolution was adopted.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMENDMENT OF INTERNAL REVENUE ACT.

Mr. STEVENS. I ask unanimous consent to submit a bill to amend an act to provide internal revenue for the support of the Government, to pay interest on the public debt, and for other purposes, passed June 30, 1864, in order that it may be referred to the Committee of Ways and Means and ordered to be printed.

Mr. BROOKS. Where does the bill come from?

Mr. STEVENS. The Committee of Ways and Means asked me to have it referred to them and ordered to be printed. We have not agreed to it. We have not had time to consider it. It has been carefully drawn, and that committee want it printed with the others that may be referred to them.

Mr. BROOKS. My object is not curiosity, but to know whether the bill has the sanction of the Committee of Ways and Means.

Mr. STEVENS. There is no sanction except that they want the bill for investigation. I offer the bill on my own motion, and not as chairman of the Committee of Ways and Means.

There was no objection, and the bill was received, read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### METROPOLITAN RAILROAD COMPANY.

Mr. DAVIS, of New York. I ask unanimous consent to take from the Speaker's table the amendments of the Senate to House bill No. 622, to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864, in order that they may be acted on at this time.

Mr. COBB. I object.

#### WASHINGTON GAS-LIGHT COMPANY.

Mr. DAVIS, of New York. I ask unanimous consent to take up Senate bill No. 363, to amend the charter of the Washington Gas-Light Company.

There was no objection, and the bill was taken up and read *in extenso*.

Mr. WILSON. I move that the bill be referred to the Committee for the District of Columbia.

Mr. DAVIS, of New York. The bill has been considered by the members of that committee, and they unanimously concur in recommending it.

Mr. WILSON. The gentleman from New York states that the bill has been considered by that committee. If that be so, I have no desire to have it go to them again.

Mr. COBB. I would inquire of the Chair if this bill has been taken up by unanimous consent?

The SPEAKER. It has been. The Chair looked at the gentleman from Wisconsin when unanimous consent was asked, supposing that he would object; but his back was turned toward the

Chair, and he appeared to be engaged in conversation with a gentleman near him, and did not object.

Mr. COBB. I move that the bill be laid on the table.

The motion was not agreed to.

Mr. HOLMAN. I suppose it is in order to move a reference of the bill to the Committee for the District of Columbia?

The SPEAKER. It is.

Mr. HOLMAN. I make that motion.

The question was put; and there were—ayes 42, noes 42; no quorum voting.

The SPEAKER thereupon ordered tellers; and appointed Mr. HOLMAN, and Mr. DAVIS of New York.

The House divided; and the tellers reported—ayes 50, noes 45.

So the bill was referred to the Committee for the District of Columbia.

Mr. HOLMAN moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DELEGATE FROM MONTANA.

Mr. COLE, of Washington. I rise to a question of privilege. The Delegate-elect from the Territory of Montana, Mr. SAMUEL McLEAN, is present, and I ask that he may be sworn in.

Mr. McLEAN thereupon presented himself at the Speaker's desk and was duly qualified by taking the oaths prescribed by the Constitution and by the act of July 2, 1864.

#### PENSION APPROPRIATION BILL.

Mr. STEVENS. I ask unanimous consent to take from the Speaker's table the general pension appropriation bill returned from the Senate with an amendment, in order to act upon the amendment.

Mr. TOWNSEND. I object.

#### ABOLITION OF SLAVERY.

Mr. ASHLEY. I desire to call up this morning, pursuant to notice previously given, the motion to reconsider the vote by which the joint resolution proposing an amendment to the Constitution in reference to slavery was rejected.

Mr. HOLMAN. Does the gentleman call it up for action to-day?

Mr. ASHLEY. No, sir; but for discussion, intending to allow that discussion to run on until the House sees fit to order the main question to be put.

The SPEAKER. This being private bill day, it requires a majority vote to set aside the consideration of private bills.

The consideration of private bills was set aside by a majority vote, and the motion to reconsider was taken up.

Mr. ASHLEY. Mr. Speaker, "If slavery is not wrong, nothing is wrong." Thus simply and truthfully has spoken our worthy Chief Magistrate.

The proposition before us is, whether this universally acknowledged wrong shall be continued or abolished. Shall it receive the sanction of the American Congress by the rejection of this proposition, or shall it be condemned as an intolerable wrong by its adoption?

If slavery had never been known in the United States, and the proposition should be made in Congress to-day to authorize the people of the several States to enslave any portion of our own people or the people of any other country, it would be universally denounced as an infamous and criminal proposition, and its author would be execrated, and justly, by all right-thinking men, and held to be an enemy of the human race.

I do not believe such a proposition could secure a single vote in this House; and yet we all know that a number of gentlemen who could not be induced to enslave a single free man will nevertheless vote to keep millions of men in slavery, who are by nature and the laws of God as much entitled to their freedom as we are. I will not attempt to explain this strange inconsistency or make an argument to show its fallacy. I content myself with simply stating the fact.

It would seem as if no man favorable to peace, concord, and a restored Union could hesitate for a moment as to how he should vote on this proposition. Certainly, whatever of strife, sectional bitterness, and personal animosity these Halls have

witnessed since my appearance in Congress, or, indeed, I may say, since the organization of parties in 1836, slavery has usually been the sole cause. No observer of our history, or of the political parties which have been organized and disbanded, now hesitates to declare that slavery is the cause of this terrible civil war. All who understand anything of our troubles, either in this country or Europe, now know that but for slavery there would have been no rebellion in this country to-day.

In the very nature of things it was impossible for a Government organized as ours to endure half slave and half free; and nothing can be clearer to the reader of history than that the men who made our Constitution never expected nor desired the nation to remain half slave and half free. Our fathers were men of ideas, and they believed that with the adoption of the Constitution slavery would cease to exist. Sir, while demanding liberty for themselves, and proclaiming to the world the inalienable right of all men to life, liberty, and the pursuit of happiness, they were not guilty of the infamy of making a Constitution which, by any fair rules of construction, can be interpreted into a denial of liberty, happiness, and justice to an entire race.

That the founders of the Republic were sadly disappointed in their expectations that slavery would cease on the adoption of the national Constitution is undoubtedly true. Instead of disappearing as they confidently expected, circumstances unforeseen by them so strengthened slavery that in less than eighty years it became the dominant interest in the nation, and in 1860 openly demanded the entire control of the national Government. Because this demand was refused by the free laboring men of the North the slave-masters of the South organized this the most wicked of all rebellions, and for nearly four long years have waged this terrible war with the avowed purpose of destroying the best form of government ever vouchsafed to man, in order to establish in its stead a Government whose corner-stone should be human slavery. This is the logic of the contest. It has at last so fully developed itself that all the world, including its most stupid editors, now understand it. The Government of our fathers must either be maintained, and slavery die, or slavery must live and the Government be destroyed. The conflict is "irrepressible," and beyond compromise. The nation cannot longer endure half slave and half free.

Had statesmen administered this Government for the past thirty years instead of the trading politicians who have disgraced it, first by apologizing for, then justifying, and at last openly defending slavery as a right guaranteed by the national Constitution, we should have had no such desolating war as we have in this country to-day.

If the national Constitution had been rightfully interpreted, and the Government organized under it properly administered, slavery could not have legally existed in this country for a single hour, and practically but a few years after the adoption of the Constitution. Only because the fundamental principles of the Government have been persistently violated in its administration, and the Constitution grossly perverted by the courts, is it necessary to-day to pass the amendment now under consideration. I say this much in vindication of the memory of the great and good men who, when establishing this Government, made a Constitution which to-day is the best known among men.

As for myself, I do not believe any constitution can legalize the enslavement of men. I do not believe any Government, democratic or despotic, can rightfully make a single slave, and that which a Government cannot rightfully do it cannot rightfully or legally authorize or even permit its subject to do. I do not believe that there can be legally such a thing as property in man. A majority in a republic cannot rightfully enslave the minority, nor can the accumulated decrees of courts or the musty precedents of Governments make oppression just. I do not, however, wish to go into a discussion of the question of slavery as an abstract question. It is a system so at war with human nature, so revolting and brutal, and is withal so at variance with the precepts of Christianity and every idea of justice, so absolutely indefensible in itself, that I will not uncover its hideous blackness and thus harrow up my own and the feelings of

others by a description of its disgusting horrors, or an attempted recital of its terrible barbarism and indescribable villainy.

It is enough for me to know that slavery has forced this terrible civil war upon us; a war which we could not have avoided, if we would, without an unconditional surrender to its degrading demands. It has thus attempted to strike a death-blow at the national life. It has shrouded the land in mourning and filled it with widows and orphans. It has publicly proclaimed itself the enemy of the Union and our unity as a free people. Its barbarities have no parallel in the world's history. The enormities committed by it upon our Union prisoners of war were never equaled in atrocity since the creation of man.

For more than thirty years past there is no crime known among men which it has not committed under the sanction of law. It has bound men and women in chains, and even the children of the slave-master, and sold them in the public shambles like beasts. Under the plea of Christianizing them it has enslaved, beaten, maimed, and robbed millions of men for whose salvation the Man of sorrows died. It so constituted its courts that the complaints and appeals of these people could not be heard by reason of the decision "that black men had no rights which white men were bound to respect." It has for many years defied the Government and trampled upon the national Constitution, by kidnapping, imprisoning, mobbing, and murdering white citizens of the United States guilty of no offense except protesting against its terrible crimes. It has silenced every free pulpit within its control, and debauched thousands which ought to have been independent. It has denied the masses of poor white children within its power the privilege of free schools, and made free speech and a free press impossible within its domain; while ignorance, poverty, and vice are almost universal wherever it dominates. Such is slavery, our mortal enemy, and these are but a tithe of its crimes. No nation could adopt a code of laws which would sanction such enormities, and live. No man deserves the name of statesman who would consent that such a monster should live in the Republic for a single hour.

Mr. Speaker, if slavery is wrong and criminal, as the great body of enlightened and Christian men admit, it is certainly our duty to abolish it, if we have the power. Have we the power? The fifth article of the Constitution of the United States reads as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1838 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

The question which first presents itself in examining this provision of the Constitution is, what constitutes two thirds of both Houses? or, what, in the eye of the Constitution, is two thirds of the House of Representatives? Is it two thirds of the entire number of members to which all the States, including the States in rebellion, would be entitled, if they were all now represented, or is it two thirds of the members who have been elected and qualified?

This question would have entered largely into the discussion of the subject now under consideration had not your predecessor, Mr. Speaker, decided, and this House sustained him in declaring, that a majority of the members elected and recognized by the House made a constitutional quorum.

It has, so far as the action of this body can dispose of the question, been authoritatively settled, and settled as I think it should have been, by declaring that a majority of the members elected and qualified constitutes a quorum, and that two thirds of a quorum can constitutionally pass this amendment. The question having been thus disposed of, I do not care to make an argument in support of a proposition thus authoritatively settled.

My colleague from the first district, [Mr. PENDELTON,] in a speech which he made at the last session against the passage of this amendment,

raised the question as to the constitutional power of Congress to propose, and three fourths of the Legislatures of the States to adopt, an amendment of the character of the one now under consideration. He claimed that, though Congress passed the proposed amendment by the requisite two thirds, and three fourths of the Legislatures of the several States adopted it, or, indeed, all the States save one, it would not legally become a part of the national Constitution. These are his words:

"But neither three fourths of the States, nor all the States save one, can abolish slavery in that dissenting State, because it lies within the domain reserved entirely to each State for itself, and upon it the other States cannot enter."

Is this position defensible? If I read the Constitution aright and understand the force of language, the section which I have just quoted is today free from all limitations and conditions save two, one of which provides that the suffrage of the several States in the Senate shall be equal, and that no State shall lose this equality by any amendment of the Constitution without its consent; the other relates to taxation. These are the only conditions and limitations.

In my judgment, Congress may propose, and three fourths of the States may adopt, any amendment, republican in its character and consistent with the continued existence of the nation, save in the two particulars just named.

If they cannot, then is the clause of the Constitution just quoted a dead letter; the States sovereign, the Government a confederation, and the United States not a nation.

The extent to which this question of State rights and State sovereignty has aided this terrible rebellion and manacled and weakened the arm of the national Government can hardly be estimated. Certainly doctrines so at war with the fundamental principles of the Constitution could not be accepted and acted upon by any considerable number of our citizens without eventually culminating in rebellion and civil war.

This fatal heresy doubtless carried many men of character and culture into the rebellion who were sincerely attached to the Union. If we may credit the recently published private letters of General Lee, written in the spring of 1861, to his sister and friends, and never intended for publication, he was induced to unite his fortunes with the insurgents by the so-called secession of Virginia, under the belief that his first and highest allegiance was due to his State. Sir, I know how hard it is for loyal men to credit this. To thinking men nothing seems more absurd than the political heresy called States rights in the sense which makes each State sovereign and the national Government the mere agent and creature of the States. Why, sir, the unity of the people of the United States antedates the Revolution. The original thirteen colonies were never in fact *disunited*. The man who had the right of citizenship in Virginia had the same right in New York. As one people they declared their independence, and as one people, after a seven years' war, conquered it. But the unity and citizenship of the people existed before the Revolution, and before the national Constitution. In fact this unity gave birth to the Constitution. Without this unity and preëxisting nationality—if I may so express myself—the Constitution would never have been formed. The men who carried us through the revolutionary struggle never intended, when establishing this Government, to destroy that unity or lose their national citizenship. Least of all did they intend that we should become aliens to each other, and citizens of petty, independent, sovereign States. In order to make fruitful the blessings which they had promised themselves from independence, and to secure the unity and national citizenship for which they periled life, fortune, and honor, they made the national Constitution. They had tried a confederation. It did not secure them such a Union as they had fought for, and they determined to "form a more perfect Union." For this purpose they met in national convention, and formed a national Constitution. They then submitted it to the electors of the States for their adoption or rejection. They did not submit it to the States as States, nor to the governments of the several States, but to the citizens of the United States residing in all the States. This was the only way in which they could have submitted it and been consistent with the declaration made in the preamble, which says that "we, the people of

the United States, in order to form a more perfect Union, &c., do ordain and establish this Constitution." The whole people were represented in this convention. Through their representatives they pledged each other that whenever the people of nine States should ratify and approve the Constitution submitted to them, it should be the Constitution of the nation.

In the light of these facts, to claim that our Government is a confederation and the States sovereign seems an absurdity too transparent for serious argument. Not only is the letter of the Constitution against such a doctrine, but history also. Since the adoption of the national Constitution twenty-two States have been admitted into the Union and clothed with part of the national sovereignty. The territory out of which twenty-one of these States were formed was the common territory of the nation. It had been acquired by cession, conquest, or purchase. The sovereignty of the national Government over it was undisputed. The people who settled upon it were citizens of the United States. These twenty-one States were organized by the concurrent action of the citizens of the United States and the national Government. Without the consent of Congress they would have remained Territories. What an absurdity, to claim that the citizens of the New England States, or of all the States, or of any section of the Union may settle upon the territory of the United States, form State governments, with barely inhabitants enough to secure one Representative in this House under the apportionment, secure admission as a State, and then assume to be sovereign and master of the national Government, with power to secede and unite with another and hostile Government at pleasure, and to treat all citizens of the United States as alien enemies who do not think it their duty to unite with them. This is the doctrine which deluded many men into this rebellion, and which seems to delude some men here with the idea that the national Constitution cannot be amended so as to abolish slavery, even if all the States in the Union demanded it save Delaware. Under this theory of State sovereignty, States like Florida and Arkansas, erected on the national domain, may, as soon as they secure admission into the Union, secede and embezzle all the property of the nation, including the public lands and forts and arsenals, declare all citizens of the United States who do not unite with them alien enemies, confiscate their property, rob them of their liberty, by impressing them into their army to fight against their own country and Government, and, if they refuse, to punish them by imprisonment and death. After doing this, if the authority to commit such wholesale robbery, impressments, and murders is denied them by the national Government they set up the claim that they are sovereign and independent, and are only defending their homes, their firesides and household gods, and we have men all over the North who to-day defend this monstrous assumption and villainy.

Mr. Speaker, I presume no man, not even my colleague, will deny that when the thirteen colonies or States assembled by their representatives in convention to make the present national Constitution they might have abolished slavery at once. Or, if the theory of the old parties is true, that a republican Government may authorize or permit the enslavement of men, which I deny, they could have provided for the emancipation of all slaves in twenty or fifty years, if they had seen fit; and if the people of nine States had voted to ratify such a constitution slavery could not, after the period named, have existed by State law and in defiance of the national Constitution, either in one of the old thirteen States or in any one of the States admitted into the Union since its adoption. If it was competent for the men who made the national Constitution to prohibit slavery at that time, or to provide for its future prohibition, why is it not just as competent for us now? The framers of the Constitution provided for its amendment in the section which I have already quoted. This was a wise provision. They provided that when an amendment was proposed and adopted in the manner and form prescribed it should become a part of the national Constitution, and be as valid and binding as though originally a part of that instrument.

Had the framers of the Constitution desired the protection and continuance of slavery they could

easily have provided against an amendment of the character of the one now before us by guarding this interest as they did the right of the States to an equal representation in the Senate. They did not do it, because, as the history of the convention abundantly proves, the great majority of the framers of the Constitution desired the speedy abolition of slavery, and I contend that, so far from the Constitution prohibiting such an amendment, it has expressly provided for it.

Mr. Speaker, there is not a single section or clause in the national Constitution which clothes the political organizations which we call States with any of the attributes of a sovereign Power, but, on the other hand, prohibits in positive and unmistakable language any State from doing any act which a sovereign might do without the consent of Congress.

The supreme power of the national Government is rigorously maintained throughout the Constitution, and it is most emphatically ordained in article six, clause two, of the Constitution, as follows:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Section eight, article one, enumerates seventeen distinct sovereign powers of a national character conferred on Congress by the Constitution, and, as if to leave no doubt on the minds of any, this extraordinary enumeration of powers is followed by this sweeping and significant provision:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

If I understand this provision correctly, it means that the framers of the Constitution intended that the national Government should be intrusted with the interpretation of the Constitution, not only as to the construction of the powers delegated by it to Congress, but to all departments of the national Government. They never intended that any State, or any number of States, nor the officials of State governments, should be competent in any capacity to judge of the infractions of the national Constitution by any department of the national Government, nor of the propriety of any law passed by Congress. Any citizen has the undoubted right to express his opinions, and criticize the action of the General Government or of any department thereof; but neither is a State nor are the officials of a State clothed with any authority to decide as to the constitutionality of any law passed by Congress, nor as to the propriety of any act done by any department of the national Government.

It is past comprehension how any man with the Constitution before him, and the history of the convention which formed that Constitution within his reach, together with the repeated decisions of the Supreme Court against the assumption of the State rights pretensions, can be found at this late day defending the State sovereignty dogmas, and claiming that the national constitution cannot be so amended as to prohibit slavery, even though all the States of the Union save one give it their approval.

That provision of the national Constitution which imposes upon Congress the duty of guaranteeing to the several States of the Union a republican form of government is one which impresses me as forcibly as any other with the idea of the utter indefensibility of the State sovereignty dogmas, and of the supreme power intended by the framers of the Constitution to be lodged in the national Government.

In this connection we ought not to overlook that provision of the Constitution which secures nationality of citizenship. The Constitution guarantees that the citizens of each State shall enjoy all the rights and privileges of citizens of the several States. It is a universal franchise which cannot be confined to States, but belongs to the citizens of the Republic. We are fighting to maintain this national franchise and prevent its passing under the control of a foreign Power, where this great privilege would be denied us or so changed as to destroy its value. The nationality of our citizenship makes our Army a unit, although from



distant States, and makes them also invincible. It is objected that if we pass this proposition the requisite number of States cannot now be secured for its adoption. In answer to this objection I have to say that Congress has not, in submitting the proposed amendment, limited the time in which the States shall adopt it; nor has Congress attempted authoritatively to declare that it will require the ratification of twenty-seven States to adopt this amendment.

I hold that whenever three fourths of the States now represented in Congress give their consent to this proposition it will legally become a part of the national Constitution, unless other States, now without civil governments known to the Constitution, establish governments such as Congress shall recognize, and such States, together with any new States which may be admitted, shall be represented in Congress before three fourths of the States now represented adopt the proposed amendment; in which event the States thus recognized or admitted must be added to the number of States now represented in Congress, and the ratification of three fourths of the States thus recognized, and none others, is all that will be required to adopt this amendment.

I lay it down as a proposition which I do not believe can be successfully controverted, that neither the Constitution of the United States nor the constituted authorities under it can know of the existence of a State in this Union unless it has a civil government organized in subordination to and working in harmony with the national Constitution. This principle has been fully recognized by all the coordinate branches of the Government since the outbreak of the rebellion. In this House we have authoritatively declared that a majority of the members elected and qualified are a quorum competent to transact business. The Senate at this session have adopted this rule also. Two thirds of this quorum, then, if this decision be correct, as I believe it is, may constitutionally pass the proposition before us. If we may constitutionally pass this amendment by a vote of two thirds of a quorum of this House and Senate as now constituted, three fourths of the States now represented in Congress may constitutionally adopt it, provided they do so before any new States are admitted, or before a rebel State government is organized and recognized by the joint action of Congress and the Executive. I believe this is the true theory of the Constitution. Certainly it is the only theory consistent with national existence. If we adopt the theory that a State once a State is always a State we have no safety from factions and revolutions. Suppose that within the territorial jurisdiction known on the map of the United States as South Carolina there should be no civil government organized in the next fifty years such as Congress will recognize, do gentlemen claim that at the expiration of that time the old State organization would still be in existence, and that in order to secure the adoption of a constitutional amendment such a State ought to be included in the number from which the constitutional three fourths of the States must be secured for the ratification of an amendment? If not, then with what propriety can it be claimed as necessary to-day? The constitutional State government of South Carolina is as completely destroyed at this moment as though their Representatives had not been in these Halls, or their local government recognized by Congress for the past fifty years. Certainly no thoughtful man who has carefully examined this subject will defend the absurdity of the constitutional existence of political communities which we call States after their constitutional State governments have been destroyed by the action of their own citizens.

Speeches were made at the last session, and indeed at every session of Congress since the rebellion, to prove that the several acts of secession of the rebel States being illegal, were therefore void, and that the State constitutions in those States not only remained, but that the government of such States could at any time be put in motion without the consent of Congress, whenever ten or more loyal men could be found to assume the Governorship and a few of the subordinate offices therein. Loyal citizens of the rebel States are fast being cured of this fallacy. They have learned by experience that the Government of the United States is supreme, and that local governments in rebel States cannot be put in motion without the

consent of Congress. The mass of men did not at first seem to recognize the fact that while acts of secession were illegal and void as affecting the rights of the national Government, its jurisdiction and sovereignty, nevertheless it was such a crime that those committing it forfeited all rights guaranteed them by the national Constitution under their State organization.

Mr. Speaker, can there be such a thing known to our national Constitution as a State without a constitutional government? In my opinion, sir, a State government, to be constitutional, must be organized and act in subordination to the national Constitution and in obedience to the laws of Congress. The national Constitution requires the officers in each State to swear to support it while discharging the duties of any State office to which they may have been elected or appointed. If a State does not act in subordination to the national Constitution, and its officers do not take an oath to support it, and they send no Senators or Representatives to Congress, there can be no constitutional State government in such State. Add to this the crime of secession, rebellion, and levying war, and the taking of an oath by the officers of such State to support another and a hostile government, and I claim it terminates of necessity, and of right ought to terminate, the existence of a constitutional government in every such State. In a constitutional point of view, if there is no loyal State government, such as I have described, but in its stead a government unknown to the Constitution established by the action of its citizens, then, in fact, there is no constitutional State government, and, of course, no State known to the Constitution. The States then in rebellion have no constitutional governments. They have civil organizations, however, hostile to the United States; organizations which are recognized as *de facto* rebel governments. When the rebellion is suppressed there will be no constitutional State governments, *in fact*, in one of the rebel States, and certainly the rebel *de facto* government cannot remain or be recognized by us after the rebellion is put down. The people residing within the limits of these so-called States will be under the exclusive jurisdiction of Congress, because in point of fact they cannot be subject to the laws of a State which has no State government known to the national Constitution.

I may be answered that it is the duty of Congress to guaranty to each State a republican form of government, and that this provision of the Constitution implies the continued existence of the State, although its government may have been overthrown by violence or by the deliberate acts of a majority of its citizens. Grant it, for the sake of the argument, but what will be the legal condition of such State if the minority do not call upon Congress to secure them a republican government? What will be its condition if Congress, in the exercise of its constitutional power, attempts to secure such State a republican government and loyal citizens cannot be found in sufficient numbers to maintain a State government? Is not the condition of such State for the time being that of a *quasi* Territory? Certainly, during the time it remains in rebellion and is unable to maintain a State government it is not a State. If so, then, for practical purposes, whether of national administration or for the adoption of this amendment, States in rebellion and without civil governments which Congress can recognize, are not States within the meaning of the Constitution, and cannot act upon this amendment to the Constitution, or do any other act which a loyal State of the Union may lawfully do.

In pursuing this argument we must keep steadily in view the fact that the United States are not a confederation, but a nation; that the national Constitution is the supreme law of the land, and that the Government organized under it is clothed with the sovereignty of the whole people. The first and highest allegiance is due from the citizen to the national Government; he is also subject to the laws constitutionally enacted by his own local State government. If there be no local State government in existence the citizen is legally subject only to the laws of Congress. In the absence of a constitutional State government in any portion of the territory of the United States, where a State government formerly existed, Congress has all the authority of a State government within such territory. If, then, in the rebellious States

there is no constitutional civil governments, are they States within the contemplation of the Constitution? I again ask the question, can there be such a thing known to our national Constitution as a State without a constitutional government? If not, then the rebel States, having no constitutionally organized civil governments, are not States within the meaning of the Constitution, and the territory and the citizens residing therein are subject to the jurisdiction of Congress the same as citizens in any Territory of the United States.

If the contrary theory is true, that a State once a State is always a State, nothing can be clearer to my mind than that the Constitution ought to be so amended at once as to make it impossible for a minority of the States to destroy the Government, as they might do every four years, if the Electoral College failed to elect a President and Vice President of the United States.

In the event of the Electoral College failing to elect, the duty devolves on the House of Representatives; each State having one vote. Two thirds of all the States must be present, and a majority of all the States is required to elect a President. The same rule applies when a Vice President is to be elected by the Senate. These are the words of the Constitution:

"But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States."

Now, suppose that from any cause two of the States represented here were not represented, and there were but *twenty-three* States represented in this House, and there had been no election in 1864 of a President by the Electoral College. The election for President in that event would have devolved on this House.

Would you, Mr. Speaker, have decided when the question was raised, as it would have been, "Is there a constitutional quorum present," that it required the presence of members in this House from two thirds of the States, including the eleven rebel States; or in other words, that twenty-four States must be represented here, and that it would require a majority of thirty-six States, or nineteen votes, to elect the President? If you would have so decided, and this House should have sustained that decision, and if but twenty-three States were present, there would have been an end of the Government. If we could not proceed to elect a President with the Representatives of twenty-three out of the twenty-five loyal States the Government would have fallen to pieces for the want of an Executive. If the duty of electing a President had devolved on this House at this session, and but twenty-three States were present, the question would not only have been raised as to what constituted a quorum, but the question also as to whether we should receive and count the electoral votes which, in the event of no election of President by the Electoral College, would probably have been sent here from several of the rebel States to embarrass, distract, and divide us. Sir, no loyal man can contemplate a contingency such as I have suggested without a shudder. If the theory that a State once a State is always a State is to obtain in the national administration, there is no safety or security for the Government. I do not know, sir, how you would have decided such a question if it had been raised under circumstances such as I have suggested; but I have faith to believe that you would have decided as I would have decided, that this House cannot know of the existence of a State in this Union which has not a civil government organized in subordination to and working in harmony with the national Constitution. Any other decision would have been fatal to our national existence. Let us not set a bad precedent now by declaring that it will require the ratification of *twenty-seven* States to secure the adoption of this constitutional amendment.

Mr. Speaker, I find ample authority in the Constitution for the national Government to protect itself against any action which a minority of the States might attempt by confederating against it. The Constitution clothes Congress with the power "to declare the punishment of treason." It clothes Congress with all power necessary to defend and preserve the Government which it created. "Levying war against the United States" is declared by the Constitution to be treason. A State which, by its constituted authorities, supported by a majority of its citizens, enters into any "treaty, alli-

ance, or confederation," and makes war upon the national Government, commits the crime of treason, and it is competent for Congress to inflict any penalty it may deem expedient. I want the national Government to inflict punishment so terrible upon the authors of this rebellion that in all coming time there shall be no such rebellion again. I want no precedent established which shall pave the way for a minority of the States and a minority of the people to destroy this Government. I want the precedent established that the States and people remaining loyal to the Government, as distinguished from those who rebel against it, shall be clothed with the sovereignty of the Government. In this way only can we come out of this contest safely and "obtain indemnity for the past and security for the future."

But I have already detained the House much longer and said more on this point than I intended. I discussed this question at greater length at the last session, and experience has only confirmed me in the views then expressed. Gentlemen who have made speeches in this House, and editors who have charged me, and those agreeing with me on this question, with being practical disunionists and with recognizing the doctrines of secession, because holding that the lawful governments in the rebel States were destroyed by their acts of treason and rebellion, will not care probably after our experience to repeat such speeches and opinions, nor to have them republished to enlighten their readers or their constituents.

There is another consideration which ought not to be overlooked when weighing the practicability and expediency of this measure, and that is its financial aspect. Doubtless many gentlemen think this question has less connection with our finances and the credit of the country than any other before us. Not so. In my opinion, and I know I but utter the opinion of many practical business men, the passage of this amendment will give the Government a credit, both at home and abroad, which no victory of our arms, important and invaluable as many of them have been, has yet given us. Its passage will be a guarantee for peace, unity, stability, prosperity, power. It will be a pledge that the labor of the country shall hereafter be unfettered and free, and I need not say that under the inspiration of free labor the productions of the country will be tripled and quadrupled. It will be a pledge to the industrious German, and to all the free laboring men of Europe who are seeking homes among us, that they shall no longer be excluded, as they have been practically, from a country whose climate is softer and fertility greater than any on the continent.

I need not detain the House with an array of facts and figures to demonstrate the great advantage of free over slave labor. All thinking men have examined and comprehended the priceless value of free labor. Pass this amendment, and the free-laboring men of the North and of Europe will flock to the South, so that, in from three to five years, there will be four or five producing men in the rebel States where there was one before the rebellion; add to this vast number the four million emancipated slaves, and you have a free-labor force which, under the security thus given to capital and the inspiration thus given to labor, will make the land to blossom like the rose, and by their energy, enterprise, and power the free laboring men of the South will obliterate in a few years all trace of this terrible and desolating war, and make it a country which for prosperity and wealth shall acknowledge no superior, and a Government which for stability shall have no equal.

Suppose your Secretary of the Treasury goes into the market to-morrow to borrow \$500,000,000, payable in thirty or forty years, what will be the first question asked by the capitalist? Will it be as to the rate of interest you are willing to give, or will it be rather as to your ability to pay the principal? I take it that that would be his first inquiry. He would ask you, "What will be the condition of your country and Government thirty or forty years hence?" If you could answer him, as you might truthfully answer him, were this amendment adopted, "Sir, in thirty or forty years we shall not be indebted at home or abroad a single dollar, and will be the most powerful and populous, the most enterprising and wealthy nation in the world;" if you could tell him this, and add,

as you may, that in thirty or forty years we will show the world a Government whose sovereignty on the North American continent will not be questioned from ocean to ocean, and from the Isthmus of Panama to the ice-bound regions of the North; and tell him, also, that our system of free labor, guaranteed by the national Constitution to all generations of men, with free schools and colleges and a free press, with churches no longer fettered with the manacles of the slave-master, with manufactures and commerce exceeding in vastness anything which had ever been known, and a nation of men unrivaled in culture, enterprise, and wealth, and more devotedly attached to their country than the people of any other nation, because of the constitutional guarantee of the Government to protect the rights of all, and secure the liberty and equality of its people; if you could tell him this, and that such a race of free men would make the South and the entire nation what New England is to-day, your Secretary could have all the money he wanted, and on his own terms.

Mr. Speaker, what say the soldiers of the Union Army to the proposition before us? Shall not their voices be heard and their wishes be respected by their Representatives in the American Congress? Sir, there are no men in the Republic to whose wishes and judgment I would more willingly defer on this question than to the brave men who are periling life and all for country; to the men who have vanquished the enemy where ever they have met him, saved the nation, and by their heroism on the battle-field and their fidelity to principle at the ballot-box, made the passage of this amendment possible. Almost every letter I receive from the brave men who are in the Army from my district contains the anxious inquiry, "What of the constitutional amendment; will it pass?" And I doubt not that the same question has been asked by constituents at home and soldiers in the field of four fifths of the Representatives upon this floor. What shall be our official answer? Shall the glad news go forth to cheer alike the soldier and the citizen and the friends of this Government every where, that the expressly declared will of the people is to be respected and enacted into law; that on this great question there are no longer party divisions, but that practically the Representatives of the people are as united as they in demanding the passage of this constitutional amendment? If this shall be our answer, a shout will go up from our brave men in front of Richmond, at Savannah, and all along the Union lines and throughout the entire country, such as never before arose from the hearts and lips of men on the passage of any act by the American Congress.

Mr. Speaker, the year which has just closed has been a year of anxiety and also a year of joy. The ordeal through which as a nation we have passed has been a terrible one. I speak of the ordeal on the battle-field and at the ballot-box. We have presented to the world a sublime spectacle. We have tested our strength and know the constancy and courage of our men. Such disinterestedness, such heroism, and devotion to country, the world has never witnessed. Consecrated by a dispensation of fire and blood, the children of the Republic have grown to the full stature of manhood. Standing here in the nation's Council Halls, in the beginning of a new year, on the threshold of a new era, and in the presence of such events, let us comprehend the duty of true statesmen, and while legislating for the present, legislate also for the generations of men which are to succeed us. The eyes of the wise and good in all civilized nations are upon us. The men who embrace and defend the democratic idea in Europe are patiently and anxiously waiting to have us authoritatively proclaim to the world that liberty is the sign in which we conquer; that henceforth freedom is to be the animating principle of our Government and the life of our Constitution.

Mr. Speaker, while the Union soldier fights to vanquish the enemies of the Government, the duty of the true statesman is to provide that the enemy once vanquished shall never again be permitted for the same cause to reorganize and make war upon the nation. Pass this joint resolution submitting to the people for their ratification or rejection this proposed amendment to the national Constitution, and I am sure the nation will adopt it with shouts

of acclamation, and when once adopted, you know, sir, and I know, and the enemies of this Government know, that we shall have peace, and that no such rebellion will ever be possible again. Pass this amendment and the gloomy shadow of slavery will never again darken the fair fame of our country or tarnish the glory of democratic institutions in the land of Washington. Pass this amendment and the brightest page in the history of the Thirty-Eighth Congress, now so soon to close, will be the one on which is recorded the names of the requisite number of members voting in its favor. Refuse to pass it, and the saddest page in the history of the Thirty-Eighth Congress will be the one on which is recorded its defeat. Sir, I feel as if no member of this House will ever live to witness an hour more memorable in our history than the one in which each for himself shall make a record on the question now before us. I implore gentlemen to forget party and remember that we are making a record, not only for ourselves individually, but for the nation and the cause of free government throughout the world. While members of the Thirty-Eighth Congress we cannot change the record which each must now make, and those who do not return to the next Congress can never reverse their votes of to-day, but must forever stand recorded, if voting against this amendment, among those voting to justify the rebellion and perpetuate its cause.

The genius of history with iron pen is waiting to record our verdict where it will remain forever for all the coming generations of men to approve or condemn. God grant that the verdict may be one over which the friends of liberty, impartial and universal in this country and Europe and in every land beneath the sun, may rejoice; a verdict which shall declare that America is free; a verdict which shall add another day of jubilee, and the brightest of all, to our national calendar. If this verdict is not given by the present Congress, I know, and you all know, it will be given by the next Congress; and that, too, with alacrity. The decree has gone forth; the people have pronounced it; and now is the golden hour in which we may all unite, if we will, and inaugurate a new era in our history. Let no man put forth his puny hand to stay the certain approach of the hour in which this act shall pass, or of the grand jubilee which shall follow its enactment into law. Let no member of this House attempt to postpone this great measure with the hope of being able to circumvent, by some petty scheme of compromise, the plainly written decree of Omnipotence. Let no loyal man, in such an hour as this, record his vote against this just proposition, and thus vote to prolong the rebellion and perpetuate the despotism of American slavery in this Republic.

Mr. ORTH. Mr. Speaker, we are still grappling with treason and rebellion. Four years of war, desolating, destructive war, with all its attendant sacrifice of life, health, and treasure, have not yet sufficed to assure to us a permanent peace and an undivided nationality. That sublime spectacle, the simultaneous uprising of twenty millions of our people in behalf of duly constituted order and government, which was witnessed by the world after the affair at Fort Sumter, was an evidence of our love of civil liberty, of our veneration for the labors and services of the fathers of the Republic, and of our determination to protect and preserve republican institutions. How few, alas! if any, among us, could then penetrate the future and see the magnitude of the struggle in which we were about being involved; how few, indeed, before that time really comprehended or appreciated the blessings of free government, and the sacrifices we would, if necessary, make for its preservation.

This protracted struggle has brought us its lessons of experience, and if we are wise we will accept them, and profit by them, dearly bought as we know them to be. But if we emerge from this terrible conflict, as I firmly believe we shall, a better people, with our Government thoroughly tested and purified, with our resources only more fully developed instead of exhausted, with a purer and better republicanism, and with the true spirit of liberty pervading our people and our institutions, these glorious results will be worth all and more than their cost.

With a population devoted to the arts of peace, with an empty Treasury, without an Army or a

Navy worthy the name, we accepted the dread alternative of war, and for four years, with sublime, heroic devotion, our young men have marched to battle and to death, sustained by the loyal men and women at home, with an energy that never flagged, and a firm resolve that never hesitated. Defeat and disaster from time to time seemed but to swell the nation's heart, and nerve the nation's arm to deeds of nobler daring. Great losses called for greater sacrifices, and the call was met with a cheerful response, until defeat and disaster are now beginning to turn to decisive victory.

In the midst of this struggle, when all our thoughts were turned upon the conflict, and every energy taxed to support the Government in its vast endeavor to save the nation's life, the time fixed by law for the selection of a President and other officers of the Government, State and national, arrived and demanded the people's attention.

This was regarded by the wisest among us as the most critical period in our history. The question was frequently asked and freely canvassed, can our Government, which had demonstrated its power in times of peace and of foreign war, withstand the shock of an exciting popular election in the midst of civil war and rebellion? The duty could not be evaded. The contest came, and the friends of the Government had to meet at the bar of public opinion their political opponents, many of whom sympathized openly with the enemy, while others criticised and condemned almost every act of the Administration. Calmly, quietly, deliberately, as became a great people engaged in the solution of momentous problems, the American voters exercised their right of suffrage, and thus exhibited to the world a spectacle of unsurpassed grandeur, without a parallel in history, and beyond the power of achievement by any nation on the face of the globe. With majorities unprecedented, they declared to the world, on the 8th day of November, 1864, that we are a nation, and are willing and able to defend our nationality. Here is a record by which the traitor may learn his doom; a record from which the sympathizer can derive no comfort; a record to confirm the doubtful, to fix the wavering, and cheer the patriot; and a record which will afford profitable reading to the intermeddling nations of Europe. In the broad sunlight of that glorious record let us read our duty and our destiny. At whatever cost, at whatever sacrifice, under every imaginable state of circumstances, whether its consummation be near at hand or afar off, we must subdue the rebellion. We owe this to ourselves, to the institutions committed to our care, to those who shall hereafter occupy the land we now occupy, to the memory of our revolutionary ancestors, to the sacred cause of religion and religious liberty, to the civilized world, and to the devotee of freedom in whatever clime or country he may be found.

This war is not of our seeking; its cause, if it be not utterly causeless, is not chargeable to us. We have at all times exhibited a ready acquiescence in the requirements of our national bond. We invaded no rights, we withheld no remedy; but time and again, and again, at the sacrifice of self-respect and of manhood, we have yielded to the behests of the slave power. It was not until treason had reared its armed crest; not until treason had insulted our emblem of nationality; not until treason boldly attacked our national existence, that we took up arms in self-defense; and, having taken up those arms, let them not be grounded until traitors shall submit to constituted authority, and be thoroughly subjugated and properly punished. We entered upon this national defense totally unprepared in every department of the Government, so thoroughly had treason diffused itself and almost completed our destruction before the administration of public affairs passed from traitors and imbeciles into the hands of honest and loyal men. But among the people there was that patriotism, that devotion to liberty, which supplied every deficiency, which freely poured its wealth into the national coffers, built a navy that commands the respect of the world, and organized an army whose prowess will subdue the rebellion, and whose heavy tramp shall yet shake the civilized earth. Four years of exhaustive war upon a scale of grandeur unknown in modern or ancient times, with all its burdens, instead of enervating or unnerving our

people, has but served to demonstrate our strength, our resources in men and money, and (what is far better) our exhaustless patriotism, and proved to the world our complete ability to sustain the Government, to suppress the rebellion, to gather up, and reconstruct its shattered portions, to remove the cause of all these troubles, and to settle with other nations whatever accounts may require adjustment.

The people fully understand and appreciate the position of public affairs; they are not silent or disinterested spectators of the hurried scenes that crowd the hour, and are fully equal to every emergency as it arises. Let no man distrust their honesty, their intelligence, or their patriotism. They are daily and hourly, and with alacrity, performing every duty which the national peril imposes, and they are expecting of us, as their Representatives, a like performance of our duty.

Liberated as the public legislator now is of mere party harness and party machinery, let him strip off these unworthy garbs, gird on the mantle of public duty, and see that every manly effort is put forth to carry out the unmistakable voice of our people. To effect the complete restoration of law and order, that being the primal object of the war on our part, we should not hesitate to strike blows wherever they shall be most effectual, and to remove every obstacle which lies in the pathway of complete success. The Union of these States under the forms of republican government, molded in the spirit of liberty, is to our people more precious than any other earthly interest, and to preserve it all other interests must yield.

In my humble opinion we cannot hope for complete success until slavery, the universally acknowledged cause of rebellion, shall be extinguished, and both monsters buried in a common grave.

Slavery is dying; it raised its arm to destroy this Government, and the American people have decreed that it is unfit to live. The course of events for the last four years has shown conclusively that there is no panacea to relieve the patient; the skill of its ablest defenders cannot long shield it from its inevitable doom. No act of ours is necessary to accomplish this result, but while we are witnessing its death agony let us take care to provide by amendment of the Constitution that under no circumstances hereafter shall slavery exist in any of these States.

The bill now under consideration proposes to submit the following amendment of the Constitution to the several States for adoption or rejection, according to the terms prescribed by that instrument, and if ratified by the votes of three fourths of the States will then become a part of our fundamental law:

#### ARTICLE XIII.

SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

The effect of such amendment will be to prohibit slavery in these United States, and be a practical application of that self-evident truth, "that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness."

This bill originated in the Senate during the last session of Congress, in obedience to what was believed to be the general sentiment of the American people, and passed by the necessary vote of two thirds of the members of that body. It was then sent to this House for concurrence, and after considerable discussion was defeated by a vote of 95 in the affirmative and 66 in the negative, (twenty-one members not voting,) being twelve votes less than necessary to make the two-thirds vote required by the Constitution. The question now before us arises upon a motion to reconsider such vote, action upon which was continued from the last to the present session of Congress.

Probably it was right that the question of reconsideration should thus have been postponed. During the last session of Congress we were just entering upon an exciting political canvass; this very question of slavery, its further continuance or its utter destruction, entered largely into the issues and discussions of that canvass; and in a Government like ours, resting upon the will of the people, and deriving its "just powers from

the consent of the governed," it was well to have another and more definite expression of the public will. We passed through that canvass; nearly every one of us on this floor went directly before our own people with our respective records of the last session accompanying us, and the result of that canvass is now a part of our nation's history. No man can question or gainsay the popular verdict; it has been expressed in unmistakable language, and he who is willing to bow to the voice of those whom for the time being he represents in this Hall, cannot doubt the action which the people now expect at his hands.

Congress cannot amend the Constitution, and hence, if this bill should pass, the question will then simply be referred to the people of the several States for their action. In other words, we, by our action here, simply authorize the people to determine for themselves whether they will ratify or reject the proposed amendment. To me it seems that on such a proposition there should not be a dissenting voice. Whatever questions may otherwise divide us, we all assent to the proposition that our people are capable of self-government, and have the right to alter their laws, fundamental as well as statutory.

Is slavery, then, too sacred to be submitted to the ordeal and judgment of our people? What is this institution of American slavery? A system of fraud, of injustice, of crime, and of tyranny. In the comprehensive language of an eminent divine, it is the "sum of all villainies." It tramples upon every moral precept, sets at defiance every divine law, and destroys every natural right of man. Like the poisonous opus, it diffuses its deadly malaria, and slave and master alike become its victims. It has debased the social circle, polluted the sanctuary, defiled the judicial ermine, and corrupted every department of the Government. It was the evil genius which troubled the fathers in their labors of patriotism, and produced dissension where concord alone should have reigned. Like the old serpent, it entered our Garden of Eden and seduced from their loyalty many of the sons and daughters of the Republic. Winding its deadly folds around the goddess of Liberty, it claimed and exercised despotic power in the very *sanctum sanctorum* of her temples. It laid its hand upon our nervous system and the nation became palsied. For eighty years it has been the deadly enemy of republican institutions; for eighty years it has molded the legislation of the country; for eighty years it has controlled the foreign policy of the Government; for eighty years it has crippled the power and energies of an otherwise free people; for eighty years it has ruled the executive and influenced the judicial departments; for eighty years it has commanded the Army and the Navy; for eighty years it has muzzled free speech and free press; for eighty years it has poisoned public opinion and repressed every aspiration of freedom; for eighty years it has made the American name a hissing and a by-word among the nations of the earth; for eighty years it robbed the American people of their rights under the Constitution; for eighty years it has ruthlessly trampled upon every principle of the Declaration of Independence; for the last four years it has waged a fiendish, malignant, remorseless war against us, striking with death the first-born in almost every loyal household, bringing untold misery upon the nation, demanding from our people sacrifices of blood and treasure to an extent that might well appall and crush the spirit of any other people on earth; and yet with this glaring and damnable record against this institution, we have gentlemen within this hall of freedom, sitting beneath the folds of that thrice glorious flag of liberty, Representatives of a free people, who hesitate to strike this last blow which shall exterminate the monster forever and ever.

This Congress may not heed the public voice; it may refuse to respond to the known sentiment of our constituents; but before the close of this year, so recently ushered into existence, another Congress, fresh from the people, will obey their voice, and secure to themselves, by such act, an honorable fame, and be remembered with gratitude by untold millions who are hereafter to enjoy its blessings.

Another and also a very important question is rapidly pressing upon us for solution. As our conquering armies move from State to State, subduing the rebellion and preparing the way for the



resumption of civil authority, we shall continue to have, as we now have, applications from these States for recognition, or, if I may use the term, for readmission. I do not for a moment believe in either of the positions assumed by the respective friends of each, that secession can take any State out of the Union, or that any State by such act has destroyed itself, committed suicide, as it is said, or that the rebellious district is to be considered and treated as foreign territory. In dealing with this question of recognition, we must exercise that caution and circumspection which its magnitude demands. "Each House" of Congress "shall be the judge of the elections, returns, and qualifications of its own members;" and hence no man claiming to represent any State can have a seat on this floor until these several facts shall have been adjudicated by this House. Here we obtain a potential voice in the question of reconstruction, and while it is desirable that civil government shall supersede military authority as speedily as possible, let us not in our anxiety mistake the rising of the sun for its meridian splendor.

Torn, convulsed, and shattered as the social and civil systems of the rebellious district must necessarily be, it is unreasonable to expect that its people will be capable, upon the dispersion of the rebel armies in their respective States, of immediately exercising civil functions and authority. Society has almost been resolved into its original elements; vestiges of lurking treason will remain, and the bad passions engendered by the strife must be suffered to subside before reason will be fully able to resume its sway. While we remember that it is the constitutional duty of the United States to "guaranty to every State in this Union a republican form of government," let us not forget that the surest and safest way to discharge this duty is to provide proper guards and checks for the protection of individual and social rights in these communities; to keep over them, so long as may be necessary, a guardian watch and care; to remove every opposing element; "to bind up the broken reeds;" to infuse a love of country and of devotion to the Constitution and laws of the land; and last, but not least, to see that the name and spirit of human bondage shall be crased from every State constitution, and personal freedom without distinction assured to every one of their citizens.

When these things shall have been accomplished, and society reconstructed upon this improved basis, with every germ of aristocracy uprooted, we shall then be prepared to perform the constitutional injunction, readmit these "wayward sisters" to the family circle, and establish within the borders of each, in truth and in fact, a republican form of government.

Some good people, in connection with this matter, are giving themselves, in my opinion, much unnecessary uneasiness about the question, "What shall we do for or with the freedmen?" May we not with equal propriety ask, "What shall we do for or with the late owners of these freedmen?" The one is as important as the other, and both may well claim the consideration of the statesman and the philanthropist. Both classes have been and are being liberated from the thralldom of slavery, and their new condition presents many interesting phases. The war, however, in its varying changes, is daily relieving both questions of many of their supposed complications, and probably the wisest course to pursue is to hasten the day when the system which has debased the one and enfeebled the other shall cease to exist; to leave both classes in the hands of God who created them, and giving to each equal protection under the law, bid them go forth with the scriptural injunction, "In the sweat of thy face shalt thou eat bread."

But, Mr. Speaker, our duty as a people will not end with the suppression of the rebellion, the extinction of the evil which caused it, and the restoration of the Constitution and laws over the entire extent of our national domain. We have accounts to settle with other nations who, during this long struggle for nationality, have thrown many obstacles in our way, and given to our adversaries every moral and material assistance in their power without actually, *eo nomine*, becoming their allies. The aristocracies of Europe have long viewed with alarm the successful rise and progress of democratic ideas of government on this

continent, and sought for a favorable opportunity to crush them out of existence. The success of our system, based upon the doctrine of man's capacity and natural right for self-government, they easily foresaw must ultimately and inevitably lead to a conflict on their own soil; for ideas and principles so entirely antagonistic will sooner or later produce reflection, discussion, decision, the final result of which probably would be the entire change of their governmental systems. Hence, upon the breaking forth of armed rebellion among us, they seized upon the fact with avidity as the auspicious moment so long desired, and with indecent haste acknowledged our bands of traitors to be a "belligerent Power," and entitled to "belligerent rights."

In view of my responsibility as a member of this House and a member of the Committee on Foreign Affairs, to which are referred the important and delicate relations between this and other nations, I desire to declare calmly and dispassionately that the conduct of France and England throughout our troubles has been, and yet is, of such a character as to call, at an early day, for full and thorough investigation and full and thorough settlement and adjustment. We have seen and felt their aid to our adversaries; through their connivance the rebel soldier has been armed and clothed and fitted for his assaults upon our nationality; in their harbors and upon their waters, almost unmolested, have rebels fitted out their piratical crafts, sailing under their colors; armed with their guns, manned by their subjects, but commanded by rebels, have these vessels been sent upon the ocean to prey upon our commerce and to destroy it. And here they have been but too successful. That commerce which, four short years ago, whitened every sea and visited every harbor, is now utterly destroyed, and scarce an American merchantman now unfurls the American flag.

The right of asylum has been freely granted to rebel pirates; and these freebooters, whom the civilized world has long since held as "enemies of mankind," are received with open arms, nurtured, caressed, encouraged, and strengthened for their work of destruction.

British subjects and British vessels, in defiance of the queen's proclamation, but without an attempt at punishment by British officials, are constantly engaged in contraband trade with the rebels, violating our blockade, which is recognized by that Government but suffered to be violated with impunity by its subjects.

Public fairs are held in Great Britain, under the leadership of her aristocracy, aided by southern snobbery, for the avowed purpose of raising money for the rebel cause, and but a few days since, under the thin guise of philanthropy, a British lord—Lord Wharncliffe—had the impudence to ask permission of our Government to remit British gold to rebel prisoners in our hands, while not a word of sympathy is heard; or a morsel of comfort offered, in behalf of the thousands of our brave soldiers who are languishing in southern prisons, denied the absolute necessities of life, and treated with an inhumanity and barbarity that would disgrace the most degraded heathen nation on earth.

American rebels and their Canadian confederates have for months past been arming and preparing for armed invasion of our northern border, have lately crossed that border, seized American vessels on the lakes, invaded our soil, and robbed and murdered our citizens.

President Monroe, in his seventh annual message to Congress, in speaking of the Governments on this and the European continent, uses this emphatic language:

"In the wars of the European Powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more intimately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied Powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should

consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety."

This enunciation, made more than forty years ago, with the general concurrence of our people, and acquiesced in by the world for that length of time, has become the settled, firm, fixed policy of this Government. When made it was regarded as eminently wise and proper, and forty years of experience has but strengthened and confirmed the views thus entertained. While we have diligently maintained a strict neutrality in all the affairs of Europe, abstaining from "entangling alliances," we have ever regarded it our duty to vindicate on this continent a similar neutrality on the part of the Governments of Europe. So long as the United States lived together in peace, devoted to the noble work of building up a great Republic, we feared no insidious foreign intervention, and dreaded no danger. But on the first outbreak of hostilities Europe thought her hour had come, when our troubles at home would place it out of our power to vindicate our policy and our dignity.

Napoleon III, seized with the Quixotic idea that it was his mission on earth to be the chosen protector of the Latin races, with all their bigotry and superstition, and to extend them wheresoever the French eagle would enable him to accomplish his desires, introduced French intrigue, French diplomacy, French arms into the neighboring republic of Mexico for the purpose of subverting her Government, destroying the rights of her people, and inaugurating on this continent a political system antagonistic to our own, and which should sooner or later threaten to destroy our peace or endanger our safety.

He has partially succeeded in his designs, and we are now witnessing (with varied success) the efforts of a free people engaged in the heroic attempt of saving themselves and their country from subjugation by an "imported emperor," sustained and assisted by the power of the French army and navy.

But for our domestic troubles these audacious efforts to crush a sister republic, and to build up monarchical institutions upon her ruins, would never have been undertaken, and in the first glimmering of success to our arms the minds of our people are instinctively turned to Mexico, with a firm resolve that we cannot now or at any time hereafter consent to any "attempt on the part" of Europe "to extend their system to any portion of this hemisphere," and among the first of our duties growing out of this rebellion will be to declare, and to enforce the declaration, that Maximilian is but a temporary emperor, and that the people of Mexico are entitled to and shall have republican institutions, and if need be she shall have these institutions, with the consent of her people, under the folds of our flag and under the protection of our Constitution.

Looking at these multiplied and increasing instances of foreign intervention in our affairs, we may well ask the question, can indignity and outrage go any further? And shall there not be a day of reckoning? Shall we longer submit to these humiliations and indignities without a murmur or word of complaint? God forbid! A man who does not vindicate his own self-respect is unworthy the respect of his associates; and precisely so with a nation. The primal duty of a nation is to vindicate its dignity and to suffer no wrong at the hands of any of its neighbors; for "nature has established a perfect equality of rights among independent nations, and none can naturally lay any claim to superior prerogative."

Will it be said that in the midst of our present troubles we are too weak to assert our rights, or too effeminate to maintain them? Sir, let me say to this House that we are not strong enough much longer to refuse a vindication of our national honor. We cannot afford to exist (if we were craven enough to desire it) by the sympathy or forbearance of any other Power, and I trust we shall never be prepared, whatever fate may have in reserve for us, to solicit the protection of any other Government. While we exist as a nation let us maintain our national rights and defend our national dignity, and if in so noble a struggle we must fail; if in the exercise of this God-given right we must go down, let us at least secure for ourselves the memory of an honorable name, and leave to history an example worthy of imitation.

But, sir, we shall not fail. Let us in all our transactions be just, and fear not. Let us faithfully discharge these and other duties as they arise, and it needs not the spirit of prophecy to foretell what, under the providence of God, is to be our nation's destiny.

"There is light beyond—  
And dove-like peace with gentle wing descends;  
See, as she comes, the hideous bird of death  
Flaps his dark plumage, shrieking as he flies  
From fields whereon he looked for future prey.

"Brethren, united as in former days,  
Consult together for the common weal;  
Chastened in spirit, more forbearing they,  
Loving God better for their punishment—  
Columbia's genius, smiling, looks abroad,  
And cries, exultant, ALL, AT LAST, IS SAFE."

This war is shaking North and South, East and West, to their centers, and the influences that will be fully developed in years to come are to us now scarcely perceptible. Antiquated ideas are being laid aside, and mental vigor no longer pursues the ancient channels. Theories and principles which heretofore received our homage for no better reason than that they had received the homage of our fathers, are wasting away beneath the touch of new thought and a new experience. The sordid are becoming liberal, the selfish profuse, the brave heroic. Age is rejuvenated, and youth and manhood possess increased vitality and energy, while the "old fog" has become an antique relic, and lives only in the unforgotten past. The immense demands of our struggle are bringing our people up to the requisite standard. They are proving themselves equal to the occasion, and exemplifying their capacity in every sphere in which they are called to act. The nation is being born again, and from the fire and smoke of battle, from its death groans of agony, from the patient suffering in the hospital, from the victorious shout of the conqueror, from every avenue of industry, quickened into new life, the American Republic will emerge wiser, better, purer, and more powerful. We are called upon to carry up higher and higher the work of the fathers. We are to develop, to mature, to protect every energy, every sentiment, every aspiration in man's nature, to secure to him every natural right, to demonstrate to the world his capacity for civil, social, religious, mental, and physical enjoyment. Our Government, based upon these principles, and sustained for their preservation, is to be a guide for the nations, and to stand in every noble attribute toward them as the Alps stand toward their surrounding hills. With our immense population, its rapid augmentation, its peculiar characteristics, having in its veins the blood of all other nationalities—with our climates, soils, productions, mineral wealth, who is there to say to us "Thus far shalt thou go, and no farther; and here shall thy proud waves be stayed?" We are planted on the North American continent, and the three oceans and the Gulf can alone limit our territorial expansion. The lines which you now see on the map of North America as dividing one national possession from another will disappear, they will be sponged out by our people, and our children will see, if we do not live to see, the American flag floating over every foot of this continent, and the American Constitution protecting every human being on its soil.

Mr. SCOFIELD. Mr. Speaker, I rise to make some observations in reply to the very remarkable criticism pronounced by the gentleman from New York [Mr. Brooks] on the anti-slavery portion of the President's message.

If the war should end now without a division of the Union, what would be the status of slavery? It has been abolished in Maryland by the new constitution; but it is said that the soldiers had no right to vote, and without their votes the constitution was not adopted. West Virginia has provided for gradual emancipation; but that State, it is alleged, has no legal existence, and therefore its action is null and void. In the State of Virginia a new constitution prohibiting slavery has been adopted by the loyal people within the Union lines; but the constitutionality of this action has been much questioned, even by anti-slavery men. Missouri has partially abolished slavery, and the convention, soon to assemble there, it is supposed, will dispose of what is left. In Tennessee, Arkansas, and Louisiana, slavery has been prohibited by conventions representing the Union people of those States; but it is said that these

conventions were irregularly called, and their action is therefore void. In Kentucky such slaves as enter the United States Army are freed by act of Congress; but it is alleged that the act is unconstitutional. Congress has abolished slavery in the District of Columbia, and prohibited it in all the Territories; but it is said the first act is void, without the assent of Maryland and Virginia, and the latter is in conflict with the dictum of the Supreme Court in the case of Dred Scott. In all the remainder of the States the slaves were liberated by the President's proclamation; but that, instrument, it is said, is too just to be legal. Under these several enactments, however, the slaves, without waiting to test their validity, are leaving their old masters, forming new associations, seeking education, earning new homes, learning self-reliance, and thus erecting barriers to the revival of slavery stronger than legislation itself.

It is apparent from this statement that if the confederacy should suddenly collapse, liberating our Union fellow-citizens that are believed to exist in large numbers within its picket lines, we would still have the slavery question, out of which the whole trouble grew, to be settled and disposed of. It ought to be equally apparent to all observing persons that there is but one way to end the strife. Slavery in the end must die. It has cost the country too much suffering and too much patriotic blood, and is in theory an institution too monstrous, to be permitted to live. The only question is, shall it die now, by a constitutional amendment—a single stroke of the ax—or shall it linger in party warfare through a quarter or half a century of acrimonious debate, patchwork legislation, and conflicting adjudication? The people were consulted upon this question last fall, and they have responded in favor of emancipation. I respect their opinion, not because I am a politician, the motive hinted at in the message, but because experience has taught me to rely upon the judgment of the unambitious classes. I am reminded that there was a large minority. True, but the suffering consequent upon this terrible war, and not love of slavery, made the minority so large. The people suffered from the draft, from taxation, and from a depreciated currency, and untruthful men told them that their own Government imposed these hardships, not from the necessities created by the rebellion, but from mere love of despotic cruelty. Consult your Democratic constituency and you will find they are not so much infatuated with slavery as many suppose. I think I would not misrepresent the largest portion of the Democrats in my own district if I say that however much they may have condemned anti-slavery agitation prior to the rebellion, they would now be glad to have the institution buried out of their sight forever. Two classes alone would object: those who are so poorly endowed as to be jealous of negro competition, and those who, being more happily born, apprehend that their pride and importance might in some way be compromised if the distance between themselves and any portion of the laboring classes were lessened.

The President, in obedience to the advice of the people and the dictates of his own kind heart and unimpassioned judgment, has recommended that we should submit this amendment to the action of the States. Why should it not be done?

Because, says the gentleman from New York, [Mr. Brooks,] we should not amend the Constitution in the midst of civil war. Why, then, did he, in the close of his speech, propose to amend it through the medium of a convention, so as to give slavery an increased representation in this House and a protraction of its mischievous life, and, further, to amend, in pursuit of some State sovereignty vagary, so as to sink the Government of the United States into a mere agency for the collection of customs? Do not take the medicine now, says the tender nurse to the sick man, wait till you are well and able to bear it. If the gentleman will examine his own heart he will probably find that it is the character of the amendment that is offensive to him, and not its untimely presentation.

Again, says the gentleman, some of the States are not represented here. He seems to forget that Congress does not make amendments to the Constitution, but only proposes them. They must be accepted by three fourths of all the States in the

Union before they become part of the fundamental law. If Congress cannot even propose amendments before the seceded States come in, how can the gentleman call his convention? for that must be done by Congress. If these States are not represented here the fault is theirs, not ours. Must all legislation be stayed until they choose to return? and if not, why this more than other important acts? If that rule should be adopted we would always be in the power of a few members who chose to place themselves beyond the reach of the Sergeant-at-Arms. The gentleman trifles with the gravity of the question and the good sense of the House when he raises these objections, but still proposes to waive them in favor of a convention to consider his own amendments.

Why not tolerate slavery, continues the honorable gentleman, and thus make the slaveholders contented with the Union? What evidence is there that toleration would content them? They separated from the Union, and organized an independent government in February, 1861. When, prior to that, had the institution for whose prolonged cruelty the gentleman pleads so earnestly lacked toleration? I submit that it had always been tolerated; nay, more, it had always had its will and its way in this Republic—I trust I will not offend any member's sensibilities if I say its oppressive will and its unchristian way. Whatever was asked was granted. When it asked new markets to raise the price of men and women, and to create a demand for the surplus children of the institution, the request was granted. Louisiana and Florida Territories were purchased in part for this purpose. For this purpose Texas was smuggled into the Union, and a war unnecessary for any other purpose secured the northern provinces of Mexico. When it demanded that white laborers should go further north, and surrender mild-climated Missouri to slave labor, the surrender was made. When from motives of policy it demanded the passage of the Missouri compromise, it was passed. When it demanded its repeal, it was repealed. It bade us vote down the Wilmot proviso, and we obeyed. It demanded that escaped bondmen should be caught and returned, free of cost, and we gave them the despotic law. Again it demanded exemption from the criticism to which all things else in a republic are exposed, and we granted the immunity. To this end we submitted to a censorship of the mails, and authorized the burning of all offensive papers and letters, in the vain hope to destroy eternal ideas. To this end it demanded silence in this House and in the Senate, and we adopted the "Atherton gag." To this end it demanded silence in the North, and every city raised its pro-slavery mob to demolish presses and murder editors and lecturers. The hand of slavery has ever been against everybody, giving the Republic no rest day nor night. All day long these Halls and the country resounded with its insolent demands. Now the West must be Africanized, now the East must be crushed, now Cuba must be stolen, and now Africa unbarred to the pirates, and it woke us up at night with its fierce clamors for escaped negroes. No, sir, slavery rebelled not because it was not tolerated, but because it would not tolerate anything else; I may say because it could not afford to tolerate anything else. It would not tolerate the Declaration of Independence, because that instrument proclaimed the freedom and equality of the human race. It would not tolerate the literature of the English language, nor the Christianity of the American churches, nor the civilization of the nineteenth century, because their spirit was opposed to human bondage. It could not tolerate New England, because her education, her industry, her sobriety, her justice, and her unboasting courage was an implied censure upon slavery. And last of all, slavery refused to tolerate the great principle upon which this Republic is founded—upon which all republics must be founded; the will of the majority constitutionally expressed. It was not only intolerant, but belligerent. It could not be otherwise. It recognized a natural though undeclared foe in every good cause, word, and work, and in its efforts to destroy these has destroyed itself. Conscious of its own inherent wrong it began its defense before it was assailed, and, like the glass fortress, it has fallen not by the assaults of its enemies, but by the concussion of

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its own guns. It is pierced by its own poisoned arrow.

"So the struck eagle, stretched upon the plain,  
No more through rolling clouds to soar again,  
Viewed his own feathers on the fatal dart,  
And winged the shaft that quivered in his heart."

We can hardly claim the honor of aiding even in its taking off. Like Falstaff's victim, it was quite dead before we dared to strike. But tolerate it, cries the gentleman, and pacify the madmen of the South. If New York were afflicted with hydrophobia, the gentleman would advise his constituents to tolerate mad dogs. Do not muzzle them, he would tenderly exclaim, do not chain them, do not kill them, but tolerate, conciliate, cherish them until this terrible disease disappears from the city. But if slavery is prohibited the country will become homogeneous, and, in his opinion, homogeneity is not desirable. Neither the ancient nor modern nations of Europe, he informs us, were homogeneous. They had many systems of worship, and many kinds of languages and races of men; but unfortunately for his argument, in another part of his speech, and for a different purpose, he confesses that these same nations were afflicted with long and frequent civil wars originating in that lack of homogeneity which he so much commends. But if this diversity of character is as desirable as represented, certainly we have enough of it without trying to reinstate slavery. Religion is nowhere more free than in this country. Every man selects his own altar. And as for races and languages, what quarter of the many-tongued earth has not contributed to our population? No thanks, however, to the honorable gentleman for this. As the leader and organ editor of the American party, he could not tolerate these foreign-born races, nor the adherents of the Catholic church, and he comes here now and asks us to be more intolerant even than that. He asks us to proscribe a whole race, not only to the extent to which he proscribed foreign-born races, but to go further and proscribe them from the human family and rank them with the brute creation. And he asks us to do this in the name of toleration. "Strange that a man's mouth can run on thus."

It has been often said of late that history repeats itself. Of course it cannot be literally true; but the gentleman cites it, and then proceeds to search for the prototype of the terrible drama now being enacted on this continent, and affects to find it in the Revolution of 1776. Having settled this point to his own satisfaction, he proceeds to assign to the living actors their historic parts. The rebels take the position of the colonial revolutionists, the Government of the United States reënacts the part of George III and his ministers, while for himself and the Opposition debaters of this House he selects the honorable rôle of Chatham, Fox, Burke, and other champions of colonial rights in the British Parliament. Let us examine this. It is true that the colonists rebelled against the Government of Great Britain, and the slaveholders rebelled against the Government of the United States; but here the likeness ends. Between the circumstances that might provoke or justify rebellion in the two cases there is no resemblance. The Government from which the colonies separated was three thousand miles beyond the seas. They could not even communicate with it in those days in less than two or three months. In that Government they had no representation, and their wants and wishes no authoritative voice. Nor was it the form of government most acceptable to the colonists. They preferred a republic. The rapidly increasing population and the geographical extent and position of the colonies demanded nationality. Sooner or later it must come. The tea tax and other trifling grievances only hurried on an event that was sure to occur from the influences of geography and population alone. How is it in these respects with the present rebellion? The Government against which the slaveholders rebelled was not a foreign one; it was as much theirs as ours. They were fully represented in it. There

was scarcely a law, indeed I think there was not a single law, upon the statute-book to which they had not given their assent. It was the Government they helped to make, and it was made as they wanted it. They had ever had their share of control and patronage in it, and more than their share, for they boasted with much truth that cotton was king. Nor is there any geographical reasons in their favor. It is conceded even by the rebels themselves that a division of the territory lying compactly between the Lakes and Gulf, the Atlantic and the Mississippi, into two nations would be a great misfortune to both. If it were the Pacific States demanding separation, bad as that would be, there would be some sense in it; but for this territory you cannot even find a dividing line. When you attempt to run one the rivers and mountains cross your purpose. Both the land and the water oppose division. There is no disunion outside the wicked hearts of these disloyal men. I can see no resemblance, then, between our patriot fathers, who toiled through a seven years' war to establish this beneficent Government, and the traitors who drench the land in blood in an attempt—I trust in God a vain one—to destroy it.

Again, sir, in what respect do the apologists of the present rebellion in this House resemble the advocates of our great Revolution in the British Parliament? Conceding they are their equals in statesmanship, learning, eloquence, and wit, I submit that they fall far below them in the merit of their respective causes. Chatham defended the cause of the colonists as set forth in the Declaration of Independence "that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness"—the honorable gentleman from New York pleads for slavery, the auction block, the coffin, the lash. With slavery he cures all national troubles. He begs for harmony among ourselves. How shall we be united? "Restore slavery," says he. He is opposed to war. How then shall rebels in arms be subdued? "Revive the traffic in blood." He is opposed to taxes. How then shall our exhausted Treasury be replenished? "Raise more children for the market." Slavery, more slavery, still more slavery, is the only prescription of the Opposition doctors. If we are to look for the representatives of these great men on this side of the Atlantic I would not select them from among those who, born and raised in the free States, with all their moral and educational advantages, had not yet quite virtue enough when the struggle came to be patriots, nor quite courage enough to be rebels, but I would rather select them from such men as Johnson, of Tennessee, or Davis, of Maryland, who, born and educated amid the influences of slavery, still stood up for the Union cause at first almost alone. But, sir, the representatives of these men are to be found now as they were then on the other side of the Atlantic, the leaders of the Liberal party in the British Parliament.

There is another party that figures largely in the history of the revolutionary struggle that the gentleman entirely omitted to name. He gave them no place in his cast of parts. The omission may be attributed to either modesty or forgetfulness. Prior to the Revolution the members of this party had filled all the places of honor and profit in the colonies, and when the war came they heartily espoused the cause of the king, though they did not generally join his armies. Their principal business was to magnify disaster, deprecate success, denounce the currency, complain of the taxes, and denounce and dodge arbitrary arrests. To the patriot cause they were ever prophets of evil. Failure was their word. The past was a failure, the future would be. In the beginning of the war this party was in the majority in some of the colonies, and constituted a large minority in all, but as the war progressed their numbers constantly diminished. Many of the leaders were from time to time sent beyond the "lines" and their estates confiscated. Most of these settled in New Brunswick and Nova Scotia, right handy

to the place where the gentleman informs us he was born. This party was called Tory, and if this war is but a repetition of the war of the Revolution, as the gentleman intimates, where are their present representatives?

Again exclaims the gentleman, "You cannot subjugate eight million people." I know not which most to condemn in this expression, (I speak it of course without personal application,) its insinuation of falsehood or its confession of cowardice. The United States does not propose to subjugate any portion of its people but only to exact obedience to law from all. It is this misrepresentation of the purpose of the Government that still keeps alive the dying flames of the rebellion. I can go further with perfect truth, and say it was this misrepresentation that lighted those flames at the first. The slaveholders were told that it was the purpose of this Administration to destroy their personal and political rights; next they were reminded that they were proud, brave, chivalric men, and then tauntingly asked if they were going to submit. They were thus fairly coaxed and goaded into rebellion. Except for this misrepresentation the Union people would have been in a large majority in all the slave States, and despite it they are in a majority in more than half of them to-day if they could be heard. But they are gagged, bound hand and foot by a despotism so cruel and so mean, so thorough and so efficient, that even the gentleman from New York has no fault to find with it. The country is too much engaged now with the immediate actors in the drama to look behind the screens for the authors and prompters of the play. But when these actors have disappeared from the stage, gone down to graves never to be honored, or wandering among strangers never to be loved; in the peaceful future, when inquisition shall be made for the contrivers, instigators, aiders, and abettors of this great crime, the two classes so often coupled in denunciation in this Hall, the abolitionists of the North and the fire-eaters of the South, will be scarcely noticed, but the quiet historian will "point his slow, unmoving finger" at those northern leaders who for fifteen years have deceived the South and betrayed the North. They will stand alone. The large minority that now gathers around them, moved thereto more in hopes to escape the severe hardships of the war than from any love of them or their position, will have melted away from their support like dissolving ice beneath their feet, and well will it be for their posterity if they can manage then, like Byron's wrecks, to sink into the

"Depths with bubbling groan,  
Without a grave, unknell'd, unc coffin'd, and unknown."

Subjugate the South! No, sir; it is the purpose as it is the duty of the Government to liberate the South, to drive out the usurpers, and to restore to the deluded and betrayed masses the blessings of a free Republic.

But the gentleman not only misrepresents the purpose of the Government to inflame the insurgents, but also misrepresents the extent of the rebellion to discourage the people in their efforts to subdue it. Where does he find his eight million hostile people? Allowing for West Virginia and East Tennessee, the whole white population of the eleven States that pretended to secede does not much exceed one half that number. A large portion of these are now within the Union lines, professing no more hostility to the Government than the gentleman himself. Of those that remain under the power of the usurper a considerable number, in some localities more than half, do not desire a separate Government, but would gladly accept the protection and privileges of the United States if sure that they were beyond the reach of their present oppressors. Where then, I ask again, does the gentleman find his eight million people? Does he mean to include the colored population of those States? I suppose not; they are to be tolerated only as brutes. He would not of course include them under the head of people. I do not suppose he intended to include any portion of his own party. I have a right to



conclude, then, that this number was only a slashing estimate to make out a bad case. With half the white and all the black population in these seceded States, it would be very strange if the Government were not strong enough to compel submission from the rest. The gentleman himself gives some little encouragement. The little State of Maine (in which he tells us just in this connection he was born) is a match for England, France, and Russia, and he finally adds for all Europe combined.

Now, sir, if this little State which had only the honor of rocking his cradle, that claimed him only in long frocks and petticoats, could withstand all Europe single-handed, is it not reasonable to suppose that, combined with the State of his adoption, the great State of New York, that possesses him in all the glory of pantalooned manhood, it could flog the world and the "rest of mankind," in which I suppose the rebels would be included? Maine can be relied upon for the contest, so can New York, since no perfidious hand now holds the helm, and the gentleman himself gives some hope that he may be goaded into the support of his struggling, suffering country. There is a point, he tells us, beyond which his forbearance will not go. It was not reached when the rebels seized our forts, navy-yards, arsenals, ships-of-war, mint, and custom-houses, mails and post offices. It was not reached when they fired upon Sumter. It was not reached when they raised an army, hoisted a traitor flag, and laid siege to the capital. It was not reached when they put pirates on the ocean to seize, rob, and burn the peaceful merchant vessels from his own city. It was not reached when they raised the black flag and shot down our patriot soldiers after surrender and then burned the hospitals over the heads of the sick and wounded. It was not reached when they murdered women and children and unarmed men, and burned the villages on the border without military motive. It was not reached when by the slow torture of hunger and cold they murdered by the thousand our dear brave boys, prisoners of war in their hands. But he has an ultimatum notwithstanding. He announces it from his place in this Hall, and boldly flings it in the teeth of the rebels, and has the courage to hope that they may hear him. They must not go too far nor presume too much upon his forbearance. He will not stand everything. The insults and crimes I have named he can endure, forgive, forget; but if they dare to inspect his baggage as he travels South, he "will not submit; never, never," he repeats. "Will you fight them?" inquires the gentleman from Iowa, [Mr. Wilson.] Mark now the pluck of his answer. "When the day and hour come I will be ready to mark out the course I will pursue." Cambronne alone can answer that. It is fortunate for the rebels that the honorable gentleman has not yet learned that the privilege so highly prized has been denied him for three years and a half.

Again, centralization, the absorption of all local and municipal authority by the Federal Government, is another lion in the way of emancipation. What possible connection is there between centralization and emancipation? Why should one follow the other? Emancipation has been going on quite rapidly for two or three years; has the gentleman's city lost any of its municipal rights in consequence? Is it not still ruled by the "Five Points" majority, with nothing to fear but its own mobs? Does it not still elect corrupt men for judges, and thieves to the councils? Let the gentleman look at home with his fears. It is his own city that is centralizing, centralizing all the disloyalty and depravity of the North, and here he should begin his labors.

Mr. BROOKS. I can stand any amount of personal abuse toward myself, and fail to reply to it; but when he speaks thus of the city which I in part represent, I am bound to say that an effort was made by the Federal Government during the pendency of the late presidential election to control the city of New York by sending there a bold robber, in the person of a major general of the United States. Robber as he was of the public Treasury, and major general of the United States as he was, he dared not exercise the power given to him to attempt to control the actions of those whom the gentleman calls thieves and robbers in my own city. Thieves and robbers!—

Mr. SCOFIELD. Mr. Speaker, I decline to

yield to a speech from the gentleman, because he has had his time. [Cries of "Ah! Ah!" from the Democratic side of the House. Counter cries of "Let him go on!" from the Republican side of the House.] If the gentleman has any question to put to me I will hear him.

Mr. BROOKS. Mr. Speaker, I stand any amount of personal attack on myself, but when my own constituents are called thieves and robbers, and when thieves and robbers are said to govern the metropolis of this country, I put it to the honorable gentleman from Pennsylvania if, after making such imputations, it is propriety, it is decency, to refuse to give me here an opportunity, in the midst of a speech like that, to defend the million of people whom I represent from that imputation against them as thieves and robbers.

Mr. SCOFIELD. Mr. Speaker, the only assault that I made on the city of New York was merely to repeat the allegations of its own papers.

Mr. WARD. Will the gentleman yield to me for a moment?

Mr. SCOFIELD. If the gentleman desires merely to ask me a question I will yield to him; but if he wishes to make a speech I must decline.

Mr. WARD. The attack was most infamous and outrageous.

Mr. SCOFIELD. If I have made any attack upon the constituents of the gentleman, [Mr. Brooks,] I have learned what I am stating from the gentleman's own paper, which has denounced again and again the election of certain persons to the councils of New York, and branded them as thieves.

I was going on to say, sir, that slavery has always been a centralizing power in this country. Of late years the Government itself has been subsidiary to it. It is said that a railroad corporation in New York, with a capital of only a few million dollars, controls the State. It selects its agents in all the counties, and works unseen for their promotion. If in this way it fails to secure a majority, the deficiency is made up by appliances to the wants and weaknesses of its opponents.

Mr. PRUYN. Mr. Speaker, may I ask a question of the gentleman from Pennsylvania? [Laughter.]

Mr. SCOFIELD. Mr. Speaker, I am very nearly through; and I would be glad if the gentleman would let me conclude.

The SPEAKER. Does the gentleman from Pennsylvania yield, or decline to yield, to the gentleman from New York?

Mr. SCOFIELD. If it be only for a question, I shall yield.

Mr. PRUYN. I should like to know to what corporation the gentleman refers.

Mr. SCOFIELD. I refer the gentleman to the New York Express. [Laughter.]

Mr. PRUYN. That is not a regular corporation.

Mr. SCOFIELD. I only alluded to the railroad for the sake of illustration. Slavery had a capital of at least \$2,000,000,000, as much under the control of a few men as if it were a corporation with a president and directors. It was this investment, thus centralized, that has been so appropriately and expressively, but to some people very offensively, called the "slave power." Its control over the finances, trade, and politics of the country was almost supreme. It controlled the slave States by community of interest; by this agency it then selected the President of the United States, and through his patronage controlled the free States. It may be said without exaggeration that it owned the South, used the Government, and hired the North. Emancipation will rid the country of this centralizing power, and if the gentleman is really opposed to centralization he ought to vote for it.

The gentleman closes his remarks with an appeal to the friends of the Administration to stop the war but save the Union. If our armies are withdrawn from the territory claimed by the rebel leaders the war will be stopped undoubtedly, but the Union will be divided. South of the Ohio and Potomac there will be another Government, practically recognized by us and formally acknowledged by all other nations. But on the other hand, if the rebels can be induced to disband their armies the war will cease and the Union be preserved. Now, sir, in imitation of the honorable gentleman, I will close my remarks with an appeal to him and

his political associates to aid in the accomplishment of this latter result. Do you inquire what you can do? Go and proclaim to the deluded supporters of Jefferson Davis two simple truths. First, that the United States does not now and never did seek their subjugation, but only their submission to law. Tell them that the first election of Mr. Lincoln did not involve any interference with slavery in the States where it then existed, and that subsequent emancipation originated not in the virtue of the Government but in the necessities created by their own misconduct. If slavery was their motive for separation, the removal of that motive by the removal of slavery was our necessity. Whatever has been constitutionally done in that direction by congressional, State, or executive action must remain unless it is undone by authority equally constitutional. That they must submit to the Constitution in all its parts, including that which authorizes its own amendment. Second, tell them that while the United States asks nothing more from them than submission to law, it will accept of nothing less; and above all, it will not consent to its own dismemberment and the creation of two Governments between the Gulf and the Lakes. Tell them that the people have the will and the power to sustain this purpose of the Government. Though they are accustomed to spend their money with economy and do not wantonly shed their blood, they have made up their minds, from high convictions of duty, to bear with patience whatever loss and sufferings the execution of this purpose may entail. Tell them that while the Government and people are thus determined, they are not vindictive. They do not raise the black flag, but constantly tender to the deluded masses pardon and protection. Go tell these two facts to the insurgent people, hitherto misinformed and misled by your untruthful allegations, and you will see them begin to drop away from their reckless leaders, and with the blossoms of the coming spring will come the sweeter blessings of peace.

Mr. CHANLER. I do not presume, Mr. Speaker, to reply at this time to the remarks of the honorable gentleman from Pennsylvania in the fullness of his argument. So far as he adhered to the legitimate subject of the debate, I listened to him with pleasure; and I may say that it was one of the few occasions in debate on this floor when the subject under discussion has been handled ably and wittily. But when the gentleman left the legitimate subject of debate to enter into a low slander of my constituents, and finds an excuse for that slander in some words uttered by my colleague, [Mr. Brooks,] I do not know whether to condemn most the cowardice of the act or the meanness of the insinuation. The taking refuge from the consequences of his own slanderous charge behind some words uttered by a Representative of New York, is indeed a depth of human cringing which is lamentable to witness, and shows that the slander uttered by himself is a burden too heavy for him to bear.

Sir, the people of the city of New York require no defense at my hands at any time, and still less from the attack of the gentleman, [Mr. Scofield.] That gentleman is himself a son of the State of New York, and comes here by the suffrages of those among whom, as a wanderer, he was forced to seek a home. It is, indeed, a poor resource for him to attempt to strengthen his argument on national questions by stabbing his native State and defaming his fellow-citizens. What is the constituency of the city of New York compared with any other in this country, that it should be singled out for attack? Is the Golconda of America so poor that she can find no friends here? The treasures that have been poured from her vaults, earned by the enterprise of her citizens, and the arms of her citizen soldiery and well-organized system of police which protect that treasure, her volunteers in your armies, and her sailors in your navies, some of whom come from the dregs of the people, if you please, and live many of them in Five Points perhaps, but who bear your banners to victory; these form the nucleus of a power equal to the famous maritime republics of old, and which in modern times is looked on with pride as the emblem of the success of our institutions, as the unanswerable proof of the strength of the American Government, and above all of the capacity of the American people to rule themselves. And nowhere else on this continent is

found so noble an example of self-government; nowhere else is there a city of interests so various, of proportions so vast, and of population so dense, consisting of every language, nation, and race; nowhere else is self-government so essential, and nowhere else was it more nobly won and more firmly maintained.

Sir, I do not undertake the advocacy of New York; she needs no voice to proclaim her glory, her greatness, and her goodness. I do not wish to assail the motives of the gentleman from Pennsylvania, and I leave it to my colleague, [Mr. Brooks,] whom he has personally assailed, to answer him on these points of defamation which he, a son of the State of New York, has been willing to heap upon his native State.

If the gentleman wishes to find an instance of toleration, which he so ably advocates in behalf of the slave, extended to all mankind, he will find it in the crowded population of the city of New York. All creeds meet there in harmony. No collision between numerous and opposing sects mars the sacred Sabbath day when all go up to worship. The marts of business, crowded with all the evidences of thrift and industry, witness no disturbance from those who he declares rule us. And on election day, year after year, I defy any testimony to show that the power which rules the city of New York deserves any but the highest congratulation, the noblest and most earnest praise from every man who appreciates the lesson of self-government taught by a crowded and tumultuous city.

And the allusion made by my colleague, [Mr. Brooks,] in regard to the most uncalled-for interference by the Federal Government at the time of the last general election, is in itself a proof that no such class as the gentleman alluded to holds dominion there. Insulted by a fleet of the United States riding in her harbors, ready to send its soldiery to trample down our rights and interfere with our franchises, even that was borne patiently and calmly by our people, confident that they were capable of self-government, and believing—and I had hoped that they had a trust which would be realized—that the Representatives of the people of the United States at large in Congress assembled would appreciate their noble forbearance and deprecate the outrage committed against them.

It is to the honorable gentleman from Pennsylvania [Mr. Scofield] that we have to look for a response. No sympathy, but abuse and scorn are the first tokens that come from this House and this Administration; and, if we may judge from the spirit he has evinced, it is a deep-seated feeling of hostility to the community which has dared for the sake of principle, in the face of the overwhelming power of this Government, steadfastly to oppose the encroachments of the ruling power here, while they generously gave their best blood and their means to carry on the war.

But I will yield to my colleague, [Mr. Brooks,] if he desires to answer this matter further. I leave this subject with him.

Mr. BLISS. Mr. Speaker—

Mr. CHANLER. I have not yielded the floor.

The SPEAKER. The Chair understood the gentleman to yield the floor.

Mr. CHANLER. I yielded the floor to my colleague, [Mr. Brooks,] at his request.

Mr. BROOKS. There is nothing which I more deprecate than these personalities of debate. I have ever endeavored, and shall ever endeavor, to avoid them. But the labored essay of the gentleman from Pennsylvania [Mr. Scofield] imposes upon me the necessity of replying, if not for my own defense, which I should have been willing to leave to the House, at least to other parts of his essay, which seem to call for some immediate notice on my part.

The honorable gentleman from Pennsylvania [Mr. Scofield] closes his essay, with an appeal to me, in reply to my appeal to the President, "Go yourself to the South, and assure that South that they are not to be subjugated by the people of the North; that such is not the intention of the people of the United States." Now I will ask the honorable gentleman how it is possible for me to go to the South. I will say to him that if to-morrow he could afford me an opportunity to go to the South with the assent of the President of the United States, there is nothing that would so much delight and gladden my heart as to go

there, and to repeat to them what I think would be useful to induce the people of the South again to come back into this Union.

I would preach to them the utter hopelessness of their contest; I would preach to them that if they desired or intended any of that sort of independence which would close to us the rivers and harbors of the South and make them to us as a foreign nation, it never, never would be submitted to by the people of the North. I would try, in the message I might carry them from the President or authorities of the United States, directly or indirectly, to assure them that even large portions of the Republican party, in my judgment, would be glad to receive them back into this Union upon the basis of State rights and self-government under the Constitution, recognizing only the supreme authority of that instrument, and even without the abolition of slavery.

I think that if the South and North can again be brought to reason together and hear men of opposite and conflicting opinions, this Union might be restored without a further contest of arms or the shedding of more blood. I do not believe that that party which had only about four hundred thousand majority the last election in a poll of about four million votes has not patriotic men enough in it to join with us in declaring that the South may come back into this Union again, and come back as they left it, if they will come back, in obedience to the Constitution of the United States, their Constitution as well as ours, and, if possible, more the handiwork of their fathers than of ours.

But how am I to go South to carry the message of the honorable gentleman from Pennsylvania? How am I to reach the southern people? How am I to be heard beyond the Potomac at all? The laws of the land forbid any intercourse between the North and the South; the military authorities interpose an insuperable barrier. It is impossible to pass the lines of our armies. Not only is this forbidden to myself and others of my own party, for fear we would preach peace, but even members of the dominant party cannot undertake anything of that kind without interference on the part of the authorities of the United States to prevent it. Two honorable gentlemen, whose names are well known in the history of this country—names recognized as identified with the best days of the Jacksonian Democratic party—gentlemen who later were Fremont men and friends of Mr. Lincoln too, one of them late a Cabinet officer, went but the other day, apparently with an olive-branch in their hands, into the army of General Grant, by the permission, if not by the sanction, of the President of the United States; and, if the newspapers be correct in their reports, a telegram was sent by the Secretary of War forbidding their entrance into the rebel dominions, even with that olive-branch which they were supposed to bear in their hands. If, then, men high in the confidence of the Administration party are not permitted by the Secretary of War to go to the South and reason with the southern people, how can such an humble individual as I ever be expected to go and to remove any delusions there?

I do not believe that the great mass of the northern people desire the continuance of this war only for the abolition of slavery. Am I right, or am I wrong? Is the abolition of slavery the only object for which this war is hereafter to be prosecuted, or is now prosecuted? I do not believe it. I believe that large masses even of the Republican party would consent to receive back the southern States into this Union, with or without slavery, upon the single condition of their obedience to the Constitution of the United States. If I might be permitted to proclaim that fact in the southern country, and the southern people would hear me—if I might be permitted to proclaim it from the Potomac to the Rio Grande, with the sanction of the President of the United States, I have no doubt that the very promulgation of that fact would do more toward bringing about a cessation of hostilities upon the part of the rebels than any armies that we are likely to bring against them for twenty years to come.

But, sir, the honorable gentleman in the course of his essay stepped far out of his way to read New York a lecture for her sins, her iniquities, her crimes. The last of all places from which a lecture to New York should ever come is the State of Pennsylvania. Pennsylvania rebuking

New York! Satan rebuking sin! The records of Pennsylvania, in the lobby and out of the lobby, will bear no investigation here or elsewhere. And though New York State may not be a paradise, and though New York city is far from being a perfect city, yet the very stews of corruption and iniquity in the city of New York are virtue itself in comparison with the Legislature of Pennsylvania. [Laughter.]

Mr. A. MYERS. Mr. Speaker—

The SPEAKER. Does the gentleman from New York yield to the gentleman from Pennsylvania, [Mr. Myers,]?

Mr. BROOKS. I want no interlude here.

Mr. A. MYERS. I only want to ask the gentleman a question.

Mr. BROOKS. I want no interlude here. I desire at the present time to deal only with the gentleman's colleague, [Mr. Scofield.]

Pennsylvania rebuking New York! The very proposition of itself is absurd and ridiculous! Why, whenever any of the mere Pennsylvania politicians go to New York the first place they visit, the cradle in which they are rocked, is the classic spot described by the honorable gentleman from Pennsylvania as the "Five Points" of the city of New York. [Laughter.] It is the great Mecca where Pennsylvania pilgrims go. It is the source of their inspirations, and too often of their action. And if the records of the New York police were searched they would in many instances exhibit a record by no means creditable to too many of the citizens of Pennsylvania. Sir, New York is not without its sin, is not without its crime. But it is the refuge-place of the whole country, and, first and foremost of them all, of that State contiguous to it—the honorable State of Pennsylvania.

Sir, I deprecate this species of discussion; but when my own State is denounced as subject to the New York Central railroad, and when it is asserted that thieves and robbers govern the million of people of the city of New York, there is no language sufficiently strong, sufficiently denunciatory to hurl back upon those who make such charges; and those who do it should have spotless characters, should come from a spotless State, and least of all from the State of Pennsylvania. There is not an enterprise of any kind or character in Pennsylvania which does not come to New York to be cradled and nursed up—coal, iron, &c., &c. That great interest which the honorable gentleman himself represents, the interest of petroleum, has its representation in the city of New York. If there be a farm for sale in the gentleman's district which may or may not have petroleum in it, and especially if it have not, it is bought by himself or some other for \$1,000, and is then valued in New York at one or two millions, and represented as being worth more than the gold mines of Montana or California or Nevada.

But, Mr. Speaker, let that pass. Let it all pass. I will not enter into any labored eulogium to vindicate New York from undeserved assaults. My colleague [Mr. CHANLER] has set that all right. The empire city, sir, best speaks for itself. The spires of its hundreds of churches that point to heaven are not more numerous than its charities on earth. There is no place from the arctic to the antarctic where the poor and humble are so well taken care of as in the city of New York. There are no more noble and well-directed charities in London, or Paris, or elsewhere, than are in the great city of New York. A beggar need never walk its streets in suffering or affliction, for if he applies to the proper authorities there are even palaces to which he will be sent.

Then what has New York, calumniated New York, unpatriotic, copperhead New York, done in this war? What, sir, is its history? When the Administration has been most in need of money where has it gone but to the great city of New York? Where did it receive its first contributions? Where has been its last resource? Who are the largest shareholders in the public loans? Whose money has been poured forth so liberally as that of the great capitalists of the city of New York? In the earliest period of this war how were our troops put into the field but by the contributions of the city of New York? And when this Capitol was imperiled a regiment of that city, composed of the sons of the wealthiest citizens, men of wealth, often worth from one to two hundred thousand dollars, as common sol-

diers in the seventh regiment, among them my own colleague from New York, [Mr. CHANLER,] they left their homes, palaces I will say, generously came here and encamped upon the heights around about, to drive back the enemy that then threatened. There were not only such citizens of New York in that distinguished regiment, but the Irish-born citizens, men from the stewards and bagnios, of whom the gentleman so sincerely spoke. Yes, sir, the Irish regiments of the city of New York, and the German regiments of New York, men who were here hardly long enough to comprehend the English language, in the ebullition of patriotism, as the trumpet call came from Washington, poured forth, regiment after regiment, in thousands of thousands of men, until the Secretary of War, Mr. Cameron, said to that metropolitan city, "We have more regiments of soldiers than are necessary for the protection of the capital." Sir, New York city has responded to every call of the President to arms; even that New York which cast nearly thirty-eight thousand majority against his politics and his policy, and which would have increased that vote to forty-two or forty-three thousand if the short days of November had not excluded thousands of its honest voters from the polls.

Yet the honorable gentleman indulges in his imputations against the patriotism of the city of New York. Sir, if any honorable gentleman chooses ever to indulge in any such flings or sarcasms, last of all should outcry come from him, a Representative from Pennsylvania. Pending the invasion of the rebels before the battle of Antietam, when even Pennsylvanians could not be aroused to the defense of their own State, when her citizens fled back, when the legions of the enemy surrounded Washington and came down through the mountains of Pennsylvania, the soldiers of New York hastened from all parts, from their houses and homes, to help with the gallant men of the Army to drive back the enemy. But for the gallant regiments from the city of New York, and from the State of New York, whose Governor [Seymour] the gentleman has so slanderously traduced to-day, who knows but that Lee would have engulfed the capital of Pennsylvania, and captured and sacked the city of Philadelphia itself? Least of all should he speak against the noble State which saved Pennsylvania. The foot of the enemy, sir, has never trod upon the soil of New York. It is a virgin soil, and during this whole war will continue to be a virgin soil. I cannot say the same of the State from which the honorable gentleman comes, whose soil has been degraded by the rebel army again and again; whose cities have been plundered and burned by the rebel army. Yet the honorable gentleman has here, this day, denounced as unpatriotic, as ignoble, as thieves and robbers, the gallant soldiers as well as the citizens of the Empire State, which I have the honor in part to represent.

But let that pass also. I deprecate these personalities. I mourn the occasion that tempts me to enter into them. I wish the report of the debate could be suppressed and not entered upon the congressional records of the country. What I have said has been only in defense of my own city and State. I indulge in no unkind feelings toward Pennsylvania. Nay, I am sure the honorable gentleman only represents himself in his denunciation of New York, and when I speak, as I do speak, I speak only to him, and to no other Pennsylvanian upon the floor.

Let that pass while I refer to another matter of history. The honorable gentleman, in the course of his essay, alleged that from the formation of the Government the South has domineered and controlled in the Halls of Congress and throughout the country.

Mr. SCOTFIELD. Will the gentleman allow me to correct him? I did not say the "South;" I referred all through the debate to the institution of slavery.

Mr. BROOKS. The institution of slavery represented by the southern men upon the floor of this House—accept the words—and yet the institution never was here upon the floor of the House. They were the southern representatives of the institution.

Sir, that course of remark has been so often indulged in that I am inclined to believe the great body of the members on that side of the House,

and those they represent, now believe that we northern-born men, we Yankee men, have been controlled and domineered over by an oligarchy or an aristocracy of the South. It is not true; from beginning to end the declaration is not true, and it is an ignoble confession upon the part of those who make it. Northern men followers even of southern men; controlled and domineered over by them upon the floor of this House! We, an inferior race; they, a superior race of men, born to govern! Never, never; there is no such record in the history of our country.

The South has had one great advantage over the North here, and that is by its continuous representation upon the floor of this House. Under our northern miserable system of representation, every two or four years, after a man has been educated to a place in this body, after he has come to know its rules, and understand his duties, after he has become trained and educated as a statesman, then at that hour the political wheel rolls him out, and a green man comes here to meet the Representatives of the South who have been here ten, twenty, thirty, and even forty years; men not born superior to us, but superior to us in their training and education, and always therefore exercising that power and authority over the House of Representatives and over Congress which superiority of training and education always have given, and ever will give, as well to northern as to southern men.

Whenever our northern men have been kept here as long as John Quincy Adams was—and I name but one name of a representative man for that side of the House; whenever such men have been kept in Congress or in public life, year after year, they have had no superior in the South, and seldom if ever their equal either in this Hall or in the other House of Congress. But if green men are brought here every two years to act against the trained veterans of the South, the South will have larger influence and authority over this country than northern men, and be given the offices as the best fitted men.

But even with all this disadvantage the statement is not true, for northern policy, northern measures, northern commerce, northern trade, banking, and money-making, have governed this country from the foundation of the Government. Our tariffs have been imposed upon the South for the protection of our manufactures and the development of our internal improvements. We have made money out of the South at will. We have been their commission merchants, their factors, their freighters, their manufacturers, and they have been but our overseers to use their negroes to work for our benefit. We have fattened by our political policy upon that labor; and we have built up our cities and our country by the use we have made of the South, and in that way we have governed the southern country. If their men have been longer in public life, and held more public places, it is the fault of our political system, but wherever a dollar was to be made, wherever a law was to be enacted for the benefit of commerce, of trade, or of manufactures, the North has almost always governed and the South has almost always obeyed. The North has made the money under the Government, if more than a fair proportion of southern men have administered that Government.

Nor has the South here in this House, and upon this floor, always had its way, even with its able men. I was here in the great struggle of 1850, when the ablest men of the South were upon the floor of the adjoining Hall exercising all their power to bring California into the Union as a slave State, and to extend slavery to the Pacific; and in that they failed. I recollect their arguments. I myself was engaged in a warm debate on that subject with Mr. Toombs, of Georgia; and in the course of the argument, when he was claiming that California should be open to the representatives and institutions of Georgia and South Carolina, as well as to those of New York, he asked me a question which I found it easier to evade than to answer. Did not, he asked, a regiment from New York city and a regiment from South Carolina, in the march from Vera Cruz to Mexico, at Chapultepec, I think he said, fight side by side and shoulder to shoulder to conquer the Mexicans; and when the victory was won and the treaty made and the common territory acquired for which these soldiers of New York and South

Carolina had fought and the country had paid for in common, was it, he asked, just and right and equitable that the son of the South Carolina soldier, or that soldier himself, should be forbidden to emigrate, carrying his institutions with him, into California and the rest of the territory thus acquired, side by side with the citizen of New York? I evaded the question, I must confess. I found it difficult to answer. I answered it to the best of my ability, although not altogether satisfactorily to myself.

I mention this incident, which was but one of the many incidents of that great and prolonged debate, during which the men of the North stood together, I think, for six months upon the floor of the House of Representatives, contending and with great success for the exclusion of slavery from California and from all the Pacific coast, and then the South was fully and ably represented here, never more ably represented than then. The North, and I among the northern Representatives, stood up shoulder to shoulder, and successfully, too, for we excluded slavery from California by its admission as a free State. Slavery was forbidden by the compromise of 1850 to enter any of the territory which we acquired from Mexico on the Pacific coast.

How untrue is it, then, how anti-historical is the declaration, that upon the floor of the House of Representatives the South has always governed and always had the control.

Sir, when Florida was annexed to this Union, that annexation of which the honorable gentleman seems to complain, Florida, though a slaveholding State, was annexed more for the benefit of the shipping and commerce of the North than for the South. The Gulf of Mexico—

Mr. HIGBY. I would like to ask the gentleman from New York a question.

Mr. BROOKS. I am occupied with the gentleman from Pennsylvania now.

Mr. HIGBY. My question is in relation to California, to which the gentleman has referred.

Mr. BROOKS. I must decline to yield.

Mr. HIGBY again addressed the Chair.

The SPEAKER. The gentleman from New York declines to yield, and is entitled to proceed without interruption.

Mr. HIGBY. I do not like to hear any falsehoods stated about my own State.

Mr. BROOKS. Sir, when Louisiana was added to this Union, what was Louisiana? A slaveholding French State. Slavery was the binding law of that vast territory. The Louisiana of that day was not the little State upon the Gulf and on the Mississippi, but it was Arkansas, it was Missouri; it was all that vast territory which stretches from the Mississippi to the Pacific ocean; and yet in our contest with the South in the compromise of 1820, when that territory was divided, we left to the South only Arkansas and Missouri, while as free territory we have planted the flag of the North upon all that vast region which now comprises Territories and States too numerous to mention.

Tell me not, then, that the South has governed the North. Tell me not that the North has ever been controlled by the South. It is not true. It is dishonorable to confess it and not less dishonorable to declare it on the floor of the House. The great free States of Ohio, Indiana, and Illinois, the free gift of slaveholding Virginia to the North, deny it. The North has always had its rights, here and elsewhere, whenever it has thought it worth the while to claim them.

The South was abolishing slavery when the abolition war commenced upon it thirty years ago, and in due time, by the operation of natural causes, slavery would have passed away from the face of the earth without any of this civil war. Civil war has interposed and created a catastrophe, and, perhaps, hastened the abolition of slavery, but amid how much bloodshed and carnage, and with what irreparable damage to all the free institutions of the North. Sir, we have abolished the slavery of the South, but in so doing we have become the slaves, the thralls, the bondmen of the capitalist of the North. We are mortgaged to them for life, ours and the coming generation, our children and our children's children. Our farms are mortgaged, our labor is mortgaged. We are "held to service" for life to earn enough to pay the interest upon the principal of the great debt. The capitalists own us as much as capitalists in England own the people of England. For the emancipa-



tion of the negroes of the South we have enslaved the white people of the North to everlasting debt. And this is our destiny because we have attempted to hasten the order of time which God's providence would have at length brought about. Repeat not, then, to make an impression on the country, statements that are not true, not historical, not borne out by the record.

But, Mr. Speaker, if, as alleged, I have erred in an ardent desire for peace, if I am too credulous in the belief that there ought to be peace, or that the South would yield peace with a restoration of the Constitution and the Union, it is a credulity of which I am not ashamed, and for which the Prince of Peace will forgive me. It is a divine and Christian aspiration, now and hereafter, thus ever to hope for "peace on earth and good-will toward men." And however I may be calumniated as a copperhead or a traitor, despite all these or harsher words that may be fulminated against me, as long as I have life and power to speak, so long will I repeat the declaration of Scripture, "Peace on earth and good-will toward men."

Mr. BLISS obtained the floor.

Mr. FARNSWORTH. Will the gentleman from Ohio yield for a motion to adjourn?

Mr. BLISS. I will yield the floor for that purpose.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act to repeal the provisions of a law requiring certain regents of the Smithsonian Institution to be members of the National Institute; and

Joint resolution tendering the thanks of the people and of Congress to Major General William T. Sherman, and the officers and soldiers of his command, for their gallant conduct in their late brilliant movement through Georgia.

And then, on motion of Mr. FARNSWORTH, (at four o'clock, p. m.,) the House adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, January 7, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. WILLIAM H. CHANNING. The Journal of yesterday was read and approved.

#### PORT OF PHILADELPHIA.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, introduced a bill to extend the boundaries of the port of Philadelphia so as to include the district of Richmond on the north, and Greenwich Point on the south; which was read a first and second time, and referred to the Committee on Commerce.

#### CONDITIONAL ENLISTMENTS.

Mr. HOLMAN, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:

Whereas on the 15th day of December, 1864, the following resolution was adopted by this House, namely:

"Resolved, That the Secretary of War be directed to furnish to the House copies of the order issued from his Department on the 21st day of December, 1863, in regard to recruits enlisted with conditions that they should be discharged when their regiments were mustered out of service; also, copy of order or letter dated 23d day of December, 1863, and addressed to the Governor of the State of Massachusetts, in regard to recruits to fill up old regiments; and that he inform the House whether the principles announced in the order above mentioned have been applied to all soldiers mustered into the service to fill up the old regiments."

To which resolution no response by the Secretary of War has been made: Therefore,

Resolved, That the Secretary of War be directed to inform the House why the information required by the House has not been furnished, and that he be directed to furnish the same.

#### INSANE ASYLUM, DISTRICT OF COLUMBIA.

Mr. SCHENCK, by unanimous consent, reported from the Committee on Military Affairs a bill to extend to certain persons in the employ of the Government the benefit of the asylum for the insane in the District of Columbia.

Mr. SCHENCK. I ask that the bill may be put upon its passage at this time; and I ask that the bill may be read, together with the paper accompanying it.

Before that is done, however, I will ask leave to state some facts. The present law upon the

subject provides for the admission to the insane asylum, in this District, of persons employed in the Army and Navy of the United States and civilians in the District of Columbia. There are, however, certain persons in the employ of the Government, in the quartermaster's and commissary's departments, who are not now permitted this benefit. There are now one or more cases of insane persons in those departments who are not entitled to be admitted into any State asylum, having no friends in the country, and in whose cases the provisions of the existing laws do not apply. Representations have been made by the proper authority in regard to this matter. That paper, which I have sent to the desk, and now ask to have read, explains the necessity of the immediate passage of this bill, as a matter of mercy.

The following communication was then read by the Clerk:

OFFICE DEPOT COMMISSARY OF SUBSISTENCE,  
WASHINGTON CITY, D. C., December 10, 1864.

GENERAL: I have the honor to represent that the law controlling and regulating the insane asylum near this city will not allow civil employes of the quartermaster's or subsistence departments, who become insane while in public employ, the benefit of it, if they are not permanent residents of the District. Within the last few months we have had several in this condition, one now under my charge, who I am unable to dispose of. He has no friends in this country, and humanity will not permit him to be turned loose in this dangerous condition. I would therefore most respectfully ask that the approval of the Secretary of War be solicited for the purpose of modifying or amending the law so as to authorize insane employes to be admitted in the same manner as enlisted men, when such employes are connected with the Washington and Alexandria depots or their branches.

I am, general, very respectfully, your obedient servant,

G. BELL,  
Lieutenant Colonel and C. S. V. S.

General A. B. EATON, Commissary General of Subsistence,  
Washington, District of Columbia.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the House passed the bill, and also that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### SALE OF UNCLAIMED FREIGHT.

Mr. MORRIS, of New York, by unanimous consent, introduced a bill to authorize express and other transportation companies to sell unclaimed freight; which was read a first and second time, and referred to the Committee on the District of Columbia.

#### BOUNTIES AND ARREARAGES OF PAY.

Mr. GRIDER. I ask unanimous consent to introduce a bill to provide for the payment of bounties and arrearages of pay to mothers of certain soldiers who have fallen in battle, or have died in the service, and I ask that it be received and considered at the present time without any reference to a committee.

The bill was received and read at length.

It provides that the mothers of illegitimate sons who have died in the service shall receive the bounties and arrearages of pay the same as mothers of other soldiers who have fallen in battle or died in the service.

Mr. GARFIELD. I must object to the consideration of this bill without a reference to a committee.

Mr. GRIDER. The whole substance of the bill is just this: mothers of illegitimate children who have fallen in battle cannot now receive the bounties and arrearages of pay as those can who have lost sons whose fathers are dead. This bill is intended to put both on the same footing.

Mr. GARFIELD. If the gentleman will allow it to be referred it will be carefully examined.

Mr. GRIDER. Very well; I will consent to its reference.

The bill was accordingly read a first and second time, and referred to the Committee on Military Affairs.

#### TESTIMONY OF PARTIES IN INTEREST.

Mr. WILSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the third section of an act making appropriations for the fiscal year ending June 30, 1865, as to exclude the testimony of parties in interest in suits in the courts of the United States

wherever administrators, executors, or guardians are parties.

#### DUTY ON LEAF TOBACCO.

Mr. HARRIS, of Illinois, by unanimous consent, presented a letter from Dulany, Harris & Co., Quincy, Illinois, in relation to the duty on leaf tobacco; which was referred to the Committee of Ways and Means.

#### REBEL DEPREDACTIONS ON LAKE ERIE.

Mr. HULBURD. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of War be directed, if not incompatible with the public interest, to communicate to the House a copy of the report made by Major General Dix to the Secretary of War on the 30th of February, 1864, in regard to the rebel raid on Lake Erie, and the seizure of the steamers Philo Parsons and Island Queen.

Mr. HOLMAN. I will not object to this resolution, if the call be made directly upon the Secretary of War. The rules of the House require that resolutions of this character shall be imperative in their form.

The SPEAKER. By the language of the resolution, the Secretary of War is "directed."

Mr. HOLMAN. "If not incompatible with the public interest."

Mr. HULBURD. The reason for the introduction of that expression was that it was deemed possible that there might be something in the report which it would not be proper at this time to make public.

The SPEAKER. If there is no objection, the resolution will be considered as introduced and agreed to.

There was no objection.

#### CONFISCATION OF DESERTERS' PROPERTY.

Mr. GRINNELL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to report at an early day upon the expediency of a law to confiscate for the Government, when practicable, so much of the property of conscripts who have failed to report for duty as may be required to secure the services of soldiers in their stead.

#### ABOLITION OF SLAVERY.

The SPEAKER. The next business in order is the consideration of the business in which the House was engaged at the adjournment yesterday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, on which the gentleman from Ohio [Mr. Bliss] is entitled to the floor.

Mr. BLISS. Mr. Speaker, I deem it my duty to the people whom I represent as a member of this body, to utter in their name some words of protestation against the immolation of the Constitution of the United States which is threatened by the representatives of the party which holds the majority of this House. In that sacred instrument is contained the life-blood of our Government, and in its fate is involved the highest mortal interest of the American people.

Revolution, leaping in the dark, is ever of the most dangerous tendency. We shall act foolishly as a nation if we allow ourselves for any selfish motive to forsake and spurn the well-tried principles and policy upon which our fathers built our Government, and from the just application of which nothing has resulted in opposition to peace, prosperity, and unprecedented national advancement. We shall act foolishly and rashly if we abandon the approved guarantees of national happiness and greatness which Heaven and the loftiest human wisdom have permitted us to possess, and adopt in their stead some untied and speculative policy, the realization of which is only in vague imaginations of an uncertain and imperiled future.

There are many reasons why I cannot, consistently with my conscience and my views of the true interest of my country, accord my vote to the initiatory step to what I regard as the revolutionary measure proposed. In the first place, and which alone is sufficient for my deterrent, it would involve me in the guilt of a willful violation of the solemn oath without which I could not have become a member of this body. That oath binds me, like many taken before it, to support, maintain, and defend the Constitution of the Uni-

ted States. That solemn obligation I have ever intended to keep, and cannot relax in my purpose now when the ax of a party majority is raised in an illegitimate way to strike down its provisions. The plain terms of the obligation preclude any attempt to change or destroy any of its provisions or guarantees, except by the lawful mode which itself provides, and which is laid down in its fifth article in the following words:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Upon what reasoning and recognition of facts does any member of this Congress claim the possible power, under the foregoing article, to take the initiatory steps to the change proposed? Are the States whose people, in part, are in rebellion against the General Government out of the Union in theory and in fact? Are they foreign Powers, and their inhabitants foreign people, not subject to the Constitution and laws of the United States? If so, why do we raise and send mighty hosts to enforce, by the sword, the bayonet, and the cannon, obedience and subjugation to that Constitution and to those laws? If the people of the so-called seceded States are not citizens in the Union, why are our courts engaged, under an act of Congress, in confiscating their estates for acts of treason against their Government? Treason implies citizenship; it cannot be committed by an alien or an enemy. If those States are not out of the Union in theory of law, and if their people owe the allegiance to the Government of the United States which is claimed of them, then clearly those States are among the number of States three fourths of whom must unite their voices upon any proposition to amend their Constitution.

That they are not so legally in the Union, and so to be regarded as States with a controlling portion of their people in rebellion, is a new and recently assumed proposition, and at war with every executive manifesto, proclamation, and declaration from the first act of secession till now. From the commencement of what every one has called rebellion the people of the Federal States, of all parties, and without distinction, have agreed upon the common idea and doctrine that ordinances of secession are null and void; that the sovereignty of the Constitution was unalterably fixed upon all the people of the realm, and on that faith, and that only, the Union-loving patriotism of the country has responded to all calls made by the military administration, and allowed the blood of the nation to be freely poured out and expended, and a grievous national debt to be incurred. Are we now to see the predominating party holding these great issues in its hands change front upon this vital question? If so, then manifestly, with the policy of the nation in their hands, there is no hope of a restoration of the Union. A change in our public councils must occur or we shall be stripped of the birthright which we most valued.

But were the proposed action practicable in a legal point of view, I should shrink from the policy as putting us upon untenable ground, and making us to assume the character of aggressors while we profess to be fighting against and punishing aggression—we, who ought in this terrible business, to have no stain upon our hands. Undoubtedly the rebellion is a great wrong; but it would certainly be meeting wrong with wrong to deny them their original constitutional rights in the Union when they shall have returned to it. Whoever wishes for their return should openly condemn all such policy. Whatever moral question may be involved in the subject of negro slavery in any State of the original Confederacy is a question for determination and settlement only by the people of such State. To abandon or maintain the institution according to the sense, will, and policy of the people of such local sovereignty, was an undisputed right before and at the time of their entering into the Federal Union; and the great compact of confederation, the Constitution of the United States, gave them no new right in that re-

spect, but only guaranteed to them the undisturbed enjoyment of a preëxisting right, with such full recognition of the same throughout the country as should enable them safely to assert their right of property in the labor of slaves, even in the recapture of fugitives from their service in any State. By the amendment it is proposed to crush out a sovereign right and power which never was placed within the jurisdiction of any authority except the local sovereignty by whose laws it exists. Such is the main principle of the Government framed by Washington and his compeers. It cannot now be changed except by revolution.

The success of this proposition would dash the cup of hope from the lips of a majority of the people of all the adhering States. It is the desire of a great majority of our people to reconstruct the Union upon its old basis. Upon that basis compromise can be made and the war honorably closed; but upon no other or more restricted plan can it be done. Subjugation of the South, and sway over it, can be accomplished only by standing armies. We cannot dictate in any other way the abandonment of their constitutional and reserved rights. Can we afford the blood, the expense, the general suffering, the lack of all substantial success, which must attend upon such policy?

The pretense of a humanitarian motive toward the negroes amounts to nothing but a display of systematic and intense hypocrisy. All sensible men perceive that the negro slaves, whether held under the new bondage of the so-called freedmen, on confiscated plantations, or scattered in want and undeserved suffering over the North, are the much-abused and unfortunate victims of an unlawful interference with the protection and support to the benefits of which they were born; and that the best possible disposition of them is to restore them to their primal condition. They have been used as a party political instrumentality to their bitter cost, and they have sense enough to know that politicians cannot reverse the decree of Almighty God and make their race equal, socially or politically, with white men. Such may be the opinion of the fanatical politician; but the more sane mind of the negro, weak as it may be, has too much perspicacity not to perceive the deceptive bait which is thrown him. Many of them are now sighing for the happy homes from which they have been seduced.

Let us take honest counsel together and agree to let the Constitution alone, with the hope of restoring the happy old constitutional régime. That the Union may be restored and peace again pervade this distracted land, it needs only that the prevailing voice of the people should declare for an acquiescent administration of the Government according to the Constitution, which all Americans once acknowledged as the palladium of our national honor and glory. Upon such just and judicious proffer the States and the people could no longer be kept in severance. They would re-cohere with the power of magnetic attraction. Whoever disbelieves this is blind to the teachings of the most illustrative history and to the whole field of political cause and effect. Union men should do nothing to lessen or defer the probability of such a result, but hasten to apply the efficient cause by which it may be achieved.

I am aware that on this important occasion, which involves nothing less than a summing up and exhibit of all the Republican victories over the ballot-box and the denouement of the original purpose of that party, we must expect to hear, instead of a fair discussion of the great subject, the usual and familiar stump-speech poetry of the driver's lash, the horrors attendant upon the disfranchisement of "our brethren" by the aforesaid "sum of all villainies," that the awful importance of this bold attempt to despoil the American Constitution, considered in the effect its success will be likely to have upon our national condition, will not secure in this time and place a logical, dispassionate solution of the question presented, but that political partisanship on the part of the majority will furnish much of the influence controlling their acts.

The conservative members of this House should recognize a double duty in the crisis and eventful epoch of our history in which they are placed—the duty of respectful reverence for the wisdom and patriotism of those who were enabled to construct the grand edifice of statesmanlike thought

and popular liberty which many seek now to subvert or overthrow, and also the high obligation resting upon them as trustees for a coming generation, who in the midst of sorrow and oppression may demand of them what they did in the time of mortal action for the preservation and transmission to them of their inheritable and inalienable rights.

The SPEAKER. The question is on the motion to reconsider the vote by which the House rejected the joint resolution submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. ROGERS. How much of the time which the gentleman from Ohio [Mr. Bliss] was entitled to occupy remains?

The SPEAKER. Thirty-five minutes. If, however, no other gentleman claims the floor, the gentleman from New Jersey [Mr. Rogers] will be entitled to occupy one hour.

Mr. MALLORY. If the gentleman from New Jersey will allow me a moment, I desire to ask whether it is the purpose to bring this question to a vote to-day.

Several MEMBERS. Oh, no.

Mr. MALLORY. Is a time fixed for closing the debate?

A MEMBER. Next Monday.

Mr. MALLORY. I hope that the gentleman from Ohio [Mr. Ashley] will allow more time than that for the discussion of this question before we act on it finally.

Mr. ASHLEY. I stated yesterday that I had no design to press a vote; that whenever it might be the pleasure of the House to take a vote on the subject it would be satisfactory to me.

The SPEAKER. The Chair will state that when the gentleman from Ohio [Mr. Bliss] resumed his seat, no gentleman claimed the floor. Therefore, in the absence of a motion to postpone, the Chair was compelled to state the question on the motion to reconsider.

Mr. PRUYN. I thought that the vote had been ordered to be taken on Monday.

The SPEAKER. The gentleman from Ohio [Mr. Ashley] said that he would not ask a vote until Monday.

Mr. MALLORY. My reason for making the remark which I did was that I understood the Speaker to say that the gentleman from New Jersey would be entitled to the thirty-five minutes remaining of the time of the gentleman from Ohio, [Mr. Bliss.]

The SPEAKER. No other gentleman claiming the floor, the gentleman from New Jersey is entitled to the floor in his own right for one hour.

Mr. COX. By permission of the gentleman I desire to say a word. Some members on this side of the House, who desire to discuss this question, are not prepared to do it now, and may not be on Monday. If gentlemen on the other side will consent that the taking of the vote shall be postponed till a week from next Monday, it will be agreeable to gentlemen on this side of the Chamber.

Mr. ASHLEY. Mr. Speaker, I do not desire to bind the House to any request which may be made, but I will say this to gentlemen on the other side of the House, that so far as I am concerned whenever a majority of the House desire a vote I shall have the privilege of demanding the previous question.

Mr. HOLMAN. I suggest that before the adjournment to-day it be agreed to postpone the subject over to next Friday, which is also a private bill day, and that the discussion continue Friday and Saturday, when the vote shall be taken.

Mr. ASHLEY. I prefer for the present that the discussion should be continued to-day and Monday, and to leave it within the power of the majority of the House to take a vote whenever it may so decide. I will not call for a vote unless pressed by a majority.

Mr. ROGERS. Mr. Speaker, it is the first time in the history of this country, until the present party came into power, when any body of men claimed that in the Constitution of the United States, and by virtue of the laws of the several States before they formed it, each State had no right to legislate and control its own domestic institutions according to its own judgment exclusively. In this question there is not only involved at this time the propriety of interfering with the Constitution of the country, but behind that a grave and serious question, in my judgment,

arises, whether there is any power in the confederated Government of this country by any act of legislation and confirmation of the Legislatures of three quarters of the States to interfere with the domain of any State whatever, or its right to control the institution of slavery or any other domestic institution, which was not delegated to the General Government but reserved to the States exclusively.

I say, sir, that all the parties of the country, not only the Democratic party, but the old Whig party, and the Republican party, until lately, always claimed and held that this institution of slavery was peculiarly under the province of the individual States, and that when the States entered into this confederated Government the powers that they did not delegate to that Government were expressly reserved to the States; that no power not delegated to the General Government could be by the force of any amendment to the Constitution be taken away from the States, because they had only confederated themselves together for the purpose laid down in the organic act, and because it would be an act of the creature not given by its creator.

If I understand the object of this Government, it was to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity; and I hold now, as the law of the land and as the well-settled principle laid down by the authors of the organic act and by all the great men who have written on the subject, that the institution of slavery belongs peculiarly and solely to the States, and that no thirty-three States, or any other number, by combining together have the lawful right to deprive a single State of an institution which was not delegated to the General Government, and which was reserved by the people when they entered into the confederation of States and formed the American Union. If it be true that the States where slavery existed never delegated the right to interfere with that institution, what right has the Congress of the United States or the people of other States, through their Legislatures, to interfere with slavery in another State, which institution is peculiarly and solely the creature of the State—a right which was never delegated to the General Government, and to interfere with which has always been held by all parties we had no right? Solely and alone it has been always held that the institution belonged exclusively to the jurisdiction of the States.

If Congress will take the pains to look over the platforms of the different political parties of the country they will find that for years and years they have iterated and reiterated the truth that the right of each State to control this domestic institution according to its own judgment exclusively was essential to the balance of power upon which our fabric of government depends. If you look at the platform adopted by the Republican convention at Chicago, which nominated Abraham Lincoln in 1860, you will find that it lays down that the right to control this domestic institution rests exclusively with the States, and that that right is essential to the perfection and endurance of our political institutions.

Now, if it was a principle of this Government, well recognized, that it was a right reserved to the States to legislate upon this subject according to their own internal will, it is a right which still exists. Because this country has been involved in a war; because a civil revolution has rocked the country from one end to the other; because it is now a question who is responsible for the war, that does not change a lawful principle if that principle existed before hostilities commenced; and we are bound now by the same rule, controlled by the same law and indubitable principle which never dies or passes away, and it is reserved to the people of the respective States to-day and hereafter to control and do as they see fit with that which was never delegated to the General Government, but expressly reserved to the respective States.

This institution of slavery is one which has existed time out of mind, which existed before our forefathers landed upon American soil, which is an institution imported from Great Britain and other countries, one in the progress of which large sums of money had been made, which

had become a part and a feature of the government of the different States, and of the colonies of this country before the Declaration of American Independence and the adoption of the Constitution of the United States. No one will deny that before the formation of the Constitution, and at the time of the Declaration of Independence, the institution of slavery was exclusively under the jurisdiction and control of the organic law of the State in which it existed. If that is so, is there anything to be found in the organic law which shows that when those nine States first ratified the Constitution they delegated to the General Government any right whatever with regard to this institution? On the contrary, did they not, by the very language of the Constitution, reserve all powers not delegated to the General Government? And if they did reserve it to the people of the respective States, if it was an institution of the States, I ask any man how it is possible, by any amendment of the Constitution, for the General Government to become possessed of the right to legislate upon and control an institution the power over which was never delegated by the States when they entered into and framed the Constitution of the country?

You will find by looking at the organic law that those amendments which are provided for by it mean amendments which shall be germane to the organic law itself. The framers of it, the men who assembled in the old Halls of the Confederation in 1787, after having been purified by the glories and the triumphs of the Revolution, intended that amendments only should be made which were germane to the organic act, and which were within the purview of the powers which were delegated to the General Government. There is nothing in the Constitution which recognizes for one moment that the whole structure and framework of the Government may be amended or altered in reference to matters reserved to the States, matters never delegated to the General Government.

If the position in reference to the amendment of the Constitution taken by gentlemen on the other side of the House be true, then the other relations of the States, the marital rights, the rights of husband and wife, of parent and child, of master and servants; the right of licensing hotels, the right of making private contracts, the rights of courts, the manner in which they shall obtain evidence, the allowance of parties to be witnesses, the jurisdiction and powers of State courts, the rights of suffrage for State officers, constitutions of States and all the rights which now belong to the States, upon the same principle may be interfered with, abolished, and annulled. Those rights, like those connected with the institution of slavery, belong solely and exclusively to the jurisdiction of the States, and were never delegated to the General Government. Does any man here believe that Congress, by a constitutional amendment, can so far alter the organic law of the land as to interfere with marital relations in the States; interfere with the manner in which evidence shall be given; take away the constitutional provision that a man shall enjoy property by descent in certain ways defined by the organic law of a State and blot all States laws out of existence? I ask, do gentlemen here believe that by constitutional amendment the General Government would have a right to do away with all those express and reserved rights of the States, and which were never delegated to that General Government, and never constituted a part of the jurisdiction of the Congress of the United States or of the people, except that the people of each State could act and legislate upon those individual concerns according to their own judgment exclusively, and the dictates of their own consciences?

You must remember that it is proposed by this amendment that the States in which slavery exists shall have no vote, because they are not in a position to exercise the right to vote upon this question. But it is proposed that three-fourths of the States—States wherein slavery does not exist; States which have no interest in that species of property—shall get together, and by the action of three-fourths of them deprive of their property the citizens of the loyal border States; the men who have braved this current of war, and shown the proudest and purest patriotism of any class of men on the face of the earth; the men who have invested their money in slave property; the

men whose fathers fought side by side with the men of New York and New Jersey on the battlefields of the country to drive back the invaders of England. Shall it be said that under a republican Government, in a country supposed to be one of liberty, that we can trample on the rights of those men by taking their property without any compensation whatever, and robbing them of that which by the Constitution of the country is guaranteed to them, and which by the blood of their fathers who fought against the wickedness and tyranny of England was handed down to them to be perpetuated to them and their children and children's children unimpaired forever?

Does any man here believe that the members of the Convention that Washington and those men who assembled in Philadelphia to frame this sacred instrument, the representatives of the northern and southern States, who went there to carry out the will of their masters, the people, intended that when they reserved rights to the States and did not delegate them to the General Government, that three-fourths of the States, without the consent of the other one-fourth, could, by combining together under the form of an amendment, deprive the other States of these privileges which they wrested from King George, for which they fought, and which were guaranteed to them by the organic laws of their own States, and protected and defended in particular respects, to which I shall refer hereafter, by the organic law of the Union? I want to read one paragraph from the platform upon which the party which is represented upon the other side of the House established themselves at Chicago upon this question. They then held the doctrine which we now and ever have held. It was left for this revolutionary Republican party to proclaim a doctrine so destructive to the great interests of the citizens of this country, and the fundamental law of the land.

The third paragraph of the Republican platform reads that—

“The right of each State to legislate and control its own domestic institutions according to its own judgment exclusively is essential to that balance of power on which the perfection and endurance of our political fabric depend.”

Now, is that true? Is the right of each State to legislate and control its own domestic institutions according to its own judgment exclusively essential to that balance of power upon which the perfection and endurance of our Republic depend? Was it true in 1860 that the right of each State to legislate and control its institutions in that way was necessary to the endurance of this political fabric? Why did the Republican party establish that platform? Why was Mr. Lincoln nominated upon that platform and go to the American people in 1860 and ask them to support him? Why, it was because he knew, as the old Whig and Democratic parties and all parties had known, that no amendment to the Constitution by the interference of Congress, or of two-thirds, or nine-tenths, or nineteen-twentieths of the States could take away institutions existing in the States, the control over which had never been delegated to the General Government, and to interfere with which the Federal Government can find no warrant in the organic law. I do submit that in time of peace, in times when passion did not hold sway, but reason exercised its functions, it would be difficult to find a man in this country who would hold to the doctrine that, under the terms of the organic law in the contemplation of those who made it, any number of States have a right to take away the legislative, judicial, or domestic functions of any other States unless those functions were delegated to the General Government.

But, sir, the gentleman from Ohio [Mr. ASHLEY] says that he does not believe any constitution can legalize the enslavement of man. I will quote his language:

“I do not believe any Government, democratic or despotic, can rightfully make a single slave, and that which a Government cannot rightfully do it cannot rightfully or legally authorize or even permit its subjects to do. I do not believe that there can be legally such a thing as property in man.”

Let us examine the organic law and the state of society in this country before the Revolution and formation of the Constitution, and I think I can plainly show that slaves were property. It is not our duty to settle the justice or injustice, the policy or impolicy, of slavery. It will not be disputed that before the adoption of the organic law every State had a right to confer



on whom it pleased the rights and privileges of citizens, and it cannot be successfully denied that property in the African race was then sustained by law, and it will not be denied by any lawyer that the several States never surrendered these rights and privileges by adopting the Constitution of the United States. Will any man then pretend that the provisions of the organic act in relation to the personal rights to which a citizen of the State was entitled included the negro African race at that time here, or who should afterward be imported? Every person who was a citizen and recognized as such in the several States became also a citizen of the Union, but none other. It was framed by them and for them and their posterity, but for no one else; and the personal rights guaranteed to citizens of the Union were intended to embrace those only who were then members of States according to the provisions of the organic law and the doctrines on which it was founded.

Who were citizens of the several States under the governments of the thirteen colonies when they separated from Great Britain and took their places as an independent nation? Who were the citizens whose liberties had been violated by the mother country, and who declared their independence and determined to defend their rights by force of arms? Neither the persons who had been imported as slaves nor their descendants, whether they had then become free or not, were then included in the general words of the Declaration of Independence or acknowledged as a part of the people. They had for more than a century before been regarded as an inferior race and not fit to associate with whites, socially or politically; that the negro might justly and lawfully be reduced to slavery for the benefit of the white race; he was bought and sold like any other article of merchandise. It was an established axiom in morals and politics which no one disputed, and which was not considered open to dispute; and no nation more uniformly acted upon it than the English Government. They seized them on the coast of Africa and sold and held them for their own use, and were more engaged in this commerce than any other nation in the world; and the opinion and practice of England naturally impressed themselves upon the American colonies, and every one of the thirteen colonies bought and sold them as such. Not one of that race had then migrated to this country voluntarily, but had been brought here as merchandise; and slavery existed in every State save one at the adoption of the Constitution, at which time there was no Government of the United States in existence with special, enumerated, and limited powers. Not only did slavery lawfully exist before the formation of the organic law, but it is expressly recognized by the Constitution. Representatives and direct taxes are in part apportioned by the number of slaves:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such a manner as they shall by law direct."—Article 1, section 2.

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."—Article 1, section 9.

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."—Article 4, section 2.

Now, it does seem to me that the decision of the Supreme Court of the United States in the celebrated *Dred Scott* case, although not upon this particular point, yet goes clearly to show that there is no authority, by amending the Constitution of the country, to interfere with rights of the States which never were delegated to the General Government. I will read a part of the judgment of the court in the case, as well to show that slavery cannot be abolished in this way, as for the purpose of showing that it is a well-settled principle of law, which can hardly be denied by any living man, that slaves are held as goods and

chattels, and can be bought and sold like any other property.

But it is proclaimed that because the Declaration of Independence declares that all men are born equal, having certain inalienable rights, among which are life, liberty, and the pursuit of happiness, it never was intended that slavery should exist lawfully. I presume that no right-minded man will pretend that the framers of the Declaration of Independence, when they said that all men were born equal and had certain inalienable rights, intended to include slaves, because slaves at that time never had held any political rights. Slaves had been held here long before the formation of the Constitution; the institution had been transmitted by England and other European nations to the colonies here; slaves were treated here as property liable to be bought and sold, and not as citizens within the meaning of the Declaration of Independence or of the original laws of the country. I will now read from the *Dred Scott* decision, 19 Howard, page 410:

"It then proceeds to say, 'We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights, Governments are instituted, deriving their just powers from the consent of the governed.'"

"The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this Declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation."

"Yet the men who framed this Declaration were great men, high in literary acquirements, high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized government, and the family of nations, and doomed to slavery; they spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks and laws long before established, and were never thought of or spoken of except as property, and when the claims of the owner or the profit of the trader were supposed to need protection."

"This state of public opinion had undergone no change when the Constitution was adopted, as is equally evident from its provisions and language."

"The powers over person and property of which we speak are not only not granted to Congress, but are in express terms denied, and they are forbidden to exercise them. And this prohibition is not confined to the States, but the words are general, and extend to the whole territory over which the Constitution gives it power to legislate, including those portions of it remaining under territorial government as well as that covered by States. It is a total absence of power everywhere within the dominion of the United States, and places the citizens of a Territory, so far as these rights are concerned, on the same footing with citizens of the States, and guards them as firmly and plainly against any inroads which the General Government might attempt under the plea of implied or incidental powers. And if Congress itself cannot do this, if it is beyond the powers conferred on the General Government, it will be admitted, we presume, that it could not authorize a territorial government to exercise them. It could confer no power on any local government established by its authority to violate the provisions of the Constitution."

"It seems, however, to be supposed that there is a difference between property in a slave and other property, and that different rules may be applied to it in expounding the Constitution of the United States. And the laws and usages of nations and the writings of eminent jurists upon the relation of master and slave and their mutual rights and duties, and the powers which Governments may exercise over it, have been dwelt upon in the argument."

"But in considering the question before us, it must be borne in mind that there is no law of nations standing between the people of the United States and their Government and interfering with their relation to each other. The powers of the Government, and the rights of the citizen under it, are positive and practical regulations plainly written down. The people of the United States have delegated to it certain enumerated powers, and forbidden it to exercise others. It has no power over the person or property of a citizen but what the citizens of the United States have granted. And no laws or usages of other nations, or reasoning of statesmen or jurists upon the relations of master and slave, can enlarge the powers of the Government, or take from the citizens the rights they have reserved. And if the Constitution recognizes the right of property of the master in a slave, and makes no distinction between that description of property and other property owned by a citizen, no tribunal acting under the authority of the United States, whether it be legislative, executive, or judicial, has a right to draw such a distinction, or deny

to it the benefit of the provisions and guarantees which have been provided for the protection of private property against the encroachments of the Government."

"Now, as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it like an ordinary article of merchandise and property was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years. And the Government in express terms is pledged to protect it in all future time if the slave escapes from his owner. This is done in plain words, too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection, than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights."

"Upon these considerations, it is the opinion of the court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned, is not warranted by the Constitution, and is therefore void; and that neither *Dred Scott* himself, nor any of his family, were made free by being carried into this territory; even if they had been carried there by the owner with the intention of becoming a permanent resident."

I take the ground, sir, that is taken in this decision, that it is beyond the power of the Federal Government, not only beyond the power of Congress, not only beyond the power of those who may sit here as the Representatives of the people to act and legislate for them, but that it is beyond the power of the constituted authorities of America, of the people in their sovereign capacity, by any amendment of the Constitution to interfere with an institution that belongs solely and exclusively to the jurisdiction of an individual State, without the consent of that State. And I ask what safety there would be in a Republic like this if three fourths of the States could deprive the other fourth of those rights, jurisdiction over which was not delegated by the States to the General Government? Would not the whole framework of the Government be thereby overthrown? And would not despotism and tyranny, in times of war and excitement, prevail over the land in bold and undisturbed impunity? Would it not be a recognition of the authority of three fourths of the States to trample upon those rights and liberties transmitted to us by our noble ancestors who fought side by side together, and handed them down to you and me to protect our lives and property from the influences of despotism and tyranny?

I submit that the proposition on its very face is too absurd to deserve consideration in a republican Government. Can it be that those intelligent and patriotic men who established the independence of the Government, and who battled for their liberties till the soil of our country was marked with their blood from hill to hill, and from plain to plain, intended that the life of freedom breathed into their nostrils might be crushed out by the tyranny or partisan passions of Congress, or of three fourths of the States, and that a minority of the States might be treated as conquered provinces? It is a doctrine which would reduce American freemen to the grade of Russian serfs.

There are lawyers on the other side of the House who know the general rules governing the construction of statutes, contracts, and constitutions. They know that we must construe the Constitution according to the reason and the spirit of it. We must consider what animated the minds of the people and of the delegates who framed it. What were the object and intention of the framers of it? Was it their intention that after going through that vast scene of blood, after such an exhibition of patriotism as the world had never seen, those rights for which they had fought and won, to protect their liberties, their properties, and their households, might be torn from their descendants by the vote of three fourths of the States, against the plain principles for which they fought? Did they ever intend that a two-third vote in Congress, and three fourths of the States, could take from the fourth of the States certain institutions which were guaranteed to them as much as my property was guaranteed to me, or our fathers' or grandfathers' property guaranteed to them by the success of the Revolution, and by the organic law of the land.

It is dangerous, in the present state of the country, to undertake to trample on the precious landmarks of the Constitution. We have been taught to believe that it is the barrier by which the tides of despotism and tyranny are to be kept back. It is only by upholding that barrier that

our citizens can escape the evils of that unconstitutional desolation of the country, the evils of this terrible unprovoked war, for which a portion of the people of the North are more accountable than the people of the South. In these times of excitement, when private rights are so much trampled on, it is dangerous to trifle with the sacred landmarks which the wisdom of Washington, of Jefferson, and of the great statesmen and heroes of the Revolution had established in our land as principles to be handed down to us, and to secure ourselves and posterity from the wickedness of unscrupulous tyrants.

But, says the gentleman from Ohio, slavery is the cause of the war. Sir, slavery is not the cause of the war any more than were seamen the cause of the war of 1812. The war of 1812 with Great Britain was because she interfered with our seamen; and the same argument might have been made then that is made now in regard to slavery—that seamen were the cause of the war, and that if we had not had seamen we would not have had war. I tell you, sir, that it was the interference with the rights of American seamen on the part of Great Britain that caused the war. It was not because there were seamen, but because the rights which the Government of this country guaranteed to and threw around them were invaded by Great Britain, and they were taken from the decks of our ships, the soil of America, and forced into the service of a nation hostile to us. Great Britain, by her acts, caused that war.

The history of our country will, in pages red with blood, record that this war was caused by the acts of the abolitionists of the North; of those men who interfered with the institutions of the South. Those men are responsible for all this bloodshed which is now wetting American soil, and causing the earth to groan beneath the deadly weight of the commingled bones of our brethren. I charge here to-day that this interference with slavery has alone severed our glorious Union; blighted our national prosperity; wrecked our civil and political liberty; studded our country with the graves of noble soldiers; caused a hundred fields to weep with brothers' blood; and the screams of wives and mothers to emanate from domestic circles at the ghastly appearance of a tyrant's assassin dragging from the death-bed of a wife or the grave of a child the husband and father, to be incarcerated in a dungeon or cell. I implore you, in the name of truth, do not charge upon slavery the cause of this war. By the history of this country I charge that such men as Wendell Phillips, Horace Greeley, Lloyd Garrison, and those in power, have been the promoters of this war, and the blood of this nation rests upon them. Thank God, I am free from it.

And there is another consideration which I would urge—one of still greater moment—one which stirs the heart of this nation, and which I trust will yet bring back the glory of the American people. I urge that at this time it is not patriotic to urge such a measure as this. It tends to distract the country; it embitters all the elements of social life; it separates the ties of religious brotherhood, and weakens those great principles for which this Government was founded, and for which the blood of the people both of the North and the South was so freely poured out.

I see before me patriotic men from the State of Kentucky; the State which has stood between the ire of the North and the ire of the South; a State that has been true to the Constitution; whose sons here represent the principles ever held by that great statesman Henry Clay; a State that stands by the landmarks of the organic law of the land as the only palladium of our civil liberty. In the name of God, is it justice, is it magnanimity, is it in accordance with that injunction of Scripture, "Do unto others as ye would have others do unto you," to strip from those men the valuable rights of property which were considered sacred until this civil war raised its hydra head? Is it just and right to take away from those men now, after they have for three years and a half interposed their State for the protection of our firesides and our families, to take away their property without any compensation? By what right do we propose to take away this property without paying for it? The Constitution says that private property shall not be taken for public use without just compensation. Now, if we regard all the rights

guaranteed by the Constitution, by what right do we propose to take away the property of the loyal men of Delaware, Kentucky, and other States, without just compensation?

Nearly every man, if not all of them, in the Convention who framed the Constitution of the United States were slaveholders; that the Constitution of the United States not only recognizes the right of the States to hold this institution, not only allowed them to continue to hold it and not give it up to the General Government, but that Convention, comprising these wise and patriotic statesmen, expressly fortified and sustained it. They not only declared that slavery existed, but that the importation of slaves should not be interfered with until a time named in the Constitution, and they put a provision in the Constitution that no amendment should be made to it which should interfere in any manner with the right to import slaves from foreign countries until the year 1808, and out of which trade Massachusetts, New Hampshire, New York, and other States made money until that year. Why will you regard other prohibitions contained in the Constitution, if you are to pay no regard to those prohibitions and guarantees which relate to this institution?

The power to interfere with the importation of slaves into this country was delegated; but it was provided that it should not be exercised until the year 1808. The Constitution can be amended in that respect, because by the organic law the power to make such an amendment after the year 1808 was expressly granted; it was made one of the ligaments which interwove the different parts of the Constitution together. Because that was made a part of the organic law of the land, and for that reason alone, the Federal Government, by two thirds of Congress and three fourths of the State Legislatures, representing the people who made that Constitution, has the right to make such an amendment. Why? Because that is an amendment contemplated by the organic act; it is an amendment within the purview of the powers delegated to the General Government; it is an amendment in relation to a question the control of which is not reserved to the States; it is an amendment which the General Government was expressly authorized to make. It was provided by the Constitution that until the year 1808 the importation of slaves should not be interfered with by the General Government, but that after that date Congress might make any law they deemed proper in regard to that matter.

No man, though he search till the end of time, can show me an instance in which an amendment has been allowed which did not come within the plain letter or the spirit of the Constitution. Examine, if you choose, the amendments which were adopted after the Constitution had been ratified, and the Government established. Those amendments, which were adopted by the people because they apprehended that their personal rights, their life, liberty, or property which they had fought to maintain during the mighty strife of the Revolution might be invaded, were germane to the Constitution itself. You will find none but such as came within the powers delegated to the General Government, either by the spirit or the letter of the Constitution. For, sir, the Constitution is to be interpreted, not only by its letter, but, like all other laws, by its spirit, and the object had in view by its framers when they made it, which object was to preserve the rights of themselves and their posterity for all time to come.

Another evidence that it never was intended that three fourths of the States should have the power, through the process of amendments, to interfere with the domestic policy and internal concerns of the other States, is found in the fact that no such authority is in the organic law. Every gentleman here knows perfectly well that in the Convention by which the Constitution was framed attempts were made to give the General Government power to interfere with the institution of slavery. But all propositions of that kind were rejected. Sir, the Constitution would never have been framed, the wise principles of our fathers would never have been embodied in the General Government, the flag of this country would never have waved in triumph from the dome of this Capitol over this degenerate race but for the fact that our fathers saw, when such propositions to interfere with the domestic institutions of the States

were voted down, that the rights for which they had fought, and which had been embodied in the organic law of the States, should never be trampled upon by the tyranny or despotism of fanatical power. The right to maintain the institution of slavery was reserved to the respective States. If you examine the Constitution to arrive at the meaning of its framers, you will find that by that organic law certain rights were expressly prohibited to the States—among others, the right to coin money, make treaties, grant letters of marque and reprisal, &c.

Why were those prohibitions expressly inserted, if it was believed that powers were delegated to the General Government when no express language to that effect was used? Do I make myself understood? I ask, why did the Convention which framed the Constitution declare in that instrument that certain powers should not be exercised by the States? It was because those powers were intended to be exclusively delegated to the General Government; because it was the design to endow that Government with the exclusive control of those subjects, and because it was provided in another part of that instrument that "the powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively or to the people." Thus was exhibited the object of the framers of the Constitution; that they intended to guard State lines; that they were not willing that their children, to whom this Government should descend, should be deprived of the benefit of those immutable principles of American liberty for the defense of which they had resisted and defied the power of Great Britain. Guided by an almost superhuman foresight, those who framed the Constitution stamped indelibly the landmarks for our guidance; and among the most vital principles which they sought to preserve was the right of the respective States to the control of their own domestic institutions. If slavery can be abolished by an amendment of the organic law in States where it exists, without their consent, then by the same process can slavery be established in States where it does not exist, and against their consent, if three quarters of the States so decide. Was a doctrine so monstrous ever contemplated by the illustrious dead who framed the organic law? Yet such was the case, if one fourth of the States can be deprived of their slave property by the action of the other three fourths.

Why, gentlemen, where are we to land if such a constitutional amendment as is now proposed be lawful? Look at the declaration of the platform adopted at Baltimore, the platform upon which Mr. Lincoln received the suffrages of a majority of the American people. That platform declares that slavery is the cause of the war, and that the preservation of the national life demands its complete extermination; and on that ground it approves, as coming within the powers of the Constitution, the proclamation of Mr. Lincoln abolishing slavery. If Mr. Lincoln, by the spirit and meaning of the Constitution, was justified in issuing that proclamation, and if it was so far valid as to confiscate property in slaves, what is the necessity for this amendment to the Constitution? If that proclamation abolishing slavery is the law of the land, as declared by a large portion of the people through their representatives at Baltimore, when they emphatically proclaimed to the world, and asked the suffrages of the American people upon the announcement, that Mr. Lincoln's proclamation was a death-blow to the institution of slavery and was warranted by the Constitution, why ask this legislation? Ah, gentlemen, it shows to you and it shows to me the danger of all such interferences. It shows that in the same way you may by an amendment to the Constitution declare the right of trial by jury abolished; that the right of freedom from unreasonable searches shall no longer remain; and that that article which declares that no man shall be deprived of his life, liberty, and property without due process of law, may also be taken away. In like way by an amendment to the Constitution you may establish an oligarchy, a despotism, or a monarchy upon the ruins of this Republic.

I have no doubt I will be told that this is rebellious talk, and that it tends to aid and comfort the rebels. I avow here that it is my conviction we have more to fear that our rights and liberties

and property will be taken away by the despotic usurpations of the abolition party than from the acts of Jeff. Davis or the confederate government, and I am here to-day to enter my protest against the high-handed acts of the Administration. Although I have not heretofore taken up much time of the House by the discussion of these topics, still I have not ceased to enter my protest against those acts to which I have referred. I protest against them as a citizen of the United States, and as a citizen of the gallant State of New Jersey, which has clung to the Constitution of the United States as the ligament of the Union, a State whose brave sons in thousands have gone from her hills and her valleys and laid down their lives a willing sacrifice for their country; a State which has always been true to the Constitution and the Union, and which, I thank God, has never yet cast her vote in favor of the wild fanaticism of abolition which has run riot all over this land.

I have already shown that the organic law provides that taxation and representation of the country shall in part depend upon the number of slaves. In other words, it is declared that slaves shall constitute a part of the population which is to be represented in Congress. If this amendment be passed, that portion of the Constitution will still remain. If I understand correctly, there is no intention on the part of this Congress to interfere with that portion of the Constitution. The Constitution, then, will provide that taxation and representation shall be according to a certain number of these slaves. You make no provision for making these emancipated slaves citizens of the United States, or giving them any power in the sovereignty of a State. You do not change their political condition. How then can they be represented as provided by the Constitution? What a strange anomaly shall we then have—the Constitution providing that they shall be represented when they are not really represented! If this be passed I tell you that it will be the last act in the dissolution of the Union, for the southern people can never be expected to come back and with bended knees bow down to the imperial dignity of this Administration as serfs and slaves.

I want the Union restored. I want the Union as it was made for us by our fathers. I want the Union which was made by the patriots, the statesmen, the brave men of the times that tried men's souls. I want the Union which protects the liberties of white men and women. I want the Union that has given us peace and prosperity and grandeur such as never before belonged to any nation in the world. But I tell you that we can only have such a Union by adhering to the immutable rights of all the States. The Union is the only condition of peace; we ask no more. If you love the Union as much as I do, if you want the Union restored, let it be known that it shall be restored with all the rights and privileges that came down to us from our ancestors. I repeat what General McClellan said, "The Union is the one condition of peace; we ask no more." We want to preserve the blood of this nation. We love our country, and we cannot afford to make war upon the people of one section for the purpose of carrying out any frenzy or false philanthropy of those who have undertaken to recognize that doctrine.

[Here the hammer fell.]

Mr. DAVIS, of New York, obtained the floor, but yielded to

Mr. PRUYN, who said: I wish simply to make a statement to the House with reference to this question, without entering into a discussion of its merits.

When this subject came up at the last session, I stated my views somewhat at length in regard to it. My position then was substantially that under the power to amend the Constitution we could not interfere with or take away the reserved rights of the States. I do not now propose to discuss the subject of slavery in any way; I did not then. I look upon the question before us simply as one of power, and it is immaterial in this view whether it relates to slavery, to the marital relation, to the laws of descent, or to any other of the subjects over which the State governments have entire control. I then remarked that if gentlemen would look at the debates of the State conventions which passed upon the adoption of the

Constitution of the United States, they would clearly see that that instrument would never have been ratified had it been supposed by the States that under the power to amend their reserved rights might one by one be swept away. This is the first time in our history in which an attempt of this kind has been made, and should it be successful it will, in my judgment, be an alarming invasion of the principles of the Constitution.

I have only to say in addition, that further investigation has confirmed the views I before expressed, and I cannot therefore vote in favor of this proposition, believing the subject to be one not legitimately within our jurisdiction. If it be asked what then can be done, I answer, leave the matter with the States, where it belongs, or obtain a supplementary article to the Constitution, not as an amendment, but as the grant of a new power based on the consent of *all the States, as the Constitution itself is*.

Mr. DAVIS, of New York. Mr. Speaker, I did not intend to trespass upon the time of this House during the discussion of this bill, but I have heard from the lips of two or three gentlemen whose views have been expressed here sentiments which are not in accordance with my own, and I think it due to myself and to my constituents that I should place upon record the sentiments which will control my action and determine my vote. Having lived more than half a century, I have never, until this morning understood to its full and perfect extent the definition of *civil liberty*. I find, by the commentary of the gentleman from New Jersey, [Mr. ROGERS,] that civil liberty consists in the right of one people to enslave another people to whom nature has given equal rights of freedom. Sir, civil liberty, in my judgment, has no such interpretation, no such meaning; and no man who regards himself as made in the image of his Maker, solely responsible to his Maker for his thoughts and actions, can recognize a sentiment which lowers him in his own estimation, in the estimation of Heaven, and before the face of the whole world. Nature made all men free, and entitled them to equal rights before the law; and this Government of ours must stand upon this principle, which, sooner or later, will be recognized throughout the civilized world.

But we are told, while asserting this principle of legal or civil equality, that we are violating the fundamental principle of the Constitution under which we live, by the measure now under consideration. I can see no such violation, and even if there were a technical violence done to the letter of the Constitution I should hold it defensible for the purpose of preserving the life and the power of the Republic which our fathers framed for the perpetuation of civil liberty.

As I understand it, our Constitution was framed and the Government organized for the purpose of perpetuating the blessings of liberty to all in present and in future times. That Constitution provided the mode of its amendment, and the power of amendment was restricted in two points alone: The one was in reference to the importation of "persons" or slaves, before the year 1808; and the other was in restriction of the power of the people to reduce the senatorial representation of any State without its consent; all else was left to the future determination and judgment of the people of the United States, as a united, aggregate, and sovereign nation.

What powers, sir, were in the purview of those who framed the Constitution and of those by whose votes it was adopted? If gentlemen will rise from the narrow and restricted interpretation of the text to the magnificence of the exordium by which our fathers in that Constitution announced the formation of a republican Government founded on the principles of equality and justice, they will find that the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, ordained and established our Constitution and the Government of the Union. These were the great and cardinal purposes for which the Government was framed. Liberty, that civil and religious liberty which was so clearly and beautifully defined in the Declaration of Independence, and which, in the language

of that Declaration, had been proclaimed to the world as the inalienable inheritance of every man, gave vitality to the Constitution and the Government which by it was called into life. The unfortunate restriction which then existed in our land upon universal freedom, in the form of African slavery, was regarded as temporary in its character and as tolerable only by reason of the exigencies of the hour. Our fathers predicted that the time would soon come when the interests of the country would demand that slavery should pass away. Jefferson predicted it, Washington prayed for it, and all the great men of that great age believed that the stain of African slavery would soon cease from the land.

But, sir, as years rolled on, slavery, once regarded as a crime and a curse, became to the South a profitable institution. The acquisition of new territories adapted to slave labor, and the increased value of cotton arising from the invention of Whitney, have rendered it for the interest of the South to maintain slave labor which capital might own and which avarice might control. Interest, individual interest, bound up in the "almighty dollar," has lent its support to an institution which in its origin was forced upon an unwilling people by the imperial power and cupidity of England; and upon that institution has grown up a caste, an aristocracy, based upon the ownership of labor, of sinews, bones, and blood, entirely inconsistent with republican government and republican institutions. It is this power thus grafted upon and maintained by slavery which has undertaken to overthrow this Government.

The honorable gentleman from New Jersey [Mr. ROGERS] has just told us that the interference of northern men with slavery has been the cause of the existing war. History repudiates and denies the declaration. This war sprang from the aristocracy of the South in an effort to maintain and to extend a system of servitude on which alone that aristocracy could be perpetuated. For the last thirty years this sentiment has been publicly and repeatedly proclaimed by leading southern statesmen, and their most influential legislators long since declared that in view of the vast increase of wealth and population in the free States, culminating, as finally it would, in political ascendancy, the preservation of aristocracy and of slavery which supported it dictated a dissolution of the ties which bound the southern States to the Federal Union.

This war was conceived more than thirty years ago, and John C. Calhoun was present at its conception; and yet we are told to-day that this war was sprung upon us by the action of the northern abolitionists, and by men interfering with the rights of the southern States. I tell the honorable gentleman from New Jersey that this Government as such never laid its hand upon the institution of slavery. On the other hand, it has yielded, and the people of the North have yielded year after year, and time after time, to the demands of this slave power in order to promote peace throughout our borders. I could go on for hours enumerating the concessions which have been made to this power of slavery; and yet the South has never been satisfied. Were we of the North responsible for this war? No, sir; the South commenced it without cause, and commenced it while they had control of this Government from its head to its foot; while every department was in their power, and while they, through their public men, admitted that it was beyond the power of this Government for the next four years to interfere with the institution of slavery.

Sir, this war was not commenced by the South for the purpose of protecting the rights guaranteed to them by the Constitution. It was prosecuted for the purpose of taking away rights secured by that Constitution to the people of the whole country. And when they attempted to overthrow that beneficent Government of our fathers, I, for one, who had for twenty-five years, in every place where my voice could be raised, defended, so far as I could, what I regarded as the constitutional rights of our southern brethren; I, who had denounced the extreme northern sentiment on this subject, made up my mind that if the South could voluntarily make war on this Government for their institutions and to overthrow ours, it was my duty, as an American citizen, to



do all in my power to protect our Government, even at the expense of slavery or of southern aristocracy. Sir, slavery should find no protection and no apology among gentlemen who represent the free States of the North.

Slavery has wrought too much of evil; it has shed too much of innocent blood; it has sent too many of our citizens, our brothers, our relatives, and friends to inhospitable graves; it has held its carnival of blood and death on too many battlefields for gentlemen from the free North to stand here as its advocates and defenders. And yet what I would do would be done in no spirit of malignity, in no spirit of vindictiveness, in no spirit of unkindness. I would say that slavery should die because it is irreconcilable and incompatible with freedom; because it has undertaken to destroy our Government, to subvert our institutions, and to cause desolation and suffering and death throughout the length and breadth of the land.

I am no advocate for the exercise of tyrannic and despotic power. I have no feeling of bitterness toward the misguided and deluded people of the South. I love the Union too well for that. It is for the Union and the Union alone that I plead to-day. For that Union I am ready to give up every resentment, to forget every sacrifice that the North has made, and to ask the people of the South to come back into the Union with those principles of freedom which shall make and which alone can make the Union perpetual. I have known from the reading of history that the exercise of despotic power is always wrong and always disastrous. I would not, then, exercise that power. We have seen it exercised abroad for the purpose of restricting liberty of opinion. We have seen it exercised in Holland where, for more than seventy-five years, the despotism of Church and State attempted to control the minds of men. And yet, through those years of disaster and suffering, the people of Holland adhered to their religious faith and finally maintained the independence of their religious sentiments. We saw it in Spain where the despotism of Charles V and Philip II and III drove from the borders of Andalusia five hundred thousand Moors to the coast of Barbary. We have seen it in England, where, from generation to generation, religious and State despotism attempted to interfere with the rights, civil and religious, of British subjects. And yet, sir, we have never found that the exercise of despotic and arbitrary power produced any good result to the people.

No, sir, we must not proceed in the exercise of arbitrary and despotic power. It is with love, kindness, conciliation, exerted in every channel where love, kindness, and conciliation may be exhibited, that we should proceed. In every way where we can consistently with our duty, consistently with the existence and protection of the Government, show kindness to the South, we are bound to do it for the sake of the Union. I, for one, am willing to wipe out the record of the past, bloody and painful as it is, and to show that we can take back our erring and repentant enemies into the Union, with all the rights which we, as northern men, possess under the Constitution of the country, and with no other. That, sir, in the full enjoyment of American constitutional freedom, gives them everything which our fathers claimed, and which we claim now under the Constitution.

Now, sir, what is this proposition? Is it despotic and arbitrary in its character? Not at all. We propose simply to submit to the people of the States the proposition to amend the Constitution. It requires the assent of three fourths of all the States represented in this Congress. Did they not agree to that when they framed the Constitution? Is not that the principle on which all State governments are founded? When I look at the constitution of the State of New York I find it a government of majorities. If I look to the town and county governments, I find them governments of majorities; and, sir, if we have a national Government under our Constitution which, as I claim, is a supreme Government, that Government is a Government of majorities or pluralities, as fixed by our organic law.

Now, sir, for the purpose of perpetuating our institutions, those who framed the Constitution entered into a solemn compact and covenant that,

with certain two exceptions, the people should have the right to change that organic law in every other respect whatever; and therefore when it appears to the people that there exists in this land an institution inconsistent with that Constitution, inconsistent with the principles of our Government, we, as their Representatives, say that we propose to them, in accordance with that Constitution, to determine for themselves whether or not they will amend it, and thereby remove the evil, there is nothing despotic, nothing wrong, nothing which should call forth the animadversions and maledictions of the honorable gentleman from New Jersey, [Mr. ROGERS.] In that we propose nothing which is not constitutional, nothing which is not just.

And I submit to my friends on the other side of the House that the day is come when they should act fearlessly and honestly upon this subject. Is there a gentleman there who does not believe that the American people in their majesty and in their power have decreed the absolute and perpetual annihilation of slavery? Has not the popular verdict, which went forth in November last, proclaimed that that is the unalterable decision of the American people? Is there one who will deny that the next Congress, which according to law will convene here one year from December, 1864, will possess the requisite power to pass the amendment now proposed and submit it to the people? Is there any one who does not know that it will be in the power of the President of the United States, whenever this proposition may be rejected by a vote of this House, to call within sixty days an extra session of that Congress? And although at large expense and at great annoyance to our people, the President can present this one question to their consideration and decision, and then by their act they can announce that this proposition shall be submitted to the vote of the American people.

Gentlemen may talk of slavery, and attempt to keep it in life and being. It is too late for that. This world moves. The American people have found that the institution of slavery is a great public evil and crime, and when this rebellion broke out and evinced its wicked design to overthrow the Government in order that slavery might be perpetuated they went to work with the determination that it should be extinguished. They entered upon the path of duty before them with the old motto of Hampden engraved upon their shield, "*nulla vestigia retrosum*"—there is no step to be taken backward. We must go on, for the very safety of our nation and of our people, until slavery is obliterated from our land. Then, and then only, shall we possess peace. Then, and then only, when that is a conceded fact, will the powers now in rebellion against the Government lay down their arms and submit to the just authority of the Federal Government.

Sir, this world is after all a progressive world. Its advances are slow but sure. Long before the days of Adam changes were going on, the records of which are to be found in the vestiges of races long since passed away. Age after age, era after era, have swept onward, each with its own order of organic life, flourishing, decaying, perishing, pursuant to the inexorable law of development and progression, and the rocks alone by their fossil remains attest the strange creations of the past.

We see evidences of progress in the institutions of society as well as in the physical world. The despotism and tyranny of old Governments and empires, and the barbaric customs of former generations, are passing away. Other institutions have succeeded, better but not yet perfect, and these in turn must give way to the more beneficent and more perfect creations of a brighter future. And perhaps hereafter some explorer in our history shall find for the astonishment of his times, deep buried in the strata of political geology, a monster fossil more wonderful than the mastodon, and more terrible than the pterodactylus, which shall be recognized as the last vestige of African slavery.

We, sir, are improving, yet we are not perfect. It was not the design of the Creator that this world, either in its physical, in its moral, or in its political character, should assume perfection, except with the passing away of long ages. We have our work to do for this generation. Past generations have been building up their work for

us; and, taking advantage of their advancements and of their improvements, we to-day have our duty to perform in opening a wider pathway for civilization and for freedom.

I trust that gentlemen will regard this as no party question. It is with me a question of national life. I have no party feeling whatever in connection with this whole subject. Since the first gun was fired in the harbor of Charleston I have declared always that I would be governed by no political or partisan feeling until this rebellion shall be put down; and then, if it shall be the interest or the policy of the people to raise and to discuss party and political issues, let us meet those issues manfully, firmly, and as freemen. But until that time let us remember that we have sworn to support the Government of this Union. Having taken upon myself that oath, I mean to support it in its integrity, in its unity, in its power; and I care not what institution of the past or of the present may stand in the way of the maintenance of this Government, whether it be the institution of slavery, whether it be party, or anything else, I stand pledged before Heaven to assist to the extent of my power in striking it down.

Let us preserve that glorious heritage which our fathers gave us; and when we speak of civil liberty let it not be that which represents only the blood of a particular race; let it be that which represents man, no matter what land may have given him birth, no matter what may have been his political condition.

I am not, sir, one of those who believe that the emancipation of the black race is of itself to elevate them to an equality with the white race. I believe in the distinction of races as existing in the providence of God for his wise and beneficent designs to man; but I would make every race free and equal before the law, permitting to each the elevation to which its own capacity and culture should entitle it, and securing to each the fruits of its own progression.

This we can do only by removing every vestige of African slavery from the American Republic.

The SPEAKER, (after a pause.) Is the House ready for the question?

Mr. GRINNELL. I move that the House adjourn.

Mr. ASHLEY. Oh, no.

The SPEAKER. No gentleman rises to claim the floor.

Mr. HIGBY. Mr. Speaker—

The SPEAKER. Does the gentleman from Iowa [Mr. GRINNELL] withdraw the motion to adjourn?

Mr. GRINNELL. I withdraw the motion, and yield to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. Mr. Speaker, the debate upon this question has taken a very wide range. Much of the ground that was occupied at the last session of Congress seems to have been swept over again at this session, as if to remind us of facts and arguments which we as Representatives may have forgotten, or which the people themselves may have lost sight of. Many gentlemen have overlooked in their remarks, and probably have forgotten, what has transpired between the last session of Congress and the present; that the policy pursued by the Administration has been indorsed by the vote of the people; that four hundred thousand majority of the votes of the people was given to sustain that policy; that the proclamation issued by the President of the United States on the 1st day of January, 1863, was indorsed as a part of that policy; that the action of Congress in reference to this question of slavery, since the beginning of the rebellion, was also indorsed; that the action of Congress at the last session in reference to this very subject was indorsed by the people in the reelection of, I believe, every member of the present House upon the Union side who was put in nomination. It will be borne in mind, sir, that at the last session the Senate by an overwhelming majority, far more than two thirds of that body, passed the same joint resolution that is now under discussion; that though this resolution when it came to this body failed to receive a constitutional majority, yet there were nearly or quite thirty more voting in favor of its passage than those who voted against it. These facts were well understood by the people of the nation when they voted at the last election.

And, sir, not only that. The old question is reiterated as to whether we have power under the Constitution. We have heard it to-day. And what is a very singular fact is that those who cannot find power under the Constitution to authorize us to make this amendment come entirely from the free States of the Union, while the voice which comes up from the slave States, those who practically as well as constitutionally understand this question, is in favor of supporting the Union side of the House, and these men tell us that they are ready to favor the proposition of stripping from the Constitution anything that tolerates the institution of slavery in any State of the Union.

But, sir, I forbear to go into a lengthy argument. I forbear to reiterate here the arguments in favor of the abolition of slavery throughout the Union. Slavery has given us lessons; they have been taught in slaughter and fiendish cruelty of every character. Indeed, no nation has suffered for its sins as we have done for slavery. What to-day has been laid upon the desk of every member shows us not only facts in reference to the treatment of our soldiers taken prisoners by the rebels, but there are pictorial illustrations of the men who were literally starved to death. These are only a few of the arguments which arise before us, and a few of the proofs which we have of the evil of slavery. I forbear to reiterate them all.

Mr. Speaker, I would not have risen to say anything on this question, but would have left it in the hands of others more familiar with it, if it had not been for the gentleman from New York, [Mr. Brooks,] who has a reputation for natural gifts and for varied learning, not only of books, but of countries through which he has traveled, and who is listened to always with great attention, but who is extreme and discursive on every subject he attempts to handle. In his thrust backward and forward with the gentleman from Pennsylvania, [Mr. Scofield,] he could not refrain from crossing the continent and bringing in the State of California. New York and Pennsylvania could not settle their difficulty without bringing up something in reference to what transpired concerning California. The gentleman from New York lugged it in entirely out of place, and the singular fact was that he had to misrepresent the facts to prove his case.

Mr. Speaker, in the course of his remarks in reply to the gentleman from Pennsylvania, the gentleman from New York spoke of an interview, or, at least, an exchange of words upon this floor he had with a member from Georgia, Mr. Toombs, and he stated that there was one question put to him which he was not able to answer. To understand what he did say, I ask the Clerk to read an extract from his speech.

The Clerk read as follows:

"Nor has the South here in this House and upon this floor always had its way, even with its able men. I was here in the great struggle of 1850, when the ablest men of the South were upon the floor of the adjoining Hall exercising all their power to bring California into the Union as a slave State, and to extend slavery to the Pacific; and in that they failed. I recollect their arguments. I myself was engaged in a warm debate on that subject with Mr. Toombs, of Georgia; and in the course of the argument, when he was claiming that California should be open to the representatives and institutions of Georgia and South Carolina as well as to those of New York, he asked me a question which I found it easier to evade than to answer. Did not, he asked, a regiment from New York city and a regiment from South Carolina, in the march from Vera Cruz to Mexico, at Chapultepec, I think he said, fight side by side and shoulder to shoulder to conquer the Mexicans; and when the victory was won and the treaty made and the common territory acquired for which these soldiers of New York and South Carolina had fought and paid in common, was it, he asked, just and right and equitable that the son of the South Carolina soldier, or that soldier himself, should be forbidden to emigrate, carrying his institutions with him, into California and the rest of the territory thus acquired, side by side with the citizen of New York? I evaded the question, I must confess, to the best of my ability. I found it difficult to answer. I answered it to the best of my ability, although not altogether satisfactorily to myself.

"I mention this incident, which was but one of the many incidents of that great and prolonged debate, during which the men of the North stood together, I think, for six months upon the floor of the House of Representatives, contending and with great success for the exclusion of slavery from California and from all the Pacific coast, and then the South was fully and ably represented here, never more ably represented than then. The North, and I among the northern Representatives, stood up shoulder to shoulder, and successfully, too, for we excluded slavery from California by its admission as a free State. Slavery was for-

bidden by the compromise of 1850 to enter any of the territory which we acquired from Mexico on the Pacific coast."

Mr. HIGBY. Now, Mr. Speaker, a few facts. In 1849 and 1850 the people of California, under a provisional governor, assembled and elected delegates to a convention. The day was fixed and the convention was held. The object of that convention was to frame a constitution for the admission of California into the Union as a State. After long and arduous labors that convention presented to the people a constitution for adoption, and let me say that in that convention there were men from the extreme South, men who are to-day sympathizing with this rebellion, who were just as zealous opposers of the introduction of slavery as any man upon this floor to-day, and who in that convention labored to put down all arguments which could be raised in favor of its introduction. They presented a constitution which did not tolerate slavery, and the result was that the people adopted it and sent it to Congress, with Wright and Gilbert to this House, and Senators-elect to the Senate, for admission as a State under it into the Union.

If there was any question in regard to the institution of slavery in the introduction of California as a State, it arose here upon this floor, and in the other branch of Congress, and came not from any voice of the State of California. She was entirely free, and had driven slavery from the State and the Territory by the unanimous voice of the people. No Territory upon the Pacific coast was ever aided by act of Congress in getting rid of the institution of slavery. The gentleman altogether mistakes the facts, for it was he and those associated with him who raised the question. He misrepresents the facts, and misrepresents those who represented that State on this floor. The people of California owe him no thanks for what he did at that time in this House. The facts are quite the reverse of what he stated, for from what he says I take it that he and others were the parents of that infamous compromise which will always be a dark feature in American history.

The introduction of California as a State into the Union was connected with the passage of that most infamous law which we last session abolished so readily, and California could not come into the Union as a free State unless that infamous law was placed upon the statute-book; and neither the gentleman from New York nor any other gentleman associated with him upon this floor can take any credit to himself or place any laurels on his brow for what he did in that respect.

I rose more particularly to refute the statement of the gentleman, because when one stands upon this floor and makes a declaration as a fact in history, it is expected to go out to the people and be accepted by them unless it is refuted. Hence I assert distinctly that there was no division among the people on the Pacific coast upon this question of the institution of slavery.

And now I come back to the remarks of the gentleman from New York. He found the question was a difficult one to answer. The people of California were unanimous in their presentation of a constitution about which there could be no question as to its republicanism, for it was republican in principle and republican in form; and yet when the gentleman from Georgia asks the gentleman from New York a question he answers it in his own way, but not satisfactorily to himself. Why, sir, when a man brought up in the light of every good principle, one who has lived all his life under their influence, one who could be so firm to the position which he occupied last session, and occupies the present, one whose mind embraces such correct principles as he professes to possess, and such correct learning as he has received from year to year, can, now that he has arrived at ripe manhood, become so warped and perverted by the power of this institution that in the light of truth he cannot answer that simple question, I am furnished with the best evidence why the land should be rid of such an institution as that. It seems to me there should have been no difficulty in answering that question in the light of the fact that the people of the Pacific coast got rid of the institution for themselves; and yet in the face and eyes of the position which the gentleman takes here that the States are sovereign and can settle that question for themselves, when

the gentleman from Georgia raises such a question he finds it extremely difficult to answer, and answers it not satisfactorily to himself.

Mr. Speaker, I leave the gentleman and envy him not all the fame he can acquire for himself by arguments of that character. I prefer to be upon the side of right and of truth, where I believe the people are likely to be when such powerful and fascinating influences as arise out of this institution are entirely removed. I hope we shall soon take a vote upon this question, and that it will be a successful one; that there will be a two-thirds vote in this House, and that the question will be sent to the States for them to take action upon, we well knowing, and the people well knowing, that the action we take upon the question here is not final, but that it must be ratified by the Legislatures of three fourths of the States. Then, if it shall so be that they ratify our action, that action will be a binding force and power upon us, become a part of the Constitution, and expel forever from the country the question which has been an apple of discord in our midst for half a century.

So far as the power which the North has had in this Government is concerned in regard to which the gentleman claims that it has had the controlling power, I will leave him to settle that question with the vice president of the confederate States, Mr. Stephens, who reiterated in his speech in the Georgia convention which passed their ordinance of secession, that the South had held the power in this Government from its origin down to the time they were making their complaints. I leave it to the gentleman from New York, who was born, as he tells us, in a free State, whose State of adoption is a free State, and who never has had any direct interest in a slave State, to settle that question with Mr. Stephens. I think that the southern gentleman has given us facts that are true, while the gentleman from New York has been very much mistaken in the facts that he has attempted to present. And here I leave the question.

Mr. ASHLEY. If no other gentleman wishes to go on to-night I desire to say that I will ask the House, perhaps on Monday evening, or on Tuesday morning at furthest, to sustain a motion for the previous question.

I now ask that certain amendments which the committee on the rebellious States propose to offer be ordered to be printed.

It was so ordered.

Mr. WILSON. I propose, when the bill comes before the House for consideration, to offer an amendment in the nature of a substitute. I ask that it may also be printed.

It was so ordered.

#### PENSION APPROPRIATION BILL.

On motion of Mr. MORRILL, by unanimous consent, the pension appropriation bill, returned from the Senate with amendments, was taken from the Speaker's table, and referred to the Committee of Ways and Means.

#### R. REYNOLDS AND CHARLES YOUNG.

Mr. NELSON, by unanimous consent, introduced a bill to authorize the Commissioner of Patents to grant letters patent to R. Reynolds and Charles Young for an improvement in hay elevators; which was read a first and second time, and referred to the Committee on Patents.

#### ARMY RATIONS.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of the passage of an act by which the amount of the Army ration shall be restored to what it was under the provisions of the law of 1861; and that they may report by bill or otherwise.

#### MINERAL RESOURCES OF THE UNITED STATES.

Mr. RICE, of Maine, by unanimous consent, introduced a bill to provide for the development of the mineral resources of the United States in the several Territories; which was read a first and second time, and referred to the Committee on the Territories.

And then, on motion of Mr. HOLMAN, (at eight minutes to three o'clock, p. m.) the House adjourned to Monday next.

## IN SENATE.

MONDAY, January 9, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of Friday last was read and approved.

## EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a copy of two treaties between the United States and Belgium for the extinguishment of the Scheldt dues, concluded May 20 and July 20, 1863, respectively, and recommending an appropriation to carry into effect their provisions relative to the capitalization of the dues; which was referred to the Committee on Foreign Relations, and ordered to be printed.

## PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented the petition of the chiefs and counselors of the Wyandott tribe of Indians in relation to the charges preferred against Mrs. Abelard Guthrie by Mathew Mud-eater, John Sanahees, and others, representing themselves as chiefs of the Wyandott tribe of Indians; which was referred to the Committee on Indian Affairs.

He also presented the memorial of the Board of Trade of the city of Racine, Wisconsin, praying for the location of a naval depot and yard at Racine; which was referred to the Committee on Naval Affairs.

He also presented the petition of John S. Horner, praying compensation for services rendered by his father in the revolutionary war; which was referred to the Committee on Claims.

He also presented a petition of citizens of Wisconsin, praying for a grant of land to build a ship canal at Sturgeon bay, Door county, Wisconsin; which was referred to the Committee on Commerce.

Mr. MORRILL presented a petition of officers of the third brigade, first division, twenty-fourth Army corps, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented the petition of E. Archinard, praying compensation for the destruction of his property, as he alleges, by the order of General Banks; which was referred to the Committee on Claims.

Mr. HENDRICKS presented the petition of Clara Moore, widow of Ely Moore, deceased, praying payment to her of the claim of her husband for an amount paid for additional clerks and office accommodations for those clerks in the register's office at Leocompton, Douglas county, Kansas; which was referred to the Committee on Claims.

Mr. WADE presented the petition of military officers of Ohio regiments in the service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented the petition of the rector, wardens, and vestrymen of Grace church, Ripon, Wisconsin, praying that the duties upon their church organ may be remitted; which was referred to the Committee on Finance.

Mr. CHANDLER presented the petition of citizens of Detroit, Michigan, praying for a reduction of the duty of two and a half per cent. upon the gross receipts of ships and vessels engaged in the business of transporting property between different ports in the United States on the northwestern lakes and rivers, imposed by section one hundred and three of the internal revenue law, approved June 30, 1864; which was referred to the Committee on Finance.

He also presented the petition of citizens of St. Clair, Michigan, praying a reduction of the duty of two and one half per cent. upon the gross receipts of ships and vessels engaged in the business of transporting property between different ports in the United States on the northwestern lakes and rivers, imposed by section one hundred and three of the internal revenue law, approved June 30, 1864; which was referred to the Committee on Finance.

He also presented the memorial of members of the Board of Trade and citizens of Detroit, Michigan, praying for an appropriation for the construction of a harbor of refuge on the northwest-

ern coast of the lower peninsula of Michigan, near Point Aux Bees Scies; which was referred to the Committee on Commerce.

Mr. SHERMAN presented the petition of citizens of Cincinnati, Ohio, praying for the sale of the mineral lands of the Rocky mountain country and aid to the Northern and Central Pacific railroads; which was referred to the Committee on Public Lands.

Mr. ANTHONY presented the memorial of the National Rubber Company, located at Bristol, Rhode Island, remonstrating against the further extension of the letters patent originally granted to Charles Goodyear on the 15th of June, 1844, for the invention of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of light-house keepers in Narragansett bay, praying for an increase of salary; which was referred to the Committee on Commerce.

Mr. MORGAN presented the memorial of Peter Cooper, of New York, praying for the passage of a law that will provide an opportunity by which our patriotic men and women may furnish to the Government any number of able-bodied men, and have the right by law to assign such persons as substitutes for themselves or for any of their friends for whom they may desire to provide a substitute against any draft that may hereafter be required during the war; which was referred to the Committee on Military Affairs and the Militia.

## BILLS INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 377) granting lands to the State of Missouri, to aid in the construction of certain railroads in said State; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 378) for the relief of certain non-commissioned officers, privates, musicians, and artificers of cavalry; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce the following bills; which were respectively read twice by their titles, referred to the Committee on Public Lands, and ordered to be printed:

A bill (S. No. 379) for the sale of timber lands in the State of California;

A bill (S. No. 380) to give title to the occupants of lots in cities and towns in the State of California; and

A bill (S. No. 381) in relation to the swamp and overflowed lands in the State of California.

## SOUTHERN REFUGEES.

Mr. SHERMAN. I have been requested to present a memorial of the Refugee Relief Commission, of Ohio, praying for an immediate appropriation by Congress of \$500,000, to be expended under the direction of the Secretary of War, in furnishing poor white refugees of the South with seed and farming implements in time for the cultivation of the soil the coming spring; and also to aid such as are mechanics in obtaining tools, &c., for the prosecution of their employments, for the reasons named in the memorial. I desire to say, before this memorial is referred, that similar associations have been organized in nearly all the leading cities of the Union, and especially along the border. Thousands of refugees from the South, belonging mostly to the families of soldiers in our Army, are in Cincinnati, Louisville, St. Louis, Nashville, Memphis, and nearly all the border cities. Their sufferings cannot be told. I presume there are now one hundred thousand white people who have been driven from their homes by the fortunes of war, many of them loyal people, who are suffering untold miseries in these cities; many of them entirely destitute; many of them without the means and without the capacity to earn their own livelihood. They have been thrown upon the charity of the people of the border States, especially along the borders of the Ohio river. In many cases private charities have been exhausted in their relief.

Whether, under the circumstances, Congress ought to appropriate money for their relief or not, I am not prepared to say; but it seems to me certain measures may be devised for their relief.

There is now a large quantity of land subject to confiscation in the southern States under the laws of Congress, which for some reason the executive officers have not yet seized or taken possession of. I can see no reason why provision should not be made authorizing these loyal refugees to seize and occupy this land subject to confiscation, under the protection of law, and so as to secure to them the benefit of the occupancy and settlement laws which are common and familiar in all the western States. It seems to me that some measure of relief ought to be extended to these people. It is a crying evil, which is pressing especially upon the Senators from the western States. Perhaps, also, some provision might be made to give them employment in the manufacture of clothing for the Army, in the quartermaster's department, and in various other departments of the Government. At present they are thrown upon the charity of those who are not able to bear the burden. They are thrown upon charitable associations who ought certainly to have some aid from the General Government. This condition of things is caused by a state of war, and the expense of this relief, it seems to me, ought to be borne in some way by the General Government instead of by local communities and associations organized along the border.

I do not know to what committee this memorial ought to be referred. I have no doubt that similar memorials will come upon us in great number during next month. Perhaps it would be well to refer it to the Committee on Public Lands.

Several SENATORS. The Committee on Agriculture.

Mr. SHERMAN. Well, the Committee on Agriculture. I do not care to what committee the reference is made. The subject is one which I think demands the immediate attention of Congress.

Mr. POMEROY. I am glad that the Senator from Ohio has brought this subject to the attention of the Senate and the country. While I was at home during the fall my attention was called to a great number of this class of our fellow-citizens who were suffering. There came into my own State train after train of emigrants, some of them miles in length, and on every camping ground where they camped at night you could see places where they had to bury their dead. Their children were sick; members of their families were sick. There never has been a more painful subject presented to my own mind than this subject of the condition of the poor refugees from the States of Arkansas, Missouri, and Tennessee, to some extent, who came into my own State. There were five hundred families in one train with their suffering children. I think this subject strongly recommends itself to the attention of the Senate and the country.

The VICE PRESIDENT. Will the Senator from Ohio indicate distinctly to what committee he wishes the memorial referred?

Mr. SHERMAN. I move that it be referred to the Committee on Public Lands, with the hope that they will report some mode by which these people can occupy the confiscated lands of the leading rebels. It seems to me it is a matter that ought to receive the attention of the executive authority without any action of Congress.

The VICE PRESIDENT. The memorial will be so referred.

## REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a resolution as to the propriety of distributing among the officers and men of General Sherman's army a portion of the proceeds of the cotton captured at Savannah, reported that the resolution ought to be indefinitely postponed.

## CONSUL AT HALIFAX.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the propriety and expediency of increasing the annual compensation of the United States consul at Halifax, Nova Scotia.

## EXTRA SESSION OF CONGRESS.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be in-



structed to inquire if any further legislation is necessary to enable the President of the United States to call an extra session of Congress, (to meet the necessities of any public emergency,) without the delay of giving sixty days' notice to the members-elect.

#### CONDITION OF THE INDIAN TRIBES.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities; which was read twice by its title.

Mr. DOOLITTLE. I do not ask to have this resolution passed upon now, but simply to have it referred to the Committee on Indian Affairs. I have had placed in my hands an extract from a letter written by Major Calley, an Indian agent in Colorado, a gentleman formerly from the State of Wisconsin, whom I know very well, and in whose statements I place great confidence, and it brings to light a transaction that has lately occurred in Colorado, which, if it be true, as he has stated it to have occurred, makes one's blood almost chill and freeze with horror. He says, under date of December 20, 1864:

"I was in hopes our Indian troubles were over. I had two hundred and fifty lodges near this place under my protection and that of Fort Lyon. All the chiefs and their families were in camp and doing all they could to protect the whites and keep the peace, when Colonel Chivington marched from Denver, surprised the village, killed one half of them, all the women and children, and then returned to Denver. Few if any white men can now live if an Indian can kill them.

"Fort Lyon is on the direct road from the States to Santa Fé, and the commerce of the plains is millions each year. Chivington took six hundred ponies, which were loaded down with plunder, on his return."

I do not vouch for the correctness of this statement, but I have so much confidence in this Major Calley that I think it is a case which ought to be examined; and I have drawn a joint resolution with a view not only to examine into this, but also to examine into other cases which are brought to our notice, with power in the committee to be raised to send for persons and papers. I now simply ask that it be referred to the Committee on Indian Affairs for their consideration before I press action in the Senate.

The VICE PRESIDENT. It will be so referred.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (S. No. 367) to repeal the provision of law requiring certain regents of the Smithsonian Institution to be members of the National Institute; and

A joint resolution (H. R. No. 131) tendering the thanks of the people and of Congress to Major General William T. Sherman and the officers and soldiers of his command for their gallant conduct in their late brilliant movement through Georgia.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### FREEDOM OF SOLDIERS' FAMILIES.

Mr. WILSON. If there be no further morning business, I move that the Senate now proceed to the consideration of the joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution.

Mr. SAULSBURY. Mr. President, it was my intention when this resolution was before the Senate the other day, to enter into its discussion somewhat at length. I shall not, however, on

this occasion do so, because I think I observe a disposition on the part of the friends of the measure not to argue it, but to pass it. They have the power to pass it, and no argument which I can make, I am sure, can cause them to pause in a work which they believe the public good requires.

The first question which naturally suggests itself to my mind, however, is, what good can result from the adoption of this measure? What necessity is there for it? The resolution purports to be "a resolution to encourage enlistments in the Army of the United States, and to promote the efficiency of the military forces of the United States." How can this resolution accomplish the purposes which its friends say it is intended to subserve? I thought that the Executive of the United States, and the Congress of the United States, assuming to have complete jurisdiction over the subject of slavery throughout the length and breadth of this land, had already set nearly all the slaves free. The President of the United States has assumed, although his armies may not have visited any particular location, to set all the slaves free by proclamation, and he has invited to the Federal standard every slave in the United States, whether his Army has been able to reach that slave or not. It cannot be supposed that the passage of this resolution can have any practical effect where the armies of the United States do not go. If it can have any practical effect at all, it must be in the States of Kentucky and Missouri, and to some little extent in the State which I in part represent on this floor.

But, sir, does any Senator acquainted with the state of affairs in either of those States, or any of them, suppose that the passage of this resolution can contribute to the efficiency of the Army? Why, sir, there is not a slave within the limits of any border State now who is not as perfectly free as any member of this body. Let one of them attempt to escape from slavery, and let that fact be brought to the attention of those intrusted with the military operations of the Government, and there is no master who will attempt to reclaim him; there is no master who to-day has the power to reclaim him. If, in the State in which I reside an attempt was made to prevent a slave from running away, it would be considered an act of great disloyalty to the Government of the United States, and many patriots would rise up and give information of the fact to the power at the other end of the avenue. Many persons who never owned a slave themselves, thinking that some enemy of the country was in their midst striving to deprive a free-born citizen, or if not free born, a person who should have been free born, of a God-given right, would neither eat nor sleep until they had advised the authorities that such a dangerous person was in their midst.

I presume the same state of affairs exists in the State of Kentucky and in the State of Missouri. Indeed, before the mock election in the State of Maryland was held, and before a constitution was forced upon her unwilling people, I saw with my own eyes while traveling in the lower counties of that State, many slaves rushing to the river side to get on board the steamboats in charge of persons in the Army of the United States, and I saw no master daring to prevent the escape of his slaves.

Then, sir, having military possession of every border State where slaves exist, and such being the state of facts in those States, can any Senator tell me where is the particular necessity of a measure of this kind to promote the efficiency of the Army of the United States or for any other purpose whatever? Mr. President, it is not worth while to disguise the fact or to blink it. This resolution, while it is entitled "A resolution to promote the efficiency of the Army of the United States," has an object wholly independent of its name. While I impute no improper motives to honorable Senators, because I must suppose they think they are serving not only their fellow-men but their God upon all occasions by introducing measures of this kind; while I grant you that they are perfectly conscientious, yet it is an unwise species of legislation to have one professed object to accomplish, and to bring in a bill with a name and title calculated to promote that object, when in fact perhaps the real motive is unlike that which is avowed.

The Senator from Kansas [Mr. POMEROY] this

morning, in the same spirit of practical and universal benevolence, introduced a resolution the object of which I think I saw, and which I think the honorable Senator will avow. He cannot wait until his two thirds of the members of the next House of Representatives shall come to their seats to pass a measure in reference to a favorite object with him, but he introduced this morning into the Senate of the United States, and it passed *sub silentio*, a resolution of inquiry whether there is any further legislation necessary to enable the President to call an extra session of Congress without sixty days' notice, thus to anticipate the meeting of the next Congress at the period prescribed by the Constitution. What does it mean? This constitutional amendment; that is the object of it, I presume; and if I do the honorable Senator injustice I beg his pardon, because that is not my intention.

But, sir, while it is now very clear that we are to have an extra session of Congress, provided the House of Representatives do not adopt this constitutional amendment, yet some of the friends of all races and all classes cannot wait until such an amendment can be made under what they suppose will be a constitutional exercise of power, but which, as far as I am concerned, I think will be a wholly unconstitutional exercise of power. While that measure is to be forced upon the attention of Congress at a very early day, some gentlemen cannot wait, but they must give universal freedom now. Where is the power, Mr. President? Where do you get it? What right has the Congress of the United States to declare a slave in my State or a slave in any other slaveholding State free? It has been said that it derived the power from the absolute necessity of the case in the first instance; and secondly, from intrinsic justice and humanity; and we, in the midst of a gigantic civil war, are to determine our power, not from the written Constitution of the land, but from intrinsic humanity and from absolute necessity, and every individual member of either House of Congress is to vote, not according to the Constitution which he has sworn to support, but according to his vague ideas of intrinsic humanity and absolute necessity! Where are you when you attempt legislation of this kind? Who defines the limit of legislative authority? Who can accurately tell me what is "intrinsic humanity" and what is "absolute necessity?" Why, sir, a measure of this kind, when viewed in the light of intrinsic humanity, is, and will be, one of the most inhumane measures that could be adopted by the Congress of the United States.

Why do I say so? I prefer to look at a question of this kind in the light of ascertained facts. Fortunately I have handed to me by a distinguished gentleman of this city a letter addressed to a warm bosom and political friend of the President of the United States, showing the character of a proposition of this kind, and the results to which it has led where the humanity of persons who have never been in the midst of slavery is invoked in behalf of the slave. Sir, you unmake and destroy by hundreds and thousands those whom by your legislation you profess to serve. Listen to an extract from the letter of a distinguished gentleman in New Orleans to a personal and political friend of the President in reference to this matter:

"A few days ago I was shown an official report to the military head of this department, General Banks, exhibiting the ghastly return of eighty thousand slaves having perished since the Federal occupation of the smaller moiety of this Commonwealth. This is equal to fifty per cent. of the entire slave population of the section of country embraced in the return."

Sir, that is the blessing which your legislation brings, or proposes to bring. That is the kind of blessings which a proclamation of universal freedom brings to the slave. You take him from a happy and contented home, enjoying all the necessities of life, and you invoke the "pestilence that walketh in darkness, and the destruction that wasteth at noonday," to deprive him of existence.

But, sir, it has been said in reference to the question of power that the Congress of the United States have the same authority to declare the wives and children of negro soldiers free that they had to declare the enfranchisement of the negro soldier. The power to declare even the enfranchisement of the negro soldier has not, so far as this debate is concerned, been attempted to be shown; but the remark has been made that Congress has assumed to do it, and I presume, having

assumed to set the negro soldier free, they may justly assume to set free the family of the negro soldier. That, Mr. President, is a mode of argument that never satisfies my mind; because a thing has been assumed to be done, therefore it has rightly been assumed. What I would like is for some friend of this measure, before it passes this body, to show me upon what principle the Congress of the United States have the authority to pass the measure, where they derive that authority. Do not tell me that it is absolutely necessary, because there are as many and perhaps more men in this country who believe that it is not necessary as there are who believe it is. Do not tell me that humanity demands it, because, perhaps, there are more men in this country who believe that your policy is injurious and ruinous to the negro race than believe it to be advantageous.

I deny, Mr. President, that the Congress of the United States has the power to give freedom either to the negro soldier or to the family of the negro soldier. I say that we have not the power, and no nation has the power, as an act of war, to capture slaves. If they do capture them, and put their own uniform upon them, I deny that it is a rightful capture, or that the right is sustained by international law. Upon this subject we have a record, and it may be well to see what that record is. I know that there is an example in history where the attempt was made. I know it was fruitless then; I do not believe that it will be very availing for any practical or useful purpose now. I know that there is an example for it which has been recorded by Mr. Bancroft in his History of the United States. Mr. Bancroft thus refers to the proceedings, in 1775, of the last royal Governor of Virginia:

"Encouraged by the most trifling success, Dunmore raised the king's flag and, publishing a proclamation which he had signed on the 7th of November, he established martial law, required every person capable of bearing arms to resort to his standard under penalty of forfeiture of life and property, and declared freedom to 'all indentured servants, negroes, or others appertaining to rebels' if they 'would join the rebels for the reducing the colony to a proper sense of its duty.' The effect of this invitation to convicts and slaves to rise against their masters was not limited to their ability to serve in the army. 'I hope,' said Dunmore, 'it will oblige the rebels to disperse, to take care of their families and property.' At Dunmore's proclamation a thrill of indignation ran through Virginia, effacing all differences of party, and rousing one strong, impassioned purpose to drive away the insolent power by which it had been put forth."

Mr. President, has it not proved the fact that since the Federal Executive and the Congress of the United States have adopted the policy which now seems to govern them, you abolished all distinction of party among the people with whom you are at war? Have you not united them? Has not the practical result of your policy been the same as the practical result of Lord Dunmore's?

"But in truth the cry of Dunmore did not arouse among the Africans a passion for freedom. For the bondage in Virginia was not a lower condition of being than their former one; they had no regrets for ancient privileges lost; their memories prompted no demand for political changes; no struggling aspirations of their own had invited Dunmore's interposition; no memorial of these grievances had preceded his offers. None combined to join him from a longing for an improved condition or even from ill will to their masters."—*Bancroft's History of the United States*, vol. 8, page 223.

While, therefore, there has been an example for measures of this kind and even in our own history, it was an example without profit, an example which has met with the condemnation of, I think I can safely say, every historian the country has produced, and until a very recent date met with the condemnation of every man, woman, and child acquainted with the example within the limits of the country.

But, Mr. President, while the example as a fact exists, I deny that, as a matter of law, you can give freedom to the families of these negroes, or even to the negro soldier himself. I deny that you have any right to capture and to carry away the negro slaves, and especially in States where they are being carried off which have never revolted. I refer to the opinion of John Quincy Adams upon this subject; and as much of the doctrine that we have nowadays comes from the Commonwealth of Massachusetts, it is well enough to see what were the opinions of one of Massachusetts' ablest statesmen. I quote from Wheaton's Law of Nations, by Lawrence, pages 495, 496:

"In the discussions, however, leading to the reference, as well as before the arbiters, the principle was maintained by the United States that the 'emancipation of enemy's

slaves is not among the acts of legitimate warfare.' (Mr. Adams to Mr. Rush, at London, July 7, 1820.) And in the instructions from the same Secretary of State to Mr. Middleton, at St. Petersburg, October 16, 1820, it is said, 'the British have broadly asserted the right of emancipating slaves, private property, as a legitimate right of war.' No such right is acknowledged as a law of war by writers who admit any limitation. The right of putting to death all prisoners in cold blood, and without special cause, might as well be pretended to be a law of war, or the right to use poisoned weapons, or to assassinate."—*MS. Papers of J. Q. Adams cited in Law Reporter*, June, 1862, page 485.

That was the law in 1820, as understood by Mr. Adams in his instructions to our ministers at foreign courts. It was the law as understood by the Federal Administration at that time, and it meets the question boldly and distinctly, and denies that one nation being at war with another has any right to capture negroes, private property. A demand was made upon the British Government for compensation, and allowed, adjudged to us by the arbitrator, the Emperor of Russia. The same doctrine is found on page 611 of the same author:

"And as it has sometimes been attempted to impeach the authority of these State papers, by their supposed repugnance to opinion subsequently expressed in debate by Mr. Adams, while a Representative in Congress, (Congressional Globe, 1841-42, volume two, page 425,) it may not be irrelevant to refer to his dispatches from London, the spirit of which fully accords with the instructions to Mr. Middleton. In one to the Secretary of State, dated August 22, 1815, speaking of the conferences at Ghent, he says: 'Our object was the restoration of all property, including slaves, which by the usages of war among civilized nations ought not to have been taken. We considered the proclamations issued by British officers as deviations from the usages of war. We believed that the British Government itself would, when the hostile passions arising from the state of war should subside, consider them in the same light, and that Great Britain would then be willing to restore the property, or to indemnify the sufferers for its loss.' (American State Papers, volume four, page 117, folio edition. See also note to Lord Castlereagh, August 9, 1815, *ibid.*, page 115.) Furthermore, not only was the slave indemnity convention of November 13, 1826, negotiated in the Presidency of Mr. J. Q. Adams, but instructions to propose to Great Britain a convention for the surrender of fugitive slaves were given by his Secretary of State, Mr. Clay, successively to Mr. Gallatin, and to Mr. Barbour."

I cite these authorities to show what were the opinion of these great men, not only in reference to the authority of Congress under the Constitution, but in reference to the rights pertaining to a state of war.

But, Mr. President, we have even earlier authority than that which I have cited, to show what was the judgment of the founders of the Republic in reference to a state of war, and in reference to the power which one belligerent had as against another to take away slaves or private property. On page 1017 of the fourth part of Lawrence's Wheaton, I find this:

"A report was made to the old Congress by Mr. Jay, as Secretary for Foreign Affairs, February 28, 1786, in reference to the violation or non-fulfillment by Great Britain of the treaty of 1783. Among the matters specially enumerated is the carrying off of negroes. While he fails to contend for including in the terms of the treaty such as were in the course of the war captured and disposed of as booty, acts which Mr. J. Q. Adams regarded as contrary to the usages of war among civilized nations, he insists on the validity of our claim, not only as to such negroes as remained with and belonged to American inhabitants within the British lines, but also as to those who, confiding in proclamations and promises of freedom and protection, fled from their masters without, and were received and protected within the British camps and lines. The latter, he thinks, are clearly comprehended in the article, because they remained as much as ever the property of their masters. 'They could not,' he said, 'by merely flying or eloping, extinguish the right or title of their masters, nor was that title destroyed by their coming into the enemy's possession, for they were received, not taken by the enemy; they were received not as slaves, but as friends and freemen; by no act, therefore, either of their own or of their friends, was the right of their masters taken away; so that being the property of American inhabitants, it was an infraction of the seventh article of the treaty to carry them away.'"

It will be observed, Mr. President, that I oppose this measure, both on grounds of policy and humanity, and as repugnant to the Constitution of the United States and the laws of war. The policy which we have adopted in reference to this class of people was repudiated by one of the greatest generals that ever lived. I invite the attention of the Senate to the remark of Napoleon as to what was his policy when he entered Russia; I quote from Lawrence's Wheaton, part four, page 1018:

"In the answer of the emperor to the address of the Senate, on his return from Russia, December, 1812, the very wise policy of not embittering the quarrel with Alexander was visibly manifested. 'The war which I carry on,' said Napoleon, 'is a political war. I have undertaken it without animosity, and I would have wished to spare to Russia the evils which she has brought upon herself. I could have armed against her a part of her population by proclaiming

the liberty of the serfs. A great number of villages asked it of me, but I refused to avail myself of a measure which would have devoted to death thousands of families.'"—*Thiers, Histoire du Consulat et de l'Empire*, tome 15, p. 168.

Sir, in this day of much-boasted enlightenment, in the nineteenth century, and among the people of the United States, a policy which was abhorrent to the feelings of the great military chieftain of Europe has been adopted. But it may not be improper to cite in this connection the opinion of another great military chieftain, for whom the people of this whole country express and entertain a most profound respect. I have called for the authority for the passage of this measure. I shall be answered, if answered at all, that humanity demands it, and that necessity demands it. These are doctrines of modern origin, however. Although not a very old man, I am too old to recognize them. I would rather have authority than have conjecture. General Scott, who has lately published his autobiography, has expressed his opinion as to the authority of Congress to interfere with slaves in the States. He adds no limitations, no qualifications. He does not consider the question whether humanity demands it, or whether absolute necessity demands it, but he expresses his opinion clearly and boldly in reference to the constitutional authority, and here it is. On page 372 of the second volume of Scott's Autobiography I find this:

"I suppose I scarcely need say that, in my opinion, Congress has no color of authority, under the Constitution, for touching the relation of master and slave within a State."

I should not feel it necessary to support opinions so clear by references to military authority, when we have expositors of the Constitution of the United States and judicial decisions to tell us what that instrument means, was it not for the fact that "military necessity" is invoked for this measure as well as for every kindred measure. Then presuming that the ablest as well as the oldest general in the country, notwithstanding what he is said to have written on the fly leaf of a copy of his own autobiography, knew as much about "military necessity" as any of us, I have taken the liberty of referring to his opinions very recently expressed by himself.

Mr. President, I shall not pursue this question. I have very clearly-defined opinions as to the policy of this species of legislation. I have very clearly-defined opinions as to the constitutional authority of Congress to pass it. Not subscribing to the doctrine that I derive my authority as a legislator from a consideration of what I may deem absolutely necessary, and believing that I do not derive that authority from any supposed principle of humanity, but am bound in my action to be governed by the Constitution of the country, which is the bond of union, the bond by the preservation of which only can the Union be restored, if it shall ever be restored, I could not allow this measure to pass without the brief presentation of my views which I have made. I believe, sir, that when the future historian shall calmly and coolly survey the history of the great struggle between opposing sections of the country, and shall assign for the consideration of those who are to come after us the most embarrassing cause operating against the restoration of the Federal Union, he will say it is this species of legislation. It is a species of legislation which in the early days of this contest scarcely any member of this body avowed himself to be in favor of. It is a species of legislation which the President of the United States himself in his inaugural message did not dare to announce his approval of.

One suggestion further. I will state, not discuss it. Suppose you attract by your specious but false promises a slave in any seceded State to your standard; suppose he enters your Army under the promise that he and his wife and children shall forever be free, and is recaptured: what is his legal status and condition? By the *jus postliminii* he is a slave, the slave of his former master. Your promise of absolute freedom is a delusion. Be honest. Awaken not hopes that you know must be disappointed.

I hope that, though the fires of civil war are still blazing, it is not too late now for us to retrace to some extent the steps we have taken in our legislative policy, and that in future, knowing that that policy has failed to subserve any great practical or beneficial result heretofore, we shall feel disposed to try a different policy. That hope I

sincerely entertain, because I believe that if this policy be continued, if this species of legislation be persisted in, the man is not a member of this body, the child is scarcely born, who will ever see a peaceful result grow out of our distractions.

Mr. DAVIS. I propose to amend the resolution by striking out in line six, after the word "person," the words "that has been or," and inserting the word "who," and after the word "be" in that line inserting "hereafter," so as to make it read:

The wife and children, if any he have, of any person who may be hereafter mustered into the military or naval service of the United States, shall, from and after the passage of this act, be forever free.

I regard the resolution as unconstitutional, and that it will be utterly null and void if passed. In my opinion, it will not be worth the paper upon which it is printed. I do not hesitate to express my opinion that any court of any intelligence or independence of principle and action would declare it unconstitutional and inoperative; nevertheless I propose this amendment that the resolution may be in harmony with its professed object. That object is to promote enlistments. Of course, to make it operate on enlistments that have heretofore taken place cannot give it any effect to promote enlistments. I propose, therefore, by the amendment which I offer, to confine its operation to the future, to make it prospective, and to give it that degree of vitality and efficacy which those who support it profess to have in view in offering it. I shall vote for the amendment; but whether the amendment be adopted or not, believing as I believe that the main proposition is a most flagrant violation of the Constitution of the United States, I shall not hesitate to vote against it.

Mr. CLARK. I hope the amendment offered by the Senator from Kentucky will not be agreed to. I do not propose to detain the Senate for more than a moment; but it is well known that we now have in our Army many of these soldiers, black men who were slaves, who have been brought into the armies of the United States, and who have proved themselves very efficient soldiers generally. These men are annoyed continually by the reports and by the knowledge that they have left their wives and children at home slaves subject to the control of masters. If we set free the wives and children of these soldiers, as is proposed by this resolution, we leave them more free to fight the battles of the country, and without much concern for their wives and children they have left behind them.

The resolution is for the purpose of promoting the efficiency of the Army, not entirely for bringing new soldiers into the Army, but for the purpose of promoting the efficiency of the soldiers already in the Army. Hence I hope that the amendment of the Senator from Kentucky will not be agreed to, and that we shall not only set free the wives and children of soldiers who may hereafter be enlisted, but the wives and children of those who have already gone into the service of the country.

Mr. DAVIS. If this measure shall prevail, it ought to be added to in this respect: those who pass such a measure should in all humanity and justice make provision for the support of the beings that it will emancipate. Take the case of a slave who has already enlisted in the military service of the United States, having a wife and five or six helpless children. By the laws of the States in which that wife and those children are held as property, the owners of those slaves are bound to support them; it is their legal obligation and duty, and there are remedial legal measures by which they may be made to perform that duty of justice and humanity. What, however, will be the effect of this measure if it be passed? It will wrest from the owners of the slaves these helpless wives and children, and of course relieve their owners from the obligation to support them. What, then, is to become of the negro wife for whom this mock sympathy is expressed? What, then, is to become of the helpless children who are too young and altogether unable to support themselves? Sir, to support a negro woman and three or four children is a matter of considerable cost and expense. Any man who owns that sort of property knows it. I know it. Notwithstanding the charge it is upon the owners, they feel the obligation of humanity and justice to those who occupy that relationship to them, to make a com-

fortable support to those helpless beings who are unable to support themselves. This measure of justice and humanity in favor of which such a cry is raised, will just leave this helpless population without any means of support whatever. If my principle, my sense of justice, my sense of humanity to the slave urged me to vote for such a measure, they would urge me to offer amendments to it; they would urge me to offer a proposition by which the Government should assume that burden and that cost from which this Government would relieve the owner of the wife and children; they would urge me to propose to the Senate that the cost of supporting these helpless beings should be undertaken by the Government itself.

Sir, this is the first time I have ever ventured to utter a voice in the name of humanity in the Senate; but in the name of humanity, humanity to a degraded and helpless race of beings who are unable to support themselves, I protest that they shall not be deprived of the support which their masters and owners are bound by the laws to afford to them, and that they shall not be thrown helpless upon the world without any means of supporting themselves. If you intend to assume the offices of sacred humanity and justice, if that is the real motive which animates you, if you want to encourage enlistments among the male negro population of the country, do not reduce their families to utter destitution and starvation, as would be the effect of a measure like this in many such cases. If you intend severing the relation between the negro wife and children and their owner, and to relieve the owner from his obligation to support them comfortably, do not leave them altogether without such support, but afford it yourselves. I would vote, as an amendment to this resolution, for a provision that would secure this support. I would, however, still vote against the measure itself, because I believe that Congress is utterly incompetent to pass it. But if the majority entertain a different opinion on this point, and believe that they possess the constitutional power, they ought to exercise that power in accordance with the dictates of humanity, and they ought themselves to substitute a support for that of which they deprive this helpless class of beings by this form of legislation.

Mr. POMEROY. I am very willing to vote on this question, and would be glad to vote now. I do not intend to occupy the time of the Senate, for I desire very much to have an opportunity of reaching the vote at some time, and I hope it will be taken as early as possible. I only rise now to say that I have noticed that men who are arguing in the interest of slavery always resist emancipation until the very last moment, and then when the moment comes they say it would be a great relief to the owners of this property to get rid of it, that it cannot take care of itself, and humanity comes in and pleads that some appropriation may be made to support this class of individuals, who are so helpless and so inefficient and so worthless. I remember that when the proposition to free the slaves in this District was before the Senate some three years ago, it was then urged that if we abolished slavery in the District we should have to erect large poor-houses or places where they could be gathered in and supported at public expense. The bill was passed, however; the District became free; and I have not been called upon—I do not know if any one has been—to vote for any appropriation to pay for any increased number of paupers that has resulted from emancipation in the District. I think these individuals can take care of themselves measurably in the States as they have done in the District. The class of persons in the slave States who are helpless are the poor whites, who have suffered the loss of all things excepting, perhaps, their personal freedom and liberty; and if such a measure as has been suggested by the Senator from Kentucky could be brought in for their relief it might be well to consider it. But I have seen the effect of abolishing slavery in this District, and on the borders of Missouri where I live, and I have not yet seen any necessity arising for any public appropriation to take care of any paupers that were the result of emancipation. These people have a wonderful facility for taking care of themselves and adapting themselves to any condition. I shall for one vote with a great deal of pleasure for the passage of this bill without the amendment. My only wish on the subject is that the measure in-

troduced by the Senator from Missouri [Mr. Brown] could be brought before the Senate instead of this. That Senator, at the last session, introduced a bill which strikes at the root of this poison-tree which has sent its shadows over the country. If that measure could be brought before the Senate instead of this we should not have to begin by lopping off branches; we should not have to begin with bills like this abolishing slavery inch by inch. The measure of the Senator from Missouri, if it could be substituted for this, would put an end, in my opinion, to our temporizing policy and to the abolition of slavery in one district after another by piecemeal. I much prefer his measure to this, but I shall vote for this.

Mr. BROWN. I will state in response to the remark of the Senator from Kansas that I purpose bringing up the measure introduced by me at the last session, for a vote at this session at a subsequent time, but I do not desire to antagonize it at the present time with the measure that has been introduced by the Senator from Massachusetts, [Mr. Wilson.] That is the only reason why I prefer to take a separate vote on the separate propositions. I believe with the Senator from Kansas that the proper mode of dealing with this question would be to deal with it radically and cover the whole case; but I shall be very glad, even if I cannot obtain that, to obtain the relief which is contained in the measure introduced by the Senator from Massachusetts.

Mr. HENDRICKS. Mr. President, perhaps it is proper that I should very briefly state the reasons which will govern my vote on this measure. I do not consider a vote against it to be a vote in favor of slavery or the interests of the slaveholder. I presume that if the father and husband be taken into the military service of the United States it will be a relief to the slaveholder to take from him the obligation to provide for the family that is left at home. Public sentiment, as well as municipal law would require the master, while the relation subsisted, to make provision for them. But if Congress declares them free, that obligation, if the law of Congress have constitutional force and validity, is removed from the master. Therefore I am not able to see that a vote against this measure is a vote for the slaveowner.

The Senator from Massachusetts [Mr. Sumner] the other day said to the Senate that he was going to give constitutional grounds upon which members might stand in supporting this measure, and I had hoped that he would refer us to some provision of the Constitution that would justify the vote; but after listening to him with great attention, I was unable to observe that in any single argument he presented he referred to the Constitution at all. I believe he read none of its provisions, referred to none of its language which justified the measure. He did say that at the last session of Congress, by law we had declared the slave taken into the Army of the United States to be free, and that the constitutional power to free the slave taken into the service would support the constitutionality of this measure. Sir, I am not able to see that. The Senator stated it simply, he did not illustrate his proposition so as to make it plain to myself, at least. Upon what ground was the measure of the last session supported? Upon the ground that Congress has power to free the slaves of the States? No, sir. It could be supported on one of two grounds. First, if the master do not have property in his slave, but slavery be a mere relation, and if the slave be regarded as a person, then his personal service may be taken by the Government, and in that case no compensation, perhaps, need be made to the master. There is in the northern States the relation of parent and child, and the relation of master and apprentice; and yet no one questions that either relation for the time being may be disturbed; the power of the parent over the child may be withdrawn, and the control of the master over the apprentice may be withdrawn for the time being, and the minor child or the apprentice taken into the service of the United States without compensation to the parent or to the master. The relation is disturbed for the time being, and the minor child or the apprentice taken into the service of the United States without compensation to the parent or to the master. The relation is disturbed for the time being, but certainly if the child is restored to the neigh-



# THE CONGRESSIONAL GLOBE.

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borhood again during his minority, or if the apprenticeship is restored to the neighborhood and to his master again during his minority, and before the expiration of the term of his apprenticeship, the relation is restored. On the other hand, if we regard the slave as the property of the master, that property, like any other property in the country, may be taken by the Government and appropriated to public use, due compensation being made therefor. When Congress passed the bill at the last session this was the view taken. The slave was regarded by that act of Congress as the property of the master, and therefore, under the language of the Constitution, compensation was provided to be made to the master. I will call the attention of Senators to the provision of that law found on the 11th page of the Acts of the last session:

"When a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States."

That is one compensation to the master; the \$100 bounty goes to the master instead of to the drafted slave. Again, the act provides:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer, on being mustered into the service, shall be free."

In the enactment of the law which I have just read, Congress contemplated the slave as the property of the master, and the property as being taken for public use, and compensation to be made for that property under the Constitution of the United States. Now, sir, I ask the Senator from Massachusetts if the same reason applies to the family of the slave who is thus taken? The wife is not taken for public use; the children are not taken for public use. In no way are they valuable to the public service. This measure is entitled a joint resolution to encourage enlistments and to promote the military service—I believe that is the substance of the title. I ask the Senator, then, if the freeing of the family of the negro who has been taken into the service is an appropriation of that family to public use? If so, the argument of the Senator is good; otherwise it is not.

The Senator also said that it was mean to take the service for the public use of the head of the family and to leave the residue of the family in slavery. That is his judgment on the subject. What standard governs his judgment I cannot say. My judgment is that it cannot be mean to obey the Constitution of my country while it is in force. I do not believe that Congress has the power to abrogate the laws of the States which regulate the relations of individuals there. From the earliest times of the Government this relation has been recognized; a relation established by the laws of the States; a relation that Congress could not interfere with; laws of the States which Congress could not disturb. Now, sir, how is it that we can go outside of an appropriation of property for public use and free those slaves who are not thus used for public purposes? I am not able to see it. I need not refer to the provisions of the Constitution that recognize the relation of master and servant, and not only recognize that relation but impose upon Congress the duty to protect it. That provision of the Constitution which requires that the fugitive slave shall be returned to his master recognizes the relation as existing under State laws, State laws that cannot be disturbed by Congress. Are the wife and children of a slave who has become a volunteer or is conscripted to be made free, and how? If they are slaves, they are such by force of the laws of the State. Can Congress disturb those laws; can Congress disturb that relation when the persons are not required for the public service? I am not able to see it; and because I think we have not the con-

stitutional power to do this thing I shall vote against this measure.

Mr. WADE. Mr. President, I do not rise for the purpose of entering into any extended argument on this subject at the present time, because to my mind the proposition is so plain, in connection with what we have already done, that I do not conceive that any argument could make it plainer. I think we were greatly at fault when we first enabled the Government to conscript slaves, or to enlist them into our armies, in not passing a bill like the one before us. I think the failure to do so is a reproach to Congress. It appears to me, as it did to the Senator from Massachusetts, [Mr. SUMNER,] that it is an act of meanness in us to conscript or enlist the father and leave his wife and children in the hands of the master, subject to all his resentment, consequent on the fact that he has been deprived of that which he calls his property.

It is unnecessary, I think, at this stage of our proceedings, to argue in the Senate the constitutional question, because we have already passed upon our right to conscript and enlist the slave. We have already passed laws on that subject, and I suppose no one proposes now to back out of them. What gave us the right to do so, unless it was a military necessity? I believe we placed it on that ground, and I think it will stand upon that in a great revolution like this, and stand the test of the judgment of the world. Of course there was no Senator here, and there was no individual anywhere in the States that I ever knew anything about, who claimed that in time of peace the General Government had a right to manumit slaves in the States. I know very well that the party with whom I have long acted were charged with such designs, but it was always denied, and any such notion was never attempted to be carried out, was never pretended to be acted upon. But, sir, all that is changed in time of war when the Government itself is put in jeopardy. When that is the case, and we are endeavoring to defend the Government from dissolution and destruction, the necessity of the case, in my judgment, must be the measure of our constitutional right to proceed.

The expediency of this measure, conceding that we have the right to pass it, must be obvious to everybody. Do gentlemen suppose that you can enlist in the service of the United States negroes who are slaves that have any regard for their wives and their children, when they leave those wives and children in the hands of their infuriated masters to wreak on them their vengeance and cruelty? Sir, they will not do it. I know the fact, for I have been down in that country where we are endeavoring to enlist this class of soldiers, and the great objection everywhere is that the negro will not enlist unless you free his wife and children; he will not consent to leave them in this predicament.

But, sir, I did not rise so much to argue the question as to present and have read, in connection with this debate, an affidavit which I have in my possession, and which I think will throw some light upon the matter as a practical question. I send the affidavit to the desk, and ask to have it read as part and parcel of my remarks.

The Secretary read, as follows:

CAMP NELSON, KENTUCKY, November 26, 1864.

Personally appeared before me, Edward B. W. Restieaux, captain and assistant quartermaster, Joseph Miller, a man of color, who being duly sworn, upon oath says: "I was the slave of George Miller, Lincoln county, Kentucky. I have always resided in Kentucky, and am now a soldier in the service of the United States. I belong to company I, 124th regiment United States colored infantry, now stationed at Camp Nelson, Kentucky. When I came to camp for the purpose of enlisting, about the middle of October, 1864, my wife and children came with me, because my master said that if I enlisted he would not maintain them, and I knew they would be abused by him when I left. I had then four children, aged respectively ten, nine, seven, and four years. On my presenting myself as a recruit, I was told by the lieutenant in command to take my family into a tent within the limits of the camp. My wife and family occupied this tent by the express permission of the aforementioned officer, and never received any notice to leave until Tuesday, November 22, when a mounted guard gave my wife notice that she and her children must

leave camp before early morning. This was about six o'clock at night. My little boy about seven years of age had been very sick, and was then slowly recovering. My wife had no place to go, and so remained until morning. About eight o'clock on Wednesday morning, November 23, a mounted guard came to my tent and ordered my wife and children out of the camp. The morning bitter cold. It was freezing hard. I was certain that it would kill my sick child to take him out in the cold. I told the man in charge of the guard that it would be the death of my boy. I told him that my wife and children had no place to go. I told him that I was a soldier of the United States. He told me that it did not make any difference, he had orders to take all out of camp. He told my wife and family that if they did not get up in the wagon which he had he would shoot the last one of them. On being thus threatened, my wife and children went into the wagon. My wife carried her sick child in her arms. When they left the tent the wind was blowing hard and cold, and having had to leave much of our clothing when we left our master, my wife with her little ones was poorly clad. I followed them as far as the lines. I had no knowledge where they were taking them. At night I went in search of my family; I found them in Nicholasville, about six miles from camp; they were in an old meeting-house belonging to the colored people; the building was very cold, having only one fire. My wife and children could not get near the fire because of the number of colored people huddled together by the soldiers. I found my wife and family shivering with cold and famished with hunger; they had not received a morsel of food during the whole day; my boy was dead; he died directly after getting down from the wagon; I know he was killed by exposure to the inclement weather. I had to return to camp that night, so I left my family in the meeting-house and walked back. I had walked there. I traveled in all twelve miles. Next morning I walked to Nicholasville. I dug a grave myself and buried my own child. I left my family in the meeting-house, where they still remain." And further this deponent saith not.

Witness, JOSEPH X MILLER.  
mark  
JAMES A. LINEN,  
WILLIAM SMITH.

Sworn and subscribed before me, this 26th day of November, in the year of our Lord 1864.

E. B. W. RESTIEAUX,  
Captain and A. Q. M.

Mr. WADE. I have also the statement of the commanding officer there, Captain Paul, corroborating that statement, and some other documents to the same effect. I do not know that it is necessary to read them.

These people were driven out. They were slaves. They could not go back to their master again without subjecting themselves to worse treatment than they received at the hands of our officers there. The husband of this wife and the father of this family was compelled to travel in search of them, who had no place to go to, in cold, inclement weather, twelve miles, after performing all the duties of a soldier in the camp, and there he found, as he had predicted, that his child had died in consequence of this hard, harsh treatment. He could not go back to his master, I say again, because he had enlisted in the Army, and had incurred his resentment. That is shown by these papers.

In this way enlistments are discouraged. These colored men will not enlist while these things are allowed. They have the same feelings toward their wives and children that white men have, as near as I can ascertain; and where is the white man who would enlist in the Army of the United States and leave his wife and children subject to the taunts, the insults, and the ignominy of a master who had been accustomed to treat them as slaves, and who was fired with indignation and animosity because the father of the family, his slave, had left him?

I will state in connection with this subject that I visited this Camp Nelson last summer. General Burbridge was the commanding officer. I rode there with General Burbridge from Lexington in order to see a review that was about to take place there, and a sight greeted me such as I never beheld in the world, and hope I never shall again. As soon I had arrived in the camp we had scarcely alighted from the carriage before a colored woman, whom I should suppose to be thirty years of age, appeared before us, all bruised to pieces. Her face was all whipped to a jelly. She had a child with her which she said was twelve years old; one of whose eyes had been gouged out, and the other attempted to be, as they stated,

by their mistress, the father being in the Army. Her head was all cut to pieces by what appeared to be a sharp instrument; her skull was laid bare almost, and her back perfectly mangled by the torture to which she had been subjected. All this was done, as we were informed, because her husband had enlisted in the Army of the United States, and she and her child were compelled to flee to this camp the best way they could, in that condition.

And yet gentlemen stand up here and talk about constitutional law in exculpation of such infernal acts as these! Sir, I tell you that slavery is an organized rebel, and you can have no peace as long as that relation exists in the United States; and, as God is my judge, I hope you will have no peace until you abolish it. I ask for no peace until slavery is extinct in these United States. We hear men sometimes talk about the object for which this war is prosecuted. They higgie over the idea that it was to defend the United States against the aggressions of the South. That was the fact. It was, in its commencement, a strictly defensive war; but war was commenced, and thank God, I think I see that it cannot end until that which gave rise to it shall have ended, and I hope it will not. If it continues thirty years and bankrupts the whole nation, I hope to God there will be no peace until we can say there is not a slave in this land.

That is the way I view the subject. I have ever viewed it so. I have never higgied about the cause of the war, although I know it was a defensive war in its commencement, and is so even now, because I know you can have no lasting peace until this accursed institution is prostrated to rise no more. I say again, I ask no peace until that is done. I am glad of the stubbornness with which the South hold out. I hope they will hold out in their blindness until they provoke us to do that which the occasion demands, without which being done you ought to have no peace, and you can have no peace.

Sir, I say it is a shame and a reproach to us to invoke the aid of the slave to assist us in working out our own liberty and putting down this rebellion while we deny his right to have his wife and children emancipated. We ought to have emancipated them before; but it is never too late to do right. Let us free all who will enlist into our armies, or who shall be conscripted, and all who stand in any relation to them, and not leave them to be mangled and tortured and murdered by those whose resentment is enkindled at the fact that they have gone into the armies of the United States. It is horribly cruel; it is barbarous; it is as impolitic as it is cruel and barbarous. I hope, sir, that the resolution will pass.

Mr. DAVIS. Mr. President, my constituents are slaveholders; I am a slaveholder myself; and I have my rights guaranteed by the constitution and laws of my State, and by the Constitution and laws of Congress, until those laws are repealed. Here and everywhere I shall stand up in support of the rights of my constituency and of myself under the Constitution of our common country and of our State, and our laws. Gentlemen cannot force me from the occupation of that position by a denunciation of the property and institution that is guaranteed by these constitutions and these laws, a description of property which their own States once cherished, which they established, and which their people did more to disseminate and to sustain by their laws and policy for its protection than any other States.

Mr. President, there is now a crusade against slavery, and it is about as unjust, as fanatical, and as irrational as all the other crusades that have heretofore taken place in the world. I have, time and again, expressed my sentiments upon this subject; I do not intend to repeat them; but there are one or two features of this measure to which I will again ask the attention of the Senate; and my views are sustained by the facts of the case brought up by the honorable Senator from Ohio. That case shows that these women and children, when deprived of the protection and the support of their masters, and their husbands are enlisted in the service, although it be in the neighborhood of the residence of the wife and children, are not able to protect and to secure their proper support.

If I understand the case that has been cited, the husband enlisted in the Army. He was informed by the owner of the wife and children that he would

no longer support them if he should enlist. He went to camp. The wife and children followed him to camp, and had the most perfect liberty, if I understand the case, to make provision for their own support. Did they make that provision? No, sir; they fell into that state of destitution, want, disease, and death that is so vividly expressed in that affidavit. The Senator says, and no doubt truly, that these people were abandoned by their owner. In that abandonment he violated the laws of humanity and he acted a cruel and an ungenerous part toward those who had occupied the relation of slaves to him.

Sir, in my own county there have been enlisted into the service of the United States, according to the best estimates we have been able to make, about six hundred slave men. I do not know, nor have I heard, of but one solitary case of abuse, of cruel treatment, or of mistreatment whatever to any of the wives or children of the men who enlisted in the Army. A man owned a slave man. He also owned the wife and children. The husband enlisted; and the master drove, or threatened to drive, the helpless wife and children from his home. He was a Lincoln man, and voted for the reelection of Lincoln. I know of but that solitary case in the county of Bourbon, where there have been an enlistment of at least six hundred slaves, where there has been any threatened mistreatment, none positive and none negative whatever.

But, sir, the position I set out with was this: that there were many cases of slave families where, if the husband was taken from the owner, and in many where he had been taken from the owner, if the wife and children were free, if the relation between the master and these slaves were severed, the wife and children would not be able to support themselves, and would come to that miserable condition of destitution, penury, disease, and death which is described in the affidavit that the honorable Senator from Ohio sent to the desk to be read.

Sir, [Mr. POMEROY in the chair.] you chose to give us some of your experience and some of your instruction in relation to this matter—a matter about which you know nothing at all practically. We understand the subject. It is in our midst. We have seen it every day of our lives. We know it by daily observation and experience. There is not a man living who has this kind of information but what knows this fact well: that in the State of Kentucky there are thousands and tens of thousands of instances of slave mothers and children where, if the mothers and children were freed at once and thrown upon their own resources, they could not make a support, but must come to that state of misery, destitution, and death which the family we have just heard read about came to.

My position was that the effect of this measure, if it is passed, will be to place many families in that position, in that state of destitution, and that it would be cruel and inhuman legislation on the part of Congress so to leave those destitute families. If they have the power, and will exercise it, to free those families, they ought to make a provision that such families as are unable to support themselves should receive the necessary aid from the Government for the purpose of having a comfortable support. Why, sir, there is not a man who ever lived in a slave State but what knows that there are almost unnumbered cases of slave women and slave children who are too helpless and too young to pay for their present support. The consideration that induces the owner to keep them, and to pay the expenses of their support, is the increased age, the growing strength and capacity of the children to work and become valuable to him in after years. If it was not for that consideration, I have no doubt that the interests and inhumanity of men would throw many of these families out upon the world without a proper support at all. Our laws are framed upon that principle of human nature, and for that reason the laws make it the legal obligation of the owners of slaves to support them, to support them in their infancy, in their age, and in their helplessness, whether the result of infancy or of age.

It has been argued again and again that because the husband is liberated therefore Congress has the power to liberate the wife and the children. There is no logic in that conclusion; there is no legal

validity or effect in it; but the premises, as well as the conclusion, are utterly false. Whenever the principle is decided by a competent and independent court, it will thus be settled, that neither husband, nor wife, nor children can be taken, even to make the husband a soldier in the Army, until his reasonable value is paid or secured to the owner. That is an invulnerable constitutional and legal truth, and it can be sustained by the decisions of the highest courts of every State in the United States. But, waiving that question, the principle and the provision of the Constitution which authorizes private property to be taken for public use has no application whatever, as was shown by the Senator from Indiana, and as has been shown a hundred times in this body.

Mr. President, I did not rise to add as many words as I have, but merely to protest against the passage of this resolution in its present form, and to remind its friends, and to insist, in the name of humanity and of a degraded and humble race, that if they will throw them upon the world, they shall not throw them utterly helpless and incapable of getting their bread and their raiment; that while the husband and father is carried to the camp, and is away hundreds of miles from the wife and children, the wife and children shall not be thrown suddenly upon the world without any intellectual or physical capacity to support themselves, there to be left to perish from want and disease; but that the humane philanthropists who are commending this measure to the nation and to the world shall make a reasonable provision for the support of this helpless class of beings.

Mr. JOHNSON. The remark made by yourself, sir, [Mr. POMEROY in the chair.] speaking to this resolution, has no application to me. I am not and never have been an advocate of slavery; and as you and the Senate know, I gave my support very cheerfully, and as efficiently as I was able, to the proposed amendment to the Constitution abolishing the institution throughout the United States. Why I supposed such an amendment should be adopted, and why I supposed we had the authority to adopt it, I do not propose now to discuss. I have already presented to the Senate the reasons which led me to conclude that it was expedient and was constitutional.

I voted the other day against referring the resolution before the Senate to the Committee on the Judiciary, not because I was in favor of it, but because I was exceedingly anxious that the subject itself should be disposed of at the earliest possible moment. From good motives, I have no doubt, those members of the Senate who feel toward this institution perhaps more strongly than I do thought it their duty to occupy the greater portion of the deliberations of this body during the last session by that topic; and I was satisfied that the questions involved in this resolution had been sufficiently brought before the Senate to enable every Senator to make up his mind as to the vote which he might give. There was no need, therefore, under that impression, of sending it to the Committee on the Judiciary.

But I rise now very briefly to state why it is that I am unable to vote for this resolution. It is not because—perhaps no member of the Senate feels more strongly in that regard than I do—it is not because I desire to see the wives and children, where there are wives and children, of the black men who have enlisted in the Army remain in the condition of slavery, but because I am fully under the impression (and an impression so strongly felt that I am sure no argument will be sufficient to induce me to change it) that we have no authority to pass a resolution of this nature.

The honorable member from Massachusetts, in his speech a day or two ago, placed it upon the ground of necessity. The rebellion, he said, was to be suppressed. In that, I believe, we are all agreed. It became necessary for that purpose to call into the armies of the United States the negroes. As to the power to call them into the military service of the United States I never had any doubt; and I endeavored to lay before the Senate on a former occasion the reason why I supposed there existed no doubt of the authority of Congress to use those men as a means of warfare. But I found it in the authority to raise armies, and in the double character in which, under the Constitution, the negro slave, or the negro man who is not a slave, stands toward the United States. According to my view, whether he was slave or

free, he held the relation of citizen, owing an allegiance to the United States; and, owing an allegiance to the United States, was subject to the call of the United States when the United States should think proper to call him to their defense, either in time of foreign war or in time of civil war; that in relation to the negro slave, although he stood in the condition of property, and was, in the view of the Constitution of the United States and of the States where the institution exists, property, to the extent that it was made property by the laws of the State in which he might be, yet he also stood in the relation of person, and was liable to be called upon to constitute a part of the Army of the United States.

The honorable member from Massachusetts, however, said that we were all agreed in thinking that when a negro slave was called into the service of the United States he became thereby free. If he is under the impression that I concur in that opinion he is mistaken. What I said was that, having called him into the service of the United States, as I supposed we had a right to do, it would become the duty of the United States to have him free, but to have him free in a constitutional and legal way; to pay for him whatever his services might be worth; to pay for him for those services to the master, or to pass an amendment to the Constitution declaring him free.

But even if it was true, Mr. President, that the power under the Constitution exists to make a negro slave a free man by calling him into the armies of the United States, it would be a very illogical inference, in my view, to suppose that thereby his wife and his children became free, or that thereby his wife and his children could be declared free by a simple act of Congress; and I was about to say I was a little amused, considering what we have heard in the past, at the grounds upon which the opposite view is placed by some of the Senators of the other side. One of them says, and the resolution upon its face goes to that extent in part, that it will encourage enlistments. Another, the honorable member from New Hampshire, has told us that it will wonderfully increase the efficiency of this description of force. Now, in relation to the first, I think I cannot be mistaken in saying that those who advocated the bringing into the military service the negro slave said, that once authorize it, and not only would all the slaves be willing to come to the standard of the United States, but that thousands and thousands and hundreds of thousands of white men in the eastern States would be seen flocking the highways, rushing to the capital of the United States for that purpose. In the language of an editor who possesses, and justly possesses, as I think, such a controlling influence over the party to which he belongs, three hundred thousand men would at once be seen coming to the standard of the United States, and the rebellion would at once be put down. But I have not heard from the War Department, the Senate certainly has not heard officially, that there has been any difficulty in getting black soldiers. Certainly there was none in my State. There was none in my State because two modes were resorted to. I will not stop to inquire whether both were constitutional or legal. The one was voluntary enlistment, and as that was supposed to fail to a certain extent, it was virtually compulsory enlistment; and they got just as many as they wanted. There is hardly a black man now who was a slave at the breaking out of this war, who was living in Maryland at the time when you authorized the enlistment of black soldiers, capable of bearing arms, who has not been placed in the Army of the United States either by voluntary enlistment or by compulsory enlistment.

Then, as to their efficiency, I have heard some of my friends on this floor say—I hoped then that they were right, and I hope still that they are right, and the whole press that has been advocating the employment of this class of persons in the Army of the United States have said the same thing—that among the most gallant in the Army during the battles in which they were engaged were black soldiers; and yet their wives and their children were not free by any law then passed. Does my honorable friend from New Hampshire wish to make them more gallant than gallant, more efficient than efficient? Does he want to make them more gallant and efficient than the white soldiers?

Mr. CLARK. If the honorable Senator will pardon me for a moment, I wish that such a law should be passed that when those men have exhibited that gallantry, and have bared their bosoms, their limbs, and their lives in defense of the country, they shall not be stung by the thought that at home their wives and children are the subjects of abuse by their masters.

Mr. JOHNSON. I agree in that; but that is sentiment altogether. I understood the honorable member to urge the adoption of this resolution upon two grounds: the first was that it would encourage enlistments; the other was that it would increase the efficiency of the Army.

Mr. CLARK. I think the Senator is a little mistaken. I made the remark that it would make the Army more efficient entirely in reference to the amendment of the Senator from Kentucky, which related to those persons already in the Army.

Mr. JOHNSON. Certainly. Then they have been efficient, as I understood my friend to admit, and I am not here to deny it. I do not know what the fact is. I believe there are differences of opinion on the question; but how the fact is I am unadvised. They are now efficient, and you are now getting just as many as you want, just as many as you can provide for; and if it be true that you have as many as you can employ, and that those you have are efficient, upon what ground can you place the measure before us that it is demanded because of the necessity of adding to the enlistments, and of increasing the efficiency of the enlisted?

Now, Mr. President, if there was anything settled when the Constitution was adopted, if anything has been settled since by judicial authority, if anything has been settled by political parties in the enunciation of their principles in their conventions from time to time since the existence of this institution became a subject of party politics, I suppose it to be this: that the Congress of the United States in the exercise of its legislative authority has no power to abolish slavery in the States; and with a word upon that subject I shall have done.

My friend from Ohio, [Mr. WADE,] whose sincerity no one questions, whose uniform course in relation to this subject is known to all, tells us that he wants this war continued until the institution shall be abolished. He wants battle after battle to occur, and thousands and thousands of the men of the loyal States as well as the men of the rebel States to be slaughtered, and will have those scenes of slaughter continued during a period of thirty years rather than terminate the strife, if it is to be terminated without the abolition of slavery everywhere throughout the United States. That is not my opinion. I dislike the institution just as much as he does or can. I think it is attended with the most dire of evils; that it is disadvantageous to the master, and keeps the slave in a condition in which no man should be placed, demoralizes him, renders him incapable of knowing what moral duty is, debars him of the privilege of ascertaining what Christian duty is, closes the Bible to him, and closes every variety of knowledge from necessity. I know all that; but I am not for continuing the war until the institution shall be abolished if we can terminate the war now: first, because we have no authority, according to my view, under the Constitution, and we are sworn to support it; secondly, because as in the retributive justice of Heaven the institution is mortally wounded now, if there were peace to-morrow it would have no permanent existence, and would be stripped of all political influence.

The South must have seen what an element of weakness it is in war. They must have seen that with such an institution as that in their midst, if they ever get again into a civil strife with the loyal States, disaster and defeat, and, if necessary, subjugation must be the result. And what are we now told, and, I believe, truly told? Their papers proclaim it in Richmond: "If it becomes necessary we will abolish the institution; we will call the negroes into our own service first, and see if with their aid and with the aid of the white men of the South we can make successful resistance to the war upon the part of the loyal States; but, that failing, we will emancipate all; provided," for they attach a provision to it now, "provided we can make an alliance offensive and defensive with England and France." And, as I understand,

they have good reasons for believing that if they do abolish the institution they will be recognized by both Governments, and perhaps both will come at once to their aid. Suppose that should be done; that the institution should be abolished by them—they have the same power to do it that we have—will my honorable friend from Ohio want to continue the war then? I suppose he will say not. Then what is the result? The Union dissevered; the work of our fathers gone; our former glory never again to be repeated; and (as is certain to be the result) every ten or fifteen or twenty years a war between the contemnerous countries.

But, Mr. President, I am glad to believe, as I think I see, that the President of the United States is not of the opinion entertained by the honorable Senator from Ohio. As I read his last message, he thinks, and I think with him, with due deference to the honorable member from Ohio, that if the men in arms against the United States throw down their arms the war not only should not be waged, but that there would be no authority to wage it. As we know, during the late political canvass, in a paper that became notorious, and will be notorious hereafter, entitled "To whom it may concern," the President stated, or was understood to have stated, that there were two conditions upon which alone the war could be made to terminate: the one was the continuing existence of the Union, and the other the abolition of slavery. I know that, as far as the last reason was concerned, it made some of his warmest and most zealous supporters exceedingly unhappy; and it was explained away. The majority of the people who voted for him considered the explanation satisfactory. It was said that he did not mean what he apparently said; and such became the fixed opinion of those who disapproved of what they supposed to have been the meaning of what he had stated in that address of his "To whom it may concern." I am glad to see that the friends who saved him from the possible fatal result of such a declaration, or what they thought would be the fatal result of such a declaration, did not misunderstand him; for in his message he says:

"Between him"—

That is, Jefferson Davis—

"and as the issue is distinct, simple, and inflexible. It is an issue which can only be tried by war, and decided by victory." \* \* \* \* "Although he cannot recapture the Union, they can."

That is, the loyal people of the South, if there are any there.

"Some of them we know already desire peace and reunion. The number of such may increase. They can"—

I ask the honorable member from Ohio to listen to these words, and see what they mean:

"They can at any moment have peace simply by laying down their arms and submitting to the national authority under the Constitution. After so much"—

That is, after laying down their arms and submitting—

"After so much, the Government could not, if it would, maintain war against them. The loyal people would not sustain or allow it."

He is speaking of the honorable member from Ohio as among the loyal. Not satisfied with announcing that opinion in the plain words in which it is given in the part of the message that I have quoted, he deems it necessary to conclude his message by reiterating the same views. He says in conclusion:

"In presenting the abandonment of armed resistance to the national authority on the part of the insurgents as the only indispensable condition to ending the war on the part of the Government, I retract nothing heretofore said as to slavery. I repeat the declaration made a year ago"—

Not the declaration supposed to be contained in this paper, "To whom it may concern," but in a previous message.

"that 'while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation, nor shall I return to slavery any person who is free by the terms of proclamation, or by any of the acts of Congress.'"

I agree with him as to the last. That is a quotation from the former message:

"In stating a single condition of peace"—

Submission—

"I mean simply to say that the war will cease on the part of the Government whenever it shall have ceased on the part of those who began it."

I think I am not mistaken in saying that the view taken by the honorable member from Ohio goes a good deal further than that. "I hope,"



said the honorable Senator, "that it will never so terminate; I pray that it may be waged for an indefinite length of time, until by means of it slavery, as it exists in the States of the Union, shall be abolished." The President says to them, "Throw down your arms to-morrow; recognize the continuing obligation of the Constitution of the United States; submit to the laws; and I will not only not carry on war against you, but the people, if I desired it, would not permit me to do it." I am sure my honorable friend from Ohio, when he comes to reflect, while appealing to our sympathy for the poor black women, the outrage upon whom, as he very properly said, was enough to excite the feelings of the most obtuse, will not forget what would be the scene sure to occur if these people come in and submit to the authority of the United States and they are told, "Go away; you have an institution which we loathe; over which, before the war began, we had no control; in regard to which we expressed no disposition to go to war at all; but we mean to fight you up to the very last moment until you will agree to abolish slavery, or until we abolish it ourselves by force of arms, if, in order to do so, it becomes necessary to exterminate every white man, woman, and child in the South."

Sir, I honor the feeling of the honorable member from Ohio. I know how loyal he has been from the commencement of this war to the present hour. I witnessed with admiration, when there were upon this side of the Chamber men who were dealing improperly with the members of the North on that side, that as against him, at least, all their efforts were unavailing. He stood up manfully for the right of his section, and bearded (so to speak) the lion in his den. But, sir, there is a step beyond which, he will pardon me for saying, loyalty would become barbarity.

The South, God knows, has suffered enough. They have invited it. The people now, as we have every reason to believe, see that they have been misled. They see now that they were induced to go from beyond the protection of the Constitution of the United States and its power into this rebellion through the arts, wickedness, and insanity of the madmen by whom the rebellion was inaugurated. Their States are being overrun; their cities captured; their heart is apparently failing them, even in their leaders. Now, in a moment of desperation, they vow almost the purpose to abolish slavery and call the slaves to their aid, although they pretended to go to war merely because they thought the institution of slavery was in danger. Their lives are in danger from the insulted majesty of the law; they stand self-confessed traitors to the Constitution of the United States and subject to the punishment of traitors; and in order to escape from that doom, there is nothing they will not do; they will make an alliance defensive and offensive with all the nations of the world, and give them any and every encouragement of trade or of commerce that they think will tempt the nations of the world to enter into such an alliance.

Let us, Mr. President, take from them the means of persuading their people to such a course; hold out to them the olive-branch, ask them to come back to the bosom of the Government; live in peace and honor where Washington lived in peace and honor, and again make the Government of the United States what it was at the moment that this rebellion broke out, potentially one of the greatest Powers upon the face of the habitable globe, and now demonstrated even as true of each of the sections into which the war has divided us. There is no nation now living, if this war was ended by a separation, and the South became populated as it would—for slavery there is virtually at an end—by emigration from the loyal States, induced to go there by a better climate and better soil, there is no nation upon the face of the globe that could compete successfully either with what the United States will then be, or what the South will be in ten years after they have achieved their independence, and slavery is abolished.

The honorable member from Delaware [Mr. SAMPSON] and the honorable member from Kentucky [Mr. DAVIS] have both told us that they think the abolition of slavery by constitutional amendment will be found an impediment to a successful peace; I differ with them. The more that I have reflected on the subject since the action of the Senate at the last session, and the

more I have seen of the temper of the South, I am persuaded that in the present condition of the strife the abolition of slavery by constitutional amendment would tend to strengthen the Government and greatly increase the chances of an early restoration of the Union. I confess, too, that as the leaders of this rebellion avow a determination to fight it out to the last, and I having no doubt of the result, if we are true to ourselves, I want, when the result comes, that it shall find all the United States a land peopled by freemen alone, that we may stand in the face of Christendom and announce to the world of enlightened and Christian men, "You have upbraided us in the past for our having continued a barbarous institution that the world has long since discarded; you can upbraid us no longer; America is free, and the Union is safe."

Mr. WADE. Mr. President. I did not suppose that we should be led into so extensive an argument upon this subject by the few remarks that I made a short time ago. The Senator from Maryland has very much mistaken me, if he supposed that he could bind me authoritatively to any opinions that the President of the United States might entertain, or that they would have any more effect upon my mind upon these questions than though they emanated from any other respectable source. The Senator thought also that on due reflection I probably might alter my opinion upon some of the sentiments that I advanced. In that, too, he was altogether mistaken. I have reflected long upon these subjects. My mind has long since been deliberately made up upon them. I have endeavored to reflect upon them in all their bearings, both proximate and remote; and I have nothing to abate of the sentiment that I advanced in regard to slavery.

Sir, all these bugaboos that the gentleman raises in his own imagination to frighten us from our purpose, do not have the least effect upon me. I fear nothing with regard to the United States but injustice. As long as the people of the United States will ground themselves upon the rock of eternal justice and right, I am willing to stand the contest; and if it must be so, defy all those nations of the earth. Let us clear our own skirts from injustice and wrong, and when that is done we shall have but little to fear from any other quarter.

The Senator would make peace without abolishing slavery; and yet he has drawn, in about as strong colors as any man can draw, the evils of that institution. He has told us that it is every way wrong, demoralizing, and anti-Christian, closing the Bible and, he said, the means of salvation, or something like that, from a great portion of our people; and yet he fears to walk up to the principle of its abolition. I could not exactly see, after he had in such clear light and such glowing colors depicted the terrible evils of this institution and its great wrongs, how he was going to argue right off after that that there was a way to leave it, root and branch, all standing, and make peace before we eradicate it.

He told us that the President of the United States did not agree with me. Sir, if the President of the United States is an honest and honorable man, as I take him to be, he does agree with me; for the convention that nominated him laid down the only principle upon which he should be supported by the people of the United States, and that was, that this evil of slavery should be eradicated. That is the word, sir. And when those principles were put forth to Mr. Lincoln as the nominee of that convention, he assented to them, and said peace could only be made on the terms of eradicating this institution. That was said at Baltimore. I have not the platform in my pocket, but that is what they said, and that is what Mr. Lincoln consented to. Will the Senator tell me that he has backed out of it; that now that he has induced the people of the United States to vote him into the Presidency he will turn round and say that whenever the rebels will lay down their arms they may have their institution of slavery as they had before, and they are to come back into this Senate recking with treason? Are Toombs and Davis and Benjamin to come back here merely because they lay down their arms? Is that the position that I understood the Senator to contend the President of the United States was in favor of, and he himself was in favor of?

Mr. JOHNSON. I have said no such thing,

and did not think of any such thing. If Toombs, Davis, and the others should come here, I should hold that they ought to be indicted for treason instead of being admitted to their seats; but the South is not composed of Toombs, Davis, and Benjamin. But while I am up, I will ask the Senator, if he will permit me, suppose every man in the confederate States should lay down his arms; who is going to fight them? How are you going to carry on the war if there is nobody to fight?

Mr. WADE. Well, sir, if they will throw down their arms, we will govern them until they do right.

The Senator tells us in one breath that they will sacrifice everything; they will become mean colonial dependents of foreign nations before they will do the meed of justice to abolish slavery; and in the next breath he tells that the rebels will abolish slavery themselves for the purpose of forming these alliances. Sir, if they can dispense with this institution in order to get down beneath the despotisms of Europe, and become their base, colonial vassals, I would compel them to do it in order to be the honored associates of us here. They have committed a crime by which they have forfeited, on every principle of international law, every right, if rights they had, to privileges under the States as States as they formerly stood. Does not the Senator recognize the fact that war breaking out between two nations abolishes every treaty arrangement or agreement existing between them? They are all prostrate at the election of either of the belligerents. I do not suppose it differs between a foreign and a domestic war. If they have raised their arms against the Constitution of the United States, and waged flagrant war with us, have we not the right to treat that as a war, and say that any agreement detrimental to us, or dishonorable to us, shall be entirely abrogated, and that before they resume their position again they shall overthrow and dispense with such an institution? It is no more than nations always claim, one with another, who have been at war, and finally make peace.

Will the Senator tell us that the French and English will combine to bolster and hold up the people who have held this institution until they are dying with weakness, with starvation, and with all the evils consequent upon a subjected people? Will he tell us in one moment that they will be so strong that we are to dread the alliances they may make, and in the next that they are so conquered that they are about laying down their arms, and that we have nothing standing up to wage war with, because they cease to war with us? Sir, when they lay down their arms and cease to war with us, they shall also cease to make war against the rights of human nature; and while they pray for mercy at our hands, we will say as courts of equity say, "Come with clean hands; do justice yourselves, and then we will do justice to you; but as long as you attempt to hold your fellow-man in bondage, as long as you tread upon his neck and reduce him to slavery, can you look us in the face and beg for mercy?" Sir, can we look to God Almighty and beg for mercy or prosperity to the nation if we make peace and permit a conquered people to enslave men quite as good as themselves?

Sir, that is not the way I suppose this controversy is to terminate. I say to the people of the South, "There can be no peace while slavery exists; it is at war with free institutions." As I said when I was up before, it is an organized rebel. Its arm is at war with every free nation in the world. Every free nation must necessarily be diametrically at war with slavery; and so long as slavery exists there can be no peace. I do not think it will take thirty years to terminate this war; but I say, let it go on indefinitely, thirty years or more, if it be necessary to conquer this institution, and compel these men when they ask for justice at our hands to do justice by their own people. We have paid too dear already for what we are to gain to permit this root of iniquity, this antagonism to all right, justice, and liberty to exist a moment, and it shall not exist.

I am not singular in all this. I say with those who laid down the platform upon which the President was elected, that when peace comes slavery shall be no more in the United States, and by my voice and by my vote there shall be no peace as long as there is a slave in the United States or its

Territories. I say it again, and I do not fear Great Britain or France. Sir, when these glorious and godlike sentiments are promulgated to our people and echoed across the Atlantic in France and England, the despots there will have enough to do at home instead of coming to fight the principles here. God knows the great principles we are contending for are already taking root on the other side of the Atlantic, and they will give these despots trouble enough before we have any difficulty with them. Let us stand honestly by our principles and trust in God that we shall come out all right, as we shall. I do not fear France and England. I know very well that we have nothing to expect from their clemency, nothing to expect from our own cowardice. They stand upon their rights, and they are in opposition to us. I mean to say they stand upon their power, not upon their rights; they are only limited in their aggressions against us by their fears, for they know, as I know, that the reflex of the great principles that we are contending for is already shaking the continent of Europe to its very center, and no wonder despots turn pale when they look across the Atlantic and see what this war is for, and see how it is about to terminate. I tell you, sir, despots may tremble. In waging this war the loyal United States stand up in defense of the great and godlike principles announced by our fathers, and which, in my judgment, are yet destined to pervade the whole earth. There is no step to be taken backward. I know when we threw down the glove and took up arms in this case we not only made war with the revolted South but we raised our arm against every despotism on God's earth. We have no favor to expect from any of them beyond what we can defend by our right arm. There is not a king, aristocrat, or despot on the face of God's earth but what is violently at war with all the sentiments for which we contend.

Talk not, then, of stopping short of our true principles in order to conciliate France and England. I tell you, sir, France and England are looking more how they shall defend themselves against our principles than how they shall wage war in behalf of the old principles of the middle ages that they see, as we see, are gone forever. Half-way measures will not save the people. As I stated before, I want no peace, and as far as my voice and my vote can go, you shall have no peace, until slavery is no more in the United States; and I believe the President of the United States is with me on this point. I know that there was a good deal of higgling about the President's proclamation "to whom it may concern," but that proclamation contained the pure doctrine upon which he was put to stand and to be voted for. He announced it boldly like an honest man, and he never, to my knowledge, has taken back one jot or tittle of it. I know you can pick his message to pieces, and make something plausible out of it in the direction the Senator attempted; but I do not read it so, because I am bound to understand that the President is a straightforward, honorable man, who will live up to the principles that he announced to the people who gave him their votes, and he told them plainly that there should be no peace until slavery is abrogated. That is the platform upon which we put him, and he said that he assented to it; he put out his declaration in exact accordance with it, and the people elected him.

The Senator tells us that some whiffing, higgling politicians whom I might name have undertaken to show that the President did not mean what he said. Sir, it was a very impertinent thing for them to interfere with him in that way. I know that we have men among us who do not believe in the principles of justice and right, who do not believe that we can trust the people upon this great subject, and who wish to misrepresent the position of the President because in their short-sightedness they were led to suppose that the President would receive more votes by having it understood that he would make peace upon almost any terms and save slavery, than he would if he declared, as he boldly did, that it should be abrogated. I know that there were such men; I read their speeches and I read their comments in their newspapers on the President's proclamation. I despised them. They had no effect upon the people, who treated them with utter contempt and stood by Abraham Lincoln, who had put up the true milk of the word, and they stood upon it and voted for him, understanding that he stood upon it, and it is too

late for him to back out of it, and he will not do so, but if he would, he would be the most infamous man that ever obtained the confidence and votes of the people by false pretenses.

Whatever some men may say, Mr. Lincoln stands upright on the principle that I avow, that slavery shall be abolished before there can be peace. I know who they are that have commented on this position, and have endeavored to explain it away, and their comments go to Europe and the ruling classes there are quick to seize these commentaries on the President's proclamation in order to deceive their own people, if they possibly can, with the idea that Mr. Lincoln is backing out of the great principles of liberty which endeared him to our people and secured his re-nomination and triumphant reelection, and without which he would have had a millstone around his neck and could by no means have succeeded. Conservative gentlemen always suppose they are more numerous than the elections show them to be. They are about the poorest reliance a man ever found to lean upon at election time. For nearly ten years past no man has received any considerable promotion unless he won it at the hands of those who are called radicals. The radical men are the men of principle; they are the men who feel what they contend for. They are not your slippery politicians who can jigger this way or that, or construe a thing any way to suit the present occasion. They are the men who go deeply down for principle, and having fixed their eyes upon a great principle connected with the liberty of mankind or the welfare of the people, are not to be detached by any of your higgling. The sternness of their purpose has regenerated as it were this whole continent, has revolutionized it, at any rate.

Sir, the principles that I stand here to-day to contend for I contended for ten years ago in such a miserable minority in this body that those who concurred with me were not strong enough to be able to order the yeas and nays, and as we traveled up and down the streets of Washington we were in danger of being beset by the myrmidons of slavery. But where are you now, ye conservatives, that then stood with your heads so high? The radicals have their feet upon your necks; they stand now upon the principles they avowed at that day, and they are determined that their feet shall rest on the neck of this monster until he breathes his last. In the hour of victory, when we have the solution of the great question which we have so long contended for within our grasp, within our reach, do you suppose we are now to back down and to permit you to make a dishonorable pro-slavery peace after all this bloodshed and all this sacrifice of life and property? It cannot be. Such revolutions never go backwards, and if God is just, and I think He is, we shall ultimately triumph. Those who undertake to misconstrue the position of the President of the United States are acting without authority, I feel certain. If, however, the President does believe as they say, and dare take the position they would ascribe to him, it is so much the worse for the President. The people of the United States are greater than the President. The mandate they have sent forth for the death and execution of this monster, slavery, will be persisted in. The monster must die, and die he shall.

Mr. WILSON. Mr. President, I hope that we shall now be able to take the vote on this question, and therefore I shall not go into this general discussion in regard to slavery. I desire, however, to say a single word in regard to a remark made by the Senator from Kentucky, [Mr. Davis], who has offered the pending amendment. He says that we are to turn these poor wives and children out on the world without any one to support them. The Senator forgets that we pay the husband and the father sixteen dollars a month to support his wife and his children. We clothe and feed the colored soldier, and we pay him sixteen dollars a month, and with that pay he can support wife and children. Make them free, and not only will his wages go to their support, but the labor of their own hands will go to their support. Therefore, sir, the question of humanity raised by the Senator from Kentucky disappears in view of the facts. We have in our service a great number of men from Delaware, West Virginia, Kentucky, Missouri, and Tennessee, whose

wives and children are held in bondage. It is estimated by those who know something about the number of men we have raised in these States that the passage of this joint resolution will make free from seventy-five to one hundred thousand women and children.

It will certainly be an encouragement to men to enlist that thereby their wives and children will be made free. It will give contentment, it will fire the heart and nerve the arm of the soldier already in the service to know that his wife and children are free. It will add to the strength and efficiency of the men already in the field. Therefore, sir, to encourage colored men to enter the service—and we want every one we can get—and to add to the efficiency of the colored men already enlisted, we propose to make their wives and their children free. That is the simple proposition before the Senate to-day. That the master will come hereafter and ask of this Government to make compensation to him I have not a doubt, and I am willing to trust to the justice of Congress and to the justice of the nation.

I will simply add that I hope the amendment proposed by the Senator from Kentucky, which would confine the operation of the resolution to the soldiers hereafter to be enlisted, will not receive the sanction of the Senate. It is a sad thought that brave men who are dying for their country, men who are periling their lives in front of rebel legions, men who are in the trenches before Richmond under the fire of rebel cannon, men who are bearing your flag in various parts of the country, men who hold the Mississippi river, men who are serving the country with fidelity; it is a sad thought that such men are troubled by the consideration that their wives and their children at home are left to the tender mercies of men who do not believe that they ought to be in the service of their country. It is wrong; and, sir, justice, humanity, and patriotism all demand the passage of the measure before the Senate in order to remedy that wrong, and I hope that we shall now have a vote.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Kentucky, [Mr. Davis.]

The amendment was rejected.

Mr. POWELL. I offer the following amendment by way of a proviso:

*Provided*, That no slave shall be emancipated by virtue of this resolution until the owner of the slave or slaves so emancipated shall be paid a just compensation.

The Senator from Massachusetts [Mr. Wilson] says he has no doubt that the matter of compensation to the owner will hereafter be considered by Congress. Now, sir, I do not think we can pass a bill or resolution like this, if we act in obedience to the Constitution, unless we declare in the enactment itself that compensation shall be granted. When at the last session the law was passed to enroll negroes and place them in the Army, Senators would not consent to pass it until a provision was inserted in it that the master should be compensated. To be sure, the compensation then provided was a very inadequate one; and inadequate as it was it has never been paid. The amendatory conscription law, as it was called, of the last session, required a commission to be appointed to hear the claims of slave-owners, and provided for paying to the owner of every slave who volunteered a sum not greater than \$300, and \$100 to the owner where the slave was drafted. Senators put in that provision, I suppose, to allay their conscientious scruples before they could vote to take slaves for the Army. That was the sole object of the provision. It was a kind of salvo to the conscience. Now, sir, it is plainly written in the Constitution of the country—I read from the fifth article of the amendments—that no man shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." I do not see how Senators who regard their fidelity to the Constitution, who are disposed to obey the oath they have taken to support it, can vote for this resolution, taking men's property without providing for any compensation to them.

But without regard to that question, I can find no warrant in the Constitution for passing the joint resolution itself. When this question was last under discussion, the Senator from Massachusetts [Mr. Sumner] undertook, as I under-

stood him, to give reasons why the proposed law was constitutional. He made a most singular speech for a lawyer, and especially for a constitutional lawyer, as I believe he claims to be. The thing really looked funny. If it had not been the utterance of a grave Senator I should have thought it was all twaddle and bosh. He made a speech to prove to the Senate that this measure was constitutional, and he never referred to the Constitution at all; never cited a single letter, line, sentence, or clause in that instrument, and he sat down as if he had proved to the Senate that the act was constitutional. Is not that a most singular kind of argument to be made in this body, to prove to the Senate of the United States that a proposed law is constitutional, which does not suggest a single provision of the Constitution to sustain it? If we had been a set of crazed idiots he could not have treated us differently.

I have been taught to believe that the Federal Congress has no power except that which is conferred by the Constitution, and, indeed, that is the express language of the instrument itself. The Senator, however, not only failed to show that there was warrant in the Constitution for the exercise of this power, but he made no effort to do away with those express provisions which forbid it. That is the kind of constitutional argument we had from the Senator!

The other Senator from Massachusetts, [Mr. WILSON,] who introduced the joint resolution, had the good taste not to indicate that he would make a constitutional argument upon it. That Senator's sound practical good sense taught him that any constitutional argument of the question would but subject him to laughter; he knew that there was no provision in the Constitution authorizing such a measure, and hence he did not undertake to sustain it upon constitutional grounds. He merely announced that he thought the power existed, but his colleague rose gravely in the Senate to discuss a constitutional question, and he made the kind of argument which I have indicated. He said that Congress has passed a law for another purpose, and hence that it settled the principle. In all my life I never heard such a constitutional argument before!

Then comes the worthy Senator from Ohio, [Mr. WADE,] with the blunt honesty and candor which always characterize him, and he makes a speech in which he does not pretend to say that the measure is constitutional. He rather scouts those who talk about the Constitution, and he says that he supports the measure upon high principles of right. He proclaims, however, that it is constitutional, and to prove that he reads the affidavit of a negro on another subject. That affidavit disclosed a hard kind of case about a poor negro, but it did not disclose that his former master put his wife and children in that camp. I dare say that if the Senator would go among the camps of our soldiers he would find white women and children hanging about their husbands and fathers, and he must know that a good soldier, one who preserves discipline in his army, would put them out, and that is all that there was in that matter. Then he says that there was a lamentable case which he saw himself of a woman and child who were battered and bruised. I have no doubt that the Senator saw just what he tells us he saw. I have no doubt that the persons who inflicted that injury on that poor woman and child were bad persons. But if the Senator takes the trouble to look at any daily newspaper in his own State, he will find as harsh cruelties inflicted on children by their parents all of whom are white. That proves nothing except that there are bad and wicked persons who are cruel to slaves, and bad and wicked persons who are cruel to their own offspring.

But, sir, that kind of sickly sentimentality is not to govern this body in the exercise of a constitutional power. The Senator from Ohio goes further, and tells us openly and boldly what I have known to be the fact for more than two years, that the object of this war is to crush the institution of slavery, and not to restore the Union as it was. I am obliged to the Senator for his bold utterances. I like truth, candor, boldness; I abhor from the bottom of my heart your sickly trimmers and dodgers. They are unworthy the confidence of the country, unworthy the confidence of their associates, unworthy the confidence of men animated by the principles of manhood. The Senator from Ohio, however, comes up boldly

to the work, and he wants this war to continue for the purpose of bringing about the, to him, most cherished of all objects, the destruction of the institution of African slavery; and he tells you that he is glad that the rebels stand out stoutly and fight with heroic valor. It is well for that Senator that he is enrolled among those who are counted *par excellence* loyal men. If a poor Democrat had uttered that sentiment he would have been denounced as disloyal, and perhaps ere this time some Senator would have offered a resolution to expel him from this Hall. The Senator from Ohio rejoices that the rebels fight with heroic valor and with staunch courage. He says he is glad of it, and he expresses his great gratification because that will prolong the war.

The Senator's position is just this: until he can accomplish the, to him, most desirable of all objects, the abolition of slavery, he wishes the war fought on for twenty or thirty years, or indefinitely. He proclaims to the Senate—and that he believes every utterance he has made no man can doubt—that he is glad that the southern people fight with such desperate valor, because it tends to prolong the war and to cause this institution ultimately to be abolished. The logic of the Senator's propositions then is, that he is willing the war shall go on for thirty or more years, and he is glad that the southern people exhibit desperate valor; he is willing that thousands and tens of thousands and hundreds of thousands of the people of the adhering States, his own constituents in Ohio in part, shall die by the steel of those in arms in order that the war may be prolonged to set free a few miserable Africans! That is the Senator's proposition, to me a monstrous proposition. The idea that a Senator should be delighted at the heroic valor of the southern people, when his own kindred, his own constituents of the white race, are falling beneath their steel by hundreds of thousands, and perhaps, as will be the case if the war continues, (as the Senator wishes it may in case he cannot effect the object sooner,) by millions! He rejoices at it because it tends to effect this object.

The Senator's proposition, if logically carried out, would clothe this whole land in mourning and woe; it would bring lamentation to the hearthstone of every family in this broad nation; a father slain here, a son there, and a husband yonder; and at all that the Senator rejoices, because by bringing such desolation into the families of the land he thinks he can free these poor, miserable, downtrodden Africans. Sir, I have more sympathy for my own race than I have for any other, for my own people, and for my own household, and for the household of my neighbor. I do not wish to see mourning and sorrow carried to any family. I would to God that the weeds of mourning could be banished from my vision forever; but if there is to be mourning, I prefer that it shall be by others rather than by my own people.

But, sir, such are the principles and such are the sentiments of the Senator from Ohio, and I verily believe he is right when he says that the President of the United States affirms the same principles. I think the message of the President, as they say out West, was riding on both sides of the sapling. I know that the New York Tribune construed it as the Senator from Ohio does, and the New York Times construed it as the Senator from Maryland does. I thought when I read it, to use the language of a rather grandiloquent friend of mine in Kentucky when he wanted to express the word "doubtful," that the President intended to leave every person in a state of dubiosity as to what he did mean on that subject. I thought he was muddy upon it purposely. I thought he wanted to get recruits from both wings of his party in that way. I considered the message to be uncertain and indefinite on that subject. The Senator, however, is right when he says the President's platform was that way. But there was another platform, and I hope they will not repudiate it before the term of service for which this man was elected expires. I refer to the Chicago platform, upon which Mr. Lincoln was elected for the term which he now serves. That platform declared emphatically that Congress had no right to interfere with slavery in the States, and I hope that until the presidential term expires the Senator from Ohio and others will confine the President to that platform, and not put him on his new platform until he is sworn in on the 4th day of March next. I

do not think it is right to swap horses in this way. The President is not across the stream yet, and you know he said on a memorable occasion that it was not well to swap horses while crossing a stream. Let him get across, let him enter upon his next term before you apply to him the platform on which he was recently elected.

But, sir, to come back to the question, there is no warrant in the Constitution for the passage of the joint resolution now before us. The Senate refused to pass a law conscripting negroes and taking them into the service until they put into the law a proposition for compensation to the master. Now, I ask Senators to point me to the clause in the Constitution that authorizes the passage of this law. There is no Senator here who will contend that by virtue of his office as a Senator he is clothed with any power except that which is derived from the Constitution of the country, that Constitution which you and I and all of us swore to support when we took our seats here. We have no power except what is conferred by that instrument. Point me to the clause of the instrument that authorizes this legislation. It is not in the wit of mortal man to do it, because the Constitution has no such warrant; and the learned Senator from Massachusetts [Mr. SUMNER] who made that constitutional argument of which I have spoken, well knew it. He is learned in the Constitution, I admit. I know that many of his constructions are very heretical; but he knows every line and letter of the Constitution, and he would have pointed to the clause authorizing this legislation if there was one.

These slaves are private property. If they are not private property, why legislate to make them free? If they are property, what becomes of the clause of the Constitution which provides that private property when taken for public use shall be compensated for? You do not here even take it for public use, but you take it, you say, to animate the soldiers who are in the field, and to induce men to go into the service as soldiers. Those whom you want to enlist are considered as property. You treat them as property. They have been considered from the time of the adoption of the Constitution to this day as property. They have been so regarded by all political parties. Your courts, both State and national, have adjudicated it over and over again. There has been one concurrent, unbroken series of authority of political and judicial opinion on that subject, and there is none to the converse. How, then, can you take that property from the lawful owner without giving him compensation? It is impossible that you can do it unless you violate the Constitution. But, Senators, I am aware from what I see about me that this resolution is going to pass. I know there are many able constitutional lawyers who will vote for it; and I would be delighted if some one of them would kindly condescend to point to the clause of the Constitution that authorizes it. My friend from Delaware called for such an exposition of the Constitution, and the Senator from Massachusetts undertook to give it, and never referred to the Constitution at all.

Mr. President, it is manifestly just, if you pass this law, depriving these people of their property, that you shall give them compensation, and the amendment I propose simply declares that compensation shall be awarded. I shall not take up further time on this question; but before I take my seat, allow me to say a word in regard to the war. In the course of the debate, a great deal has been said about it. My views in regard to the war are very well known to the Senate. I have, from the beginning, viewed it as a thing that would result in incalculable evil to both sections of the country. I believe to-day that you will never restore our constitutional Union by war. I believe the result of the continuance of the war will be that the constitutional liberties of the people both North and South, which our fathers gave us, will be destroyed. We actually live to-day under a military despotism; and in my judgment you will have it entailed upon you permanently, unless this war is speedily closed. Train this army and keep up its numbers to what they have been heretofore and are now, for a few more years, and I tell you, sir, men with swords will dictate your legislation. There can be no doubt of that. History in all times is full of such precedents.

Some call this a war for the negro, but, in my



opinion, those who look upon African slavery as the cause of the war are greatly, sadly mistaken. That is but the distempered, fanatical idea of those who had "negro on the brain;" who thought of nothing else; who spoke of nothing else; who had no other political capital to build upon. They are the men who got up that twaddle; men who were prominent among the old maiden ladies who get up societies, and those white cravated creatures who go about, and instead of preaching Christ crucified, preach Sambo in chains.

This war was not designed by the large slaveholders of the South; they did not want the war. I will tell you the cause of this war. It is not a war of the negro; it is not a war of tariffs; it is not a war of any particular line of policy; but it is a war of politicians who were faithless to their constitutional obligations, and there the responsibility will be placed by the philosophical historian in all after time. If I were to describe it in a sentence, I should say that it is a war of politicians both North and South, a war of ambitious fanatical zealots, and they existed North as well as South. They existed in both sections, and they were regardless of their constitutional obligations. It is that class of politicians who are faithless to the law, who are faithless to their oaths of office, and who claim to be governed by a law higher than and above the Constitution. Any people who are led by such men will be wrecked and ruined. There is not a man who has a thimbleful of brains but knows that there is no liberty save in the supremacy of the laws. They lose sight of this wise maxim and take a tilt in any direction that gratifies their whims and their enmities. This war was not brought about by a majority of the American people in either section. There were fanatical, higher-law abolitionists in the North who disregarded their constitutional obligations, which wise, honest, and just men were bound by; and there were in the South a class called fire-eaters who were fanatics too. Both parties were ready to take up any bone about which they could make the fiercest quarrel. They had the tariff bone at one time, and they came near wrecking the Union on that. If the bone of contention had been the spinning-jennies of New England, and they thought that issue would have more aggravated the people than any other, they would have seized on that bone. The slavery question was caught hold of by these designing men, men faithless to their constitutional obligations, as the one best calculated to excite the people. What the fanatics of the North said, the fanatical fire-eaters of the South echoed to their people, and the hard things which they said would be catered back to the North. I have seen speeches in Congress made by men of both sections, filled up with long strings of quotations of harsh sayings by men of the other section of the people of their own. The historian who will write the cause of this war truly and philosophically will say that it was a war of politicians North and South, and of politicians who were faithless to the obligations to the Constitution of their country. I ask for the yeas and nays on the amendment I have offered.

The yeas and nays were ordered, and being taken, resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Bucknaw, Davis, Hendricks, Johnson, Nesmith, Powell, and Saulsbury—7.

NAYS—Messrs. Anthony, Brown, Carlile, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hicks, Lane of Indiana, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wiley, and Wilson—30.

ABSENT—Messrs. Doolittle, Harding, Howard, Howe, Lane of Kansas, McDougall, Morrill, Richardson, Riddle, Ten Eyck, Wilkinson, and Wright—12.

So the amendment was rejected.

Mr. SAULSBURY. I offer this amendment as a proviso:

*Provided*, That the provisions of this resolution shall not apply to or be operative in any State that has not assumed to secede from the Union.

It is not my intention, sir, to continue the discussion of this measure by any remarks on the resolution. I will, however, take occasion to say that I am sincerely glad that the honorable Senator from Ohio has made in the Senate to-day the speech that he has made. The country now will understand from an authoritative source (because he speaks not only for himself but for the President of the United States and for the Repub-

lican party) what is the object of the present war; what we are fighting for. We understand further that if that object and purpose cannot be obtained under thirty years of bloodshed, the land is to run red with blood thirty years longer. I think the thoughtful people of this country will pause and think.

Mr. President, John Randolph, in his last will, said that Nathaniel Macon was the wisest and best man he ever knew. I will conclude what I have to say now by reading an extract from a letter of Nathaniel Macon, dated February 9, 1833, It is this:

"When confederacies begin to fight liberty is soon lost, and the Government as soon changed. A Government of opinion established by sovereign States for special purposes cannot be maintained by force. The use of force makes enemies, and enemies cannot live in peace under such a Government."

The spirit of this debate on the part of the friends of this measure illustrates the truth of this saying.

The amendment was rejected.

The joint resolution was reported to the Senate as amended.

The VICE PRESIDENT. The amendment made as in Committee of the Whole will be read before the question is put on concurrence.

The amendment was read. It was in lines twenty-two and twenty-three, to strike out the words "during the continuance" before "of any such marriage."

The amendment was concurred in.

Mr. DAVIS. I now renew in the Senate the amendment which I offered in committee, and ask for the yeas and nays upon it.

The VICE PRESIDENT. Does the Senator desire to have the amendment read?

Mr. DAVIS. I suppose it is not necessary. The Senate well understand the effect of the amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I ask to have the amendment read.

The Secretary read the amendment; which was in line six to strike out the words "that has been or" and insert "who," and after "may" to insert "hereafter."

Mr. CARLILE. I did not intend to open my mouth again in the Senate of the United States during the brief remnant of the term which yet remains to me; and I would not now say a word if I did not believe that possibly it is but justice to myself to explain the reasons that govern me in voting as I shall vote upon the pending proposition. I voted against the amendment offered by the Senator from Kentucky, [Mr. POWELL,] providing for payment to the owners of the slaves referred to in the bill in the event of its passage. I did it from a conviction upon which I have acted ever since I have had the honor of a seat in this Chamber. In my humble opinion Congress has no more power to buy negroes and appropriate the money for their payment out of the public Treasury to set them free, than it has to liberate them. Entertaining that opinion, I could not, however much I might have desired to do so, support the amendment offered by the Senator from Kentucky, [Mr. POWELL,] nor shall I vote for the amendment of his colleague making the bill prospective. I shall, of course, vote against the bill upon its passage. Denying, as I have ever done, the power of the Government of the United States to conscript slaves or anybody else into its armies, I have no difficulty in arriving at the conclusion that you have no right to pass any such bill as this now under consideration. The power of raising armies is given, it is true, by the Constitution of the United States to this Government, but it cannot raise them by conscription without destroying that other provision which recognizes the right of each State to its own militia. You must raise your armies in another and different way than that which you have undertaken by the passage of your conscription bill. I deny all power to put a negro, the property of his master, into the service of the United States in any capacity, with the power to you to liberate him. It is beyond your jurisdiction, according to my reading of the Constitution, and upon that I must act as a Senator in this body. It was contemplated by the framers of this Government that the militia of each State should be its protection, not only against other foes, but against the encroachments

that might be made upon the rights of the States by the agent which they constituted in the formation of the Federal Government.

But, sir, if I believed that you had the power to conscript a negro slave and place him in your Army and thus profit by the service which he would render in a military capacity, I would, with the Senator from Ohio, say that you should not only liberate him but all connected with him. I can understand the consistency of gentlemen occupying the position of the Senator from Ohio, but I cannot understand the consistency of gentlemen who denounce the institution of slavery as sinful, inhuman, unrighteous, and the sum of all villainies, but at the same time will not go with the Senator from Ohio. Men who believe that under this war power, or this power to raise armies, you can conscript negro slaves and put them into the service of the United States, it seems to me would not have to go far to believe that you have the right to liberate them. He who spills his blood in the defense of his country is entitled to his freedom, and all who are connected with him by blood or otherwise. If I entertained the opinion that you could conscript negro slaves, and believed with gentlemen who have asserted the power on the part of this Government to conscript them and put them into the military service in defiance of the laws of the States, I would, with the Senator from Ohio, advocate the passage of this bill; but I deny the power; neither do I admit that the institution of slavery is inhuman, unchristian, or immoral. I believe to-day what I have ever believed, that the best condition in which the negro can be placed is the condition occupied by him in the slave States. God made the negro inferior to the white man; he belongs to an inferior race. I look upon what you call slavery as a mere system of government, best suited to the condition and capacity of the people subject to it. No man will say that there are any universal principles in government. That form of government is best for any people which best promotes their comfort and happiness, which best tends to the advancement of their physical and moral being, and there is no other form of government that has ever been devised since the foundation of the world that tends so much to promote the comfort and happiness, the physical and intellectual improvement of the negro, as the system of slavery as organized in the States of the Union. Deprive him of the protecting care of his master and he will disappear more rapidly than the Indian. He cannot contend with the white race. This you have admitted in your freedman's bill, and many legislative enactments at the last Congress and this.

The question being taken by yeas and nays on the amendment of Mr. DAVIS, resulted—yeas 6, nays 32; as follows:

YEAS—Messrs. Bucknaw, Davis, Hendricks, Powell, Saulsbury, and Trumbull—6.

NAYS—Messrs. Anthony, Brown, Carlile, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hicks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wade, Wiley, and Wilson—32.

ABSENT—Messrs. Doolittle, Harding, Howard, Lane of Kansas, McDougall, Nesmith, Richardson, Riddle, Ten Eyck, Wilkinson, and Wright—11.

So the amendment was rejected.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. TRUMBULL. Mr. President, I should be very glad if I felt at liberty to vote for this joint resolution; but as I do not, I will briefly state why I cannot vote for it. If I were to follow the inclinations of my mind I should vote to free every human being where my vote would have any tendency to accomplish the object. I am as decidedly opposed to slavery, I presume, as any member of the Senate. But, sir, we hold our seats here by virtue of a written Constitution. We are here to make laws under that Constitution. Every one of us when we came here went up to that desk, and, appealing to the great Author of all to help us in the oath we were to take, solemnly swore that we would maintain that Constitution. I can, therefore, give no vote which I believe violates that Constitution. I am glad that others can see their way clear. I do not expect to make an argument here to change anybody's opinion,

nor to combat what has been said by any member of the Senate, nor to call forth any reply.

I can agree with all the appeals which may be made for humanity's sake in favor of this measure. Sir, if my vote and voice could do it, and I could utter the word or give the vote consistently with the oath which before Heaven I have taken, I would free, as I have said, every human being upon God's earth.

What is this measure? It proposes to free the wife and the children of any person who has been mustered into the service of the United States. We all know that for many years past the cruel practice has prevailed—nobody condemns it more than I do—of selling negroes from the northern slaveholding States into the southern. They have gone from Delaware and Maryland and Missouri and Kentucky and Virginia into the more southern and southwestern States. Now, sir, take a case. Here is a negro man who was sold, if you please, in the State of Delaware, twenty years ago, and he is found down in Tennessee or Louisiana, not having seen his family for nearly a quarter of a century. Inhuman and barbarous it was, I know; that it was so. He has now entered the military service of the country in the State of Louisiana. The children that were his were left in Delaware, and they belong now to some person there under the laws of Delaware. He does not know them; he has not seen them for years; and you propose to do, what? You propose to say by law that because he has entered the service in Louisiana, therefore slaves in Delaware shall be free; and you do that for the purpose of promoting enlistments! Why, sir, the man has already enlisted. This resolution is not prospective in its operation; but it declares that the wife and children of those who have enlisted shall be free. If you have power to do this, why have you not power to free every slave in the land? I believe my friend from Massachusetts [Mr. SUMNER] thinks you have. If I thought so, nothing would give me greater pleasure than to vote for it, but I do not so understand our powers; I do not understand that the men who made the Constitution, and who have construed it from the day it was made to the present time, so understood the powers of the Federal Government; and therefore I have been in favor of the constitutional amendment changing the Constitution so as to make all slaves free, and to make them free in such a way as would forever put it beyond the power of any State afterward to reenslave them.

I had hoped that this constitutional amendment would pass, and end this thing forever; I hope so still; but this joint resolution is only partial in its application. It, however, contains a principle which would authorize the passage of a bill abolishing slavery by an act of Congress; for if in the case I have put you can declare the slave of a loyal citizen in the State of Delaware, or in the State of Kentucky, to be free, because the father of that slave in some distant State has entered the public service, you may declare free all the slaves in the State of Virginia, or in the State of Delaware, and you can end the thing at once by act of Congress. Believing, however, that we have not the power to pass such a law, with the greatest desire on my part to pass it if we had the power, holding myself bound by the Constitution which I have sworn to support, believing that there can be no genuine liberty except liberty regulated by law, believing that we can have no Government worth preserving unless we stand by the Constitution as it is till we change it in a constitutional mode, I must vote against the passage of this joint resolution.

The question being taken by yeas and nays resulted—yeas 27, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Hicks, Howe, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wade, Wiley, and Wilson—27.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Hendricks, Johnson, Nesmith, Powell, Saulsbury, and Trumbull—10.

ABSENT—Messrs. Collamer, Doolittle, Harding, Henderson, Howard, Lane of Kansas, McDougall, Richardson, Riddle, Ten Eyck, Wilkinson, and Wright—12.

So the joint resolution was passed.

#### EXECUTIVE SESSION.

Mr. SUMNER. It is important that there should be a brief executive session, not more than

two or three minutes, in order to act on a matter that must be acted upon to-day. I move, therefore, that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, January 9, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday last was read and approved.

#### CALL OF COMMITTEES.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports for reference only, not to be brought back by motions to reconsider, when no reports were made.

Mr. STEVENS. I desire to report from the Committee of Ways and Means an appropriation bill.

The SPEAKER. The Chair will state that any business reported during the morning hour to-day would have to go on the Calendar without debate, this being the alternate Monday. The morning hour will not expire until a quarter past one.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had indefinitely postponed the bill of the House (No. 586) to drop from the rolls of the Army unemployed general officers.

#### MESSAGES FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, communicated to the House sundry messages in writing.

#### ABOLITION OF SLAVERY.

The SPEAKER. The next business in order is the consideration of the business in which the House was engaged at the adjournment on Saturday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

#### LOYALTY.

Mr. YEAMAN. Mr. Speaker, our Government being based upon the idea of the right and the capacity of the people to govern themselves, and the whole scheme being but a mean to ascertain and execute the will of the people, it follows as a necessary sequence that this will, when legally expressed, must be submitted to. I do not mean we must surrender opinions and principles, nor abjectly submit to the edicts of a majority, but I mean acquiescence in the legitimate result of the governmental compact, loyalty to the Government, reserving, of course, the right, at the stated constitutional periods, to change our governors. Observance of this rule would have saved us this war, and an observance of it now will carry us and the Government through it in safety. Faction, heedless, and exaggerated opposition to the Administration and the verdict of the people will only complicate the evils we complain of. I am not of those who have abandoned all hope of saving this country and our Government. I am full of hope. I have confidence in the American arms to overthrow the military power of the rebellion; and that being done, I have confidence in the hearts of the American people that they will deal justly with a defeated and fallen enemy who has proved himself so worthy of our steel; confidence that the American mind must see the advantage of restoring several millions of civilized, Christian, intellectual, and polite people to citizenship, rather than degrade them or exterminate them or strip them of their possessions and political franchises; and confidence that we will not forget the lessons of twelve centuries of the history of our blood, which has never patiently and permanently submitted to the undue power of executive heads or capricious majorities. Many and great departures have been made, as I conceive, from the letter of our Constitution and the spirit of our institutions, and these I have not failed to deplore and condemn in their time. But I must say that these departures from rule and precedent

in our trouble have not been so frequent or so great as has been common with other Governments and other peoples in times of emergency. There is to be found no example where so much force has been arrayed in so great a revolution, and the conduct of that force so much governed by law and the traditions of the past. In their political resources our people are the most elastic and the most fertile in the world, and they will soon overcome the minor evils that have attended the struggle, if they can only first overcome the greater one of the secession rebellion.

#### THE WAY OF PROGRESS.

The silent, flinty, scorched, and tangled history of the physical earth is a history of progress. The blood and tears of mankind that record the sufferings of men and of nations point the way of the progress of the race. The history of the earth and its several creations, demises, and successions of animal and vegetable life, as written in the pages of the great stone book, is a history of change, of progress, of violence. In the political and moral, as in the physical world, nothing is accomplished without somewhat of pain and violence, and he who has taught the "Philosophy of History," affirms that "every revolution is a transient period of barbarism." It would seem that in the moral and political world it ought to be different, as these are the provinces of mental exertion and dominion. But it is not so ordered. There is so much of the physical and animal in all of us, our modes of thought and our conclusions are so much connected with and controlled by our habits and conditions of existence, that great changes in our convictions of right, of duty, and of interest, and changes in the form or purpose of our governments, are nearly always attended by such breaks, heats, irregularities, upheavals, and subsidences as may, in politics and war, be compared to the plutonic convulsions of the leading geologic eras. The causes may be gradual, that is, may be preparing and accumulating a long time, but their defouement will generally be violent, whether among religions, as creeds and confessions of faith go down or up, and martyrs are burned or sainted; or among Governments, as monarchies, republics, democracies, anarchy, succeed each other in rapid rotation. This is because the bulk of mankind travel in a circle, repeat history, and learn nothing from the past. Our Government was framed to prevent the recurrence of these paroxysms in our politics by affording a constitutional and organized way of peaceful change and progress, and this path would have been the path of peace had it been observed. It has been departed from; can we return to it? If we cannot, how long must we or can we fight?

#### OTHER EXAMPLES.

The States of Greece fought twenty-seven years on a question of dominion and leadership in their confederacy, and the great historian of the conflict, in recting the violence, suffering, and irregularity that were suffered, says that the same things will always happen under like circumstances so long as human nature remains the same. The Romans bled twenty-one years to settle questions of leadership among parties and men, and in the end the empire triumphed over the republic. From the beginning of the contest between Charles and the Parliament to the establishment of William and Mary on the throne under the ancient constitution somewhat improved was forty-eight years, embracing the civil war, the Commonwealth and Protectorate; the beheading of one king, the flight and recall of another, the abdication of another, and the fortunate but kind semi-usurpation of a foreigner. From the troubling of the waters in 1789 to the overthrow of Napoleon and the reestablishment of the Bourbons in 1815 was twenty-six years; and if we embrace the revolutions of 1830 and 1848, and the *coup d'état* of 1851, as among the remote but legitimate consequences of that great tragedy, it was sixty-two years from the first trouble to the final development of the most democratic social order in Europe, under the most imperial monarchy of Napoleon III. Hannibal sustained himself for seventeen years in the heart of Italy, was at last compelled to return, and was overthrown at the gates of his own city.

The Romans and Samnites fought fifty years for the dominion of Italy; and Germany bled

thirty years in the contest between orthodoxy and reformation, between infallibility and the insurrection of free thought. Are we to have troubles as long as other nations in the past? Shall the picture of Hungary and Transylvania in the beginning of the seventeenth century—"far and wide the land lay waste, while the injured serf had to complain equally of his enemy and his protector"—be repeated all over this land? Or the condition of France before Joan of Arc defeated the English at Orleans, and while the country, in a state of anarchy, was subject to the brigandage of Englishmen, Frenchmen, and Burgundians? It is related:

"There appeared nothing but a horrible face, confusion, poverty, desolation, solitariness, and fear. The lean and bare laborers in the country did terrify even thieves themselves who had nothing left them to spoil but the carcasses of these poor miserable creatures, wandering up and down like ghosts drawn out of their graves. The least farms and hamlets were fortified by these robbers, English, Burgundians, and French, every one striving to do his worst; all men of war were well agreed to spoil the countryman and merchant. Even the cattle, accustomed to the alarm bell, the sign of the enemy's approach, would run home of themselves, without any guide, by this accustomed misery."

While I am for a vigorous use of force, I am for trying some of the "arts of statesmanship" to prevent these bitter calamities; and this brings me to a subject upon which I hope the House will indulge me a few minutes. We must have a practicable policy of

#### RESTORATION.

If we can detect the quantities, numbers, and relative proportions of the forces involved in this problem we may find a proper solution in statesmanship sooner than others have found an unfortunate one in brute force and sheer exhaustion. There has to be an end of all wars, and I am not afraid to begin to look for an end of this one. And as we are determined not to end it except on the basis of our nationality, had we not better begin to devise a way for the return of disaffected and rebellious citizens, and if there is a disturbing cause in our politics remove that cause, and then on other questions mark out a way plain and easy for the return of States and citizens to duty and to loyalty? If the greatest temporal Power that has held dominion over men deemed it wise and politic in conquering her barbarian enemies, rivals, and neighbors, to destroy as few of them as was possible to accomplish her purpose, and, having conquered, admitted them to citizenship with as many of their former laws and customs as were compatible with their new relations, how much more should we pursue that line of policy with our own people! The country has rejected the impracticable scheme of "reconstruction" contained in the President's amnesty proclamation of December, 1863. The President rejected the bill passed by Congress at the last session, and now the same scheme, somewhat modified, has been reported from the committee on rebellious States. I cannot go for that bill. If there were no other objection to it I would fear that its extreme complication would prevent its ever being executed, and I think I may now safely predict that not one State government will ever be organized under it. And believing as I do in large national powers, I cannot for the life of me see where this Congress gets power to abolish slavery in the States by statutory enactment, and punish slaveholding in the future. If gentlemen really believe that can be done I see no use in the constitutional amendment. Then the mode of organizing the State governments, and the form which the bill requires them to assume. If the first convention does not do the job according to pattern and order, they are prorogued, and a second called, and so on until a convention of free men can be found obediently to offer up on a silver waiter a piece of parchment written all over just according to the copy set for them by this bill. If Congress can do that, why can we not in the first instance prescribe, establish, and put in motion a State government just to our liking? And if they can do that why can they not abolish one that is obnoxious and set up another in its stead? Should that bill pass and be sustained by the courts I should feel very uneasy about the preservations of our institutions of government.

No, Mr. Speaker, the case needs a simpler plan, a juster plan, which the people can take hold of and act upon without too much complication and

oppressive overseeing. If there is one thing which the American people study more and understand better than any other, it is the erection and running of the machinery of representative government. Give them an opportunity, rely on them, on their resources, on their ways and means, their interests, and the work will be done in due time and in much better order than under the direction of Congress or military governors.

I believe I was the first one to propose in a formal manner to leave this whole thing to the people and the courts. Very early in December, 1863, I introduced into this House the following joint resolutions:

"Be it resolved by the Senate and House of Representatives of the United States in Congress assembled: 1. That a combination of persons, in the name of a State, or an assumed confederation of States, for levying war against the United States, or for withdrawing such States from the Union, does not alter the legal character of the act done, nor excuse those engaged in it, nor does any such combination, levying of war, or attempted withdrawal amount to any destruction, forfeiture, or abdication of the right of those who at any time acknowledge allegiance and render obedience to the United States, to administer, amend, or establish a State government.

"2. That a formal return or readmission of any State to the Union is not necessary. It is sufficient that the people, or those who are loyal in any State, and qualified by the election laws thereof in force before the rebellion, shall at any time resume the functions of a State government compatible with the Union and with the Constitution and laws of the United States, and doing this is sufficient evidence of loyalty for the purpose of doing it.

"3. That all questions touching property rights and interests arising out of confiscation and emancipation, and the effect of any law, proclamation, military order, or emergency of war, or act of rebellion, upon the title to any property, or upon the status of any persons heretofore held to service or labor in any State, are left for the judicial determination of the courts of the United States.

"4. That the whole power of the nation is pledged for the suppression of the rebellion, the execution of the laws, the defense of loyal citizens in any State, the territorial integrity of the Republic, and the nationality of the Constitution.

"5. That nothing herein contained shall be construed to abridge or lessen any valid defense, or as waiving the right of the Government to inflict punishment; the purpose being to declare the nullity of secession as a State ordinance, to define the objects of the war, and to express the sense of Congress as to the proper mode of restoring harmonious relations between the Government and certain of the States and the disaffected people thereof."

The House never came to a vote on them, and it was somewhat indicative that they were not promptly negatived. In September last, Mr. Seward made a speech at Auburn, in celebration of the fall of Atlanta, and in advocacy of Mr. Lincoln's reelection, in which the following passage occurs:

"When the insurgents shall have disbanded their armies and laid down their arms, the war will instantly cease, and all the war measures then existing, including those which affect slavery, will cease also, and all the moral, economical, and political questions, as well as questions affecting slavery as others, which shall then be existing between individuals and States and the Federal Government, whether they arose before the civil war began or whether they grow out of it, will, by force of the Constitution, pass over to the arbitration of courts of law and to the councils of legislation."

This was the only part of the speech which its distinguished author thought it necessary to italicize in the pamphlet edition. Coming from the premier of the Administration this was hoped to be a long stride in the right direction.

Soon after the result of the election was known General Butler made a speech at New York, which most people thought was made on purpose and with an understanding, and to prepare the public mind for the things which it was supposed to foreshadow. And lastly, the President in his recent message, though not quite coming up to the pattern set by General Butler, which embraced general and complete amnesty, and an offer of the olive-branch, yet very well says "abandonment of armed resistance to the national authority on the part of the insurgents" is the "only indispensable condition to ending the war on the part of the Government," and "in stating a single condition of peace, I mean only to say that the war will cease on the part of the Government whenever it shall have ceased on the part of those who began it." Barring a little mixture with other matter found just in that part of the message, I do most heartily and thoroughly approve of the sentiment. As it is natural for me to think I have been right all the while, I do most cordially congratulate the President and his Secretary on their conversion to my views. Though a little late in seeing it, there is time yet for them to in-

dorse and encourage the plan of restoration embodied in the bill I introduced on that subject at a former day of this session:

A bill to provide for the restoration of the civil authority of the United States in certain States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a civil government, republican in form, and compatible with the Union and the Constitution of the United States, shall be established by the people, or administered as it existed on the 6th day of November, 1860, in any State, now or since that day not represented in the Congress of the United States, such State shall, in all matters, be held and treated as a State of the Union, and its government guaranteed.

SEC. 2. And be it further enacted, That, in organizing or administering any government in any such State, no person shall be entitled to vote except citizens having the qualifications prescribed by the laws thereof in force on the 6th day of November, 1860.

SEC. 3. And be it further enacted, That no law or usage of any such State shall be held to defeat or abridge the right to freedom which any person or class of persons may be adjudged entitled to, under any law of the United States, or any order or proclamation of the President thereof, by a court of competent jurisdiction.

SEC. 4. And be it further enacted, That all questions touching the status of persons in such States and the titles to property are remitted to the courts of competent jurisdiction.

This is an appeal to the people, and a way offered to them; and it is the peace which will ultimately be adopted out of necessity.

I regret that the provisions of the committee's bill compel me to vote against it, for I do desire to support, in some form, that clause of the bill which recognizes the State government of Louisiana. But if the bill meets its deserved fate that can be done by a separate resolution. The only objection I have heard to my bill is that it allows everybody to vote. And what if they do vote, just so they first lay down their arms and vote to organize and carry on a loyal State government? It will come to that at last. Those people cannot be forever disfranchised and held as conquered colonies. I would not vote a man nor a dollar to execute such a policy. This House is less practical—I had almost said less wise and less just—on that one point than any other organ of opinion on the continent. I affirm that the President, the Secretary of State, the American press, nine tenths of the American people, and nearly the entire Army, would to-day stop this frightful war if it could be done on the President's condition of the rebels laying down their arms, and on my plan of allowing the people to form their own governments, with no restrictions except loyalty to the Constitution and Union.

#### DUTY OF CONSERVATIVES.

What consistent course is left for those who have at once opposed the rebellion and many of the measures of the Administration? Our duty and our interest alike demand a proper answer. The contest is between nationality and voluntary disintegration. If in that contest the old order of things has already been lost, there is a tendency toward an issue between central power on one hand and local and personal license on the other. We have tried to avoid these two extremes and to hold the State in the deep water of the middle channel of the Constitution. We have failed. It is possible that one of these two extreme ideas will for a while succeed. That is historical. It is equally historical that in such contests the middle and conservative men are destroyed by the hostility of both extremes. What now is our duty to ourselves, to the country, and humanity? Shall we retire absolutely from the contest, or adopt the lesser of two evils and reluctantly accept one of the two antagonistic and extreme ideas of government, or continue so to discharge the duties of citizens and legislators as to deal with facts as we find them, and not with theories as we would have them; make the best of events and circumstances as they overtake us or fall in our way; round off the angular points of a transition period, and restrain, if possible, the current of revolution when it would involve all in a common ruin? The latter seems to me the part of wisdom, of duty, and of interest. We cannot retire from the contest if we would, and I am persuaded we ought not if we could. As to voting, writing, and speaking, we could; but as to fighting and paying taxes we cannot, any more than Union men within the lines of the enemy are able to avoid fighting us. When society is so exerting itself as to demand and develop the maximum



military and financial strength of a people, all the members do, by consent or per force, take part in the struggle. This is a law of social existence. If conservative men have to fight and pay taxes, either in a war upon the rebellion or in a rebellion against the Government, though the war be not conducted after their liking, I am sure they will not hesitate a moment which course to pursue. For my part my position is well known. I have never hesitated to proclaim that the war against the rebellion must go on to a successful termination although in its progress slavery may be utterly subverted, and to declare most explicitly that if I must choose between secession and slavery on the one hand and universal emancipation and nationality on the other, I would embrace and cling to and defend our nationality, and profoundly rejoice over every victory of the arms of the Republic and over every discomfiture of its enemies on the field and at the polls.

Secession is the essence, concentrated power of anarchy, and that is the sure precursor of absolutism. We are fighting for the idea of a nation, and though we may, and probably will, come out of the contest with some of the practices if not the characteristics of monarchical power, we will yet come out of it with a nation, a country, a theory of government, an idea of order as opposed to disorder, of protected rights as against lawless brute force; and the temporary abuses of administration can and will be corrected by time, good sense, and legal remedies in the days of peace.

#### THE AMENDMENT.

After much hesitation and earnest reflection, I have concluded to vote for the resolution submitting to the people of the States the proposed amendment to the Constitution, which, if successful, will forever settle the vexed and distressing question of slavery. In doing this I beg to assure gentlemen that I have come to this conclusion, viewing the subject from a national, and even from a Kentucky stand-point, and have derived little or no assistance from those views common to the members of what is termed the radical party of the North. Being among those who were defeated at the last presidential election I would not now render "a reason under compulsion, if reasons were as plenty as blackberries." And as they are nearly as plenty, and as they are found in great numbers on my own side of the river, I will offer a few. Without any extended argument the vote could be justified on any one of these grounds:

First, the passage of this joint resolution does not determine the matter, but only refers it to the people, the source of all power.

Second, that a man with an earnest respect for the people, and a profound regard for our system of government, might very consistently vote for its submission, and then in his State vote against its ratification.

Third, seeing the people have determined to do it, it becomes the part of wisdom to let it be done as quickly as convenient and with no unnecessary opposition. Let the agony be over and the rubbish cleared away.

If I wanted to justify it as an anti-slavery measure it would not be hard to find great authority in my own section. No two names are more worshipped throughout the South than Washington and Jefferson. Washington was a practical emancipationist, and it would not be doing any great injustice to Jefferson to call him an abolitionist. No name is more ardently loved in Kentucky than that of Henry Clay; and Mr. Clay never omitted a good opportunity to express his convictions of the great evils of slavery.

In 1822 the members of the Kentucky Legislature nominated Mr. Clay to the people of the United States for the Presidency. A committee appointed to correspond with the members of the Ohio Legislature, in urging the fitness of Mr. Clay's nomination said, "We apprehend that no mistake could be greater than that which would impute to him the wish to extend the acknowledged evils of slavery; for we are persuaded that no one entertains a stronger sense of its mischiefs than he does, or a more ardent desire, by all prudent and constitutional means, to extirpate it from our land," and proceed to state that for more than twenty years he had been in favor of the gradual abolition of slavery. This letter is

signed by William T. Barry, R. C. Anderson, J. Cabell Breckinridge, J. J. Crittenden, G. Robertson, John Rowan, and B. W. Patton, and is found on pages 148-49, of Judge Robertson's excellent "Scrap Book of Law and Politics, Men and Times."

And shall a man be told that it is wrong or disgraceful to hold opinions that have been sanctioned by the minds and hearts of such men?

But I put my action upon none of these grounds. I go boldly to the practical question and put it and justify it upon the ground that it is wise and is required by the facts and circumstances by which the people of Kentucky and of the nation are surrounded, and which have been called into being and power by the war, and which they must deal with and cannot avoid. It is thrust upon us by facts and agencies not of our procuring, and for which we are in no way responsible. Kentucky is being depopulated by the ills of this strife. Her sons and daughters are leaving her soil and their paternal roofs to find safety and peace elsewhere. The exodus is frightful, and if her people borrow trouble by fighting fate and making a stand for slavery after it is overthrown, our State will be hopelessly ruined. In the last six months I have often heard men of both parties in Kentucky wish that the President would issue his supplemental proclamation covering the whole ground, Kentucky included, rather than longer be held in doubt, uncertainty, and confusion. I have never wished him to do it because I have never wished him to do an illegal thing. Those who have thought this would be a good thing now have a legal mode presented for their approval.

#### THE ISSUE—DIPLOMACY OF EMANCIPATION.

The perpetuity of slavery is not the issue. That issue was made up four years ago, and the case has been decided against the institution, one half the jury being its own friends. Were we to do nothing and say nothing, Mr. Davis and General Lee, Mr. Stephens and Mr. Seddon, Governor Smith, Porcher Miles, and the Richmond press, would soon overturn slavery on their present line of thought and conduct. Indeed, it is notorious they have resolved to put the negro in the fight; and we in Kentucky all know what that means for slavery. When these men turn practical abolitionists by offering the negro his freedom for his services as a soldier, it is high time for conservative men here to cease halting and doubting on the subject. Shall we debate whether slavery can be preserved, and make a stand and submit to an overthrow for its sake, when the people of the loyal States have pronounced against it, and when the leading spirits of the rebellion have fully made up their minds to abandon it, and even to strangle it in the house of its friends in their frantic efforts to save the one point of secession? Is slavery in Kentucky worth the misery, the blood, and the desolation of such a contest as must ensue upon any serious attempt to preserve it? Our children would say "it was worse than a crime, it was a blunder." Those in authority and influence with the rebellion have fully made up their minds that they would purchase European alliance, and even accept colonial vassalage under European protection at the price of an edict of universal emancipation. It is notorious and undisputed that they would be glad to improve their diplomatic and military relations with foreign Powers by this movement. We will checkmate them at this game. We will save them the degradation of "colonial vassalage" by beating them at war, by beating them at foreign diplomacy, and by beating them at emancipation, and treating them justly and kindly the moment they return to their allegiance to the supreme law of the land. And since it is settled that slavery must die, and that this amendment will pass in a few months, if not now, why keep the country in a turmoil, or have any fierce contest over it, contending about that which is practically settled? If it must and will be done, let it be done now and have done with all suspension, uncertainty, and excitement about it. Events have taken the place of arguments, and stern facts that place of doubtful conclusions. The disturbing forces are greater than we can control. Shall we manfully yield this one point, already of no practical value, or childishly resist and be overthrown with an institution whose fall is literally crashing in our ears, and whose ruins may need

to be and ought to be prudently and kindly guided through the transition period, that worst of all conditions of society? Seeing the change is now inevitable, shall we invite violence in its development or secure peace to those involved in its swift rushings? My judgment literally compels me to the position I have taken in this matter; and if I lose friends I will at least save my conscience. Some whose best interests I am now subserving will quarrel with me for the act. I ask them to hold their judgment one year and they will begin to see it as I do, and if in five years they do not openly admit I was right I may then agree I was wrong.

#### "DO NOTHING AND LEAVE IT TO ITS FATE,"

says one. The do-nothing and say-nothing policy is not often the right way to treat great questions. It generally springs from a lack of courage to act or a lack of perception of the right action. "Masterly inactivity" may be adopted when your adversary is unwittingly working for you or hastening to his own destruction. If my house is falling over my head I will either prop it or get out of it. I will not fold my hands and be whelmed or entangled in the ruins because it is my house, because it was a good house, because I love it, and because I denied the justice and resisted the means of its destruction. I will deal practically with facts as they exist. The people of Kentucky have been conserving slavery ever since this war commenced, and I have helped them do it in my feeble way out of regard for all vested rights and established customs, and because I am naturally averse to revolutions. But we must now either remove the rubbish of an institution or engage in the vain attempt to mend that which was never mended when once broken, or be annoyed and impoverished by a population in the worst possible condition, being neither slave nor free.

#### THE OPPOSITION.

To gentlemen here who think of voting against this amendment let me suggest that since slavery must shortly cease to be a question of national politics, may you not make your party more powerful for good in the great work of defining and restraining power, which, if you will excuse me, has been the principal vocation of your party, by cutting loose from a dead carcass, and declining to make a party fight for an institution which is already condemned? By clogging yourselves with such an issue you may make yourselves powerless on the great questions of personal liberty, national finances, freedom of the press, and a just measure of State rights in which you would then have the cordial cooperation of many northern Democrats and southern Whigs who will go for this amendment. It is said you ought to vote against it but not speak against it. Is not that an untenable position? Is it ever wrong for a man to give a good reason for his conduct; or right to do that for which he can give no good reason? You are freer on this question than I am. I have interests, prejudices, feeling, and arguments to combat that are unknown with you. Have you found it very clearly among your convictions of duty to vote against this bill? Do you feel very clearly convinced it would be wrong to remain silent if you cannot give it a positive support? Gentlemen, there is a power, a beauty, an eloquence, and a majesty in the living, moving judgment of letters, of arms, of poetry, of science, of democracy, of all modern civilization, which it is idle and sacrilegious to trifle with. That movement is in the direction of this amendment. Our children may regret that passage of history which shows that the American people were the last to join in this grand march; let them not read that resisting the column it crushed us beneath its mighty tread! It is a serious thing for each man to consider whether he shall place himself in the negative here.

#### OTHER AND FUTURE QUESTIONS.

When this amendment is passed and ratified, and the people of the South lay down their arms in a useless contest, let us go before the country on the questions of universal confiscation, of territorial governments for the States, of parceling out the lands of the southern people among free negroes, of raising the negro to citizenship, and suffrage contrary to State laws, and lastly of continuing this war one hour to accomplish these

hurtful and malignant ends, and those who advocate such abominable schemes will be swept from power with a tornado of indignation and a unanimity of will that have never yet occurred in the history of the Republic. Then can I go before the country with my bill for the restoration of civil authority, and carry it by the acclamations of the American people. If it be criticised that the bill proposes to leave the slavery question to the courts, and by this amendment it is proposed to cure all doubt about the slavery question, I only reply the bill is adapted to the present condition of affairs, and would be well adapted after the amendment is ratified, because there are several interests, which I conceive to be more vital than that of slavery, which must in the end be adjudicated by the courts, and that I urge this amendment, not as a condition, but as a means of union and peace. When the whole people can stand united on this amendment as an accomplished fact and not as an exciting topic, they will speedily abandon or indignantly reject the other dangerous schemes that are now associated with this in the public mind as incident or necessary to its accomplishment.

#### IT IS THE REAL CONSERVATIVE POLICY.

All great movements are advocated by some fools and some bad men. All great parties have in their midst a dangerous faction. The great mass of the northern people are anti-slavery in sentiment. In this they are honest. It is natural, and sensible people do not quarrel with them for it. But there is a Jacobinical, power-loving, law-defying, plunder-hunting, blood-thirsting faction there whose strength must be broken. They were secessionists before the war commenced, and now, in the midst of a war for the Union, they would rather expel a slave State from the Union than to readmit one with a single slave in her borders. They must be overthrown. Their power is the power of the anti-slavery sentiment of the people and of modern civilization. The tide of that opinion cannot be resisted, and is so strong that it is carrying with it several dangerous and vital errors, such as the enlargement and intensification of executive power, the reduction of States to Territories, the denial of the common law and constitutional writs of freedom, the suppression of the press, the banishment of untried and unaccused citizens, and other things, admitted by the dominant party to be evils, but supposed to be temporarily necessary and incidental to the one great purpose of overthrowing rebellion and slavery.

In passing this amendment we do make sure the final extinction of slavery, but so far from indorsing the radical abolition party, we rob them of their power. And it will rob the secessionist of much of his power, for without this element of excitement and power of cohesion, the rebellion could neither have been organized nor held up for one year on any other question. And I may here as well admit, and put the admission on record, that while I have constantly contended that slavery was not the cause of the rebellion, the very intimate relation which that institution has from the beginning maintained with the deadly assault on my Government has not increased the little love I ever had for it. Then seeing that slavery is already practically abolished, so disorganized that slave labor is no longer of any value; seeing that violent and irregular abolition is more offensive and irritating than constitutional and legitimate emancipation; to bring to an end the name and legal existence of that which no longer has a practical and a useful existence, and to disarm and lay powerless the two disturbing factions in the country's politics, it seems to me wise to meet the issue fairly and fully, and to make an end at the earliest possible day of this great element of disturbance. Then indeed are the Jacobins and fanatics shorn of their locks and their strength departed before the pillars of the temple have fallen under their mad wrenches.

#### STATE ACTION AND CONDITIONS OF EMANCIPATION.

I long hesitated whether this thing ought not to be left to the action of the States, and if they could all act as promptly as did West Virginia, Maryland, and Missouri, that would seem to answer. But there are difficulties in the way of many of them of a constitutional character; and this is particularly so in Kentucky. My course has been influenced partly by the conviction that the interests

and the judgment of the people of Kentucky demand more prompt action than can be had through State agency, and partly from other considerations of a national character which I hope will sufficiently appear in the course of this argument. Five years ago, with no predilection for slavery *per se*, but dealing with it as a fact and a vested legal interest, I would have favored emancipation only on the three conditions of graduation, compensation, and deportation. The events of the war have made these conditions either unnecessary or impossible. Viewing that population as a part of the labor of the State, it seems the general opinion that the graduated scale would deprive the State of what little advantage may yet be derived from them; their salable value is so lessened, or I may say destroyed, that compensation is an item of little importance, and if it were of more importance the finances of the country could not stand it; and as to colonization, that is a question of the future, and I will always favor it to the extent that our State and national finances can afford. And yet I apprehend that the next census will show the beginning of a process of declension with that race that will greatly relieve the anxiety of many persons on that score. When they are all emancipated they will have a natural but unwise desire to leave the regions of their former toils and emigrate North and West. There they will come in competition with white labor; white labor at the South will be in demand and many estates for sale, probably in small parcels, which will induce a large white emigration from North to South, so that if there are disadvantages in emancipation they will not fall entirely on the South. And I have an opinion that from these causes will occur a natural, but not painful and violent, diminution of the race that will relieve the next generation of much apprehension on their account.

Some gentlemen of the North think that by this measure they will break down what they are pleased to term the slave aristocracy. They talk idly about aristocracy. There is as much aristocracy at the North as the South, and a few years hence there will be more. So far as aristocracy exists without being based on worth or governmental institutions, it is based on *land and money*; and so far as these can erect a social aristocracy they will do it, regardless of the form of labor that works the land and plies the machinery of the capitalist.

#### INSTITUTIONS.

Institutions are ideas. Slavery is the idea of the right of one to claim, and the duty of another to render, involuntary service. Institutions reach their maximum, whether of territorial extent or of ideal development, and then decay or go off in a paroxysm. Slavery had reached its maximum in the United States when it was boldly preached that the thing was divine, and that cotton was king. And I remember when a mere lad to have expressed the opinion that slavery was coming to an end in Kentucky, when in 1849 the convention took occasion to retard and complicate the process of amendment of the constitution, and to avow a wholly untenable ground in relation to the rights of property. I will here beg leave to quote from an article of mine communicated to the Frankfort Commonwealth last spring:

"One clause seems to recognize the right of the people at any time to change their Government; another makes amendment impracticable under seven years. Another clause declares 'the right of property is before and higher than any constitutional sanction'; and the right of an owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever." To a candid lawyer, or to any one at all versed in the elements of the governmental compact, this is a remarkable declaration. If it was designed as an attempt to express the familiar idea, that the notion of property, *quod est tuum*, is natural with man, and precedes written law, it was a very awkward attempt. No one doubts the primary maxim. But here, in order to assert the inviolability of an interest that was in no danger, a false principle is assumed, that the right of property is not only before but *higher* than any constitutional sanction. A right that is higher than constitutional sanction is beyond constitutional *disvestment*; and that this is the meaning, is shown by the asserted inviolability in the same context. The right of *eminent domain*, inherent in all sovereignty, and the right of organized society to control the use of property, and even to declare, in the fundamental law, what shall be property, are here swept away at a dash of the pen.

"Whatever is higher than constitutional sanction is independent of it, and such sanction would not avail it in the day of trouble. The natural elements, or foundation, of property are labor, discovery, possession. It is recognized and secured, and transmitted, by civil institutions—*constitutional sanction*. But, as every man by nature owns his own labor, which creates value, or property, under this

declaration, the right of property being *higher* than such sanction, the slave becomes free at the death of the master. Of course no respectable court would decide thus, the palpable intention being so contrary. The strong man who first enters the demesne, or seizes the slave, on the death of the master can hold against the devisees who claim under the will, and against the heirs who claim under the descent cast, coolly telling them that devise, descent, inheritance, conveyances, records, are mere trifles of legal invention and *constitutional sanction*, but that his right is before and *higher* than these, for he is in by possession, control, dominion. It is a lawless, revolutionary doctrine. Instead of settling, it unsettles everything. It is now only referred to as one of the many mistakes of those who would quiet their own apprehensions by unsound and severe legislation."

This looked as if there were a dread abroad in the land, and in the convention, that the institution needed extra propping against a silent undermining process that was going on against it in public opinion.

Whatever agency the institution may or may not have had in producing the war, the events and consequences of the war, both North and South, have placed the institution on the descending plane, and this tendency is one never overcome in the history of slavery. Let proclamations be withdrawn, let statutes be repealed, let our armies be defeated, let the South achieve its independence, yet come out of the war, as now seems certain, with an army of slaves made freedmen for their service, who have been *contracted* with, been armed and drilled, and have seen the force of combination. Their personal status is enhanced. Their self-respect, their confidence, their *rights* are increased. Many of them are heads of families. They will not be returned to slavery. They will leave the whole mass. The fact, their mere presence, the idea, if their mouths were padlocked, would soon have this effect. Then slavery is doomed. The southerner is infatuated who would fight for it, especially with negro soldiers, and the northerner is crazy who would make a point (beyond the suppression of the rebellion) of fighting against slavery, especially at the price of the blood of white men. The Union men of the border States predicted these results to slavery when the secession movement commenced. We do not feel it our duty now to turn rebels because our prophecies have been fulfilled.

#### THE WHITE MAN'S INTERESTS.

I go now for saving a Government of constitutional and regulated liberty for the white man. I am interested more for him than about the negro. The President recommends this amendment. I would have liked his message better if he had urged some others; and if I thought I could pass them I would be tempted to offer them here. One to declare that no State can, for any cause, secede, leaving the case on the old and well-understood doctrine of revolution; one that no State shall nullify any act of Congress, or otherwise impede its action than by judicial inquiry and judgment; one drawing with more precision and clearness the line between State and Federal powers, for it is upon this point I think our Constitution less aptly expressed than upon any other; one that Congress may, and the President shall, not make a general suspension of *habeas corpus*; one securing the liberty of the press against military and executive interference, except for treasonable offenses, to be defined by law; that no man shall become an elector of any State against the laws thereof, and dispensing with military governors for States beyond the ordinary and necessary provost marshal system in time of war, which would save the necessity for the more specific declaration that a military governor, especially when a candidate for the Vice Presidency, shall not assume to prescribe the qualifications of voters. These are some of the political interests of the white man which I now am striving to secure, and I think these ideas will be more potent when dissociated from the idea of slavery, and not subject to the damaging suspicion of being in league with it.

#### MY OWN EXPERIENCE.

It must not be ill-naturedly said of me that I make no sacrifice of slave property in this matter. I never had much of any kind; and if I had today all the money that negroes have cost me in different ways I would be much obliged to them. I owned two. One I found it good to send off for the safety of my children, and the other thought it a good thing to run off just in time to save me the expense of supporting her the balance of her life. And I had two hired. One was stolen away by

a northern substitute agency, who wisely preferred a direct personal interview with Joe to a formal correspondence with General Sherman on the subject, and the other went to the Army, (I hope he is a better soldier than he was a farmer,) leaving me minus some things which I had innocently supposed were mine and not his, leaving my place in the weeds and my hire note outstanding and unpaid. And now that they have all gone I feel so much better that I deem it but polite and neighborly to invite the whole world to try the experiment.

#### THE NEGRO AS A SOLDIER.

There can be no doubt of the legal power of the Government to use the negro. Slaves are either persons or property, or both combined. Whether they maintain to the Government either relation solely, or both combined, the relation implies duty and liability. As persons they may be called into the service; as property they may be taken, subject in both cases to the question of the liability of the Government under the Constitution to compensate the owner for the service and labor as for property taken for public use. I opposed their use on the grounds of expediency, sound policy, and public safety. From my own stand-point some of my arguments and apprehensions have been answered by the event and some have not. But the rebellion is answering them all. The South will put him directly in the ranks, and have long been doing it indirectly by putting him to such uses as would enable a larger proportion of the whites to carry arms than otherwise could do so. If he may be used to fight in the cause of the rebellion, and anarchy, and violence, and to fasten the chains upon the remainder of his own race may not we who fight for order and a nation cease our objections to using him on our side? The spectacle of an army of slaves, to be emancipated at the end of their term, if they survive the perils of war, arrayed in deadly conflict against the sons and soldiers of the Republic, fighting, bleeding, dying, to effect the double object of establishing a government of which the fundamental principle is the right of a part to destroy the whole, and of which one of the chief aims is to perpetuate the slavery of the race now called to its help; a man, a father, standing amid the fires of war to rivet bonds upon his own race and blood, and kindred, it may be forging chains that shall hang forever upon the limbs and clank forever in the ears of his own offspring, is a sight so offensive to Deity, and so revolting to humanity, that I would prevent it by all the means allowable to a Christian people. I would do it by inviting the slave to fight for a Government that would secure freedom to him and his race forever, depriving him of all motive and interest for fighting for our enemies, imbuing him with the highest motives to fight for us, and with every motive and reason to doubt and distrust, and it may be to abandon with arms in his hands a dynasty that proposes to do so great a wrong. But the matter may adjust itself. The result of all the examples of the use of servient classes in war, and they have been used freely in nearly all the Governments where there have been dominant castes, show an entire incompatibility between military service and servile labor. To the slaves of Greece and Rome, the serf of Russia, and the villain of England, the South will now add the other example of the African slave in America.

#### NOW AND THE FUTURE.

We will accept the inevitable meaning of passing events, look destiny in the face, deal with facts as they are, smooth the rough points on a new road, and not kick against the pricks. Twenty years, or much less, after slavery is gone, the country will be more prosperous without it than with it, and while many will continue to condemn the illegality of some of the measures that led to its destruction, few, I think, will then be found to deplore the fact of its death. It is the process of change that irritates and really injures the community. But the change is coming without and against our seeking. Then if it be possible let us order it for the best in a political and economical view. Emancipation is now the true economy in Kentucky. Right or wrong the Government has taken her able-bodied slaves for the service, and will continue to take them, leaving the women and children on our hands for support. Being deprived of the benefits of the system must we

cling to its burdens? If there is a part of that population yet desirable as laborers, consider whether emancipation is not now the only means left of securing their services, and whether this being refused or deferred they will not all leave, with the hope of procuring freedom elsewhere, and whether upon the whole a reasonable hire is not better for both parties, the negro feeding and clothing himself, paying his own doctor's bills, with all the stimulus to industry and economy springing from the compensated labor system?

Labor is like any other thing of value; it is worth what it costs, and will cost what it is worth, and will find its commercial level. It is therefore impossible in the nature of things that slave labor can be cheaper than free. An able-bodied man in fair times would readily command \$1,200. The interest on that at ten per cent is \$120. His food, clothes, and medical attention would not be worth less than \$120 more, in all \$240. How much more would free labor cost? With the disadvantage on the part of the master, that the slave may die or run off, and will surely wear out, while his cash value might have been made a permanent investment in something else.

Our lands will increase in value, our roads will multiply, and we will have a great commercial emporium in our own State. I will not stop to argue these advantages, but only point to other States, and younger States, to verify the belief. I repudiate the absurd doctrine that slave labor is the foundation of a higher type of civilization. Commerce, roads, manufactures, agriculture, science, arms, the census do not say it.

#### LEGALITY OF THE AMENDMENT.

It has been urged that as slavery was in existence when the Constitution was framed, and was by that instrument recognized and guaranteed, it thus became a vested interest, and that it is incompetent by subsequent amendment to divest that interest, especially in States refusing to adopt the amendment; and that it is incompetent for the General Government in any form to regulate domestic and State institutions. To my mind this is a singular misapplication of legal reasoning. The argument is based on the extreme point of State rights, State sovereignty, compact, league, &c. It is well known I do not belong to that school. It is applying to the constitutional, fundamental legislation of the people, acting in their sovereign capacity, the same rules and limitations which do apply to statutory enactments and to the legislative powers of Congress as delegated and limited by the people. This is in the nature of an original compact of government, springing from the source of all power, the people. It is competent for them to construct a Government as they please. Surely, in the original instrument or contract, they could have declared all slavery abolished. The contracting power is inherent in them, and they have pointed out the mode by which the instrument may be amended. It is equally competent to do by amendment what might have been done by original compact. If it was competent to declare that three fifths of the slaves should be represented in this House, it was equally competent to declare that none of them should be or that they all should be. It is not a question of construction or of legislative power. The argument I am combating would limit the power of the people in framing a Government. It would deny to the people of a State the power to alter a fundamental law once made and interest acquired under it. I have not a particle of doubt as to the competency and binding effect of the amendment when ratified by the requisite number of States. The Constitution is but a law, the law of original institution by the people, as distinguished from an enactment of Congress. They made it, and they can change it. If they can change the tenure of office or enlarge or restrict the elective franchise, they may prescribe what shall be property and what shall not. Is it not better to satisfy this demand for this one amendment than by the aggravation of a refusal provoke the calling of a convention that may overhaul and remodel and possibly disfigure our entire constitutional fabric?

#### PEACE BETWEEN THE RACES.

The system of slavery, as I have observed it in Kentucky, wears none of those traits of cruelty and brutality that have been pictured on the northern mind. The household of kind master and contented slave has something of advantage and

attractiveness in it. But the content, the quiet, and the mutual confidence have passed away. I need not stop to tell why. We all know. It is palpable that so long as the war continues slavery will continue to tumble to pieces. When the war is over and the freed slave returns to intermix with the others, the institution could only be preserved in the form of a modified state of war, resulting at last in open war between the races. Who so simple as to want for a slave a man who has borne arms as a soldier under a promise of freedom for his services? Who would undertake to keep in subjection a family of slaves constantly exposed to the influence of the returned freedman who had learned confidence, sagacity, and boldness in the school of war? It cannot be, it will not be, and we had as well prepare to preserve the peace between the races. I look for the large slaveholders who have had numerous and expensive families left on their hands soon to become the most urgent emancipationists from motives of economy and justice to themselves. I will not now stop to discuss the final destiny of the black man. I expressed myself clearly and at length on that subject last session, and have seen no cause to change my mind.

Mr. Speaker, I have done what I deemed best for my immediate constituents, for my whole State, and for the nation. If I am condemned it will be with the proud consciousness and sweet satisfaction that I have emancipated myself from the unmanly fear of censure and saved myself the embarrassments of a false position. If my vote be the means, in this close contest, of determining this great question, and thereby in some measure assisting in the restoration of peace, I will be more than compensated for any sacrifice I may have made. If it be a virtue to emancipate four million slaves, I claim not the credit. Their bonds were broken by the blind rage of their masters; and if it be a crime or an error, I say we have only smoothed the pillow of a dying man; and substituted law for violence. And when it is ended it will be written of the institution and its mistaken friends, as one of the most glaring historians has said of one of the greatest disturbers of the peace of Europe in the seventeenth century, who fell in his own house, under the halberds of his own men, who so lately were obedient to his every nod:

"Thus Wallenstein fell, not because he was a rebel, but he became a rebel because he fell. Unfortunately in life that he made a victorious party his enemy, and still more unfortunately in death that the same party survived him and wrote his history."

Mr. MORRILL. Mr. Speaker, if the vote on this question had been taken on Saturday, I should have said nothing, and to-day I intend only to occupy a few minutes in what may prove a fruitless attempt to obtain something more than a mere party vote in behalf of a measure which will mark an era in our history, and should enlist the cordial favor of every lover of the great principles upon which our Government was founded. It is no occasion for passion, but the times call for direct and unequivocal action. Every vote will explain itself, with no aid from any other, and will admit of no commentary.

There is a reluctance upon the part of a portion of this House to even propose, for the subsequent action of the people, this amendment to the Constitution of the United States, that to me is surprising. There is not the smallest doubt of the constitutional power or of the legal regularity of the proceedings contemplated. Any objection must, therefore, apply to the merits of the measure and not to the measure itself; to the end and not to the means. How can any man, educated in any of the schools of party to be found in our country, be opposed to the utter and complete extinguishment of slavery? There is no party whose creed is not fundamentally thoroughly hostile to this most deservedly hated institution, and none which could not, consistently with all its theories of good government, hail with joy its final obliteration, unless it be within the now contracted limits of the so-called confederate States. Can it be that gentlemen are unwilling even to allow the people of all the States to pass upon this proposition? For that will be the whole extent of our action, or merely to give the people an opportunity to show whether two thirds of all the States will decide that there are reasons of sufficient gravity to induce them to adopt the amendment.



This question will come up. It is only a question of time. When it does come before the people will gentlemen then be prepared to take the stump against it? If not, the harmony of the record had better now be provided for.

I remember a party, existing in the North as well as the South, who were but recently not afraid to tamper with the Constitution, but were clamorous for an opportunity by which further guarantees were to be secured to slavery, and can such a party now logically refuse to concede the same opportunity by which further guarantees to liberty shall be secured and by which the question of slavery may be forever put at rest? I ask that the people shall have the right to reach this question once and, as I hope, forever. Let us take the chances even with all the votes of the former slave States included. Do gentlemen of the free North intend to do battle for slavery after the slaveholders themselves have abandoned or are ready to abandon it? I do not believe that is the attitude they desire to assume here or on the page of that remarkable history we are now making, wherein it should be the ambition of all, if they cannot obtain honorable notice, at least to escape the scorn of posterity by a voluntary disappearance from the public gaze.

But it is said that this question of slavery is one of the reserved rights of the States which we must not touch. It may be a proved traitor, pirate, and murderer, but is still too sacred to be touched by military or even civil authority! I concede that there are many rights reserved to the States, yet if it were the conviction of two thirds of the States that any one of these rights would be more safely or more wisely exercised by the General Government, who shall deny their power to surrender any such right to the control of the United States? But slavery is a *wrong*; so recognized by the whole civilized world; and cannot claim immunity as a *right*. There is now practically but one amendment to the Constitution which we are not at liberty to make, and that relates to a wholly different subject, namely, "No State without its consent shall be deprived of its equal suffrage in the Senate." Anything else than this is as much an open question as it would be if we were now at work framing a Constitution for the first time for a free people.

In all the agitations which the question of slavery has from time to time forced upon the country, the lustiest upholders of the domestic institutions of the South, while denouncing what they styled unconstitutional interference, have claimed for themselves the extreme doctrines of democracy, according to the philosophy of Jefferson; and also that, if living in slave States, they would be abolitionists; and if they could constitutionally reach the question they would not fail to maintain the doctrines of the Declaration of Independence. Now, the time has come when the sincerity of these declarations will be tested. Now, the time has come when we shall see how many wear a name having no valid title to it. Here is a chance to show whether we are for or against slavery in the abstract. I feel sure some at least will stand the fire and come out like refined gold. There are some who will set aside party and vote according to the dictates of the manhood with which God endowed them. These will not keenly calculate whether a little more sacrifice is necessary in order to endear them to some party now in rebellion by which the ascendancy of their own political associates may be hereafter secured. They may believe that for such an object no party in the North is in a condition to make further expenditures for such an object. That course has proved a very exhausting process, and the most extravagant demand ever made in this direction, being a vote against this amendment, if complied with will prove bootless, and may much better be declined. It is by no means certain that the dominant party of the South, when the repentant rebels are again brought under the old flag, will be of the malignant States right or secession stripe, and in that case the conciliation proffered here in behalf of slavery would prove stale and unprofitable. The true Union men and the poor whites of the South will hereafter prove a power that will be heard from.

A rebellion that fails leaves no place for its leaders. These, if not banished by Government, are driven into obscurity by the people they have unworthily misguided.

However ready gentlemen may be to welcome back such chiefs as Davis, Slidell, and Mason, they will never have the opportunity, for these and all such as these will be kept in strait-jackets at home, or they will more likely skulk away to such congenial courts as that of Maximilian I or Pedro II.

If it had not been for the disclosure of the diabolical purpose of slavery to destroy our Government, the people of the United States would doubtless have tolerated the institution wherever States chose to continue and shield it until the density of population should have made the soil too valuable to support anything but freemen.

But since this disclosure we should be cowards, after having witnessed its power for evil, after the countless treasure and priceless blood we have expended in the struggle, for our own preservation if we were to surrender our grip upon the throat of the monster and thus permit him to recover strength to repeat the atrocities of the last four years upon those who will succeed us. We owe it to ourselves and the world to close up this quarrel so that it can never be reopened.

If it can be closed by a constitutional provision, what fairer mode can be devised? Certainly rebel slaveholders who have waged a war of unexampled inhumanity and ferocity to break the Constitution cannot complain that we should by peaceful and proper means attempt to mend it.

It is sometimes asked whether the Constitution as it was could have been adopted if it had been foreseen at the time an amendment like this would ever be proposed; and in reply it might be asked, if the growth and the past and present history of slavery could have been foreseen, whether in that case the Constitution as it was could have been adopted? This proves nothing, save that the world moves and is not precisely in the condition now it was then. Then slavery was expected speedily to die out, and Madison, and many other southern men in Congress, sought to cripple it by taxing the introduction of slaves, which, under the Constitution, could not be prohibited until 1808. When 1808 arrived the law was already on the statute-book to interdict the further introduction of slaves at the first possible moment. We all know Madison, in drafting the Constitution, studiously avoided any words that would furnish to future generations evidence that slavery had ever existed in the young Republic. He at least honestly looked forward to the time when it would all disappear, leaving no blot behind. Nobody foresaw how it would disappear, and perhaps no one expected in the hour of its most colossal growth, and protected by fresh and impregnable securities, that it would commit suicide. But that is its fate. It leaped into the Red Sea, and, like Pharaoh and his host, it will be drowned—a fate that would make the morning stars of our Constitution sing for joy; and shall any of us mourn and refuse to be comforted?

To what end should slavery be continued? Manifestly only that one half of the slave States may breed and sell their slave stock to the other half. In one half of the slave States that was the only way in which slavery could be made productive. I may be mistaken, but I believe this to have been so; and it has been far from creditable to us as a nation. I do not wish to deprive any State of legitimate prosperity, and there is not one slave State which, ten years after slavery shall have been abolished, will not have more taxable wealth than they ever dreamed of before.

It is urged with some vehemence, if not eloquence, by the gentlemen from New York [Mr. Brooks] and from Ohio [Mr. Cox] that we should first send commissioners South offering terms of peace on the basis of the Constitution as it was, and then, if that shall be refused, as they know very well it would be, they do not exactly promise a homogeneity in the North, but they intimate that the rebels would be very naughty to reject such a proposal, and they might venture to tell them that their project of independence would fail. They do not say that even then they would continue Grant, Sherman, and Thomas in the field, or vote for this amendment. In all seriousness, did not the rebels break with us when they had the Constitution as it was? How, then, could they come back and accept now what they girded up their loins to fight against? This would sadly militate against the idea of the gentleman from New York, that eight million people could not

be conquered. But the signs of the times show that this proud people have been humbled and more than half conquered. They would now give up slavery to save their own necks from the common doom of rebels. General Sheridan has quieted the rebel army of the Shenandoah; General Thomas has annihilated the army of the Tennessees; General Grant bides his time, abundantly sure of his prey; and General Sherman marches where he pleases through the empire State of the South, and the people of Savannah, twenty thousand strong, not more wise or more ready than the people of scores of other southern cities, under the call of their mayor, have resolved that the war, so far as they are concerned, is at an end. They urge the State to follow its example.

Let me record the voice of the citizens' meeting in Savannah:

"Whereas by the fortunes of war and the surrender of the city by the civil authorities, Savannah passes once more under the authority of the United States; and whereas we believe that the interests of the city will be best subserved and promoted by a full and free expression of our views in relation to our present condition: We therefore, the people of Savannah, in full meeting assembled, do hereby—

"Resolved, 1, That we accept the position, and in the language of the President of the United States, seek to have 'peace by laying down our arms and submitting to the national authority under the Constitution,' leaving all questions which remain to be adjusted by the peaceful means of legislation, conference, and votes."

"Resolved, 2, That, laying aside all differences and burying bygones in the grave of the past, we will use our best endeavors once more to bring back the prosperity and commerce we once enjoyed."

"Resolved, 3, That we do not put ourselves in the position of a conquered city asking terms of a conqueror, but we claim the immunities and privileges contained in the proclamation and message of the President of the United States, and in all the legislation of Congress in reference to a people as we are; and while we owe to our part a strict obedience to the laws of the United States, we ask the protection over our persons, lives, and property recognized by those laws."

"Resolved, 4, That we respectfully request his Excellency the Governor to call a convention of the people of Georgia, by any constitutional means in his power, to give them an opportunity of voting upon the question whether they wish the war between the two sections of the country to continue."

"Resolved, 5, That Major General Sherman having placed as military commander of this post, Brigadier General Geary, who has, by his urbanity as a gentleman and his uniform kindness to our citizens, done all in his power to protect them and their property from insult and injury, it is the unanimous desire of all present that he be allowed to remain in his present position, and that for the reasons above stated the thanks of the citizens are hereby tendered to him and the officers under his command."

"Resolved, 6, That an official copy of these resolutions be sent to the President of the United States, the Governor of Georgia, General Sherman, and to each, the mayors of Augusta, Columbus, Macon, and Atlanta."

There is no halting about this. They are willing to come back now and upon the terms proclaimed by the President. The leading rebels will have a different and more selfish policy, but one far less acceptable to the people.

The organs of Jeff. Davis at Richmond announce that the time has come for them to save themselves by giving up slavery. They propose to put the negro into the last ditch rather than go there themselves. They will throw this Jonah overboard if France and England will only guaranty to them a separation from us. If the people of the South do not at present love us, they have at least learned to respect us. There is little danger to be apprehended by us from foreign rivals who having risked their hate will not risk their love.

To show that the rebels themselves are at last conscious of being on the road to ruin, I give an extract from a late copy of the Richmond Sentinel, as follows:

"We think that our late reverses have done much toward preparing the minds of our people for the most extreme sacrifices if they shall be adjudged necessary to the success of our cause. And in truth they are not sacrifices at all when compared with our situation. If subjugated, it is a question simply whether we shall give for our own uses or whether the Yankees shall take for theirs. Subjugation means emancipation and confiscation."

"All our servants and all our property yielded up to assist in the defense of our country would mean no more, but it would be far more glorious to devote our means to our success than to lose them as spoils to the enemy. Our situation, too, stripped of our property but master of the government, would be infinitely better than it despoiled by the enemy and wearing his bonds."

That this is not the sentiment of a single editor only, I will give a portion of the comments of the Richmond Enquirer upon the article, a part of which I have just read, showing that even in the rebel capital they are almost persuaded

to be Christians, but not quite. The Enquirer says:

"If we have given to our contemporary a broader interpretation than the writer designed, we do not believe we have misrepresented the determination of our people. The consequences of emancipation would fall upon the unfortunate negro, and God would hold responsible those who had forced upon us the act. It is one of necessity, not choice; an act taken against our judgments and our convictions, but to save us from the horrors of a prolonged war and the disgrace, ruin, and destruction involved in the success of our enemy.

"If France and England will enter into a treaty with these confederate States, recognizing our nationality and guarantying our independence upon the abolition of slavery in all these States, rather than continue the war we should be prepared to urge the measure upon our readers. We believe such a proposition would be favorably received and acted upon by those nations, and it ought to be made to them."

Will it be any greater hardship to ask them to give up slavery and remain with us, possessed and possessing all the rights which we claim for ourselves? This is all we propose to do. They do not now even ask any other nation to assume a protectorate over them until they have rid themselves of the loathsome institution, and are we so accustomed to its vile contact that we are willing to exhibit less self-respect, less fear of being crooked, than is claimed by and accorded to the dynastic Governments of the Old World?

Gentlemen need not fear that there will not be subjects enough for party differences if the subject of slavery shall be forever extirpated. They may, however, make up their minds that the proslavery party of the world is past all resurrection. Its leaders have made it ignominious, and it is in a minority that will diminish without pity at every successive rally. When the heat of the tropics is no longer able to warm it into life the North will nurse it in vain.

What a spectacle do we present! Here the Congress of the United States are debating whether slavery shall have a longer lease of life or not, when it has only just been barely frustrated in the attempt to take the life of Congress itself, and would do it now if its power equaled its will. Can it be that the last Swiss Guard in the defense of slavery shall prove to be from the free States in Congress assembled? Here men from free States, always freemen and theoretically abhorring slavery, see the slaveholders of West Virginia, Missouri, and Maryland, (to say nothing of Kentucky, Louisiana, Arkansas, and Tennessee,) abolishing slavery, and yet hesitate to allow the question to be placed before the people lest they should be stigmatized as abolitionists! If a vote in favor of the amendment to the Constitution, by which slavery may be forever abolished, secures to any man that stigma, it can have no terrors for those who have been Republicans, for such a vote is expected of them as an ordinary duty, and, if feared by any one who has not been a Republican, let him find courage to adopt the badge of distinction, and he may, to the discomfiture of his revilers, use and wear it as a most trusty weapon to cleave his way through the world to honor and troops of friends.

MR. ODELL. Mr. Speaker, the interest I feel in the important measure now under consideration is my apology for occupying the attention of the House at this time. My belief is that no question of equal importance has ever occupied the attention of the country. I am certain that during the period I have been honored with a seat upon this floor no question has arisen in which my constituents have so deep an interest. The eyes of the world are now turned in anxiety to see the result. If the proposed amendment to the Constitution as it passed the Senate shall receive the vote of two thirds of the members of this body, as required by the fifth article of the Constitution, and shall then be ratified by the people, its immediate effect will be to liberate from bondage three million seven hundred and forty-eight thousand three hundred and ninety-three human beings, as shown by the census of 1860, securing to them the blessings of freedom. Its influence will not only reach the negro, but will affect for good the future destiny of the white race North and South. The material interest of three hundred and forty-five thousand five hundred and thirty-four slaveholders will be of course affected, and it is a statistical fact that of this number two hundred and seventy-five thousand six hundred and eighty-one persons own less than ten slaves, and of this latter number seventy-six thousand six

hundred and seventy own a single slave, showing that the interest is not of such extent as many at the North have heretofore been led to suppose. I cannot but conclude, from the best light I can obtain, that the operation of this measure will be most beneficial to the non-slaveholding white population of the southern States. When these poorer laboring classes shall no longer have to contend with and struggle against and be degraded by slave labor, then, and not until then, will they come into the enjoyment of blessings such as are now fully enjoyed by the honest, toiling, working men of the North.

When labor shall be free at the South, then will it command and have the respect which is its just due. Then will millions of the white men of the North participate and share in the blessings thus secured. The masses of our native and foreign-born laborers, now toiling in the severer climate of the North, will be invited to enter upon these newly opened fields for their industry and occupation. The now hidden resources of the States south will be developed by the brain and muscle of the northern laborer.

The existence in our country of antagonistic systems of labor has brought upon the nation the terrible calamity of a wasting civil war, with all its desolations. It has cost the country the lives of hundreds of thousands of its best and bravest sons, and has wasted her material resources.

The day has come when this conflict of labor is to end and the question is forced upon us by the South. They alone are responsible for it. The question of the world now is, shall the great free North, with its higher and more widely extended civilization, yield to the South and its evils growing out of its system of labor? The day is past and forever gone when more than twenty million northern born freemen, represented upon this floor now, will be controlled by the men of the South with not one third their numerical strength.

As certain as the North and South are now engaged in a struggle for military supremacy, so certain is it that slavery must fall and die.

The destruction of slavery is the legitimate fruit of the rebellion. It was predicted by leading minds both North and South before the war began.

Its death-blow was inflicted by the South when it opened its rebel batteries upon Fort Sumter. When the national flag was assailed, then began the overthrow of slavery as a natural consequence.

That slavery is dead is an admitted truth. So said my friend and colleague at the last session of Congress. Others upon both sides of this Chamber have admitted the same fact; and the press of the land has been reiterating the same statement since the rebellion began.

It is an accepted truth, both North and South, that the peculiar institution is gone, with or without restoration.

Now, I am in favor of giving it a constitutional burial; not by the irregularity of a proclamation by the President, of doubtful constitutionality even in his own mind, as he has frequently admitted, and which was conceded by the late Baltimore convention that renominated Mr. Lincoln, when they proposed this amendment to the Constitution as one of the planks of their platform, which was accepted by him in his letter of acceptance of their nomination. He and they both have thus expressed doubts as to the proclamation. And hence we have this more legal way of disposing of the evil before us.

Again, it cannot be put out of the way by the uncertain and irregular Army orders of our generals in the field in command of our armies. They all deal with slavery in harmony with their own peculiar views.

The Constitution gives to the two Houses of Congress the only legal and certain authority, the only constitutional method of ending and putting away forever an institution that has only brought us trouble and discord at home and reproach and dishonor abroad.

Let the evil now be removed in accordance with the provisions of the Constitution. Then it will be done effectually, legally, and in a manner to command the respect of the nation, of the men that are directly interested, and also of the civilization of the world.

I am aware that able men upon this floor have objected to this action, they claiming that the provisions of the fifth article of the Constitution does

not admit of this construction. In my mind I find no difficulty. The power referred to I am satisfied is ample.

Story on the Constitution, volume three, page 688, says:

"A Government which, in its own organization, provides no means of change, but assumes to be fixed and unalterable, must, after a while, become wholly unsuited to the circumstances of the nation; and it will either degenerate into a despotism or, by the pressure of its inequalities, bring on a revolution. It is wise, therefore, in every Government, and especially in a republic, to provide means for altering and improving the fabric of government as time and experience, or the new phases of human affairs may render proper, to promote the happiness and safety of the people. The great principle to be sought is to make the changes practicable, but not too easy; to secure due deliberation and caution; and to follow experience rather than to open a way for experiments suggested by mere speculation or theory."

If I were in doubt upon the subject I have only to refer back a short period in our national history and there see the record of my own party upon this question of amendment, and upon the subject of slavery, and in the light of this record and history my way is plain.

Much has been said and written in regard to the compromise measures introduced by the distinguished, patriotic, and lamented Mr. Crittenden in the Senate. We have been wont to charge upon the Opposition the responsibility of the failure of these resolutions; we have affirmed if the Republican members of the Senate had accepted them we would not have been involved in this unhappy struggle. I am not quite sure of that. I incline to think that at that time treason was deep down in the hearts of the southern leaders. But it might have been even so. I refer to it only to show that at that time it was not thought by the men of my party that the Constitution could not and ought not to be amended upon the subject of slavery. Reference to the action of the Senate will show that every Democrat North and South voted for these resolutions, which provided for several amendments relating to this vexed question of slave labor.

Again, the House will remember the famous Corwin resolution, which in its provisions was to amend the Constitution, fastening slavery upon the country for all coming time. That passed by the required vote in both Houses, after weeks of debate, the Democratic members all voting for it. That amendment was as follows:

"No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State."

This clearly recognizes the right to amend; if not, why was such action recommended, and why did Democrats vote for it?

If gentlemen will refer to the debates of the Thirty-Sixth Congress they will find there recorded very many resolutions offered by Democrats, and voted for by them, proposing to amend the Constitution, and all referring to slavery.

With this party record my conclusion is, that if it was constitutionally right for the men of the true faith in that day to thus vote for an amended Constitution upon this subject, it is highly proper for me to do so now in the light of the experience of the past four years. If the Constitution could be amended legally continuing slavery, it surely may be for its destruction. The action of the South in their rebellion has not commanded them to me for any special acts of grace or forbearance. Their treason to their country is only equaled by their treachery to the Democratic party. Personally I have feelings upon this subject toward the men of the South for their treason as a Democrat that no men of the Opposition have a right to indulge in.

The Democratic party had been their faithful defenders. We were and had been their friends through evil and good report. We had stood by them in all their interests. More than this, we have yielded our own convictions and prejudices to theirs. As we met them from time to time in our national conventions it was only to submit to new demands made upon us to favor, strengthen, and extend their system of slave labor. To secure peace and harmony these demands were acceded to. The steadily increasing pecuniary interest of the slaveholders gave them power, and led them, in the love of gain, to depart from the teachings and principles of the fathers upon this subject. With the modern slaveholder it was no

longer an evil to be endured for a while, but a blessing to be perpetuated through all future time.

From our present stand-point the error of thus having yielded to the slave power of the South is clearly seen by the nation and more keenly felt by the Democratic party. I need not say to the intelligent men who surround me that if the party North had resisted this encroachment upon the religious belief and northern sentiment forced upon us by the South the war now waging would never have been inaugurated. Better far for our country and the race had we exerted our power and manhood at an earlier period in our history.

By many it is believed that a time of war is not opportune for amending the Constitution under which we have had such unparalleled prosperity. Upon this point I have a clear, unerring guide in my conscience, which tells me in a clear and distinct voice that in war or peace, in sunshine or storm, in prosperity or adversity, it is best for individuals and nations to do right. My inquiry upon this point is simply in that direction. I have ever believed slavery wrong. The North have always believed it. None can scarce be now found who will claim that slavery is now, or has ever been, other than an evil. Hence, with these convictions, if I live until the day when the vote upon this measure shall be taken my name will be recorded in the affirmative.

The past history of our country clearly illustrates the effect of the system of slave labor. We have but to contrast the growth and advancement of the States South with the North, to mark the progress of each section, as shown by the census, in religion, education, agriculture, mechanical arts, and especially in material wealth. The results given are most conclusive.

The South by rebellion has absolved the Democratic party at the North from all obligation to stand up longer for the defense of its "cornerstone." They are now using the very system which this amendment proposes to abolish for the overthrow of our Government founded on the broad principles of right, justice, and humanity.

In their prosecution of the war against us, the master is compelled by the laws of their congress to place his slaves at the disposal of the military authorities for our destruction. The time is at hand when in far greater numbers this class will be used against us as indicated by the discussions now going on at the South.

We have information that is credible and must be believed, that the authorities at Richmond are now ready to liberate their slaves, and are willing to abolish an institution for which they began this war that they may the more certainly insure our overthrow and destruction by securing foreign aid and recognition.

Shall we consent to present the strange spectacle to the world that we of the North have no interest in the question of freeing the slaves when the men most interested are willing to do it?

With these facts before me I have no question as to my duty. We had better far at this time break down the force and physical power of an institution that is being used for our destruction by our enemies.

Again, why should northern men, representing upon this floor northern constituencies, hesitate to permit such constituencies to vote for the freedom of slaves, when southern men, representing slaveholders, ask us to rid them of this evil?

Another objection urged against the passage of this initial measure is that the slave States are not represented upon this floor. It is no fault of mine that their seats are vacant. The North has no responsibility in that matter. Their seats are vacant because they were occupied by men faithless alike to their country and their party; who represented States which chose rather to rebel against their Government than to enjoy the rights and blessings it guaranteed to them. The country and the party have a just cause of complaint against the treason and the traitors that have vacated these seats. Had the representatives of the South stood firm in their allegiance to the Government and submitted to its laws and been governed by its wise provisions, we of the North would have been spared far greater evils than will ensue to the South as a consequence of the proposed amendment if it should be constitutionally adopted. I fully believe that the debts due from the South to the North alone, which by the legislation of the southern States it has been made a penal offense

to pay, are more than equal to the value of all the slaves held in southern territory. In addition, let the blighted hearts, desolated homes, and the debt-burdened people of the North vindicate this statement.

Mr. Speaker, the effect of this action by this body is only in its operation to submit to the people, to your constituents and to mine, sir, the proposition of amendment of the Constitution. It remains for them to decide it by their suffrage. We shall then all have with them an opportunity of expressing our opinions upon the question at the ballot-box. I know of no good reason why I, as a Democrat, believing in the right of the people to rule, should arrogate to myself, in my position as a Representative, the exclusive right of a voice upon this subject. They have, under our Constitution, an equal right with myself; and I will not deprive them by my action of the privilege of exercising it.

Mr. Speaker, I am fully aware of the fact that my position and intended action upon this all-important question will not be in accord with my friends upon this side of the Chamber. I yield to none of them in my attachment to the party with which I have ever acted. I cherish as fondly as any the memories of the great and good men that have been its standard-bearers, and many of whom have passed away; and I have as much confidence in its future, as a power for good in the government of this great nation, as any man in the country. Yet I believe this thing of slavery has lifted its hydra head above the Government of my country. It has been for years a dead weight upon our party. And the time, in my humble judgment, has now come when as a party we ought to unloose ourselves from this dead body. We ought no longer to consent to be dragged down by its influence. We ought to accept the facts of history as they are transpiring around us, and march on with the world in its progress of human events.

The times now favor, and the way is open for the great Democratic party to turn its back upon the dark-past and its eyes upon the bright future.

#### MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting to Congress a copy of two treaties between the United States and Belgium for the extinguishment of the Scheldt dues, &c., concluded on the 20th of May, 1863, and the 20th of June, 1863, respectively, the ratification of which was exchanged at Brussels on the 24th of June last, and recommending an appropriation to carry into effect the provisions thereof, relative to the payment of the proportion of the United States toward the capitalization of said dues.

The message and accompanying documents were referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a communication from the President of the United States, transmitting a letter from the Secretary of War, with an accompanying report of the Adjutant General, in reply to a resolution of the House of Representatives of December 7, 1864, requesting him to communicate to the House a report made by Colonel Thomas M. Key, of an interview between him and General Howell Cobb, on the 14th of June, 1862, on the bank of the Chickahominy, on the subject of the exchange of prisoners of war.

The communication and accompanying documents were laid on the table, and ordered to be printed.

#### CONTINGENT FUND OF THE TREASURY.

The SPEAKER also laid before the House the report of the expenditure of the contingent fund in the Treasury Department, for the year ending June 30, 1864; which was laid on the table, and ordered to be printed.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866; and asked that it be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Tuesday, the 17th of January.

Mr. HOLMAN. I desire that the right shall be reserved to raise points of order on the bill when it shall be taken up for consideration in Committee of the Whole on the state of the Union.

Mr. STEVENS. I have no objection.

The bill was read a first and second time, ordered to be printed, and made the special order for Tuesday, the 17th of January, after the morning hour.

#### PENSION APPROPRIATION BILL.

Mr. STEVENS also, by unanimous consent, reported from the Committee of Ways and Means the Senate amendment to an act (H. R. No. 597) making appropriation for the payment of invalid and other pensions of the United States, for the year ending June 30, 1866; and asked that it be considered at this time.

There being no objection, the amendment was read, as follows:

And be it further enacted, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the present fiscal year:

For the payment of pensions under the acts of March 18, 1818, May 15, 1828, June 7, 1832, the third section of the act of July 4, 1830, July 7, 1838, June 17, 1844, March 3, 1843, February 2, and July 29, 1848, and the second section of the act of February 3, 1853, \$65,000.

For the payment of pensions under the first section of the act of July 4, 1836, act of July 20, 1848, the first section of the act of February 3, 1853, June 3, 1858, and July 14, 1862, \$3,500,000.

The Committee of Ways and Means recommended concurrence.

The question was taken, and the amendment was concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendment was concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MISSOURI MILITIA.

Mr. KING, by unanimous consent, introduced a bill to place the soldiers of the Missouri State militia on the same footing with other volunteer soldiers in the United States service, with reference to bounties and back pay; which was read a first and second time, and referred to the Committee on Military Affairs.

#### TAX ON IMPORTED SPIRITS.

Mr. WARD, by unanimous consent, introduced a bill directing the Secretary of the Treasury to refund the taxes collected on spirits imported prior to March 7, 1864, and for other purposes; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ABOLITION OF SLAVERY—AGAIN.

Mr. WARD. Mr. Speaker, it is not my intention to discuss at this time and place the causes which have inaugurated the terrible rebellion which has already cost the Republic such a frightful waste of life and treasure. It is enough for me to know that a death-blow has been aimed at the heart of the American Union to feel indignant at the outrage and solicitous to avert it. It is enough for me to know that a sacrilegious attempt has been made to break up the wisest form of government that human wisdom ever devised, to feel it my duty to join in the effort to chastise the perpetrators of so great a crime. I have not approved of all that has been done under the sanction of the war power. I have deemed it proper to protest, in the name of the loyal and law-abiding constituency I have the honor to represent on this floor, against certain acts of the Executive and Congress, which, in my opinion, have been the means of prolonging this sanguinary war, but I am settled in the conviction that secession is treason, and that as such it must be put down at all hazards and at any cost. If secession succeeds, republican liberties are lost forever, and the Government, failing to vindicate its power, would forfeit the consideration and respect of every civilized nation on earth. If the heresy of secession were to be recognized as a canon of our political faith there would be an end to our government. Let Louisiana secede unhindered, and then, when that act has been accomplished, what is to prevent her from handing that State over to England or any other Power, commanding as she does the mouth of the great Mississippi? This she most assuredly has a right to do if she has a right to secede, thus closing up the "father of



waters" and excluding all the States on its borders from a market. The same rule would apply to any other seceded State. Hence the duty of every American patriot, whatever his station or condition, to uphold the Government in its efforts to compel the seceded States to respect the Constitution and the laws of the country. Upon this conviction of duty I have ever acted since the first insult to our flag was offered. The same abiding sense of the responsibility which rests upon me as a Representative of the people in Congress will, I trust, carry me unflinchingly through whatever phase may yet remain undeveloped in the fearful drama which has been so long in process of action. If the conduct of the war had not been marked by some of the most startling usurpations of power that ever made a free people tremble for their liberties, my voice should never have been raised except in the way of encouragement and of sympathy.

Much wonder has frequently been expressed, Mr. Speaker, that in this fearful crisis through which our bleeding country is now passing, in the awful presence of the grand and sublime uprising of the people of this nation, no master spirit has yet risen in the midst of our assemblage capable to stay the uplifted hand and gifted with that peculiar sagacity which employs the acquired light of yesterday in the selection of a path for to-morrow. Whatever may be the cause, it cannot be denied that the present crisis has most signally failed in the production of those towering intellects whose impress never fails to mark itself deeply upon the mold of their times, and which during all our former trials as a nation have been wont to direct the destinies of the Republic triumphantly through the fiery paths of sedition and conspiracy. Hence the blunders and mismanagements which have characterized the conduct of this war. The spirit which was wont to kindle the voices of former statesmen as if with a coal from the altar is no longer manifest in the places of power. Under these circumstances, and in view of the obstacles which we may yet have to contend with before the blessings of peace can be restored to our distracted country, it behooves every man in the position I have the honor to occupy, however humble his pretensions or capacity, fearlessly to present his views on the great questions now at issue, in order that out of the very multitude of counsels some good and practical result may be attained.

I have observed that the more entirely the objects which stand in the way of the execution of any purpose are ignored the more easy it becomes to lay down plans for the perfect management of the affairs of the country, military and financial. Overlook the rivers and the mountains, the distance and the atmospheric phenomena, the reluctance upon one side and the resistance upon the other, and to construct the most infallible programme for the suppression of the rebellion is one of the easiest of undertakings. To overlook the laws of trade, the limits of the popular power, and the propensity of mankind to prefer their own to any other interest, and to prescribe a financial policy which shall carry the country safely through the war and its consequences, is a work not above the powers of the most ordinary capacity. Individuals entirely able at a single effort or less to solve all the problems of our condition are easily to be found. The country is rather redundant of them than otherwise. They cross us on all sides, in the newspapers and on the street corners. But that which alike marks all their solutions is the omission of more or less and sometimes of all the real elements of the calculation. "On to Richmond" is easily said. "Order a levy *en masse* and advance all along the line" is a suggestion so magnificent as to give an air of pusillanimity to the inquiry whether its execution is practicable. Issue legal-tender notes *ad libitum*, tax without measure, and borrow without limit, are pieces of advice which are all the more acceptable, perhaps, because they who propose them refrain from disclosing that there are points beyond which neither of these sources of revenue can be made available. For my own part, sir, I shall not take upon myself the invidious task of attempting to solve the perplexing problem of the war, nor yet of suggesting any panaceas for the cure of existing evils. I simply desire to offer a few remarks which are forced upon me by the constantly recurring deviations from the avowed object for

which this devastating war was originally and authoritatively declared to be waged. I feel that I am somewhat entitled to the indulgence of the House when I venture to raise my voice as a warning to those in power that the mass of the people no longer recognize them as their representatives in a glorious struggle; that they no longer consider the war as a war for the salvation of the country, but as having degenerated to a strife about a collateral issue utterly foreign to the cause which they entered so heartily to sustain.

Sir, when the rebellion first broke out I had the honor of being a member-elect of this body, and from the day that I took my seat on this floor I have never sought to embarrass the Government in its efforts to bring back the seceded States under the glorious flag of that Union which had protected them all so long and so well.

In the extra session of 1861 Congress declared by a solemn act "that the war was not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired." Had the noble and patriotic sentiments enunciated in that resolution been made the rule of action by both branches of the Government the war would, I believe, before this time have been terminated, for whatever may be said of the proud and indomitable spirit with which the people of the South have carried on the war, and of their attitude of haughty defiance, I am fully convinced that if the olive-branch had been tendered in that spirit of magnanimity which becomes a dignified Government after it has vindicated its power, the repentant rebels, at least the greatest portion of them, seeing the folly of their ways, would long ere this have returned to their allegiance.

This Government did not begin the war. The seceded States, at the time the rebellion was inaugurated, had nothing to complain of; no overt act had been committed by the Government, none of their prerogatives had been interfered with, none of their citizens had been burdened by taxation, all their rights and institutions were under the protection of the United States. They have gone out from among us under the false pretense that they foresaw in the future that they should lose their just political power and influence in the Union, and acting upon this self-imposed delusion they have drawn the sword wantonly and willfully upon the Government and loyal people of the United States.

What I mean by the term olive-branch, sir, is the exhibition of a generous and conciliatory spirit, which I regret to say has not hitherto characterized our invitations to the people of the seceded States to come back and be restored to the inestimable privileges of American citizens. All our legislation on the subject, whether we look to the confiscation bill, or to those other severe enactments which have called forth so much bitter acrimony on this floor, have been marked by a spirit of vindictiveness and oppression utterly unworthy of a great and a Christian nation. Even the proclamation of amnesty of President Lincoln fails to hold out any hope of satisfactory results, because its provisions are not in accordance with the fundamental principle of self-government, that the majority must rule.

There is in this plan for restoration so triumphantly heralded by the friends of the Administration an attempt at usurpation so offensive to the people that no mind regulated by the usual dictates of sanity and guided by the wisdom of the Constitution could ever have elaborated. The proposition made by the sole authority of the President to constitute one tenth of the citizens of a State the whole State, is so preposterous that it can scarcely be regarded as serious. Were such a proposition to be acted upon, the Government would find itself placed even in a more awkward position than it occupies now, for it would have to maintain a standing army in each of the States thus surreptitiously brought into the Union, in order to protect the dominant minority from violent acts, on the part of that overwhelming majority, which by this anomaly in legislation would be totally disfranchised.

Sir, I am as strongly opposed as any of my

colleagues on the other side of the House to the readmission into the Union, with the right of slave property, of any State where slavery has been swept away by the onward march of our armies. Whatever may be the object of the war, the practical result is the same, and that is the overthrow of slavery in all those portions of slaveholding territory which our armies subjugate; in these the relation of master and slave ceases to exist. The masters retreat as our forces advance, and carry with them a portion of their slaves, but the greater part remain behind and take refuge within our lines; and the question is, what shall become of them, and what are our duties in regard to them? The American people have behaved admirably since this war broke out. They have shown an energy and elasticity of spirit, a power of organization and combination, a readiness to make sacrifices, a patriotic devotion, worthy of the highest praise. Let us not forget the claims of those unhappy freedmen whom we have deprived of their masters, their natural guardians and protectors.

The war is no longer waged for the purpose of restoring the union of all the sovereign States that are and ever were in our great national communion, with all the purity and strength of our precious Constitution undimmed and untarnished, but for the newly-avowed object of subjugation, extermination, and emancipation, until every Southron shall be reduced to the most crouching and abject submission, not to the Constitution, but personally to those who hold the sword and the purse of the country. Sir, I am not prepared to join in any such crusade. I occupy the same platform to-day that I did on the breaking out of the rebellion. I am in favor of a vigorous prosecution of the war, by all constitutional means, for the purpose of destroying the military power of the rebellion; but I am not willing to prolong this war a moment longer than is necessary to effect its legitimate object. The consequences of a mistaken policy are too serious to suffer me to be governed by the spirit of faction on the one hand or influenced by subservience to power on the other. We have now arrived at that stage in the progress of the war when we should consider the question of offering to the people of the rebel States such conciliatory terms as are constitutional, just, and practicable, and most likely to lead to the reestablishment of the national authority over the whole country. The terms and conditions offered to the insurgents in the President's proclamation of amnesty are only calculated to inflame their hatred of the North and impel them to renewed resistance. They are flagrantly at variance with the declarations voluntarily made to the people of the loyal States and published to the world. I desire to see such terms offered as a proud and already chastened people can accept without positive degradation to themselves—terms which shall recognize the existence of the States with constitutions and forms of administrations—terms, in short, calculated to divide our enemies and draw the hearts of the repentant people of the decaying confederacy toward our Government. When these honorable terms are rejected, then I shall be willing to leave events to the harsh and cruel necessities of the justice which is vindicated by the sword.

But, sir, although the beneficent spirit which pervaded Mr. Crittenden's resolution, to which I have referred, was not allowed to exercise its healthy influence over the deliberations of this body, its provisions were tacitly adopted as a governing principle in the conduct of the war; so much so, that when Generals Fremont, Hunter, and Phelps, issued their proclamations of emancipation, the President revoked them all, declaring again and again that he had no right under the Constitution to emancipate the slaves. Those who spoke in behalf of the Executive, and in elucidation of his views, stated everywhere—in the public streets, in conventions, and in the Legislatures, that the President was determined that the seceded States on reëntering the Union should be protected in all their rights. Governor Stanley, who traveled five thousand miles, it is supposed at the express request of the President, that he might try to persuade the people of North Carolina out of the rebellion, stated in his speech of June 17, 1862, delivered at Washington, North Carolina, that Mr. Lincoln was no abolitionist, that he was the best friend the South had, and that all the Administration wanted was peace. Gov-

# THE CONGRESSIONAL GLOBE.

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ernor Stanley spoke according to instructions, as many others had done before him in every section of the country, which had the effect of producing a strong feeling of reaction throughout the border States, and of adding thousands upon thousands to recruiting lists.

These assurances, Mr. Speaker, concerning the alleged objects of the war were of so broad and distinct a character that no man of well regulated mind could avoid confiding in them. For my own part, I relied as implicitly upon these solemn pledges as the magistrates of ancient Rome did on the sibylline books when danger pressed the eternal city. I should frankly have despised myself had I suffered a doubt to rise in my own mind as to the integrity of purpose which governed the action of the President. All that I paused to consider was, that when he took his oath of office he swore to maintain the Union and enforce the laws; that had he attempted to trifle with the sacred rights of the people, and allow a Government to be broken up which he had sworn to preserve, he would have acted contrary to the requirements of the Constitution, and deserved to be impeached upon these solemn convictions. I rallied all my feeble strength to the support of the Government, the Constitution, and the Union, looking upon secession as eternal war, and recognizing this great principle: that we are one people, that one we will remain, and one we will die.

I am well aware, sir, that my course in sustaining the war policy of the President has subjected me to considerable animadversion, and that my motives of action have frequently, and sometimes wickedly, been misconstrued by those who either could not understand the emergencies of the occasion or who preferred seeing this great Republic split up into fragments rather than yield one iota of their prejudices. But, sir, there is one tribunal to which I appeal with feelings of pride and confidence from the judgment of disunionists: it is the tribunal of my conscience. The verdict which I find recorded there will sustain me under all calumnies and vituperations. When the day shall come for me to render an account of my stewardship to my constituents, I shall be able to show them that in denouncing treason and in sustaining the Government in its efforts to put down rebels in arms I have been true to myself, to my country, and to the sternest requirements of the Democratic creed. How much the Democratic party, acting as a party, through its organization will do to bring back peace to the country, it is impossible to predict. It will depend upon the steadiness with which it adheres to what are admitted to be Democratic principles. To expect to return to sound practices in the Government through the medium of a party which, from any suggestions of expediency, however plausible, departs from its principles, is, of all expectations, the most irrational. Peace will return; the war fury is a passion which exhausts itself. But however desirable peace may be, we ought to be united in the determination that when it comes it should bring with it the union of the States under the Federal Constitution. Those who fail to recognize this national exigency are not imbued with the true spirit of Democracy; they have read the signs of the times to very little purpose. The Democratic party is essentially a party of progress, and those who aspire to be its leaders ought at least to have common sense enough to know that we are in the midst of a great revolution and that revolution is progress.

The only issue before the people at this time is the issue of Union or disintegration. I admit that the country needs peace, and I am anxious to secure it; but I do not want to get it by indirection. In my judgment, the only feasible plan of restoration is a vigorous prosecution of the war, or the proffer of conciliatory terms to those who are willing to renew their allegiance to the Federal Government. These are the only paths which lead to peace, and I want the people to understand the stern reality of the fact. It is a great mistake, sir, to suppose that political truth and naked fact are meat too strong for their digestion,

and that the reality must be largely diluted with romance in order to render it palatable to them. I sincerely believe that the best way to deal with the people, in order to secure their support to a just cause, is to place before them the true issue in the distinctest manner. I believe, furthermore, that good causes have failed more frequently through the cowardice and double-dealing of professed politicians, under the presumption that the people could only be made to do right by deceiving them and playing upon their prejudices, than from all other causes combined. In the hurry and spirit of the hour men are a little too apt to think doubt and consideration evidences of disloyalty, and caution and patience vices rather than virtues. This error has been made several times since the war began, and has resulted in great depression among the people, when the truth dispelled the brilliant anticipations of enthusiastic hopes.

It would seem to a superficial observer that rapid advances are being made in the overthrow of popular liberty, that the people are supine and indifferent on the subject, that one essential requisite after another of a popular Government is being swept away in the mad vortex of fanaticism and passion, until hardly the form of our grand old fabric of constitutional liberty remains as a mournful memento of the glorious past. To those, however, who more critically analyze public events, it will be seen that all grave questions outside of the restoration of the Union have been merely postponed until the termination of the war. The people have been taught to revere the Constitution and the Union. The conviction of their judgment is that the structure of our Government is well adapted to develop the commercial, agricultural, and industrial resources of the country, and to promote the general prosperity and happiness. The Constitution in its operation prior to the rebellion contained every safeguard requisite for a prosperous career. The history of every nation demonstrates that its citizens will accept the form of government best calculated to give protection to person and property, and to promote the general welfare. Trade, commerce, agriculture, and all the industrial pursuits, thrive under a stable Government and languish and perish under the opposite one. Under the Constitution the equilibrium is well preserved. The passage of a law requires the cooperation of this honorable body, the Senate, and the Executive. If we pass an unconstitutional measure, the Senate operates as a check; if both bodies pass such an act, the President can veto it; if all cooperate, the Supreme Court can interpose its decision and declare the act void. I know of no nation in which the rights of the people are more carefully and admirably guarded. In addition, this is the only country in modern times that has thus far successfully demonstrated the capability of the people for self-government. This problem is now on trial. For these reasons, when the rebellion began, the people with great unanimity rallied to the support of the Government without respect to party; such unanimity continued until the prosecution of the war was diverted from the original object, the restoration of the Union, and a series of measures was inaugurated, such as confiscation, abolition, emancipation, suspension of the writ of *habeas corpus* in the loyal States, and others of a like character, which divided the North and united the South; abolitionism abolished slavery in the District of Columbia; confiscation merely enabled property to be confiscated in such parts of the country as have been recovered from the rebels; the emancipation proclamation has done nothing more, as yet, than the legitimate operation of the war power would have achieved, that is, liberated slaves where the Army has secured possession. It is evident, in my judgment, that the whole policy of the Government has been, since the adoption of the Crittenden resolution, to postpone indefinitely the close of the war. Entertaining these views, I deemed it my duty to oppose all these collateral issues, such as arbitrary arrests, confiscation, suspension of the writ of *habeas corpus* and

the freedom of the press in loyal States, and emancipation, as having a tendency to retard a successful issue to this most deplorable war.

Many honorable members of this House for whom I have great respect supposed that these measures, great in themselves, and especially that of arbitrary arrests, were paramount in the public mind, and would overshadow all other questions. I concede the gravity of the point involved, but still, great as that and the other collateral issues are, the people regarded the life of the nation and the problem of self-government as paramount, and desired these issues first settled before permitting others to engross their attention. The Union restored or separation accomplished, these grave questions will then become a subject of serious inquiry, and the culpable parties be held responsible for the inroads made upon personal rights and liberty.

In addition to the series of measures to which I have referred, we are now called upon to sanction a joint resolution to amend the Constitution so that all persons shall be equal under the law, without regard to color, and so that no person shall hereafter be held in bondage. I might object to this amendment, sir, upon the ground that to prohibit the establishment or continuance of slavery as a legal relation would be virtually to admit that it may exist as such legal relation, and that such an admission in the Constitution would leave that instrument, in respect to human liberty, in a worse state than it is at present. Upon this point, however, I do not intend to enlarge; for, as I understand it, the fact of servitude among a people will be little affected by any provision which their constitution may or may not embody.

Sir, it would seem to me that the sum total of the wisdom of the ruling party is contained in the dogma that the negro is exactly like the white man. To some it may seem that this is not very much, hardly enough to constitute the foundation of a political system and an administration policy for a great nation and a numerous people; but this is a matter of opinion. Some may suppose that the basis of a political system ought—observing the uses of science in general—to be laid upon some fact the existence of which is capable of demonstration; but, sir, we, the people of the United States, are trying great and sublime experiments in politics, and if we can succeed in making something stand upon nothing, will it not show that we are justly entitled to that reputation for political sagacity and adroitness which we have been considerably more ready to claim than the benighted statesmen of Europe have been willing to accord? So far as I can see, Mr. Speaker, in any form of civilization resembling our own, servitude will always exist; and servitude rendered necessary by circumstances which the servile party cannot control, is bondage. Bondage will differ in form, as it is modified by the character of the parties between whom it exists, and it will differ in intensity as it is affected more or less by external conditions. The relation of master and servant in the South is natural to this extent: it is the relation into which the white and black races, being brought together, naturally fell under the influences of mutual necessities for personal security, social tranquility, and subsistence. The relation of master and servant in Great Britain is affected by the pressure of a costly Government, which draws from labor, through capital, the means to defray its annual expenses. Servitudes differ in degree and they differ in kind, but the most important difference of the two—the one that is at once the most significant and the least changeable—is the difference in degree; a man may be nominally free, but if he is a workman without capital, and lives in a state of society of which it may be said “once a peasant always a peasant; once a factory operative always a factory operative;” if the constant labor of his body when in health is only just sufficient to provide him with food and clothing, and if old age, or a few days of illness, inevitably reduce him to pauperism or starvation, he has little to boast of his freedom,

and would find it hard to discover wherein it ministers to his elevation or his happiness.

The freedom of a British working man consists in a limited liberty to change his employer. He is descended from ancestors who toiled as he toils, all their days for food, clothing, and shelter, and these scanty in quantity and poor in quality. He begets a posterity to whom he transmits his poverty and his hopelessness, and his whole life, from his cradle to his grave, is one long desperate struggle against starvation and nakedness. This is British liberty to a majority of the people of England. This is what it has been for hundreds of years, with no prospect of change but for the worse. Legislation has been tried abundantly, with a view to work improvements, and with worse than no avail. England has always had, and now has her theorists who have labored to create imaginary Utopias, but that vast war debt which like a millstone is grinding the people to powder, and pressing them into the earth, is a thing that cannot be lifted by constitutional clauses or parliamentary expedients. That legislator will do well, Mr. Speaker, who can devise an amendment to the Constitution which shall relieve the people of the United States, without regard to color, from the pressure of a war debt larger in proportion to their resources than that of Great Britain. The debt is inevitable, it already exists, it is being increased with giddy rapidity. There is nothing in our institutions to prevent national indebtedness from producing the same effects upon the people of the United States that it has produced upon the people of Great Britain. Here is a thing, sir, which may well enlist the wisdom of the wisest statesmen of the country. If Nature has made the negro different in any respect from the white man, all the constitutional clauses in the world will do nothing toward obliterating that difference. If it has made the negro like the white man, that likeness will at the proper time assert itself without constitutional assistance. Nature can neither be hindered nor accelerated by legislative contrivances, and no more than the European can the African be elevated to any valuable purpose by the will of another.

It was declared by me at the last session that for generations to come the laboring men of the United States would be required to work one or two hours in each day more than at present in order to pay off the debt contracted by this war. Now, sir, under all the advantages afforded by a new country and circumstances, in many respects favorable, to an extraordinary degree, the average laboring man of the United States has hitherto done little more than live. Impose upon him the necessity of two hours or of one hour additional labor per diem to support himself and his family, and he is, call him by what flattering title you may, a bondman. Against this bondage, the most hopeless and inexorable of all servitudes, no constitutional amendments, however cunningly devised, will afford security; it will descend from father to son, engraving, as it does in England, its characters, revolting and indelible, deeper and deeper upon each succeeding generation.

Mr. Speaker, if at a time when no causes of excitement were disturbing the minds of the people, a despot had arisen over us to decree and enforce upon the operative population of the United States two hours per day of additional labor for the remainder of their lives, what a cry would have gone up from all parts of the land against an act so tyrannical! What protest would have been entered by such, if any there were, who were permitted to discuss and condemn! What exhortations there would have been to combine for resistance, and what citations of principles against a domination so heartless and destructive! What pictures, at once true and revolting, would have been drawn of the degradation of the people broken in spirit and pressed to the dust, by excessive toil and intolerable exaction, and what fiery indignation would have been felt and expressed against the unnatural monster by whom the wrong was devised and executed! The result is not altered because we happen to reach it by a process less direct. The evil will be the same, the wrong the same, the same the suffering when the excitement has passed away and the fact remains, and we see it in its nakedness; but then, if it is not so now, it will be too late to permit the discovery to be of much avail.

Without pursuing this point, I would say that

slavery has always been, and is, regarded as a domestic question. The right to abolish it does, and ought to, rest with the States in which it exists. Since the organization of the Government the law of climate and soil has controlled the subject, and has caused the abolition of slavery in six of the original States, and either abolished or prohibited it in all but nine of the new States since admitted. This Government is one of delegated powers, and those not conferred are reserved to the States respectively or to the people. In regard to slavery the Constitution is silent, and therefore no power exists to amend it in the respect indicated; and in addition, in my judgment, that instrument contemplated that all the States should participate in any amendment thereof. Sir, I do not stand here as the apologist of slavery, but merely to insist that we have no right to incorporate the proposed amendment, and that even if the right exists it is a most injudicious time for the exercise of the power when we should desire to bring back the seceded States to loyalty and obedience. Our action in this respect cannot fail to add fuel to the flame, widen the breach already existing, further embitter the South, and prolong the sanguinary contest. I do not regard this question as having been decided by the late election. The issue there involved was the vigorous prosecution of the war for the restoration of the Union. Entertaining these ideas, I cannot vote for the proposed amendment.

Such are some of my views, Mr. Speaker, on some of the most important questions which agitate the public mind at this moment. If the war be brought to a close within a reasonable time, and a united country be the result, this great Republic, with its immense resources, will spring into new life, and under the blessed reign of peace will ultimately shake off its burdens and repose queen-like among the nations of the earth.

We must be prepared to make still greater sacrifices than any that have gone before, if necessary, to save the Union; but the considerations to which I have adverted admonish us, as I have observed already, not to prolong the war a moment longer than is necessary to effect its legitimate object. Let us be careful lest in seeking to obtain a fancied benefit for others we do not destroy ourselves. It has been justly said, sir, that to most men experience is like the stern-lights of a ship, which illumine only the track it has passed. It will be a sad thing for this Republic if those who have it in their power to control its destinies are recorded by history in such a category. On the use to be made hereafter of the light of experience depends our whole future destiny.

It is to decide whether we take the first fatal step of disintegration which will lead us to the position of those petty States whose weight in the world's council is represented by a cipher, and whose little quarrels only provoke a smile, or whether we remain a great people—homogeneous, united, and powerful.

Mr. MALLORY. Mr. Speaker, it is not my purpose to detain the House by an extended argument on this question now. At the last session of Congress I had the honor to express my views upon it elaborately, and I do not desire to repeat those views now, because I do the House the justice to suppose that it remembers what I said on that occasion. Mr. Speaker, gentlemen may say what they please about the proposed amendment of the Constitution of the United States, but no man can successfully deny the assertion I now make, that it is a radical change of the Government of the United States. It is not an expedient resorted to at this time to end this rebellion and restore peace to the land; but it is a blow aimed at the very foundations of the Government which our fathers gave us, and of which we have been long so proud. It is an effort to take from the States of this Union, by constitutional amendment, the great power of regulating their domestic and social affairs in their own way, and I deny the power to do that by Congress, even through an amendment of the Constitution adopted in accordance with the mode pointed out for amending that instrument.

Adopt this amendment, change the Government of the United States, say to the States of the Union everywhere, North, South, East, and West, that they shall not regulate their internal affairs in their own way, and is not that, I ask, changing the Government? Is it not taking from the

States a power which, if attempted to be taken from them at the time the Constitution was adopted, would have prevented the adoption of that instrument? If you can do that can you not also introduce an amendment to the Constitution prohibiting States of the Union from regulating their marital relations? Can you not, with the same propriety, take from every State of the Union the right to regulate the relations of guardian and ward? Can you not, on the grounds on which you claim the right now to change radically the Government of the United States, deprive the States of the Union by constitutional amendment, at a time like this, of every power which they exercise under our form of government? And at what a time do you attempt this? You attempt it at a time when you are exerting all the powers of the Government to bring back to their allegiance eleven rebellious States of this Union. You are urging that they are still States of this Union; that they are still bound by the Constitution and laws of the United States. They have refused obedience to those laws and that Constitution, and you are endeavoring to force them to yield that obedience which they have refused to yield willingly. Yet at the very time you are doing this you propose to say to them that you will so change that Constitution as to make it entirely different from what it was when they engaged in this rebellion. We are to say to them, "We call you back to a Government which had no existence when you refused obedience to it." Now, have we a right to do this? Have we, the Representatives of the people of the United States, has this Government of the United States the right to call upon the rebels to yield obedience to this Government after we have made it a Government entirely different from that from which they seceded or against which they rebelled? What is the moral obligation upon them to yield now, when you shall have changed the fundamental law as you propose to change it? Ay! I go further, and ask, what is the moral obligation of loyalty and obedience resting upon any State of this Union, loyal or rebel, if you do this thing? Do you not thereby absolve every State from its allegiance to this Government? Do you not make it such a Government that any State in this Union which may choose now to engage in the rebellion in which eleven States are already involved will be free from all liability to the charge of violated faith?

Sir, I said that I was not to be led into an elaborate discussion of this question; and I will not be, although the field opens out wide before us. We have had this question presented to us once before. At the last session of Congress this proposed amendment to the Constitution was introduced by the distinguished gentleman from Ohio, [Mr. ASHLEY,] who now fathers it. It failed then to receive the requisite vote of two thirds of this body. Why renew it now? Why bring it up again, on this motion to reconsider that vote? Does the gentleman from Ohio [Mr. ASHLEY] suppose that inducements, arguments, reasons, influences have been brought to bear upon the minds of members of this body to induce them to act now in a manner directly different from their action on that occasion? What are those arguments? Where are those reasons for doing now what we refused to do then? They have not been produced in this debate. If they exist they are outside of the legitimate subject-matter which is before us. There may be motives moving gentlemen to do now what they refused to do then. But if there be, they are hidden from my view; if not palpable they are invisible.

The President of the United States pays us a very high compliment indeed in his last annual message. He calls upon this Congress, before its expiring hour, to reconsider its action upon this question, and to do now what we refused to do at the last session. What reason does he propose to us for that change? What arguments does he produce in favor of it now that he and others did not adduce at the time this action was before urged upon us? None at all. He simply says: "Gentlemen, it will be done by the next Congress, and as the result is inevitable, as three fourths of the next House of Representatives will be in favor of it, why postpone the result? why defer it longer? why not accept your fate and bow to it submissively?" He asks us to abandon our principles, to give up our convic-



tions, and yet in almost the same sentence he says, "If you want a man as President who will do otherwise than I have done on the slavery question you must find him and put him here, for I shall not change my opinions." Are we not as honestly convinced that we are right, and were right then, as the President of the United States is convinced that he is right? Have we not the same right, and is it not equally our duty to act on our convictions, as it is his right and his duty to act on his convictions? I know of no obligation resting upon a member of this House to change his views at the bidding of the President of the United States, or "any other in authority," not resting on the President himself to change his mind at the dictation of Congress; yet he says he cannot change, but the gentlemen of the House of Representatives can, and he hopes they will. Well, I fear some of them will. The wish or order of the President is very potent. He can punish and reward. I repeat that the only potent influence I have seen brought to bear upon this House to induce them to change their action of the last session is this request of the President of the United States.

My colleague, [Mr. YEAMAN,] who addressed the House this morning, in giving the reasons why he should cast his vote in favor of this resolution of amendment, stated that he should do it to end this rebellion, and to restore peace to this land. He stated that he did not believe that slavery was the cause of this rebellion; that he had so announced in former times. But he believed that the abandonment of slavery now would end the rebellion and restore peace; and that this could be done by this proposed amendment to the Constitution.

I cannot see the matter in the same light in which my colleague regards it. Sir, how would the adoption of this amendment to the Constitution end this rebellion and the agitation of the slavery question? If, when it were done, it were so well done as my colleague supposes; if it would restore concord and harmony among the States and people, then I should be willing to have it done quickly. I would not oppose it any longer; I would give in my adhesion to it, and take the step that my colleague proposes to take. But I cannot see it in that light. How will the adoption of this amendment end this subject? Does the mere abolishment of slavery throughout the United States by a constitutional amendment settle all the great questions springing up in relation to that institution? Does it not multiply and complicate the difficulties which surround us? As the thing stands now we know what it is; we know how it is controlled; we know how it has been governed. We have been accustomed to it. We know the condition of the negro race. But, sir, adopt this amendment to the Constitution of the United States, and by one fell swoop declare this race free throughout this broad land, and what are you going to do then with these liberated negroes?

Mr. YEAMAN. My colleague will allow me to say a word. He appears to have understood me to have maintained that the death of slavery would end the rebellion. I did not take that position. I took the ground that the adoption of this amendment would remove from these Halls one of the disturbing elements that now exist, as well as take from the rebellion one of the principal sources of its strength. I have not contended that the abolition of slavery would end the rebellion. That, sir, must be done by the armies in the field.

Mr. MALLORY. Well, Mr. Speaker, my colleague says that the adoption of this amendment would remove from these Halls one disturbing element of discussion. I differ with him in that respect. As I said before, we know how slavery now exists; we know what laws govern and control it; we know what rights maintain it. We know all about it. We know the status of the negro. But adopt this amendment to the Constitution, and so far from removing a disturbing element of discussion, do we not introduce hundreds of distracting questions in the place of that one which we propose to get rid of, and springing from this very act necessarily? I renew the inquiry, what does the gentleman propose to do with the negroes if they be liberated by this constitutional amendment? Does my colleague hold that they should remain in the States in which they may be when freed? Sir, I know hundreds of the Repub-

lican party—or I did know hundreds of them in former times; I do not know what their opinions may be now—who were bitterly opposed to this policy; who would have fought to the bitter end against setting free the negroes to remain in the States where they were freed, and to control the destinies of this Government by the exercise of the elective franchise, maintaining an equality with the white man, socially, civilly, politically. Do they entertain that opinion now? Does my colleague entertain it? Is he, are they, now in favor of the negro remaining when freed in the States where freed, enjoying the right of suffrage, politically the equal of the white man?

What is to be done with the negroes who may be freed? Is not that a disturbing question? Is not that an exciting question? If you are to send them out of the country, where are you to send them? What nation on the face of the globe would be willing to receive them? Do you say, "Send them to Africa?" How will you get them there? This is a rich Government; it is a powerful Government; it is a Government that can, according to the theory acted on by this Administration, do whatever it pleases, provided the greenbacks will hold out. But I ask the question, and I would like the chairman of the Committee of Ways and Means, or the Secretary of the Treasury, or some other distinguished man who knows all about our financial condition, to answer it. I ask the question, is this nation able to deport and colonize the three or four million slaves that will be set free by the amendment now proposed? Can you raise the twelve or fifteen hundred millions, or the two thousand millions, that will be necessary for this purpose? Millions have now come to be regarded as so insignificant that perhaps I cannot excite the alarm of gentlemen on this subject unless I name some six or seven thousand millions. I do not know what amount it will require; but the sum is enormous. This Government now is oppressed with debt and laboring under financial difficulty. The wits of its wisest financiers are severely taxed to devise the ways and means to continue the present war.

Mr. MALLORY's time having expired, Mr. VOORHEES was recognized as entitled to the floor.

Mr. VOORHEES. I yield to the gentleman from Kentucky.

Mr. MALLORY. I am very much obliged to my friend. I thought I would have concluded by this time.

Mr. VOORHEES. I do not expect to occupy more than a small fraction of an hour. The gentleman can either speak in my time or the House can extend his time.

Mr. GRINNELL. I move that the gentleman from Kentucky have leave to proceed.

The SPEAKER. For how long?

Mr. MALLORY. I do not expect to occupy more than fifteen minutes.

Mr. KASSON. I wish to ask the gentleman from Indiana whether this arrangement will prolong the extent of his participation in the debate? I propose to speak on this subject, and I would like to know whether my remarks will probably be carried over to a very late hour in the evening.

Mr. VOORHEES. I shall not occupy the floor more than fifteen minutes.

Mr. MALLORY. Mr. Speaker, I have suggested why, financially, we cannot agree to the deportation of this class. But that is not the only one. Humanity comes in and forbids this thing. Will you take this man, for whose freedom you have worked so long and with so much pretended philanthropy; will you take these beings whom you propose to raise from what you call their present abject condition to one of freedom and equality; will you take them forcibly and carry them from the land they love and place them where they do not want to go? Is that your humanity? Why not let him stay in the condition where he is contented and happy? Where will you carry him? Oh, no; this is not your purpose! I know that it was the purpose of some of the gentlemen on that side of the House. Their number has become "small by degrees and beautifully less." I know that that party have been "whittled down to the little end of nothing." [Laughter.] There is nothing of it scarcely remaining. But there are some gentlemen who still think that they ought to be colonized.

I now make the declaration, and I believe that time will prove its truth; I know that gentlemen

are unwilling to accept it as true at this time; I make the declaration that the purpose of the party in power is to retain them in the States where they are freed by force and power if necessary, and to preserve them there as an element of political power, to be used through all time for the purpose of keeping control of the Federal Government, and the control of the States in their hands. That purpose has been indicated by the gentleman from Massachusetts [Mr. ELLIOT] in his effort to pass the freedmen's bill. It has shown that it will be the effect of that bill to erect an *imperium in imperio* in every State in the Union where these slaves are freed, to have in them all a large class of men who shall be kept from the control of State laws and held under the control of the Federal Government. This has been proved recently in Maryland by the interference of the military power to take from the control of the orphans' court the young slaves liberated there who were bound out to their masters in accordance with the laws of that State; and the announcement of the military commander that these young freemen should not have their status fixed by the laws and courts of Maryland, but that it should be fixed by the authorities of the United States.

Well, sir, having been freed by the party in power they will during all time be the friends of the party in power; and when their reconstruction policy comes to be carried out, and State after State is brought back by force, and not willingly, into the Union, how long, I ask you, will it be before this power will enable them to control the General Government and fix the destinies of this Union indefinitely? That may be a strong reason, Mr. Speaker, why they now urge this amendment. I have no doubt that that is their leading motive. And in the name of God, is it not a motive for me, and every man who loves the institutions of his country, for every man who wants to see this great free Government, controlled by the white men during all time, to oppose it?

Sir, I am not indulging in a vain supposition when I make this statement. Facts prove that I am right. Already those who claim to be the leaders of the Republican party, who claim to be the guides of its opinions, those who have from the time that that party was inception, organized, and came into power, manipulated, controlled, and educated it to the stand-points wherever they thought proper to carry it, have avowed this as their purpose. And they will continue to lead it to the attainment of their purposes and objects in the future.

I do not know but the gentleman from Ohio [Mr. ASHLEY] contemplated such an end and such a purpose. I do not know that he is not one of the *illuminati* who are undertaking to educate this whole land in the belief in the destiny of the negro, which is to place him not only upon an equality with the white man but above him in all respects. Sir, that is the policy of a distinguished gentleman from Missouri, (Gratz Brown,) who recently wrote a communication to the Democrat, published in St. Louis, in which this purpose is avowed. That gentleman, the "higher law" leader of that State, one of those who guide the public sentiment of the United States; one of that radical set, once so odious and now so powerful; and which has compelled the moderate and conservative men of the party to come into their views; that gentleman has avowed this as his purpose. I read that communication not with surprise, but with horror. It was addressed to the State of Missouri and to the convention which is to assemble there. He tells them that three things are necessary in order to secure that freedom to the negro which they propose to give. The first is a radical change in the judiciary of Missouri—the putting upon the bench a man who will support him in his views of negro rights; the second is that the elective franchise and freedom must go hand in hand, and the negro who is made free by the action of that convention is to be invested with the right of the elective franchise equally with the white man, and the right and power to hold office; and in the third place, for fear that this potent agency will not enable him to carry out his object of controlling that State, he goes further and lays down the doctrine that every white man in the State of Missouri who opposes his policy, every one engaged in the rebellion, including not only those actually in rebellion but those who go under the name of rebel sympathizers, must

be denied the right of the elective franchise. This power which he wants to perpetuate in Missouri is to be accomplished by giving the elective franchise to the black man and taking it from the white man. And the policy he recommends in Missouri you propose to carry out in all the slave States in the Union. You intend that no State shall deny the freed negro the right of franchise. If it shall be done in any State you will set aside its action by the Federal power. I believe you intend to claim the right to prevent it by legislative enactment under that clause of this joint resolution which provides that Congress make the necessary laws to carry out the provisions of this amendment. Is not this your purpose? Will gentlemen deny it? This I aver to be the object of the leading few who control the following many of the party in power.

Mr. Speaker, there is another reason why I do not wish to see this radical revolution in our Government effected at this time and by this body. It is asserted that the next Congress will be able to do it; that two thirds of that body will be in favor of this constitutional amendment. I admit that it appears to be so. However, may we not calculate that the same agencies which have been brought to bear and operate successfully upon those members who voted against this resolution last Congress to induce them to change their votes now, may be brought to bear with equal success upon the minds of those who are elected to the next Congress, before they shall take action on this subject, to induce them to change their views? Changes may be effected by that time, and therefore I do not want to hurry up this thing now.

Another reason; those who are so anxious now to make us reconsider our action and adopt their views have, by the resolution, referred this amendment to the Legislatures of the various States for ratification. They have, as they have power to do under the Constitution, selected the Legislatures of the several States as the bodies to ratify this amendment. Those Legislatures exist now, and were elected by the people of the various States without reference to this great question. It was not a question in the canvass when they were elected. The attention of the people of the various States has never been called to it, as it should be before its adoption. Therefore I want the question postponed until those Legislatures are changed and new ones elected upon this very issue. It becomes necessary to refer the question to the Legislatures, or to a convention of the various States. I prefer the latter, and desire that such bodies shall be elected after a full discussion of this question shall have been had in a canvass.

These various considerations justify me in the vote I shall give again, the same vote I gave last session. I reiterate the views I uttered *in extenso* upon that occasion, and I believe in their solvency as assuredly as I believe in my own existence. My colleague said no man committed himself by his vote here; and I inferred from that that my colleague did not consider himself committed to favor this amendment of the Constitution by voting to refer the question to the people. He did not say whether he would favor the ratification of this amendment or not, but rather intimated that he would not notwithstanding he would vote to refer the question to the States.

Sir, my colleague is mistaken in supposing that this resolution refers the question to the people of the various States. If it did I would not have the same objection to it that I have. It refers this question to the representatives of the people in the Legislatures of the various States, not coming from the people after the people have expressed their views at all upon the question. That, I think, should have prevented my colleague from being influenced by the mistaken motives which have operated upon him, and I trust that when he comes to reflect that he is not submitting this question to the people of the States, but to the Legislatures of the States, packed, fixed, controlled, as many of them are, he will reconsider his purpose to vote for it. Has my colleague reflected that it is not and cannot be referred to the Legislatures, conventions, or people of nine States at all, and anything like an attempt at a ratification of it by Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, or Texas, would be impossible? It would be a farce to refer it to the people of Tennessee, Louisiana, and Arkansas; and my col-

league knows well enough the condition of Missouri, Kentucky, and Maryland, not to feel that those States are not capable of giving a subject like this that peaceful, uninfluenced, deliberate consideration which its importance demands and the Constitution contemplates.

My colleague says that he considers himself free to oppose the ratification of this amendment in Kentucky although he votes for this resolution. Now, I cannot regard the matter in that light. The whole argument of my colleague was addressed to the State of Kentucky to show why she ought to adopt this amendment. The whole scope of his argument was to prove that it is the duty of Kentucky to ratify this amendment; and how, after having argued and reasoned with the State of Kentucky in favor of its ratification can he consider himself free, when he goes home, to oppose it?

Mr. YEAMAN. My colleague rightly apprehended my position in saying that a man might consistently and conscientiously vote for this resolution here and against the amendment in our State, but I afterward distinctly said that I did not put my vote upon that ground, but that I went boldly forward and justified the amendment.

Mr. MALLORY. I did not hear that saving clause. I heard the first part, and I thought it a position so badly taken that I determined to address myself to it.

Well, Mr. Speaker, we are told in addition—I have had that argument presented to me by my conservative Republican friends—that if we adopt this amendment now slavery will be extinguished everywhere, and wiped out, and there will be no more disturbing or dividing elements, and all conservatives can act together against this radical party, and defeat the purposes by which they really seek to revolutionize this Government. That is one argument that has been addressed to me by Republicans why I should vote for this resolution, and it is an argument which has been addressed to me why I should take every step which the Republican party has taken since the commencement of this revolution, for we are in revolution now. But, sir, how mistaken in their views of human nature are those who expect any such result as that! In revolutionary times like these, one step in revolutionary movement induces another, and every such step you sanction makes it harder to resist the next step. That is the natural law of revolutionary movements. It is the law of all movement. The more the movement of a body is accelerated, the more difficult is it to stop it; and besides, I consider this very measure the most radical that has been, or can be proposed—going farther in that direction than all the laws passed by Congress and all the usurpations practiced by the Executive since the party in power commenced to revolutionize the Government. It is not only a step toward the conversion of the Government from a federative to a consolidated one, but it will be the accomplishment of that purpose.

If my colleague would see this matter in this, its true light, he would not invoke us to sustain this movement and profess his willingness after that to aid us in our resistance to what he calls the destructive and radical policy of confiscation, and the plans of reconstruction proposed by the President and this House, but he would see in it (as I believe before God there is) more danger to our liberties and to republican form of government than in all the measures that this Congress has or can enact, and in all the usurpations of the present Executive.

No, sir; now is the time for effort to resist the radical party and save our form of government. I invoke my colleague to reconsider his resolution to support this amendment, and instead of promising to aid us in the future to prevent or cure radical and destructive legislation, to aid us now in defeating this measure, the most radical and destructive of all. Does not my colleague know that former amendments of the Constitution were adopted to protect and guard the States in their rights and powers, and to enlarge them; and this is the first proposition that has ever been made to restrict those rights and powers, and to aggrandize the General Government? I regard it as a movement toward that centralization so much dreaded by our fathers, and which we will reach, unless gentlemen regain their senses before it is too late.

Sir, I do not intend to intrude longer upon the House. I have spoken longer than I intended,

and it only remains for me to ask pardon of my Republican friends and of my Democratic friends who may have changed their views upon this question, for repeating that when the question shall be taken I shall give the same vote as I gave at the last session of Congress.

Mr. VOORHEES. Mr. Speaker, it is my purpose to detain the House but for a few moments, and to confine my remarks to a statement rather than to elaborate them into an argument.

It must have occurred to every observer that great indifference has been displayed during this discussion on both sides of the House. The question of amending the American Constitution upon a point of the utmost magnitude has not engrossed the attention usually given to ordinary legislation. Nor is this apparently strange fact any reflection upon the intelligence or zeal of the members of this body. On the contrary, it attests their sound judgment and capacity to discern correctly the eventful scenes through which we are passing and which will soon become history. Every one here by this time perceives that the existence of the institution of slavery does not depend in any degree whatever upon the enactment of this proposed amendment. The fate of the war in which we have so long been engaged has at last assumed complete and final control of that great question. In July last the President, with becoming frankness at least, announced to the American people that no propositions of peace in this unhappy land would be entertained by him until slavery was destroyed. This was plainly stated. I do not now recall it in order to arraign the fatal policy which, in my judgment, it involves, but simply to observe that this purpose of the war, thus avowed, obtained a ratification, by means however illegitimate, at the ballot-box. Four years more of power was thus given to the party which makes the destruction of slavery a condition of peace as well as a condition of union.

Upon the assembling of Congress here a few weeks ago, the President in his annual message again asserted this condition as the only one on which the war could end. If it is thought that I state the conclusion of his message too broadly, it is only necessary to recall his proclamations of freedom to all the slaves in insurrectionary States, and by which he tells us he intends to stand. He thus commits the blood and treasure of the country to the overthrow of the institution of slavery. There is no escape from this position, and I do not suppose he for a moment desires to evade it. He told the people in advance for what they should bleed and die in the event of his reelection, and he simply reiterates his assertion in the message.

Therefore, Mr. Speaker, if the arms of the Government triumph throughout the region of rebellion, whose vision is so dull as not to behold the liberation of every slave, without any other change in the Constitution than that which war and usurpations and proclamations have already made? This Government now stands committed to the destruction of slavery by all the means which the people possess, and at the expense of a thirty years' war, if that lapse of time should be necessary to accomplish the result.

But reverse the picture, and suppose, for the sake of the argument, that the rebellion becomes a success and southern independence lifts its head from the desolations of war. Slavery is at once beyond our reach. We would have amended our Constitution in order to apply the amendment to a foreign Power. But, sir, long before a final result is obtained by arms on either side of this baleful contest I think I foresee the relinquishment of this domestic institution by the action of the South itself. I cannot close my eyes to the events which are there transpiring. General Lee, on whose shoulders rests the entire cause for which the South drew the sword, asks for negro troops, and they will be raised. Slavery can no longer exist when that policy is adopted. An army of liberated slaves is totally inconsistent with the discipline and police regulations by which alone the relation of master and slave is maintained and rendered mutually advantageous. This fact is understood and appreciated by the public opinion of the South, and while yielding to it as a necessity, in order to raise soldiers and recruit their diminished armies, they will make the consequent and inevitable abolition of slavery a virtue in the eyes of the people

of Europe, and seek for recognition and protection on that account. How far they are likely to succeed in thus enlisting the sympathy and aid of foreign Powers is a question well worth the anxious consideration of the ablest statesmen now intrusted with power.

Sir, in view of these facts, which are open to every eye, I hold that the question of slavery is rapidly diminishing in importance. Whether for better or for worse it is passing away. I shall not stop in this connection to inquire whether such a result is worth the terrible sacrifice which is required to secure it; whether the doubtful blessing which we confer upon four million negroes by setting them free is not too dearly purchased at the expense of the blood and tears and toil which this war has entailed upon the land. My views upon all these and kindred points are well known. I am now simply dealing with facts which all are bound to accept, and which the party that I belong to at least have no power to change. I foresee, it is true; other and most vital issues which will grow out of the destruction of slavery, and which will divide the councils of men in the future. The party now in power will seek to enfranchise the liberated negro, to make him a voter, a juror, and eligible to office. This has already been done in many States in which that party has the ascendancy, and the bill recently introduced by the gentleman from Ohio, [Mr. ASHLEY], purporting to be a bill for the reconstruction of the Union, provides for the exercise of these privileges by the emancipated black man throughout all the seceded States when they are once more reduced to obedience. On all these questions, sir, we will meet you at the proper time. I shall do no more than allude to them now.

But, although I regard the act of the House today on this proposed amendment to the Constitution with total indifference, so far as the existence of the institution of slavery is concerned, yet I shall vote against its passage. I shall give my reasons, but not elaborate them. I hold that this is an improper time to amend the fundamental law of the country. Such an act should not be consummated amid the fiery passions and vehement hates engendered by civil war. It should be the work of calmness and of peace. It is to last for all time. There is an idea of perpetuity attached to constitutions and constitutional amendments which does not belong to ordinary acts of legislation. They should therefore be the work of unclouded wisdom and not spring from the wrath and smoke of the battle-field. If we have spent a large portion of our time here since the war commenced in repealing or revising or amending our hasty and crude legislation it should admonish us to refrain from laying a rude and innovating hand on the Constitution itself. When the sky shall again be clear over our heads, a peaceful sun illuminating the land, and our great household of States all at home in harmony once more, then will be the time to consider what changes, if any, this generation desires to make on the work of Washington, Madison, and the revered sages of our antiquity.

I hold also that it is an act of bad faith on the part of those in power to seize this time of patriotic sacrifice on the part of all to carry out and culminate a favorite partisan scheme against which nearly two million voters protested at the late election. But this conduct has grown familiar to us all, and I barely make the suggestion as worthy of consideration in connection with the whole political career which this war has been made to pursue under the dictation of an unhealthy fanaticism.

But I hold finally that the Constitution does not authorize an amendment to be made by which any State or citizen shall be divested of acquired rights of property or of established political franchises. The construction which our fathers gave to the Constitution, and to which we have all hitherto adhered, guaranteed to the slaveholding States the right of property in slaves. This proposition is too well settled for discussion. It needs only to be stated. It is true that the provision of the Constitution which authorizes its amendment is very broad and contains but one express limitation. But it is always implied as a limitation of power that a well-settled principle of public law shall not be violated. To majorities are intrusted great and diversified powers, but among them, however great and numerous, is never

granted the power to rob a minority of its vested rights. This amendment, in my judgment, proposes to commit this wrong in regard to every slave State on which it can ever be brought to operate. I deny the power. If it can be exercised on the subject of slavery it can on all others. If the rights of a State and of its citizens on this subject can be destroyed all other rights may perish by similar usurpations of power. A minority would thus be left no resource save that of revolution. I cannot give my sanction to a measure fraught with the entire overthrow of the wholesome doctrine that States have certain reserved sovereign rights which no external power can take away.

I have thus very briefly given the views which control my action on this question, and now take leave of it, simply expressing the hope that whatever may be done may advance the happiness of the people.

Mr. CLAY. Mr. Speaker, when this subject was first brought before the House for its action I thought I would take no part in the discussion, but would content myself with giving a silent vote. But the subject is one of such importance to my State and of such great interest that I think it my duty to my constituents, the freemen whom I represent, that I should say something to try to prevent the passage of this resolution. My determination to say something arises from the fact that most of the members who have participated in this discussion have evaded the question now before the House, which in reality and truth only concerns the State of Kentucky. I shall endeavor to demonstrate that fact. We see here in this House twenty-odd northern States arrayed against one southern State. I conceive that to pass this proposed amendment to the Constitution is in violation of plighted faith made to my State and people, and cannot be evaded without dishonor; it is in violation of faith pledged not only to Kentucky but to the whole country.

Mr. Speaker, in discussing this question I perceive most gentlemen commence their remarks against rebels, and are untiring in their abuse and denunciation of the rebellious States; the whole burden of their speeches is against the rebellion, when in reality this is a movement, not against the rebellious States, but against a loyal State now in the Union.

The attempt is made to sway men's judgments by a wholesale abuse of the disloyal States, for the purpose of committing an outrage on a loyal State of the Union. I was not present when this question was discussed and voted upon at the last session of Congress, and did not hear the arguments that were made in its support. But from what I have heard here during this session I discover that the supporters of this measure are desirous of preventing the true issue from coming before the House and the country.

What is the use of this proposed amendment to the Constitution? You contend that by the proclamation of the President slavery is already abolished in all the rebel States. It is needless, therefore, to apply the proposed amendment to any of them. You do not intend that they shall ever return to the Union. The honorable gentleman from Pennsylvania [Mr. STEVENS] has taken the ground here that the rebel States are no longer in the Union, and are, therefore, not entitled to the protection of the Constitution, and the action of Congress in receiving West Virginia in the Union as a State in violation of the Constitution of the United States seems to indorse his sentiments. I read from his speech delivered in the House on the 9th of December, 1862, upon that question:

"Now, these rebellious States being a Power by the acknowledgment of European nations, and of our own nation, subject and entitled to belligerent rights, have become subject to all the rules of war. I hold the Constitution has no longer the least effect upon them."

"Hence I hold that none of the States now in rebellion are entitled to the protection of the Constitution, and I am grieved when I hear those high in authority sometimes talking of the constitutional difficulties of enforcing measures against this belligerent Power, and the next moment disregarding every vestige and semblance of the Constitution by acts which alone are arbitrary."

"This talk of restoring the Union as it was under the Constitution as it is, is one of the absurdities which I have heard all I have become sick of. This Union can never be restored as it was. There are many things which render such an event impossible. This Union shall never, with my consent, be restored under the Constitution as it is, with slavery protected by it."—*Congressional Globe*, vol. 47, part 1, p. 50.

On what, then, is it proposed that the amendment of the Constitution shall, in reality, act? Solely on the State of Kentucky, a State which has always been loyal to the Union. She has not a spot or stain on her escutcheon. She has been always true to the country and the Constitution. Then I ask gentlemen why, when difficulties are thickening around us, they should strive, at a time like this, to increase those difficulties? It has always been admitted by northern statesmen heretofore that Congress had no right to interfere with any State on the subject of slavery. Daniel Webster, one of the ablest men that the North has produced, and in his day the greatest constitutional lawyer and statesman in the country, in one of his speeches in opposition to the extension of slavery in the Territories, said:

"We have slavery already among us. The Constitution found it among us; it recognized it, and gave it solemn guarantees. To the full extent of these guarantees we are all bound in honor, in justice, and by the Constitution."

"Slavery, as it exists in the States, is beyond the reach of Congress. It is a concern of the States themselves; they have never submitted it to Congress, and Congress has no rightful power over it. I shall concur, therefore, in no act, no measure, no menace, no indication of purpose, which shall interfere, or threaten to interfere, with the exclusive authority of the several States over the subject of slavery as it exists within their respective limits."

On another occasion, in the Senate, Mr. Webster said:

"I have often, Mr. President, expressed the opinion that over slavery as it exists in the States this Government has no control whatever. It is entirely and exclusively a State concern. And while it is thus clear that Congress has no direct power over the subject it is our duty to take care that the authority of the Government is not brought to bear upon it by any indirect interference whatever."

And at a still later period, recurring again to the same subject, in a public speech, Mr. Webster said:

"I hold that Congress is absolutely precluded from interfering in any manner, direct or indirect, with this [slavery] as with any other of the institutions of the States."

"I say that there is no power, direct or indirect, in Congress, or the General Government, to interfere in the slightest degree with the institutions of the South."

These were the opinions of that great and good man; although born and reared in the North, opposed to slavery, his honest conviction governed him, and Massachusetts statesmen would do well to follow his example.

We have been told here, not only by the President of the United States, but by Mr. Seward, Secretary of State, as well as by Congress itself, that neither the people of the non-slaveholding States nor Congress has any power over the subject of slavery. In this way the State of Kentucky has been led along, step by step, by the pledges you have given her, until she is now, as it were, powerless in your hands, and stands in the attitude of one State pleading for justice against more than twenty. I do not ask for any favor to Kentucky. I simply ask for justice for her. Give her what she is entitled to, and no more. I ask no more.

How does the proposition affect Kentucky? Let us look at the interest that she has in this matter. Most of the members of this House have little interest in the question. It is a mere idea with them. They sit here and vote away the property of others, while they themselves have no interest in it. How is it with regard to Kentucky? Her slave property before the war was worth \$150,000,000, and would be at this day worth more if it had not been for the action of the Federal Government. You have no right to take away that property unless for the public use, and then only on making just compensation. I have heard much about "military necessity," but you would have just as much right, under this plea, to go to northern manufactories and take away clothing, boots, and shoes, by force of arms, for the use of the Army, as you would have to go into Kentucky and take our slave and other property. You would have just as much right to go into your large cities and take money from the banks and other moneyed institutions, on the plea that it was necessary in order to pay the soldiers to carry on the war. I believe in no such necessity, and such conduct is merely robbing the citizens, contrary to the constitutional laws of the country.

But you say that you intend to make this legal by changing the Constitution; and you ask us to consent that the General Government shall rob one State for the benefit of all the rest if you have it so. You propose to carry the amendment



by a two-thirds vote in Congress and by three fourths of the States, which you are controlling by your armies. Look at the State of Kentucky. At this time and at the last election the Federal soldiers were scattered all over the State. You could not go to a town or cross-road or railroad station without finding it bristling with bayonets. The soldiers were there at the last election, intimidating voters and driving them from the polls. And yet you propose the mockery of submitting this measure to the people under such circumstances. Let me relate a few incidents that have taken place in Kentucky recently. Nearly every public press in the State of Kentucky, so far as I know, that does not sustain the policy of the Administration, has been suppressed by military authority. No paper is allowed to appear there that is not bound to advocate their policy. I do not believe there exists a public print in the whole State of Kentucky that is not so controlled. Not by direct military order, but by trade regulations, by which no editor can buy paper and materials for his office, or sell his paper when printed, without suffering great inconvenience; for the man who does not support the policy of the Administration is denounced as disloyal and not entitled to support. You have your hands upon every man in that country. Your officers say to this man and to that, "I want this property and that, and I intend to have it; and you who do not vote for Abraham Lincoln shall never receive a cent for your property; while those of you who do vote for him shall be fully paid." Even at this very day, in the State of Kentucky, we are called upon to support this amendment of the Constitution, and to legalize what under the laws of the land has hitherto only been robbery.

I could enumerate many an outrage that has been committed upon our people. We had an instance in the last election for judges of our supreme court. Our candidate—Judge Duvall—was a man who had served upon the bench, and who was up for reelection. He was allowed to run until two days before the election, when orders went out to strike his name off the poll-books, and he to be arrested and cast in prison; and the orders were carried out in regard to poll-books. It was probably thought that there being but two days before the election the people of that district would not have time to nominate another man for the office. But it so happened that some men took an interest in the matter, put up another gentleman—Judge Robertson—and by telegraph endeavored to spread the intelligence of the nomination all over the district, being twenty-three counties, nevertheless he received more votes than the candidate of the Lincoln party, who had been many weeks a candidate, and probably been all over the district, and known to the whole country.

I myself have been called a rebel because I would not bow the knee to power, and vote the ticket according to dictation. Never, so help me God, will I vote for anything which I believe to be wrong; never will I bend the knee before the footstool of power, although "thrift may follow fawning."

In my district, under the pressure of military power, two or three irresponsible men, hardly known in the county, some of whom I confess I did not know, although in my own county where I have lived all my life, were put upon the board of trade, and every man who desired to buy or sell anything, a horse, or cow, or supplies of any kind for his family, was compelled to go to them and get a permit before he moved it.

What more? All the railroads in the State of Kentucky are now in the hands of the Government and Government agents, and throughout the whole State they are taking every negro that comes to the roads and running them off to the borders of the State. For what? Is it for the benefit of the Government of the United States? Is it to aid in putting down the rebellion? No, sir; many are taken to the North and put into the Army, that the men of the North may get rid of serving in the Army, and thousands of dollars are made by this stealing of our property by individuals for their own benefit.

Not long ago it seemed that the Government was almost getting into difficulty with Great Britain about recruiting in Ireland, contrary to the laws of that country. It turned out, if the newspapers tell the truth, that Massachusetts had her

agents all through that country, and were shipping men from there to save her own citizens. With the means she had made by her trade with the South, and the profits she had made upon the products of slavery, she was enabled to send her emissaries all through our country, and into Ireland, and buy up recruits to save her own citizens from going into the Army.

Now, why is this thing done? Why is the Federal Government carrying on this system in Kentucky and other loyal States? If you take away from a man that which he considers to be justly his own, you make him desperate, and he will retaliate upon you. You can never by oppression make a man obey willingly the laws of his country. Act justly toward him; let him see that he has a Government which will protect him, and he will love that Government. But oppress and rob him, and he will despise and hate you.

As I said before, you made a solemn declaration to the State of Kentucky that you had no legal power to interfere with slavery in the States. The President of the United States said so in his inaugural address. Mr. Seward, by the direction of the President, in his letter to Mr. Adams said that we had no right to interfere with this institution, and that it would remain the same after this war, whether the rebellion succeeded or not. And why? Simply because the United States Government, in its proper province, has no right to interfere with the institution of slavery in the States. To be more accurate, I will read a passage from that letter, dated April 22, 1861. He says:

"The condition of slavery in the several States will remain just the same, whether it [the revolution] succeeds or fails. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States, and the condition of every human being in them, will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or whether it shall fail." "It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, has always repudiated all designs whatever and whenever imputed to him and them, of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

Thus, in addition to the obligation imposed by the Constitution, you have pledged your sacred honor that you will not do this thing; and if now you commit this act, which you have solemnly declared you had no right to do, and would not do, then you will commit a great outrage on my State, and my State alone, because it is the only State now interested in this question, the other border States having already taken steps to abolish slavery within their limits.

When you declared that you would not perpetrate this outrage, we believed you—at least I did. When these troubles broke out I declared before my people that you would never interfere with the rights guaranteed to the States by the Constitution; that you would stand by your pledged honor, your plighted faith. I had confidence in your pledges, and I endeavored to infuse that feeling of confidence into those of my fellow-citizens with whom I had any influence. Sir, when I come again face to face with the men to whom I gave that assurance, many of them having taken opposite ground to that which I maintained, how shall I answer them when they say, "Did we not tell you that when they got us in their power they would oppress us as they pleased?"

Mr. Speaker, in the adoption of this amendment you northern men will be merely carrying out to the letter the charges made by your enemies; you will be verifying the predictions made by disloyal men. You, by your own act, are now justifying every charge and insinuation made against you, and which I repelled with all my power. It is a matter of justice to my State and to my people that you should not perpetrate this flagrant wrong upon them in defiance of all your pledges heretofore made and as further evidence upon the subject, let me read a resolution passed by the Congress of the United States in February, 1861:

"Resolved, That neither the Congress of the United States nor the people nor governments of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States of this Union."

That resolution was passed unanimously by the Congress of the United States; and among those who voted for it are many gentlemen, leaders of the Republican party, who are now members of this House. Where will these gentlemen stand to-day when the vote is taken? Will they so vote that the record will show they proved faithful to their plighted honor and their solemn oaths to support the Constitution; or will they prove that they have been recreant to their duty?

This is not simply a question of policy. By the adoption of this amendment you are also stripping us of our political power; you are stripping us of our representation in this House. By the Constitution, our representation in this House depends upon the slave population of the State, and if you carry out this scheme you will deprive us of two members of Congress. Thus you propose to violate, in a vital particular, the compact into which the States entered.

When the constitutional compact was assailed by armed treason, you called upon us to come forward to assist in the suppression of the resistance to the Constitution and the laws. We responded to that call. We sent forward our men and contributed our means, relying on the pledges which you gave us that those men and means would be used only for the maintenance of the Constitution and the restoration of the Union, and that you would not invade any of the constitutional rights of the States nor attempt to interfere with their domestic institutions. But, in spite of this pledge, you now propose to rob us of our property and our political rights. I appeal to the justice of this nation, I appeal to you as honest men, to comply with your constitutional obligations and your promises on this subject. If these outrages are to be perpetrated upon us, let mesay that instead of putting an end to this war you will protract it, and instead of putting an end to these troubles you will multiply them a thousand fold. Then, instead of making friends you will only make enemies, and lose many friends you now have.

I had hoped, Mr. Speaker, that we would stand together as brothers, that the rights of each State would have been respected, that the Constitution would not have been infringed. But such I am grieved to say has not been the case. It is now proposed to deprive the master of his slave without compensation. It is wrong in every point of view. He, the master, has the same right to his slave that he has to any other kind of property whatever. It is protected by the Constitution of the United States as well as by the State laws. And it is no small matter to undertake to deprive the people of Kentucky of all of their slave property. You propose to take all that many of them have in the way of property, and then to call upon them for taxes and for their quota of troops to carry on this war. Kentucky has supplied her share of taxes and troops willingly heretofore, as willingly as any other State of this Union. What will be the necessary result if these proposed outrages be perpetrated upon her citizens? When you have taken all they have, you cannot expect taxes; nor can you expect them willingly to fight a war for the purpose of taking away from them their slave property.

I do not want you, Mr. Speaker, to understand me as advocating the rebel cause. The rebels have had nothing to do with this question. It is a question between the General Government and a loyal State, and not a rebel State. It is in that light that I am discussing it. As between the Government and the rebels I take, as I have done all along, the part of the Government.

Carry out the policy which it is now proposed to be inaugurated, and this will be only the beginning of a series of outrages. The whole frame of the Government will be changed. You will have revolutionized the Government to which you try to compel the rebels to yield submission. You go to war to restore the Union and yet change the organic, fundamental laws of the Union. You whip the rebels back into the Union, and yet when they are whipped back the old Union has departed. Is it not a strange anomaly? I want the Constitution and the Union as they were.

Mr. Speaker, I have heard it contended that there is no such thing as independent States. Let us go back a little. When the thirteen colonies belonged to Great Britain—I mean the original thirteen—they were independent of each other.

They belonged only to Great Britain. When they threw off dependence to the mother country they were free and independent to all intents and purposes, and were so recognized by the world. They formed a Confederacy of States, and that not working well they concluded to establish this Union. What followed? I need not go to the debates of the Convention to show that this is a Union of independent States. The Constitution itself said that whenever it was ratified by nine out of the thirteen States it should be binding, not upon the thirteen, but only upon the nine.

There was no power to be exercised, nor could there be, for forcing the reluctant States into the Union. This is not a consolidated Government, but a confederation of independent States. The Constitution of the United States is the bond of the Union. It is the contract by which the States agreed to form a Government for themselves. It is a limited Government. The Constitution declares that the powers not vested in this Government are reserved to the States and to the people. We have, therefore, none but delegated powers, and when we undertake to go beyond them our acts are null and void. You have no more right to change the fundamental law in reference to slavery, being one of the reserved rights of the States, than you have in reference to anything else, and if you do it you do it by force and force alone.

Now, Mr. Speaker, why did this House repeal the fugitive slave law? Had it a bearing upon any other State than Kentucky? Certainly not. Had not Kentucky stood the fast friend of the Union? Was she not loyal and entitled to protection, and does not the Constitution declare that slaves fleeing from one State to another must be delivered up? That is the substance as well as the language of the Constitution—that the fugitives from labor shall be delivered up to their owners. Have you then dealt fairly with Kentucky? Why stab one of your sister loyal States? You know it was a stab at one of your own loyal States.

And why this great anxiety to overpower Kentucky? Mr. Speaker, this idea of restoring the Union has gotten out of your head. It has gone. You have departed from all the principles laid down by which you could conduct this thing properly; and now your acts would indicate that plunder and robbery were your main object. You are confiscating the negroes, as you call it. A military necessity, you say. You are leaving the farmers without any help whatever; and you are putting not all of them into the armies of the United States, but only a few of them. You have the remainder of them running about the country, paying them high wages, and making the people of the United States clothe and feed them.

And then you are taking others and what are you doing with them? You are running them off into the various other States, there to make servants of them just as they were from whence you took them. And such as nobody will have you are taking them away into camps, because they are not fit for servants. In my State is Camp Robinson, historic almost, because of its early location. It is built up almost like our cities, and indeed surpasses many of them, and even some of our capitals. It has water-works which supply it with water by a steam engine from the river; millions of dollars have been spent there, and you and I are taxed for all these things. Men high in position and receiving large salaries are doing nothing but superintending these camps. This is the way the people's money is squandered, and you legislate upon all these matters as though you had the right to do it.

All your arguments and all your homilies upon slavery I have heard. They are nothing but the distempered imagination of narrow minds, catering to the public opinion of a low and degraded constituency; nothing else. We ought to give them as much attention as the advice of a pauper picked up in the streets of London would receive in regard to the financial affairs of the Barings or the Rothschilds, who cannot keep a sixpence in his pocket from morning to night.

You talk about slavery, and say you want to do us good by taking our slaves away from us. If you would march your armies into your northern cities, where men live in marble palaces, who make fortunes out of the people, and if you would seize the contents of their banks and distribute it

among the poor, you would do more good than you would by letting those nabobs have it who eat their sumptuous dinners and drink their fine wines. If you are going to revolutionize society everywhere and do the greatest good, seize upon that property and divide it among those who are poor and needy.

The remarks of my friend from New York, [Mr. ODELL,] which I heard with regret, were a stab directly at the right to hold property. He is arraying the small number of slaveholders against the large number of non-slaveholders, and would rob the few to please the many.

[Here the hammer fell.]

Mr. KASSON obtained the floor, but yielded.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 597) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1866; when the Speaker signed the same.

#### PAYMENT FOR QUARTERMASTERS' STORES.

Mr. GRIDER, by unanimous consent, introduced a bill to amend an act approved July 4, 1864, providing payment for quartermasters' stores; which was read a first and second time, and referred to the Committee on the Judiciary.

#### NAVY CONTRACTS.

Mr. CHANLER asked unanimous consent to introduce a joint resolution authorizing the appointment of a commissioner to settle and adjust the claims of certain contractors with the Navy Department.

Mr. WASHBURN, of Illinois, objected.

#### RANK OF MILITARY OFFICERS.

Mr. GARFIELD, by unanimous consent, introduced a bill to determine the rank of military officers reentering the military service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

And then, on motion of Mr. ASHLEY, (at ten minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, January 10, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. COLLAMER presented the petition of Edmund S. Zevely, praying that he may be allowed extra compensation on his contract to furnish the Post Office Department with marking and rating stamps, or that he may be relieved entirely from the contract; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY presented a petition from citizens of California, praying Congress to pass House bill No. 560, to amend an act entitled "An act to grant the right of preemption to certain purchasers on the Socol Ranch in the State of California;" which was ordered to lie on the table, the bill having been reported by the Committee on Public Lands.

Mr. BUCKALEW presented the petition of William P. Robinson, praying for an appropriation to cover expenses incurred by reason of the wounding of his son, Lieutenant James S. Robinson, when in pursuit of deserters, of which wound he died; which was referred to the Committee on Pensions.

Mr. CHANDLER presented the petition of officers of Michigan regiments in the military service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

#### PAPERS WITHDRAWN.

On motion of Mr. FOOT, leave was granted to withdraw from the files of the Senate the papers in the case of the late Asbury Dickens.

#### GENERAL OFFICERS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Adjutant General be directed to report

for the information of the Senate a complete list of all the major and brigadier generals in the volunteer forces of the United States, and where and how said general officers were employed on the 1st day of January, 1865.

#### OFFICERS OF REGULAR ARMY.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Adjutant General be directed to report for the information of the Senate a complete list of all the officers of the regular Army of the United States, and how and where said officers were employed on the 1st day of January, 1865.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 382) to provide for the better organization of the pay department of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the arsenals of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 383) to repeal an existing provision of law for recruiting in the rebel States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War; which was referred to the Committee on Military Affairs and the Militia.

#### BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. NICOLAY, his Secretary, announcing that the President had approved and signed the bill (S. No. 367) to repeal the provision of law requiring certain regents of the Smithsonian Institution to be members of the National Institute.

#### REPORTS OF COMMITTEES.

Mr. FOOT, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 572) for the relief of Sally C. Northup, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 373) to aid in the construction of a telegraph line from St. Cloud in Minnesota to the British possessions, asked to be discharged from its further consideration; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a petition of the rector, wardens, and vestrymen of Grace church, Ripon, Wisconsin, praying that the duties upon their church organ may be remitted, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the memorial of Edmund F. Brown, a notary public and United States commissioner, of Washington city, praying payment of a balance which he alleges to be due him for services rendered in taking the depositions of witnesses in the case of the Great Falls Manufacturing Company against the United States for taking the water from the Great Falls for the use of the Washington aqueduct, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 404) to authorize a departure from the established mode of surveying in certain cases, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 83) to amend an act confirming certain land claims in the State of Michigan, and the bill (S. No. 287) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, reported them without amendment and with a recommendation that they be indefinitely postponed.

The VICE PRESIDENT. Does the Senator desire the question of postponement to be put at the present time?

Mr. HARLAN. I think it would be as well to clear the Calendar of those bills.

The VICE PRESIDENT. The question then is on concurring in the report of the committee recommending the indefinite postponement of these bills.

The report was concurred in.

#### DELAWARE VOLUNTEERS.

Mr. SAULSBURY. Mr. President, before the adjournment for the holidays I offered a resolution, which was adopted, directing the Secretary of War to inform the Senate in reference to the authority under which he had called into the public service volunteers for thirty and for twenty days. He has not replied to that resolution. I hold, sir, that the Secretary of War and every member of the Cabinet is subject to the order of the American Senate. He has not replied, and I now move you, sir, that he be again directed to inform the Senate in reference to the matters inquired of by that resolution.

The VICE PRESIDENT. The Senator's motion will be in the nature of a resolution, which he will prepare and offer.

Mr. SAULSBURY. Very well, sir.

The resolution having been subsequently prepared, was submitted by Mr. SAULSBURY, as follows:

*Resolved*, That the Secretary of War be directed to answer a resolution of the Senate of December 22, 1864, in the following words:

*"Resolved*, That the Secretary of War be directed to inform the Senate whether volunteers for thirty days and for one hundred days were called for by order of his Department, at any time preceding the last two drafts in the State of Delaware, from that State, and if so, for what purpose, and under what authority of law; whether such volunteers were promised as an inducement to volunteer exemption from said drafts; whether said volunteers were exempted from said drafts when they volunteered; whether they were kept within the limits of said State; and whether they were promised, as a further inducement to volunteer, that they should not be sent without the limits of said State, or that they should not be employed in active service in the field."

The VICE PRESIDENT. Does the Senator ask for the present consideration of the resolution?

Mr. SAULSBURY. Yes, sir.

Mr. CLARK. I think the resolution had better lie over.

Mr. SAULSBURY. Will the Senator allow me to make a remark in this connection?

The VICE PRESIDENT. If the resolution is objected to, it is not the subject-matter of debate, but must go over under the rule.

#### FRANKLIN INSURANCE COMPANY.

Mr. DIXON. The Committee on the District of Columbia, to whom was referred a memorial of the Franklin Insurance Company of Washington, have directed me to report a bill, and I ask that it be acted on at this time, as it is a matter of some importance to the public.

The bill (S. No. 384) to amend an act entitled "An act to amend and extend the charter of the Franklin Insurance Company," approved the 2d of March, 1838, was by unanimous consent read three times, and passed. It proposes to extend and continue in force the act of 1838 for the period of twenty years from the 9th of April, 1858, the time at which the amended act expired, and to legalize and make valid all proceedings had by the company and all legal rights accrued or acquired, and all legal obligations entered into by the company between the 9th of April, 1858, and the date of this act.

#### APPROPRIATION BILLS.

Mr. SHERMAN. I am directed by the Committee on Finance to report back the bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866, without amendment, and also to report back the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, with sundry amendments. I move that these two appropriation bills be postponed until to-morrow, at one o'clock, after the morning hour, and be made the special order.

The VICE PRESIDENT. They must first be taken up by the Senate.

Mr. SHERMAN. I move that they be taken

up, so that they may be made the special order, the consular and diplomatic appropriation bill first.

Mr. GRIMES. Give notice that you will call them up; that is enough.

The VICE PRESIDENT. The Senator from Ohio asks unanimous consent to take up at this time the consular and diplomatic appropriation bill just reported by him. The Chair hears no objection. The Senator now moves that it be postponed until to-morrow, at one o'clock, and be made the special order for that hour.

The motion was agreed to, two thirds of the Senators present concurring therein.

The VICE PRESIDENT. The Senator from Ohio also asks consent to proceed to the consideration of the deficiency appropriation bill. The Chair hears no objection. The Senator now moves to postpone the bill until to-morrow, at one o'clock, and make it the special order for that hour.

The motion was agreed to by a two-thirds vote.

#### INSANE ASYLUM.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia, have directed me to report it back with an amendment. If there be no objection, as it is a small matter, I should like to have it acted on at this time.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that civilians employed in the service of the United States in the quartermaster's department and subsistence department of the Army, who may be or may hereafter become insane while in such employment, shall be admitted, on the order of the Secretary of War, to the same as persons belonging to the Army and Navy, to the benefits of the Asylum for the Insane in the District of Columbia, as provided in other cases by the fourth section of the act to organize an institution for the insane of the Army and Navy, and of the District of Columbia in said District, approved March 3, 1855.

The amendment was in line three before the word "civilians" to insert "during the continuance of the rebellion."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time; and the bill was read the third time, and passed.

#### ALEXANDER J. ATOTCHA.

The VICE PRESIDENT. There is no unfinished business of the morning hour; the business of the morning hour has transpired; and there is no special order for to-day.

Mr. FOSTER. I move that the Senate resume the consideration of Senate bill No. 281. It is a private bill that was before the Senate some time since, and was laid aside on the suggestion of the honorable Senator from Michigan, [Mr. CHANDLER.] I have conversed with him on the subject, and he authorized me to say that he had examined the bill and he had no objection to its passage.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 281) for the relief of Alexander J. Atotcha.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bill; which thereupon received the signature of the Vice President:

A bill (H. R. No. 597) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1866.

#### COMMERCE AMONG THE STATES.

Mr. SHERMAN. One of the bills that I reported to-day is somewhat lengthy, and will not

be likely to excite discussion, and it is not necessary to print it. If it is the pleasure of the Senate therefore, as there does not seem to be much business before it, I move to reconsider my motion to postpone the consular and diplomatic appropriation bill, and ask that it be taken up and acted upon now.

Mr. SUMNER. Before that is done, I wish to make an explanation. I had expected to proceed this morning with the consideration of the resolution reported by me from the Committee on Foreign Relations to terminate the reciprocity treaty; but an appeal has been made to me by the Senator from Wisconsin [Mr. HOWE] that it may be put off until to-morrow, as he wishes to be heard on the question. I have consented to put it off with great reluctance, but from an indisposition to disoblige him I wish that he should have the opportunity of being heard upon it.

Mr. CHANDLER. I will ask the indulgence of the Senator from Ohio to take up a bill for the purpose of making it a special order before his motion is put. It is House bill No. 307, which was made the special order for Wednesday of last week. The Senator from Maryland [Mr. JOHNSON] has informed me that he will be ready to go on with the discussion of that bill next Monday. I move, therefore, to take up the bill for the purpose of making it the special order for Monday next.

The motion was agreed to, and the Senate proceeded to consider the bill (H. R. No. 307) to regulate commerce among the several States; and its further consideration was postponed to, and made the special order of the day for, Monday next, at one o'clock, two thirds of the Senate concurring therein.

#### CONSULAR AND DIPLOMATIC BILL.

The VICE PRESIDENT. The Senator from Ohio moves to reconsider the vote by which the bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1866, was postponed until to-morrow at one o'clock, and made the special order for that hour.

The motion was agreed to.

The VICE PRESIDENT. The Senator now asks the unanimous consent of the Senate to consider the bill at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HALE. I move to postpone the further consideration of the bill until next Friday; and I will state that there is a proposition to amend the bill in an important respect that is now pending before the Committee on Commerce. The Committee on Commerce have had it under consideration, and, I am permitted to state, have addressed the Secretary of State for his views upon it. If the action of the Committee on Commerce is not favorable to the proposition that I make, I shall abandon it; if it is favorable, I hope the Senate will accede to it; and with that view I move that the further consideration of this bill be postponed until next Friday.

Mr. SHERMAN. As the Senator has mentioned the matter to me, I will state that I understand the Committee on Commerce did act on his proposition last year, thoroughly examined it, and decided against it; and I do not think, under the circumstances, that he ought to ask a postponement of a general appropriation bill simply to increase the salary of a single consul. I am told by a Senator who served on that committee that it was fully considered at the last session of Congress and acted on and rejected. As the composition of the committee is precisely the same at the present session, that probably will be the result of the present examination. These consular salaries are all paid in gold; consequently, there is no argument based on the depreciation of the currency which would change the condition of affairs in the present year from the last. Under these circumstances I think we had better put the bill on its passage.

Mr. HALE. Then I will make the motion and suggest what is proper to be suggested in open Senate upon it. The proposition that I make is to increase the salary of the consul at Halifax, Nova Scotia, to \$4,000. I will move it now. I think it should come in at the end of the sixty-sixth line of the bill.



Mr. FOOT. What is the present compensation?

Mr. HALE. The present compensation is \$2,000.

Mr. President, there are a great many considerations that would govern the action of the Senate in this respect of a personal character, relating to the consul himself, which could with much more propriety be stated to the committee than they could in open Senate. The fact that the committee decided against the proposition last year I think will not be conclusive of it this year, for the same committee, as I am informed, and the two Houses followed it, did recommend a similar increase in regard to the consul at Nassau owing to the increased duties and responsibilities of the consulate at that port growing out of the rebellion that now exists in the country.

Halifax at the present time is the great depot for southern commerce on the Atlantic ocean. It has been full of blockade runners constantly; it is their great resort; and the consul is constantly and vigilantly and vigorously employed all the time. In my humble judgment it is of more consequence to have this Government properly represented at Halifax at this time, during the rebellion, than it is in three fourths of the kingdoms of Europe. Our consular agent there has more to do, more duties to perform than, I venture to say, the ministers of the United States at three fourths of the places where we support a foreign minister. He is paid \$2,000 a year, out of which he has to pay his own house rent, clerk hire, and his messenger and porter. No allowance is made by the Government except simply for office rent. I need not say to the Senate, because they know it very well, that the usefulness of a representative of the Government depends in some degree upon the manner in which he is supported. You throw him into society, you constantly subject him to intercourse with the representative of the Crown there, officially and socially; and it seems to me it is poor economy for the Government to require its representative in such a port to live in a manner that a gentleman thus situated ought not to live. But I am trespassing on ground which I did not wish to occupy.

I called upon the Secretary of State after a recent visit to Halifax, and represented the state of the case to him; he suggested to me the reference of it to the Committee on Commerce, and said that if the Committee on Commerce would refer it to him, as they probably would, he would give the subject an investigation and be prepared to give a recommendation. Accordingly, at the earliest moment, I did introduce a resolution; it was referred to the Committee on Commerce; the Committee on Commerce have addressed the Secretary of State upon it, and will probably receive an answer from him in season to take action at their next meeting, which will take place on Thursday. I do not want to expose the private affairs of such a gentleman as this consul, in the Senate; and if I cannot make a case to the Committee on Commerce, on which they will unanimously recommend an increase, (if not exactly the one I propose, something like it,) I will not trouble the Senate again; but if the Committee on Commerce, upon examination of the subject, shall think that there ought to be an increase made, I trust the Senate will repose confidence enough in their judgment to follow it on this subject. I move that the further consideration of the bill be postponed until next Friday.

Mr. SHERMAN. I suppose the amendment is not in order under the rules, unless it comes from a committee, involving, as it does, an appropriation; and as it will be my duty to make that objection on all similar amendments, I feel bound to do it now. If under the circumstances the Senate think proper to postpone the bill until Thursday or Friday, very well. My impression is, considering the action of the last year, that the Senate will scarcely increase the salaries of consuls abroad. There are many arguments in favor of an increase of the compensation of employes at home that do not apply to employes abroad. This matter was very fully considered at the last session of Congress; an application was made on behalf of this very consul, which was referred to the Committee on Finance, and also to the Committee on Commerce, and I believe reported adversely upon by both committees. It is scarcely probable that the Senate will change its action

from any new lights we have before us now. It is my duty to object to the amendment now offered, because under the rules it is not in order, on the ground that it has not been reported from any committee.

Mr. MORRILL. I recollect this case, and I recollect the general fact in regard to this class of cases. There was a very general application last year for an increase of consular salaries, and we reported against them all with one or two exceptions, and those exceptions were founded upon some peculiarities of the cases. In the case which has been mentioned at Nassau the duties had been very largely increased, and the expenses of living had also been very largely increased. My recollection is, however, that there was nothing peculiar in this case to distinguish it from the great majority of cases where an increase of salary had been asked for, and the Committee on Commerce came to the conclusion that there was no good reason in this case which did not apply to the vast majority of cases.

I think that was the state of the facts last year. I do not understand the Senator from New Hampshire to change that relation which it bore to the general class, by any statement of new facts existing. From what I know of that port I should doubt whether the facts were susceptible of changing that relation. It did not appear, I believe, last year that the expenses of living at that port had been particularly increased. That the duties had been somewhat increased is undoubtedly true, but not very largely increased. There is a very general demand throughout for an increase of pay in the consular service, and in ordinary times I am inclined to think that the demand might be reasonable; but the committee adopted as a rule, on which they were very inflexible last year, that unless for particular reasons shown they would not recommend an increase of salary; and I say to the Senator from New Hampshire that unless he is quite sure that he can make out a very strong case, unless this case is peculiar in its character, I doubt whether he will succeed in getting a favorable report from the Committee on Commerce.

Mr. CHANDLER. The Senator from New Hampshire is of the opinion that this case is peculiar, and he asks to be heard before the Committee on Commerce in relation to it. In private conversation with me I thought he made out a strong case, and I told him there would be no objection to his being heard before the committee. I do not ask for a postponement of this bill in order to consider this particular case; but still, as he represents it, and as the facts were presented by him to me, it was a case very similar to that of the consul at Nassau, whose salary was raised from \$2,000 to \$4,000 without a dissenting voice in that committee.

If this case should, upon examination, appear to be similar to that, I have no doubt the committee would recommend an increase. The facts are unknown to me further than they are presented by the Senator from New Hampshire.

The VICE PRESIDENT. The impression of the Chair is that the amendment suggested at this time is not in order, unless it be moved in pursuance of the direction of a committee or the recommendation of the head of a Department, inasmuch as it would increase the appropriation. The motion to postpone the bill until Friday, however, is in order.

Mr. HALE. I move to postpone it for the purpose of getting the action of the committee on the subject.

The motion to postpone was agreed to.

#### DEFICIENCY BILL.

Mr. SHERMAN. I move to reconsider the vote postponing the action on the deficiency bill until to-morrow, and to take it up now. My motion to postpone it was based on the fact that I understood there was a special assignment for today; but it seems I was mistaken in that, and I think we may as well act on the bill now.

Mr. GRIMES. Has it been printed?

Mr. SHERMAN. The House bill has been printed, and there are not many amendments.

The motion to reconsider was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865.

The first amendment of the Committee on Finance was to insert after line twenty, on page 2:

To supply a deficiency for the compensation of clerks in the Denver branch mint, \$450.

The amendment was agreed to.

The next amendment was to insert after the one just adopted, the following:

To supply a deficiency in the appropriation for the branch mint at San Francisco, \$134,889 68.

The amendment was agreed to.

The next amendment was to strike out from lines thirty-four to thirty-seven, as follows:

For the support and maintenance of the convicts transferred from the District of Columbia, at such place or places as may be selected by the Secretary of the Interior, \$30,000.

The amendment was agreed to.

The next amendment was to strike out the following clause from lines one hundred and two to one hundred and fourteen:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for the purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives; but no payment shall be made under this provision to any other persons than the clerks, officers, and other employes of the House and the reporters for the Congressional Globe.

The amendment was agreed to.

The next amendment was to strike out from lines one hundred and thirty-nine to one hundred and forty-three, as follows:

For salary of the commissioner for codifying the naval laws, under joint resolution of March 3, 1865, from July 1, 1864, to March 3, 1865, \$2,025.

The amendment was agreed to.

The next amendment was to insert at the end of the bill:

Navy Department, Bureau of Navigation:  
For binnacle, binnacle lamps, and alidades; for bunting, muslin, and sewing materials for ensigns, jacks, distinctive flags and marks, signal flags, and foreign flags, and for making flags of all kinds; for logs, log lines, log reels, log slates, log paper, log books, and sand glasses; for leads, lead reels, lead lines, armings for leads, and sounding cups; and for signal apparatus other than signal flags, \$125,000.  
For freight and transportation of navigation materials, instruments, books, and stores; for postage on public letters; for the telegraphing of proposals; for packing-boxes and material; for blank-books, forms, and stationery at navigation office; for maps, drawings, models; and for incidental expenses not applicable to any other appropriation, \$3,000.

For the purchase of nautical and astronomical instruments, nautical books, maps, and charts; and for repairs of instruments; and for binding and backing books and charts, \$2,000.

The amendment was agreed to.

The next amendment was to add:

Bureau of Equipment and Recruiting:  
For fuel for the Navy, and for the transportation and expenses thereof, \$5,347,400.  
For equipments of vessels, \$500,000.

The amendment was agreed to.

The next amendment was to add:

Bureau of Provisions and Clothing:  
For provisions, \$1,500,000.  
For clothing, \$700,000.

The amendment was agreed to.

Mr. HARLAN. The Committee on Agriculture have instructed me to offer the following amendment to come in on page 5, after line one hundred and one:

For the expenses incurred in sending Joseph A. Wright as Commissioner of the United States to the International exhibition at Hamburg, Germany, in the year 1863, \$5,000.

Mr. SHERMAN. I cannot object to this amendment in point of order, because it comes from a committee; but it is proper for me to state that Congress refused to send a commissioner to the fair named after a struggle of some duration, and notwithstanding that Mr. Wright, formerly a member of this body, well known to us all, did go, and I have no doubt performed valuable services. That is the whole of the case. Whether under the circumstances it is now proper to appropriate for that which was refused beforehand is a question for the Senate. I have no doubt that Mr. Wright, whom we all esteem highly, rendered efficient services to the Government, and that his services were valuable to the country; but the fact still stands that Congress refused to appropriate money for this purpose before the fair took place, and, notwithstanding our refusal,

this commissioner went or was sent, and we are now asked to pay him.

Mr. RICHARDSON. I should like to inquire of the Senator from Ohio if it was not the express understanding that no compensation or expenses were to be allowed by Congress when this appointment was made and accepted.

Mr. SHERMAN. I know of no such understanding. I do not know anything about how that may have been. I know that Congress refused to appropriate money for this purpose, and notwithstanding that refusal, Mr. Wright did go and rendered this service. Whether he had any understanding with the executive department is more than I can tell.

Mr. RICHARDSON. My recollection is that the debate indicated clearly that no compensation was to be allowed. This gentleman, however distinguished he may have been, or whatever service he may have performed, did so with a full knowledge of the express as well as the implied understanding that there should be no compensation allowed from the Treasury.

Mr. HARLAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I should like to inquire who appointed Governor Wright, whether he really received any appointment, or whether he went voluntarily; whether it is anything more than voluntary service rendered by a distinguished citizen of the country now coming in and claiming pay for it by the Government of the United States, when the Government, on consideration of the subject, refused to appropriate money for that purpose.

Mr. COLLAMER. I understand that the President requested him to go there.

Mr. SHERMAN. I can inform the Senator from Illinois, if he desires information, that Mr. Wright was undoubtedly appointed by the President or requested by the President to go, and the President has sent a message to Congress asking us to pay this money. There is no doubt about this; the message can be readily referred to. Indeed, quite a report on the subject was made to Congress by Mr. Wright, and the President has submitted to Congress the propriety of paying him for his services, at the same time commending very highly the services rendered. He went by virtue of an appointment from the President, perhaps in a Government vessel, though as to that I am not advised. At any rate, he went on the express appointment of the President in the ordinary form.

Mr. TRUMBULL. Will the Senator from Ohio be kind enough to refer me to the provision of law under which he was appointed?

Mr. SHERMAN. Ah!

Mr. SUMNER. I can make an explanation. I should not have said anything on this question if the yeas and nays had not been ordered. I have a great respect for Governor Wright, and I do not doubt that he rendered excellent service to the cause which he represented at this agricultural exhibition. His report on the subject is an important document; I have read it with great interest and instruction; but I cannot forget, sir, that when he went there, so far as I am informed, he went as a private citizen, without any national appointment. It is within my recollection that I reported from the Committee on Foreign Relations a resolution appropriating a certain sum for this very purpose. My resolution was voted down. At a later day in the session I brought it forward in another form on an appropriation bill. There again it was voted down, and my impression is that I brought it forward still a second time on an appropriation bill, so that the Senate acted upon it once, twice, if not three times. I was sorry at the time that I was unable to convince the Senate of the expediency of the appropriation, but I am obliged to recognize the fact that no such appropriation was made. When I saw by the papers afterward that Governor Wright had embarked on this mission I regarded it as a purely private enterprise to which I supposed he was encouraged by some of the agricultural societies of the country, and if anything was to be paid I supposed it was to be paid by them. These are the facts, and on these facts—

Mr. COLLAMER. The President appointed him.

Mr. SUMNER. The Senator from Vermont

reminds me of a further fact, that the President appointed him; but appointed him to what, and in pursuance of what authority? The President can only act, I suppose, according to law. I have already shown that there was no law applicable to this matter. The appointment was not diplomatic or consular. If either one or the other, then of course it would have been provided for in one of our appropriation bills, and the President would have been authorized to fill the place; but being neither consular nor diplomatic, I do not see that the President had any more authority to send an agent there than any member of this body, or than any private association. In one word, whatever was done was a private transaction, not in any respect involving the Government, and I do not think that we are now responsible.

Mr. HARLAN. Mr. President, the fact stated by several Senators that the Senate heretofore refused to make an appropriation for this purpose, it seems to me ought not to conclude the subject. Before services were rendered the Senate refused to pay for those services. The services have since been rendered; and, as is admitted by the chairman of the Committee on Finance, the services were valuable to the country. Now, sir, the services having been rendered, and having been valuable, so admitted by the chairman of the Committee on Finance, and by other Senators who have spoken, it seems to me eminently just that we should pay for them.

It is a trivial matter; it was supposed to be for the advantage of the agricultural and mechanical interests of the country that our products should be fairly represented at the World's Fair; and the President, as I think with great propriety, sent a gentleman eminently qualified for this position to represent our interests at Hamburg, from which our artisans and agriculturists have derived great credit, and will doubtless ultimately reap great profit. Now, when it proposed that this agent of the Government, sent by the President, shall receive the expenses incurred by him on this mission, it is opposed by the chairman of the Committee on Foreign Relations.

If it were a proposition to increase the appropriations for building light-houses, or for commuting dues claimed in Europe imposing slight burdens on commerce, I doubt not it would receive his support; but being a simple matter for the advantage of agriculture he can see no merit in it, he can see no advantage to be derived from it, and no justice in defraying the expenses from the public Treasury. I confess I feel a little astonished at the Senator. We are appropriating hundreds of thousands of dollars to build light-houses, for whom? For the advantage of commerce. We are appropriating large sums of money at his suggestion to remove burdens on commerce in Europe, for which the commercial interests alone ought to be made responsible, as I think. And when it is asked that an agent sent to Europe to represent the agricultural interests shall be paid his expenses, the Senator rises in his seat very gravely and says that he supposes the agricultural societies of the country ought to pay the bill! I submit that the merchants of the country ought to build the light-houses, and ought to pay the expenses of the improvements of harbors and the cost of commuting dues assessed on our commerce abroad, if equal justice is to be meted out and his views on this subject are to be indorsed by the Senate.

Technically I know this gentleman has no claim on the Government. If it had been authorized by law and an appropriation had been made in advance, there would have been no necessity for the adoption of this amendment. It is because there was no appropriation made heretofore that I now offer this amendment to meet the exigency which has arisen. We have sent a man abroad to represent the great agricultural and mechanical pursuits of this country at a World's Fair; he went with a commission issued by the President of the United States; he was recognized there as the representative of this nation in that convention, and, as we are told by Senators here, he discharged the duties incumbent on him with ability, and our agricultural and mechanical interests have derived great credit from his services, and it is now proposed by the Committee on Agriculture that we shall meet his expenses. This is the whole case, and I confess I feel some astonishment that it should meet with opposition on this floor.

Mr. CONNESS. I agree entirely in what has been said by the honorable Senator from Iowa, except perhaps in the sharpness of his strictures toward the honorable chairman of the Committee on Foreign Relations, although I must say that I think they were deserved, too; but the Senator from Iowa has manifested more courage in applying them than I could have if I had been in his place.

I believe that this appropriation should be made. Without detailing what transpired in the Committee on Finance where the case was heard, I undertake to say that a similar statement made here to that which was made there, would secure the appropriation without any considerable opposition. I will state in addition to what has been said by the honorable Senator from Iowa that one of the results of this mission was the establishment there, where the commissioner went, of an institution for the collection and preservation of articles of American mechanical production. That institution has been established by the Germans, to be maintained and conducted by them, in which articles of American manufacture in the mechanic arts are to be preserved and exhibited through all time.

The point made by the Senator from Iowa seems to me to have great force in it. If the appropriation had been made by law in advance, pursuant to which this commissioner was appointed and sent abroad, of course no question would remain to be determined. I do not feel like raising a question as to the power of the President to send this commissioner there. I believe that it was an eminently judicious act; I believe that the selection was well made; and I believe that the compensation now proposed to be paid is inconsiderable compared with the advantages realized to the country, and I hope that the appropriation will be made. I may say, however, that I am still in favor of light-houses being built by the Government, and dues commuted, and so on. I believe that the Government cannot do too much in those directions.

Mr. SUMNER. Mr. President, I am unwilling even for one moment to be left in the position in which my honorable friend from Iowa seems disposed to leave me. He holds me up as standing in the way of an appropriation for the benefit of agriculture, and reminds the Senate that I am assiduous in favor of appropriations for light-houses. I am ready to follow the Senator in any appropriation which he will show to be legitimate in favor of agriculture. Was I not the original author of the very proposition he now seeks to sustain? I reported it from the committee which I represent on this floor; I urged its passage once, twice, and I think even three times. I was voted down; the Senate was against making any such appropriation, and I submitted. The law then did not sanction the appropriation, and of course, therefore, it did not sanction any appointment with a view to compensation.

I do not say that the President may not designate an eminent citizen to go abroad and visit agricultural exhibitions. He may, and so may any Senator on this floor, designate an eminent citizen, and ask him to go abroad, but it is a private designation; it is not sustained by law; and I am at a loss how my honorable friend from Iowa, who is usually so economical, and always so clear-sighted, can justify at this moment an appropriation which has not for its basis any original sanction of law. If this question had not been carefully considered by the Senate on former occasions and in advance, if they had not decided against the appropriation, I should feel that possibly there was a certain opening for my excellent friend; but as the whole question was, on a former occasion, amply considered and voted upon, I do not see what opening there is now for asking the Senate to make an appropriation which it originally refused to sanction.

Mr. COLLAMER. I fancy that very few weeks pass over the Senate in which we do not make grants to pay money which the law has not before authorized. Almost every private claim which comes before us arises from something which has been done for which there was no legal provision. Frequently a man having done public service cannot get his pay because there is no appropriation to meet it, and that is the general character of a large class of private claims.

If we were to insist on the principle and doc-

trine that because there had not been a legal provision for such cases we were never to allow them, we might as well dismiss all consideration of private claims. So much for the general principle.

I acknowledge that I do not like the looks of things, when, after having had the subject before them, the Senate have refused to authorize a thing, and then the President makes an appointment to do the thing which the Senate have refused to authorize. On the first impression it looks like a want of courtesy; but that is all there is of it. The President still has the power to make appointments, and he may trust to the generosity, if you please, or the sense of justice of Congress to make the appropriation. Now, the result of this mission to Hamburg has been so marked, so beneficial in its consequences to the section of country in which I live, that I cannot think it proper to let the subject entirely drop without any remarks of mine upon it.

For many years our people had been in the habit of going to Europe—to Spain, to France, to Germany, as well as to England—for the purpose of obtaining breeds to improve their sheep, and to improve the condition of the wool-growing interest of the country, a very important interest. Great sums of money had been expended in that way; great numbers of different varieties of sheep had been from time to time imported into this country; but I need not go into that history. American ingenuity and enterprise, improving upon these materials which they had obtained from Europe, in point of fact finally produced a character of sheep, of wool-growing animals, which was of superior order to any in Europe. In the region from which I come we had known this for several years, but the whole people of the United States did not know it. The people of California did not know it. It is true they had begun to send to New England for sheep, and to take them from thence to California; but they did it, not because they thought it better than to go to Europe for them, although they had been to Europe for some, but because it was easier for them.

This improved breed of sheep, improved upon by American enterprise and American ability, were carried to the Hamburg fair. They there came in competition with the best breeds of Europe—flocks brought in by their nobility from all the different parts of Germany, from Spain, from France, and from Holland—and on full and fair investigation, under the supervision of this commissioner, it was there decided that those sheep, carried indeed from Vermont, were superior to any sheep on earth. It was so decided in Europe by their own committees. The sheep were taken from Vermont, and were sold by Mr. Campbell in Europe after that decision. Though that flock went from Vermont, it is not true that that kind of sheep is confined to Vermont. They are to be found all over New England, and they are getting West now much more than they were formerly.

Americans were then informed by European decisions, "You need not send to Europe any more after sheep to improve your breeds; you have got the best at home." Now, I undertake to declare that there have been thousands, and I will not hesitate to say hundreds of thousands of dollars saved to this country by that very decision; preserved here instead of being sent to Europe. To be sure, you may say that fabulous prices have been and are being given. It is not an uncommon thing now in New England to sell a single buck for \$2,000 for the purpose of carrying him to California or to the West. Whole flocks of the first quality of ewes are sold for two or three hundred dollars a head, entirely for the purpose of breeding and improving the condition of the sheep of the country. That money formerly used to go to Europe, but it is now saved in the country; and it is saved, as I may say, as the result of this very mission to the Hamburg fair.

Such having been the consequences in my part of the country, I could not think it my duty to let it drop as being a thing that did not call for some recognition. The services have been rendered; they were undoubtedly valuable; and though we did not order the thing to be done, inasmuch as it has been done, and well done, I think it better to pay for it.

Mr. FOSTER. Mr. President, I do not understand this to be a question whether we shall pay a few thousand dollars for the benefit of the agricultural interest of the country or for valu-

able services rendered in an exigency which had not been foreseen, and no payment therefor been previously authorized by law. If it were either of those questions, I should find no difficulty in voting for it. I understand it to be a question totally different. It is in effect this: if a given subject, which is not within the sphere of executive action, be brought before Congress where it properly belongs, and Congress in their wisdom or want of wisdom (whichever it may have been) refuse to take any action, can the Executive still go on in the face of that decision, accomplish the object, and lay the foundation of a claim which we ought to pay? I think not. The Executive ought not to do thus. I do not know that he has. I am sure that it would be setting a very vicious precedent if we were to make this appropriation.

What is the fact in this case? It has been perfectly correctly stated by the honorable Senator from Massachusetts. An application was made to Congress for an appropriation for the purpose of representing this country at an agricultural fair in Europe. A resolution on the subject was sent to the Committee on Foreign Relations. It was reported favorably. It came back to the Senate, and the chairman of the committee, representing the committee, urged the expediency of making an appropriation for the purpose asked. It was discussed very fully in this body. In view of the condition of the country at that time, the Senate did not deem it expedient to make the appropriation. We were in a state of war; we were accumulating daily an immense debt. It was thought an unpropitious time to vote even the sum of \$5,000 to represent the agricultural interest of this country abroad; and after, as I say, a very full discussion of the question, the proposition was rejected. The Senator from Massachusetts, [Mr. SUMNER,] with his usual persistency when he is right, as he generally is, at least in his own estimation, and very frequently in the opinion of the Senate also, not satisfied with the rejection, again pressed it on an appropriation bill, having the authority of the committee for so doing, and it was again rejected; and I believe it was again offered and still again rejected.

I am not about to say that the honorable Senator from Iowa had not a right to complain of this, and representing, as he does to some extent, the farming interests of the country, I will not deny that he had a right to say, "Why, this is very narrow and illiberal to the most important interest of the country." I am not sure, however, that we had the aid of the honorable Senator's voice on that occasion. I forget how it was; but at all events, if we had his aid, we failed entirely to carry the proposition; it was lost. If he did not come to the rescue I am sorry for it, for with his aid I think we should probably have carried it; but whether we had it or not, the proposition was defeated.

In this condition of things, I ask, if the Executive has appointed an agent to go to Europe, and the bills for his salary or necessary expenses are brought here to Congress, and we refuse to pay, ought it to be said that we are inimical to the agricultural interest? No, sir, it is not a fair statement of the case. It is whether or not the legislative department of the country shall be independent of the Executive, or shall be controlled by and be subordinate to the Executive.

The honorable Senator from Iowa alludes to the matter of light-houses. Suppose there was a bill brought into this body to build a light-house which should be the means of lighting ships into the most important harbor of the country; that it was discussed here, and after full deliberation was voted down as at the time, at all events, not necessary, not a judicious thing to do; and that as soon as that had been done, the Treasury Department had gone on and built the light-house and sent the bills here to be paid: would anybody think that we were bound, out of regard to the commercial interests of the country, to vote an appropriation to pay those expenses? No, sir; and yet nobody would say there was hostility to the commercial interests because we refused, under those circumstances, to pay the expenses of building such a light-house. It was a legislative matter beyond doubt; and if, under certain circumstances and in an exigency, expenses had been incurred to erect a light-house, and the bill had been sent here with a request to have it paid, that would be another thing; perhaps it would be

just and proper to pay it; but if the matter had been brought here in the outset, and it had been examined, and the judgment of the Senate and of Congress had been passed upon it that it ought not to be done, I submit that the executive department could not then properly do it, and we, with a proper sense of self-respect, and duty to the Constitution and to ourselves could not then pay it or authorize it to be paid.

Thus this matter now stands. It has been passed upon by the legislative department, passed upon beforehand; the case has been decided; and after that, executive action has been had contrary to the decision of Congress, and we, because the service is said to be valuable, are asked now to pay for it. I submit, Mr. President, that we have said, although the service might be valuable, we could not incur the expense; and under those circumstances propriety, every principle on which this Senate ought to act, requires us now to refuse to make this appropriation.

Mr. HOWE. I am going to vote for this amendment, and I desire to say that I am going to vote for it without the slightest regard to the question whether the services of Governor Wright in that convention were of value to one interest or another of this country, or to no interest. I do not know, in fact, what was the value of his services as an agent of the Government there. Whether he was there in the interest of agriculture in general, or the wool interest in particular, or whether he was there in the interest of the mechanical or manufacturing industry of the country, or whether he was there in the commercial interest as an agent of the Light-House Board, I do not stop to inquire at all. I am governed by the simple fact that he took a designation from the President of the United States, and went there in 1863 to represent the United States of America in a convention in which the United States of America would not have been represented if he had not gone there; and that of itself I think of great value to this country. It is a great gratification to my feelings to know that he was there at all events.

When the resolution referred to by the Senator from Massachusetts was before the Senate, proposing to provide for just such a mission and pay for it, I voted for it; and when the Senate refused to make that appropriation I regretted it. I knew that we were in the very morning of a struggle, the end of which was intended to put an end to this nationality. I hoped that it would terminate differently. I knew that the very purpose of the assault which was then made upon us was to end this nationality. I thought it was excellent policy for us to make believe we were a nationality even then. There was a congress of the nations, and I thought it was our business to take our seat there, and to keep the flag flying; and when this Senate refused to make an appropriation for that purpose I regretted it. I must say that, individually, I felt humiliated by it, more so than when our flag was pulled down from Fort Sumter. There was one place where the nations were represented, and where we did not take our seats. I wanted that we should appear everywhere.

I do not think the President overruled Congress or attempted to overrule Congress at all. Congress simply said, not that we would not be represented there, but that we would not make any appropriation. Whether that decision was arrived at from any doubt as to whether we were an existing nation or not, I shall not undertake to say. I presume it was not. They simply said that under existing circumstances they would not make an appropriation. The President never said you should. The President has simply sent an agent there to represent us. He has imposed no legal obligation upon the country to pay for those services. The question for us to determine is whether we are glad to have been represented there or not. If we are, I think we should make payment for it; and I am willing to make payment because of the mere fact of being represented there. I would vote for this simple appropriation if the President, instead of sending Governor Wright, had sent a photograph of the goddess of Liberty there—anything to represent this nation in that congress. That is what I am willing to pay for, and that is what I shall vote to pay for.

Mr. HARLAN. Mr. President, I can nearly



always indorse the positions taken by the Senator from Connecticut, and nearly always concur with him in his conclusions when he carefully considers a subject. For once, however, I think his logic is at fault; and if he votes against this amendment, it will be on a pure question of etiquette between him and the President of the United States. I will take his own case to illustrate what I mean.

He says, suppose the President had proposed that a light-house should be built; Congress considers the subject, and refuses to make an appropriation to build it; and, I will add, afterwards commercial gentlemen unite and construct it, and it serves an excellent purpose; that guided by its friendly light, weather-worn mariners on the high seas make the port safely from month to month, and from year to year; it renders life and property on a dangerous coast more secure; it thus diminishes the cost of the international exchange of commodities, and proves to be of public utility; not advantageous alone to the liberal gentlemen who advanced the means in the beginning, but advantageous to the whole country, to the great commercial interests of the nation, and, indirectly, to all collateral interests, agriculture included. Suppose that a proposition is then made to return to these gentlemen the money they advanced to erect that light, would the Senator from Connecticut oppose it? Would he then say to the New England merchant, originally, when this enterprise was proposed, deeming that it would be worthless, I voted against it? The experiment has been made, and it proves to be of vast advantage to this great interest, and to the nation at large, but as I opposed it in the beginning, in the belief that it would be worthless, because I differed with the President and though experience has shown that the President was right and that I was wrong, I will adhere to the error.

That is substantially the case before the Senate. The President recommended that an appropriation be made to defray the expenses of a commissioner to this World's Fair. The subject was considered, and the appropriation was refused. Why refused? I must suppose not on account of obstinate opposition to the President, not because the President recommended it, but because the Senate supposed that it would be useless, that it would be worthless, or that the service would not be of sufficient advantage to the nation at large to justify the cost.

Mr. FOSTER. If the honorable Senator will pardon me a moment, I believe no one at the time urged that the service was not desirable, and might not, and probably would not, be valuable, but because of the condition of the country. The necessary daily expenses were so great that the expenditure of any sum which could possibly be avoided, although for a valuable purpose, ought to be. The same reason exists, of course, now.

Mr. HARLAN. Very well. If I understand the Senator, he now abandons his original position, and puts it on the ground of ability on the part of the Government to meet the expenses.

Mr. FOSTER. That was the ground on which it was put originally.

Mr. HARLAN. We are engaged in war; the expenses from day to day are very large; and we are unable to meet this small liability! I do not agree with the Senator in this. The nation is able to pay it. But I will return.

The President suggested that an appropriation should be made. The Senate refused it at the time. The services had not been rendered, and, as I was about suggesting, in the opinion of those who voted against it the services probably would not be valuable, or, if so, would be valuable only to a special interest, not of sufficient national importance to justify the appropriation, and therefore it was at the time refused. But the President, as I suppose, stated to this gentleman, "I will commission you to go abroad to represent the nation in this World's Fair; no appropriation has been made; you will have to go at your own expense; you will have to use your own means; if an appropriation shall hereafter be made by Congress, all well; and if not you will have to pocket the loss." The representative accepted the commission, defrays his own expenses, fulfills the mission, and all admit it resulted in securing great credit to American artisans and agriculturists, and in securing vast immediate and prospective pecuniary profit to these great interests. The Senate was mistaken, the Senate was wrong, and the President was right.

This is admitted all around. The recommendation of the President ought to have been adopted in the outset; but because we did not then believe he was right, and honestly thought that he was wrong, we will adhere to the error, confessing it to have been an error. We will not now admit that we erred by our votes, although all admit it in their speeches. The President believed this to be of national interest, of national importance, and commissioned this gentleman, although without pay; Congress believing at the time that it was not of national consequence, refused to provide means to defray the necessary expenses. In doing this the President violated no law and imposed on the country no legal liability to pay a dollar. And no one pretends that such legal liability exists. Congress may now assume it or not, as it chooses. Believing that the mission has resulted in consequences of vast pecuniary advantage to the nation, the Committee on Agriculture believe that the nation should pay the necessary expenses incurred by the commissioner.

The Senator from Massachusetts, however, attempted to evade the allusion I made to him by saying that he originally was in favor of this proposition, that he introduced it and voted for it. Then I beg to know why he abandons it now? Why should he commit an infanticide, why destroy his own offspring? He supported it when it emanated from himself; why should he oppose it when it emanates from a more humble source? Is it because of the present origin of the measure? As it seems to me, there is no better reason for his reverse of position. He supported it originally because he believed it was right; he now admits that it was right; that the nation has derived great advantage from it; that we have received a full equivalent and more too, a hundred times over, for all that we propose to appropriate; but because the Senate refused to approve it then when he proposed it, now he will oppose it when it emanates from a different source. I submit to him that this is his true logical position. If the measure was right when proposed by him, it is right when proposed by the Committee on Agriculture, and if he will be consistent with himself he must vote for the proposition now which he sustained then.

Mr. DAVIS. I range myself on this particular question with the honorable chairman of the Committee on Foreign Relations. The Senate will do me the justice to say that I do not do it from any sympathy with him. [Laughter.] The very consideration that induces the Senator from Wisconsin to sustain the measure is the identical one upon which I oppose it.

I was on the Committee on Foreign Relations when this measure was recommended to the adoption of the committee by the sanction of the President of the United States, and upon the special letter written by the diplomatic agent from the country in which the Fair was about to be held. I thought that the agency ought to be established, and that the agent should be sent. I sustained the proposition in committee and I voted for it in the Senate; and I well recollect the persistence and ability with which the honorable chairman of the Committee on Foreign Relations repeatedly urged it in the Senate. It was voted down upon the considerations suggested by the Senator from Connecticut. I thought the considerations were too small to interfere with the sending of such an agent, and having such a representative as this country should have in a Fair to be held in Germany; but the Senate thought otherwise. They expressly and pointedly refused to make the appropriation. That was their deliberate judgment and action; and after they had taken that position, the President, in defiance of that position of the Senate, and in defiance of its purpose not to incur the expenses of such an agency as this, nevertheless persisted in appointing the agent.

My friend from Wisconsin says that if a daguerreotype likeness had been sent by the President to that fair he would have voted for the appropriation. I so understood him; I may be mistaken.

Mr. HOWE. Not of himself, but of the goddess of liberty.

Mr. DAVIS. I did not say of himself. I would rather have the likeness of the goddess of liberty than the President's. It would be much more comely and attractive, that is certain. [Laughter.]

But the very reason that prompts the Senator

from Wisconsin to give this appropriation his support induces me to go against it. I never would, at any time, under any Administration, or under the sanction of any President that ever presided over the Government of this country, vote for an appropriation to a matter to which the Senate had withheld its approbation when the President in defiance of that approbation, and upon his will sought to carry it out. I do not do this for the intrinsic importance of this small affair; very far from it. I was an earnest advocate of the appropriation at the time that it was proposed, and I regretted its failure; but this is a precedent of infinitely more evil than any good resulting from the agency, or all the results of our representation in that fair. We all know that precedent becomes law; that precedent becomes an institution; that precedent changes law; that precedent changes constitutional provision; that precedent subverts the fundamental principles of government itself, and it is just such precedent as this promises to be, and as it is. The executive branch of the Government in its head and in its heads of Departments has *ad libitum* upon its own pleasure created from time to time offices according to its own judgment or caprice or purpose to corrupt, and in addition to that it has attached to and given such pay and salaries to these officers as it pleased, by its own authority, in defiance of the legislative will of Congress, and in defiance of the limitations imposed upon executive power and discretion by the Constitution.

It is not only in this matter, but thousands of other matters, that this President has contemned and trampled upon the authority of Congress to create offices and to establish the pay and salary for those offices, and has also trampled upon the restrictions and prohibitions of the Constitution that prevented him and his department from creating offices and fixing their pay and salaries. All these matters and principles pertain to the legislative department of the Government, and they ought to be strictly maintained and defended by that department as a part of its own exclusive legislative power under the Constitution. Whenever the President in this matter or any other impinges on this principle, and the peculiar and distinctive province and prerogative of Congress, it is, in my judgment, much more important to rebuke him and to put down the President than to secure any temporary good which the object to which he had thus abused his power might lead.

Mr. President, I may make these remarks for another consideration. This agent is an old friend of mine. I have a very high personal regard for him. I would regret if he should lose anything personally; but I know that my opposition to the measure will not prejudice him or it, but will rather have an effect, if it has any effect whatever, to help along its passage. I shall be very much disappointed if the Senate does not pocket the usurpation of power which the President has practiced upon the present occasion, and if it should have the independence now to rebuke and repudiate that President and that usurpation of power.

Mr. SAULSBURY. Mr. President, if I were to consult my personal feelings alone, I should vote for this proposition. However much I may disagree with the political principles or position of Mr. Wright, of Indiana, my personal intercourse with him was always of the most agreeable and friendly character. I found him a kind-hearted gentleman, agreeable to all his associates. If this was a mere appropriation to him, and I had the authority to vote it, I certainly would vote for it, because I know of no man in the opposition ranks in this country whom I would more cheerfully vote to pay than I would Mr. Wright. But I think the honorable Senator from Kentucky has placed this question upon its true grounds, and I shall be governed by the argument which he has made. I am compelled, therefore, to vote against an allowance to a friend whom I esteem, simply because I have not the power or authority to vote in his favor.

Mr. POMEROY. I should not have said anything but for the yeas and nays being called, and I now merely desire to state that I shall vote against this allowance with a great deal of reluctance. I shall do it principally because this arrangement was entered into with the understanding that there was to be nothing paid. We had a full discussion of this matter here, and reasons

were urged for and against the measure by several Senators, in which I took at least a very small part. I say this arrangement was entered into with the understanding, as I think, that if this service was rendered there should be no appropriation by the Government, and I do not think we should come in at this late day and seek an appropriation when it was decided by three successive votes that there would be no appropriation made. I shall vote against it simply because I believe that that was the understanding, that was the sentiment disclosed by the votes of Congress, if they have any instruction at all; and that certainly was their vote.

The question being taken by yeas and nays, resulted—yeas 8, nays 20; as follows:

**YEAS**—Messrs. Collamer, Conness, Foot, Harlan, Howe, Lane of Indiana, Ramsey, and Riddle—8.

**NAYS**—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Davis, Dixon, Farwell, Foster, Hale, Henderson, Morgan, Pomeroy, Richardson, Slausbury, Sherman, Sprague, Sumner, Ten Eyck, and Wilson—20.

**ABSENT**—Messrs. Chandler, Cowan, Doolittle, Grimes, Harding, Harris, Hendricks, Hicks, Howard, Johnson, Lane of Kansas, McDougall, Morrill, Nesmith, Powell, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wright—21.

So the amendment was rejected.

**Mr. MORGAN.** I desire to offer an amendment from the Committee on Military Affairs and the Militia to come in at the end of the bill:

For a gold medal to Cornelius Vanderbilt, pursuant to the joint resolution approved January 28, 1864, \$3,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed; and it was ordered that the bill be read a third time. It was read the third time, and passed.

#### NAVAL ACADEMY.

The **VICE PRESIDENT** laid before the Senate the annual report of the board of visitors to the Naval Academy for 1864.

**Mr. GRIMES.** I move that it be referred to the Committee on Naval Affairs, and that the usual number of copies be printed for the use of the Senate.

The **VICE PRESIDENT.** It will be so referred. Under the rule the motion to print goes to the Committee on Printing. The report is not from a Department.

**Mr. GRIMES.** It is the report of the board of visitors to the Naval Academy, which ought properly to have accompanied the annual report of the Secretary of the Navy.

The **VICE PRESIDENT.** If there be no objection the order to print will be made. The Chair hears no objection.

**Mr. GRIMES.** I desire to say in connection with what I have said that the reason why it did not accompany that report was because it had not been received at the time the annual report was made to the Senate.

#### EXECUTIVE SESSION.

On motion of **Mr. GRIMES**, the Senate proceeded to the consideration of executive business, and, after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Tuesday, January 10, 1865.

The House met at twelve o'clock, m. Prayer by **Rev. T. R. Howlett**. The Journal of yesterday was read and approved.

#### MILITARY ARRESTS.

**Mr. KERNAN**, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and the same is, directed to inquire and report to the House what legislation or action, if any, is necessary to secure to persons arrested and imprisoned by military authority a prompt examination into the cause of their arrest, and their discharge if there be no adequate cause for their detention, and a speedy trial where there is such cause.

#### GUNBOAT FOR LIBERIA.

**Mr. SPALDING** asked unanimous consent to take from the Speaker's table, for the purpose of action thereon, a bill (S. No. 356) to authorize the President of the United States to transfer a gunboat to the Government of Liberia.

**Mr. COX** objected.

W. J. HARDING.

**Mr. BRANDEGEE**, by unanimous consent, introduced a bill for the relief of W. J. Harding, of Virginia; which was read a first and second time, and referred to the Committee on Military Affairs.

#### ESTABLISHMENT OF STEAM WHISTLES.

**Mr. PIKE**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Naval Committee be requested to inquire into the expediency of establishing steam whistles at Cape Elizabeth, Matineus Rock, Quoddy Head, for the benefit of the naval and mercantile shipping of the country.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by **Mr. Hickey**, its Chief Clerk, notifying the House that that body had passed House bill No. 644, to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia, with an amendment, and bills and a joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 281) for the relief of Alexander J. Atocha;

An act (S. No. 384) to amend an act entitled "An act to establish and extend the charter of the Franklin Insurance Company," approved 2d March, 1838; and

A joint resolution (S. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

#### SUPERINTENDENT OF INSANE ASYLUM.

**Mr. ALLEY**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law that the Superintendent of the Insane Asylum in the District of Columbia be appointed by the President, with the advice and consent of the Senate.

#### ATTACK ON THE CHEYENNES.

**Mr. ORTH**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the committee on the conduct of the war be requested to inquire into and report all the facts connected with the late attack of the third regiment of Colorado volunteers, under Colonel Cheyington, on a village of the Cheyenne tribe of Indians, near Fort Lyon.

#### GUNBOAT FOR LIBERIA—AGAIN.

**Mr. COX.** I would say to my colleague, [**Mr. SPALDING**], who asked to take from the Speaker's table the bill to give a gunboat to Liberia, that I will withdraw my objection provided he will allow me to make one little amendment, to strike out "Liberia" and insert "Peru."

**Mr. J. C. ALLEN.** I object.

**Mr. WASHBURN**, of Illinois. I demand the regular order of business.

#### ABOLITION OF SLAVERY.

The **SPEAKER.** The next business in order is the consideration of the business in which the House was engaged at the adjournment yesterday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, on which the gentleman from Iowa [**Mr. KASSON**] is entitled to the floor.

**Mr. KASSON.** Mr. Speaker, when this question was up at the last session of Congress I had no opportunity, from certain causes then existing, to ask the attention of the House to the views which I entertain upon the only two questions which, in my judgment, are involved in its consideration. These are its constitutionality and its policy. Nor had I intended until yesterday to ask the attention of the House even to these two questions; but when the distinguished gentleman from the Louisville district of Kentucky [**Mr. MALLORY**] rose in his place and called the attention of his side of the House to certain questions which, in my judgment, are outside of the main questions at issue, I thought it my duty, as it certainly is my pleasure, to ask the attention of the House to the propriety of such appeals. It seemed to me that with some emphasis and with somewhat of the air of leadership of his colleagues

upon that side of the House, the gentleman from Kentucky demanded to know of them if there were new lights, and, with still further emphasis, if there were new "influences" brought to bear upon them since the question was considered at the last session, that should change the vote of any member who then voted against this proposition. I wish for myself to answer that there have been new lights and new influences brought to bear upon its consideration, and that gentleman I think is entitled to the commiseration of his associates if he has been unable to recognize these lights and these influences.

Why, sir, this question was propounded to the people of this country by the convention of Union men which met at Baltimore in June of last year; they challenged the people of this entire nation to its consideration by declaring that the best interests of the country required that this amendment should be adopted. And when the convention with which that gentleman was allied met subsequently in the city of Chicago about the 1st of September, they did not dare to take up the issue thus presented by a counter-statement to the Democracy of this country. They failed to meet the issue and to rally their adherents upon that basis. And I contend, sir, as a man raised and trained in the Democratic faith, that there is not one authentic doctrine of that party to which its most devoted adherent in this House should give his attention to-day as preventing the free and philosophic and calm exercise of his judgment in respect to the propriety of supporting this amendment. If the Democratic party desired to pledge gentlemen upon the other side of the House to opposition to it, I ask them why they did not in that convention rally the Democracy upon that basis, and tell them that it was a radical change, and that it was unconstitutional, as has now been claimed by some members upon the other side of the House. I affirm that there is no doctrine of the Democratic party that is against the proposition offered here for the action of this House to-day. On the contrary, I affirm that there is abundant testimony from the Democratic fathers of this country to the propriety of considering a question of this kind, and sustaining it as a matter of just statesmanship in this nation.

**Mr. MALLORY.** I would inquire of my friend from Iowa [**Mr. KASSON**] if he is not aware that in every amendment that has heretofore been made to the Constitution of the United States the effort and the effect has not been to increase the powers of the States and diminish the powers of the General Government.

**Mr. KASSON.** I will answer that question very soon in the course of my argument.

**Mr. MALLORY.** And I will also ask if those changes have not been made by the very Democratic leaders to whom he now refers as guides to gentlemen on this side of the House.

**Mr. KASSON.** I will answer both questions before I have done.

At present I go on to say that the new light and the new influence to which I refer is simply this—and I appeal to the Democrats themselves for proof of what I say—that it has been the law of the Democracy from the beginning of this Government to this time, that true Democracy was obedience to the will of the people when lawfully and constitutionally expressed. I say that when this question was submitted to the people of this country during the last canvass it was fully discussed. In my own district, in joint debate, in every one of the twenty-three counties it was debated on the stump, and so far as I know it was debated in some way in every other district in this Union, and when the voice of the majority of the people of this country, as the result of this canvass, pronounced in favor of the progress of events, as indicated by this amendment, it is a law of the Democracy that they should defer to the will of the people thus declared with almost the force of national law.

**Mr. MALLORY.** Will the gentleman allow me to ask him another question?

**Mr. KASSON.** Certainly.

**Mr. MALLORY.** I understand that the gentleman now claims that because the majority of the people of the United States indicated their approval of this change in the Constitution of the United States therefore the immense minority who opposed it should submit and consent to the change. Now, if he undertakes to assume that

the majority can change the Constitution, and that the immense vote against any such proposed change should have no influence, then I will give up the contest. If he makes any argument at all of the kind which I understood him to make, should he not claim that two thirds of the people of the United States sustained his candidate and platform?

Mr. KASSON. I will remark to the gentleman from Kentucky [Mr. MALLORY] that he again fails to appreciate the old Democratic doctrine, that the will of the majority constitutionally expressed is the lawful indication of the course that should be pursued by the Democracy. But when the proposition is not final, but is to submit the amendment thus supported by the majority to the constitutional preponderating majority of two thirds and three fourths, it is against true Democracy to refuse that submission to the people.

Mr. MALLORY. If the gentleman will permit me, I will make another statement which he can have the benefit of in his argument, and that is that that form of amendment was voted for by a minority of the people of the United States.

Mr. KASSON. I find that my friend has fallen into another error which we have so often found prevailing with him and his friends, and that is, the recognition of the right of men who have repudiated the Constitution and sought to overthrow the Government to be allowed to press down and resist the action of men who acknowledge their just allegiance to it; a doctrine that is anti-Democratic, unjust, and, I think, against the future as well as the present peace of this country. Aside from that his statement is unfounded in fact.

The course of our national statesmanship upon this question has been somewhat remarkable. The pendulum has swung first in one direction, then by reaction in the other direction, and now it is returning to the course of its original action. The fathers of this country did consider this question, and considered it in the same spirit in which we are now considering it upon this side of the House.

We are told here that the change is radical; that we have no power or authority to make it; in other words, that we are proposing to introduce into the Constitution an element and doctrine so much outside of the scope of the Constitution, as originally established, as to deserve the appellation now of a "radical" and unjustifiable change. And one of the gentlemen upon the other side of the House, I think the gentleman from Kentucky, [Mr. MALLORY,] demanded at the close of his argument yesterday, "If you do this thing what obligation will exist upon the States or the people to adhere to a Government thus radically changed?" To that I wish now to call the attention of the House.

And first, I ask permission to read what occurred in the Convention that framed the Constitution, and the reasons given for that action, showing that the position taken by gentlemen upon that side of the House yesterday was in direct contravention of the spirit of the fathers who made the Constitution itself. For example, quoting from the third volume of the Madison Papers, when the very question of the action of the Convention upon this subject was referred to and was under consideration, Mr. Madison declared that he "thought it wrong to admit in the Constitution that there could be property in man;" and Mr. Randolph moved that the word "servitude" be stricken out and the word "service" inserted; and then follows the reason, as given in the Madison Papers, for the change:

"The former [servitude] being thought to express the condition of slaves, and the latter [service] the obligation of free persons."

It was so done.

Not only that, but this subject was wrought into the very texture of the Constitution itself; for that Convention prohibited the importation of slaves into this country after the year named in the Constitution; that is to say, it authorizes the prohibition of that importation after the year 1808, and that prohibition was made effectual by subsequent law.

I refer to this to show that we are only treating upon one of the same class of questions which were treated by the men who made the Constitution itself; and therefore it is now within the legitimate scope of any constitutional amendment affecting this subject.

I will now ask the Clerk to read to this House

the opinions entertained by Patrick Henry, as expressed in the convention of Virginia that met for the ratification of the Constitution. I ask him to read the passage I have marked to show that he opposed the adoption of the Constitution, or expressed doubts of the propriety of so doing, because it so far covered this subject, in its terms, as to justify even the positive and direct action of Congress itself upon it, without any additional authority to be derived from a future amendment of that instrument.

The Clerk read, as follows:

"If you give power to the General Government to provide for the general defense, the means must be commensurate to the end. All the means in the possession of the people must be given to the Government which is intrusted with the public defense. In this State there are two hundred and thirty-six thousand blacks, and there are many in several other States; but there are few or none in the northern States; and yet, if the northern States shall be of opinion that our numbers are numberless, they may call forth every national resource. May Congress not say that every black must fight? Did we not see a little of this last war? We were not so hard pushed as to make emancipation general; but acts of Assembly passed, that every slave who would go to the Army should be free. Another thing will contribute to bring this event about. Slavery is detested; we feel its fatal effects; we deplore it with all the pity of humanity. Let all these considerations at some future period press with full force on the minds of Congress. Let that humanity which, I trust, will distinguish America, and the necessity of national defense; let all these things operate on their minds; they will search that paper and see if they have power of manumission. And have they not, sir? Have they not power to provide for the general defense and welfare? May they not think that these call for the abolition of slavery? May not they pronounce all slaves free? And will they not be warranted by that power? There is no ambiguous implication or logical deduction. The paper speaks to the point. They have the power in clear, unequivocal terms, and will clearly and certainly exercise it."

Mr. KASSON. And in reply to objections of that kind, made in the convention of Virginia, another distinguished member of that convention, Governor Randolph, rebuked them, and said:

"I hope that there are none here who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia, that, at the moment they are securing the rights of their citizens, there is a spark of hope that these unfortunate men now held in bondage may, by the operation of the General Government, be made free."—3 *Ell. Deb.*, page 598.

Such, sir, was the doctrine, at that time, of the fathers of the country, regarding it as a consideration in favor of the Constitution then proposed for adoption that there was a possibility that under its operation, whether by laws passed under it or by amendments that might be made in accordance with it, there was a possibility, "a spark of hope," in the language of Governor Randolph, "that these unfortunate men held in bondage might be made free."

Again, sir, at the same time when the Convention that framed the Constitution was in session the Congress of the Confederation was sitting in Philadelphia; and I quote from the act known as the "ordinance of 1787," which established freedom throughout the great northwestern territory, these words, declaring its purpose:

"For extending the fundamental principle of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions, are erected."

Thus declaring that the very basis on which rested the republics then existing, the several States then sovereign, was the fundamental principle of civil and religious liberty; and they desired to extend it to the northwestern territory by declaring every slave free (that was the practical effect of it) in all that vast territory. And I may state in this connection that by act of Congress at that time, and by its reenactment by the first constitutional Congress, slaves were emancipated in that territory. And I recollect well that subsequently there came from Indiana, then a Territory, (and, Mr. Speaker, you will remember the historical fact,) petitions to Congress, praying for the suspension, in regard to slavery, of the operation of that ordinance reenacted under the Constitution, the object being, from the necessity for labor, to authorize the people of that Territory to hold slaves for a longer period.

Thus we find, sir, that in the very inception of the Government, by its organic laws, by its debates (and I could occupy hours in citing from them to the same effect) this very subject was considered as a legitimate subject of legislation. And when the other gentleman from Kentucky [Mr. CLAY] declares that by this proposition we propose to take from the people of Kentucky their

property, to deprive them of that which belonged to them as property, I call his attention to the better spirit of the fathers of this country, who denied that it was property, and regarded it only in the light of personal service, like that which an apprentice owes to his master, except that this continued for life and the other for a term of years. And further, in connection with this charge of robbing citizens of their property, I call attention to the fact that, so far as I have been able to examine, all the emancipation that has taken place in the United States of America from the beginning of its history to the present time, whether by States or by the United States, has been emancipation without compensation. Let any gentleman in this House from any State in the Union where emancipation has taken place, correct my statement if I am in error. In Massachusetts there was no compensation.

Mr. MALLORY. Emancipation heretofore has been more gradual, and not immediate.

Mr. KASSON. No, sir.

Mr. MALLORY. And by the States, and not by the Federal Government.

Mr. KASSON. I speak now of the principle of compensation. If it is unjustifiable, there being no express provisions of the Constitution against it, if it be unjustifiable to take what they call property without just compensation, then, sir, it applies to the action of States exactly as it does to the United States; and to gradual emancipation identically with prompt emancipation; for gradual emancipation only takes away a smaller proportion, a less amount of the property. It would be just as much a violation of principle. It is a question of degree, and not a change of principle.

Now I affirm, Mr. Speaker, that the State of Massachusetts emancipated without compensation; that the State of New Hampshire emancipated without compensation; so also the State of Rhode Island; the State of Connecticut; the State of New York; and the State of Pennsylvania; so also the State of Missouri; so also the State of Maryland, thank God, since the outbreak of this war. And done upon this principle, not that it is taking away property, but that it is dissolving a relation; in other words, declaring that this is not property at all, but is a relation or an institution which is always subject to the operation of the legislation of the country in proper form.

Now, sir, this being so, with what consistency with the history of this country, I ask gentlemen on that side of the House, can they rise here and say that this change is "unjustifiable," "unconstitutional," "radical," so as even to discharge from allegiance to this Government the States and the citizens of the several States? So it was intimated yesterday by the gentleman from Kentucky, [Mr. MALLORY,] There is no basis for the charge in history. There is no basis for it in logic. Our fathers did not regard this as property like that which is property by the universal laws of mankind. Why, sir, that thing which is regarded as property under the Constitution of the United States and by all civilized nations we all understand. Remedies are given in every court in every civilized nation for the recovery and protection of what is generally called property. This used to be called an institution. They used to appeal to us, "Do not touch our domestic relations; do not touch our domestic institutions." But when they find that institutions and relations are the subjects of legislation, they then change the name and call it "property" and interference with their "property."

From my own State I wish to cite a very remarkable illustration of the point, a very solemn statement of a citizen of Iowa, whom gentlemen on the other side will acknowledge as authority, the very gentleman who, if my memory is not in error, officiated in Iowa during the last canvass upon the Democratic Central National Executive Committee, a gentleman who was judge in the Territory of Iowa, and whose judgments appear in the first volume of our judicial decisions. This gentleman still adheres to Democracy in its strongest and most obnoxious form, so far as I know. I read from the first case reported in the first volume of the reports of that Territory to show the position that was judicially taken by a gentleman holding that relation to it and to the Democratic party. It was a case involving the right of a slave to his freedom by virtue of a territorial law of Congress,



and without compensation. In answer to a part of the argument, he said:

"The law does not take away his property in express terms, but declares it no longer to be property at all. Of course those legal remedies which can only be resorted to upon the presumption of a still subsisting ownership in the master, become altogether annihilated."

Now there is the judicial opinion of a strong and acknowledged Democrat that it is not taking away property, but simply changing a relation, and declaring that that relation shall no longer constitute property. Sir, it is a modern heresy, introduced mainly by those who are now the sworn and acting enemies of the United States, that a slave is property as your horse, your ox, and your ass are property. It is no doctrine of the fathers and no doctrine of the Federal courts of the country as administered in the early times.

Then, sir, I think I have shown by history that we, at least, have the right to deal with this subject by amending the Constitution, provided we do it according to its own terms.

Gentlemen say that we are interfering with State rights. In this particular I call their attention to what the Constitution has already done to interfere with State rights. They tell us this is a "change" of the General Government. They call the Constitution an "agency," a "compact," a "contract," all of which is contrary to a sound judgment upon the instrument itself. I take issue with that doctrine, and I appeal to those gentlemen to meet the issue, that the Constitution creates a Government within the scope of its powers as absolute, as sovereign, as complete as is the Government of any State in the Union, legitimately constituted by the people.

The Constitution reads in its opening clause, that—

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Not that "we the sovereign States do make this compact;" not that "we the independent States do agree as follows;" not that "we the people of the United States create an agency subject to the control of the States;" but that we the people of the United States, for the objects named "do ordain and establish this Constitution." Now gentlemen may be able to show me in what that differs from the organization of the governments in the States. But I challenge them to show me one point of difference which constitutes this an agency or compact in distinction from a constitutional Government which does not apply equally to any State constitution and government in this Union.

Did not this Constitution interfere with State rights? Did it not take away from every one of those States the right to coin money and regulate the value thereof; the right to establish post offices and post roads; the right of regulating their commerce with foreign countries; the right to make treaties or alliances with other States; and the right to do a hundred things which exist with every sovereign and independent State? And yet we are continually told here by gentlemen on the other side that we are interfering with the right of sovereign States when the very Constitution itself takes away a large portion of the rights of sovereign States and appropriates them to the action and control of the Government of the United States of America.

Why, sir, it even compels those States, in their contest with each other, to go into the courts of the United States as litigants, and qualifies the Supreme Court of the United States, now sitting in the other end of this Capitol, to pass judgment upon the respective claims of what they are pleased to call the sovereign States of this Union. I say that in the light of these facts it is a logical absurdity to affirm upon this floor that we are interfering with the rights of sovereign States when we simply propose to take from the scope of their action one single subject more in addition to those which were withdrawn by the original Constitution.

Mr. VOORHEES. I have been listening with pleasure, as I always do, to the remarks of the gentleman from Iowa. I understand them to apply to something which I had the honor to submit yesterday. With the gentleman's permission I will preface the question I desire to ask by

a brief statement. My doctrine upon the subject of State sovereignty is this: they are sovereign upon those subjects which were reserved to them by the Constitution; that the Federal Government is sovereign upon those questions which were granted to its control by the States when they formed the Union. Wherein the Federal Government is sovereign, it is beyond the interference of States, and equally the States are beyond the control of the Federal Government on all matters reserved originally by themselves to their own exclusive jurisdiction.

And now let me ask the gentleman from Iowa, is his argument to amount to a denial that the States are sovereign upon the domestic institution of slavery? If so, why is there found in the Chicago platform a plank which denies to the Federal Government the power to touch this question in any State?

Mr. KASSON. The gentleman from Indiana is too good a logician to consider that question as one of radical importance. He knows very well from the tenor of my argument that my object is to show that we have the right to take, by amendment of the Constitution, one additional element of what otherwise would be the domestic power of the States; because we are only dealing with the same kind of questions that were dealt with in the formation of the Constitution which took from them other of their rights, and I was proceeding to show that in this proposition we are running in the legitimate line of a diminution of State rights, for the better promotion of "the general welfare." I will now read an extract from a very solemn letter signed by George Washington, unanimously adopted by the Convention which framed the Constitution, and addressed to the Congress of the Confederation then in session, in order to show in answer to the gentleman from Indiana, and to a question propounded to me a while ago by the gentleman from Kentucky, the relative importance of the Union upon the one hand, and those so-called sovereign rights of the States upon the other. In that letter, dated September 17, 1787, adopted unanimously by the Convention, as I beg gentlemen to remember, Washington says:

"It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests."

"In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety, perhaps our national existence."

Now, let gentlemen upon the other side of the House consider that George Washington and the Convention that framed the Constitution declared "the consolidation of the Union" to be the supreme object of every true American, and ask themselves where they stand if they oppose an amendment that has for its express and acknowledged object and effect the consolidation of the Union by the simple act of rendering the institutions in one respect in this country accordant, that respect being the very one which has caused this present war and brought about the very evils that those framers of the Constitution declared would exist for want of a proper consolidation of this Union.

Mr. VOORHEES. The gentleman will allow me one moment. I do not rise for the purpose of disturbing the current of his argument, and if it is at all disagreeable I will not interrupt him. Inasmuch, however, as this is a grave question, and one not often discussed on the floor of this House, I trust he will excuse me. I do not understand the authority which the gentleman quotes to conflict at all with the views which I have always entertained and have often expressed. I believe that the Constitution was made for the purpose of forming a union of the States. Whether the term "consolidation" is happy or not, or fairly expresses the proper idea, I shall not stop now to consider. But I hold that the Constitution formed a union not to be broken at the will of any one State. If any one has ever supposed that I upheld the right of a State to secede from the

Union, he has done me great injustice. I have often expressed my views on this question here and elsewhere.

But what I wish to call the attention of the gentleman from Iowa to now is this, does he hold that the Constitution consolidated a Union whose Federal power embraced the right to do as they pleased with all the reserved rights of the States? If that is his view now, how does he reconcile that view with the doctrine laid down but a few short years ago by the party to which he belongs? What new powers has the Federal Government obtained over the States within the last three or four years? If new powers have accrued, whence have they been obtained, and out of what causes have they arisen?

In 1856 and in 1860 the party to which the gentleman belongs laid down this doctrine:

"Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

If the gentleman can square his present views with that assertion of principle, I will be happy to hear him do so; and furthermore, while he is upon that point, let me call his attention to a resolution that passed this House by the votes of his political friends within the last three years. I do not know whether the honorable gentleman was a member of the House at the time, but I take it for granted that if he had been he would have supported the resolution as did his friends. The resolution was offered by the distinguished gentleman who is now a Senator from Ohio, [Mr. SHERMAN.]

Mr. KASSON. I will say to the gentleman that I remember that resolution well.

Mr. VOORHEES. Let me read it.

Mr. KASSON. It was cited yesterday, and I propose to answer that point.

Mr. VOORHEES. Let me read it for my own purpose and then I will not detain the gentleman longer:

"Resolved, That neither the Federal Government nor the people or governments of the non-slaveholding States have the purpose or the constitutional right to legislate upon or interfere with slavery in any State of this Union."

That resolution embraces a denial of three sources of power: it denies that the Federal Government has any such power; it denies that the people of the non-slaveholding States have any such power; it denies that the governments of the non-slaveholding States have any such power—altogether constituting the broadest denial upon this question that could possibly be put in the English language.

Mr. KASSON. The gentleman from Indiana [Mr. Voorhees] again fails to do justice to his logical powers. When we declared in that resolution that we had not that right we laid the very foundation which justifies this action to get the right, to wit, by an amendment of that Constitution which then denied it. We propose this amendment to the Constitution now in the light thrown over the country by the horrors of this war. We propose to amend it in order to get the right, and to furnish the opportunity to avoid the occasion of a future war, and to restore a permanent peace to this distracted country. We passed a resolution in that spirit then, when gentlemen were crying out for olive-branches instead of cannon-balls, and everybody was willing to tender the olive-branch in advance of and to avoid the shedding of blood.

But when war has come, notwithstanding that when the olive-branch has been rejected, when we have been met on the side of the enemy with bayonets instead of reciprocal olive-branches, this country has learned a new lesson. We have learned that that class of men in the South must be treated as well with iron as with what the gentleman's friends have been pleased to style mere paper fulminations.

So it was with the action of the convention at Chicago to which the gentleman refers. It was declared that the balance of power would be preserved by mutual non-interference. It was not accepted by the South; the balance of power was not preserved by non-action upon this subject, but was overthrown in the face of it, thus showing the necessity of some further action on the subject in order that the balance of power may be

restored and the peace of the country perpetuated as well as reestablished.

Do not gentlemen perceive that there has been a war about this very question; that hundreds of thousands of lives have been lost in a war provoked by the adherents of this institution; that the question is again presented to the country with a redoubled significance and power, until you cannot go into a cottage in the most remote hamlet of the nation where, in the midst of tears for dear ones lost, they do not pray you to save their posterity from being obliged to shed blood again in a contest provoked by those who have no justice in their cause, and who have no grounds for appeal to the support of either Christianity or civilization or to any feeling of humanity in their race.

Mr. VOORHEES. Does the gentleman from Iowa hold that the powers of the Constitution have been changed or enlarged by this war? And further, whether he seeks now to amend the Constitution by virtue of itself; or whether the gentleman is at last driven to intrench himself, upon this question, in the war power? If not, if the Constitution remains unchanged, I must be permitted to respectfully suggest that the doctrine asserted by the party before the war broke out, upon the subject of constitutional power, should obtain now under an unchanged Constitution.

Mr. KASSON. If I gather the scope of the gentleman's inquiry, it certainly is unnecessary for me to answer him. If he is familiar with that Constitution, which he no doubt has read, he knows that it confers power for its amendment. If he asks me my opinion as to the war power under it, I affirm that the Constitution gives that power to an undefined extent; and that it rests with the organized representation, legislative and executive, of the people of this country, how far that power shall be exercised, according to the necessities of war, and limited not to be in conflict with other provisions of the Constitution.

And now I call the attention of gentlemen upon that side and upon all sides of this House to another fact: that there are but two limitations in the Constitution of the United States upon the power to amend it. In every other respect that Constitution may be amended as fully as the constitution of any State in this Union may be amended. I refer to the fifth article, which gives the power to amend, and prescribes the mode in which the amendments shall be accomplished. It says, after prescribing that mode:

"Provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article."

That relates to the importation of foreign persons, meaning negroes.

"and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Upon these two points, or rather the one now remaining point, you are not permitted by the Constitution to amend it. Upon every other point within the range of conventional action, as recognized by civilized countries, you have full power to amend the Constitution.

And there has never been a more dangerous doctrine propounded upon this floor than that which was enunciated upon the other side of this House yesterday, that we had not the power to amend the Constitution, and on the other hand that these southern rebels had the right to come back into this Union under the same Constitution identically that existed at the time they went out of the Union. That was the doctrine of the gentleman from Ohio, [Mr. BLISS,] who spoke, I think, on Friday. He declared, in substance, that that right existed in the rebels; and one other gentleman, I think one of the gentlemen from Kentucky, reaffirmed the doctrine, maintaining that the rebel States have the right to come back into the Union under a Constitution identically the same as that which existed when they went out.

Mr. MALLORY. I desire to ask the gentleman a question in relation to another matter. Will the gentleman tell me whether he believes that, by an amendment to the Constitution, we could so change our Government as to convert it into a monarchy, or an aristocracy, or a despotism?

Mr. KASSON. If the gentleman will ask me a practical question relating to this subject, I will answer him.

Mr. MALLORY. This is a practical question.

This amendment proposes radically to change the Government.

Mr. KASSON. I do not propose to discuss here the courses of the planets or the phases of the moon. I keep to the question as closely as I can, and I seek to rescue it from that abyss of party politics into which my friend from Kentucky sought, yesterday, to prostrate it. I desire to call the attention of gentlemen in this House who claim to be statesmen, who claim to be patriots, and to desire permanent peace in the country, to the principles that underlie this proposed amendment.

And I ask again, in answer to the proposition which was propounded yesterday as to the right of the rebels, under the Constitution, to come back and find that instrument exactly as it was when they left the Union—I ask this question: Can men, by the criminal action which they themselves institute, stop the wheels of Government as propelled by the honest, loyal, adhering portion of the community? Then I ask, if that loyal portion of the community choose to amend their Constitution pending this criminal action of the rebels, how can it be maintained for a moment that they have a right to come back under the identical Constitution that existed when they went out? Yet two gentlemen on the other side took the ground yesterday that men, by rebellion and crime, may prevent us from making whatever amendment of the organic law may be necessary for the peace of the country and the perpetuity of our free institutions and free Government! No, sir; I will not offer such a premium to rebellion, nor maintain that rebels not only keep all their constitutional rights during rebellion, but actually deprive us of our rights by the act and during the continuance of rebellion.

Mr. MALLORY. I wish to ask the gentleman one more question: Will he hereafter, when this question shall have been submitted to the various States for ratification, admit that the States now in rebellion shall be counted in ascertaining the proportionate number of States ratifying the amendment?

Mr. KASSON. I am not aware, sir, that there is any proposition upon that subject before the House.

Mr. MALLORY. The question must come up in the future, and I ask the gentleman in relation to that future.

Mr. KASSON. "Sufficient unto the day is the evil thereof." When the gentleman places himself right upon the Democratic principle of following the indications of the will of the majority of the people, and supports the proposition to give to the people an opportunity to give the full majority that is required, then he may propound such questions to me. At present, while he stands upon entirely different ground, and does not combat my premises or my logic, I deny that he has the right to raise a contingent and remote question. But I will say this: If you will give the opportunity to the people of the several States of this Union, including the rebellious States as they may be reclaimed from rebel authority, you will have a majority of three fourths of all the States for the amendment. Counting the free States of the Union, including Missouri among them, and the little State of Delaware, you have twenty-four States of the Union to begin with, leaving but three more to give the constitutional number required by any theory to establish this as a part of the Constitution of the United States. Do you tell me that Louisiana will not ratify this amendment, that Tennessee will not, that Arkansas will not, when the loyal men of those States have a fair opportunity to record their votes upon it? I say that my information from authentic sources is entirely different, and leads me to entertain the confident belief that the only men who have the right to vote under the Constitution, the men who are in allegiance to this Government and give the Constitution their support, will go with strong voice for this amendment; and I shall endeavor to show the reasons why if time remains to me.

Mr. COX. The gentleman will allow me one moment; I will not detain him long. I will, however, as one upon this side of the House to whom the gentleman refers, answer the question which he propounded, and that which the gentleman from Kentucky propounded to him.

Mr. KASSON. I did not refer to that gentleman, but to his colleague, [Mr. BLISS.]

Mr. COX. I am aware of that; but the gentleman will allow me to say what I proposed to say. I hold that there exists under the Constitution the right to amend it in every particular, except the two particulars specified in that instrument. Nay, more, I carry the Democratic principle to such an extent that I maintain that the people of this country, speaking through three fourths of the States, in pursuance of the mode prescribed by the Constitution, have the right to do anything; to erect a monarchy in this country; to make the king of Dahomey, if you please, the king of this country; because all the States have ceded to three fourths of them the right to change the organic law in all particulars except two. My reason for opposing this amendment is not that I deny the power to make it, but because, in my view, it seeks to consolidate power; to absorb the powers of the States, and deprive them of their municipal liberty; because it is a step toward monarchy and despotism.

Mr. KASSON. I am glad to hear the gentleman from Ohio concede away the whole case made by his Democratic colleagues yesterday. This is no proposition to appeal to the war power. Those gentlemen who dread an appeal to the war power so much as the gentleman from Ohio might well be alarmed if this were proposed to be done in any other way than by the action of the sovereign people, sovereign in their right to amend according to the constitutional form any of their institutions. And yet I do not understand him to say that he is willing to give the people the right to pass on the question and to say whether it is their will or not. He is not willing to trust the people.

Mr. COX. I could give the people the right to pass upon it if I did not believe—

Mr. KASSON. They would do it. [Laughter.]

Mr. COX. The language which the party over there is now enjoying itself at shows no inconsistency. I said I would not oppose it if I did not believe it would tend to disturb the balance of power between the States and thus disturb our peculiar confederated system. It is because you seek to break down slavery, and because, by the exercise of a power given in the Constitution you would divert our Government from its proper course and channel, that I am opposed to it. And that is the subject for laughter on the other side of the House.

Mr. KASSON. The gentleman, instead of admitting my proposition well founded, passes over that point, and yet declares his apprehension in another form by the action of the people; that it would disturb the balance of power; in other words, he has no confidence in the people of this country for fear they will themselves disturb the balance of power, and therefore does not want to submit it to them.

Mr. MALLORY rose.

Mr. KASSON. In a moment. It amounts to the same thing, that the modern Democracy, as represented by my distinguished friend from Ohio, distrusts the first instincts of the people, while the old Democracy, in which I have already said I was raised, always appealed to the sober second thought of the people, and declared its confidence in the issue of a sober appeal to them on any question. But these gentlemen are unwilling to submit the question to the action of the people.

I will now hear the gentleman from Kentucky.

Mr. MALLORY. I ask the gentleman from Iowa whether this amendment does not refer the question for ratification, not to the people of the various States, but to the packed Legislatures elected without reference to this matter.

Mr. KASSON. Why, sir, my friend from Kentucky complains because we do not do an unconstitutional thing.

Mr. MALLORY. Not at all.

Mr. KASSON. We do exactly the thing which the Constitution tells us to do. But in submitting it to the Legislatures, do not the people pass upon it? Do not the people elect the Legislatures? Do not the people pass upon it in the same way that they passed upon the ratification of the Constitution itself, by choosing a body of men to accept or reject this amendment? Of course they do.

Mr. MALLORY. No. When the States acted on the Constitution and the ratification of that instrument, they elected conventions and Legislatures with a view to that specific object. If the

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gentleman will alter this resolution and provide for the calling of conventions of the States to decide whether this amendment to the Constitution shall be ratified or not, then there would be some ground for the position he occupies.

Mr. KASSON. Will the gentleman vote for the proposition thus amended?

Mr. MALLORY. No, sir.

Mr. KASSON. I must proceed with my argument; I appeal from old Kentucky, impressed only with the traditions of the last thirty years, adhering to the doctrines of the nullifiers denounced by Jackson, our great modern Democratic father. I appeal from that old Kentucky to that young giant Kentucky that is now rising in its place, and representing the purer Democracy of our fathers, that young giant, springing like Minerva full armed from the front of Jove, which took action in its Legislature on Friday last in the spirit of this amendment, and which has an eloquent exponent upon this floor, [Mr. YEAMAN,] from whom we have heard once on this question. I appeal to that young Kentucky, infused with the life of the times, capable of appreciating the spirit of events, competent to understand the necessity of a modification of our institutions which is required by the times and by circumstances. And to that Kentucky I submit the argument which I render here, for it will meet me on the terms and premises, and logic which I have sought humbly to submit to gentlemen on that side of the House to-day.

For the present I leave the question of constitutionality; and I call the attention of the House to the only question, beside the constitutionality of the measure, which, in my judgment, should be considered here by legislators who desire to act for the best interests of the country; I refer to the *policy* of the amendment. Let me say here that it is necessary to carry into effect one clause of the Constitution of the United States which has been disobeyed in nearly every slave State of the Union for some twenty-five or thirty years past. I refer to that clause of the Constitution which declares in section two of the fourth article that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States. You cannot go into a State of the North in which you do not find refugees from southern States who have been driven from the States in the south where they had a right to live as citizens, because of the tyranny which this institution exercised over public feeling and public opinion, and even over the laws of those States.

In my own State there are numbers of men who have been driven from their farms, not for any offense against any of the laws which usually constitute crime, but because in opinion they did not agree with those who adhere to the institution of slavery. Who does not know that we have abundant proof that numbers of men in the State of Texas, Germans who had settled there, quiet and peaceable men, have been foully murdered in cold blood because they were known to be anti-slavery in sentiment? Who does not know that innocent ladies, cultivated, intelligent, Christian women, have been driven from the cities and States of the South, not for any legal offense committed by them, but because they had dared to say something offensive to this intolerant spirit of slavery? Nay, more; who does not know that it has inaugurated a cruel despotism, a spirit brutal beyond comparison in the history of the world, in the treatment of soldiers of the Union taken prisoners by them since the war commenced? What other civilized nation exists in Europe, or on this continent, that would have treated prisoners of war as ours have been treated in this southern dominion? I ask gentlemen to point me to modern history, and show me where prisoners of war have ever received such neglect and brutality as our soldiers have encountered who have been made prisoners in the South.

And what is the reason of it? It is because they charge these soldiers with being abolitionists. They appeal to that insane, mad spirit of slavery, and thus heap crime upon crime. I speak

of it now in its effects. To illustrate its effects, remember it was slavery which positively refused the agents of what gentlemen are pleased to style a sovereign State in the Union a hearing in its courts. Did not Massachusetts send two distinguished gentlemen to try a cause affecting the right of South Carolina over free colored citizens of Massachusetts in the courts of South Carolina, and were they not driven ignominiously from the city of Charleston, without access to the court? Would that have been done if slavery had not existed? But worse than that! I mention one other illustration with shuddering horror, and I mention it only for the further exhibition of the truth of history. The chairman of the Military Committee mentioned to me yesterday an instance showing the effects of the institution in another direction, infinitely worse than the denial of relief according to law, and before its own tribunals.

[Here the hammer fell.]

Mr. HOLMAN. There is no objection to the gentleman from Iowa continuing his remarks.

Mr. MALLORY. I hope, as the gentleman from Iowa has been interrupted so much, and as I have had part of his time, he will be allowed to proceed.

Unanimous consent was given.

Mr. KASSON. I was about to say, Mr. Speaker, that one of the effects—and I avoid all allusion to the exercise of private authority, I only speak of the philosophy of the institution as traced in its effects on society—that one of its effects as stated to me yesterday on competent authority was that one of the "institutions" subordinate to the institution of slavery had been called into play against some soldiers of our Army who had been taken prisoners and had escaped. It is well known that it is a recognized business in parts of the South to keep and train blood-hounds for the recovery of fugitive slaves. I speak of it as a fact well known and not denied by anybody. My information is this, that four Union soldiers who recently escaped from one of the rebel camps were pursued by the aid of that subordinate institution and overtaken. A ring was formed about them and the blood-hounds were let in on these four soldiers, who were torn to pieces amid the jeers and shouts of the rabble that encircled them! Tell me that it is my duty to act in any way for the protection of that institution! Let gentlemen go home to their constituents if they will, and say that they voted for the perpetuation of an institution capable of effects of that kind, one which denies the constitutional rights of our citizens in the South, suppresses freedom of speech and of the press, throws types into the rivers when they do not print its will, and violates more clauses of the Constitution than were violated even by the rebels when they commenced this war, and which has, in effect, been in chronic and constant rebellion against the provisions of our national Constitution during the last twenty years. Their personal action is for their own determination.

For myself, sir, I will go to the noble, gallant people of Iowa with no such record connected with my name. I had rather stand solitary, with my name recorded for this amendment, with the hope of justice twenty years hence, than to have all the honors which could be heaped upon me by any political party in opposition to this doctrine. You cannot resist the tide of modern civilization. It commenced with our Revolution and it will flow on until unforeseen obstacles shall block up its course. It was sustained by the spirit of Washington and Madison and Jefferson, who denounced this institution; it was strengthened by France, when that great empire, then flushed with the liberal genius of a republic, pronounced a decree for the entire abolition of slavery throughout her then extended colonial dominions. Thence it passed to England, and, although a bitter enemy of France, and disliking everything favored by the French people, yet after twenty years of contest under the leadership of men whose names stand high—none higher—on the roll of English history or of fame, freedom became a fixed fact through-

out all the dominions of Great Britain. Subsequently it even permeated the arbitrary despotism of Russia, and now, by a decree of the imperial Government, seven million serfs are set free and restored to the natural rights of mankind. Then came Holland and Denmark in the train of emancipation, leaving the kingdom of Spain, the last resource upon the European continent of the institution of slavery, and not even there, I believe, tolerated on her own soil, but only in her distant colonies.

And here, gentlemen tell me that by crying peace, peace, and suppressing abolitionism, they can check the flow of this tide, and procure a permanent peace and concord in the Union. They must be blind to the moral and religious power which prevails in this country if they entertain that doctrine. At the time of the Revolution the three great ecclesiastical bodies of this country, the Methodist, Presbyterian, and Baptist, uttered their condemnation of this institution of slavery; and that opposition has run through nearly all the ecclesiastical organizations of this country ever since. They think, whether right or wrong is not the question, still they believe that the Bible compels them to entertain that doctrine; and are you by your legislation or inaction able to change that opinion?

Not only that, but that great and increasing party which believes in progressive civilization, and which has moved over the world the mighty tide of which I speak, supported by the mightier power of religion, is beginning to clearly recognize that there are three great fundamental natural rights of human society which you cannot take away without striking a vital blow at the rights of white men as well as black. They are the rights of a husband to his wife—the marital relation; the right of father to his child—the parental relation; and the right of a man to the personal liberty with which he was endowed by nature and by God, and which the best judicial authorities of England have for a hundred years declared he could not alienate even by his own consent.

Take away these three great fundamental rights from any large class of human beings, and then do you cry "peace," "peace?" and do you expect no assault upon a system which deprives men of such a class of rights? Sir, you must palsy the tongue which would speak; you must do more, you must palsy the hand and the arm which would strike, or you will never, never, never have reliable peace in this country while that institution exists, the perpetual occasion of moral, intellectual, and physical warfare. I put it then to gentlemen upon that side of the House, having avoided every element of partisan debate in this discussion, whether pure reason, and sound patriotism, and just policy, do not require of them to support this amendment, and allow its submission to the people of this country. If you desire peace and harmony, you will give the people of the North and of the South an opportunity to establish harmonious relations by the expression of legitimate majorities upon this question. If you desire perpetual discord and war, then you will refuse them the opportunity, and compel the perpetuation of this institution, with bloodshed without end in the future, and disunion without end in the present.

Mr. FERNANDO WOOD. This question, Mr. Speaker, has been very thoroughly discussed, and I doubt whether it is possible for either side of the House to advance any new or original proposition with reference to it. At the last session I had the honor to submit my views to the consideration of the House, and to state the reason why I should vote against the adoption of this resolution to amend the Constitution. I stated then that I doubted the power, in this mode, to reach the object aimed at; and I have listened with a great deal of interest to the discussion to-day, particularly that part of it between the gentleman from Iowa and the gentleman from Indiana, and I have heard nothing that has in the least altered or modified the views I expressed at that time.

I admit, with my friend from Ohio, [Mr. Cox,]



that the people can alter their fundamental, organic form of government, and so can the people change entirely their Government. That is the doctrine which the southern people assert. But, sir, that is not this proposition. This is a proposition to change the form of government, a form adopted with certain theories, with certain principles, for certain objects; and I contend that while we may amend the Constitution in the mode provided by that instrument, we can amend it only to reach and cover those subjects or powers which were delegated originally to the General Government. The Federal Government was made by the States; the people collectively were never called to act upon it; and while the Constitution provides for its own amendment, so as to enable the General Government to carry out the objects originally delegated to it, still all the reserved rights are reserved to the States. If we can amend the Constitution in this respect, we can amend it so as to reach to the marital relations and all other matters of a domestic character.

Mr. Speaker, I do not propose to repeat what I said at the last session upon this question. I should be glad to know that I was wrong; but having formed those opinions after careful study, having deliberately and carefully and, as I think, without partisan bias, reached that conclusion, with all due deference to the President of the United States I am of the same opinion now.

But, sir, we are nearly a year later in the unfortunate and calamitous present history of this country than we were at the time this question was discussed at the last session. Events of moment have transpired since then, and therefore I have taken the floor for the purpose of offering for the consideration of this House a few practical remarks as to the policy of passing this resolution; as to the effect if finally adopted by the necessary number of States; and whether, even if the effect shall be to free the slaves, we shall have given to that unfortunate race any amelioration of their condition, any social or political elevation of their status, or have advantaged them in any regard whatever.

Sir, the President tells us in his annual message at the commencement of this session that he hopes we will now pass this resolution. He refers to the action of the people at the late election, and tells us that if we fail to pass it the next Congress will, and that as the next Congress will, why, forsooth, we ought to pass it.

Well, sir, that is very strange reasoning for that functionary. We all know that death is certain, and yet should we anticipate it? Because any evil that is hanging over the country or over us as individuals is inevitable, shall we forsooth meet it hurriedly and in advance? Sir, I cannot agree to the President's reasoning, that because this is inevitable we should stultify ourselves, and go counter to our principles and our honest convictions in voting for a proposition which we utterly deplore and condemn. I am not sure that the President's premises are correct. The next Congress may hold a different opinion upon this question. Slavery, as it now exists, may cease altogether before the next Congress of the United States assembles. The whole condition of our country may be altered, North and South, before the assembling of the next Congress. But assume this should not be, and the next Congress does recommend this alteration of the Constitution, do we not have Legislatures elected between now and that time? Will not the people be called upon then to act for the first time on this question? Will not Legislatures be voted for and elected on this question? Because, sir, although, as stated by the gentleman from Iowa, this was an issue of the presidential election, according to the Baltimore platform, it was no issue in the elections for members of the Legislatures; and before the Legislatures can be called upon to act new questions may intervene for their consideration and new reasons why they should not accede may prevent their doing so.

But, sir, we will assume that Congress passes this resolution; we will assume that the Legislatures of the States carry out the recommendation of Congress and agree to this amendment; what then? Will any man contend that it will free one slave? Did the President's emancipation proclamation free one slave? Was it not, in his own expressive language, "like the Pope's bull against the comet?" This also would be a mere

*brutum fulmen* so far as the States in rebellion are concerned. If they continue in rebellion as they are now no action of this Congress can affect the status of slavery within these States. They disregard the action of this Congress; they will disregard any action that we may take in an amendment of the Constitution. In those States slavery will continue, except in the triumphant path of our armies. Therefore the practical effect of this amendment will really be nothing. Without we hold their territory by military power it will free no slaves; where our armies march, where their tread is felt, there slavery ceases; but it ceases only so long as our armies occupy slave territory; and when you withdraw that, slavery will again exist if the confederate power so wills it.

But I go further, because I desire upon this occasion to discuss this question freely and frankly. And what I say I say for myself, individually. I know the popular error is that it is politic for men to go for the abolition of slavery. I know the politicians of the North, looking for political preferment and the success of partisan power, run with this popular current of the day. And the man is looked upon as a fool who is honest and frankly and boldly expresses his convictions to the contrary. But whether it be right or wrong, politic or impolitic, so far as I am concerned, I will, as I have always done in this House, and since the commencement of my public life, frankly and freely express my honest sentiments.

Now, sir, we will assume that by an amendment to the Constitution you abolish slavery: what then? Why have you abolished it? The gentleman from Iowa [Mr. KASSON] has to-day attempted to tell you of some of the evils which surround this institution. He calls it a social evil; others call it a political evil. All the evil acts of the rebels are attributed to the fact that slavery exists there. And it is assumed that this rebellion never would have existed, that it could not have been begun, that it could not be prosecuted or sustained, except that slavery existed within those States.

I will not stop to answer these fallacies. Our revolutionary fathers went into a rebellion and were successful. The institution of slavery was not any hindrance to their success. When they threw down the gauntlet to their masters upon the other side of the Atlantic the colonies all held slaves, and yet they prosecuted a seven years' war successfully, during which we lost all our large cities. They all held slaves, yet no one among our enemies in England declared slavery as among the evils of our rebellion, or that in consequence of its existence we were prosecuting a bad cause for a wicked and bad purpose.

Well, sir, we will assume that we have abolished slavery. What then? The gentleman from Kentucky [Mr. MALLORY] asked you yesterday what do you propose to do with these people when you have freed them? Deport them? As the gentleman told you, it would add \$4,000,000,000 to your debt, but that, in his own expressive language, would not deter gentlemen upon the other side of the House. The scheme of colonization has been abandoned; that scheme had for its supporters such men as Henry Clay and Daniel Webster. Our new lights have gone against that. They desire to keep these negroes here for home consumption. First, to use them as instruments by which to obtain political power. Secondly, to retain the power thus obtained. Thirdly, to gratify vengeance against the slaveholder. Fourthly, as an excuse for continuing the war, and thus to continue the army of Government officials, and finally, if possible, to elevate the negro to the condition of the white man and give him suffrage, and by that means to create a power which will forever rule and control this country.

Sir, the gentleman from Kentucky [Mr. MALLORY] thus presented a question which must be considered and decided. Wendell Phillips, in New York recently, more fully developed the design. He boldly announces the doctrine. He sustained it, asserting that a crossing of the white and black races would create the most superior race that has yet existed. And in reply to an inquiry, the distinguished gentleman to whom I refer boldly admitted that the object was to make the highest and most glorious specimen of human nature that the world has ever seen. Mr. Speaker, we may amend the Constitution; we may by superior military force overrun and conquer the

South; we may lay waste their lands and destroy their property; we may free their slaves. But there is one thing we cannot do: we cannot violate with impunity or alter the laws of God.

The Almighty has fixed the distinction of the races; the Almighty has made the black man inferior, and, sir, by no legislation, by no partisan success, by no revolution, by no military power, can you wipe out this distinction. You may make the black man free, but when you have done that what have you done? Have you elevated his condition? Have you advantaged him physically, socially, morally, or intellectually? I asserted here at the last session, I now repeat the assertion, that the condition of domestic servitude as existing in the southern States is the highest condition of which the African race is capable, and when compared with their original condition on the continent from which they came is superior in all the elements of civilization, philanthropy, and humanity. Sir, look at the African in his native condition, where he is supposed to be not only free, but "monarch of all he surveys." I will ask the Clerk to read an extract from the volume of Captain Carnot, published by the Appletons, in 1854, describing what he saw in Africa, and the condition of the negro in his native wilds.

The Clerk read, as follows:

"In my wanderings in African forests, I have often seen the tiger pounce upon its prey, and with instinctive thirst satiate its appetite for blood, and abandon the drained corpse; but these African negroes were neither as decent nor as merciful as the beast of the wilderness. Their malignant pleasure seemed to consist in the invention of tortures that would agonize, but not slay. There was a devilish spell in the tragic scene that fascinated my eyes to the spot. A slow, lingering, tormenting mutilation was practiced on the living as well as on the dead; and, in every instance, the brutality of the women exceeded that of the men. I cannot picture the hellish joy with which they passed from body to body, digging out eyes, wrenching off lips, tearing the ears, and slicing the flesh from the quivering bones; while the queen of the harpies crept amid the butchery, gathering the brains from each several skull as a *bonne bouche* for the approaching feast!

"After the last victim yielded his life, it did not require long to kindle a fire, produce the requisite utensils, and fill the air with the odor of human flesh. Yet, before the various masses were half broiled, every mouth was tearing the dainty morsels with shouts of joy, denoting the combined satisfaction of revenge and appetite! In the midst of this appalling scene I heard a fresh cry of exultation, as a pole was borne into the apartment, on which was impaled the living body of the conquered chieftain's wife. A hole was quickly dug, the stake planted, and faggots supplied; but before a fire could be kindled the wretched woman was dead, so that the barbarians were defeated in their hellish scheme of burning her alive.

"I do not know how long these brutalities lasted, for I remember very little after this last attempt, except that the bushmen packed in plantain leaves whatever flesh was left from the orgie, to be conveyed to their friends in the forest. This was the first time it had been my lot to behold the most savage development of African nature under the stimulus of war. The butchery made me sick, dizzy, paralyzed. I sank on the earth benumbed with stupor; nor was I aroused till midnight, when my Kroomen bore me to the conqueror's town and negotiated our redemption for the value of twenty slaves."

Mr. FERNANDO WOOD. Mr. Speaker, I presume it will not be contended that the condition of the native African is, in any regard, equal to that of the American slave. Sir, the Africans live in their native wilds as slaves. The Africans are sold into slavery by themselves. I contend that their condition in this country is in every regard improved. From barbarians they become civilized Christians; from slaves they become free men. Admitting all the sins with which slavery is charged, it cannot be denied that it has been an instrument in the hands of God by which to confer a benefit upon that unfortunate race.

Now, sir, I contend that, if we desire to be philanthropic—if we desire to confer a benefit upon that people—let us afford every amelioration of their condition that we can under the law; but, sir, let us not forget that, evil though slavery be, there is yet a greater evil for this unfortunate country, and that is its destruction, the disunion, the consummation of the ruin now before us.

The gentleman from Indiana [Mr. VOORHEES] said yesterday we may be anticipated in our beneficent desires—that, in his opinion, the confederates themselves are preparing to abolish slavery. I know that it has recently been stated in the South that, rather than yield to the North, they would make terms with England and France, on the condition of the recognition of their independence, with the abolition of slavery to follow as a consequence. Sir, that may be; but in my judgment, it will not be. Neither England nor France will interfere in this question upon con-

ditions of that kind; nor do I believe that the confederate government would accept the recognition of their independence by any European Power, if based upon the abolition of slavery without the consent of the States and the people thereof.

Mr. Speaker, I had hoped that at this session of Congress there would exist a condition of public affairs that would bring about certain peace and Union; that these measures of aggression against the southern States would no longer have necessity or palliation. I had hoped that this Government would entertain propositions which have been made for a cessation of hostilities and the restoration of this Union upon the basis of the existing Constitution.

But, sir, I have been disappointed. There is no disposition to heal this quarrel at all. There is no disposition on the part of the party in power to restore the Union upon the basis of the old order of things.

I can only say further, Mr. Speaker, that I shall vote against this resolution. I shall vote against it because it is not within the power of Congress to pass it. I shall vote against it because it is unwise, impolitic at this time, if we could pass it legally. I shall vote against it because it is another step toward the eternal separation of the two sections. I shall vote against it because it would be no advantage to the negro if successful. I shall vote against it because it is an improper intermeddling with the domestic affairs of others. I shall vote against it because I want to remove every obstacle to the peaceful solution of this great question; I want to alleviate the condition of the South as well as the North; I want to discontinue these controversies and struggles now pending between men who but yesterday were fellow-citizens of the same great country, with the same constitutional rights and privileges. I shall vote against it because I would leave to every State and every political community the entire control of their own domestic affairs. I shall vote against it because I want to preserve the essence of our constitutional liberties.

I want to continue this as a Republic. I want to disseminate power from this central point instead of concentrating it here. I want to preserve the limitations of the Constitution and of the Government, as originally constructed, in theory as well as in letter and spirit, that we shall not interfere with the relation of master and slave any more than between husband and wife.

I want to allay this excitement. I do not believe slavery has had anything to do with it. I know that at the North slavery is obnoxious to the people. I know that the sentiment there is against the existence of slavery upon the continent of America. But there are evils at the North which I should like to see exterminated. There are evils every where, among every people in every part of the world; and before we assume the right to do away with the evils of our neighbors we ought to do that which is right ourselves.

We are in a war, a terrible civil conflict. Those who believe that it is near its termination are in error, because after you have abolished the armies of the rebels there is power of resistance left among the people inhabiting that vast territory which will make it necessary to have a standing army upon every square mile to retain it. You will have not only to conquer, but keep conquered. It is not only necessary to conquer their armies, to deprive them of the power of resistance, but, in order to preserve the essence of our Government, you must conquer their hearts. You must get their assent or you must hold them in subjugation, and when you do that we will have ceased to have a republican form of government.

I want to restore this Union. Under no circumstances I repeat, would I consent to disunion. But, sir, to restore the Union you must accompany the Army with the olive-branch. You must learn from General Sherman, who has done more to conquer the people of Georgia by kindness than ten thousand triumphant armies marching through that State could do. It is only by conciliation and kindness that we can conquer the rebels. Reverse the picture: suppose we were in rebellion against them, how long would we resist an attempt to subjugate us and control our domestic relations? They are as brave a people, as generous a people, and as noble a people as ourselves, and as such it is wisdom to treat them.

The Republican position for forcible abolition is illogical, because when their slaves are freed by this mode you have enslaved the master. One follows as the consequence of the other. I say you must hold them in bondage before you can accomplish your purpose in this way. What is the distinction? a distinction without a difference. I should be loth to say here that forcible emancipation is the result of wickedness alone, but I will say it is a combination of wickedness and folly. We want the Union; we want these States back again; we want to see these men represented upon this floor; we want them to obey the laws and the Constitution; admitting they have committed a wicked folly in attempting to rebel.

"To err is human: to forgive, divine;"

and it is only, in my judgment, by conciliation, by affording them every guarantee of the Constitution and every privilege under the Constitution, that we can bring that people back again with us to live under one common Government, recognizing one common Constitution, one common head, and one common flag.

Mr. ELDRIDGE. I have not designed to make a speech upon this resolution, and I do not expect to do so now. All I shall say will be little more, perhaps, than a statement of some of the reasons why I cannot support this resolution.

The Government of the United States is one of limited and defined powers. It possesses the powers, and only the powers, granted to it through the Federal Constitution. All other governmental powers, all the powers not enumerated, are reserved to the States or the people thereof. I have not been satisfied, I am not convinced by any of the arguments made upon this question, that the power has been conferred upon the General Government, or that it can be by the proposed amendment, to control, regulate, or interfere with the internal and domestic affairs of the States. I cannot believe that the framers of our Constitution intended to or did place a minority of one fourth of the States of this Union in a position to be stripped of all their rights of property at the pleasure of the other three fourths. The power of amendment as conferred through the Constitution can, as it seems to me, extend only to matters in which the States have a common interest. It is one of the reserved rights of the States under their own State constitutions to regulate, control, and manage their local and peculiar interests in their own way.

This, it seems to me, was so understood by the party now urging the passage of the resolution under consideration. At the time of Mr. Lincoln's nomination, the convention nominating him unanimously, I believe, adopted this resolution:

"Resolved, That the maintenance inviolate of the rights of the States, especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

The rights of the States and each State to control its domestic institutions is essential to the balance of power on which the perfection and endurance of our political fabric depend. Would not this amendment destroy that balance of power? Do not the endurance and perfection of the Republic depend as much upon the preservation of that balance of power now as it did when at his inauguration Mr. Lincoln "reiterated" the sentiments of that resolution, and claimed that it was a law for himself and his party?

But, sir, I could not myself at this time vote for this resolution if I did not doubt the power to amend the Constitution in the particular proposed. I do not "deem it necessary" or wise in an hour like this to change so essentially and radically our Constitution of government. However gentlemen may entertain sentiments of revenge toward voluntary rebels, it is not now pretended by any that all of the people of the rebellious States are guilty of rebellion. It is unjust and cruel to the innocent and true men in those States. It is taking advantage of a state of things which neither they nor we can prevent to overthrow without the consent or cooperation of those to be affected by it most, one of their constitutional and cherished institutions. It is verifying one of the first and most powerful arguments for secession, that the northern States were only waiting for the

power and opportunity to destroy all their rights of property and person. Sir, it will furnish the rebel leaders another argument by which to win the doubting and to arouse the lukewarm; it will aid them in raising other armies to fight against the Union; it will enable them to prolong this bloody and terrible war by embittering and intensifying the hatred of these people against the abolitionized North; it will destroy the confidence of the Union men in those States in the good faith and candor of those who pledged them that the only purpose and desire of the party in power was to restore the Union and reestablish the supremacy of the Constitution of our fathers; it will demand the blood of thousands more of the young men of this country and pile upon ourselves and our children a still weightier burden of debt and taxation. Finally, it will, in my judgment, if that be possible, put in greater danger the ultimate restoration of peace and the Union, and weaken, if it does not destroy, all faith in the safety and stability of republican constitutional government.

Sir, I have no sympathy with the institution of slavery, powerful as it may have been in the past; between Jeff. Davis struggling to save his neck and Mr. Lincoln to build his empire, it seems to be doomed. At all events, the vast Army and Navy of the United States are pledged by their Commander-in-Chief to its overthrow. Every day the conflict of war is trenching in upon its dominion, and if it were to fall in a legitimate struggle to put down rebellion and restore the Union, I shall not be one of its mourners. I have not lost my reverence for the Constitution. I remember it still as the handiwork of Washington and his compatriots. I cannot forget the solemn awe and earnest solicitude with which they approached, considered, and perfected that immortal monument of human wisdom. I cannot forbear to warn this House that the spirit and temper which pervaded that august body should fill the minds and hearts of those who attempt or dare to remodel it. Whenever that sacred instrument must be altered, let it be done in the spirit of kindness and in fraternal love to every portion of our country and toward all the people who are to live under it. Let peace once more come to this bleeding, mourning country, and then with the love that animated the great heart of Washington invite all who can be forgiven the part they have taken in this most unfortunate struggle to join in amending, if necessary, the law which all must reverence and love who can endure to live under it. But I conjure you to let the wail of the dead and dying pass, let the smoke of battle clear away, let peace and the Union be restored, let reason again assume her dominion before another revolution shall be inaugurated. Tear not the work of our fathers asunder in passion, stain not the charter of our Union and liberties, framed by them, with their children's hands reeking with their children's blood.

Mr. KING. Mr. Speaker, in contemplating the rise, the progress, and rapid development of the grandest system of government ever yet devised, I am led to reflect upon its present condition, and, if possible, to raise myself for a moment above the raging elements now threatening its existence, and to see if there is anything in the future which can be done, and which has not been done, to allay these elements of strife, and once more restore to reinvigorated life the Union of these States.

For my part I aver, as I have ever avowed, that if anything has been left undone which might now be done, which shall restore to us the unity of power, the blessings of peace, and the glorious promises of future we once enjoyed, then that needful thing I am prepared now to do.

In considering the subject now before the House, I recognize in it the fruition of the disturbances of the last thirty years. By these amendments the promised fruits of the abolition of slavery are sought to be realized. If the union of the States is to be maintained thereby; if thereby peace and prosperity are to be restored to the land of Washington, Jefferson, Madison, and Jackson; if sectional animosities are to be allayed; if thereby treason is to be foiled or punished; if the cause of human progress is to be promoted; if, in a word, all the best interests of our common country are to be promoted by these amendments, I am prepared now, as I have ever

been prepared, to make any and every sacrifice, personal to myself, which shall accomplish objects so great and desirable. I do so the more readily because I recognize in the manner of presenting these amendments one of the modes pointed out by the Constitution for submitting to the States, or rather the people of the States, propositions for its amendment.

I am not unmindful, Mr. Speaker, that for many years there have been those in the land who were dissatisfied with the Union because its Constitution contained the provisions and compromises by which slavery and its safety were secured from violent or political assault. I have never otherwise than thought that this class of persons contributed in no small degree to the breeding of those successive and increasing irritations upon the slavery question, which were finally seized upon by the southern rebel leaders as sufficient pretext for civil war, and which they have so powerfully used as the incitement for consolidating and wielding the southern mind in four years of gigantic war against the Government of their fathers.

But, Mr. Speaker, I, the Representative of a slaveholding constituency, aver now, as I have averred, when a prisoner in the rebel guard-house, and as I have, amid all the scenes of woe and desolation, that rebellious war has wrought in my district and in my State, that the evils and dangers which were complained of were not so grievous or threatening, nor could they be, as to justify a resort to armed rebellion. I had ever been of the firm conviction that, prior to this internecine war, there was no effective power which could have successfully arrayed itself against the constitutional rights of each and every part of our common country. And in reference to the disturbing causes which brought on the war, and superinduced the necessity for these amendments, if the South had planted herself upon her constitutional rights, and stood shoulder to shoulder with the men of the North disposed to regard them, then there could have been no cause for the one nor necessity for the other.

But, Mr. Speaker, in reviewing the history of the last thirty years it is impossible not to perceive that while there has been a party who have furnished irritating pretenses, irritating to the pride and nature of men, there has also been a party who have as eagerly seized upon these subterfuges for the sole purpose of inflaming and controlling the southern mind. They have used this power, not more with the view of defending slavery than for the purpose of carrying out a long-determined, deliberate, and wicked aim of setting up an independent power upon this continent for selfish and inglorious ends; and if in the end those using slavery for this nefarious purpose shall find that the people, by the adoption of these amendments, destroy slavery, then it can but be evident to them that they have been the architects of their own fortunes.

Without any arguments, Mr. Speaker, as to the good or ills of slavery as a primary question, and as it has all along existed under the sanction of the laws of our ancestors, nevertheless it has transpired during the course of this war that this institution was the chief lever by which the rebel leaders have wielded the southern mind; and for that reason it has lost nearly all the sympathy and support it once maintained. And to such extent has it become a source of irritation that it seems at length necessary, in order to secure the great blessings of peace and union once more, that the great question of its further existence or non-existence shall be submitted to the people for their decision.

And here I am reminded by the arguments of gentlemen upon this floor of our want of constitutional power to pass this amendment. I aver that if I had a doubt as to the right of Congress upon this subject of proposing and passing this amendment by two thirds of this House, and the Senate as at present organized, I unquestionably would vote against this amendment. I believe in the existence of the power; and while I say that I indorse the wisdom of that provision of the Constitution which declares that all power not delegated to the United States, nor prohibited to the States, are reserved to the States respectively or to the people. It has served as a guide and a landmark heretofore, and I trust it will long remain there as a landmark in the future; and it is not at all in conflict with that provision of the

Constitution which authorizes amendments to be made to this Constitution.

Some gentlemen argue that we have no right to do it because slavery was one of the reserved rights of the States. I see nothing in the Constitution which reserves that right to the States, but I see from the proceedings which took place prior to the adoption of the Constitution, and especially in the provisions which are in the Constitution itself, that the Convention to frame the Constitution did take cognizance of this question of slavery. In the ninth section of the first article—and that is what is declared as one of the sentiments of the great Dred Scott decision—all the States were allowed, for twenty years after the adoption of this Constitution, to buy, sell, trade, and traffic in slaves in any manner they might please. And they might have done so, so far as any prohibition in the Constitution is concerned, up to 1864. But after the lapse of twenty years power was given to Congress to prohibit it in the future; and they did so at a subsequent period. Suppose we had here a proposed amendment to abrogate that ninth section, giving Congress that power after the expiration of twenty years, and to say that Congress should have no such power in the future, would gentlemen then quote the very language of the ninth section giving to all the States the power to trade and traffic in such property? Gentlemen would not have the power to do that.

There is another provision which allows Congress to propose amendments to the Constitution. And the last provision is that Congress shall have no power to propose amendments by which States are deprived of their equal right of representation in the Senate. Now I maintain that this House has no right to propose an amendment to deprive a State of its equal representation in the Senate, because all our powers to propose amendments are derived from the Constitution. That is really the only existing prohibition that I know of in the Constitution. Can it be said that, under that restriction declaring the powers of the General Government, and the powers reserved to the States, Congress has no right to propose any amendment to the Constitution at all? Legitimately and logically, the argument would come to that. And yet, on a moment's reflection, no gentleman would take such a position.

Some gentlemen argue that we have no right to make any amendment, unless it be in reference to something already in the Constitution. The answer to that is that the very first session of Congress after the adoption of the Constitution a number of amendments were adopted on the suggestion of States to which the Constitution had been submitted for ratification, some of which had no sort of reference to anything in the Constitution as originally drafted. The most important of these grew out of principles which had cost the people of England oceans of blood—out of principles which were asserted in the Revolution. There cannot be any doubt of this; but if any gentleman should still have a doubt on the subject, let us see how this Constitution was to be adopted.

In the very last article of the Constitution it is declared that the ratification by the conventions of nine States shall be sufficient for the establishment of the Constitution between the States so ratifying the same. Eleven of the States ratified the Constitution at once. Nine would have been enough to create and constitute a Government, not only *de facto* but *de jure*. The States of North Carolina and Rhode Island did not agree to it for several years afterwards; and according to my view of it they were not parties to the Constitution. The Convention originated with the delegates from Pennsylvania, New Jersey, Delaware, Virginia, and perhaps some other States, who recommended that delegates should meet in Philadelphia on the second Monday in May, 1787—to do what? In order to amend and revise the Articles of Confederation. That was all the power they had. But who will say that after these delegates assembled in Convention they had not plenary power? They exercised it, and nobody has ever objected to it.

But the article of the Constitution which gives Congress power to propose amendments is that which declares that Congress, whenever two thirds of both Houses shall find it necessary, shall propose amendments to the Constitution, and if

adopted by three fourths of the States they become a part of the Constitution; or, on the application of the Legislatures of two thirds of the States, shall call a convention for proposing amendments, and that these amendments, when adopted by three fourths of the States, shall be valid to all intents and purposes as part of the Constitution.

There are thus two modes provided for amending the Constitution. If the proposed amendments come from the Legislatures of two thirds of the States, they are to be referred to a convention. But if they come from Congress, I ask whether Congress has not plenary powers to the extent of the authority given in the Constitution to propose any amendment it pleases, which is not expressly prohibited to it, or reserved to the States in the Constitution itself. Certainly it has. But I have heard the suggestion that it cannot be done because, says one gentleman, there are eleven States that are not represented here. Why are they not here? Is it our fault that they are not? We cannot coerce States to send members here. That is one of the powers of coercion which I deny. It is a personal privilege guaranteed to the States, and if they fail to avail themselves of it, it is their own fault.

This House and the Senate, as at present organized, constitute Congress, and we have a right to propose amendments to the Constitution. I do not suppose that the framers of the Constitution ever contemplated that eleven States, or any other number of States, should, upon any proposition which did not suit them, absent themselves. But it is a plain proposition that Congress, whenever two thirds of both Houses shall deem it necessary, may propose amendments to the Constitution. If we have not the power to do so because the Representatives of eleven States are absent, then all our acts are void. They are not what they purport to be on their face, acts passed by the Congress of the United States. That is one argument. Then, sir, the adoption of the Constitution required the consent of all the States, or, in other words, the States that did not agree to it were not to be bound by it, because in article seven of the Constitution it is expressly declared that all the States agreeing to it should be bound by it. But that is not the rule when these amendments are proposed. Three fourths of the Legislatures of the States, on the recommendation of two thirds of Congress, can propose and ratify amendments. Now, if the constitutional provision was that an amendment should receive the assent of all the States, just as that was required in the original adoption of the Constitution, I admit that the question might be raised whether or not we could proceed in this matter without the assent of those States that are now absent; many gentlemen here believing them yet in the Union, although they have thrown themselves outside of its pale for the time being. But that is not the constitutional provision.

To my mind this proposition is so plain that I had never studied much on this subject until I heard the arguments of gentlemen here, but the longer and more closely I look at it the more I become satisfied that that clause in the Constitution amounts to nothing if such objections are to be raised.

Why, sir, upon this subject of slavery, I know that Alexander Hamilton went home to New York from the Convention which framed the Constitution and told the people there that if they had not compromised on this subject there could have been no Union. I know that other men said so. That goes to satisfy my mind that if the North had held out there would, perhaps, have been no Union. On the other hand, if southern men had not demanded these compromises, in all probability a different Constitution would have been presented to the American people.

I now leave the constitutional question. I have endeavored to satisfy my own mind upon the subject, for to me it would be a stumbling-block if my mind was not clear upon it.

And now, Mr. Speaker, I ask the indulgence of the House while I recur briefly to some of the prominent facts connected with the history of this agitation. Chief among those, to my mind, appears the long-fixed purpose of the rebel leaders to overthrow the Government without regard to slavery, and, in fact, regardless of everything which stood in the way of their own selfish aggrandizement.



As early as 1832 we find the spirit of treason abroad in South Carolina under the leadership of Mr. Calhoun. The pretext for this demonstration and effort to destroy the Government was the unequal and oppressive operation of the tariff; but in fact the promptings of Mr. Calhoun, and those of his political school, originated, not so much in their opposition to the tariff, as from a fixed design to sever the Union and set up a southern confederacy. Calhoun, while Vice-President, having early saw the influence likely to be exerted by Mr. Van Buren in the administration of General Jackson, sought means to drive him from the Cabinet, and to produce a rupture between him and General Jackson, and to get himself in favor with the President. Failing in this, and determined to push his schemes to the point of a rupture with the Government, he sought as a pretext opposition to the tariff. I refer to the opinion of General Jackson, expressed shortly after the event, and which the history of events since that time abundantly verifies. In a letter dated at Washington, May 1, 1833, and written to Rev. Mr. Crawford, of Georgia, he says:

"I have had a laborious task here; but nullification is dead, and its actors and courtiers will only be remembered by the people to be execrated for their wicked designs to sever and destroy the only good Government on the globe, and that prosperity and happiness we enjoy over every other portion of the world. Haman's gallows ought to be the fate of all such ambitious men who would involve their country in civil war and all the evils in its train that they might reign and ride on its whirlwinds and direct the storm. The free people of these United States have spoken and consigned these wicked demagogues to their proper doom. Take care of your nullifiers; you have them among you. Let them meet with the indignant frowns of every man who loves his country. The tariff, it is now known, was a mere pretext." \* \* \* "Therefore the tariff was only the pretext, and disunion and a southern confederacy the real object. The next pretext will be the negro or slavery question."

Thus wrote General Jackson nearly thirty-two years ago. What says Colonel Benton, whose whole history, from 1833 to the day of his death, is filled with warning upon this subject, and who sacrificed himself by refusing to worship the Moloch of slavery in Missouri, whose people are to-day reaping the bitter fruits of their persecutions and disregard of his counsels? In the second volume of his "Thirty Years in the Senate" he has furnished a truthful page for history upon this subject, and which it may be useful to introduce here. He says:

"The regular inauguration of this slavery agitation dates from the year 1835; but it had commenced two years before, and in this way: nullification and disunion had commenced in 1830, upon complaint against protective tariff. That being put down in 1833, under President Jackson's proclamation and energetic measures, was immediately substituted by the slavery agitation. Mr. Calhoun, when he went home from Congress in the spring of that year, told his friends that the South could never be united against the North on the tariff question; that the sugar interest of Louisiana would keep her out, and that the basis of southern union must be shifted to the slave question. Then all the papers in his interest, and especially the one at Washington, published by Mr. Buff Green, dropped tariff agitation and commenced upon slavery, and in two years had the agitation ripe for inauguration on the slavery question. And in tracing this agitation to its present stage, and to comprehend its rationale, it is not to be forgotten that it is a mere continuation of old tariff disunion, and preferred because more available."

Those words of Jackson and Benton were prophetic, and we are now reaping the fruits of that policy. I ask the privilege for a few moments now to review as briefly as I can the course that has been uniformly pursued by these southern men in reference to this matter from that day down to the day of the inauguration of this rebellion.

Mr. Calhoun, being thwarted on the tariff question, early went to work in reference to the slavery question. The next agitation, as we have seen, was to be upon that question, and my recollection is that the action by the anti-slavery societies of the North commenced about the same time. They saw that the field was open; they saw the purpose of those southern men, and I admit that they fanned the flame. They went side by side, seemingly at times coöperating together, each one of them, in every instance and in every movement, tending to make wider the breach between the North and the South. They talked so much about the North and the South that we who lived in the West almost came to the conclusion that there was nothing in this Union but the North and the South. We never heard of any question being discussed here unless it was a northern and southern question, and that, too, in reference to slavery.

Mr. Calhoun commenced his intrigues shortly after Mr. Van Buren had been made President, having an eye to Texas, and not being satisfied with Mr. Van Buren's position on that question, he intrigued against him, and Mr. Van Buren was defeated in the next nominating convention. In 1848 Mr. Van Buren was nominated by a convention at Buffalo, and at that stage of our political history arose what was called the free-soil party. Up to this point of time the question had not assumed a particular or definite shape as to the mode and manner in which they should agitate this question, yet it was continually broached in every possible shape without seeming to have any definite result in view.

But the administration of Polk passed off. Then arose another branch of this question, or rather, it was an addition to the old question. And what was called the free-soil party, or the Wilmot-proviso party, then arose. And in 1848 General Taylor, not upon questions and issues that sprung up between the politicians, but upon the high appreciation for his character and military ability, was nominated and elected. After his time had expired there was a convention of the Democratic party held in 1852, and nominated a candidate for the Presidency.

And whom did they nominate? Franklin Pierce, avowedly the candidate of southern men. I have nothing to say against the administration of Franklin Pierce; at least, I have no arraignment of him to make. But he was unquestionably the candidate of southern men, and could never have been nominated or elected unless they had brought him forward.

But let me refer here to some measures of importance that preceded his nomination. The compromise measures of 1850 had been adopted. Those measures were acceptable to the great body of the people both North and South. I do not think they were acceptable to the nullifiers of the South, nor do I believe they were acceptable to the abolitionists, who were fanning the flame of discord in the North. But I say that to the great mass of the American people, North and South, the compromise measures of 1850 were acceptable. And it became evident that there was a disposition among the American people to drop this slavery agitation; and when Mr. Pierce was nominated, in 1852, there was an express agreement, and stipulation, and understanding between southern men and northern men, that they would nominate and elect Mr. Pierce, and forever stop this slavery agitation. Therefore the barnburners and Wilmot-proviso men came together, with others, in support of Mr. Pierce, and he was elected.

But who denies, at this time, that his Secretary of War, who is now the president of the confederate States, shaped his course and his policy with an eye to the ultimate object that he believed was approaching? No one can deny it now. We can trace it in all his acts and movements. And after Mr. Pierce was elected, and before the election of Mr. Buchanan, there came up another question. The Territory of Kansas was to be organized; and what was the policy pursued by the southern men then? They thought it was a trump in their hands, if they could only force the principles of non-intervention, as adopted in the compromise of 1850. The Missouri compromise stood in their way, and non-intervention was one of the arguments which they used for its repeal. They believed that if they could get the Missouri compromise out of the way in the organization of the Territory of Kansas, then they could play the trump card in the great effort they were making, and win a position which would enable them ultimately to get up such a state of feeling among the people of this nation as to break it up.

A bill was brought in to organize the Territory of Kansas. I have not looked at the Journals; I have never looked at them. But I know the impression made upon my mind, and I will state it. The Senate was not satisfied with the bill as first reported by the Committee on Territories, being controlled by the Calhoun influence at the time, and referred it back to the committee. The committee reported a second time, and reported a bill for the organization of Kansas and Nebraska. The southern members were not satisfied with that, and it was referred again to the committee. I well recollect the declaration made to me by our Senator, Mr. Atchison, in reference to that matter. The committee had known very well at the

first what they wanted, but they had refused to give it. Mr. Atchison said to me that if the committee, when they reported the third time, had not reported a bill to repeal the Missouri compromise, they would have taken it out of the hands of the chairman of the committee, (Mr. Douglas,) and he, Mr. Atchison, would have reported it himself. But they got their report at last. They inserted in the bill, as a sort of justification of their action, what Colonel Benton very properly and forcibly characterized as "a stump speech injected into the belly of the bill." They said that they did not intend to legislate slavery into or out of the Territory, but leave the people there perfectly free to act for themselves, in accordance with the principles of the compromise measures of 1850.

Then immediately after the organization of that Territory and the wiping out of the Missouri compromise—which was the worst measure ever adopted as a party measure by the Democratic party since its first organization—the Democratic party broke down for a time. I had belonged to the Democratic party up to that time, and continued still to act with it, yet I declare here to-day that if I could have found any other party which would have suited me better, or even as well, I should have gone into it; and I know that thousands of good Democrats did abandon the party on that occasion. By that act they had taken away the only wall of defense, other than the Constitution, that the slaveholders had against which to plant themselves for the purpose of protecting their rights against aggression. They had wiped it out; but then they had a purpose to accomplish in it. And what was that? Directly after the Territory was organized we in Missouri saw, and no doubt you heard. There was a Colonel Buford—I believe they called him—from Alabama, Georgia, or South Carolina, one of those three States. He absolutely came with a lot of young sprouts from South Carolina, from Georgia, and from Alabama, up to Kansas. They did not come as emigrants; but they came there with arms in their hands. For what? To clear the road and put slavery into Kansas. Great excitement was aroused upon the border at that time; and a number of Missourians joined in the effort. Thereupon the emigrant aid societies sprang up. They, too, came not in the capacity of emigrants; but they came trotting along with black carpet-bags in their hands, with very little, seemingly, to live upon after they got there. Every one understood their object. Each one of them had, either in his wagon or on his shoulder, a good Sharpe's rifle.

Now, that just suited the notions of those men who had sent Buford and his gang to Kansas. There was an issue. There was bloodshed there. Many men were induced to go there from Missouri. I deprecated it at the time, just as I deprecated this rebellion as a wrong. I believed then, and I believe now, that two wrongs never make a right. The conduct of the Emigrant Aid Society, and of those men who were trying, the one party to whip slavery into Kansas, and the other to whip it out, could result in no good. Oh! sir, if you could but know how the people of my district on the border of Kansas are suffering to-day and have been suffering the bitter fruits of the effort to whip slavery into Kansas and fight it in there, those people would at least have your commiseration. The men of Missouri who were engaged in that matter were the identical men who engaged in this rebellion. They joined the army of the South. Many of them are dead and gone, and those who are living are afraid to come back. But the honest inhabitants of the country there—and there were thousands and thousands of them who countenanced no such thing as this—have been made to suffer; and the result is that we are desolated, burnt out, destroyed. We have been made to drink the bitter cup to the very dregs, not by our own conduct, but by the efforts of those men who set out with the purpose to break up this Union. These facts are well recognized and understood in Missouri now. The people all see and feel that the thing was brought upon us by the causes to which I have alluded.

But, sir, they failed to make Kansas a slave State, although they had obtained the repeal of the Missouri compromise. After they had failed in that object, what was their next move? In 1856 a President was to be elected, and in the

summer of that year there assembled at Cincinnati a convention which nominated Mr. Buchanan. That, I believe, was the first occasion on which South Carolina ever sent delegates to a national convention. But what was the course and conduct of the South in that convention? Do you not remember, sir, that Mr. Yancey, at the head of the Alabama delegation, came to Cincinnati with instructions from the party in Alabama which he represented that if the convention did not recognize the principle of non-intervention he should withdraw, and then they were going to make a point? But, Mr. Speaker, the compromise measures of 1850, recognizing the principle of non-intervention, had been adopted. The Missouri compromise, which was in the way of non-intervention (for that measure was intervention) had been repealed. The party then recognized in their platform for the first time (although it had been pressed on them time and again) the principle of non-intervention. Upon that principle they nominated Mr. Buchanan; upon that principle they went into the election; upon that principle their candidate was elected.

What was done during the Administration of Mr. Buchanan? I helped to elect Mr. Buchanan; I gave him my vote; but I am bound to say that, whether he knew it or not, no man is now so blind as not to see that during that Administration there was sought to be made the whole arrangement which was to give the southern men such a position in its winding up that they would be enabled safely and securely and according to their own theory to go out of the Union without any sort of trouble. With a Secretary of War, a Secretary of the Treasury, and a Secretary of the Interior, all of whom have since held high positions in the rebel army, who doubts for a moment that during that Administration they made every arrangement and pursued every policy that was calculated to give them the advantage; not the advantage as equals, but to put them in a position to accomplish their diabolical purposes? No one can doubt that. At the very close of the Administration—and I may as well mention it here because it has always been bearing upon my mind—at the very close of his Administration, if he had the nerve—oh, that we had a Jackson then!—if he had had the nerve of General Jackson, when men were talking treason upon this floor and in the Senate Chamber, just to have had his Attorney General prepare the papers and his marshal to take them into custody, and if there was no other place than the Old Capitol prison, if he had incarcerated them there, then tried them for treason and efforts to subvert the Government, there would have been no war at all. Instead of that we had seven States seceding from the Union. The laws had been violated; the rebels refused to allow the revenues to be collected, and finally they fired upon our unarmed vessels, which, if a foreign nation had done, would have kindled a fire in the hearts of the American people, and we would have had war. I suppose that even Mr. Buchanan would have gone to war. Instead of that seven States had gone out of the Union; troubles had accumulated upon us; Mr. Buchanan had scruples as to what he should do; the country was in a state of indescribable confusion.

I will say, Mr. Speaker, because I have always believed it—it has always looked so to me—that there was an implied if not an express contract between the secessionists and Mr. Buchanan to this effect, that they should shape their course so as not to interfere with him and make it obligatory upon him to go to war with them, and he would let them alone and turn all the burdens of the revolution over to his successor. It has always impressed me that that was the understanding. Whether it was or not, such turned out to be the fact.

When Mr. Lincoln's Administration came in seven States had dissolved the Union so far as they could. Mr. Lincoln was inaugurated. I have not been a Republican or a supporter of his Administration, except so far as my convictions satisfied me he was right. Every man must admit that since the days of Washington no President has entered upon the administration of the Government under such perilous circumstances. It is easy to find fault, and I have sometimes found fault myself. But I have reflected that if I occupied the stand-point he did, and seeing what perhaps he saw and I did not see, I would prob-

ably have done no better than he has done. I make no excuse for what has been done or for what has not been done. My only object is to revert to the history of the country to show that the very men who finally began this revolution were the same men who had been trying to start it for thirty years. I hold them responsible for it, and for what has been done under it.

I know, sir, that what are called personal liberty bills have been passed, and of an aggravated character; but there was no pretext in them for rebellion. Every one of them, so far as I know, when taken to the Supreme Court of the United States, have been overruled. There was a law in Pennsylvania, and under it Prigg took his case to the Supreme Court, and the opinion of that court, written by Judge Story, a Massachusetts man, laid down the rights of the several States in reference to that matter clearly in accordance to the Constitution.

A number of the States repealed these laws; but if they had not repealed them, if they had been attempted to be executed, the parties could have gone to the Supreme Court of the United States and had the difficulty properly adjusted.

Now let me tell you a fact. The census shows that from 1840 to 1850 there was a loss of slave property of one thirtieth of one per cent. The proportion had largely decreased from 1850 to 1860. The compromise measures of 1850 had been adopted, and there was a general disposition among the people North and South to let this question die out. According to the census the estimated value of the slave property lost between 1850 and 1860 was one fiftieth of one per cent., whereas ten years before it was one thirtieth of one per cent. The question was dying out, and if the southern Representatives had remained here and not seceded they would have had a majority. They could have done what they pleased in the way of legislation. Congress did, after they went away, in order to show that they had no disposition to irritate them upon the subject, pass bills for the organization of three Territories—Colorado, Nevada, and Dakota—not one of which contained a word about prohibiting slavery from going into those Territories. The Congress that did that had the power to include that prohibition, had they seen fit, as the southern members left these Halls. If those men had stood to their posts nothing could have been done contrary to their wishes; and in the Congress which just met after the inauguration of Mr. Lincoln they would have had a majority of from twenty to forty in the House, and from ten to sixteen in the Senate. The President could not have appointed a Cabinet officer without their consent, nor a foreign minister, nor could he have obtained a dollar of money to carry out any project whatever.

But I must now allude to their schemes to break up the Democratic party, and their successful efforts in that way at Charleston and Baltimore in 1860. Colonel Yancey, at a meeting in Columbia, South Carolina, in October, 1859, urged the sending of delegates to Charleston as best to give them a position to break up and divide the Democratic party, for, said he, with a national party in organization they never could succeed with their designs. When the convention met, Colonel Yancey came with instructions from his State that if the principle of *intervention* was not recognized by the convention, the delegates from Alabama were to withdraw. The convention at Cincinnati had adopted the principle of *non-intervention*, and declined to change their position. Thereupon the delegates from Alabama and a number of southern States withdrew. I asked Colonel Yancey myself why it was that four years ago he, with the Alabama delegation, went to Cincinnati with instructions, if the convention did not recognize the principle of non-intervention that they were to withdraw, and now, said I, you come here with instructions from the same party, if the principle of *intervention* is not recognized you are to withdraw. I recollect well his significant and emphatic answer, "We found the principle of non-intervention would not answer our purpose." We adjourned from Charleston to Baltimore to give time for the States whose delegates had withdrawn to send other delegates, but we were followed up, and some of these seceding delegates, the more successfully to carry out their plans, claimed their seats, and on being rejected a second time withdrew and nominated their own

candidate, and in this way effectually broke up the Democratic party. When these delegates returned to the South, they proclaimed they had broken up the Democratic party; that Mr. Lincoln would now be elected, which would open the way for the success of their wishes. And to show what their wishes were after the election of Mr. Lincoln, in the South Carolina convention which passed the secession ordinance, Mr. Rhett said:

"The secession of South Carolina is not an event of a day. It is not anything produced by Mr. Lincoln's election, nor by the non-execution of the fugitive slave law. It has been a matter which has been gathering head for the last thirty years."

Is it not plain that they have forfeited the only opportunity they ever had of maintaining and upholding their constitutional rights? And here let me say that these men have forfeited their constitutional rights. Forfeited them how? They have rebelled against the Government; they have declared that they will not be governed under our Constitution; they have repudiated it; and yet we, the great Democratic party of the North, have been standing up to them, appealing to them, and telling them that we are ready to stand by their constitutional rights. But they indignantly spit upon us and say, "We claim no constitutional right; we have no affiliation with your Government; we throw you off, and as evidence of that here is our own independent government and constitution, and we claim nothing at your hands."

I, for one, am tired of following after those men. If they will come back; if they will, as the President said in his last message, lay down their arms; if they will ask to return into the Union, I think they could put a damper upon this amendment in the Legislatures of the States. If they would come back to-day it would be in their power to make an issue, but it is not in our power. This thing has gone so far that there is no such thing as our holding it back. They can make the issue if they choose. Let them unitedly propose to recognize this Government and Constitution, and to yield obedience to the laws made in pursuance thereof, there would be a powerful party to say, and I think the President himself would be bound to say, that is all we ask. Then this question of slavery would become a political one. It might produce some difficulty, but it could be handled better afterward. They have the power, then, to come back, and if they do not it is their fault.

And now, Mr. Speaker, that the supports of slavery, by the workmanship of southern hands are broken, and from all appearances soon to crumble into dust, we may reflect for a moment on the spell-bound terror forbidding debate with which the now revealed enemies sought to surround that subject upon all occasions, great and small. Scarcely a subject of importance could arise for the decision of the people in which these men failed to see a chance for yet more agitation. As a consequence, those men in my State who refused to participate in these agitations which had for their immediate object the embroilment of sections, and their ultimate object the disunion of the States—I say that that class of men who would not lend themselves to this treason-breeding work, had for many years prior to the war been the special object of vindictive hate and persecution. The great Senator from Missouri, for thirty years a shining light in the councils of the nation, was brought to the guillotine erected by these agitators for no other reason than that he had announced the doctrine, "let slavery alone where it is, do not send it where it is not." Scores of lesser men for like reasons were made powerless and hated by these arch-agitators; and it should be remembered that whatever of tyrannical opinion was brought to bear against freedom of speech fell at all times with great power upon those moderate men whose life was cast in the midst of it. Indeed, how common was the declaration in former days by these men, that they endured the out-spoken sentiments of the abolition extremists with more patience than they could the reasonable remonstrance of dwellers in their midst.

Mr. Speaker, now that the result, the extinguishment of slavery, is likely to be accomplished by war of their own choosing, yet gentlemen here may very well consider that rashness is still out of place in subsequent dealings under this result. This accomplished, we should at once stay the hand of confiscation, desolation, and destruction of the property and other material

interests of this unfortunate people, and by our united efforts satisfy them that we seek no personal degradation for them; that after, by the prowess of our arms, we shall conquer the strong military power which has heretofore held them in subjugation, we will encourage the inauguration of a policy, so happily begun by the intrepid Sherman in his dealings with the people of Savannah. Yet another consideration may be suggested, Mr. Speaker, with this accomplished, why we should not further deal harshly with these people. It is the historical fact that twelve of the thirteen original States owned, possessed, and dealt in slaves; that for reasons satisfactory to several they parted with it, each in their turn, and to their respective advantages. There are wise persons who believe that under profound peace on this subject a like result would have followed ere this in all the border States. But by the fate of war, for which the southern leaders are solely responsible, its sudden extinction is likely to come, and the question of a few years precedence, more or less, in point of time as between the States, amounts to naught in the life of a nation, and can leave no just ground for future bickerings on the subject.

Not among the least of the developments of the times, sir, is the fact that in the dire extremities to which the fortunes of war have driven rebellion the rebels themselves now contemplate the extirpation of slavery and placing of arms in their hands to defeat the cause of the Union. Our arms at the close of last year were everywhere victorious; the forces of the rebels were by deaths, sickness, desertions, and captures, fearfully lessened. To replenish their armies and at the same time secure the fealty of their slaves, as well as reassure their discouraged friends at home and abroad, the rebel leaders are resolved to make use of our measure to abolish slavery. They saw the party with which I have acted arrayed in an almost unbroken column against this amendment; and, well knowing the unyielding nature of party spirit, they judged "the party" would stand fast to their position and thus defeat the passage of the constitutional amendments. And now with the usual dexterity of these old politicians they appear to be making every preparation to appeal to their slaves for two or three hundred thousand soldiers. They would thus be able to say to the slaves, "The Yankees have pretended to desire your freedom, but when the pinch came, when called on to pass a law giving freedom to you, they voted it down. They dislike you as much as they do us. Help us whip the deceitful wretches, and we will give you freedom; you can get it of nobody else; Lincoln's plan of freeing you was voted down."

The chances are now decidedly apparent that the rebels will thus talk to their slaves, and undertake to put into the field hundreds of thousands of them as soldiers. I would like to hear gentlemen explain to this House and the country how we benefit the Union cause by thus enabling rebels to speak and act. I would like to know if it is wise and statesmanlike to afford to the rebels an opportunity to raise such an issue against us in European courts. I ask if it is not more easy to prevent than to meet such an issue when raised before foreign Powers.

The fact that such a design and the raising of such issues are meditated appears plainly from the current news of the day. Now, sir, in view of these anomalous facts, and devoted as I ever have been to the Union of the States and the perpetuation of the principles which animated our fathers, I ask where should be found the position of the loyal man on such a question? Where, in view of which, should be found that noble array of northern men who have heretofore apologized for slavery and bared their breasts to the storm of opposition because the Constitution supported it? Where, in view of this, can be the position of the border-State loyalist? Sir, there can be but one answer in the loyal heart. If the slave is to be used in this war let him be used in the cause of the Union. Viewed in the light of the rebel purpose to use slaves in their rebellious war, there is no alternative (even if it were desirable at this late day) but to choose that the former slave shall war for the cause of Union rather than against it. Thus much I have taken the liberty to say to those noble men of the North with whom it has been my pride to act politically. Thus much I say to those who have all along realized the vast

difficulties of Constitution and laws and prejudice which circumvented the slavery question, but who never made slavery paramount to the Union.

But after all, Mr. Speaker, is it anomalous in the history of the world that the slaves should be used in war? If we appeal to the history of the renowned republics of old, which tolerated slavery as does our own, we shall be convinced to the contrary. In those great civil commotions which at times so terribly shocked the Greek republics, and especially in the long and terrible civil wars of the Romans, we find slavery playing a conspicuous part in the policy of the contending factions; and those contending for the ancient and cherished forms of government, as well as those opposing, vied with each other in efforts to ameliorate the condition of the slave in consideration of the support he would give to this or that cause. But it would hereafter be anomalous in history if we should fail to avail ourselves of whatever support we can derive from this measure, when it is so apparent that our enemies are about to avail themselves of the same resource.

Mr. Speaker, I have done with the subject. In what I have said I have been prompted by no spirit of ill or hate to the mass of the southern people of the Union. I, upon the contrary, deplore the ill fortune by which for the time being they were placed under the power of evil men who for thirty years have been bent upon "precipitating them into revolution." But in what I have said I have endeavored to speak the words of truth and soberness, nothing extenuating nor setting down aught in malice. In what I have said I am amply warranted in the history of those political perturbations which culminated in this tremendous war. Vast has been the sacrifice of blood and treasure already in this war for the Union; but great though it be, we nevertheless owed it to unborn generations to come, to deliver to them unimpaired the great legacy bequeathed to us through blood and fiery trial by our ancestors. We owed it to the great cause of republicanism to show before the world that the form of government can be maintained by a republican people despite the machinations of all foes, internal and external. We owed it to all the best and brightest hopes of mankind to show that millions of freemen could rush to arms in defense of their cause, and could stand persistently by it through good and evil report. Let us hope, Mr. Speaker, that from the bloody ordeal and fierce chastening of the past four years our glorious nation may still brave the trials yet to come, and that ere long we shall enter the sunshine of peace, and stand before the world a free, united, and happy people.

Mr. GRINNELL. I will detain the House but a few moments, intending to divide my time with the gentleman from Illinois, [Mr. FARNSWORTH.]

I regard this as a marked day in American politics and American history. I am happy to follow a gentleman from a slave State—and a slaveholder too, I believe—[Mr. KING,] who advocates a constitutional amendment whereby slavery may become extinct throughout all the breadth of the land. I rejoice that the State of Iowa, which I have the honor in part to represent upon this floor, and is known by her forty thousand majority for freedom, has so honorable a neighbor, so magnanimous and so able a philosopher and statesman upon this floor.

It seems to me this is a day of great opportunities; great for the conservative Republican who shall never more have to apologize for his votes, correcting his record; and a great day for the Democrat, who may now break the shackles of party, and stand forth with the great men and patriots in our early history, and march on in the royal highway of freedom for all nations. Sir, this is one of the days which makes the text for volumes of history big with the fate of races and an empire.

Now, sir, as I have not to talk about my own consistency, having been, so far as I know, always an abolitionist, I am here to say that I do not enter into the discussion of the simple propriety of this measure. No; at the threshold I deny that there can be property in man. I never believed in the doctrine. My whole nature revolted at it, and the reading of books of law, volumes of history, and of God's word, never taught me else than that the institution was barbaric, in defiance of natural

justice, and so shameful in its pretensions that in no State in this Union has its legal existence been established by any law. And here I desired to ask the gentleman from Kentucky, [Mr. CLAY,] when he spoke of the legal and constitutional rights of his people, where he finds a law in the State of Kentucky, or in any other slave State, that establishes the system of African slavery. It cannot be found. Slavery is an outlaw, and we are but proposing to execute the criminal that has been an outlaw for generations in this country.

It is well known that the British constitution and the common law of England and the decisions of the great jurists of England were against the existence of slavery in that country. One John Hawkins was the first to engage in the slave trade in this country. He planted the institution here. Did that legalize slavery? Did he have from his queen any authority to traffic in human beings? None. How did slavery come to exist in the colonies? From whence came the authority to hold slaves? From England? No. Did it come by colonial legislation? No. How, then, came it in these States? By brutal force. As I have already said, it is not found to be established by law in any State, and must stand here as an outlaw. The great expounders of our Constitution have said that the Declaration of Independence itself, proclaiming all men free and equal, laid the corner-stone of our Confederacy, and that it is above all constitutions and all laws. That is enough for me; and we are only tolerating here, that which should have ceased to exist long ago, and spared us civil war. Sir, if I had my preference, I would rather see slavery wiped out here by a legal decision, and announced by a chief justice—our Lord Mansfield, I trust—on the great principles of justice, rather than by the tardy action of States.

I wish now to refer for a moment to the statement made by the venerable gentleman from Kentucky [Mr. CLAY] that we are about by this measure to deprive his State of representation in this Chamber. How is that? They now have three fifths representation for their slaves; when the genius of liberty shall take possession of that State, and the votes of the people shall have destroyed slavery there, then their slaves will be counted as freemen. Instead of decreasing their representation, we augment it.

But the gentleman asks, What will you do with our slaves? What shall we do with them? Ah! it seems to me there is something due to those who have so long supported their masters, certainly to be let alone. Cannot they who have supported themselves and their masters in the past take care of themselves? That, sir, is a question which we can well afford to leave unanswered, since the enslaved race are establishing their manhood and fighting our battles.

The gentleman from New York [Mr. BROOKS] stands up here in defense of those who are now in rebellion, so far as to declare that slavery has not ruled the country. I wish, sir, that he had been more conversant with American history; that he had read less of newspapers and more of our political history. Why, sir, it is well known that the great majority of the people of this country have been controlled by the institutions of the South. We propose to break away from that control, and to stand forth free and independent, never more to be bartered away by a body of men banded together for any political or selfish purpose, much less by those in the control of tyrants.

If you look into the facts and figures in regard to this control, you will find that up to the year of the rebellion for two thirds of the time the Presidency of the United States had been held by slaveholders or southern men; you will find that of the Presidents of the Senate slavery had sixty-one out of seventy-seven; you will find that of Speakers of the House of Representatives they had twenty-one out of thirty-three; you will find that of Attorney Generals they had fourteen out of nineteen; and that they have had the Secretaryship of State nearly two thirds of the time; and since the slavery agitation, as if it were to be ready for this conflict of arms, for four fifths of the time have the Secretary of War and the Secretary of the Navy been from the South.

Look, too, at the Supreme Court of the United States and its organization; slavery has had seventeen out of the twenty-eight members. It was



organized purposely, as all the world knows, to give five judges to the slaveholding States, and four to the free States, notwithstanding that the free States exceeded the slaves States almost one third in population and one half in wealth and in business for the courts.

Thus do facts answer that assertion of the gentleman. And hence it is the business, the high and holy work of the American people henceforth to sunder these shackles, and no more to be controlled by the system of slavery which was fast binding us and defenseless to be cast into outer darkness.

Mr. Speaker, I have noticed the agonies of gentlemen over the tomb of slavery. I do not forget how they agonized, even to the going down of the sun, against the abolition of slavery in this District. There were, according to them, untold horrors looming up from that measure; but what has been the result of its passage? It has raised the value of property in this District two hundred per cent. It benefited a race and enacted justice. Not one of the horrors which filled men's imagination have visited us. Then, again, when the enlistment of negroes was proposed, we were told that the negroes would not fight, and that if we tried to make soldiers of them our white troops would resist it, and the rebels would fight with increased desperation. Neither assertion was true. So, too, on the discussion of the confiscation law, we were told that if it were passed rebels would fight to the last ditch, and our last victory was won. Twenty thousand people in Savannah and a hundred and fifty thousand in New Orleans have made your prophesy false. They came out to take food from your hands and welcome the old flag. You shed ink in great profusion in protest and opened the lachrymal founts over unborn children; yet the born children mock at your fears, and you are, gentlemen, in tolerable health to-day, except in that sense political in which you seem to be on the verge of dissolution. But there is political health to be found in this grandest opportunity of the century which is given to make the land of the Pilgrims and of Washington free; so free that another rebellion will be impossible; to make the nation's rebirth so glorious that Heaven shall look down to see.

Mr. Speaker, I am aware that there has been much coaxing outside and inside of this Hall in effort to induce Democrats who have voted against the Republican party and against the amendment so long to come now and vote for the amendment. I for one do not share the solicitude of many on this point. I am in no coaxing mood. If these gentlemen see no wisdom in giving orders for a shroud, that there may be an early and decent burial of that which is in its death throes and ought to have been hastened to the tomb long ago, we can endure its putrescence till the "ides of March" at least, when at a called session of Congress, if a necessity, a jubilant majority will give the vote which they were elected to cast, and will ally their names with the honored dead of the centuries. We can pass the constitutional amendment then without coaxing, thank God. The next Congress was elected for that purpose, and we shall have an overshadowing majority which will open a new page in our political history; and to vote for this constitutional amendment is just the feast to which those members fresh from the people were invited. Those who sunder party ties and vote for it cannot fail of grateful remembrance, for slavery and Democracy have been mutual supporters for thirty years. They cling together like the Siamese twins. And so theirs shall be the folly, theirs shall be the curse, if they do not resist the sorcery of party. Let them abide together and go down to the depths "with bubbling groan," for, pleasant in their lives, in death they should not be divided.

Mr. Speaker, I need not give my reasons in full why I shall vote for this constitutional amendment. I will simply state a few of the reasons that will impel me to do so. In the first place, I will vote for it because the Constitution provides for its own amendment. Secondly, I will vote for it because it allows the people of the States to exercise their sovereignty—that "popular sovereignty" which we have heard descanted upon, lo, these many years. I propose to have a practical illustration of the doctrine. I will vote for it because it is a measure of justice to millions in chains, to hundreds of thousands fighting our bat-

les. The country demands it. The people, although their Representatives here heed not their voices, demand it. They demand it by the voice of four hundred thousand majority given in the late election to the present Executive of the United States. Above all there is a voice sounding out louder than the thunder if men would hear it; it is the voice of God to this nation, "Break every yoke and let the oppressed go free."

I rejoice, Mr. Speaker, to welcome so many who are coming into the ranks of free men, and to know that there is a breaking up of unholy alliances. I rejoice not in any mere party victory, but am gladdened in seeing men restored to their right minds and placing themselves in the currents of intelligence and patriotism, so that when there shall be a reorganization of the Government, when there shall be an adjustment, when the war is ended, we shall find men of all classes and of all parties allied together invoking the blessing of Almighty God to the end that this may be the great, the glorious, the free, the mighty nation of the earth.

In conclusion, Mr. Speaker, I take pride in the fact, and let it go down to history, that but one gentleman on the other side of the House has stood up here to advocate "the sum of all villainies," American slavery. Thank God, he did not belong to a slave State. A thousand thanks those who live in the midst of the institution do not detract their reason and provoke the vengeance of the Almighty by standing up here in defense of American slavery. But let him, [Mr. FERNANDO WOOD,] living on northern soil and in a mighty city, degrade, if he choose, his manhood, defame the African race, and thus bear off all the honors to which his pandering and vassalage entitle him. "Let him enjoy his solitary ignominy," is said all around me. Yes, sir, I repeat it. That gentleman, born and reared in a free State, has seen fit to stand up in this year of 1865 and declare that American slavery is the best condition of the African race. He deserves the shackles he would fasten upon others, and, as I trust in God, I believe his posterity will at least wear his brand of ignominy if not wear the chains which he would forge for others. Reproaches of scorn for slavery's defender, but thanks for those who have broken the shackles of party and are coming forth for their country! I rejoice that this is their day of freedom, and that we are now about to give liberty to millions who have no voice in this Chamber.

I will now yield the remainder of my hour to the gentleman from Illinois, [Mr. FARNSWORTH,] who desires to speak upon this question.

Mr. FARNSWORTH. Mr. Speaker, "property," "vested rights," "robbery," are the dying cries from the agonized hearts of the men who defend man-stealing and women-whipping, and who apologize for treason. I do not rise here for the purpose of making a constitutional argument, but only for the purpose of briefly answering those charges. It seems to me that they come from the wrong side of this question when used by the men who oppose this constitutional amendment.

"Property!" What is property? That is property which the Almighty made property. When at the creation He gave man dominion over things animate and inanimate, He established property. Nowhere do you read that He gave man dominion over another man.

"Vested rights!" What vested rights so high or so sacred as a man's right to himself, to his wife and children, to his liberty, and to the fruits of his own industry? Did not our fathers declare that those rights were inalienable? And if a man cannot himself alienate those rights, how can another man alienate them without being himself a robber of the vested rights of his brother-man?

"Vested rights" and "robbery," forsooth, from the slaveholder! Why, sir, it is passing strange that men, from usage and familiarity with a crime, will even get to using the very words and phrases in defense of that crime which legitimately and properly describe the crime itself. There never was a highwayman who had pursued his course of crime for a series of years who did not regard the execution of the law upon him for his crimes as most unjust to him. The poet has well said that—

"No man e'er felt the halter draw,  
With good opinion of the law."

It has been truly said by the gentleman who preceded me, [Mr. GRINNELL,] that in the statutes of no slave State in the Union can you find the origin of slavery. There is not a statute in any one of those States that ever established property in slaves; not one. It is a carbuncle; it is an ulcer; it is a cancer which has grown up by stealth upon the body-politic, and which has only from usage become familiarized to men, and they have surrounded it with the statutes protecting the relation that we find in any of the codes of the slave States. You cannot find in any statutes of any civilized nation on the face of the earth where property in things animate or inanimate is established. Nowhere is that property defined; nowhere is it declared in any statute in the world that man shall have property in this or that thing. Because, as I have said before, the Almighty having given property in these things it is only necessary that civilized society should surround it with laws to protect men in the possession and enjoyment of it.

I trust we will hear no more of robbery, of vested rights. Slavery commenced in robbery and theft, and has been carried on by a trespass, and no usage in the lapse of time can make that just or legal or right which in its origin and inception was a crime.

What is that we now propose to do? We propose to say in the organic law of the land that there shall be no more involuntary servitude except as a punishment for crime. And there is another thing; we are now dealing with a class. While there may be now and then a loyal slaveholder in the rebellious States, as a class the slaveholders are traitors, as a class they brought on this rebellion, as a class they are fighting our soldiers in the field, starving our prisoners in their dungeons, and by every high-handed and ruthless outrage conducting this war of treason. That is the character of slaveholders as a class.

But there is another class of people there denominated slaves. What are they? Invariably the friends of the Union; invariably the friends of the Union soldier, giving him aid and comfort, secreting him on his stolen flight from southern dungeons to the lines of our Army, furnishing him food and shelter on the way, and diverting from him the bloodhounds on his track.

It is but a day or two since that I took by the hand the adjutant of that grand old regiment that I raised and took into the field. For a year and a half he had been sojourning in a variety of southern prisons. Escaping from Columbia with a few others, he was for twenty days and nights within the rebel lines, traveling by night, and secreting himself by day in the hut of the slave, until he reached the lines of Sherman near Savannah. In every instance, (and his tale is but a repetition of the tale told by thousands,) in every instance he could with the utmost confidence approach the humble door of the slave, either by night or by day, and rap for admittance, and could obtain there concealment, protection, and food. He was never turned away and never deceived by any slave from whom he sought assistance. The slaves guarded him; they fed him upon the best they could procure, and sent him on his way rejoicing. And when the slaveholders, those men who, according to the declaration of the member from New York, [Mr. FERNANDO WOOD,] are a brave, generous, and noble people, put upon his track the bloodhounds and the bull-dogs, and when their hoarse howling was heard upon his track, his pursuers were, by the arts taught by the slaves, diverted from the scent, and he was protected.

Sir, it is said, I believe, that every man looks upon and appreciates character from his own stand-point. I suppose that a man who stands upon the gallows and feels the halter drawn about his neck would regard a very disreputable person, if exempt from the doom of that punishment, as very respectable; and I suppose that, if a man has escaped the penitentiary by the statute of limitations or any other device, he would regard as very respectable a character which others might consider very ignoble. Men of a low class regard the character of others from their own low stand-point, and by a comparison with their own position in the moral scale. But it is left for the member from New York to justify and support this barbarous institution of slavery, and to declare that the slaveholders engaged in this rebel-

lion are, *par excellence*, the noble, gallant, and generous people of the United States. Mr. Speaker, I do not so regard them. From the standpoint which I occupy I look upon them in a very different light. I think that they are neither just, generous, nor noble; and, sir, you shall find that, wherever slavery has existed for a series of years, it makes the slaveholder ignoble, unjust, ungenerous, and tyrannical. Such is the natural effect of the institution everywhere.

The member from New York caused to be read at the Clerk's desk a description, as I learned afterward, of some horrid scene in Africa as written by a traveler. I did not know when it was read from what source it was taken, nor had I heard what was said by the gentleman in connection with it. Forming my surmise on the character of the description, I turned to some one near me and asked whether it was a description of the horrid atrocities committed by the denizens of the Five Points and others, constituents of the gentleman, during the riot in New York city a year or two ago. It seemed so apt and complete a description of the scenes which occurred during that riot, as they were detailed in the New York papers, that I thought it must be an extract from some history of those occurrences. We all recollect that during that riot colored orphan asylums were set on fire, negro women with children in their arms were murdered, and in some instances negroes were burned. Those are scenes which were participated in by voters of that member's own city and district. You need not go to Africa to find scenes of horror.

I think that we should deal justly with the unfortunate class of people who will be freed by the adoption of this amendment. Justice, long delayed, should be awarded to them. Why, sir, suppose that by some turn of the wheel of fortune the slave should become the master, and the gentleman from Kentucky, [Mr. CLAY,] who addressed the House yesterday, should become the slave. Would he then cry out, "Robbery! violation of vested rights!" If we sought to strike the shackles from his limbs? Yet his slave is a man. And Thomas Jefferson declared that it was by no means impossible that some turn of the wheel of fortune might bring about that state of circumstances; and he declared that in case of a contest between the masters and their slaves the Almighty possessed no attribute that would take sides with the masters.

Mr. Speaker, I thank God that by the votes of my constituents, who sent me here by over thirteen thousand majority, I have the privilege to-day of standing up here and advocating this amendment; and I know that when the light of the past and the present and the future shall with their concentrated rays throw a focal blaze upon the page of history that we are making to-day, it will be a source of the highest pride for my children to point to the record which I make and the vote which I give to-day; while I know equally well that as to the men who may vote against this amendment, and particularly those who apologize for the institution of slavery, their action will be an everlasting disgrace to themselves and their children and their children's children. Sir, we are making history, and we are making it fast. These things will not be looked upon fifty years hence as they are now. When this usage of slavery is abolished and when we have ceased to be familiarized with the clank of chains, then we shall look upon this thing with the horror it deserves.

Mr. McBRIDE. Mr. Speaker, by the vote on the motion of the gentleman from Ohio [Mr. ASHLEY] this House will decide whether the proposed amendment to the Constitution, by which slavery shall be prohibited within the limits of the United States, shall be submitted to the several States for their action or not. No one authorized to speak for the people of the State whose interests I represent upon this floor has yet spoken upon this question in either branch of Congress, and I avail myself of the privilege of giving expression to my views with greater pleasure because my State has been hitherto unheard; and secondly, that they are in emphatic harmony with the clearly expressed sentiments of my constituents.

I shall ask the indulgence of the House for but a brief time, while I present in concise form the reasons which govern my vote on this grave question. I have no wish to enter the broad field which has been swept by this debate for the purpose of

gleaning after the myriad reapers who have entered the harvest before me, but I will traverse the limited scope which I have prescribed to myself with as much rapidity as is consistent with the perspicuous presentation of the positions which I shall endeavor to establish by the way, promising to be (for I know how anxious most members are to close this debate) neither elaborate nor diffuse.

The first question that presents itself in the consideration of this proposition is whether we have the power to take the proposed action of initiating the abolition of slavery by a prohibition of it in our fundamental law; if we have not the power to do it, the rightful authority as an American Congress, then all discussion as to the propriety, the expediency, or even the necessity of the act is of course idle folly.

But, sir, I have listened carefully and attentively to the arguments of gentlemen upon the proslavery side of this question, who deny our authority to amend the Constitution as proposed, without being able to perceive the justice or soundness of their assumption. I perused with patience the ingenious argument of the distinguished gentleman from Ohio, [Mr. PENDLETON,] made at the last session of Congress, and reiterated Saturday last by his colleague, [Mr. BLISS,] the gentleman from New York, [Mr. PRYOR,] and a member from New Jersey whom I do not choose to name. The gist of that argument being that slavery is a State institution, never submitted by them to Federal control, that it is an indefeasible right of property conferred by State laws, and not to be divested by any other sanction, is a fallacy which can, I think, be most easily and conclusively met and answered.

You assert that slavery is a local institution, deriving all its right to exist from the municipal laws of each State where it is acknowledged. I admit the assertion. You assert that it was a subject left by the framers of the Constitution to the States, to be by them controlled, legislated upon, encouraged, fostered, or abolished in the States, as to them seemed most expedient. That I also admit.

You assert that, owing its existence to State laws and State authority, and being a subject left by the framers of our fundamental law to the exclusive control of the State authority, therefore we have no right to so amend the Constitution as to take Federal control of and abolish it. This assertion I deny. The conclusion does not follow from your premises, as I now propose to demonstrate. This is a proposition to amend the Constitution of the United States and to establish in that Constitution a power hitherto not possessed. That Constitution is the existing fundamental law of all the States, having been assented to and ratified by them. It contains among its provisions one by which it prescribes the methods by which the instrument may be altered, changed, and amended. Those methods are, that the two Houses may, by a two-thirds vote, propose amendments; or Congress may, on application of the Legislatures of two thirds of the several States, call a convention to propose amendments to the Constitution; and in either case, whenever the proposed amendment or amendments shall be ratified by three fourths of the States, they shall become valid and binding provisions of the Constitution; and upon this power of amendment there is one and only one limitation, and that is that "no State without its consent shall be deprived of its equal suffrage in the Senate." The full and complete power to amend the Constitution in any and every particular is given and confirmed by the fifth article of the Constitution, curtailed by the single existing limitation as to equal State representation in the Senate. If the States had intended, when the Constitution was originally formed, to forever keep the institution of slavery beyond Federal control, they should and would have excepted that also, with the right of equal suffrage in the Senate, from among the subjects of rightful amendment.

I grant that the right to abolish slavery was not given to the Federal authority as a legislative power, but the means by which the national Government might obtain that power through an amendment to the Constitution were given, and those we now propose to apply.

If domestic slavery was beyond our control originally, the Constitution points out the way by which we may legitimately take it under cogni-

zance, and we are following strictly the methods it prescribes.

Sir, we are told that by this amendment, if it succeeds, we are encroaching upon the rights of the States, and that we are taking a step toward consolidation. Certainly we are; and if the States, in the mode prescribed by the Constitution, choose to yield not only the right which they have hitherto enjoyed of controlling and perpetuating the system of slavery, but every other political right exercised by them, they can unquestionably do so. It may be very unwise policy for them to do so; but it can nevertheless be done constitutionally; and that is the question I am now considering.

I think, then, that I have established the proposition that, as all the States have agreed by their ratification of the Constitution to abide all amendments which shall be made to that instrument which receives the sanction of three fourths of their number, having first passed the preliminary ordeal of a two-thirds majority of both Houses of Congress, or of a national convention, our proposed amendment is perfectly within our province and power.

And now, Mr. Speaker, I pass from the question of our power to amend, and come to the equally important practical question, the expediency of the proposed amendment. Ought slavery in these United States to be abolished? Is it our duty as statesmen seeking the good of the country and of posterity to put an end to this institution? Is it our duty as citizens, loving our country and seeking her glory and prosperity, and withal having her good name among nations committed to our care, to rid her of this institution?

Sir, it seems to me that but one patriotic answer can be given to these questions, and that is an affirmative one. View it in whatever light you may, the answer must still be the same. Look at it as a question of mere political economy, and the argument of material prosperity alone would say abolish it forever. The argument of statistics and facts, so triumphantly conclusive as to defy all attempts at refutation, which my friend from Maryland [Mr. CRESWELL] presented the other day, ought of itself to determine every man who seeks for the proper development of this fair western continent, to vote for the abolition of slavery on every proper occasion.

When an American citizen enters a foreign land and sees the degradation to which the downtrodden masses are subjected by their kingly rulers, his soul revolts at the injustice, but his mouth is closed against remonstrance. If he talks of the beneficence of free institutions and the glory of republican government he is told to learn to practice what he preaches before he seeks to proselyte abroad. If the American, indignant at the wrongs he sees done to unhappy Ireland by the proud rulers of England, expresses his hope to see her emancipated from their rigorous rule, he is asked to think of the millions pining in chains beneath the starry flag of the country he so proudly praises. If, burning with that instinctive hatred of tyranny which finds new fuel in the dark history that records the endurance of noble Hungary, and the oppression of despotic Austria, he ventures an utterance of the feelings of his heart, he is shamed into silence by the sneering suggestion that a more galling tyranny and a more degrading slavery stain the prosperity and dim the glory of his own fair land. If then, sir, it were only to make our Government consistent with itself, to make her an example of freedom, to which all the nations of the world might turn and be instructed, free her from every stain, and wipe off every reproach based upon the existence of human bondage; if it were only to vindicate our good name with mankind, I would vote to abolish slavery.

But, sir, I contend that the argument against the institution as an offender against the rules of common justice, as a felon self-convicted of ineffable crimes, as a traitor-assassin seeking madly the life of this free nation, demands that it be summarily sentenced without benefit of clergy. Long enough has it debauched and deadened the conscience of the people; long enough has it shocked humanity and defied Heaven by its violations of every principle of truth and morality; and now, having filled up its cup of crime and villainy by a treason so rank and foul as to shame all historic example and all criminal parallel, we, who hold the

malefactor in our grip, owe it to humanity, to justice, to ourselves, and the world, to strangle the guilty monster. If, instead of being guilty of the indictment which I have presented, slavery were only an element of political discord, a constant subject of agitation and disturbance as it has undoubtedly always been, still the peace, order, and prosperity of the country demand its extinction. Glance at our brief national history and learn that no danger to our national integrity has ever existed that is not chargeable to the irritating effects of slavery. It was the one subject which in the Convention to frame our Constitution was the most difficult of adjustment, and threatened us with all the evils of national disintegration and anarchy. Its demands and exactions began then; they have ended by a vain attempt to destroy the nation which it could not longer keep in subjection beneath its iron yoke. Not a single serious danger to our nation has ever existed since we became one people that does not find its origin and motive in the institution. Foreign aggression we never feared; subjugation from abroad we have always defied; but domestic dissension, arising out of the dissimilarity of our institutions and the conflicts to which these diversities have given rise, has ever been the care and dread of our statesmen.

Slavery demanded those acquisitions of territory in 1803 which finally led to the fierce controversy as to the admission of Missouri, which came so near involving us in revolution and civil war in 1820. In 1832, taking the guise of mere commercial jealousy in the shape of nullification, it again threatened the country with the horrors of war and bloodshed. Demanding the annexation of Texas, a demand yielded to against the moral sense of the nation, and thrown to it as a "sop to Cæberus," the war with Mexico ensued, and all the fierce and bitter agitation of 1850. Not satisfied with having torn and distracted the country by that fierce excitement before which in 1850 all that had preceded it "paled their ineffectual fires," and grasping with insatiate hunger at every element of power and strength, the demon of slavery again in 1854 roused the fiery tide of sectional and political excitement by endeavoring to rob the free Territories of the nation of the fair jewel of their glory and prosperity and appropriate them for its own base uses. And for the last ten years we have had no other question in national politics deserving the name or dividing politics save slavery and its incidents. It has at every period in our history, when our integrity as a nation has been threatened, been the prompting enemy of the public peace, the active offender against order and quiet. It has filled the land with broil, with hate, with intestine commotion and irreconcilable discord. When after six years of continual and angry agitation it capped the climax of its crimes in 1860 by letting loose upon the country all the devastations of civil war—a war that has made the world stand still with horror as it gazed upon the desolation and the havoc that have marked its gory track—it left the hand of vengeance with no further excuse for clemency. It filled up the measure of its wickedness, and proclaiming itself an open enemy, it henceforth became an outlaw whom it is our duty to follow to utter extermination.

The gentleman from Kentucky [Mr. CLAY] complains that this amendment is treating Kentucky with bad faith. Sir, the charge comes with bad grace. Why, sir, in 1820 the North, confiding in the faith of Kentucky pledges, agreed to the compromise of the great statesman of the West, Henry Clay, but when the time came that the North was to realize the benefits guaranteed by that compromise, Kentucky, in the person of her Senator, made the motion which broke the plighted faith of the nation and covered the national Legislature with a stain of dishonor from which the waters of time can never wash it clean. Sir, let me ask that gentleman whether it is kind in Kentucky to insist that her interest, if in antagonism with that of her twenty-odd sisters, who he says are arrayed against her, shall be maintained and theirs sacrificed? Is it good faith to her sister States to insist that her interests shall be maintained at their expense? That slavery is the motive of the rebellion we can establish by every fact bearing upon our troubles. Why is it that West Virginia clung to the Union while the chivalry district went off in revolt? Simply because slavery was the dominant interest in the latter,

and had little power in the first. Why did the free mountaineers of Tennessee rally round the flag of their fathers with an honest devotion unsurpassed by any example furnished in history, while the planting regions of the same State went frenzied into the dark abyss of rebellion? Slavery explains the reason. Go to the mountains of Kentucky and of North Carolina, where the husbandman earns his scanty living by the honest toil of his own hands, and where slave labor is the exception and not the rule, and fidelity and devotion to the Union burn as warmly and as brightly as in any part of our land. Go to the cotton and rice fields still by the sweat and moistened with the tears of the slave, and rebellion fierce and bitter seems to reign in every heart. If then rebellion is the result of slavery, let us destroy slavery and thus destroy the motive to rebellion, give peace to the country, and harmony to all our future.

But we are met with another objection, that if we emancipate we must enfranchise also. I deny the conclusion; but I should not be deterred from the move, even if it were correct. A recognition of natural rights is one thing, a grant of political franchises is quite another. We extend to all white men the protection of law when they land upon our shores. We grant them political rights when they comply with the conditions which those laws prescribe. If political rights must necessarily follow the possession of personal liberty, then all but male citizens in our country are slaves. This illustration alone reduces the conclusion to an absurdity. Sir, let the rights and status of the negro settle themselves as they will and must upon their own just basis. If, as a race, they shall prove themselves worthy the elective franchise, I tell gentlemen they will enjoy the right; they will demand and they will win it, and they ought to have it. If, on the contrary, as a race, they are so far inferior to those with whom they must compete as to be unequal to the high and responsible position of free electors, any attempt to elevate them to that standard will be a signal failure. I have no faith in their ability to contend in the race before them successfully, and no fear of degrading my own race by contact with them, for, sir, there is an antagonism between the races which will prevent anything like a complete blending of them, and I leave all questions of the consequences of emancipation to be settled by justice and expediency as experience shall dictate. "Sufficient unto the day is the evil thereof," and I will do what right and expediency require now, and leave the consequences to be provided for as they may arise. Conscious as I am that the best interests of the country and posterity require a mitigation of the evils with which slavery has afflicted this war-desolated and strife-torn land, I will not suffer myself to be prevented from giving my aid to this beneficent proposition by any imaginary evils that it may not provide for. If the abolition of slavery shall still leave us the dregs of this pestiferous question to be dealt with at a future time, I am willing to trust the future for their settlement, well convinced that all others are mere subordinate difficulties which time and statesmanship will enable us to wisely overcome.

Mr. C. A. WHITE obtained the floor.

#### INSPECTORS OF STEAMBOATS.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to introduce for reference a bill to provide for two assistant inspectors of steamboats for the city of New York, and for two local inspectors at Galena, Illinois.

Mr. CHANLER. I object, unless the gentleman withdraws his objection to the bill I endeavored to introduce yesterday.

Mr. WASHBURN, of Illinois. Then I understand the gentleman objects to legislation for New York city.

Mr. CHANLER. No, sir.

#### MINNESOTA RAILROAD GRANTS.

Mr. DONNELLY, by unanimous consent, introduced a bill extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

#### LAND CLAIMS.

Mr. RICE, of Maine, by unanimous consent, introduced a joint resolution for the adjustment of

certain land claims; which was read a first and second time, and referred to the Committee on Claims.

And then, on motion of Mr. ASHLEY, (at twenty minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, January 11, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented a petition of officers in the military service of the United States, with the army of the James, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CLARK presented a petition of citizens of Virginia, setting forth the inefficiency of the State government for the protection of the loyal citizens of Virginia, and praying for the establishment of a territorial government; which was referred to the Committee on Territories.

Mr. HARRIS presented two petitions of citizens of New York, clerks in the Treasury Department, praying for an increase of salary; which were referred to the Committee on Finance.

He also presented a petition of citizens of New York, clerks in the Navy Department, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented a petition of citizens of New York, clerks in the Interior Department, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented a petition of citizens of New York, clerks in the War Department, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented a petition of officers in the military service of the United States, praying for an increase of pay and that the commutation price of the ration may be fixed at sixty cents, and that the pay of officers' servants may be the same as private soldiers in the Army; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of real-estate agents of the city of Albany, New York, praying that there be refunded to them a proportionate part of the tax paid by them as commercial brokers under the act of 1862; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented a memorial of the Chamber of Commerce of the city of Milwaukee, praying for the construction of a ship canal around the falls of Niagara; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a petition of medical storekeepers in the service of the United States, authorized under the act of Congress approved May 20, 1862, praying to be allowed the pay and emoluments of surgeons of the Army; which was referred to the Committee on Military Affairs and the Militia.

He also presented two petitions of military officers in the service of the United States, with the army of the James, praying for an increase in the pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a petition of citizens of Muskegon county, Michigan, praying for an appropriation for the improvement of Muskegon harbor; which was referred to the Committee on Commerce.

Mr. MORRILL presented the petition of the local board of steamboat inspectors, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented the petition of Mrs. Denis Sullivan, of Alexandria, Louisiana, praying compensation for property destroyed by forces of the United States; which was referred to the Committee on Claims.

#### BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 91) appointing General Richard Delaford to be a regent of the Smithsonian Insti-



tution; which was read twice by its title, and referred to the Committee on the Library.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 386) to incorporate the National Protection Insurance Company, of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAMSEY also asked, and by unanimous consent obtained, leave to introduce a bill amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 388) further to provide for the verification of invoices; which was read twice by its title, and referred to the Committee on Commerce.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 389) relating to clerkships in the Post Office Department; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. COLLAMER also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 390) relating to the postal laws; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### REPORTS OF COMMITTEES.

Mr. TEN EYCK, from the Committee on the Judiciary, to whom was referred the memorial of Elias H. Chambers, praying to be indemnified for the loss of Treasury notes destroyed by fire, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims, the Judiciary Committee not deeming it advisable to report any general bill on the subject, but to leave each claim to be acted upon on its own merits.

The request was granted.

Mr. DOOLITTLE, from the Committee on Indian Affairs, reported a joint resolution (S. R. No. 92) to postpone and prevent the sale, for less than their appraised value, of certain Indian lands in Minnesota; which was read, and passed to a second reading. He gave notice that he would call up the resolution to-morrow.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, reported it without amendment.

#### PENSIONS.

Mr. FOSTER. The Committee on Pensions, to whom was referred a bill (S. No. 365) in relation to pensions, have directed me to report it back without amendment, with a recommendation that it be passed. The bill is very short, and is intended to effect a very desirable object; it has the sanction of the Department; and I ask the unanimous consent of the Senate that it be considered now. I think it will take but a moment.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that no person in the Army, (including regulars, volunteers, and militia,) or in the Navy or Marine corps, shall be allowed to draw both a pension as an invalid and the pay or emoluments of his rank or station in the service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed a bill (H. R. No. 657) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States.

#### COMPENSATION FOR CALLED SESSIONS.

Mr. BUCKALEW submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Finance be authorized to report a bill or joint resolution providing compen-

sation to members of the Senate at special called sessions of the Senate, commencing with the Thirty-Eighth Congress, such compensation to be confined to sessions when the House of Representatives is not convened, and to members who are required to journey from their homes to the capital in order to attend such sessions.

#### PRINTING OF EVIDENCE.

Mr. TRUMBULL, from the Committee on the Judiciary, reported the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be authorized to print certain evidence before them relating to the right to seats of Messrs. Cutler and Smith as Senators from the State of Louisiana.

#### SECOND ASSISTANT SECRETARY OF WAR.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War, to report it back without amendment, and with the recommendation that it pass; and I ask the unanimous consent of the Senate to act upon it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the President to appoint, by and with the advice and consent of the Senate, for the term of one year from its passage, an officer in the War Department to be called the Second Assistant Secretary of War, whose salary shall be \$3,000 per annum, payable in the same manner as that of the Secretary of War, who shall perform all such duties in the office of the Secretary of War belonging to that Department as shall be prescribed by the Secretary of War, or as may be required by law.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PROMOTION OF NAVAL OFFICERS.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred the bill (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit, have instructed me to report it back with an amendment, and I ask for its present consideration.

Mr. SUMNER. Will it take any time?

Mr. GRIMES. I think not.

Mr. SUMNER. I wish to bring forward the resolution for the termination of the reciprocity treaty to-day.

Mr. GRIMES. We can pass this bill in a moment.

Mr. SUMNER. Very well.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (H. R. No. 607) to provide an advance of rank to officers of the Navy and Marine corps for distinguished merit. It provides that any officer of the Navy or Marine corps, by and with the advice and consent of the Senate, may be advanced not exceeding fifty numbers in rank, for having exhibited eminent and conspicuous conduct in battle or extraordinary heroism.

The second section provides that any officer of the Navy or Marine corps, either of volunteers or otherwise, who shall be nominated to a higher grade by the provisions of the first section of this act, or of those of section nine of an act to establish and equalize the grades of line officers of the United States Navy, approved July 11, 1862, shall be promoted, notwithstanding the number of the grade may be full, but no further promotions are to take place in that grade, except for like cause, until the number is reduced to that provided by law.

The Committee on Naval Affairs reported the bill with an amendment in section one, line five, to strike out the word "fifty" and insert "thirty," so that the clause will read:

That any officer of the Navy or Marine corps, by and with the advice and consent of the Senate, may be advanced not exceeding thirty numbers in rank, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### MANSLAUGHTER IN THE DISTRICT.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No.

595) to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831, have instructed me to report it back without amendment, and recommend its passage. As it is but a short bill and it will take but a moment to consider it, and as I presume there will be no objection to it, I ask the unanimous consent of the Senate to consider it at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to amend the second section of an act for the punishment of crimes in the District of Columbia, approved March 2, 1831, so as to read as follows:

That every person duly convicted of manslaughter, or of any assault with intent to kill, shall be sentenced to suffer imprisonment and labor, for the first offense, for a period not less than two nor more than eight years, and for the second offense, for a period not less than six nor more than fifteen years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ADAMS EXPRESS COMPANY.

Mr. VAN WINKLE. I move to take up Senate bill No. 337 for consideration.

The motion was agreed to; and the bill (S. No. 337) authorizing the payment to the Adams Express Company of the amount of certain Treasury notes destroyed or irrecoverably lost while in their custody was read a second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to pay to the Adams Express Company the sum of \$22,080, being the amount of certain United States Treasury notes, commonly called legal-tender notes, destroyed or irrecoverably lost while in the custody of the company, the same having been placed by them in an iron safe and shipped from New York on board of the steamer Bio Bio, which steamer, after being partially burned, sunk beneath the water in front of the levee at New Orleans, on the 22d of March, 1863, carrying down with her the iron safe and contents. But this payment is not to be made until the company shall execute to the United States a bond, with security, to be approved by the Secretary of the Treasury, conditioned to indemnify the United States against all loss, cost, or damage incurred by reason of the payment, and that if the safe shall be hereafter recovered or brought to land the company shall repay to the United States this sum of money.

The bill was reported to the Senate without amendment.

Mr. DAVIS. I should like to know what evidence there is in this case that the Treasury notes were lost, and what evidence there is of their amount. Let the report be read.

Mr. VAN WINKLE. The testimony in the case is very full and I think conclusive as to all the points that are raised by it. An abstract of it is set forth in the report; but the facts are simply these: the Adams Express Company shipped on board this steamer for their customers a large amount of Treasury notes, much larger than those they claim embraced in the bill. The vessel proceeded on her voyage, the bills being in an iron safe inclosed in an iron-strapped wooden box, and at Havana the box and safe were moved from between decks to the lower hold of the steamer. She arrived at New Orleans during the night of the 21st of March, and early the next morning was found to be on fire. Efforts were made to extinguish the fire, but before they succeeded the vessel, owing to the burning of her hawsers, slid from the levee into deep water and sunk. Diving bells were immediately employed, and they persevered in their efforts for some six or seven weeks; but owing to the accumulation of sand over the vessel they were unable to recover anything except some few pieces of machinery. Nothing, I believe, was got out of her.

The evidence on these points is full and conclusive, as I have already remarked, and shows that these notes are there in deep water, and owing to the character of that river, and the rapid formation of these sand-bars, are probably irrecoverable on that account. But beyond that, they have now been under the water some twenty months, and that would insure their destruction, I think, in the position in which they are. It will be observed that in the bill which the Committee on Finance have reported they have provided that these par-

ties shall give security that the amount to be paid to them shall be refunded if the bills are recovered, and is to be refunded if the safe is recovered or brought to land in any way. The committee consider that these bills are irrecoverably lost or destroyed.

I had in my possession at the last session, but they have been mislaid during the recess, letters from the president and principal officers of several banks in the eastern cities, some three or four, I think three in Boston and one in New York, who state that it is their custom, three of them say, on proof of the destruction of their bills, to refund the amount to those who were their holders. The fourth says it is the custom on proof of loss without destruction. Considering this to be a clear case of destruction, or what is equivalent to destruction, an irrecoverable loss, fortified by these precedents of the common usage of our banking institutions throughout the country, and these being mere circulating bills, notes that go from hand to hand, the United States having received value for them, and as without the production of full proof of the loss of the bills the Government cannot be called on to refund them, the committee thought it was a clear case of justice and right, and that the relief ought to be accorded.

Mr. DAVIS. There are some cases somewhat similar to this before the Committee on Claims, of which I am a member, and I see that this morning another claim of the same character has been referred to the same committee. It is perfectly plain that these cases are going to multiply very greatly in number and amount. Where it is clearly and satisfactorily established that bills have been destroyed, I suppose some such measure as this would be not unjust or improper. With a view to that point, I will ask for the reading of the report in this case.

The VICE PRESIDENT. It will be read, if there be no objection.

The Secretary read, as follows:

The Committee on Finance, to whom was referred the petition of the Adams Express Company for the passage of an act authorizing the issue to them of new Treasury notes in the place of others alleged to have been destroyed while in their custody, respectfully report:

That from the proofs submitted to them it satisfactorily appears that several packages addressed to various parties at New Orleans, and containing in the aggregate \$22,080 in legal tender Treasury notes, were, by the said company, together with various other packages, placed in an iron safe, which was sealed and inclosed in an iron-strapped wooden box and shipped at New York on board the steamer *Bio Bio*, consigned to the agent of the company at New Orleans. The steamer left New York on the 10th of March, 1863, stopped at Havana, where the said box and safe were removed from between decks to the lower hold, and arrived at the levee at New Orleans during the night of the 21st of the same month, and early on the next morning was discovered to be on fire. Every effort was made to extinguish it, but without success, until, in consequence of the burning of her masts, the steamer slid from the levee and sank beneath the surface of the water. Divers were speedily employed, and the use of diving bells and other wrecking appliances resorted to and continued for six or eight weeks, but without other result than the recovery of a few cases of merchandise and some of the machinery and equipments of the vessel. It seems that there is a strong eddy at the place where the steamer sank, and that the wreck was soon buried in sand or alluvion, rendering the further efforts of the divers unavailing, and the recovery of the safe and contents apparently impossible.

From the facts stated, the Treasury notes in question having now been under water more than fourteen months, the committee believe that the destruction of the said notes is complete, even if the safe and contents are not absolutely irrecoverable. They therefore recommend the passage of the accompanying bill.

Mr. POMEROY. I do not rise for the sake of objecting particularly to this bill at this time if the Senate are prepared to enter upon this question of paying claims of this character. The Committee on Claims have had a very large amount of this class of cases referred to them, and I had supposed that this case was there. I have had my attention called to it a number of times. We have not yet felt called upon to present to the Senate cases of this kind. There was a paymaster on this very steamer that wants relief, who lost his money. This is a relief bill for the Adams Express Company. There are piles of such bills now before the various committees of this body; and if this is to be established as a precedent to pass all the balance of them I shall oppose it; that is, I shall be opposed to entering upon that work at this time. I do not think we are prepared for it; and I think the Adams Express Company are no greater sufferers than individuals who have lost a vast amount in the same way. I do not know why we should take this

case, in the interest, as it is, of a very large and wealthy corporation, and pass a bill for their relief, while paymasters and commissaries, private individuals, have, I think I may be safe in saying, millions of claims of this very character presented before this Senate. Unless the chairman of the Committee on Claims, who has had this question particularly in charge, wishes to enter upon the payment of this class of claims now, I shall ask for its postponement.

Mr. DAVIS. Mr. President—  
Mr. SHERMAN. If my friend from Kentucky will allow me I will submit a motion that this bill be committed to the Committee on Claims. As they have similar claims before them I think that probably would be the best disposition of it. I move, therefore, that it be referred to the Committee on Claims.

Mr. DAVIS. I was going to make that motion myself.

The motion was agreed to.

#### RECIPROCITY TREATY.

Mr. SUMNER. I move that the Senate now proceed with the consideration of the joint resolution relating to the reciprocity treaty.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854, the pending question being on the passage of the joint resolution.

Mr. HALE. Mr. President, I sometime ago, when this resolution was under consideration in the Senate, moved that it be postponed until the 6th of January, and the Senate were courteous enough to postpone it under the impression, as it seemed to be from the talk, that I desired to address the Senate upon it; but I had no such desire in particular. I looked upon the measure as one that would be highly disastrous to the best interests of the country. I believed that it resulted not from any broad views of its operation, for I am compelled to say—I regret to say it, but I say it with all courtesy to the Senate—that it seemed to me there was a very great lack of information on the subject, and which the Senate ought to have before they acted upon it; and, to be perfectly candid, I must say that it appeared to my mind the Senate were about to rush upon a course of legislation stimulated by passion and resentment at some fancied wrong that this country was suffering under from the action of these colonial governments.

I was one of those who at the time this treaty was adopted looked upon it with great favor. I looked upon it as a mark and a step in the right direction. I looked upon it as one of those healthful indications of the application of Christian principle to the legislation and diplomacy of nations. I believed that it was an onward path in the march of national morals indicative of a better and a purer and a higher state of things than that which had heretofore prevailed. I believed so then, and I believe so now; and to my mind this proposition to abrogate the reciprocity treaty is a step back from the advancing civilization of the present age to the dark ages of restriction which so long hampered the progress of nations.

I am surprised at the haste with which this proposition is now urged. The nation is about to retrace its well-considered steps from a position which it took so long ago; and at whose instance? Not at the instance of the Committee on Commerce, although the commercial interests are those that are to be most vastly affected by it. Not at the suggestion of the Committee on Finance, from which it should have appropriately been advised if the real reason for this measure was the one that was hinted at by the honorable Senator from Massachusetts, [Mr. SUMNER,] that the treaty ought to be abrogated at a time like this when we were looking about us to find subjects of taxation to replenish and to aid our exhausted Treasury. If that was the ground on which this resolution was placed, I would not say a word against it. If it had originated from a purpose and a desire to aid the national Treasury in this hour of the country's peril, to supply men or money for the gigantic effort which we are now making for national existence and national honor, I never would have said one word or one syllable against it. But that

is not the ground. The Committee on Commerce have not been heard from. The Committee on Finance have not been heard from. It comes from the Committee on Foreign Relations; and therefore I think it may be considered as coming not from the commercial nor from the financial interests, nor those who represent those interests.

I have been a little astonished also that in this great measure, in this, to my mind, retrograde movement in the national legislation, we should have been called upon to take so momentous and to my mind so disastrous a step without any report even from the Committee on Foreign Relations, setting forth the reasons why it has been recommended at this time. I know that an attempt has been made to kill this treaty by calling it bad names. Even the candid and ingenious Senator from Massachusetts speaks of it not as "the reciprocity treaty," but as "the so-called reciprocity treaty." It has been said that it operates all one way; that it is one-sided.

I am reminded by that of a similar argument that was used to me some twenty years ago, when I first had the honor of a seat in Congress. I boarded in a mess where there were two or three gentlemen from the State of South Carolina. In looking over the census, I remarked that from 1820 to 1830, I think it was—or it may possibly have been the next decade, from 1830 to 1840—while the country had wonderfully progressed, the singular fact appeared that the city of Charleston, in South Carolina, had not only made no comparative increase, but had made an actual decrease; so that at the end of those ten years she was less in population than she had been ten years before. I confess the matter struck me as singular, and I called the attention of the gentleman representing South Carolina who boarded with me to it, and asked him what it meant. He looked at me as if he considered me exceedingly green to ask such a question, and replied at once promptly, "It is the tariff; the tariff does it." I waited a moment, and then inquired, "What particular feature of the tariff is it that has operated so disastrously upon Charleston, South Carolina?" "Well," he replied, "perhaps it would be difficult to put your finger upon the precise feature, but it is the general operation of the whole thing, raising the price of everything that we have to buy and lowering that of everything we have to sell." [Laughter.] Quite as indefinite and quite as unsatisfactory are the reasons assigned by those who urge the abrogation of this treaty.

I have endeavored to look into this subject a little, and but a very little, for I do not represent a great commercial community. I do not represent the city of Boston, whose life is commerce. I do not represent the Empire City, whose daily food and daily breath is commerce. But, sir, I have an interest in common with all the members upon this floor in everything that relates to the welfare of my country, and what relates to the welfare of any part of it, Boston, New York, or any other place, relates to me; and I have taken the trouble of looking somewhat at the operation of this treaty in gross. It may be possible, and I have no doubt that it is so, that some special pleader may put his hand upon some particular article and show that since the adoption of the reciprocity treaty there has been less of it exported from the United States to the British provinces than there was before the adoption of the reciprocity treaty. But, sir, what do the official tables furnished by the Secretary of the Treasury show in relation to the practical operation of this treaty? I will read from a letter of the Secretary of the Treasury communicated to the House of Representatives February 21, 1864, in answer to a resolution of the House of December previous.

It will be recollected that this treaty was adopted in 1854. I have here, in this letter of the Secretary, a statement of the value of the imports into Canada. This table relates simply to the imports into Canada from the United States for thirteen years, from 1850 to 1862 inclusive, with the amounts of duties paid. For instance: in 1850 the total imports into Canada from the United States were \$6,594,860, and the amount of duties paid was \$1,069,814. They went on gradually increasing, sometimes from year to year varying a little; but in 1855, the next year after the ratification of this treaty, our exports to Canada alone went up to \$20,828,676, they being but \$15,533,098 the year before; the next year they were \$22,704,509, and

in 1862 they were \$25,173,157. Thus it will be seen that under the operation of this reciprocity treaty the exports from the United States to Canada have increased from six million to twenty-five million annually—more than quadrupled.

I will show you now another table. The value of free goods imported into Canada in 1850 was \$791,128; and they gradually increased until they had got up to \$19,044,374 in 1862, the last year that there was any return. The value of free goods imported into Canada had increased from considerably less than \$1,000,000 up to nearly \$20,000,000. Notwithstanding this great increase, more than thirty times, of the amount of free goods, by which the vast amount of exports to Canada went in duty free, the value of duty-paying goods had actually increased from 1850 to 1862, under the operation of this reciprocity treaty to \$6,128,783. While the goods imported free of duty had increased more than twenty fold, from less than a \$1,000,000, up to \$20,000,000, or a fraction less than that amount, the duty-paying goods had also increased at the same time.

I have been told by some persons who probably did not know any better, that Canada had made alterations in her tariff; that while she pretended to have a reciprocity treaty which, as the honorable Senator from Massachusetts says, was a reciprocity treaty only in name, she had altered her own tariff, and made the revenue which she collected burdensome to our commerce. I have here the rate per cent. of the duties paid, furnished by the Secretary of the Treasury of the United States, by which it appears that the rate per cent. of duty paid on exports to Canada in 1850 was 18.43 per cent., and they have never been higher than 20.64 per cent.; that is, they have risen from 18.43 to 20.64; but that has been decreased since, so that in 1861 the last year named in the tables of the Secretary, the duties were nineteen per cent. I will give the duties from year to year. In 1850 they were 18.43; in 1851, 18.26; in 1852, 18.82; in 1853, 16.94; in 1854, 16.42; in 1855, 15.60; in 1856, 16.13; in 1857, 16.10; in 1858, 19.02; in 1859, 20.20; in 1860, 20.64, which is the highest they ever were; and in 1861, the last year these tables give the rate per cent. of duties, they were nineteen per cent. In other words they were a very small fraction over a half per cent. larger than they were in 1850. That is the legislation of the Canadian authorities in regard to duties; so that the pretense that there has been any unfair advantage taken by way of duties upon the country is a mistake.

The tables which I have just read relate to the imports into Canada. The exports to Canada and the provinces—for there are four other provinces, and I think but four—are given by our Secretary in a table commencing in 1821 and ending in 1863. In 1853 the whole domestic exports to Canada and all the provinces from the United States were \$7,404,087. In 1854, the year of the treaty, they went up to \$15,204,144; in 1855 they were \$15,806,642; in 1856 they were \$22,714,697, and so they go on; and in 1863, the last year which the table furnishes, they were \$28,629,110.

Mr. ANTHONY. I should like to ask the Senator a question, if he will allow me.

Mr. HALE. Certainly.

Mr. COLLAMER. I understand the rate of duty which the Senator reads to be the average rate upon all articles.

Mr. HALE. Yes, sir.

Mr. ANTHONY. While the average rate of duty has been maintained about the same, has there not been a very great increase upon certain specific articles?

Mr. HALE. I am not advised of that.

Mr. ANTHONY. Because, after all, the duties may be arranged very greatly to our disadvantage, and yet the average remain the same.

Mr. COLLAMER. That percentage, I take it, is on their whole importation, free and all.

Mr. ANTHONY. That is the percentage on the whole; but there may be a very great variation on different articles, and yet retain the same average. Therefore, unless we understand how the rates have been averaged on particular articles, I do not see that the average rate answers the complaint at all.

Mr. HALE. I do not know how these tables are made; but I have no idea that they include the free goods.

Mr. COLLAMER. Yes, sir.

Mr. HALE. I cannot believe a word of that, with all respect to the Senator, because the table purports to give the value of free goods, and then in the next column the value of duty-paying goods, the amount of duty paid, and the rate per cent.

Mr. COLLAMER. That furnishes elements enough, I take it, to ascertain it.

Mr. HALE. If I have the slightest understanding of the English language and arithmetic figures, that 18.43 per cent. is the rate of duty on the duty-paying goods.

I was going on with this other table which includes the exports both to Canada and the provinces, with the total of imports from both; and they have increased, as I said, from \$2,009,336 in 1821 to \$28,629,110 in 1863; and the imports have gone up from \$490,704 to \$19,299,995. Here are a great number of tables shown and presented, and if they were considered I think they would lead the Senate and everybody else to the conclusion that the treaty is not entirely obnoxious to the charge of being one-sided altogether. It has increased your commerce, and increased it in a very vast proportion.

I am not prepared to go into the details of this matter, because, as I have said, I have not examined it. I was astonished to find a measure like this, which is to affect our commerce so materially and in so important a manner, pressed upon the country without the Senate waiting to get the slightest information from the commercial world upon the operation and bearing of this treaty. This subject is now, while I address the Senate, under the consideration of the Chamber of Commerce of New York. They have had it under consideration. It has been referred to a select committee, and that committee have made a report. I was desirous of seeing that report. I addressed a letter to the Chamber of Commerce expressing my desire to see it, hoping that it would furnish some light that might possibly have some influence here in the Senate. The president of the board wrote to me that the report was a very able one, that it was ordered to be printed, and that as soon as it was printed he would furnish me with a copy of it, which I have not yet received. I believe the report has been made within a week. I understand through the papers, though I do not know it, that the Chamber of Commerce of the city of Chicago have also had the subject under consideration, and they have made a report upon it. I do not know what the character of that report is, but I am told that it is adverse to the abrogation of this treaty. It seems to me, sir, this country if it lives at all must live by commerce; and as commerce is the only mode we have adopted except under the stringencies of war for the raising of revenue, that it would be well for the Senate and for the Congress to hear from that great vital interest of the country which is to be so seriously affected by this measure before they enter upon any hasty legislation on the subject.

Mr. President, there is another question connected with this subject, the question relating to our fisheries. If there has been any one subject upon which this country has been excessively anxious and cautious and sensitive it has been in relation to our fisheries on this northeastern coast. It has been the subject of very difficult diplomatic correspondence. It was so at the formation of the treaty at the conclusion of the war of 1812. So ill-defined were our rights under the existing treaties with Great Britain in regard to these fisheries that immediately preceding the ratification of this reciprocity treaty we were upon the point of war with Great Britain in relation to them. Our fishing vessels had been seized by the British Government within waters which the British Government contended we had no right to occupy. Mr. Webster, who was never supposed to be fond of surrendering any rights of this country, admitted, when Secretary of State, that the construction put upon the previous treaty of 1818 by Great Britain was the right one. We were upon the point of war when this reciprocity treaty so happily adjusted these difficulties. The question arose in this way: Great Britain contended, or the colonial authorities contended and the claim was sanctioned by Great Britain, that the right of the British Government to exclude our fishermen from their waters three miles of the coast was measured from the headland of one point to the

headland of another, and excluding our fishermen entirely from the bays and three miles outside of the bays. That construction was resisted by us, but was contended for by Great Britain, and, as I say, it had produced collision and the capture of some of our fishermen. That was all happily adjusted by this treaty.

As I have said, the subject of the fisheries is one upon which this country has always been extremely sensitive. So exceedingly careful have the Congress of the United States been to preserve this right, that now, in time of war, when we are taxing the people to the utmost point of endurance, and they are paying those taxes liberally and cheerfully, this fishing interest is considered so absolutely indispensable to the welfare of the country as a means of training the seamen necessary in war, that when the impression seemed to be pretty general that the fishing bounties were to be abandoned, the honorable Senator from Maine [Mr. MONNIE]—as he knows how to do as well as any other man—set forth in such strong and vivid characters the claim of these fishermen to the favorable consideration of the Government of the country that he actually induced the Senate to refuse to suspend those bounties to these fishermen in time of war on the ground that they were necessary as a matter of encouragement to the nurture of fishermen who were to fill our Navy; and the law now stands on our statute-book to pay this bounty to these fishermen, and to pay it upon that express and sole ground that the fisheries are necessary as a school of nurture and education for seamen.

I confess that I was a little surprised at the difference with which my honorable friend from Maine [Mr. FARWELL] seemed to regard this question, for it seemed to me that in the sentiments he avowed he went entirely counter to what I understand to be the policy of this country from the time we have been a country, from the Revolution and the war of 1812. If he tells me that the construction that the British Government put upon the old treaty, excluding from three marine miles of their shore, and measuring that shore from headland to headland, does not debar our fishermen from anything that is valuable, I think he is excessively mistaken. I think if the fishermen of this country could be heard on this subject they would say that they would rather give up the bounty than have that restriction restored by the abrogation of that treaty.

Suppose this treaty is imperfect; suppose its operation is not everything that we could wish it to be; and I do not contend that it is, I am willing to believe all that gentlemen say, that there are some things about it which may be amended and ought to be amended. Let me ask the Senator from Massachusetts how does he propose to get it amended? Why, sir, by abrogating the whole of it; blotting it out. What do you surrender by that? You surrender your right of fishing; you surrender the right of the navigation of the St. Lawrence; you surrender the right of carrying vessels down through the Welland canal; you isolate the lakes; and you surrender all that upon the suggestion that after you have done this you can institute some new measure of diplomacy and inaugurate some new treaty by which everything that is valuable to us may be secured. Sir, it is a delusive idea. If you abrogate this treaty it will be looked upon in Canada, it will be looked upon by Great Britain, and it will be looked upon in this country, by some, certainly, as a measure of retaliation springing out of a resentment, which I grant you is just, for some wrongs we have suffered at the hands of these colonies.

But, Mr. President, we had better be a little cautious before we take so decided a step. I understand from the best authority that the Canadian Government are now doing all that can possibly be asked of them by this Government, in their efforts to suppress anything like what has unhappily occurred; that they have called out a very large military force, and that they have offered to our Government almost any measure of relief and precaution that the Government may suggest. I think it is a fact that they have offered, if there are any individuals in Canada in whom this Government have perfect confidence, and whom they would like to have in authority, to appoint them and to commission them. I believe honestly that everything that people and that Government can do that is consistent with



their own honor and the most friendly purpose to serve us has been done, and is being done at this moment. If we abrogate this treaty at this time, while those who are favorably disposed to this country are endeavoring to do all their duty and their whole duty to us in this hour, in what condition shall we place them? Sir, I will tell you just exactly what we shall do: we shall strengthen the hands of the rebels and weaken the hands of our own friends.

I think it is a tolerably well settled fact that Canada and the United States will continue for some time, to say the least, to be contiguous and conterminous in territory, and that no action of the Senate can by any means alter that. I take it that the relative relation on the face of the globe of Halifax and Boston will remain very much as it is now for some time to come. The question is, how shall we conduct ourselves in regard to these neighbors, and what is our interest?

Among the reasons that were suggested for abrogating this treaty, or among the consequences of it, it was suggested by one member of the Senate, I believe the honorable Senator from Iowa, [Mr. GRIMES,] that it would reduce the great interests of that country, their railroads, &c., to a state of bankruptcy if not of pauperism. Suppose it would; suppose that that suggestion emanated from the profoundest political wisdom, and was eminently true, is it our interest to reduce our neighbors to poverty and to bankruptcy, or is it the interest of this country, a commercial country, that the Canadas and our neighbors, as long as they are our neighbors, shall be prosperous, and eminently prosperous, if they do not by that prosperity impoverish us? What was the great argument with which Henry Ward Beecher electrified England in his visit to Great Britain? He asked them, "What is your interest? To have the country filled up with slaves that buy no cloth, no luxuries, or to have it filled up with an industrious and enterprising free population, who, for their own use and their own interests, will make a market for your productions and your manufactures?" The argument had infinite force in it; and if it had force when it applied to the slave States in their relations to the rest of the world, does it not eminently have force when applied to our colonial neighbors? Is it for our interest that they should be rich, prosperous, wealthy, and enterprising, enabled to buy of our manufactures, and go on as they have, in the short space of thirteen years quadrupling what they buy of us, or to reduce them to bankruptcy and poverty? In doing that we injure ourselves quite as much as we injure them.

These are some of the reasons which induce me to oppose the abrogation of this treaty; but I see that it is a foregone conclusion. I think that gentlemen take counsel of their passion rather than of those broad reasons which relate to the present and the progressive welfare of the country. Our welfare and our progress is bound up with that of the rest of the world, and it is more so with those neighbors that are near and proximate than those who are far off. I believe that this treaty, as has been shown by the tables which have been exhibited, has been eminently wise and salutary in its effect; that under it commerce has grown up and prospered as it has in no other country under heaven. Notwithstanding the vast increase of free goods which we have sent to Canada and Canada to us, the amount of duty-paying goods has increased at the same time; so that all these millions are absolutely added to the commerce of the country by the operation of this reciprocity treaty.

I hope, sir, that until some gentleman can point out some great injury that has been wrought, or has been threatened, or is in store for us, the Senate will pause before passing the measure before it. I hope, at least, that it will not be rushed through at this time. I hope that the Senate will wait until they can hear from the city of New York, which pays so very large a proportion of the revenue collected from customs, and her merchants who feel a lively and vital interest in this matter, and who are now taking counsel upon it, and will perhaps at a very early day be prepared to suggest their views to the Senate upon it.

As I said at the commencement, I have not given this subject an elaborate examination. When it came up it was not my purpose to do it. The most that I wanted was delay that those who

were better able to present their views on the subject than I was might have an opportunity to be heard; and I am of the same opinion now. I think that they should be heard upon it. There certainly can be no reason for this haste. If the notice is given, I believe a year must elapse before it will have its effect, and notwithstanding we give the notice the treaty will exist for a year.

Does anybody suppose that the abrogation of this treaty in this manner will have a tendency to make those people listen favorably to any suggestion of ours for another or a new treaty? I believe not. The Committee on Commerce of the House of Representatives not long ago made a report on the subject, in which they made a suggestion which I think is an eminently wise one, and one which I think should be listened to at the present time. I desire to read an extract from the report made in the House of Representatives on this subject. The committee say:

"The Committee on Commerce believe with the Legislature of New York that 'free commercial intercourse between the United States and the British North American provinces and possessions, developing the natural geographical and other advantages of each for the good of all, is conducive to the present interests of each, and is the proper basis of our intercourse for all time to come,' and that such measures should be adopted as will fully carry into effect the principles announced by the British minister at Washington in 1859, 'for the confirmation and expansion of free commercial relations between the United States and the British provinces,' and to 'regulate the commerce and navigation between her Majesty's possessions in North America and the United States in such manner as to render the same reciprocally beneficial and satisfactory,' as was intended and expressed by the treaty made between the United States and Great Britain, and commonly known as the 'reciprocity treaty.'"

"The Committee on Commerce would therefore recommend that three commissioners be appointed by the President of the United States to confer with persons duly authorized by Great Britain in that behalf, with a view to enlarging the basis of the former treaty, and for the removal of existing difficulties."

If the treaty is imperfect and needs amendment, that is the true, statesmanlike, Christian way of amending it. I have no doubt that if this Government came forward in such a spirit and with such a proposition, it would be reciprocated by Great Britain. But if, on the other hand, smarting as we now are under what we believe and what we feel to be injustice on the part of these colonies, we resort to this legislation at this time, in this hour, under such impulses, it will tend to increase and intensify all the bad feelings that have unhappily existed; will, in fact, retard, if not render utterly impossible, any future progress in the line of reciprocity between these two countries. For these reasons, sir, I hope that the treaty will not be abrogated.

Mr. SUMNER. The reciprocity treaty has a beautiful name. It suggests at once exchange, equality, equity; and it is because it was supposed to advance these ideas practically that this treaty was originally accepted by the people of the United States. If, however, it shall appear that while organizing an exchange it forgets equality and equity in any essential respect, then must a modification be made in conformity with just principles.

I mean to be brief, but I hope, though brief, to make the proper conclusion apparent. It is a question for reason and not for passion or sentiment, and in this spirit I enter upon the discussion.

The treaty may be seen under four different heads, as it concerns, first, the fisheries; second, the navigation of the St. Lawrence; third, the commerce between the United States and the British provinces, and fourth, the revenue of the United States.

1. The fisheries have been a source of anxiety throughout our history, even from the beginning, and for several years previous to the reciprocity treaty they had been the occasion of mutual irritation, verging at times on positive outbreak. The treaty was followed by entire tranquillity, which has not been for a moment disturbed. This is a plain advantage which cannot be denied. But so far as I have been able to examine official returns, I do not find any further evidence showing the value of the treaty in this connection, while opinions, even among those most interested in the fisheries, are divided. There are partisans for it in Gloucester, and partisans against it in Maine.

If the treaty related exclusively to the fisheries, I should not be willing to touch it. But the practical question is, whether the seeming advantage in this respect is sufficient to counterbalance the disadvantage in other respects.

2. Next comes the navigation of the St. Lawrence. But this plausible concession has proved to be little more than a name. It appears that during the first six years of the treaty only forty American vessels, containing 12,550 tons, passed seaward through the St. Lawrence, and during the same time only nineteen vessels, containing 5,446 tons, returned by the same open highway! These are very petty amounts when we consider the value of the commerce on the lakes, which, in 1856, was \$587,197,320, or when we consider the carrying trade between the United States and the British provinces. Take the years 1857-62, and we shall find that during this period the shipping of the United States which cleared for the British provinces was 10,707,329 tons, and the foreign shipping which cleared during this same period was 7,391,399 tons, while the shipping of the United States which entered at our custom-house from the British provinces was 10,056,183 tons, and the foreign shipping which entered was 6,453,520 tons. I mention these things by way of contrast. In comparison with these grand movements of value the business which we have been able to do on the St. Lawrence seems to be trivial. It need not be considered as an element in the present discussion.

3. The treaty may be seen next in its bearings on the commerce between the two countries. This has increased immensely; but it is difficult to say how much of this increase is due to the treaty and how much is due to the natural growth of population, and the facilities of transportation in both countries. If it could be traced exclusively or in any large measure to the treaty, it would be an element not to be disregarded. But it does not follow from the occurrence of this increase after the treaty that it was on account of the treaty. *Post hoc ergo propter hoc* is too loose a rule for our Government on the present occasion.

The census of the United States and of the British provinces will show an increase of population which must not be disregarded in determining the origin of this increase of commerce.

There are also the railroads furnishing prompt and constant means of intercommunication which have come into successful operation only since the treaty. It would be difficult to exaggerate the influence they have exercised in quickening and extending commerce. I cannot doubt that the railroad system of the two countries has been in itself a reciprocity treaty, more comprehensive and equal than any written on parchment.

The extent of trade before and after the treaty may be seen in a few figures.

In the three years immediately preceding the treaty the total exports to Canada and the other British provinces were \$48,216,518, and the total imports were \$22,588,577; being of exports to imports in the proportion of one hundred to forty-six.

In the ten years of the treaty the total exports to Canada and the other British provinces were \$256,350,931. The total imports were \$200,399,786. According to these amounts the exports were in the proportion of one hundred to seventy-eight. If we take Canada alone we shall find the change in this proportion greater still. The total exports to Canada in the three years immediately preceding the treaty were \$31,846,865, and the total imports were \$16,589,624; being in the proportion of one hundred to fifty-two; while the total exports to Canada alone during the ten years of the treaty were \$170,371,911, and the total imports were \$161,474,349, being in the proportion of one hundred to ninety-four.

I present these tables simply to lay before you the extent and nature of the change in the commerce between the two countries. But I forbear embarking on the much-debated inquiry as to the effect of a difference between the amount of exports and of imports, involving as it does the whole perilous question of the balance of trade. In the view which I take on the present occasion, it is not necessary to consider it. The reciprocity treaty cannot be maintained or overturned on any contested principle of political economy.

4. I come, in the last place, to the influence of the treaty on the revenue of our country; and here the custom-house is our principal witness. The means of determining this question will be found in the authentic tables which have been published from time to time in reports of the Treasury, and especially in the report made to Congress at this session, which I have in my hand.

Looking at these tables we find certain unanswerable points. I begin with an estimate founded on the trade before the treaty. From this it appears that, if no treaty had been made, and the trade had increased in the same ratio as before the treaty, Canada would have paid to the United States in the ten years of the treaty at least \$16,373,880, from which she has been relieved. This sum is actually lost to the United States. In return Canada has given up \$2,650,890, being the amount it would have collected, if no treaty had been made. Here is a vast disproportion, to the detriment of the United States.

Here is another illustration, derived from the tables. During the ten years of the treaty the United States have actually paid in duties to Canada alone \$16,802,962, while during this same period Canada has paid in duties to the United States the very moderate sum of \$930,447. Here again is a vast disproportion, to the detriment of the United States.

The same inequality may be seen in another way. During the ten years of the treaty dutiable products of the United States have entered Canada and the other provinces to the amount of \$83,347,019, while during this same period dutiable products of Canada and the other provinces have entered the United States only to the amount of \$7,750,482. During this same period free products of the United States have entered Canada and the other provinces to the amount of \$118,853,972, while free products of Canada and the other provinces have entered the United States to the amount of \$178,500,184. Here again is a vast disproportion, to the detriment of the United States.

Add to these various results the statement in the report of the Secretary of the Treasury, which has been just laid on our tables, in the following words:

"The treaty has released from duty a total sum of \$42,333,257 in value of goods of Canada more than of goods the produce of the United States."—*Foreign and Domestic Commerce*, 1864, page 93.

This conclusion is in substantial harmony with that which I had reached from an independent examination of the tables.

From these various illustrations it is clear that the revenue of the United States has suffered by the treaty in question, and that in this important particular its advantages have not been shared equally by the two countries. Here, at least, it loses all title to its name.

But the onerous character of this treaty has become manifest in other forms since the adoption of our system of internal revenue. I need not remind the Senate of the extent to which we have gone in seeking out objects of excise, and now there are various propositions still pending in the same direction, seeking new objects; but it is notorious that such taxation is always graduated with reference to the tariff on the same objects when imported from abroad. But here the reciprocity treaty steps forward with its imperative veto. Thus, for instance, the lumber of our country is left free from excise, though I am assured that it might well bear it, simply because no countervailing tax can be imposed upon lumber from the British provinces. Had a tax of five per cent. been imposed upon the lumber of our country, I am assured from those familiar with the subject that we should have received at least \$5,000,000; all of which is lost to our annual revenue. But this is only a single illustration.

There are other ways in which the treaty and our excise system come into conflict. Practical difficulties, I am assured, have already occurred in the bureau of internal revenue. But this conflict will be seen in the extent to which the business of the country, and even its agriculture is taxed now. The farmer works now with taxed tools. These considerations, with the increased value of labor among us, must give new advantages to the productive interests of Canada as compared with ours, and tend still further to the unequal operation of the treaty.

Mr. President, such is the result of a candid inquiry into the operation of this treaty, as it concerns the fisheries, the navigation of the St. Lawrence, the commerce of the two countries, and the revenue of the United States. I have kept nothing back favorable to the treaty that could be adequately stated in the brief space which I have allowed myself, nor have I exaggerated its unequal operation.

And now the question is, shall this condition of things be reconsidered? The treaty itself, as if anticipating this exigency, furnishes the opportunity by expressly providing for its termination at the expiration of ten years on notice of one year from either party. Great Britain is free to give this notice, so are the United States. Considering the present state of the country, it would seem to be imprudent not to give the notice. We must husband our resources; nor can a foreign Government justly expect us to continue a treaty which is a drain upon our revenue. In every direction we are now turning for subjects of taxation. Our own people are contributing in every way largely. Commerce, manufactures in every form, are obliged to come to the assistance of the country. I know no reason why the large amounts enfranchised by this treaty should enjoy the immunity which has been thus far conceded to them. An inequality which in ordinary times would have escaped observation becomes too apparent in the blaze of present responsibilities.

Something has been said about accompanying the proposed notice with instructions to negotiate a new treaty. This is entirely unnecessary. A new treaty may not be advisable. It is possible that the whole matter may be settled by Congress under general laws. In all events, there is a full year from the 16th March next in which to provide a substitute, either by negotiation or by legislation. And this remark is applicable to the fisheries as well as to every other interest touched by the treaty. I cannot doubt that the two contracting parties will approach the whole question in the determination to settle it on the permanent foundations of justice and equity; but the first step in this direction is the notice to terminate the existing treaty.

Mr. RAMSEY. Mr. President, a persistent effort has been made to excite hostility against the reciprocity treaty, by enlarging upon the advantages to Canada and the other British provinces of North America under its third article, as if that article, and the commercial exchanges which it authorized, was the total scope of the negotiation of 1854. We hear nothing, or next to nothing, of the extension of our American rights in the Newfoundland fisheries; nothing of the free navigation secured to the western States both of the lower channel of the St. Lawrence river and of the ship canals of Canada; and yet, sir, these are leading and vital provisions in favor of the United States, and were the consideration received for the free exchange of natural products across the northern frontier of the United States. I cannot think that the discussion here or elsewhere transpiring of late has fully considered the historical bearings of this subject; and I propose to present a simple narrative in response to the question, what is the reciprocity treaty? In the answer to this question I shall comprise nearly all that I desire to urge in opposition to the resolution reported by the Committee on Foreign Affairs, which is now before the Senate.

Mr. Pierce was inaugurated President in March, 1853. He was immediately confronted by a serious dispute as to the rights of American fishermen upon the banks of Newfoundland and the adjacent fishing grounds. At the conclusion of the peace of 1783, the treaty between the United States and Great Britain had secured to Americans the same rights in the cod and mackerel fisheries of the northeast Atlantic coast which they had possessed prior to the Revolution. After the war of 1812 a controversy arose whether the stipulations of 1783 upon the subject of the fisheries were abrogated by that war. It resulted in the convention of 1818, whereby the general liberty of taking and curing fish, although yielded by Great Britain, was most seriously impaired by a provision that the United States renounced forever any liberty previously enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of the British dominions, except certain districts of Newfoundland and Labrador. The colonies always claimed, and the English Government finally adopted the construction, that these three marine miles were to be measured from headland to headland, and not from the coast line; while, on the American side, it was contended that American fishermen had a right to enter and fish in any of the bays

which indent the shores, provided they never approached for the purpose of taking fish within three marine miles of the coast by which such bays were encompassed.

The danger of collision, unavoidable from such a provision, culminated in 1853. In that year, as Lord Elgin once said in a speech at Liverpool—

"A British admiral and an American commodore were sailing on the coast with instructions founded upon opposite conclusions, and a single indiscreet act on the part of one or the other of those naval officers would have brought on a conflict involving all the horrors of war."

President Pierce was from a region of the country deeply interested in the Newfoundland fishery, himself regarding it as "a pursuit connected to no inconsiderable degree with our national prosperity and strength;" and he was naturally solicitous, while avoiding collision with England, to restore the rights secured to our citizens by the liberal treaty of 1783. This feeling prevailed intensely among the people of New England. Mr. Webster, on the 25th of July, 1852, said to his neighbors at Marshfield:

"The most important consequences are involved in this matter. Our fisheries have been the very nurseries of our Navy. If our flag-ships have met and conquered the enemy on the sea, the fisheries are at the bottom of it. The fisheries were the seeds from which those glorious triumphs were born and sprung."

So much for the special interest of New England, and the grave national complication which its embarrassment involved. From an opposite quarter, from the grain-growing Northwest, there came simultaneously a most urgent demand for the free navigation of the river St. Lawrence from its connection with the chain of great lakes to the ocean. On the 2d of May, 1850, the Committee on Foreign Affairs of the House of Representatives, A. W. Buell, of Michigan, J. A. McClelland, of Illinois, and E. G. Spaulding, of New York, presented an elaborate report, asserting the natural right of great inland communities, situated upon the sources of a navigable river, to pursue its channel to the ocean without material obstruction from any community organized over the mouth or lower sections of the stream, and asking that the application of this principle to the St. Lawrence might be the subject of concurrent legislation or a treaty between the United States and Great Britain, thus transferring a natural right to an international obligation. Others enlarged upon this recommendation, and no one with more eloquence than John A. Dix, while Senator from New York. He said:

"I have no hesitation in predicting that vessels will be laden with wheat at Chicago, Green Bay, Detroit, and Cleveland, and unloaded at Liverpool. Ship-owners, producers, all will be greatly benefited by this free commerce, which will have an advantage in avoiding transshipment between the point of embarkation and the sea or the foreign market."

It was evident long before 1854 that the freedom of the St. Lawrence, with all its immense expansions into lakes, was inseparable from any commercial treaty by or on behalf of the British colonies with the United States.

As early as 1849 the British colonies on this continent sought admission to American markets with their products, which were then, as now, almost exclusively agricultural, animals, and their produce, or products of the forest, mines, and fisheries. Great Britain, by the repeal of all discriminations in favor of the importation of colonial breadstuffs and lumber, and the surrender of all revenue regulations by the colonies in favor of British manufactures, had gone far to establish the commercial independence of the provinces; but there was no alternative after the home Government had definitely established Sir Robert Peel's policy of 1846 repealing the corn laws. Even the navigation acts were made to yield to the new impulse, England proudly asserting her ability to compete with the merchant marine of the world, notwithstanding the commerce of every port in her vast dominions, European and colonial, was placed for the ships of all countries upon the footing of an unrestricted coasting trade. Under such a change of circumstances our colonial neighbors naturally sought to buy and sell in American cities and manufacturing towns. Canada came forward with an overture for the free admission of certain articles, the natural production of Canada and the United States, into each country respectively; but Congress would not entertain the proposition unless extended to the other Atlantic provinces of England, and unless it included an adjustment of the fishery dispute,

and also a provision, in the interest of the north-western States, for the free navigation of the St. Lawrence.

Thus the measure took the form of a tripartite treaty, negotiated between William L. Marcy and James, Earl of Elgin and Kincardine, confirmed by the Senate of the United States on the 5th of June, 1854, and passing into operation on the 16th of March, 1855. It has since regulated the commerce between the United States and the provinces of Canada; New Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland; but the district occupied by the Hudson Bay Company, now called Central British America, and the Pacific colonies of British Columbia and Vancouver Island, were not included in the treaty. I proceed with a brief review of its stipulations.

The preamble expresses the mutual desire of the contracting parties "to avoid further misunderstanding in regard to the extent of the right of fishery on the coasts of British North America," and "to regulate the commerce and navigation between their respective territories and people, and more especially between her Majesty's possessions in North America and the United States in such manner as to render the same reciprocally beneficial and satisfactory."

By the first article it was agreed that in addition to the liberty secured to the United States fishermen by the convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of her Britannic Majesty, the liberty to take fish of every kind except shell-fish on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore; with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen islands for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the rights of private property or British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose. This liberty was confined to the sea fishery; the salmon and shad fisheries, and all fisheries in rivers and the mouths of rivers being exclusively reserved for British fishermen.

The second article extended the same right of fishery to British subjects on the American Atlantic coast north of latitude 36°.

The controversy in regard to the fisheries having been thus adjusted, that branch of American industry is seldom mentioned, but its commercial and maritime importance is steadily increasing. The census of 1850 returned \$3,067,655 as the value for that year of the cod and mackerel fisheries of Maine, New Hampshire, Massachusetts, and Connecticut, while the census of 1860 shows the product of that year to be \$4,183,503. Subject the northeastern fisheries and fishers to the hazards and obstructions of the convention of 1818, instead of the liberal provision of the reciprocity treaty, and the whole country would ring again, as it did in 1853, with the importance of the fishing interest and the wrongs of all interested.

The navigation of the St. Lawrence and the Canadian canals was the subject of the fourth article, which is as follows:

"It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the river St. Lawrence and the canals in Canada, used as the means of communicating between the great lakes and the Atlantic ocean with their vessels, boats, and crafts as fully and freely as the subjects of her Britannic Majesty, subject only to the same tolls and other assessments as now are or may be hereafter exacted of her Majesty's said subjects."

A similar right of navigating Lake Michigan was secured to British subjects. The Government of the United States engaged to urge upon the State governments to secure to British subjects the use of the several State canals on terms of equality with the inhabitants of the United States. And the province of New Brunswick was restrained from the levy of any export duty or other duty on lumber or timber cut in the State of Maine and shipped to the United States through the river St. John.

The State canals have never been opened to British subjects as above suggested.

The importance of the navigation of the St. Lawrence, with its Canadian canalage, to the western producer, is every year more apparent. The values which passed through the St. Lawrence from the United States, (mostly western products,) were \$3,505,511 for 1861, and \$5,198,920 for 1862. The pressure of western transportation upon the Welland canal is very great, inducing a discussion of the policy of its enlargement; and as the mineral resources of Lake Superior are developed, an Ottawa ship canal will probably be added to the public works of Canada. The West needs them all, and every additional avenue which national or State enterprise can provide, including a ship canal around the falls of Niagara, and from Oswego to Albany. Already ocean vessels are seen not unfrequently at the wharves of Detroit, Milwaukee, and Chicago; and unless Congress shall deprive the Northwest of the undisputed possession of its great natural water communication with the Atlantic, the foreign commerce of the lake coast is destined to a rapid and most auspicious progress. I trust no selfish or sectional crusade will deprive the interior community I represent of these advantages.

And now we come to the provincial side of the account current of reciprocity. The third article of the treaty agrees that the following articles, being the growth and produce of the British colonies or the United States, shall be admitted into each country respectively free of duty: grain, flour, and breadstuffs of all kinds; animals of all kinds; fresh, smoked, and salted meats; cotton, wool, seeds and vegetables; undried fruits, dried fruits; fish of all kinds; products of fish, and of all other creatures living in the water; poultry, eggs; hides, furs, skins, or tails undressed; stone or marble in its crude or unwrought state; slate; butter, cheese, and tallow; lard, horns, manures; ores of metals of all kinds; coal; pitch, tar, turpentine, ashes; timber and lumber of all kinds, round, hewed, sawed, unmanufactured, in whole or in part; firewood; plants, shrubs, and trees; pelts; wool; fish oil; rice, broomcorn, and bark; gypsum, ground or unground; hewn or wrought or unwrought burr or grindstones; dyestuffs; flax, hemp, and tow unmanufactured; unmanufactured tobacco; rags.

I cheerfully admit, Mr. President, that our provincial neighbors have received great and substantial benefits from the facilities of trade secured by this article, but I deny, I entirely fail to perceive, that we have been in any sense losers. The Register of the Treasury Department reports the aggregate of exports from the United States to Canada and other British possessions in North America, from 1852 to 1860, inclusive, to be \$195,303,384, of which \$140,393,956 have been the growth or manufacture of the United States. During the same period of nine years (three before and six subsequent to the treaty) the value of imports into the United States from British America amounted to \$135,555,671.

The course of trade with Canada is fully illustrated by tables of statistics communicated at the last session of Congress by the Secretary of the Treasury. They show an average export trade to Canada of \$16,826,797 for eight fiscal years following the formation of the reciprocity treaty, while the imports from Canada into the United States for the same period show an average annual value of \$16,643,825. The Canadian movement to American markets is almost exclusively of natural productions, admitted free of duty, while upon the imports from the United States to Canada, largely consisting of manufactures and foreign productions, the Canadian people have been charged by their Government with an average taxation (by the collection of customs duties) of \$1,747,526 per annum.

As one result of the war, and the advance in the prices of manufactured goods, our exports to Canada are now mostly free of duty. We exported in 1863 from the United States into Canada, \$12,339,367 free of duty by the reciprocity treaty, and \$6,795,599 free of duty by Canadian tariff—an aggregate of \$19,134,966. As the whole exportation from the United States into Canada was \$23,109,362, this leaves only \$3,974,396 subject to the Canadian tariff, of which the value of \$1,855,690 was of articles not produced or manufactured in the United States. In other words, while Canada admitted free of duty \$19,134,396 from the United States, the whole amount

of our products and manufactures which were subject to taxation by the Canadian tariff was \$2,118,706. The average taxation being twenty per cent. the Canadian consumers paid \$423,741 into the treasury of the province. The importations from Canada during 1863 were \$20,050,432, or an aggregate of trade with the United States of \$43,159,794.

I will not extend these statistical statements. They concur with my former impressions, as a citizen of the Northwest, that the treaty is mutual and beneficial. To repeat the language of a memorial from the St. Paul Chamber of Commerce, presented to the Senate January 27, 1862:

"All parties to the treaty have observed its stipulations in good faith. The Americans possess and enjoy their enlarged rights in the British fisheries on the northeastern coast, and the free navigation of the St. Lawrence; neither Government has interrupted the exchanges of the free list prescribed by the third article; while upon a subject properly excluded from the provisions of the treaty—namely, the tariffs of the United States and the adjacent provinces in respect to articles of manufacture and foreign production—there is no legitimate ground of complaint in any quarter. Prior to 1861 the duties by the Canadian tariff were considerably enlarged after 1854, (from sixteen per cent. to twenty per cent. average;) but recently the American scale of duties has been advanced in a still greater proportion. In both cases the changes have been enforced by financial necessity and do not conflict with the spirit or terms of the treaty of 1854."

With these views it seems to me that a recent recommendation of the Detroit Board of Trade, that the treaty should not be disturbed at this time, but that the Department of State, or a joint commission of the Governments interested, should proceed with a revision of existing stipulations, is worthy of our consideration.

I appreciate fully, Mr. President, our financial necessities, but I doubt whether we shall largely increase the revenue on the northern frontier by substituting a duty of thirty per cent. *ad valorem*, or whatever may be the average of the present tariff. Suppose we substitute a duty of five per cent. upon the free list of the treaty, (or any rate which will not materially restrict present commercial intercourse,) as might be readily stipulated by a supplementary treaty, and observe its effect upon the revenues during a period of five years. I have an impression that we should receive far more revenue from such a minimum duty than we would do under a duty six times greater.

Nor can I agree with the opinion so confidently advanced that the British provinces are entirely at our mercy in the matter of their communication to advantageous markets. We may exclude them by restrictive legislation from our cities and thoroughfares, we may subject their people to temporary inconvenience, but under the federal union now proposed of British America, and which is certain to be accomplished, such a policy on our part will force the speedy construction of a railroad to Halifax, and other measures of commercial and industrial independence.

The State of Minnesota has repeatedly urged the revision of the reciprocity treaty, but always in the interest of further freedom, not additional restrictions, of commercial intercourse. Such, if I mistake not, will be the public sentiment of our Pacific States. As already stated, the present treaty is inoperative west of the great lakes. Since its date the provinces of Vancouver Island and British Columbia have been organized on the Pacific coast, and are valuable extensions of the trade of California and Oregon. All these communities should be recognized as parties to any commercial arrangement between the United States and the English provinces of North America. East of the mountains the immense and fertile basin of the Saskatchewan river, whose sources are now ascertained to flow from a gold-bearing region as productive as British Columbia or the adjacent American Territories of Idaho and Montana, is soon to be the scene of a systematic colonization from Canada and England. This region, which, with the Red river settlement, is becoming well known, and is designated as Central British America, will be closely related to Minnesota. The year 1866 will witness the construction of a telegraph from St. Paul through Selkirk settlement, the Saskatchewan valley, and the Rocky mountains, to the northern boundary of British Columbia, destined at no distant date to be extended through Russian America and connect with the line from St. Petersburg. An emigrant route from Minnesota to the Saskatchewan and Cariboo gold fields will be imme-



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diately established, indicating the track of a future international railway; while a new and vigorous policy is announced by the Hudson Bay Company, promising all possible encouragement of settlements and representative institutions in districts hitherto excluded from the world. Central British America will seek close trade and communications with the United States. Why multiply barriers and restrictions against our commercial intercourse in that direction?

The Committee on Foreign Relations have suggested on the face of the resolution now pending an additional reason for the postponement of this subject. They have embodied in the terms of their resolution a declaration that the reciprocity treaty went into operation, "took effect," on the 16th of March, 1855. I accept the authoritative declaration of the committee. Then I turn to the fifth article and find a stipulation that—

"The treaty shall remain in force for ten years from the date at which it may come [came] into operation, and further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards."

I assume, Mr. President, that the concurrence of both Houses of Congress and the approval of the President, as usual in legislation, are essential to constitute the evidence of a "wish" by the United States "to terminate the treaty," and that the "notice" above referred to would doubtless consist of an authenticated copy or an equivalent recital of the resolution which Congress had adopted. The date of such a resolution is therefore a matter of importance; it is the period of time when the "notice" is actually given. If the day upon which the Government of the United States, as one of the high contracting parties, concurs in the final passage or adoption of a resolution of abrogation (or the expression of such a wish) be neither the term of "ten years from the date at which the treaty went into operation" or the 16th of March, 1855, are Senators certain that we are not violating the obligation of a treaty? We are at liberty to give such notice on the 16th of March, 1865—so says the fifth article—"or at any time afterward." The implication is unavoidable that we are restrained from doing so previously. It matters not that the ministerial act of the President is after the 16th of March, 1865—the act of notice, the expression by this Government of its wish and determination will be *before* that date, and therefore premature and a violation of a treaty obligation.

For this reason, Mr. President, and on account of the general considerations of public policy to which I have adverted, I am opposed to the resolution in its present shape.

Mr. SHERMAN. I will not detain the Senate by any extended remarks on this subject, because I have not investigated it as carefully as probably I ought to do if I attempt to instruct the Senate upon it. My vote shall be controlled by one idea alone; and that is that it is now the interest of the United States, in a pecuniary sense, to terminate this treaty, if we have the right to do so under the treaty, and under the temporary arrangement made between the two Governments. The treaty gives us the right to terminate it in about a year from now, and upon the present condition of facts as they exist in the United States it is plainly and manifestly the interest of the United States to terminate that treaty.

Nations in their commercial intercourse are always governed by their interests, and especially is this so with Great Britain. It is admitted to be so by all her distinguished statesmen. She has always been guided by her interests as a nation, precisely as an individual in the ordinary affairs of life would be guided by his interests. They established for a long time a system of exclusive legislation and tariff laws. They have now adopted a system of free trade. All their laws on the subject of tariffs, and all their commercial regulations, have been based upon their own interests; and they cannot object to us if in

pursuance of the treaty with them we should now adopt a policy to carry out our own interests.

When the reciprocity treaty was adopted in 1855, there was then a state of things existing along the border which induced both parties to cultivate kindly relations and the exchange of commodities between them. I have no doubt that Great Britain got a great deal the best of the bargain, especially in the schedule of articles named which should be exchanged free of duty. The treaty has operated from the beginning against our interests; and it can be plainly demonstrated by the tables which are furnished by the Secretary of the Treasury, that from the beginning our trade has fallen off and theirs increased, comparatively. I have here a single statement which will show that very clearly:

"The amount of goods exported to Canada in 1855, subject to duty, was \$11,449,472, and in 1862 no more than \$6,128,783."

Mr. HALE. Will the Senator allow me to ask him where he gets that statement from?

Mr. SHERMAN. I read that statement from a speech made by Mr. MORRILL, of Vermont, a year ago in the House of Representatives on this subject.

Mr. HALE. I want to remind the Senator that in 1855, when it was \$11,000,000, half that time or nearly half, there was no reciprocity treaty.

Mr. SHERMAN. I take 1855 as the first year before the reciprocity treaty. Our exports then amounted to over \$11,000,000, and since that time, in 1862, they had fallen off to \$6,000,000. These tables are taken, Mr. MORRILL says, and he is very accurate on the subject, from the official statement; and I find them more convenient to refer to in his speech. The treaty also operates very injuriously to us in many respects. Take, for instance, this statement:

"Canadian tables show that for eight years, from 1855 to 1862 inclusive, an average of \$9,340,000 of our exports to Canada paid duty, and \$10,720,000 were free."

While the goods we receive from Canada come to us duty free, except to a very insignificant amount, they charge us duty on more than half of what we send to them. Can that be said to be reciprocal? Our exports and our imports, our trade with Canada is about equal; we send to them nearly as much as they send to us, but they charge us duties on one half of what we send to them. We substantially admit all that they send us free. Such a statement as that—and it cannot be gainsaid and cannot be denied—shows that the treaty is unequal, and that there is no reciprocity in it.

But, Mr. President, I do not base my vote upon this question upon the trade as it existed when the treaty was made. I have nothing to say as to the wisdom of the treaty. But it is manifest that now in the present condition of affairs this treaty is to our injury. We are compelled now to increase our revenue agents along the lakes more than treble. We are compelled to establish a cordon of posts from the Atlantic coast clear across the continent to prevent smuggling from Canada. We are compelled to increase more than tenfold the expense of the collection of customs on the border by the multiplicity of our agents. We are compelled to establish this whole system without receiving one cent for it. The duties we levy upon colonial produce will not pay one tenth of the expense of our cordon of posts along the line to prevent smuggling. Only the other day the Senate and Congress passed a bill appropriating \$1,000,000 to provide revenue cutters to prevent smuggling from Canada; and yet our duties levied on our commerce with Canada will not probably pay this year \$100,000. I do not give the figures accurately. I only give them generally.

Under these circumstances, as we are involved in war, when we are compelled, in order to prevent smuggling from Canada, to establish a cordon of posts, a line of custom-house officers, and increase our revenue agents, it seems to me we ought to levy corresponding duties, so that at least our duties on our trade with Canada will pay the expenses we incur.

But there is another consideration. We have necessarily adopted a system of internal taxation. The reciprocity treaty is entirely inconsistent with our present internal taxation. It is an express discrimination against our own industry. The farmer in the West is compelled to pay an income tax; he is compelled to pay a large tax on the transportation of his produce; he is compelled to pay tax in various forms on every commodity he consumes and on everything he raises; while by our treaty with Great Britain all the products of Canada come into our markets free of this duty. While this treaty stands it is a discrimination against every farmer and every mechanic and every industrial interest of the western States. The farmer in Canada may raise his grain and produce and send it to our markets free of duty, and it pays no tax. We cannot reach their railroads; we cannot tax their transportation; we cannot affect them in the least; and yet every interest of our farmers is taxed. It is manifest, therefore, that while we maintain our present system of internal taxation the reciprocity treaty is a direct benefit to the Canadian producer, farmer, and mechanic, and it is a discrimination against our own farmers and mechanics. It seems to me, therefore, for this reason alone, if there were no other, that this treaty ought to fall, or at least ought to be suspended until the time may come when we may abandon the system of internal taxation.

Cases are occurring along the border—I am so informed by persons who are very intelligent—of the greatest hardship. We formerly exported into Canada a large amount of manufactured tobacco. It was more convenient to be made here and sent over there. I believe the exportation before the war was something like four or five million dollars. That whole exportation has ceased, or at least it has fallen off until it is now less than a million. While we send across the line tobacco in the leaf, it is manufactured in Canada and it is smuggled back into our own country, thus evading the very heavy tax we put on tobacco. I am told that a single little vessel crossing the narrow streams that divide us and Canada may bring back into our country enough tobacco made from our own leaf, the duty on which would amount to \$100. The tax on some kinds of manufactured tobacco is thirty-five cents a pound; so that a smuggler, or an Indian trader, in a light canoe running across the border, may in a single hour cheat the Government out of an internal tax of at least one or two hundred dollars.

Take also the case of whisky. We expect to derive a very large revenue from whisky. We send over our corn to Canada free of duty. It is there manufactured into whisky; and being an article of small bulk, it may be put into vessels and brought back to us, smuggled in, and it comes in substantially free of duty. In consequence of this system tobacco, whisky, and many other articles are manufactured in Canada merely for the purpose of being smuggled into the United States. It is plain that that system of commercial relations ought not to exist. It is against our interest, and we should not and ought not to tolerate it. Without extending the discussion of this question any further, it seems to me plain and manifest that it is our interest to abrogate this treaty, and either to make another or at least to postpone a reciprocity treaty for some future day. I shall therefore vote for this resolution with great pleasure.

Mr. COLLAMER. Mr. President, I do not desire to occupy the time of the Senate at much length. I have, however, some views about this treaty which, perhaps, do not exactly fall within the remarks of any gentleman who has spoken upon it. I have been somewhat conversant with the history of the treaty. I had occasion to be. I know that many efforts were made by the Canadian people to secure this treaty from the United States which were unsuccessful. I know why they were unsuccessful. I know that this treaty was finally made, and I think I know why it was made.

In the first place, I wish to have it understood that for myself I am utterly opposed to the reg-

ulating of duties or imports by a treaty in any case whatever. I think it at war with the theory of our Government. When the Constitution provides that bills for raising revenue shall originate in the House of Representatives, no measure regulating revenues should originate anywhere else; and all treaties made with a view to shape that revenue, to my mind, are contrary to that provision of the Constitution. I do not mean to be understood as saying that if a treaty is made which provides that it shall be adopted by law to go into effect, and that law is made agreeably to the treaty making the duties, that that law is not constitutional; but I object to that mode of initiating such measures. I object utterly to the House of Representatives ever being invited by the treaty-making power to throw out of their control and out of their reach the shaping of their tariff duties as the circumstances of the country may require them. They should be held in the hands of Congress. The exigencies of times demand it. It should always be there. If we make a treaty providing for duties and discriminations, and even if the House and Senate pass a law pursuant to it, do you not perceive that the House have their hands tied up while that treaty lasts? They cannot repeal that treaty and make a new one whatever may be the exigencies of the country. The honorable Senator from Ohio has very well remarked how we are embarrassed now in relation to our internal duties, which the exigencies of the time require, by the operation of this very treaty. It is to me a matter of astonishment, and always has been, that any House of Representatives ever could be found that would agree to tie up their hands in that way; but they have done it by this treaty, and I think the sooner we get rid of it the better; and I hope that by the lesson which this teaches us we shall be sure to guard against its repetition.

It was that reason which governed my mind, when I had the honor to be in the Cabinet of the country, in rejecting altogether any proposition of a treaty of this character; and I believe the sentiment of the Cabinet at that time was unanimous on the subject. I know that when it was talked of then in conversation with southern friends they were entirely unwilling on policy to make such a treaty, on the ground that they did not wish the Canadian productions to compete with their own in our market. They had sense enough, as we all have, I apprehend, to see that you could not go and make an advantageous or reciprocal bargain with Canada by agreeing to give them the market of this country of thirty million people for the purpose of our getting their market of three million people for the same productions; for they produce the same things we do, with the exception of cotton, I believe. Those articles enumerated in the treaty that are to be passed free of duty are the common productions of the two countries. We open to them a market of thirty million people, and they give us a market of three million. What sort of reciprocity is that?

I have said that southern gentlemen with whom I talked on the subject understood that as well as we did. But how came it about that they ever agreed to it afterward when they were in power? I think I understood the reason. There had been a great deal of restlessness and uneasiness in the people of Canada for a long number of years. There are some elements of that to be found in the French population there at all times; but it had been increasing and had led to open outbreaks in most of them. Much of that was to be ascribed to this feeling: "We are crippled; we have no market for our products; they are taxed in going into the United States so much that we cannot compete there; they do not mean to have foreigners compete in their own market against their own people, and therefore we cannot make a market there; and as to England, since she got rid of her navigation acts and entered upon the system of free trade, we get no advantage from being colonies of England at all; her markets are open to all the world, and we have no advantage in being colonies. We are cut off and competed with there by the United States productions, and yet we cannot compete in the United States." Well might they complain, for they were penned up in that way. That was their condition. They were restless under it; and a very extensive feeling of a desire of annexation to the United States prevailed in Canada. It is very well known. Was

it not the policy of England to quiet that feeling if she could? Was it not to the advantage of Canada to get a market of thirty million people here without paying any duties? Certainly. If you could give to Canada a treaty of that kind by which the people of that country might have all the advantage of our market, and not pay anything to our Government, would they not be content then with their situation? Of course they would. And, sir, from the date of this treaty you have never heard of a whisper of discontent in Canada. They can have the whole sweep of our markets, all the advantages of this Government, without contributing a cent for its support. That is their condition.

I remember well that on one occasion here after the making of the treaty, and soon after I had the honor of a seat in this body, when this question came up collaterally, I plainly stated that that was the motive with which that treaty had been made; that it had been made with a view to quiet the people of Canada and prevent their annexation to the North, which might disturb the "balance of power" of our southern friends, and Mr. Toombs, then sitting on the other side of the Chamber, bowed very low to me and said, "We have got the treaty; they have been quieted."

These remarks will show what was the history of it; how it came to be made, in my opinion; why it was made by those who were then in power. It was made for the motives and purposes which I have thus explained, and which they never thought of denying. Indeed they thought the ingenuity with which they had concocted it was rather a feather in their cap.

I acknowledge that I have some prejudice against this treaty. I am a little situated as my old neighbor Judge Chipman was when he was called upon to testify whether a certain witness was a man of truth. He said he was not. He was then asked, "Sir, are you not conscious that you labor under a prejudice against that man?" He answered, "I think it likely that I am; I have detected him stealing two or three times." [Laughter.] I am much in that condition about this treaty.

As to the operation of the treaty itself, I do not think that a man living in a State contiguous to the border and having intercourse with it, as I have had, can be mistaken or need any tables about it. He does not need any of these statistics. We know—the tables so state—that under this reciprocity treaty they have taken from us in eight years about \$70,000,000, while we have taken of those very same articles from that three million people to the amount of \$114,000,000. I wish to be exact in my statement. The amount received by them under the treaty free of duty since it went into operation was \$73,000,000, and the amount received by us from them \$115,000,000; and yet we had thirty million people to produce and they had but three million.

Sir, the treaty has been an embarrassment of things here at all times, in every respect. Take an illustration of this kind, for instance: a very large tax is collected in England to a heavy amount on hops; we are now compelled to look to everything we can lay our hands upon in the way of taxation in our present necessities; why do we not lay a duty upon hops? They raise a very heavy amount in excise in England in that way. Ask the chairman of the Committee on Finance, and he will tell you that you cannot lay a duty on hops because the Canadian hops are in the way. That is one illustration; but I might go on with a great variety. You cannot lay a duty on hops because our farmers are borne down already with their reciprocity treaty with Canada and the price of labor, changing as it does. Sir, it is high time we were rid of it.

Mr. President, I ought here to say in justification of myself that I shall not vote for the repeal of the reciprocity treaty from any feeling of resentment at the present moment, though there has been much occasion for it; because in my State there has been but one opinion about it all the time. They have seen and know its operation there, and there has been but one opinion of it. I believe our State Legislature some time since passed a resolution directing us to endeavor to get this reciprocity treaty ended.

Mr. HOWE. If the Senator will pardon me for a moment, I should like to be informed how early the Legislature of Vermont did that?

Mr. COLLAMER. I cannot fix the date now; it has escaped my memory; but it was more than two or three years ago. It has not been since these difficulties commenced.

Mr. FOOT. The sentiment of our State was against it long before this war commenced.

Mr. COLLAMER. Oh, yes; it has nothing to do with the present temporary excitement of the border. That has all occurred within a year, and the Legislature was not sitting then, and they could not pass any resolutions in consequence of that.

Now, sir, in relation to the fisheries, I do not so well understand that subject as the people of Maine do, and they will speak better on that subject than I can. I do not live near the fisheries; I live in the interior, though not quite so far, I believe, as the honorable Senator from Minnesota, who has spoken about it. But so far as I can hear, although all the collectors of the ports on the coast as low down as Connecticut have been written to on this subject, I believe there was but one single report that objected to the termination of the treaty, and that was from Gloucester. I believe Gloucester entertained some different sentiment about it; but I believe that was the only exception. Sir, can it be possible that the Canadians, with their fisheries and their fishermen on the ground fishing right at their door, with the right to send their fish to our market, we having agreed to give them the whole market of America free, do not have an advantage over our fishermen, who have to go in vessels far up that coast and bring them home, and who can only sell them by paying duties at least upon the salt which they have to carry out with which to salt the fish? The Canadians can bring their fish here free of duty and free of taxes. All the expenses of shipping, all the expenses of the outfit and title, and everything of that kind, rest on the American and not on the Labrador man.

The same is true with regard to lumber, for instance. Can our friends of Maine, or in the western country, compete with these people at the present price of labor, &c., in America, when they bring lumber here free of duty from Nova Scotia and Canada? Why, sir, it is impossible.

But in relation to the fisheries, I would ask how many fish do you suppose our people have sold to the Canadians? I have not the means of knowing. But do you think it is a very good bargain for a Yankee and a trader to say to them, "You may bring here all the fish you catch on the coast of Labrador, Newfoundland, and everywhere else free of duty if you let us carry our fish to you free of duty?" Of course they agree to that, and they will bring their fish here; but we never carried one there, and never will.

A word about the navigation of the St. Lawrence. It has been my misfortune to know something about it. In the first place I will say that the navigation of the St. Lawrence is not good for anything to anybody, and never was. It is frozen up six months in the year, to begin with; and in the next place it is so dangerous from the icebergs which form off the Gulf of St. Lawrence that I believe the Canadians have lost no less than five of their steamers within the last three years, and the rate of insurance is from one to two per cent. higher there than from any other port in America, and always has been. They themselves are hard at work subsidizing our friends in Maine to let them have the use of a railroad to get away from the St. Lawrence. How is a trader depending upon the navigation of the St. Lawrence for foreign goods, by which he can only get them once a year, going to compete with a man sitting right down beside him, who brings his goods through the United States, and can get them once in three months? He has got to furnish his whole stock for one year, and lay it by, because he cannot be supplied but once a year. The truth is, this navigation is not fit for anything. I know they have sent out a few ships from the western country. They thought it would be valuable. I did not believe it would be of any value then, and I do not believe it now. Very few of these vessels have ever come back.

Something has been said about the use of the canals on the river; that is, by the Niagara and the Welland canal, and thus down the river. The treaty gives us the navigation of those canals, or rather it does not give it, but says we are to have it on the same terms with their people; that is,

paying toll. One would think that that meant to pay exactly the same tolls that they do; but just look at it. They have provided there, since this treaty was made, that if a vessel passing through those canals passes down to, and is destined to, and lands at a Canadian port, it shall have a drawback of so much per cent. upon the tolls. If it comes to an American port it must pay the whole toll, and there is no drawback. If it goes to Montreal, or any Canadian port, then it is to have a drawback. The agreement was that we should be allowed to use these canals on the same terms with them; and they say we do have the use of the canals on the same terms; but we want to go through those canals, and land at Oswego, for instance, or Rochester, or Ogdensburg, or any of the ports of the State of New York; but you cannot have any deduction there. Does not that give an advantage to their people? They say it does not; that according to the very words of the treaty they charge their people the same tolls if they go to the same place.

That is the manner in which we are treated about that; and it is just so about the duties. They make discriminating duties against us. When, in consequence of their increased indebtedness for their internal improvements, they were obliged to raise their duties, and laid them even upon British as well as all other goods, and they were asked by Lord John Russell, "Why is it that you have increased the duties on British goods?" they replied, "We were obliged to do so; but at the same time we changed them, you know, from specific to *ad valorem* duties, and gave the advantage by that to Great Britain." "Ah, well," said he, "we are satisfied; you have given a satisfactory answer." That is, they had shut out the American people. Look at your tables and see how the exportation of everything subject to duty has been run down, and you will see the truth of this.

I do not think it worth while for me to take up any further time in relation to the subject. I have briefly stated my view of it without going into the details, which I think was sufficiently done by the Senator from Massachusetts.

Mr. HOWE. Mr. President, in spite of the testimony piled up here against this treaty, I am obliged to think still that if it is to be repealed, we are not the parties to do it, and I propose to tell the Senate why I think so. I propose to speak in behalf of what I believe to be American interests and not Canadian interests; and I suppose it is in defense of precisely those interests that every other Senator on this floor has spoken; and yet, sir, it has seemed to me peculiar that this resolution should have had the history it has had. The measure was inaugurated in the House of Representatives on the first day of the last session. The appropriate committee to consider the subject, as I conceive, the Committee on Commerce, taking it under consideration, deliberated upon it, and although they thought the treaty was not just and equitable in all respects, they thought it ought to be amended rather than repealed. Nevertheless, the House of Representatives did not give us the benefit of its opinion on it until the commencement of this session; then by a majority of votes they passed the resolution which came here providing for giving notice for the abrogation of the treaty. The Senate received the resolution, and by its vote referred it to the Committee on Foreign Relations. Now, sir, this resolution looks toward the abrogation of an existing treaty, it is true, and *prima facie*, therefore, there would seem to be some propriety in referring it to the Committee on Foreign Relations that we might have their advice as to whether it was likely that its repeal would disturb the concord existing between the parties which made the treaty; but the treaty at which the resolution is aimed relates wholly to the trade between the two countries whose Governments executed it; hence there would seem to have been a manifest propriety in consulting the Committee on Commerce, that we might know how our commerce was to be affected by the proposed action. Moreover, that which the resolution proposes to do is not only contemplated but is expressly permitted by the very terms of the treaty. Manifestly, therefore, no hostility could be engendered by the proposed action, and yet the Senate sought the advice of the Committee on Foreign Relations on an affair which could not possibly disturb our foreign relations, and declined the advice of the

Committee on Commerce, when the affair cannot fail seriously to affect our commerce.

It is not for me to say why this direction was given to the resolution by the Senate, but I could not forbear to call the attention of the Senate and the country to the extraordinary fact that when we are asked to join in a resolution which strikes at a trade of millions, we do not stop to inquire how the blow will affect that trade, but only if it will lead to war.

Mr. SUMNER. Will the Senator allow me to make an explanation?

Mr. HOWE. Certainly.

Mr. SUMNER. Allusion has been made to the original reference of this subject to the Committee on Foreign Relations, not only by the Senator from Wisconsin, but also by other Senators. I merely wish to say that I believe that reference was according to the traditional usage of the Senate; that according to that usage all questions relating to treaties or negotiations are referred to the Committee on Foreign Relations; otherwise the great body of the treaties of the country, relating as they do to commerce, must be referred to the Committee on Commerce, or be referred to some other committee which may be supposed, according to the suggestion of the Senator, to be more particularly interested in the subject. The Committee on Foreign Relations is supposed to be so constituted as to treat intelligently all the topics which become the subject of negotiation. On that account, as I understand it, this question was referred to that committee.

Mr. HOWE. Mr. President, I do not propose any reconsideration of the action of the Senate had at that time. At least I do not propose to take any vote reconsidering it. I thought, with due deference to the Senator from Massachusetts, that this was a peculiar direction to give the resolution, and I thought it was extraordinary. The Senator from Massachusetts says that it was in accordance with the usages of the Senate. I am so new to the Senate that I no more feel authorized to speak upon the question of its usages than according to the Senator from Vermont my friend from Minnesota was authorized to speak upon the subject of the fisheries. I will not undertake to discuss, then, with the Senator from Massachusetts, certainly, what has been the usage heretofore. I speak of the fact—there is no question about that—that we asked only in reference to an interest which we knew could not be disturbed, and we asked not a question in reference to its effect on the commerce of the country, about which there is at least some doubt.

In due time the Committee on Foreign Relations reported a substitute for the resolution that came to us from the House of Representatives, recommending its passage, as I understand. They gave us no reasons why it should pass, and until today I had to look elsewhere altogether to find any statement of the objections which are relied upon against this treaty. To-day we have heard from the committee, through its chairman; we have heard from other Senators in support of this resolution.

Now, sir, I think I am possessed of the reasons which urge gentlemen on to the passage of this resolution; and what are they? The first objection urged against the treaty is that it is unconstitutional. It is gravely urged here, it has been urged elsewhere—

Mr. COLLAMER. Did the Senator understand me to urge that?

Mr. HOWE. I did.

Mr. COLLAMER. I did not urge any such ground.

Mr. HOWE. I stand corrected, then, so far as I said that that objection had been urged here. I am not incorrect as to its having been urged elsewhere that it was unconstitutional. Unquestionably the Senator from Vermont did not say it was unconstitutional. He says he did not say so, and I do not recollect that he used that language. He did say that he did not like this way of regulating trade and regulating duties. He did say that the Constitution gave to the House of Representatives the right to originate revenue bills, and I understood him (although I cannot repeat his language) as urging that when the treaty-making power assumed to make treaties of this character it was trenching on that prerogative of the House of Representatives. If the Senator from Vermont did not mean to carry his argument to

that extent I know not what force the argument has here. Elsewhere it has been carried to that full extent.

Mr. COLLAMER. The gentleman's speech may go where mine will not. I did not urge that it was unconstitutional. I did say from a view of the provisions of the Constitution that I thought there was an impropriety in the treaty-making power initiating any such thing; and they ought not, though they may have the constitutional right, tie up their hands in such a way.

Mr. HOWE. The Senator from Vermont will certainly believe that I have not the slightest wish to place him in any position that he does not choose to occupy himself. Having heard the argument from another quarter I was very likely to misinterpret the exact position that the Senator himself meant to assume. But I know, sir, and you know, that it is very much of an American habit to insist that everything that we do not like is unconstitutional, and that everything we want the Constitution demands; and hence I believe it could be made to appear, if we were to canvass the Senate at the present time, that there are Senators on this floor to-day who would insist that an act of Congress could emancipate all the slaves in the United States; and I believe we could find others on this very floor who would insist that that little thing could not be accomplished even by an amendment of the Constitution through the sovereign power of the people. I am not here to find fault with the habit; like all habits that I know anything about, it sometimes leads us into inconsistency. But in debate upon this very measure elsewhere it was claimed that the Constitution reserved to the House of Representatives the prerogative of originating revenue bills, and that therefore it was distinctly asserted that so far as this treaty was a positive or a negative revenue measure it was unconstitutional. In other words, it was asserted that inasmuch as the Constitution gave the House of Representatives the prerogative of originating revenue bills, so far as this treaty did or did not propose to raise revenue, it was unconstitutional.

I think that is carrying the argument a great deal too far. I think it is extending the prerogative further than any one is justified in extending it. The power to originate revenue bills is no more distinctly or broadly given to the House of Representatives than is the power to make treaties given to the President and the Senate, and if any treaty which they may make can be added to upon the ground that it trenches upon the prerogatives of the House of Representatives, we have the same right to say that every act of the House of Representatives infringes upon the prerogatives of the treaty-making power. In other words, if the prerogatives of the House of Representatives are to be protected and defended, and if they are paramount to the prerogatives of the treaty-making power, I do not know when or where a treaty can be made without consulting the House of Representatives.

We have been told elsewhere that in bills of supply in the British Parliament, so jealous are the Commons, that in the preamble the name of the House of Lords is omitted, the enacting clause reciting the grant as wholly their own. However valuable this may be to us as a piece of constitutional history, I think it much more important to this debate to remark that in bills of supply enacted by Congress a very different principle prevails. They do not go in the name of the House of Representatives alone, and if they did attempt to go in the name of the House of Representatives alone they would not go far. Unquestionably, that is a valuable feature in the British constitution; but the same feature, I do humbly submit, is of no sort of value here. It is a valuable feature there, because the Commons of England are the only representatives who derive their authority from the people of England and are responsible to the people of England; but every department of our Government is directly or indirectly amenable to the people and derives its authority from the people.

I must insist, however, that this compact of 1854 does not infringe upon the prerogatives of the House of Representatives for two reasons which seem to me conclusive. The first is, that it does not assume to raise revenue, but simply to regulate trade; and secondly, because it is not a bill but a treaty. And I want to say further that



the treaty-making power is not to be held subordinate to the prerogatives of the House of Representatives, nor even to the legislative power of Congress.

To Congress is given the power to regulate commerce with foreign nations; and if that power is paramount to the treaty-making power, Congress may impose what restrictions it pleases on trade with one nation, and give what freedom it pleases to trade with another; and yet most of our commercial treaties contain a stipulation in effect that no restriction shall be imposed on the trade of the nation contracting which is not imposed on the trade of the most favored nations. Are such compacts as that unconstitutional? They are if the treaty-making power is subordinated by the Constitution to the authority of Congress.

Congress has power under the Constitution to declare war; but it having declared war, cannot the treaty-making power make peace? Congress is bound by the declaration of war if its authority is paramount to the treaty-making power. Congress may "provide and maintain a navy;" but is the treaty which restricts the naval armament on the lakes unconstitutional? I have never heard this asserted.

I think the objection that this treaty is unconstitutional is not only unsound but it comes very late. Both branches of Congress have affirmed the validity of this treaty, if it needed any affirmation, and the Government has acted under it already for ten years. Assuming, therefore, that the treaty is a valid one and will stand if you let it, let us look a little further and see whether you ought to let it stand.

But it is objected that the treaty operates unequally, and that our neighbors instead of ourselves appropriate the lion's share of its advantages. It is said it has but the name and not the substance of a reciprocity treaty. If the fact be so, that is a sufficient reason for its repeal, and there was no necessity for resorting to an objection so groundless as that of its unconstitutionality. And I think it fair to assume that if the fact had been so, no such objection would have been raised. I think it evident that if the opponents of the treaty could have established its injustice they never would have asserted its unconstitutionality; and I think it fair to assume that if the fact had been so, if its injustice could have been established, no such objection as its unconstitutionality would have been raised. I think it evident that if the opponents of the treaty could have established its injustice they never would have asserted its unconstitutionality; and I think it equally evident that if they had not utterly failed to maintain its unconstitutionality they never would have ventured to assert its injustice in the face of the official evidence we have of its actual effects and operations.

In the desperate endeavor to make a case against the treaty, its enemies drift about from one fallacy to another, hoping out of many groundless cavils to construct one solid reason. The struggle is a vain one. We might as well hope out of a great deal of sea foam to construct a quarry of granite.

What is the injustice with which the treaty is charged?

First, it is said that in four years prior to the treaty we imported of free goods \$4,107,392 in value, and of dutiable goods \$15,002,634; whereas in four years after the treaty was adopted it is said we imported of free goods \$59,418,925, and only \$2,150,394 of dutiable goods.

I give you these figures because I find these figures in the arguments which have been made against this treaty elsewhere, and because I see in them an attempt to stun the American Congress with an array of figures upon the assumption that figures must always mean something, let you find them where you will. But what does this mean? What is the only significance of this array of figures? It means just this, and no more: the treaty is gravely assailed, that treaty which transferred a large number of articles from the taxed list to the free list, because after it was adopted more free goods and fewer taxed goods were imported than before the treaty was adopted. Sir, do you think the negotiators of the treaty, those who made it and those who ratified it in this Senate Chamber, anticipated any other effect from it than that? When they said that almost the entire

of our raw material might come, and come free, which had before been taxed, did they not expect that more free goods would be imported and fewer taxed goods than had been before?

That is the first objection against the policy and the justice of this treaty. That is significantly pronounced to be "the first effect of reciprocity." It is the first effect of reciprocity. If any one sees fit to find fault with it I do not.

But, sir, if in this respect the treaty sins against American interests, I ask does it not also sin against Canadian interests; for the very same tables will show you that in the very same years before the treaty, to wit, from 1850 to 1853 inclusive, Canada took from us of free goods only \$4,165,413, and after the treaty, in the same years as before, from 1856 to 1859 inclusive, Canada took of free goods \$35,911,820? Then, if the treaty increased our imports of free goods, it increased their imports of free goods; if it sinned against our interests it sinned against their interests. The fact is that it is precisely the effect both parties contemplated and knew must follow.

Again, it is said that in 1858 we imported from Canada of dutiable goods only \$313,953, while Canada imported from us of dutiable goods \$4,524,503. This is called "the next exhibition of reciprocity." Now, sir, observe here is an attempt to condemn a treaty which has been in operation ten years, by stating its operation for a single year, and this is not the only character or nature of the attempt. They attempt furthermore, by these arguments, and the like arguments have been repeated here to-day by two or three who have spoken in support of this resolution, to make us condemn this treaty which regulates a trade in certain articles, by piling up before us what is done in the trade in other articles which the treaty does not touch. And that is not all; they attempt to stun us here to-day, as they have before elsewhere, by telling us of the immense amount of dutiable goods which we send to Canada since the negotiation of the treaty, and contrasting it with the small amount of goods that we buy from Canada, as if we are actually being ruined by the amount of dutiable goods that our Canadian neighbors purchase from us.

The pretense really is no less than this: that we are impoverished by every dollar's worth of goods that we send abroad and sell to other countries. The argument is that we are in danger of being ruined by the amount of goods foreign countries purchase from us. If this is so we shall have England in a very uncomfortable place in a short time, for we are purchasing goods very largely of her; she is sending a great many taxed goods to us, which we take. I supposed that the fact that we were able to send goods abroad in spite of duties levied on the boundaries, in spite of all restrictions, was an evidence and an element of our wealth.

I shall not dwell longer on these objections. Really they cannot be insisted upon; they cannot be believed in. The treaty is not to blame because we buy and sell more free goods since it has been contracted than we did before. The treaty is not to blame because Canada continues to buy from us goods which the treaty does not make free and we do not buy from her goods which the treaty does not make free. This is not the fault of the treaty.

The next accusation is of a graver character. It is said that by the treaty "the ancient laws of trade have been subverted, and our exports to Canada, which formerly exceeded our imports, are now greatly less;" that "they sell to us, but go elsewhere to buy." This is a grave accusation; and if it were true I myself should insist upon the repeal of this treaty; for I hold that in times like these it is of the very first importance that we limit our purchases from abroad to the lowest figure, and I hold that it is one of the great faults of our system of finance at the present time that we are more ambitious of getting revenue from duties than we are to limit and restrict our foreign debt. But I do not concede that the fact is as stated. The evidence is to the contrary. The report of the Secretary of the Treasury, made upon a call of the House of Representatives on the 1st of February, 1864, which has been referred to in this debate already, shows a balance of trade in our favor in every year except the years 1860 and 1861. If that report tells the truth, instead

of the ancient laws of trade being subverted, the ancient laws of trade are preserved. The balance of trade between us and Canada used to be in our favor before the treaty was made, and according to that report it has been in our favor every year since the treaty was made, with, as I said, the exceptions of 1860 and 1861.

In 1860 he states the account as follows: our imports from Canada were \$23,851,381, while our exports were \$22,706,328. That would show a balance against us, if these figures are correct, in that year of \$1,145,053. For 1861 he states our imports at \$23,062,933, and our exports \$23,741,613, making a balance against us of only \$317,320.

The fact that these small insignificant balances are stated against us in two years out of ten, and that from a trade growing from \$12,000,000 to \$40,000,000, would not be a grave offense in the treaty, I think.

But, sir, there are very strong, if not conclusive, reasons, for believing that this account is not correct. In this account made from our own Treasury Department our exports to Canada for these years are stated at less than they are in the Canadian reports. For 1860, in this account our exports to Canada are stated at \$14,083,114, whereas the Canadian reports state our exports for that year at \$17,273,029.

Our exports to Canada in the report of our own Secretary of the Treasury are stated for 1861 at \$14,361,858, while the Canadian reports state them at \$21,069,388. If the Canadian statement of our exports is correct, then in these years, as in all other years, there has been a large balance of trade in our favor under the treaty.

But it is urged again that we exported in 1863 to Canada no less than \$3,502,180 in gold coin, and from that fact the inference is rashly drawn, as I conceive, that no less than \$10,000,000 in coin or its equivalent are annually exported to settle our balances. Because in a single year it was found that there was an export of \$3,000,000, it is supposed that we must have exported \$10,000,000 to settle our balances; and while enforcing that argument upon us they forgot to tell us that in the very same year there was imported from the very same country through one single port of ours no less than \$4,892,195 in coin. If an export of \$3,000,000 in gold warrants the conclusion that \$10,000,000 are annually required to settle our balance, what is the inference from an import of \$4,000,000 for the same year?

Again, it is objected that "in the first four years after the treaty came into operation we received of the list of articles named in the treaty \$28,721,691 in value more than Canada received from us." This is urged as the most flagrant offense in the treaty. "If this be reciprocity," it is said, "the less we have of it the better." I agree with the sentiment entirely, but not with the fact. The difference was great, but not so great as is alleged.

Our trade in those years was as follows: our imports were \$49,708,139, and our exports were \$30,015,051, making a difference of \$19,693,088, instead of \$28,721,691, as was stated. Even of such reciprocity I have no hesitation in declaring that I should have said the less the better, and we have been having less and less of that kind of reciprocity ever since. I have given you the statement of our trade in the first four years after the treaty was made, let me give you the condition of the trade in the last three years for which we have reports. In 1860 our exports to Canada, (for I am now speaking of our trade with Canada alone, and it is said truly that our trade with Canada is much the largest item of the whole commerce, and it is also said that our complaints against Canada are much greater than against any of the other provinces,) our exports to Canada of goods made free by the treaty were in 1860 \$7,069,098, while our imports were \$16,300,377. There was a large balance against us. In 1861 our exports were \$9,980,937. Our exports had increased. Our imports for the same year were \$14,293,922. Our imports had decreased. In 1862 our exports were \$14,430,026; a large increase, and our imports were only \$12,807,364; a still greater decrease. In those three years the aggregate of our exports was \$31,480,661, and the aggregate of our imports \$43,401,663. The difference against us for those three years was \$11,911,002, whereas the difference against us for the first four years, as we have seen, was \$19,000,000. But I have stated here only our trade with Canada.

Mr. FARWELL. If the Senator will permit me, as I do not propose to say anything on this subject, I should like now to inquire of him whether these figures as to the exports of the last three years are not based on the currency value?

Mr. HOWE. They are the values taken from both the Canadian and the Treasury reports.

Mr. FARWELL. But the currency value of our exports is their basis, no doubt, which would make quite a difference.

Mr. HOWE. I have not considered that question; but before we can judge correctly of what this trade really is we must take into consideration what it was with the provinces other than Canada during the same years.

In 1860 we exported to the other provinces mentioned in the treaty, of free goods \$7,502,839, and we imported from those provinces of these goods \$4,227,819, a balance largely in our favor. In 1861 we exported to the same provinces \$7,133,734, and we imported but \$3,719,701. In 1862 we exported to these provinces \$7,369,905, and we imported from them but \$2,856,990. The aggregate of our exports to these provinces for these three years was \$22,006,678, and the aggregate of our imports was but \$10,804,510, so that whereas there was a balance against us for those three years' trade with Canada in the articles made free by treaty of \$11,911,002, there was a balance in our favor in the trade with the other provinces in the same articles, almost precisely equivalent to it, to wit \$11,201,988.

Now, I cannot forbear to call the attention of the Senate to one very peculiar fact, that during these four years (and it was equally true of the six years during which the balance of trade under this treaty was undeniably against us, and largely against us) we never heard a word of complaint about it. It is only now when the balance is in our favor, when we begin to derive some positive advantage from it, that we witness this clamor for the speedy and prompt abrogation of the treaty.

Put the statements of our trade with the Canadas and the other provinces together, and they show that there was a balance against us in 1860 of \$5,956,259; there was a balance against us in 1861 of \$898,952; there was a balance in our favor in 1862 of no less than \$6,136,177.

Again, Mr. President, it is said that what articles can now be exported to Canada free under the treaty had the same freedom to be so exported prior to the treaty; that mere self-interest would have compelled an adherence to that policy whether the treaty had been made or not. Here we are told that we secured no advantages under the treaty, but gave great advantages; that what goods we can export free under the treaty we could have exported free under ordinary laws before the treaty was made. If the fact were so, this of itself would undeniably be a reason for repealing the treaty; but the fact is not so, and how the statement could have been made in view of the official facts before us all, I cannot well conceive. I will quote again from the report which has been referred to so often. In 1855 we exported to Canada \$7,725,572 of the goods made free by the reciprocity treaty. In the same year we exported only \$1,653,632 of goods which were free by ordinary laws. Without reading the state of the trade for each year from that time down to 1862, I will content myself, having given the exhibit for the first year, with referring to the last two. In 1861 we exported of goods made free by the treaty to Canada \$9,980,937, and of goods which were free by ordinary laws we exported only \$1,878,510; in 1862 we exported of goods made free by the treaty \$14,430,626, and of goods which were free by ordinary laws only \$2,083,451; and with these facts before us we are told that we get no advantages under the treaty, but that what we can send free under it we could have sent free under ordinary laws before the treaty was enacted.

Again, it has been urged here and elsewhere that hostile changes have been made in the Canadian tariff since this treaty was enacted. Sir, I shall not enter into any defense of Canadian legislation. I hope, for the honor of mankind, Canada has legislated for her own interest; and I wish to God I could feel that we were about to legislate for our interests here. If Canada has taken better care of her interest than she has of ours, her government have simply done their duty to their people. I wish to-day I could know that

the American Congress would take better care of the interests of the American people than I believe, than I almost know will be taken of the Canadian people by the repeal of the treaty. No man tells us that Canada has legislated in violation of the treaty; and if Canada had legislated in violation of the treaty, it would not have prejudiced us; but outside of the treaty I suppose Canada has done what she could for the protection of her own interest. Is not the field of legislation as wide to us as it was to them? Do we need to whine here before the world in order to obtain a little sympathy because of Canadian legislation?

Besides, sir, we are told that the temper of the provincial government is not such as to entitle them to favor. This is undeniably true. Who stands here pleading for favor to the Canadian people? I am asking for favor for our own people. It is in the name of American interests I ask that this treaty shall not be struck down. Who asks for any favor to the Canadian people or the Canadian interests? I admit they have exhibited a bad temper; that is no reason why we should not exhibit a good one. I admit that they have not been always amiable; that is no reason why we should not be sometimes judicious. We need not lose sight of our senses because they have lost possession of their temper. I have heard, I believe, not of men, but of children, being mad enough to bite their own noses off. I never saw the duty enforced by statesmen until this debate sprang up.

Again, sir, we are told that the pines of Maine, of New York, and of Michigan, must wait for the ax until the black forests of the provinces have been culled and exhausted; that the timber lands of our own States, exposed to this unlimited Canadian rivalry, are indefinitely postponed, and will not be cleared and fitted for cultivation while timber at a less cost can be obtained any where this side of Labrador. That is a dark picture which ought to frighten us, perhaps, and certainly it would seem on the face of the thing that it ought to frighten a representative whose constituents are so largely interested in the value of pine lumber as are my own. Nevertheless, I cannot consent to look pale even before this picture. In point of fact, the pine forests of Maine and of Michigan and of New York are not waiting a bit.

The whole export of lumber from Canada, in 1859, was \$3,556,691 in value. In 1860 it was \$10,051,147. In 1861 it was \$3,693,638. This is the export of Canadian lumber that is to submerge the lumber interests of the United States! And what are these interests? In 1860 the value of the product of lumber in Maine alone was not less than \$6,784,961, almost equal to the whole of Canada. In New England the product of that year was valued at \$12,069,895. New York in that year produced \$12,489,418. All the middle States produced \$26,455,005. Wisconsin, the State I represent, although in that year lumber would scarcely pay the expense of manufacturing it, produced \$4,836,159, and I venture to say, without any figures on the subject, that Wisconsin has in the past year manufactured more lumber than Canada ever exported in a year in her life. The total production of lumber in the United States in 1860 was \$95,912,286 in value. I do not think our forests will have to wait till the forests of Canada are exhausted. I think our forests can stand in competition with the forests of the world.

Mr. RAMSEY. With the consent of the Senator from Wisconsin, he yielding the floor for the purpose, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 11, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. WILLIAM H. CHANNING. The Journal of yesterday was read and approved.

### LIST OF HOUSE EMPLOYÉES.

The SPEAKER laid before the House a letter from the Clerk of the House, transmitting, in compliance with the act of August 26, 1842, a list of the clerks and other employes in his office; which was laid on the table, and ordered to be printed.

## ENCOURAGEMENT OF ENLISTMENTS.

Mr. WILSON, by unanimous consent, moved to take from the Speaker's table Senate joint resolution No. 82, to encourage enlistments and to promote the efficiency of the military forces of the United States.

The motion was agreed to; and the joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

Mr. WILSON moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ILLINOIS CENTRAL RAILROAD.

Mr. WASHBURN, of Illinois. I ask unanimous consent of the House to order the printing of a report made from the Committee on the Judiciary at the last Congress by Mr. Porter, of Indiana—an elaborate report on a question of public interest, which, from some oversight, was not ordered to be printed. I only want the ordinary copies ordered to be printed.

Mr. BROOKS. What is it about?

Mr. WASHBURN, of Illinois. It is in regard to the right of the Illinois Central railroad to charge freight on troops, arms, and other munitions of war.

There was no objection, and it was ordered accordingly.

## RELIEF OF CHAMBERSBURG.

Mr. COFFROTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be, and are hereby, requested to report, by bill or otherwise, an act for the relief of the people of Chambersburg, Pennsylvania.

## RELIEF OF NAVY CONTRACTORS.

Mr. CHANLER. I ask the unanimous consent of the House to introduce a joint resolution authorizing the appointment of a commission to settle and adjust the claims of certain contractors with the Navy Department for reference to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. All those contractors are banded together in this joint resolution looking to extra compensation, a practice in legislation to which I make objection. I object to the introduction of the bill for that reason.

## BRANCH MINT IN OREGON.

Mr. McBRIDE. I ask unanimous consent to introduce a bill to relocate the United States branch mint provided for by the act of July, 1864.

There was no objection, and the bill was read a first and second time.

Mr. McBRIDE. I ask consent of the House to make a statement in reference to this bill. It will be recollected that a bill passed at the last session establishing a branch mint in Oregon, and fixing its location at Dalles City. It is well known that at the time of its passage there was considerable controversy in regard to the proper location for the mint. That controversy was in my State one of a good deal of warmth, and, among the friends of different localities, somewhat acrimonious. There were differences among gentlemen on this floor representing the rival interests as to the proper point, but after full consultation we agreed upon Dalles City as the most eligible, and it was named in the bill. Subsequently the Legislature of Oregon met, and, differing with myself in the action taken, have memorialized Congress on the subject, and have asked the removal of the mint to Portland, Oregon. In obedience to their instructions I present this bill, and shall ask, when the memorial arrives, which it has not, that it may be referred to the committee having charge of the bill. I thank the House for its courtesy, and move that the subject be referred to the Committee on Commerce.

The motion was agreed to.

## WITNESSES IN UNITED STATES COURTS.

Mr. WILSON. I ask unanimous consent to report from the Committee on the Judiciary, for action at this time, a bill to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," so far as the same

relates to witnesses in the courts of the United States.

Mr. SPALDING objected, but subsequently withdrew his objection.

The bill was received, and read a first and second time. It provides that the third section of the act indicated be amended by adding a proviso that in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with or statement by the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court.

Mr. GANSON. I move to strike out the words "or required to testify thereto by the court."

Mr. HOLMAN. I hope the gentleman from New York will not press his amendment. In many States, including that of Indiana, in matters of probate the court is expressly authorized to examine a party; and certainly great benefit may arise from the exercise of that power by the court, and that provision, above all others, should be retained. It would be unfortunate if a court could not call upon a party before it, being an executor, administrator, or guardian, to testify touching any fact connected with the matter before it; and I think a very great mistake will be made if this feature of the bill is stricken out.

Mr. BROWN, of Wisconsin. I would suggest to the gentleman from Indiana that the proposed amendment will not prevent the opposite party from ascertaining from the executor, administrator, or guardian, any fact which they may be personally cognizant of. It merely prevents them from becoming witnesses in their own behalf.

I desire to suggest to the chairman of the Committee on the Judiciary that he shall so amend the provision as to make the rules of the common law, as they existed independent of statute provisions, prevail in reference to the determination of the admissibility of witnesses. I do not believe there has been any improvement by legislation upon the common-law rule.

Mr. HOLMAN. I will remark, in answer to what has been said, that the cases to which this provision specially applies are ordinarily cognizant by the courts. Claims against estates are generally *ex parte*, and it would be an unfortunate state of the law if the court itself, the common guardian of estates and of orphan children, was not permitted to call upon a party present before it, presenting his claim, to testify to a given fact. The court would not do it except in cases of necessity, and to deprive them of that power would, in many instances, work injustice. It does seem to me that the provision can do no harm, and in many cases would be productive of much good.

Mr. GANSON. I will suggest to the gentleman from Indiana that this bill has no effect whatsoever upon the local laws of the States, as it only relates to proceedings in the Federal courts, and they are not courts of probate anywhere. I am opposed to vesting a discretion in the court as to whether parties shall be called upon and compelled to testify.

Mr. HOLMAN. I referred to the local power of probate courts mainly for the purpose of illustrating a principle, for there are cases analogous pending in the United States courts, and in which the same power ought to be exercised by the court.

Mr. JOHNSON, of Pennsylvania. I do not see the difference taken between the court asking a question of a witness and the opposite party asking it. In point of fact, there is no such thing as the opposite party having the right to ask a question of a witness or of a party. It is all done by the court, and cannot be done without the permission of the court. All a party would have to do if he desired a question to be put would be to suggest it to the court, and the judge would propound the question. It is a distinction without a difference.

Mr. WILSON. I believe the provisions of this bill conform to the statutes of most of the States in which the rule of evidence has been so changed as to admit parties to testify in their own behalf; and therefore it conforms more nearly to the rule in force prior to the act of 1863, which adopted the rules of evidence of the several States in the

courts of the United States. And inasmuch as it conforms to the usages and laws of a majority of the States where this rule has been adopted, I think we had better pass the bill in its present form; and I therefore demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question recurring first on the amendment offered by Mr. GANSON, it was put; and there were, on a division—ayes 40, noes 51.

The SPEAKER voted in the negative, making a quorum.

So the amendment was not agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HEIRS OF B. A. BAYLEY.

Mr. KING, by unanimous consent, introduced a bill for the benefit of the heirs of B. A. Bayley, deceased; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### REPORT OF INTERNAL REVENUE COMMISSIONER.

Mr. PIKE, by unanimous consent, introduced the following resolution; which was referred, under the rule, to the Committee on Printing:

*Resolved*, That the Superintendent of Public Printing be authorized to print five thousand copies of the report of the Commissioner of Internal Revenue, with the accompanying tabular statement, for the use of the office of Internal Revenue.

#### REPORT OF CHIEF ENGINEER KING.

Mr. PIKE also, by unanimous consent, submitted the following resolution; which was read, and referred, under the rule, to the Committee on Printing:

*Resolved*, That the usual number of copies of the report of Chief Engineer King upon the iron-clads of Europe be printed for the use of the House, and five hundred extra copies for the use of the Navy Department.

#### POST OFFICE APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1866, which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed and made the special order for Wednesday of next week.

#### AMENDMENT OF INTERNAL REVENUE LAW.

Mr. EDGERTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing or amending so much of the act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864, as imposes a duty of six dollars per cent upon the value of real estate which a widow may acquire as the successor of her deceased husband, to the end that such tax or duty shall not be imposed upon the value of the real estate which the widow may acquire as doweress or heir of her husband by operation of law independent of his power of alienation and of the claims of his creditors or heirs at law, or which she shall acquire by gift or devise in lieu of her dower or other legal interest in her deceased husband's real estate; and that said committee report by bill or otherwise.

Mr. SPALDING. I now insist on the regular order of business.

#### ABOLITION OF SLAVERY.

The SPEAKER. The regular order of business is the consideration of the business in which the House was engaged at the adjournment yesterday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, on which the gentleman from Ohio [Mr. C. A. WHITE] is entitled to the floor.

Mr. C. A. WHITE. Mr. Speaker, this is a proposition to amend the Constitution of the United States so as to prohibit the existence of the institution of slavery throughout the entire territorial jurisdiction of the United States, and conferring upon Congress plenary power to pass

all necessary enactments to enforce this provision of the Constitution. I do not propose at this time to enter upon a discussion of the abstract question of slavery. This, sir, is not so much a question of expediency, in my mind, as a question of right and of power, and as such I propose to discuss it to-day. There are many questions entering into the discussion of this question which are purely questions of expediency; such as the propriety of submitting to the people an amendment to the fundamental law of the land at a time when we are engaged in a most terrible revolution, and when the public mind and the public attention are riveted upon the events which are transpiring daily in our midst, and when it would be almost impossible to secure to this amendment that careful and serious consideration which it demands at the hands of the American people and of the American Congress.

But, sir, I maintain that we have no power, that the Congress of the United States has no cognizance of the subject-matter under consideration so as to affect the status of individuals; that it is solely and exclusively within the power of the States; and that the fifth article of the Constitution providing for amendments does not confer upon the Congress of the United States any jurisdiction or any power beyond the grants and delegations of power plainly and distinctly written down in the Constitution. The very term "amendment" is itself a word of limitation. This is not a change, an alteration, a modification, an enlargement, or a diminution of any provision already existing in the Constitution, but it is a supplement added to the Constitution—a separate, independent, distinct, substantive clause, disconnected with any grant or delegation of power written down in the Constitution.

Did the States, when they ratified the Constitution of the United States, intend by the fifth article of that Constitution to confer upon two thirds of Congress and three fourths of the States unlimited power? If the construction claimed by gentlemen upon the other side be true, it is so. All then that you would have to do in order to make the Congress of the United States as omnipotent as the Parliament of Great Britain would be to change the fifth article of the Constitution, and provide that a majority of a quorum in Congress might amend the Constitution, and that would confer upon the Congress of the United States as plenary, omnipotent, unlimited power over every subject of legislation, ay, sir, it would make the Congress of the United States as omnipotent as the English Parliament. Does any man believe that the people of the States who adopted this Constitution, jealous as they were of the encroachments of centralized power, would have incorporated any such provision as that in the Constitution if they had so understood it?

I maintain, therefore, that the proposed amendment of the Constitution cannot be made of binding force and effect upon the States except by the ratification and consent of the States given in the exercise of the sovereign power of the States; that even the Legislatures of the States have not the power to give the consent. Sir, it is written down in the Constitution, tenth amendment, that "no person shall be deprived of life, liberty, or property except by due process of law."

What is "process of law?" It imports day in court and trial by jury. Is not the right of the master to the service of the slave property? Those who made our Constitution for us and the States that ratified it so understood. I will not allude to the express provisions of the Constitution in which we have a direct recognition of the right to service in slaves as property in fixing the basis of taxation and representation, and in other respects. Every one of the original thirteen States while the constitutional Convention was laboring to effect the completion of that instrument was a slave State; and at the time of its adoption each State except one was a slave State.

That is property which the local municipal law recognizes as property. I cannot accept the doctrine of the gentleman from Illinois, [Mr. FARNSWORTH], that that is property which God makes property. Why, sir, I think that he would have great difficulty in tracing the title of his land if he would attempt to trace it to that omnipotent source. Adopting that doctrine, he would find a link missing in the chain of almost every title in the land.



Mr. FARNSWORTH. I wish to inquire of the gentleman whether if the municipal law should declare him property that would make him property?

Mr. C. A. WHITE. My answer is, that if the local, municipal law provided that another man should have property in my service, my service would be his property. The guarantee of the Constitution is for the enforcement of the local municipal laws by the concentration of the power of the whole people. The parent has the right to the service of his child; he has a property in the service of that child. A husband has a right of property in the service of his wife; he has the right to the management of his household affairs. The master has a right of property in the service of his apprentice. All these rights rest upon the same basis as a man's right of property in the service of slaves. The relation is clearly and distinctly defined by the law, and as clearly and distinctly recognized by the Constitution of the United States.

Mr. FARNSWORTH. I would like to put another inquiry to the gentleman. I understand him to announce the doctrine that any man is property who is made so by municipal law.

Mr. C. A. WHITE. That, sir, is not the question.

Mr. FARNSWORTH. I wish now to ask the gentleman what he understands by the phrase in the Declaration of Independence in regard to man's "inalienable right to liberty." In the opinion of the gentleman, has any man an "inalienable right to liberty?"

Mr. C. A. WHITE. I will come directly to that question—the doctrine of inalienability of rights.

As I was proceeding to argue, that is property which the local municipal law makes property. Everything that we have in this material universe is the gift of God to man for his sustenance, for his support, and for his comfort. This beautiful world and all its treasures were given to mankind in general. They were originally no more the property of one man than another. They were given for the common use of all. But the necessities of society required that there should be separate and distinct rights of individuals with reference to this world and its products; and the appropriation of them by individuals is recognized by the municipal customary law and by the fundamental law of the land. Gentlemen who claim that it is a violation of "the inalienable rights of man" for one man to hold property in the labor of another, might as well claim that it was a violation of "inalienable rights" for one man to appropriate to himself to the exclusion of others any part of this common gift of God to man, bestowed as a common heritage. This is the result of the doctrine. It is a leveling principle; it is agrarian in its character, and once entered upon there is no telling when to stop.

The right to service in slaves, then, is recognized as property. That right of property cannot be taken away from any person except by "due process of law." "Due process of law," as I before remarked, imports day in court and trial by jury. The only power, then, that can reach this question is the omnipotent sovereignty of the State, which rises above and overshadows, controls and molds, every other power and every other right and interest. Why, sir, the right to possess and enjoy property is essential to the very existence of man. We could not live without it. It is guaranteed in the Constitution. Maryland and Missouri have abolished slavery. How did they do it? They did it by the exercise of the sovereignty of the State, and consistently with this provision of the Constitution, guarantying the right of individuals in property. They did it by conventions representing the sovereignty of the State. They did it consistently with the provisions of the Constitution, because the Constitution itself recognizes the sovereignty of the States.

Sir, I am a believer to the fullest extent in that doctrine which has been denounced upon this floor as a damnable heresy—the absolute, unqualified sovereignty of the States. And I believe it is because these States are absolutely and exclusively sovereign that they may, in the exercise of their sovereignty delegated to conventions for the purpose, dispose of this institution of slavery, and that, too, consistently with this provision written down

in the tenth amendment of the Constitution of the United States.

Now, sir, what is sovereignty? It is defined by our law-writers to be the supreme power in the land. There can be but one supreme power; supreme is superlative; there can be none greater. There cannot be more than one supreme power over the same subject-matter at one and the same time. If the Congress of the United States is supreme and sovereign the States cannot be supreme and sovereign. If the States are supreme in power the Congress of the United States cannot be. It is an absolute absurdity and monstrosity to allege the contrary. Why, sir, we should then be in a worse condition than that child who was claimed by two mothers; we should be torn to pieces by these two omnipotent powers. Sovereignty is a thing that inheres in a State, it cannot be parted with, it cannot be alienated. The States could not dispose of their sovereignty.

Now, what is the sovereign power in a State? Is it this beautiful statuary we see around us here? Is it these marble halls? Is it these ornamented columns? the exquisite tapestry we see around us? Is it the Congress of the United States, with the President and the Supreme Court? Is that the sovereignty of the nation—the sovereignty of the State? No, sir; the people are the State. The people are the sovereigns. The people never parted with their sovereignty. For the sake of convenience and from the necessities of the case, millions of people scattered and dispersed over a vast extent of territory must act through agencies and through instrumentalities in making their sovereignty felt and demonstrating it in the administration of government.

We are, sir, here to-day nothing more nor less than the agencies appointed and designated through the proper forms established by the sovereign power in the State to execute their will in the administration of the Government, according to the limitations of the powers which they themselves have imposed upon us. Was it the United States who sent us here as a consolidated mass? We are elected here by the people of the States. The Constitution provides that we shall be. It provides for the apportionment of representation among the States, and that States shall elect members of Congress, and that the State Legislatures shall elect Senators, and that each State acting independently, freely, voluntarily, by its own volition, shall select electors of President and Vice President, and certify the result here. It provides that the President, by and with the advice and consent of the Senate, shall appoint the judiciary. Thus every officer, every man who represents either of the separate and distinct coordinate Departments of the Government, derives his power mediately or immediately through the people of the States by their free, voluntary action in the exercise of the power of sovereignty.

What is the Constitution of the United States? It is nothing more nor less than the prescribed form adopted by the separate and distinct sovereignties through and by which these agencies shall be appointed, and placing limitations to the powers which they shall exercise. And that is all there is of it, delegating the powers that they shall exercise, and limiting the powers to the States. That is the whole scope of the Constitution.

What are the constitutions of the States? They are not the delegations of power, because the State is sovereign, and the constitutions of the States are limitations of power upon the Legislatures, State agencies appointed for the purpose of administering the regular objects of government. One is a delegation and the other a limitation of powers, and we of the Federal Government can only exercise such powers as are granted, and the State government cannot exercise any powers that are prohibited, but it may exercise all that are not prohibited.

Why, sir, you might as well attempt to make me believe that a man can be the subject of two omnipotent Gods, as be the subject of two sovereignties.

Mr. KELLEY. Will the gentleman permit me to ask him a question?

Mr. C. A. WHITE. Certainly, sir.

Mr. KELLEY. Does not the Constitution of the United States provide that that Constitution and the laws made in pursuance thereof and the treaties made under the authority of the United

States shall be the supreme law of the land, anything in the constitution or the laws of any State to the contrary notwithstanding?

Mr. C. A. WHITE. Why certainly it does. Mr. KELLEY. If it be supreme, what other, under your argument, can be supreme?

Mr. C. A. WHITE. It is supreme because these sovereign States, each one speaking for itself, has said it shall be supreme; and it is because we are simply the agents and representatives of these supreme and sovereign powers that it is supreme acting within the scope of the powers they have delegated to us.

No, sir; I claim that the States have not, by any provision in the Constitution of the United States, expressed or implied, conferred upon the Congress of the United States jurisdiction over this matter, that they have never parted with or alienated their sovereignty or any part of it, and indeed they could not part with or alienate it.

But it is claimed that the fifth article of the Constitution delegates this power, and gives the power to amend over every subject, and that it is limited only by the discretion of Congress and of the people. Now, sir, this, to my mind, is an absurdity. I do not believe that there is a State in this Union—certainly not one of the original thirteen States—that would have adopted this Constitution with any such understanding. Why, sir, if that proposition were true, what might not three fourths of the States do? They might impose all the burdens of taxation upon one quarter of the States. I do not believe that any such power as this belongs to the United States, or to three fourths of the States, or can be enforced in the shape of a constitutional amendment.

Now, sir, what is this proposition, and who are most to be affected by it? Why, the eleven States of this Union that now have no voice upon this floor have millions of dollars of property staked upon this issue, and which you propose simply by force of this amendment to wrest from their possession at once without any compensation without any process of law, and in violation of all those great fundamental principles of right, justice, and law, which obtain among civilized and Christian nations. But I am here told that these people are absent of their own wrong. The fact that they are not here gives us no additional power, and confers upon us, as a political body, no additional rights. It is as a question of power and right that I discuss this question. That they are not here does not affect the question of right. Those States are the real parties interested in this matter, except, perhaps, the State of Kentucky. And it is proposed to affect these material rights of these parties without their consent here, and without their consent by means of a ratification of this provision. Now, sir, it is very clear to my mind that this cannot be done.

Mr. Speaker, the discussion upon this subject has been chiefly upon the abstract question of slavery itself. Now, sir, I am not here the advocate of slavery, or the apologist of slavery, and I have no interest in the institution, except so far as I am interested in it in common with every other citizen of my State. But, pass this constitutional amendment, and will it affect the status of individuals within the States designed to be affected by it? Will that make a single man free? If slavery goes down, if go down it must, it will be under the sturdy and stunning blows dealt upon it by your armies; it will be by the application of force to that institution. It will be by driving the rebels to that state of extremity that they will be compelled to crowd the list of their armies with their slaves. I believe that if we drive that people to that extremity and force them to enlist their three million slaves into their armies, with the promise of freedom for their service, that annihilation of slavery by these means will sound the death-knell of the Union forever.

I do not believe with some gentlemen upon the other side of the House that this war is an instrument in the hands of God for the purpose of working out His designs with reference to this institution of slavery. I do not believe that God writes His decrees in the blood of brother shed by brother. I do not believe that this war is of God. I believe further that if this institution is a heinous sin against God, and an offense against the laws of humanity and civilization, as gentlemen claim it to be, that those laws ordained of God from the foundation of time for the government

of the moral and material universe, will finally work out the eradication of this institution peaceably, quietly, without any disturbance of the elements of society.

I believe that these are the instrumentalities through and by which the institution would have finally been disposed of. The heated, unwise, angry discussions for the last thirty years on this question in Congress and out of Congress have done much to strengthen the institution of slavery. Each side has gone to extremes, the one just as far as the other. If we had kept open every avenue of approach to the hearts, consciences, and affections of the people of the South; if we had quietly and peacefully, as Christians, in the spirit of our holy religion, talked over this matter, compared our views and sentiments, thrown open our pulpits to the ministers of the South as to the ministers of the North, and they to us, the work of overthrowing slavery would have been advanced far more than it now is; Maryland would have been free long before this; Kentucky would have been free; Delaware would have been free; Virginia would have been free; and the same influences that operated upon those States would hover in the tier of States lying below until finally the institution would have been wiped out without the effusion of a single drop of blood. Sir, it is to the exercise of these influences and to the arbitrament of the laws of God, governing the moral and material universe, that I would leave the institution of slavery. I would not give the life of the least of our soldiers in the field for the freedom of a hundred negroes; I am for committing the arbitrament of this institution to the determination and solution of those laws.

Sir, what will be the consequences flowing from this provision if it can be enforced and carried out? It is not so much a provision to free the slaves as it is a provision to obstruct and prevent the return of the seceded States to the Union. I will not say that it is intended as an obstruction to prevent the restoration of the Union, but I will say that that will be the only effect of this constitutional amendment if you adopt it. You have already, God knows, thrown obstructions enough in the way of the return of those States. Your schemes of confiscation and of emancipation and of proscription have retarded restoration; and now, by your scheme of constitutional amendment, you will render the restoration of the American Union upon the basis of the fathers an absolute impossibility, and render the restoration of a permanent and lasting peace, founded in the affections, in the consent, in the good-will which every citizen owes and feels toward his Government, an impossibility for ages to come.

I have therefore constantly opposed all these schemes, because I have desired the restoration of the Union of these States, and because I have, in the exercise of the best judgment I could bring to bear, believed that all these measures could only have the effect of obstructing the passage of those States back into the Union. This war having been commenced ought never to have been prosecuted beyond that point at which the people against whom it is waged would have been willing to come back into the Union upon terms of perfect equality, terms that would secure their rights and us our rights, and perpetuate their liberties and our liberties; and, sir, the war is carried on against God and against humanity and civilization when it is prosecuted beyond that point. We have no right to impose new conditions of union upon the people of the South, only so far as the dumb eloquence of numbers and power gives us the right.

But, sir, let me now look at the humanity of this measure. What will be the effect of turning loose in our midst here more than three million men without property, at a time of great political commotion, when all the foundations of society are broken up, and while we are convulsed by a terrible revolution that is rocking the land from one end to the other? What will be the effect of turning loose this mass of people? Where will they go? What do you propose to do with them? Do you propose to enfranchise them, and make them "before the law," as the gentleman from Pennsylvania [Mr. STEVENS] says, the equals of the white man; give them the right of suffrage; the right to hold office; the right to sit upon juries? Do you intend, in other words, to make this a mongrel Government, in-

stead of a white man's Government? Do you intend to degrade the United States of America to the low condition of the provinces of Central America? Is it for that that we are wasting our blood and our treasure? Have we no higher aim or purpose than this in this great struggle in which we are engaged?

That, as I said before, will be the effect of throwing this people on their own resources. They cannot remain South. If you liberate the negro by the bayonet, the tenure by which he will hold his liberty will be only that by which you have given it to him; he will be free just as long as the soldier sets his bayonet between the slave and the master, and no longer. The exodus of the negro race from all these States is absolutely necessary if it would be free. Where can the negro go? Certainly not to the cold regions of New England. Its types of industry, manufactures, are but illy adapted to the nature and capacity of that race.

The Mississippi valley where we are engaged in the simpler pursuits of agriculture is destined to be the home of that people. There we have prejudices, and those prejudices are things which are of ourselves a part. We cannot eradicate them if we would. Force the emancipated negroes upon us, make them our equals before the law, place in their possession the balance of power in this country, let them control the elections and dictate who shall manage the Government of the country, and what will be the result? It is easily understood. Civil commotion and internal strife will follow, however much we may regret it.

The only way, then, to a restoration of a permanent and lasting peace, a peace that will give strength and stability to the Government, and win to it the hearts and consciences of the American people, is to find some basis on which all can stand, which will secure the rights of all, and perpetuate the liberties of all.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed without amendment an act (H. R. No. 595) to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831.

That it had passed with amendments, in which he was directed to ask the concurrence of the House,

An act (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit; and

An act (H. R. No. 620) to supply deficiencies in the appropriations for the fiscal year ending 30th June, 1865.

Also, that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War; and

An act (S. No. 365) in relation to pensions.

#### ABOLITION OF SLAVERY—AGAIN.

Mr. SMITHERS. Mr. Speaker, after the elaborate discussion which this question has received, it ought perhaps to be deemed superfluous to add anything to the matter which has already been adduced in support of the pending proposition.

The locality from which I come, and the people which I represent, are the only considerations which induce me to trespass upon the patience of the House, already sufficiently taxed. Representing a constituency governed by laws tolerating and regulating the institution of African slavery, it is scarcely proper that I should permit the vote to be taken on a measure so important and so material to their interests, without a brief presentation of the reasons which induce me to support it. In doing so I shall not deal with the humanitarian phase of the question, or argue the share slavery has had in originating or maintaining the existing rebellion.

The immediate practical effect of this measure is to abrogate the possibility of slavery in Kentucky and Delaware, and it is in view of the fact that I have the honor to represent the people of the latter State, that I feel it incumbent on me to offer any suggestion in relation to it. Satisfied that the measure is constitutional and beneficial, not only to the Republic, but eminently to

my immediate constituency, I cheerfully accord my vote to the passage of the bill.

In arguing the constitutionality of the question there has but one objection been proposed that strikes me with any degree of plausibility. The power of amendment is so clearly conferred by the Constitution, and the mode so distinctly pointed out, as to preclude question or even cavil as to the authority or the method. Unless the Constitution be itself unconstitutional, there can be no difficulty in the exercise of the power so far as this House is concerned in originating this measure. That instrument has explicitly provided for its own amendment. This power was distinctly surrendered by the States and the people, save only in the two cases expressly mentioned, and except as to them exists without limitation. So in the ratification by the Legislatures or conventions to which it is to be referred; the power is expressly delegated to three fourths to bind the whole, and the act of the requisite number is agreed and declared to be considered as the act of the whole as fully as if each had formally assented and actually adopted the proposed measure. The only question which remains is whether the subject of African slavery is properly and legally within the purview and fair intendment of prohibition by constitutional amendment; and here the objection is raised that we invade the domain of private rights and destroy the vested interests which individuals have in a subject of property.

The mistake of those who propose this objection seems to me to consist in not sufficiently distinguishing between the taking of the thing and the abolition of the tenure by which it is held. I do not entirely agree with those who allege that slavery is impossible in law or necessarily unconstitutional. It has been too long established, too clearly recognized, not only by the acquiescence, but by the express sanction of the Constitution and the repeated adjudication of the courts, for me to deny its legality or doubt the validity of the right. Its origin lost in the remoteness of antiquity, practiced at some time by every nation of the earth, it vindicates its lawfulness by the universality of its existence, and cites as the monument of its title the common consent of mankind. And the sentiment that "that is property which the law makes property," however condemned by the moralist or reprobated by the humanitarian, must be respected by the jurist and accepted by the legislator.

The nature of the right, however, is material in determining the question presented for solution, and the quality of the recognition is equally material in deciding the extent of our constitutional power. How far soever into the past the beginning of the enslavement of mankind may have extended, it is unquestionable that it has its origin in force. It claims no natural sanction for its existence, nor in its operation is it confined to any race. The white man equally with the black has been the subject of its oppressive jurisdiction. The slave pens of Algiers have confined Christian captives until they were haled forth to the auction block; and our boasted Saxon ancestors wore around their necks the symbols of bondage. In this country it has existed from its earliest settlement, and in every colony it found forbearance, if not active effort for its introduction and maintenance. It obtained in Massachusetts as well as in South Carolina, and that it spread more rapidly and endured more firmly in the latter is due perhaps quite as much to the quality of the climate and the adaptation of the soil to the productions rendering its labor remunerative as to the superior morality or intelligence of the inhabitants. Though thus universally practiced, its injustice was too patent not to be recognized, and its tendencies too deleterious not to be mourned. Its existence became soon to be tolerated rather than encouraged, and at the adoption of the Constitution there is abundant evidence, not only of the hope but the expectation, that it would soon cease to prevail. And in this connection it ought not to be forgotten that its introduction into Indiana was denied even by southern slave-owners against the repeated petition of the inhabitants. The invention of the cotton-gin gave a fresh impetus to its expansion, and by rendering it more valuable stimulated its growth. The inventive genius of New England furnished the inducement, and the cupidity of the master, in estimat-

ing his pecuniary advantages, lost sight of the wrong.

Mr. Speaker, I am no apologist for slavery, but I cannot be false to truth by willfully perverting history. The necessary characteristics of slavery are bad enough; it is of itself and in itself wrong enough; its concomitants and consequences are injurious enough to deserve universal condemnation without attributing to the master qualities which sink him below the level of mankind.

It is not true that wanton cruelty and unmitigated oppression were universally or even ordinarily exercised toward the slave. The fact that from four hundred thousand, at the adoption of the Constitution, the race has increased to four million in the space of less than eighty years, is a sufficient evidence that their treatment has been generally humane.

In this respect the slave-owners of the South present a marked and laudable contrast to those of the West Indies, where a different policy prevailed. In the latter it was the accepted maxim that it was cheaper to import than to raise; more profitable to kill than to maintain. The result was visible in the effect. While in those islands at the time of the emancipation there were fewer slaves than had been imported, in the States they have increased to tenfold their original number.

The title by which they are held, and the nature of the property recognized and protected, form the material subjects for our consideration in answering or avoiding the objections proposed to the pending measure. Whatever this right is, it exists only by the laws of the States in which the institution obtains. It has no warrant in nature; it finds no sanction in the enumeration of the subjects of property over which dominion was given to man by the Creator. Whether existing by force of custom, or by immemorial usage, or by positive enactment, its origin is human and not divine. So existing it was confined to the locality in which the custom obtained, or over which the law recognizing it was capable of enforcement. If the slave escaped beyond this jurisdiction, if the master carried him beyond its confines, the bond which obliged him was loosed, the tenure by which he was held was dissolved. The owner could neither retake or detain. That such was the light in which it was regarded by the framers of the Constitution is manifest from the necessity of the clause authorizing the recapture and requiring the surrender. The language in which it is couched is guardedly framed. In this provision it is expressly and intentionally declared that—

"No person held to service or labor in any State under the laws thereof shall, by escaping into another, be deemed to be discharged."

The tenure by which such person was held was declared to be the municipal law of the State—that and that only was recognized as the foundation of the claim. When such law ceased to exist, either by the act of the constituted authorities of the State or by the intervention of a superior power rendering it null, the right was at an end by the abrogation of the authority by which alone it had existence. The property or thing is not taken, but the law is repealed under and by virtue of which we could set up any claim to a slave. The operation of the amendment is upon the law, not upon the subject; its effect is to convert into a man that which the law declared was a chattel; but this effect only followed as the result of ousting the jurisdiction which enables the courts to take cognizance of the claim of the master.

The Constitution specially ordains that—

"This Constitution, and the laws of the United States made in pursuance thereof, \* \* \* shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Providing in terms for its own amendment, the same high and overruling sanction pertains to every provision subsequently ordained in conformity with the mode prescribed.

In conferring this power I have said that the people imposed no limitations except in the particulars specified, and in adopting the very clause they refuse to incorporate a provision which from its connection and language by necessary construction was intended to protect the institution of slavery from destruction by constitutional amendment. Nor to this question of power is it material whether the Constitution is a compact between States or an organic law emanating from

and founded upon the express sanction of the people. In the one case it would inure as a surrender by the States of a right of sovereignty, and would operate upon them in their political capacities as parties to the agreement; in the other as a limitation by the people upon their own power when acting through the agency of State organizations. Nor in the exercise of this power is there any just pretense of right to compensation. This claim inures under the special provision of the Constitution, and then only when private property is taken for public use. It has no reference to the action of the people in ordaining a Constitution, nor are communities restrained by any such limitations in exercising sovereign power over the personal or proprietary rights of the subject in settling the principles of government. Without a provision saving the right there is no restriction; the mode or extent of its exercise depends upon the will of the sovereign.

By the *arrêt* of France abolishing slavery in her colonies, it was done immediately, unconditionally, and without compensation. Great Britain in performing an act of similar character recognized the propriety of payment to the master for the loss of the service of the slave. In either case it was a mere question of expediency, and each sovereignty regulated the matter according to its own discretion.

Having no doubt, Mr. Speaker, as to the right of Congress to initiate this measure, I pass to the consideration of the question whether in voting for it I should act in conformity with the sentiments of my immediate constituents.

Slavery has obtained in the State of Delaware by force of the general customary law to which it everywhere owes its existence, and is regulated by statutory provisions without ever having received the sanction or support of constitutional recognition. Though established by immemorial usage, maintained by force of habit and education, and operated as a political machine, it has never been regarded with affection by the people. Founded only in custom, it has obtained no place in the organic law of the Government, and may at any time be abolished by an ordinary act of legislation. Nowhere does it exist in so mild a form—the master subject to so many restraints, or the slave guaranteed such substantial protection.

The wise and humane sentiments prevailing from the earliest period impressed themselves upon the legislation of the State, and prevented its growth by prohibiting the introduction or extradition of a slave except under specified conditions and stringent regulations.

Regarding him as a person entitled to the protection of law as well as the subject of property in a modified sense; it forbade the master to deal with him as an ordinary article of commerce, by preventing the exportation for sale. It kept his value reduced to the price justified by the demands of a purely agricultural region, in which his labor had no peculiar value, and by prohibiting the introduction from abroad it announced its judgment that such species of population was neither beneficial nor desirable.

Not only is this sentiment manifested by the general legislation of the State; but on more than one occasion the Representatives of the people have expressed their opinion in unequivocal and memorable terms.

In the contest which occurred as to the admission of Missouri, a resolution was adopted by the General Assembly with entire unanimity in the House of Representatives and with but two dissenting voices in the Senate, declaring that in the admission of any State into the Union it was not only the right but the duty of Congress to require, as an inviolable condition, the fundamental provision that it should forever thereafter be free from slavery.

Whatever opinion may be entertained as to the right to exact this condition there can be no doubt as to the judgment of the State in relation to its propriety. In 1845 in the discussion which ensued concerning the acquisition of Texas, the Legislature resolved that slavery was a moral, social, and political evil, and denounced the project of annexation as designed for its extension and perpetuation, and at the following session in 1847, having gone before the people upon the principle of that resolution and being sustained by their votes, the General Assembly adopted the Wilmot proviso.

It is unnecessary to recur to subsequent events to account for the apparent decline of the anti-slavery sentiment in Delaware. In the general abandonment of their manhood by the friends of liberty throughout the whole country we participated, and the hand of freedom went back upon the dial. Again it is moving forward and is fast upon the hour of noon.

Of all those who voted for me I do not know one who would not vote for this amendment; and I am well assured that of those who did not support me there are hundreds, perhaps thousands, who will hail with joy the accomplishment of this great measure of justice, tranquillity, and security.

Mr. TOWNSEND. Mr. Speaker, an impartial listener to the discussion here for the last few days might reasonably come to the conclusion that all those gentlemen who did not favor the proposed amendment of the Constitution of the United States were either enemies of the Union or supporters of the institution of slavery. Sir, on behalf of the constituents whom I have the honor to represent, and on my own behalf, I deny the imputation, and I ask the attention of the House to the reading of a resolution adopted by the House of Representatives July 22, 1861.

The Clerk read, as follows:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital. That in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country. That this war is not waged upon our part in any spirit of oppression or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

Mr. TOWNSEND. Mr. Speaker, in the interpretation of that resolution, in the wise and truly national spirit it exhibits, are to be found the views of my constituency. Sir, the able arguments on this question that have been presented to the House render it assumption on my part to occupy their attention longer than briefly to state that my vote will be found recorded against the amendment on this ground, if no other, that in a time of civil war the laws of society lose their force, and are seldom supplied by those of humanity; the ardor of contention, the pride of victory, the memory of past injuries, the sense of future dangers, all conspire to render the public mind incapable of judging calmly, much less of changing the organic law of the Constitution which the greatest minds have pronounced the greatest monument of human wisdom.

Mr. HOLMAN. Mr. Speaker, I will not discuss the question of political power involved in this amendment. I will consider only the question of expediency.

It is not, sir, the hour of peace and prosperity, but of misfortune, that tests the principles of a Government and the fortitude of its people. The gravest question that ever forced itself on any nation—the gravest because it affects the fortunes and freedom of uncounted millions—is that which we are solving. Will this nation pass through the fiery ordeal resisting the countless tendencies to absolutism of power inevitably incident to a great war, and preserve the form and substance of its Government unimpaired? I trust in the God of our fathers that we shall; but if we do, sir, the virtue and fortitude of our people will stand without a parallel in the history of mankind. That the public mind should be active in seeking expedients to avert the impending danger is but natural. That the several departments of this Government should seek to usurp power on the ever-present plea of public necessity conforms to the experience of other nations. That a great party, flushed with victory, should seize upon such a moment to carry out a leading idea of partisan faith, however much to be deplored, is but the nature and instinct of party. These are but natural, and against them our fathers have arrayed the just divisions of political power, for experience had shown how public danger and apparent necessity had ever suggested the usurpations which changed the foundations of government. But it is remarkable, sir, and a painful consideration, that in the Constitution of our country, so long the subject of eulogy in all quarters of the globe, should be found the cause of



our misfortunes, and in its amendment their only remedy.

Two bills are pending in this House to amend the Constitution: the one to abolish the institution of African slavery, the other to authorize the Federal Government to impose an export duty on the products of the United States. The one measure affects the domestic policy of certain States, and especially the State of Kentucky; the other imposes a direct tax on the labor and products of the States of the Northwest, ever seeking a market beyond the limits of our own country. My colleague, [Mr. ORIN], in his very able advocacy of the one measure, a few days since, did not inform the House or his constituents of his views of the other. It is true it was not the subject of debate, but the question was natural, when you begin to amend the Constitution, where will it end? To weaken our rebel enemies is the argument for the one measure; the absolute necessity of increased taxation is the argument for the other. Who shall foretell, sir, what other necessities for amendment will appear? The sanctity of that venerated instrument once impaired, the harmony of its provisions destroyed, and who shall tell of the wreck which party spirit will make of the title-deed of our freedom?

Gentlemen assume that the Constitution is responsible for slavery and bewail the error of our fathers. Sir, this assumption is not true. The Constitution is in no sense responsible for slavery. The whole theory of the Government is that the States alone control their domestic affairs; no power of local domestic government is delegated to Congress: "the powers not delegated are reserved to the States or to the people." If in the judgment of our fathers African slavery had been inconsistent with a republican form of government, it could have been abolished under the power to "guaranty to each State a republican form of government." But Washington signed the bills to admit Kentucky and Vermont into the Union with their respective domestic policies. Generations had confirmed this interpretation of the Constitution. To preserve the comity of the States persons fleeing from justice or from engagements for service or labor were to be surrendered up; this provision neither establishes nor recognizes slavery. You do not even in your amendment propose its repeal. It would be proper if slavery never existed; the words do not imply slavery. As a citizen of a free State, as a Representative of a free people, I thank God that the Constitution of the United States, the object of our love and veneration, is not responsible for any form of human servitude. It organizes States possessed of domestic sovereignty into a sovereign nation; it charges upon the Federal Government the duty of maintaining the integrity of that nation, to represent it in the family of nations, nothing less, nothing more. In domestic affairs the States are foreign to each other. I am in no sense responsible for the domestic policy of Kentucky. You are not, sir. I would resist interference in her domestic affairs as I would resist even with arms her interference with the domestic policy of my own State. Such was the universal doctrine of our fathers. Such has ever been the doctrine of the Democratic party of the free States. Yet, sir, for not interfering you charge the Democratic party with being pro-slavery. Sir, what is more unjust and ungenerous and untruthful than party spirit? The Democratic party pro-slavery because they insist on the right of the States to domestic government! Sir, the charge brands with pro-slaveryism every illustrious statesman of the Republic, from Washington and Adams to Webster and Clay, and the great army of heroes who survived the Revolution and bequeathed to you the legacy of free government. Instead of a reproach it is the highest encomium upon the Democracy of the free States that they have resisted the rage of fanaticism in their fidelity to the principles of these illustrious men.

It is not to be questioned, sir, that many, I may say most, of the earlier statesmen, even of the southern States, were impressed with the belief that slavery in any form was a crime against human nature, but States were forming a Government, and the harmony and strength of that Government depended as much on their domestic sovereignty as on the national sovereignty of the Federal power, and looking to the freedom of the white race, everywhere else enslaved, they organ-

ized government on that foundation, content that each State should be responsible to God and humanity for the exercise of its domestic powers, and three generations, the most fortunate in history, were faithful to the compact. The Democratic party of the free States are neither the advocates nor the apologists for slavery. Democracy and slavery are natural enemies. Impressed with the value of free labor, there is not a Democrat in the North who would not resist the establishment of slavery in a free State, for what free people, sir, have ever failed to regard their own institutions the best? In opposing this amendment the Democratic party are not controlled by a desire to preserve African slavery; they oppose it because they are for the Constitution just as it is, just as our fathers made it. They oppose it especially at this time, when impending danger demands the united energies of every friend of free government—of Kentucky, against whom this measure is especially directed, as well as of every other State of the Union—wherever, indeed, a citizen is found loyal to the Constitution of his country; we need the united energy of them all. The Constitution is the common standard around which the friends of freedom may rally. In the gathering darkness leave us at least this pillar of light.

Mr. Speaker, there is one feature of this debate which must have struck the impartial hearer with astonishment. I speak with deference. I refer to the intemperate vagaries indulged in by gentlemen on this question of slavery, greatly to the dishonor of our country, and manifestly unjust to its history. Slavery is but an incident to our Government for which the nation is not responsible; an unfortunate legacy from the remote ages. It may be assailed without tarnishing the fame of the Republic. Yet gentlemen, like the reformers of France, would invalidate all the cherished traditions of the past to open up their new era. Thus it has become the rage to underrate the value of our Government. My colleague, [Mr. ORIN], usually so conservative, will excuse me for illustrating by reference to his able speech on the pending question. Looking upon the past, once so cheerful, my colleague only sees eighty years of infamy and dishonor. How miserable have been our people! Only by a kind dispensation of Providence could they have been unconscious of their misery! A dreary and desolate retrospect. Not a ray of light illumines the eighty years of the past. We shrink from its history. We would deny our fathers and claim that we are aliens in the land of our birth. If my colleague is right how cruelly our people have been deceived in indulging the belief that they were the happiest people on the face of the earth! Yet still it was a pleasant delusion, and he ought not to have torn away the veil and exposed our wretchedness.

According to my colleague whatever the last eighty years has produced has been the effect of slavery. To the undistempored imagination he is conceding infinitely too much to slavery. I think it is entitled to no such credit; but to him slavery is alone responsible for the past, and he wants a new era, something better than the old. "It [slavery] laid its hand on our nervous system and the nation became palsied." When was this, sir? Was it in the great Revolution or in the second war for independence? Was it in establishing a great empire in the Northwest and prosperous States on the Pacific? Was it in the war with Mexico, or when Abraham Lincoln called for seventy-five thousand men to uphold the Constitution, and then for more and more and more, until the tramp of our gallant armies shook the continent? When was it, sir, that the mighty energies of this nation were palsied? "For eighty years it has molded the legislation of the country." What, slavery such a legislator! He gives slavery too much credit. I deny its claim to any such honor. Our system of laws has been deemed the best in the world by our credulous people. In four years of ample power you have only repealed two of the many thousands which have been enacted, one approved by Washington and the other by Fillmore. If these laws are the offspring of slavery, why does not my friend introduce a bill to wipe out the infamous record? "For eighty years it has controlled the foreign policy of the Government." That foreign policy has preserved an unexampled peace and given us an empire extending from the Gulf to the Pacific. Franklin and Adams and Jefferson and Clay and Bancroft

were not deemed mean ambassadors, and until now were not deemed minions of the slave power.

But my colleague reaches the climax when he declares that "for eighty years it has made the American name a hissing and a byword among the nations of the earth." And what nation, sir, has been so prosperous and free that it could afford to hiss at this ignoble Republic? Is it Great Britain, sir, after being twice scourged from our soil, and twice beaten by our navies upon the ocean; a nation, sir, that holds millions of her own people in servitude, oppresses Ireland, planted slavery on these shores, and for a century has held a hundred million of the people of Asia in hopeless slavery? Is it France, sir, with the iron heel of a usurping tyrant on the neck of prostrate millions, and holding millions more on the soil of Africa, in the seat of the ancient empire of Carthage, in abject slavery? Is it France that could hiss at America, the France who, to replenish an exhausted treasury, sold us an empire already cursed with African slavery? Is it the despot of Russia or of Austria, or the petty despotism of Portugal or Spain, or the still pettier despotisms which mar the face of Europe, where labor toils on from age to age without hope, and from the oppression of which millions have fled to our shores? Are these the favored nations, sir, that can sneer at our Republic? Or does my colleague refer to the Ottoman empire, with its uncounted millions of serfs? Or upon our own continent, to Brazil, an empire founded upon African slavery; or to Mexico, where African slavery, it is true, is abolished—Massachusetts herself could not complain of her radicalism—but where the flag of the eagle floats no more, and a people once a republic weakened by internal feuds trembles at the tread of a petty scion of a race of tyrants, and these nations applaud when a republic is blotted out—is it unfortunate Mexico that can hiss at the only Government on earth that could have saved her from a fate more terrible than death? Is it Switzerland, whose hardy sons come in thousands from her rocky ramparts, where freedom defies the rage of tyrants, to a republicanism purer than her own? Where is the nation, sir, on God's green earth, that stands so erect and spotless in the light of freedom that it can hiss at the dazzling brightness of this Republic, unless it be tyrants who, like reptiles, hiss at the sun that warms the nations into life? No, sir; with all her imperfections and her faults, even in the present hour of her adversity, in all the elements of human happiness, of justice, and liberty, she stands the first among the nations, not a "byword" to the nations, but the hope of the downtrodden poor, and a terror to tyrants. No son of America can afford to defame his own country.

"For eighty years it has commanded the Army and Navy." What does my colleague mean? Have not the Army and Navy been well commanded? From Washington to Grant, have ever more consummate soldiers commanded armies? From Paul Jones to Farragut, have ever greater captains swept the ocean? Army and Navy! Is my colleague ashamed of their history? I blush at the question. Does my colleague eulogize slavery, or does he condemn the Army and Navy? But again: "For eighty years it has robbed the American people of their rights under the Constitution." Who has done this? Slavery, slaveholders, the southern people represented in the Federal Government; Jefferson, Madison, Monroe, Jackson, Clay, Crittenden, nay, Washington himself was one of the robbers; yet in that period seven powerful free States have grown up and flourished on soil freely surrendered by a slave State to freedom. Yet for eighty years we have been robbed of our constitutional rights, and, what is worse, by the very men who made the Constitution; and our cowardly fathers have submitted to it, nay, more, my worthy colleague, a Clay Whig, submitted to it himself for a quarter of a century, and the elder and the younger Adams and Fillmore and Webster submitted to it, and Silas Wright and Cass and Douglas, and all the great masses of the ever-growing and increasing free States. What vile dishonor if they did submit; if they did not, why defame their memory?

"It has defiled the judicial ermine and corrupted every department of Government." How could my colleague live in a country so infamous? Why has divine justice spared such a country?

I had thought, sir, that no son of America could speak thus of her judiciary, of whose distinguished members it has been said by one of the purest of American scholars, they "distributed justice with the same independence and impartiality to the helpless alien and the mighty Napoleon, to the humble citizen and the corporation, to public officers and to States. Neither awed by power, nor influenced by patronage, nor seduced by talents and learning, nor corrupted by wealth; serene, courteous, and dignified, amid intimidation and calumny they have never forgotten what was due to their own honor and usefulness, or to the character of their country;" they have been "the pride and honor as they have been the good genius of these United States." Thus, sir, all that is pure, and noble, and virtuous, must be blackened and turned into ashes, and the very dead defamed, that the public faith may be destroyed in the excellence of our Government, that party spirit may riot on the ruins of its Constitution. How much more like a patriot does John Quincy Adams review the history of his country for thirty-six years, which gentlemen are now accustomed to characterize as a tissue of infamy, corruption, and fraud:

"The year of jubilee since the first formation of the Union has just elapsed; that of the declaration of our independence is at hand. The consummation of both was effected by this Constitution. Since that period a population of four million have multiplied to twelve; a territory bounded by the Mississippi has been extended from sea to sea; new States have been admitted to the Union equal to those of the first Confederation; treaties of peace, amity, and commerce, have been concluded with the principal dominions of the earth; the people of other nations, inhabitants of regions acquired not by conquest but by compact, have been united with us in the participation of our rights and duties, of our burdens and blessings; the forests have fallen by the ax of our woodmen; the soil has been made to teem by the tillage of our farmers; our commerce has whitened every ocean; the dominion of man over physical nature has been extended by the invention of our artists; liberty and law have marched hand in hand; all the purposes of human association have been accomplished as effectively as under any other Government on the globe, and at a cost little exceeding in a whole generation the expenditure of other nations in a single year. Such is the exaggerated picture of our condition under a Constitution founded upon the republican principle of equal rights. To admit that this picture has its shades is but to say that it is still the condition of men upon earth."

How different from the language of this hour! Now the shades and imperfections alone are seen, and the rich blessings conferred by the Constitution inspire no gratitude. My colleague would reform the Constitution that we may have, "in truth and in fact, a republican form of government." The great statesmen who formed the Constitution believed that they were establishing, "in truth and in fact, a republican form of government." Were they or are these reformers deceived? What list of names in the world's history compares with theirs, Washington, Hamilton, Franklin, Madison, John Rutledge, and all? Yet politicians would question their wisdom and reform the instrument which has created this great Republic, and which, for sixty years, even party spirit has not dared to assail. Sir, that Constitution has been the source of our greatness, and is now the only ark of our safety.

It is said, sir, that the doctrine of State rights is the cause of the present war, and this amendment, while apparently aimed at slavery, is in truth an attack on the rights of the States; not of some, but of all, at least by the establishment of a precedent. Amend this Constitution now and future amendments will be easily effected; the argument of necessity is never wanting. Begin, and consolidation is inevitable, and then, sir, how long will the public liberty survive? I deny, sir, that the doctrine of States rights now so generally sneered at by those who desire a strong Government, has contributed to this rebellion. The pretended right of secession is a most infamous perversion of that doctrine. Mr. Madison declared it to be "a colossal heresy." There is not an intelligent man in America who in truth believes that one State or eleven States have the right to destroy the Government. The proposition is monstrous; it was a dishonest pretense that could have deceived no citizen. The rebellion is the offspring of the fierce partisan feuds between the politicians of the North and the South and the remorseless ambition of the southern leaders, and slavery was the pretense, as the tariff was in the days of Jackson. It was not the assertion of a right, but an appeal to revolution. I have ever asserted, sir, that it was the solemn duty of the Federal Government to maintain the Union, a

duty from which it could not escape; and if, sir, in this appeal to arms on the dishonest pretense of protecting slavery, which has moistened the land with the best blood of the Republic, slavery has perished, there will be no tears shed over its grave. It is a just retribution for an unspeakable crime.

Mr. Speaker, is it necessary to amend the Constitution to abolish slavery? My colleague has said that nothing can shield it from its inevitable doom; no act of ours is necessary to secure that result. Viewing the present posture of affairs, I concur in this opinion. Let us see the present status of the question. Maryland, Missouri, and Louisiana have abolished slavery. The negroes of Tennessee capable of labor have been enrolled into your service; so to a great extent in Kentucky. The proclamation of the President does in fact (I do not argue the question, you assert its validity) abolish slavery wherever our armies occupy the soil, and what more could a constitutional amendment effect? This covers the whole ground, except in Kentucky. In that State bills are now pending in both branches of her Legislature to abolish it. I must say, sir, that I should greatly prefer seeing Kentucky, with her thousands of gallant soldiers in your Army, by her own act dispose of this question, than to see it forced upon her by the power of the Government. It would argue better for the future and the public safety. In view of the passing events, I trust, sir, she will consider it her interest to abolish slavery, but the question should be left to the judgment of her own people.

In any event, under the present policy of the Government, if the armed rebellion is overthrown African slavery is dead. I do not discuss the subject, but assert what must be apparent to all. If the South arms her slaves in the cause of the rebellion African slavery is dead, no matter what are the fortunes of the war. In my judgment the fate of slavery is sealed. It dies by the rebellious hand of its votaries, untouched by the law. Its fate is determined by the war, by the measures of the war, by the results of the war; these, sir, must determine it, even if the Constitution were amended. Therefore I oppose the amendment, because, admitting the full force of your arguments, it is unnecessary, a dangerous precedent without a benefit.

In the recent election the people decided that the war should be prosecuted for the maintaining of the Union; that question overshadowed all others; the decision would have been the same no matter which of the great parties had triumphed, for the Union was to be maintained at every hazard. But this question was scarcely heard of in the canvass. It would have divided public opinion, for the Democratic party are for the Constitution as it is; the people are devoted to the old charter; but on the abstract question of slavery there is no division of opinion in the free States. Upon that question, sir, there can be no parties in the North.

Other issues loom up in the future. By the side of this bill is another measure which indicates your real policy; it is the entering wedge to the idea that the freedom of no class of men can be secure unless they be citizens of the Republic and invested with the right of suffrage. I refer to the next bill upon your Calendar. I but state the fact, sir, to indicate the ultimate purpose, the inauguration of the new era which is to open up the golden age. Where are we drifting, sir? Will this reorganize civil government in the South? Unless, when their armies are overthrown, we can reorganize civil government there on the general consent of the masses, standing armies are inevitable, a continued increase of the tremendous public debt, and, more dangerous if possible than all, the boundless and corrupting patronage of the Executive, for unless, as a result of the war, we restore the Union the sacrifice of our gallant sons will be in vain. If by these visionary schemes you prolong the war, and realize all the vagaries that reformers have dreamed of, will the laborer, bending hopelessly under the burden of public exactions, feel that you have advanced the real cause of freedom?

I am no apologist of slavery. I know no argument for its defense. I would to God there was not a slave on the face of the green earth. I have over indulged the hope that time and Providence would relieve this nation from the reproach and

still preserve the public liberty unimpaired; but such are the embarrassments of the question in providing for the very people you would in theory incorporate into the body of your citizens, that in dealing with it as a practical question, even a son of Massachusetts, with absolute military and civil power, in Louisiana, only changes the form of slavery and converts the slave into a serf. But these are but the incidents of the pending measure. It is upon the amendment of the Constitution that we decide.

My colleague says, "The old foggy has become an antique relic." He need not have reminded us, sir, that the precepts and example of our fathers were forgotten. The condition of a once prosperous country too painfully reminds us of the fact. The presence of eager reformers pressing forward to mutilate the Constitution, to tear down the venerated landmarks, reminds us too well that Washington and Adams and Jefferson and Jackson and Clay and Webster are dead. The grand old republicans who so long guided the councils of the people are no more, and new statesmen, remodeling the elements of government, treading with arrogance where the old masters would have trembled, threaten to rob their country and the world of the fruits of their wisdom and labors. Seeking to be guided, sir, by their precepts, and knowing of no light so sure as the light of experience, I am for the Constitution, the grand old Charter, as it is, and if I err, sir, it is in following the most illustrious examples.

Mr. CRAVENS. Mr. Speaker, before the debate closes on this proposition to amend the Constitution of the United States, I desire to say a word or two merely to place myself right in regard to the vote I shall give. The speeches made by gentlemen on the other side of the Chamber have tended to leave the impression that those who vote against this measure are influenced to do so by a desire to protect and perpetuate the institution of slavery. I am only authorized to speak for myself, and in doing so I declare that no desire to perpetuate slavery will influence my vote. I shall vote against the amendment because I think this is not the proper time to make radical changes in our fundamental law. I shall vote against it because I believe there could not be that fair, free, and unbiased deliberation had by the whole people on the question that its importance demands, and because, in my judgment, it will not remove from the halls of legislation a question that has been a disturbing element for more than half a century—I mean the question of the condition of the negro, irrespective of his condition as a slave. I believe that the passage of this amendment will multiply rather than diminish our troubles upon that subject. The men who commenced and have continued the agitation of slavery up to the time of its culmination in the present civil war will not be content to let the subject rest with the mere abolishment of slavery by constitutional amendment; it will still be the apple of discord while there is any considerable number of that poor and unfortunate African race on our soil. I have nothing to satisfy my mind that it is any part of the policy of the abolitionist to deport these people when they are liberated; they must therefore be diffused through the free States or allowed to remain where they are. I believe, as a general proposition, that the people of the free States are opposed to the diffusion of emancipated negroes among them. They must then remain where they are; and that being the case, who does not at once see the many perplexing and dangerous questions which are to grow out of the adoption of the amendment at this time?

If we assume the responsibility of liberating three or four million slaves by the operation of this amendment, will we not impose upon ourselves the moral obligation to provide for and support all that large number of helpless women and children, decrepit and old, who would become mendicants or wandering outcasts without such protection from us? To my mind this duty is plain; and I do not desire to incur such fearful responsibilities in the face of the obligations resting on us to provide for and look after the comfort and welfare of those of our own race who, in large numbers, have been rendered helpless by the operations of this terrible war. There are many reasons which satisfy my mind of the impolicy of passing this measure at this time. I have not had occasion to question the constitu-

tional power of Congress to submit an amendment, provided it is done in the mode and manner prescribed by that instrument. Taking it for granted that we have the power, I am induced to vote against it on the grounds of policy and expediency.

I do not think that this question entered sufficiently into the considerations which determined the late election in favor of the present Administration to amount to an instruction to the present Congress to pass the amendment. And if I so thought I should find my justification in voting against the amendment in the overwhelming vote of my district for my successor, who entertains sentiments upon this and other kindred questions in accordance with my own. I am satisfied that under the laws of war and the incidents attending it, the problem of slavery is being rapidly worked out. I think slavery is dying, and will eventually die if we will but address ourselves to the one great subject—the restoration of the Union—by putting down the rebellion. Already too much attention has been given to this subject of slavery. I think the rebellion would have been ended long ago if we had never said a word on the subject.

I had not intended to and would not have said a word on this subject had it not been for the persistent efforts on the other side of the House to place us in a false position before the country.

I have not attempted to elaborate or even enumerate all the reasons that control my vote against the amendment.

I am in favor of progress and reform, but when it is proposed to change the fundamental law of the land I would prefer that it should be done in the calm hours of peace rather than amid the storms of rebellion and war.

I look upon this measure as another stumbling-block thrown by the party in power in the way of Union. To the already excited and hostile mind of the southern people this proposed amendment will appear as a measure of vengeance, dictated by power arrogant with success, and not as an olive-branch of peace.

It is hopeless to make a constitutional Government permanent in the establishment of which the great mass of the people have been deprived of a free choice. Such choice we well know cannot be had in the present condition of the southern States which are the theater of war and most to be affected by the proposed change of the Constitution. In forcing this radical change on an unwilling people will you not sow the seeds of discontent and future revolution? Let well enough alone. Slavery cannot be saved. Prolong not by needless legislation here or elsewhere the evils and dangers which have attended the progress of its dissolution under the blows it has received in the house of its friends. Would it not be wiser, in view of all the surrounding circumstances, to leave this question where the Constitution leaves it, to be dealt with by the States? Time and events are rapidly doing their work in the minds of the southern people. Will not the immediate forced abolition of slavery be dearly bought if it shall involve a distraction or even a weakening of our Federal system of government? Entertaining the views I have expressed on this subject I shall vote against the amendment.

Mr. BROOMALL. Mr. Speaker, after the length to which this argument has gone, and the able manner in which the subject has been presented on both sides of the House, it would seem to require some apology from me for offering any remarks of mine; and the only and best apology I have to offer is to say that my remarks shall not be extended. I esteem it a great honor to be a member of the present Congress, if for no other reason, at least for the opportunity which it affords me of casting my vote for this resolution. No matter what errors I may have committed on other questions since I have been a member of this body, no matter to what extent I may approve or disapprove of my votes on them, I do know that I shall approve of the vote which I shall cast upon this question to the last day of my life.

I do not propose to enter at length into the arguments for and against the institution of slavery. I look upon the question, whether or not the institution ought to be abolished in a proper way, as having been settled by the people at the last election, and the verdict rendered upon that occasion I hold must and will be carried out, if not by this, at least by the next Congress.

But I propose to examine some of the arguments against this measure which have been offered by gentlemen upon the other side of the House. It is assumed upon the other side of the House, by gentlemen who it appears to me ought to understand the laws of the land, that we have no power to abolish the institution of slavery. This is a very singular position for any legal mind to take. Why, sir, the institution of slavery is not among the reserved exceptions in the Constitution of the United States. Wherever power was not intended to be given to the people to alter their fundamental law, it was so expressed in the body of the Constitution, and the institution of slavery does not appear in that instrument as one of the subjects to be interdicted from the action of the people upon their organic law.

The gentleman from New York [Mr. FERNANDO WOOD] says, however, that the power does not exist in Congress to pass this measure, because the people in framing the Constitution did not commit the subject of slavery to Congress; that the power to alter the Constitution extends only to those subjects which were committed to the Government of the United States in the formation of the Constitution. I do not so read that instrument. And if I did I would deny the fact upon which he bases his argument.

Sir, the question of human liberty is committed by the Constitution to the people of the United States. I have always supposed that the framing of the Constitution and the formation of our Government were for the express purpose of perpetuating and preserving the liberties of the people. And upon the very threshold of that instrument I find authority for that position. We are told, in the preamble of the Constitution, that—

“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution.”

Showing that this very subject was before the framers of the Constitution, and in direct and positive language committed to the Government of the United States, to be exercised whenever the people, in a constitutional way, should call upon that Government to exercise it.

But the gentleman from New York [Mr. FERNANDO WOOD] takes another position—a very strange position for any man to occupy at this late day of Christian civilization—and that is, that the condition of slavery is the proper and normal condition of the negro. I thought that that doctrine belonged to the past days of the Republic. I thought that when the dominant party that ruled this country for so many years went down, that doctrine went down with it. And it may be said, to the credit of gentlemen upon the other side of the House, that few, very few, probably none but the gentleman from New York, has advocated so strange a doctrine.

What! the normal condition of a human being, his natural and normal condition, is to be that of a slave! What is the argument in favor of that position? What reason can be alleged for it? I suppose the gentleman will fall back upon the only one that can be presented; that is, that the condition of the negro now is that of a slave. Well, if he should fall back upon that reason, I will reply to him that the same argument might have been made against our forefathers when they raised the standard of revolution against the Government of England; they might have been told they were then subject to the Government of England, and therefore should remain so. According to this doctrine whatever is is to be continued, right or wrong.

The gentleman's own ancestors were slaves as abject as any in the South. It has been but a few centuries since the gentleman's own ancestors were bought and sold with the land upon which they lived. More than that, it has been but a few centuries since our mothers were themselves forced, by despotic law and custom, to submit themselves to liberties upon the part of their masters, and probably the little Norman blood that exists in his veins, if any does exist in the veins of that gentleman, is derived from that circumstance.

Suppose some wise statesman of that day had told our ancestors, when they were being bought and sold, that it was their normal and proper con-

dition, because it was then their condition, what would the gentleman's ancestors have said in reply to that argument? Ah! when the question comes to be turned the other side up; when the question comes to be put to a man, whether he himself will submit to be a slave, then it is time for him to say that slavery is the normal and natural condition of a human being.

I remember that, at the last session of Congress, a question was propounded to one of my colleagues [Mr. THAYER] something like this: whether he maintained that there existed power in the people of the United States, under the provision of the Constitution allowing them to alter their organic law, to so alter it as to establish slavery in any State where it does not now exist. The answer to that question is easy. Power can do anything that is possible to it, and when the people of the United States resolve by physical force to enslave any portion of a free people, I know of no means but resistance with the sword to prevent it. But I do say that there are some things that are not within the limits of human legislation. It is not within the limits of human laws to legislate away the soul of man; we cannot deprive him, by any process of legislation, constitutional or otherwise, of his free agency; we cannot legislate away his liberty. No man can sell himself. Hence no man can empower his Government to sell him.

Now I call the attention of the legal gentlemen on the other side of the House to a question which I propose to put to them, and which I want answered with all calmness and honesty; and in order that it may not be misunderstood I have reduced it to writing, and will read it. I desire the gentlemen from Ohio, [Mr. PENDLETON,] who will probably follow me in this discussion, to have his attention particularly directed to it, and I should be obliged to him for a clear and decisive answer.

By the fifth article of the Constitution of the United States power is given to three fourths of the States to change the terms of the compact at will, (except in the single item of representation in the Senate,) against the consent of the remaining States. Now, I desire to ask those who urge the principle of State sovereignty against the pending resolution whether the States, by subscribing to that article, did not, *ipso facto*, surrender their sovereignty; whether a State, entering into even a mere treaty with other States, by the terms of which the treaty may be altered at will by the others against its consent, can, after that, and under the treaty, still claim to be sovereign. It looks to me as if those who deny the power to pass this pending resolution, upon the ground of State sovereignty, will find it very difficult to answer that question in such a way as to justify the position they are taking.

But it is said, again, that we ought not so to alter the Constitution as to abolish slavery in the absence of the seceded States. It seems to me that that argument comes with a very bad grace from those who are even the apologists of the doctrine of secession. It is not our fault that those States are not represented here. We did not drive them away. But for their own mad act their own Representatives might be here engaging in this discussion and aiding the gentleman from Kentucky in preserving his darling institution and keeping his specimens of humanity.

But, again, it is a grave question—a question which, I believe, divides the opinion of lawyers in this country—whether or not the resolution passed by us will require the assent of three fourths of the whole number of States, including those that have seceded, or of only three fourths of the States represented in the Government at the present time. I do not pretend to offer an opinion, at this time at least, upon that question, though I entertain one. But if it requires three fourths of the whole number of States to assent to the measure, how are the States that are not represented here injured? If they were represented here, or if they were in a position to vote upon the question and were all united, it would make no difference if three fourths of the whole number were against them. If, on the other hand, but three fourths of those represented in the Government are necessary, then I fall back upon my former answer, and say that it is no fault of ours that they are not in a position to vote upon this question when it shall be submitted to them. And I



say further, that inasmuch as these things require time, inasmuch as the Constitution of the United States itself was not adopted by the last State that ratified it until three years after it had been submitted to the States, there is yet time for those States to repent, to return to their allegiance, and cast their votes upon this question.

One of the gentlemen on the other side of the House objected to the passage of this resolution because he thought we were interfering with the province of the Almighty. He says that if it is the design of the Almighty to abolish the institution He will do it in His own good time. I most heartily assent to the last branch of the proposition; but I say, in reply, that the Almighty's own time has come, and He is abolishing the institution now by our means and by its own act. We are asked, "Why not let the process which is now going on, and which is liberating slaves day after day, go on until the institution shall have been abolished by war?" Mr. Speaker, I would be perfectly content to let the institution share the fate of the rebellion; I would be perfectly content to let the war power exterminate it. But I sincerely hope the war will not continue long enough for that, and then it will become a grave question, a question upon which the people and the legal minds of this country will be greatly divided, whether or not the proclamation which has been issued during the time of war, and under the war power, will not fall to the ground upon the return of those States to their allegiance. At present, without having examined the question, I incline to think it will, and with the fear that such may be the decision of the highest tribunal of the land, I will vote for this measure in order that so great a calamity as the extinction of the rebellion without slavery may not befall the American people. Why, look to it. In our very armies there are men, owned by the laws of the States from which they come, fighting for your liberty, Mr. Speaker, and mine, occupying the position which, but for them, might be occupied by your sons and mine, and saving our blood by the spilling of their own. I ask whether we are going to suffer the remotest risk of those men being returned to slavery after upholding the banner of the United States against rebellion; whether we are going to suffer the smallest risk of their being so returned after their gallant conduct. I, for one, am not willing; and upon that ground, if upon none other, I would vote for the pending resolution.

It is said that we are imposing new conditions upon the people of the seceded States, and that we will, when we have changed the Constitution, be doing the unreasonable thing of compelling them by force to come under these new conditions. Why, sir, we are imposing no new condition. The condition we are imposing is a branch of that very compact into which they entered when they came into the Union with the other States. When they subscribed to that Constitution they subscribed to every part of it. They subscribed to the power given to the people of the United States, against their will, to change the organic law of the land. And that fifth article of the Constitution is as much a part of the Constitution as any other part of it. It is under that part we are now acting. We are imposing no new conditions. We are simply exercising a power given to us by them at the time of the formation of the Government, and expressly embraced in the old conditions.

But the gentleman from Kentucky [Mr. MALLOY] takes high ground upon this question. He opposes the resolution upon the ground of humanity. He says that it would be a cruel act to turn upon the world all of these negroes. It is strange that an appeal should be made to humanity in favor of an institution which allows the husband to be separated from the wife, that allows the children to be taken from the mother; ah! that allows the very children of the deceased slaveholder himself to be sold to satisfy his merciless creditors.

We are told that cruelties do not often occur under the institution of slavery. I grant that. I believe that as a body the slaveholders are a humane class of men. When I know the regard I have for my horse I can entirely assent to the proposition that the slaveholder shall be kind to his own negro, shall feed him well, clothe him and be proud of him. But that does not take away my dislike of the whole institution. The very

danger of the evils which I have described, arising from the institution, is enough to cause me to do away with it. I would not rest in my bed if I believed the next morning, in the event of my death, my children might be sold to pay some creditor, though they might be darker than I and offspring of my crime.

Events like this gentlemen on the other side will not deny have occurred, are occurring, and will constantly occur so long as the institution of slavery exists in the land.

But, Mr. Speaker, I presume that the other gentleman from Kentucky [Mr. CLAY] had a little different view of the humanitarian side of this question. The question of humanity with him was probably the four hundred specimens of humanity whom he claims to own, and who, by the laws of nature and of God, have the same right to own him that he has to own them. If his regard for his property, his fondness for humanity in that sense, stimulates his zeal and fires his eloquence, I admit he has reason.

I will conclude, Mr. Speaker, by saying that, although never a political Democrat, I was never afraid of trusting the people with any question, and I cannot appreciate the modern Democracy that fears to let this question go to the people lest they should decide it in their own way. Let us take the initiatory step; let us pass this resolution, and I believe it will be passed, and by this Congress. Let us pass this resolution, and submit it to the States. Let us at least hope that the next President of the United States will be inaugurated over a Republic wholly free and wholly devoted to the civil and religious liberty of all the people within its borders.

Mr. PENDLETON. Mr. Speaker, I shall not detain the House long to-day. When this subject was under discussion at the last session of Congress I endeavored to maintain by argument that three fourths of the States did not possess constitutional power to pass this amendment. I endeavored then to point out wherein this particular amendment was of a nature not embraced within the power granted. I shall not touch that specific point to-day. I had arrived at that conclusion after mature deliberation. I have listened with great attention to the opinions of gentlemen on the other side of the House who disagree with me. I have heard my colleague, [Mr. ASHLEY,] the gentleman from Iowa, [Mr. KASSON,] and the gentleman from Maryland, [Mr. CRESWELL,] and I have listened to the sweeping declaration of my colleague [Mr. COX] who sits behind me. I have endeavored to weigh impartially the arguments which they have adduced in support of their opinions. I am constrained to say that I have heard nothing which has in the least degree weakened my faith in the conclusion at which I had arrived. It is because I cannot go beyond this question of power, because I am not at liberty to consider any other question, that I shall confine myself exclusively to its consideration.

I will not do my colleague from the Toledo district [Mr. ASHLEY] the injustice to suppose that in his argument on Friday he intended to make a complete reply to the proposition which I endeavored to sustain at the last session.

I understand, Mr. Speaker, the right of revolution. I know what are its limitations and its sanctions. Its origin is not in written constitutions; its sanctions are not in penal enactments. Its home is in the human heart; its origin is in the aspirations of man for progress; its sanction is the *ultima ratio* from whose dread judgment there is no appeal. The minority of the people may, if they can, subvert this Confederation, and establish in its stead a consolidated unity. Much more may a majority. Three fourths of the States may abolish this republican form of government, and, to use the illustration of my colleague, [Mr. COX,] may elect the King of Dahomey to be their autocrat; and then, responsible in the present only to the nations and to God, and responsible in the future only to the ages and to civilization, they may draw their sword, and if they have the power impose that form of government upon the dissenting States.

But I beg my colleagues [Mr. COX and Mr. ASHLEY] to remember, and I beg gentlemen who differ from me to remember, that the right of resistance is as perfect; that the duty of resistance is more absolute; and that the cause of those who

resist is sacred in the eyes of God and man, and will, if they are successful, command the admiration of the world, and crown them with the fame which belongs to patriots and heroes.

But, sir, we are not discussing that right of revolution, nor yet the right of all the States to amend this Constitution. We are discussing the powers of change which are granted by this written Constitution. We are discussing the powers of change which by that instrument are given to the majority, and the obligation of obedience and of acquiescence which is imposed upon the minority. I suppose it will be admitted as a maxim, subject to no controversy, that wherever there is a constitutional power in the majority to change the Constitution there is a correlative duty upon the part of the minority, peacefully, and immediately to acquiesce. Wherever there is the right of resistance in the minority, there is no right of amendment in the majority.

I have endeavored to maintain that the right of amendment granted by this Constitution is limited in two ways. First by the letter of the Constitution itself, and next by the spirit and intent and scope of that instrument, and by the idea which underlies it all as a foundation.

My colleague who sits behind me, [Mr. COX,] and my colleague from the Toledo district, [Mr. ASHLEY,] admit that the power of amendment is limited by the letter of the Constitution itself, but they assert that it is limited by that rule and no other. This is the answer made to my argument on this special amendment. It avoids the objections I took to it, and asserts in reply the unlimited power. I shall not repeat those objections. I beg gentlemen to remember that this is not a question of revolution or of physical force; it is not a question of abstract right or of natural justice, but of power delegated by the written text of the Constitution itself. From the times of the ancient prophets he was an honorable and upright man who stood by his word though it led to his own injury.

Now I desire to ask gentlemen whether it is true that the power of change in that Constitution is limited only by its written language? There are but three points in which that Constitution, by its letter, could not be changed. The first was the right of importation of slaves before 1808; the second was the rule of taxation, and the third was the equality of representation in the Senate. The prohibition of change in one article was necessarily limited by the article itself to the year 1808. My colleague from the Toledo district, in the speech which he made the other day, told us with reference to this point:

"If I read the Constitution aright and understand the force of language, the section which I have just quoted is to-day free from all limitations and conditions save two, one of which provides that the suffrage of the several States in the Senate shall be equal, and that no State shall lose this equality by any amendment of the Constitution without its consent; the other relates to taxation. These are the only conditions and limitations."

I deny it. I assert that there is another limitation stronger even than the letter of the Constitution; and that is to be found in its intent and its spirit and its foundation idea. I put the question which has been put before in this debate, can three fourths of the States constitutionally change this Government, and make it an autocracy? It is not prohibited by the letter of the Constitution.

Mr. ASHLEY. Did my colleague understand that by my speech I claimed that—

Mr. PENDLETON. I understand exactly what the gentleman claimed, and I am endeavoring to run to its extreme the premises upon which the gentleman stands to-day, in order to convince him of the weak point of his argument.

Mr. ASHLEY. I said in my speech that any amendment republican in its character—

Mr. PENDLETON. I will come directly to the limitation which the gentleman put upon the power. I need not ask my colleague from the Toledo district what answer he will make to that question, because I have it already. He would say "No; that change is not within the scope of the power of amendment given to three fourths of the States." Why? It is not forbidden. It does not come within the two classes of limitations and conditions asserted by my colleague. Why is it that this change cannot be made? I will tell you why. It is because republicanism lies at the very foundation of our system of government, and to overthrow that idea is not to amend but to sub-

vert the Constitution of the United States; and I say that if three fourths of the States should undertake to pass an amendment of that kind, and Rhode Island alone dissented, she would have the right to resist by force. It would be her duty to resist by force; and her cause would be sacred in the eyes of just men, and sanctified in the eyes of a just God. Let me go a little further. Can three fourths of the States make an amendment to the Constitution of the United States which shall prohibit the State of Ohio from having two houses in its Legislative Assembly. My colleague would not agree to that. Why not? It is not prohibited in the Constitution. The letter of the Constitution is not against it. It is an amendment which may be republican in form; it contravenes no tenet of republicanism that a Legislature shall be of one house only. Why could it not be done? Because the equality of the States lies at the very foundation of our system, and also because the control of the States over their internal affairs is equally at its foundation. And I know my colleague too well to suppose that he would not join with me in saying that such a usurpation of power on the part of three fourths of the States would justify our own State in drawing the sword.

Sir, can three fourths of the States provide an amendment to the Constitution by which one fourth should bear all the taxes of this Government? It is not prohibited. To be sure there is a rule in the Constitution that taxation shall be uniform, but that provision, according to the theory of my friend from Ohio, is revokable and changeable as the rest. The gentleman knows that that amendment would not be within the scope of the power granted to three fourths of the States, and that it would justify resistance.

Can three fourths of the States, by an amendment to this Constitution, subvert the State governments of one fourth and divide their territory among the rest? It is not forbidden; I read no prohibition in the language of the Constitution, and yet my colleague would not contend that could be done. He would justify resistance.

Can three fourths of the States so amend the Constitution of the States as to make the northern States of this Union slaveholding States? The gentleman from Pennsylvania [Mr. THAYER] at the last session said that in his judgment it might be done. I know that the majority of this House would repudiate that doctrine. I would repudiate it myself. Believing, as I do, that the Federal Government can no more make a slave than it can make a king, I, for one, would be ready to resist it to the last extremity.

Mr. THAYER. I think the gentleman from Ohio does not precisely quote the answer that I gave to the question that he has just referred to. If I recollect rightly the answer which I gave to the question upon the occasion referred to, it was that so far as slavery could be rendered lawful, a constitutional provision making it lawful in all parts of the United States would have a binding and legal effect upon the people of the United States.

Mr. PENDLETON. I understood that to be the position of the gentleman from Pennsylvania, and if I expressed myself clearly I meant so to represent him, and I meant in behalf of myself to repudiate that proposition, for I do not believe that it lies within the power of three fourths of the States to give to the Federal Government the power to make the citizens of a State slaves within its jurisdiction.

Mr. THAYER. The gentleman still, I think, fails to apprehend the character of the answer which I gave to his question. I have never conceded that an amendment or a law of the barbarous character suggested by the question would have a moral force or a moral obligation upon the people of the United States. But what I said, in answer to the question of the gentleman from Ohio was, that it would have the force of law, the force of an amendment of the Constitution; that the law, if it was opposed to the inalienable rights of the people of the United States, would be, if I may use a contradictory expression, an unlawful law, a law which you could not enforce, a law contravening the inalienable rights of the citizens of this country.

I hope, sir, that I have made myself understood. I do not wish to be placed in the position which the last remark of the gentleman from Ohio assigned to me, of saying that either a law of Con-

gress or any amendment of the Constitution which could be adopted by the people of the United States could introduce slavery into a State, but I say that so far as it would have the effect of law it would legalize it.

Mr. PENDLETON. Mr. Speaker, I would not do injustice to the gentleman from Pennsylvania, as I believe he well knows. I go a step further than he does. I say that it would not be binding in morals; I say that it would not be binding in law. It would be illegal. It would be void. It would have no more sanction than that which the power of those who chose to impose it would be able to give to it. It would be binding on those who would come within the power of the sword of those who made it, and on no other.

Mr. WILSON. Will the gentleman permit me to ask him a question?

Mr. PENDLETON. Certainly.

Mr. WILSON. Mr. Speaker, if that be the position which the gentleman designs to occupy, I should like to have that gentleman inform the House where any portion of the people of this country derived the power to make any other portion of the people slaves in the first instance.

Mr. PENDLETON. They did not derive it from the Constitution of the United States.

Mr. WILSON. I ask where they did derive it.

Mr. PENDLETON. They did not derive it from the Constitution of the United States. They did not give to the Constitution, or rather to the Government of the United States which the Constitution formed, the right to interfere with it where it existed. I will not be drawn now into a discussion with the gentleman as to the origin of slavery, nor to the law, which lies behind the Constitution of the United States and behind the governments of the States, by which these people are held in slavery. When that subject is pertinent I will not hesitate to enter into the debate. Perhaps he and I might not differ about that. But I am discussing the question which is put forth so ostentatiously by the other side of the House, that under the Constitution—not by the right of revolution—under its clauses and provisions, there exists the power to make this amendment.

Mr. KASSON. Mr. Speaker—

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Iowa?

Mr. PENDLETON. Certainly, sir.

Mr. KASSON. Mr. Speaker, I rose a moment ago, as the gentleman knows the esteem in which I hold his ability on these questions, to state this to him, and to make an inquiry. It seems to me that he has taken the extreme ground of the extreme abolitionists, so frequently denounced by his political associates on this floor and at the other end of the Capitol, of a higher law than the Constitution itself. I state that as a preliminary to the inquiry which I propose to make. He is referring every proposed amendment to the individual opinion of a man as to whether it accords with the spirit which underlies the Constitution and irrespective of its letter. If that be so, it is a direct appeal to and an adoption of what has been obnoxiously styled the higher law as maintained by extreme abolitionists time and again. Now, I wish to ask on this identical logical point to be derived from his premises, did not those who framed the Constitution affect the subject which he declares now to be incapable of amendment, when they prohibited every State from increasing its interest in slavery by any importation of the people from abroad who could increase it, and in what respect this amendment differs in kind from that incorporated in the Constitution itself, which declares to the States that they shall not swell by one, after the year 1808, the slaves they then had within their borders? I ask him on principle, not on detail, on kind, not in degree, what the difference is.

Mr. PENDLETON. Mr. Speaker, it is well for gentlemen to understand exactly the position which their antagonists occupy before they go into a discussion of the kind suggested by my friend from Iowa; and I would like him to answer the question whether or not he believes, with the gentleman from Pennsylvania, [Mr. THAYER,] that the adoption of an amendment of the Constitution, such as I alluded to, would legally carry the institution of slavery into the northern States.

Mr. KASSON. I will answer that question

directly the gentleman frankly and clearly answers mine.

Mr. PENDLETON. The gentleman says he will answer my question as soon as I answer his. I say they did not touch this question of slavery in the States, or the power of each State over its citizens. I say to him that I was very unfortunate if I did not make myself clearly understood in the proposition that I was arguing. I was considering the powers guaranteed by the instrument itself. I was considering only those powers, and I expressly distinguished between the right of revolution and the right under which gentlemen claim that they have the power to make this amendment.

For all purposes of this argument I have only sought to place myself on the Constitution of the United States, and not to invoke the authority of any law higher than it. I have taken extreme cases. I told my colleague [Mr. ASHLEY] that I intended to take extreme cases, because it is only by extreme cases that the soundness of principles can be measured.

Mr. WILSON. I desire to ask the gentleman from Ohio, [Mr. PENDLETON,] in order to fully understand the theory upon which he is conducting this argument, whether he believes that the States, acting in what he calls their sovereign capacity, have the power or the right to make a portion of the people of a State slaves?

Mr. PENDLETON. That is a question which I will discuss with the gentleman from Iowa, [Mr. WILSON,] whenever it is pertinent to the subject in hand.

Mr. WILSON. I was going to suggest to the gentleman that I understood his theory to include that. If I misunderstood him, then I ask his pardon.

Mr. PENDLETON. The question which we are discussing to-day is not the power of the State government to decide the status of the people within its boundaries. But the question is as to the power reserved in this compact of confederation to its constituents, which are the States.

Mr. WILSON. Mr. Speaker—

Mr. WADSWORTH. I object to the gentleman from Ohio, [Mr. PENDLETON,] yielding the floor to any further interruption.

Mr. PENDLETON. I hope my friend will not object to any questions until I do.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk then read the following rule of the House:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for personal explanation."

The SPEAKER. The rule is a very broad one. The Chair does not see how the gentleman from Ohio [Mr. PENDLETON] can be limited in his right to yield the floor to any member who may desire to ask him a question.

Mr. BOUTWELL. I understood the gentleman from Ohio [Mr. PENDLETON] to say that he dissented from the doctrine that the power to amend the Constitution was an unlimited power. I wish to say that I also dissent from that doctrine. I do not agree that under the article of the Constitution authorizing amendments we have the right to amend the Constitution so as to establish slavery, or to invite the King of Dahomey to rule over this country. I think the limitation, if the gentleman from Ohio [Mr. PENDLETON] will bear with me a moment longer, is found in the preamble, as follows:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution."

One provision of the Constitution is that in a certain way it may be amended. Whenever it is amended it must be amended, in order that it may have both moral and legal force, in conformity with the objects for which the Constitution was framed, as set forth in the preamble. And an amendment which tends to "a more perfect union, to establish justice, to insure domestic tranquility, to provide for the common defense, to promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity," is an amendment which, when made according to the form prescribed in the Constitution, is both morally and legally binding upon the people of the

country. But if it be made in violation of those great objects, although it may be legally operative, it has no moral force. The argument would be, in my mind, that the amendment we now advocate is in conformity with those objects, while an amendment to establish slavery would be contrary to them.

Mr. PENDLETON. I see that the gentleman from Massachusetts [Mr. BOWWELL] appreciates very well the argument I am now making, and he has separated himself from my colleague from the Toledo district, [Mr. ASHLEY,] and my colleague who sits behind me, [Mr. COX,] and other gentlemen who have preceded me in this debate, in drawing the distinction as to the character of the amendments to be made. He repudiates the doctrine which those gentlemen have asserted, that the prohibition upon amendments is limited only to the letter of the Constitution itself.

Mr. ASHLEY. My colleague [Mr. PENDLETON] will do me the justice to say that I was careful to make the limitation that no amendment could be made anti-republican in its character.

Mr. PENDLETON. I will do my colleague no injustice. I was repudiating the doctrine of the right or constitutional power of three fourths of the States so to amend the Constitution as that they may carry the institution of slavery into these northern States. I was seeking to impress upon gentlemen the argument that there were other prohibitions than those which were contained in the letter of the Constitution. I declared my belief, and I repeat it, that it is not within the power of three fourths of the States to impose upon the dissenting States such an amendment. Authority over the status of its own citizens belongs to each State. It cannot be deprived of it.

Mr. GOOCH. I will ask the gentleman from Ohio [Mr. PENDLETON] whether in his opinion the men who made the Constitution could, at the time they made it, have prohibited the institution of slavery within the United States.

Mr. PENDLETON. In my judgment the Constitution of the United States would never have been ratified by nine of the States with such a provision in it.

Mr. GOOCH. That is not my question. I ask the gentleman whether in his opinion they could have prohibited slavery without violating any of the essential and fundamental principles of the Government.

Mr. PENDLETON. They could have prohibited it, and it would have been binding upon those States which ratified it, because it was in the power of each State to give up to the Federal Government the decision of the status of its people; but the other States cannot claim to make that decision except by express grant from each State.

Mr. GOOCH. I would ask the gentleman a still further question: whether by the adoption of the Constitution and the amendments to it the States have not conferred that power upon the constitutional majority, or upon that power which they have authorized to amend the Constitution.

Mr. PENDLETON. I think they have not; or else I would not have been denying the power for the last half hour. I have been endeavoring to show that the limitations in the letter of the Constitution were not the only limitations upon the power of amendment. And I have done it for the purpose of leading gentlemen of this House to a conclusion I am prepared to take. I have shown that you cannot, under the power of amendment, contravene the letter and spirit of the Constitution; that you cannot subvert republicanism; that you cannot destroy the liberties of the States; that you cannot decide the status of the citizens of the States. I would lead them to the conclusion that there is no power on the part of the Federal Government—on the part of three quarters of the States I intended to say—to adopt the amendment that is now proposed; and that if you do it, if you attempt to impose that amendment upon the dissenting States by force, it will be their right to resist you by force, and to call to their aid all the powers which God and nature have given them to make that force effective.

Now, sir, I do not intend to do my colleague from the Toledo district [Mr. ASHLEY] the least injustice in stating his argument. He felt the force of the suggestions which I have endeavored to present. They occurred to a mind accustomed to anticipate the objections which may be made to the position which he assumes. Having laid

down, in the broadest possible terms, that the conditions and limitations imposed upon the power of amendment are only those which are expressly declared in the Constitution, he follows it up by a declaration that, "in my judgment, Congress may propose and three fourths of the States may adopt any amendment republican in its character and consistent with the continued existence of the nation, save in the two particulars just named."

Why does he impose those two further limitations? There is no guarantee in the Constitution that the Federal Government shall be republican in form. There is no prohibition of a change of the Federal Government to a different and anti-republican form. The gentleman's own admission overthrows the foundation upon which his argument rests. And I would like to know from the gentleman where there is a prohibition upon the right of three fourths of the States to dissolve the Confederation. He says that any amendment must be "consistent with the continued existence of the nation." I deny it; I say that three fourths of the States can dissolve the Confederation. They can annul the Constitution. They can dissolve the Union; but they cannot take away from the constituent States those powers which were reserved, not only by the letter, but by the spirit and the intent and design of the instrument itself.

But this speech of my colleague contains another remarkable statement, to which I desire to call his attention. Following the line of argument which seems to have been adopted by the gentleman from Massachusetts, [Mr. GOOCH,] in the question which he put to me just now, my colleague says:

"Mr. Speaker, I presume no man, not even my colleague, will deny that when the thirteen colonies or States assembled by their representatives in Convention to make the present national Constitution, they might have abolished slavery at once. Or, if the theory of the old parties is true, that a republican Government may authorize or permit the enslavement of men, which I deny, they could have provided for the emancipation of all slaves in twenty or fifty years, if they had seen fit; and if the people of nine States had voted to ratify such a constitution slavery could not, after the period named, have existed by State law and in defiance of the national Constitution, either in one of the old thirteen States or in any one of the States admitted into the Union since its adoption."

Does the gentleman mean to say that the ratification of nine States would have prohibited the institution of slavery in the thirteen States? Does the gentleman mean to say that the ratification of nine States would have made the Constitution binding upon the thirteen? If that is the gentleman's view, then I ask by what authority such a ratification would have had such an effect? I read in the Constitution itself that "the ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." Does the gentleman still contend that the provisions of the Constitution ratified by nine States would have been binding upon the thirteen?

Mr. ASHLEY. Intended, Mr. Speaker, to say this: That the ratification of the Constitution by nine States of the old Confederation practically made them a nation. It is true the clause of the Constitution quoted by my colleague declares that none but the States adopting it would be bound by it. Yet, practically, if adopted by nine of the thirteen it made the whole, with all the territory belonging to them, a nation. Undoubtedly the framers of the Constitution believed that if it was adopted by nine States the practical effect would be to force the other four to adopt it. I have no doubt such was the understanding of the members of the convention, and certainly such was the practical effect of it.

Mr. PENDLETON. Well, Mr. Speaker, that is a most extraordinary proposition. It might be true that, in the course of time, and by the power of conquest, or by the moral influences which a Government composed of nine States would have exerted, the other States would have been persuaded to come into the Union, but I deny that any one State would have been bound by any ratification except that proceeding from the State itself. The theory which the gentleman has explained to us just now, and which, as contained in his speech as printed in the Globe, I honestly thought, in my simplicity, to be a misprint—this theory explains what the gentleman means when he tells us that the Federal Constitution does not clothe any of the States with the attributes of sovereignty. Of course it does not. Nobody ever pretended that it did.

Mr. STEVENS. Suppose that nine States had at that time ratified the Constitution, while the other four did not; would those other four have been members of the Union?

Mr. PENDLETON. No, sir.

Mr. STEVENS. So I say. But suppose that three fourths of the States now ratify an amendment while the remaining fourth do not, are the States refusing to ratify still members of the Union?

Mr. PENDLETON. That will depend upon the character of the amendment, and whether it is in pursuance of the authority granted.

Mr. STEVENS. If the amendment should be adopted by three fourths of the States, while the other fourth refuse to ratify it, do the non-agreeing States go out of the Union or remain in it?

Mr. PENDLETON. If the amendment be without the scope of the power granted, legally they remain in the Union, and the other States go out. [Laughter.]

Nobody pretends that the States are clothed with the powers of sovereignty by the Federal Constitution. Nor does that instrument necessarily strip them of the sovereign rights which they had before the Constitution was made. The States have sovereign powers to-day except so far as that Constitution, by their voluntary act of adoption, has taken those powers from them. They do not derive power from the Federal Government. It inheres in them, and I would like to inquire of my colleague from the Toledo district, [Mr. ASHLEY,] if he denies the sovereignty in the States because they have agreed to suspend, or, if you please, to delegate certain powers of sovereignty which would otherwise belong to them, upon what basis can he pretend there is sovereignty in the Federal Government, which has not now and never had any authority except that which is expressly delegated to it by these States themselves.

But, Mr. Speaker, the gentleman from Ohio [Mr. ASHLEY] is led by his anxiety to pass this amendment into the declaration of another doctrine, which although not entirely novel, is somewhat new upon this floor. He holds to the doctrine that ordinances of secession destroy State governments, but do not affect the relations of the States, that is, of the territory and the people to the Federal Government. He holds that an act of secession is an abdication by the people of their rights but not a release from their duties; that it destroys, not the tie which binds them to the Union, but their form of Government, leaving them subject to the jurisdiction of the Federal Government and its absolute sovereignty with all the rights of local government, and he deduces from this the conclusion that the seceding States have no voice on this amendment, but are absolutely bound by it. That doctrine was promulgated by a Senator from Massachusetts [Mr. SUMNER] nearly three years ago in a series of resolutions presented to the Senate, and my colleague will remember that they met with no more indignant response than from the honorable, able, learned, and patriotic gentleman from Massachusetts [Mr. THOMAS] who then had a seat upon the floor of this House.

The gentleman from Ohio took the instance of Florida. Florida, owned by the Federal Government as a Territory, brought up from a condition of infancy to that maturity, is admitted into the Union. Shall we claim that Florida may on the instant, by the passage of an ordinance of secession, separate herself from this Union and declare that her Union-loving citizens are traitors if they adhere to the Union? Does the gentleman forget that he does not strengthen his argument by citing the instance of a State made out of territory which belonged to the Federal Government? When Florida became a State she became a State with all of the powers and authorities, with all of the rights, all of the dignities, all the elements of sovereignty which Virginia herself had. Yet the gentleman declares that such a State, admitted into this compact by the act of the Federal Government and of the State itself, does not occupy the position of the original States, but that it—more than they—is remitted by the act of secession to a condition of pupillage, and that its people—more than others—are obliged to obey the Constitution—in whose amendment they have no vote—which three fourths of the States, States represented here, may impose upon them.



Mr. YEAMAN. Will the gentleman yield to me for a moment?

Mr. PENDLETON. I will yield if I have time. How much time have I?

The SPEAKER. Fifteen minutes.

Mr. PENDLETON. I will yield to the gentleman for a moment. He will see the necessity for being brief.

Mr. YEAMAN. If the Constitution as an original compact of government was binding only upon those who did ratify it, then I ask whether by ratification they did not give the amending power to three fourths of the States.

Mr. PENDLETON. I have been endeavoring for three quarters of an hour to answer that question.

Mr. YEAMAN. What number of States can amend the Constitution?

Mr. PENDLETON. In some particulars, where the power is granted, three fourths of the States can. In other particulars it cannot be done except by the consent of all of the States bound by it.

Mr. YEAMAN. That brings me to the question I wish to ask the gentleman, and that is this: what is there in this particular amendment which makes it an exception to the general rule, and takes it out of the operation of the amending power?

Mr. PENDLETON. That question I have fully answered on another occasion in this House. It does not lie within the scope of my argument now. The doctrine of the gentleman from Ohio, [Mr. ASHLEY,] to which I have just referred, is as large in its operation, though I think hardly as logical or conclusive, as the position taken by the gentleman from Pennsylvania, [Mr. STEVENS.] That gentleman is famous more for a sledge-hammer power of logic than for its scholastic accuracy.

He says that we are in a condition of war, and that war absolves all compacts. It deprives the citizens of seceding States of their rights under the Federal Government, and absolves the Federal Government and the people of the adhering States from the obligations imposed by the Constitution; and, therefore, he told us, and with an emphasis we could all understand, that no State should be re-admitted into the Union unless it came back carved by the Federal Government out of territory conquered by the sword.

Now, I would ask the gentleman from Pennsylvania [Mr. STEVENS] to be careful how he asserts that doctrine too far. He would go upon the maxim that what is broken in one thing is broken in all. "*Fracta in uno fracta in omnibus.*" Let him be careful lest he may find that it will dissolve the tie which binds these northern States one to the other, and they be remitted to their original position of independence. Let him be careful, lest when the passions of these times be passed away, and the historian shall go back to discover where was the original infraction of the Constitution, he may find that sin lies at the door of others than the people now in arms.

Mr. JENCKES. May I interrupt the gentleman to ask him a question?

Mr. PENDLETON. Certainly, if the gentleman will not consume too much of my limited time.

Mr. JENCKES. I understand the gentleman from Ohio to say that when the history of this time should be written that the sins of and the cause of this rebellion might be laid to the doors of others than those who are now in arms against the Republic. I ask him in the presence of this House and of the American people, at whose door that sin shall be laid, wherein that sin consists, and by whom it was committed? Let the gentleman place it on the records of the history of this country.

Mr. PENDLETON. I am not surprised that the gentleman is touched by what I have said upon this subject. It might be he misunderstood somewhat the exact force of the words I used. But there have been in the neighborhood of the gentleman, there have been within his own State or near it, there have been in the northern States, within the free States, attempts constantly to infract this Constitution; and that I believe, as I believe I stand here to-day.

Mr. JENCKES. Name the men.

Mr. PENDLETON. I could do so, but I did not say that the sin of this rebellion might be laid

at the door of other people; I said to the gentleman from Pennsylvania, [Mr. STEVENS,] and if the gentleman from Rhode Island stands beside him he too may regard it—I said to him, let him beware how he pushed the doctrine that a compact broken in one part is broken in all, lest it might be found that in the past the compact of confederation has been broken elsewhere than in the South.

Mr. FARNSWORTH. Will the gentleman yield to me for a moment?

Mr. PENDLETON. I must decline for the present. I should have concluded what I had to say but for these interruptions.

Mr. FARNSWORTH. Just one moment.

Mr. PENDLETON. Well, I will yield to the gentleman.

Mr. FARNSWORTH. I find in the Congressional Globe of 1860-61 a proposition, made, I think, from the committee of thirty-three to amend the Constitution by interposing this article:

"No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State."

On looking over the yeas and nays upon that amendment I find that the gentleman from Ohio voted for the amendment.

I wish to inquire of him, if in the winter of 1860 and 1861 it was necessary to amend the Constitution by putting into it an article thereafter prohibiting such an amendment of the Constitution as would interfere with slavery, why it is that we cannot now adopt an amendment prohibiting slavery?

Mr. PENDLETON. The gentleman ought to know too well the history of that period in which he was an actor to ask me that question. He was, as I, a member of this House at that time, and he knows that charges were made upon the Republican party that they designed to do what their history has shown that they have done, to interfere with the institution of slavery in the States, and that proposition of amendment was offered, I think, by a gentleman from Massachusetts (Mr. Adams) to test the good faith of the Republican party.

Several MEMBERS. Oh, no; you are mistaken.

Mr. PENDLETON. Was it not offered by Mr. Adams? Well, it was offered at all events to test the good faith of the Republican party.

[Here the hammer fell, the hour having expired.]

Mr. ASHLEY. I move that the gentleman have leave to proceed.

Mr. PENDLETON. I desire but five minutes more.

By unanimous consent the leave was granted.

Mr. FARNSWORTH. Will the gentleman yield to me for a moment? [Cries of "Oh no."]

Mr. PENDLETON. Well, not if it is to press the point, which I have already answered.

Mr. FARNSWORTH. I do not think the gentleman from Ohio has answered the point.

Mr. PENDLETON. Sir, I will hear the gentleman.

Mr. FARNSWORTH. I understand that at that time the power to amend the Constitution so as to interfere with slavery was not denied. I find that the vote of the gentleman from Ohio for this amendment of the Constitution which should prohibit and prevent further amendment of it allowing us to legislate upon the subject of slavery in the States was an admission by him of the power of Congress and of the people to so amend the Constitution. If it was not, why did he vote for the amendment?

Mr. PENDLETON. As I said before, the gentleman ought to know, if he does not know, that the power of amendment in this particular was not then admitted by anybody who agreed with me. Some gentlemen claimed it; quite a large body of men claimed it; but I will venture to say that he will not find in the debates that preceded the vote on that amendment the admission of any member who sat upon this side of the Chamber or of a dozen men who sat upon that side of the Chamber, that the power resided in three fourths of the States to make this amendment. They denied that the prohibition was necessary; but, admitting that there was no power, they did agree, inasmuch as it was not expressly stated in the Constitution, to vote for that amend-

ment in order that in all future time it might be the subject of no question whatever.

Mr. FARNSWORTH. Nobody at that time, I think, denied the power of Congress and the people to amend the Constitution in this regard.

Mr. PENDLETON. Upon that point we differ entirely. The gentleman sat here and so did I. We had our own views of public policy, as we have now. It may be that we understood differently the positions which various gentlemen and parties occupied at that time.

Mr. COX. I will simply say in answer to what has fallen from my colleague, that at the time those resolutions were pending this question of power was discussed, and for one, I held then as I hold to-day, that we had the power under this amendatory clause to reach slavery *pro con*, and the only question is whether we shall use that power as then for the benefit of the country or abuse it as now it is sought to be abused.

Mr. FARNSWORTH. The gentleman is correct in regard to that, and, as I said before, nobody denied the power. The slaveholders upon the floor of Congress at that time themselves admitted the power, and were constantly charging that we intended to exercise that power. For the purpose of quieting their fears in that regard, the committee of thirty-three was raised, who reported this article, and it was passed through the House by the requisite two-thirds vote. It was done for the purpose of quieting the fears of the slaveholders who were then threatening to dissolve the Union because they charged us with the intention of interfering with slavery by an amendment of the Constitution, which they all admitted we had the power to do.

Mr. PENDLETON. I dissent entirely from the proposition of my colleague, as well as from that of the gentleman from Illinois, [Mr. FARNSWORTH.] The gentleman and I differ about it. We cannot settle it. I say, and I am prepared to show by the debates that took place at that time, that the same claim was made then which I make to-day. It was because it was believed that that opinion was not assented to by the extreme gentlemen who had just then come into the administration of the Government, that it was deemed necessary by themselves to put forth this declaration confirmatory of the absence of power on the part of three fourths of the States.

But my colleague from Ohio, [Mr. ASHLEY,] and the gentleman from Pennsylvania, [Mr. STEVENS,] and the gentleman from Vermont, [Mr. MORRILL,] differing on many particulars, agree in this, that the power of their logic is such that no honest man can dissent from their conclusions, and that those who do not intend to vote with them for this amendment are actuated either by sympathy with slavery or by sympathy with the rebellion. Sir, I repel with indignation the insinuation; I repel it with that honest warmth which is consistent with the personal respect which those gentlemen know I feel personally for them. I say it is unworthy of them; that it is unworthy their high character, unworthy of their position in this House. It is the art of the demagogue to ascribe unworthy motives to an act which may in fact be honest.

This Constitution demands the highest admiration of my intellect. It has received the profound homage of my heart. The oath which I have taken commands me to perform that duty which my intellect and my heart impose upon me; and I intend, through evil and through good report, through whatever storm of popular disfavor, to stand by it, as I understand it, even to the end. I love my whole country, South as well as North; and it is because I love it that no act of mine shall retard the restoration of peace or the reconstruction of that Union which made it all my country. I am a northern man; I have their prejudices; I love my section; I love its people; I love its institutions; I am jealous of its honor; and no act of mine shall stain the luster of the fame of its good faith. I am a citizen of Ohio. It was the home of my fathers, as it is the home of my children; and I will stand by this Constitution because I wish to preserve forever the rights and dignities of my State, and maintain forever the liberties of its citizens.

I am not influenced, therefore, by any peculiar love for the people of the South; by any peculiar regard for their institutions. I stand unmoved by the considerations which have been addressed

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2d Session.

FRIDAY, JANUARY 13, 1865.

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to us. It is nothing to me that gentlemen from slaveholding States approve this amendment; it is nothing to me that the tide of the popular sentiment runs in favor of it; it is nothing to me that we of the northern States who believe as I do stand alone, if alone we must stand. I intend to do my duty as I understand it, and I am prepared for the consequences be they what they may.

But, Mr. Speaker, if I were influenced by the motives which gentlemen on the other side attribute to me, it would be easy for me to fall into the current of public opinion which is carrying them so rapidly away. It is because I am not that I occupy the position I do to-day. The time is fast passing away when under the influence of your policy and your legislation the southern States or people will have the least interest in your laws. Your legislation has turned to ashes the golden fruits of your military success. Your policy has verified the alleged causes of secession. Gentlemen must not be misled by the syren voices that come up to them from captured cities of the South. They woo you but to ruin. If you misunderstand them they will lead you as willing victims upon quicksands and rocks.

If you drive the southern people by your military power to the last extremity, and superadd, as the majority of this House desire, emancipation of slaves, confiscation of property, destruction of local governments, destruction of State constitutions, division of territory—if that be your policy, they will liberate their slaves, they will arm their negroes, they will break down the only barrier that separates them from the sympathies of all Europe, and, aided by the moral force, if not the material power of Europe, they will establish their independence, and your Union President will sign the treaty of dissolution. And then, in exchange for free Maryland with her slaves enfranchised and her white citizens enslaved; in exchange for free Missouri with her slaves enfranchised and her white citizens decimated by the vengeance of the guerrillas, we will have given up this Union with all its benefits, and have subverted a form of government the fairest and freest, the most bountiful in blessings in the past and the most hopeful of blessings in the future, that God in His mercy ever vouchsafed to man.

Mr. JENCKES. Mr. Speaker, I am not sorry to have heard, in this House of Representatives of the American people, as a finality, as I believe, of the controversy which has divided and distracted our land, the proposition stated by the gentleman from Ohio, [Mr. PENDLETON.] He has improved upon the school of his master. He looked upon a dissevered and divided Union, a compact of States. We have now a phrase by which this nation is designated by one who expected to have been one of its chief executive officers as "a compact of confederation." For the first time, I believe, in the history of this country has that phrase been used with reference to this form of government. And I am astonished that he, a citizen of Ohio, a State sovereign and independent, as I understood him to say, should have used a phrase like that in defining his position when departing from the councils of the nation. Well is it for the nation that those of that school should not be retained in its councils. If we are not a nation, what are we? "A compact of confederation?" I doubt, if the gentleman had weighed the meaning of those words, whether he would have used that phrase.

But let me make the point upon him which I did in the question that I put. I ask him, and ask all who may follow him on the same side, to answer my question. I do not agree with what he says in reference to the gentleman from Pennsylvania, [Mr. STEVENS,] "broken in one thing, broken in all," referring to the Constitution. I arraign before the American people the gentleman from Ohio and all who are of his school of politics, and I ask him or them to frame an indictment against a man, a State, or a party in this whole country that has committed, I will not say a fracture of

the Constitution, because that would be a matter of fact, but that has done anything to break the Constitution. Let us hear what it is, here and now. While we are attempting to amend the Constitution let them place it upon record. Time and time again we have asked them for it. Now we have that accusation from the gentleman from Ohio, [Mr. PENDLETON.] Let him put it upon record in such phrase as he chooses. He knows well how to do it; no one better. Let him answer it now, or let him and all who are with him stand mute.

But the question now before the House seems to be simply this: can we amend the Constitution in the way in which the Constitution itself says it may be amended? Whatever it may be called, written compact between the States, a declaration of the rights of the people, a convenient expression of what the people meant to be their rights forever thereafter; describe it in whatever phrase you please, can any one say that it cannot be amended in the precise way in which those who framed it intended it should be amended? What answer have we to that? Why, sir, the answer of the gentleman from Ohio [Mr. Cox] is that that power is to be used but not abused. Abused! abused! to amend the Constitution in this manner? I say to that gentleman, and all who are with him, not only before this House and this country, but before the world, that it is a misuse of language in this age of the world to charge us with abuse of power when we place ourselves in the direct line of the eternal forces acting out God's justice upon this earth.

Again, I say to gentlemen—and when I say it I simply mean to raise the points that they may be answered, and that the answers may be placed upon record if any one chooses to give them—why, as a matter of expediency, should this not be done? I heard the venerable gentleman from Kentucky [Mr. CLAY] say, the other day, with lamentations, almost with tears, that the result of this thing was to use those enfranchised people as a political power in the States. Has not slavery been an element of power ever since it had a recognized existence in this country, ever since it was first tolerated by this Government? And shall it be objected to by the friends of freedom that the freedmen, the enfranchised men, will be an element of power in a republican Government? Strange language is that, it seems to me.

But in this contest slavery commenced the fight; it chose its own battle-field; it has fought its battle, and it is dead. In the course of our victorious march that battle-field has come into our possession, and the corpse of our dead enemy is upon it. Let us bury it quickly, and with as little ceremony as possible, that the foul odor of its rotting carcass may no longer offend us and the world.

Mr. SMITH obtained the floor, and then, (at twenty minutes past four o'clock, p. m.) on motion of Mr. WASHBURN, of Illinois, the House adjourned.

## IN SENATE.

THURSDAY, January 12, 1865.

Prayer by Rev. B. H. NADAL, D.D., of Washington, District of Columbia.  
The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States communicating, in answer to a resolution of the Senate of the 15th ultimo requesting information concerning an arrangement limiting the naval armament on the lakes, a report from the Secretary of State on the subject.

On motion of Mr. SUMNER, the message and accompanying papers were referred to the Committee on Foreign Relations, and ordered to be printed.

## HOUSE BILL REFERRED.

The bill (H. R. No. 657) to amend the third section of an act entitled "An act making appro-

priations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States, was read twice by its title, and referred to the Committee on the Judiciary.

## PRINTING OF A BILL.

Mr. COLLAMER. There was a bill (S. No. 390) introduced by me yesterday relating to the postal laws which I desire to have printed. It is somewhat lengthy, and the committee need it printed for the purpose of understanding it. I therefore move that it be printed with the letter of the Postmaster General accompanying it.  
The motion was agreed to.

## PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Jane G. Swisshelm, praying that provision may be made for the employment of women as corresponding, reading, briefing, and copying clerks in the Departments; which was referred to the Committee on Finance.

He also presented the petition of citizens of Philadelphia, officers of the Loyal League of that city, praying for a modification of the existing laws in relation to the raising of troops by means of local bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. FARWELL presented a memorial of the Board of Trade of Portland, Maine, praying for an appropriation to place steam whistles upon Cape Elizabeth, Matineus Rock, and Quoddy Head, for the better security and protection to the navigation upon the coast of that State; which was referred to the Committee on Commerce.

Mr. HENDRICKS presented the memorial of Dennis Nolan, representing that he occupies a strip of land, not susceptible of cultivation, between the inclosure of the light-house and the shore of Lake Michigan, at Michigan City, and proposing to buy or lease it from the Government; which was referred to the Committee on Public Lands.

## PAPERS WITHDRAWN.

On motion of Mr. FOOT, it was  
Ordered, That the petitioners have leave to withdraw the papers in the case of Nott & Co.

On motion of Mr. DIXON, it was  
Ordered, That Henry Kellogg have leave to withdraw his papers in relation to his claim for indemnification for losses sustained in preparing to make and making bricks for the Washington aqueduct.

## REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 388) further to provide for the verification of invoices, reported it without amendment.

## BRIDGE ACROSS THE OHIO RIVER.

Mr. POWELL. The Committee on the Judiciary, to whom was referred the petition of James Guthrie, president of the Louisville and Nashville Railroad Company, and D. Ricketts, president of the Jeffersonville railroad, praying that the act of Congress entitled "An act authorizing railroad bridges across the Ohio river" may be so amended in the fourth section thereof as to permit them to construct a railroad bridge at the head of the falls of the Ohio fifty-four or fifty-six feet above low-water mark without the required span of three hundred feet, and that it be made a postal route for the United States mail, have instructed me to report it back to the Senate and ask to be discharged from its further consideration. The committee think it is a matter that properly belongs to the Committee on Post Offices and Post Roads. I therefore move that the Committee on the Judiciary be discharged from its further consideration, and that it be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. POWELL. I now ask the unanimous consent of the Senate to introduce a bill, without previous notice, in relation to the subject of that petition.

By unanimous consent, leave was granted to introduce a bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads," which was read twice by its title, and referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### EXTRA SESSION OF CONGRESS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a resolution asking if any legislation is necessary to enable the President to call an extra session of Congress without giving sixty days' notice, have instructed me to report it back to the Senate, and recommend its indefinite postponement. In making this report I will state that there seems to be a misapprehension in regard to sixty days' notice being necessary in convening an extra session of Congress. I have been unable to find any law requiring any definite notice to be given, and believe that no legislation is necessary, inasmuch as the President may convene an extra session of Congress upon such notice as he thinks proper as the law now stands.

The report was concurred in, and the resolution was indefinitely postponed.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 391) authorizing an adjustment of the claims for lands heretofore confirmed to any State; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 394) for the relief of the parties in a cause pending in the supreme court of the District of Columbia, wherein Emily F. Wiley is plaintiff and Marshall Brown and others, defendants; which was read twice by its title, and referred to the Committee on the Judiciary.

#### COUNSEL FEES PAID BY THE DEPARTMENTS.

Mr. TRUMBULL. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of State, of the Treasury, of War, of the Navy, of the Interior, the Postmaster General, and the Attorney General, be each directed to inform the Senate what amount was paid or allowed in his Department for attorneys or counsel fees of every kind and description, exclusive of the regular salaries paid to the Attorney General and the respective district attorneys during the fiscal year ending June 30, 1864, and, so far as practicable, from that period to the 1st of January, 1865, giving a list of the names of the persons employed, the amount paid each, and out of what fund.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HALE. I did not hear the whole of the resolution, and I do not know but that I should be in favor of it; but I think it would be well to add at the close "and the services for which those fees were paid."

Mr. TRUMBULL. I have no objection to that except that I think it will make the report very voluminous.

Mr. HALE. I think we had better have those words in the resolution. I have some particular reasons for wanting them in.

Mr. TRUMBULL. I shall make no objection to adding those words in the appropriate place.

The VICE PRESIDENT. The Senator from Illinois modifies his resolution by inserting the words suggested by the Senator from New Hampshire.

The resolution, as modified, was adopted.

#### COMMITTEE ON VENTILATION.

Mr. BUCKALEW submitted the following resolution, which was considered by unanimous consent, and agreed to:

*Resolved by the Senate*, (the House of Representatives concurring,) 1. That the joint committee on ventilation and improvement of the Halls of Congress be authorized to examine witnesses and employ a reporter.

2. That the members of the Committees of the two Houses upon Public Buildings and Grounds be added to the said joint committee upon ventilation, &c., for the purpose of deciding upon any plea or proposition of improvement which may be before said committee for consideration.

#### SALE OF INDIAN LANDS IN MINNESOTA.

Mr. DOOLITTLE. I desire to call up Senate joint resolution No. 92 that it may be acted upon at the present time. When it is taken up I can in a single moment explain to the Senate the necessity for immediate action upon it.

The motion was agreed to, and the joint resolution (S. R. No. 92) to postpone and prevent the sale, for less than their appraised value, of certain Indian lands in Minnesota was read a second time, and considered as in Committee of the Whole. It provides that so much of section three of an act for the removal of the Winnebago Indians, and for the sale of their reservation in Minnesota for their benefit, approved February 21, 1863, as provides that no portion of their reservation shall be sold for a sum less than their appraised value before January 1, 1865, nor for a less price than \$1 25 per acre, unless otherwise provided by law, shall be amended so that it shall not be lawful to sell any portions of the lands within the limits of the reservation for a less price than their appraised value prior to January 1, 1866, nor shall any preemption claim (unless already attached) to any portion of the lands be held to be valid unless such claim shall be established and the purchase-money for such claim paid prior to the 1st of January, 1866.

The second section provides that so much of section three of the act of March 3, 1863, entitled "An act for the removal of the Sisseton, Wahpaton, Medawankaton, and Wahpakoota bands of Sioux, or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," as provides that no portion thereof "shall be sold for a sum less than their appraised value before January 1, 1865, nor for a less price than \$1 25 per acre, unless otherwise provided by law," shall be amended so that it shall not be lawful to sell any of the lands for a less price than their appraised value prior to January 1, 1866; nor shall any preemption claim, not already attached to any portion of the lands, be held to be valid unless such claim shall be established and the purchase-money for such claim paid prior to January 1, 1866.

Mr. POMEROY. I do not precisely understand the reason for the postponement of these sales. I presume the chairman of the committee can state it to the Senate and perhaps satisfy everybody about it. I have always noticed that when sales of this kind are postponed with a view of getting more than \$1 25 an acre for the land we hardly ever get it. We have had considerable experience on this subject. If these lands can net to the Indians, as I understand they can, \$1 25 an acre, in my opinion that is as much as they will ever get. I have seen two or three instances where postponements have been made without effecting any good.

Mr. DOOLITTLE. I will state to the honorable Senator from Kansas that since these lands were surveyed there has been but a very brief period, as I am informed from the Department, for the lands to be offered for sale at their appraised value.

Mr. POMEROY. How long?

Mr. DOOLITTLE. But a few weeks after the schedules were made out and put in such shape that the lands could be advertised.

Mr. RAMSEY. If the Senator will allow me, the appraisement on the lands on the Sioux reservation only reached the Department since the 1st day of January, 1865; so that the object of the law is entirely defeated, and the Indians would not get one cent above \$1 25 an acre, although the land is worth three or four times that amount. Hence, this resolution is indispensably necessary in order to prevent the sacrifice of those lands.

Mr. POMEROY. If it is only to extend the time for a short period, I will not object to the resolution; but I want to know of the Senator from Wisconsin, if these lands are occupied, whether there are preemptors upon them now?

Mr. DOOLITTLE. I will explain to the Senator and to the Senate in a single moment the whole purpose and scope of this resolution.

The act of 1863 provided that none of these lands should be sold at less than their appraised value previous to the 1st of January, 1865, which is the first day of the present month. It has been but a very short time since these lands were advertised, or any portion of them put into market

so that they could be offered and sold at their appraised value. But the 1st day of January having arrived, the lands since that date have been open to preemption, and I suppose that some persons perhaps in Minnesota may have entered on some of these lands after that date, and their rights to preemption may have attached in such a way that it is impossible for us by legislation to deprive them of their rights which have accrued. The resolution itself, therefore, excepts those which have already attached; but it proposes to postpone and prevent any more preemptions attaching to these lands for one year, so that they may be sold at the appraised value.

It will be remembered by the Senate that the Winnebago tribe of Indians were not at all involved in that war in Minnesota; yet there was such a feeling of hostility aroused by the war which was brought on by the Sioux, that there seemed an absolute necessity of taking some measures for the removal of the Winnebagos as well as the Sioux. The Winnebagos have been removed from the State of Minnesota, and these lands are the fund by which we are still to support these Winnebagos; and it seems to me it would be very wrong to allow preemption claims to attach to these lands until there is a fair opportunity for them to be sold, one year at least.

So, also, in relation to the lands belonging to the Sioux, the same provision is contained in this joint resolution. I think it but just. The Department are urgent to save these lands, or the funds to grow out of them, for the benefit of these Indians. I think there can be no objection to its passage.

Mr. HARLAN. I think there is a little ambiguity about the language of the resolution as it now stands, and I therefore desire to propose a couple of amendments to it. In section one, line fifteen, I move to strike out all after the word "claim" to the end of the section, in the following words:

(Unless already attached) to any portion of said lands be held to be valid unless such claim shall be established and the purchase-money for such claim paid prior to the 1st day of January, A. D. 1866.

And to insert in lieu thereof:

Be valid made after the passage of this act.

So that the clause will read:

Nor shall any preemption claim be valid made after the passage of this act.

The amendment was agreed to.

Mr. HARLAN. I now move a similar amendment in section two, to strike out all after the word "claim" in the fourteenth line to the end of the section, in the following words:

Not already attached to any portion of said lands, be held to be valid unless such claim shall be established and the purchase-money for such claim paid prior to the 1st day of January, A. D. 1866.

And to insert:

Be valid made after the passage of this act.

So that the clause will read:

Nor shall any preemption claim be valid made after the passage of this act.

Mr. DOOLITTLE. I see no objection to these amendments if the Senator thinks they make the resolution clearer and more satisfactory.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

#### RECIPROCITY TREATY.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the joint resolution relating to the reciprocity treaty.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854, the pending question being on the passage of the joint resolution.

Mr. HOWE. Mr. President, when the Senate adjourned yesterday I had just submitted some figures giving an exhibit of the actual lumber export of Canada as compared with the lumber product of the United States. I desired, if I could, to persuade the Senate and to persuade the country that there was no danger that \$95,000,000,



which is the value of the American product, would be swallowed up by \$10,000,000, which is the value of the Canadian export. But it must be remembered that this quantity of lumber which I have already given as the export of Canada does not all come here, by any manner of means. On the contrary, of the \$8,500,000, in round numbers, which was the export of Canada in 1859, only something over \$3,000,000 found its way to the United States. Of the \$10,000,000 which was exported by Canada, in 1860, something over \$3,800,000 worth found its way to the United States; and of the \$8,600,000 which was the export of Canada in 1861, only \$2,065,870 found its way to the United States. And yet Senators here seem to be alarmed that the lumber interests of the United States are to be overwhelmed by this slight and insignificant importation from Canada. In point of fact this \$2,000,000 of lumber in value is received at different points and melts away in the vast consumption of the United States, and I dare say is little felt anywhere.

The port of Chicago, which is one of the great lumber markets in the country, the greatest lumber market in the Northwest, which would be likely to feel this importation as soon as almost any point, makes this return of the Canadian lumber trade: in 1860 there was received at that port, from Canada, of lumber unmanufactured \$11,453 in value; in 1861, \$15,710; in 1862, \$19,425; in 1863, \$43,268; in 1864, \$92,378. Of manufactured lumber not a foot has been received in that port for five years.

I feel, therefore, great confidence in saying that this new-born sympathy for the lumber interests of the United States is not called for. They do not stand in need of it. They are doing very well; and I think the lumbermen of this country will feel much less grateful for this sympathy when they are made to understand what it really leads to; for what is the proposition that was submitted to us yesterday? They propose to rid the American lumber interest of a competition which arises from an importation of about two million dollars in value. For what? To put the Government in a position in which it can levy a tax on the American product of five per cent. In other words, you propose to drive \$2,000,000 of Canadian lumber out of our market, and save our lumber interest from that amount of competition; and the equivalent for doing this is that you will take \$5,000,000 directly from the pockets of our manufacturers. The lumber product of the United States is not less than \$100,000,000, and if you put five per cent. upon that, they have to pay directly \$5,000,000 as a consideration for being relieved from this competition of \$2,000,000. I think the lumbermen of the United States can do without this sympathy. I am sure they cannot do with it.

But, sir, there has been an attempt to excite our jealousy against our Canadian neighbors. The sentiment of envy has been appealed to in aid of this resolution. We have been pointed to magnificent railway improvements which are said to have cut their way through Canadian forests, as if they were the effect of this treaty of 1854. Well, sir, they have a railway running through Canada, I believe. It is a pretty important highway, I suppose; but we are not entirely destitute of railways in the United States. We are taunted with the railway system of Canada, as if the produce of the United States found its way to our own markets by wagon trains. But our produce does not go to market in that way. Sir, I cannot help feeling a little humiliated and mortified when any statesman, speaking for the United States, attempts to excite our envy toward the people or the government or the trade or the prosperity of Canada. If we are reduced to that it is time we were wiped out as a nation.

So far, sir, I have been considering objections, not as they were made here in the debate of yesterday, but as I had found them stated elsewhere, before any objections were presented to the Senate. I have taken them from the lips of a Representative who is understood to be the author of this measure. I thought it fair to infer that if he could not sustain the resolution it could not be sustained, and I think I have succeeded in showing that his defense falls very far short of sustaining the resolution. Yesterday the resolution was advocated on this floor, and somewhat different grounds were urged in support of the resolution.

Yesterday we were told that we should repeal this treaty of 1854 to enable us hereafter to lay duties on our imports from Canada, and to enable us also to impose taxes on our productions which are named in the treaty. That was urged by the Senator from Massachusetts, [Mr. SUMNER;] that was urged by the Senator from Ohio, [Mr. SHERMAN;] neither of whom I see in his seat; that was urged by the Senator from Vermont [Mr. COLLAMER] also, who is not in his seat.

The argument falls from the Senator from Ohio very naturally. To impose taxes seems to be his forte. He has an idea, I think, that the normal condition of man is to pay taxes. [Laughter.] I have never known him to avow a willingness that anything should go untaxed except perhaps Catawba wine and silver spoons. When he urges us to repeal this treaty in order that he may get a new hold of the pockets of the people, it is all right; but I insist that we have a right to milder doctrines from the Senator from Massachusetts. He has no right to be so greedy.

Besides, sir, if we must have money, do you conceive it to be absolutely necessary that the money should be collected off these specific items? Senators tell us that the Treasury is needy. Well, supply the Treasury. Must you wait until some commodity comes to you from Canada before you pay your taxes? I once heard of a Massachusetts lawyer who insisted that a fee was so essential to enable a lawyer to do business correctly that he never would trust himself to draw a deed for himself without taking a five dollar note from his wallet and putting it in his vest pocket. [Laughter.] I never really believed the statement; but since I have found a Massachusetts statesman who insists that he cannot pay his dues to the Government until he has been furnished a foreign commodity on which to pay them, I am less incredulous about the story of the Massachusetts lawyer.

Why, sir, if these duties are paid, we have got to pay them, and I would just as soon pay them before the commodity comes here, and without any regard to the commodity, as to pay them now. The truth is—and some time the American people will be made to comprehend it, and when they do the American Legislature will be made to comprehend it—that this method of levying taxes by way of duties is the most cruel and inhuman mode you could contrive, because it is the most expensive mode. Every million of dollars you put into your Treasury by that method takes, not less than a million, but more than a million and a quarter out of the pockets of the people. That will come to be known some time.

The Senator from Vermont yesterday told us that the Government of Great Britain derived a very large revenue from the excise duty on hops. He told it to us so touchingly that it almost made my mouth water to think what a jolly time they were having there in collecting money on hops. Nay, he told it with an air which almost led me to pity our own hop-growers that they could not enjoy the luxury of paying something on their hops. But after all, when we look at it soberly, I think our own hop-growers can get along without that. Recollect, there is not a dollar made in the growth of hops that you do not tax just as heavily as you tax any other dollar of profits made from any other source; there is not a hop used in the manufacture of any article but what you tax just as high as you tax any other manufactured article; and I think the hop-growers will be content with paying taxes in these two methods and will not insist upon a direct tax being levied upon their production. The whole policy of our revenue laws so far is to avoid laying taxes on raw products.

The Senator from Vermont also urged yesterday that he wanted to get rid of this treaty because he did not like the way in which the treaty was made. He tells us he does not like this way of regulating trade or commerce by treaty. He thinks it had better be done by Congress. Very likely the regulation of our own commerce with foreign countries had better be done by our own Legislature rather than the treaty-making power; but it happens that if you want to regulate our trade with foreign countries you are obliged to do it through the treaty-making power, for the authority of your Legislature does not extend so far. Your Legislature can determine what duties they will impose on the importations from foreign coun-

tries, but your Legislature cannot prescribe what duties shall be imposed on those articles you export to foreign countries. It was the object of this treaty not merely to regulate the trade of Canada with us, but to regulate our trade with Canada; not merely to fix the rate of duties on our imports, but to fix the rate of duties on our exports. That must be done through the treaty-making power, and cannot be done through the Legislature. It was conceded here, as it has not been conceded elsewhere, that the treaty is constitutional; in other words, that the President and Senate had authority to make it, had authority to regulate trade in this way. If they have the authority to do it, then the only question is whether they did as wisely as the Legislature could.

The Senator from Vermont also told us that it must have been a bad bargain for us, since we opened to Canadian productions a market of thirty million people, and they have opened to us a market of but three million. He insisted that that must be a bad bargain for us; that a market of thirty million must be more valuable than a market of three million. The argument is a plausible one, but an unsound one; for the value of a market does not depend upon the number of purchasers found in it; it depends upon the demands, the needs of the market. Here are thirty million people purchasers of cotton; thirty million are the consumers of cotton; but of what use is it to open that market to Canada, for we have more cotton than we know what to do with, or had when this treaty was formed. The value of the market, as I said before, depends upon its necessities; and whether we shall buy more or sell more to Canada depends not upon the question whether our population is larger than theirs, but whether we have a larger surplus than they. It is, however, unnecessary to argue this matter with the Senator from Vermont or with anybody else. It is put beyond the reach of argument by established facts. The established fact is, that notwithstanding we have thirty million to buy, and they have but three million, yet we sell more to them than they do to us, and have done so since this treaty was made. We sell more to the three million than the three million sell to our thirty million.

Now, sir, I have done what I could to show that every objection taken to the treaty in debate here and elsewhere is unsound, is untenable. I have argued from the official returns that we have showing the state of this trade. The Senator from Vermont said yesterday that the people living where he did, in the State of Vermont, did not need any reference to any tables whatever on this subject; they knew that the treaty was injurious to us; they could see that every day. Well, sir, I never lived in Vermont. I know that Vermont touches the Canadian line at one point about as big as a man's foot, and it is barely possible that because of that contact they may know there how this trade affects the whole country stretching along the whole frontier of Canada. I should not suppose so. I do not believe that if you go out and put your hand on one of the telegraph wires you can tell what is passing over all the telegraph wires in the country; and I do not believe that by placing yourself in contact with the Canada line at one point you can know exactly what the trade is between the two countries throughout the whole extent of their bounds.

I, however, did not assume to know anything from any such quarter. I have given you facts and figures as they are reported to us officially, and I have shown that if it be objected to this treaty that you export more free goods since the treaty was adopted than you did before, that Canada does the same, and that such was the very design of the treaty itself. I have shown you that if it be objected that the balance of trade was in our favor before the treaty was adopted and has been against us since the treaty was adopted, that that is a mistake. The balance of trade has been in our favor ever since the treaty was adopted as it was every year before the treaty was adopted. If it be objected against the treaty that you have exported less of the articles named in it than you have imported, I have admitted that that was very true when the treaty was first adopted, such was the undeniable fact then, but even that evil I have shown you is cured; so that in the last years of the operation of the treaty we have exported more of articles named in it than we imported.

The last evil objected to in the treaty, therefore, has been cured. I have shown you that if the Treasury needs more revenue there are other ways in which it can be supplied without depriving the people of the advantages they derive from this treaty. To cut down their trade is not the way in which to prepare the people to be taxed. It is not a sound argument to adduce here or elsewhere to say that when you have deprived the people of the United States of this trade which now amounts to \$40,000,000 annually they will be in a better position to pay your taxes and sustain the public credit.

But the argument so far, if ever so successful, has only shown that the reasons urged against the treaty are untenable. I now beg the indulgence of the Senate for a few moments while I name three reasons which, in my judgment, forbid the repeal of this treaty.

Sir, what is the reciprocity treaty? It is a compact entered into between this Government and the Government representing Canada and the adjacent British provinces lying on our northern border, by which they agree to exchange certain articles of produce of the respective countries, and to admit into the respective countries those articles without any duty. The articles enumerated included nearly all the kinds of raw material which are produced in the United States and in the British provinces respectively. They are:

"Grain, flour, and breadstuffs of all kinds; animals of all kinds; fresh, smoked, and salted meats; cotton-wool, seeds, and vegetables; undried fruits, dried fruits; fish of all kinds; products of fish and of all other creatures living in the water; poultry, eggs, hides, furs, skins, or tails undressed, stone or marble in its crude or unwrought state; slate; butter, cheese, tallow; lard, horns, manures; ores of metals of all kinds; coal; pitch, tar, turpentine, ashes; timber and lumber of all kinds, round, hewed, sawed, unmanufactured in whole or in part; firewood; plants, shrubs, and trees; pelts, wool; fish oil; rice, broom-corn, and bark; gypsum, ground or unground; hewn or wrought or unwrought burl or grindstones; dyestuffs; flax, hemp, and tow unmanufactured; unmanufactured tobacco; rags."

These articles, which are the produce of the United States, are by the treaty admitted into all these British provinces free of duty, and the like articles, the products of those provinces, are under the treaty admitted into the United States free of duty. Beyond this, and for this, the Canadas agree to pay something like boot as a condition, or as an equivalent for entering into this compact. They give to our commerce the use of the St. Lawrence river, and of the Canadian canals upon the same terms under which the Canadian commerce enjoys that use. They give to us the use of the St. John's river for floating down our lumber cut upon its head waters; and they give us a common fishery throughout all their bays and their coasts.

Now, Mr. President, to say for a moment nothing about the value of this fishery, nothing about the value of the use of the St. John's, nothing about the value of the navigation of the St. Lawrence, what is the compact so far as it relates to the exchange itself? Canada puts herself and her productions named in the treaty upon a par with us. She says, "we are willing to compete with you; you can produce more cheaply than we can, more abundantly than we can; if you can undersell us we are your purchasers; if we can produce more cheaply than you, if we can undersell you you are our purchasers." Believing as fully as I do in the capacity of this country, I should not say it was a very bad bargain of itself; and if we got no boot I think we could afford to abide by that contract. I should think so irrespective of any actual returns showing its operation.

The Senator from Vermont told us yesterday that he thought he knew why the treaty was made. He thought it was made for the purpose of preventing the annexation of those provinces to this country. I cannot say that it was not, but I do not see anything in the treaty which has that tendency, and certainly there is nothing shown of the operations of the treaty which could have that tendency. The Senator says they were uneasy because they had no outlet for their products; that by this treaty an outlet was provided, a market was opened to them, the discontent was all allayed, and Canada has been content with her old allegiance. Well, sir, we have seen by all the figures which have been cited here that there was no market created for them. True, they have sent some certain commodities here, but they have received a larger amount in value from us. In other

words, they have purchased from us more than they have sold to us every year since the treaty was enacted. I do not believe, therefore, that that was the purpose for which the treaty was made. I do not undertake, myself, to know why it was made; but I do know what the treaty did, and I will tell you.

Before the treaty, our whole import from all the British provinces was about six millions a year. In 1855, the very first year after the treaty was adopted, we imported from Canada alone in wheat and other varieties of grain and flour, \$10,840,204. Four million dollars over what our whole importation had been from all the provinces prior to the adoption of the treaty were imported from Canada alone, in the first year after the adoption of the treaty, in breadstuffs which we ought to have raised ourselves. That is what the treaty did.

Sir, I was born in New England, and I understand those people. I never knew them to be beaten much by any combination of accidents. Whatever happens to them is generally designed by them; and since it happened as the result of this treaty that their manufacturers were enabled to purchase in a new market free of duty, and bring in here \$10,000,000 of the agricultural products of this country, I think they designed that very operation of the treaty. It will be remembered that so long as we were importing this large amount of breadstuffs and sending abroad under the treaty but very little, we heard no complaint about the treaty. Nay, sir, it was said by a Representative from Vermont, in discussing this subject the other day, that such of the eastern States as failed to produce their own breadstuffs, or their butcher's meat, or their wool, or their horses, would not be likely to protest against supplies from Canada and the consequent reduction of prices. They did not produce them; there was no complaint heard about the treaty then; and I infer from all this that it was the very object and design of the makers of this treaty to enable the manufacturing districts to purchase their food in the Canadian markets and bring it here without duties.

It will be remembered that in 1854, when this treaty was made, the Northwest, the really agricultural districts of the United States, were a great deal further from the eastern markets than they are now. It was about that time, if I remember right, that the first railroad from the East reached Chicago. Since then we have a large number of railways reaching to Chicago, and reaching far beyond Chicago. Our means of communicating with the eastern markets are much more abundant now than they were then; and our production also is vastly increased. The agriculture of the United States in 1854 was in its cradle, and it is not the fault of this treaty that it was not strangled in its cradle.

The first reason I have to present why this treaty should not be repealed now is, that under it our trade with these provinces has increased from \$16,000,000, which was its value in 1852, to over \$50,000,000, which was its value in 1862. In 1852 our exports to them were \$10,509,016, and our imports \$6,110,299. In 1862 our exports to Canada alone were \$25,173,151, and our imports from Canada were \$15,063,730. Our trade with the provinces was something over \$12,000,000, making an aggregate of over \$52,000,000, which was the amount of our trade with all the British provinces in 1862.

The Senator from Massachusetts, in his speech yesterday, admits the fact of the immense increase of that trade, but affects to doubt that it is the result of the treaty. He admits that it followed the adoption of the treaty, but does not seem prepared to admit that it was caused or affected by the treaty. I cannot prove that it was. He suggests that it might have been the effect of our increase of population, or that it might have been the effect of our railway system. I respectfully insist that it cannot be the effect of either of those causes. It cannot be the effect of our increase of population, because our population in that time increased only about twenty-five per cent, and our trade increased three hundred per cent. It cannot be the effect of our railway system, because the direction of it is such that it would prevent this trade between the States and the Canadas. Our railways and their railways run from east to west, from western communities to eastern markets; and it is no more their tendency to send trade from one

country to the other than it is the tendency of this railway along Pennsylvania avenue to send its cars along the streets at right angles with it. These railways are grooves, so to speak, holding, so far as their influence goes, that trade and commerce right along their lines, and their tendency is to prevent its diverging either from the Canada tracks into our country or from our tracks into theirs.

I think it is very easy, therefore, to see that this vast increase in that trade is not the result of either of the causes suggested by the Senator from Massachusetts. That it is the direct and necessary result of the treaty itself, as I said before, I cannot prove. When you take off duties and cheapen importation you always notice that trade does increase; but I cannot prove that it is a consequence of that policy. I have noticed all my life that every time the sun rises clear there is light shining about us; but I do not know how I can prove that the light is the consequence of the sun rising. I would like to have that believed; I always have believed it myself; and I would like the Senator from Massachusetts to admit if he can, through the exercise of faith, if not through the exercise of his reason, that this increase of trade is the direct and necessary result of the treaty itself.

The repeal of the treaty will destroy that trade. It will prevent you from purchasing these \$15,000,000 and from selling that \$25,000,000. You had some trade, it is true, before your treaty was adopted; but then your duties were lower and their duties were lower than they are now. Your duties have been very much advanced and theirs very much advanced since this treaty was adopted. Strike down the treaty and leave that trade to the mercy of your present rates of duties, and this interchange of commodities must stop altogether. Then you have \$25,000,000 of goods for which you have not this market, and they have \$15,000,000 of goods which we want and which we cannot have.

That is the first effect of repealing the treaty. That is an effect upon the trade of the country generally. But it will have an effect upon the agricultural interest which I should deprecate as the representative of an agricultural community, and which I think we all ought to deprecate; for, representing what communities you may, there is no one to be found anywhere whose prosperity does not depend primarily upon the prosperity of the agricultural interest. I have already told you, Mr. President, that in the first year after this treaty was made we imported from Canada of breadstuffs alone \$10,840,204. In that year we exported but \$1,599,040. That was a heavy blow to the agricultural interests of the United States. That was sending abroad for a clean \$9,000,000 in value of breadstuffs which we produced and which we ought to have consumed at home. But we have outlived that. In 1863 we imported from the Canadas but \$6,117,890 of breadstuffs, while we exported \$9,588,390 to the Canadas, and we exported to the other provinces \$4,948,871. There were more than \$14,000,000 of breadstuffs which in 1863 we exported under the provisions of this treaty.

Mr. GRIMES. Will the Senator yield me the floor for a moment?

Mr. HOWE. Certainly.

VICE ADMIRAL FARRAGUT.

Mr. GRIMES. Mr. President, the Senate is honored by the presence of one of the most distinguished of our citizens at this moment, to whom every Senator, I presume, desires to pay his respects; I mean Vice Admiral Farragut, the first person holding that high position in the American service. I therefore move that the Senate take a recess of ten minutes in order that the members of the body may have an opportunity of a few minutes' intercourse with that eminent citizen.

The motion was unanimously agreed to; and Senators were individually introduced to the gallant sailor and to his chief executive officer, Captain Drayton, who accompanied him, who had been admitted to the privileged seats of the Senate Chamber.

RECIPROCITY TREATY.

The Senate resumed the consideration of the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for

the termination of the reciprocity treaty of the 5th of June, A. D. 1854.

Mr. HOWE. Mr. President, to explain this great change in our trade with Canada in agricultural products, it may be necessary to refer to the great increase of those products. In 1854, when this treaty was made, the whole shipment of wheat, corn, oats, rye, barley, and flour from the port of Chicago was a little less than 13,000,000 bushels. In 1864, the shipment from the same port by lake alone was 41,481,625 bushels. To this must be added a large amount which has gone forward from that port by railway, and another large amount which has gone down the Mississippi river to supply our armies. Then it appears that in the time from 1854 to 1864, in those ten years, it is very safe to assume that the shipment of these products from that port and from all western ports have more than quadrupled.

We have seen that the first effect of the treaty was to bring into our markets a large amount of Canadian products. We have seen that the operation of the treaty at length is, arising from our increased production, to send to Canadian markets a large amount of our products. It will be remembered, sir, that I have stated our shipments of these products in a time of war. For the last three years we have been engaged in war, a large amount of our labor has been transferred from the ranks of producers to the ranks of consumers, and yet in 1862 we sent from Chicago over 52,000,000 bushels, in 1863 over 48,000,000, and in 1864 over 41,000,000. For nearly one third of the whole shipment from Chicago in 1864, we found a market for a like amount in Canada in 1863. The repeal of the treaty closes to us that market. I think the representatives of agricultural communities ought to hesitate before they shut up that market. In a few years at most, we hope this war will be ended. Then a million of men will once more return to the work of production who are now consuming. When that shall have happened, we can well estimate the effect it will produce on our production. That it will be immense, we know. We shall want a market then. We shall look for a market then. If this treaty is allowed to stand, we shall have a market for a portion of it. If this treaty is stricken down, that market will be closed. Our agricultural population will want to know then why and by whom this market was closed against them; and I have taken this occasion to be able to say, when that inquiry shall be instituted, that it was not done by me.

I do not say that it is the design of those who insist upon the repeal of this treaty to close that market to our products, but I do say that it was the direct effect of the treaty itself to enable the manufacturing States to buy their breadstuffs in two markets; and I do say that it will be the direct effect of the repeal of the treaty to close one of those markets to our productions and to compel us to sell our surplus to them exclusively and give them a monopoly of the purchase. As was argued in the House of Representatives, bringing in these Canadian products reduced the price. That is true; and shutting up this Canadian market will have the same effect, will still reduce the price. I know it would seem to be the interest of the manufacturing States to purchase their breadstuffs as cheaply as possible; but after all I am not sure that that is their highest interest. I am not sure that it is not for their interest to furnish to the agricultural community a free and a generous market. This is very certain, that all we get for our produce we shall take to their shops. We spend everything we get, and the danger is that we shall spend something that we do not get. That has been a little our habit heretofore; we have made purchases beyond our ability to pay.

I am opposed, therefore, to the repeal of this treaty, because it will have this discouraging effect on the agricultural interests of the country. I am opposed to it for another and a last reason, because it degrades and disgraces the country itself. Yes, sir, I say it degrades and disgraces the country itself. Here is Canada, here are these provinces, your next-door neighbors, comprising about three and a half million people scattered along over that territory, stretching from the Atlantic to the Pacific, who have been until within a few years the shopkeepers for the fur-trading interest. They challenge you to free and open competition; you, the American people, thirty mil-

lion as you were a few years ago, and will be again in a few months, I trust. If your country is as capable as theirs you ought to accept the challenge. I know it is not a free competition of all their industry with yours. Some of your commodities are excluded from their markets, to be sure; some commodities upon which a large amount of industry is employed; but if that be the fault you find with this treaty they invite you to remodel it; they express a willingness to enlarge it. The Canadian minister himself told you two years ago that instead of recommending its repeal he would rather "unite with the Committee on Commerce," representing to the committee of our House of Representatives, "and especially with the chamber of commerce of St. Paul, in seeking to find means for the development of the international treaty, and entering upon the subject with a mutual desire to extend the number of articles for free admission," and he adds:

"The undersigned feels every confidence that much greater scope could be given to the treaty without compromising on the one hand the revenue interests of the United States, or on the other the just claims to an equality in the Canadian market which belongs both of right and duty to Great Britain."

Here is the offer to extend the number of articles embraced in the treaty, to make it more clearly and more unequivocally a reciprocity treaty than it is, and how do you meet that challenge? You are advised to decline it. They challenge you, as I say, to free and open competition, and you are advised to skulk behind the protection of restrictive duties and taxes. Why, sir, without these restrictions production will find its level just as surely as water. If your soil produces the most generously, you will have an excess. If theirs is the most capable, they will have an excess. If theirs is the most capable, you will be their purchasers; if yours is the most capable, they will be your purchasers. I believe in the capabilities of our own soil, and of our own country, and of our own industry. I am willing to put it in competition with Canadian soil and Canadian industry at any time. If they have got the best country, and can develop it, it is just as free to me as to them, and I want to go there. At present I do not believe it. At present I do not like to see this challenge declined. I think it becomes us to meet it, to accept it, to engage in it. I believe that our honor demands it, and I think I know that our interests demand it.

Mr. MORRILL. Mr. President, I do not propose to argue the question which is before the Senate; that has been done largely and exhaustively; but I find myself in a predicament where I shall act, so to speak, under some restraint. This question in my State is not an open question. It is, so far as the people of Maine are concerned, *res adjudicata*. This treaty has been adjudged for many years to have been utterly against the interests of my State, with one or two exceptions; and I think that this judgment of my State has become so general in most of the States, particularly of New England, that I doubt much whether it is an open question anywhere in that region of the country. This conclusion does not depend, as has been suggested, upon a caprice or a whim or a passion or any sudden impulse; it is the result of experience and judgment. It is the experience of the people of my State that the whole course of dealing between the Canadas and the United States under this treaty has been unfavorable to the general interests of the people of New England, and I think I may say of the people of the States generally.

Therefore, sir, I should approach a question of this kind with very great deference under any circumstances; but I am happy to say that my own judgment runs in harmony with what I understand to be the general judgment of the people of my State, and the people of the several States. I believe, sir, that in the main it will be found, whatever may be said in favor of the treaty, that the principle on which it was started, that of reciprocity, has been sacrificed and does not hold good to-day; and for this reason alone, if there were no other, it is proper to give this notice.

Then there is a very significant fact which has been stated by the honorable Senator from Ohio, chairman of the Committee on Finance, [Mr. SHERMAN.] It seems by our peculiar circumstances to have been rendered absolutely necessary by the emergency of public affairs to lay an internal revenue, and this treaty interferes with

that and this renders its termination almost absolutely necessary. This is an additional reason to my mind why the notice should be given.

Some objections to this course have been urged, one very plausible, and I need not say very plausibly urged, by the Senator from New Hampshire, [Mr. HALE,] that the general scope and tendency of this treaty was favorable to the development of liberal ideas between that country and ours, and that we ought to cherish good neighborhood, and that we ought to cherish those enlarged principles which encourage commerce, trade, good neighborhood, and friendship. I agree to all that, but do we propose anything to the contrary by our action here?

It is said that this resolution is started upon a sudden impulse, and that it will be taken to be inimical and unfriendly to the provinces. By no means, sir. Allow me to remind Senators that the treaty itself provides for precisely what we propose. The treaty-making power when it entered upon this compact understood that in the practical operation of this treaty, very likely during the ten years upon which we were to enter, experience would show the necessity of revision; and therefore it provided for giving this notice, and the very fact that it provided for it shows that the parties having a wise forecast saw that, as this was but an experiment, and with the information they had they could only make an approximate regulation for the future, it would be well to provide, and they did provide, that if at any time during those ten years either party found that its practical operation was injurious, it should be the right, and will any Senator say it would not clearly be the duty, of such party to give the notice to that end? Not in a spirit of hostility, not in a spirit of passion, but upon the general judgment that the treaty has ceased to be reciprocal. That is the point. Upon the general ascertainment of the fact that the treaty has ceased to be reciprocal, then comes the right, and, as I submit, the duty of the Government of the United States to give the notice, not as my honorable friend from Wisconsin, [Mr. Howe,] supposes, for the total abrogation of amicable relations between Great Britain and this country, not in a spirit of hostility, but in a spirit of liberality, in a spirit of amity and friendship, to the end that we may have a better understanding, and to the end that this great treaty may fulfill its destiny by being put in harmony by suitable provisions with its grand object, that of reciprocity.

Without undertaking to elaborate the matter or to argue it, I content myself with a simple statement of the attitude in which I find myself on the general judgment of my own State, and the general facts which I think in this country have become historical in regard to this question. There are, however, one or two points, to which perhaps I may be allowed to advert, as they are peculiar to the interests of my own State, and as they were adverted to by the honorable Senator from New Hampshire. The first of these is the fishing interest. It is very true that on that question I feel very deep solicitude; I am very tender of that whole interest, and I would be very slow to take any measure here or elsewhere which would detrimentally affect that interest. I am very free to confess that, to some extent, this treaty is favorable to the fishing interests which are somewhat peculiar to New England. It is favorable to them to this extent, that it did provide a larger field for the operations of our fishermen. The controverted matter as to where our fishermen had a right to cast their nets, where the point within three leagues of the shore began, and where it ended, was settled by this treaty, and our fishermen, gained some additional advantages, I believe by way of curing their fish in some of the ports and on some of the shores and coasts of the provinces. But as an offset to all that, we allowed to come in free of duty all the fish caught by British subjects; so that when the balance is struck, my information and belief is that the benefits which American fishermen are supposed to have derived from this treaty are very small and partial, and I entirely concur with the view expressed by my colleague the other day, that so far as the fishing interests are concerned they will not be greatly prejudiced by an absolute rescission of this treaty. But I will not argue the question of giving the notice on that ground. I go upon the assumption that if this treaty be what



its friends claim for it in its general features, it will in the end, this notice having first been given, be subjected to revision, and having these defects cured, the treaty will be left to us.

There is another point in which my State is beneficially affected by this treaty, by the reciprocal relations which are supposed to have been established between the two countries, and that is in regard to the transportation over the Atlantic and St. Lawrence and Great Western railway. I can see in a certain contingency, if this treaty shall be disrupted, finally and absolutely, and no other take its place, that possibly that interest which is peculiar to a section of my State might suffer detriment; but I do not anticipate any such thing. I anticipate a revision, and even if there should not be a revision I think I can see a compensation, because this great Canadian railway rests upon the Atlantic at Portland, one of its termini, and the other reaches into the West; and therefore it will always be a necessity, I submit, of this railway to give all the facilities for the transportation of the products of the West which may be demanded by the interests of the East. Hence, with a due regard to these particular interests of my State, which I think are favored by this treaty, looking to the general character of the treaty and its general operation upon my own State and the rest of the New England States, and upon all the States that are intimately connected with it, I am very clear in my judgment that the notice ought to be given, and that the best interests of the country require that the treaty should be revised.

Mr. CHANDLER. Mr. President, I do not wish to make any extended remarks upon this subject, nor should I have opened my lips upon it, perhaps, but for an allusion that has been made in the course of the debate to the board of trade in my city, Detroit. That board of trade does not represent the State of Michigan, or the interests of the State of Michigan. The gentlemen composing it are engaged mostly in the forwarding and commission business and the receipt of produce. It is undoubtedly for the interest of many of those gentlemen to continue this intercourse with Canada, and the reception of Canadian produce, but, sir, the people of the State of Michigan have no such interest. The people of Michigan are engaged in agriculture, in mining, in lumbering, and in fishing; and every one of these interests is directly injured by the continuance of this treaty. The citizens of Michigan are largely taxed for the support of this Government; taxed directly and indirectly; taxed upon their income, and upon their products, and upon their consumption; taxed in every way; while the inhabitants of Canada raise precisely the same articles, are engaged in the same business, and send their products here to compete with ours, without contributing one dollar to the support of this Government. In my humble judgment the honorable and distinguished Senator from Vermont [Mr. COLLAMER] was right when he said that the object, end, and aim of this treaty in its inception and adoption was to give the people of Canada the full benefit of the American market without taxation, in order to prevent them from carrying out the scheme which was then almost generally advocated in Canada, of annexation to the United States. From the date of the adoption of the treaty until to-day that feeling, that desire for annexation and incorporation with the United States has grown "small by degrees and beautifully less," until it has become extinct; and the great mass of the people of Canada are to-day in sympathy with the rebellion against this Government.

If, instead of a treaty of reciprocity, this treaty had been called a treaty to encourage emigration from the United States into Canada; a treaty to encourage production in Canada instead of in the United States, it would have been more justly named. As was remarked by the Senator from Vermont, we have been prevented from levying a revenue tax on the lumber interest, which is an enormous interest in this country, on account of the treaty. I have no doubt that to-day we should be in the receipt of at least \$5,000,000 annual revenue from a tax on the lumber interest, which can as well afford to pay it as any other business, and we could impose the tax but for the treaty. Canadian lumber, as is well known, comes in direct competition with the productions of our own

mills, from one end of our border to the other, and more particularly is it injurious in its effect on the State of Michigan, which is perhaps more largely engaged in the lumber interest than any other State in the Union.

The figures which some Senators have presented to us from the Canadian tables in regard to reciprocity are false and fallacious in point of fact. Canada really receives very few of the products of our soil. It is true they pass through Canada; there are lines of propellers established between Chicago and the Canadian ports; but we merely use the Canadian railroads as a means of transportation. If the treaty be abrogated, I do not believe it will affect that competition, for these products can just as well be sent through Canada under seal or under bond as to be as at present shipped directly to Canada.

There is another assumption that in case of the abrogation of the treaty the Canadians will put a prohibitory rate of tolls on their lines of transportation. Far from it, for those railroads are today supported by the traffic of the United States, by passengers and by freight from the United States and to the United States. As I said before, the figures of the exports of produce to Canada are fallacious. They merely represent our products exported to Canada and transported through Canada and landed at Portland in Maine, and at other points which are the termini of the through railroads. They do not affect our market in the slightest degree.

As was well said by the Senator from Vermont, this treaty opened the markets of thirty-two million people to every product of Canada, and in exchange there is comparatively nothing that we have to export which Canada takes free. Our manufactures are taxed on entering their ports, as are all other manufactures. We receive their corn, their wheat, their wool, their lumber, their minerals, almost every product, free of duty, and they require none of these articles from us in return. They receive some few of our manufactures and tax them as they see fit.

I have not prepared a speech on this subject, but living upon the frontier and having had business connections and relations with Canada for the last thirty years, the whole matter is familiar to me. My recollection is, that when the reciprocity treaty, falsely so called, was adopted, Canada had a uniform tariff of twelve per cent. on our manufactures and on the manufactures of Great Britain. That tariff has gone on increasing and increasing until, as I am informed, the duties levied on many of our most important exports to Canada are now doubled and trebled in amount. I have not the figures before me, but I have seen a statement within a few days that the amount of our imports from Canada subject to duty is very small, only three per cent. of the whole amount of our imports, while our exports to Canada are some forty-seven per cent.

I was in hopes that this resolution would have passed without a dissenting voice. I am surprised that any Senator from an agricultural or a lumber-producing State should stand up here and advocate the continuance of the treaty. It is in direct hostility to the interests of every constituent that I have in the State of Michigan, except the few men in the Board of Trade in the city of Detroit, who are engaged in receiving and forwarding Canadian produce; and I believe that the constituents of the Senator from Wisconsin are more injuriously affected by the continuance of this treaty than by almost any other commercial arrangement existing in the United States to-day. The constituents of that Senator are taxed, and largely taxed, upon everything that they consume; and yet every product of theirs, of the plow, of the anvil, of the mill, and of the mine, is brought in direct competition with untaxed products of Canada of the same description. We receive the whole excess of Canadian agricultural products in competition with our own, and in return what do we give them? The Senator says they receive the same articles. It is true they receive them for transportation, but for no other purpose. His figures will not stand the test. If he will look at the exports from Chicago, one third of which he says goes to Canada, he will find that not one tenth of that one third stops in Canada longer than is necessary to transport it to Portland, or to Niagara Falls, or to Buffalo.

As I said before, I was in hopes that there

would not be a dissenting voice, but that this resolution would pass unanimously. As was said by the honorable Senator from Ohio, a very large amount of tobacco is exported to Canada in the leaf, there manufactured, and smuggled across the lines. A much larger amount of corn is exported from Illinois to Canada, there manufactured into whisky, and then smuggled across, defrauding our revenue in that respect.

I have in my possession a large number of figures and a large mass of material on this subject. I have given a great deal of attention to the treaty from the time of its first adoption. I was opposed to it when it was adopted. I have been opposed to it ever since. I have thought it worked injuriously from that hour to this. I think so now; and I hope that at the very first hour when we can by the terms of the treaty give notice to Great Britain of its abrogation that notice will be given.

Mr. FOOT. Mr. President, I do not rise with any purpose of protracting this debate, or of engaging in the discussion of the question before us at any length, but simply to venture a general remark or two on the subject. In fact, I had not supposed that the proposition now before the Senate would be at all likely to elicit any considerable degree of discussion. I could see no occasion for protracted debate upon a question on which we seemed to be pretty nearly all agreed; and I could see no occasion for long debate upon a proposition in respect to the policy or expediency of which it can hardly be said that there is a divided opinion either in Congress or in the country; certainly there is not among the people for whom I am authorized here to speak.

I believe it to be very generally conceded that while this reciprocity treaty, so denominated, has proved highly beneficial to the interests of the people of the British provinces, and has contributed very largely to their interest and prosperity, it has at the same time proved injurious and prejudicial to the interest and prosperity of the people of the American States. The very title of the treaty itself is a misnomer. There is nothing reciprocal about it; there is nothing reciprocal in its operation; it produces no reciprocity of benefits between the two Governments. It is beneficial to one only of the contracting parties and injurious to the other. Such are the practical results of its operation. This, at all events, is the prevailing if not quite the unanimous opinion of the American people, who now after an experience of its effects for ten years demand as with one voice the abrogation of a contract which they regard as partial, unjust, inequitable, and one-sided, as soon as it can be done through the forms prescribed in the treaty itself.

This demand, Mr. President, is made not in any spirit of resentment or retaliation toward the people of Canada on account of any imputed injury or wrong they have done us. It is not demanded because we regard it as beneficial to the people of Canada, but because we regard it as prejudicial to our own people in the States.

I take leave here to make another general remark or statement in this connection. When this treaty was before this body for consideration, now nearly eleven years ago—and there are but three or four of us here now who were here at that time—I voted against its ratification. I feel myself entirely at liberty to say this much in reference to my own action upon this measure, after this lapse of time, without incurring the imputation of transcending any rule of parliamentary decorum or propriety, or of violating any injunction of secrecy upon our proceedings in executive session. I voted against the ratification of this treaty more than ten years ago. I have seen no occasion to change the opinion I then entertained of the character of the treaty, the partial, inequitable, one-sided character of the treaty in its operation. The results of its practical operation, therefore, have not disappointed my expectations; and in voting now, as I shall vote, for the proposition to give the requisite notice for its termination, I vote in accordance with the opinion I have always entertained of its character, as well as in obedience to the clear popular sentiment of the country unmistakably expressed, and in obedience to what I regard as the manifest interest of our own people. If, however, at any time hereafter when peace shall have been restored to our country, as all the signs of the time, I am happy to believe, indicate that it soon will be, another treaty

of trade and commerce between these parties, the British provinces and the American States, shall be negotiated; a treaty which shall be really reciprocal in its character and operation between the parties; a treaty which shall be just and equitable to both contracting parties, I doubt not it will receive the favorable consideration of this body, provided the political relations between the two countries at the time shall be of a satisfactory nature, as I doubt not and trust they will be.

Mr. HALE. Mr. President, gentlemen on this floor who advocate the abrogation of this treaty are not unmindful of the effect of calling by bad names a thing that we desire to kill and put out of the way, and the reverse, of applying good names to what we want to favor. I remember that in 1844 and 1845, when we proposed to steal a large province from Mexico, the friends of the measure called it "the reannexation of Texas;" all the speeches that were made to encourage that measure called it simply a proposition to reannex Texas. Well, sir, it was reannexed, and we are reaping to-day a little of the fruits of the policy of that reannexation. I remember, too, in 1846 there was a modification of the tariff law. Some gentlemen who were prominent in position then, and ambitious for the future, mounted that hobby, and they denominated the tariff which they wanted to repeal "the black tariff," and the Halls of Congress resounded with denunciations of "the black tariff." It had its effect; "the black tariff" went down because the blacks were not popular at that time. [Laughter.] Those who applied the appellation to it knew the fact very well, and "the black tariff" died of this color-phobia. [Laughter.]

Then my friend from Massachusetts [Mr. Wilson] reminds me—and I was coming to that—that a new party arose in this country who knew not the Joseph of American slavery. They called themselves the Republican party, but this word "black" had been so successfully used in killing the tariff of 1846 that it was thought its vitality had not quite gone, and its opponents put it on the Republican party and called it "the Black Republican party." The Republican party outlived that; it did not prove so fatal to them as it did to the tariff. They survived.

Now, sir, here is this reciprocity treaty; and when I express the opinion which I do in regard to it, it gives me pain to think that I am obliged to differ so widely from gentlemen whom I respect so highly. What are the disastrous effects that have resulted from this treaty? If you ask anybody he will have to tell you very much what the South Carolina man said about the tariff: "You cannot put your hand on anything particular, but it is the general result of the whole system, lowering the price of everything that we have to sell and raising that of everything we have to buy." It is styled "the so-called reciprocity treaty." I do not know that any *alias* has been applied to it; but gentlemen will not permit it to be called "the reciprocity treaty," but speak of it as "the so-called reciprocity treaty."

I know very well, or at least I am convinced in my own mind, and that is just as well as if I knew it, [laughter], that while it is impossible to apply the rules of political economists about the balance of trade to the commerce of a country, because there will always be very great exceptions, yet I think that the writers on political economy everywhere agree in this general proposition, though there may be, and undoubtedly are, exceptions, that a commerce where the exports slightly exceed the imports in the whole as a general fact is profitable to that country which has the excess of exports. Now, applying that general rule, I ask the attention of the Senate to a remark made in a report of the Secretary of the Treasury in a note of the operations of this treaty, which it seems to me is the best argument that can be made for it. I read from a note to the 29th page of a document entitled "Statistics of the Foreign and Domestic Commerce of the United States," &c., communicated by the Secretary of the Treasury March 12, 1863, and just printed:

"The reciprocity treaty between the United States and Great Britain, concluded 5th of June, 1854, went into operation in the trade with Canada, October 18, 1854; with New Brunswick, November 11, 1854; with Prince Edward's Island, November 17, 1854; with Newfoundland, November 14, 1855; and with regard to fish from all the provinces, on the 11th of September, 1854.

"The aggregate exports (inclusive of specie and foreign

merchandise) to Canada and the other British North American possessions for the three years 1852-53-54, amounting to \$48,216,518, exceeding the aggregate imports 113.4 per cent. The aggregate exports of the five years from the 30th of June, 1854, (which period covered the first four and a half years of the operation of the reciprocity treaty,) amounted to \$132,893,752, exceeding the imports of the same period 41.3 per cent. The aggregate imports of the two years, 1860 and 1861, immediately preceding the rebellion, amounted to \$48,914,314, exceeding the exports 3.2 per cent. In the year 1863, the first full fiscal year of the rebellion, the exports, amounting to \$21,079,115, exceeding the imports 9.2 per cent.; and in the year ending June 30, 1863, the exports (\$31,381,030) exceeded the imports 36.2 per cent.

"In the trade with the British North American possessions other than Canada, in the year 1851, the exports amounted to \$40,085,783, the imports to \$1,736,651. This commerce had gradually grown to double these amounts in 1860; the exports and imports holding about the same ratio, say the former about double the value of the latter. In the year 1863 the exports were \$10,998,505, the imports \$5,307,424. The Canada trade of 1851 amounted to \$12,885,611, of which the exports were 61.5 per cent. In 1860 the total trade was \$32,940,787, of which the exports were 43 per cent.; in 1863 the total trade rose to \$39,096,365, of which the exports were 52 per cent. In 1855, the year of the greatest trade with Canada previous to 1863, the total was \$38,371,438, of which the exports were 54 per cent."

Showing that the trade between this country and Canada, taking the general facts, comes up to the rule laid down by all politico-economical writers for a prosperous commerce of a country. It has been increasing, and the exports slightly exceed the imports. That is the state of the trade. I do not deny that you may point out here and there a fact or an article which goes to raise a different impression; but I believe upon the whole it is beneficial to the country, and to the whole country, because it is creating a market for our productions.

I appreciate entirely the convictions of the Senators from Vermont. I have no doubt that in the opinions which they have expressed they represent the convictions of their constituents; but I do not think that charity, not to say candor, compels one to assent to the proposition that although these views are honestly entertained they are either wise or judicious, because they, like all other men, may be mistaken. The Senator from Michigan says that the board of trade of Detroit do not understand their interests—

Mr. CHANDLER. Do not represent the State of Michigan.

Mr. HALE. It is true that the board of trade is not entitled to be heard on this floor as the representatives of the State of Michigan; but I take it that in all that relates to the interests of trade in the great city of Detroit, much the largest city in the State of Michigan, and the city that has had among all its other honors not only that of sending two Senators to this Chamber, but of being the residence of the Democratic candidate for the Presidency for some time [laughter]—that Board of Trade understand the interests of commerce in their locality. The board of trade of Detroit, as I understand, are explicit in the expression of their opinion in favor of the treaty, and they represent the aggregated opinion of the commercial men of Detroit, saving and excepting always the honorable Senator from Michigan; and since he has withdrawn from the active pursuits of commercial life and given his attention so exclusively to the great interests of the nation and of the world and of mankind in general and the conduct of the war in particular, [laughter], it would not be surprising if he, being so engrossed in these late pursuits, should have lost a little of that keen acumen which used to make him so successful a merchant; and it would not be strange if, while he has gone into these more enlarged spheres of action, some younger men, attending to smaller things, have come forward and are quite as competent to speak of the commercial interests of the State of Michigan as the honorable Senator at this time is, although he might have been more so some time since.

But the honorable Senator is mistaken in some of the facts which he has undertaken to give to the Senate. I know he entertains the opinions which he has expressed, because he has stated the same thing to me in private conversation. He has an idea that the legislation of Canada in relation to the tariff imposed upon our articles of export to that country has been to increase the duties since the treaty was formed. The Senator was not in when I made the few remarks which I did in my poor way yesterday; he did not listen to the figures which I read from the Secretary of the

Treasury, wherein it is shown conclusively that the Canadian tariff upon the imported duty-paying articles has not varied three per cent. from 1850 to the present time, and that at this time, the difference is only about one half of one per cent., the average in 1850 having been 18.43 per cent., and being now nineteen per cent.; and instead of there being a tariff of forty-seven per cent., it never was up as high as twenty-two per cent.—not half what the honorable Senator thinks it has been. These are figures, not furnished by Canada, but by our own Secretary of the Treasury.

Mr. CHANDLER. Does not that average include the free list?

Mr. HALE. No, this is the average of the duty-paying articles. If the Senator will inform himself on the subject, and not trust to information from such second-hand sources as he has, but will go back to the fountain, he will find that he is mistaken and that I am correct.

Sir, Great Britain and these colonies are ready to receive us in the spirit of reciprocity, and they tell us that if this treaty is not reciprocal, they want to make it so, they want to enlarge it.

Mr. COLLAMER. They say they want to enlarge it rather than to have it ended. If it is ended we can then make a good one, if we make any.

Mr. HALE. Now I would ask the honorable Senator from Vermont, and no man has more respect for his judgment than I have, does he think that if it is desired by this country ever to have a reciprocity treaty with these provinces, the way to do it is in this manner, to abrogate and destroy the existing treaty?

Mr. COLLAMER. Will the gentleman hear my answer now?

Mr. HALE. Yes, sir.

Mr. COLLAMER. I observe that it is proposed by the chamber of commerce of Milwaukee, and, I believe, of Detroit, and the honorable Senator from New Hampshire seems to have the same view, to continue this treaty until it can be modified, with a view to making modifications and making it better. It does not seem to me that that is the part of wisdom. I may be obtuse also; but I think that when they have a treaty altogether beneficial to them, and we want to make another, if you please, more beneficial to ourselves, the way to get it is not to keep in force that which is beneficial to them. What inducement have they to make any other treaty while you are willing to let this stand? The proposition is to make a better treaty, and to make it out of the old one, and to let the old one stand as good when it is not good. It really reminds me of the Irish grand jury who decided that there was not a sufficient jail in their county, and that there should be a new one, and that it should be built out of the materials of the old jail, and that the old jail should be kept good for prisoners until the new one was finished. [Laughter.] That is just the proposition, to make a new treaty beneficial to us, to make it out of the old one, and, to keep the old one good (which is not good now) until a new one can be made. I cannot see the wisdom of that course of proceedings.

Mr. HALE. I am obliged to the honorable Senator, because he has not only answered the question, but told a good story, and in answering the inquiry he has done what a great many ingenious advocates and learned lawyers frequently do, and that is, beg the whole question to begin with. He has assumed that this treaty is favorable entirely to one side and unfavorable to the other.

Mr. COLLAMER. The gentleman is mistaken. I understood him to say yesterday that he agreed that the treaty ought to be mended. Then it is not good; but now he says it ought to be kept until it is mended. My idea is that it ought to be ended because it is not good.

Mr. HALE. The Senator entirely misunderstood me if he understood me to say any such thing. I do not believe that it wants mending. I do not know but that it does; but because a thing wants mending, it does not follow as a natural consequence that the whole thing is bad, for I have seen the honorable Senator from Vermont introduce bills into the Senate again and again, and absolutely consent to amendments to his own bills. Why does he amend his bill? Why does he not kill the whole thing at once if it is bad? That is

his argument. It is not a fair argument. The fact is that I said this treaty might want amendment; but even if I were to go so far as to say that I conceded that, it would be far from justifying the comment made upon that position by the honorable Senator from Vermont. But, sir, I say that in the answer which he gives to the question I put, he assumes the thing in controversy. I believe that this treaty has been wise and salutary, and highly beneficial to this country. I believe that under its beneficent operation a commercial intercourse from one million to forty millions has grown up, and that the conditions which the writers on political economy give to a prosperous commerce apply to our trade with Canada under this treaty, namely, that the exports slightly exceed the imports, and they are constantly increasing.

Mr. President, we may just as well take notice of things as they exist as to undertake to act on a state of things that we hope may exist. There is great excitement and there is ill-blood between this country and Canada and the provinces to-day. I do not say a thing here of which any gentleman is ignorant. We all know it. I say nothing about the origin or foundation of that feeling. I believe that on our part it is well founded, that we have cause of complaint against them; but I believe, and I think I have reason to know, that the Canadian government at this time are making strenuous, great, energetic, and unprecedented efforts to maintain good the national faith, preserve neutrality, and restore friendly feeling and keep up kindly relations between the two countries, and I believe that if we owe anything to the interests of humanity, anything to the interests of Christianity, which should govern the intercourse of nations, it is incumbent on us as a part of wisdom as well as duty that we strengthen the hands of our friends in that country, that we do nothing by which we shall lessen the influence which they have over the ignorant and the base and the wicked. But, sir, you repeal this treaty, declare that it is abrogated at once, and what do you do? You put an argument into the mouths of evil-disposed men in Canada, of those who are trying to stir up and excite bad feelings between the two countries; you give to them a blow with which they will strike down the influence of our friends who are doing what they can to put their government and country right. I think that such a blow at this time will have immense effect, and effect for evil and evil only.

If it is determined that this treaty is to be abrogated, I would prefer to postpone the matter until the next session of Congress. The notice will be in abundant season then. If you postpone it until the next session of Congress, the treaty will be abrogated then just as soon as if you pass the resolution now. While this state of things exists, why do you make haste to show to the people of Canada that you grab greedily at this opportunity of striking this blow at them? If your purposes are what they should be, and what I do not doubt they are, purposes that consist with the good of the nation and the best interests of the country, why not postpone the measure for twelve months? You can then do everything that you can do now. But if you strike this treaty out of existence to-day, I greatly doubt whether you will ever see another treaty or anything like it with the Canadian provinces.

What is going on there now? Efforts are being made, and I believe it is generally considered that they will be successfully made, to consolidate the four eastern provinces with Canada, and possibly all the other possessions in British North America into one federal government, and when that is done they will be a power upon this continent. In the State of Maine at the present moment, there are great efforts being made to connect the United States (and I think the aid of this General Government has been invoked in behalf of the measure) by means of a railroad with Halifax, in Nova Scotia. It is looked upon as a great national work, commending itself, I think, to the judgment of the Senators from the State of Maine, and everybody who wishes well to her interests. Last summer I had the honor of making an excursion down the coast of Maine, with a committee of the two Houses of Congress, and we had gentlemen from the State of Maine not connected with the congressional committee on board, and they entertained us constantly with maps and

documents and references relative to this great international work to unite the provinces with the States by this internal railroad.

Abrogate this treaty to-day, and you just as effectually kill that railroad as would be done if an earthquake was to sink the interval between the two countries; the railroad dies, and it dies by our own hands.

Besides, sir, what else are they doing? There are great, gigantic efforts being made in the provinces to unite the commercial cities of the coast, Halifax, New Brunswick, and St. John, by an internal railroad outside of the United States, with the great national trunk railroad running from Quebec and Montreal to the West. By abrogating this treaty at this time, you destroy the road in which we have an interest, you destroy the hopes of this international communication, and you give an impetus, and a great impetus, to the other road which will exclude us entirely from its benefits.

Mr. President, there are a great many reasons why if this resolution should be passed it should not be passed now. There can be nothing gained by passing it at this session over next session, except the manifestation of what the Canadians will regard as a hostile feeling. There can be nothing else. There can be no good resulting from it. I will make one more effort, a slight one, perhaps it will be futile, for I see that the feeling of this body is all one way, and I regret it because I think it is wrong; I think the impulse is wrong; I think it comes from wrong motives that subtly, and I do not know how, have crept into the minds of Senators. I am disposed to ask, if the Senate will excuse me for a Latin quotation, *Tantum animis caelestibus ira?*

It astonishes me, sir. The motion I now make—and it is the last effort I shall make beside such an effort as is made by the magic influence of a vote—is that this joint resolution be committed to the Committee on Finance.

Mr. CHANDLER. I always listen with great pleasure to the very distinguished Senator from New Hampshire. I receive lectures from him always with pleasure, and particularly upon financial and commercial affairs. His long study of commercial relations and financial facts and the business interests not only of this nation but of the nations of the earth, have entitled him to deliver lectures, and I listen to them, as I said, with great pleasure, and I trust with great profit. I have been specially, particularly interested in this morning's lecture. There has been a clearness in his presentation of commercial facts and of business figures that is rarely witnessed upon this floor, and I thank the Senator from the bottom of my heart not only for having lectured me personally, but for having enlightened the Senate upon subjects upon which they have been presumed to be perhaps somewhat unenlightened, to wit, our foreign relations. I thought the Senator from Massachusetts made a very clear and lucid and full exposition of those relations; but I had not listened to the Senator from New Hampshire when I came to that conclusion.

The Senator from New Hampshire says that the board of trade of the city of Detroit, being at present engaged in business, being at present observant of the commercial relations, are better prepared to decide what are the interests of the State of Michigan than is the Senator from Michigan. That may all be so. I stated what I believed to be true, that the individuals of the board of trade were like all other individuals, they understand their own individual interests and they are working for those interests, and those interests are to continue the receipt of Canadian produce without regard to the effect that receipt may have upon the producing interests of the State of Michigan. I believe that to be the case now, and I not only believe, but I know, that they do not represent the interests of the whole State of Michigan, nor of any considerable portion of it; they simply represent their own.

One thing more with regard to the duties upon our exports to Canada. The Senator says the duties have not been raised one and a half per cent. I did not state that they had been. His statement refers to the duties on all our exports which are imported into Canada. I said that the duties on certain of our exports had been raised. I do not say that the duties on all our exports had been raised, but on those things which we manufacture

and in which his own constituents are the most directly interested. I say they have not only raised those duties largely but they have more than doubled, and in many instances they have more than trebled them. The very moment Canada proposes a reciprocity treaty which is in fact a reciprocity treaty I shall be ready to meet her half way and make such a treaty; but this is no reciprocity treaty at all. This is a treaty by which we receive all the productions of Canada free, and by which she receives from us nothing that we manufacture or can export to her. Let her take our manufactures, in which the Senator's constituents are directly interested, upon the same basis as we receive her agricultural products, and I shall be ready to meet her half way, and even more than half way. Although the State which I have the honor to represent is not directly interested in those manufactures, she has the same interest in the general prosperity of the manufacturing States as the people of those States themselves. If the proposed British American confederation should be formed, I do not apprehend any combination against the United States. It is not for the interest of Canada to form a combination against the trade of the United States. I believe they will then see where their true interests lie, and will be ready, after having tried the abrogation of this reciprocity treaty, after a year or two, or perhaps before the final abrogation of the treaty, to make a real reciprocity treaty; and then I shall be ready to meet them half way in accepting it. I hope this matter will not be referred to the Committee on Finance, but that the resolution of the Senator from Massachusetts will be adopted at once.

Mr. DOOLITTLE. I hope this resolution will not be referred. It has been very fully discussed in the Senate, and I have no doubt Senators are now prepared to vote. For myself I shall vote for this resolution to give notice to Great Britain that the treaty will terminate a year from the 16th of March next. It is not a present abrogation of the treaty, as I understand it; it is a notice which is necessary to be given before the treaty can be abrogated, and the treaty itself requires that notice (which must be at least one year from the time when it can take effect) not to be given until ten years after the treaty went into operation. The ten years do not expire, as I understand, until the 16th of March next, and after that it requires a year's notice.

I shall vote for it in no spirit of hostility against the people of Canada or the government of Canada, or the people of Great Britain or the Government of Great Britain, but simply because I believe that our new revenue system, which has been forced upon us by the necessities of our position growing out of this war, absolutely demands that this treaty should be abrogated, or that it should be reformed in some measure, or our revenue is destroyed along the northern frontier to a very great extent; and because I believe that the treaty itself is not reciprocal; that the advantage is very much in favor of Canada and against the United States; and for the third reason that I do not believe it possible for us to make a new treaty unless we give the notice, for Great Britain is now perfectly satisfied with the treaty as it exists, and will not give the notice to terminate it, nor will they be open to negotiate a new treaty until they see that we have resolved to terminate it. When they see that we have resolved to terminate it, they will be open to negotiation, and perhaps by that negotiation we may not only cover this whole question of trade with Canada, but before the year expires we may cover all the pending questions between the Governments of the United States and Great Britain.

Mr. FARWELL. I trust that the resolution will not be recommended, but that a vote will be taken upon it at once, and I only rise to say to the Senator from New Hampshire that the feeling which has arisen between this country and the provinces has nothing to do with my vote on this question. The people of the State of Maine have been opposed to this treaty from its inception, and are opposed to it now. They have passed resolutions of their Legislature in opposition to it, and there has been no complaint of the people in any section of that State against those resolutions passed by the Legislature.

I have looked over the list of articles made free by this treaty. I have not examined the tables;



I think almost anything can be proved by tables of figures; but knowing something of the trade, of the industries of that country, I believe the only articles made free by this treaty which the British provinces as a whole do not have a surplus of, and which we have any to send abroad or ever had, are comprised in cotton, pitch, tar, turpentine, rice, and unmanufactured tobacco. All these articles, except the unmanufactured tobacco, are free the world over. They are articles the world wants. They are articles Canada would take from us free, reciprocity treaty or no reciprocity treaty. Upon the other hand, if you look over the long list you will find it is the very articles upon which the industries of Canada are concentrated, agricultural products, the products of her vast forests, grindstones, burr-stones, gypsum, coal, that are admitted here free of duty. It seems to me to be a treaty made expressly and for no other purpose than to promote the industries of Canada to the injury of the industries of the United States, and it is impossible for me to conceive how any treaty could be made, even if it was made for that express purpose, that should be more effectual in its operation upon the industries of the two countries.

Mr. CONNESS. As I intend to vote to give this notice and for the resolution, I will say a few words, and a few words only, rather in explanation of my vote.

It is true, Mr. President, that I am here representing in part a people not very directly interested in this treaty in regard to which we are about to act; but I feel, nevertheless, the general interest that is felt by the people whom I in part represent here in the public weal, in the prosperity of the industries of the entire country which becomes me, and becomes them, and therefore I desire to make some explanation in regard to my vote.

This treaty is called a reciprocity treaty. Now, sir, I think that that is really a misnomer. How you can make a treaty reciprocal between two countries lying contiguous to each other which have the same products, the same class of industries, I cannot exactly see. Subject the arrangement of that reciprocity to a treaty, or the mode furnished by a treaty, and you have simply an arrangement in which each party endeavors to cheat the other in making the agreement to be arrived at. That was the case here. It is very generally concluded and conceded that we have been cheated in this arrangement. I can see very well how reciprocity treaties might be made between countries having different climates, different productions; countries that produced very different articles, which articles were necessary to the consumption of the people of those different countries. I can see how they might be admitted by each other free of duty with advantage to each other, but that does not apply here at all.

Again, it is conceded and generally believed, as I think, that we have been worsted in this commercial arrangement; and since we cannot correct it in any other way than by giving the notice proposed, which reopens the question, resubmits it to arbitration and arrangement, if we are to have arbitration and arrangement, I am in favor of that process and of giving the notice. How shall we correct any of the disadvantages to us of this arrangement, unless we give the notice and reopen the question?

But, says the Senator from New Hampshire, take care; do not do that now; the public feeling is excited in the Canadas and in our own country and in Great Britain in reference to our national affairs and our international relations, and our friends in the Canadas and in Great Britain will be injured and reduced in their influence upon our national questions if we do this act, which will be interpreted by our enemies there as an act of aggression toward those countries and peoples. Mr. President, in my opinion the very contrary of that will be the result. It is not denied by the Senator from New Hampshire or the Senator from Wisconsin, who have spoken elaborately on this question, that the treaty is of advantage to the Canadian people. That is not denied. It is claimed that it is a treaty of reciprocal advantages; therefore the Canadas are benefited.

Now then, sir, suppose that it shall be taken as an interpretation of this act of ours in Great Britain and the Canadas that we are offended at their conduct toward us; against what party in

the Canadas and in Great Britain have we taken the offense? Is it against the enlightened and liberal friends that we have there, whom we appreciate, and who have accepted and performed the rule of justice toward us? Certainly not. If we feel offense at any party in the provinces and in Great Britain, it is against the governing power, it is against the power that has done acts of injustice against us; and if we take this action by way of vindicating ourselves, shall it not rather be held by our friends there that the abrogation of this treaty, and thus the deprivation of the advantages that it confers upon the Canadian people and these provinces, is the result of the injustice of the governing party in Great Britain toward us? And will not our friends in Great Britain and the Canadas be able to say, "This would not have been done in all human probability but for your overt acts of injustice toward the American people, who, in a spirit of enlightened liberality, agreed to let our products into the market of their great country while there was confessedly no reciprocity in the arrangement?" It appears to me that the advantage and the argument are all in the hands of our friends in Great Britain and the Canadas, and not in the hands of our enemies, sir.

But, sir, no man professes that we are governed by vengeance in this matter. It is a duty we owe to the industries of our country to give notice for the abrogation of this treaty, that we may enter, if it is to be rearranged, upon the question of rearrangement, and that the next arrangement may be more favorable or just to American interests than the one now in existence.

Mr. President, permit me to say here that I am no great advocate, and I doubt whether I ever can be, of the system of determining and fixing the industrial policies of the country by means of treaties. I mean taking out of the hands of the legislative and executive authorities of the country the means of establishing policies by arranging them in the form of treaties to last for ten years or through all time, no matter how prejudicial these treaties may be to us. I prefer rather that the countries of the earth, and we also, shall retain within themselves the power to fix their own policies so that they may adjust them from time to time upon the basis of the needs and necessities of their own people; for, sir, I do not believe that the millennial season has yet come upon the earth; I believe every nation pursues that which it thinks is its own best policy. Witness the policy of Great Britain upon the Pacific coast. While we are treated to this so-called reciprocity policy on the Atlantic coast by Great Britain and her colonies, we see a free port established by Great Britain at Victoria, on the Pacific, directly under our nose at San Francisco, where the industries of all nations abroad may send their products free of duty, and keep them there and make an English market to which consumers on the entire Pacific ocean, north and south, may come and buy and supply themselves. She proposes to make Victoria to the consumers on the Pacific what London is to the world now, by means of its capital, by means of its preëminence, and its long-continued preëminence, namely, a world's market, where every man on the earth who desires to buy anything, no matter what, may go to buy with a certainty of finding it there. So they are undertaking now to establish by means of another policy, that of a free port on the Pacific, an English market, a market to which the buyers may go and find what they want for consumption. England in this pursues what is her own best policy. Let us in regard to our interests pursue what is our own best policy.

I did not intend, Mr. President, to continue this discussion. I do not believe that what I have to say is necessary to change a vote, or that it could change a vote; I believe that the feeling here is pretty general on one side of the question; but I felt that in explanation of my vote I might submit these views in regard to the question, and particularly have I been incited to do it by reason of the claim set up that if we give this notice it is to be used as an argument against us in a national point of view in Great Britain. I think it will have the contrary effect, that our duty to ourselves demands that we shall give the notice, and that its effect can be nothing else than beneficial to us abroad.

Mr. WILSON. When this treaty was nego-

tiated, it was believed to be for the general interests of the country, and in Massachusetts it was especially believed to be for our fishing, manufacturing, commercial, and railroad interests. I have ever been in favor of the treaty, and up to this time could never have been induced to vote against it. I am not clear now that it is not for the interests of the State I in part represent to let it stand. I am inclined to think that it is for our interest that the treaty should stand as it now does. For the interests of the whole country, I am of the opinion that it ought to be modified or perhaps abrogated.

On a question of so much importance as this, after listening to this debate, I do not like to vote against gentlemen who have studied the question so carefully; and I do not desire to give a vote here that may be supposed to be against the general interests of the country, and especially against the interest of my own immediate locality. There is with us, there ever has been, a very strong feeling in favor of the treaty. That opinion is now undergoing a change, I think, in view of its workings during the last three or four years. I know it to be the wish of some persons who have studied this subject and who have taken a great deal of interest in it, that we should propose to modify the treaty instead of abrogating it. The Senator from Vermont [Mr. COLLAMER] thinks that to be a very poor mode of reaching the result we desire. Well, sir, suppose that instead of modifying it, when we give this notice we also propose the appointment of a commission to negotiate a new treaty upon a fair basis; would not that look friendly, would it not look as though we had acted for our own interest, and at the same time believed that a good treaty would be for the interest of both countries? Believing that, I have prepared an amendment in the form of a second section to this resolution, which I propose to offer whenever it shall be in order. I know that those who have the care of this measure and who have advocated it, have suggested that we need make no such proposition; that such a proposition would probably come from England; but at the same time, having always been a friend to the treaty, having made up my mind under the debate now pending to vote for its abrogation, I desire to offer an amendment proposing the appointment of commissioners to meet commissioners appointed by England to negotiate a treaty upon a proper basis. I feel, constrained, in view of the opinions I have always entertained on the subject and the vote I am about to give, to move that amendment, which I now do. It is to add to the resolution the following provision:

And whereas it is desirable that friendly relations should continue between the United States and the British provinces in North America, and that commercial intercourse should be hereafter carried on between them based upon true principles of reciprocity: Therefore,

*Be it further resolved*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint three commissioners to confer with persons duly authorized by Great Britain to negotiate a new treaty which shall be reciprocally beneficial and satisfactory to both countries.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) An amendment to the joint resolution is not in order at the present time, the joint resolution having gone to its third reading, and the question now being on the motion to commit.

Mr. POMEROY. I suppose it would be in order to reconsider the vote ordering the resolution to a third reading, so as to allow an amendment to be received.

The PRESIDING OFFICER. A motion to reconsider will be in order after the motion to refer has been put.

Mr. COWAN. I rise to say but a single word. I am in favor of the proposition before the Senate; and I am in favor of it for this single reason, that I have discovered that by this treaty we have been deprived of our power of taxation over the products of our own country for revenue purposes, and I have therefore come to the conclusion that I would advocate its abrogation. That is all I have to say on the subject at this time.

Mr. RIDDLE. I desire to say but a word in relation to this question, as I voted in the other House against a proposition to abrogate this treaty and am now about to change that vote. Before casting my vote, I will say that I shall vote for the proposition of the Senator from New Hampshire to commit this resolution to the Finance Committee, believing that the wisdom of that com-

mittee, in conjunction with the Secretary of State, may lead to a modification of the treaty which may be acceptable to both countries, may satisfy the Government of Great Britain, and be profitable to the United States. In case, however, that motion shall fail, and the proposition which has recently been made by the Senator from Massachusetts [Mr. WILSON] shall come before the Senate, I shall vote for it; and in the event of the failure of both, I shall have to record myself on the main question against my first vote in the other House and for giving the notice.

Mr. HENDRICKS. I do not rise to discuss this question, but only to say that I think there is more of statesmanship in the proposition of the Senator from Massachusetts [Mr. WILSON] than in any proposition I have heard connected with this subject. Our relations with Canada and the British provinces are very intimate and very important to both countries, and I am not prepared to say that we ought to have no special treaty arrangements regulating the trade between the two countries. I think we ought to have such relations. If the treaty which now exists regulating that trade is not such as it ought to be, certainly there is wisdom enough in the two Governments to so adjust it as that it will be just and fair to both parties. If this measure be referred to a committee, that committee may bring before this body some such proposition as is made by the Senator from Massachusetts.

I do not think, even if there were some objections to this treaty, if in its operation it were not altogether just to this country, that this is the proper time to abrogate it. There has been a good deal of folly as well as wisdom in newspaper and public assemblies' givings-out touching the relations between this Government and that of Great Britain. We are very jealous of every act on the part of Great Britain, and recently there has been much excitement touching transactions on the border. If just now we abrogate a very important treaty, the understanding cannot be very favorable to our interests. Certainly no Senator now desires any embarrassments between this Government and Great Britain. I have heard of men who are very valiant who say that we can fight the whole world, defy Great Britain, defy France; but suppose we can, is it wisdom to do it? I do not suppose that any action we may take on this question will bring about trouble, but it does not increase the securities of peace; that is certain. No Senator claims that. It opens questions up again which for the time being were settled. There are no commercial troubles that can come up between us and Canada while this treaty remains. I am not in favor of its abrogation just now, whether I may be in the end or not.

There is another feature about this treaty that I like. It provides to a very considerable extent for free trade between us and a neighboring province. I like that. I believe that the civilization of the world will come up to that standard which will secure free trade the world over. Let trade regulate itself, let each nation support its own revenue from its own people. I believe we shall some time come to that standard. The fact that Canada is a province lying just alongside our territory, is a reason why I like free trade between that province and our own country. The fact that this treaty secures free trade is a circumstance in favor of it in my judgment. I do not intend to discuss it. I shall vote for the reference. I shall be very glad to see that reference made, hoping that something will be done such as is suggested by the Senator from Massachusetts.

Mr. RICHARDSON. Mr. President, this debate has taken a very wide range, it seems to me. This proposition commends itself to me enough to influence my vote in its favor. I have been astonished at the course of remarks here. Senators have argued that this proposition would lead to difficulty with England, to bad feeling between us and that country. Why, sir, we have a clear right by the terms of the treaty to terminate the treaty by giving the notice, and why and how either the people of Canada or Great Britain should regard our giving the notice as an act of hostility to them I do not understand. It would be merely doing on our part what they agreed we had the right to do. I do not think it will lead to any such consequences as are apprehended by Senators. I cannot see how it can so result,

inasmuch as we have a clear right by the terms of the treaty to terminate it by giving the notice. I suppose all we can say in reference to the matter is that formerly in entering into this treaty we made a bad bargain, and now we wish to get rid of it.

If the times now were such as they were when the treaty was negotiated, I should not regard it of very much importance either one way or the other. I apprehend that the great difficulty that has arisen in this case has arisen in consequence of our recent laws for raising internal revenue, and that is all there is in the whole case, I think. If there is anything beyond that I have not been able to perceive it. If things were now as they were when the treaty was made, I do not believe that I should vote to give the notice; but a change of circumstances has made it necessary, in my opinion, to terminate the treaty, and hence I am for giving the notice.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire to refer the joint resolution to the Committee on Finance.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs upon the passage of the joint resolution. Mr. HALE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. WILSON. Is this vote on the reference of the resolution or on its passage?

The PRESIDING OFFICER. On the passage.

Mr. WILSON. I understood it was on the reference; I had intended to move an amendment.

The PRESIDING OFFICER. The call will proceed.

The Secretary concluded calling the roll; and the result was—yeas 33, nays 8; as follows:

YEAS.—Messrs. Anthony, Brown, Chandler, Clark, Collamer, Conness, Cowan, Davis, Doolittle, Farwell, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Lane of Indiana, Morgan, Morrill, Nesmith, Pomeroy, Powell, Richardson, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkey, and Wilson—33.

NAYS.—Messrs. Buckley, Dixon, Hale, Hendricks, Hicks, Howe, Ramsey, and Van Winkle—8.

ABSENT.—Messrs. Carlile, Howard, Johnson, Lane of Kansas, McDougall, Saulsbury, Wilkinson, and Wright—8.

So the joint resolution was passed.

Its title was amended to read, A joint resolution providing for the termination of the reciprocity treaty of the 5th of June, 1854, between the United States and Great Britain.

#### EXPEDITION AGAINST WILMINGTON.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the committee on the conduct of the war be directed to inquire into the causes of the failure of the late expedition against Wilmington, North Carolina, and to report the facts to the Senate.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 595) to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831.

#### MASSACRE OF CHEYENNE INDIANS.

Mr. HARLAN. The Committee on Indian Affairs have directed me to report a joint resolution, and to ask for its present consideration.

The joint resolution (S. R. No. 93) in relation to the massacre of the Cheyenne Indians, was read the first time and ordered to a second reading. It proposes to direct the Secretary of War to cause the suspension of all pay and allowances to each of the members of the third Colorado regiment, officers, privates, and employes, and all others engaged in the recent attack made on the Cheyenne Indians in their village near Fort Lyon, in the Territory of Colorado, under the command of Colonel Chevington, until the conduct of the colonel and the regiment, and all others engaged in that attack, shall receive the approval of the Secretary of War; and he is to cause all ponies, blankets, money, jewels, furs, and other property captured from the Indians, to be seized and held for the use of the United States, or for restitution to the Indians, if it shall hereafter appear that the attack was unjustifiable.

Mr. COLLAMER. I object to the resolution being considered now.

Mr. WILSON. Let it be printed.

Mr. COLLAMER. I have no objection to its being printed, but I should like a report from the committee about it. It is certainly taking pretty harsh measures to stop the pay of soldiers for doing what their officers ordered.

The PRESIDING OFFICER. The joint resolution cannot be considered, objection being made. It will be printed as a matter of course, being reported from a committee.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, January 12, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### RECONSTRUCTION.

Mr. ELIOT. I desire to give notice that at the proper time I propose to offer an amendment to House bill No. 602, reported from the committee on the rebellious States. I ask leave to submit the same at this time, and that it be printed.

The reading of the amendment being called for, it was read at length. It proposes to strike out all after the enacting clause, and insert a section providing that no State engaged in rebellion against the Government of the United States shall be allowed to resume its political relations with the Government of the United States until by the action of the loyal citizens within the limits of the same a State constitution shall be ordained and established, republican in form, forever prohibiting involuntary servitude within the State, and guarantying to all persons freedom and equality of rights before the law.

Section two provides that the State of Louisiana shall be permitted to renew its political relations with the Government of the United States under the constitution adopted by the convention assembled at New Orleans on the 6th of April, 1864.

No objection being made, the amendment was ordered to be printed.

#### CONGRESSIONAL ELECTIONS.

Mr. DAWES, by unanimous consent, and in pursuance of previous notice, introduced a bill to fix the time for the election of Representatives in the Congress of the United States, which was read a first and second time; referred to the Committee of Elections, and ordered to be printed.

#### CAPTAIN ANDREW RUSSELL.

Mr. HOLMAN asked and obtained leave to withdraw from the files certain papers in the case of Captain Andrew Russell, an officer in the revolutionary war.

#### TREASURER'S OFFICE, BOSTON.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. HOOPER. Will the gentleman from Illinois [Mr. WASHBURNE] allow me to introduce a bill?

Mr. WASHBURNE, of Illinois. What is the character of the bill?

Mr. HOOPER. I ask unanimous consent to introduce a bill to provide for the appointment of clerks in the office of the Assistant Treasurer of the United States, at Boston, Massachusetts, and to fix their salaries.

Mr. WASHBURNE, of Illinois. I insist upon my call for the regular order of business.

#### ABOLITION OF SLAVERY.

The SPEAKER. The regular order is the consideration of the business in which the House was engaged at the adjournment yesterday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, on which the gentleman from Kentucky [Mr. SMITH] has the floor.

Mr. SMITH. Mr. Speaker, I ask the indul-

gence of the House for a short time while I state as clearly as I can the reasons which will compel me to cast the vote I shall give upon this proposition. No question has produced more interest or caused more feeling in the country, save probably the war, than the question now under consideration. It is one that affects not merely a single section but the whole country. It is one which demands of each Representative upon this floor, not only serious consideration, but that deliberation which should characterize every one of us from every part of the United States.

It may be considered by some that the position I shall take to-day, coming from the region of country I do, having been educated and associated with the class of men I have, is a strange one. Yet, nevertheless, I feel it a duty that I owe to myself; I feel it a duty I owe to those around me; I feel it a duty I owe to my whole country, that I should lay aside all personal considerations, all past reminiscences, all personal interests, and devote myself alone to my country, and to my whole country. Nothing has surprised me more than the declarations of some gentlemen who have spoken on this subject, enunciating in bold and unmistakable language doctrines which, if adopted by the people of the United States and carried out, must inevitably result in the ruin of the Government; doctrines which had their origin more than a quarter of a century ago in the heated brains of southern fire-eaters, and which have brought us to our present deplorable and miserable condition.

While I admit, sir, the just rights of each individual State; while I would accord to each State in this Union all the rights to which it is entitled, and would maintain them to the utmost; while I would adhere to the letter and spirit of the Constitution in respect to all the rights guaranteed to each State, I conceive that there is nothing so obnoxious, so abominable, so ruinous to a republican form of government as that doctrine of *ultra* State rights which has been asserted recently upon the floor of Congress. It subverts all the principles of this Government; it is in conflict with the true principles of republicanism, and it brings us into a position into which we would not be brought otherwise—perfect desolation and ruin.

I admit, sir, upon the part of a people the inalienable right of revolution; but I deny the position assumed yesterday by the gentleman from Ohio [Mr. PENDLETON] that the right of revolution belongs to a people under all circumstances and at all times. In all well-regulated Governments, in all Governments that have had the true foundation, a constitutional basis which is recognized as valid, the right of revolution upon the part of the people does not exist except when that Government has become oppressive and despotic upon a portion of its people. The doctrine enunciated yesterday fell not more harshly upon the ears of the members of this House, nor more harshly upon the people of the nation, than that doctrine enunciated a long time ago by the great secessionist and State-rights man of South Carolina, Mr. Calhoun; a doctrine which has been obnoxious to the people of the country since it originated in the brain, not of a patriot or good man, but of one who, though a great man, sought the interest and aggrandizement of a State more than that of the country for which his fathers had suffered and bled and died; a doctrine which has produced rebellion, revolution, and war; a doctrine which has clad the great Government of the United States in the habiliments of mourning, and brought weeping around every hearthstone in the land. Yet with all the facts before us, in the light of truths which should make the heart of every man bleed to-day, men are bold and audacious enough to rise upon this floor and go a step beyond the odious position taken by other men in times gone by. And more than that, it is astounding that men upon that side of the House, who have been born and educated in opposition to Democracy, who have made it the object of their life-long antagonism, who have denounced it as detrimental to the best interests of the country, should now become the champions of State rights and advocate the principles maintained by the modern Democratic party.

Sir, the doctrine enunciated by a great statesman in 1832, that this is a Government of the people, is true to-day. This Congress emanated

from the people; the Constitution emanated from the people; the States emanated from the people; and the people, not of Ohio, not of North Carolina, not of Kentucky, not of any other individual State, but the people of the whole country, have a right to control it as their best judgment may dictate; and when the people of this country see proper to alter or amend their fundamental law, whatever that amendment may be, if it is in harmony with that instrument itself and in accordance with the feelings and best interests of the people, he who dares proclaim the sentiment that it is not only the right but the sacred duty of a single individual State of this country to resist such an amendment when adopted, announces himself as a revolutionist now and forever, and deserves the execration of men who favor law and order in the land. When this Government was formed, it was formed not by the individual independent sovereignties; it was formed by a united people who had assembled in their representative capacity for the purpose of making a stronger and more perfect Union; and they declared that that instrument which was to be the fundamental law of the Government might be amended in the way their interests might dictate.

I do not, however, intend to debate the constitutional question; but I intend to lay down the proposition that it is the duty of the American Congress, under the present circumstances, to submit this amendment to the people, and that it is the duty of the people to adopt it; because, in my judgment, it was this isolated subject of slavery that produced the revolution or the rebellion; and only by getting rid of this subject can we give permanent peace and tranquillity to the land. While I have had all the prejudices concerning that institution that any man could have, while I have had all the education that was necessary to make me believe in that institution, and while, as an abstract proposition, I cannot now altogether deny the principles in which I was educated, yet when I view the present condition of the country, involved in rebellion and war, desolation and bloodshed throughout two thirds of the country, I lay aside those prejudices; I lay aside personal interest; I lay aside considerations of State locality; I rise higher than mere State interests, mere personal prejudice; I look to the whole country, and the greatest good of the greatest number of the people.

So far as my own State is concerned, and so far as the people of that State are concerned, allow me to say here, sir, that while that property in 1860 was valued at \$107,000,000, it was confined to only one eighth of the population of that State. It has been reduced below \$50,000,000 by the war, and yet there are only one in eight of the population of my State who are interested in the institution of slavery. And two thirds of that portion who are interested in the institution of slavery are of the meanest, the most designing, the most secessionist and rebels. I am not here to legislate for their benefit, for their comfort, for their reward, but I am here to legislate for their punishment, for their destruction, and for the salvation of the loyal people of my State. If I do that which takes from them not only their slaves but everything else they may possess to save the Union people of my State and give them the protection they are entitled to, then I have accomplished my duty as the Representative of the loyal people, and as a loyal citizen of the United States.

Mr. Speaker, I do not know what may have prompted the feelings of my colleague from the Ashland district, [Mr. CLAY], in the charge he made the other day, that the whole of this legislation seemed to be directed by twenty-odd States against one loyal State—Kentucky. I do not know what feelings may have been in his bosom which induced him to throw such a shaft at the great loyalty of the northern people. He must have forgotten 1861, 1862, and 1863, and especially 1861. He must have forgotten that when we were in full possession of our property in slaves, when we were in full possession of our homes, when we were surrounded by our families, when we were surrounded by everything agreeable, and when we were a happy and prosperous people, it was not the North, it was not the vandalism of the North, it was not the propagandism of the North, it was not the abolitionism of the North, but it was the damnable secessionists of the South, it was the men who have his sympathy to-day, which threat-

ened him and me, and tried by force to compel those he and I represented into the coalition to dissolve the Union. When we were in that straitened condition, when thus surrounded, where did our help come from? Where did our assistance come from? And who called for it? Did we not ask Illinois and Indiana and Ohio and New York, and all of the northern States to come to our help? Like patriots and men, forgetting local prejudices that had withheld them from action before, they marched in hundreds and thousands into our State, and across it to our southern boundary, and there stood as a mighty bulwark and saved us, not only our real estate, but our property in slaves. With the marching of two hundred thousand soldiers there has never been a loss of fifty negroes till 1864, under the enrollment laws of Congress.

Sir, I remember well when not only myself but every man on the other side of the House from the State of Kentucky who had been recognized as a Union man was a refugee from his home, a refugee because of that party which to-day is fighting for the institution of slavery, looking to its establishment, not only in the States where it was before, but in the States of the Southwest, and in the whole western country, pushing it even into the New England States. I know that they dared not stay at their homes. They dared not continue at their firesides. Yet they, by their action, by their votes, and their speeches, are giving aid and comfort to the enemies of the men whom they here denounce as thieves and robbers and plunderers. I cannot do it; I will not do it; for I well remember when this war began the sentiment was enunciated all over the country that partisan politics should be forgotten. Democracy was laid aside; Whiggery was laid aside; Know-Nothingism was laid aside; and we came together as one man, and Kentucky's patriotic sons stood by Massachusetts's abolition sons to battle for one object—the restoration of the Union. I intend to stand there to-day. I intend to maintain that position by word, by vote, and by action; and my people, the loyal people of Kentucky, I believe a majority of the people of Kentucky, will favor the adoption of this amendment.

Now, sir, Kentucky has never been an *ultra* State-rights party. It has never adhered to the Calhoun doctrine. It has repudiated the doctrine enunciated by Vallandigham. It has denounced the doctrine of Seymour of New York. It has denounced the doctrine of Seymour of Connecticut. It has always been opposed to these *ultra* doctrines. In the last election it did not indorse the doctrine preached to-day by the men on the other side of the House. It did not vote condemnation, in my judgment, of the action of the present Administration.

Now, sir, no man on the other side of this House from the Commonwealth of Kentucky that I have known or heard denies the right and power of the Government to make an enlistment of all classes of men for the Army. None of them have denied that such right exists under the Constitution. They have voted against it here because such a course, as they say, was not politic; and because it was "robbing" people of their property. But let me ask if every man from the North and the non-slaveholder of Kentucky has not been "robbed" of that which is nearer and dearer to him than the slaves are to any man who lives in Kentucky. Kentucky is a loyal State, and being such they should manifest their loyalty by giving whatever the Government demands, and he who would repudiate the Government and impede its progress, and assist the rebels because of the enlistment of negroes, is not a loyal man, and does not represent the loyal people of Kentucky.

Again, I believe there is not a man in all the South who, if the question were brought home to him directly, and he were to speak the honest sentiments of his heart without prejudice and without the surroundings which exist, would not acknowledge abstractly that the institution of slavery was an evil and a wrong. I have never yet conversed with a man in Kentucky or the South who has not acknowledged that the country and the State would be better off had it not been for slavery. Now, then, while I would have taken no action upon this subject before the rebellion, and would have left it to the people of the States to dispose of the institution as they thought proper, retaining or abolishing it; now that these men have plunged the country into a war for the



support and maintenance of slavery, and Kentucky has refused to go into that rebellion and abide by the decision of those who have broken the Constitution, trampled the laws under their feet, and violated every pledge they made to the people, I believe it is time, under the power of the Government, and by the expressed will of the people, to give the strongest evidence of their patriotism and philanthropy by cutting up that institution root and branch, and as soon as possible. That would work a hardship upon some, I know, but in a struggle like this some are bound to suffer more than others, and to lose their property and their slaves. But because these things occur must we stop our efforts for the benefit of the Government, the maintenance of the laws, the establishment of peace, and the destruction of the rebellion? No, sir; I tell you that is not the spirit and the feeling of the people upon our side, while it may be the purpose upon the other side to rally around a party which is not in fact opposed to the abolition of slavery, but who intend to use this question as a pretext to defeat the real ends of the Government.

The South is itself for the abolition of slavery. The Governments of England and France would not under any circumstances recognize the independence of the South unless it is accompanied by the condition of the abolition of slavery, and the South would abolish it to-day if those Governments would acknowledge their independence. If the South would come forward and make that proposition in order that they might have their independence acknowledged, what effect would it have upon those foreign nations and upon the Government of the United States? We have been fighting for the freedom of all men and for the defense of a free and republican form of government. We have spent millions and millions of dollars and lost hundreds and thousands of lives for that purpose. We have said to the Old World that we are fighting for the maintenance of a free Government. We are fighting not only to restore the Union, but for the abolition of the institution of slavery forever. We intend to establish the great truth that man cannot hold property in man.

Now as long as we maintain that position, and by our legislation show to the old country that we intend to carry out that purpose, England and France will stand back, be quiet, and allow us to work out our own salvation. But suppose this Congress, by failing to pass this resolution, shall show that the millions of the people of the loyal North are afraid to act because of the single State of Kentucky, or because of the interest which a few men may have in the institution of slavery in the South, and the South comes forward and offers, as a condition of the acknowledgment of their independence, to abolish slavery. England and France will upon the application of the South admit the independence of the South in order that slavery may be abolished. But if this Congress comes up to this question as it should by passing this resolution submitting the question to the people, and the people adopt it, Europe will see at once that the Government intends in good faith to carry out the proclamation of the President declaring that these negroes shall be forever free, and that this shall be a republican form of government.

Now, sir, we do not claim in Kentucky that the salvation of this country or this Union depends upon the continuance of slavery. Nor has any Union man in the South claimed, as an essential element of the restoration of this Union, that slavery should be sustained. The State of Kentucky for a long time said, give us a Government with or without slavery, but now the time has come when the people should have it without slavery. And no vote of mine, no action of mine shall ever, under any circumstances, look toward anything else than the utter, absolute, unconditional abolition of slavery in the United States.

Sir, men talk about revolution and about the right of individual States to oppose the general laws of this nation. That individual opposition to national laws has brought us to our present position, and I say to gentlemen upon the other side of the House that if this amendment becomes the law of the Government of the United States the people of this country will maintain it. There are loyal men enough in the country to maintain the Government. There are loyal men enough in this country to put down the rebellion. There

are loyal men enough in the country to bring back these seceded States into the Union, and establish over them law and order as they once had it. There are loyal men enough in this country to put down all insurrection and rebellion in the North; and gentlemen had better be careful how they speak and how they instigate insurrection and rebellion in the North. Men may court foreign intervention as much as they please, and ask France and England to interfere; they may point to the intervention in Mexico by Napoleon; but in my judgment, it is the conviction of my heart, there are men enough in the United States of America, not only to whip the rebels, but to whip all the insurrectionists North, and to defeat every European Power that may attempt to interfere between us and our republican institutions. We were born of a power greater than man. Our liberties, our Union, our greatness, and our glory emanated from and have been conducted by the Ruler of nations as well as the Ruler of men. We have progressed wonderfully, rapidly, beyond the expectations of all men and of all nations. We have been able to throw into the field not only a million men, but two million men, and in every town, in every city, in every county, as you walk the streets and highways, nobody is missed, scarcely any one is found from home. Let the tocsin of war but sound to-day; let it be known that England has recognized the independence of the southern confederacy, and that France co-operates with her, and a million men will spring to arms in the United States, and say, "Come on, England and France, and damned be he who first cries Hold, enough!" [Applause in the gallery.]

Now, Mr. Speaker, I have never had since this rebellion began the slightest fear that it would not be put down. We never knew but one country. Slavery in the South has kept us back. Slavery in Kentucky has kept us back. Ohio, a younger State, admitted into the Union long after we were, has outstripped us vastly; her railroads running in every direction; her manufactures springing up in every neighborhood; her turnpikes in every community; her towns and cities dotting the land all over. And so with every State North. How is it with Kentucky? With a richer soil than almost any of them; with a finer climate than almost any State in the Union; with more resources than any State in the Union; more coal, iron, copper, lead, salt, and timber than any other State in the Union; her coal and minerals remain bedded in her mountains; her timber stands on her hills and valleys; her plains uncultivated; no manufactures; no steam is heard or seen in any portion of her country; the hum of wheels is nowhere heard, but her people move along at a slow pace because alone of the institution of slavery. The time has come, and I thank God for it, when we will wipe that institution out, and Kentucky will stand among the proudest of the States of the Union.

Mr. Speaker, in the adoption of this amendment we do not throw upon the Government and upon the community a people, as has been represented by the gentleman from New York, [Mr. FERNANDO WOOD,] powerless, illiterate, inhuman, and unkind in their disposition. They are a good people; they are an affectionate people; they are an industrious people when properly treated. But there is one idea in this whole system which has kept back the people of the whole South, and that is that one man, and one man alone, has held a whole country, almost—three, four, and five thousand acres of land—and worked it for his individual benefit with five hundred men; whereas if those five hundred men were free there would be five hundred tenements on the same property, and prosperity and advancement would be in proportion to the interest felt and realized in the community. All the northern or free States fully exemplify this truth. The States of the North have outstripped us in States South in manufactures, in machinery, in inventions, in schools, churches, and all that tends to make a nation great and good and powerful. Her people to-day are well fed, well clad, and prosperous; her churches attended, her schools filled, and all happy and progressive; while the South, filled with slaves, is naked, starved, and begging intervention on the grounds of humanity and benevolence. Sir, it is slavery, slavery, which keeps the South down, unprosperous, and undeveloped.

It has often been argued that white laborers cannot make cotton in the South; that the negro

alone can make it; that God intended the negro for a condition of slavery, and fitted the South with a peculiar soil and a peculiar climate adapted to the negro laborer. Sir, it is not true. The most productive lands throughout the South are lands cultivated by white men in farms of fifty, forty, or thirty acres. The negro makes cotton, to be sure, but he wastes it. The white man makes it on small plantations, but in proportion to the land worked he produces a great deal more cotton than the negro does. It is said that the white man cannot live there. How does the millionaire who owns five thousand acres of land and five hundred negroes live there? How do his children and his friends live there? How do the eight million white people in the South live there? And how is it that the men of the South are such strong, stalwart, brave men as they have proved themselves to be since this war began? Sir, it is idle nonsense. Wherever in this broad country of ours there is land to be cultivated, there the white man can live, there the white man should live, and there the white man will live hereafter. I know that it is pleasant for a man to have a negro to work for him, to have a negro catch his horse and black his boots for him. No one enjoyed that more than I. But I have come to the realization of the great truth laid down in the good book, that by the sweat of man's brow shall he eat bread, and I have come to the conclusion that it is the best way for a man to fatten. I have increased, since the war began, in flesh and in wisdom.

I know, Mr. Speaker, that many on the other side will die hard; that when they yield it will be with bitterness in their hearts. But they must yield, and that very soon. My colleague from the Ashland district [Mr. CLAY] said the other day that the negro property in the State of Kentucky was worth \$150,000,000 before the war began; and the tenor of his speech was that the anti-slavery action of the Government was directed against the interests of Kentucky. That State has only some twenty-five or twenty-six thousand negroes in the Army; my colleague has but fifteen or twenty. And what is the object of the opposition to this bill? It is to tie down the Commonwealth of Kentucky to the institution of slavery, with the hope that the young negroes may be more valuable after a while than the old ones were when the war began. The whole contest in the State of Kentucky to-day is over negroes. And if every negro were taken from the Commonwealth of Kentucky there would not be in thirty days a man in that State to raise his voice against the Government.

Now, why do I approve of this amendment of the Constitution? Why do I advocate it? Why do I make these declarations? It is because I want peace in the State of Kentucky; because I want the people of that State united; because I want the people of the country united. I know that the war began on the subject of slavery. The speeches in Congress indicated that. Mr. Davis himself declared it. The southern confederacy has so acted, and has so conducted all its correspondence and all its warfare, as to convince the world that the perpetuation of slavery was its leading object. The enlistment of negroes in the rebel armies has been opposed on the ground that the confederacy seceded from the United States in order to maintain the institution of slavery. If that were, and is to-day, the prime moving cause of the rebellion, I ask, in the name of common sense why, if you love your country, if you think that a white man is as good as a negro, is entitled to as many privileges as a negro, and if you think that this should be a Government, not of black men but of white men, you will not abolish slavery? Give the negroes their freedom and let them go where they please.

It is a question in Kentucky what shall be done with the negroes after they are made free. I know not what others may think of it, but my idea is, from the present condition of our military affairs, from the present status of things, that the rebellion is almost over; that there will be but few other hard battles fought, and that peace will soon be reestablished. When it is, then, with one hundred and fifty or two hundred thousand negro soldiers we can march down by the southern coast into Mexico and say to Napoleon, "Leave this territory!" We will drive out the French and give that country to the cause of freedom and

greatness, which will be forever an ally to this Republic, and its warm and unflinching friend. We can do it and we will do it. And Napoleon had better look well to his interests in Mexico, and Maximilian had better beware of the fate that awaits him.

You have heard the hue and cry of the fanatical pro-slavery men in the country, that these abolitionists in Congress, these northern men, these suddenly converted men from the South, who have come out in favor of the abolition of slavery, are in favor of miscegenation, amalgamation, association, and all that kind of thing. Now, sir, if I believed that there was in this country a man with so little sense as to believe that he would become the equal of the negro, notwithstanding the laws of this country, notwithstanding the protection he can obtain from Congress, then I would be willing to vote for a resolution to give him two medals, one to be worn before and the other behind, with the inscription upon them, "I am afraid of the negro, and here is my sign, stuck out prominently, that I am not to be considered the equal of the negro."

Mr. Speaker, in my judgment there never was a sounder or a more philosophical truth communicated by any man than that of the President of the United States, when he wrote to Colonel Hodges, of Frankfort, Kentucky, that "if slavery is not wrong, nothing is wrong." Whatever may have been my opinion four years ago, I am not, so far as that opinion is concerned, to be questioned for the opinion that I entertain now. You may, if you please, look at our country in 1860—a magnificent and a beautiful country; one of happiness and of plenty; one where the people mingled and commingled together as people of one nation, with a common purpose and a common end.

But there was one principle in this Government which had more to do with the destruction of slavery than all things else put together. The Constitution declares that every citizen of the United States shall have equal privileges in every other State. That principle was denied to the whole North by the South unless the man adhered to the sentiments of the South. The very fact that slavery could not be discussed in the South killed it. The very fact that men from the North could not go to the South and speak their real sentiments induced the people of the North to become bitter toward the institution. Now, when this revolution shall have been closed, when this rebellion shall have been put down, my judgment is that that principle of the Constitution will not become fully established until the man from Massachusetts can speak out his true opinions in the State of South Carolina, and the man of Mississippi shall be heard without interruption in Pennsylvania. That is a glorious principle to fight for; and if we can accomplish it, with a united country, with a united people, with a people of one common purpose, we can all say that the war has not been in vain; that we have suffered much, that we have expended much, yet the great principle of the freedom of man has been accomplished by the war.

If slavery is not wrong, then what is wrong? It prevented a man from speaking his sentiments in the South. Go ask the South why they seceded, and the answer will be, to establish slavery. Go travel over this vast country and witness the thousands and thousands of new-made graves, and ask what caused them, and the answer will be, slavery. Go ask the tax-payer of this country why he is to-day called upon to pay such heavy taxes to support the armies of the Government and to conduct this great war against the rebellion, and the answer comes back to us from every one, slavery is the cause. Why are we wrangling in Congress to-day upon this subject, if slavery is not wrong? Why does the conscientiousness of every man in this country accept as the truth that slavery is wrong?

If it is right, if it is apostolic, if it is according to Scripture and of divine origin, then why are not men convinced of the truth of that? We all know that slavery will resist the Government, will fight against the Government, until it is destroyed and abolished from the whole extent of our country. And the man who now stands up for this obnoxious, and abominable, and nefarious doctrine of State rights is not the Union man that was found in 1860, or even the Union man found

so far back as 1831 and 1832. Sir, I would give all the States their full rights. I would give each State and each individual all the rights that can be demanded from the Constitution, and I am thankful to believe that the principle which will be promoted and established by the prosecution of this war will be that this is to be one country, and one Government, for one people; a Government over all the States, free and independent States, but each State owing allegiance to the Government of the United States.

My opinion is that whenever a State undertakes to rebel, and to violate a single law of the United States, it is the duty of the Government of the United States to coerce that State, and force her to obedience, even at the point of the bayonet. That was the doctrine which was preached when our Constitution was formed. In the letter which was addressed, by the members of the Convention that framed that Constitution, to the people of the United States, asking them to adopt that Constitution, the very idea of consolidation was recommended as an argument in its favor, in order that we might have a strong and powerful Government. What is that recommendation?

"In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety; perhaps our national existence. This important consideration seriously and amply impressed on our minds led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected."

Now, sir, there was the doctrine of consolidation, preached by the fathers of the Government, by the framers of the Constitution. Those men believed that the power existed in the Government to execute all the laws enacted by the Government, and that when the Government was formed the States gave up everything connected with sovereignty; there was nothing of it left in a single State. Therefore the idea that a feeble, insignificant State has the right to oppose a Federal law, a law of the nation, is obnoxious and abominable, leads to war and destruction and anarchy. It is a doctrine under which we cannot maintain the Government.

[Here the hammer fell.]

Mr. COX obtained the floor.

Mr. L. MYERS. I hope that, by unanimous consent, the gentleman from Kentucky [Mr. SMITH] will be allowed to proceed.

A MEMBER. For how long?

Mr. L. MYERS. For fifteen minutes.

There was no objection.

Mr. SMITH. I regard the present condition of our country in a different light from many men who have spoken in this House. I believe that the union of the States is an inevitable result of the war. I believe that just so certainly as these States were united under the original compact between our fathers, just so certainly will they, by the blood which is now being spilt, be brought back to a stronger union, a more surely perpetual union, and a more glorious union than it was before. I believe that all the wrangling, all the disaffection, all the discord which has existed heretofore, making the North a section and the South a section, inducing war, civil war, bloody war, will be done away with forever. We are just beginning to realize and develop the resources of this country; we are just beginning to exhibit the richness of our soil; we are just beginning to show the rapidity with which our commerce is to be extended, and our population increased; for nothing is more remarkable than that, in the midst of this great and terrible conflict, when every man is expected to go in and assist in the war, our statistics show that the emigration from Europe is as great as at any preceding time. The whole world is looking upon the action of the United States to-day. England, France, Russia, and other nations have at one move emancipated all the slaves in their respective dominions. Kentucky and the other States of this Union in which slavery is maintained will, ere long, by a similar grand act, decree emancipation, so that there will be no slavery within the borders of our country. Then shall we be a great people, a proud people, a prosperous people. Then shall we go on and develop the resources of the country, and show ourselves a nation such as no people upon the face of the earth have ever seen before. Sir, this will be a country of civilization, a country of education, a country of religion, a country of refine-

ment, a country of great men and great women, a country which will command the respect and admiration of the whole civilized world.

Gentlemen upon the other side say that we had better beware how we act; that we had better not be revolutionary ourselves; that it is impossible to produce harmoniousness between the North and the South. I tell gentlemen who thus speak that they know nothing of the South. They have been educated and trained alone in the North. They know nothing of the genius of the people of the South. Though those people have been deluded and led astray, and thus induced to enter into this great conflict, yet, when they shall have been once well chastised, when they shall have been brought back to the strict obedience to the law, they will be as acquiescent as any people upon the face of the earth. It is their character; it is their disposition. Men who would favor the separation of the Government, men who act to-day under the idea that the South is to be independent, might as well abandon that opinion, and promptly give their adhesion to the Government in all its actions for putting down the rebellion. Just so certainly as we sit here to-day, shall we ere many years have every State in this Union represented upon this floor as a free State, and as a part of this great Confederation. Louisiana and Arkansas stand knocking to-day; Tennessee will be here shortly. Other States are coming on. Georgia has manifested a disposition to loyalty that no one expected before. General Sherman marched through that State and occupied Savannah.

You may say that these defeats of the rebels, the occupation of all these places by our forces, mean nothing. Does the gentleman from Ohio, [Mr. PENDLETON,] who spoke yesterday of our victories, mean to say that they accomplish nothing toward the restoration of the Union? That southern soil will never be given up, the country around Richmond will never be given up by our gallant soldiers. If it should be the disposition of any of the departments of the Government to yield that soil, they must first go and consult the soldiery who have marched over that land and made it sacred by every step they have made toward the subjugation of the South. Go and ask the army of the Potomac if they will yield the sacred battle-fields on which they have fought. Ask them whether they will retire and leave that Virginia soil to be a part and parcel of the southern confederacy, and each man who wears the uniform of the nation will point to a new-made grave and say, "Here lies my comrade; this land is made sacred by his blood and his bones; and it never shall be surrendered to traitors." Go to the soldiers of the army of the Cumberland, who were with General Sherman in his glorious march to Atlanta, passing through a country every foot of which was contested for one hundred and fifty miles, and ask those soldiers whether they will retire and yield that territory to the southern confederacy. No, sir; the proud soldiers of the West, the brave soldiers of the North, all the gallant soldiers of the Union will point to the last resting-places of their comrades and say, "This land has been made sacred by these noble deaths; it is ours; we will keep and maintain it, and here with God's help we will defend it or lie cold and helpless corpses."

We will never yield up this country. It is ours. We intend to keep it. We intend to fight for it; and if every man of our present armies is killed, if they are vanquished and driven back, we have a million men more behind who will rise up, take their place, and march down far South even to utter annihilation. We do not intend to give it up. We intend to bring it back. We intend to make it one people, one nation, under one Constitution, with one purpose, one common end, the glory of the nation, the glory of our people, the civilization of the land, the education and Christianizing of mankind. Then we shall have but one aim; all men shall be free; there shall be union, and there shall be no divisions and dissensions in the length and breadth of the whole land.

Sir, it should be the highest incentive to every American that we shall not act alone for to-day. Instead of being controlled by self-interest, instead of looking to the luxuries surrounding us, we ought to look forward to the myriads who are to come after us. He, indeed, would be a selfish

man who would look alone to himself and for himself. We should follow the great and glorious example of our forefathers. They looked not alone to the present. They looked not to the morrow. No, sir, they cast their eyes far into the future, and they saw hundreds and millions of people occupying the country for which they fought. Therefore they were stimulated to make more sacrifices, to lose more lives, and spend more money in order to make them a free and independent nation. Shall we not lay aside these momentary feelings? Shall we not forget momentary luxuries? Shall we not look forward one hundred and fifty years and see millions of freemen, men who know no masters, and one free country, stretching from the Atlantic to the Pacific under one Constitution, with the one motto of Union and liberty forever?

Mr. COX. Mr. Speaker, when we left these Halls last year there was a prospect that the administration of the Government would have been changed by the election. The political conventions of the two parties met. The party of the Administration made this amendment of the Constitution a part of their creed. They went before the people claiming the power to abolish slavery by constitutional amendment. Nowhere did the opposite party take ground against the power; every where they took ground against its exercise. The convention which met at Chicago adopted their creed. It called for a cessation of hostilities, with but one view, a national convention, in order to reestablish union. Not giving up the principles laid down in the Kentucky and Virginia resolutions of 1798 and 1799, when moved by my colleague [Mr. LONG] in the convention, which, rightly considered, constituted a main foundation of its political creed, it laid them on the table on my own motion, as abstractions unsuited to the demands of the agonized country. Regarding peace as the great practical need of the hour, the convention waived all other questions to reach that. How? By the Constitution, in its fifth article, which provides that a national convention shall be called for proposing amendments to the Constitution. This proposition of the convention was at once our weakness and our strength: our weakness when misunderstood by the people, our strength when rightly interpreted. My colleague [Mr. PENDLETON] accepted that platform. In casting my vote for him, I knew that he indorsed it. He indorses it yet. If he had been elected to that office, which he would have graced so well, we might to-day have been appealing to Legislatures, North and South, and not in vain to two thirds of them, to call the convention at the will of the people. The North would have yielded and the South would not have held back. That my colleague and myself well know. In that august assembly the distinguished men from both sections would have been present. What would have been the scope of their action? What the subject of their debates? Need I ask? It would have been the settlement of all grievances, North and South; questions of debt, doubtless; questions of guarantee to State and municipal rights, doubtless; but beyond doubt, this vexata questio of slavery, this *terribilis causa belli*, and the agitations and legislation growing therefrom.

Mr. Speaker, I read this morning, with what truth I know not, that a commissioner is now in Richmond with the confidence and assent of the Administration, meeting, perhaps, a commissioner on the part of the confederate authorities; and the rumor is that they have agreed to call a national convention. [Sensation.] I know not whether there is anything in it. My friend from New York who sits behind me [Mr. FERNANDO WOOD] says that there is not, and he is presumed to know more on that subject than I do. [Laughter.]

If, in the providence of God, such a convention were called or were now in session, and this question came up in a full representation of all the States, who would think of disputing its power to modify, change, alter, and abolish, either at once or gradually, by constitutional amendment, the institution of slavery? Not a man. While, therefore, in a state of war, and with nearly half the States in default and absent, I may deny the wisdom of acting either by the one mode or the other, pointed out for the amendment of the Constitution in this particular—I will not deny a power so essential to peace, safety, and sovereignty. No ingenious refinement or dazzling elo-

quence shall lead me to deny a power which may yet prove our salvation, when wisely used. Who upon this side asks me to shut the door in the face of such a saving power? Let him remember that while the power may now threaten to destroy, the power to save is forever bound up with it. The power that can create, the same can destroy. Under the ribs of death at the last moment this power may be invoked to create the heart and soul of union, and that, too, by the array of States in their sovereign capacity, as modified by their granted powers.

Do you tell me that such sovereignty can only guaranty, but cannot destroy property, either in man or beast, in land or house? If a convention of States can take jurisdiction to protect property they can to destroy. It is admitted that the States individually can do this. If by the Constitution they as States, all consenting to it, have provided a mode of doing it, what matters it whether it is done by them in their individual capacity or in their conventional capacity? Whenever two thirds agree to propose amendments and three fourths shall ratify, either by convention or Legislature, the proposition is "a part of this Constitution." It is the States that do this in the first instance, all according in making the amending clause; again by their convention in proposing; and again by ratifying. Therefore I join my colleague in singing hosanna to that principle of our government just denounced by the gentleman from Kentucky [Mr. SMITH] as so nefarious—the sovereignty of the States. I see here not one monster iron crown, like that of Lombardy, compelling, as from an omnipotent scepter, the subject States, but each of the States making for themselves a fundamental law or organic compact.

Even by this amendatory clause they pluck from their "round of sovereignty" each a crown jewel to form and decorate the Federal diadem. Each of the States, sovereign in their reserved spheres, drop their scepters before the Federal emblem, in all cases where, as in amendments, the Constitution is declared the "supreme law of the land."

Tell me not that this power is dangerous when left unlimited in the Federal head. All power is dangerous. It tends to abuse. This is no argument against its existence, only against its exercise. My colleague [Mr. C. A. WHITE] holds that the States can make him—now a free white man—a slave by local law. Is there a more dangerous power when exercised? It is worse than the power to create or destroy property. But he admits the power if its place of lodgment is only local. If, then, the States can do this by local law, can they not do it in any other way they choose? They can by the same power make him again a freeman. Nay, more; there may be possibly a greater guarantee in an enlightened land against his being made a slave by the votes of the States, all convoked in the mode prescribed by the Constitution, than in the separate action of the States unassisted in their organic work by the prudence of their brother States.

My colleague [Mr. C. A. WHITE] says the States are unlimited and absolute in their sovereignty, and therefore the Federal Government is not sovereign. I ask him to beware where this doctrine leads. But may not the States in their unlimited and sovereign convention, deriving their powers from the original consent of all, give up portions of their sovereignty, modify it, as Mr. Calhoun holds, by the amendatory clause? May they not thus speak the most potential voice of the people of the States in all affairs? It is the people of all the States who consent to amending the Constitution, and by a mode which allows two thirds of both Houses to propose the amendment, which is to be sent to the Legislatures for the ratification of three fourths. First and last and all the time, the States are the constituents of the Federal Government, and as such, and by their State action, they can create and they destroy. I am of the State-rights school so far as this question is concerned, and of the strictest sect.

Mr. FERNANDO WOOD. I desire to call the attention of the gentleman from Ohio to the language of James Madison in the *Federalist*:

"That useful alterations will be suggested by experience, could not be but foreseen. It was requisite, therefore, that a mode for introducing them should be provided. The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against that extreme

facility which would render the Constitution too mutable, and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the General and the State governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other."

Again, sir, Hamilton says:

"For my own part, I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the Government, not to the mass of its powers; and on this account alone I think there is no weight in the observation just stated."

Mr. COX. The only comment I make upon the quotations of the gentleman from New York is this: Madison in the Convention opposed and voted against the proposition of Roger Sherman to except all internal police of the States from the amendments of the Constitution. The quotation is in harmony with his vote. For he only holds, as Judge Story holds, that the mode of amendment sufficiently guards the Constitution against mutability; and that the "amendment of errors" cannot be made without the concurrence of Federal and State governments, in Congress and in State Legislatures. He did not expect that fundamental changes would be made—only "alterations;" but he does not deny that there is any limit to the power. This is no authority against the power, but an argument for it. Mr. Madison holds to the power because he believes it cannot be abused, owing to the restraints placed by the Convention upon its exercise. Further, I know, from having read the private correspondence of Mr. Madison, published in this city by Mr. McGuire for private distribution, that he always held to the idea that the only mode by which a dissolution of the Union or a secession of the States could ever be legally accomplished was by this organic and all-powerful clause of amendment. He laid it down so broadly that it would even cover the remark I made the other day, considered so extravagant, that we might by the fiat of the States even build a monarchy upon the ruins of republicanism.

As to the quotation from Mr. Hamilton, I do not see its application. I am not prepared, without reading it carefully, to make a fitting comment. It strikes me that it does not limit the power of amendment. It is rather the expression of a strong conviction that all amendments will be and ought to be applied to "the organization of the Government, not to the mass of its powers," and that none others would be useful. I quite agree with the opinion. Now, with all respect, I appeal to my friend from New York, who belongs to the strict State-rights school of politics, and even stands so perpendicularly that many people believe that he leans backward, to consider the view of Mr. Calhoun upon this subject. I am sorry my friend from Connecticut, [Mr. DEMING], who has the volume, has not brought it here this morning. The quotation will be found in his sixth volume, page 36. In 1828 the South Carolina Legislature asked the opinion of Mr. Calhoun upon this and kindred subjects. In that declaration of political power, drawn up for his State, he teaches that the people of that State by adopting the Federal Constitution had modified its original right of sovereignty, and that by its consent in becoming a member of the Union, that power had been placed in the hands of three fourths of the States, in whom, he said, the highest power known to the Constitution exists. I do not give the quotation with that length and that emphasis which belong to it, but I will insert it in my remarks for the edification of my friend, who is a most earnest disciple of John C. Calhoun:

"In order to have a full and clear conception of our institutions it will be proper to remark that there is, in our system, a striking contrast between government and sovereignty. The separate governments of the several States are vested in their legislative, executive, and judicial departments, while the sovereignty resides in the people of the several States who created it; but by an express provision of the Constitution it may be amended or changed by three fourths of the States, and thus each State, by assenting to the Constitution with this provision, has modified its original right as a sovereign, of making its individual consent necessary to any change in its political condition; and by becoming a member of this Union has placed this important power in the hands of three fourths of the States, in whom the highest power known to the Constitution resides."

This extract is only strengthened by the context. I call on my friends of the State-rights school not to outdo their master, but if they would save the most valuable and most abused principle



of our Government, not to strain its intent, and thus destroy it altogether.

I am sustained in my view, by the history of the Convention which framed the Constitution. Was this question considered by the Convention? It was. In Elliot's Debates, volume five, page 357, it appears that General Pinckney "reminded the Convention that if the committee should fail to insert some security to the southern States against an emancipation of slaves and taxes on imports he should be bound by his duty to his State to vote against their report." Again, when the report was made, this clause of amendment came in on the 15th of September. It was discussed by Sherman, Morris, Gerry, Mason, and Madison. Mr. Sherman did not like the mode proposed, for fear it would, by three fourths of the States, do things fatal to particular States, as abolishing them altogether, or depriving them of their equality. Colonel Mason thought it dangerous and exceptionable. Mr. Madison defended the present clause. Mr. Sherman moved to annex to the end of the article a further proviso, "that no State shall, without its consent, be affected in its internal police, or deprived of its internal police, or deprived of its equal suffrage in the Senate." Mr. Madison opposed it. It was lost—three to eight. Then Mr. Sherman moved to strike out the fifth article altogether. That too failed. The article was then further amended by the existing clause, that "no State shall be deprived of its equal suffrage in the Senate." (Elliot, volume 5, page 352.) Thus it passed.

The argument from contemporary history is therefore conclusive. The intention of the creator is the best criterion as to the character of the creature. Here we have it, not only implied by the absence of an exception, but by the positive disallowance of it by the Convention. That intention was to limit the amending clause only in two particulars. This one before the House is neither of the two.

My opinion on this matter of construction is drawn from unexceptionable teaching; not alone from Judge Story; not alone from Calhoun. No man can teach me a different lesson until I forget the history of the Constitution. The platform of my party, and the philosophy of its founders, teach me the same thing. In the language of that platform of many years, adopted last at Cincinnati and Baltimore, I "maintain before the world this great moral element in a form of government, springing from and upheld by the popular will, which seeks not to palsy the will of the constituent;" and that is, that the Federal Government is one of limited power, derived solely from the Constitution and the grants of power made therein; that its powers ought to be strictly construed; and if upon such construction found therein, to be strictly pursued, with all the vigor of their constitutional sanctions.

Finding this clause of amendment in the Constitution, with no doubt upon its features, I must bow to its supremacy. Even though I may regard it as clear and unquestionable, and admit the power in its fullest expression, I may yet claim that its exercise is dangerous and inexpedient. If it were a doubtful power I would not think of exercising it, but since it is clearly granted I shall consult my own judgment upon the merits of the proposed amendment.

If then it be an exercise of an admitted power, why not confine the discussion to proving the unwisdom of its exercise? For two reasons:

I. I believe that the argument from lack of power to amend is weaker than the argument against its expediency. It is a settled rule of logic that a fallacy, used in a good cause, gives your opponent the advantage of apparent success in the conclusion of the argument. I do not propose to give this advantage to the advocates of this measure. Believing that the power exists, I am bound to follow the example of my colleague [Mr. PENNINGTON] and place my vote upon the reasons which weigh most in my judgment.

I find that the learned commentator, Judge Story, regards this power of amendment as both useful and important. His reasons are radical. He says, page 678:

"It is obvious that no human Government can ever be perfect; and that it is impossible to foresee or guard against all the exigencies which may, in different ages, require different adaptations and modifications of powers to suit the various necessities of the people. A Government forever changing and changeable, is indeed in a state border-

ing upon anarchy and confusion. A Government which, in its own organization, provides no means of change, but assumes to be fixed and unalterable, must after a while become wholly unsuited to the circumstances of the nation; and it will either degenerate into a despotism, or by the pressure of its inequalities bring on a revolution. It is wise, therefore, in every Government, and especially in a republic, to provide means for altering and improving the fabric of Government as time and experience or the new phases of human affairs may render proper, in order to promote the happiness and safety of the people. The great principle to be sought is to make the changes practicable, but not too easy; to secure due deliberation and caution; and to follow experience rather than to open a way for experiments suggested by mere speculation or theory."

Upon this philosophy he considers this power of amendment; finds in its mode of exercise sufficient checks against its abuse; but even if abused he finds that it is better as a measure of safety than if the powers were limited. In his judgment there are no limitations upon its exercise except those specified; and the claim to abolish the internal policy of a State is not an exception.

These reasons for the clause of amendment are the reasons why the power is so extensive. The mode of amendment was thought to be so guarded as to prevent any unrepudiated or monarchical amendments which would substantially change the genius and scope of the Federal system of delegated powers. It is, nevertheless, unlimited, except in the two particulars specified.

This power of unlimited amendment is an element of democracy. It has been the characteristic of our democratic institutions that our ancestry, however prudent and wise, did not tie the hands of the children nor shackle their liberties by laws so irrevocable that no mode of change was allowed. In our State constitutions this power of amendment has been and is being exercised almost every decade. Why? On the principle of Jeremy Bentham, (Benthamiana, page 220,) that at each point of time the sovereign for the time possesses such means as the nature of the case affords for making himself acquainted with the exigencies of his own time. With reference to the future he has no such means. He thus argues against the transfer of the Government from those who possess the best means to those who possess the least means of information. Shall the past century rule the present? No, not unless they are better informed or feel more interest in the future generation than in their own. Why should we of the nineteenth century tie up the hands of the twentieth? Why should the dead forever rule the living? Is a tyranny inexorable because it is established in the past? Is a law immutable because made by the fathers? If the law be despotic who then shall reverse it? From these general principles he deduces the reason why I choose to argue this amendment rather upon its unwisdom than upon the lack of power to make it. "It is only," he says, "when the law is mischievous that an argument of this stamp will be employed to support it. Suppose a law a good one it will be supported, not by absurdity and deception, but from its own excellency. A declaration that this or that law is immutable, so far from being a proper argument to enforce its permanency, is rather a presumption that such a law has some mischievous tendency."

Now, Mr. Speaker, if our polity, which leaves all domestic questions to the State, be wise, as I think it is—eminently wise—not because it was made in 1787, but because it is suited to 1865, and our condition now as well as then, why weaken the argument for its continuance by discussing its irrevocable nature? Why not build its defense on its intrinsic excellency? Why not then from this fortification thunder your rifled artillery? Why, if it be so wise, exhaust your fulminations in trying to prove that we have no power to change it in the mode prescribed?

It is in the light of these democratic truths that I read the fifth article of the Constitution. I construct my argument upon the perennial beauty, exquisite symmetry, and enduring perfection of that system which reserves to the local communities their local interests, the very genius of all permanency, the very element which secures us against that homogeneity so dreaded by the gentleman from New York, [Mr. Brooks,] the happy accord of diverse interests, *E pluribus unum*, many as the waves in variety but one as the sea in unity, stars upon one constellated ensign, each differing in glory, but upon the field of blue all emblematic of the harmony of the Federal system springing out of the "brotherly dissimili-

tudes" of the mingled States! It is upon this foundation that I would seek, by reason and not by authority, to erect the argument for its preservation against radical change.

Does it follow, as my friend from Iowa suggested, that I weaken my argument against the amendment because I argue its demerits while acknowledging the power to amend? I may object to an alteration in my house, especially if it disturbs the foundation and general plan; but must I change it fundamentally because I am the proprietor and have the power? If it be true that a denial of the power is apt to be regarded as an apology for a mischief, do I not strengthen the argument by discussing the mischief? The mischief to be apprehended in this instance is not the abolition of slavery. It is the abolition by this amendment of our peculiar form and structure of Government. The argument which I desired to hear and meet should be directed to this point. Who cares, sir, whether slavery die or live, when the question is, "Shall the form and substance of our Government perish?" Show me that the Government will perish or be imperiled if this amendment is not carried, and I will vote it though all the devils in the South and North should confront me with their wrath! Show me that by voting against it I facilitate the reestablishment of the Government in all its integrity, and my vote shall be against it.

Mr. KASSON. I rise in order to ask the gentlemen if at this point, as well as anywhere in his argument, he will permit me to call his attention to a suggestion he made before, and which seems to have been touched upon by his last point more clearly than elsewhere; and that is the charge that the tendency of this amendment is the destruction of the form and substance of our Government. The form of government we all understand; and even he will not contend that this amendment changes the form.

Touching its change of substance, I presume he alludes to the charge he made the other day of its effect being a centralization of power. Am I right?

Then I wish to ask him upon this point—that we may not be misled by a misapplication of terms—to explain what he means by such centralization. I will say what I understand by it. When I read, the other day, an extract from a letter of the original Convention which formed the Constitution, and unanimously adopted by them, this phrase occurred in it, "Consolidation of the Union," as the great object of the framers of that system of government. Objection was taken to it by the gentleman from Indiana, [Mr. VOORHEES,] but I take it in its length and breadth; and I call the attention of the gentleman from Ohio to the distinction between "consolidation" of the Union and the "centralization" of the Government. Centralization means when you take the power from the State and give it to the United States. But when you take it both from the States and from the United States there is not a particle of centralization of power. That is what this amendment does.

Mr. COX. Before I get through I will meet the statement of the gentleman. I believe this amendment, if carried out, will have a tendency toward consolidating power in the Federal head. Whatever it may be termed, I am opposed to compounding powers in the Federal Government. Whether the powers of the Federal Government be united in one department, or consolidated in the Union, I would decentralize such powers, take them from the Federal center, and distribute them among the States and the people. If you consolidate or centralize powers here, you endanger by the excess of power the substance and form itself of our Government. The form will soon change to conform to the substance. But I will make that clear as I progress.

II. Another reason for discussing the question of power is, that it is the most valuable gift from the States to the Federal Government, if it be not an express reservation of power in the States. Perhaps, as both Federal and State Governments take part in the amendment of the Constitution, the power to amend is both a reserved and a delegated power. Whatever it is, it is so valuable that I cannot surrender it. Not now. If ever peace comes, it will be through its exercise, upon this very question of slavery. I regard that Gov-

ernment with a constitution which has not the liberty of amendment as lacking the means of its own conservation. Such an amendment is a safety-valve, or governor, upon the engine of State. A State without it is in perpetual danger of violent revolution. Such an amendment is a peaceful, legal, and salutary revolution. It is the beauty of our system of written constitutions that, like machines, with a principle of compensation belonging to them, any irregularity may be corrected without breaking the machine or impairing the movement. Such powers of change save the State from such terrible red-handed revolution as that now upon us. Rufus Choate once described, as if he foresaw it, the present revolution "as a great sea lifting itself, with darkened sky, and not very imitable thunder; a tempest which overturns and successfully resists the existing public authority, arrests the exercise of supreme power, introduces by force, or by resort to a primary right of nature, a new, paramount authority into the rule of the State." Had this bloodless and legal revolution by amendment of our Constitution been wisely exercised upon this very subject of slavery, as Crittenden, Douglas, ay, even Toombs and Davis, insisted in 1860, we would not be fulfilling so sadly the magnificent picture which Choate painted of tempestuous and fratricidal strife!

Sir, when the statesmen of 1860 sought to exercise this power upon this subject of slavery, I gave my voice and vote for it. I know nothing now, but the fear of being misjudged by partial friends about me, that should deter me from again asserting the power which, with my colleague, [Mr. PENDLETON,] I then assumed. He bravely resists the popular current to defy its exercise now, I humbly do the same. But this I will not do, discard my own words and throw aside a once cherished principle of government because its present exercise may be an outrage upon the sense and patriotism of the country.

When I first came to this Congress with my colleague we came under the odium of "pro-slavery;" we came defending the position of Douglas, that Congress had no right to interfere with slavery, under the Constitution, in States and Territories. We claimed non-intervention as both wise and constitutional. Again and again, when anti-slavery and pro-slavery zealots demanded congressional action, we said, "No, no; there is no power under the Constitution to abolish it or protect it. It is local, not Federal; State, not national. If you would touch it, either to extend or limit, abrogate or institute it, first change the Constitution." Again, when discussing questions connected with the power of a State over the subject of black immigration, I have denied all power to Congress, to the President, to the Army, to interfere with this subject, because it was not so written in the Constitution. I said, "Amend that instrument first if you would thus break down the incontestable rights of the State under the Constitution in such matters." Denying ever the propriety of its exercise, I have never heard the power denied. Am I to ignore the power because foolish fanatics may rule in its exercise? Mr. Buchanan, in his message of December 4, 1860, proposed to save us from war by slavery amendments, which he called peaceful and constitutional remedies. Who objected to the exercise of such remedies for want of power? No one except gentlemen opposite, who declared it to be monstrous and illegal, against the laws of God and man, fundamental and irreversible.

Mr. JOHNSON, of Pennsylvania. I desire to ask the gentleman from Ohio a single question at this point. He refers to the message of President Buchanan. I desire to ask him whether the recommendation of Mr. Buchanan did not apply to the question of slavery in the Territories, and not at all to the question of slavery in the States?

Mr. COX. The recommendation of Mr. Buchanan, which I hold in my hand, applies to both. But even if it is only applied to slavery in the Territories, the question of slavery was the subject-matter of the amendment.

Mr. JOHNSON, of Pennsylvania. If I recollect aright, at the time, the question of the disturbance of slavery in the States was not agitated at all. It was denied by the Republican party that they intended in any way whatever ever to interfere with the question of slavery in the States; and it was only the question of slavery in the

Territories and beyond the limits of the States which was agitated in Congress at that time. It is since the inauguration of this Administration that the question of the abolition of slavery within the States has grown up in the country.

Mr. COX. That will do for the gentleman; because I have the recommendation of Mr. Buchanan upon that subject here. It is more authentic than even his good memory. It is as follows:

"An express recognition of the rights of property in slaves in the States where it now exists or may hereafter exist."

As my valued friend will perceive, this was not a question of the abolishment of slavery. It was, however, a question which touched, through a constitutional amendment, the institution of slavery in the States. The gentleman says the recommendation was confined to slavery in the Territories, and did not reach that in the States. He will perceive his mistake. I am not anxious to raise a discussion with my friends upon this side of the Chamber, but I am entitled to be consistent with the record I have made for eight years here. I have always claimed the right to pass upon the slavery question by an amendment in pursuance of the fifth article of the Constitution. I have sought only to make its exercise judicious.

The abolitionists only declared in 1860 against "any express recognition of the right of property in man in the States where it now exists or may hereafter exist." Then the abolitionist made the argument of my colleagues, [Messrs. ASHLEY and PENDLETON,] They denied the power. It was and is so easy to argue against the power to do a thing which we do not like.

When Mr. Buchanan, referring to the amendment clause, proposed to extend its operation to protect this right in the Territories until admitted as States, and a like recognition of the right of the master to his escaped slave, who objected? Who? Not my colleague [Mr. PENDLETON] and myself. For though we might have agreed with the decision of the Supreme Court in *Dred Scott's* case, we desired such principles established in the fundamental law. Why? Because it was recommended, to use the language of that day, "as an explanatory amendment which would forever terminate the existing dissensions and restore peace and harmony among the States." Those who desired not to terminate our troubles, or to keep peace and avert war, denied the power to enslave or to recognize slavery. This side of the House labored, O how nobly, but how vainly, to have the compromises of that dark hour written with a pencil of light on the organic law, by the unimpeached power of amendment, that North and South might dwell in accord forever.

Again, on the 28th of February, 1861, in the hope of allaying the fears of northern men, a joint resolution was passed with my colleague's [Mr. PENDLETON's] sanction and vote—yeas 133 to 65 nays—providing for an amendment in the mode prescribed by the present joint resolution, as follows:

"ART. 12. No amendment shall be made to the Constitution which shall authorize or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State."

This was voted for by South and North—Douglas, Crittenden, Pugh, Bocoock, and Hunter. What did it mean? I do not ask what was its intention as a remedial measure; as a bill to quiet title; as a peace measure. It did two things: first, it assumed to speak by amendment on a domestic question; secondly, in the very substance and body of it, it recognized, without dissent from a single voice, the power to amend by abolishing slavery in States, and it sought to checkmate that power by adding it to the exceptions of the fifth article. It was as if it said, "Congress, by the mode prescribed, may propose amendments which shall be valid as a part of this Constitution, provided no amendment shall be made as to the abolition of and interference with slavery." Truly my colleague was right in requiring, as a peace measure, such an expression as an exception to the general power of amendment. He knew the old maxim of construction, "the expression of one thing is the exclusion of another." As the Constitution had excluded two subjects from amendment, and had failed to exclude the abolition of slavery as sacredly unamendable, it follows that the power to abolish was given in the general grant. But the argument drawn from my col-

league's former vote or opinion is not conclusive, except upon him, and only upon him upon the frailties of all arguments, that, once in favor of a thing, he should always be in favor of it. I shall be the last to press the *ad hominem* upon him.

I need not recall to the House the propositions of Mr. Crittenden or their tenor. In the preamble their object is stated. They were intended to allay "dissensions concerning the rights and security of the rights of the slaveholding States." They proposed to do this by constitutional provisions. Above the latitude of 36° 30' slavery was prohibited; south it was recognized and protected. They denied to Congress the right to abolish in the District and in the States where the United States had jurisdiction. They proposed to protect members of Congress and other Federal officers in bringing their slaves here, to protect the inter-State slave trade, and to pay for fugitive slaves in certain cases. As if this were not enough to show the power over this subject by amendment, and because these statesmen of 1860 knew the power existed to abolish slavery in the States, they provided:

"No future amendment of the Constitution shall affect the five preceding articles; nor the third paragraph of the second section of the first article of the Constitution; nor the third paragraph of the second section of the fourth article of said Constitution; and no amendment shall be made to the Constitution which shall authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is, or may be, allowed or permitted."

Thus they strove to make the lines of slavery irrevocable by amendment; to forever preserve the three-fifths representation of slaves and the provision for the return of fugitive slaves. Who questioned the power then? Not my colleague. Not a man on this side in Congress then or now. Oh! it was then to be used for a patriotic purpose; for salvation, and not for destruction. But is it less a power? Am I to give up the sweet shine of the sun because it may breed malaria? Am I to surrender the benignant element of fire because it may consume as well as comfort? Am I to be driven by the accidents of war or the vicissitudes of time to change my opinion of the Constitution and its powers? *Abusus non tollit usum*. I will cling to the power, and make my argument, when I choose to make it, against its abuse.

Again, the peace convention sent its proposition to Congress, inhibiting any amendment of the Constitution on most of the subjects connected with slavery above recited. They were offered in the House on the 1st of March, 1861. I remember well that I was detained from the House by illness. I was not here to vote for them with my colleague, [Mr. PENDLETON,] but his name is enough. I find it there, asserting these powers under the amendment clause—which he now denies—while you, Mr. Speaker, together with my colleague, [Mr. ASHLEY,] along with the secessionists, treated them as unworthy of your sanction. Why? Because you were not actuated by the genuine patriotism of my colleague before me, whose love of the whole country led him to defy the taunts of secessionists and the jeers of abolitionists, and to march boldly up to the exercise of the power now asserted by my colleague [Mr. ASHLEY] in one case and denied by my other colleague [Mr. PENDLETON] in the other.

Gentlemen have heard of the committee of thirteen. It consisted of men of every shade of political opinion: Messrs. Powell, Seward, Collamer, Bigler, Hunter, Toombs, Davis, Rice, Crittenden, Douglas, Wade, Doolittle, and Grimes. They agreed upon no plan. But many plans were proposed, and all under the amendment clause. Do gentlemen tell me that these propositions were unconstitutional? Were they usurpations of power never conceded? Strange that Mr. Hunter, the biographer of Calhoun, and Mr. Davis, his follower and disciple, did not discover it! Strange that Mr. Hunter should have proposed that Congress should pass no law in relation to slavery, except by the consent of a majority of the Senators and Representatives of the slaveholding and non-slaveholding States, thus yielding the power, with qualifications! Can this be yielded and yet the power over slavery in the States be above all amendment? Or must my colleague take refuge, as he did, in a higher law? Strange that Douglas should have proposed to punish conspiracies against slaveholders and their property!

# THE CONGRESSIONAL GLOBE.

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Strange that Davis should have proposed, by amendment of the Constitution, to recognize slavery as property in transit or sojourn!

But why weary the House with these recitals. They prove this, that the strictest sect of southern statesmen acknowledged the power by amendment over this subject and sought to exercise it, and sought further by amendment to prevent its exercise when it might impair or destroy their institution! Is my colleague a better State-rights man than Jefferson Davis? Or, to drop to the other extreme, does he, *nunc pro tunc*, join my other colleague, [Mr. ASHLEY,] who then denied and yet denies the power by amendment to establish slavery as unrepugnant? It was with some amusement that I listened to my two colleagues [Messrs. PENDLETON and ASHLEY] yesterday. How adroitly the Democratic member thought to catch the Republican! How he pled him to admit the power to establish slavery! How shrewdly my colleague over there evaded! On the other hand, members on the other side sought to entangle my colleague [Mr. PENDLETON] with some of his former votes! How both shirked the issues presented in their former positions! while the humble member who now addresses you, sir, sat complacently consistent amid the melodramatic performance, ready to admit the power of amendment unlimited to change the fundamental law, under the guards and modes prescribed, even to the establishment of slavery or a monarchy—of entire freedom or entire democracy. Both of my friends deny this as extreme and heterodox; the one because he would have nothing but limited *republicanism* as the form of our Government. That is my Democratic colleague who is so republican. The other because he would have nothing but sweeping democracy as the basis of our Constitution. That is my Republican colleague who is so democratic. The wishes of each color their present arguments as to the power. When slavery is to be guaranteed, my colleague from Cincinnati believes with me in the power to amend, and my colleague from Toledo denies it. When it is to be abolished my colleague from Toledo believes with me in the power to amend, and the other denies it. Both deny the power when slavery is to be affected, and both admit it when slavery is to be affected. I have them both on either side and each on both sides and both with me. I accept the power in either case as they claim it, but go beyond them both; for I stand on a principle. They are enamored of the power only when one case is absent. Like the fond lover of two maidens, they love the one "when the other dear charmer's away." [Laughter.] Yet they are unfaithful to both because they are so attached to either—unfaithful because they are not upon the principle. I can extend to them, (as a member from New York used to say here in olden times,) from the serene Olympian heights of my cerulean consistency, the eternal principle of republicanism and democracy which will reconcile them both to duty and the Constitution. [Laughter.]

Both my colleagues hold that to concede the power and exercise it in certain cases is to *subvert* the Constitution. If slavery is to be protected, the member from Toledo believes the Government destroyed. His only appeal is to the sword of revolution. Never would he consent that the power to amend should include the power to establish slavery in Ohio; never. He would sound the tocsin of inevitable resistance. If slavery is to be abolished by the same power, the other member blows the trumpet and beats the drum to revolutionary defiance. Both march to the same discordant music, when if they would take Calhoun, Story, or their own practice and principles, only changing the time of their application, they would find in the granted power to amend, an unlimited authority as to the matter and only limited as to the mode. I follow no such counsels. "You can change, but cannot *subvert*, by amendment," says my friend before me. Ah! pray who is to judge of what is subversion and what is change? If I leave the question to my colleagues, one will regard the guarantee and the

other the abolition of slavery as subversion and not merely change. My colleague [Mr. PENDLETON] derives, unconsciously, his language from the South Carolina declaration of independence of December 24, 1860. It says:

"Observing the forms of the Constitution, a sectional party has found within that article, establishing the executive department, the means of *subverting* the Constitution itself."

Again:

"The sectional combination for the *subversion* of the Constitution has been aided by the elevation of the blacks."

The other member [Mr. ASHLEY] regards the denial by South Carolina of President Lincoln as the legal President as the very essence of *subversion*, and the denial of franchise to the blacks as subversive of republicanism. He therefore strikes out the word *white* in his reconstruction bills. Where gentlemen so eminent disagree as to what is subversion and what is change or amendment, where is the tribunal to decide? I answer, in Congress by two thirds of both Houses and in the States by three fourths of the Legislatures, and in the intelligent sovereignty of the people of each State who have, *in limine*, consented to this mode of amendment.

Believing in the power of amendment, I am willing to judge of the wisdom of the propositions before I vote to submit them. This discretion is a part of the discretion of the Congress. It is one of the checks which the minority have against the passion and malice of the majority. Nay, more, the checks against the exercise of this power unwisely are threefold: first, two thirds of both Houses must agree to propose amendments; or second, two thirds of the Legislatures must propose a convention; and third, after all that, the Legislatures or conventions of three fourths of the States must ratify. Judge Story elaborates this argument, and makes it unanswerable as against the dangerous abuse of the power.

Thus restricted the power of amendment is unlimited. No danger of monarchy; no danger of the King of Dahomey, which startled gentlemen when I used his majesty to illustrate my extreme position; no danger of striking down the republican form of government without a contest in which the States, three out of four, are to be consulted for ratification, and two out of three members of both Houses of Congress shall inaugurate the measure. Am I answered that it is undemocratic to allow this power? I answer, it is only undemocratic to disallow it. All the States concede it, and the State-rights man is content. All the people in the several States pass upon it, and the Democrat is content. Democracy places its trust in the intelligence of the people and the sovereignty of the States; and thus trusting, even in the valley of the shadow of national humiliation it fears no evil.

While, then, I concede the power, do I fear that the amendment may pass and become a law in spite of all the guards thrown around it? I do not fear any open march toward monarchy or despotism. I fear in time of war and the passionate strife it begets that this amendment may radically change the Government; that it may by force, fraud, by indirection, and by an unfair count of States, be made to change our polity. Because such amendments, interfering in home affairs by the Federal power, tend toward consolidation, I am against them. My colleague [Mr. PENDLETON] himself will admit that an amendment may be made even to the very system of government, legitimate in its operation, which may do this. You can amend the Constitution as to the distribution of its powers so as to place the judiciary and the legislature in the hands of the Executive. Thus you compound power. When these departments are made one—whether that one be legislative, executive, or judicial—as they may be by amendment, it is Jefferson's definition of tyranny. Who will doubt the power of amendment to do this? And yet who so base as to propose it here, or, if proposed, to ratify it? It is by these delusive moral radical reforms, reaching into home affairs by the Federal power, that I fear most the de-

struction of our Government. Hence I am jealous of the exercise of the power to amend, and especially in this instance. But if the people of the States even choose to abuse their power to amend and destroy their Government; who can say them nay? If they are foolish enough to call in a king, or connect religion with State, or declare polygamy the corner-stone of public liberty, who shall deny them, provided they follow the mode they themselves have ordained to make the organic law?

A gentleman [Mr. KASSON] thought I conceded away the argument against this amendment when I admitted the power. He argued that, the power admitted, there was nothing left but to send it to the States. If the power exists, am I not, as one of the two thirds of Congress, to consider the wisdom of its submission? Thus only I comply with the Constitution. Why require Congress to pass on it if I am to yield my judgment in proposing, to the judgment of the ratifying power? Do we come here to play the puppet? I will pursue strictly the power given, and if I think best let the elector in the State or the member of the Legislature judge. Congress chooses; we are sent here for that purpose by the people; and they would account us faithless not to judge of the proposition in the first instance before we sent it to the State for approval.

When efforts were being made in the winter of 1861 to avert secession and war, I had a definite idea of the inexpediency of abolishing slavery in the States. So had the Republican members. The whole House, on the 11th of February, 1861, on the motion of Mr. SHERMAN, "resolved that neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States." This was a reaffirmation of the Republican platform of 1860. All agreed that it would be wise to let it alone as the Constitution gave no right over it. But the power to amend the Constitution was not questioned then. The graceless inexpediency and suicidal unwisdom of congressional action only was affirmed by the resolution. The unconstitutionality of such action was declared. Upon that we upon this side have stood in denying all power over the subject by emancipation and confiscation, either by the military or civil power, by the executive or the legislative. We trace to the breach of this resolution, reaffirmed in the Crittenden resolve in July, 1861, the prolongation of the war by the division of the North and the union of the South. The amendment now proposed is the culmination of this suicidal policy. If the steps to it are unsound what can be said of the consummation?

While, therefore, Mr. Speaker, I have differed with great diffidence from my colleague [Mr. PENDLETON] as to the power of amendment, and have pursued thus far a different path from his, I shall reach the same end; or rather, my humble way leads into the high way in which we shall travel together on the inexpediency and anarchical character of this amendment. I join with him, natives as we are both of the free State of Ohio, in repelling with honest scorn the imputation that because we *disfavor* this amendment we *favor* slavery or rebellion. We are not unused to such irrelevant and contemptible insinuations. Together, in 1856, we came to these Halls. We are all that is left of the Democratic members of the Thirty-Fifth Congress.

Mr. PENDLETON. And we are not left.

Mr. COX. True; like stormy petrels, tossing upon the angry waves of sectional agitation, we are at last overwhelmed in the flood of fanaticism. We are the last roses of the Democratic summer. [Laughter.] But, Mr. Speaker, although we may not be upon the same branch, we are still together upon the same rose tree. [Laughter.] It would illly become us, in the close of our career here, to differ upon anything except upon the most vital urgency. In one thing we have never differed, and do not now; we have neither discussed sla-



very nor encouraged rebellion. Certainly we have never favored slavery or its agitation.

Speaking for myself, slavery is to me the most repugnant of all human institutions. No man alive should hold me in slavery; and if it is my business no man, with my consent, shall hold another. Thus I voted in 1851, in Ohio, with my party, which made the new constitution of my own State. I have never defended slavery; nor has my party. Members have defended it, as the gentleman from New York, [Mr. FERNANDO WOOD;] others have attacked it, as the other member [Mr. ODELL] on my left; but neither of these have conformed to Democratic practice and precedent. When I say this I but speak the tenets of the Democracy assembled in convention for the States and for the Union.

Is it answered that the gentleman from New York [Mr. BROOKS] has this session defended the institution? That gentleman did not pretend to speak for the Democratic party. Indeed he does not profess to speak for it, but rather as an old-line Whig, having now his views independent of all machines of party. The last session he held that slavery was dead. Gentlemen should not object to his eulogizing the deceased, but by so doing he does not intend, nor does he if he intends, commit any Democrat to his moral convictions.

What I desire is, not that gentlemen should debate the question of slavery or anti-slavery, but of the power we have over it, and of the propriety of its exercise either now or at any time.

The gentleman from Vermont [Mr. MORRILL] asks, "Do you gentlemen from the free North intend to battle for slavery after the South is ready to abandon it?" We answer, "*Principiis obsta.*" Mr. Davis and his coadjutors may do as they please; we do not battle for slavery nor against it. We cling to the system of our Government "as the bond of unity in the past, as the only bond of union in the future, the only land lifted above the waters on which the ark of Union can be moored. From that ark alone will go out the dove blessed of the Spirit, which shall return, bringing in its mouth the olive-branch of peace." Not for Jefferson Davis; not for Virginia; but for our own States, our own Government, do we stand on the principle of self-government over State affairs, and against the use of the power of amendment to change that principle. My doctrine is better stated than I can state it, in the speech of Judge Thomas, of Massachusetts, from which I quote, when he says:

"Whoever else may falter, I must stand by the Constitution. I am not wise enough to build a better. I am not rash enough to experiment on a nation's life. There is to me no hope of our country but in this system of many States and one nation, working in their respective spheres, as if the divine hand had molded them and set them in motion. To this system the integrity of the States is as essential as that of the central power. Their life is one life. A consolidated Government for this vast country would be essentially a despotic Government, democratic in name, but kept buoyant by corruption and efficient by the sword. Desiring the extinction of slavery with my whole mind and heart, I watch the working of events with devout gratitude and patience. By no rash act of ours, much less any radical change in the Constitution, shall we hasten the desired result. If in the pursuit of objects, however humane; if beguiled by the flatteries of hope or of shallow self-conceit; if impelled by our hatred of treason and desire of vengeance or retribution; if seduced by the insidious wiles of foreign influence; we yield to such change, we shall destroy the best hope of freeman and slave and the best hope of humanity this side the grave."

The Federal system, unamended, embraces three classes of functions: first, those concerning the relations of the United States to foreign nations; second, those concerning the relations between the States and their citizens respectively; and third, certain powers which, though belonging to the same departments of Government, to be useful and effective must be general and uniform in their operation throughout the country. In none of these functions do we find this power over domestic slavery. The effort is now to make its abolition a function of the national Government. If you begin upon this domain where is the limit to the exercise of this plenary amendatory power in domestic affairs? Should we amend the Constitution so as to change the relation of parent and child, guardian and ward, husband and wife, the laws of inheritance, the laws of legitimacy? Because we have the power must we seize it? Where will it end, when once begun? Is it, then, a question of slavery, or is it a question of home freedom in home affairs; a State question in State

affairs; a police question, concerning municipal and not Federal institutions? If we may change the relation of the blacks to the whites in one respect, may we not in another? May we not change the Constitution to give them suffrage in States in spite of all State laws to the contrary? Must we not amend the Constitution to allow the importation of freed blacks into States like Illinois and Indiana? Must we not declare all State laws based on their political inequality with the white races null and void? If you begin with this amendment, what laws are to be passed to carry it out? Do you not break down, by this amendment, the distinction between the spheres of the State and national Governments, which is characteristic of our system, as old as our Union? If so, are we not asked to change the system, rather than to abolish slavery?

Hence, I do not place my suggestions about this measure on any ground of the immutability of the Constitution, or of our peculiar system. I place my vote against it, because the system it would change is a good one, made in wisdom and to be perpetuated for the future happiness of the people. If the system of internal police over State matters is not of value, discard it altogether. Deny to Ohio her right to declare who are born in wedlock, and who may inherit estates; deny to us the right to have our home courts for home justice; centralize all power here, in one head, and make the federation a despotic tyranny, and thus you will have the "gospel of anarchy, the philosophy of dissolution." I may admit the wrong of slavery. It may be heinous in sight of God and man. I may admit the power by amendment to abolish it. I am a radical Democrat and believe in amendments of all organic laws in pursuance of the mode prescribed. I may admit that such an amendment would impair only for a brief time the checks and balances, the very substance and essence of our federative system, and yet I ask you, on the other side, whether, if I believed that this amendment would place an impediment, insuperable to the restoration of the Union, I ought to vote for it? If I believed that the rebel authorities would not meet us in convention, and would stand out against the Union on their independence, I might consider anew what I ought to do. I have no authentic information in that regard. So long as there is a faint hope of a returning Union I will not place obstacles in the path. I will rather illuminate, cheer, and clear the pathway to the old homestead. If I believed, Mr. Speaker, that peace could be restored with the Union by the abolition of slavery, I would vote for it. All I do and all I forbear to do is to save our imperiled Government, and restore our priceless Union. Show me that that will be the result, and I will vote for your amendment. But, as it stands to-day, I believe that this amendment is an obstacle to the rehabilitation of the States. So believing, I cannot give my vote for it, nor would any honest patriot ask me to give a vote for a measure which I believe would bring about an eternal separation of the States of the Union.

But if it is determined in the South, as it seems to be, that rather than fail in independence, slavery shall go, I for one, as a Democrat, shall be ready to reconsider my resolution. The party to which I belong loves the Union as dearly as the South loves slavery. If they can let slavery go for independence, the Democracy can for the sake of the Union. If the South refuses to meet us in convention and abide by its arbitrament, then there is no hope for slavery. If the South obtain independence it will be by freedom to the slaves and their enrollment as soldiers. If they do not obtain their independence, between the collisions of the belligerents the institution will be gone, and then it matters little what becomes of this amendment, so far as its own peculiar subject is concerned. So far as the Union slaveholding States are concerned, they are rendering this amendment useless. Missouri yesterday almost unanimously voted to abolish slavery. Maryland has already done it, whether by force or freedom it is not now my purpose to inquire. Kentucky will be enforced to do the same. What remains? Little Delaware. She had in 1860 eighteen hundred slaves, and the enlisting agents have mostly sold them out to this humanitarian Government for soldiers, costing \$150 apiece in Delaware, and selling for \$1,000 in New York! Surely Delaware will soon be free!

It may, with some propriety, be urged that slavery is already dead. It has the seeds of speedy dissolution. The blows of war are breaking down its panting, exhausted body.

If, then, as it is said by the gentleman from Vermont, [Mr. MORRILL,] slavery is dead, what is the object of this amendment? That distinguished gentleman told us the other day that, like Pharaoh and his hosts, the South had rushed with slavery into the Red sea of war, and that slavery was destroyed. Well, if that be the case, if slavery is dead, where is the necessity for invoking this extraordinary power of amendment? My friend from New York [Mr. ODELL] who also spoke so well in defense of his views, said that although it was dead he wished to give it a constitutional burial. I am not much of a biblical scholar, but I believe that we have no authentic record of the fact that after Pharaoh and his hosts were destroyed in the Red sea the children of Israel, after their destruction, met together upon its shores, in grand convocation and, after listening to Aaron and the other orators, passed resolutions somewhat like this amendment, to wit:

*Resolved*, That neither Pharaoh nor his hosts, except as a punishment for crime whereof they shall have been duly convicted, shall hereafter exist within the jurisdiction of the children of Israel. [Laughter.]

What would be thought of the children of Israel for passing such a resolution after the decease of Pharaoh? My friend from New York [Mr. ODELL] belongs to the new and kind dispensation, and would give the deceased slavery a constitutional burial. What would have been thought of the children of Israel, after they had fished out Pharaoh's dead body, if they had proceeded solemnly to give to it a constitutional burial? [Laughter.] Hence this amendment, according to the argument of gentlemen on the other side, amounts to nothing. It is a mere *brutum fulmen*. It is only the register, in other words, of what the war power with its blows is accomplishing, day by day. If gentlemen opposite really believed that slavery was dead they would not bring in this amendment. They do not believe it. But there are men on that side of the Chamber who will not favor a restoration of the States until this amendment shall have become an organic law. Therefore it is they that pertinaciously press this matter, even while negotiations are going on for the return of the States to a national convention, and for the return of peace and fraternity among the States.

Is it said that this amendment is needed to anticipate the South, and thus secure the smiles of civilized Europe? I trim my votes for no such delusive gales. The Powers of Europe will not be less eager to discover our Republic in the event of abolition by us than now. The philanthropy of Europe is very problematical. Let us take care of ourselves. Let us preserve the form and functions, and thus the strength, of our Government; and the unity of our States will be as hard to break as the ridges of our everlasting mountains!

"Our Union is river, lake, ocean, and sky;  
Man breaks not the medal when God cuts the die!"

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved March 2, 1831; when the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed a joint resolution (S. No. 96) to postpone and prevent the sale, for less than their appraised value, of certain Indian lands in Minnesota.

Also, that the Senate had passed a concurrent resolution in relation to the ventilation and improvement of the Halls of Congress; in both of which the Senate asked the concurrence of the House.

#### ABOLITION OF SLAVERY—AGAIN.

Mr. WOODBRIDGE. Mr. Speaker, I can well understand and fully appreciate the argument which my friend from Ohio [Mr. PENDLETON] advanced on the floor of this House yesterday, contending that there was no power in Congress to pass this resolution. Had that power existed, in the estimation of my friend, I have no doubt, from what I know of him and from the tenor of his remarks, that he would have given the resolution

his hearty support. I am, I confess, somewhat surprised to-day that my other friend from Ohio [Mr. Cox] has taken the opposite ground, and that while he admits that there is the power in Congress to pass this resolution, he denies that it is expedient to do so. I regret to find, sir, that a man who has always lived on northern soil, a man who ought to, and who perhaps does, love the Union, the whole Union, and nothing but the Union, as I do, should be unwilling to have Congress pass a resolution which, if adopted by the requisite majority, would blot out from the face of this Government the only relic of barbarism which impairs its fairness and beauty.

Sir, in discussing the question, I do not deem it becoming or useful to descend to the acrimony of party spirit. The power of Congress to pass this resolution depends upon the construction given to the Constitution itself. The policy of passing the resolution just now, in the present condition of the country, is one as to which gentlemen may entertain differences of opinion. I shall devote myself first, for a few moments, to a discussion of the question of the power of Congress to pass the resolution.

Our Government when first established was an experiment. It was breaking away from established forms and theories, and launching out upon an untried if not an unknown sea, with no chart of the reefs and shoals which might be encountered, and with nothing but the light of reason to mark out its course. It is true that republics (so called) had arisen, grown in resplendent effulgence and power, and gone out in premature decay.

Greece, under a free Government, had shot like a brilliant meteor across the sky, illuminating the whole heavens, astonishing the world with her power and culture, and disappeared. Rome, under a similar system, had been the mistress of the world, and in eloquence, poetry, and all art excited the admiration of the ages, and left only a name in history. It was left for our fathers to determine the question of the power of the people to govern themselves. Driven from the old hearthstone, and believing that there could be a Church without a bishop, and a State without a king, they sought to establish a form of government adapted to their condition and in accordance with their principles. At first they established little democracies governed by the people, and having no power or adhesion independent of the popular will; but as they increased in population and area and independent organisms, it became necessary for the mutual safety to form themselves into some sort of a general Government; and the Articles of Confederation was the result of their deliberations.

At that day nothing so shocked the judgment and sensibilities of our fathers as the centralization of power in Government. They seemed to have deemed that the cause of all their former woes.

In 1778 we find that the thirteen States entered into a league of friendship or federation with each other for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to or attacks made upon them or any of them on account of religion, sovereignty, trade, or any other pretense whatever. In other words, it was a treaty between the thirteen independent and sovereign States for mutual protection.

In order to avail themselves of the benefit of such treaty or league of friendship, it became necessary, for the convenient management of the general interest, that a body should be constituted called a Congress of the United States, wherein each sovereign State should be represented and measures be adopted for mutual benefit and protection. In this Confederation each State retained its freedom, sovereignty, and independence, except so far as powers might be delegated to the United States. In fact the States were sovereign, and might, as many supposed, at any time withdraw from the Confederation and annul the league of friendship or treaty of alliance.

In a short time it became apparent that in the Articles of Confederation there was no thorough bond of union. There was nothing to cement the people and the Government and bind the people to the Government. Hence we find that in 1787 not the States but the people of the United States

formed a Constitution, and set forth its purpose as follows:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

In the formation of that Constitution two great parties were represented and more or less at issue. One party contended for the sovereignty of the States, independent, except in certain yielded rights, of the General Government. The other that sovereignty must exist in the General Government, that the power of government must rest in the Government itself, but that certain rights and powers might be reserved to the States, to be exercised in accordance with and under the Constitution.

The Constitution as we have it to-day, the charter of our liberties, which I respect as much as my friend from Ohio, and would violate no sooner than he, was after much discussion and many compromises of opinion adopted. But in it, to satisfy all sides, the power of amendment was provided for, and was really limited, so far as its restrictions now go, to one particular, and that was that no State shall be deprived of its senatorial representation equal to any other State, except by its own consent. As I have before intimated, our Government when the Constitution was formed was an experiment. It was foreseen that experience alone could determine whether too great power was vested in the General Government, or too many rights reserved to the States. It was also foreseen that in either event the power would not be yielded with a willing hand. Man loves power, and as Governments are but the aggregation of men, they too love and hold it if possible. Hence two modes whereby Congress might call upon the people to amend the Constitution were devised. In case it should be found by experience that too many powers or dangerous prerogatives were reserved to the States, then Congress, whenever two thirds of both Houses should deem it necessary, should propose amendments to the Constitution.

And on the other hand, whenever experience might show that too great or dangerous powers had been granted to the General Government, then, on the application of the Legislatures of two thirds of the several States, Congress should call a convention for proposing amendments. Herein we see the honesty and wisdom of the framers of our Constitution making so judicious and perfect an adjustment that neither the General Government can usurp powers to itself dangerous to the liberties of the people nor the States retain powers to themselves which endanger the safety of the Republic. But, sir, it was said by the gentleman from Ohio [Mr. PENDLETON] yesterday that there are certain matters where three fourths of the Legislatures of the several States may amend the Constitution and in others not, and when the gentleman from Kentucky [Mr. YEAMAN] asked my friend from Ohio to point out the exceptional cases he declined or neglected to answer.

Was it generous in my honorable friend, [Mr. PENDLETON], the exponent and leader of a great party, to preserve such dignified reticence? Could he not have told us, who are earnestly seeking after light upon this subject, wherein the Constitution, (outside of its own exception,) cannot be amended?

Sir, his love of truth, and his sagacity as a lawyer, overcame his zeal, and hence he made no reply. Sir, I admire the gentleman's ability, and commend him for his discretion. Sir, there is but one limit in the instrument, and that is in regard to the senatorial representation, and neither you nor I, in my judgment, can say so far shall this power go, and no farther, unless we pronounce the Constitution itself unconstitutional.

The several States became members of the Union under the Constitution with a full knowledge of its provisions, and it is too late to plead either infancy or imbecility.

But, sir, it is said that by the amendment we are interfering with vested rights; that slaves were obtained under the guarantee of the Constitution; that no amendment can be proposed which changes the status of the slave. I am not going to discuss the question as to the right to hold property in slaves. Under my interpretation of the Constitution negro slavery was protected where it existed

by force of law, so long as the States in which it existed and the people thereof rendered fealty and obedience to the Government. If you treat slaves as property, then the condition of protection was the allegiance of the owner. The right of protection and the duty of allegiance are reciprocal. Independent of all Government, a man is entitled to what he possesses until dispossessed by force; and when he connects himself with organized Government he is bound to recognize that Government and live under its laws, in order to entitle himself or his property to its protecting power.

But, sir, it is not necessary to discuss the right of property in man. Coming from the Green Mountain State, where the mountain brooks leap from rock to rock, in the full play of freedom; where the winds of heaven sing the song of freedom among the trees upon her mountain tops, and where a good old judge, fifty years ago, said to a claimant who claimed and presented a bill of sale for a slave, "Show me a bill of sale from God Almighty and your title will be recognized," it is not necessary for me to say that in my judgment there can be no property in man.

But, sir, it is said that slaves are property, and for the sake of the argument I will admit it; and it is further said that property in them being a vested right, cannot be divested, as it would be, by an amendment to the Constitution. Why, sir, all rights reserved to the States are vested rights, all rights possessed by the General Government are vested rights. Suppose the States had reserved to themselves the right to coin money and regulate the value thereof, that would be a vested right; and yet will any gentleman say that if from experience it had been found to operate injuriously to the best interests of the nation, the Constitution could not be so amended as to divest the States of the right to coin money, and place the power in the hands of Congress?

Precisely so with the question of slavery. It was a vexed and troublesome question when the Constitution was formed. It was then considered to be a local question, and that it would melt away before the advance of a Christian civilization, as the dew upon the meadows before the morning sun. But experience has shown otherwise. It grew to become a monster. It cried "Give, give," and never said "Enough." "Room for the leper," was the cry, and the free North stood back and said "Pass on," until from a few thousand it became almost one sixth of the nation.

Is such a reserved right (as shown from experience) consistent with a full, free, and perfect development of a republican form of government? Is there no antagonism between free institutions and the aristocratic and cursed system of slavery?

Now, sir, if the Congress of the United States finds that such antagonism does exist; that slavery strikes a blow at the heart of the national life; that it endangers free institutions and a republican form of government; that it is incompatible with the theory of our Government; that both cannot survive, can it be said that there is no power to propose an amendment to the Constitution which shall remove the danger? Sir, I think not. No gentleman upon the floor of the House has defended the system save one, the gentleman from New York, [Mr. FERNANDO WOOD]; and when he said that slavery was the normal and best condition for the negro race, a negro in the gallery exclaimed, "I don't think massa has read his Bible much, or he would not have said that"—a just condemnation of a sentiment which outrages the moral sense of the civilized world. I commend the gentleman to the blessed Book which the poor black man thought he had not read. In it he will find that God made man—not the white man, not the black man, but man in His own image, and breathed into his nostrils His own breath of life. And for his encouragement let me say to him that he will find there promises of infinite mercy, and that by giving even a poor black disciple a cup of water in the name of his divine Master, he shall not lose his reward. Out of the mouth of babes and sucklings cometh wisdom, and I hope the gentleman will not scoff at the lesson taught him by the poor black man.

Sir, it is conceded, I think, that the States wherein slavery exists, having exclusive jurisdiction over the subject-matter, can pass an ordinance of emancipation freeing the slaves without remunerating the master. If this is so, then what becomes of the argument as to vested rights

in property? The ground upon which a State may thus act is simply this: the existence of slavery and property in slaves is injurious and prejudicial to the safety of the State; hence the State has a right to say to its people, you shall no longer own slaves as property. It is analogous to a case where the State finds within its borders an article of property which is injurious to the public health or public morals. It is clearly the right of the State to declare that such an article shall not be held as property. Now, sir, if States, having the exclusive control, persist in holding property which is in the judgment of Congress ruinous to the nation and will not yield it up, then Congress may through the people, by an amendment to the Constitution, take away these reserved rights, and say such property shall no longer exist as property.

Sir, I was surprised on yesterday at the remark of my learned friend from Ohio [Mr. PENDLETON] on the other side. If I understood him, in the warmth of his zeal, his energy, and his anxiety in this matter, he said to members upon this side of the House, as a matter either of threat or warning, "Look to it well, you yourselves, gentlemen, that you do not do that which may strike at the bonds of this our great and glorious Union." What did the gentleman mean by a remark of that kind? Does he not know that his great teacher, the father of secession and nullification, himself said that the individuality of South Carolina was merged in the Legislatures of three fourths of the States of this Union? Would he go beyond his great teacher?

And what does the gentleman mean when he says "*Fracta in uno fracta in omnibus*?" Does he mean that this Government under our Constitution is a compact between the States themselves? Does he not see peculiar significance to that sentence which says, "We the people of the United States," in convention assembled, "do ordain and establish this" the Constitution of our country? Will the gentleman follow out and take the logical consequences of his statement? If so, he will be obliged to concede that any State or the people thereof may by ordinance take themselves out of the Union. I am sure the gentleman does not believe that.

Now, I would devote a few moments to the policy of this measure. Is it policy to pass this resolution at this time? The indications of Providence are that it is. The recent elections indicate what the will of the people is, and that is to do away with this great evil, the most accursed thing that has existed in this Government since the formation of our Constitution; which has been a blot, in our own estimation and in the estimation of the people of the earth, upon our fair escutcheon.

It is said that slavery was not the cause of the war. That it was the immediate cause of the war I am not prepared to say; but it led to a state of things which necessarily, in the order of Providence, must produce a war. The North, stimulated by free labor, had steadily and wonderfully progressed in population, wealth, and power. The little tree which our fathers planted upon Plymouth rock had grown up and spread from the Atlantic to the Pacific, until every man might come and repose beneath its shade. The little brook that came out of the fissures of Plymouth rock had crossed over this continent, until every man could come and drink of waters dedicated to freedom.

Why, sir, the North has progressed with the strides of a giant. Young States have awakened like giants refreshed by new wine; and they had become an influence and a power, physical and moral, that the South could no longer resist. They could not resist the free States because they had no right to say that the majority should not govern. The war has cost us millions and hundreds of millions of money; and now at every New England fireside, at every hearthstone throughout the country, East and West, tears are shed for the dear ones who are lost, and prayers ascend to Almighty God to shield those who are still left to fight the battles of the country. The blood of the nation and the tears of the widow call for the passage of this resolution.

And I tell you, sir, that this rebellion is, by reason of omnipotent power, coming to an end that will be favorable to the cause of liberty here and elsewhere. Have you not read, sir, a recent book written by Victor Hugo, one of the best

scholars and most eloquent writers of France? You have doubtless seen in it a description of the battle of Waterloo. What does the author say? Was Waterloo a victory? No. Was it won or lost because of Napoleon, because of Blucher, because of Wellington? No; it was lost because of God. The history of Napoleon was not written in the nineteenth century. The brains of the universe had culminated in the head of one man, and all nature moaned with the plethora. Hence, Waterloo was not a victory won by armies alone; it was a victory by God. So with this rebellion. It is not simply a rebellion; it is not simply a war. It will end in the triumph of the Union; it will end in the honor of the glorious old flag, so that it shall float again over every inch of the soil of the old Union; but not alone because of Lincoln, not because of Farragut, not because of Sherman, not because of Grant, but because of God. Slavery has been tried at the bar of Omnipotence and been found wanting. Its history is not written in the history of the nineteenth century. When we come to the great and final victory, it will not be a victory alone, sir, but it will be a change of front of the universe. Sir, it will open to the oppressed people of Europe renewed hope of freedom for themselves and their children.

The adoption of this amendment will be beneficial to the South. Sir, I know that this war will end; and I entreat gentlemen upon the other side of the House to act with us in putting down, by constitutional means, the cause of this great and direful calamity. The war will end victoriously for us; but I want this resolution to pass, and then, when it does end, the beautiful statue of the goddess of Liberty which now crowns the majestic dome above our heads, may look north and south, east and west, upon a free nation, untarnished by aught inconsistent with freedom—redeemed, regenerated, and disenthralled by the genius of universal emancipation.

Sir, I hope the resolution will pass.

Mr. THAYER. Mr. Speaker, the discussion of the measure now before the House has been of a very extended and exhaustive character, and the arguments which have been made against it are very numerous and very varied. If I were to attempt to sum them up I should occupy a much longer time than at this stage of the debate I intend to consume. But they may, perhaps, in some general way, be grouped as follows:

There is, in the first place, the argument of the want of constitutional power, which is a proposition of a very important character.

There is then the argument *de injuria*, made by the honorable gentleman from Kentucky [Mr. CLAY]—the argument which bases itself upon the alleged injustice to private rights of the measure now before the House.

There is, in the third place, the argument founded upon the alleged inexpediency of the measure.

There is, in the fourth place, what I might perhaps characterize as the chronological argument—the argument that, although the power is possessed, and although it may not be inexpedient in itself, this is not the proper time for the passage of such an amendment, or the discussion of the question which it involves—an argument which seeks to delay to some indefinite and unappointed time the great issue with which Providence now confronts the country.

There is again, sir, the want-of-brains argument made by the gentleman from Kentucky, [Mr. MALLORY.] The honorable gentleman will of course not understand me as applying those words to the argument which he made, and to which I listened with much pleasure. I mean the argument that the men who made this Constitution were so great that none who came after them are fit to lay hands upon it or to touch it; that no alterations in the circumstances of man, that no revolutions of Government, that no change in human circumstances, can justify the men of the present generation in attempting to improve in any the slightest particular the work of the great statesmen who framed the Constitution of the United States.

Mr. MALLORY. If the gentleman will allow me.

Mr. THAYER. Certainly, sir.

Mr. MALLORY. The gentleman misapprehended me, I think. I remember at the last ses-

sion of Congress having asserted that I did not believe that we of the present Congress, nor the people of this country at the present time and under the circumstances, were properly competent to take into review the work of the great masters who framed the Constitution. I do not assert that in all time no changes should be made in that instrument.

Mr. THAYER. I do not intend to misrepresent the gentleman from Kentucky.

Mr. MALLORY. I have had no such idea.

Mr. THAYER. The House will recollect the interrogatory which the gentleman propounded to me in his argument at the last session of Congress, in which he asked me whether I felt the conscious power to amend this instrument; whether I thought we were fit to amend it. It is that to which I referred. It is the argument against the ability or the competency of the men of the present generation to add anything to the work of the generation which has passed away. I do not intend to animadvert at length upon that argument. I only advert to it as one of the arguments which have been made.

There is, in the last place, what I may style, without intending any personal disrespect to the gentleman from New York, [Mr. FERNANDO WOOD,] who made it, the infernal argument. I suppose that he would call it the ethnological argument, but with the sentiments which I hold, I cannot dignify it with that high-sounding description. I call it the infernal argument. It was the argument which was boldly advanced by that gentleman, and which he attempted to sustain here, that slavery was the best, the natural condition of the black race, the condition to which it was decreed by Heaven, and that, therefore, we should not struggle against the natural and just condition to which Heaven in its wise purposes had consigned them; and the argument by which that gentleman attempted to sustain his position, namely, that the best way to civilize the savage is to enslave him and his children and his children's children to the remotest generation. For that purpose he had read at the Clerk's desk, as the House will remember, a passage from a book of African travel illustrative of the savage character of the African in his wild state.

Sir, I shall not undertake in the brief time in which I intend to occupy the attention of the House to comment upon these various arguments. Time would fail me to do so. I desire to call the attention of the House more particularly to a branch of the first argument to which I have referred in this brief review of the debate on the other side of the House. I desire to say a few words in regard to the argument made yesterday by the gentleman from Ohio [Mr. PENDLETON] concerning the lack of power to pass the resolution which is now before the House. The words of the fifth article of the Constitution on this subject are very express and clear. It confers upon Congress the right to propose amendments to be adopted by the States or the people of the several States. It confers that power in language too plain to be misunderstood. It is a direct grant of power. But the article that contains that grant excepts from that power three particular subjects; and in relation to those subjects it denies the power. The grant of power contains three exceptions: first, no amendment shall be adopted prohibiting the emigration or importation of slaves prior to the year 1808; second, no direct tax shall be laid except in proportion to the enumeration of the census; and third, no State shall be deprived of its equal suffrage in the Senate. Here, sir, you have the whole article of the Constitution. You have in the first place an explicit grant of power, and you have in the second place the specified subjects which are excepted from that grant of power.

Now, sir, I have no doubt the gentleman from Ohio is a very good lawyer, and is perfectly familiar with the maxim, *expressio unius est exclusio alterius*. I am sure that no lawyer understands better the operation of that familiar maxim than the gentleman from Ohio. Will the gentleman therefore tell me, with this maxim before his eyes, what the framers of the Constitution meant by putting in it this grant of power, and coupling with it three exceptions from that grant? I ask him if they did not mean by that general grant to give it without limitation except in so far as it is limited by the specified exceptions? Will the



gentleman tell me why they enumerated the three subjects which were excepted from the operations of this power? Sir, the position upon the part of those of us who contend for the undoubted existence of the power to adopt this resolution rests upon this immovable base, that the powers which are granted by the Constitution of the United States are plenary, and that they have no limits except in the restrictions which the Constitution itself contains. I deny the premise upon which the whole argument of the gentleman from Ohio is founded, to wit, that the grant of this power of amendment is a limited power. I contend, on the contrary, that it is an unlimited power in common with all other powers which are expressly granted in the Constitution, except in so far as you find a limitation of them in the Constitution itself.

I must therefore be allowed to say that I was somewhat surprised when I heard the distinguished gentleman from Massachusetts [Mr. BOUTWELL] subscribe in a kind of qualified manner to the position which was assumed by the gentleman from Ohio, when he said that neither did he believe that it was an unlimited power, but that its limitations were found in the preamble of the Constitution. To say that the limitations are found in the preamble is to say, perhaps, that there are no limitations, which would bring the distinguished gentleman from Massachusetts to the point I occupy myself; because the preamble is so extensive, it embraces such a great and endless variety of subjects, and is so comprehensive in its scope, that if you construe the Constitution by the preamble you may bring almost anything within the scope of the powers granted.

Mr. DAWES. I would ask the gentleman if the preamble itself was not submitted to the States like all other parts of the Constitution; and if the framers of the Constitution did not also say, in prescribing that three fourths of the States might amend the Constitution, that to them should be addressed the question what would contribute to a more perfect union, what would establish justice, and secure public tranquillity? And therefore, in that way, is not the power perfectly unlimited, the three fourths of the States being the law-makers and the law-expounders? I ask the gentleman if it is not just as competent for that tribunal to alter the preamble as it is to alter any other part of the instrument? And farther, whether it is not competent for that tribunal, there being no appeal from it, to say that anything, save the limitations prescribed by the instrument itself, does or does not contribute to the ends set forth in the preamble, even to the extent of permitting a man of foreign birth to be chosen President of the United States? May not that tribunal of three fourths of the States say that that contributes in their opinion to the very purposes of the preamble; and therefore that the King of Dahomey might be just as eligible after that to the Presidency as any other living man.

Mr. THAYER. I do not think I disagree with the views of the gentleman from Massachusetts, [Mr. DAWES.] The preamble of the Constitution is undoubtedly a part of the Constitution, and it is that part which indicates the general purpose and intention of the framers. What I meant to express by what I said was simply this, that the objects named in the preamble are of such an extensive character that practically it operates as no restriction or limitation upon any power conferred by the Constitution. When, for instance, the preamble says that one of the objects is to promote the general welfare, it must be obvious to all that within the limits of such general language you may bring almost any proposition which will command the general approbation. And you cannot deduce from the preamble any fixed rule for the construction of the Constitution, because men's ideas will differ as to what is meant by these general phrases, and there is hardly anything which may not be brought within their operation.

I may add to what I have said upon that subject, that if anything can be shown clearly not to be within the purview of those general declarations in the preamble, that of course being without the intention of the framers, it would be in contravention of the Constitution.

Mr. BOUTWELL. Possibly I did not make myself fully understood yesterday in reference to the preamble. It is, as it seems to me, a declaration of moral and political truths on which the

Constitution is based, rather than a part of the Constitution itself. It does not contain a specification of duties; it does not contain an enumeration of powers; and it is not a declaration of particular rights, either of the General Government, or of States, or of individuals. What I meant to say, if I can make myself understood, was this, that if you proceed, under the Constitution, to amend it, and intend to preserve the form of government which was provided for in the Constitution, you must keep yourselves within the declarations made in the preamble as to the purposes for which the Constitution was formed. As to what measures are within those purposes there must always be a judgment, but I think mankind would agree that if we were to amend the preamble so as to declare that the object of the union was the perpetuation of injustice, we could not say, when we had so amended it, that it was the same form of government which our fathers set up. There is evidently this distinction: an amendment to the Constitution, under the Constitution, by which we perpetuate the same form of government, and the overthrow of the Constitution, which is a revolutionary proceeding, and which unquestionably belongs in some form or other to the people.

I should say, as a matter of opinion, that if a proposition were made to amend the Constitution so as to establish slavery everywhere, that is so manifestly contrary to the principles of justice that if you adopted it it would be an overthrow of this form of government, and you could not appeal morally to the Constitution and say to the one fourth of the States dissenting from that proposition, "You are morally bound by this." You might legally enforce, as a matter of power, the authority of the Government derived from the people of the three fourths of the States over the dissenting one fourth. But when, in the judgment of all mankind, you depart from the objects for which the Constitution was framed you will have set up a new form of government, and you must seek in the people themselves, in their judgment, for the moral basis on which the new form of government is to rest. The moral basis on which this Government rests is set forth in the preamble to the Constitution, and upon that you must rely, according to the judgment of men, for the moral support which any amendment you may make is to receive from the people.

Mr. DAWES. With the consent of the gentleman from Pennsylvania, I will say that my difficulty about my colleague's argument is this, that the very considerations which he has now urged, the framers of the Constitution referred to precisely this same tribunal to which they referred proposed amendments; they refer a proposed amendment to the Constitution to that tribunal, and they refer along with it the question whether it is a departure from the fundamental principles of the Government or not; and from the decision of that tribunal there is no appeal. Going along with that decision there is the right of revolution, which is a right existing in every man's breast; he takes the responsibility of judging for himself whether there is any departure from the original fundamental basis of the Government, and if he succeeds in maintaining his judgment he is free, otherwise he is bound by the obligations of the Constitution. So it seems to me; and, therefore, as the gentleman from Pennsylvania has well said, practically my colleague's definition of the limitation which he puts upon the right of amendment comes right round in a circle to this, whether it be a departure or not, which question is referred to the same tribunal which is to pass upon the amendment itself.

It seems to me, therefore, that the Constitution makes a tribunal to which are to be referred all these questions—both the question of the character of the amendment and the question whether it is a departure from the fundamental principles of the Government or not. It is not a case where one tribunal makes the amendment and another tribunal passes upon the obligation of it. The Supreme Court of the United States passes upon the laws we make, and decides whether they are departures from the Constitution or not. This is a case as if the Supreme Court and the Legislature were one and the same body, making a law and expounding it and deciding whether it be a departure from the Constitution or not in one and the same breath. With the exception of the limitations which the framers of the Constitution

themselves chose to put upon the acts they have recited, they have erected a tribunal into whose keeping they have put the decision of all questions touching the nature, form, and character of the Government itself, without appeal, leaving to every man and to every body of men the inalienable right of revolution, and leaving to every man the responsibility before God of deciding whether he will exercise it or not, and maintain it if he can.

Mr. THAYER. Mr. Speaker, I can subscribe most heartily to the sentiment which I have listened to from the gentleman from Massachusetts, [Mr. DAWES.] The point that I make is that every power granted by the Constitution is complete in itself; may be exerted to its utmost extent, and acknowledges no limitation except that which is written in the Constitution. Now, sir, that announcement of a principle contains nothing new. That is a principle with which the gentleman from Ohio [Mr. PENDLETON] cannot possibly be unfamiliar, because it has been for years the doctrine, the solemnly adjudged doctrine, of the highest judicial tribunal of this country in expounding the Constitution. It is the doctrine laid down by Chief Justice Marshall in Gibbons and Ogden. It is a doctrine which has never been departed from by that august tribunal from the day on which Marshall and his illustrious associates gave it utterance and authority in the Supreme Court of the United States. If it be said, as was said by the gentleman from Ohio and others, that that embraces an absurdity, that if the power is unlimited, anything, no matter how much opposed to the moral law, no matter how subversive of civil government, may be tolerated under such a construction of the Constitution, I answer, not, sir, in my own language, but in the language of that illustrious judge to whom I have already referred.

"The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are in this as in many other instances, as that, for example, of declaring war, the sole restraints on which they [the people] have relied to secure them from its abuse. They are the restraints on which the people most often rely solely in all representative Governments."

When you ask me, therefore, whether, if the people of the United States were so to amend the Constitution as to enable them to enslave the white freemen of the North, that would be binding, I answer you by asking you what, in your opinion, would be the effect of a law legalizing the crime of murder, whether, in your opinion, you would be bound to obey such a law, whether you would be bound to obey any law that contravenes the moral law established by the Creator? Sir, there is no sound argument to be founded on the putting of such extreme cases. The people of the United States hold their liberties under their own protection and in their own keeping. If the men they send to the halls of legislation abuse the trust reposed in them, if they enact immoral laws, unjust laws, laws that subvert the very foundations of human society, the remedy is with the people. The people would, in that event, clear these Halls of the men who made them, and would send here men who would enact laws in accordance with their welfare, with justice, with morality, and with free and equal government.

Sir, when the gentleman from Ohio puts an extreme case in order to overthrow the settled principles which I have stated, namely, that where ever you find a grant of power in the Constitution that grant is unlimited, except it be limited by the Constitution itself, he relies (he will allow me to say, with the utmost respect for him) on what can be shown to be a very shallow fallacy. In the first place, there is no danger of the Representatives of the people enacting such laws, and in the second place, if they were to enact such laws they would be whipped from these Halls by the people whose liberties and whose rights they had outraged, and the people would send here men who would repeal such laws and punish those who made them.

Well, sir, we have then a new doctrine announced, and that is that when a power is granted and there is no limitation on that power, there is, notwithstanding, a limitation, and that limitation is to depend on the fluctuating opinions of the members of this House. The gentleman says that although there is plainly written in the Constitution the power to propose amendments, and although the authors of the Constitution enu-

merated three instances which they excepted from the exercise of that power, yet there is something still more excepted which is not embraced within the three items excepted; and he says that it is unconstitutional to propose to amend the Constitution in the present instance, because it would interfere with a domestic institution of the States. What kind of a reason, sir, is that to assign for an attempt to overthrow the deliberately established doctrine of the highest judicial tribunal in this country?

Mr. PRUYN. I would like to ask the gentleman a question, if he will allow me.

Mr. THAYER. Certainly.

Mr. PRUYN. I have not had the benefit of hearing all the remarks which the gentleman has made, and I do not understand his ground distinctly. Does the gentleman claim that the right to amend is unlimited?

Mr. THAYER. I claim, sir, that the right is unlimited except in three particulars, which are especially designated in the grant of the power to amend.

Mr. PRUYN. Is there any power to amend so as to establish a monarchy here?

Mr. THAYER. I have spent some time, I fear in vain, in commenting upon the precise objection now made by my friend from New York, [Mr. PRUYN,] which, however, I am very happy to hear him state.

Mr. PRUYN. I beg pardon of the gentleman, I was not present when he replied to that point.

Mr. THAYER. I will answer the gentleman very briefly, as I answered more at length just now. The protection and guard against any undue exercise of this power, as of all powers, is in the power of the people over their Representatives. And that, as was said by Chief Justice Marshall in the opinion to which I have referred, is a sufficient safeguard. Why, sir, we are but the instruments of the people. This House is reconstructed every other year by the votes of the people. And after all, the residue of the power, the great bulk of the power, is with the people, and inasmuch as the people elect their own Representatives, they can always protect themselves against any undue exercise of power by their agents.

But, sir, we are told that this resolution is unconstitutional; although the grant of the power to propose amendments, like the grant of other powers in the Constitution, is general and unlimited except in the particulars to which I have referred, we are told that this is unconstitutional because it interferes with the domestic institutions of the States. Well, sir, suppose it does; do you find in the Constitution any limitation declaring that the American people shall not amend their Constitution when it interferes with the domestic institutions of any portion of the people?

This question has been argued, I will take leave to say, more as if it were a question whether we here in the Halls of Congress should undertake to amend the Constitution, and to change the laws and customs of the people, than if it were a question, which in reality it is, whether we shall simply propose to the people an amendment in pursuance of our constitutional power—propose to whom? propose to the people to alter their Constitution. It is a question whether we shall give to the people an opportunity to pass upon what we consider an advisable amendment of the fundamental law, and to reject or adopt it as they may choose. We do not interfere with the domestic institutions of the States. If the "domestic institution" (to adopt a polite phrase for a great crime) should be interfered with by the adoption of this amendment it will be by the deliberate judgment and verdict of the American people. It will be destroyed, not by Congress, but by the votes of three fourths of the people. Some gentlemen seem to forget that we are acting here as the mere instruments of the people. We are merely setting the machinery in motion which will enable the people to say whether they desire this change. If three fourths of the people do not desire that change you will not have it, and if three fourths of the people do desire it, then I ask why in the name of common sense should any Democrat oppose such a change? If three fourths of the people desire this change in their fundamental law should one fourth be allowed to prevent them from accomplishing their desire?

This is a new and singular phase of Democratic principles. A strange Democracy that, which would build its creed upon such a foundation as this.

The gentleman from Ohio, [Mr. PENDLETON,] in order to sustain himself in this extraordinary position, argued the constitutional question upon the basis that this Government is a confederation of States. He treated the whole subject as if the question were one in regard to the construction of a compact between States; as if some sovereign State was to be put in the position of losing its rights by being outvoted by other sovereign States. Sir, I am sorry to hear such a doctrine asserted at this time and in this place. That path, sir, let me tell the gentleman, leads into the bloody slough of secession. It is the fruitful parent of all the ills we now endure. It is this heresy, condemned by the greatest men who have lived in the annals of the American people, condemned by the Supreme Court of the United States, condemned again and again by that great sage, the light and glory of our judicial history, John Marshall; it is this doctrine, whose ghost was brought yesterday by the gentleman from Ohio from the bloody battle-fields of our suffering country into this Hall, which has created all the woes and sufferings by which we are now surrounded; the doctrine that the Constitution is not a Constitution for the people, but a league between States. Sir, if that be true, then Jefferson Davis and his fellow-traitors are right and we are wrong. If that be true, then there is not a rebel north of the Gulf of Mexico; because, if the theory of this Government is that which was maintained yesterday by the gentleman from Ohio, [Mr. PENDLETON,] namely, that the American Union is but a league between sovereign States, then those sovereignties had a right to depart; we had no right to gainsay their action; and the brave men who have poured out their blood in the sacred cause of American liberty and nationality have wasted it in a cause which, according to the gentleman from Ohio, has no foundation in justice or the Constitution.

Sir, I regret that the gentleman in sustaining his view with regard to the unconstitutionality of the resolution now before the House should have been driven by the stress of his argument to reassert that old, and I had thought fast dying fallacy which has led our great and prosperous and glorious country to its present condition of misery and suffering.

The gentleman made an eloquent profession of his attachment to the State of Ohio, to which I, and I am sure the House listened with attention and with admiration, for it was not only eloquent and beautiful but it was stirring. But, sir, the pleasure with which I listened to the honorable gentleman was alloyed with profound regret that he had not found to mingle with it one word of praise or love for the Union, and that he had not embraced the Union in that eloquent tribute of affection which he paid to the State of Ohio. Sir, I reverence the gentleman's affection and allegiance to his native State; I entertain the highest respect toward him for cherishing those feelings. But, sir, I would have been glad to have seen his great talents directed to maintain not only the glory of his native State, but also the sovereignty and perpetuity and glory of this great brotherhood of States, the glory of this great American nation now receiving its baptism of blood and fire. I should have preferred, sir, in a great crisis like the present, to listen not to such partisan and sectional cries as "Long live Ohio!" or "Long live Massachusetts!" or "Long live Pennsylvania!" but to that nobler, better shout which now bursts like the roar of the ocean from hundreds of thousands of brave men as they hurl themselves upon the common enemy of the American people, "Long live the nation!" "Long live the United States of America—one and inseparable!"

Mr. ROLLINS, of Missouri, obtained the floor.

Mr. ASHLEY. Will the gentleman yield to a motion to adjourn?

Mr. ROLLINS, of Missouri. Yes, sir.

Mr. WASHBURN, of Illinois. Will the gentleman from Ohio [Mr. ASHLEY] please inform us when he proposes to bring this matter to a close?

Mr. ASHLEY. I will answer the gentleman to-morrow. I now move that the House adjourn.

Mr. WASHBURN, of Illinois. I demand tellers.

Tellers were ordered; and Mr. WASHBURN, of Illinois, and Mr. ELDRIDGE, were appointed.

The House divided; and the tellers reported—ayes 70, noes 11.

So the motion was agreed to; and the House (at four o'clock, p. m.) adjourned.

#### IN SENATE.

Friday, January 13, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. CLARK presented two petitions of citizens of Virginia, praying that they may be taken under the protection and jurisdiction of a territorial government; which were referred to the Committee on Territories.

He also presented the petition of the Amoskeag Manufacturing Company, praying for compensation for three regimental cook-wagons furnished by order of Major General Frémont, commanding the western department; which was referred to the Committee on Claims.

Mr. LANE, of Indiana, presented the memorial of the newspaper publishers of Indiana, praying for a removal of the duty on foreign paper; which was referred to the Committee on Finance.

Mr. FOSTER presented the petition of the local board of steamboat inspectors of New London, Connecticut, praying for an increase of salary; which was referred to the Committee on Commerce.

Mr. HOWE presented the petition of the officers of the State Historical Society of Wisconsin, praying that foreign printing paper may be exempted from duty; that the duties on imported books may be reduced, and that all books and literary property imported expressly for public libraries may be admitted free of duty; which was referred to the Committee on Finance.

Mr. SHERMAN presented a petition of citizens of Youngstown, Ohio, praying that the railroad from Youngstown, Ohio, to Sharon, Pennsylvania, may be declared a mail route; which was referred to the Committee on Post Offices and Post Roads.

Mr. GRIMES presented a petition of laborers in the Washington navy-yard, praying that inquiry may be made into the conduct of officials in the Washington navy-yard in the employment of persons who are represented as being hostile to the Government; which was referred to the Committee on Naval Affairs.

Mr. CONNESS presented a memorial of merchants and importers of the city of San Francisco, California, praying for the refunding of duties paid upon goods destroyed by fire while in the hands of original importers in that city during the years 1850 and 1851; which was referred to the Committee on Claims.

Mr. POWELL presented the memorial of Joseph Wilson, of Kentucky, praying for compensation for horses and mules captured by the rebels in consequence of the Union pickets not permitting him to pass our lines; which was referred to the Committee on Claims.

Mr. WILLEY. I present the petition of George W. Allen, of Mount Vernon, Illinois, on behalf of certain officers, prisoners captured under Colonel Straight in his celebrated raid through Georgia, setting forth that the petitioner has exhausted every available means for their release with the military authorities. One of these prisoners is now at Columbia, South Carolina, in very poor health, and in extreme want, and another is in Libby prison in solitary confinement, and is one of four who were retained by the rebels as hostages, for whom the petitioner knows not. The last advices from him to one of his fellow-prisoners bears date November 15, 1864, in which he says, "I am doomed to lie and rot in this loathsome, damp cell. The mold has settled all over me, and there is no escape from it. I am not able to carry the ball and chain, or I might get some fresh air." The petitioner therefore prays that some means may be adopted by which these men may be relieved from the slow but certain death that is awaiting them. I move that the petition

be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. SUMNER. I present the petition of John P. Andrews, of Salem, Massachusetts, in which he sets forth the loss by him of a United States five-twenty bond for \$500, and he asks that provision may be made for the reimbursement of the same to him by causing a new certificate to be made out payable to his order. As the question involved in this memorial is already before the Committee on Finance, on some other petitions that have been presented, I ask the reference of this to the same committee.

Mr. GRIMES. Those other petitions have been referred to the Committee on Claims.

Mr. SUMNER. I beg the Senator's pardon; they were referred to the Committee on Finance.

Mr. GRIMES. They were reported back by the Senator from Ohio, [Mr. SHERMAN,] and on his motion referred to the Committee on Claims.

Mr. SUMNER. I was not aware of it. I ask the attention of the Senator from Ohio to this matter. There was one memorial that I presented from a banking house in New York and Boston relating to the loss of certain certificates, in regard to which they ask not only a remedy in their own case, but legislation of a general character applicable to all such cases in the future. Has anything been done with regard to that?

Mr. SHERMAN. I can state to the Senator that I reported the memorial referred to the other day adversely. The claim was for interest on bonds. The bonds had been lost in the mail, and after they became due the Secretary of the Treasury required one year to elapse before he would pay the principal and interest of the bonds. At the expiration of the year, the principal and interest were paid; but these parties claimed interest after the bonds matured, during the year the Secretary would not pay them. The committee were unanimously of the opinion that there was no just ground of claim; it was the misfortune of the parties that they lost their bonds. As soon as the proper time elapsed, the time that has been established and deemed proper in the Treasury Department, the bond was paid.

Mr. SUMNER. Do I understand from the Senator that the committee were of opinion that there was no necessity for further legislation?

Mr. SHERMAN. Not on that point. There is probably a necessity for legislation if Congress is willing to pay for legal tenders lost or destroyed. If they are, it will be necessary to pass an act of Congress on the subject. My own judgment is against it. When parties lose their legal tenders, unless they are destroyed and identified by numbers and description so clear that they may be replaced by other notes bearing the same numbers, I think it is the misfortune of the party who loses them, and he cannot call upon Congress to repair that loss; but if Congress should at any time think that the parties are entitled to relief, then there ought to be a general bill passed on the subject.

Mr. SUMNER. Then, as I understand the Senator, a petition, such as I have now presented, which concerns an individual case of loss is not proper to the Committee on Finance, but simply for the Committee on Claims.

Mr. SHERMAN. They have all gone to the Committee on Claims.

Mr. SUMNER. Very well; let this petition go to the same committee.

The VICE PRESIDENT. It will be so referred.

#### WITHDRAWAL OF PAPERS.

Mr. GRIMES. I move that Joseph P. Woodbury, of Boston, Massachusetts, have leave to withdraw his memorial and accompanying papers from the files of the Senate.

The VICE PRESIDENT. Has there been an adverse report?

Mr. GRIMES. There has been an adverse report; but the memorial is an application to Congress to make an appropriation of money for the purpose of constructing a submarine gun. It is not the case of a claim against the Government.

The VICE PRESIDENT. The order will be made, if there be no objection.

#### REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on Claims, to whom was referred the memorial of

C. C. Hutchins, Indian agent for the Ottawas, praying indemnity for the loss of a Treasury draft, which was lost in the destruction of the Lawrence Bank, of Lawrence, Kansas, by the rebel Quantrell, on the 21st day of August last, reported adversely thereon, and asked that it be indefinitely postponed; which was agreed to.

He also, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864, reported it with an amendment.

Mr. POMEROY, from the Committee on Claims, to whom was referred the bill (H. R. No. 520) for the relief of Samuel Beaton, master of the schooner George Harris, reported it adversely, and moved that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was recommended the bill (H. R. No. 43) for the relief of Milo Suttiff and Levi H. Case, reported it adversely, and moved that it be indefinitely postponed; which was agreed to.

Mr. DAVIS, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 94) for the relief of Peter Wheeler, reported it adversely, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 94) for the relief of Isaac R. Diller, reported it with an amendment.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (H. R. No. 516) for the relief of Francis Munson, reported it adversely, and moved its indefinite postponement; which was agreed to.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 389) relating to clerkships in the Post Office Department, reported it without amendment.

Mr. COLLAMER. I move that the letter of the Postmaster General accompanying that bill be printed for the use of the Senate.

The motion was agreed to.

#### GEORGE MOWREY.

Mr. POMEROY. The Committee on Claims, to whom was referred the bill (H. R. No. 458) for the relief of George Mowrey, have had the same under consideration, and direct me to report it back without amendment and recommend its passage. As it is a bill involving only the sum of seventy-two dollars, I ask the unanimous consent of the Senate for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay to George Mowrey the sum of \$72 12 in full payment for conveying two prisoners from Somerset jail in Pennsylvania to Pittsburgh, in the year 1841, by order of the United States deputy marshal for the western district of Pennsylvania.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EDMUND S. ZEVELY.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred the memorial of Edmund S. Zevely, praying to be relieved from a contract of his with the Post Office Department, have directed me to report a bill for his relief; and as it is a small bill, I desire that it may be put on its passage now.

By unanimous consent, the bill (S. No. 395) for the relief of Edmund S. Zevely was read twice by its title, and considered as in Committee of the Whole. It proposes to authorize and empower Edmund S. Zevely to put an end to his contract with the United States entered into with the Postmaster General on the 24th of March, 1853, for furnishing the Post Office Department with box-wood marking and rating stamps, on giving the Postmaster General sixty days' notice in writing.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### QUOTAS OF THE STATES.

Mr. RIDDLE. I offer the following resolution, and ask for its immediate consideration, as I presume there will be no objection to it:

*Resolved*, That the Secretary of War be directed to inform the Senate what number of soldiers and sailors the several loyal States (embracing the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Kentucky, Ohio, Indiana, Illinois, Missouri, Michigan, Wisconsin, Iowa, Minnesota, California, Oregon, and Kansas, and the District of Columbia) have furnished the Army and Navy under the proclamation and order of the President for five hundred thousand men, dated July 18, 1864.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution?

Mr. BROWN. I have no objection to its consideration if it is to be referred to a committee. Does the Senator propose to refer it to the Committee on Military Affairs?

Mr. RIDDLE. I am confident that the Committee on Military Affairs is in favor of it, and I will make a statement which I am sure will satisfy the Senator that the resolution should be acted upon now.

The VICE PRESIDENT. The first question is to ascertain whether there is any objection to the present consideration of the resolution. The Chair hears none, and it is before the Senate.

Mr. RIDDLE. The information which the resolution is designed to produce is very anxiously looked for by thousands of citizens in all the loyal States, more particularly in those States which border upon the States in rebellion, and which have responded to every draft made upon their people. By the proclamation of the President of the 19th of December last, it appears that but two hundred and forty thousand of the five hundred thousand men called for in July were obtained, leaving a deficiency of two hundred and sixty thousand. In consequence of this a draft of three hundred thousand has been ordered by the President. By the census of 1860 the States mentioned in my resolution, including the District of Columbia, contained in round numbers twenty-three million people. This number is doubtless greater now, but I will assume it to be the same.

The State which I in part represent here had a population of one hundred and twelve thousand two hundred and sixteen. Out of this population Delaware has furnished two thousand four hundred and forty-five men, allowing a small credit under the proclamation of the 18th of July last. If Senators will make the calculation—it is a simple one—they will find that this amounts to a little more than our quota for the five hundred thousand men. And yet the idea has gone abroad that the small States where the drafts are enforced with ease and rapidity must be taxed to fill up the deficiency created by the failure of the draft in the larger States. Justice certainly protests against such a policy, and I think the Senate will gladly afford the opportunity to the Secretary of War to furnish the information. The resolution is offered with the very kindest spirit to that officer, and I believe he will cheerfully respond to it, and with alacrity. I cannot see any earthly objection to the resolution.

Mr. BROWN. I move that this resolution be referred to the Committee on Military Affairs. In doing so I simply desire to say that I think it is far more appropriate that this subject should be acted upon advisedly than in the hurry of the moment, touching as it does the number and character of our forces in the field, and upon which we may rely for active military operations. I think it is certainly desirable that we should look before we act in this matter. I therefore move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### BILLS INDEFINITELY POSTPONED.

Mr. WILSON. There are three or four bills on the table which the Committee on Military Affairs have reported back with a request that the committee be discharged from their further consideration. They are of no importance now, and I wish to get them off the Calendar. I desire therefore to take them up with a view to their indefinite postponement. I will first move to take up Senate bill No. 103.

The motion was agreed to, and the Senate proceeded to consider the bill (S. No. 103) to define



the rank, pay, and emoluments of chaplains in the United States Army and volunteer force, and for other purposes.

Mr. WILSON. I move its indefinite postponement.

The motion was agreed to.

On motion of Mr. WILSON, the Senate proceeded to consider the bill (H. R. No. 261) to provide for the voluntary enlistment of any persons residents of certain States into the regiments of other States.

Mr. WILSON. I move its indefinite postponement.

The motion was agreed to.

On motion of Mr. WILSON, the Senate proceeded to consider the bill (S. No. 231) concerning the subsistence and pay of the Army.

Mr. WILSON. I move that the bill be indefinitely postponed.

The motion was agreed to.

On motion of Mr. WILSON, the Senate proceeded to consider the joint resolution (S. R. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who have entered the service prior to May 3, 1861.

Mr. WILSON. That matter has been acted upon in another bill. I therefore move the indefinite postponement of this joint resolution.

The motion was agreed to.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. SHERMAN. I move that the Senate now proceed to the consideration of the consular and diplomatic appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1866.

The bill was reported to the Senate without amendment.

Mr. HALE. That bill was postponed on my suggestion until to-day for the purpose of offering an amendment.

The VICE PRESIDENT. The bill is still open to amendment.

Mr. HALE. The subject has been referred to the Committee on Commerce, and that committee, on consultation with the Secretary of State, have agreed upon an amendment. The chairman of the committee, I see, is not in his seat; and if some other member of the committee will state what the amendment is, I shall be obliged to him; if not, I think I can state what the amendment is that has been agreed upon.

Mr. SHERMAN. Send up the amendment.

Mr. HALE. I move to add an additional section, that the salary of the consul at Halifax, from and after the 1st of January, 1865, shall be \$3,000 per annum, and that an appropriation of \$1,500 for supplying the deficiency until the next current year be made.

Mr. SHERMAN. To enable the Senator from New Hampshire to write his amendment, which ought to be written, if he will allow me I will offer an amendment now from the Committee on Finance. It will give him time to prepare his amendment.

Mr. HALE. Certainly.

Mr. SHERMAN. I offer this amendment to come in at the end of the bill:

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, \$13,250.

The amendment was agreed to.

Mr. MORGAN. I propose an amendment on the one hundred and ninth line of the bill, and I send to the Chair a letter from the Secretary of State in relation to it. My amendment is to increase the appropriation "for bringing home from foreign countries persons charged with crime" to \$20,000. It is now \$5,000 in the bill; and my amendment is to strike out "five" and to insert "twenty."

Mr. BROWN. I inquire whether the bill is susceptible of amendment unless on motion from a committee.

The VICE PRESIDENT. It is open to any amendment coming within the rules of the Senate, not increasing an appropriation except in pursuance of the report of a committee or the recommendation of the head of a Department. The letter from the Secretary of State will be read.

The Secretary read the letter, as follows:

DEPARTMENT OF STATE, January 9, 1865.

SIR: Resolutions to present Cornelius Vanderbilt a gold medal, as introduced by yourself at the last session and passed, failed to make an appropriation for the expense of the medal. The sum of \$3,000 will be required for that purpose; will you please cause an amendment to be placed in the proper appropriation bill?

I have also to request that you will cause House bill numbered 598 to be amended in line one hundred and nine by an increase of the appropriation "for bringing home from foreign countries persons charged with crime" from \$5,000 to \$20,000.

I have the honor to be, sir, your obedient servant,  
WM. H. SEWARD.

HON. E. D. MORGAN.

Mr. SHERMAN. The bill already contains the ordinary appropriation of \$5,000 for this purpose, and I know no reason why it should be increased. The Secretary of State does not mention a reason. The annual estimates as they came from the Department recommended an appropriation of \$5,000; there may be facts which have arisen since; if so I have no objection to the amendment, but it ought to be properly explained.

Mr. MORGAN. The appropriation in relation to the medal to Mr. Vanderbilt was included in the deficiency bill on my motion. This appropriation is asked for by the Secretary of State. I have had no conversation with him on the subject. I only offer the amendment because of the letter which has been read.

Mr. SHERMAN. The estimate submitted by the Secretary of State with the annual estimates, for this purpose, was \$5,000. I know not the reason why the increase is recommended. It is not stated in the letter. I have no objection, however, to allowing the amendment to be made. We can correct it hereafter.

The amendment was agreed to.

Mr. HALE. I have reduced the amendment I suggested to writing, and as the chairman of the Committee on Commerce is not here, I submit it, as follows:

And be it further enacted, That the salary of the consul at Halifax, Nova Scotia, from and after the 1st day of January, 1865, shall be \$3,000 per annum; and a further sum of \$1,500 be, and the same is hereby, appropriated to carry the same into effect.

In the absence of the chairman of the Committee on Commerce I will state that this amendment is offered in pursuance of a unanimous recommendation of the committee, and also in pursuance of a recommendation of the Secretary of State.

Mr. TEN EYCK. I am sure my friend from New Hampshire did not mean to misstate when a reference was made to the action of the Committee on Commerce as having been unanimous. It was not entirely so. I wish to call the attention of the Senate to the fact that this case is not particularly distinguished from a large number of other cases. It is an application for an increase of the salary of a consul, and there are many grounds alleged why this increase of salary should take place; but there have been similar applications before that same committee in a very large number of cases. The same general grounds arising from the increased expenses of living, the cost of keeping up the consulates, and various other circumstances applied to those cases as well as to this; and out of perhaps some fifteen or twenty at the last session of Congress there was selected not more than one or two under very peculiar and extreme circumstances for an increase of the salary of those consuls. I thought then the precedent was rather a bad one under the existing state of things, and I am sure that the Senator from New Hampshire has been himself as vigilant and careful to prevent an increase of salaries everywhere in the public service as any other Senator upon this floor. He has exercised great care, and caution, and prudence, and I commend him for it. If, however, we increase the salary of this consul, why shall we not increase the salary of the consul at Liverpool, where I am induced to believe a much larger burden of duties is imposed upon the consul, and where the expenses of living and maintaining himself respectably abroad as the representative of this Government at that place, an important position, require an increase of the salary to a greater extent than the one now referred to? And if we commence this increase of salary in the one instance, the Senate will, perhaps, in order not to make invidious distinctions, be called upon to increase the

salary of public officers in the public service generally.

I have no special or particular objection to the increase of this salary, standing alone by itself, but looking to the extent to which it may be carried and the danger of making an inroad on the system, I at least beg leave to call the attention of the Senate to the fact that they may be aware of that which they are now asked to do.

Mr. SAULSBURY. I understand that the bill now before the Senate covers all the appropriations for the civil and diplomatic service.

Mr. SHERMAN. All appropriations for consular and diplomatic purposes, not civil and diplomatic.

Mr. SAULSBURY. I accept the correction. We have, I understand, some five ministers to Central America, and we are paying \$7,500 a year to each of them. I know of no authority of law for their appointment. The appropriation made in this bill recognizes the existence of those missions as full missions, and the Congress of the United States is called upon to pay some thirty-five or forty thousand dollars a year to support ministers to Governments which, if I recollect aright, Mr. Stephens, in his travels to Central America, says he had great difficulty in finding. I move that the further consideration of the bill be postponed until Monday next, that Senators may have an opportunity to inquire into the propriety of the appropriations it contains.

Mr. SHERMAN. I trust the bill will not be now postponed. It has already been once postponed merely to allow an amendment to be offered increasing the salary of a consul, and I trust no further postponement will take place.

The motion to postpone was not agreed to.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from New Hampshire.

Mr. SHERMAN. I will say a single word in regard to the salary of the consul at Halifax. The matter has been referred to the Committee on Commerce; and if they are very decidedly of opinion that the consulate at Halifax is an exceptional case I shall not undertake to set up my views in opposition to their conclusion after examination; but unless facts are stated which convince me that it is an exceptional case demanding an increase, founded upon reasons different from those which apply to ordinary salaries under the Government, I shall not vote for the amendment. The question of increasing the compensation of the officers of the Government is the most difficult and troublesome one we have now at this session of Congress. There is not a department of the Government, and scarcely an officer of the Government, that does not complain, and very properly, of the compensation now allowed by law as not sufficient to sustain himself and his family. But all the reasons for an increase of salary in ordinary cases do not apply to our foreign intercourse; because our consuls and our ministers abroad are paid in gold. They do not feel the effect of the depreciation of paper money, there is therefore no reason for an increase of the salary of the consul at Halifax unless the war has thrown upon him increased responsibilities and increased expenditures. If facts are stated to show that the consul at Halifax ought, for particular reasons, to have his salary increased, I am willing to listen to them and weigh them; but if it is simply an increase without any special reasons, I think we ought to hesitate to begin it. We shall have on every appropriation bill that comes before us an effort made to increase salaries, and before we embark in that undertaking we ought very carefully to examine the ground on which we stand.

I shall, therefore, vote against this amendment unless facts are stated by the Committee on Commerce to the Senate to induce me to believe that this is an exceptional case, and that the war has thrown upon the consul at Halifax peculiar responsibilities and peculiar labors which do not apply to other consuls.

Mr. CHANDLER. The Committee on Commerce have resisted all applications for an increase of salary on the part of our consular agents unless where a case was exceptional. In this case I believe the committee were unanimous in the opinion that it was exceptional. The large amount of contraband traffic going on between Halifax and the rebel States has thrown very large respon-

sibilities and duties on the consul there. A large number of refugees from those States are there who require watching. I send to the desk, and ask to have read, a letter from the Secretary of State which explains the matter.

The following letter was read:

DEPARTMENT OF STATE,  
WASHINGTON, January 10, 1865.

SIR: I have the honor to acknowledge the receipt of your communication of the 9th instant relative to a resolution which had passed the Senate instructing the Committee on Commerce to inquire into the expediency of increasing the compensation of the United States consul at Halifax, and in reply to your request for any information upon the subject which the Department can furnish, I have to state that the compensation attached to the office is \$2,000 per annum, and the consul is not permitted to transact business. The consular fees, which for the fiscal year ending 30th June last amounted to \$1,580 36, are, under existing provisions of law, paid into the United States Treasury. A large number of American vessels are constantly arriving in Halifax, and that port is much resorted to by vessels engaged in blockade running and in affording aid and comfort to the insurgent States. Besides the attention which the consul is required to give to the former, his duties have been largely increased by the necessity of constant labor and watchfulness on his part to defeat the nefarious designs of the latter as well as of many persons from those States and their sympathizers who frequent that port. The cost of living in Halifax has within a few years much increased, and I am satisfied that the consul cannot, with rigid economy, live upon his present salary. I do not hesitate, therefore, respectfully to suggest, for the consideration of the committee, the expediency of providing by law for the increase of the consular compensation at Halifax.

I have the honor to be, sir, your obedient servant,  
WILLIAM H. SEWARD.

Hon. Z. CHANDLER, Chairman of Committee on Commerce, United States Senate.

Mr. HALE. I will state very briefly some of the reasons why this amendment should be adopted, though it is impossible for me to state to the Senate everything that produces the conviction upon my mind that this salary should be increased. The business at Halifax, I have no doubt, has increased tenfold from what it was when our present consul went there, by the operation of the war. Halifax is the great depot for the blockade runners; a great many of them were there during the last summer, and I think in no single instance has a blockade runner or any confederate vessel sailed from the port of Halifax that the consul has not availed himself of an opportunity to learn the name of the vessel, her register, where she was built, what she carried, what her cargo was, and all these facts were communicated to the Government here by telegraph, and in pursuance of information thus furnished, I think six out of eleven vessels that left that port have been seized and condemned. The consul has to have his eye constantly all over the city, and to me it was utterly astonishing how he got the information which he was daily communicating to the Government. Besides this, the calls upon him, I should say, on an average while I was there—and I was there over a fortnight—were at least fifteen a day. The salary of the consul is \$2,000 a year. Out of that he has to pay for a small house a rent of \$250, and he has to pay his own messenger and his own clerk. His office is constantly thronged during the day, and he has to stay there after dark at night to do his writing, which ought to be done by a clerk.

These are some of the facts which convince me that the salary ought to be raised. There are others of a private and personal nature; but the Senate will remember that when I first presented the subject I stated that if I could not convince the Committee on Commerce at once that this ought to be done, I would not urge it any more. The Committee on Commerce are persuaded that it ought to be done; so is the Secretary of State. My friend from New Jersey will pardon me, for I certainly did not mean to misrepresent him when I stated that I believed that the committee were unanimous. It seems that the chairman made the same mistake that I did. The Senator from New Jersey is a very modest man, and he does not always urge his opinions, and he certainly does not with a loud voice. It might have been that he entertained the convictions which he has stated; but he was not so persevering in presenting them as to attract the attention of the chairman. I believe I have been, as that Senator says, rather cautious in the matter of increasing salaries; I have not been one of the friends of the doctrine that it was only necessary to give a man "the pay, rank, and emoluments of a brigadier general" in order to crush the rebellion; I have been of a different opinion; but I believe that this

is a case which imperiously demands, where the public honor and necessity demand, the increase which the committee have recommended.

Mr. TEN EYCK. It would appear from the letter of the Secretary of State that there are some reasons given why the salary of this consul should be increased. It may not, perhaps, be amiss for me to say that in a very large number of cases presented to the Committee on Commerce during the last session of Congress the same reasons were assigned in the same form. We cannot close our eyes to the fact that there is one general complaint coming to the Committee on Commerce, and through the channel of the State Department, on account of the smallness of the salaries of these foreign agents, in consequence of which they are not able to live in a way in which they desire to live, and in which, perhaps, we might desire that they should live. I myself have not been able to learn or to distinguish any difference between this case and a large number of cases precisely similarly situated, and some of them I think having rather stronger claims to the consideration of Congress. It was for this reason, and this reason alone, that I wished to call the attention of the Senate to the fact that if they mean to do justice, or if they mean to enable our consuls abroad to live in the manner in which they desire to live, they will not simply restrict their action to the consulate at Halifax, but will extend this sympathy, or justice, whichever it may be called, to consulates generally. The chairman of the committee is well aware of the fact that there has been a large number of claims of the same character, and founded upon the same reasons, addressing themselves very strongly to the humanity, at least, of the committee.

I did not make my resistance very strong in the committee, it is true; but my objection was urged; and perhaps my modesty was a little increased by finding that the committee were generally in favor of the proposition under the plausible and pleasant mode of address of the Senator from New Hampshire, and the urgency of his appeal. It would take a pretty bold man indeed to rise up and resist his application before a committee or anywhere else in a matter where his heart seemed to be engaged.

Mr. HARLAN. I desire to inquire of the chairman of the Committee on Commerce whether this consul is paid in gold or in currency.

Mr. SHERMAN. He is paid in gold; all the consuls are paid in gold.

Mr. HARLAN. Then the salary now received would be equivalent to \$4,000 if paid on this side of the line. With that view of the case I think I shall vote against the amendment.

Mr. POMEROY. It occurs to me that this is one of a class of cases which are constantly presented to us and are very numerous. I have no doubt that there is a class of men, not only those representing this Government abroad, but officers at home, whose duties have been largely increased in consequence of the war. I know of some officers who had almost nothing to do before the rebellion, and who now have to work day and night. When the war is over, I suppose they will have much less to do, and perhaps almost nothing. I do not see how we can enter upon the business of increasing the salaries of this class unless we increase them all. I am disposed to deal out as even-handed justice as it is possible for us to do, to every employé of the Government. If this consul has more than he can do, there is a way of giving him a clerk temporarily; there might be some appropriation made in that direction which would relieve him; but we ought to bear in mind that these men who are abroad have not upon themselves the responsibilities of this war that men of their ages have who live here. They are not subject to draft; they are not called upon constantly to aid in efforts to promote recruiting, and I believe they are not even taxed on their salaries. I think the income tax does not come out of their salaries. I am not certain of that fact, but such is my opinion. Besides, I do not know of many of them who have resigned. If any Senator knows of many such cases, he is better informed than I am. As their salary is paid in gold, and as they are not taxed upon it, and as they are relieved from the burdens of men who stay in the country, I do not feel called upon to vote any increase of salary to them, as a general rule, or even in this particular case.

Mr. CONNESS. I think that if a majority of this body could possibly be present at the sittings of the Finance Committee they would scarcely be prepared to vote this increase if they could hear and know of the propositions and demands that are there made from great masses of persons employed by the Government in every possible relation for an increase of pay. This proposition would never have come to us undoubtedly but for the incident, the fortunate incident, perhaps, of the recent visit to Halifax of the distinguished Senator who proposes it in this body. It was doubtless a great advantage to the Government that the Senator visited that spot; but it would be a great damage to the Treasury if we had the misfortune, or, I should say, the fortune, of his having visited all the consulates, for I am afraid he would have discovered a great many of them that were serving the country without sufficient compensation. I do not pretend to doubt the Senator's statements in reference to this case; but in making those statements it would be well to remember that the needs and necessities, the labor and surroundings of that particular consulate have simply been brought to his notice by his having made himself acquainted with them. Equal demands, equal necessities, equal or superior amounts of labor would have been discovered to be the part or lot of other consuls at other consulates if they could have been visited in like manner. There is scarcely a doubt about that.

I can hardly think that there is justice to the other agents abroad, and certainly there is no proper fitness to the Treasury at the present time, in passing this measure. The members composing the Finance Committee are at a loss how to reply to the demands that are made for an increase of salary, as I said before, from all quarters; and we can only safely resist the general demand now being made, at a point of time of great enhancement of prices and depreciation of the currency, by refusing all, or nearly all. It is the only way in which the Treasury can be at all maintained at present. We are all hoping for a recession of the present condition of things, and a change—and I think the aspect of the times promises very soon to make this change—which will become a permanent one if made; and it does not seem to me to be wise or proper to increase salaries now, and I hope we shall not enter upon that system of legislation. If it be desirable and necessary that the pay which our consuls and other agents abroad receive shall be reexamined and rearranged, let it be entered upon regularly, and let us ascertain how many consuls there are like the one at Halifax where the labors performed are inadequately paid, and apply the remedy in each case. It may turn out that there are but a dozen of them under the Government; it may turn out that there is but the one at Halifax; but I have doubts about that. I think the needs of that one come to us by the special reason that the Senator has recently visited there. I have not attempted to bring in question any statement he has made in regard to it; I take it he has stated the facts; but they are not facts as pressing as those which come to the knowledge of the Finance Committee at every meeting they hold. I hope this amendment will not be adopted.

Mr. SUMNER. Mr. President, I certainly hesitate at this time, and in the present condition of the public Treasury, to increase any salary anywhere, and most certainly should I hesitate to enter upon any general system for the increase of salaries in any department of Government; and yet, sir, I am willing to look at individual cases as they may arise. It is in that spirit that I approach the question before the Senate.

I know something of the consular service of the country. I know that we have consuls in some parts of the world that are paid perhaps adequately, certainly as much as they deserve, and so that they are able to live well on their income; but I know also that there are other consuls in other parts of the world that are not paid adequately. I receive letters, I may almost say by every foreign arrival, from persons in the foreign service of the country making such complaints. There is our consul at Bordeaux, a very considerable seaport, where we have a large trade and large interests, and a port also which I may say exercises to a certain extent a political influence. The consul there is underpaid. I think his salary should be advanced. I might give other instances, but I will not. I content myself with saying

that I place our consul at Halifax in the same category with our consul at Bordeaux, only perhaps his case is a stronger one even than the one at Bordeaux. I think that the public service requires that our consul at Halifax should be better paid than he is now. We pay our consul at Nassau \$4,000 a year to watch blockade runners, to take care of the interests of this Republic dealing with the rebellion. Our consul at Halifax has precisely the same interests to watch, and I think that he is subjected to expenses full as large as those of our consul at Nassau. I shall therefore vote for the proposition of the Committee on Commerce.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. SHERMAN. The only reason given for the increase of this salary is that the business of this consulate has increased. That can be said in regard to every officer of the Government, civil and military, with scarcely an exception. The only reason the Senator from Massachusetts gives for the increase of the salary is that the duties of the consul at Halifax are equal to the duties of the consul at Nassau. We yielded to the argument of the Committee on Commerce last year by increasing the compensation of the consul at Nassau; and if we yield to the argument now, without any specific reasons given for it, we cannot resist the argument in the future in other cases. I hope that if we set a bad example last year we shall not renew it now. I am satisfied that this increase, if made, will only lead to additional demands from other consuls, who were quieted by the action of the Senate at the last session, and that it is safer and better for us to leave these consuls to their present salary. I will here say that if the consul at Halifax is dissatisfied with his present compensation, I will agree to find about fifty applicants from my own State who will be very willing to take the office and discharge the duties.

Mr. SUMNER. Would the Senator's candidates discharge the duties?

Mr. SHERMAN. I believe they would.

Mr. SUMNER. I doubt it.

Mr. CHANDLER. The Senator from Ohio thinks we made a mistake last year in increasing the salary of the consul at Nassau. The fact was that that consulate had gone begging for more than two years; we could not get a proper man to take the office, and we were compelled to raise the salary in order to induce a competent man to go there; and it was the opinion of the Committee on Commerce that it was for the interest of the Government to pay whatever amount was necessary to secure the services of a first-class man. It was remarked, I think, by one or two gentlemen on the committee that a first-class man for the place could not be got for less than \$10,000, and that if the fact were so it would be for the interest of the Government to pay that salary. The consulate at Halifax is of almost equal importance to the Government. I do not know the gentleman that fills the place. I never heard of him until the Senator from New Hampshire named him to me; but it is my opinion that you cannot keep there a suitable man, a competent man, a proper man to look out for the interests of our Government and our commerce without paying an increase of salary. That is my judgment; I may be mistaken; but it is for the Senate to decide. I think the case at Halifax nearly as strong as that at Nassau. These are the two ports from which nearly all the blockade running is carried on, and at each place the closest watching is required, and we want the greatest ability we can obtain for the consul. I hope the salary recommended by the committee will be allowed.

The question being taken by yeas and nays, resulted—yeas 12, nays 27; as follows:

YEAS.—Messrs. Anthony, Chandler, Doolittle, Farwell, Hale, Hicks, Howe, Morgan, Ramsey, Riddle, Sumner, and Van Winkle—12.

NAYS.—Messrs. Brown, Buckalew, Clark, Collamer, Conness, Davis, Dixon, Foot, Foster, Grimes, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Sherman, Sprague, Teasdale, Trumbull, Wade, Wiley, and Wilson—27.

ABSENT.—Messrs. Carlisle, Cowan, Harding, Hendricks, Howard, Lane of Kansas, McDougall, Morrill, Wilkinson, and Wright—10.

So the amendment was rejected.

Mr. FOOT. I propose an amendment to this bill of rather an unusual character, for it does not propose to increase anybody's salary, but pro-

poses to dispense with one altogether. The amendment I propose is in the eightieth line, to strike out the words "Saint Lambert and Longueuil." These are two small French hamlets on the opposite side of the river from Montreal, and connected with Montreal by the Victoria bridge, and for all practical purposes are part of Montreal. There is no occasion, no necessity, for a consulate at that point; there is no practical convenience to be subserved by it. I move to strike the names of those places out of the bill.

The amendment was agreed to.

Mr. WADE. I move to amend the bill by inserting before "Mexico," in the tenth line, the words "the republic of," so as to read "the republic of Mexico." I move this amendment because as this bill now stands the appropriation is equivocal. The clause where the word "Mexico" occurs is that clause appropriating for the salaries of our various ministers abroad and enumerating the countries to which they are sent. As is well known to every member of the Senate, there are two Governments in Mexico; one of them is recognized by us and we have diplomatic relations with it; I do not know that we have any relations whatever with the other. When we appropriate for the salary of a minister to Mexico, it seems to me we ought to make it certain to which Government he is to go. I do not suppose that any gentleman here intends to recognize the empire of Mexico, as it is called, by making an appropriation to send any diplomatic agent to that empire. We have not recognized it; we have no diplomatic relations with it; and therefore, unless we mean to act blindly, and not to designate precisely what we intend to do, we should say whether we intend this appropriation to go to the payment of a minister to the old republic of Mexico, or whether we intend it to go to support a diplomatic agent or minister to the empire that is pretended to have been established there. I do not exactly know what is the rank of our representative in Mexico, but I think he is called a minister of the second class. I suppose this appropriation is intended for his payment; but the language is equivocal; it does not certainly express what it is intended to be applied to. I think, therefore, it is highly proper that this amendment should be made. We certainly ought to say to which Government in Mexico we mean to send a minister; and I should regret exceedingly if the Senate should conclude now to make an appropriation for a diplomatic agent or minister to the empire of Mexico. I wish to say in the bill "the republic of Mexico," and then we shall know precisely what we are about.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### MASSACRE OF CHEYENNE INDIANS.

On motion of Mr. HARLAN, the joint resolution (S. R. No. 93) in relation to the massacre of the Cheyenne Indians was read the second time, and considered as in Committee of the Whole.

Mr. POMEROY. I do not know but that the Committee on Indian Affairs have fully examined this case, though I have not heard any report from the committee in regard to it. I have had some letters from people in my own State and some from Colorado relating to it, but I have not heard the other side; and it is always embarrassing to me to be called upon to give a judgment without knowing what one side has to say.

In the next place, I do not like to declare that the private soldiers, who were bound to obey orders, shall be deprived of all pay and emoluments in consideration of having engaged in an attack on Indians that they themselves could not have prevented. I do not know that there is any responsibility upon these privates at all. In fact, although I have heard one side of the case, I do not know enough to bring in a verdict even against Colonel Chivington. The chairman of the Committee on Indian Affairs read us a letter from some Indian agent which, taken by itself and standing alone, would seem to convict him; but I have seen so much since this war began that I am not inclined to make up my judgment on that alone. During this war I have seen men one day condemned and the next day approved. On one occasion we passed a vote of thanks here complimenting some of our officers, and in a little while

afterwards I heard of their being in Fort La Fayette. We have been fickle; sometimes we have condemned men without their having had their side presented; and then we have approved and applauded without waiting to hear all the facts. I think this is a hasty and unwise way of doing things. If Colonel Chivington has killed Indians when he ought not to have done so, let the question be investigated by somebody; let somebody bring in a verdict and make a report. But to call upon the Senate to strike him down in this way (for this resolution directed to the Secretary of War is virtually striking him down) seems to me very extraordinary. I believe he has already been arrested; at any rate I have seen a report of that kind in the papers. If the War Department have already arrested him I do not propose, so far as my vote is concerned, to add anything to it by sending them this resolution. I do not know enough about the case to defend him, but I do know enough about it to know that we ought not to strike at him until he has had an opportunity of being heard, or somebody in his defense. The letter from an Indian agent, or from Indian traders out there, I do not think should be conclusive on the subject. The committee may have something which I have not heard of. They may have investigated and heard both sides, but I certainly have not. I cannot vote for this resolution.

Mr. HARLAN. This resolution does not propose a judgment in the case against the colonel who commanded this expedition or any of the members of the expedition. It merely proposes to suspend their pay until the facts can be fully ascertained, and to take possession of the plunder which it is said they have carried off from these Indians. The official report from the agent of this tribe has not been received, and may not be received for months to come, on account of the interruption of communication by hostile Indians between the States and this Territory. The soldiers who were engaged in this enterprise were chiefly, as we were informed, one hundred day men, and were probably—I fear the fact may be authenticated—organized with a distinct understanding that each member of the organization should share in the plunder they might secure from the discomfited; and it is said, and probably with truth, that they returned laden with plunder, each soldier with a pony or two laden with buffalo robes, furs, trinkets, and it is said two or three mules were loaded down with Mexican dollars captured from their victims. This property is in the possession, it is believed, of the members of that regiment, and they will probably be paid off and mustered out of service in a few days; long before the facts in the case can be ascertained officially. If anything is done to rebuke this wrong it must be done at once, and an order must be communicated by telegraph across the plains.

I ought to state, I think, in this connection that the policy of this Government in relation to the Indian tribes for a long period has been that of kindness; we have been appropriating millions of money each year for the purpose of educating and instructing the Indian tribes on our borders and in the plains; but that policy is being reversed without any authority from the Federal Government by the agents of the Government remote, away from the capital; and I believe and think every Senator from a frontier State knows that they have entered upon an entirely different policy. They are now engaged in the extermination of the Indians; and in conversation with these men they say it is the only way to secure permanent peace; they insist that these poor people, whether at war or at peace with the United States, must be destroyed. I have information that leads me to suppose that this is the initiatory step to a general war for this purpose. I have no doubt myself that Colonel Carleton is at this moment organizing an expedition against the Comanche Indians, the larger part of whom have been and now are at peace with the white inhabitants of New Mexico, for the purpose, as far as possible, of exterminating them.

I do not feel disposed to-day to go into an investigation of the outrages that I think have been perpetrated, seemingly by the authority of the Government of the United States, against the tribes on the plains and in the mountains. It does not receive the sanction of the military authorities at the capital. I know that they are as averse to this policy as any member of the Senate can



possibly be; but it has been entered upon by the employes of the Government who are far removed from the capital, and unless this policy shall be rebuked in a signal manner from this Government, it will be carried into effect, and we shall have to suffer the disgrace of the extermination of thousands of these comparatively inoffensive and unarmed people.

In this case it is said that most of those who were massacred were women and children; that there were no armed Indians in the village; that the chiefs of the tribe, when they were fired upon, went out and made an effort to deliver themselves and their tribe as prisoners of war, and that the parties who thus went out were shot down in cold blood, and then the massacre became general, and that the massacre extended perhaps to every woman and nearly all the small children belonging to the tribe.

This joint resolution, if it should pass, will merely suspend judgment in the case, and render it impossible for these parties to profit by the robbery, if it shall prove to have been unprovoked, until an investigation can be had.

Mr. POMEROY. I wish to inquire of the Senator from Iowa what was the evidence before the committee? What investigation was entered into? Upon what testimony did the committee act?

Mr. HARLAN. The evidence is not official. There was a letter before the committee from the agent of this tribe, who says that he is preparing a full report. He pronounces it an unprovoked massacre, and he is preparing a full official report, which will be here soon if it has not been intercepted on its way here. There are letters here also from one of the judges of the Territory corroborating the facts; there are letters from private gentlemen to members of the committee, all corroborating the same general facts, implying that the massacre was unprovoked, premeditated, and cold-blooded; that it was probably perpetrated for plunder.

Mr. NESMITH. I am sure there is not a member of this body who would justify an unprovoked attack on women and children, whether Indians or whites; but I do not know that there is any reliable information either before this body or before the Committee on Indian Affairs that any such outrage has occurred in Colorado. If there is any such information it has not been brought to my observation.

It seems to me that this is rather a hasty and unprecedented manner of disposing of a question of this kind. There may have been outrages committed there, and doubtless there have been on both sides, or what would be considered outrages in a civilized community; but in the consideration of a question like this, you must take cognizance of the circumstances which exist there. You must remember that the people of Colorado have been engaged in a war of extermination not provoked by themselves but brought on by the Indians. It seems to me that before action like that now proposed under these circumstances is taken in a case of such importance as this, and the pay and allowances of men are suspended, there should be some official investigation.

If upon investigation the fault is found to rest with the officers or the men, and they are culpable, I shall have nothing to say against their punishment, but I am opposed to punishing men in advance of investigation, (men who are serving for the poor pittance of thirteen or fourteen dollars a month,) by stopping their pay and stopping their subsistence, depriving them of the pay upon which their families at home, their wives and their children, are depending for support, while they are defending their homes against the ruthless barbarity of the savages. I say it is improper to take hasty action on the subject, and to punish the men in this way when there could have been no responsibility on them. They were simply obeying the orders of their officers. If the orders of the officers were illegal, or wrong, or improper to be executed, you cannot fasten the responsibility upon the private soldier. You must hold the officers responsible; and the fact that they will be mustered out of service in a short time will in no wise relieve them of the responsibility which they owe to the law for an outrage such as the Senator from Iowa says has been committed in the Territory of Colorado.

Sir, there is a great deal of misguided sympa-

thy for the Indians. It is a fruitful theme, and individuals all over the country are continually elaborating it. They are talking constantly about the wrongs which the aboriginal race has suffered at the hands of the white man. I admit that there have been wrongs on both sides. We have deprived them of their country; we have occupied it; and circumstances have necessarily driven us to war with them. If I could appeal to Senators here who represent the older States, and who bring upon this floor some of the feelings to which I have just alluded, I would recall to their minds the hostilities between the Indians and the early settlers of the country in their own States, and they would perhaps entertain a very different opinion. This complaint of killing the women and children of the Indians is as old as the settlement of our country, and has been reiterated year after year when we have had an Indian difficulty. It commenced with old Miles Standish in his forays against the Pequods, and it has been perpetuated to the present time. He was charged with not particularly discriminating in favor of women and children when he attacked and burnt the Indian villages, and wiped out the tribes which infested that portion of the country. Sir, go back and read the history of New England; read the terrible scenes that were perpetrated upon our soil; where the Indian women and children were slaughtered, where the brains were knocked from the babe at the mother's breast, and the father was scalped in the presence of the rest of the family.

I have had some experience with Indians; more than half of my life has been spent in direct contact with them. I have seen none of that noble, generous, and lofty character which is described by Mr. Cooper and other utopian writers on the subject. I have found them a degraded, thieving, murdering, plundering race. That is their instinct; and when they slaughter our people, when they murder them, when they rob them, they but carry out what is the instinct of their nature. The people of Colorado have been engaged in a war of this character. These volunteers are men who have been raised for the protection of their own homes; many of them have looked on the smoldering ruins of their houses, and the mutilated forms of their own wives and children lying around them; and it is not probable that under such circumstances men are very easily restrained from retaliation. Retaliation is the natural feeling of every man who witnesses calamities of that kind heaped upon his own head. During my own experience I have often witnessed such cases; and while I believe my nature is as mild as that of ordinary men, I have often thought it would be well if the whole race could be exterminated. I do not say that our Government would be justified or warranted in pursuing a course of that kind, which would be entirely inhuman; but I say there is nothing more natural to a frontiersman than to adopt such a view.

Sir, you cannot civilize the Indian. Your humanitarian objects do not reach him. I have tried myself to translate Christ's sermon on the mount to the Indians, and I have never succeeded in converting them to the excellent theories which were set forth in that very wonderful production; but I have succeeded sometimes in civilizing them with powder and ball, and that is the only remedy. It is the remedy that was adopted by the Puritans in New England, and it has been carried wherever our emigrants have traveled from the shores of Massachusetts bay to the coast of the Pacific, and to the Gulf, and to the Northwest, so far as our intercourse has extended among them.

My own State has not been the least among the sufferers from these terrible outrages. In 1840 a very excellent, pious, and worthy gentleman by the name of Whitman took his family across the Rocky mountains almost alone, and established himself in the Walla-Walla valley, about two thousand miles from the white settlements on this side, and the nearest settlements on the other side were in China and Japan, so that he was perfectly isolated from civilization. His object was to do something to elevate the Indian character. He established farms, he instituted a school, he and his wife both taught school. He gave the Indians every education in his power; he preached to them; he undertook to disseminate among them the principles and plan of salva-

tion. He was a man actuated by the most noble and generous impulses. If God ever made a good man, I think he was one. That man remained there until the emigration commenced passing through the country. The first emigrants went there in 1842. In the winter of 1847 fifteen or twenty families of emigrants were delayed, obstructed by the snows in the mountains, and it became necessary that they should winter at Whitman's settlement, five hundred miles from the Pacific ocean. They did winter there. That year the measles broke out among the Indians. Dr. Whitman and his family were assiduous in their attentions; did everything they could to relieve them; but the Indians, to whom they had done no wrong, to whom the emigrants had done no wrong—there had never been a drop of blood shed in the valley up to that time—held a council among themselves and determined to exterminate this party, Dr. Whitman and his wife, their benefactors, and the innocent women and children who were detained there by the inclemency of the weather. One morning they came to his house in a body, and one of them pretending to be ill asked him for some medicine. While the doctor, in the exercise of the generous humanity that always animated him, was dealing out to the Indian his medicine, another approached him from behind and crushed his skull with a tomahawk. Then a general attack took place. Mrs. Whitman was shot two or three times; the women and children were murdered indiscriminately. Mrs. Whitman begged for her life, appealed to those Indians who were members of her own church, of the church that had been organized among them, and endeavored in every way to induce them to save her life after she was shot; but they were relentless, they killed every man, they killed many of the women and children, and some they kept and took into a captivity worse than death.

Sir, this is but a solitary instance within the boundaries of my own State. In 1855 the southern Indians broke out and desolated an entire district of country; they murdered men, women, and children indiscriminately, and the condition of those whom they took captive was worse than that of those whom they had murdered. I will not attempt to recount upon this floor the savage deeds of barbarity which have been perpetrated by this race within my own State. I might refer to two massacres on Boisa river of peaceable emigrants, when the poor, helpless women, attempting, almost naked, to escape, were overtaken, and the most horrible outrages perpetrated, which if I were to enumerate them here would drive every lady from these galleries. They were outrages that are not fit to be mentioned or referred to anywhere.

Under these circumstances, can you blame people who have suffered such wrongs and outrages for some feeling of retaliation? Read the history of the Oatman family. When they were crossing the plains the father and mother were murdered, and two of the children, little girls, being captured, were dragged on foot through weary miles of desert, and reduced to the most abject slavery. One of them died as the direct consequence of the severe labors imposed on her by her ruthless captors, and the other only survived to suffer worse outrages than her sister who died. I pity the man who reads that account and does not shed a tear.

This dodge of "friendly" Indians is an old one; it is one with which I am familiar. I never knew an Indian yet who when he was conquered, or was brought within the power of the white man, did not become a "friendly Indian." Indians are then always disposed to be friendly. A gentleman who crossed the plains last year told me that the men of this very tribe of Indians, for attacking whom you propose to punish Chivington, were traveling through the country exhibiting strips of white cloth with the name of the Indian upon them as a token that they were friendly; but when they found unarmed and defenseless parties on the plains they stuck this white cloth under their shirts and massacred the parties, and then when they came across forces too strong for them to overcome, they again exhibited this badge of their friendship or neutrality. These cases were of continual occurrence last year on the plains. Captain Crawford, who went over with an escort and has just returned,

told me that when he arrived at Laramie he came to the conclusion, and still believes, that there was complicity between some of the Government officers and Indians in the mountains. Many Government trains last year were attacked. He told me that when he arrived at the agency he found a party who had been waiting several days for him to come up. They would not proceed as several parties had been cut off; but the interpreter told a man who was in advance of Captain Crawford with a small train that he might go on and the Indians would not disturb him. The families, the women and children of the Indians, were assembled around the agency and receiving protection and favor from the Government while the young men were out fighting and butchering our parties on the plains; and he says that every night there was a constant howl going up from that village for their young men who had been slain in the different attacks on emigrants crossing the plains. He told me that he saw one man there who was the survivor of a party of whom at the first fire six men and a boy were shot down and he was left by the Indians for dead. There were two ladies in that train and several children. The Indians captured the two ladies—the wife of this wounded man, and his daughter—and took them off. The man subsequently found his way to the fort in an exhausted and wounded condition, and he induced people to go out to hunt for his wife and daughter who had been captured by the Indians. A short distance from the creek they found his daughter killed, scalped, and a stake driven through her body. His wife is yet a prisoner among the Indians, and when Captain Crawford was there he was endeavoring to raise some people to go out to attempt to rescue his wife from the hands of her barbarous captors. Do you suppose that man, if he had the opportunity of engaging in an attack upon an Indian village, would have been restrained any more than Miles Standish was? Do you not suppose that he was perfectly imbued with the idea that it was necessary to exterminate a race who would perpetrate such outrageous and heinous crimes? I have no doubt that many of the men who participated in this alleged attack near Fort Lyon were men who were smarting under wrongs of a similar character.

Captain Crawford told me of another incident. Beyond Fort Laramie a party of Indians attacked a train and were unsuccessful. One of the chiefs was desperately wounded, but he succeeded in getting away. A white man who had at some previous time been in the employment of the Government as agent or sub-agent took him to his house, nursed him, and cared for him. The commanding officer of the military forces hearing that the Indian was there wounded, that he had been wounded in an attack on an emigrant train comprising women and children, thought that he should take means of securing him. He sent a guard there to be placed over the house, but this white man who had him in charge, and who was an accomplice doubtless in his crimes, succeeded in spiriting him away. The next thing the captain heard of this vagabond chieftain was that he was lying in the United States hospital being cared for by the Government, his wounds dressed and receiving medical aid and attention from the officers of the Army.

These are a few of the circumstances that are constantly occurring upon that route. I could enlarge upon them, but I have no desire to do so. As I said before, these outrages have been committed upon both sides. I do not pretend to say that the whites upon the frontiers are always right and the Indians always wrong. There are, doubtless, occasionally, circumstances of palliation upon either side; but I do know so far as my own experience goes, these wars of extermination have always been inaugurated by the Indians themselves, and have never been inaugurated by the white man, though he may at times have been driven to them by way of retaliation. When we find ourselves surrounded by a people who will be governed and controlled by no sort of civil policy, but who upon all occasions resort to this species of warfare; who prefer to make war upon women and children because they are defenseless, and there is less danger to be apprehended in a war of that kind, and when the only manner of restraining them is their extermination, it is a question which it is well for gentlemen to consider how

far it may properly be pursued. It is well, I say, to take into consideration how far a remedy of that kind may be pursued. I would not recommend extermination under ordinary circumstances; but when men whose families have suffered barbarities and cruelties at the hands of the Indians have a chance to retaliate, I am not prepared to blame them altogether when they attack the Indian villages and put them to the fire and the sword. This is an old complaint. Miles Standish attacked the Pequods, and it was said that he did so, and that was about the earliest complaint of the butchery of women and children in this country. We heard of it again in Jackson's wars in the Southwest. I believe that at Horseshoe Bend and in some other places in Alabama, he was accused of butchering women and children in indiscriminate warfare. Sometime subsequent to that, and it is within the memory of every person here, General Harney attacked the Sioux village at Ash Hollow, and he was accused of there putting men, women, and children to death indiscriminately. The next complaint we heard of this kind, I believe, was in Connor's campaign on Bear river, where in the dead of winter he attacked the Indians who had assembled in their village, and in the fight, doubtless, some women and children were killed.

It is impossible to discriminate in such cases. When the Indians can be found in a village with their women and children, it is about the only place where they will stand so that you can get a "sight" on them. All other fights with them are in the nature of foot-races; but when they have their women and children in their villages, and have collected and deposited there the plunder they have stolen, they make generally a pretty respectable sort of stand. In a case of that kind you have an opportunity of killing the men, and doubtless, while firing into Indian lodges indiscriminately, you will sometimes kill women and children. This was the case, doubtless, in those instances which I have enumerated, and I have no doubt that when Colonel Chivington's conduct comes to be investigated you will find that these were the circumstances under which he attacked the village. The young men of that village had, doubtless, been at war, and he attacked them in the village and inflicted on them indiscriminate slaughter. As I said before, I do not attempt to justify indiscriminate slaughter, but I say there are circumstances when men cannot be restrained from it. Women and children have been killed in this war. There is scarcely a town or city which has been shelled during the war where more or less of them have not been sacrificed by the missiles which have been hurled at their residences. It is not properly a cause of complaint, because it is a thing that happens unintentionally and unavoidably under the circumstances.

I trust, Mr. President, that this resolution which proposes to inflict upon Colonel Chivington and his men punishment in advance of ascertaining what has been the character of their crime or what they have done in this matter of extermination, will not pass. I hope that time will be given for a full, free, and fair investigation. If Colonel Chivington has attacked a village of mere women and children, unprovoked, and robbed and plundered them, I should be the last man to raise my hand or voice in his defense; but if he has pursued fugitive robbers and thieves who had been depredating on that community to their village and attacked them and exterminated them, I have little sympathy for the Indians. Most of my sympathy is on the side of the white man. All the experience of my life has taught me that whatever sympathy these people may derive at the hands of transcendental philosophers and persons who are at very remote distances from them and know nothing about the circumstances existing on the frontier, my sympathy should be given to the white man, because I believe he has generally been in the right and has only resorted to this sort of retaliation as a matter of self-defense.

Mr. CONNESS. Mr. President, I do not understand that the resolution before us proposes, as is claimed and asserted by the Senator from Oregon, any considerable punishment to the parties engaged in this so-called war. It proposes simply that the pay and compensation to which they would be entitled shall at present be reserved, and that an immediate investigation shall be had. I am in favor of that proposition. If you pay for

this expedition now, or let it be paid for, you will investigate it, I undertake to say, very slowly, but if you stop the compensation and take proper steps at the beginning, you will have an additional incentive to all persons connected with the expedition to have the investigation made. I do not pretend to hold any opinion upon the merits of the proposition as to whether men, women, and children of the Indian race have been massacred in this case without provocation or cause. I think the statements made by the Senator from Iowa are sufficiently direct to require the investigation that he proposes by the resolution, and I think the step he proposes, in suspending the pay and compensation until that be done, is a very safe and practical one.

The Senator from Oregon might have entertained us further, for I confess that I was very much entertained by his speech recounting the histories of the Indian wars, particularly on the side of the question which he said claims his sympathies, especially the white man's side of the question. I have no doubt that what the honorable Senator from Oregon says in one respect is true, that there is very much false sympathy expressed for the Indians upon occasions and by persons in civilized bodies and communities; but while he gives us an account of Indian wars and barbarous and cruel massacres in his own State and in the far West, he should not forget in justice and in truth to relate what he must know of the barbarities, the cruel injustice of the white man to these poor creatures whom God has made and given as much right to live and be as he has to either the Senator or myself. Why, sir, the State that I in part represent here has been the theater of these so-called Indian wars; I will not say a thing about the Chivington war, because we know nothing about the facts of that yet; but I do know of the facts connected with the so-called Indian wars of my State, and it will not be enough for me to say that I am ashamed of them to-day: my heart has bled again and again through long years over the miserable and cruel and cowardly murders perpetrated in that State against these poor defenseless creatures.

Upon the simple allegation coming from a county in the State of California that a house had been burned by an Indian boy that lived there, and that after he set fire to the house, which of course consumed some of the inmates, he ran into the Indian country, there was an Indian war got up and carried on at the expense of the State; and eventually it came to Congress to be paid for from the national Treasury—one of the most unnecessary, cruel, and barbarous butcheries that ever was perpetrated on earth. I undertook the investigation of that war in the Legislature of the State against a powerful lobby; a lobby reeking and filled with men stamped by God with an impression that could not be mistaken by the quick instincts and intuition of any clear-minded man. When I got so far in the investigation as to prove what was the mode of warfare carried on by the leaders of companies organized of white men—I shall I call them white men or recognize their claim to belong to that race?—when I got to the point of developing their system of warfare, which was to sneak along through the mountains, where there was peace and no war, in the darkness of the night until the revealing light of the morning sun gave them an opportunity of surrounding a defenseless camp occupied in peace, then alarm the camp, and as the creatures ran shoot them down, concentrating upon them a fire from which they could not possibly escape; when I got to that point with my investigation, the investigation was silenced, the lobby became too strong, as it very often does.

There were instances there, sir, where fifty to eighty bodies were mangled and cut to pieces, ay, of men, women, and children, with tomahawks in white men's hands; and when the creatures escaped into a pond of water, as they occasionally put their heads above its surface that they might breathe and live, they were dispatched upon being discovered. If those Indians had devastated the country; if they had burned homes, as was claimed; if they had pillaged, as was claimed; if they had murdered and outraged and carried white persons into captivity, and this was retaliation, there would have been at least an excuse, if not a complete justification. But that was not the case. These wars—I am not

speaking of the Oregon wars now, be it remembered, but I dare to speak of what has transpired in my own State—and I say these wars have been fomented by the miserable kind of human fungi that now hang upon the vitals of the nation making money and crying for money when no man could tell whether the nation should live or die; and they were instituted for plunder, carried on with the hand of murder, maintained by the basest cowardice that the human mind can conceive, because the blows were directed at those that could not and had not the power to strike back.

Now, sir, this is a step, I undertake to say, in the right direction; and in human nature's name I thank the honorable Senator from Iowa for proposing that for once the pay shall stop until the investigation shall be made, and that it be immediately made, and we ascertain whether this was a barbarous raid contemplating rapine and murder, and nothing else, or whether it was a justifiable act. One of its consequences is the interruption of our overland communication. I was going to say (but I will not discuss that) that I do not know that these things are necessary to the interruption of our overland mail. It is constantly interrupted; we have really no overland mail; and when it fails for want of carrying on the service, although the parties having the contract are paid for carrying it on, they make these Indian wars and disturbances on the plains an excuse. If they fail to feed their horses, if they fail to provide the means of carrying the mail, a report that the Indians have taken a station and destroyed a portion of their stock is sufficient to account for the failure of the public service in that regard.

Mr. President, we have an Indian department in this Government; we have been conducting it, I will not undertake to say how long. As the Senator from Oregon said, we have taken the country of the red man. I agree with him that it belongs to the white man, rather because it is God's and we are His children, and we can put it to the higher and better use; but we have adopted a system of taking it from the Indian, and of taking care of him; and I undertake to say that our system, adopted and carried on at an immense expense, is thus far a complete failure; that it gives us a record of men appointed to look after the Indian who take advantage of the Indian to rob him and to plunder him, to incite him to acts of outrage by robbery and starvation and then holding the Indian responsible for what shall occur.

I hope, sir, that this resolution will be adopted. It does not propose to punish anybody; it proposes to stop the pay of these parties until their conduct has been investigated, and to have that investigation made immediately. Are these men to suffer any more than our brave soldiers who are in the field, and frequently not paid for months together? Why, sir, that such a charge should be made by a Senator, that the information should come to him verified in a sufficient manner to warrant this proceeding, it seems to me, should not make a question as to the propriety of the act by the Senate. Let us resolve to take the initiative, and to take the steps necessary to see hereafter that justice be done by compelling the white man to do right as nearly as we can.

Mr. RICHARDSON. Mr. President, it seems to me that this resolution does not attack the proper place. The resolution proposes to stop the pay of the privates who, under the lead and direction of officers, did the acts which they were commanded to do, while the chief officer is not assailed at all. The Governor of the Territory called into existence by his proclamation this force for the purpose and with the direction and understanding that the pay the soldiers were to get should be the plunder taken from the Indians. This resolution proposes to stop the pay of the soldiers. It proposes to let the pay of that Governor who called them into being still go on. No proposition is made to investigate the conduct of that Governor who is under the control of the Administration, while you propose by the resolution, upon information that you have, to withhold the pay of the private soldiers acting under the direction of the officer of the Governor. It seems to me that the first persons to be attacked should be the Governor, who called these troops into being, and the officer who gave them the

direction to pursue the course which they did pursue.

I cannot vote for a resolution that proposes thus to condemn the private who acts under orders, while it leaves the commander, the director of the enterprise, to receive his pay and pass no censure upon him.

I will add further, Mr. President, in reference to this matter, that, in my opinion, this is not the place to investigate and to act upon that which properly belongs to one of the Departments of the Government, over which it has full control, and which I doubt not it will investigate and then apply the proper remedy. This whole thing, as far as the military is concerned, is under the direction of the War Department, and I doubt not it will discharge its duty.

I condemn, as strongly as the Senator from California or the Senator from Iowa, this assault, if it was such as they have described, upon women and children, I care not to what race they belong. While I condemn that, if the state of fact be as they say, I must give it as my opinion that in a war with Indian tribes it is impossible to make that war effective unless you drive the warriors to the villages where their women and children are. I have no great admiration for the Indian character. You may trace the whole history of the race, and there are, I apprehend, very few instances where the Indian has respected even his benefactor when it became his interest to destroy him. My experience of them is that they are the most treacherous, the most perfidious, the falsest of all people that live on the face of the earth. Still, because that is true it does not become us to apply to them a mode of warfare that we, as a Christian and civilized people, ought never to indulge in.

But, sir, in reference to this resolution, I cannot vote for it, and I do not think it ought to be passed in the shape in which it now is. I repeat that, in my opinion, the persons who are responsible for this transaction are the Governor of the Territory and the commanding officer who directed the assault, whoever he may be. The censure and the punishment ought to fall upon them, and upon them alone. I ask the Senator from Iowa, if the soldier, after he has enlisted, is ordered by his officer or led by his officer, directed by him to make an assault upon women, upon children, upon anybody else, whether he is not guilty of insubordination if he does not obey the command of the officer? Then, sir, I do not see why it is or how it is that you can withhold the pay of the private soldier. You may withhold the pay of the officers and ought to do it; but the resolution, in my judgment, goes too far; it includes too many. I think if these charges are found to be true, there is no punishment known to our law that ought not to be inflicted on the officers who commanded and directed the expedition.

Mr. DOOLITTLE. The honorable Senator from Illinois seems to assume in his argument that the private soldier is bound to execute the orders of his superior officer in war, whatever they may be; that if the officer directs him to seize little children, and dash their brains out, or shoot down defenseless women, he must obey; if he does not, he is guilty of insubordination. Sir, I do not believe in that doctrine. No court-martial in the world organized to try a private soldier for disobedience of orders or insubordination in not obeying the order of an officer to shoot down defenseless women, and seize the little infants from their breasts, and dash their brains out, would find him guilty of insubordination for refusing to obey such an order.

Mr. NESMITH. Will the Senator allow me to ask him a question?

Mr. DOOLITTLE. Certainly.

Mr. NESMITH. Suppose a body of troops are ordered to charge an Indian village in which there are warriors, women, and children, and a soldier refuses to make the charge because he supposes that the women and children there may be killed, will that exonerate him from the punishment of the military offense?

Mr. DOOLITTLE. That is not the question. The question is whether, when he is called upon to attack an Indian village or make a charge, he should, with his sword or his bayonet, strike down women at the command of his officer? I say no. The rules of warfare do not require it; military law does not require it.

Mr. RICHARDSON. If the Senator from Wisconsin will permit me, I think he states my proposition too broadly.

Mr. DOOLITTLE. Perhaps I do.

Mr. RICHARDSON. I will not undertake to say how far a soldier, where he is ordered to strike down an individual, is justified in having any opinion about it; but I do say this: that where he is ordered to move in assault, he is guilty of insubordination if he refuses to obey and places that refusal upon the ground that it is dealing with women and children.

Mr. DOOLITTLE. I do not stand here to insist that the private soldier can disobey an order to make an assault; but, sir, when he makes the assault and captures the place or the camp which he is ordered to assault, he is not bound to strike down women and children who in despair are begging their lives, at the beck or bidding of any officer, high or low.

Mr. RICHARDSON. I do not think the point which the Senator makes is involved in the controversy here.

Mr. DOOLITTLE. If my honorable friend will allow me, I was going on to refer to what I understand to be the facts of this case upon information which, while I do not avow that I know it to be true, comes from such a source that it leads me to believe that it is true; at all events, in my judgment, it raises the question sufficiently to demand an investigation to see whether it is true or not. I understand from a letter addressed and written to the city of Washington by the agent of these Indians, that he had these Indians in their lodges and encampments, under the protection of Fort Lyon, I think, and that this force, which consists, as I understand, of one hundred days' men raised in Colorado, under the command of Colonel Chivington, marched a good many miles, attacked this encampment, in which there were no Indian warriors, and put to the sword indiscriminately the women and children.

That is the statement of the agent of this tribe. I know that agent. I believe him to be a gentleman who would not state anything that he did not believe. The charge is such a severe one against Colonel Chivington and those under his command that I will not vouch for its perfect truth and say that I know it to be true, but I will vouch this much for the agent, Major Calley, who went from my State some two or three years ago, and whom I know personally very well, that he is a man of truth and veracity, who, in my opinion, would not state anything which he did not believe. Possibly he may have been misinformed, or made some mistake about it, though I do not see how he could make any such mistake; but he makes this statement under circumstances that, in my judgment, call for an investigation, and I for one am not willing to pass it over without an examination.

But to return to the exact point raised by the honorable Senator from Illinois against a portion of this resolution, that it suspends the pay of the privates as well as the officers under the command of Colonel Chivington, it seems to me no rule of military law, severe as it is, compels the private soldier when he makes an attack, and women and children plead for their lives, to put them to the sword. I know that when such attacks are made soldiers very often, in the excitement of the moment, will not stay their hands; they will sometimes put to the sword both women and children; but, sir, that they are justified in doing it I do not believe. You may say that he is guilty of insubordination if he does not slay them when ordered to do so by his commanding officer; but in my judgment he is guilty of murder before God and man if he does. For my part, under circumstances like those, I think the soldier, and even the private soldier, should choose to be insubordinate and run the risk of punishment rather than be guilty, and have the blood of murder on his hands in the destruction of the lives of women and children.

Now, Mr. President, I understand the whole effect of this resolution to be, not to establish a charge of guilt against Colonel Chivington and the officers and men under his command, but simply to say that such information has come before the Senate and the country that we think there ought to be an investigation, and that until such an investigation has been had by the proper Department, the resolution would seem to imply that the



investigation is to be made by the War Department, the pay of the officers in command of the expedition, as well as of the private soldiers, should be suspended. It does not assume that the Senate shall pass upon the question, and the Senate stop the pay of these officers and men, but requests the Secretary of War to examine into the case, and not to pay the troops engaged in this expedition until he shall have examined it and ascertained fully what the circumstances were, and whether the expedition was justifiable, and then having the matter under his control he will make the payments.

Mr. President, it is not from any overweening sympathy in behalf of the Indian race that I stand here to plead for the adoption of this resolution; I do not deny that I feel a sympathy for that race, for I look upon it as a dying race. Such has been its history from the beginning of the Government to the present time. It is dying through natural causes growing out of its contact with a superior race inhabiting the same country. There are causes which are at once set in operation, moral causes, physical causes, and the warfare when once begun between civilized and savage life becomes an eternal and irrepressible conflict which, in the very nature of things, will only cease when the savage life ceases. Why, sir, if you look at the state of Indian affairs anywhere in this country, even where large settlements have never been attempted by the white men, if you go into the Hudson's Bay territory, where there are one hundred and forty thousand Indians and not over three thousand white men, with perhaps six or eight thousand half breeds, you will find that the Indian race is dying even from that contact with the European race. The very contact of the races produces this result.

But, sir, while I believe this, while I look upon them as a race that is passing away, while I believe the time is coming, and rapidly coming, when the only trace that will be left of the Indian race will be the beautiful names which they leave to our towns and rivers, when they shall have disappeared, in all human probability, from the continent, yet I am unwilling that the flag and the Government of the United States shall be stained by any outrages such as it is alleged have been perpetrated by Colonel Chivington and the men under his command in this expedition. Therefore, sir, while I am as slow, I believe, as most persons to pass judgment in the absence of a hearing or the absence of a trial, upon the conduct of any officer, civil or military, yet I believe that in this case the facts are presented in such a manner that an investigation ought to be had, and I further believe that there ought to be a suspension in the payment of these hundred days' troops until the Secretary of War is satisfied with their action; and that I understand to be the substance of this resolution.

Mr. POMEROY. I do not intend to resist the passage of this resolution in some form. I think that one portion of the resolution is perfectly proper. I am certainly in favor of so much of it as proposes to direct the Secretary of War to order an investigation. The other portion of the resolution implies that we have already brought in a verdict to a sufficient extent to induce us to direct the suspension of the payment of these troops. I do not object to that simply on account of the pay. The suspension of the thirteen dollars a month is not the point with me; but that implies that we have adjudged the case far enough to recommend that. I am not prepared to go that far.

I know Colonel Chivington by reputation very well, and I have a slight personal acquaintance with him. The latter part of this resolution goes on the presumption that he has committed great wrong, because it brings in a verdict of that kind. I can see very well how I can ask to have an investigation upon these charges, but I do not see how I am called upon to vote as if I had made up my mind that he was guilty. Colonel Chivington is a man who has sustained all his life not only an excellent, but I think I may say an enviable, reputation. From early manhood he has been a minister of the Methodist church, not a church with which I am connected, but a church for which I have a very high respect. He was presiding elder in that church when he entered the military service.

Mr. HARLAN. If the Senator will allow me,

I have been informed, and I think it is true, that this gentleman was at one time a minister in the Methodist church, but he was suspended and dismissed from the church, and he is now not even a member.

Mr. POMEROY. Then he has been dismissed since he entered the military service, for when he came on to Washington a short time ago he preached in a Methodist church and officiated as a minister.

I only mention that as *prima facie* evidence of his having had a good character. Governor Evans, a man distinguished for his philanthropy and kindness and religion, not only strongly recommended Colonel Chivington, but has indorsed his act since it has been reported to have been committed; and I notice that the papers in that Territory speak in the highest terms of Colonel Chivington. I take the Mountain News and two or three of their papers. They speak in the highest terms even of this act of Colonel Chivington. He was a candidate for Congress at the late election, and was elected by a large majority, and if they had not voted against a State organization he would now, I suppose, be representing that State in the House of Representatives. That, I claim, is another reason why it is to be presumed that he is a man of good character and good standing. The presumption is that a man of such a character and such a standing would not commit such an outrageous act as the one alleged unless there were some provocation and some controlling circumstances that have not yet come to the knowledge of the Senate.

This Indian war on that line from the Missouri river to California has been kept up for a whole year. Citizens from my own town, my own neighbors, were murdered there last year; and there were brought to my own town and my own house, when I was at home lately, little children with their fingers cut off, with their ears cut off, and one with his nose cut off by Indians on that line.

There are controlling circumstances, in my opinion, that have not yet come to the knowledge of the country or of the Committee on Indian Affairs; and it is on that account that I ask that a verdict and judgment may be suspended and that only an investigation may be ordered. I know that Colonel Chivington and every man there will not shrink from an investigation. But to have the case prejudged, to have the Senate declare that their pay shall be suspended as if they were criminals, before they have been heard, I say is going faster than I am prepared to go in this case. Colonel Chivington is the colonel of the third Colorado regiment. I do not know of his being colonel of any one hundred days' men called into service by a proclamation of the Governor. There may be such men in the command, but he is in the volunteer service of the Government, amenable to a court-martial, and the regular proceedings under a court-martial.

For these reasons I shall ask that the resolution be amended, by striking out so much of it as relates to the suspension of the pay of the officers and men, thus confining it to a request to the Secretary of War to order an investigation. I do this, not because there is any particular value in the pay that I am speaking of, but because if I vote for the resolution as it stands it commits me to a decision of guilty in the case; it supposes that the Senate are ready to pronounce a verdict of that character; we at least recommend that much. I think that as far as we can safely go is to order an investigation, and let that be as thorough and as rigid as the Secretary of War or the Committee on Indian Affairs may desire.

I will not pursue these remarks further, but will now submit a motion that the resolution be amended, by striking out so much of it as relates to the suspension of the officers and men.

The Secretary read the amendment, which was in section one, line three, after the words "Secretary of War," to strike out the following words:

Be, and he is hereby, directed to cause the suspension of all pay and allowances to each of the members of the third Colorado regiment, officers, privates, and employees, and all others engaged in the recent attack made on the Cheyenne Indians, in their village near Fort Lyon, in the Territory of Colorado, under the command of Colonel Chivington, until the conduct of said Colonel Chivington, the members of said third Colorado regiment, officers, privates, and employees, and all others engaged in said attack, shall severally receive the approval of the said Secretary of War; and that the said Secretary.

Mr. HARLAN. I hope this amendment will

not be adopted. If it should be it will defeat the effectiveness of the resolution. The parties, who are chiefly hundred days' men, will probably be mustered out of the service in a very short time and receive their pay, and will disperse in the mines in the mountains, where it will be impossible to inflict on them any punishment if they be found guilty of misconduct.

I wish, in connection with this remark, to state an additional fact which aggravates the case if investigation should establish the truth of the statements which have come to the knowledge of the committee. The Governor of Colorado some months ago issued a proclamation inviting the peaceable Indians to collect together in places indicated, so as to be separated from the hostile members of tribes and the hostile tribes, for the purpose of receiving the protection of the soldiery, and in order that they might not suffer in any contemplated conflict of arms. These Indians, as we are informed, convened at this camp in the vicinity of Fort Lyon in pursuance of this invitation of the Governor. Having convened there in pursuance of the invitation of the civil authority of that Territory, where they were almost immediately assailed by the soldiery and massacred, it seems to me, if unexplained, it affords a picture of bad faith and depravity unparalleled in human history. This was not intended, doubtless, by the Governor; but how will it appear to the Indian tribes? Here the Governor of the Territory invites the peaceable Indians to separate themselves from the hostile Indians in order that they may be protected; and when they are fairly settled down in their camps in pursuance of this invitation the armed white men fall on them and massacre them.

If these allegations shall prove to be true, as the committee fear will be the case, and the perpetrators should go unpunished, it will disgrace the nation in the eyes of all just and honorable men. I know that Indians have committed outrages; they are savages, and often commit grievous wrongs; but it seems to me that that is sufficiently answered by the fact that we are not savages and should not follow their bad example. If we are not savages, we must not follow in their bloody footsteps.

Mr. WILSON. I move to strike out the word "privates" wherever it occurs in the resolution, so that it shall apply to the officers alone who are responsible. I think it is the duty of the privates to obey their officers. Our laws on that subject are very severe indeed. I think the responsibility attaches to the officers for this act. If we will strike out the privates and apply it to the officers I think it will be just and proper; but to apply it to the privates it seems to me would be to punish men who were acting under orders, and who would be shot down on the spot if they did not obey those orders.

Mr. HARLAN. I hope this amendment to the amendment may not be adopted, for this reason: it is clear, the committee think, that these privates came back laden with the loot, the fruits of this outrage and massacre, and thus connected themselves directly and criminally with the wrong. Had they simply obeyed orders and fired on these helpless creatures, there would be a palliation in the fact that they only obeyed orders, but those orders surely would not justify them in plundering the victims of the cruelty and carrying off this loot and parading it in the capital of the Territory as evidence of their prowess. The privates, it is said, came back laden with this plunder; and if it is just in relation to the officers it is just in relation to them, that the pay should be suspended until the facts can be clearly ascertained. If on investigation it shall appear that they did not connect themselves with these outrages, and are not guilty of intentional wrong, of course they will receive their pay. But then they have this plunder in their possession. They have no right to it; and one portion of the resolution directs the Secretary of War to seize it and hold it for the use of the Federal Government, or, if it should appear that the act was unwarrantable, that it shall be returned to the tribe from which it was taken; that restitution shall be made to the living part of this tribe of the plunder taken from their slaughtered comrades, and thus impress them with the conviction that the outrage was unauthorized, and that they will be treated justly by the Federal authorities.

Mr. FARWELL. I suggest that the amendment of the Senator from Massachusetts should go further. I suppose it is as much the duty of the subordinate officers to obey the orders of the commanding officer as it is of the privates, and consequently he should move to amend the resolution by striking out all but the commanding officer, to carry out his idea.

Mr. WILSON. I am willing to punish all the officers.

The PRESIDING OFFICER, (Mr. TEN Eyck in the chair.) The question will be on the motion of the Senator from Massachusetts to modify the portion of the joint resolution proposed to be stricken out by striking out the word "privates."

Mr. POMEROY. The amendment of the Senator from Massachusetts not now being in order, as the amendment that I moved is pending, I will accept the amendment of the Senator from Massachusetts as a modification of my own motion.

The PRESIDING OFFICER. The Chair will state that it is in order to move to modify that portion of the original resolution which it is proposed to strike out, before the vote is taken on striking out.

Mr. POMEROY. I will accept the modification suggested by the Senator from Massachusetts, thus confining the operation of the resolution simply to the officers.

Mr. POWELL. Mr. President, I do not think that this resolution, particularly in its present form, ought to pass. If this Colonel Chivington is guilty of the conduct indicated in the papers which have been read by the Senator from Iowa, he deserves the severest punishment. But, sir, I am not in favor of punishing any man without giving him a full and fair trial. I think, if the resolution is to pass, that the amendment proposed by the Senator from Massachusetts should first be adopted, because certainly the privates who obey orders in making a charge of the character indicated by the Senator from Iowa are not to blame.

Sir, I think the Senator from Iowa has done well in bringing this matter to the consideration of the Senate. I think it is the duty of this Senate when they are informed of such outrages on the part of any of our military commanders, by resolve, or otherwise, to call the attention of the executive department of the Government to them, and to demand that they be tried before the proper tribunals and punished. If this Colonel Chivington is guilty of the conduct stated by the Senator from Iowa he deserves to be tried before a military court and shot to death. If the facts stated in the papers which have been read to the Senate are true, that he with his command made an assault upon friendly Indians under the protection of our flag, knowing them to be such, killed them and took away their property, he is guilty of murder, peculation, and robbery, and deserves to die by the sentence of a military court.

I think it would have been better if the Senator from Iowa had introduced a resolution setting forth the facts, and asking the President or Secretary of War to appoint a military commission to investigate them, and if they found them true to inflict upon this man the punishment he deserves; and if they find them untrue, let them by a verdict of acquittal relieve our flag from the disgrace that would attach to it in consequence of the murder and robbery indicated in the papers that have been read.

But, sir, I do not think that Colonel Chivington or anybody else should be punished until his guilt has been made manifest before a legal tribunal. If the Senator will draw up a preamble embodying the facts set forth in the papers that he has caused to be read, and will then follow it up by a resolution requesting the President, or directing the Secretary of War to convene a military court, and try him and punish him if guilty, I will vote for it with the greatest pleasure. But here, by the terms of this resolution, the pay of the privates of this regiment is stopped, because they were led to this awful charge by their commanding officer. Why, sir, if these soldiers had not obeyed the orders of their superior they would have been liable to be and perhaps would have been punished in the severest manner. It is the officer who leads that is guilty; and I would not take away the pittance you give to the poor soldier. I would punish the officer for such conduct in the harshest possible manner; but I never

would punish him without first trying him before a legally constituted court, and having him convicted by that court.

I know nothing of this Colonel Chivington. I do not remember ever to have heard his name before the honorable Senator from Iowa introduced these papers to the notice of the Senate. The Senator from Kansas says he knows him, and that he is a man of the most estimable character. I dare say that is all true.

Mr. POMEROY. I said he was at the time I knew him. I have not known him for the last few years.

Mr. POWELL. I know nothing and care nothing about him; but I do know this: that if an officer of the American Army leads on the regiment he commands to such deeds as are indicated by the papers read by the Senator from Iowa, he is a murderer, a robber, and a public plunderer, and deserves to be sentenced and shot to death by a military court in obedience to the military law, if, under the military law, the punishment is death.

But, sir, this colonel, I dare say, is an honorable gentleman. The presumptions are all in his favor. The presumption of the law is that every man is innocent until his guilt is made manifest. I say not one word against Colonel Chivington. I know nothing about him. But, sir, I would not punish him; I would pass no resolve that would indicate that he had acted improperly by administering any punishment, however gentle it may be, such as the stopping of his pay, until he had been properly tried and sentenced to punishment. Do that, and all will be well.

We have had enough of this kind of thing in this country of late years, of arresting and punishing men without trial or without charge against them. I know the Senator from Iowa has read charges against this officer, but the accused has had no chance to confront and to meet them. If he is guilty you do yourself a manifest injustice by inflicting any punishment upon him until you have made that guilt manifest. Besides, if he is guilty, the stoppage of his pay is a punishment altogether too light for such crimes as are charged against him. If we do anything let us pass a resolution requesting the proper authorities to order a court of inquiry upon the case. I know that we have no power to do that; but it is within our legitimate province, and we are recreant to our high duties unless we do call the attention of the executive department of the Government to such offenses, and request that the guilty parties be arraigned, tried, and punished in obedience to law.

I have, then, two objections to the resolution. First, I do not think the poor privates ought to be embraced in it, and hence I shall vote for the amendment suggested by the Senator from Massachusetts. If it were amended in that form I could not still vote for it, because you so far adjudge the case as to inflict punishment on this colonel without his being heard; you adjudge him so far as to stop his pay. That may be a matter of great importance to him.

Mr. SPRAGUE. The subordinate officers are in the same condition.

Mr. POWELL. The Senator from Rhode Island suggests that the subordinate officers are in the same catalogue with this colonel. If there be guilt, Colonel Chivington is the guilty one; he is the man I wish to see punished, provided he is guilty; but I hope, for the honor of the flag of my country, that when the investigation is made, which I hope will be made, he will prove himself innocent of this most outrageous plunder and murder. But, sir, if he should be found by the proper legal tribunal guilty, then, in order to vindicate the majesty of the law, in order to vindicate our name and keep our flag from dishonor, he should be punished to the very extent of the law.

Mr. SUMNER. Mr. President, exceptional crimes require exceptional remedies. Here is an exceptional crime; one of the most atrocious in the history of any country. There must be an exceptional remedy to a certain extent commensurate with the exceptional character of the crime. And, sir, the remedy, in order to be anything but a name, ought to have something of swiftness in it. It must not wait the slow ceremonies of ordinary proceedings. It must have promptitude such as can be given to it by this proposition now under consideration. I thank the Senator from Iowa for bringing it forward; let us vote upon it,

put it on its passage, speed it on its way, for only by doing so can we wash our hands of this intolerable atrocity.

Mr. POWELL. The Senator from Massachusetts says he would be swift to punish. Suppose that Colonel Chivington and the men under his command should prove upon trial to be innocent; then the Senator's remedy would be swift to do injury. Sir, I am in favor of being swift to punish; but never, never would I punish swiftly or tardily until the party accused had been arraigned before a proper tribunal and found guilty. That is the difference between the honorable Senator from Massachusetts and myself. He is swift to punish before the party has been tried and adjudged guilty; I would only be swift to punish after the party had been tried before a legally constituted tribunal and found guilty.

Sir, propose your resolution to have this man, upon the papers you have got, ordered instantly under arrest, and request the President, the Commander-in-Chief of the armies of the United States, or direct your Secretary of War, if you please, to arraign him before a military tribunal and try him, and if he be found guilty I would be the last man to ask that he be exempt from any punishment inflicted under the law. I know, and the Senator from Massachusetts knows, that the conduct charged by these papers against this Colonel Chivington, if true, will under the military law condemn him to death. If they are true, he is guilty of murder, which would consign him to death under the law; he is guilty of plunder and pillage, and pillage under the military law is punished by death, or by any other punishment that a court-martial may choose to inflict. Almost every count (if I may use that term) in the charges against this person, under the military law would consign him, if guilty, to death.

Sir, I would not prejudice any man. I would give him a fair and impartial trial, and if found guilty, then I would be swift in my punishment, but not till then. In my judgment, if you pass this resolution you will do this man a manifest injustice; you will do yourselves greater injustice; for the Senate of the United States ought to be governed not only by the dictates of humanity, but by the laws of the land. Every man is presumed to be innocent until his guilt appears or is made manifest before some legal tribunal. There is no such establishment of guilt against this man. I admit that without establishment of guilt you can proceed so far as to arrest and arraign him, but no further can you go. You cannot legally make that arrest in the civil courts except there is probable cause shown in the affidavit; but under the military law you have a right to make out your charges and arraign this man and try him.

I know nothing whatever of this Colonel Chivington; and it does not matter whether I know him or not. He may be guilty. I fear for the honor of my country that he is guilty; for the statements that the Senator from Iowa has brought to the attention of the Senate from Government authorities seem to indicate that all is not right in that direction. I by no means wish to censure the Senator from Iowa for bringing this matter to the attention of the Senate. I think that he has acted well in that. He has been governed by high dictates of justice and humanity, and for that I commend him. I do not think he is pursuing the proper and legal course to reach the evil of which he complains; and that is the only thing in which I think he is in fault.

Mr. HARLAN. I think the Senator makes a strong case by his statement of facts. He argues on the presumption that this proposition is a punishment, presuming that these parties are guilty, when the reverse is true. The resolution proposes that the pay shall be suspended and the plunder taken into custody of the officers of the United States, and thus—

Mr. POWELL. If the Senator from Iowa will allow me, it would not be so much punishment as it would be an implication of guilt. When the Senate of the United States act in this matter by solemnly passing this resolve, it certainly is an indication of guilt; for the presumption is that this honorable body would not proceed and stop this man's pay unless there was some guilt made manifest to them.

Mr. HARLAN. I have yet to learn that the suspension of pay is regarded by soldiers or offi-

cers as a punishment. In a mere civil proceeding, the officers of the court frequently take possession of the property which is the object of the litigation. It may be an inconvenience to the real owner, but to secure the ends of justice you are compelled to seize the property and hold it until the case shall have been tried. In criminal proceedings or proceedings smacking of fraud, you are frequently under the necessity of taking possession of the party implicated, the person involved in the controversy. To that extent it may be an inconvenience; but if the Senator's logic is correct as applied to this case, it would suspend all the preliminary proceedings in every criminal case and many civil cases. If a party is about to dispose of his property for the purpose of defrauding a creditor, you have the right to seize the property and hold it subject to the final order of the court after a full hearing. So if an individual is alleged to have committed a wrong of a criminal character, you seize his person and retain him in custody until the case is tried. I have yet to learn that any lawyer of reputation has maintained that you have already adjudged the case when you arrest the individual who is charged, and retain him in custody for the purposes of a trial. These personal inconveniences are sometimes necessary to secure the ends of justice.

So it is in the present case. The committee believe, and I believe, that these parties have violated the law, have violated their duty, have committed a flagrant outrage; and this resolution, if adopted, proposes that the pay to these parties shall be suspended for a temporary purpose until the case can be heard, that the plunder which it is alleged they have secured from these victims shall be retained in the custody of the officers of the Government until a final adjudication shall be had, and then if it shall prove to have been properly taken from these Indians, it will of course, revert to the Government, will belong to the Government; if otherwise, it ought to be restored to the parties from whom it has been plundered. This is the whole case. If it was really adjudging the case and proposing the punishment of these parties in advance of a hearing, I would vote as the Senator from Kentucky suggests, but I submit it does not partake of that nature. It is merely a preliminary proceeding necessary in order to secure the ends of justice in the case at bar.

Mr. DOOLITTLE. I have no doubt the Senator from Ohio is right in that view, that his answer is a perfect one to what has been said by the Senator from Kentucky, that this resolution assumes the guilt of these parties. It does not make the assumption; but it does assume to say that such guilt has been charged, and we believe the question has been raised to such an extent that there ought to be an inquiry to see whether guilt exists or not, but that in the mean time the pay of these hundred days' troops should be suspended.

There is another reason, which in my judgment is a very strong one, why this resolution ought to be adopted. There is a constant tendency on the part of the men in command of our military forces in the neighborhood of Indian tribes, without any direct order or authority from the Government here at Washington, to commence a warlike expedition. Before it was known by the Indian department that any such policy had been adopted, the Navajos, as a nation, consisting of about ten thousand men, were captured in the mountains in New Mexico and brought over and placed upon the Pecos river.

Mr. CONNESS. Will the Senator permit me to say a word at this point?

Mr. DOOLITTLE. Certainly.

Mr. CONNESS. I wish simply to state at this point that in my opinion, and I think I am right, the Navajos were never captured, but the military department or power there simply entered into a speculation of feeding the women and children while the Navajos in fact were out fighting us as much as they ever have been since.

Mr. DOOLITTLE. I will not go into the details and principles of that matter in reply to what is said by the Senator from California, as it would lead me from the question now before us; but I desire to state—

Mr. CONNESS. I beg the Senator's pardon; I did not desire to lead him from the question.

Mr. DOOLITTLE. What I desire to say is this, that these military expeditions, which cost the Government from one to two and three and five million dollars, are sometimes undertaken by military commanders who have forces under their command in the neighborhood of Indian tribes, and in this way wars are inaugurated which entail upon us an expenditure of millions upon millions. I think it is well to adopt a resolution having a bearing like the present one, where we have a case presented like the present, to suspend the pay of these men until we can ascertain whether this conduct is really approved by the War Department or not.

It was said by the honorable Senator from Iowa, and there are statements coming to us which lead us to believe that it may be so, that there is a new expedition now organized against the Camanches, the most powerful of all the Indian tribes, with more than three thousand warriors, perhaps the best horsemen in the world, like the Arabs on the plains; a war which, if it once be inaugurated and undertaken and prosecuted, will cost this Government perhaps twenty million dollars before it is ended. It is time that the country should wake up to these military expeditions inaugurated, in my judgment, without the direct authority of the War Department here at Washington, against these Indian tribes, involving these wars, these expenses, and all the inhumanity, too, which follows.

But, Mr. President, I am content, so far as this resolution is concerned, that it shall be adopted in its present form, not to charge guilt upon Colonel Chivington, but simply to say that such facts have come to the knowledge of the Senate that it is desirable that further proceedings, at all events, in the payment of these troops, shall be suspended until the Secretary of War has an opportunity to look into the case, and shall either approve or disapprove of the conduct of Colonel Chivington.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The question is on the pending amendment. The Senator from Kansas moves to strike out from the bill a certain clause which has been read. The Senator from Massachusetts moves to amend the clause proposed to be stricken out, by striking out the word "privates" wherever it occurs, which is first in order, by way of perfecting the words proposed to be stricken out.

Mr. CONNESS. I understand that to be accepted.

The PRESIDING OFFICER. It cannot be accepted. The question is on the amendment moved by the Senator from Massachusetts to strike out the word "privates" wherever it occurs.

The amendment was not agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Kansas.

Mr. POMEROY. I accepted in the amendment which I offered the modification of the Senator from Massachusetts.

The PRESIDING OFFICER. The Chair understood that; but it is not competent for a Senator moving to strike out certain words to accept a modification of the words proposed to be stricken out.

Mr. POMEROY. I knew it was not competent except by unanimous consent.

The PRESIDING OFFICER. The Senate have decided it, and negatived the proposition.

Mr. POMEROY. I said at the time that I thought it could be done by unanimous consent.

Mr. CONNESS. You could not get that.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas to strike out certain words in the first section, which will be read.

The Secretary read them, as follows:

Be, and he is hereby, directed to cause the suspension of all pay and allowances to each of the members of the third Colorado regiment, officers, privates, and employees, and all others engaged in the recent attack made on the Cheyenne Indians, in their village, near Fort Lyon, in the Territory of Colorado, under the command of Colonel Chivington, until the conduct of said Colonel Chivington, the members of said third Colorado regiment, officers, privates, and employees, and all others engaged in said attack, shall severally receive the approval of the said Secretary of War; and that the said Secretary.

So that the section will read:

That the Secretary of War shall cause all ponies, blankets, money, jewels, furs, and other property, captured from said Indians in said expedition, to be seized and held for

the use of the United States, or for restitution to said Indians should it hereafter appear that said attack was unjustifiable.

The PRESIDING OFFICER. It is for the Senate to decide as to the consistency of the words remaining if the proposition to strike out shall be carried.

Mr. GRIMES. I should like to be informed whether or not—I have heard statements made either way and both ways here—these soldiers were three months' men, ninety days' men, hundred days' men, or whether they are soldiers regularly enlisted for a period of three years. Does any one know?

Mr. HARLAN. The information which the committee have received lead them to believe that the most of the men, perhaps nearly all, were hundred days' men, and probably will be mustered out of service in a few days.

The PRESIDING OFFICER. The question is on the motion to strike out the words which have been read.

The motion was not agreed to.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### FRENCH SPOILIATIONS.

Mr. SUMNER. I wish to move to take up a bill in order to make it the special order for Tuesday or Wednesday next: I will say Wednesday next. It is Senate bill No. 213, reported from the Committee on Foreign Relations, to provide for the adjustment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st of July, 1801.

The PRESIDING OFFICER. The Senator from Massachusetts moves to proceed to the consideration of the French spoliation bill with a view of making it a special order.

The motion was not agreed to.

#### BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 94) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war; which was read twice by its title, and referred to the Committee on Naval Affairs.

#### AFFAIRS IN MEXICO.

Mr. WADE submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not incompatible with the public service, any correspondence or other information in possession of the Government, in regard to the present condition of affairs in Mexico, and especially the papers in relation to the case of the French war transport steamer Rhine, which it is alleged took articles contraband of war from San Francisco to the French forces at Acapulco, in the Mexican republic.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. HENDRICKS, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Friday, January 13, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Mr. TOMLINSON, of Warsaw, New York. The Journal of yesterday was read and approved.

#### THEORY OF FINANCIERING.

Mr. MOORHEAD, by unanimous consent, presented a communication from John Koppitz, of Pittsburg, Pennsylvania, entitled "Financiering; or, a Guide to Happiness, by removing Poverty and the fear of it;" which was referred to the Committee of Ways and Means.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, informed the House that he had approved and signed bill of the House No.



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

TUESDAY, JANUARY 17, 1865.

NEW SERIES.....No. 17.

595, to amend an act entitled "An act for the punishment of crime in the District of Columbia," approved March 2, 1831.

#### SUPPRESSION OF TELEGRAPHIC DISPATCHES.

Mr. KASSON. I ask unanimous consent to present a communication from Samuel Wilkeson, Washington editor of the New York Tribune, calling attention to a subject of great importance to the press; and I ask that, by general consent, it be read.

There being no objection, the communication was received, and was read, as follows:

The undersigned represents to the Congress of the United States that he is the Washington editor of the New York Tribune; that as such he sent on three different days within the current week to the office of the American Telegraph Company in this city, for transmission to the Tribune in New York, telegrams announcing the removal of General Butler from the command of the army of the James; that these telegrams were not sent but were suppressed; that your petitioner has been informed that they were suppressed by an order issued from the War Department; that your petitioner has reason to believe that a censorship of newspaper telegrams has been established in the city of Washington without law, and that the same is exercised therein without responsibility, in violation of the freedom of the press, to the injury of lawful business, in violation of the rights of property, and in nullification of law.

Your petitioner further represents that this suppression of the news of the removal of General Butler extended to and included the telegrams, announcing the same, sent to all the newspapers in the northern and western States by their representatives resident in Washington; and that, while this censorship and suppression were in force in Washington, the agent of one New York newspaper at the headquarters of the army of the Potomac had free let and license accorded to him to send to his paper full accounts of the said removal of General Butler, with extended comments thereon; which license he improved, and thereby secured for and gave to his paper a monopoly of said news over all the papers of the United States, to the unjust interference with business and the violation of equity.

Your petitioner therefore prays for the passage of a law which shall place the right to use the telegraph on the same ground with the right to use the mails, and that shall punish interference with and interruption or suppression of this right as law now punishes suppression or interruption of and interference with the right to use the mails of the United States.

SAMUEL WILKESON.

Washington, January 12, 1865.

The communication was, on motion of Mr. KASSON, referred to the Committee on the Judiciary.

#### INTERNAL REVENUE.

Mr. THAYER, by unanimous consent, introduced a bill to amend the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

#### CONSIDERATION OF PRIVATE BUSINESS.

Mr. HOLMAN. I ask unanimous consent that to-morrow, after the morning hour, shall be set apart for private business, and be considered objection day. That will probably be the only opportunity we shall have to consider private business.

Mr. WASHBURNE, of Illinois. I object.

#### COAST SURVEY REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution, which was read, considered, and agreed to:

Resolved, That there be printed three thousand extra copies of the coast survey report for 1864; two thousand for the use of the coast survey, and one thousand for the use of this House.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARMY RATION.

Mr. COBB, by unanimous consent, presented the petition of the enlisted men of the forty-ninth regiment of Pennsylvania volunteers for a restoration of the former amount of the Army ration; which was read, and referred to the Committee on Military Affairs.

#### NEW POST ROUTE.

Mr. BEAMAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a mail route from Hillsdale, in the State of Michigan, by the way of Frontier, to Amboy, in said State; and that they report by bill or otherwise.

#### AMENDMENT OF THE ENROLLMENT ACT.

Mr. MILLER, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the enrollment act as to provide that all persons liable to the draft, who shall hereafter volunteer, shall be credited to the town in which they are enrolled; with leave to report by bill or otherwise.

#### VENTILATION OF THE HALLS OF CONGRESS.

Mr. PIKE. Mr. Speaker, I move that by unanimous consent the House take from the Speaker's table, for action at this time, the concurrent resolution from the Senate that the joint committee on ventilation and improvement of the Halls of Congress be authorized to examine witnesses and employ a reporter, and that the members of the committees of the two Houses upon Public Buildings and Grounds be added to the said joint committee upon ventilation, &c., for the purpose of deciding upon any plan or proposition of improvement which may be before said committee for consideration.

Mr. WASHBURNE, of Illinois. I object.

#### ADJOURNMENT OVER.

Mr. COFFROTH moved that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was disagreed to.

#### PACIFIC RAILROAD.

Mr. COLE, of California, by unanimous consent, introduced a bill to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864; which was read a first and second time, and referred to the select committee on the Pacific railroad.

#### WILLIAM HUTCHINSON.

On motion of Mr. WADSWORTH, by unanimous consent, leave was granted for the withdrawal from the files of the House of the petition and papers in the case of William Hutchinson.

#### UNITED STATES DEPOSITARIES.

Mr. WILSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the forty-fifth section of "An act to provide a national currency," &c., as to prohibit the designation of associations under said act as depositaries of public money in all cities and towns where there is a sub-Treasurer of the United States, and in all such cases to require the public money to be deposited in the sub-Treasury; and that the committee further inquire what additional legislation is necessary to render the Government secure against loss on account of public money deposited with designated depositaries under said act, and report by bill or otherwise.

#### GEOLOGICAL SURVEY OF DAKOTA.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill to provide for a geological and scientific examination of a part of Dakota Territory; which was read a first and second time, and referred to the Committee on Territories.

#### VIRGINIA CIRCUIT COURTS.

Mr. BOUTWELL, by unanimous consent, introduced a bill for changing the time for holding circuit courts in the district of Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ADDITIONAL PENSIONS.

Mr. MILLER, of Pennsylvania, by unanimous consent, moved that the bill in reference to additional pensions for the widows of Generals Whipple, Baker, and Berry, heretofore laid upon the table, be taken up and referred to the Committee on Invalid Pensions.

The motion was agreed to.

#### ADJOURNMENT OVER—AGAIN.

Mr. STEVENS. Mr. Speaker, I rise to submit a motion, but before doing so I will, with unanimous consent, make a single remark. I intend to move that when the House adjourns to-day it adjourn to meet on Monday next, so as to give the Committee of Ways and Means an opportunity to occupy the whole of to-morrow in the preparation of the appropriation bills. The morning previous to the meeting of the House does not suffice for the work we have to do, and it is necessary that we should have to-morrow. I propose the House shall take a holiday and that the committee shall work all day to-morrow. I therefore move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. JOHNSON, of Pennsylvania. I would like to inquire of the gentleman from the Toledo district of Ohio, [Mr. ASHLEY,] who has in special charge the special order—the constitutional amendment question—when he expects to bring us to a vote upon it. There are some of us who have business which will call us out of the city.

Mr. ASHLEY. After consultation with the friends of the measure on both sides of the House last night, we concluded to postpone the vote for a fortnight at least.

Mr. JOHNSON, of Pennsylvania. If that can be so arranged I shall not object to adjourning over to-morrow.

Mr. WASHBURNE, of Illinois. After the gentleman from Missouri [Mr. ROLLINS] concludes his remarks I hope the gentleman from Ohio will make a motion to postpone the subject until a given day.

Mr. ASHLEY. In accordance with the request I will now move that after to-day the further consideration of this question be postponed until Friday, two weeks from to-day, after the morning hour.

The SPEAKER. Unless the House sets aside private business, this day will be devoted to the consideration of that business.

The question was then put on the motion of Mr. STEVENS to adjourn over until Monday, and it was agreed to.

#### POSTPONEMENT OF PRIVATE BUSINESS.

Mr. WASHBURNE, of Illinois. I move that private business be postponed for to-day.

Mr. HALE. We have had no day this session for private business. I think we ought to have one day, and hence I am opposed to the motion. I hope the gentleman will not press it. The motion to postpone was agreed to.

#### ABOLITION OF SLAVERY.

Mr. ASHLEY. I move that the further consideration of the special order be postponed after to-day until next Tuesday two weeks, after the morning hour.

The motion was agreed to.

Mr. ASHLEY moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the business in which the House was engaged at the adjournment yesterday, being the motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, on which the gentleman from Missouri [Mr. ROLLINS] is entitled to the floor.

Mr. ROLLINS, of Missouri. Mr. Speaker, I desire to submit a few observations to the House upon the important proposition now pending before the final vote is taken upon it. The remarks which I shall make will be rather in the nature of a personal explanation than any elaborate argumentation of this question. At the last session of Congress when the vote was taken upon this proposition I voted against it. On this occasion when the vote is taken I propose to vote for it. I have changed my views in reference to the expediency of this measure; and while I do not suppose that anything I may say will have any influence whatever in changing the vote of any gentleman upon this floor, I am satisfied with the reasons which have induced me to change my opinion and my action; and it is perhaps due to myself, humble as I am, due to those I represent and who take any interest in the opinions which I may entertain or express here, to present to the House and the country some of the considerations which have induced me to change my action and my vote.

Mr. Speaker, I entertain the same opinion to-day in regard to the rebellion that I have ever done. I feel the same animosity, the same hatred, the same contempt for it now, and for those who initiated it, as I did when it was first put on foot. Indeed, I may say, sir, that, looking at the consequences which it has produced in my own State and throughout the country, I am less inclined to-day than ever to look upon it with any degree of forbearance. Regarding it always without excuse or justification I am inclined to the opinion to-day that there was not even the shadow of a shade of pretext for putting on foot this infamous and disastrous rebellion.

But, sir, heretofore, and even now, I have acted with that body of men who are disposed to pursue a conciliatory policy with a view to obtain the high object we all had in view, and that was the preservation of the Constitution and the salvation of the Union. When I say I have been acting with that class of men who desire to pursue a conciliatory policy, I do not mean to say that I have not ever been in favor of an earnest prosecution of this war; but I mean to say that I desire to blend the two, *war and the olive-branch*; the olive-branch always in front of the sword, and a constant appeal to the intelligent public sentiment of the South that it was not the object of the Government to oppress, but that it was the high and noble purpose of the Representatives of the people and of the United States Government to extend and secure to them all the rights which they can rightfully claim under the Constitution of our fathers. It is my firm conviction that we have not enough pursued a conciliatory policy; not enough tried to impress on the public mind of the masses of the South the true objects we all have in view in the prosecution of this war. And while I am not disposed to say to-day that a different line of policy would have brought about a different result, would have had the effect of putting down the rebellion, to have stopped this unfortunate war, to have sustained the Government, I am sure such a policy would have done no harm; that the effect would have been good; that at all events it would have resulted in consolidating the Union sentiment in the loyal States of the Union, and checked to a great extent the collision of sentiment and consequent diversity of action which has occurred among Union men.

I have been surprised, Mr. Speaker, that the distinguished men who have charge of the Government have not stopped long enough to listen to the suggestions of plain and humble men in regard to this question. Sir, if I had occupied the high position of the President of the United States, even now recently, I would have made every soldier in Sherman's army the bearer of a message of peace and good will to the humblest men in the humblest cabins in the State of Georgia. He then had an opportunity of reaching that distant population. I judge the people from my own experience. I know how the masses of the common people have been deluded and misled by their traitorous leaders. I have seen the effect of this thing around me at my own home, and I know the influence which such appeals, coming from those in authority, have upon the minds of the masses of the common people of the country; and I believe to-day that if such a line of policy had been pursued, and if the minds of the people of

Georgia could be reached, it would be but a short time before the Administration of this Government would have a stronger and more powerful party among the people of that State than Davis himself!

Mr. Speaker, I have another general observation to make. In all my action as a Representative upon this floor it has never been my purpose to pursue a course either for the preservation or for the destruction of the institution of slavery. I have had a higher and a nobler object in view, for I regard it a more high and noble object to preserve this free Constitution of ours, to preserve our noble and happy form of government, to preserve the union of these States, than any question connected with the preservation or destruction of African slavery upon this continent. That has been a secondary and subordinate consideration altogether compared with the better purpose which I have just named; and in every vote that I have given, whether tending to weaken the institution of slavery or to strengthen that institution, it has been cast after considering the question, how far will this or that measure tend to strengthen the Government and to preserve the Constitution and the Union?

"To be, or not to be, that is the question."

Sir, if I could save this Constitution and this Union by preserving the institution of slavery in its present status in the various States I would do it most cheerfully. Perhaps I would go further than many of my friends on the other side of the House: if I could save the Constitution of my country and the union of these States even by extending the institution of slavery, I would do it. And why? Not because I am the especial friend of the institution of slavery, but because I regard as the paramount and most important question of the times the preservation of our own liberties, of our own Constitution and free Government. And, sir, I accept also the other view of the proposition: if I could save the Constitution and the Union by the partial destruction of slavery I would partially destroy it; and if I could save the Constitution and Union of my country by the total destruction of slavery—cutting it up by the roots, cutting out the cancer at once—I most unquestionably would do it; for I regard the preservation of these as paramount to and far higher than any question affecting the freedom or slavery of the African race upon this continent. In other words, I adopt precisely the sentiment so felicitously expressed by the President of the United States in a letter which he addressed to Mr. Greeley more than two years ago; and, in order to refresh the minds of these gentlemen who are pleased to give me their attention, I desire to read one or two sentences from that letter. It expresses the correct views, as I think, that all men who aim at the preservation of the Government should adhere to. The President said:

"My paramount object in this struggle is to save the Union, and is not either to save or to destroy slavery. If I could save the Union without freeing any slave I would do it; and if I could save it by freeing all slaves I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the colored race, I do because I believe it helps to save this Union; and what I forbear, I forbear because I do not believe it would help to save the Union. I shall do less whenever I shall believe what I am doing hurts the cause, and I shall do more whenever I shall believe doing more will help the cause."

That was the disposition of the President two years ago. That was my position two years ago; that is my position now. And what I propose to do now in the vote which I shall give upon this proposition, is simply because I believe that ultimately it will tend to save the Union; and to do that I am willing to do more now than I have heretofore done. When I cast the vote which I did before upon this proposition, I had no doubt in regard to the power of Congress to submit this amendment to the States; and the vote I gave at that time was given on the ground of expediency alone. For at that time, as I have stated, I was in favor of pursuing a more conciliatory policy. I believed at that time that by pursuing such a course and assuring the people of the South that our object was to preserve their rights under the Constitution they might be induced to return. And I was willing that they should return with the institution of slavery preserved as it then existed in different States of this Union. And I believe now that if political events had taken a different direction from what they have taken in all proba-

bility those States would be invited to return with all their rights, and along with the rest their right to the institution of slavery.

And I will make this further remark, that it was this general leading consideration that induced me to support the distinguished and patriotic man who was nominated for the Presidency in opposition to the present President. It was because I believed the one would offer and be satisfied with more liberal terms than the other, and that there would therefore be in all probability a better chance of preserving the Constitution and the Government under the administration of that man than by a continuance of the administration of Mr. Lincoln. But I confess here to-day that when I look at all the changes which would have necessarily resulted from a change of Administration, in its men and its policies, I am inclined to doubt whether, *under all the circumstances*, the people have not at last acted more wisely than I did. I do not claim to be infallible.

While I do not take the voice of the majority, however large, as the sole rule of my action, I am always willing to defer to it, and to treat with respect the opinions of a majority of the people of my country. It has been intimated here that perhaps there are some gentlemen who incline to change their views and action in reference to this important subject because the current seems to set in that direction. Now, if I believed that I was governed by any such consideration as that I should despise myself. I never have been a man to seek out the direction of the popular current upon which to set sail in my feeble bark. It is the pride of my public life that I have nearly always been in a minority, at home and in the nation. I never had an opportunity hardly to know how a man feels in the majority! And I have some pride in regard to it, because I believe that, as a general rule, there is more public virtue, more truth, and more honesty with the leading minds that control minorities than with those who direct majorities, and this from a principle in human nature which we all understand. No, sir, I am governed by no such consideration as that. I am governed by the single object of doing something in my humble way that may tend to preserve this Union and continue it after we shall have restored to it the States now in rebellion.

Now, sir, I come to make a few observations in reference to a question which has been very elaborately discussed here during the consideration of this subject; and that is the question of the constitutional power of Congress to do the thing we aim at to-day. I know how immodest it may be for me, after the very able and distinguished gentlemen who have discussed this question so elaborately, to say a word upon it. But as I speak for my constituents at home, as well as to this House, and especially those who act with me on this occasion, I desire to be clearly understood. If I believed this amendment to be unconstitutional, as a matter of course I would be bound by my oath not to give a vote for it; but believing it to be constitutional, and believing also in the expediency of the measure, I shall vote for the amendment.

Is this amendment constitutional? How are we to get light upon this subject? My answer is, by referring to the instrument itself; and I have yet to meet the first gentleman on either side of the House who will deny the proposition that in accordance with the letter of the Constitution this amendment may be proposed to the States for their adoption or rejection. The provision of the Constitution which confers the power of amendment, and which I do not propose to read, has but two limitations, as has been repeatedly remarked in this discussion. So far as the letter of the Constitution is concerned, except in reference to those two limitations, Congress has the right and the power to propose any amendment to be adopted or rejected by the States themselves. According to the letter of the Constitution we are governed only by the two limitations found in the instrument itself.

And the next question which presents itself is whether there are any other limitations in the Constitution, except the restrictions found in the article itself, to prevent Congress from proposing this amendment to the States.

Mr. C. A. WHITE. I understood the gentleman from Missouri [Mr. ROLLINS] to say that no person upon this side of the House had advo-

cated the principle that the letter of the Constitution put a limitation upon the power of Congress to pass this amendment. I beg leave to remind him that in the few remarks which I had the honor to submit on Wednesday last I made that distinct proposition. I contended that the word "amendment" was a limitation of itself; that the amendment must relate to some clause or provision already in the Constitution. And that this proposition now under consideration being to insert a separate and distinct clause in the Constitution, having no connection with any grant of power to be found in it, was a supplement to the Constitution and not an amendment; and that the very letter of the Constitution limited the power of Congress over the subject of amendments to the delegation of powers to Congress to amend the Constitution.

Mr. ROLLINS, of Missouri. My answer to the gentleman is, that all the amendments that have been made were open to the same objection. I was not so fortunate, Mr. Speaker, as to hear the gentleman's speech, nor have I had time to read it; but in reference to the question of limitation, I think that the best way to obtain light on the subject is to read what the Constitution itself says:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

The Constitution can only be changed by amendment, and, according to the gentleman's theory, we can add nothing to it, *however good or desirable*, unless there was already "some clause or provision in the Constitution" relating to the subject proposed to be added. This I regard as absurd.

Now, sir, I cannot for my life see, as my friend from Ohio sees, where there are any other limitations of the power of Congress, according to the letter of the instrument, than those which we find in the clause of the Constitution itself. The limitation is there according to the letter, and there alone; and if there is any other limitation in reference to the power of Congress, it must be outside of this article of the Constitution; and the next question which I propose to suggest, in order to come to a correct conclusion on this subject, is, is there any other limitation of the power of Congress in proposing amendments to this instrument? I assert that there is; and I adopt the very excellent view suggested in the running debate by the gentleman from Massachusetts, [Mr. BOUTWELL,] in answer to the distinguished gentleman from Ohio, [Mr. PENDLETON;] and that is, that the limitation of amendment to this Constitution is found also in the very preamble to the instrument itself. I do not believe, sir, with my friend from Ohio [Mr. Cox] that we have a right to make any amendment whatever to this Constitution, that there is no limitation except the express limitation contained in the clause which I have just read. There are other limitations, and those limitations are found, as I conceive, in the preamble preceding the Constitution itself. What is that preamble?

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Now, I do not believe that any amendment can be made to this instrument which has for its object, or whose direct tendency would be, to destroy the very object and purposes for which the Constitution was established. Therefore, sir, any amendment to this Constitution which would destroy "a more perfect union," which would fail to "establish justice," which would fail to "insure domestic tranquillity," which would fail to "provide for the common defense," or to "promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," is not an amendment which may be proposed by Congress, or may be adopted and ratified by the States; and

every Representative who votes must be a "law unto himself" whether any amendment proposed is in accordance with the Constitution.

Mr. COX. I desire to ask the gentleman a question. Who is to be the judge whether a proposed amendment comes within the scope of the preamble?

Mr. ROLLINS, of Missouri. I will be the judge myself, so far as I may be called upon to vote for or against it.

Mr. COX. I would prefer, according to my peculiar logic, to allow the States themselves to be the judges. Therefore I infinitely prefer the gentleman's first proposition—that the power of amendment is not limited except by the terms of the clause of the Constitution on that subject.

Mr. ROLLINS, of Missouri. I will answer the gentleman, that so far as my action and my vote are concerned, my own judgment—and I presume so far as the vote of every other member in the House is concerned, his own judgment—must be the rule in reference to the question whether a proposed amendment comes within the scope of the preamble; and I presume that the States themselves must be the judges when an amendment is submitted for their consideration and action. If three fourths of the States adopt a proposed amendment, it becomes a part of the Constitution. But suppose the other fourth decline to adopt the amendment what then? If it is such an infringement of their rights, such a destruction of their liberties, such an interference with their domestic policy, that they regard themselves justified in raising the standard of revolt and revolution in order to resist the amendment which the other States have adopted, I take it that the State itself would be the better judge as to the course which it would have a right to pursue.

But, sir, it has been urged that this amendment is contrary, although not to the letter, to the *spirit of the Constitution*. Well, Mr. Speaker, I am a believer, too, in this doctrine that we must be guided by the spirit of the Constitution. I would neither violate its letter nor its spirit. But I confess, sir, that it is difficult for me to define or exactly to understand what is meant by the spirit of the Constitution. Perhaps it is like the passion which young people experience, and which is well described in the language of the young lover:

"'Tis what we feel, but can't define;

"'Tis what we know, but can't express."

We all know that there are amendments which might be proposed, and which would be in strict accordance with the letter of the instrument, but which we would feel to be violative of its spirit.

Sir, if you proposed an amendment changing entirely the form of our Government, creating a monarchy or despotism instead of a Republic, I presume, although gentlemen might find an express warrant of law in the Constitution to do this thing, yet it would be against the spirit of that instrument. I presume if an amendment were proposed to require one State to pay a much larger proportion of taxes than in accordance with its representation, although you might find a warrant for it, yet it would be against the spirit of the Constitution. I presume if you were to propose an amendment to establish a State religion throughout the land, while the letter of the Constitution might not be against it, yet every man who favored religious toleration and who was against an established Church, would feel that the spirit of the instrument had been violated.

I believe, then, sir, that this amendment is in accordance with the express letter of the Constitution. I believe that it is in accordance with the preamble of the Constitution. I believe that it is in accordance with the true spirit, meaning, and intent of that instrument, and the objects and purposes for which it was framed by our forefathers, and that if all the States could be induced to adopt it it would go far to strengthen the Government, by preventing future dissension and cementing the bonds of the Union, on the preservation of which depends our strength, our security, our safety, our happiness, and the continued existence of free institutions on the American continent.

The only question left for me to decide, sir, is whether this is a measure which is expedient and which ought to be adopted. I believe in both its expediency and constitutionality.

Now, Mr. Speaker, in making a few remarks on the other branch of the question, I want to

put a few interrogatories to gentlemen who differ with me. Does any man in this House, does any intelligent man in any of the loyal States believe that the institution of African slavery will survive this rebellion? If there is such a man I choose to differ from him. I believe, as has often been remarked here, that the existence and continuance of human slavery is wholly and entirely incompatible with a state of civil war in the country. The rebellion, instigated and carried on by slaveholders, has been the death-knell of the institution; and, believing this, shall we any longer rely upon the President's proclamations, which are doubtful in their policy and character? Shall we rely upon the exercise of those extraordinary powers originating in a time of war? or shall we not, like wise and prudent statesmen, come to the rescue at once, take it up, handle it, discuss it in a statesmanlike way, and adopt the true and only peaceful mode pointed out in the Charter of our liberties for meeting and disposing of questions of this character.

Mr. Speaker, I have another remark to make in regard to the limitation in the fifth article of the Constitution. How did it happen that the framers of that instrument only extend the limitation of power to two subjects? Why did they preserve the representation of the small States from amendment? Why did they allow the African slave trade to remain untouched only prior to 1808? I answer, it was because the great men who laid the foundations of civil government upon the American continent, according to my reading and understanding, were essentially anti-slavery, North and South, and, looking upon the institution of slavery as an evil, they determined to check its growth; hence in the Constitution they placed a limitation upon the African slave trade, limiting it to the year 1808. So on the other subject of the representation of the small States. The small States represented in that Convention seeing the great inequality of authority and power given to them by that clause of the Constitution which enabled Rhode Island to exercise in the Senate of the United States as much power as New York and the other great States of the Union, and tenacious of the power thus secured to them, insisted, and it was finally yielded to them, that upon that point the *Constitution of the United States should remain unamended through all time*.

Now, I ask you the question how easy it was, and why the framers of the Constitution did not add to that clause that no amendment should be made changing or modifying the institution of slavery as it exists in any State of the Union? Why was this not ingrafted upon the Constitution? I have an answer satisfactory to myself on that subject. It was because the great men of that day, the men who framed this Charter of human freedom for the American people, were in heart and in principle hostile to the institution of slavery; and although they did not take the responsibility of disposing of it, they accepted it as they found it; and the writings and teachings of the great men of the North and South justify me in claiming that they looked forward to the day when their posterity would finally, in *some form or other*, dispose of the institution which they themselves regarded as hurtful to the happiness and progress of the country.

Hence I go a little further than my venerable friend from Missouri, [Mr. KING,] though he and I are exactly in the same category upon this question. I express my belief that the limitation preventing the abolition of slavery in the States by Congress was not placed in the Constitution for the reason of a desire to leave that an open question, and hoping and believing that at a distant day in the history of our country, when there would be a higher and more Christian-like civilization, a better view of this subject, that we, their posterity, might have the power which they gave to us in the instrument itself, to take hold of the question and dispose of it in some fair, right, and proper way. Such is my belief; whether well-founded or not is another thing. They regarded the institution as an evil, and no such limitation could have been incorporated into the Constitution by the Convention which framed that instrument. They regarded it as an evil one day or other to be disposed of, and they left the door open to those who were to come after them for the express purpose of enabling them, when a good opportunity



offered, to do the very thing which they failed to do themselves.

Mr. Speaker, every man, however humble he may be, has some personal pride in the opinions he may entertain upon a great question of this sort. I am not free from considerations of that kind, and when I hear my friends over the way upon the Republican side of the House—and I know I have a great many friends there—intimate that because a man cannot vote with them and I upon this amendment he sympathizes with the rebellion, or is an apologist for the rebellion, I confess I cannot indorse either the good taste or the propriety of such imputations. Such remarks elsewhere than here have been applied to me, and yet I know they have not fitted my case, because I take this occasion to state my opinion—an opinion I have entertained for twenty-five years—that the institution of African slavery cannot be defended either upon moral or religious grounds, or upon principles of natural right or political economy.

I am a believer in the Declaration of Independence wherein it is asserted that "all men are created equal." I believe that when it says "all men" it means every man who was created in the "image of his Maker" and walks on God's footstool, without regard to race, color, or any other accidental circumstances by which he may be surrounded. I know that astute politicians, crafty and ambitious men, in various periods of the Republic have tried to draw a distinction between this man and that man because he happens to have a different colored skin; that the Declaration was applicable alone to white men, and not to the black man, the red man, or any other than the white man. That the word "all" meant a part, not "all!" But, sir, I believe that that general clause in the Declaration of Independence was meant, by the immortal man who penned it, and by the immortal men who signed it, and by a large majority of the great men of that day North and South, to assert the great principle, founded in the rights of man, founded in reason, and in strict accordance to the law of morality and of the Divine will, that "all men are created equal," without distinction of race or of color. And although our ancestors failed to apply the principle, although they were derelict in duty in living up to the great enunciation of principles which they made to the world and mankind, it is no proof to my mind that they did not mean exactly what I say they meant in the expression to which I have referred.

Mr. Speaker, all these considerations are influencing me in the very vote which I shall give upon this amendment; but I desire to say that my experience upon the subject of slavery has been quite singular and diversified. An anti-slavery man in sentiment, and yet, heretofore a large owner of slaves myself—not now, however—not exactly with my consent, but with or without my consent. The convention which recently assembled in my State, I learned from a telegram a morning or two ago, had adopted an amendment to our present State constitution for the immediate emancipation of all the slaves in the State. I am no longer the owner of a slave, and I thank God for it. Although I think this subject might have been disposed of in a better way, causing less inconvenience to our people, and doing in fact the slave no harm, I make no complaint of the convention for that act; and although there is no clause of compensation, I very gracefully yield to the public sentiment, and to the action of this distinguished body of men called in my State to consider its welfare. If the giving up of my slaves without complaint shall be a contribution upon my part to promote the public good, to uphold the Constitution of the United States, to restore peace and preserve this Union, if I had owned a thousand slaves they would most cheerfully have been given up. I say with all my heart, Let them go, but let them not go without a sense of feeling and a proper regard on my part for the future of themselves and their offspring! I say, Let them go, and let them enjoy all the privileges consistent with sound policy and that freedom which has been vouchsafed to them! Let them go; and, sir, there is no man in this House or in this nation who feels a deeper interest in their comfort, in their happiness, in their elevation than I do, and in the comfort and welfare of their children and their children's children in all time to come! I say

again, sir, Let them go, and may the blessing of God rest upon them!

[Here the hammer fell, the hour having expired.]

Mr. ASHLEY. I ask that the gentleman have leave to continue his remarks.

By unanimous consent the leave was granted.

Mr. ROLLINS, of Missouri. As I have said, my experience in relation to this question of slavery has been singular and somewhat diversified. Why, sir, I remember that seventeen years ago, when I was a member of that proud, and honorable, and patriotic party, the old Whig party of the country, and when I was quite a young man, my friends placed me in the responsible position of candidate for the high office of Governor of my State, and that I found as my competitor upon that occasion my venerable and honorable friend who occupies a seat on my left, [Mr. KING.] We traversed our great State from one corner to the other; we met time and again upon the hustings; he was a friend of General Cass and I was a Whig, and the friend of General Taylor; and he must pardon me upon this occasion—and especially as we are now together—if I bring to view a single reminiscence. One of his arguments, I remember, was that the elevation of General Taylor to the office of President and the election of myself to the office of Governor would be dangerous to the institution of slavery! I, a Kentuckian by birth, supporting a large slaveowner for the Presidency, and myself a slaveowner, combatted that view as well as I could in opposition to my venerable friend. I am happy, however, to know that on this occasion we meet, and that hereafter there is to be no further controversy between him and I upon this question.

I remember also that as late as 1857 when again my political friends, regarding me far too highly, did me the honor of placing their standard once more in my hands as a candidate for the highest office in the gift of the people of my State, I found myself confronted by a gentleman who was born in New York, able and talented, and never the owner of a slave, but throughout that entire canvass the burden of his "talk" against me was that it would never do to elect me, and that if they did, in some way or other the institution of slavery would suffer at my hands in the State of Missouri; and although I think to-day that I was legally elected, after the old Democracy had figured some six or eight weeks, the election being over, they brought out a majority against me of two hundred and thirty!

But this is not the whole of my personal experience upon this subject. When first I had the honor of being a candidate for a seat upon this floor in 1860, I met as my competitor a very worthy and distinguished gentleman who now occupies a seat at the other end of the Capitol, a man of exalted talent and ability and a high order of patriotism, who is my personal friend, and who, I am gratified to see, fills his place so ably and gracefully; but I remember that it was the same old story with him as with my venerable friend here [Mr. KING] and the other gentleman to whom I have alluded, that it would not do to send me here even, because in some way or other I might be detrimental to the institution of slavery in my State. I am happy, however, to say that that distinguished gentleman and myself will no longer have any controversy upon that point.

So far as I know, we are together so far as this amendment is concerned. We take now pretty much the same view of this important question, the only difference being that he has gone far ahead of me in any view I entertain or action I expect to take in the matter. It will never do, in the day of civil war and revolution, to be justifying one's self for inconsistency. Men change every day. Read the inaugural address of President Lincoln; read the diplomatic correspondence of the Secretary of State; read your own speeches of two or three years back, and you will see how changes have taken place. Read my speeches and you will find me preaching, a short time ago one doctrine, and now preaching another doctrine. I am proud that a man has the right to change; I am gratified that I am not too obstinate to change; I am glad that additional light shines upon the darkened intellect to enable us to change our opinions when we find that we are wrong, and hope all of us have sufficient regard for the truth to embrace it when we see it. Change

is a law of nature. It is written on our physical organization, on our moral organization, on our mental constitutions. If there were no right to change, change morally especially, what, in the name of God, would become of many of the gentlemen on both sides of this House? [Laughter.] There is an old adage which says, "Wise men sometimes change, fools never do." Sir, the peculiar friends of slavery have controlled the Government for much the greater part of the time since its establishment; and but for their own wickedness and folly might have saved the institution and had their full share in its management for many years to come. If they have lost the political control, all are blameless save themselves!

"But yesterday, the word of Caesar might have stood against the world: now lies he there, And none so poor to do him reverence."

Mr. Speaker, I wish to state in a very general way some other propositions. Let us dispose of this question now, now. I have signified that I would be willing to dispose of it in another way. If Jefferson Davis & Co. would come back to this Hall to-morrow and say, "We were wrong; we ask pardon; we lay down our arms; we yet remember the blessings that we have thrown away; we want that free Constitution which we have been destroying; we want to come back to you;" for the sake of peace, for the sake of running no more risk in regard to this slave question, I would say "Let them come in," and I would go pretty far in making terms with them; much farther than my friends from Missouri over there, [Mr. McCLURG and Mr. LOAN.] But we cannot have our will on this subject. The president of the so-called confederate States, and those who act with him, are not going to put themselves in that position. On the contrary, we have been told by the rebel leaders that if a blank sheet of paper were furnished to them on which to write their own terms, they would not come back. They have told us that they started out for separation, and that they mean to exhaust all the energies and resources of the country in accomplishing that object. On the other hand, we started out for the purpose of preserving the Constitution and Union, let that effort lead us where it might; destroy whoever and whatever it might. If we had the moral, the physical and the intellectual power to do the work, we started out for the purpose of putting down this rebellion, and saving this Union and Government from destruction. And while I rejoice at any movement which looks to an honorable peace, and a restored Government, I am for fighting it out "on that line" to-day. Not until every germ of patriotism shall have withered and rotted in the public heart; not until the public sense of the nation is that the thing cannot be accomplished, am I for abating one jot or tittle of the efforts of the nation to subvert the rebellion, restore the supremacy of the Constitution, and preserve the Union of these States, and republican liberty on this continent throughout all time to come.

Mr. Speaker, the American sentiment is decidedly anti-slavery; and that is another consideration why I am willing to vote for this amendment. We never can have an entire peace in this country as long as the institution of slavery remains as one of the recognized institutions of the country. It occurs to me that the surest way to obtain peace is to dispose of the institution now. From whatever cause, whether it be from northern intermeddling—if you so call it; and there has been far too much of this—or from southern arrogance and dictation and agitation, whether from the one cause or the other, or both, slavery will always be a disturbing element! There will be no peace, there will be no perfect Union in this country until some way or other we shall have disposed of it. You cannot get over moral convictions. And so long as the General Government is connected with slavery or associated with it in any way, the great tide of emigration that will flow into the South, carrying new ideas of human rights, this institution will be a disturbing element, and we will have continued agitation until, in some way or other, this question is disposed of. I have therefore brought myself up to the point. We may as well unsheathe the sword and cut the Gordian knot!

I said, Mr. Speaker, that the American public sentiment is anti-slavery. I say now, from my own experience that the public sentiment of the

southern people is anti-slavery. And I assert a proposition which may startle some gentlemen, but which I believe in my heart to be true, that to-day the State of South Carolina is anti-slavery. I take South Carolina as an example, because she is the most "wayward" of all the "sisters," because she has been hitherto always wrong and never right, and especially on this question. I take her because there this institution has left its deepest and keenest impress. I believe in regard to the people of that State, that if this question of slavery, in all its bearings, and in all its phases, could be thoroughly discussed and presented in an intelligent and patriotic way; sending my honorable friend from Maryland [Mr. H. W. Davis] with his gift of argument and eloquence to combat the proudest intellects of that State—I believe, as God is my judge, that after twelve months', or even six months' discussion, the majority of the people of South Carolina would vote to rid themselves of this institution of slavery. And as in South Carolina so would it be in other States.

And how do I arrive at this conclusion? I look at the history of events in my own State of Missouri. Four years ago, a man who now has gone to

"The undiscovered country, from whose bourne No traveler returns,"

the late reasonable governor of that State, Jackson, was elected by an overwhelming majority upon this very question, and almost upon this question alone. Four years have expired; four years of rebellion, four years of civil war; four years of ruin and desolation and blood and misery. All these things have occurred, and the people believe, whether correctly or not, that they are all in some way or another connected with this institution of slavery. And what has been the result? The other day a gentleman, for whom I did not vote, but who has my highest respect, and in whose patriotism I have every confidence; one who, I trust, will be equal to the great occasion before him; a radical man, far more radical than I am or expect to be, radical in all his theories growing out of this disturbing question before us; was elected governor of that State by the votes of a larger majority than that which was cast four years ago for Claiborne F. Jackson. What does that prove? I believe that, to some extent, there may have been some intimidation, some military interference. But I tell you that my conviction is that this change has resulted from the deliberate and earnest conviction of the honest masses of the people of that State, slaveowners and non-slaveowners, that the institution of slavery is wrong, that it has been to some extent the cause of all our trials, and that they are in favor of disposing of it as early as practicable.

The State convention of Missouri assembled the other day to revise the State constitution. Almost two years ago an ordinance of emancipation had been adopted, allowing the institution to stand until the 4th of July, 1870. Yet the people of Missouri were not content with that. They met in convention three days ago, and almost the very first act of that convention, after organizing, was, by a vote of 60 to 4, if the telegraph is correct, to wipe out the institution of African slavery from the soil of Missouri.

It is an old adage that "he is a fool who learns nothing from experience, but he is the greatest of fools who will not profit by his own experience." I have learned a little; not much; but I am progressing. I never expect, perhaps I am not wise enough, or perhaps I am too timid or too slow; I do not expect to get quite up to the standard of my venerable friend from Pennsylvania [Mr. STEVENS] or my eloquent friend from Maryland, [Mr. H. W. Davis.] But I will endeavor to keep pace with my own convictions, having in view always the restoration of the Union, the preservation of the Constitution and of republican liberty under free institutions upon the American continent. Sir, I have a firm conviction that there is such a thing as the "logic of events."

May I say a word or two to my friends from Kentucky? My life-long friend who sits on my left, who addressed the House the other day, [Mr. CLAY,] in the remarks that I understood him to make, spoke of the slaves in Kentucky being worth \$150,000,000 before the rebellion, and perhaps as much now. Sir, put upon the block to-day, what would all the slaves in North America

now sell for? Does he expect, after all to which I have referred, after what he has seen, does the gentleman expect that the institution of slavery is to remain anywhere safe for any length of time? If he does, if my other friends from Kentucky expect that, I have only to say that upon that one question I am wiser than they, I have passed through this sea of troubles. Thank God, I breathe freer and easier to-day in consequence of having got through it, and I tell them now, that without some obstacle in the constitution of the State of Kentucky, in less than two years from the day that I am making these poor remarks in the American Congress, Kentucky will be a free State without any regard to the views gentlemen may express here on this side of this Hall.

And, sir, if ever a set of people made a mistake on earth, it was the men of Kentucky, by whom I was somewhat governed myself, when, three years ago, they rejected the offer of the President of the United States, who, wiser than we were, seeing the difficulties before us, but seeing the bow of promise set in the sky, and knowing what was to come, proposed to us to sweep the institution of slavery from the border States, offering the assistance of the United States to aid in compensating the loyal men of those States for their losses in labor and property. I say that the unwisest of all acts, so far as the border States were concerned, was the rejection of this liberal offer on the part of the Executive of the United States. I voted for the proposition at first; and then most unwisely changed my ground, showing the versatility of the man, and would perhaps, if it had come to a final vote, have opposed it, because my constituents were likely to be offended by the passage of such a law. They are now convinced, when their slaves are gone and their pockets are empty, that I was right in the first place, and they were wrong. I have read, in the papers of this morning, that the Legislature of Kentucky, after electing that distinguished and able man, James Guthrie, to the Senate of the United States, have passed a resolution in favor of emancipation, "with the consent of the owners, and with compensation."

But where is compensation to come from? I have a right to feel something on this subject, for I am called upon to ask myself where is compensation to come from? Not out of the coffers of the national Treasury. Why, the Government will not even pay for the gallant soldiers which I and others have furnished for its Army, although the law, as I understand, expressly provides for compensation to loyal owners. While I have furnished ten soldiers, brave soldiers, (I hope they are doing good service for the cause,) I have never asked for any compensation. I do not urge my claim for compensation; but when Uncle Sam comes along I will consider whether to take it or not. I will ask my friend from Kentucky, [Mr. CLAY,] I will not call him "my venerable friend," because he and I sat on the same bench at school when we were boys together—does he think that the people of Kentucky will ever vote to tax themselves to pay him and others for their slaves? Does he not know that the day for compensation is past? Will he have the men of Kentucky go through all the trouble and anxiety which I have passed through, simply to preserve that which cannot, in the nature of things, be preserved but a few short years longer? I would do my full duty toward my old State; but how else can I do it than by giving her noble and patriotic men the benefit of my own experience? I think that the best way to aid and succor my proud old mother is to adopt this amendment.

"If it were done, when 'tis done, then 'twere well It were done quickly."

Sir, she and her people rank in my affections next to my own proud adopted Commonwealth. There is not a State in this Union, nor any people of the Union, for whom I would make greater sacrifices than I would for the State of Kentucky. Especially do I sympathize with my friend to whom I have referred, because he and I were educated in the same social and political school, and have in many respects kindred sympathies. I have the highest confidence in his loyalty, in his honor, and in his patriotism, however much we may differ on some questions. I wish that I could aid him and men similarly situated. But I cannot. This is not because of any hostility to Kentucky, or any hostility to the institution of sla-

very. It is because I am compelled to act thus in view of the great results which, in my opinion, are to spring from the adoption of this amendment. I shall vote for it in order to help the old State of Kentucky, to help the South, but above all to help all the States of the Union in arriving at a final adjustment of the terrible agitation and conflict now prevailing.

Mr. Speaker, I regret that the action of our ancestors in reference to slavery inflicted this evil upon us. And when I speak of our ancestors, I mean those of Plymouth rock and those of James river. And while in this House and in the other end of this Capitol, I have heard attacks on the pilgrim fathers, and while I saw lately a disreputable statement concerning the early settlers of Virginia, yet I have no sympathy with the spirit which prompts such efforts. Doubtless there were bad men as well as honest and good men among the original settlers of both the northern and the southern sections of our country. Through the promptings of cupidity and avarice, slavery was first established in this country. Could our ancestors who countenanced this institution in its establishment witness the scenes of the present time, they would doubtless feel that they committed an unpardonable sin. And for this sin the North and the South are equally responsible. The people of both sections were engaged in this infamous traffic, and we are this day gathering the fruits of their iniquity. And it is thus that

"Even-handed justice

Commends the ingredients of our poisoned chalice To our own lips;"

or, as the same great master expresses it—

"That we but teach Bloody instructions, which, being taught, return To plague the inventor."

The gentleman from New York [Mr. FERNANDO WOOD] said the other day that slavery was a blessing to the slave. I admit that it has turned out to be so, yet by accident alone. The Africans were brought from their native wilds in violation of every law of God and humanity; but when I compare the present condition of the negro in this country with his situation in his native land, I am compelled to admit that the institution of slavery has had a beneficial influence upon his moral, intellectual, and physical condition. I think that the negro of the United States is a higher order of humanity than the barbarian of Africa. Thus out of a great wrong has resulted a great good—the elevation and advancement of this large and unfortunate class. The consoling reflection will ever be, that this downtrodden race, torn by violence from their native country for the sake of gain, after passing for centuries through a weary pilgrimage of bondage, are at last admitted into the temple of freedom, with a fair prospect of enjoying all the blessings which education, true religion, and civilization confers upon man; and through them it may be at last that these blessings may be sent back to Africa, and that continent over which the dark cloud of ignorance and superstition has so long hovered, be illumined by the same bright sun which has thrown its effulgent rays over other portions of the habitable globe. And in all this, through the eye of faith, we may discern the hand of an all-wise and inscrutable Providence; for there is a

"Divinity that shapes our ends

Rough-hew them how we will."

Mr. Speaker, when the framers of the American Constitution in 1787 formed that instrument they committed a great mistake in not disposing finally and forever of the institution of slavery. If the venerable man whose "counterfeit presentment" [pointing to the portrait of Washington] stands before us upon the walls of this Representative Chamber could come from the sacred spot of Mount Vernon, which holds his ashes, and the question was put to him "Would you as President of that Convention, and the noble men who composed that body, now dispose gradually and directly of the institution of slavery upon this continent?" is there a man who hears my voice who would doubt what would be the answer of the Father of his country? It was not because they were not anti-slavery, but because they were afraid to deal with it. They had other delicate and important questions to deal with which prevented them from disposing of the institution of slavery. They were planting deeply upon this continent the foundations of a temple which was

to last forever; a temple of liberty which was to shield not only themselves but their posterity, and that men in all time to come should take refuge there. And they did not wish, as I have said I did not wish, to endanger that structure, to do anything that would cause it to totter and fall. They did not wish to fail in the *grand object* that they had in view. Hence they let the minor subject of slavery go over to other times and other men. It has therefore now come down to us. Mr. Speaker, I look ahead into our history for fifty years to come, and I ask the question, suppose the institution of slavery is to remain interwoven in our mechanism of government, and our country is again on account of it to pass through the bloody trials which now cover our land in mourning and in sorrow, and have piled upon us a debt which will tax the energies and wring the sinews of our posterity to pay; suppose you, sir, that our children will not condescend and charge upon us as a mistake that we did not during the revolution of these times wipe out forever this disturbing and dangerous element in our political system?

I again, Mr. Speaker, refer to the State of Kentucky. She was admitted into the Union in 1799. She is the oldest daughter in the family of States. She was the first that was admitted after the adoption of the Federal Constitution. The great men of Kentucky of that day, proud and venerable names, advocated the propriety of a system of gradual emancipation. Will my friend from the Maysville district, [Mr. WADSWORTH,] will my friend from the Louisville district, [Mr. MALLORY,] will any of my friends who oppose this amendment declare it would not have been a great boon if the original constitution of Kentucky had disposed of slavery forever? Will my very excellent friend [Mr. CLAY] say that it would not have been better for his distinguished and venerable father, who was a member of the convention which framed the first constitution of Kentucky, would it not have been better for his immediate ancestors, to have met firmly the question at that day, and thus relieved the State from slavery, and the people of that noble Commonwealth of the terrible sorrows which have since fallen upon them?

I come now to speak a word in reference to my own State of Missouri. She came into the Union as it were in the midst of a revolution. For the purpose only of having a few thousand slaves there the whole continent shook with the agitation of this Missouri question. We were fighting for the privilege of holding a few slaves in bondage in that great State. We forgot the paramount good in this miserable struggle. Does my friend [Mr. HALL] from the district adjoining the one that I represent, does any man upon this floor, tell me that it would not have been better for Missouri at once in 1820 to have passed an ordinance for the gradual or immediate emancipation of her slaves, driving the institution beyond her boundaries? If there is such a man he is not as enlightened on the subject to-day as I am; he has not learned as much as I have done.

Why, sir, what is Missouri to-day, and what would she have been if there had been incorporated at that time with her organic law an ordinance declaring the institution of slavery forever abolished within her limits? We would have been as Ohio and Illinois and Iowa. We would have been rid of this curse which is ever reappearing, the curse of slavery, this raw head and bloody bones, and we would have been clear of all of these troubles. We would have had no bands of guerrillas watering the soil of our State with the blood of our peaceful citizens. We would have had no armed bodies of men stationed in all our borders to keep the peace. Look at Illinois just across the father of waters. She came into the Union in 1818, two years before Missouri, and with less population, fewer mineral resources, not so many rivers nor better facilities for commerce, yet she has four thousand miles of railroad while Missouri has only twelve hundred. Illinois has a prosperous, happy, and peaceful population of two million, while we have only half this number, and our people are leaving in every direction seeking homes in the Territories, in the distant mountains, in South America, in Mexico, in Illinois, flying away from the horrible specter of this infernal rebellion. Why is this? I know of but one real, substantial, specific reason, and that is that the framers of the

Missouri constitution allowed slavery to remain, while Illinois was made forever free by the Ordinance of 1787, penned by Thomas Jefferson, a son of Virginia, and by which Virginia ceded an empire within itself (the Northwest Territory) to the United States.

I have been looking up for light from above, and I begin to see it streaking along the horizon, however it may be with other gentlemen in this Hall.

A word or two more and I will relieve the attention of the House. If this were a time of profound peace, and this amendment was proposed, I would not vote for it, and on the score of expediency. Why? Because if we had remained in a state of profound peace, the very proposal to submit this amendment to the States would have disturbed the public tranquillity, and therefore I would let it alone. But now I vote for it in order to restore the public tranquillity, believing that this rebellion having been set on foot, and civil war raging in the country, you cannot have entire tranquillity without a removal of the cause of the disturbance. Now, one gentleman intimated yesterday that if we pass this amendment it will induce emancipation on the part of the southern States themselves. But I ask him are they likely to be governed by any disposition we may make of this question in this House? Not at all. Whenever they are pressed to the wall, whenever our armies shall have planted our standard in every one of their States, when their principal cities shall have been taken, when they are "*in articulo mortis*," it may be, as a *dernier ressort*, that they may strike the shackles from the limbs of the slaves they now hold. But they will never be governed by any action we may take upon this or any other question. Never. Whenever they find it for their interest to do it, they will do it, and not before.

One other remark. Missouri has in advance adopted this amendment. Now, allow me, although not much given to prophecy, being neither a prophet nor the son of a prophet, to make one other prediction upon this floor to-day. It is this: if this constitutional amendment be adopted by this House, or whether it be adopted by this House or not, it will be adopted by the Congress which is immediately to succeed this, in less than ninety days from the time of our adjournment; it will become the prevailing sentiment, and will be adopted not alone by the North, but by every southern State. I do not doubt it. How? By the masses of the people, as the masses of the people of Missouri have adopted it there. How? When the poor and humble farmers and mechanics of the States of Alabama and Mississippi shall have left the bloody trials in which they are now engaged to tear down this temple of human liberty; when they will return perhaps to their desolated homes; when they shall look once more upon and hug to their bosoms the wives and children whom they love, in poverty and in rags; when they will go, perhaps without an arm, or without an eye, or without a leg, and in poverty to those who are dependent upon them for support in life, taught by experience, as I have been taught by experience, they will ask the question of themselves, "Why all this? What have we been fighting for?" They will bring to mind the sweet memories of other days. They will remember the peaceful and happy home that they were induced to leave and which they enjoyed under the benign influences of wholesome and liberal laws passed here, and they will inquire, "By what sophistry, by what appeal, by what force, by what maddening influence is it that we have been induced to enter into this terrible rebellion? Not to promote any interest of wife and children, but to destroy all the blessings vouchsafed to us and to them by a free Government and equitable laws;" and they will further ask, "Who has been the author of my misfortunes, and the ruin of my family, my all?" Sir, they will point to those who hold the power at Richmond; they will direct their vengeance against them; and Davis and his traitorous crew, as I have said upon a former occasion, will, like Actæon of old, be in the end destroyed by their own friends.

I do not doubt this at all. The masses of the people of the South have no special interest in, nor sympathy with, the institution of slavery. They never had. The comparative number of slaveholders is small, and whenever you begin to drive

in the wedge and exemplify the dividing line between those whose moral convictions say that slavery is right, and who are, as a property interest, identified and associated with it, and that great volume of humanity who, upon the other side of the question, deny the moral right of slavery and have no interest whatever in it, I tell you the result will be nine to one against the institution. And it is in this way that in Georgia, in Arkansas, and in South Carolina, even, at last, the very amendment we propose to adopt here to-day will receive the sanction of the good judgment of the people of those States. I judge from what I have seen in my own State; I judge from the fact that only a few years ago men who owned no slaves, but, controlled by that power, were nearly crazy upon the subject for fear I would do something to set my own slaves free! And now they are equally offended with me because I happen to be found in the unfortunate category of being the owner of slaves! Southern public sentiment, northern public sentiment, American public sentiment, and I may add, the sentiment of the civilized world, now, as from the beginning, from the very day of the adoption and ratification of the Constitution, is against the humanity, the Christianity, and the expediency of the longer continuance of the institution of slavery among us. What has Great Britain done? What has France done? What has Russia done? Everywhere, even in the despotic Governments of the Old World, we find them getting rid of and abolishing the institution of slavery. And shall free America lag in a contest, and hesitate now, when the question is that of liberty, and when it may be reached according to all the forms of law under our Constitution? Sir—

"There is a tide in the affairs of men,  
Which, taken at the flood, leads on to fortune;  
Omitted, all the voyage of their life  
Is bound in shallows, and in miseries."

And this is equally true of nations.

Now, Mr. Speaker, one more reflection and I am done. Gentlemen seem to think that the adoption of this amendment is going to lead to some other and dangerous measures. Sir, I rely upon the conservative balance-wheel of my friend from Vermont [Mr. MORRILL] and others like him to keep his party friends from going too far. My friend from the Louisville district [Mr. MALLORY] tells us that when a movement is once started it is difficult to stop it. I do not anticipate the evils which some gentlemen upon this side of the House seem to fear. I rely upon the good sense and sound judgment of the people of all the States. I believe, as much as I believe anything, that the permanent and continued existence of our free institutions is dependent upon the preservation of that beautiful harmony which exists between the powers of the States and of the General Government. I want to see no intrenchment further than is absolutely necessary to preserve the whole machine, either by the General Government upon the rightful, constitutional powers of the States, or upon the part of the States on the rightful points of constitutional power to the General Government. Not only the harmony and beauty, but the *very strength* of our political system consists in the preservation of both; and I do not believe, although it is frequently ascribed to gentlemen upon the other side of the House, that it is their purpose to use these vast centralized powers of a great consolidated Government with a view of oppressing the people of any one of the States. Any oppression which the people of the South now undergo is the effect of their own false teaching and conduct; and whether that oppression shall continue, whether their country shall be still further desolated, whether their towns and cities shall be still further sacked and burned, whether their property shall be still further taken, depends, *not upon us*, not upon the General Government, but it depends upon the people of the southern States themselves. I would rely ever on the liberality, the sound judgment, and the good faith of my friend from Ohio, [Mr. ASHLEY.] Let these men who have rebelled without cause and without excuse come back and rely upon him and the gentleman from Vermont to do them full and ample justice, and to treat them liberally and in the spirit of broad and general philanthropy.

One word more (for the field still opens) to my Democratic friends. I have the good or the bad fortune of being rather in the middle of the House,



and not exactly identified in my theories with anybody. I have been a party by myself pretty much all the time I have been here; but, thank God! I have the good opinion of myself to believe that I have been a patriot all the time, that I have had my eye upon the main question, and that I have been working to the great point of saving my country and its free institutions from wreck. As to partisan considerations, does any man ever expect to make anything further politically out of the slavery question? Sir, I have heard hardly an argument upon this side of the House which has not contained this remarkable expression, "while, Mr. Speaker, I am not an apologist for the institution of slavery," and if I were to take a vote to-day on this side of the House, with the exception of half a dozen, headed by the honorable gentleman from New York, [Mr. FERNANDO WOOD,] I believe that every one of you would indorse the general anti-slavery remarks which I have made here to-day. I believe that the very eloquent and distinguished gentleman from the Cincinnati district, [Mr. PENDLETON,] for whose personal character I have the highest respect, and also for his patriotism and his loyalty, is against the institution of slavery; he would not plant it in my State if it was not there; he would not plant it in Ohio; he would not plant it on this continent; he does not regard it as an institution just in itself and productive of good results; and I believe that is the opinion of nine tenths of the gentlemen upon this side of the House.

Why not, then, leave the matter to the good sense and patriotism of the American people—the people of all the States? Why not cut this Gordian knot? Why not dispose at once of this distracting question? We never can have tranquillity and peace so long as it remains in the form in which it now exists.

[Here the hammer fell, another hour having expired.]

Mr. ASHLEY. I ask that the time of the gentleman from Missouri be still further extended. There was no objection.

Mr. ROLLINS, of Missouri. Mr. Speaker, I have but one other thought to express, and I pledge the House that I will then conclude these remarks, not, however, without thanking everybody here for the great and unusual courtesy which has been extended to me, as well as for the attentive hearing which I have received alike from the House and from these crowded galleries. Mr. Speaker, if we can get through this rebellion completely and satisfactorily, if we can steer safely between Charybdis on the one side and Scylla on the other of the passage through which we are now steering, if we survive the storm and strife, if we can march safely through the dark and dreary wilderness of rebellion and civil war, and if we can come out of it with the American Union as formed by Washington and his compatriots, if we can come out of it with our free and matchless Constitution maintained substantially in all its parts, if we can come out of it and still boast of our American nationality, if we can come out of it with the further boast that though we have passed through those trials we have not only saved our Constitution and Union, but we have caused the sun of freedom to shine on an additional four million of human beings, and if the old ship can once more be righted and set sail on calmer seas, smooth and tranquil, where is the man who feels a just pride of country and who cannot bring himself up to the standard of realizing the great influence which the American Republic, with free institutions and a broader Christian civilization, shall exert on downtrodden humanity in every land and beyond every sea? Ay, sir, let ours be the chosen land, let ours be the land where the weary wanderer shall direct his footsteps, and where he can enjoy the blessings of peace and of freedom. Let ours be the "bright particular star" next to the star that led the shepherds to Bethlehem, which shall lead the downtrodden and oppressed of all the world into a harbor of peace, security, and happiness. And let us, kneeling around the altar, all thank God that although we have had our trials, we have saved our country; that although we have been guilty of sins we have wiped them out, and that we at length stand up a great and powerful people, honored by all the earth, "redeemed, regenerated, and disenthralled by the genius of uni-

versal emancipation." [Loud applause on the floor and in the galleries, which was checked by the Speaker.]

Mr. GARFIELD. Mr. Speaker, we shall never know why slavery dies so hard in this Republic and in this Hall till we know why sin outlives disaster, and Satan is immortal. Its marvelous tenacity of existence has outlived the expectations of its friends and the hopes of its enemies. It has been declared here and elsewhere to be in all the several stages of mortality, wounded, moribund, dead. "The question was raised by my colleague [Mr. Cox] yesterday, whether it was indeed dead, or in a troubled sleep. I know of no better illustration of its condition than is found in Sallust's admirable history of the great conspirator, Catiline, who, when his final battle was fought and lost, his army broken and scattered, was found far in advance of his own troops, lying among the dead enemies of Rome, yet breathing a little, but exhibiting in his countenance all that ferocity of spirit which had characterized his life. So, sir, this body of slavery lies before us among the dead enemies of the Republic, mortally wounded, impotent in its fiendish wickedness, but with its old ferocity in its looks, bearing the unmistakable marks of its infernal origin.

Who does not remember that thirty years ago, a short period in the life of a nation, but little could be said with impunity in these Halls on the subject of slavery? How well do gentlemen here remember the history of that distinguished predecessor of mine, Joshua R. Giddings, lately gone to his rest, who with his forlorn hope of faithful men took his life in his hands, and in the name of justice protested against the great crime, and who stood bravely in his place until his white locks, like the plume of Henry of Navarre, marked where the battle for freedom raged fiercest. We can hardly realize that this is the same people, and these the same Halls, where now scarcely a man can be found who will venture to do more than falter out an apology for slavery, protesting at the same time that he has no love for the dying tyrant. None, I believe, but that man of more than supernal boldness from the city of New York [Mr. FERNANDO WOOD] has ventured this session to raise his voice in favor of slavery for its own sake. He still sees in its features the reflection of divinity and beauty, and only he. "How art thou fallen from heaven, O Lucifer, son of the morning! How art thou cut down to the ground, which didst weaken the nations!" Many mighty men have been slain by thee; many proud ones have humbled themselves at thy feet! All along the coast of the political sea they lie like stranded wrecks, broken on the headlands of freedom. How lately did its advocates with impious boldness maintain it as God's own, to be venerated and cherished as divine. It was another and higher form of civilization. It was the holy evangel of America dispensing its blessings to a benighted race, destined to bear its blessings to the wilderness of the West. In its mad arrogance it lifted its hand to strike down the fabric of the Union, and since that fatal day it has been a "fugitive and a vagabond upon the earth;" like the spirit that Jesus cast out it has since then been "seeking rest and finding none." It has sought in all the corners of the Republic to find some hiding-place in which to shelter itself from the death it has so richly earned. It sought an asylum in the untrodden Territories of the West, but, with a whip of scorpions, indignant freedom drove it thence. I do not believe a loyal man can now be found who would consent that it should again enter them. It has no hope of harbor there. It found no protection or favor in the hearts or consciences of the freemen of the Republic, and has fled for its last hope of safety to the shield of the Constitution. We propose to follow it there, and hurl it as Satan was exiled from heaven. But now in the hour of its mortal agony it has found a defender.

My gallant colleague, [Mr. PENDLETON,] for I recognize him as a gallant and able man, plants himself at the door of his darling, and bids defiance to all assailants. He has followed slavery in its flight, until at last he has reached the great temple where liberty is enshrined—the Constitution of the United States—and there, in that last retreat, no hand shall strike it. It reminds me of that celebrated passage in the great Latin

poet, in which the serpents of the Ionian sea, when they had destroyed Laocoon and his sons, fled to the heights of the Trojan citadel and coiled their slimy lengths around the feet of the tutelard goddess, and were covered by the orb of her shield. So, under the guidance of my colleague [Mr. PENDLETON] slavery has found its way upward and upward, until it has reached the high citadel of American nationality, and coiled itself, as he believes, securely around the feet of the statue of justice and under the shield of the Constitution of the United States. We desire to follow it even there and kill it beside the very altar of liberty. Its blood can never make atonement for its crimes.

But the gentleman has gone further. He is not content that the snake sorcerer shall be merely under the protection of the Constitution. In his hands, by a strange metamorphosis, slavery becomes an invisible essence and takes up its abode in the very grain and fiber of the Constitution, and when we go to strike it he says, "I cannot point out any express form that prohibits you from striking slavery; but I find it in the intent and meaning of the Constitution. I go into the very grain of the Constitution, under the surface, out of sight, into the very spirit and genius of it, and in that invisible domain slavery is enshrined, and there is no power in the Republic to drive it thence." In order that I may do no injustice to my friend, I will read from his speech of yesterday the passage to which I have referred:

"My colleague from the Toledo district, in the speech which he made the other day, told us with reference to this point:

"If I read the Constitution aright and understand the force of language, the section which I have just quoted is to-day free from all limitations and conditions save two, one of which provides that the suffrage of the several States in the Senate shall be equal, and that no State shall lose this equality by any amendment of the Constitution without its consent; the other relates to taxation. These are the only conditions and limitations."

"I deny it. I assert that there is another limitation stronger even than the letter of the Constitution; and that is to be found in its intent and its spirit and its foundation idea. I put the question which has been put before in this debate, can three fourths of the States constitutionally change this Government, and make it an autocracy? It is not prohibited by the letter of the Constitution."

"It does not come within the two classes of limitations and conditions asserted by my colleague. Why is it that this change cannot be made? I will tell you why. It is because republicanism lies at the very foundation of our system of government, and to overthrow that idea is not to amend, but to subvert the Constitution of the United States; and I say that if three fourths of the States should undertake to pass an amendment of that kind, and Rhode Island alone dissented, she would have the right to resist by force. It would be her duty to resist by force; and her cause would be sacred in the eyes of just men, and sanctified in the eyes of a just God."

He goes behind the words and phrases of the Constitution and finds a refuge for slavery in its intent; and he says that with that intent we have no right to deal in the way of amendment. He has gone even beyond that sublime idea of protection, and has announced a discovery to which I am sure no other statesman ever laid claim, and can be no more reached by the power of law than Satan by the sword of Michael. He finds the highest warrant, the completest immunity, for slavery, not only behind the Constitution, but even behind the governments of the States themselves. For he says, in answer to a question from my friend from Iowa, [Mr. WILSON:]

"I will not be drawn now into a discussion with the gentleman as to the origin of slavery, nor to the law which lies behind the Constitution of the United States, and behind the government of the States, by which these people are held in slavery."

I say that the gentleman has gone even deeper than the spirit of the Constitution. Not finding anything in the words and phrases of the Constitution to forbid an amendment abolishing slavery he goes behind the Constitution of the United States and behind all constitutions, and refers to some law that overshadows States, nations, and constitutions and forms, as space envelops the universe, and far away in the eternal equities, he finds what he believes to be the law by which one man can hold another in slavery. Surely human ingenuity has never gone further to shield a malefactor.

Let me for a few moments call the attention of the House to what seems to me to be the origin of the gentleman's argument. He has given us what I believe to be the key to his legal opinions in the four words which the gentleman from Rhode

Island [Mr. JENCKES] commented upon last evening. The whole theory upon which he proceeds is found in that short utterance, "the compact of confederation," and you need not go beyond that to find the whole strength of his argument. If I understand the gentleman, he holds that each State is sovereign; that in their sovereign and independent capacity the States, each for itself, granted to the Convention that framed the Constitution the power to form a Constitution of government, and that the States, as such, were the source and fountain of that power. What they did not grant they reserved. They did not grant the right to control the subject of slavery. Hence that question was reserved to the States, and no amendment by the modes pointed out in the Constitution can reach it. This, I believe, is a succinct and just statement of his argument. The whole question turns upon the sovereignty and independence of the States. Are they sovereign and independent now? Were they ever so? I shall endeavor to answer.

I appeal to the facts of history, and to bring them clearly before us, I affirm:

I. That prior to the 4th day of July, 1776, these colonies were neither free nor independent. Their sovereignty was lodged in the Crown of Great Britain. I believe no man will deny this. It was admitted even in the first declaration of right by the revolutionary Congress that assembled in 1774 to pray for a redress of grievances. That body expressly admitted that the sovereignty of those colonies lodged in the Crown of Great Britain. It has been taught by Jay and Story, and has been so decided by the Supreme Court of the United States. (See *Chisholm vs. State of Georgia*, 2 Dallas, 240.)

II. I affirm that no colony declared itself free and independent. Neither Virginia, New York, or Massachusetts declared itself free and independent of the Crown of Great Britain. The declaration was made, not even by the whole of the colonies as colonies; but the declaration was made in the name of "the good people of the colonies," as a people.

In the following paragraph the sovereignty and its maintenance were transferred from the Crown of Great Britain to the whole people of the colonies:

"We, therefore, the representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the name and by the authority of the good people of these colonies solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

In vindication of this view I read from the 197th page of the first volume of Justice Story's Commentaries:

"The colonies did not severally act for themselves and proclaim their own independence. It is true that some of the States had previously formed incipient governments for themselves, but it was done in compliance with the recommendations of Congress."

"But the declaration of the independence of all the colonies was the united act of all. It was 'a declaration by the representatives of the United States of America in Congress assembled;' 'by the delegates appointed by the good people of the colonies,' as in a prior declaration of rights they were called. It was not an act done by the State governments then organized; nor by persons chosen by them. It was emphatically the act of the whole people of the United Colonies, by the instrumentality of their representatives, chosen for that, among other purposes. It was an act not competent to the State governments, or any of them, as organized under their charters, to adopt. Those charters neither contemplated the case nor provided for it. It was an act of original, inherent sovereignty by the people themselves, resulting from their right to change the form of government, and to institute a new government whenever necessary for their safety and happiness. So the Declaration of Independence treats it. No State had presumed of itself to form a new Government, or to provide for the exigencies of the times, without consulting Congress on the subject; and when they acted, it was in pursuance of the recommendation of Congress. It was, therefore, the achievement of the whole for the benefit of the whole. The people of the United Colonies made the United Colonies free and independent States, and absolved them from all allegiance to the British Crown. The Declaration of Independence has accordingly always been treated as an act of paramount and sovereign authority, complete and perfect, *per se* and *ipso facto* working an entire dissolution of all political connection with and allegiance to Great Britain. And this, not merely as a practical fact, but in a legal and constitutional view of the matter by courts of justice."

When these people of the colonies became free, having withdrawn the sovereignty from the Crown of Great Britain, where did they lodge it? Not in the States; but so far as they delegated it at all, they lodged it in the revolutionary Congress then sitting at Philadelphia. My colleague dissents. I ask his attention again to the language of this distinguished commentator on page 200, volume one:

"In the next place, we have seen that the power to do this act was not derived from the State governments, nor was it done generally with their cooperation. The question naturally presents itself, if it is to be considered as a national act, in what manner did the colonies become a nation, and in what manner did Congress become possessed of this national power? The true answer must be that as soon as Congress assumed to pass measures which were in their nature national, to that extent the people, from whose acquiescence and consent they took effect, must be considered as agreeing to form a nation."

Mr. PENDLETON. I desire to ask my colleague from what power the delegates who sat in that Congress derived their authority to make that declaration; whether they did not derive it from the colonies, or the States, if the gentleman prefers that word, and whether each delegate did not speak in the Congress for the State government which authorized him to speak there?

Mr. GARFIELD. I say, in answer to the point the gentleman makes, as I have already said, and in the language of this distinguished commentator, that the moment the revolutionary Congress assumed national prerogatives, and the people by their silence consented, that moment the people of the colonies were constituted a nation, and that revolutionary Congress was the authorized Government of that nation. But the declaration was made "by the authority of the good people," and hence it was their declaration.

Mr. PENDLETON. Will the gentleman permit me to ask him whether from that moment they became the representatives of the nation, or whether they still retained their position as representatives of the States?

Mr. GARFIELD. They were both. They were still representatives of the States; but the additional function was added of their being national representatives as well as State. They then took upon them that which now belongs to the gentleman, the twofold quality of State citizenship and national citizenship. The gentleman is twice a citizen, subject to two jurisdictions; and so were they.

III. The sovereignty of this people, then, was first lodged in the revolutionary Congress; and it continued there until the 1st day of March, 1781, when they lodged it in the Articles of Confederation. They established then a confederacy, properly so called; and even that confederacy was declared to establish a "perpetual Union." Even it, with all its loose phrases and provisions, left small ground for the doctrine of secession.

IV. On the 21st day of June, 1783, a new lodgment of this sovereignty of the American people was made. It was then lodged in this Constitution of the United States under which we now act—lodged there by the action of the people. In each of these successive steps the people have altered and amended the fundamental law of the land as it has pleased them. In each change they have made a stronger and safer Government.

If the gentleman looks, then, for a kind of political "apostolic succession" of American sovereignty, he will find it in this order, and this would be the genealogy: first, the Crown and Parliament of Great Britain; second, the revolutionary Congress; third, the Articles of Confederation; and fourth and now, the Constitution of the United States.

Well, now, if no one of these colonies was sovereign and independent, when and how did any of the States become so? The gentleman must show us by whose act it was done and read us the record. I think I have shown that the gentleman's position has no foundation in history.

But let us suppose, for the sake of argument, that up to the day of the adoption of our present Constitution the colonies were separately sovereign and independent. Who made the Constitution an authoritative instrument? It tells its own story best. "We, the people of the United States, in order to form a more perfect Union, &c., do ordain and establish this Constitution"—not "we the sovereign States, do enter a league, or form a compact of confederation." In that great initial action of the people what limits or restrictions

confined them? Absolutely no human power, no barriers of sovereignty. There was nothing to restrain them but the laws of nature and the laws of God as they understood them. Over that limitless expanse they ranged at will, and out of such material as their wisdom selected they built the fabric of our Constitution.

And now I ask my colleague [Mr. PENDLETON] by what means the will of this nation reaches me with its obligations? I answer, only as that will is revealed to me in the logical and grammatical meaning of the words and phrases of the written Constitution. Beyond this there is, there can be, no legal force or potency. If the amending power granted in the Constitution be in any way abridged or restricted, such restriction must be found in the just meaning of the instrument itself. Any other doctrine would overthrow the whole fabric of jurisprudence. What are the limitations of the amending power? Plainly and only these:

"That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."—Article V.

The first being only restricted to the year 1808, is of course *functus officio*, and no longer operative; the last is still binding. The gentleman [Mr. PENDLETON] does not claim that any other sentence is restrictive; but there is something not written down, a *tertium quid*, a kind of exhalation rising out of the depths of the Constitution, that has the power of itself to stay the hand of the people of this great Republic in their attempt to put away an evil that is deleterious to the nation's life. He would lead us in pursuit of these intangible shadows, would place us in the dominion of vague, invisible powers that exhale, like odors, from the Constitution, but are more potent than the Constitution itself. Such an *ignis fatuus* I am not disposed to follow, especially when it leads to a hopeful future for human slavery.

It is therefore evident to me that we are not limited in the power of amendment beyond what is fairly written down as a prohibition.

The able and distinguished gentleman from Massachusetts [Mr. BOWEN] failed to convince me in the point he made yesterday that the preamble could not be amended. I ask him to consider this: could our forefathers have adopted a different preamble when they were making the original Constitution; could they have put it in other words, or could they have declared other objects as the basis of their Constitution? If they could have made a different preamble, declaring other and different objects, so can we now declare other objects in our amendments. The preamble is itself amendable just as is every clause of the Constitution, excepting only the ones already referred to.

The gentleman [Mr. PENDLETON] puts another case which I wish to notice. He says that nine of the thirteen original colonies adopted the Constitution, and by the very terms of it it was binding only on the nine. So if three fourths of the States should pass this amendment it would not bind the other fourth.

In commenting upon this clause Judge Tucker, of Virginia, in his appendix to Blackstone, says that if the four colonies had not adopted the Constitution they would have been a foreign people. The writers of the Federalist hold a different doctrine, and fall back upon the original right of the nation to preserve itself, and say that the nine States would have had the right to compel the other four to come in. But the question is unimportant from the fact that they did come in and adopt the Constitution. The contract once ratified, and obligations once taken, they became an integral part of an indivisible nation, as indivisible as a State. I therefore agree in full with my colleague from the Columbus district, [Mr. Cox,] that with the exception of the two cases of limitation, two thirds of Congress and three fourths of the States can do anything in the way of amendment, being bounded only by their patriotism and sense of duty. The field is therefore open to us, completely and fully opened.

I ask now what those gentlemen propose by delaying the death-day of slavery? I wish they might become so jealous of their betrothed that they would say of her even out of the depths of their love as did Othello the Moor:

"Yet she must die, else she'll betray more men."

Has she not betrayed and slain men enough? Are they not strewn over a thousand battle-fields? Is not this Moloch of slavery gorged with the bloody feast? Gentlemen, you know the day of its death is fast approaching. Nothing can stay it. The States are freeing themselves one by one; and you know that in a few weeks at furthest another Congress will strike the blow if you do not. We ask you, then, in the name of justice, in the name of the Republic, hold not back the uplifted sword now drawn to strike the final blow; strike down; grant no reprieve to the bloodiest of malefactors.

I did not intend, Mr. Speaker, ever to address this House upon the subject of slavery. I had almost promised myself that I might turn my thoughts to other and larger fields soon to open before us; but when I saw the institution maintained again and again in this House I could not resist my inclination to strike one blow in hope of hastening its doom.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate had passed, severally with amendments, in which the concurrence of the House was requested, a joint resolution and bill of the House of the following titles:

Joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, 1864; and

An act (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1866.

Also, that the Senate had passed, without amendment, an act (H. R. No. 458) for the relief of George Mowrey.

Also, that the Senate had indefinitely postponed a joint resolution and bills of the following titles, namely:

Joint resolution (H. R. No. 94) for the relief of Peter Wheeler;

An act (H. R. No. 43) for the relief of Milo Sutliff and Levi H. Case;

An act (H. R. No. 261) to provide for the voluntary enlistment of any persons residents of certain States into the regiments of other States;

An act (H. R. No. 516) for the relief of Frances Munson; and

An act (H. R. No. 520) for the relief of Samuel Beaton, master of the schooner George Harris.

Also, that the Senate had passed an act (S. No. 595) for the relief of Edmund S. Zevely, in which the concurrence of the House was requested.

#### RECIPROCITY TREATY.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to take up the resolution in relation to the reciprocity treaty, and concur in the amendment of the Senate.

Mr. TOWNSEND. I object. I should like to have the matter further considered.

#### DEFICIENCY BILL.

Mr. STEVENS. I ask unanimous consent that the Senate amendments to the deficiency bill be taken from the Speaker's table, and referred to the Committee of Ways and Means.

There being no objection, it was so ordered.

#### ABOLITION OF SLAVERY—AGAIN.

Mr. BALDWIN, of Massachusetts, obtained the floor.

Mr. STEVENS. I do not know who has the floor, but I should be glad if I could have, now that I am up, ten minutes of some gentleman's time.

Mr. BALDWIN, of Massachusetts. I will yield the gentleman a few minutes of my time.

Mr. STEVENS. I will detain the House but a few minutes. I see, upon looking at the Globe of yesterday, that my distinguished colleague on the Committee of Ways and Means from Ohio, [Mr. PENDLETON,] if I understand his language aright—and he always speaks with "classic accuracy"—has exonerated those in arms in the rebel States from the responsibility of this bloody war and placed it upon the shoulders of the gentleman from Pennsylvania, (myself,) and those who act and think with him in this House.

Sir, that is a grave charge, coming especially from a gentleman who seeks one of the highest

places in this nation, and who may possibly receive a few votes for it; and it is therefore, I think, proper that my position, and the position of those who act with me, with regard to this question and our responsibility for the cause of this war, should be in a few summary words set forth in connection with this debate.

Mr. PENDLETON. I only desire that the gentleman shall quote the language I used in immediate connection with the interpretation which he is giving it.

Mr. STEVENS. The gentleman said—

"Let him be careful, lest when the passions of these times be passed away, and the historian shall go back to discover where was the original infraction of the Constitution, he may find that sin lies at the door of others than the people now in arms."

This was addressed to the gentleman from Pennsylvania, [Mr. STEVENS,] to the gentleman from Rhode Island, [Mr. JENCKES,] and others who have acted and thought with me. I infer from this, if I can understand the "classical accuracy" of the gentleman, that he means that we, and not they, were the cause of this war.

Mr. Speaker, that charge, as I have stated, is a grave one, and if true ought to induce us, not only to feel great regret, but deep remorse for our conduct. What, then, up to the time of the breaking out of this rebellion, was the position of "the gentleman from Pennsylvania," and those who acted with him upon the subject of slavery, that caused this war? I beg but a few moments to state it.

From my earliest youth I was taught to read the Declaration of Independence and to revere its sublime principles. As I advanced in life and became somewhat enabled to consult the writings of the great men of antiquity, I found in all their works which have survived the ravages of time and come down to the present generation, one unanimous denunciation of tyranny and of slavery, and eulogy of liberty. Homer, Æschylus the great Greek tragedian, Cicero, Hesiod, Virgil, Tacitus, and Sallust, in immortal language, all denounced slavery as a thing which took away half the man and degraded human beings, and sang peans in the noblest strains to the goddess of liberty. And my hatred of this infernal institution and my love of liberty were further inflamed as I saw the inspired teachings of Socrates and the divine inspirations of Jesus.

Being fixed in these principles, immovably and immutably, I took my stand among my fellow-citizens, and on all occasions, whether in public or in private, in season and, if there could be such a time, out of season, I never hesitated to express those ideas and sentiments, and when I first went into public assemblies, forty years ago, I uttered this language. I have done it amid the pelting and hooting of mobs, but I never quailed before the infernal spirit, and I hope I never shrank from the responsibility of my language.

When, thirty years ago, I entered the Legislature of the State which I now in part represent, I carried with me the same feeling and the same determination; for this feeling grew with my growth and strengthened with my strength, but I thank God it has not decayed with enfeebling age.

Carrying into that body these same feelings, I there expressed them, and at one time found a unanimous Democratic party to respond to them in the strongest resolution that I could draw. The noble Governor, the first that our party elected in those times, Governor Ritner, who is now spending an honored old age in retirement, in the first message that had come since 1780 on that subject, denounced the dark spirit of slavery.

When, fifteen years ago, I was honored with a seat in this body, it was dangerous to talk against this institution, a danger which gentlemen now here will never be able to appreciate. Some of us, however, have experienced it; my friend from Illinois on my right [Mr. WASHBURN] has. And yet, sir, I did not hesitate, in the midst of bowie-knives and revolvers and howling demons upon the other side of the House, to stand here and denounce this infamous institution in language which possibly now, on looking at it, I might deem intemperate, but which I then deemed necessary to rouse the public attention and cast odium upon the worst institution upon earth, one which is a disgrace to man and would be an annoyance to the infernal spirits.

Mr. Speaker, while I thus denounced it and

uttered my sentiments in favor of universal freedom everywhere, I found in the Constitution of my country what I construed, whatever others may think, as a prohibition from touching slavery where it existed; and through all my course I recognized and bowed to a provision in that Constitution which I always regarded as its only blot; and I challenge the scrutiny of my respected colleague on the Committee of Ways and Means, or any other gentleman, through all the records of utterances in this House, to find one single motion or one single word which claimed on our part to touch slavery in the States where it existed. We admitted that it was there, protected by that instrument. We claimed that in the Territories we had full power over it, and in the District of Columbia, and I, with those who acted with me, could not hesitate as to what our duty required in excluding it from the free soil of the country and confining it to the spots it already polluted. I claimed the right to abolish it in the District of Columbia, as Congress was the only Legislature on earth that could touch it here. I heard the great man of the West once say that it was a sin and shame to believe that there was no power on earth that could abolish it over every inch of ground in the world. But, sir, I did not claim early to act upon it here, but I rather proposed to let it rest until a more propitious moment should arrive before we acted upon it.

Such, sir, was my position, and the position of the party with which I acted in this Hall—not disturbing slavery where the Constitution protected it, but abolishing it wherever we had the constitutional power, and prohibiting its further extension. I claimed the right then, as I claim the right now, to denounce it everywhere, even in foreign lands, so that if such language could anywhere affect public sentiment it might do so. I claimed the right then, as I claim it now, to hedge it into the smallest space; but no man with whom I acted ever proposed to violate the Constitution for the purpose of touching slavery.

So much on that point. One other word, not directly on that. The gentleman from Ohio [Mr. PENDLETON] says that I go on the maxim that "what is broken in one thing is broken in all," and that hence, if there was one infraction of the Constitution it was dissolved. That is the coinage of the gentleman's own fertile brain. I never uttered such a sentiment nor held it. The Constitution may be violated in many parts, and remain intact in all others. The gentleman had, perhaps naturally enough, confounded what I had said with what he finds in a sacred book, where it is said that a violation of the least of the commandments is a violation of all. It was not I that said it, but another much greater.

Ingenious gentlemen argue, and many honest men will delude their consciences in voting, in favor of still sustaining the institution on the ground that the Constitution does not allow an amendment on this point. They go on the ground that the subject of slavery has not been intrusted to us by the States, and that therefore it is reserved. Now, as the Constitution now stands, that is true. But we are not now inquiring whether we have jurisdiction over slavery. We are inquiring whether the States have granted to us the power of amendment. That is the subject—not the subject of slavery, not the subject of religion, not the subject of anything else—but, have the States yielded to Congress the right to amend? If they have, then the whole question is answered. Not only have they granted that power, but wherever they intended to except anything from the power of amendment, they have said so. My learned friend knows that when a statute excepts certain things, everything else is meant by it. Will the Clerk read the clause of the Constitution?

The Clerk read, as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1868 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."



Mr. STEVENS. No lawyer who wishes to understand it can deny that, with the exceptions contained in that proviso, the power to amend the Constitution is unlimited. There is no subject on earth relating to Government that you cannot touch. Nowhere in that original instrument did the States grant the right of legislating on the subject of religion; and yet the very first amendment that was made under this power refers to the subject of religion and the freedom of speech, showing the fallacy of the arguments of those who say that you can amend only the subjects granted to Congress.

Perhaps I ought not to occupy so much time, and I will only say one word further. So far as the appeals of the learned gentleman [Mr. PENDLETON] are concerned, in his pathetic winding up, I will be willing to take my chance, when we all molder in the dust. He may have his epitaph written, if it be truly written, "Here rests the ablest and most pertinacious defender of slavery and opponent of liberty;" and I will be satisfied if my epitaph shall be written thus: "Here lies one who never rose to any eminence, and who only courted the low ambition to have it said that he had striven to ameliorate the condition of the poor, the lowly, the downtrodden of every race and language and color." [Applause.]

I shall be content, with such a eulogy on his lofty tomb and such an inscription on my humble grave, to trust our memories to the judgment of after ages.

Mr. BALDWIN, of Massachusetts. Mr. Speaker, if the House were now ready to sustain a call for the previous question and come to a vote, I would gladly give way to have the vote taken. I shall not undertake an elaborate or extended argument, nor make a long speech. I propose only to take some notice of what is said or implied in one or two of the arguments that have been urged against the measure now before the House.

1. One argument against the measure assumes that the people of this Republic cannot safely be trusted with control of the form of their national government. It is said that if we admit that the people have rightful authority to amend the Constitution so as to abolish and prohibit slavery, it will follow that the people have also authority to set up a monarchy, or do anything else that implies unlimited control over the form of their government, therefore such authority must be denied. That is to say, the right of self-government, the right of democratic institutions, the right of the people of these States to be the source and the organizers of political power in the nation, must not be admitted, because it would be dangerous to trust the people with full power to amend the Constitution and decide for themselves how and by what methods they will be governed.

Certainly it is not paying a high compliment to the people of this nation to assume that they would, under any circumstances, set up a monarchy or transform the Republic into a hideous despotism like that of Dahomey. It represents nothing in the character or the political faith of the men who framed our Government. They had faith in the people, and could not tolerate a policy that would place them under guardianship. Doubtless some needy royal prince, some starving monarch out of business, some benevolent and pitiful Maximilian might have been found to undertake the business of putting the people under discipline and keeping them out of mischief; but the men of the Revolution felt no need of such keepers. Let me add that he who can see, in the endeavor to abolish and prohibit slavery, a disposition to revolutionize the Government and establish a despotism, must have eyes that can see horrid shapes of ugliness where there is nothing but perfect beauty, and be haunted by the blackest night amid the brightest and most transfiguring sunshine. Is it love of freedom and desire to establish justice that subjects nations to despotism? He is not sane who believes it.

2. It appears to me that in the discussion of this question of power to amend the Constitution two things have been confounded that should be considered separately. One is, what can be done to amend the Constitution within the limits of that instrument, while preserving it and along with it the republican form of government it has created; the other is, the right of the people to change the form of their government by setting

aside the present republican Constitution and putting in its place another constitution entirely different. No man will deny that our national Constitution requires a republican form of government. Nor can it easily be denied that not only the preamble but also the whole intent and spirit of the instrument require all amendments to be in harmony with republican principles. But it does not follow that the people of these States have lost the right to change entirely the form of their government by means of a new Constitution regularly adopted. You may call such a change of the form of government "an amendment of the Constitution" if you will, for in securing it the same method must be pursued that is required for the most unimportant change; but you must admit that it is an amendment "in the nature of a substitute."

But let us consider what is chiefly meant by the representation that the measure before the House "changes the form of the Government." It is quite possible that some gentlemen are not yet emancipated from the notion that slavery itself is the chief thing in our form of government. For years the slave power was persistently put forward as "the Constitution and the laws." Slavery and nothing else is meant now, by some gentlemen, when they put on sad countenances and talk mournfully of "the Constitution as it is and the Union as it was." It is not surprising that such people talk as if the form of our Government would be wrecked and the foundations of the earth put out of course if slavery should be swept away by such an amendment of the national Constitution. But their astonishing monomania does not change the nature of things. It cannot transform a devil into a seraph, nor make an outrageous barbarism pass current as Christian civilization.

But, in this discussion, the representation that the measure now under consideration "changes the form of our Government," has chiefly meant that it denies that theory of "State sovereignty" to which secession treason appeals for justification, and which is so pertinaciously urged here by some gentlemen on the other side of the House. They assume that this disorganizing theory describes correctly the form of our Government, and, of course, proceed to talk as if the Government itself would be wrecked if their theory of "State sovereignty" should fail to regulate the proceedings of Congress and the people. In their view "the form of our Government would be changed" by any measure that should spurn this pestilent theory and trample it under foot; a theory that is utterly unwarranted by anything in the national Constitution or in the history of our political institutions.

Our national Union was established by the Declaration of Independence. Previous to that Declaration there were no States; there were only colonies and dependencies of Great Britain. The Union and the States came into existence together as a nation. By the Federal Constitution this national Union was organized, consolidated, and made more perfect. This doctrine of independent State sovereignty was not tolerated in the constitutional Convention, for the men who controlled that Convention and represented the spirit of the country meant that this Republic should be a great and inseparable nation. After the national Government was fully organized, and during the administration of John Adams, while the country was agitated by a storm of political excitement, the factious vehemence of the Opposition gave birth to this doctrine, that the national Union is merely a compact, league, or agency of independent State sovereignties. I refer, of course, to the notorious Kentucky and Virginia resolutions of 1798-99. I do not think the men of that time who were concerned in this business understood very well what they did. Certainly they did not mean all that has since been meant by the nullifiers and secessionists.

These resolutions were intended chiefly as partisan devices to break down the Administration. Not until years afterward was it publicly known that Mr. Jefferson had any connection with them. Nevertheless he wrote the resolutions that were adopted by the Kentucky Legislature. It was intended that the same resolutions should be adopted by the Legislature of Virginia, but the Virginians hesitated and turned to Mr. Madison for a milder

and more equivocal edition of this gospel of nullification. The political atmosphere being full of insanity, and Mr. Jefferson's influence very pressing, he complied. It was a compliance which he did not afterward remember with satisfaction. The ostensible purpose of these resolutions was to array "State sovereignty" against certain acts of Congress. With all the impressive formalities that seemed desirable they were sent forth to every State in the Union. And what was the result? What judgment did the nation pass upon the doctrines set forth in them? Not another State in the Union would indorse the resolutions. The general judgment was briefly and tersely expressed by the State of Delaware as follows:

*"Resolved, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That they consider the resolutions from the State of Virginia as a very unjustifiable interference with the General Government and constituted authorities of the United States, and of dangerous tendency, and therefore not fit subject for further consideration by the General Assembly."*

This judgment of the whole nation against the pernicious and destructive doctrine of independent State sovereignty, passed, too, within eight years after the Constitution was adopted, shows conclusively how contrary that doctrine was to the political doctrines and purposes of the men who established the Government. No political party at that time, nor for fifty years afterward, could be induced to indorse those resolutions. Mr. Jefferson himself made no further use of them. In fact, no Administration has interpreted the Constitution more loosely, or shown less deference to the doctrines of the resolutions of 1798 and 1799, than Mr. Jefferson's. His aim was accomplished; the old Federal party was overthrown; for the next twenty-four years we had for Presidents, first Jefferson, next Madison, and then Monroe, all Virginians. The resolutions of 1798 and 1799 were laid away quietly, shielded from much of the infamy that would have been their lot under different circumstances, and henceforth were heard of only now and then when some curious explorer in the dust-holes of past political history spoke of them civilly as "Virginia abstractions."

Mr. Madison, as I have said, was never afterward quite at ease in regard to these resolutions. When Mr. Calhoun and his followers brought them forth again to justify their attempt to overthrow the Government by means of nullification, Mr. Madison protested, and denied with great earnestness that the Virginia resolutions had any such meaning as the Calhounists found in them. His private correspondence of that date is full of references to this subject. But the letter of the resolutions was evidently against him; and, feeling this, he said in a letter to William C. Rives, dated March 12, 1833:

*"A few words, with prophetic gift, might have prevented much error in the glosses on those proceedings."*

Writing to Martin Van Buren, March 13, 1827, on "the Georgia business," he said:

*"If it be understood that our political system contains no provisions for deciding questions between the Union and its members but that of negotiation, and, this failing, but that of war, as between separate and independent Powers, no time ought to be lost in supplying, by some mode or other, the awful omission. What has been called a Government is, on that supposition, a mere league only; a league with too many parties to be uniformly observed or effectively maintained."*

Writing to James Robertson, April 20, 1831, he said:

*"That the people of the United States formed the Constitution will be denied or affirmed, according to the sense in which the expression is understood. The main question is whether they have not given to the Charter a sanction in a capacity and a mode that shuts the door against all such disuniting and nullifying doctrines as those lately advanced."*

Writing to William C. Rives, March 12, 1833, Mr. Madison said:

*"What can be more preposterous than to say that the United States, as united, are in no respect or degree a nation which implies a sovereignty; although acknowledged to be such by all other nations and sovereigns, and maintaining with them all the international relations of war and peace, treaties, commerce, &c.; and, on the other hand, and at the same time, to say that the States separately are completely nations and sovereigns, although they can separately neither speak nor hearken to any other nation, nor maintain with it any of the international relations whatever; and would be disowned as nations if presenting themselves in that character?"*

In calling attention to these passages in the private correspondence of Mr. Madison, my aim is

to show how completely he, the writer of the Virginia resolutions, repudiated the doctrines of the Calhounists, modern secessionists, and other advocates of independent State sovereignty, who have appealed to those resolutions, the old utterances of partisan monomania, as if they contained a very sacred political gospel. The founders of our Government intended that the great American Republic should be a nation, a sovereign Power, with right to defend its own existence by whatever means may be necessary, and to stand forth among the nations of the earth mighty and glorious in the power of free principles and free men, able to crush with irresistible force all enemies domestic or foreign. Nothing was further from their intention or their favor than this doctrine of State sovereignty which transforms the national Union into a loose league, with no central authority to enforce allegiance and assert national sovereignty, a mere sham, a structure that may fall to pieces at a word from any of the parties to it.

Mr. Speaker, if we have learned anything from the sad experience of the last three or four years, it is that slavery should be destroyed in this Republic, and by an amendment of the national Constitution be forbidden, and made for evermore impossible wherever the national banner floats as the symbol of our national sovereignty. Why should slavery be so strenuously supported at the present time? It is an outlaw to civilization; and this southern treason has now made it an outlaw to the Government, to patriotism, and to all honest regard for the welfare of the nation. The slave power has bred traitors as naturally as foul vapors breed disease, or as a den of thieves breeds villainy. Any compromise with it would necessarily become to us "the mother of woe, and death, and hell." Let it be destroyed, for our republican institutions cannot be safe while it exists! Let it be destroyed that the rights of man may be vindicated and eternal justice satisfied.

Mr. BROWN, of Wisconsin, obtained the floor, but yielded to

Mr. HIGBY, who moved that the House do now adjourn.

#### RECIPROCITY TREATY.

Mr. WASHBURN, of Illinois. Will the gentleman from California [Mr. HIGBY] withdraw the motion to adjourn, to allow me to call up the amendment of the Senate to the resolution terminating the reciprocity treaty?

Mr. HIGBY. I withdraw the motion for that purpose.

Mr. WASHBURN, of Illinois. I ask unanimous consent of the House to take up the Senate amendment to joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, 1854. I understand the gentleman from New York [Mr. TOWNSEND] withdraws the objection he made some time ago.

Mr. WARD. I object, unless I can have an opportunity to move to refer the joint resolution and amendment to the Committee on Commerce.

The SPEAKER. It will not be in order to submit such a motion until the joint resolution and amendment are taken from the Speaker's table.

Mr. WARD. It will be in order to submit that motion as soon as it is taken up?

The SPEAKER. It will be in order, unless the previous question shall be ordered.

Mr. WASHBURN, of Illinois. I will not call the previous question before giving the gentleman from New York [Mr. WARD] an opportunity to submit his motion to refer.

Mr. WARD. I must insist upon my objection at this time because the House is not now full. I do not wish a question of such gravity to be decided in a thin House. But when the House meets on Monday I will not object to its consideration.

Mr. WASHBURN, of Illinois. Then I ask unanimous consent that it be understood that this shall be taken up on Monday and considered.

The SPEAKER. It is hardly competent for the House at this time to determine, even by unanimous consent, what shall be done on Monday; for an objection will then hold against the consideration of this joint resolution and amendment at this time. The House, by unanimous consent,

can take it up at this time and make it the special order for Monday at one o'clock.

Mr. WASHBURN, of Illinois. I will agree to that.

Mr. RANDALL, of Pennsylvania. I object. On motion of Mr. HIGBY, (at four o'clock, p. m.) the House adjourned till Monday next.

#### IN SENATE.

MONDAY, January 16, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of Friday last was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior communicating, in obedience to law, a statement prepared by the Second Comptroller of the Treasury, showing the balance of appropriations standing upon the books of his office to the credit of his Department on the 1st of July, 1863; the amounts appropriated for the fiscal year ending June 30, 1864, including repayments and transfers of appropriations, and the aggregate amounts applicable to the service of the said fiscal year; also the amounts drawn from said appropriations, or carried to the surplus fund from July 1, 1863, to June 30, 1864, and the balance remaining in the Treasury at the last named date; which was laid on the table.

He also laid before the Senate a report of the Secretary of the Interior communicating, in answer to a resolution of the Senate of the 6th instant, information in relation to agents in the employment of the Government for paying pensions; which was referred to the Committee on Pensions, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of Janes, Fowler, Kirkland & Co., contractors to furnish materials and labor for the construction of the dome of the Capitol, praying for additional compensation on their contract; which was referred to the Committee on Claims.

Mr. GRIMES presented the petition of Charles Murray, paymaster United States Navy, praying for additional compensation while paymaster at the naval station at Mare Island, California; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented the petition of William Hughes, praying for compensation for the improvement of the grounds surrounding Armory Square Hospital; which was referred to the Committee on Public Buildings and Grounds.

He also presented the petition of the local board of steamboat inspectors on the western rivers, praying for an increase of compensation; which was referred to the Committee on Finance.

He also presented a memorial of citizens of the city of Sandusky, Ohio, praying for the establishment of a naval depot on Johnson's Island, in Sandusky bay; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented the petition of merchants of Boston, praying for the postponement of the bankrupt bill now under consideration until such time shall have elapsed after the restoration of the revolted States as shall give northern creditors opportunity to negotiate with their debtors in those States for the adjustment of their claims; which was referred to the Committee on the Judiciary.

He also presented the petition of officers in the volunteer service of the United States, praying for an increase of the pay of officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented the petition of citizens of Mecosta county, Michigan, praying for an appropriation for the improvement of the channel of Muskegon harbor; which was referred to the Committee on Commerce.

He also presented the petition of citizens of Port Huron, in the State of Michigan, praying for an amendment of the law providing for internal revenue so far as it relates to a tax on the gross receipts of ships and vessels; which was referred to the Committee on Finance.

Mr. CONNESS presented the petition of Samuel Norris, of California, praying for payment for

supplies furnished to the Indians in the year 1851 under contracts with Mr. Wozencraft, Indian agent; which was referred to the Committee on Indian Affairs.

Mr. DAVIS presented the petition of Mary Scott, praying to be indemnified for damages sustained by her by reason of the occupation of her land by the Federal forces, and the loss of stock and crops in the years 1861 and 1862, which she alleges were taken by the Federal forces; which was referred to the Committee on Claims.

#### TREATMENT OF PRISONERS OF WAR.

Mr. LANE, of Indiana. I desire to present a memorial from a great number of the most respectable citizens of Fort Wayne, in the State of Indiana; and in making a motion to refer it to the Committee on Military Affairs I propose to explain as briefly as possible my position in reference to the prayer of the memorialists. The memorial is to this effect:

To the Honorable Senate and House of Representatives of the United States in Congress assembled:

We, the undersigned citizens of Fort Wayne, Allen county, and State of Indiana, would respectfully request your honorable body to pass a law, with as little delay as possible, to place all of the rebel prisoners now in our hands under the control of those officers and men who have been in rebel hands, and that the same rations and treatment be extended to the rebel prisoners that our men have experienced at their hands; and that the same be continued until the rebels exchange all of our men in their hands, or treat them with that degree of humanity that the rules of war require. And for which your petitioners will ever pray.

It is made my duty, at the request of these constituents of mine, to present this memorial, and in doing so I desire to state that my own sympathies and feelings are in exact accordance with the prayer of the memorialists.

Mr. WADE. If the Senator will permit me, I will offer now a resolution that I have drawn up on that very subject, so that he may make his remarks upon it.

Mr. LANE, of Indiana. Certainly; the interruption is very appropriate.

Mr. WADE. I send to the desk a resolution on the subject.

The VICE PRESIDENT. The resolution will be received at this time, if there be no objection. The Chair hears none.

The Secretary read the following resolution:

Resolved by the Senate and House of Representatives in Congress assembled, That from and after the passage of these resolutions all prisoners, both officers and soldiers, of the confederacy, so called, who are now or shall be in the power, control, and keeping of the Federal Government, shall receive the same rations, the same amount of clothing, and be subject to the same treatment in every respect as Federal prisoners of war, both officers and soldiers, who are now or have been in the power, control, and keeping of the confederate government, so called, have received.

Sec. 2. And be it further resolved, That when it shall be proved to the satisfaction of the President of the United States that the confederacy have changed their treatment of Federal prisoners for better or for worse, it shall be his duty to change the treatment of confederate prisoners in like manner.

Sec. 3. And be it further resolved, That if any officer or officers having such prisoner or prisoners in charge shall fail to comply with and rigidly carry out the provisions of the foregoing resolutions, such officer or officers so offending shall be immediately dismissed the service and subject to such further punishment as a court-martial shall in their discretion see fit to inflict.

Mr. LANE, of Indiana. I am under obligations to the distinguished Senator from Ohio for the introduction of these resolutions, that will, if passed, effect one of the objects contemplated by the memorial, but will leave untouched another object, as I think, equally important with the first, and that is, that the custody of these rebel prisoners shall be placed in the hands of Union officers who have been released from rebel prisons; who know precisely the treatment they received and the rations they got; and it seems to me the whole object contemplated by the memorial cannot be effected without the incorporation of that principle in the resolutions, though I shall certainly vote for them as now presented if they be not amended. I speak, Mr. President, for those who have no voice to speak for themselves. I speak for your brave soldier-boys in rebel prisons, languishing, undergoing uncomplaining and silent yet certain martyrdom for the great cause in which we are engaged; men who are haunted by day with the terrible specter of death from starvation, and whose uneasy repose at night is interrupted by the same grim and terrible specter. The attention of the whole country has been called to the barbarities and atrocities perpetrated against

our prisoners. The world has heard, and heard with horror, of these rebel barbarities. I am not here to complain of our authorities for I know from frequent interviews, both with the President and with the Secretary of War, that they have desired most ardently and labored most earnestly and honestly to effect a fair exchange of prisoners; but the rebel authorities seem alike to trample upon all the laws of God and man. Now, sir, if this is to be a war of extermination, let not the extermination be all upon one side. Mercy to felons and traitors is cruelty to our own soldiers in southern prisons.

But gentlemen say that by this system of retaliation we shall invite counterretaliation upon the part of the rebels. Sir, to what system of retaliation can they resort more terrible in its consequences than their treatment under the present system? The law of retaliation has been resorted to in every war from the beginning of the world to the present moment. Every system of warfare is but a system of mutual retaliation, and can be carried on under no other possible principle.

I speak not only for those poor prisoners, but I speak in behalf of the agonized and bleeding hearts of one hundred thousand homes in the loyal States, whose husbands, brothers, and sons are languishing in southern prisons. I speak in behalf of the maimed and crippled veterans who are hobbling around your Halls on crutches and asking that something shall be done for the relief of your brave soldiers in rebel prisons, their noble brothers in arms, who are now dying for the cause for which they shed their blood.

We are told that our authorities have done all that they could do. They have, I doubt not, honestly endeavored to effect an amelioration of the condition of those prisoners; but so far, unfortunately, they have been unsuccessful. I think, then, it is time, and high time, that another system should be resorted to. I know that mercy is a noble attribute, a godlike attribute, but justice, patriotism, and all the high motives which are drawn from the sufferings and the horrors of these prisoners also appeal to us as men, patriots, and Christians.

We are told further that this system of retaliation will exasperate the people of the South. I have heard that statement too often already. They now indulge in a system of warfare the most barbarous and atrocious known to the history of modern civilization, and they can do no worse if we resolve, in justice to our own soldiers, to mete out to those we have captured from the rebel army their own measure; at least until they shall reform their conduct in reference to our men. Will any act of ours further exasperate those felons, and traitors, and demons in human shape? After the tiger has tasted blood, do soft words appease him, or a hostile gesture exasperate? No, sir, the savage and the beast alike act on their instincts; they have gone to the very utmost verge of barbarity and cruelty in their punishments already.

There are now about forty-five thousand Union soldiers in rebel prisons. We have about double that number of rebel prisoners in our hands. Those forty-five thousand men, a great army of themselves, are reduced by starvation to a state of utter helplessness, and if they remain in those prisons can never render active service again in our armies. Those of them who escape the slow tortures of death by starvation, return emaciated and feeble and unfit for service. Our system is, as Christian men should do, to feed and clothe and provide for their men when prisoners in our hands. Every one we send back to them is in a condition of efficiency far greater than he was when he entered our prisons. Then you see the effect. We returned last month some fifteen thousand rebel prisoners in excellent condition, having been fed and fattened upon Government rations; and we received wrecks, skeletons in their stead, shocking to our common humanity. Measures of mercy having failed, it is time we resorted to a different system—a system of strict retaliation marked by justice in every feature. I think the people demand it. They have with great patience borne all these things in the hope that by merciful treatment we still might bring these felons and traitors to their senses; but all these measures have failed. Now I propose, first, that all the camps of rebel prisoners shall be placed under the command of officers who have endured the hardships of south-

ern captivity, who know what the southern rations have been; and, second, that we shall mete out to them the same treatment meted out to us.

You have many measures, Mr. President, pending before the Senate for the purpose of promoting enlistments in the Army and increasing its efficiency, all well in their kind; and you have had important debates in reference to the African race, and recently in reference to the Indian race; but here are forty-five thousand of our own noble soldier-boys in prison, and it is time that we should legislate somewhat in their behalf. These measures to promote enlistments in the Army and to increase the efficiency of the Army are all well enough; but if you pass the resolutions of the Senator from Ohio, or if you enact the language of this memorial into a law, you will have done more by that act to promote enlistments and to increase the efficiency of the Army than by passing any other measure now under consideration before the Senate. You wish to give inducements to men to enlist as soldiers; at least you do not wish to hold out a discouragement to enlistments. If you ask a man to enlist when he knows that if the chances of war shall make him a captive in the hands of the enemy, death would be a thousand times preferable to the horrors of captivity, where is the inducement to enlist? Nothing but the high motives and inspirations of a patriotism unparalleled in the history of the world have kept our armies full up to the present moment. But teach the soldier that your eye is upon him; that you will protect him; that you will follow him to his prison, and even to his grave, with your benefactions, and you give him an additional inducement to enlist; you encourage his family and friends, and foster that high and heroic spirit which has made our noble Army invincible, and you teach a lesson to those traitors in arms that they cannot with impunity trample upon all their obligations to God as Christians and all their obligations to the world to abide by the laws of civilized warfare; you teach them that lesson, a lesson that they should have learned long ago.

I saw recently an article in a newspaper stating that if you adopt this system of retaliation you will make the war still bloodier. How much bloodier can you make it, and what principles of savage ferocity can you exasperate these people to adopt that they have not already adopted? Make the war bloodier! How bloody is it already? Two hundred thousand of your soldiers have found martyrs' graves in southern soil. Sir, I would make the war still bloodier; I would make every rocky ravine in southern Georgia and Alabama run with the blood of traitors, and I would drive into the Gulf stream the last rebel there before I would recognize their system of conducting this war, or recognize their independence. Yea, I would invoke the spirit of the evil one, if he has not already entered and possessed the souls of these traitors, so that they should run voluntarily down into the sea, and let the Gulf stream be their last resting place, unless they are willing to return to their allegiance to the Government. The moment they do that the war ceases.

But another gentleman says this is not the time for this policy while peace commissioners at Richmond, it may be, are talking about peace. Sir, the cry of peace is a grand humbug that has been exploded a thousand times. There is but one way to peace, and that is by establishing the supremacy of the laws, by breaking down the military organization of the rebels, by destroying their armies, and then making them return to their allegiance to the Government. Peace can only come through bloody and successful war, and we are but inapt scholars of history if the experience of the last four years has not taught us that. The President has again and again offered to them all that we can constitutionally offer, which is to abandon the war, lay down their arms, become good citizens, and from that very moment the war ceases; but until they shall do that the war will never cease. This whole talk of peace commissioners at this stage is a humbug and a delusion. It is encouraging false hopes never to be realized. It is asking an armistice that the rebels may recuperate their energies and again slaughter your sons upon the battle-field.

Mr. President, the theme to which I have spoken is a great and a noble one, and I only regret that it has not had an abler and more distinguished advocate.

Mr. WADE. Mr. President, I do not propose to enter extensively into a debate on this subject. Indeed I hope no debate is necessary. I know with what reluctance every man feels compelled to enter upon this system of retaliation. It is always inhuman, harrowing to the heart and feelings of every just man, and is only to be resorted to, in my judgment, when absolute necessity compels us to resort to it as a means of obtaining justice.

Nearly a year ago the committee on the conduct of the war were instructed to inquire into the condition of our prisoners as they returned from southern prisons. The committee immediately entered upon that work. We took somewhere about a hundred depositions of the victims of this inhumanity from the rebel States. We also took the testimony of a great many surgeons and medical men who testified as to what their treatment had been, and showed beyond a possible doubt that thousands of our men had suffered the most lingering and inhuman death by means of starvation and exposure. The specimens that were returned whom we saw, and whose testimony we took, were on the verge of the grave, and some of them dying as we took their testimony. We embodied our observations in a report, a report that has not been pretended to be gainsaid or denied by anybody.

I understood when we went forth to take that testimony that it was to enlighten the Executive as to the exact facts in regard to this matter; that the inhumanity was so great, it shocked the sense of mankind to such a degree, that the Executive, like everybody else, was unwilling to believe that such a thing could exist at this age of the world; and I understood also, that if the testimony proved the facts to be as alleged, the Executive had promised us that he would take the most energetic means of retaliation, and endeavor in that way to prevent it. It has run on from that day to this. I have constantly hoped and wished and believed that as this reiterated evidence came to our knowledge day after day, and month after month, it would stir those in authority to do something. But, sir, all is silent; I see no movement anywhere. I felt it therefore incumbent upon me even to endeavor to wake up the country to a sense of our responsibility, to endeavor to do something in behalf of these brave suffering men who have gone forth with a spirit of patriotism and self-denial unparalleled, and have been too long overlooked.

I was still further impelled to do this when I saw how easily the sympathies of our people were aroused in behalf of these accursed rebels, unrepentant, so far as I know, living in cities we have lately conquered. The hearts of our population seem moved in their behalf. I do not object to it. They are sending provisions by the ship load to relieve these rebels who have caused all this misery to our men, and who, if they are suffering, are suffering justly in consequence of their own crimes. Near by these very cities are now lingering in these infernal dens our brave men starving to death, tortured to death by exposure and ill treatment; and yet I do not hear of ship loads of provisions and comforts going to them. Yes, sir, perhaps within ten miles of the very place where these things are to be distributed lie our poor, brave men, suffering all that malignity, barbarity, and brutality can inflict upon men; and yet we find our people moving in behalf of those who have brought this misery on the country, and compelled us to sacrifice the best of our men in such a cause.

Sir, it has gone further. I see it announced in the papers—I do not know that it is true; I hope it is not—that a late eminent rebel, one whose counsels have done more to bring this misery upon the people than any other I know of, lately, dissatisfied with his old rival, and getting into a quarrel there, attempted to seek shelter within our lines—so the report runs—but being apprehended by his old rival and enemy before he got here was taken back; and the papers say it stirred the hearts of some of our executive Government until they put forth their threats that if a hair of his head was harmed, four of the highest rebel officers should answer for it. Sir, if such retaliation may be done in behalf of a vile, accursed rebel, I hope the same meed of justice may be extended to our own loyal, brave, and suffering men.

I look with no complacency on this misplaced



humanity. Why, sir, if that renegade from the southern confederacy was taken by us, we ought to take his life ignominiously; he should hang the next hour; and yet if he gets back there, and they do him justice, we are going to sacrifice four of the rebel leaders in retaliation!

Mr. CLARK. We ought to hang them ourselves.

Mr. WADE. I do not care how many of them you hang; but I would not hang a dog in such a cause as that. [Laughter.]

But, sir, to return to the subject. I rejoice to find that my friend from Indiana is stirred up, and that I shall have his powerful aid to get through these resolutions. I like his suggestion also in regard to the treatment of these prisoners being placed in the hands of those of our men who have suffered in southern prisons; and if it had occurred to me my resolutions would have been more perfect than they are. I hope that he will offer an amendment that these prisoners shall be placed under the charge and custody of the officers and men who have served in the rebel prisons, and who know exactly what meet of retaliation they deserve. I hope they will be so amended; and I shall accept such a modification if the gentleman will offer it, and I hope he will.

I hope, sir, that this resolution will not be suffered to pass from our hands until we have passed it so far as we can do so into a law. We have waited long enough, yea, too long, and before the world and before our own consciences we cannot justify the lenity we have already bestowed upon these rebels. Why, sir, in their report the committee on the conduct of the war were compelled to announce that this system of starvation and exposure was a deliberate, premeditated principle of the rebels, adopted to kill off and destroy and render unfit for military service every man that fell into their hands. The evidence warranted us in saying so. We could come to no other conclusion. Such is the accursed fact that will stand and stare this so-called southern confederacy in the face to the end of time; a deliberate purpose by brutality, inhumanity, exposure, and starvation to destroy the manhood of the unfortunate brave men who happened to fall into their hands as prisoners of war for the base and accursed purpose of rendering them unfit for military service. We announced it; nobody denied it; and yet, to our shame and the shame of the country be it spoken, nothing has been done. We lack spirit; we lack sympathy with our brave soldiers in the field. Everything demands immediate action on that subject. Let us retrace our steps; let us, so far as we can, redeem the time, and let not an hour pass until the means of retaliation are adopted.

Mr. HOWARD. I do not rise to protract the discussion, but simply to call the attention of the Senate to the present state of the subject before this body. During the last session, when it was before us in some form—I do not now recollect what—I expressed a disposition myself to bring in a measure the object of which was to resort to the rule of retaliation for the purpose of restraining the insurgents henceforth from the practice of such barbarities upon our prisoners in their hands; but on further consideration of the subject, and on consulting with my friends about it, I thought it best to let it pass by for the present, but always in the hope that the Executive of the United States, as the head of the military authority of the United States, would take it into his hands promptly and apply such remedy as the rules of war suggest. I have always entertained that hope, and I have not dismissed it yet, although I confess that I do feel a little disappointed that no step whatever has been taken to punish the atrocious violations of the laws of war practiced upon our prisoners in the hands of the insurgents.

It is, sir, a delicate subject. The rule of retaliation is one well recognized in the laws of war, but in modern times it is seldom resorted to, and is always to be avoided so far as is practicable or possible. In the present case, so far as I am informed on the subject, and I have read with some care the reports that have been made, I feel that the Government of the United States is restrained by no rule whatever, except its own sense of propriety and its own sense of honor, from the practice of any severity within the reach of human ingenuity upon the insurgents in retaliation for the cruelties committed by them upon us. Our own self-respect is our only law in this regard.

At an early day in the commencement of the present session of Congress the honorable Senator from Minnesota [Mr. WILKINSON] submitted a resolution to the Senate recommending retaliation. He is not now in his seat. That resolution was referred to the Committee on Military Affairs and the Militia. That resolution is still pending before that committee, and has not been acted upon, but has been the matter of some consideration on the part of the committee. The committee have the subject under consideration, and I have no doubt will be prepared to report a bill in the course of the present week. I therefore move to refer the resolution of the honorable Senator from Ohio, and the memorial of the honorable Senator from Indiana to that committee in the hope that the committee will be prompt in making their report to this body, and in bringing in such a bill as may be necessary to attain the end which we have in view. I therefore move the reference of those papers to that committee.

The VICE PRESIDENT. The memorial will be so referred.

By unanimous consent, the joint resolution (S. R. No. 95) regulating the treatment of confederate prisoners in custody of the authorities of the United States, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. POWELL, it was Ordered, That the petition of Preston Starritt, a messenger of the Senate, claiming pay which he asserts has been illegally withheld from him, be withdrawn from the files of the Senate and referred to the Committee on the Judiciary.

Mr. HENDRICKS. I move that the papers connected with the case of Philip Lansdale, a surgeon in the United States Navy, be taken from the files and referred to the Committee on Naval Affairs. I understand the facts to be that at one time during the last Congress there was an adverse report, but the papers were recommitted to the committee by order of the Senate, and then a favorable report was made and a bill for his relief passed the Senate. I suppose in that state of facts that my motion is a proper one.

The VICE PRESIDENT. It comes within the rule, and the order will be made.

Mr. HENDRICKS. I desire also to present some additional papers in the case, which I ask may be referred to the same committee.

The VICE PRESIDENT. They will be so referred.

#### REPORTS FROM COMMITTEES.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a petition of the widow of Rev. Samuel Hibben, praying for compensation for services rendered by her husband as chaplain of the fourth cavalry regiment, Illinois volunteers, from February 10, 1862, to the time of his death in June of that year, asked to be discharged from its further consideration; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (H. R. No. 203) for the relief of Jacob Weber, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the arsenals of the United States, reported it with an amendment.

He also, from the same committee, to whom was referred a resolution submitted by Mr. RIDDLE on the 13th instant, calling for the numbers of soldiers and sailors furnished by the loyal States under the proclamation of the President for five hundred thousand men, dated July 18, 1864, reported it with an amendment.

#### BILLS INTRODUCED.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 396) to provide for the improvement of the Potomac river opposite the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 397) in relation to the rights of married women in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

Mr. POWELL. I submit the following resolution:

Whereas a military commission ordered by Brevet Major General Burbridge to investigate the conduct of Brigadier General E. A. Paine, of the United States volunteers, while in command at Paducah, Kentucky, have made a report in which they implicate Brigadier General Paine and others in acts of cruelty, barbarity, robbery, plunder, and pillage; Therefore,

Resolved, That the President be requested to cause Brigadier General E. A. Paine, of the United States volunteers, to be arraigned and tried before a proper tribunal for his conduct while in command at Paducah, Kentucky, in order that said Brigadier General Paine may be punished if found guilty of the charges made against him, and if not guilty, his innocence be made manifest, and the United States flag rescued from dishonor.

I move that the resolution be printed, and I notify the Senate that at an early day I shall call it up for action.

The motion was agreed to.

#### CONTRACTS IN THE INTERIOR DEPARTMENT.

Mr. COWAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to inform the Senate whether the provisions of the act of June 2, 1862, entitled "An act to prevent and punish fraud on the part of officers intrusted with making of contracts for the Government," have been complied with by officers under him, and particularly whether the said act has been complied with and executed as to contracts for marble and marble work and iron and iron work upon the Capitol extension; and if there has been failure or neglect in the execution of the said act the reasons therefor, and why the penalties of said act have not been enforced against officers in default.

#### THE SOLDIERS' HOME.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to report to the Senate the present condition of the Soldiers' Home, together with a detailed statement of all funds which have been received for the benefit of that institution, and the different sources from which they have been received, from its organization to the present time; also, of the disbursement of said funds, the amount of property owned by said Home, the investments, and the balances on hand, and where deposited; the number of invalid soldiers who have been supported at the Home for each year since its organization, together with the annual expenses of supporting each inmate of the institution.

#### PUBLICATION OF OFFICIAL DOCUMENTS.

Mr. TRUMBULL. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Printing be instructed to inquire into the causes of delay in the publication of "the official reports of the operations of the armies of the United States," as directed by a resolution of Congress approved May 19, 1864; "a full Army Register, including a roster of officers of volunteers," as directed by a resolution of Congress approved June 30, 1864, supplementary to the Senate resolution of December 13, 1861, and the House resolutions of February 1, 1830, and August 30, 1843; and the edition of "the President's message, with an abridgment of the accompanying documents," as directed by an act of Congress approved May 19, 1864.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRIMES. Mr. President—

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. GRIMES. If the resolution offered by the Senator from Illinois is under consideration, I desire to amend it. I do not know whether it has passed from the consideration of the Senate or not.

The VICE PRESIDENT. The Chair will regard it as before the Senate.

Mr. GRIMES. There is a standing resolution of Congress, passed many years ago, which instructs the Secretary of War to furnish, I think biennially, the Army Register, carrying out the pay that has been allowed to each Army officer during the preceding year. There has been no such report as that submitted to Congress during this Administration; and I should like to have included in the resolution of the Senator from Illinois and call upon the Secretary of War to specify why that report has not also been made.

Mr. TRUMBULL. The resolution is directed to the Committee on Printing, requiring them to inquire into the causes of these delays. It is well known to the Senate that frequent calls have been made upon the Departments—

The VICE PRESIDENT. The morning hour having expired, this whole matter is out of order.

Mr. TRUMBULL. I move to suspend all other business for the purpose of proceeding with this. It will take but a moment.

Mr. CHANDLER. I hope the special order will be taken up, and then it can be laid aside informally while this discussion is going on.

Mr. TRUMBULL. This discussion will take but a short time; I ask, therefore, that the special order be laid aside informally until this subject is disposed of.

The VICE PRESIDENT. The Chair will regard that as the order of the Senate unless there be objection. The Chair hears no objection.

Mr. TRUMBULL. A number of resolutions have been passed by the Senate at former sessions, and at this session, calling upon the Departments for information; and there has been exhibited within a year or two what I have never known before, a second resolution reiterating the first and inquiring why the first resolution has not been answered. I think it is quite time that the resolutions of the Senate of the United States should be replied to by the respective Departments of this Government. If they are unable to furnish the information directed to be given, let them say so; but time and again this disrespect—I can call it by no other name—has been manifested to the resolutions of the Congress of the United States and to its different branches, and it is a growing thing. When a resolution has passed this body making a call upon a Department, it is not for the officer called upon to give the information to give it or not, in his discretion, or to reply to the resolution or not. If the information is improper to be given, let him state an excuse for not giving it. If he cannot give it, let him so inform the body. But, sir, the resolutions of the Senate are treated with inattention, and time and again a second resolution has been brought in here to elicit the information called for by a former resolution. Not only this, sir, but we have several acts of Congress—three of them are recited in this resolution—directing in positive terms that certain officers of the Government shall make reports within a certain time, which are to be laid before the country, which Congress has been in the habit of laying before the country, and which the country is anxious to see. The reports of our Army officers of operations of the Army, at the last session of Congress, we directed to be furnished before the opening of this session; and by an act of Congress which passed both Houses, and was approved by the President, we directed our Joint Committee on Printing to see that they were edited, and that the parts that were supposed to be of interest to the country should be brought together and published, and they were directed to be ready for an inspection at the meeting of Congress. The Army Register, more interesting in this period of war than at any other time in the history of the Government, has not been published since April, 1863, nearly two years, and yet there is a positive law requiring its publication annually.

Now, this resolution proposes to direct the Committee on Printing to inquire into the causes of these delays. If it is impossible to make these publications let us know it. But, sir, it is idle for the Congress of the United States to sit here and pass laws and then have no attention paid to them. I should have no objection to the amendment suggested by the Senator from Iowa if it was appropriate to this resolution. His amendment calls on the Secretary of War to know why a report giving the pay received by different Army officers has not been published within the last two or three years as required by a former act of Congress. This resolution is directed to the Committee on Printing, (whose business it was to have edited the reports from the War Department and laid them before the country,) instructing that committee to inquire into the causes of these delays; and I hope, sir, that after making this inquiry they will submit a report accompanied by a bill (unless there is a good excuse for these delays) that shall hereafter enforce obedience on the part of the executive officers to the acts of Congress.

The resolution was agreed to.

#### TREATY OF WASHINGTON.

On motion of Mr. SUMNER, it was

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, any information in his possession

showing the practical operation of the tenth article of the treaty of Washington of the 9th of August, 1842, and the expediency of giving her Britannic Majesty's Government the notice required for the termination of such article.

#### FRENCH SPOILIATIONS.

On motion of Mr. GRIMES, an amendment which he will hereafter offer to the bill in relation to the payment of claims for French spoiliations prior to 1801, was received informally and ordered to be printed.

#### COMMERCE AMONG THE STATES.

The VICE PRESIDENT. The special order of the day is the bill (H. R. No. 307) to regulate commerce among the several States, which is now before the Senate as in Committee of the Whole. It will be read at length.

The Secretary read the bill, which proposes to enact that every railroad company in the United States whose road is operated by steam, its successors and assigns, shall be authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from any State to another State, and to receive compensation therefor.

Mr. CHANDLER. I do not propose, Mr. President, to occupy the time of the Senate in advocating the passage of this bill. It was passed by the House of Representatives by an almost unanimous vote at the last session. During the last days of that session, it will be remembered by the Senators who were then present, I pressed very hard for a vote of the Senate upon it; but it was so late, and there was so much discussion provoked by the bill, that it had to go by. It is a bill that will be noticed as very general in its terms and general in its character. It simply opens all the railroads of the United States to the use of the Government and of the people of the United States. It makes them mail routes, and entitles them to carry freight, property, passengers, troops, supplies for the Government, &c., from one State to another State.

The Constitution says:

"Congress shall have power to regulate commerce with foreign nations and among the several States."

Congress has been in the habit, from the organization of the Government, of establishing post routes, and making all common roads that are required for mail purposes post roads; and this bill substantially makes all railroads post roads.

The bill is so eminently just, and right, and proper, that I had supposed it would pass this body almost without a dissenting voice or a dissenting vote; but I am informed that it is not only general but local in its operation, that it interferes with the rights of a great railroad monopoly in the State of New Jersey, and that that is the reason for its present introduction and passage. Well, sir, admitting that to be true, it simply shows that there is a necessity for such a measure in that particular case. The State of New Jersey, as I am informed, has chartered a great corporation, and given it the exclusive right of transit through that State. If that be so, I deny the right of the State of New Jersey to pass any such law. I am informed that the State of New Jersey exacts tribute from every passenger passing through that State. I deny the right of the State of New Jersey to levy that tribute upon the citizens of other States passing through that State. It interferes with the free commercial communication between the States. The State of New Jersey has no right to levy a tribute either upon passengers or upon freight passing through her limits.

If the State of New Jersey has a right to levy a small tribute upon either passengers or freight passing through that State, she has a right to levy a large tribute; and if she has a right to levy a large tribute, she has a right to prohibit their passing absolutely if she, in the exercise of her sovereignty, sees fit thus to prohibit it. No man would claim that the State of New Jersey possessed that right; probably she would not attempt to exercise it; but it is a well-known fact that she has exercised the right of levying a tribute for years, and this monopoly has been grinding upon the people of the United States, grinding upon every man who has had occasion to pass from the great capital of the nation to the actual capital of the nation. No man passes from here to New

York to-day without paying a tribute to the State of New Jersey; a tribute which I claim is unconstitutional and wrong. It is a trammel upon the commerce between these two points.

Besides, sir, the State of New Jersey has never claimed that she possessed that right. It is true she has a law under which she has exercised that power; but in that very law she says by the sixth section of the act:

"That whenever any other railroad or roads for the transportation of passengers and freight between New York and Philadelphia across this State shall be constructed and established for that purpose under or by virtue of any law of this State or the United States authorizing or recognizing said road, then and in that case the said dividends shall no longer be payable to the State, and the said stock shall be transferred to the company by the treasurer of this State."

This monopoly, it would seem by this, has paid a bonus to the State of New Jersey, which bonus is to revert to the company the moment the Congress of the United States exercises its constitutional right to control commerce upon this route. As I said before, I do not propose at this time to occupy the attention of the Senate in advocating this bill. It is so eminently just and right and proper that I believe it will pass this body by almost a unanimous vote, and I shall simply ask for a vote of the body upon the bill.

Mr. SAULSBURY. Mr. President, although a member of the Committee on Commerce, I was not present when this bill received the favorable report of that committee. I shall not discuss its merits to-day, or perhaps on any other occasion; but I wish it to be distinctly understood that the bill would not have received my sanction if I had been present at the time it met the approval of that committee. I care nothing about the rival interests of corporations in the State of New Jersey, or in any other part of the country; but I have yet to learn that it is within the constitutional competency of Congress to interfere in any mode or manner with the vested rights of corporations holding their charter under State law, to enlarge their franchises or to limit their authority. It is on that distinct constitutional ground, the utter want of authority in Congress to pass such a measure as this, that I base my objection; but I will not argue the question; I merely state my position.

The VICE PRESIDENT. If no amendment be proposed, the bill will be reported to the Senate.

Mr. TEN EYCK. Mr. President, I have been led to understand that the Senator from Maryland [Mr. JOHNSON] expected to address the Senate upon this bill. This is a bill of the utmost importance, I will say while upon the floor, not only to the State of New Jersey, which I have the honor in part to represent, (it having been specially referred to by the Senator from Michigan as being designed to relieve the public from a very obnoxious and injurious charter by reason of which a company in my State levies tribute upon the citizens of the United States, which of course is a matter of vast importance to us,) but it involves questions of the utmost importance, in which the citizens of every State in this Union are interested, one striking at the rights of property in its various ramifications, involving not only an interest of perhaps hundreds of millions, but even the question of sovereignty and of power in the States themselves. It is a bill of so much importance, in which the interests of the citizens of this whole country are concerned, that I should suppose before it would be put upon its final passage it would receive some attention by members of this Senate, especially, too, upon the constitutional question involved. I myself may perhaps, before it is finally disposed of, have occasion to say a few words in relation to the topics that have been referred to by the Senator from Michigan; but not having expected to be called upon to-day, and understanding that other Senators intended to address this body, and seeing that the Senator who has been alluded to is now in his seat, I will abstain from making any further remarks at the present time.

The bill was reported to the Senate without amendment.

Mr. JOHNSON. Mr. President, I stated to the honorable member from Michigan, the other day, that I did desire to discuss the question, which seems to be an important one, involved in this bill, and that I thought I should be able to do so to-day; but I am very hoarse, and should

not be able to do justice to myself, and, what is more important and material, I should not be able to assist the Senate, if I was capable of assisting them at all, in the deliberations on the question. Unless there is some immediate cause for the passage of the bill to-day, I ask the indulgence of the Senate until the day after to-morrow, by which time I suppose I shall be able to address the Senate without any irksomeness to myself or to them.

Mr. CHANDLER. Certainly, sir. I move, then, that the bill be postponed to and made the special order of the day for Thursday next at one o'clock.

The motion was agreed to, two thirds of the Senate concurring therein.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed an enrolled bill (H. R. No. 458) for the relief of George Mowrey; and it was signed by the Vice President.

#### INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. COLLAMER. Mr. President, there seems to be a little lull in the business now, and I desire to take advantage of it to have leave to introduce a bill of which no previous notice has been given.

By unanimous consent, leave was given to introduce a bill (S. No. 398) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864; and it was read twice by its title.

Mr. COLLAMER. Mr. President, it has never been my fortune during the time I have been a member of this body to present a subject that I regard as of so much importance as this. However it may strike other Senators, I am entirely convinced in my own mind that unless this bill or such a one as this in effect be passed, we never shall subdue this insurrection, it never can be ended, it never will be ended. And now, sir, I think I have stated enough to show gentlemen that I, for one at least, regard it as the most important measure on which I have ever had occasion to speak in the Senate. Certainly nothing can be of greater importance to us than that we end this rebellion, suppress this insurrection, and that somewhat speedily; and I think this bill is absolutely necessary to the doing of that.

Mr. President, there are some laws of war which are inherent in the very nature of war. Some of these rules are incapable of being violated; others may be violated, but it cannot be done with impunity. Many of these rules, derived from adjudicated cases, have become settled laws of nations as the laws of war; but there are others that are laws of war by the force of war itself. One of the latter is this, that it is utterly impossible to carry on war with a people and carry on commercial intercourse with that people at the same time. It never was done on earth, and it never can be done on earth while the laws of nature and of God remain as they are. It is an unnatural attempt at connection; it is an illegitimate relationship; it is an illicit intercourse; and it never can produce anything but deformities and abortions.

As a part of the law of nations, a manifestation of this principle is that every contract made between subjects and citizens of belligerent Powers in time of war is void, absolutely void. So, too, a belligerent can never collect in the courts of the opposite party a debt due him. What is the reason? Is the debt destroyed by the war? Not at all; but the courts will not render a judgment for it, for the reason that if it were collected the effect would be to carry money to the enemy's country and place it in their control to use it for carrying on the war, as a sinew of war. If a vessel be taken at sea, which belongs in whole or in part to the enemy, it is forfeited, it is prize of war; and even if a citizen of ours, a good and loyal citizen, domiciliated in the enemy's country, having nothing to do with the war, owns the vessel, still that vessel is to be condemned for the very same reason I have already given. It cannot be surrendered to him or the money value of it paid to him, because the result of that would be to carry money and means into the enemy's country.

I have had from time to time occasion to intimate my opinion—not, perhaps, of any consequence on account of the source from which it came—that all sorts of devices of getting along with this war are but devices, and will never answer any good purpose. I do not believe that carrying on the war with balloons, which was tried at one time, amounted to anything. I do not believe that carrying it on with general proclamations fired at the enemy amounted to anything. I do not believe you will ever subdue them, because you think you can destroy them by the smell of gunpowder, and that firing off a great quantity of it at a time will come to anything. All such devices to get along in a manner different from that recognized and allowed by the well-known laws of war will be abortions.

Now, Mr. President, what is the section which I propose to have repealed? I will read it, but before doing so I wish to give a short summary of how we came to it.

In 1861 it was found necessary, in order to prosecute this war, that it should have given to it locality. Men were in the insurgent army in the southern States, and people were carrying them supplies from New York openly. The declaration was that they were going to trade with loyal people in the South, and the effect was of course to carry all supplies into the reach of the enemy. There was no possibility of enforcing the blockade, or doing anything, indeed, that made war with any effect, until we gave locality to the theater of war; and therefore it was provided in one of the sections of the law of July 13, 1861, that whenever the people of a State of the Union were in a state of insurrection, and professed to act under the authority of the State, and those exercising authority under the State did not disclaim it or suppress it, then, and in that case, the President by proclamation should declare the people of that State to be in a state of insurrection, and thereupon all commercial intercourse with them should cease, and all articles of merchandise, goods, and chattels, vehicles, and vessels in which they were carried to or from the enemy's country, should be forfeited to the United States. That produced a clear and distinct condition of war, and the Supreme Court in the prize cases unanimously decided that when that law was passed a state of war existed in all its relations.

But, sir, if all commercial intercourse was to cease, there came a difficulty upon the mind in this respect: what shall be done with those to whom and cities which we may subdue and of which we may take possession? Shall no intercourse be held with them? Shall commercial intercourse continue to be broken off and forever cease with those people? If so, how are they to be supplied, how are they to be fed, how are they to be subsisted? In that condition of things resort was had to a consideration of the laws of war in modern times. According to the modern laws of war, it has been held that the Power which declares war may modify that declaration in relation to intercourse with particular places for particular purposes. That has been done in Europe occasionally during the last fifty years. Therefore there was inserted in the act of 1861 a provision that the President of the United States might, in his discretion, and under regulations from the Treasury Department, permit intercourse in such articles and with such places and by such persons as the public service may require. The reason that provision was inserted in the law was because the President, having no power to declare war, of course had no authority to modify that war, except only as it should be given to him by the war-declaring power, Congress. There can be no doubt that I am correct in saying that those who had to do with the making of that law distinctly understood that provision to have been inserted for the purpose I have stated—not to get supplies from the enemy, not to buy their produce and pay them money to relieve them, but merely to sustain the people of that part of the country of which we should have taken actual military possession.

But, sir, the provision did not receive construction and execution in that sense. I need not here go over what regulations were made, altered, and changed by the Treasury Department, and allowed and approved by the President; but this I will say, licenses were granted, under what favoritisms I know not, from time to time to individ-

uals to trade upon the Mississippi for the purpose of getting cotton; and the effect was, I will not say that all the officers of that army were thereby corrupted, but it is certain their characters very severely suffered. Upon the whole the best information we can get of it is that so far from the acquisition of the Mississippi by us, obtained by much of skill and blood and treasure, resulting in benefit to our country and to our cause, it has after all resulted in furnishing support to the enemy and relief to them infinitely more than it has been of advantage to us. I think I shall be able to show this before I conclude, by statements from those who know the facts by observation and experience. Things went on until last summer, when a bill was prepared and reported for the purpose of putting an end to the business, to stop that sort of trade. One section of that bill was:

"That so much of section five of the act of 13th of July, 1861, as authorizes the President, in his discretion, to license or permit commercial relations in any State or section, the inhabitants of which are declared in a state of insurrection, is hereby repealed, except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied."

There was a bringing of that provision of the act of 1861 to some practical purpose, to the purpose for which it was made. All other species of intercourse were then to be stopped, and the President was to have no power to license it after that. Whether any licenses have been granted since then I do not know, but I have seen an order from the Treasury Department which to me looks strange and extraordinary, limiting the operation of the licenses, implying that they were in existence and force; and I am informed that licenses to individuals have actually been granted since that act was passed on the 2d of July last, but of that I have no certain knowledge. At any rate, under that section of the act which I have just now read very considerable effect was given in Louisiana and on the Mississippi generally to the stopping of this trade.

At the time that bill was reported, the gentleman having it in charge, the honorable Senator from Maine [Mr. MORRILL] did me the honor to consult me in relation to that section, and as I understood, it was professedly to be the end of the trade, especially in cotton, corrupting in all its influences and dangerous in all its effects. So understanding the matter I was very much surprised and astonished to learn by a proclamation of the President that Congress had actually passed a law for trading by the Government with the people of that country for their produce. I immediately went to the honorable Senator who had had the bill in charge, and I learned from him that he did not know that such a provision was there. But the section which I propose by this bill to repeal was in that law; how it came there, I know not; no doubt it was on the report of the committee, and it was passed in the hurry of the close of the session. That section I will now read; and one thing you will observe, how utterly it is at war with what I have just read, and how utterly it must defeat all the purposes for which the bill was passed. It is section eight, which I propose by this bill to repeal, in these words:

"Sec. 8. And be it further enacted, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market value thereof in the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to and audited by the proper accounting officers of the Treasury."

I believe in the month of December came the executive order, a copy of which I have here, directing, under the regulations which the Secretary of the Treasury had made, the agents appointed to go down there and execute this law



and make these purchases; and by those regulations and by that executive order, the people of that country, the whole of them, not the loyal people merely, but all the people who have any control of any productions for sale, are authorized to come into the places designated in the order and offer them there for sale, and they are to have safe-conduct in so doing; and whenever they get to those places, the purchasing agent is to give them a permit to bring the property in there so that he may buy it. The places designated are of course those within our control. I do not remember the names of all of them, but New Orleans is one, Beaufort is one, Memphis is one, Pensacola is one, and there are others.

Of course the effect is to admit to these places in our military possession all the people of that country, and to allow them free intercourse to and from these places, if they have any property of this kind to sell. I suppose they have all got something to sell; every man has a little cotton at least; so that you open your camps entirely to these people. In the next place, they are to bring their products there under a permit. To whom will the permit go? Here is another opportunity for favoritism. It is to go to such persons as the purchasing agent shall allow. Whom he will favor with them I do not know; who are to have the advantages of them I do not know; but this I know, that the whole of that country is covered over with Jews and cotton speculators who would deceive, if it was possible, the very elect, and who will contrive by all possible means to accomplish their purposes. They are the persons who will have the control of this trade; they are the persons who will have the favor of the purchasing agents.

Now, I ask, how is it possible that any general in command of your forces in these places, say at New Orleans for example, can carry on his military expeditions into the enemy's country with those very enemies coming and going and carrying all the information they choose to carry directly to the camps of the opposing forces? When I say the thing is impossible, it needs nothing but to state it to show that it is utterly impossible.

Then, Mr. President, we are to have on a larger scale, and much more extensively carried on over the whole cotton country, the very trading and dealing with the enemy which we had before upon the river Mississippi. Was not that a source of corruption to your Army, to your officers, and to the people? So much so that you repealed the law authorizing it in this very act, repealed the clause which allowed the granting of licenses; and yet by this action you opened the door to an infinitely more extensive system of licenses.

But besides its corrupting influence and effect, and its direct interference with the prosecution of military enterprises, there is another thing. What have you laid a blockade for? Why was a blockade declared? The blockade is not needed to prevent neutral nations from carrying contraband of war, munitions, arms, equipments, powder, &c. Neutral vessels cannot carry those articles to a belligerent Power; they are liable to be seized, if they do so, without any blockade. A blockade is not made merely to keep military supplies out of the enemy's country, because neutrals have no business to carry them, and we have a right to seize and condemn them for doing so, even if there be no blockade. The blockade is made to prevent their trading in matters which are not contraband of war; to stop all trade with the enemy, not so much for the purpose of preventing the carrying of supplies to them as it is to prevent neutrals buying their produce, paying them money for it, and thus enabling them to go on with their efforts and advance their prosperity. By the laws of blockade, if the country declaring the blockade permits intercourse by its own people with the country whose ports are declared to be blockaded the blockade ends. I can show that very clearly by the laws of nations. It lies in a nutshell. The blockade right is to exclude a neutral from carrying on trade with the enemy's country even in articles that are not contraband of war. Now, you cannot declare that blockade and carry it into effect as against the rest of the world and yourselves undertake to monopolize that trade. If the blockading Power carries on the trade by its own citizens it must allow it to neutrals. You cannot sustain the blockade on such a ground; but

I was not coming to that point just now. I ask, why did we declare the blockade? It was to keep the southern people from selling their great quantity of cotton and getting money for it from foreign nations, and having thereby the sinews of war. Would it not be strange if we should ourselves say in the face of the world, "All that was a mere pretense; we will buy their produce; we will pay them money for it; we will give them the sinews of war?" It would be the strangest anomaly under the heavens.

Mr. President, I desire to call the attention of honorable Senators for a moment to another thing. A law was passed here, I think in 1862, called a confiscation act, whereby we declared that all the property of persons in the rebellious States who should thereafter participate in the rebellion, should be forfeited, confiscated, become the property of the United States. But here is a law to say that we will take all that valuable property of theirs, which we have declared to be forfeited and to belong to us, and we will pay them the money for it. That is carrying out confiscation, I suppose! That is the law which I propose to repeal.

I will endeavor, Mr. President, to be as brief as I can; and the next suggestion which I wish to make—indeed I have already partly presented it—is that this is an entire end of your blockade. If it amounts to anything it is this, that we will keep up the blockade as against the world, and we will ourselves go in and get this property and monopolize this trade to ourselves. That is really it. You cannot disguise it. It requires but a few words to state the doctrine applicable to such a condition of affairs, and I will read but a sentence in support of it from a very distinguished writer, James Parker Deane, in his summary, and a very fine one it is, of the laws of war, and every principle which he announces is sustained by decisions in the Admiralty:

"And a blockade which excludes the subjects of all other countries from trading with the ports of the enemy, and at the same time permits a general access to those ports to the subjects of the State which imposes it, is irregular, illegal, and null. All blockade being for the purpose of obtaining a commercial monopoly for the private advantage of the State imposing it, would be void on the very principles on which the right of blockade is formed."—*Deane on War and Neutrality*, page 27.

There could be nothing more to the point. It is utterly impossible to avoid this effect by undertaking to say that we do not go into the particular ports which are blockaded, but the trade is carried on in ports in our actual possession. Of what importance is that? You invite all the people of the country to bring in their products for sale, if they have any, at those ports, and of course when they come there they get the money for their productions. You say to them, "You have nothing to do but to come to our ports and bring your productions, and you shall have the money." The fact that they bring them to a port in your possession does not alter the character of the transaction. The true character of it, as is stated by this writer, to monopolize the trade to ourselves, and keep neutrals away from it, and that is not admissible by the laws of nations. I can merely say that if the law which I propose to repeal shall go into effect, and agents shall be appointed, and purchases made throughout the southern country, if cotton shall be brought from places throughout that country to the points designated for its purchase and use by the United States, then if a blockade runner shall be seized with a cargo of cotton and brought before our admiralty courts, she cannot be condemned as prize, for that is the end of the blockade.

I have thus summarily stated my objections to the existence and continuance of this section of the law of last summer; I now propose to read a little from those who are on the ground, and who know the practical working of the system. I will first read from a letter of General Canby, who is at New Orleans, and I believe in command of the Mississippi department. Speaking of this order of the President given under that law, he says:

"The operation of this order is contingent, by the eighth section, upon the orders to be given by the Secretary of War and the Secretary of the Navy; but the General Orders of the War Department have been received in due sequence to the 14th of November, and no order corresponding in number, date, or matter, with the order submitted by Mr. Cutler, is found among them. Without waiting for the official receipt of this order, I shall at once give such orders as may be necessary to secure a due observance of the executive order of September 24, 1864, and the Treasury

regulations of the same day; and while carrying out the policy adopted by the Government, will endeavor to exact the reciprocal obligation of good faith on the part of the traders; but in justice to the troops in this command and to myself, it is proper that I should submit for your consideration some facts connected with the present military situation and the embarrassment to military operations which will, in my judgment, inevitably follow the opening of this trade."

"If this trade is carried on in the manner and to the extent claimed by the speculators who now control it, its inevitable result, in my judgment, will be to add strength and efficiency to the rebel armies east and west of the Mississippi, equivalent to an addition of fifty thousand men, and will stimulate into active opposition to the successful prosecution of our operations at least ten thousand men within our own lines."

"Cotton speculators in the Mississippi valley have a prospective and hope to have an actual interest in every bale of cotton within the rebel lines; they know that expeditions within the enemy's country are followed by the capture of cotton, or its destruction by the rebels to prevent its falling into our hands; hence it is to their interest to give information to the rebels of every contemplated movement. I have not sent an expedition into the enemy's lines without finding agents of this character in communication with the rebels, giving them information regarding our movements; and nearly every expedition has been foiled to some extent, in some of its objects, by information so communicated. I have now several speculators, who were captured in the enemy's country, awaiting trial, under the fifty-seventh Article of War, for giving information to the enemy. But the punishment of these men is no compensation for the evil they have occasioned, and will not secure us from future disasters from the same cause."

"I have now in my possession papers in relation to such contracts, made with English houses in Mobile, for the exportation of two hundred thousand bales by the way of this port; the conditions of the sale require that the payments be made in supplies, in gold, or in foreign exchange. The net profits of these transactions are estimated by the contractors themselves at \$10,000,000, and it is easy to see how much zeal will be evoked by profits of this magnitude. I cite this as one of many instances that have come under my observation; and to show the character of these transactions in the Mississippi valley, I ask attention to the memorandum printed on page 8 of the inclosed pamphlet, referring to the particular transaction just cited, and indicating clearly the means by which our laws are evaded, and how the amount due the rebel government is converted into foreign exchange."

"The rebel armies east and west of the Mississippi river have been supported mainly, during the past twelve months, by the unlawful trade carried on on that river. The city of New Orleans, since its occupation by our forces, has contributed more to the support of the rebel armies, more to the purchasing and equipment of privates that are preying upon our commerce, and more to maintain the credit of the rebel government in Europe, than any other port in the country, with the single exception of Wilmington. I do not make these statements as conjectures, but from evidence that will prove conclusive to any impartial mind. I know the restrictions of the law of July 2, 1864."

Referring to section nine which I first read—

"have reduced the rebel armies east and west of the river, and greatly straitened them for supplies essential to their existence. Kirby Smith has officially announced that he can no longer supply his army with clothing, and every rebel paper coming from west of the Mississippi contains appeals to the families and friends of soldiers to contribute clothing. The last Alexandria paper contains a proclamation by the rebel governor, appealing to the people of Louisiana to furnish clothing to the suffering and destitute soldiers of Missouri."

"The construction placed upon the regulations of the Treasury Department by one, at least, of the purchasing agents in this command, will, in sixty days, undo all that has been done by the law of July 2, and enable the rebel authorities to arm, equip, and clothe the armies that cannot much longer be kept together without aid from us."

"I make these statements in order to convey to you my own opinion of our actual condition, of the embarrassment under which all military operations must be conducted, and to express the hope, if the future operations of the troops in this command should fail to meet your expectations, that you will consider the circumstances by which their usefulness and efficiency were impaired."

I have here a letter from Commander W. H. Macomb, commander of the United States steamship Shamrock. It appears that there is a clause in the Treasury regulations for commercial intercourse which permits any one bringing out cotton or tobacco to take in return supplies of merchandise to the amount of one third the value of the products brought in. Commander Macomb, under date of January 4, 1865, says:

"This law is a mistake; under no circumstances should supplies be allowed to pass without our lines. I seized the other day a schooner with a cargo of every kind of contraband articles, valued at nearly seven thousand dollars, which was on its way directly into the enemy's lines, and there is very little doubt that most of it will go to feed the enemies against which we are fighting."

And he says further:

"A steamer called the Philadelphia, with a large cargo, said to have the proper Treasury permits, signed by General Shepley, &c., ran up the Chowan river the other night, and is said to have gone to Franklin, Virginia, to sell her cargo. On her way up a guard of rebel soldiers was placed on board her to take her up in safety."

Knowing that my statements were rather broad, I said that I would endeavor to sustain them by the statements of men who knew what they talk

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about as matters within their own observation and experience.

But gentlemen may say, we want cotton, and how are we to do? Mr. President, from the best information we are able to obtain, there is now in the confederate States about one full year's production of cotton. In the past three years they have raised about as much as they have been able to get off. There is then just about one year's supply on hand, and that is four million bales. That is a good year's supply, no more. Take the four million bales—they will average four hundred pounds to the bale—and suppose we put the value of the cotton at less than half the market price now in New York. The law is that we shall not give more than three fourths of the market price in New York; but suppose you put it at half, that would furnish to the enemy \$800,000,000! At fifty cents a pound for the product which they have on hand, which they have been unable to get off and get the money for, which they cannot eat, the fruit of which they want, you would furnish to them \$800,000,000! Am I at all extravagant, then, in saying that it is utterly impossible to prosecute this war successfully and permit that trade to go on, and furnish them with that advantage? I have already shown you from the letter of General Canby that within his department it is utterly impossible to prosecute the war, (to say nothing about the money feature of the question,) because it interferes with and defeats military operations; but even if it did not, the idea of furnishing an enemy with that amount of the sinews of war, of money, to prosecute the war against us, is to me the wildest thing that ever entered the head of man.

I mention this amount of money not merely to show the effect of permitting this trade, but also with another view. Can I expect to repeal this section of the law of 1864? Have I any good reason to believe that the trade can be stopped? Mr. President, any man or company of men who desire to have a law to license them to trade in cotton and tobacco could well afford to come to this Congress and give \$100,000 apiece to a majority of the members of the two Houses and give \$1,000,000 apiece to the two Secretaries to sign the licenses, and it would not be two per cent. on the purchase.

Mr. WILSON. Do you think that would have any influence?

Mr. COLLAMER. I have not said so. But, sir, "cotton is king." We have jeered at it, we have sneered at it, but let us see whether when we get through we shall not find it so. Cotton is king. I have shown how it is king, potential in its pecuniary influence. Two years ago a proposition came here to license this trade. There was a very short debate about it, and it received no countenance at the hands of the Senate, but I find that it was passed and was approved on the 21 day of July last, and no doubt it was passed upon the recommendation of the Committee on Commerce, and here we stand, and we see the effect of it.

Mr. TEN EYCK. It was not reported by the committee.

Mr. COLLAMER. That I do not know. I have made many inquiries, and some gentlemen seem entirely oblivious about how it got through, about how it came to be in the law at all, and they seem to know no more about it than I did who had gone home before its passage on account of sickness; but it is there. The bill was in charge of the honorable Senator from Maine, and he did not know this clause was in it until he came here at this session, or if he did he had forgotten it. I was here when that gentleman was making his very laudable efforts to get his bill through the Senate, and I know that he told us it was a bill to put an end to this trade, not to put in a section authorizing it.

Mr. President, I do not know that this trade can be stopped; but I know that if it goes on, licensed by our authority and without limitation, we cannot succeed in putting down this rebellion, in the cotton States any way.

I have no desire to trespass on the time of the Senate. It is with the utmost reluctance that I have said anything on the subject, but feeling the force of the convictions which I have stated, I felt it to be my duty to offer this proposition. When you consider the amount of money which the continuance of this trade must furnish to the enemy, when you consider the manner in which it must defeat all our military enterprises within those States, when you consider the corruptions which grow out of it, when you consider that it is the end of your blockade, when you consider that it is to furnish the enemy with such an enormous amount of money to carry on the war against us, I think I have succeeded in showing that I had occasion to present this bill.

A single word more about the money. Some gentlemen seem to think that it is a good thing to let them have our greenbacks, and that they will keep them and thus create a large circulation for them. Take the case of a man who comes from the interior country to New Orleans with a quantity of cotton. He sells it and takes greenbacks for it. He puts those greenbacks in the first express that goes out to New York to his agent there to turn them into gold, and probably ships that gold to London subject to his order when it gets there. In England the means and opportunities of exchange are well known. There is no possibility of having our greenbacks hoarded in the South in that way. Besides, by the laws of war that money in whosever hands it may be in the enemy's country is at the enemy's command.

Mr. FOSTER. If he gets cotton enough there by the time he gets the greenbacks they would be worth as much as gold.

Mr. COLLAMER. Of course he will forward them to be converted into gold, and the money in his hands may be used by the rebel government against us. The rebel government lays hold of money wherever it finds it, and it may be very well to say to its people, "We are exceedingly in want of money; our own is so depreciated that it hardly answers any of the purposes of exchange, and we will take this property and use it, and will enlist every man in this country to fight to the death, because we shall thereby, if we succeed, get rid of ever redeeming this money, and we shall not redeem our own."

In short, Mr. President, in any way in which I can view the subject, it seems to me that it is an utter mistake to attempt to hold illicit intercourse with our enemies, bribed to it by the value of their products which we want. It is an exceedingly unnatural connection—a love of money on one side and a pretended patriotism on the other. They defeat each other. I desire that this section may be repealed.

Mr. MORRILL. I should like to inquire of the Chair what the question before the Senate is.

The VICE PRESIDENT. The motion will be, if there be no other, to refer the bill to an appropriate committee. The Senator from Vermont will indicate what disposition he proposes to make of the bill.

Mr. COLLAMER. I understand that this very section which I propose to repeal was itself recommended by the Committee on Commerce. Is our rule such that the bill must be committed?

The VICE PRESIDENT. Not necessarily.

Mr. COLLAMER. I desire that it shall be put on its passage.

Mr. MORRILL. I had supposed from the argument that the motion was probably to refer the matter to some other committee than the Committee on Commerce, and I was going to address myself to that subject.

With all that the honorable Senator from Vermont has said in the main I concur, both with the reasoning and the general scope, saving and excepting, perhaps, the inference as to the commercial character of the Senate. I am hardly prepared to believe that cotton will be supreme on any question before the Senate when fairly understood.

There is a little narrative connected with this

question which I desire the Senate should understand, because, although I say that I agree with the Senator from Vermont in the argument and in the conclusion, I do not quite agree with his narrative.

The law originally, in 1861, was correctly stated by the honorable Senator to be that all intercourse with the insurrectionary States was prohibited by that act, with the exception therein stated, which was a limited exception. The history of it is that under that exception there sprang up a trade. That was a law with the enactment of which I believe the Senator from Vermont had very much to do. I do not know but that he reported it; at any rate, I believe he is entitled to the paternity of it, and I so conferred with him in regard to the amendatory law. At the commencement of the last session a bill was presented to the Senate—I do not remember by whom—and referred to the Committee on Commerce, the object of which was to enlarge the provision of that exception in the act of 1861. That bill was referred to the Committee on Commerce, and the Committee on Commerce gave diligent attention to the subject-matter of the bill. We had witnesses before us who gave us an account of the traffic under the act of the honorable Senator from Vermont, by virtue of regulations which were authorized by that act in certain cases to be made by the Secretary of the Treasury under the sanction of the President. The Committee on Commerce came to the conclusion that all traffic under the act of 1861 was injurious to the public interests, was particularly detrimental to the military service, was fraught with evil, and chiefly evil. That bill having been referred to myself to be perfected, I did, as the honorable Senator suggests, confer with him upon the subject, and the Committee on Commerce came to the conclusion to interdict all trade whatever. The Committee on Commerce, instead of not only not reporting the section now under consideration, the repeal of which is the object of this bill, went the whole length of repealing the exception ingrafted upon the bill of 1861, and came to the conclusion that the public interest demanded that there should be no trade whatever; and we reported accordingly to the Senate.

I remember very well making these general statements to the Senate, that the conclusion to which the Committee on Commerce had come was that all trade was inconsistent with the prosecution of the war; and that not only no additional provisions should be made for the commercial intercourse, but that all trade, whatever should be cut off. That bill was amended in the Senate. Precisely how it was amended, I do not remember.

Mr. COLLAMER. It was amended by the insertion of the eighth section.

Mr. MORRILL. The eighth section was put in. It was not put in on the recommendation of the Committee on Commerce. The Committee on Commerce were against it then, and have been against it all the time. Precisely how it came in, by whose motion, I do not remember; but I do remember the general facts under which the eighth section came in. It was very strongly urged by the Treasury Department of the Government. It was regarded as a most important and vital measure to the finances of the country, and also in connection with the management of the freedmen in insurrectionary districts. This eighth section is not only not the result of the deliberate judgment of the Committee on Commerce, but is against their judgment and against their report. It is the result of the judgment of the Senate, influenced by the considerations I have just stated, and which I suppose delicacy will require that I should not very far elaborate.

That is the whole fact of the matter; and such being the history of the subject, I submit, with all deference to the judgment of the honorable Senator from Vermont, that this bill ought to go to a committee, that it is altogether too important to be passed here in an hour or a day without further light on the subject. Although the Committee on Commerce were satisfied that the whole

dealings under the former bill were injurious to the public interests, and particularly detrimental to the military service, it does not follow by any means that under the new regulations which have sprung up under the new provisions of the law, which were designed, and it was said would tend and were calculated, to remove the difficulties which had been witnessed under the old regulations, the intercourse is obnoxious to the same objections which were made by the Committee on Commerce on a former occasion; and therefore I hope that the bill will not only be referred, but that it will be referred to the Committee on Commerce, who once examined the question, who had the facts before them, and who are not disqualified, as my honorable friend from Vermont supposes, by having reported this measure, but who are qualified—

Mr. COLLAMER. I merely presumed it had been by the committee's recommendation, because I did not see how else it ever got through. I do not know anything about it more than that.

Mr. MORRILL. I will not say that the honorable Senator had no ground for his supposition, reasoning on that basis; but the fact is as I have stated.

I hope, therefore, Mr. President, that the bill will be referred; and particularly in view of the facts mentioned by the Senator from Vermont, which I am very ready to believe, which I have no doubt exist, and to a very much greater extent than he has stated. I am very free to say in advance that I have not changed my convictions on the subject. I believed it was wrong then; I have believed so all the time; I think so now. But I think on a matter of so great importance as this we ought to act with reference to all the facts that can be gathered on the subject.

Mr. COLLAMER. What I said in relation to this section having been inserted on the recommendation of the committee was only a presumption of mine from the fact that it passed. I do not know anything about it. The gentleman knows what transpired in the Senate at the time; I was not here when the bill passed. After the remarks of the Senator from Maine, I move myself to refer the bill to the Committee on Commerce.

Mr. CONNESS. Before the reference is made I desire simply to say that I have been the recipient of many applications from parties interested who have obtained permits under this pernicious statute to trade in cotton at New Orleans and elsewhere, and that copies of the President's order and the order of the Secretary of the Treasury given to them to authorize them to trade at those places have been furnished to me. When I examined them, I confess that I was very much surprised, for, like the honorable Senator from Vermont, I was not aware of the fact that Congress had passed such a law. I was astounded that a policy such as these orders indicated could possibly have been adopted in a time of war. Succeding these applications, and in connection with them, further applications were made upon the refusal of General Canby at New Orleans, commanding that department, to carry out the instructions of the Treasury Department and of the President, asking me to go to the War Department, and to the Treasury, and to the President, respectively, to obtain an overruling of the position taken by General Canby in regard to it. I will only say here for myself that I refused to interfere in any respect, or to obtrude any advice upon any Department of the Government in that connection. These things took place with myself before the appearance of General Canby's report, which shows conclusively that he has been simply performing his duty as an honest and able officer, as he is.

In that connection also permit me just now to call the attention of the Committee on Commerce—I will submit the letters in my hand to them with this reference—to the fact that the most mischievous and pernicious action under these licenses to trade in the rebellious territories is constantly going on under and by the patronage of our Government. On Saturday morning I received the letters I have now in my hand at my desk here. One of them is written by an attorney in New York city, who refers me for his responsibility to no less a person than the Vice President of the United States. He asks in behalf of another party a permit to go to Newbern, North Carolina, to trade in turpentine, &c. He gives an account

of how the business is carried on there, and I take it that it is sufficiently verified to be useful in throwing some light on this general subject. It appears that we have got a Treasury agent there whose name is Heaton; and let me say here, with no disposition to condemn humans by classes or to condemn Treasury agents as a class, that sufficient facts have come to my knowledge since my connection with the Senate and with the Government in relation to Treasury agents to convince me that taken as a class in their offices they are the most pestilential and pestiferous set connected with the Government, the most obnoxious to justice and the most injurious to us as a people. I will read from this letter:

"Heaton was appointed Treasury agent by"—

the former head of the Department—

"and his business is to grant licenses to keep stores, and some other duties, as laid down in his instructions; but as yet no person has been authorized to act as agent for the Government to purchase turpentine or other produce for account of Government."

"There is a speculator at Newbern named Charley Dibble. He has no license or other authorization to trade. A person brings in fifty barrels turpentine, and reports to Heaton. Heaton says he cannot buy it, as the Government has not authorized him to do so; but he recommends them to sell to Dibble, and to no one else. If a man says he has been in the habit (before the war) of selling to Patterson, Smith, or Brown, and would like to continue to trade with them, Heaton says, 'Well, you had better trade with Dibble, who has better facilities than anybody else.' And, although he does not threaten, he hints very strongly that if Dibble is not the purchaser the seller may have trouble. Heaton and Dibble are partners in the profits of all these trades."

I might go on and read further, but you will perceive what a lucky fellow Dibble is. Fortunately Mr. Dibble indeed! There are a great many of these cases over the country; this is but a specimen. A case occurred recently in my own State—the papers in relation to it are here now—where a Treasury agent, drawing his pay from the Government, sworn to carry out its laws and its orders, engaged, as I believe, and as I have no doubt, for a moneyed consideration, in a violation of the neutrality laws, and sending out of the port arms and munitions of war that he and those connected with him might be benefited; and he went so far in his impudent attempt as to urge upon the collector of the port, (who said he would and who did seize the vessels which contained these articles contraband,) a violation of his duty, and argued indeed that it was none of his business if the oaths made before him were false; that he had nothing to do with it; and finally he discovered that it was perfectly right for the collector to grant a clearance to a schooner of fifty-five tons to clear for Hamburg in Europe with those articles contraband of war on board; and that it was none of the collector's business to assume that she could not make the voyage, but it was perfectly right for him to let them swear her through. His confederate in the transaction, not then holding the commission of the Government, whose correspondence on the subject I have in my possession, urged the collector openly to violate his oath. "What of the oath?" he said, and he put it on the ground of patriotism. "All these fellows, you know, are 'patriots.'" The truth of the business is that it is through a superabundance of that kind of patriotism, rather than through the efforts of the rebels, that this war has been prolonged. There is no doubt of it. I thank the Senator from Vermont, and the country, I think, is under obligations to him, for presenting this subject to the attention of Congress at this time.

I will say before I close that I have simply answered all such applications as have been made to me to aid these gentlemen in making money pending this war, by saying that I do no business of that kind. The letters in my possession will go to the Committee on Commerce, if they want them, so that they may have the general range of the special agents of the Treasury Department before them.

Mr. SHERMAN. Mr. President, my own convictions about this subject have been before expressed to the Senate, and I will not now repeat them. I only wish to correct one or two misapprehensions into which the Senate and the country might fall from the statement of the honorable Senator from Vermont. My own convictions have been, like his, that we cannot at the same time trade and fight with a people; commercial relations are entirely inconsistent with war; and I have also probably mentioned before the state-

ment of a distinguished officer that the trade with the rebels had embarrassed all our military operations, especially along the river. The act of 1861, allowing permits to trade, as acted on and carried out, was very injurious, and I believe the whole country demanded its repeal.

The only thing to which I wish now to call the attention of the Senate is that this section of the act of July 2, last, which the honorable Senator proposes to repeal, was ingrafted upon that bill in the Senate when the honorable Senator himself must have been present. The bill passed this body, and it was sent to the House of Representatives shortly after the section was inserted, and the Senator voted for the bill. A motion was made to strike out this particular section, the eighth section, and the motion was rejected. The vote of the Senate is not given, because it was not taken by yeas and nays. Immediately afterward the vote was taken by yeas and nays upon the passage of the bill with the eighth section in it, and that vote is now before me. The honorable Senator voted for the bill. I only wish to call his attention and the attention of the Senate to it. I myself voted for the bill, probably without any distinct recollection of the terms of that section.

Mr. COLLAMER. The gentleman probably has looked at the record.

Mr. SHERMAN. I have the record before me.

Mr. COLLAMER. I can merely say I did not know this section was in the bill. I never knew it.

Mr. SHERMAN. It is very probable that the section was put in the bill in the House of Representatives. A motion to strike out was negatived, not by yeas and nays, and immediately following is the vote by yeas and nays on the passage of the bill.

Mr. COLLAMER. The bill originated here.

Mr. SHERMAN. Then the section was probably in the bill as it came from the Treasury Department, where I presume it was framed. The bill came here probably with this section in it from the Treasury Department, was referred to the Committee on Commerce, was debated, and a motion was made here—it does not say by whom—to strike out the eighth section. There was no vote by yeas and nays, and then the bill passed. The honorable Senator voted for it, and I voted for it, which I certainly would not have done if my attention had been called distinctly to the eighth section of the bill. I therefore do not attribute any blame to him, because I voted with him.

Mr. COLLAMER. I knew that bill; the Senator from Maine says the committee agreed upon it; I had no objection to it in that shape; but that bill with this section in it I never should have voted for. I did not know it was there. I was perfectly astonished when I saw the President's proclamation stating that to be the law.

Mr. SHERMAN. A motion was made to strike out the eighth section of the bill. That amendment was agreed to in Committee of the Whole, and when in the Senate the question was put on that amendment again. Here is the record:

"The next amendment was to strike out the eighth section, as follows."

Then follow the very words of the law as it now stands.

"This amendment was not concurred in."

No vote was taken on any other amendment; and then followed the vote on the passage of the bill, which showed a very full Senate.

Mr. CHANDLER. If the Senator will pardon me I will correct him.

Mr. SHERMAN. I will hear the Senator.

Mr. CHANDLER. I have the record before me; I read from the Journal:

"On the question, Will the Senate concur in the following amendment made in Committee of the Whole, to wit, strike out the eighth section?"

The eighth section came from the Treasury Department in the bill, and was stricken out by the Committee on Commerce. The Committee on Commerce recommended an absolute prohibition of all traffic with the rebel States. While the bill was upon its passage in the Senate, the section stricken out by the committee was reinstated by the Senate on a distinct vote, against the recommendation of the Committee on Commerce and against the judgment of that committee, the committee having recommended an absolute prohibi-



tion of all trade and traffic with the rebel States of every kind and description.

The motion to refer the bill to the Committee on Commerce was agreed to.

CHARLES ANDERSON.

Mr. SHERMAN. I trust the Senate will allow me to take up a bill for the relief of a citizen of my State. I move to take up House bill No. 163, for the relief of Charles Anderson, assignee of John James, of Texas. A similar bill has heretofore passed the Senate.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to pay to Charles Anderson, assignee of John James, of Texas, the sum of \$1,041 66, being the amount certified by the Quartermaster General to be due to John James for back rent of Camp Hudson, in Texas, prior to July 1, 1853, the same having been regularly assigned to Charles Anderson.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, January 16, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

The SPEAKER. The first business in order is the call of the States for bills on leave, to be referred, and not brought back by a motion to reconsider.

PAY OF SUPREME JUDGES.

Mr. GRISWOLD introduced a bill providing compensation to the Justices of the Supreme Court of the United States and for the payment of their traveling expenses; which was read a first and second time, and referred to the Committee on the Judiciary.

DISTRICT OF COLUMBIA RAILROAD COMPANY.

Mr. ORTH introduced a bill to incorporate the District of Columbia Railroad Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

INSPECTORS OF STEAMBOATS.

Mr. WASHBURNE, of Illinois, introduced a bill to provide for two assistant inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois; which was read a first and second time, and referred to the Committee on Commerce.

MISSOURI LAND TITLES.

Mr. KNOX introduced a bill perfecting the title of certain locations of land in the State of Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

Also, a bill perfecting the titles to lands in the State of Missouri, located under the act of February 17, 1815; which was read a first and second time, and referred to the Committee on Public Lands.

BOARD OF HEALTH, ETC., FOR THE DISTRICT.

Mr. DRIGGS introduced a bill to establish a board of health and quarantine in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

UNITED STATES JUDICIARY.

Mr. WILSON introduced a bill to amend the judicial system of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DUTY ON DISTILLED SPIRITS.

Mr. GRINNELL introduced a bill to increase the duty on all spirits that may be distilled after July 1, 1865; which was read a first and second time, and referred to the Committee of Ways and Means.

## APPORTIONMENT OF REPRESENTATIVES, ETC.

Mr. SLOAN introduced a bill submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; which was read a first and second time.

Mr. HOLMAN asked for the reading of the bill *in extenso*, and it was read.

It provides for submitting to the Legislatures of the several States the following article:

ART. XIII, Sec. 1. Representatives in Congress shall be apportioned among the several States which may be included within this Union according to their respective numbers of qualified electors. The actual enumeration shall be made in the year 1870, and within every subsequent term of ten years, in such manner as Congress shall by law direct.

Sec. 2. Direct taxes shall be apportioned among the several States according to the appraised value of taxable property therein respectively. The rule of appraisal and taxation shall be uniform.

The bill was referred to the Committee on the Judiciary, and ordered to be printed.

## MILITARY ROAD IN OREGON.

Mr. McBRIDE introduced a bill to amend an act entitled "An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of the State," approved July 2, 1864; which was read a first and second time, and referred to the Committee on Public Lands.

## RECLAIMING SWAMP LANDS.

Mr. ROSS introduced a bill to secure to the several States the benefits of an act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp and overflowed lands within their limits;" which was read a first and second time, and referred to the Committee on Public Lands.

The SPEAKER. The call of States and Territories for bills on leave being concluded, the next business in order is the call of States for resolutions, commencing with the State of Ohio, where the call was suspended on the 19th day of December last.

## UNITED STATES CHRISTIAN COMMISSION.

Mr. ASHLEY. I offer the following resolution, and demand the previous question on its adoption:

*Resolved*, That the use of the Hall of the House of Representatives be granted to the United States Christian Commission for their anniversary exercises on Sabbath evening, January 29.

Mr. COX. I move that the resolution be laid on the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois. On agreeing to the resolution, I demand the yeas and nays. I do not believe in granting the Hall for this purpose.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 78, nays 38, not voting 64; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, James S. Brown, Ambrose W. Clark, Cobb, Coffroth, Cole, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Frank, Grinnell, Hale, Charles H. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McClure, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Orth, Patterson, Perham, Pike, Price, William H. Randall, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Upton, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Worthington—78.

NAYS—Messrs. Augustus C. Baldwin, Brandegee, Brooks, Chandler, Cox, Cravens, Denison, Eden, Edgerton, Eldridge, English, Finck, Griswold, Hall, Harrington, Holman, William Johnson, Law, Le Blond, Long, McKinney, James K. Morris, Morrison, Noble, Pendleton, Robinson, Rogers, Ross, Schenck, John B. Steele, Sutes, Thomas, Townsend, Wadsworth, Elihu B. White, Wheeler, Chilton A. White, and Joseph W. White—38.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Bailey, Blair, Bliss, William G. Brown, Freeman Clarke, Clay, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Dumont, Farnsworth, Ganson, Garfield, Gooch, Grider, Harding, Benjamin G. Harris, Herrick, Hulburt, Hutchins, Philip Johnson, Kalbfleisch, Francis W. Kellogg, Kernan, King, Knapp, Lazear, Malory, Marey, McBride, McClurg, McDowell, Middleton, William H. Miller, Moorhead, Nelson, Odell, Charles O'Neill, John O'Neill, Perry, Pomerooy, Prayn, Radford, Samuel J. Randall, Alexander H. Rice, James S. Rollins, Scott, William G. Steele, Strouse, Stuart, Sweat, Traey,

Van Valkenburgh, Voorhees, Ward, Wilder, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—64.

So the resolution was adopted.

Mr. ASHLEY. I move to reconsider the vote just taken, and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## DICTIONARY OF CONGRESS.

Mr. SPALDING offered the following resolution:

*Resolved*, That there be printed, for the use of the members of this House, a sufficient number of extra copies of the Dictionary of Congress to make the quota of the House equal to that already ordered by the Senate; provided the copyright hereby directed to be paid by the Clerk shall not exceed the amount heretofore paid per copy for the same work.

Mr. SPALDING moved to refer the resolution to the Committee on Printing, and demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was referred to the Committee on Printing.

## PEACE.

Mr. COX submitted the following resolution, and demanded the previous question on its adoption:

Whereas the country hails with manifestations of patriotic joy and congratulation the victories recently achieved by our brave armies; and whereas "the recognized object of war, at least among civilized and Christian nations, is an honorable and satisfactory peace; and that although we do not know that the insurgents are yet prepared to agree to any terms of pacification that our Government would or should deem acceptable, yet as there can be no possible harm resulting from ascertaining precisely what they are ready to do, and in order to refute the imputation that the Administration contemplates with satisfaction a continuance of hostilities for their own sake, on any ground of mere punctilio, or for any reason than because it is compelled by an absorbing regard for the very end of its existence;" and whereas "an established and rightly constituted Government, combating armed and menacing rebellion, should strain every nerve to overcome at the earliest moment the resistance it encounters, and should not merely welcome, but seek, satisfactory (however informal) assurances that its end has been attained;" Therefore,

*Resolved*, That now, in this hour of victory, which is the hour of magnanimity, it is eminently the duty of the President, on the basis of the present "rightly constituted Government," either to send or receive commissioners or agents with a view to national pacification and tranquility, or by some other rational means known to civilized or Christian nations, secure the cessation of hostilities and the Union of the States.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois. I move that the resolution be laid on the table.

Mr. COX. I have modified the resolution since it was first presented so as to remove objections of gentlemen on the other side.

Mr. WASHBURNE, of Illinois. Mr. Speaker, when the rebel executive and the rebel congress have again and again peremptorily and insultingly refused to entertain any overtures for peace, I deem that it would be disgraceful for us to continue to importune them to accept peace propositions and peace commissioners.

The SPEAKER. There can be no debate on the resolution.

Mr. COX. I want the House to understand this is Horace Greeley's proposition. I demand the yeas and nays on the motion that the resolution be laid on the table.

The yeas and nays were ordered.

Mr. SMITH. I understand that if the resolution be debated it goes over.

The SPEAKER. The main question has been ordered.

Mr. COX. While I would like to hear the gentleman from Kentucky, still I want the vote taken to-day.

The question was taken, and it was decided in the affirmative—yeas 84, nays 51, not voting 48; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Frank, Garfield, Gooch, Grinnell, Griswold, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, McClure, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Orth, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smith, Smithers,

Spalding, Starr, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Eilhu B. Washburne, William B. Washburn, Webster, Wheeler, Williams, Wilder, Wilson, Windom, and Worthington—84.

**YAYS**—Messrs. Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Denison, Eden, Edgerton, Eldridge, English, Finck, Hale, Hall, Harrington, Charles M. Harris, Holman, William Johnson, Orlando Kellogg, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, James R. Morris, Morrison, Noble, Pendleton, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Townsend, Wadsworth, Chilton A. White, Joseph W. White, Fernando Wood, and Yeaman—51.

**NOT VOTING**—Messrs. James C. Allen, William J. Allen, Blaine, Blair, Blow, William G. Brown, Clay, Creswell, Dawson, Driggs, Dumont, Farnsworth, Gauson, Grider, Harding, Benjamin G. Harris, Herrick, Hotchkiss, Hulburd, Hutchins, Philip Johnson, Kaibbeisch, Knapp, McBride, Middleton, William H. Miller, Moorhead, Nelson, Odell, Charles O'Neill, John O'Neill, Perry, Pomeroy, Pruyn, James S. Rollins, Shannon, William G. Steele, Strouse, Stuart, Sweet, Tracy, Voorhees, Ward, Whaley, Winfield, Benjamin Wood, and Woodbridge—48.

So the resolution was laid on the table.

During the vote,

Mr. THAYER stated that his colleague, Mr. O'NEILL, was paired with Mr. STEELE, of New Jersey.

Mr. VAN VALKENBURGH stated that his colleague, Mr. POMEROY, was absent from the House on account of illness in his family.

The vote was then announced as above recorded.

#### PAYMENT OF RECRUITING OFFICERS.

Mr. FINCK submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the Committee on Military Affairs be directed to inquire into the expediency of providing by law for the payment of such field officers of regiments who were appointed by the Governors of the several States during the rebellion, and who were engaged in recruiting and organizing companies and regiments for service in the forces of the United States, or commanding, superintending, or directing camps of instruction and rendezvous established by said Governors, the same pay and emoluments allowed by the United States, at the time, to officers of like rank, from the time of entering upon such service under their appointment up to the date of their muster into the service of the United States, and that said committee report by bill or otherwise.

The previous question was seconded, and the main question ordered, and under the operation thereof the resolution was adopted.

#### QUOTAS OF CALIFORNIA.

Mr. McKINNEY submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the Secretary of War, (if not incompatible with the public interest,) be directed to communicate to this House what is the number of troops furnished by the State of California to the General Government under the various calls, and whether the draft has been enforced in that State as in other States, and if not, the reason for its non-enforcement.

The SPEAKER. This being a call on one of the Executive Departments for information must, if objected to, lie over for one day.

Mr. COLE, of California. I object.

So the resolution was laid over.

#### REPAYMENT OF COMMUTATION MONEY.

Mr. NOBLE submitted the following preamble and resolution, on which he demanded the previous question:

Whereas under the call made by the President for three hundred thousand troops, on the — day of —, A. D. 1864, in order to fill their quotas, some of the districts made a supplemental draft subsequent to the passage of the act regulating the subject, of July 4, 1864, which supplemental drafts were declared irregular and the persons thus drafted were ordered to be discharged therefrom, and when commutation had been paid it was also ordered that the same should be refunded, which has not been done; and whereas in many instances the persons who had thus paid commutation within a very short period thereafter were again drafted under the subsequent call and compelled to enter the service of the United States; and whereas families are now suffering for want of the return of said commutation: Therefore,

*Resolved*, That the Secretary of War be directed to inform this House why the said commutations have not been refunded without so much delay.

The previous question was seconded.

Mr. SLOAN. I move to lay the resolution on the table.

Mr. NOBLE. Let me appeal to my friend not to move to lay that resolution on the table for this reason: I know many instances where the facts therein stated are true.

Mr. SLOAN. I do not object to an inquiry in reference to the subject-matter of the resolution. What I object to is that the resolution asserts many facts which I do not know to be true.

Mr. NOBLE. I do know that many of them are true.

Mr. SLOAN. I have no objection to a resolution of inquiry calling for all the facts in relation to the subject.

The motion to lay the resolution on the table was not agreed to.

Mr. SCHENCK. I suggest to the gentleman that the only difficulty here seems to be that in the preamble a number of facts are stated as actually existing. Now I have no doubt that my colleague [Mr. NOBLE] is satisfied, either from evidence within his own knowledge or otherwise, that a part at least of these alleged facts are true. Still they may be capable of some rebutting testimony; and if my colleague would modify his resolution by inserting after the word "whereas" the words "it is alleged," all objection would be removed.

Mr. NOBLE. I have not the least objection to so modifying the resolution, though I know personally of the existence of many of the alleged facts.

Mr. SCHENCK. I have no doubt of that; but the modification will remove all objection.

Mr. NOBLE. I will make the modification suggested; but I desire to say to my colleague that I personally know of one or two instances where men have been drafted and taken into the service a second time whose families are now suffering for want of this commutation money. And further, I know application was made more than six months ago to get the money paid back.

The main question was then ordered to be put.

The SPEAKER. This being a call for executive information, requires unanimous consent to be considered this day.

Mr. BOUTWELL. I object.

Mr. NOBLE. Who objects?

Mr. BOUTWELL. I object, and if the House will pardon me, I will say to the gentleman from Ohio that if he will introduce a simple resolution asking information upon this subject, without alleging any matters of fact about which the House know nothing, there will be no objection to it.

Mr. NOBLE. I myself made a number of applications more than six months ago for the repayment of this commutation which had been paid by men who were subsequently drafted. That I know to be true. Since I have been here a number of these men and their families have written to me with reference to the matter, and I have called upon the War Department time and again, but have failed to get a return of the money. I know the families need the money, and I think the resolution should pass.

Mr. BOUTWELL. I have called myself upon the War Department many times for information, and have failed to get it.

Mr. NOBLE. This is a case where money has been paid, and it should be returned. The fault is in the War Department.

Mr. BOUTWELL. I insist upon my objection. So the resolution was laid over.

#### TAX ON PASSENGER TRAVEL.

Mr. SCHENCK submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Committee of Ways and Means be directed to inquire into the expediency of so amending the laws for the assessment and collection of internal revenue as to provide that a tax of not exceeding one cent per mile be levied on every passenger traveling by railway, steamboat, or other public conveyance, to be additional to any tax required by law to be paid by the railway companies, steamboat companies, or other owners of such public conveyances; and that provision be made under proper restrictions and penalties for the collection, accounting for, and paying over of such passenger tax by the corporations and other persons owning and running such public conveyances, for a compensation not exceeding — per cent. for such collection and paying over.

The SPEAKER ordered tellers on the demand for the previous question; and appointed Mr. SCHENCK and Mr. TOWNSEND.

The House divided; and the tellers reported—aye 54, noes 38.

So the previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

#### RIGHT TO VOTE.

Mr. MALLORY. I rise to a question of order. A short time since I was granted leave to record my vote upon the resolution offered by the gentleman from Ohio, [Mr. Cox.]

Now, I understand that permission has been given to the Committee of Ways and Means, of which I am a member, to sit during the sessions of the House. If so, I take it that that bestows upon the members of that committee the right to vote upon any question taken during their absence.

The SPEAKER. The Chair overrules the point of order. The Chair thinks, and in this he has gone beyond his predecessors, that this privilege enables the members of the committee to come in and vote upon any proposition pending before the House when they were not within the bar when their names were called; but that they cannot come in at a subsequent day, or after the result has been announced, and record their votes.

Mr. MALLORY. I accept the ruling of the Chair and thank the House for the permission to vote. I vote "no" on the motion to lay the resolution of the gentleman from Ohio [Mr. Cox] on the table.

#### EXCHANGE OF NAVAL PRISONERS.

The SPEAKER, by unanimous consent, the morning hour having expired, laid before the House a letter from the Secretary of the Navy, transmitting, in compliance with a resolution of the House of Representatives of the 21st of December, 1864, a statement of what measures have been taken for and what obstacles are in the way of an exchange of naval prisoners now in the hands of the rebels; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### APPROPRIATIONS FOR INTERIOR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting the annual statement as to the appropriations for that Department, compiled by the Second Comptroller, in compliance with the act of May 1, 1860; which was laid upon the table, and ordered to be printed.

#### MISSOURI A FREE STATE.

The SPEAKER. The Chair lays before the House a telegraphic dispatch received by him on Saturday last, when the House was not in session, with the request that it should be laid before the House of Representatives.

The Clerk read the dispatch, as follows:

JEFFERSON CITY, MISSOURI, January 14, 1865.

HON. SCHUYLER COLFAX,  
Speaker House of Representatives:

The following is the proclamation of Thomas C. Fletcher, first Governor of free Missouri. We know you join in spirit with Missouri in her jubilee to-day.

GEORGE SMITH,  
President Senate of Missouri.  
W. L. LOVELACE,  
Speaker House of Representatives of Missouri.

Proclamation by the Governor.

EXECUTIVE DEPARTMENT,  
JEFFERSON CITY, MISSOURI, January 11, 1865.

It having pleased divine Providence to inspire to righteous action the sovereign people of Missouri, who, through their delegates in convention assembled, with proper legal authority and solemnity, have this day ordained that hereafter in this State there shall be neither slavery nor involuntary servitude, except in punishment of crime whereof the party shall have been duly convicted, and that all persons held to service or labor as slaves are hereby declared free: Now, therefore, by authority of the supreme executive power vested in me by the constitution of Missouri, I, Thomas C. Fletcher, Governor of the State of Missouri, do proclaim that henceforth and forever no person within the jurisdiction of this State shall be subject to any abridgment of liberty, except such as the law shall prescribe for the common good, or know any master but God.

In testimony whereof I have hereunto signed my name, and caused the great seal of the State to be affixed, [L. s.] at Jefferson City, this 11th day of January, A. D. 1865.

THOMAS C. FLETCHER.

By the Governor:

FRANCIS RODMAN, Secretary of State.

Mr. WASHBURN, of Illinois. I move that that communication be laid on the table and printed in the archives of the Government.

The motion was agreed to.

#### RECIPROCITY TREATY.

Mr. WASHBURN, of Illinois. On Friday the gentleman from New York [Mr. WARD] who objected to taking from the Speaker's table the resolution in relation to the abrogation of the reciprocity treaty, said that he would make no objection this morning. I hope the House will consent to take it up and concur in the amendments of the Senate.

Mr. RANDALL, of Pennsylvania. Is that in order?

Mr. WASHBURNE, of Illinois. The gentleman from New York [Mr. WARD] who had charge of the matter said that he would make no objection.

Mr. RANDALL, of Pennsylvania. I object. Mr. WASHBURNE, of Illinois. Then I move to suspend the rules in order that the House may take up and consider the amendments of the Senate to the joint resolution (H. R. No. 56) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, A. D. 1854.

The question was taken; and, two thirds voting in favor of it, the rules were suspended, and the resolution was taken up.

The Senate propose to amend the joint resolution by striking out the whole thereof, including the preamble, and inserting in lieu thereof the following:

Whereas it is provided in the reciprocity treaty, concluded at Washington the 5th of June, 1854, between the United States of the one part and the United Kingdom of Great Britain and Ireland of the other part, that this treaty "remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same;" and whereas it appears by a proclamation of the President of the United States, bearing date 16th March, 1855, that this treaty came into operation on that day; and whereas, further, it is no longer for the interests of the United States to continue the same in force: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice be given of the termination of the reciprocity treaty, according to the provision therein contained for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.

Mr. WASHBURNE, of Illinois. I ask the previous question on the amendments.

The previous question was seconded and the main question ordered.

The amendment to the joint resolution was agreed to.

The amendment to the preamble was also agreed to.

The Senate further proposed to amend the title of the joint resolution so as to read:

A joint resolution providing for the termination of the reciprocity treaty of the 5th of June, 1854, between the United States and Great Britain.

The amendment to the title was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the several votes by which the amendments of the Senate were concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DUTY ON PRINTING PAPER.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House to introduce the following joint resolution:

Be it resolved, &c., That in lieu of the duty on printing paper, unsized, used for books and newspapers exclusively, now levied by law, there shall be levied, collected, and paid a duty of three per cent. *ad valorem*.

Mr. KASSON. Is the resolution offered for consideration now?

Mr. WASHBURNE, of Illinois. It is for consideration at this time.

Mr. KASSON. This subject is before the Committee of Ways and Means, and for that reason I must object to the consideration of the resolution at this time.

Mr. WASHBURNE, of Illinois. I will ask the gentleman from Iowa when the Committee of Ways and Means will consider this subject.

Mr. KASSON. I hope this week. They have an extra session this evening for special and more important business. I ask the gentleman at least to postpone the resolution.

Mr. WASHBURNE, of Illinois. If the gentleman thinks there will be some action on the subject this week and that the Committee of Ways and Means will report to the House, I will withdraw the joint resolution.

Mr. KASSON. I think there will be.

Mr. WASHBURNE, of Illinois. I withdraw the joint resolution.

#### PRINTING OF PUBLIC DOCUMENTS.

Mr. A. W. CLARK, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to.

Resolved, That the Joint Committee on Printing be

instructed to inquire into the cause of delay in printing the public documents, and to report what measures, if any, are necessary to expedite the same.

#### NAVAL APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the naval service for the year ending 30th June, 1866; and moved that it be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Thursday next.

Mr. WASHBURNE, of Illinois, called for the reading of the bill.

Mr. HOLMAN. I suggest to the gentleman from Illinois that the right to raise points of order in Committee of the Whole on the state of the Union on this bill be reserved.

Mr. WASHBURNE, of Illinois. That is my object.

Mr. STEVENS. I have no objection to that reservation being made.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Thursday next, and from day to day until disposed of.

#### WAYS AND MEANS.

Mr. STEVENS, from the Committee of Ways and Means, also reported a bill to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864; and for other purposes; and moved that it be referred to the Committee of the Whole on the state of the Union and made the special order for Wednesday next.

Mr. ANCONA called for the reading of the bill.

The SPEAKER. The Committee of Ways and Means have a right to report general appropriation bills at any time; but this is not a bill of that character.

Mr. STEVENS. If there be any difficulty about it, I will withdraw the bill till the Committee of Ways and Means be called.

Mr. ANCONA. I did not object. I only desired to know what the bill was. I withdraw the demand for the reading of the bill.

The bill was read a first and second time, ordered to be printed, and made the special order for Wednesday next, and from day to day until disposed of.

#### DEFICIENCY BILL.

Mr. STEVENS, from the Committee of Ways and Means, also reported back the Senate amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865.

Mr. BROOKS. I object to the amendments being considered in the House. They have not been printed, and we ought to have some explanation of them.

Mr. STEVENS. I move that the amendments be referred to the Committee of the Whole on the state of the Union, and made the special order for to-day.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, [Mr. BORTWELL in the chair,] and proceeded, as a special order, to the consideration of the Senate amendments to the deficiency bill.

First amendment of the Senate:

Insert the following:

To supply a deficiency for compensation of clerks in the Denver branch mint, \$450.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Second amendment:

Insert the following:

To supply a deficiency in the appropriation for the branch mint at San Francisco, \$131,889 68.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Third amendment:

Strike out the following:

For the support and maintenance of the convicts trans-

ferred from the District of Columbia, at such place or places as may be selected by the Secretary of the Interior, \$30,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fourth amendment:

Strike out the following:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employees, and to the House reporters for the Congressional Globe, a sum sufficient for the purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives; but no payments shall be made under this provision to any other persons than the clerks, officers, and other employees of the House and the reporters for the Congressional Globe.

The Committee of Ways and Means recommended non-concurrence.

Mr. PRICE. Mr. Chairman, I understand that the effect of adopting the recommendation of the Committee of Ways and Means will be to pay this additional amount. I hope the House will not vote for any resolution to pay additional sums to any employees, and that the amendment of the Senate will be concurred in.

The question was taken, and the amendment was non-concurred in, there being, on a division—ayes six, noes not counted.

Fifth amendment:

Strike out the following:

For salary of the commissioner for codifying the naval laws, under joint resolution of March 3, 1863, from July 1, 1864, to March 3, 1865, \$2,025.

The Committee of Ways and Means recommended non-concurrence.

Mr. SPALDING. I think, Mr. Chairman, that the action of the Senate is correct, and that the House ought not to vote that appropriation. If I am correctly informed the services of that commissioner terminated some time ago, and he received his full pay. I know of no propriety in giving him another year's salary, and I hope the House will not overrule the action of the Senate in this respect.

Mr. STEVENS. I think the appropriation made by this House is right, and I ask to have a letter on the subject read.

The Clerk read, as follows:

439 H STREET, WASHINGTON, January 12, 1865.

MY DEAR SIR: I see by the Globe of yesterday that the Senate amended the deficiency bill by striking out my salary as commissioner of the code of naval laws. This, I presume, has been done under some misapprehension of the facts.

I was appointed commissioner in the spring of 1863.

In March, 1864, I reported to the House a draft of a code, complete, except a chapter upon the pay of the officers and employees, and a chapter specifically repealing the old laws which should be repealed.

Copies of the code, after it was printed, were distributed among the several bureaus, and the officers of the Navy and others interested, for suggestions of amendment or criticism. Many of them were returned to me with valuable suggestions.

I remained here during the residue of the last session endeavoring to get action upon it in the House committee. It was distributed to several sub-committees for examination, but was not considered in committee or reported to the House.

During the recess I saw the chairman of the committee, (Hon. Mr. RICE,) and, by arrangement with him, came here at the opening of this session; and I have prepared a copy with references to all the former laws and also with references noted and written on each page to all the amendments which have been proposed. This I have now submitted to the committee, and expect their action. I can hardly expect it will be agreed upon and reported so as to pass before the end of the session, or nearly the end, and I shall be compelled to remain in attendance.

I respectfully submit, therefore, that the provision for my salary should be retained in the bill, and I beg you to submit this statement to the committee.

I am, very respectfully, your obedient servant,

C. B. SEDGWICK,  
Commissioner of Naval Code.

Mr. STEVENS. I think that that letter sufficiently explains this matter, and shows that the appropriation is quite small enough for the time employed. The work done by this gentleman since the last session is very valuable. Without it, indeed, the whole code would be almost unintelligible.

Mr. GANSON. I would ask the gentleman from Pennsylvania [Mr. STEVENS] whether this commissioner, or whatever he is, has had any compensation previous to this, and if so how much.

Mr. STEVENS. For one year.

Mr. GANSON. Up to what time?

Mr. STEVENS. Up to last spring, I think.

Mr. GANSON. I understand from the com-



munication that has just been read, that this compensation is for trying to lobby this report through the committee.

Mr. STEVENS. The gentleman could not have heard the communication read. The commissioner made an index to the book, and did other work which was deemed necessary.

Mr. SPALDING. I would ask the gentleman from Pennsylvania [Mr. STEVENS] if this appropriation has been recommended by the Committee on Naval Affairs.

Mr. STEVENS. We have had no recommendation from them on any subject.

Mr. RICE, of Massachusetts. If I understand the fact in relation to the services of the commissioner in the preparation of this naval code, it is something like this: during the last session of Congress Mr. Sedgwick did make a partial report, not a complete report. The committee found, on examining the report, that it was in such form as to render it impossible for them to determine what was the codification of the existing laws, and what part of the report involved new propositions submitted by himself—original propositions. The report was distributed among the members of the committee, and they took into consideration the subjects assigned to them respectively. There was no further report in relation to the codification from the commissioner. I suggested to him that the committee would desire that he should enable them by marks and signs to distinguish what was original and that which he had supplied. And within a few days past, within a week past, I have found on the table of the committee this amended report, which I supposed was what was required by the committee, and they will immediately take the subject into consideration and report upon it as soon as they can do so. In regard to any recommendations of the Committee on Naval Affairs to the Committee of Ways and Means, I will state that the committee has received no information whatever from the Secretary of the Navy which would enlighten them upon any propositions which were before the Committee of Ways and Means.

Mr. PIKE. I would suggest to the committee that if we vote this appropriation there would seem to be no reason why the next House should not make an additional appropriation, and make the office continuous and perpetual. The Commissioner made a partial report, as he states in his letter, on the 4th of March of last year. He was asked to specify what particular laws were amended, and what changes were made. The House remained in session until some time in July, but no additional report was received. The only portion of the code changed at the last session, as members will recollect, was in relation to the prize laws, and that was from a draft by the district attorney and the district judge of the district of Massachusetts. For myself I see no reason in the world for such an appropriation as this.

Mr. RICE, of Massachusetts. I would say that so much of the code as related to the prize law was part of a separate bill.

Mr. PIKE. That is what I stated; from a draft drawn by district attorney Dana and district judge Sprague.

Mr. GANSON. I would like to ask the gentleman from Maine [Mr. PIKE] if this commissioner has any peculiar qualifications for the position. Was he ever at sea? Does he know anything about the subject? Or is he a mere lawyer from Syracuse, in the State of New York?

Mr. PIKE. I would say in reply to that question, that I have a very high respect for the commissioner, with whom I served in Congress while he held the position of chairman of the Committee on Naval Affairs. And I have no objection to paying him a reasonable sum for his services; but it seems to me that he has already been paid a reasonable sum.

Mr. LITTLEJOHN. This gentleman, the commissioner, served as chairman of the Naval Committee of this House, and perhaps there is no gentleman here or elsewhere who is better qualified to discharge the duty imposed upon him than Mr. Sedgwick. He has given this question a great deal of attention, and much time and research. And from the investigation I have been able to make I am satisfied that the gentleman is entitled to compensation therefor.

Mr. GANSON. I would like to ask my col-

league [Mr. LITTLEJOHN] if he ever read the report or the codification.

Mr. LITTLEJOHN. In reply to that I will say that I have seen the report and a portion of the codification, but have not read it. But I have satisfied myself, from the examination I have made, that it has required a vast amount of time and research, and that this gentleman is entitled to compensation for the labor he has performed for the public.

Mr. GANSON. I would also ask the gentleman what proposition is made by the commissioner that he deems of value to the naval service in that report.

Mr. LITTLEJOHN. I am not in the habit of being cross-questioned by gentlemen. I will simply reply, that all the laws affecting the Navy have been condensed and brought together, so that heads of Departments, and all others who desire to obtain information, will be able to understand all questions relating to the laws of the Navy, which can be obtained from this one volume.

Mr. PIKE. Does not the gentleman from New York [Mr. LITTLEJOHN] think that fifteen months, at a salary of \$3,000 a year, is sufficient time to accomplish that purpose when the product is a pamphlet of perhaps about two hundred pages?

Mr. DAVIS, of New York. In behalf of the gentleman who is named as commissioner of the naval code, I would like to say one word here. By an act of Congress he was entitled to an annual salary while employed in the service of the Government upon this work. The salary for last year I suppose was paid him. Now, if I understand the declaration of the chairman of the Naval Committee [Mr. RICE, of Massachusetts] that committee had a right to suppose, after he had presented the labors of the last year to the committee, that his further services would be required in preparing or following out the suggestions which had been made to him by the chairman of the Naval Committee. And in that work he has since been engaged. The result of his work has been produced to this House and has been accepted by that committee. And I question very much the fairness of saying now that for this labor, which has been bestowed with the knowledge and at the suggestion of that committee, this commissioner is not entitled to compensation from this Government. I believe that under the circumstances compensation, to some extent at least, should be awarded to him.

Mr. MORRILL. I desire to ask the gentleman from Maine [Mr. PIKE] whether he is aware that any service has been performed by this commissioner since the last payment was made.

Mr. PIKE. I will say in reply, that so far as I have learned at the Department, no service has been performed since the last payment was made. I am not disposed to deny one word that Mr. Sedgwick states in his letter. I only speak so far as I know; and I have made inquiries on the subject.

Mr. RICE, of Massachusetts. I stated when I was upon the floor before, that within a few days past there has been laid upon the table of the Committee on Naval Affairs a communication from the commissioner for revising this code, which, I understand, embraces a statement of the matter of his work, distinguishing that which is in the existing laws from that which is new. I suppose that that work has been performed by him since the adjournment of Congress, or since March last. The amendment was concurred in.

#### Sixth amendment:

Insert the following:

Navy Department, Bureau of Navigation:

For binnacles, binnacle lamps, and alidades; for bunting, muslin, and sewing materials for ensigns, jacks, distinctive flags, and marks, signal flags, and foreign flags, and for making flags of all kinds; for logs, log lines, log reels, log slates, log paper, log books, and sand glasses; for leads, lead reels, lead lines, armings for leads, and sounding cups; and for signal apparatus other than signal flags, \$125,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was not concurred in.

#### Seventh amendment:

Insert the following:

For freight and transportation of navigation materials, instruments, books, and stores; for postage on public letters; for the telegraphing of proposals; for packing-boxes and material; for blank-books, forms, and stationery at navigation office; for maps, drawings, models; and for incidental expenses not applicable to any other appropriation, \$3,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was not concurred in.

#### Eighth amendment:

Insert the following:

For the purchase of nautical and astronomical instruments, nautical books, maps, and charts; and for repairs of instruments; and for binding and backing books and charts, \$100,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was not concurred in.

#### Ninth amendment:

Insert the following:

Bureau of Equipment and Recruiting:

For fuel for the Navy, and for the transportation and expenses thereof, \$5,347,400.

The Committee of Ways and Means recommended concurrence.

Mr. WASHBURN, of Illinois. As the amount of this item is large, I would like to have some explanation of it.

Mr. STEVENS. At the time when this deficiency bill was prepared the Navy Department had not sent in any estimate for deficiencies. They sent in the estimate just as the bill was passing here. The committee examined it, and did not see how they could reject it, because it was for debts already incurred. So they sent it to the Senate to be put on there. The paper containing the estimates has not come back from that body. I remember that, among other things, it mentioned that at the time the original estimates were made, coal was seven or eight dollars per ton, whereas the Department was actually obliged to pay twelve or fourteen dollars per ton; that therefore the increased expense asked to be met in this deficiency bill had been necessarily incurred to keep the Navy in motion. The committee were satisfied that the amount was fairly estimated; and although we did not recommend the item here, we asked the Senate to put it on, and they have done it.

Mr. BROOKS. I wish to ask the chairman of the Committee of Ways and Means whether he remembers what was the deficiency for fuel in the last deficiency bill.

Mr. STEVENS. I do not.

Mr. BROOKS. I know that it was very large—larger than this, if I remember correctly. I make the inquiry for the purpose of suggesting to the Navy Department (I have no other means of doing it) that, in the regular bill which we shall shortly act upon, they should estimate for fuel sums sufficiently high to cover the whole year, so that we shall not have these immense deficiency bills.

Mr. STEVENS. I believe the amount is very large; but it will be remembered that since last year coal has increased in price almost one half. I understood that the amount of fuel used has been barely sufficient—that the Department has been obliged to purchase all it has bought. This fuel has been purchased by the Government, and I suppose of course it ought to be paid for.

Mr. WASHBURN, of Illinois. I would ask the gentleman whether this coal is bought by contract or in open market.

Mr. STEVENS. In both ways, as I understood—generally by contract, unless where there is a demand which must be immediately met.

Mr. WASHBURN, of Illinois. Well, Mr. Chairman, if it is bought by contract I do not see how this deficiency could arise. The Navy Department, I take it, estimates originally at the contract price.

Mr. STEVENS. But they do not make the contracts at the time of the estimate. They make contracts, of course, through the summer, six months after they made the estimates.

Mr. BROOKS. I have no right to answer the question on behalf of the present Administration, but if the gentleman will permit me, I will say that the quantity of coal consumed is much larger than was estimated for by the Department. It has not been so much the increased price of coal as the increased quantity consumed.

Mr. STEVENS. If the gentleman will look at the report, he will find that we have one hundred vessels more than we had last year.

Mr. BROOKS. There is another subject to which I wish to call the attention of the Navy Department through this House, and that is that in their estimates they fail to look to the expansion of the currency. For example, if the war

continues coal will be higher next year than it is now, and it is the duty of the Administration to estimate in reference to the expenditures for coal what will be the expansion of the currency. As I have said, if the war continues next year coal must be dearer, higher in price than now.

Mr. Chairman, these deficiency bills are not only in contravention of law and of the practice of the Government, but they show the folly of the estimates on the part of the Administration. If when they do call upon us for these deficiency bills they would go into a little calculation of the possible expansion of the currency, say fifteen or twenty per cent. a year, they would probably reach some proper and satisfactory estimate.

Mr. THAYER. I ask the gentleman what the difference is provided it is shown that the money has been honestly expended.

Mr. BROOKS. I will inform the gentleman from Pennsylvania that this is an old subject of complaint in this House, which has been discussed frequently. Congress has again and again protested against the practice of deficiency bills. The whole object of these estimates is to hold the Departments and the Administration to a strict accountability; to appropriate money upon the estimates and to restrain all expenditures within the scope of the appropriations, and on no account to permit the Administration to exceed them. It is only just and proper that the Administration should be restricted to legally-adopted appropriations, yet we have constantly-occurring instances where expenditures are made not authorized by law, and appropriations are diverted from their legitimate objects. We ought to put a stop to the use of money by the Administration for which there is no appropriation, and confine the action of the Government rigidly to the legal appropriations made by Congress.

Heretofore, sir, previous to this war, under all Administrations, it has been the practice to estimate within a few hundred thousand dollars the aggregate annual expenditures of the Government. During the war of 1812 and the Mexican war, the appropriations corresponded with the estimates of the Departments, and these appropriations were rarely exceeded. The reason why the present Administration goes beyond its estimates hundreds of millions is because of its inability to comprehend the real value of money; that a dollar now will not be a dollar one year from now. They refuse to recognize that the inflation of the currency will depreciate its value as compared with gold.

Mr. STEVENS. In one thing the gentleman has said I agree perfectly with him. The Administration, holding such opinions as it does in respect to the currency, could not be expected to calculate upon its depreciation. My idea was that our policy in reference to the finances would make gold worth 200 or 250 as compared with currency. This was to my mind in consequence of requiring interest on the public debt to be paid in gold as well as the duty on imports. The Administration holding contrary views could not be expected to make estimates according to the views of the gentleman and myself.

Again, it has been generally supposed by the Administration that this war would end shortly, and therefore they were bound to make their estimates accordingly. Now, I find from the gentleman from Ohio [Mr. Cox] that peace is to be brought about by the negotiators who have gone to Richmond and the one who I am sorry to learn was arrested on his way to this city. There is no doubt that the efforts of Mr. F. P. Blair and others will bring this war to a close in sixty days, [laughter:] and the Administration may possibly reconsider its estimates. Until they do so I think we had better pass them as they are.

The amendment was concurred in.

Tenth amendment:

Insert the following:  
For equipments of vessels, \$500,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eleventh and twelfth amendments:

Insert the following:  
Bureau of Provisions and Clothing:  
For provisions, \$1,500,000.  
For clothing, \$700,000.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

### Thirteenth amendment.

Insert the following:  
For a gold medal to Cornelius Vanderbilt, pursuant to the joint resolution approved January 28, 1864, \$3,000.

The Committee of Ways and Means recommended concurrence.

Mr. COLE, of California. It seems to me that this is a useless appropriation, and that even if a medal is to be presented the present condition of our finances would suggest to us to postpone it till a less sum would answer the same purpose. If we are to appropriate for a medal to a naval officer it should be for one who has suffered and not for one who has been largely benefited by this war.

It is alleged by some one near me that Commodore Vanderbilt has made a donation of a vessel to the Government. True it is, but it was not to the advantage of the Government, perhaps, so much as his own advantage, that the donation was made. I hope, therefore, this appropriation will not be made at this time. If at some subsequent time, when the national Treasury is more pléthoric than at present, such a proposition should be made, I might not perhaps oppose it, though at this time I do.

Mr. STEVENS. Let me say that the last session of Congress ordered the medal to be procured. It has been procured in pursuance of that order, and the only question is whether we shall pay for it or not. The only thing wrong about this matter is that the people of California charge three times more for their gold than they ought to; and if we could make them take one thousand instead of three I would go for it.

As to the merits of this matter, I will say that I felt at the time we passed the resolution that we had been guilty of a shameful neglect in delaying so long to make a proper acknowledgment to Commodore Vanderbilt for making a present to the Government of the fastest vessel on the ocean, worth \$1,000,000. Our poor return for it is this medal, and I am sorry to hear any objection to it. At the commencement of the war Commodore Vanderbilt gave to the Government that grand vessel which was earning him its thousands a day. We neglected to acknowledge it for a long time, but at last ordered this medal.

Mr. COLE, of California. Do I understand the gentlemen to say that medal has already been obtained and bestowed upon the commodore?

Mr. STEVENS. Not bestowed yet.

Mr. COLE, of California. Then it is not clear that it has been already made, but only contracted for upon the contingency, perhaps, of making this appropriation. If so, I still maintain that the appropriation is improper at this time.

Mr. BROOKS. I do not know that it is necessary that I should add anything to the remarks made by the honorable gentleman from Pennsylvania, [Mr. STEVENS.] But Commodore Vanderbilt, though not a constituent of mine, is a citizen of New York, and I feel it my duty to say a word or two. Sir, I am sorry to see any manifestation of feeling upon the part of any Californian respecting the steamboats run between Panama and San Francisco, leading to any conflict of opinion upon a subject of this nature.

The facts stated by the gentleman from Pennsylvania are that in a trying time, when the Administration was utterly unable, or supposed to be unable, but for the fortunate appearance of the Monitor at Fortress Monroe, to provide a steamer of sufficient swiftness and power to confront the Merrimac, Commodore Vanderbilt gave to the Administration of the Government one of the most magnificent presents that was ever made by any man to any Government on earth; and that was a steamer worth \$1,000,000, and which could not be built now for less than \$1,500,000, and probably would cost nearly two millions.

That steamer has done essential service to our Navy, to its character, to its honor, and to the police of the seas in almost all parts of the world. For this the voting of a medal was our inadequate reward. At the last session of Congress both Houses almost unanimously voted that a medal should be provided for Commodore Vanderbilt in testimony of this magnificent donation; but Congress omitted at that time to vote the proper amount of money for the medal.

The Administration of the Government, unable to provide for that medal without coming to Congress, comes now and asks for the execution of our own act in this call for an appropriation of

\$3,000. The question, then, is this: Commodore Vanderbilt gives \$1,500,000 to the Government, and the reward we offer for it is, first, the honor, a very great honor, and in addition a testimonial of \$3,000, not for himself, but to be handed down to his children, to be shown as the representative of the high patriotism which induced him in a most trying time to make this noble gift to his country to open James river and to protect the country from the incursions of the Merrimac.

I hope no personal, political, or sectional feeling will be permitted to mingle itself with this question, but that the House will respond to this call on its part of the Administration with a like unanimity that the medal itself was voted.

Mr. HIGBY. It may be very well for the gentleman from New York to get up here and give us a chapter of laudation of the celebrated Commodore Vanderbilt. But he represents one constituency, and I represent another; he represents one upon the Atlantic coast, and I represent one upon the Pacific coast. And I would say to him that when I express my views, I express the views of my constituents; and I say that the Commodore Vanderbilt for whom this appropriation is made, I understand to be, and so do my constituents, one of the greatest swindlers there is in this nation. He cannot be excelled or exceeded in that respect, and I do not know but that I might add that he is a murderer. He builds crafts and puts them upon the ocean, and he resorts to all the contrivances he can to prevent other people from putting crafts upon the ocean, and monopolizes the whole business. He lies across the throat of every Californian who travels from New York to San Francisco. I should have failed in my duty here if I had not, when this question came up, risen in my place and said what I have said. It is not necessary that I should reiterate what I have said.

This matter is not understood by the members of this House. We had no opportunity of expressing our views when the resolution providing for this medal passed the House. The previous question was called, and it went ripping through this House at once.

It is said that Vanderbilt has given a steamer to the Government of the United States worth a million or a million and a half of dollars. I am credibly informed that he made money by giving it, for the reason that it cost so much money to run it that he could not make money by it, and had better give it away.

I suppose that as this medal has been voted we shall have to appropriate this money, but if I had to hang a medal on his neck it should be one of leather, and nothing more valuable. I am opposed to the amount appropriated, but if in good faith there has been a medal made which cost \$3,000, why, I suppose that this appropriation must pass the House.

I have now had an opportunity to express myself upon this subject, and I have expressed myself freely and truthfully. Murder! Why, how do this man's vessels go out upon the ocean at times? Sometimes they go out upon an ocean harrowed by storms with their machinery withered, and wired up so that it is nothing but God's mercy, and not because of any precautions on the part of the owner of the vessels, that they do not go to the bottom; they are well insured. It is disgraceful when you examine the details in regard to the kind of shipping he puts on the ocean to carry men. We know that at our end of the route, and I am glad of an opportunity to express it. There is not a Californian who would not express himself precisely as I have done upon this question.

It is very easy for gentlemen from the city of New York, who do not go upon the ocean, who do not have to go upon the water and expose and hazard their lives, to rise here and speak in laudatory terms of this man. We of California have no laudations for men of that kind.

Mr. STEVENS. It is mortifying, it is humiliating, to hear an opposition of this kind in this House, and to find gentlemen departing from the question before the House in order to attack a man's private character. Sir, if there had been anything connected with this donation which was discreditable to the donor, if they could have objected to it, that would have been pertinent; but to take occasion of a valuable gift by a private gentleman to the Government, without finding the

least fault with the thing given or with the manner of giving it, to enter into his private and professional character in relation to other matters, is wholly impertinent; no judge in a court would hear such a plea for a moment, but would put down the offer of such an argument as scandalous.

Now, I know nothing about the facts alluded to by the members from California. We are considering a magnificent present made to the Government by Commodore Vanderbilt, and we are not paying him for that present, but we are giving him an honorable testimonial of our regard for it. I care not how bad the man is who has done a good act. The only question is whether he should be honored for that act. Am I to bring up his former life and other things in order to defeat the consideration of that question? I say, sir, it is shameful. It is unpleasant to hear the benefactor of the nation dealt with thus irreverently in this House. I hope the amendment will be adopted unanimously with the single exception of the members from California.

Mr. HIGBY. Will the gentleman from Pennsylvania permit me to ask him a question?

Mr. STEVENS. Yes.

Mr. HIGBY. I made the statement that I was credibly informed that Vanderbilt did not run the steamer because it was no profit to him, and therefore he gave it away. Is not that pertinent?

Mr. STEVENS. "Credibly informed." That is about as much evidence as I expected.

Mr. HIGBY. It is not a question of evidence.

Mr. STEVENS. "Credibly informed." When, how, where, by whom? Sir, I do not like this "credibly informed" to justify an unjust speech.

Mr. TOWNSEND. Mr. Chairman, Commodore Vanderbilt has just been assailed on this floor in terms that those who have had an opportunity of knowing him will be astonished to hear. He needs no defense against the attacks of the gentlemen from California. His noble deeds and great enterprise, rewarded with success, are too well known to call for anything in his defense. I know that, independent of the magnificent gift which this medal is to acknowledge and commemorate, Commodore Vanderbilt, at a time when the national finances were disturbed and money could scarcely be had at any price before the war, took one Government loan of \$3,000,000, and holds the bonds to-day. I should like to know from the gentleman from California whether a vessel that is worth \$1,000,000 could not be disposed of for nearly that sum? What constitutes the worth of an article? What it will bring, does it not?

Commodore Vanderbilt donated his vessel to Government. The argument, then, that because he found the expense too great to retain it is too trifling to be considered. The hostile feeling in California toward him is founded on the fact that Commodore Vanderbilt manages his own affairs to suit himself. The assertion that he conducts his line of steamers in a way prejudicial to the comfort of travelers is no argument to be made in this House. He never seeks to force people into his steamers, and those who take passage do it of their own free will. That that gentleman, with his talents and his wealth always at the disposal of the Government, should be assailed in such unhandsome terms, will be a matter of profound astonishment and regret to his numerous friends. And, sir, I am simply performing what I consider a pleasant duty in defending him.

The question was taken, and the amendment was concurred in.

Mr. STEVENS. I move that the committee rise and report the amendments to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration as a special order the Senate amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and had directed him to report the same back to the House with a recommendation that some be concurred in and others non-concurred in.

Mr. STEVENS moved the previous question on the amendments.

The previous question was seconded, and the main question ordered; and under its operation the recommendations of the Committee of the Whole on the state of the Union were concurred

in without division, with the exception of the following:

Fifth amendment:

Strike out the following:

For salary of the commissioner for codifying the naval laws, under joint resolution of March 3, 1863, from July 1, 1864, to March 3, 1865, \$2,025.

The Committee of the Whole on the state of the Union recommended concurrence.

The SPEAKER ordered tellers; and Messrs. ROLLINS, of Missouri, and HOOPER were appointed.

The House divided, and the tellers reported—ayes 63, noes 35.

So the amendment was concurred in.

Mr. STEVENS moved to reconsider the votes by which the amendments were severally concurred in or non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I move that there be a committee of conference appointed on the disagreeing votes between the two Houses.

The motion was agreed to; and Messrs. STEVENS, PENDLETON, and WEBSTER were appointed a committee of conference on the part of the House.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act for the relief of George Mowrey; when the Speaker signed the same.

#### MILITARY ARRESTS AND IMPRISONMENTS.

Mr. GANSON asked unanimous consent to offer the following resolution:

*Resolved*, That the Military Committee be, and they are hereby, directed to ascertain and report to this House as soon as possible the number of persons now confined in the Old Capitol and Carroll prisons; when such persons were respectively arrested and confined, and upon what charges their arrests were made; whether any of such persons are officers of the Army, and have been confined without a trial beyond the time in that respect prescribed by law or by the regulations in the military service; and whether any persons so in prison are confined without any written charges made against them; and whether there are any persons now in said prisons who have not had a trial; if so, report the names of such persons, the time when they were arrested, and the alleged cause of their arrest respectively; and that the said committee be, and they are hereby, authorized to send for persons and papers.

Mr. FARNSWORTH. I object to the introduction of the resolution. The same avenues of information are open to the gentleman as to other members.

#### AMENDMENT OF ENROLLMENT ACT.

Mr. LITTLEJOHN asked leave to introduce a bill to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes."

Mr. FARNSWORTH. I object.

#### SENATE BILLS REFERRED.

Mr. WILSON. I ask that two Senate bills on the Speaker's table be taken up and referred to the Committee on the Judiciary.

There being no objection, an act (S. No. 88) regulating criminal cases, and for other purposes, and an act (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, were severally taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate had passed without amendment House bill No. 163, for the relief of Charles Anderson, assignee of John James, of Texas.

#### RECONSTRUCTION.

Mr. ASHLEY. I now call for the special order.

The SPEAKER. The special order is the consideration of "A bill (H. R. No. 602) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government," reported from the select committee on the rebellious States. The consideration of this bill was postponed from December 20, 1864, to Tuesday, January 10, 1865, after the morning hour, and made a special order from day to day, after the morning hour, until disposed of. It has just been reached in the regular order of business.

Mr. ASHLEY. In pursuance of previous notice, I submit the following as a substitute for the original bill:

Strike out all after the enacting clause, and insert:

That in the States declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, whose pay and emoluments shall not exceed that of a brigadier-general of volunteers of such State until a State government therein shall be recognized as hereinafter provided.

Sec. 2. *And be it further enacted*, That until the United States shall have recognized a republican form of State government, the provisional governor in each of said States shall see that this act, and the laws of the United States, and the laws of the State in force when the State government was overthrown by the rebellion, are faithfully executed within the State; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such State; and the laws for the trial and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. The President shall appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, all which officers shall be entitled to receive the fees and emoluments provided by the State laws for such officers.

Sec. 3. *And be it further enacted*, That until the recognition of a State government, as aforesaid, the provisional Governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected, for the year 1865, and every year thereafter, the taxes prescribed by the laws of such State to be levied during the fiscal year preceding the overthrow of the State government thereof, in the manner prescribed by the laws of the State, as nearly as may be; and the officers appointed, as aforesaid, are vested with all powers of levying and collecting such taxes, by distress or sale, as were vested in any officers or tribunal of the State government aforesaid for those purposes. The proceeds of such taxes shall be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such State, subject to the direction of the President, and the surplus shall be deposited in the Treasury of the United States to the credit of such State, to be paid to the State upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

Sec. 4. *And be it further enacted*, That all persons held to involuntary servitude or labor in the States or parts of States in which such persons have been declared free by any proclamation of the President, are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such person or their posterity shall be restrained of liberty, under pretense of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

Sec. 5. *And be it further enacted*, That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than \$1,500, and be imprisoned not less than five nor more than twenty years.

Sec. 6. *And be it further enacted*, That every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial and military offices below the grade of colonel in the rebel service, State or Confederate, is hereby declared not to be a citizen of the United States.

Sec. 7. *And be it further enacted*, That so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall, together with the citizens of the United States from such State in the military or naval service of the United States, amount to a majority of the persons enrolled in the State, he shall, by proclamation, invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States.

Sec. 8. *And be it further enacted*, That the convention shall consist of as many members as both houses of the last constitutional State Legislature, apportioned by the provisional governor among the counties, parishes, or districts of the State in proportion to the population enrolled by the marshal, in compliance with the provisions of this act, or in the military or naval service of the United States, as aforesaid. The provisional governor shall, by proclamation, declare the number of delegates to be elected by each county, parish, or election district; name a day of election, not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming as nearly as may be convenient to the places used in the State elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

Sec. 9. *And be it further enacted*, That the delegates shall be elected by the loyal male citizens aforesaid of the United States of the age of twenty-one years, and resident in the county, parish, or district in which they shall offer to vote, or in the military or naval service of the United States, and who shall take and subscribe the oath of allegi-



ance to the United States in the form contained in the act of Congress of July 2, 1863; and all citizens of the United States who are in the military or naval service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote or be eligible to be elected as delegate at such election.

SEC. 10. *And be it further enacted*, That the said commissioners, or either of them, shall hold the election in conformity with this act, and, so far as may be consistent therewith, shall proceed in the manner used in the State prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by or proved to the commissioners to have held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded, though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote, he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

SEC. 11. *And be it further enacted*, That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the State, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form hereinbefore prescribed.

SEC. 12. *And be it further enacted*, That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guarantee a republican form of government to every State, and incorporate them in the constitution of the State, that is to say:

First. No person who has held or exercised any office, civil or military, except civil offices merely ministerial and military offices below the grade of colonel, State or confederate, under the usurping power, shall vote for or be a member of the Legislature, or Governor.

Second. Involuntary servitude is forever prohibited, and freedom and equality of civil rights before the law are guaranteed to all persons in said State.

Third. No debt, State or confederate, created by or under the sanction of the usurping power, or in any manner in aid thereof, shall be recognized or paid by the State; and all acts, judicial or legislative, for the confiscation or forfeiture of any debt, property, or franchise, of any loyal citizen of the United States, are hereby declared null and void.

SEC. 13. *And be it further enacted*, That when the convention shall have adopted those provisions it shall proceed to reestablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the State entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates, but at a time and place named by the convention, at which election the said electors, and none other, shall vote directly for or against such constitution and form of State government. And the returns of said election shall be made to the provisional governor, who shall canvass the same in the presence of the electors, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same with a copy thereof, to the President of the United States, who, after obtaining the assent of Congress, by act or joint resolution, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the State; and from the date of such recognition, and not before, Senators and Representatives and electors for President and Vice President may be elected in such State, according to the laws of the State and of the United States.

SEC. 14. *And be it further enacted*, That if the convention shall refuse to reestablish the State government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than a majority of those enrolled as aforesaid, are willing to reestablish a State government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention or to certify the State government reestablished by it to the President.

SEC. 15. *And be it further enacted*, That the United States, in Congress assembled, do hereby recognize the government of the State of Louisiana, inaugurated under and by the convention which assembled on the 6th day of April, A. D. 1864, at the city of New Orleans; and the government of the State of Arkansas, inaugurated under and by the convention which assembled on the 8th day of January, 1864, at the city of Little Rock: *Provided*, That the same or other conventions, duly assembled, shall first have incorporated into the constitutions of those States, respectively, the conditions prescribed in the twelfth section of this act, and the marshal of the United States shall have returned to the President of the United States the enrollment directed by the seventh section to be made and returned to the provisional governor, and it shall appear thereby that the persons taking the oath to support the Constitution of

the United States, together with the citizens of the United States from such State in the military or naval service of the United States, amount to a majority of the persons enrolled in the State. And the President shall, thereupon, by proclamation, declare the recognition by the United States, in Congress assembled, of the said government of such State; and from the date of such proclamation the said government shall be entitled to the guarantee and all other rights of a State government under the Constitution of the United States; but this act shall not operate a recognition of a State government in either of said States till the conditions aforesaid are complied with, and till that time those States shall be subject to this law.

MR. ASHLEY. The select committee on the rebellious States direct me to ask of the House that this amendment may be substituted for the original bill, and considered as an original bill, to which other substitutes may be submitted as amendments.

THE SPEAKER. That can be done only by unanimous consent.

There being no objection, it was so ordered.

MR. KELLEY. I move to amend this bill by inserting after the words "to enroll all the white male citizens of the United States," the words "and all other male citizens of the United States who may be able to read the Constitution thereof."

MR. ELIOT. I move the following as a substitute:

Strike out all after the enacting clause and insert:

That the States declared to be in rebellion against the United States, and within which the authority of the Constitution and laws of the United States has been overthrown, shall not be permitted to resume their political relations with the Government of the United States until, by action of the loyal citizens within such States respectively, a State constitution shall be ordained and established, republican in form, forever prohibiting involuntary servitude within such State, and guaranteeing to all persons freedom and equality of rights before the law.

SEC. 2. *And be it further enacted*, That the State of Louisiana is hereby permitted to resume its political relations with the Government of the United States under the constitution adopted by the convention which assembled on the 6th day of April, A. D. 1864, at New Orleans.

MR. WILSON. I move to amend the substitute proposed by the gentleman from Massachusetts [Mr. ELIOT] by striking out all after the word "that," and inserting the following:

Senators and Representatives shall not be received from any State heretofore declared in rebellion against the United States until by an act or joint resolution of Congress, approved by the President, or passed notwithstanding his objections, such State shall have been first declared to have organized a just local government, republican in form, and to be entitled to representation in the respective Houses of Congress.

MR. DAVIS, of Maryland. Is the motion of the gentleman from Iowa [Mr. WILSON] in order under the rule?

THE SPEAKER. It is, for it is in the nature of an amendment to an amendment. By unanimous consent the House has substituted the amendment offered by the gentleman from Ohio [Mr. ASHLEY] in the place of the original bill reported from the select committee on the rebellious States. The gentleman from Massachusetts [Mr. ELIOT] submits an amendment to that bill, in the nature of a substitute. The gentleman from Iowa [Mr. WILSON] moves an amendment to the amendment of the gentleman from Massachusetts, [Mr. ELIOT.] The gentleman from Pennsylvania [Mr. KELLEY] has also submitted an amendment to the seventh section of what is now the original bill, and as his amendment is to perfect the original bill, the first question will be upon the amendment of the gentleman from Pennsylvania, [Mr. KELLEY.]

MR. KERNAN. I ask leave to offer an amendment in the nature of a substitute.

THE SPEAKER. There being already pending an amendment in the second degree, the amendment of the gentleman from New York [Mr. KERNAN] can only be received at this time by unanimous consent.

MR. DAVIS, of Maryland. I object.

MR. ARNOLD. I ask the gentleman from Massachusetts [Mr. ELIOT] to accept as an amendment to his amendment that which I have in my hand.

MR. ELIOT. If it is the same that I have seen I have no objection to it.

MR. ARNOLD. It is the same. It is as follows:

SEC. —. *And be it further enacted*, That in all that portion of the United States heretofore declared to be in rebellion against the United States, and enumerated in the President's proclamation of January 1, 1863, slavery and involuntary servitude, otherwise than in the punishment of crime whereof the accused shall have been duly convicted, shall be, and the same hereby is, abolished and prohibited forever, and the reenslavement, or holding, or attempting to hold in slavery or involuntary servitude, any person

within such States made free by this act, or declared to be free by the proclamation of the President of the United States, dated January 1, 1863, or of any of their descendants, otherwise than in the punishment of crime whereof the accused shall have been duly convicted, is and shall be forever prohibited, any law or regulation of either of said States to the contrary notwithstanding.

MR. ELIOT. I accept the amendment.

THE SPEAKER. The pending question is upon the amendment of the gentleman from Pennsylvania, [Mr. KELLEY.]

MR. ASHLEY. I wish to enter a motion to recommit this bill, with all the pending amendments; and as I do not desire to discuss the subject now, I will yield the floor to the gentleman from Pennsylvania, [Mr. KELLEY.]

MR. KELLEY. Mr. Speaker, these are indeed terrible times for timid people. Use and wont no longer serve us. The guns traitorously fired upon Fort Sumter threw us all out of the well-beaten ruts of habit, and as the war progresses men find themselves less and less able to express their political views by naming a party or uttering its shibboleth. It is no longer safe for any of us to wait till the election comes and accept the platform and tickets presented by a party. We may have served in its ranks for a life-time and find at last—costly and painful experience being our guide—that to obtain the ends we had in view we should have acted independently of, and in opposition to it and its leaders. In seasons like this, an age on ages telling, the feeblest man in whom there is faith or honesty is made to feel that he is not quite powerless, that duty is laid on him too, and that the force that is in him ought to be expressed in accordance with his own convictions and in a way to promote some end seen or hoped for.

The questions with which we have to deal, the grave doubts that confound us, the difficulties that environ us, the results our action will produce, fraught with weal or woe to centuries and constantly-increasing millions, are such as have rarely been confided to a generation. But happily we are not without guidance. Our situation, though novel, does not necessarily cast us upon the field of mere experiment. True, we have not specific precedents which we may safely follow; but the founders of our Government gave us, in a few brief sentences, laws by which we may extricate our generation and country from the horrors that involve them, and secure peace broad as our country, enduring as its history, and beneficent as right and justice and love.

The organized war power of the rebellion is on the eve of overthrow. It belongs to us to govern the territory we have conquered, and the question of reconstruction presses itself upon our attention; and our legislation in this behalf will, though it comprise no specific provisions on the subject, determine whether guerrilla war shall harass communities for long years, or be suppressed in a brief time by punishments administered through courts and law, to marauders for the crimes they may commit under the name of partisan warfare. At the close of an international war, the wronged but victorious party may justly make two claims: indemnity for the past, and security for the future; indemnity for the past in money or in territory; security for the future by new treaties, the establishment of new boundaries, or the cession of military power and the territory upon which it dwells. Indemnity for the past we cannot hope to obtain. When we shall have punished the conspirators who involved the country in this sanguinary war, and pardoned the dupes and victims who have arrayed themselves or been forced to do battle under their flag, we shall but have repossessed our ancient territory, reestablished the boundaries of our country, restored to our flag and Constitution their supremacy over territory which was ours, but which the insurgents meant to dismember and possess. The other demand we may and must successfully make. Security for the future is accessible to us, and we must demand it; and to obtain it with amplest guarantees requires the adoption of no new idea, the making of no experiment, the entering upon no sea of political speculation. Ours would have been an era of peace and prosperity, had we and our fathers accepted in full faith the great principles that impelled their fathers to demand the independence of the United Colonies, gave them strength in counsel, patience, courage, and long endurance in the field, and guided them in establishing a Constitution which all ages will recog-

nize as the miracle of the era in which it was framed and adopted, and the influence of which shall modify and change, and bring into its own similitude, the Governments of the world. Had we, and the generation that preceded us, accepted and been guided by the self-evident truths to which I allude, the world would never have known the martial power of the American people, or realized the fact that a Government that sits so lightly as ours upon the people in peace is so infinitely strong in the terrible season of war.

The founders of our institutions labored consciously and reverently in the sight of God. They knew that they were the creatures of His power, and that their work could only be well done by being done in the recognition of His attributes, and in harmony with the enduring laws of His providence. They knew that His ways were ways of pleasantness, and His paths the paths of peace; and they endeavored to embody His righteousness and justice in the Government they were fashioning for unknown ages, and untold millions of men. Their children, in the enjoyment of the prosperity thus secured to them, lost their faith in these great truths, treated them with utter disregard, violated them, legislated in opposition to them, and finally strove to govern the country in active hostility to them. And for a little while they seemed to succeed. But at length we have been made to feel and know that God's justice does not sleep always; and amid the ruins of the country and the desolation of our homes let us resolve that we will return to the ancient ways, look to Him for guidance, and follow humbly in the footsteps of our wise and pious forefathers; and that, as grateful children, we will erect to their memory and to that of the brave men who have died in defense of their work in this the grandest of all wars, a monument broad as our country, pure as was their wisdom, and enduring as Christian civilization. So shall we by our firmness and equity exalt the humble, restrain the rapacious and arrogant, and bind the people to each other by the manifold cords of common sympathies and interest, and to the Government by the gratitude due to a just and generous guardian.

But, Mr. Speaker, I hear gentlemen inquire how this is to be done. The process is simple, easy, and inviting; it is by accepting in child-like faith, and executing with firm and steady purpose three or four of the simple dogmas which the founders of our Government proclaimed to the world, and which, alas! too often with hypocritical lip service, are professed by all Americans, even those who are now striving, through blood, and carnage, and devastation, to found a broad empire, the corner-stone of which was to be human slavery.

In announcing the reasons which impelled the colonies to a separation from the mother country, the American people declared that "a decent respect to the opinions of mankind" required "a declaration of the causes which impelled them to the separation;" and in assigning those causes announced a few general propositions, embodying eternal and ever-operating principles, among which were,

First, that "all men are created equal, are endowed with certain inalienable rights," and that "among these are life, liberty, and the pursuit of happiness;"

Second, that "to insure these rights, Governments are instituted among men;"

Third, that "Governments derive their just powers from the consent of the governed;"

Fourth, that "whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new Government, laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness." And in these four propositions we have an all-sufficient guide to enduring peace and prosperity. If in the legislation we propose we regard these self-evident truths, our posterity shall not only enjoy peace, but teach the world the way to universal freedom; but if we fail to regard them, God alone in His infinite wisdom knows what years of agitation, war, and misery we may entail on posterity, and whether the overthrow of our Government, the division of our country, and all the ills thus entailed on mankind may not be justly chargeable to us.

The tables of the census of 1860 exhibiting the population of the eleven insurgent States, show that it numbered, and was divided as follows:

States.	White population.	Colored population, slave and free, including Indians.
Alabama.....	526,271	436,930
Arkansas.....	324,143	111,307
Florida.....	77,747	62,677
Georgia.....	591,550	465,736
Louisiana.....	357,456	350,546
Mississippi.....	353,901	437,404
North Carolina.....	629,942	362,680
South Carolina.....	291,300	412,408
Tennessee.....	826,722	283,079
Texas.....	420,891	183,320
Virginia.....	1,047,299	519,019
	5,447,222	3,666,110

This table, as will be observed, embraces the whole of Virginia as she was in 1860, and as I have not the means of distinguishing the proportion of her population that is embraced in the new State of West Virginia, I permit it to stand as it is. The new State is in the Union; her citizens never assented to the ordinance of secession; they have provided for the extinguishment of slavery within her limits; and my remarks, save in the general scope in which they may be applicable to any or all of the States of the Union, will not be understood as applying to her. It is of the territory for which it is the duty of Congress to provide governments that I speak. I should also call attention to the fact that the Superintendent of the Census includes the few Indians that remained in some of these States in the column of white inhabitants. Their number is not important; but it certainly should not be so stated as to create the impression that they enjoyed the rights or performed the duties of citizens. How unfair this classification is will appear from the fact that the following section from the Code of Tennessee of 1858, section 3,858, indicates very fairly the position they held under the legislation of each and all the above-named States:

"A negro, mulatto, Indian, or person of mixed blood, descended from negro or Indian ancestors, to the third generation inclusive, though one ancestor of each generation may have been a white person, whether bond or free, is incapable of being a witness in any case, civil or criminal, except for or against each other."

Correcting the error of the Superintendent of the Census, I have enumerated the Indians with the people to whose fate the legislation of those States assigned them. It will be perceived that when that census was taken the white population numbered 5,447,222, and the colored population 3,666,110.

It thus appears that the colored people were considerably more than two fifths of the whole population of the insurgent States; and that while we have professed to believe that their right to life, liberty, and the pursuit of happiness was inalienable—could not be alienated or relinquished by them, nor taken away by others—we have ignored their humanity, and denied them the enjoyment of any single political right.

That, while we have professed to believe that governments are instituted among men to secure their rights, the history of our country for the last fifty years proves that the whole power and constant labor of our Government have been exerted to prevent the possibility of two fifths of the people of more than half our country ever attaining the enjoyment of political, civil, or social rights.

That, while we have professed to believe that all Governments derive their just powers from the consent of the governed, we have punished with ignominy and stripes and imprisonment and death the men who had the temerity to assert that it was wrong to deny to two fifths of the people of a country, and, as in the case of South Carolina and Mississippi, a large majority of the people of the State, the right even to petition for redress of grievance.

And while we have been swift to assure, in terms of warmest sympathy, and sometimes with active aid, any oppressed and revolting people beyond the seas that we believed it to be the right and duty of such people, "whenever any form of Government becomes destructive of the ends" above indicated, "to alter or abolish it, and to insti-

tute a new Government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness," we have, even to the boundaries of the lakes and to the far Pacific shores, stood pledged and ready to lay down our lives in the suppression of any attempt these Americans might make to carry into effect this cardinal doctrine of our professed political faith. Is it any wonder that God, seeing millions of His people thus trampled on, oppressed, outraged, and made voiceless by those whose fathers had placed their feet in His ways, and whose lips never wearied in beseeching His guidance and care, should fill the oppressors with madness and open through their blood and agony a way for the deliverance of their long-suffering victims?

But, Mr. Speaker, it is asked, who are these people? They are the laboring masses of the South—the field hand, the house servant, the mechanic, the artisan, the engineer of that region. Their sinewy arms have felled the forest, opened the farm and the plantation, made the road, the canal, the railroad. It was by the sweat of their brow that the sunny South was made to bloom; it is they whose labor has quickened the wheels of commerce and swelled the accumulating wealth of the world. Upon their brawny shoulders rested the social fabric of the South, and an arrogant aristocracy, that strove to dictate morals to the world, boasted that one product of their toil was a king to whom peoples and Governments must bow. Most of them are ignorant and degraded; but that cannot be mentioned to their disgrace or disparagement. Not they nor their ancestors enacted the laws which made it a felony to enable them to read the Constitution and the laws of their country, or the Book of Life through which their fairer brethren hope for salvation. Dumb and voiceless most of them are; but let not want of intellectual power be ascribed to them as a race, in view of the wit, humor, sarcasm, and pathos, of the learning, logical power, and scientific attainments, of a Douglass, a Garnett, a Remond, a Brown, a Stella Martin, a William Craft, and scores of others, who, evading the bloodhound and his master in the slave-hunt, have made their way to lands where the teachings of Christ are regarded and the brotherhood of man is not wholly denied. Others of them are and have been free, at least so far as to be able to acquire property and send their children to foreign lands for culture. Let some such speak for themselves. In the petition of the colored citizens of Louisiana to the President and Congress of the United States, they respectfully submit:

"That they are natives of Louisiana and citizens of the United States; that they are loyal citizens, sincerely attached to the country and the Constitution, and ardently desire the maintenance of the national unity, for which they are ready to sacrifice their fortunes and their lives."

"That a large portion of them are owners of real estate, and all of them are owners of personal property; that many of them are engaged in the pursuits of commerce and industry, while others are employed as artisans in various trades; that they are all fitted to enjoy the privileges and immunities belonging to the condition of citizens of the United States, and among them may be found many of the descendants of those men whom the illustrious Jackson styled his 'fellow-citizens' when he called upon them to take up arms to repel the enemies of the country."

"Your petitioners further respectfully represent that over and above the right which, in the language of the Declaration of Independence, they possess to liberty and the pursuit of happiness, they are supported by the opinion of just and loyal men, especially by that of Hon. Edward Bates, Attorney General, in the claim to the right of enjoying the privileges and immunities pertaining to the condition of citizens of the United States; and, to support the legitimacy of this claim, they believe it simply necessary to submit to your Excellency, and to the honorable Congress, the following considerations, which they beg of you to weigh in the balance of law and justice. Notwithstanding their forefathers served in the Army of the United States, in 1814-15, and aided in repelling from the soil of Louisiana a haughty enemy, over-confident of success, yet they and their descendants have ever since, and until the era of the present rebellion, been estranged and even repulsed, excluded from all franchises, even the smallest, when their brave forefathers offered their bosoms to the enemy to preserve the territorial integrity of the Republic! During this period of forty nine years they have never ceased to be peaceable citizens, paying their taxes on an assessment of more than fifteen million dollars!"

"At the call of General Butler they hastened to rally under the banner of the Union and liberty; they have spilled their blood, and are still pouring it out for the maintenance of the Constitution of the United States; in a word, they are soldiers of the Union, and they will defend it so long as their hands have strength to hold a musket."

"While General Banks was at the siege of Fort Hudson and the city threatened by the enemy, his Excellency Governor Shepley called for troops for the defense of the city,

and they were foremost in responding to the call, having raised the first regiment in the short space of forty-eight hours.

"In consideration of this fact, as true and as clear as the sun which lights this great continent, in consideration of the services already performed and still to be rendered by them to their common country, they humbly beseech your Excellency and Congress to cast your eyes upon a loyal population, awaiting with confidence and dignity the proclamation of those inalienable rights which belong to the condition of citizens of the great American Republic.

"There is but a feeble voice claiming attention in the midst of the grave questions raised by this terrible conflict; yet, confident of the justice which guides the action of the Government, they have no hesitation in speaking what is prompted by their hearts: 'We are men; treat us as such.'"

This petition, which it is within my knowledge was prepared by one of the proscribed race, asks only for what the fathers of our country intended they should enjoy. They discovered in the Africo-American the attributes and infirmities of their own nature, and in organizing governments, local or general, made no invidious distinction between him and his fellow-men. Under the Articles of Confederation, and at the time of the adoption of the Constitution of the United States, and long subsequent thereto, the free colored man was with their consent a citizen and a voter. Our fathers meant that he should be so. Their faith in the great cardinal maxims they enunciated was undoubting; and they embodied it without mental reservation when they gave form and action to our Government. No one who has studied the history of that period doubts that they regarded slavery as transitory and evanescent. Neither the word "slave," nor any synonym for it, was given place in the Constitution. We know by the oft-quoted remark of Mr. Madison that it was purposely excluded that the future people of the country might never be reminded by that instrument that so odious a condition had ever existed among the people of the United States. That instrument nowhere contemplates any discrimination in reference to political or personal rights on the ground of color. In defining the rights guaranteed by the Constitution they are never limited to the white population, but the word "people" is used without qualification. When in that instrument its framers alluded to those who filled the anomalous, and, as they believed, temporary position of slaves, they spoke of "persons held to service," and in the three-fifths clause of "all other persons." They confided all power to "the people," and provided amply, as they believed, for the protection of the whole people. Thus in the second section of article one, they provided as follows for the organization of the House of Representatives:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

And in the amendments of the Constitution we see how careful they were at a later day to guard the rights of the people:

"ART. 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

"ART. 2. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

"ART. 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

"ART. 9. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

"ART. 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It has, I know, been fashionable to deny that the framers of the Constitution intended to embrace colored persons when they used the word "people;" and it is still asserted by some that it was used with a mental reservation broad and effective enough to exclude them; but the Journals of the Convention and the general history of the times abound in contradictions of this false and mischievous theory, the source of all our present woes. A brief review of contemporaneous events ought to put this question at rest forever.

The Congress of the Confederation was in session on the 25th of June, 1778, the fourth of the Articles of Confederation being under consideration. The terms of the article as proposed were that "the free inhabitants of each of these States (paupers, vagabonds, and fugitives from justice

excepted) shall be entitled to all privileges and immunities of free citizens in the several States."

We learn by the Journal that "the delegates from South Carolina, being called on, moved the following amendment in behalf of their State: in article four, between the words 'free inhabitants' insert 'white.'" How was this proposition, identical with that now made to us, received by the sages there and then assembled? Eleven States voted on the question. Two, South Carolina being one of them, sustained the proposition; the vote of one State was divided; and eight, affirming the colored man's right to the privileges of citizenship, voted "no," and the proposition was thus negatived. South Carolina—then, as she has ever been, persistent in mischief—further moved, through her delegates, to amend by inserting after the words "the several States" the words "according to the law of such States respectively for the government of their own free white inhabitants." This proposition was also negatived by the same decisive vote, as appears by the Journal of the Congress of the Confederation, volume four, pages 379, 380. What two States did not vote upon the question the Journal does not indicate; but when it is remembered that Pennsylvania led her sisters in the great work of emancipation, and that it was not till nearly two years after that date that she abolished slavery, it will be seen that it was by a vote of slaveholders representing slave States, that the proposition to deny citizenship, its rights, privileges, and immunities, to the colored people was so emphatically rejected. The delegates could not, with propriety, have voted otherwise. To have done so, they would have agreed that, in violation of all comity, while they secured the rights of citizenship within the limits of their State to citizens of others, those other States might deny them to citizens of their own. They did not probably foresee that South Carolina might cast the shipwrecked citizen of another State who had been thrown upon her shores into a jail, because of the decree of the Almighty, who had given him a complexion not agreeable to the eyes of her people, and in default of the ability to pay jail fees thus unwillingly incurred, doom him and his posterity to the woes of perpetual slavery; but they did see that such a proposition opened the door to inequality, and possibly to oppression, and they resisted it with a firmness and forecast which their posterity have failed to honor or emulate.

Again, they could not have consistently voted for such a proposition; for, by the constitutions of their own States, free colored men were voters, and in the enjoyment of the rights of citizenship. Not only then, but in 1789, at the time of the adoption of the Constitution of the United States, there was but one State whose constitution distinguished in this respect against the colored man. This odious distinction, so fraught with unforeseen but terrible consequences, marred the constitution of South Carolina alone at the latter date.

The constitution of Massachusetts provided that

"Every male person (being twenty-one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceding) having a freehold estate within the same town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town."

Rhode Island had adopted no constitution, but continued under colonial charter, which provided for the election of members of the General Assembly by "the major part of the freemen of the respective towns or places."

Connecticut also continued under colonial charter, according to which the qualifications of an elector were "maturity in years, quiet and peaceable behavior, a civil conversation, and forty shillings freehold, or forty pounds personal estate."

The constitution of New York provided that—

"Every male inhabitant of full age, who shall have personally resided within one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in the Assembly, if, during the time aforesaid, he shall have been a freeholder possessing a freehold of the value of twenty pounds within the said county, or have rented a tenement therein of the yearly value of forty shillings, and have rated and actually paid taxes to this State."

The constitution of New Jersey contained this provision:

"All inhabitants of this colony of full age, who are worth fifty pounds proclamation money clear estate in the same,

and have resided within the county in which they claim to vote for twelve months immediately preceding the election, shall be entitled to vote for representatives in Council and Assembly, and also for all other public officers that shall be elected by the people of the county at large."

The constitution of Pennsylvania provided that—

"Every freeman of the full age of twenty-one years, having resided in this State for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector; provided always that sons of freeholders of the age of twenty-one years shall be entitled to vote although they have not paid taxes."

The constitution of Delaware declared that—

"The right of suffrage in the election for members of both houses shall remain as exercised by law at present."

The declaration of rights, prefixed to the constitution, contained the following:

"Every freeman, having sufficient evidence of permanent common interest with and attachment to the community, hath a right of suffrage."

The constitution of Maryland provides that—

"All freemen, above twenty-one years of age, having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein, and all freemen having property in this State above the value of thirty pounds current money, and having resided in the county in which they offer to vote one whole year next preceding the election, shall have a right of suffrage in the election of delegates for such county."

The constitution of Virginia contained a provision that—

"The right of suffrage in the election of members for both houses shall remain as exercised at present."

The declaration of rights, prefixed to the constitution, contained the following:

"All men having sufficient evidence of permanent common interest with and attachment to the community have the right of suffrage."

The constitution of North Carolina provided that—

"All freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons for the county in which they reside."

The constitution of Georgia declared that—

"The electors of the members of both branches of the General Assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceding the election, and shall have resided six months within the county."

The constitution of South Carolina provided that—

"The qualifications of an elector shall be, every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained the age of one and twenty years, and hath been an inhabitant and resident in this State for the space of one whole year before the day appointed for the election he offers to give his vote at, and hath a freehold at least of fifty acres of land or a town lot, and hath been legally seized and possessed of the same at least six months previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least six months previous to the said election, in a sum equal to the tax on fifty acres of land, to the support of this government, shall be a person qualified to vote for, and shall be capable of electing, a representative or representatives."

But, Mr. Speaker, to evade the force of this overwhelming array of facts, the pro-slavery Democracy and purblind conservatism of the country have suggested that the thought of the black man was not present in the minds of those who fashioned these constitutions and bills of rights; that they could not have imagined that the freed slave or his posterity would have the audacity to ask that they should be recognized as freemen and citizens of our country; and with unblushing effrontery they have made the ignorant believe that the Government was organized, not for mankind, but for the white man alone. The falsity of these suggestions is fully exposed by the fact that South Carolina made the distinction, and in the Congress of the Confederation pressed it on the attention of the whole country, but will be still more amply demonstrated by the facts I shall hereafter cite. In every State but South Carolina, and possibly Virginia and Delaware, in which the right of suffrage was regulated by statute, and not by constitutional provision, the free colored man at that time was a voter. In no State constitution except that of South Carolina, which was replete with aristocratic provisions, was the right of suffrage limited by express terms to the white man; consequently but few, if any, of the members of the Convention that framed the Constitution of the United States could have failed



to meet him as a voter at the polls. I remember well to have seen negroes at the polls exercising the right of suffrage in Pennsylvania, where they enjoyed it from the foundation of the government to the year 1838, when the growing influence of the increasing slave power of the country, operating on the political ambition of those whom the people had charged with no such duty, deprived colored men of this right by following the example of South Carolina and inserting the word "white" in the constitution of the State. Similar action restricted their right in New York, making it dependent on a property qualification, and deprived them of it in New Jersey and other States now free. To her praise be it spoken, except in Connecticut, which State, in 1817, in compliance to South Carolina, inserted the word "white" in her constitution, they still enjoy the right throughout New England, not as a concession from men of modern days, but hereditarily, from the times in which the foundations of the Government were laid. Gentlemen around me from the State of Maryland doubtless well remember the days when the free colored man voted in their State. It was only in 1833 that he was deprived of that inestimable right by constitutional amendment within her limits. That the negro enjoyed this right in North Carolina until he was deprived of it in the same way is proven by the following extract from the opinion of Judge Gaston, of that State, in the *State vs. Manuel*, which was decided in 1838, and may be found in 4 Devereux and Battle's North Carolina Reports, page 25:

"It has been said that before our Revolution free persons of color did not exercise the right of voting for members of the colonial Legislature. How this may have been it would be difficult at this time to ascertain. It is certain, however, that very few, if any, could have claimed the right of suffrage for a reason of a very different character from the one supposed. The principle of freehold suffrage seems to have been brought over from England with the first colonists, and to have been preserved almost invariably in the colony ever afterward." "The very Congress which framed our constitution [the State constitution of 1776] was chosen by freeholders. That constitution extended the elective franchise to every freeman who had arrived at the age of twenty-one and paid a public tax; and it is a matter of universal notoriety that under it free persons, without regard to color, claimed and exercised the franchise until it was taken from free men of color a few years since by our amended constitution."

Tennessee was admitted to the Union in 1796. Her constitution provided as follows:

"Every freeman of the age of twenty-one years and upward, possessing a freehold in the county wherein he may vote, and being an inhabitant of this State, and every freeman being an inhabitant of any one county in the State six months immediately preceding the day of election, shall be entitled to vote for members of the General Assembly for the county in which he may reside."

This constitution, as will be seen, endured for forty years, during which the free colored men of the State enjoyed their political rights, and exercised, as will appear, a powerful and salutary influence upon public opinion and the course of legislation.

In 1834, a convention to revise that constitution assembled at Nashville, and, accepting the suggestion of South Carolina, by a vote of 33 to 23 limited the suffrage to free white men. During those forty years free negroes had enjoyed a right which made them a power; and no chapter in our history better illustrates the value of this power to both races, or how certainly great wrongs of this kind react and punish the wrong-doer. Cave Johnson is a name well known throughout the country and honored in Tennessee; and it was his boast that the free men of color gave his services to the country by electing him to Congress. On page 1305 of the *Congressional Globe* for the session of 1853-54, will be found the following statement of Hon. John Pettit, of Indiana, made in the United States Senate, May 25, 1854, while discussing the suffrage clause of the Kansas-Nebraska bill:

"Many of the States have conferred this right [of suffrage] upon Indians, and many, both North and South, have conferred it upon free negroes without property. Old Cave Johnson, of Tennessee, an honored and respectable gentleman, formerly Postmaster General, and for a long time a member of the other House, told me with his own lips that the first time he was elected to Congress from Tennessee (in 1828) it was by the votes of free negroes; and he told me how. Free negroes in Tennessee were then allowed by the constitution of the State to vote; and he was an iron manufacturer, and had a large number of free negroes as well as slaves in his employ. I well recollect the number he stated. One hundred and forty-four free negroes in his employ went to the ballot-box and elected him to Congress the first time he was elected."

Few will now deny that slavery is a curse alike to the master and the servile race. None will deny that slavery has been a curse to that State in view of the vast mineral resources of Tennessee; her fine natural sites for great cities; her capacity to feed, house, clothe, educate, and profitably employ free laborers; her recent history, the abundant source of future song and story; the pious and patriotic endurance of the brave and God-fearing people of the eastern section of the State, and the perfect abandon with which their more aristocratic fellow-citizens of the western section of the State espoused the cause of the rebellion; the cruelties inflicted on the loyal people by the traitors; the horrors and the heroism of the border warfare that has desolated her fair fields, and the rancorous feuds and intense hatreds, which the grave can only extinguish, that have been engendered among her people by the war. And who, if the apparently well-founded tradition be true, that a proposition to incorporate in her constitution of 1796 a clause prohibiting slavery was lost by a majority of one vote, will estimate the evil done by the man who thus decided that momentous question?

The history of slavery in Tennessee, and the determined resistance so long made against its struggles for supremacy, will, I am sure, justify a brief digression. There were in 1796, it is said, considerably less than five thousand slaves within her limits, who had been brought thither by the earlier settlers of what was then known as the territory south of the Ohio. The influence of the colored citizens is traceable throughout her earlier history. So early as 1801, before she had existed five years as a State, the Legislature conferred the power of emancipation upon the county courts of the State by an act, the preamble to which significantly says:

"Whereas the number of petitions presented to this Legislature praying the emancipation of slaves, not only tends to involve the State in great evils, but is also productive of great expense."

In 1812, the introduction of slaves into the State for sale was prohibited by law. Yet in the twenty years between 1790 and 1810, by the power of emigration from slave States and natural increase, the number swelled from less than four thousand to upward of forty-four thousand. This rapid increase of slave population alarmed the people, and emancipation societies were organized in different parts of the State. Extracts from an address delivered on the 17th of August, 1816, by request of one of these societies, and repeated with its approval on the 1st of January, 1817, and which, having been printed, not anonymously, but by Heiskell & Brown, was largely distributed by the society, are before me. It proposes to show,

First, the object or design of the society.  
Second, that the principles of slavery are inconsistent with the laws of nature and revelation.  
Third, some of its evils, both moral and political.

Fourth, that no solid objections lie against gradual emancipation.

To show the freedom with which the subject was then discussed, I offer a brief extract or two. In those days the people of America had not learned, nor did they yet pretend to believe, that the Constitution of the United States denied them the right to think of the condition of any class of suffering people, or made it a crime to utter their convictions and their philanthropic emotions. Thus this address to the people of Tennessee says:

"Slavery, as it exists among us, gives a master a property in the slaves and their descendants as much as law can give a property in land, cattle, goods, and chattels of any kind, to be used at the discretion of the master, or to be sold to whom, when, and where he pleases, with the descendants forever. It is true, if the master take away the life of the slave under certain circumstances, our laws pronounce it murder. But the laws leave it in the power of the master to destroy his life by a thousand acts of lingering cruelty. He may starve him to death by degrees, or he may whip him to death if he only take long enough time, or he may so unite the rigors of hard labor, stinted diet, and exposure as to shorten life. The laws watch against sudden murder, as if to leave the forlorn wretches exposed to any slow death that the cruelty and malignant passions of a savage may dictate. Nor is there any restraint but a sense of pecuniary loss, feeble barrier against the effects of the malevolent passions that are known to reside in the human heart. The most inhuman wretch may own slaves, as well as the humane and gentle. Should laws leave one human being in the power of another to such an extent? In many countries where slavery exists the laws prescribe the manner in which they shall be used, and that, too, in lands which

do not boast either of the light and science we enjoy or of the liberty and equality which raise us above and distinguish us from all the nations of the globe."

Nor did the movement, as appears at least from this address, contemplate the abolition of slavery in Tennessee alone; for, after alluding to the great doctrines promulgated in the Declaration of Independence, it says:

"On the certainty of the unchangeableness of these truths, we justify our separation from the Government of Great Britain. For the defense and enjoyment of these principles our fathers willingly met death, and surrendered their lives martyrs. They bequeathed them to us as the greatest of human legacies. Yet slavery, as it exists in the United States, is in direct opposition to these self-evident maxims. Every line of our history, every battle in our struggle for independence, every anniversary of our national birth condemns the principles of slavery, and fixes on us the charge of glaring inconsistency; and every law passed by Legislatures in favor of slavery is in direct opposition to the principles of our national existence. Let us willingly do that which we justly blame Great Britain for refusing to do until forced, namely, acknowledge the rights of men, and give, in a suitable way, more than one million and a half of people to enjoy these sacred rights."

In 1834, when the convention to revise the constitution assembled, the slaves in the State numbered more than one hundred and fifty thousand. The power of the slave oligarchy had increased, and opposition to the institution had perhaps become less powerful. But in the first week of the convention, petitions on the subject of emancipation were presented from the citizens of Maury county, and were soon followed by others from Robertson, Lincoln, Bedford, Overton, Roane, Rhea, Knox, Monroe, McMinn, Blount, Sevier, Cocke, Jefferson, Greene, and Washington, many of the signers being slaveholders, and all praying that all the slaves should be made free by the year 1866. By an unforeseen process, the prayer of those petitioners will be granted, though the convention to which they addressed their prayer gave an unfavorable response, and as if in derision of the petitioners, attempted to fasten his shackles more firmly on the slave. God, whose

"Ways seem dark, but, soon or late, They touch the shining hills of day," in His infinite mercy and wisdom has in this respect reversed the decrees of man. Well for Tennessee and her bleeding people would it have been had the members of that convention bowed reverently to His will, as did the framers of the Constitution of the United States, and so worded the instrument they fashioned that it would not have informed posterity that so odious an institution as slavery had ever been tolerated by the State.

During the second week of the session, Matthew Stephenson, a farmer of Washington county, a native of Rockingham county, Virginia, moved "that a committee of thirteen, one from each congressional district, be appointed to take into consideration the propriety of designating some period from which slavery shall not be tolerated in this State, and that all memorials on that subject that have or may be presented to the convention be referred to said committee to consider and report thereon;" which resolution, by a vote of 38 to 20, was laid on the table on the 1st of January, 1835.

This action of the convention was not readily acquiesced in by the people; and to avert popular indignation it was "resolved that a committee of three, one from each division of the State, be appointed to draft the reasons that governed this convention in declining to act upon the memorials on the subject of slavery." The address prepared by the committee appointed under this resolution does not attempt to defend or apologize for slavery; does not deny that it is a great wrong; speaks of "the unenviable condition of the slave;" of slavery as "unlovely in all its aspects," and deplores "the bitter draught the slave is doomed to drink." It rests the defense of the convention on other grounds than divine sanction of this monstrous wrong, this hideous outrage upon every precept of Christianity, this violation of every clause of the decalogue. It puts its defense on the ground of policy, and asserts that a constitutional provision looking to gradual emancipation would deplete the State of its laborers; that men would hurry their slaves into Alabama, Mississippi, Louisiana, Missouri, or Arkansas, where they would be less kindly treated than in Tennessee, and where the prospect of ultimate emancipation would be more remote. This address to the people of Tennessee admonishes us of the preten-

mial fountain of evil they would inflict on the people of the insurgent district, who would doom the more than three million six hundred and sixty-six thousand people of color, dwelling within its limits, to that dubious measure of freedom enjoyed by men to whom political rights are denied, by the following pointed passage:

"The condition of a free man of color, surrounded by persons of a different caste and complexion, is the most forlorn and wretched that can be imagined. He is a stranger in the land of his nativity; he is an outcast in the place of his residence; he has scarcely a motive to prompt him to virtuous action or to stimulate him to honorable exertions. At every turn and corner of the walks of life he is beset with temptations, strong, nay, almost irresistible, to the force of which in most cases he may be expected to yield, the consequence of which must be that he will be degraded, despised, and trampled upon by the rest of the community. When the free man of color is oppressed by the proud, or circumvented by the cunning, or betrayed by those in whom he has reposed confidence, do the laws of the land afford him more than a nominal protection? Denied his oath in a court of justice, unable to call any of his own color to be witnesses, if the injury he complains of has been committed by a white man, how many of his wrongs must remain unredressed; how many of his rights be violated with impunity; how poor a boon does he receive when he is receiving freedom, if what he receives can be called by that name. Unenviable as is the condition of the slave, unlovely as slavery is in all its aspects, bitter as the draught may be that the slave is doomed to drink, nevertheless his condition is better than the condition of the free man of color in the midst of a community of white men with whom he has no common interest, no fellow-feeling, no equality."

And it speaks to such with more pertinency than it did to those for whom it was written when it says:

"What, then, would be the condition of the community, with such a multitude of human beings turned loose in society, with all the habits, morals, and manners of the slave, with only the name and nominal privileges, but without any of the real blessings of liberty or the real privileges of the freeman? Would not two distinct classes of people in the same community array themselves against each other in perpetual hostility and mutual distrust? Would not the constant collision that would take place between them produce a feverish excitement, alike destructive to the happiness of both parties? Would not the condition of free people of color, under the operation of the causes already enumerated, be more wretched than the condition of the slaves? Would not the white portion of the community be more insecure with such a multitude among them, who had no common interest with, no bond of union to, that part of the community with whom they were mixed, and yet from whom they were forever separated by a mark of distinction that time itself could not wear away? The people of color, numerous as they would be, with no kindred feeling to unite them to that part of the community, whom they would both envy and hate, would nevertheless have at their command a portion of physical strength that might and probably would be wielded to the worst purposes. They would look across the southern boundary of the State, and there they would see in a state of servitude a people of their own color and kindred, to whom they were bound by the strong bonds of consanguinity, and with whom they could make a common cause, and would they not be strongly tempted to concert plans with them to exterminate the white man and take possession of the country? They would then possess the means of consulting together, of cooperating with each other, and let it not be forgotten that they would be animated by every feeling of the human heart that impels to action."

Our millions will not look across the boundary and behold a people of their color and kindred in bondage. In all the States of Central America, as in Mexico, the colored man is not only free, but a citizen in the full enjoyment of all the rights accorded to any man under his Government. But on this point I shall have a few words to say hereafter.

How blinded by the pride of caste were the authors of the address from which I make these extracts! How fatally did they ignore the fact that God had made all nations of one blood! It was not necessary that Tennessee should expatriate her laborers, or maintain slavery, or create in her midst so dangerous a class. It was open to that convention to avoid the great iniquity which, it appears, a majority of its members had predetermined, namely, the deprivation of the free colored man of the political rights he had enjoyed for forty years, and to have maintained the existing rights of those whose labor was giving consideration to the State and wealth to its people. But they had already forgotten the maxims of the fathers; and it will be well if we do not adopt their folly as our wisdom. Let us profit by their sad experience, and be warned by the voice of Jefferson, who exclaimed:

"With what execration should the statesman be loaded, who, permitting one half the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies—destroys the morals of the one part, and the *amor patriæ* of the other!"

And let us remember, too, that a wiser than he has said—

"Woe unto them that decree unrighteous decrees, and write grievousness which they have prescribed; to turn aside the needy from judgment, and take away the right from the poor."

But plausible as were the reasons set forth in this address, its authors did not intimate to the people that even they doubted that the great wrong of slavery would soon disappear; and, as appears by pages 92 and 93 of the Journal, they further said:

"But the friends of humanity need not despair; the memorialists need not dread that slavery will be perpetual in our highly-favored country." \* \* \* "Under the approving smile of Heaven, and the fostering care of Providence, slavery will yet be extinguished in a way that will work no evil to the white man, while it produces the happiest effects upon the whole African race."

\* \* \* "Let it be remembered that there is an appropriate time for every work beneath the sun, and a premature attempt to do any work, particularly any great work, seldom fails to prevent success. A premature attempt on the part of a sick man to leave his bed and his chamber would inevitably prolong his disease, or perhaps place it beyond the power of medicine. A similar attempt on the part of the poor man to place himself in a state of independence, by engaging in some plausible but imprudent speculation, would probably involve him in embarrassment from which he could not extricate himself throughout the whole remaining portion of his life. So a premature attempt on the part of the benevolent to get rid of the evils of slavery would certainly have the effect of postponing to a far distant day the accomplishment of an event devoutly and ardently desired by the wise and the good in every part of our beloved country."

The sophisms of this report were not permitted to pass without notice. Stout old Matthew Stephenson, (for he was then in the fifty-eighth year of his age,) sustained by several of his associates, caused their protest to be entered on the journals. They said, among other things:

"We believe the principles assumed in the report, and the arguments used in their support, are in their tendency subversive of the true principles of republicanism, and before we can consistently give them our unqualified assent we must renounce the doctrine that 'all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.' Above all, we believe the report is at variance with the spirit of the gospel, which is the glory of our land, the precepts and maxims of which are found in the Bible. One of its excellent rules is, 'As ye would that men should do unto you, do ye even so unto them.' Now, to apply this golden rule to the case of master and the slave, we have just to place each in the other's stead, then ask the question honestly, 'What would I that my servant, thus placed in power, should do unto me?'"

\* \* \* "But we are told nature has placed on the man of color a mark of distinction which neither time nor circumstances can obliterate."

"We admit the fact, but are nevertheless unable to perceive in that a good reason for denying to them the common rights of man. The words of eternal truth are, that God has made of one blood all nations that dwell upon the earth, and the undersigned, in the language of Cowper, are unwilling to 'find their fellow-creatures guilty of a skin not colored like their own;' nor can we admit as just the rule that would assign to men their rights according to the different shades of color. In the opinion of the undersigned, all the evils so strikingly and so eloquently portrayed in the report, respecting the free people of color while among us, apply with equal, nay, with greater force to the same people while in slavery, unless, indeed, slavery gives dignity to man. And although the memorialists do not hint at retaining the people of color among us when free, but ask that some means be devised for their removal; nor would the undersigned be understood as advocating any system of emancipation unconnected with or without a view to their colonization; yet we believe they would be happier and safer subjects of our Government as free men than as slaves. As we hold it wise policy in every Government to make it the interest of all its subjects to support, defend, and perpetuate its civil institutions, is it reasonable to suppose that any would desire the permanent existence of that Government which denied to them all the rights of freemen? Solomon in his wisdom has said, 'Oppression makes a wise man mad.'"

Dr. Joseph Kincaid, of Bedford county, a native of Madison county, Kentucky, also prepared a protest against the doctrines of the address, and caused it to be entered on the Journals. From that protest I make but the following extract:

"Can the free man of color be torn from his wife and family and driven in chains to a foreign land and there sold in the market like a dumb brute to him who will give the greatest sum for him, though his heart bleeds and bosom yearns with bowels of compassion and paternal tenderness for the wife and children of his bosom, who are bone of his bone and flesh of his flesh? He cannot. Or can the children of the fond mother be torn from her bosom while her heart is wrung with distress, and she agonizes in despair and mourns for them, and will not be comforted, because they are not? This cannot be done. Then does this not sweeten the draught which the free man of color daily drinks? Most indubitably it does. Are those blessings secured to the slave? We have seen they are not. What is it, then, which constitutes the situation of the slave better than that of the free man of color? Does the superior hap-

piness and comfort of the slave over that of the free man of color consist in the amount of bread and meat which he receives at the hands of his master to subsist him, which he has not to trouble himself about the procuring of? The report seems to predicate a good portion of the solid comfort of the slave upon the daily rations which he draws from his master's stores. But this conclusion the undersigned cannot subscribe to; as an American citizen he would put a higher estimate upon the liberty which is enjoyed even by the free man of color. What! will it be said that his rights, privileges, and happiness shall be balanced in the scale against the allowance of coarse fare which is given for daily subsistence to the slave, and the tattered garments that are furnished him to defend his body against the inclemency of the season, and the chains with which he may be bound in order to send him to a foreign market? Monstrous doctrine! Cannot the free man of color, with the labor of his hands, one sixth part of his time, procure as ample a supply of food and raiment as is furnished the slave? Yea, and can he not then sit down under his own vine, in the bosom of his family, and enjoy it, and there shall 'be none to disturb or make him afraid?'"

Nor did the controversy end here; for the committee made a supplementary report, and true-hearted old Matthew Stephenson and his associates entered their second protest on the journal of the convention.

In drawing the picture of the condition of the free man of color, the committee representing the majority of the convention evidently had in view what they intended to make his future and not his past condition in that State; for the convention, instead of providing for the abolition of slavery, threw around that institution an additional safeguard by providing that "the General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owner or owners;" and by a vote of 33 to 23 changed the language of the clause regulating the elective franchise from "freemen," as it had stood from the organization of the State, to "free white men," since which time the negro has had no voice or share in the management of the public affairs of that State. Thus South Carolina triumphed over freedom in Tennessee.

But to return to my line of argument, having wandered too far in this interesting digression.

Ample as this is, we do not depend on the action of the Congress of the Confederation, and of the Convention for framing the Constitution of the United States, and the provisions of the several State constitutions for all the proof the men of that period left that they recognized the right of man, by reason of his manhood, to the enjoyment of all the rights of citizenship. A long and uniform course of legislation relating to and regulating territory stretching from the lakes southward to the Gulf of Mexico, confirms the fact. Congress, under the Articles of Confederation, twice provided for the government of Territories, and under our present Constitution the Congress of the United States much more frequently. The distinguished men who occupied seats in those bodies prior to 1812 had not been enlightened by the sibylline mysteries given to the world in the celebrated letter of General Cass to Mr. Nicholson, nor by the doctrine of "popular sovereignty" so persistently reiterated by Douglas as his "great doctrine;" nor by Calhoun's theory, which was finally accepted as the cardinal, if not the sole doctrine of Democratic faith, that the flag of the United States, wherever it may be borne, on land or sea, carries with it and protects human slavery, as announced by Toombs in his Boston address of January 24, 1856. They knew that it was the duty of Congress, alike under the Articles of Confederation and the Constitution of the United States, to legislate for the Territories and provide governments for their regulation. The resolutions of the Congress of the Confederation for the temporary government of territory ceded by the individual States to the United States, adopted April 23, 1784, provided for the establishment of territorial governments by the "free males of full age;" and the famous Ordinance of July 13, 1787, for the government of the territory northwest of the river Ohio, which repeals the resolutions of 1784, and the salient point of which was known first as the "Jefferson proviso," and later, in connection with the Oregon struggle, as the "Wilmot proviso," vested the right of suffrage in the "free male inhabitants of full age," with a certain freehold qualification. This Ordinance was re-enacted immediately after the adoption of our present Constitution, by the act of Congress of August 7, 1789; and in this respect was the precedent for every subsequent territorial act passed until 1812. The

several acts passed from the foundation of the Government to that date, were as follows:

Under the Congress of the Confederation, those to which I have referred, namely, that of April 23, 1784, "for the temporary government of territory ceded or to be ceded by the individual States to the United States;" and that of July 13, 1787, "for the government of the territory of the United States northwest of the river Ohio."

And by the Congress of the United States since the adoption of the Constitution:

The act of August 7, 1789, already referred to as reenacting the Ordinance of 1787;

The act of May 26, 1790, for the government of the territory of the United States south of the river Ohio, under which, as we have seen, the State of Tennessee was organized;

The act of April 7, 1796, for the establishment of a government in the Mississippi territory;

The act of May 7, 1800, establishing Indiana Territory;

The act of March 26, 1804, for the government of Louisiana, which provided for a legislative council, to be appointed by the President of the United States, and not for an elective Legislature, as did all the rest;

The act of January 11, 1805, for the government of Michigan Territory;

The act of March 2, 1805, for the establishment of the Territory of Orleans; and

The act of February 3, 1809, for the government of Illinois Territory.

And in no one of these ten acts was any restriction placed on the right of suffrage by reason of the color of the citizen. In none of them was the word "white" used to limit the right to suffrage.

The next territorial act was that of June 4, 1812, providing for the government of Missouri Territory. More than twenty-two years had then passed since the adoption of the Constitution; and the men who had achieved our independence and fashioned our institutions in harmony with the fundamental truths they had declared, and who during this long period, more than the average active life of a generation, had resisted the aristocratic and strife-engendering demands of South Carolina, were rapidly passing, indeed most of them had passed, from participation in public affairs. Meanwhile, slavery had been strengthened by the unhappy compromise of the Constitution conceded to South Carolina and Georgia, by which "the migration or importation of such persons as any of the States now existing shall think proper to admit" was permitted for the period of twenty years. Meanwhile, too, the people of the country, enjoying unmeasured and unanticipated prosperity, forgot that "eternal vigilance is the price of liberty," and that "power is ever stealing from the many to the few;" and proud of their own achievements began to look with contempt upon the ignorant laborers they owned or employed, and their kindred newly imported from the coast of Africa; and began that long and rapid series of concessions to the fell spirit of slavery which made the present war inevitable, if free labor and the doctrine of a fair day's wages for a fair day's work were to be maintained in any part of the country. In the adoption of the territorial bill of 1812, South Carolina and slavery triumphed over freedom and the more powerful North, and the word "white," rejected in 1778 and thenceforth, was now inserted in the clause regulating suffrage in the fundamental law of a Territory.

Successful resistance to that innovation on well-established precedent would have secured freedom to Missouri, and in all probability averted the border wars of Kansas and the grander controversy in which we are engaged, and of which the Kansas feuds were but the sure precursor.

Can any candid man, in the face of this mass of concurrent evidence, assert that the fathers of our Government found in the fact of color cause for the denial of citizenship and the exercise of suffrage to any freeman? But more and if possible more pregnant proof on the point exists: not only did they assert the right of negroes to suffrage by rejecting the proposition of South Carolina in the Congress for framing Articles of Confederation, and protect it by the Constitution of the United States, and confirm it by twelve territorial laws; but, as I shall proceed to show, they,

by express treaty stipulation, first with France and again with Spain, guaranteed them "the enjoyment of all the rights, advantages, and immunities of citizens of the United States," and the "free enjoyment of their liberty, property, and the religion which they professed." To show how unqualifiedly this was done under the administration of Mr. Jefferson, I beg leave to read a brief extract from that most interesting and instructive pamphlet, "The Emancipated Slave Face to Face with his Old Master," by J. McKaye, special commissioner from the War Department to the valley of the lower Mississippi, and also a member of the Freedmen's Inquiry Commission:

"The valley of the lower Mississippi, from an early period of its settlement, contained a proportionately large free colored population. In 1803, when the territory of which the State of Louisiana forms a part, was ceded by the French republic to the United States, these free colored men were already quite numerous, and many of them were possessed of considerable property. They were not only as free as any other portion of the population, but in general as well educated and intelligent. Many of them were the children of the early white settlers, and had always enjoyed a certain social as well as civil equality. As to the enjoyment of political rights under the old Spanish and French régimes, neither white nor black settlers ever had much experience; consequently there had never arisen among them much question of these rights, or as to whom they belonged. The French republic, founded on 'liberty, equality, fraternity,' had not yet quite forgotten the import of these words, and hence caused to be inserted in the treaty of cession a solemn stipulation in the words following, to wit:

"Art. 3. The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

The Floridas, though less populous than the Louisiana territory, had quite as large a proportionate part of negroes and mulattoes among their population. By the treaty of February 22, 1819, with Spain, she ceded to the United States "all the territories which belong to her, situated to the eastward of the Mississippi, known by the name of East and West Floridas." The sixth article of the treaty is as follows:

"The inhabitants of the territories which his Catholic Majesty cedes to the United States by treaty shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States."

My proposition is that the Government of the United States was instituted to secure the rights of all the citizens of the country, and not for the benefit of men of one race only, and I know not where to look for evidence that would strengthen the conclusiveness of the mass of proof I have thus adduced, embracing as it does the action of the framers of all the State constitutions but one, of the Congress for framing Articles of Confederation, of the Convention for framing the Constitution of the United States, the acts of Congress in unbroken series throughout the active life of a generation, and the solemn obligations assumed by the executive department of the national Government in the exercise of the treaty-making power. If other source of proof there be it can only serve to make assurance doubly sure.

Mr. Speaker, it is safe to assert that in every State, save South Carolina, and possibly Virginia and Delaware—in which two States the question of suffrage was regulated by statute and not by constitutional provision—negroes participated in constituting the Convention which framed the Constitution of the United States, and voted for members of the State conventions to which the question of its ratification was submitted; and as that Constitution contains no clause which expressly or by implication deprives them of the protecting power and influence of the instrument they participated in creating, I may well say that to secure internal peace by the establishment of political homogeneity, and perpetuate it by the abolition of political classes and castes whose conflicting rights and interests will provoke incessant agitation, and ever and anon, as the oppressed may be inspired by the fundamental principles of our Government, or goaded by wrongs excite armed insurrection, we need adopt no new theory, but accept the principles of our fathers, and administer in good faith to all men the institutions they founded on them.

As a step to this, my amendment proposes, not that the entire mass of people of African descent, whom our laws and customs have degraded and brutalized, shall be immediately clothed with all the rights of citizenship. It proposes only to grant the right of suffrage, inestimable to all men, to those who may be so far fitted by education for its judicious exercise as to be able to read the Constitution and laws of the country, in addition to the brave men, who, in the name of law and liberty, and in the hope of leaving their children heirs to both, have welcomed the baptism of battle in the naval and military service of the United States, and who are embraced by the amendment reported by the committee. This, I admit, will be an entering wedge, by the aid of which, in a brief time, the whole mass improved, enriched, and enlightened by the fast-coming and beneficent providences of God, will be qualified for and permitted to enjoy those rights by which they may protect themselves and aid in giving to all others that near approach to exact justice which we hope to attain from the intelligent exercise of universal suffrage and the submission of all trials of law in which a citizen may be interested to the decision of his peers as jurors.

I am, Mr. Speaker, under but one specific pledge to my constituents other than that which promised to vote away the last dollar from each man's coffer and the lastable-bodied son from his hearthside, if they should be needed for the effectual suppression of the rebellion, and that is, that I will in their behalf consent to no proposed system of reconstruction which shall place the loyal men of the insurrectionary district under the unbridled control of the wicked and heartless traitors who have involved us in this war, and illustrated their barbarity by the fiendish cruelties they have practiced on their loyal neighbors, negro soldiers and unhappy prisoners of war; and to that pledge, God helping me, I mean to prove faithful. The future peace and prosperity of the country demand this much at our hands. The logic of our institutions, the principles of the men who achieved our independence and who framed those institutions, alike impel us to this course, as necessary as it will be wise and just.

Let us meet the question fairly. Do our institutions rest on complexional differences? Can we cement and perpetuate them by surrendering the patriots of the insurgent district, shorn of all political power, into the hands of the traitors whom we propose to propitiate by such a sacrifice of faith and honor? Did God ordain our country for a single race of men? Is there reason why the intelligent, wealthy, loyal man of color shall stand apart, abased, on election day, while his ignorant, intemperate, vicious, and disloyal white neighbor participates in making laws for his government? What is the logic that denies to a son the right to vote with or against his father, because it has pleased Heaven that he should partake more largely of his mother's than of that father's complexion? And is it not known to all of us that well-nigh forty per cent. of the colored people of the South are children of white fathers, who, after we subjugate them, will with professions of loyalty only lip deep, enjoy the right of suffrage in the reconstructed States? Shall he, though black as ebony be his skin, who, by patient industry, obedience to the laws, and unvarying good habits, has accumulated property on which he cheerfully pays taxes, be denied the right of a voice in the government of a State to whose support and welfare he thus contributes, while the idle, reckless, thriftless man of fairer complexion shall vote away his earnings and trifle with his life or interests as a juror? Shall the brave man who has periled life, and mayhap lost limb, who has endured the dangers of the march, the camp, and the bivouac in defense of our Constitution and laws, be denied their protection, while the traitors in the conquest of whom he assisted enjoy those rights, and use them as instruments for his oppression and degradation? Shall he who, in the language of my amendment, may be able to read the Constitution of the United States, and who finds his pleasure in the study of history and political philosophy, whose integrity is undoubted, whose means are ample, be voiceless in the councils of the nation, and read only to learn that the people of free and enlightened America, among whom his lot has been



cast, sustain the only Government which punishes a race because God in His providence gave it a complexion which its unhappy members would not have accepted had it been submitted to their choice or volition? And can he who will answer these questions affirmatively believe that Governments are instituted among men to secure their rights, that they derive their powers from the consent of the governed, and that it is the duty of a people, when any Government becomes destructive of their rights, to alter or abolish it, and establish a new Government? Sir, our hope for peace, while we attempt to govern two fifths of the people of one half of our country in violation of these fundamental principles, will be idle as the breeze of summer or the dreams of the opium eater.

In this connection let me call the attention of the House to a fact to which I have already invited that of many members and other distinguished gentlemen. By the census of 1860 it appears that South Carolina had but 291,300 white inhabitants, and 412,408 colored. Among the former we have no reason to know or believe that, since the death of Pettigrew, there is a single loyal man; while the latter, we have no reason to doubt, are all as loyal as Robert Small, the patriot pilot of Charleston harbor. Are we to declare that one white citizen of South Carolina is entitled to more weight in the councils of the nation than two citizens of a northern State; and are the 291,300 to be vested with the absolute government of 703,708? Is the entire loyalty of that State to be confided to the tender mercies of the chagrined and humiliated, but unconverted and devilish traitors of the State that engendered and inaugurated this bloody rebellion? And shall they who have fought for our flag, sheltered our soldiers when flying from loathsome prisons, guided them through hidden paths by night, saving them from starvation by sharing with them their poor and scanty food, and whose unceasing prayer to God has been for our triumph, be handed over to the lash, the iron collar, and the teeth of the blood-hound, to gratify our pride of race and propitiate our malignant foes?

Again, the census shows that Mississippi, in 1860 had but 350,901 white inhabitants, and 437,404 colored. Disloyalty was almost as prevalent among the white men of Mississippi as among those of South Carolina. But who has heard from traveler, correspondent, returning soldier, or other person, that he has found a colored traitor within the limits of that State? And shall we, ignoring our theory that "Governments derive their just powers from the consent of the governed," say to the majority in these States, "Stand back! time and labor cannot qualify you to take care of yourselves? We spurn you for the service you have rendered our cause, and hand you over to the degradation, the unrequited toil, the slow but sure and cruel extermination which your oppressors in their pride and madness will provide for you?"

And mark you, Mr. Speaker, again, how nearly the races are balanced in Louisiana, Georgia, and Alabama. In Louisiana there are 357,456 whites and 350,546 colored people. Of whites in Georgia there are 591,550, and of colored people there are 465,736. In Alabama the whites number 526,271, while there are of colored 437,930. And in Florida there is the same near approach to equality of numbers, the white population being 77,747 and the colored 62,677. Are these people by our decree to remain dumb and voiceless in freedom? They are no longer slaves. War and the high prerogative of the President, called into exercise by the war, have made them free. Will you inflict upon them all the miseries predicted for the free colored people of Tennessee in the extract which I have read to you? No, rather let us bind them to our Government by enabling them to protect their interests, share its power, and appreciate its beneficence. This we can do, and the alternative is to so degrade them that they will prove an annoyance and an object of distrust to their white neighbors, an element of weakness to the Government, and a constant invitation to diplomatic intrigue and war by the ambitious man who dreams of a Latin empire in America, and who, following the example of the States of Central and South America, will accept the descendant of Africa as a Basque and a citizen of his proposed empire.

And here it may not be amiss to pause for a

moment and contemplate some ulterior consequences of our action on this subject. Trained in the school of Democracy, I am a believer in the "manifest destiny" of my country. Having regarded the acquisition by Mr. Jefferson of the Louisiana territory as wise and beneficent, though unwarranted by the Constitution, beholding great advantages in the acquisition of Florida, and having believed that, without war, could we have patiently waited, Texas would have come to us naturally as a State or States of the Union, I am used to dreaming of the just influence the United States are to exercise, from end to end of the American continent. Among the most ephemeral products of our era will be the Franco-Austrian empire in Mexico, if we be true to our own principles in this season of doubt and perplexity. Our infidelity to principles alone can give it perpetuity. Within its limits the question of color is not a political or a social question; it is purely one of taste. There, as in Central and South America, the colored man is a freeman. And we are to determine whether the sympathies of these millions of people within our own borders are to be with the Government whose supremacy they have aided in reestablishing or with the wily and ambitious man who will pledge them citizenship on condition that they aid him in carrying the limits of his Latin empire to the northern boundary of the Gulf States of America. To them the United States or Mexico will be the exemplar nation of the world. Before her ruler laws all men are equal. Let ours be not less broad and just.

The tropical and malarious regions of Central America have, during the prevalence of slavery, seemed to be the natural geographical boundary of our influence in that direction. Tropical regions are not the home of the white man. They were not made for him. God did not adapt him to them. They are prolific in wealth, invite to commercial intercourse, yield many things necessary to the success of our arts and industry, and will one day afford a market for immense masses of our productions. But we cannot occupy them; we cannot develop their resources. Nor can the negro, in the ignorance and degradation to which we have hitherto doomed him. We have at length made him a soldier, and if need be he will carry our arms and our flag triumphantly over that to us pestilential region; and, if we make him a citizen; open to his children the school-house; give him the privilege of the workshop, the studio, the hall of science; admit him to the delights and inspirations of literature, philosophy, poetry—in brief, if we recognize him as a man and open to him the broad fields of American enterprise and culture, he will see that nature has given him the monopoly of the wealth of that region, and will bless the world by making himself the master of it. By this means, and this alone, can we extend our influence over that region, and prepare for the ultimate Americanization of those drained by the Orinoko, the Amazon, and the Parana. As a citizen, nature will prompt the colored man to achieve these grand results. But if we leave the race a disfranchised and disaffected class in our midst, numbering millions, and embracing hundreds of thousands of men who in pursuit of freedom have bared their breasts to the storm of battle, and who are no longer debarred by statute from access to the sources of thought and knowledge, they will, let me reiterate the fact, be a ready and powerful ally to any power that may be disposed to disturb our peace and that will promise them the enjoyment of the rights of men as accorded to every citizen by its Government.

But it may be said, "history vindicates your theory; our fathers did mean that the black man should be a citizen and a voter; to deny him his rights is illogical as you have suggested; it would be better to secure his loyalty to the Government by its even-handed justice, but such an act would exasperate the southern people, and we do not think it wise to do that; his race is inferior; and, in short, we will not do it." Who says his race is inferior? Upon what theater have you permitted him to exhibit or develop his power? Give him an opportunity to exhibit his capacity, and let those who follow you and have before them the results he produces in freedom judge as to his relative position in the scale of human power and worth. To whom and to what do you say the American negro and mulatto are inferior? Was our Government fashioned for the Caucasian

alone? Will you, as Theodore Tilton well asked, exchange the negro for the Esquimaux, for the Pacific islander, for the South American tribes? Will you exchange our negroes for so many Mongolians, Ethiopians, American Indians, or Malays? I apprehend that the universal answer to these questions will be in the negative; because, oppress them as we may, we rate the American negroes as next to our own proud race in the scale of humanity. And shall we erect around our civilization, our privileges, and immunities, a more than Chinese wall? Shall America, proud of her democracy, become the most exclusive of all nations of the world? Or shall she carry her faith into her life and become the home of mankind, the empire of freedom, and, by her example, the reformer of the world?

Let us frankly accept Jefferson's test as to the right of suffrage, and give it practical effect. In a letter dated July 12, 1816, in discussing a proposed amendment to the constitution of Virginia, Mr. Jefferson said:

"The true foundation of republican government is the equal right of every citizen in his person and property, and in their management. Try by this as a tally every provision of our constitution and see if it hangs directly on the will of the people. Reduce your Legislature to a convenient number for full but orderly discussion. Let every man who fights or pays exercise his just and equal right in their election."—*Jefferson's Works*, vol. 7, page 11.

And again, in a letter written April 19, 1824, he said:

"However nature may, by mental or physical disqualifications, have marked infants and the weaker sex for the protection rather than the direction of Government, yet among men who either pay or fight for their country no line of right can be drawn."—*Works*, vol. 7, page 345.

And again, as if to show how well considered his opinion was, in the Notes on Virginia, speaking of the then constitution of that State, he said:

"This constitution was formed when we were new and inexperienced in the science of government. It was the first, too, that was formed in the whole United States. No wonder, then, that time and trial have discovered very capital defects in it:

"1. The majority of the men in the State who pay and fight for its support are unrepresented in the Legislature, the roll of freeholders entitled to vote, not including generally the half of the militia or of the tax-gatherers."—*Works*, vol. 8, page 359.

By adopting this sound test, which, be it remembered, was the only one recognized by the fathers, and adhering to it, our practice will harmonize with our theories, and the repugnance between the races will gradually disappear. Wealth and power conceal many deformities, and will make the black man less odious to all than he now seems. Thus will consistent adherence to principle give strength and peace to our country.

But if, on the other hand, we ignore the rights of these four million people and their posterity, the demon of agitation will haunt us in the future fearfully as it has in the past. The appeals of these millions for justice will not go forth in vain; and the liberal, the conscientious, the philanthropic, the religious, now that our Christian church recognizes her long off-cast child philanthropy, will be found in hostile array against what the commercial and planting interests will regard as the conservatism of the day; and though we find that we have buried the slavery question, our peace will be disturbed by the negro question constantly, and fearfully as it has been by the struggle between slavery and free labor. To which party ultimate victory would be vouchsafed in such a controversy I need not ask, as the nation acknowledges that God still lives and is omnipotent.

Again, such action is necessary to prevent the reestablishment of our old tormentor, slavery. It is hoped that the proposed amendment to the Constitution, forever prohibiting slavery, may be adopted. But it has not yet passed this House; and if it had, who can guaranty its adoption by three fourths of the State Legislatures? I hope and believe that that amendment will be adopted; but it is within the range of possibility that it may be defeated. And how, in that event, save by the suffrage of the colored man, by his right to protect himself, his power at the ballot-box, shall we prevent his subjugation, or the bloody war that such an attempt might provoke—the reenactment on the broader theater of our southern States of the terrible tragedies that ensued upon the attempt to again reduce to bondage the freed slaves of St. Domingo?

Let it be borne in mind that States within the Union determine through their organism who

shall be citizens and under what condition the people may enjoy their rights, and that, if the proposed amendment to the Constitution fail by want of the approval of a sufficient number of the State Legislatures, and South Carolina, when readmitted should determine to reenslave her freed men, and they should resist by force, although they constitute so largely the majority of her people, it would be the duty of the Government to bring the naval and military power of the United States into action in support of the authority of the State, as it did to suppress the Dorr rebellion in Rhode Island and repel the invasion of Virginia by John Brown and his twenty-two undisciplined volunteers.

But gentlemen may say that we need not fear such an effort as this; that the humanity of the age will prevent it. The humanity of the age has not prevented similar outrages. Neither the humanity of the age, nor the prudence of the people of the South, nor their sense of justice, nor their love of country prevented a bloody war for the purpose of overthrowing democratic institutions and founding an empire, the corner-stone of which should be human slavery. Let us not, therefore, while it is in our power to embody justice in laws and constitutions, be content to rely upon man's abstract sense of justice or his love for his fellow-man. Every gentleman knows that it has been the usage of every slave State to reduce free men, women, and children to bondage. Did not New Jersey, so late as 1797—as appears from the State vs. Waggoner, 1 Halstead's Reports—hold that American Indians might be reduced to and held in slavery? Has it not been lawful in Virginia, as appears by her Revised Code and the Constitution of 1851, to apprehend and sell, by the overseers of the poor, "for the benefit of the LITERARY FUND," any emancipated slave that might remain within the State more than twelve months after his or her right to freedom had accrued? Has not South Carolina sold free colored citizens of Massachusetts into bondage, because she had torn them from the vessels on which they had entered her ports, imprisoned them and brought them, though accused of no criminal offense, under charges for jail fees which she had deprived them of the means of paying? And has not North Carolina, under her act of 1741, been in the habit of dooming to slavery the unoffending offspring of any white woman-servant and a negro, mulatto or Indian. How horrible must have been the crime of the infant born of a white mother and an Indian father that it should thus, by special statutory provision, be punished by life-long, unrequited servitude, and be made the progenitor of a race of slaves. How dark indeed must have been the African blood of the child whose mother was a white woman and whose father an American Indian!

I know not that the books, full as they are of such instances, furnish any more absolute illustration of the power of a State over its people than this. And yet other and grander illustrations of that power on this and cognate questions rush upon my memory. But a few years since, it was gravely proposed by the Legislature of Maryland to expel from the limits of that State some eighty thousand people, because they were of African descent. The act passed both branches of the Legislature and was referred to the people for popular sanction. And the main argument by which the proposition was defeated at the polls was the selfish one that the land of the white citizen would remain untillied if these laborers were driven from their homes. Had it been determined otherwise, the people or the Government of the United States could not have prevented the execution of the infamous decree, but could have been called to enforce it. A similar proposition, at a later date, found favor in Tennessee; but the lingering spirit of her earlier settlers rejected it upon the simple and higher ground of humanity. Yet had such a law been enacted, and had the free people of color resisted it with force, did not we and every man in the North stand pledged to sustain the Government in the use of the naval and military power in carrying it into execution? Dorr's rebellion, and the manner in which the United States Government suppressed it, have a place in the history of our country, and illustrate the working of our system of Government.

But why speak of unsuccessful propositions, about which perverse ingenuity may raise ques-

tions? Surely we have not forgotten the act by which the State of Arkansas summarily decreed the banishment of free negroes and mulattoes who had their homes in that State, and the enslavement of all such as might not be able to make their escape within the brief time allowed for the purpose. They numbered many thousands. Some of them had been given freedom by their fathers, whose lingering humanity would not permit them to sell the children of their loins. Others had earned their freedom by honest toil, by acts of patriotism, or by deeds of generous philanthropy, the requital of which had been the bestowal of the poor measure of liberty that the free negro might enjoy within the limits of that State. The act to which I refer is No. 151 of the acts of the General Assembly of the State of Arkansas for the session of 1858-59, and may be found on page 175 of the pamphlet laws of that session. It was approved February 12, 1859, and contains twelve sections. Time will not permit me to cite the whole of this iniquitous statute; but two sections I must give entire. Section first is as follows:

*"Be it enacted by the General Assembly of the State of Arkansas, That no free negro or mulatto shall be permitted to reside within the limits of this State after the 1st day of January, A. D. 1860."*

And the tenth section reads thus:

*"Be it further enacted, That it shall not be lawful for any person hereafter to emancipate any slave in this State."*

Could language or rhetoric give force and amplitude to these provisions? The intermediate sections provide for the arrest and sale of any free negro or mulatto over the age of twenty-one years who might be found within the limits of the State after the date indicated in the first section, and the disposition to be made of the funds arising from their sale. As a bribe to the people of the several counties of the State to see the law faithfully executed, the surplus of each sale, after deducting the costs, was to be paid into the county treasury. They provided also for the hiring of those free colored persons who were not twenty-one years of age, and for the sale of such of these hirelings as might be found within the limits of the State thirty days after the expiration of their term of service. When it is remembered that, by a reversal of the immemorial and universal presumption that man is free, it had been provided in this and all other slave States that the presumption that he was a slave arose from the fact that any measure of African blood flowed in a man's veins, and that it was the duty, not only of police and other officers, but of every citizen who found a person of African descent at large to arrest him and demand the evidence of his freedom, and, in default of the production thereof, to cast him into jail, and that for the jail fees thus accruing he might be sold, it will be seen how impossible it was for these poor and illiterate people to make their exit from that State and through those coterminous to it whose laws contained the same barbarous provisions.

The humanity of the act is embodied in the eleventh section, which provides for the support of "children under the age of seven years who have no mothers, and who cannot be put out for their food and clothing," and for "the aged and infirm negroes and mulattoes who may be ascertained to be incapable of leaving the State, or cannot be sold after being apprehended." Less merciful than Herod, the citizens of Arkansas did not slay all these innocent children, but with wise regard to the future welfare of the treasury of each county, having deprived them of the support their natural guardians and fond parents could and would have provided them, and having torn from the aged and infirm who were incapable of leaving the State, and "could not be sold," the stout sons or gentle daughters whose years would have been gladdened by toiling to sustain those weary and aged ones in their declining years, they made it the duty of the county courts to make provision out of the proceeds of the sale of the able-bodied for the support of those who they thus robbed of their natural support and protection, leaving the aged and infirm to travel rapidly toward paupers' graves, and the children to be sold into slavery as cupidity might bring purchasers to the almshouse. Let men no longer speak of the laws of Draco, but say that an American State has, in the infernal inhumanity of her legislation, exceeded in cruelty the despots of all nations and all ages. Had the colored peo-

ple of Arkansas had the right of suffrage their party influence would have saved us the shame we feel as we contemplate this page of American history.

The possible repetition of such acts as these by the aristocracy of the old States, when they shall again be fairly in the Union, is not matter of speculation. The purpose is already avowed. I have myself heard it said by men, now professedly loyal, that the condition of the negro will be made more horrible as freemen than it has ever been in slavery; and they have said to me, "You know that where the laborers are ignorant and powerless, as these will be, the will of the employer is their supreme law."

Among the witnesses examined by the freedmen's inquiry commission was Colonel George H. Hanks, of the fifteenth regiment Corps d'Afrique, member of the Board of Enrollment, and superintendent of negro labor in the department of the Gulf. Colonel Hanks went to Louisiana as a lieutenant in the twelfth Connecticut volunteers, under General Butler, and was appointed superintendent of the contrabands under General Sherman. His testimony illustrates the fitness of the colored people for freedom, and proves the determination of their old masters that they shall never, by their consent, enjoy it. Thus he says:

"The negroes came in scarred, wounded, and some with iron collars round their necks. I set them at work on abandoned plantations, and on the fortifications. At one time we had six thousand five hundred of them; there was not the slightest difficulty with them. They are more willing to work, and more patient than any set of human beings I ever saw. It is true there is a general dislike to return to their old masters; and those who have remained at home are suspicious of foul play, and feel it to be necessary to run away to test their freedom. This year the dislike has very much lessened; they begin to feel themselves more secure, and do not hesitate to return for wages. The negroes willingly accept the condition of labor for their own maintenance, and the musket for their freedom. I knew a family of five who were freed by the voluntary enlistment of one of the boys. He entered the ranks for the avowed purpose of freeing his family. His name was Moore; he was owned by the Messrs. Leeds, iron founders; they resided within one of the parishes excepted in the proclamation of emancipation. He was the first man to fall at Pascagoula. Upon starting he said to his family 'I know I shall fall, but you will be free.'"

"A negro soldier demanded his children at my hands. I wanted to test his affection. I said 'they had a good home.' He said, 'Lieutenant, I want to send my children to school; my wife is not allowed to see them; I am in your service; I wear military clothes; I have been in three battles; I was in the assault at Port Hudson; I want my children; they are my flesh and blood.'"

Again:

"The colored people manifest the greatest anxiety to educate their children, and they thoroughly appreciate the benefits of education. I have known a family to go with two meals a day in order to save fifty cents a week to pay an indifferent teacher for their children."

After having spent nearly two years in daily intercourse with the planters in the department of the Gulf, Colonel Hanks, in his sworn testimony, says:

"Although they begin to see that slavery is dead, yet the spirit of slavery still lives among them. Many of them are even more rampant to enslave the negro than ever before. They make great endeavors to recover what they call their own negroes. One planter offered me \$5,000 to return his negroes. They have even hired men to steal them from my own camp. (The old spirit still prominently to the old crime, which long ago was declared felony by the law of nations, if perpetrated in Africa.)"

"They yield to the idea of freedom only under compulsion. They submit to the terms dictated by the Government because obliged so to do. Mr. V. B. Marmillon, one of the richest and most extensive sugar planters in the whole valley of the Mississippi, took the oath of allegiance, but refused to work his own plantation unless he could have his own negroes returned to him. He had fourteen hundred and fifty acres of cane under cultivation; his whole family of plantation hands left him and came to New Orleans, reporting themselves to me. Among them could be found every species of mechanic and artisan. I called them up and informed them that the Government had taken possession of old master's crop, and that they were needed to take it off, and would be paid for their labor. All consented to return; but next morning when the time came for their departure, not one would go. One of them said, 'I will go anywhere else to work, but you may shoot me before I will return to the old plantation.' I afterwards ascertained that Marmillon, whom they called 'Old Cotton Beard,' had boasted in the presence of two colored girls, house servants, how he would serve them when he once more had them in his power. These girls had walked more than thirty miles in the night to bring this information to their friends."

Colonel Hanks adds:

"It is undoubtedly true that this year a change for the better seems to be taking place. In some parishes the letting of plantations to northern men has a powerful effect. The disposition of the planters, however, toward their old slaves, when they consent to hire them, is by no means friendly. I told a planter recently that it was the

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express order of General Banks that the negroes should be educated. He replied that 'no one should teach his negroes.'"

And he further declares it as his deliberate judgment that—

"If civil government be established here and military rule withdrawn, there is the greatest danger that the negro would become subject to some form of serfdom."

Mr. Commissioner McKaye, in his invaluable pamphlet, to which I have already referred, confirms the general correctness of the views of Colonel Hanks, and says they were concurred in by many other intelligent persons familiar with the subject, and that his own personal observation fully confirms them. He says:

"In a stretch of three hundred miles up and down the Mississippi, but one creole planter was found (there may, of course, have been others with whom I did not come in contact) who heartily and unreservedly adopted the idea of free labor, and honestly carried it out upon his plantation. And although he declared that, in itself, it was successful much beyond his expectation, yet, he said, 'my life and that of my family are rendered very unhappy by the opposition and contumacy of my neighbors.'

"The simple truth is, that the virus of slavery, the lust of ownership, in the hearts of these old masters, is as virulent and active to-day as it ever was. Many of them admit that the old form of slavery is for the present broken up. They do not hesitate even to express the opinion that the experiment of secession is a failure; but they scoff at the idea of freedom for the negro, and repeat the old argument of his incapacity to take care of himself, or to entertain any higher motive for exertion than that of the whip. They await with impatience the withdrawal of the military authorities, and the reestablishment of the civil power of the State, to be controlled and used as hitherto for the maintenance of what to them doubtless appears the paramount object of all civil authority, of the State itself, some form of the slave system.

"With slight modification, the language used recently by Judge Humphrey in a speech delivered at a Union meeting at Huntsville, Alabama, seems most aptly to express the hopes and purposes of a large proportion of the old masters in the valley of the Mississippi who have consented to qualify their loyalty to the Union by taking the oath prescribed by the President's proclamation of amnesty. After advising that Alabama should at once return to the Union by simply rescinding the ordinance of secession, and after expressing the opinion that the old institution of slavery was gone, Judge Humphrey says, 'I believe, in case of a return to the Union, we would receive political cooperation, so as to secure the management of that labor by those who were slaves. There is really no difference, in my opinion, whether we hold them as absolute slaves or obtain their labor by some other method. Of course we prefer the old method. But that question is not now before us.'"

To the same effect was the testimony of the late Brigadier General James S. Wadsworth, whose official tour through the valley of the Mississippi gave him ample means of arriving at an intelligent judgment:

"There is one thing that must be taken into account, and that is, that there will exist a very strong disposition among the masters to control these people and keep them as a subordinate and subjected class. Undoubtedly they intend to do that. I think the tendency to establish a system of serfdom is the great danger to be guarded against. I talked with a planter in the La Fourche district, near Tibadenville; he said he was not in favor of secession; he avowed his hope and expectation that slavery would be restored there in some form. I said, 'If we went away and left these people now do you suppose you could reduce them again to slavery?' He laughed to scorn the idea that they could not. 'What?' said I, 'these men who have had arms in their hands?' 'Yes,' he said; 'we should take the arms away from them, of course.'"

While we confront these facts, let me, Mr. Speaker, ask of you and the House whether we shall best consult our country's welfare by giving to the laboring people of the South the ballot by which they may protect themselves, and inspiring them with the hopes and disciplining them by the duties of citizenship, or by predetermining that ours shall be a military Government, and that the first-born son of every northern household shall be liable to pass his life in the Army, maintained to protect the aristocratic South against the maddened and degraded laborers whom she oppresses. It is we who are to decide this question; we who are to determine who shall select delegates to the conventions that are to frame the future constitutions of the insurgent States; we who are to say whether the constitutions which they will submit to us when asking readmission are republican in form, as required by the terms of the Constitution of the United States; and if we fail here, to our timidity, arrogance, prejudice, or pride of color will be justly attributable the conversion of our peace-

ful country into a military Power, and our democracy into an aristocracy. "We cannot escape history."

This is not mere idle fancy. Let us for a moment suppose, not what is alone within the range of possibility, but what is within the scope of probability; nay, what is almost certain to happen—that the two hundred and ninety-one thousand pardoned rebels of South Carolina should demand from their Legislature an act reducing to apprenticeship, serfdom, or other form of slavery, the four hundred and twelve thousand colored people of the State, or that they deny them all political rights, tax them without their consent, legislate, not for their welfare, but for their degradation and oppression. Composing this unrepresented mass would be those who have passed through General Saxton's schools and learned to read, those who by toil have earned the means to purchase at sales for taxes, or under the confiscation laws, a home and land; and others scarred and war-worn in the military or naval service of the country, who would hurry to and fro, rallying their friends to resist the outrage, and maintain their right to life, liberty, and property. Here would be the beginning of civil war; war in which we who believe in the doctrine of man's rights, that Governments are instituted to protect those rights, that they rest on the consent of the governed, and should be overthrown when they infringe those rights, would bid the insurgents God-speed. Ah! this we might do as men, as individuals; but as citizens of the United States what would be our duty and how must our power be exercised? The minority, though vested with political power, fearing the superior force of the majority, would, in the name of the State, appeal to us; and, repugnant as the duty might be, we would owe it to the sacred compromises of the Constitution to yield our pride, our conscience, our fidelity to God and man, and become again the protectors of slavery or the pliant instruments for reducing the majority of the people of the State into subjection to the arrogant aristocracy of South Carolina. In God's name let us, while we can, avert such a possibility. Let us conquer our prejudices. Let us prove that we are worthy of the heritage bequeathed us by our revolutionary sires. Let us show the world that, inheriting the spirit of our forefathers, we regard liberty as a right so universal and a blessing so grand that, while we are ready to surrender our all rather than yield it, we will guaranty it at whatever cost to the poorest child that breathes the air of our country.

But we owe a provision of this kind to another class of citizens than that of which I have been speaking. There are other loyal men than these in the South. Andrew Johnson, Horace Maynard, William H. Wisener, sr., John W. Bowen, W. G. Brownlow, though not alone in their loyalty, represent but a minority of the white people of Tennessee; and Thomas J. Durant, and Benjamin F. Flanders, and Rufus Waples, and Alfred Jervis have had thousands of adherents and coworkers among the whites of Louisiana; but they, too, are but a minority of the white people of that State. And as our armies go on conquering, we may learn that even on some hillside in South Carolina there have been men whose loyalty to the Union has never yielded. How shall these protect themselves in the reconstructed State? What millennial influence will induce the envenomed spirit of the majority of the people by whom they will be surrounded to treat them with loving-kindness or human justice? Who will go with them to the polls in their respective districts? Where will they find an unprejudiced judge and an impartial jury to vindicate their innocence when falsely accused or maintain their right to character and property? We must remember that it is the power and not the spirit of the rebellion we are conquering. Time alone shall conquer this. The grave, long years hence, will close over those who to the last day of their life would, were it in their power, overthrow the Government or revenge their supposed wrongs upon those who aided in sustaining it. The truly loyal white men

of the insurrectionary districts need the sympathy and political support of all the loyal people among whom they dwell, and unless we give it to them we place them as abjectly at the feet of those who are now in arms against us as we do the negro whom their oppressors so despise. I cannot conceive how the American Congress could write a page of history that would so disgrace it in the eyes of all posterity as by consenting to close this war by surrendering to the unbridled lust and power of the conquered traitors of the South, those who, through blood, terror, and anguish, have been our friends, true to our principles and our welfare. To purchase peace by such heartless meanness and so gigantic a barter of principle would be unparalleled in baseness in the history of mankind.

This is felt in the South. The black man already rejoices in the fact that, if we are guilty of so great a crime as this, he will not be alone in his suffering; it will not be his prayers or his curses only that will penetrate the ear of an avenging God against those who had thus been false to all His teachings and every principle they professed. I find in the New Orleans Tribune of December 15, 1864, which paper, I may remark, is the organ of the proscribed race in Louisiana, and is owned and edited and printed daily in the French and English language by persons of that race, an admirable article in response to the question, "Is there any justice for the black?" which was drawn forth by the acquittal of one Michael Gleason, who had been tried for murder.

The crime was established beyond all peradventure. It was abundantly proven that the victim, Mittie Stephens, a colored boy, had been quietly sitting on the guards of the boat, watching the rod with which he was fishing, that other boys sat near him, when the defendant came behind him, leaned over, and deliberately pushed him into the water, and folding his arms on his breast stood and saw the boy rise thrice to the surface and then sink forever; that a colored woman exclaimed, "That is not right," and the defendant answered, "I would do the same to you;" and thus neither rescuing the child nor permitting others to do it, coolly and deliberately committed murder. There was no dispute as to any of the facts of the case. The New Orleans Era, noticing the case, says that it establishes the theory that "a man may, whenever he has no other way of amusing himself, throw a negro boy overboard from a steamboat, prevent any of his friends from rescuing the drowning struggler, stand quietly looking on while he goes to the bottom to rise no more, and be considered 'not guilty' of murder or any other crime;" and adds, having evidently hoped for better things under freedom than it had been used to in the days of slavery, "This is almost as enlightened a verdict as we were accustomed to in the palmy days of thuggery."

The colored editor of the Tribune avails himself of the case to point a moral, and well says:

"The trial by jury is considered as the safe-guard of innocence. It has been found that a man indicted for a criminal offense cannot be impartially tried and convicted, unless by his own peers. But an *ex parte* jury is the worst of all judicial institutions.

"The security afforded by the composition of a jury has to be of a twofold character. The jurymen have to represent the community at large in all its classes and varieties of composition. The duty of a jury is as well to vindicate innocence and punish crime as to protect the man unduly arraigned before the Court. Justice has to strike the culprit and avenge the blood of the innocent, as well as to defend the accused party against undue prejudices. Why have we no representatives in the jury? Are our lives, honor, and liberties to be left in the hands of men who are laboring under the most stubborn and narrow prejudice? Is there any protection or justice for us at their hands? It is in vain that, in the present instance, the press have so strongly supported the right. The wrong has been committed, and we are notified that there is no redress for us.

"But for every Union man in the city the last verdict is a warning. In the event—as impossible as it may appear—that rebel rule should temporarily be established here, we can foresee the fate of the friends of the Union. Then, there will be no more justice, no more protection for them than for the hated negro. It will be lawful to pierce them in the streets, drown them, kill them; and no jury will be found to convict the murderers. Let the Union men understand the case, and look to a complete reform in our laws relating to the formation of the jury."



The fate predicted to the real friends of the Union will be meted to them by the pardoned rebels, who will if we permit it rule them in the future as assuredly as it would if their military power should again possess the city.

Still comes the question, are these more than two fifths of the people of the insurrectionary district fit for citizenship? Let me reply by a question or two. Is the question of fitness put to the foreigner by the judge who administers the oath, the taking of which invests him with all the power of a native-born citizen and all its promises save one, that of the Presidency? Is the white native of our soil who, at the close of a reckless youth, the victim, perhaps, of early poverty and the degradation of parents, is unable to read his native tongue, when first he comes to the polls to deposit his ballot interrogated as to his fitness? Is it only to the wise, the learned, the powerful that we accord the right of suffrage? Are there not within the knowledge of each one of us scores of the children of this proscribed race who, in the conduct of their daily affairs, in the acquisition of property, in the tenderness and good judgment with which they rear their families, in the generosity with which they contribute to their church and the fidelity with which they obey her high behests, prove themselves infinitely better fitted for citizenship than the denizens of the swamp, Mackerelville, and other such reeking localities, who swelled the majority in the city of New York at the last election to thirty-seven thousand? And shall no culture, no patriotism, no wisdom, no tax-paying power, secure to the native-born American that which at the end of five years we, with so much advantage to our country, fling as a boon to every foreigner who may escape from the poverty and oppression and wrong of the Old World, to find a happier home and a more promising future in this? The question is not whether each man is fitted for the most judicious performance of the functions of citizenship, but whether the State is not safer when she binds all her children to her by protecting the rights of all and confiding her affairs to the arbitrament of their common judgment.

But colored people have shown themselves abundantly capable of self-government. Under oppressions exceeding in infinite degree those suffered by the oppressed people of Ireland—ay, by the subjects of the Czar of Russia—they have shown themselves capable of caring for themselves and others. Buying the poor privilege of providing for themselves by paying to their owners hundreds of dollars per annum, thousands of them have maintained homes and kept their families together, and reared their children to such an age that the lordly master, wanting cash for current purposes, has plucked the graceful daughter from her home to sell her to a life of debauchery, or the son, whose developing muscles promised support in age to his parents, to sell him to a life of unrequited toil. Snatched from these horrors a few thousands, some ten or twelve, have been sent during the last forty years to the western coast of Africa. There, under the auspices of American benevolence, they founded a republic, and with almost American greed for land have extended the jurisdiction of the little colony till the republic of Liberia, as I learn from the National Almanac, now embraces twenty-three thousand eight hundred and fifty-nine square miles. And the people have assimilated from among the heathens among whom they were settled men, women, and children, until their flag protects and their jurisdiction regulates four hundred and twenty-two thousand, most of whom, taught in the schools of the colony, find their enduring hopes in the old King James Bible, which they are able to read. But for our jealous contempt of the race, the flag of that African republic, so extensive has her commerce already become, would be familiar in all our leading ports. Our arrogance has hitherto excluded it; and by reason of our arrogance we pay tribute to our haughty commercial rival and treacherous friend Great Britain, by purchasing at second-hand from her the tropical products which the republicans of Liberia would gladly exchange directly with us for those of our more temperate region.

Fitted by culture and experience they may not be; but let us regard the characteristics of our civilization and see whether the future should, by reason of this fact, be made liable to such moment-

ous consequences as would be involved in error on this point. The abundant proof is before us of their eagerness and ability to acquire information. We are equally able to provide them with the means of culture; and happily, the good people of the North, carrying the frame of the school-house and the church in the rear of each of our advancing armies, have shown themselves prompt to provide them with the means of instruction—to give to each and every one of them the keys to all knowledge in the mastery of the English language, the art of writing, and the elementary rules of arithmetic.

Though the gentleman from New York [Mr. Brooks] insists that history is but repeating itself, I tell him that ours is a new age, and ask him to be kind enough to let me know who invented Hoe's "last fast printing-press" in the age in which it first existed, and by whose steam-engine it was propelled, and whether he edited the Express that fell in myriad thousands from its revolving forms? The limits of what former America did the magnetic telegraph traverse, making man, even the humblest, well-nigh omnipresent within its limits? In what antique age and country, broad as ours, was distance reduced as it is, by the locomotive engine in this? From among the hidden treasures of what buried city, or from the printed pages of what lost nation, did John Ericsson steal the subtle thoughts with which he has blessed the world and which we credit to him as inventions? In what era, will the gentleman tell me, did a nation convert by the stroke of a pen and the act of occupancy its landless and destitute people into independent farmers and pillars of the State by a homestead law such as that by which we offer estates to the emigrant and the freedman? If history be but repeating herself, will the gentleman point me to the original of the American Missionary Society, and show me from experience what influence its labors are to have upon those whom we have hitherto doomed to the darkness of ignorance? Whence did the founders of the American and other Tract Societies borrow the idea of their great enterprise? From what age or what clime comes our common school system? And what chapter of human history did they reenact who founded the American Sunday School Union? Will the gentleman draw from his historic stores a sketch of the influence that institution alone is to have in developing and training the intellect and regulating the life of the freedmen and the "poor white trash," now that rebellion has opened the way to the teacher, the daily journal, and the printed volume to their firesides? In what ample depository did its ancient prototype conceal the stereotype plates for more than a thousand books that it so cheaply published, imparting many of them in the simplest sentences, and others in those of Bunyan, Milton, Heber, Cowper—the poets, preachers, philosophers, historians of all Christian countries—the thought and knowledge time has garnered?

No, Mr. Speaker, history is not repeating itself. We are unfolding a new page in national life. The past has gone forever. There is no abiding present; it flies while we name it; and, as it flies, it is our duty to provide for the thick-coming future; and with such agencies as I have thus rapidly alluded to, we need not fear that even the existing generation of freedmen will not prove themselves abundantly able to take care of themselves and maintain the power and dignity of the States of which we shall make them citizens.

We are to shape the future. We cannot escape the duty. And "conciliation, compromise, and concession" are not the methods we are to use. These, alas! have been abundantly tried, and their result has been agitation, strife, war, and desolation. No man has the right to compromise justice; it is immutable; and He whose law it is never fails to avenge its compromise or violation. Ours is not the work of construction, it is that of reconstruction; not that of creation, but of regeneration; and, as I have shown, the principle of the life we are to shape glares on us, lighting our pathway, from every page of history written by our revolutionary fathers. Would we see the issue of "compromise, concession, and conciliation?" Sir, we behold it in the blazing home, the charred roof-tree, the desolate hearthside, the surging tide of fratricidal war, and the green mounds beneath which sleep half a million of the bravest and best loved of our men.

South Carolina, representing slavery, demanded the insertion of the word "white" in the fundamental articles of our Government. Our fathers resisted the demand; and, as I have suggested, had their sons continued to do so, slavery had long since been hemmed in as by a wall of fire; its true character would have been known among men, for then would the freedom of discussion not have been assailed, and men been legally punished by fine and imprisonment, and lawlessly by scourging and death, for speaking of its horrors. And by resisting this demand, as I have shown, man was accorded his right in the Territories till 1812. Then our fathers yielded, and without tracing the rapid retrograde career which ensued, we find the results of conceding and compromising principle in the attempt to abandon justice as established by the fathers, and settle a Territory under the conflicting theories of Cass and Douglas, and of Calhoun and Jefferson Davis—the two former striving to establish slavery under phrases full of professed devotion to freedom; the latter proclaiming boldly, through the lips of Robert Toombs, that "Congress has no power to limit, restrain, or in any manner to impair slavery; but, on the contrary, it is bound to protect and maintain it in the States where it exists and wherever its flag floats and its jurisdiction is paramount." (Boston Address, January, 1856.)

We can trace the influence of compromise and concession again in its effects upon the constitution of States. Behold the colored and white voters mingling peaceably at the polls in North Carolina, Maryland, Tennessee, and other slave States, and run the downward career until, at the dictation of South Carolina and slavery, you find States which have become free by constitutional amendment and others which never tolerated slavery yielding to their demand to insert the word "white" in their constitutions, and so creating a proscribed class in their midst; others even denying a dwelling place upon His footstool within their limits to the children of God whose skins were not colored like their own; and finally Arkansas writing a chapter of history which redeems Draco's name from the bad preeminence it had so long borne. Triumphant wrong is ever aggressive, has ever been, will ever be. Look back also upon our churches, practically ignoring for half a century the existence of nearly four million people who were held in contempt of every one of the beatitudes, and compelled to live in violation of every clause of the decalogue, and whose existence made the utterance of the Lord's prayer seem, to foreigners who comprehended the wrongs of slavery, like a hideous mockery as it dropped from American lips.

And these results, be it remembered, did but express the influence which aristocratic and dictatorial South Carolina, whose spirit now possessed the entire South, had, through compromise, concession, and conciliation, produced upon the mind and heart and conscience of the American people. Let me illustrate this by one striking example. While yet Missouri was a Territory—seven years, however, after the South had been made imperious by her triumph in inserting the word "white" in the territorial law for Missouri, and while she was busy fashioning that great State north of the Ohio line into the future home for slavery—the abolition of the institution was being agitated in Maryland as well as in Tennessee. Notwithstanding the recent triumphs of slavery it was still possible for a man to oppose the spread of the institution, point out its atrocities, and favor its abolition, and yet look for preferment and honor at the hands of his fellow-citizens; and when Jacob Gruber, a Methodist clergyman, was indicted by the Frederick county court, of Maryland, on the charge of "attempting to excite insubordination and insurrection among slaves," Roger B. Taney stepped forth to defend him, and in the course of his argument used the following language:

"Mr. Gruber did quote the language of our great act of national independence, and insisted on the principles contained in that venerated instrument. He did rebuke those masters who, in the exercise of power, are deaf to the calls of humanity; and he warned them of the evils they might bring themselves. He did speak with abhorrence of those reptiles who live by trading in human flesh, and enrich themselves by tearing the husband from the wife, the infant from the bosom of the mother; and this I am instructed was the head and front of his offending. Shall I content myself with saying he had a right to say this? There is no law to punish him? So far is he from being the

object of punishment in any form of proceedings, that we are prepared to maintain the same principles, and to use, if necessary, the same language here in the temple of justice, and in the presence of those who are the ministers of the law. A hard necessity, indeed, compels us to endure the evils of slavery for a time. It was imposed upon us by another nation while we were yet in a state of colonial vassalage. It cannot be easily or suddenly removed. Yet while it continues, it is a blot on our national character, and every real lover of freedom confidently hopes that it will be effectually, though it must be gradually, wiped away, and earnestly looks for the means by which this necessary object may be attained. And until it shall be accomplished, until the time shall come when we can point without a blush to the language held in the Declaration of Independence, every friend of humanity will seek to lighten the galling chain of slavery, and better to the utmost of his power the wretched condition of the slave. Such was Mr. Gruber's object in that part of his sermon of which I am now speaking. Those who have complained of him and reproached him will not find it easy to answer him, unless complaints, reproaches, and persecution shall be considered an answer."

But under the influence of the doctrine of "conciliation, concession, and compromise," the author of this language soon learned that for an ambitious man these brave and good words were folly and madness. Pure in his personal life, beautiful in the relations that characterized his family and his social circle, his history will never be forgotten; his name will ever head the list of "ermied knaves." Thirty-eight years after the Gruber case, in the chief temple of justice of our country, in the presence of her ministers, of whom he was himself the chief, when speaking of the free colored men of New England and those of their race throughout the country, he declared, in violation of all truth, that—

"The legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument."

"It is difficult at this day to realize the state of public opinion in relation to that unfortunate race which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken."

"They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect."

Mr. Speaker, shall we in providing for the reconstruction of the Union, accept and proclaim as our faith the hideous dogma that four millions of our people have "no rights which the white man is bound to respect," or, in the very hour in which our arms are breaking the power of the rebellion, make any concession to the spirit that evoked it? South Carolina may shake her gory locks and bloody hands at us in impotent rage; but let us not quail before her now as we have done for the last half century. Through the lips of northern "Sons of Liberty" and members of the order of "American Knights," she demands that, as a graceful concession, we shall comply to-day with the proposition our forefathers rejected on the 25th of June, 1778, and insert the word "white" in the fundamental law of the land; on the other hand, the shades of our patriot fathers, humanity, the spirit of the age, the welfare of the nation, the hopes of the countless millions who will throng our country through the long ages, implore us to listen to the voice of justice and obey the injunctions of the Master, who has assured us that "inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me." Let not, I pray you, the South achieve her grandest triumph in the hour of her humiliation. Let not the spirit of a prostrate foe practice on our pride and prejudice, and exult through all time over a lasting victory. Peace is the offspring and handmaid of Justice, and let us in reconstructing the Union erect a temple in which she may abide for ever.

Mr. STILES. Mr. Speaker, I did not desire to interrupt my colleague [Mr. KELLEY] in the delivery of his carefully prepared speech. It would have marred its beauty and power. But if I understand him correctly he stated that prior to the adoption of the constitution of 1838, negroes enjoyed the right of suffrage in the State of Pennsylvania. My question is, whether the constitution or laws of that State gave them such a right; and further, whether they ever did exercise such a right; whether he does not know that by

the decision of the highest courts of that State they were not allowed to vote there.

Mr. KELLEY. They were allowed by the constitution to vote, and they did vote; and it required a constitutional amendment—the insertion of the word "white" in the clause regulating suffrage—to deprive them of that right.

Mr. STILES. I desire to ask my colleague further, when and in what portion of the State of Pennsylvania they ever exercised that right.

Mr. KELLEY. Why, I have seen them exercise it frequently at the polls in Philadelphia, and that, too, whether the election officers belonged to one party or the other.

Mr. STILES. That must have been confined to my colleague's own precinct. It was never known in the history of that State.

Mr. KELLEY. I beg leave to say that it was done throughout the State, and was in some instances made the subject of litigation.

Mr. STILES. It was never done except in one county—the county of Bucks—so far as I know and then only in one instance.

I desire further to ask my colleague in this connection, because his speech has tended toward universal equality, whether he is in favor of giving negroes universally the right of suffrage now.

Mr. KELLEY. I am in favor of giving that right, in the words of Jefferson, to "every man who fights or pays." I stand by the doctrine of Thomas Jefferson, the father of the Democratic party, in which I was trained.

Mr. STILES. In the event of the passage of the amendment to the Constitution proposed, is my colleague in favor of equality between the races? And will he regard negroes as equal to the white man?

Mr. KELLEY. I could not possibly regulate the equality of men. I cannot make my colleague so moral or intelligent as a man of darker complexion who is more moral and more intelligent; nor could I degrade my colleague to the level, in morals and intelligence, of the colored man who is less moral or less intelligent than he. My colleague does not, according to his theory, vote by reason of his intelligence, but simply by reason of his color. I might be willing to exclude from the privilege of voting an immoral or a voluntarily ignorant man; but I want no senseless rule that allows a fool or a scoundrel to vote if he be white, and excludes a wise and an honest man if he be black.

Mr. STILES. Mr. Speaker, the remarkable speech just delivered appeals to passion and not to judgment, and is in favor of a principle that in years hence will be regarded as the height of the fanaticism of these days. The right of negroes to become voters, jurors, and in all respects equal with the white man, is the favorite theory of the times and of the party in power. The day will come when the men who avow such principles will be condemned by the popular voice everywhere.

Mr. ELIOT obtained the floor, but yielded for the transaction of the following business:

#### AMENDMENTS OF CONSCRIPTION LAW.

Mr. SCHENCK. I move that the amendments proposed by the Committee on Military Affairs to the act for the enrollment of the national forces, be printed for the information of the House.

The motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

Joint resolution (H. R. No. 56) providing for the termination of the reciprocity treaty of 5th of June, 1854, between the United States and Great Britain; and

An act (H. R. No. 163) for the relief of Charles Anderson, assignee of John James, of Texas.

#### ILLINOIS CENTRAL RAILROAD.

Mr. HOLMAN, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House whether or not he has made any payments to the Illinois Central railroad since the passage of the House resolution of the last session of Congress; and if so, how much, and by what authority.

#### E. WOODWARD AND G. CHORPENNY.

Mr. WINDOM. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of joint resolution H. R. No. 112, for the relief of Elizabeth Woodward and George Chorpenny, and that the joint resolution be recommended to the Committee on Indian Affairs.

Mr. WASHBURN, of Illinois. I object. And then, on motion of Mr. COX, the House (at ten minutes past five o'clock) adjourned.

#### IN SENATE.

TUESDAY, January 17, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of yesterday was read and approved.

#### CAPTURE OF FORT FISHER.

The VICE PRESIDENT. A dispatch has been received by the Secretary of the Navy, which will be read to the Senate.

The Secretary read, as follows:

FORT MONROE, January 17, 1865.

Hon. GIDEON WELLES, Secretary of the Navy:

The Atlantic is just in from Wilmington. Fort Fisher and works on Federal Point are in our possession. The assault was made by the army and sailors on Sunday afternoon, and by eleven p. m. the works were ours. Losses heavy. Lieutenants S. W. Preston and B. H. Porter of the Navy are killed. Our captures are seventy-two guns and about twenty-five hundred prisoners. Generals Whiting and Lamb (rebels) are prisoners and wounded. The Vanderbilt is on her way North with dispatches. Two fifteen-inch guns were burst on the monitors.

E. T. NICHOLS, Commander.

#### PETITIONS AND MEMORIALS.

Mr. FOOT presented the petition of Henry Stanley, praying for an extension of letters patent for an improvement in coal stoves or burners; which was referred to the Committee on Patents and the Patent Office.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for an amendment to the enrollment law, so that all able-bodied men under the age of fifty years may be placed on the rolls subject to draft for one year; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of the chiefs and warriors of the Stockbridge tribe of Indians, praying that a new treaty may be authorized; which was referred to the Committee on Indian Affairs.

Mr. COWAN presented the memorial of the Board of Trade of Philadelphia, praying that provision be made for the levying of such duties upon all vessels engaged in foreign commerce from our ports as shall justly distribute the burden of maintaining our light-houses, buoys, and beacons among the parties enjoying their benefits, and shall relieve the public Treasury from their expense; which was referred to the Committee on Commerce.

Mr. HARRIS presented the petition of the local board of steamboat inspectors of Oswego, New York, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented the petition of the Western Associated Press praying for a removal of the duty on foreign printing paper; which was referred to the Committee on Finance.

Mr. FARWELL presented a letter of Captain John A. Webster, jr., commanding the United States steam-cutter Mahoning, in relation to the substitution of whistles for fog bells; which was referred to the Committee on Commerce.

He also presented the petition of officers of the twentieth Maine volunteers, praying for an increase of the compensation of military officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. DAVIS presented the petition of William Hutchinson, praying for compensation for service rendered as a spy in the war of 1812; which was referred to the Committee on Claims.

Mr. MORGAN presented the petition of Nott & Co., praying to be indemnified for the loss of four boxes of specie shipped by them at Hong Kong in the schooner Eteva, and seized and plundered by pirates on the 18th of October, 1857, out of the unappropriated balance of the fund obtained from the Chinese Government under the treaty negotiated at Shanghai, November 8, 1858; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of officers of the fortieth Massachusetts regiment, praying for an increase of the compensation of military officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented a petition of captains, commanders, and lieutenant commanders on the active list of the Navy, praying for a restoration of the pay allowed to their respective grades and ranks prior to the breaking out of the present rebellion; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented a petition of citizens of New York, praying for the passage of a law to secure a republican form of government and to abolish and forever prohibit slavery in the United States; which was referred to the select committee on slavery and freedmen.

Mr. SUMNER. I also offer the memorial of the Board of Trade of the city of Boston, in which they set forth that it is believed that debts amounting from one hundred and fifty to two hundred million dollars are due to parties in the North from individuals in the rebel States, that during the past four years there has been no opportunity to press these claims for settlement in local courts; and that if the bankrupt bill now before Congress shall become a law before these creditors can come in contact with their debtors, and take personal measures to collect their dues, the rights of such creditors will be seriously prejudiced, and that many estates will be closed up in bankruptcy at a loss to all concerned. They accordingly pray Congress to postpone the passage of the bankrupt bill until such time shall have elapsed after the restoration of the revolted States as shall give to northern creditors an opportunity to negotiate with their debtors in those States for the adjustment of their claims. In offering this memorial, sir, I desire to say that while concurring with the memorialists in the desire to protect the interests of northern creditors, I am not sure that it is necessary that we should follow precisely their suggestions. I am not sure that those interests may not be adequately protected without any postponement of the pending bankrupt bill. I move that the memorial be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOWARD. I beg to present the memorial of William A. Hammond, late Surgeon General of the United States Army, stating that he has been deprived of his commission as Surgeon General and prohibited from holding office under the Government of the United States by the sentence of a general court-martial under circumstances which he prays Congress to inquire into before confirming the appointment which has been made of his successor. The memorial sets forth, with brevity to be sure, certain proceedings in his case before a court-martial of which he complains, and he alleges justly complains. I move that the memorial be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILLEY. I present two remonstrances from citizens residing in Alexandria against memorials recently presented to the Senate for the substitution of military authority in the place of the State government of Virginia. These memorialists earnestly but respectfully insist that to ignore the restored government now would be to produce general and as they fear remediless confusion in their midst, by retarding or preventing the administration of justice and the protection of the rights of persons and property; that the adoption of such a policy would subject loyal and Union-loving citizens to numberless useless and vexatious annoyances, and that it would crush the hopes of thousands of devoted Unionists throughout Virginia, who look to this restored government as the nucleus of a sound, patriotic, and vigorous State organization, under which the masses of the people of the beloved old Commonwealth of Virginia will again rally around the flag of our glorious Union. They say further:

"By all who are thoroughly informed in regard to the secret sentiments of the masses of the people of Virginia, the plan of bringing back the whole of Virginia to the Union by the election of Senators and Delegates to the Legislature of the restored government as fast as the constituent bodies are assured of efficient protection by the Federal Government is regarded as wise and eminently practicable."

"Your memorialists are deeply grieved and mortified by

a manifestation on the part of some of the members of your honorable body to ignore the existence of the loyal government of Virginia; to do this will be to reduce the loyal citizens of this Commonwealth to the condition of vassals of a military satrap, and subject men who have freely devoted their lives and fortunes to the cause of their country in the first and darkest hour of the nation's peril, to the mortification of being confounded with the traitors who have disturbed the peace, retarded the prosperity, and aimed a paralytic blow at the very existence of the Union.

"In view of these facts your memorialists respectfully and earnestly pray that Congress will take no action tending to destroy or weaken the restored government of Virginia."

I do not remember, sir, to what committee the memorials to which this remonstrance relates were referred.

The VICE PRESIDENT. The Chair understands that they were referred to the Committee on Territories.

Mr. WILLEY. I ask that these may take the same direction; and I also present another memorial of the same character and to the same effect numerously signed by citizens of Loudoun county, Virginia.

The memorials were referred to the Committee on Territories.

#### PAPERS WITHDRAWN.

On motion of Mr. BUCKALEW, it was

Ordered, That Mary F. B. Zevely have leave to withdraw her petition and papers.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 514) to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863, reported it with amendments.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the bill (S. R. No. 393) to authorize the corporation of Georgetown to levy certain taxes, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 91) in relation to the treaty of 1817, reported it with an amendment.

He also, from the same committee, to whom was referred a message of the President of the United States, communicating, in answer to a resolution of the Senate of the 15th of December, 1864, a report from the Secretary of State relative to an arrangement between the United States and Great Britain relating to the naval force to be maintained upon the American lakes, asked to be discharged from its further consideration; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a petition of real estate agents in Albany, New York, praying that there be refunded to them a proportionate part of the tax paid by them as commercial brokers under the internal revenue act of 1862, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Jane G. Swissheim, praying that provision may be made for the employment of women as corresponding, recording, and copying clerks in the Departments, asked to be discharged from its further consideration, there being no law to prevent their employment; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 121) granting additional compensation to the employees of the two Houses of Congress; reported a recommendation that it be indefinitely postponed, and the report was concurred in.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the memorial of Catharine S. B. Spear, praying for an appropriation to establish a house for dependent and friendless children, to be designated a House of Refuge for the District of Columbia, asked to be discharged from its further consideration; which was agreed to.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate the following communication from the Secretary of State:

To the Senate of the United States:

The Secretary of State, to whom has been communicated a resolution of the Senate of the 12th instant, in the words following: "Resolved, That the Secretary of State, of the

Treasury, of War, of the Navy, of the Interior, the Postmaster General, and the Attorney General, be each directed to inform the Senate what amount was paid or allowed in his Department for attorneys or counsel fees of every kind and description, exclusive of the regular salaries paid to the Attorney General and the respective district attorneys during the fiscal year ending June 30, 1864, and, so far as practicable, from that period to the 1st of January, 1865, giving a list of the names of the persons employed, the amount paid each, and out of what fund, and the services for which those fees were paid;" has the honor, by permission and under the orders of the President, to submit a full statement in answer thereto.

WILLIAM H. SEWARD.

Mr. TRUMBULL. As I presume answers will soon be received from the other Departments to that resolution, and it would be desirable to have them all printed together, I move that this communication lie on the table for the present.

The motion was agreed to.

#### REGENT OF SMITHSONIAN INSTITUTION.

Mr. COLLAMER. The Committee on the Library, to whom was referred the resolution (S. R. No. 91) appointing Richard Delafield to be a regent of the Smithsonian Institution, have instructed me to report it back and recommend its passage; and I ask that it be put on its passage at once, as it is desirable to fill the vacancy occasioned by the death of General Totten.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 399) amendatory of the act of August 1, 1854, in relation to George Morell; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 400) to regulate the management of captured and abandoned property in the rebel States, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 96) in relation to the treatment of prisoners of war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### JUDICIAL SYSTEM.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 401) to amend the judicial system of the United States; which was read twice by its title.

Mr. TRUMBULL. In introducing this bill I desire to say that I introduce it with the view of bringing the subject before the Senate and the country, but without being understood as committed to the particular bill. Some legislation is needed in regard to the judicial system of the United States. The amount of business accumulating in the Supreme Court amounts almost to a denial of justice, and some legislation is necessary, and will become more necessary as the business accumulates in that court, to relieve it. This bill is designed to change the judicial system to a very great extent by abolishing the district courts and substituting a circuit court, having the jurisdiction of the present district and circuit courts, and also having an intermediate court of appeal in each judicial circuit of the United States. As I said, I do not consider myself as committed to the bill by its introduction. It has been drawn by another. It is an important subject; and I move that the bill be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

#### NAVY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That three thousand copies of the Navy Register for 1864 be printed for the use of the Senate.

#### MARYLAND COLORED REGIMENTS.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to send to the Senate the originals or copies of the rolls of such of



the regiments as have been raised in the State of Maryland in the present year, which were composed, in whole or in part, of those who were at the time of their enlistment, or draft, slaves.

#### DISTRICT JAIL.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to communicate to the Senate the expense of all kinds for maintaining the jail in the District of Columbia for the years 1863 and 1864, with the number of prisoners supported.

#### COMMITTEE ON GOVERNMENT CORRUPTIONS.

Mr. DAVIS. I ask leave to present the following resolution:

*Resolved*, That the special rule of the Senate No. 34 be amended by adding thereto these words: A committee for the investigation of the corruptions of the Government in all its departments and offices, to consist of five members.

I propose to let this resolution lie on the table for the present.

The VICE PRESIDENT. It lies over under the rule, being equivalent to notice on this day.

#### JACOB WEBER.

Mr. CLARK. I move that the Senate postpone all prior orders and proceed to the consideration of House bill No. 203, for the relief of Jacob Weber.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs that there be paid to private Jacob Weber, of the fourth regiment of Ohio volunteer infantry, the sum of \$913 33, to reimburse him for money advanced by him to pay Scott Allen, A. Hyatt, Henry Olden, A. W. Cook, Lewis Shiridollar, and James Garland, who were employed as teamsters for that regiment between the 1st of August, 1861, and the 1st of July, 1862, and received the price of their employment from him, who advanced it, on the quartermaster's certificates, to those employés, with the assurance of the quartermaster and the commander of the regiment that the amount so advanced would very soon thereafter be repaid and refunded to him by the Government, through the quartermaster.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### TRANSMISSION OF PERIODICALS BY MAIL.

Mr. COLLAMER. There are a couple of bills on the Calendar in relation to the Post Office Department, to which, at this stage of the session, I feel it my duty to call the attention of the Senate. I move, if it be necessary, to dispense with all prior orders for the purpose of taking up House bill No. 623.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864. It proposes to amend the fourth section of an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, so as to insert in the proviso in that section, after the word "newspapers," the words "periodicals, magazines, and exchanges;" so that it will read:

*Provided*, That this section shall not be held to extend to the transmission by mail of newspapers, periodicals, magazines, and exchanges from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber from any one office.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### POST OFFICE DEPARTMENT CLERKSHIPS.

Mr. COLLAMER. I now move to take up Senate bill No. 389.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 389) relating to clerkships in the Post Office Department. The bill proposes to amend the third section of an act of Congress making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854, approved March 3, 1853, so as to authorize the appointment of a chief clerk in the offices of each of the three Assistant Postmasters General, at a salary of \$2,000 per annum each.

The second section proposes to authorize the Postmaster General, in lieu of the temporary clerks now employed in the Post Office Department and paid out of the appropriation for postage stamps and stamped envelopes and the proceeds of sales of waste paper, to appoint two clerks of class three, two clerks of class two, and five clerks of class one.

The third section appropriates the sum of \$18,000 to pay the clerks provided for in the two preceding sections.

The fourth section appropriates the sum of \$6,000 for the payment of such temporary clerks as the Postmaster General may, from time to time, deem necessary.

The fifth section provides that unclaimed money in dead letters for which no owners can be found, and also all money derived from sales of waste paper or other public property in post offices or the Post Office Department, shall be deposited in the Treasury of the United States, under the direction of the Postmaster General, for the service of the Post Office Department; and any postmaster or clerk in a post office, or any other clerk, officer, or agent of the Post Office Department, having temporary custody of such money, and failing to deposit it as herein provided, is to be deemed to be guilty of felony, and be subject to a fine not exceeding double the sum so retained by such clerk or other agents, or imprisonment not exceeding three years, or both, at the discretion of the court.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the amendment of the Senate to the joint resolution of the House (H. R. No. 96) providing for the termination of the reciprocity treaty of the 5th of June, 1854, between the United States and Great Britain.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 163) for the relief of Charles Anderson, assignee of John James, of Texas; and

A joint resolution (H. R. No. 96) providing for the termination of the reciprocity treaty of the 5th of June, 1854, between the United States and Great Britain.

#### DEFICIENCY BILL.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1865, asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. THADDEUS STEVENS, of Pennsylvania, Mr. GEORGE E. PENDLETON, of Ohio, and Mr. EDWIN H. WEBSTER, of Maryland, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1865; and

On motion of Mr. SHERMAN, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. SHERMAN, Mr. CONNESS, and Mr. BUCKALEW.

#### ISAAC R. DILLER.

Mr. DAVIS. I ask the Senate to take up House bill No. 94, for the relief of Isaac R. Diller.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay to Isaac R. Diller, late consul at Bremen, the sum of \$3,655.55, in full for the expenses incurred by him for extra clerk hire in his office, and for moneys advanced to destitute American

citizens during the interval between the 1st of August, 1857, and the 20th of September, 1861.

The Committee on Claims reported the bill with an amendment to strike out in lines six and seven the words "six hundred and fifty-five dollars and fifty-five cents;" so that it will read:

That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Isaac R. Diller, late consul at Bremen, the sum of \$3,000, &c.

Mr. HALE. Is there a report in that case? If there is I should like to hear it.

Mr. DAVIS. I ask for the reading of the report of the Committee on Foreign Relations upon it.

Mr. GRIMES. The Senate rejected this bill once I think.

Mr. DAVIS. No, sir.

The VICE PRESIDENT. There does not seem to be any report accompanying the bill.

Mr. DAVIS. I ask for the reading of the report of the Committee on Foreign Relations on the same claim. It is among the papers.

The VICE PRESIDENT. There does not seem to be any report here.

Mr. DAVIS. I sent it up with the papers the other day. I will ask that the bill be informally laid aside until the report can be found.

The VICE PRESIDENT. That course will be pursued if there be no objection.

#### INVENTORY OF ARTICLES IN ARSENALS.

Mr. WILSON. I move to take up Senate joint resolution No. 90.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the arsenals of the United States, which had been reported from the Committee on Military Affairs and the Militia with an amendment to strike out all of the original resolution after the enacting clause, in the following words:

That the Secretary of War be, and is hereby, authorized and directed to cause, as soon as may be after the passage of this resolution, an inventory to be made of all the articles pertaining to the quartermaster's department now in each and all of the arsenals of the United States.

And insert in lieu thereof:

That the Secretary of War be, and is hereby, directed to cause a strict inspection to be made of the quartermaster's department as soon as practicable after the passage of this resolution, and a comparison to be made between the reports of the officers in charge of the quartermasters' depots at New York, Philadelphia, Cincinnati, St. Louis, and Louisville, and the articles actually on hand.

The amendment was agreed to.

Mr. HALE. I think it would be well to amend the resolution by making it incumbent on the Secretary of the Navy to cause a like inventory to be taken of all the property in the possession of the several naval storekeepers; and I will mention in this connection that I was informed by a gentleman who had been employed by the Navy Department to investigate some of these transactions that it has not been the custom when a new naval storekeeper was appointed for him to give any receipt to the one who went out or to take any account at all. I move to amend the resolution by adding a section that the Secretary of the Navy be in like manner directed to take an inventory of all the property in the possession of the several naval storekeepers.

The VICE PRESIDENT. The Senator will reduce his amendment to writing.

Mr. WILSON. I do not know that there is any objection to that amendment, though I would prefer to have it by itself. This is a simple proposition to take an account of stock in the quartermaster's department at the various depots at New York, Philadelphia, Cincinnati, St. Louis, and Louisville. It certainly can do no harm, and we cannot be too careful what we are about.

Mr. HALE. I have reduced the amendment to writing, and offer it in this form:

*And be it further resolved*, That the Secretary of the Navy, in like manner, be directed to take an inventory of all the property of the United States in possession of the several naval storekeepers of the United States.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read, "A

joint resolution to authorize and direct an inventory of articles in the quartermasters' depots of the United States, and in the offices of the naval storekeepers of the United States."

#### QUOTAS OF THE STATES.

Mr. WILSON. I now move to take up a resolution introduced the other day by the Senator from Delaware [Mr. RIDDLE] and reported yesterday by the Military Committee with an amendment.

The motion was agreed to; and the Senate proceeded to consider the resolution submitted by Mr. RIDDLE on the 13th instant, calling for a statement of the number of soldiers and sailors furnished by the several loyal States under the President's call of July 18, 1864.

The amendment of the Committee on Military Affairs and the Militia was to strike out all of the resolution after the word "resolved," and to insert in lieu thereof:

That the Secretary of War be directed to inform the Senate what number of soldiers and sailors, stating each separately, the several States and Territories, and the District of Columbia, have furnished the Army and Navy under all the calls heretofore made, setting forth the number demanded and the number furnished under each call.

Mr. COLLAMER. I wish to add, "and the time for which the same were enlisted."

Mr. GRIMES. I move to postpone the further consideration of the resolution until two weeks from to-day. My purpose in making the motion is to obtain if possible an answer to an inquiry addressed to the Secretary of War a few days ago by the Senate, attempting to elicit from him some information as to the principle and manner in which naval credits were allowed. It will be observed, on reading this resolution, that it calls on the Secretary of War to state the number of naval recruits, as well as soldiers, that have been credited upon the military quotas of the different States. I think the fact will be developed by the return that will be sent to the Senate from the Secretary of War to the other call to which I have alluded, that these naval credits have been very unjustly distributed. I understand it to be a fact that it was decided at the War Department, by the officer who had charge of that subject, that the credits should be allowed to the location where the person was recruited, unless some other locality should intervene and show that those credits ought to belong to that other locality. For example, a receiving-ship is stationed in the harbor of New York or Boston, and it is the only place where in either of the States of New York or Massachusetts enlistments can be made. There may be ten thousand men recruited in Boston and fifteen thousand in the city of New York, and under the interpretation that was given to the law by the officers in the War Department, all those men would be credited to the locality where that receiving-ship was, the ten thousand to Boston and the fifteen thousand to New York, though they might have come from the outlying townships. It thus threw the burden of proof on those outlying townships where the men actually resided to show that those individuals did reside there, and were not citizens of the place where the enlistments were made. They were from interior States also, for, as is known to everybody who is familiar with the sailors of the country, very many of them were from such States as Vermont and New Hampshire, who went in their youth to the sea and have followed that as a profession. When they come back from a cruise they are landed in Boston, and in the course of a few weeks they are recruited into the Navy of the United States at Boston, not giving the place of their residence, and they are not enrolled on the enlistment rolls of Massachusetts or of Boston. They are returned to the Navy Department here as having been born in Vermont, but the fact that they were born there is not taken as any criterion by the War Department that they should be credited to Vermont, but they are credited to the place where they enlist. This is all unfair; it is exceedingly unjust. There have been thirty thousand men, I undertake to say, credited to particular localities, who were not citizens of those localities, who were not entered upon the enlistment roll of the districts to which they have been credited, and who ought not therefore to have been credited to those localities.

As an example, we have a navy-yard at Kittery. It is sometimes called the Kittery yard,

and sometimes called the Portsmouth yard. The yard itself is on the Maine side of the Piscataqua river; the town where the people live and where nearly all the business is done is in New Hampshire; and therefore, under this interpretation, the men recruited at that naval rendezvous are credited to Maine. If any of them belong to any of the townships of New Hampshire, they cannot be credited under this rule established by the War Department, as I understand the rule, to those townships, unless the selectmen or the parties in the different townships of New Hampshire who have that subject in charge go to the provost marshals and to the War Department and show that those specific credits ought to be allowed to them. That is not fair. The burden of proof ought not to have been thrown upon these localities in the country, but should have rested upon the large cities where the credits are allowed.

In order to have a thorough understanding of this subject, and that there shall be no document published by the authority of the Senate in relation to these Army and Navy recruits that is not truthful, that will not convey the exactly correct impression to the country in regard to where they came from and where they ought to be credited, I want this resolution postponed for a couple of weeks so that we may in the mean time get an answer from the Secretary of War to the resolution to which I have referred.

Mr. WILSON. I shall not oppose the postponement suggested by the Senator from Iowa. I have no desire to have a report made here which does not show the precise and exact facts. If any improper rule has been adopted at the War Department, if it can be corrected, I hope we shall correct it. In passing the act allowing the different localities credits for the sailors furnished to the Navy, our object was to do justice to all localities, sections, and States. If, in the administration of that act, anything has been done which is not right, I hope it will be corrected, if it can be corrected. I suppose that in raising these troops injustice is done to localities and will continue to be done.

I do not know that there is any special haste for getting this information, and therefore I shall not oppose the postponement. The Senator from Delaware introduced the proposition, confining it simply to one call. It was thought by the committee that it was best to have the information as to all the calls, and then we should have all the facts before us; and the amendment was made for that purpose. I do not think the Senator from Delaware will lose anything by having the matter go over for a couple of weeks.

The VICE PRESIDENT. The question is on the motion of the Senator from Iowa to postpone the further consideration of this resolution for two weeks.

The motion was agreed to.

#### DEPOT AND FERRY RAILWAY COMPANY.

On motion of Mr. MORRILL, the bill (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company was considered as in Committee of the Whole. The route of the proposed railway is from the Baltimore and Ohio Railroad Company's depot on New Jersey avenue in Washington, District of Columbia, through C street to Sixth street, along Sixth street to Missouri avenue, along Missouri avenue to Four-and-a-half street, along Four-and-a-half street to N street, along N street to the Potomac river or Sixth street, and also along Four-and-a-half street to P street, and along P street to the river.

The first amendment of the Committee on the District of Columbia was in section one, lines twenty and twenty-one, to strike out the words "to be built under the supervision of the Superintendent of the Coast Survey," and in lieu of them to insert, "the outer or channel line of said wharf to be subject to the approval of the Superintendent of the Coast Survey."

The amendment was agreed to.

The next amendment was after the word "thereon," in line four of section nine, to insert "at least once in every fifteen minutes between six o'clock, a. m., and ten o'clock, p. m., of each day, and," so as to make the clause read:

That said company shall place first-class cars on said railroad, with all the modern improvements for the convenience of passengers, and shall run cars thereon at least

once in every fifteen minutes between six o'clock, a. m., and ten o'clock, p. m., each day, and upon the arrival of the regular steamboats plying between Sixth street wharf and Alexandria, and upon the arrival of passenger trains upon the Baltimore road, and oftener, as public convenience may require.

The amendment was agreed to.

Mr. SUMNER. I offer an amendment, to come in at the end of section twenty-one:

*Provided*, That no person shall be excluded from any car on account of color.

Mr. SAULSBURY. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. I will say a single word in regard to this, simply as to the position of the Senate upon this class of provisions. This general provision applies to one of the roads, the last road chartered, the F street road, so called; it is specifically a portion of their charter; it does not apply to the road on the avenue; but as the sense of the Senate has seemed to be to subject all the roads to this general provision, as that has seemed to be the general judgment of the Senate, I, of course, have no objection to the same rule being applied to this bill, and therefore I make no objection to the amendment.

The question being taken by yeas and nays resulted—yeas 24, nays 6; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Connors, Dixon, Farwell, Foot, Foster, Harlan, Harris, Henderson, Hicks, Howard, Howe, Morgan, Morrill, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wiley, and Wilson—24.

NAYS—Messrs. Davis, Hendricks, Powell, Richardson, Riddle, and Sausbury—6.

ABSENT—Messrs. Buckalew, Carlile, Chandler, Cowan, Doolittle, Grimes, Hale, Harding, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Ten Eyck, Trumbull, Wade, Wilkinson, and Wright—19.

So the amendment was agreed to.

Mr. SHERMAN. I move to amend the bill by striking out in section one the following words from line nineteen to line twenty-four:

With the right to construct a wharf into said river the width of said P street, to be built under the supervision of the Superintendent of the Coast Survey, and so as not to interfere with navigation of the Potomac river; and the use and maintenance of said wharf shall be subject to the municipal regulations of the city of Washington.

The mayor of the city informed me at the close of the last session that this was conferring on the proposed corporation a very valuable property privilege, giving them a wharf privilege equivalent to one hundred feet wide, extending out into the Potomac river a good way and impairing the value of the adjoining property, and was worth, he said, a very large sum of money. I will scarcely venture to quote the sum, because it may have been an exaggeration. The right is to be conferred upon this company without expense, without cost to them, without benefit either to the Government or to the city. In the city of New York such a wharf privilege would be worth half a million dollars, and I have no doubt that it is worth a very large sum here. Such a privilege as that, unless there is some good reason for conferring it, it seems to me ought to be withheld. It is an injury to the adjoining proprietors, the property holders having a right to the wharf privileges on the north and south side of P street; but this would confer the exclusive privilege of this company to the whole of all P street so that no one could land at the foot of P street without their consent, as it was represented to me. They can build up the whole space of P street running into the river, and the privilege is in its nature exclusive.

That was the statement made to me by the mayor of the city, who is a very respectable gentleman, and who is looking for the interests of the city; and it struck me that the privilege ought not to be granted. The right of the railroad company to construct their buildings, &c., on their own land is properly given; I hope the whole city will be covered with street railroads; but when you propose to give them the property of the Government or the property of the city, and to convert the streets of the city into exclusive privileges for building wharves and landings, a very different question arises. This corporation, when they build their road, may purchase the property on either side of P street, and erect the necessary buildings, and may run them out just as any other individual would be able to do; but to give them the right to construct their buildings on the street, it seems to me, is conferring

on them property privileges of great value; and it ought not to be done, certainly against the wishes of the city authorities. If the Senate should think this privilege indispensable, my impression is that the city authorities ought to be consulted in the construction of this improvement, and that the mode of doing it at least ought to be left to them. I know nothing about the question except from the statement made to me by the mayor.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The words which the Senator from Ohio moves to strike out will be read as the clause has been amended.

The Secretary read the words proposed to be stricken out, as follows:

With the right to construct a wharf into said river the width of said P street, the outer or channel line of said wharf to be subject to the approval of the Superintendent of the Coast Survey, so as not to interfere with the navigation of the Potomac river; and the use and maintenance of said wharf shall be subject to the municipal regulations of the city of Washington.

Mr. MORRILL. This objection raised by the Senator from Ohio is not new to the Committee on the District of Columbia. It was raised at the last session; that is, it was suggested by the mayor of the city, who I believe assumed to represent the public interests then, that it would be a public inconvenience; and therefore the committee examined the question. It is not, in the judgment of the committee, at all liable to the charge suggested by the Senator from Ohio. It will be seen that it confers no property right whatever; it is simply a permission to extend the wharf into the Potomac river. It is the ordinary privilege granted to a citizen who desires to connect a business with the commerce of a river; and I would remind the Senator that it is identical with the privilege granted to the ferry company, called, I believe, the Potomac Ferry Company, now running between this city and Alexandria.

Mr. SHERMAN. But this is a privilege to make a wharf at the foot of the street.

Mr. MORRILL. My friend surely will not undertake to raise a distinction between landing at the foot of a street and landing somewhere else. A wharf that is not accessible to the street is no wharf at all. The power and privilege granted here is identical with the privilege granted to the Potomac Ferry Company, as I recollect the name, a year or two ago; and it is, when summed up, a right simply to build a wharf; and it is the ordinary right which cities confer on persons who desire to do business in connection with the general commerce of the country. It is precisely this case. That it may interfere with other lots or with other wharves so far as to get up a competition with other transactions, I do not doubt; but I have yet to learn, from anything that I know of the history of the case, that it unjustly interferes with anybody's rights, either with the adjoining landholders or with the rights we have heretofore granted to any other company. I say, then, that it is simply a grant of the ordinary privilege of a right to extend a wharf into a river to be in connection with the facilities of commerce, always premising, of course, that the party who undertakes to exercise that right either owns the land or must purchase the land of the owner. It conveys him no right to take land whatever; but assuming that he has the right to build the wharf, that he owns the land or can procure it, the Government gives him the privilege of doing what he otherwise might not. That is all there is of it. I conceive that there is really no well-founded objection to this provision, and I very much hope that the bill will be passed as it was reported.

Mr. SHERMAN. There is no difference between the honorable Senator from Maine and myself as to what is desired, but there is a very great difference between us on the legal construction of this language. He says that Congress granted to the Potomac Ferry Company the right to build such a wharf. I am very sure that is not so; there is no right granted certainly to any company to build any wharf on the public streets of Washington. Such a right would be of immense value; in the city of New York it would be worth millions; you could scarcely estimate such a privilege. The right conferred by this language—it is very carefully worded—is the right to build an exclusive wharf at the foot of one of the streets of Washington. The Senator says he desires only to confer on this corporation the right to build a

wharf on their own land. If that right only was conferred, I certainly should have no objection; but he will see, if he reads it carefully, that the language not only gives them the right to construct a wharf and to erect buildings upon it, but it gives them the exclusive right, because it authorizes them to take the whole width of the street; it is a wharf privilege to build a wharf, and it is not required to be on their land; it is required to be in the street.

Mr. MORRILL. That is not so.

Mr. SHERMAN. Here is the question. If they were limited to their own property, I should have not the slightest objection; but the language is, "with the right to construct a wharf into said river the width of said P street." I certainly want to give to these corporators the same privileges we have granted to others, no more and no less; and if you confined this right to build a wharf to their own land I should have no objection, because that would be giving the privilege you have given to others. The other company, I believe, have a wharf at the foot of Sixth street, though I am not sure of that. The complaint made by the mayor is that here you authorize this corporation to build it in the street, occupying the whole width of the street, granting an exclusive property privilege of that which belongs either to the city or to the Government of the United States; I do not exactly know which is the owner of the street, but I believe the Government is. If you give these corporators the right to construct a wharf into the river the width of P street on their own land I should have no objection.

Mr. HENDRICKS. Nobody owns the land there.

Mr. SHERMAN. The Government owns the land. Why not require these parties to purchase land convenient and contiguous; or if you give them the land of the Government, the streets of the Government, and authorize them to exercise this exclusive privilege for the width of P street, why not make them pay an assessment of its value? I would not give them a special privilege, but would put them on the same footing precisely with other companies who have privileges in the same vicinity.

Mr. MORRILL. I think I was correct in saying that we do not interfere with the street, and do not propose to authorize this company to build a wharf in the street, or on the street, or touching the street in any way under heaven except at the shore of the river. We authorize these parties to commence at a given point and run down a given street; we then authorize them to run down P street to the Potomac river. That is the end of the road, and that is the end of the land; that is where the land meets the water; that is where travel ends and commerce begins; that is where the railroad stops and the navigation commences. Now, what is proposed at that point? Just at that point, we say, you may run a wharf into the river, not on the street nor touching the street, nor interfering with the street, nor in connection with the street in any possible way under heaven except to land on it. Does that affect anybody's rights? Has the adjoining landholder any right to that? Has he any jurisdiction over it? Does not his jurisdiction end when he gets down to the maritime jurisdiction? I should like to know what Mayor Wallach has to do when he gets down to low-water mark on the Potomac river. If he is coming in here to interfere with these bills I want to understand the extent of his jurisdiction; I want him to establish a maritime jurisdiction, if he has it; or else to let him understand that when we undertake to say that citizens may build a wharf into the river it does not interfere with his jurisdiction. It is the sheerest piece of impertinence imaginable for Mayor Wallach to suppose that he has anything to do with this bill; it is altogether below his jurisdiction or above it.

I repeat, there is no privilege granted here except what is granted ordinarily when you authorize a party to go below the land into the water, and that is all this section proposes. It is that when these parties have carried their railroad down to the river, they may go into the river with a view of meeting the navigation. That is all there is of it. They must land somewhere. It is precisely the privilege which was conferred on the ferry company as I understand, and which is conferred whenever a party is authorized to go from the land into the water, either the sea or a navi-

gable river, with the view of joining navigation and travel together.

Mr. SHERMAN. The Senator still does not meet the question. He is mistaken in supposing that the right of property ends when it touches the water. Representing the State of Maine with its valuable riparian rights, he must know that the right of the proprietor extends further out than the water; indeed, it extends to the center of the river, subject only, however, to the rights of navigation. A private party owning land adjoining P street may, without any act of Congress, build a wharf there if he does not interfere with the navigation of the Potomac. It is not necessary to legislate to confer the right on a private owner to build a wharf out into the Potomac, subject only to the limitation that he shall not interfere with the navigation of the river. Any adjoining proprietor can do it. You propose to authorize this company to build their railroad on the streets belonging to the United States to the Potomac river; and then what more? You give them the right to build wharves out into the river on the land of the United States. The right of ownership does not cease when the water is touched. It extends to the center of the river, subject only to the rights of navigation; and the rights of the United States as the owner of the street extends to the center of the river, subject only to the superior rights of navigation. You propose to confer upon this corporation the right to exclusively use the width of P street until they touch the point where navigation would be interfered with.

Mr. FARWELL. I should like to ask the Senator a question, with his permission.

Mr. SHERMAN. I have no objection to answering.

Mr. FARWELL. Does the Senator understand that the United States, or the city of Washington, by laying out a street, get a fee to the land and a fee to the riparian rights that the owner of the street would have?

Mr. SHERMAN. The United States, I presume, stands in the ownership of these streets precisely like any other proprietor. An adjoining proprietor of the land along the Potomac owns the ground in front of him, subject only to the superior right of the public to navigate the river. That is the ordinary riparian right. The United States, in owning the streets of the city, have precisely that riparian right. The right to construct a wharf in front of P street is a property right. If the Senate will limit the bill so as to allow this company to build a wharf on private property which they may be compelled to purchase like other property, there will be no objection to allowing them to build a wharf on their own land. The only objection is to giving them the exclusive privilege of building a wharf on lands belonging to the public, and thus giving them a discrimination or a benefit not conferred on other corporations.

It seems to me my friend from Maine ought not to criticize the action of Mayor Wallach in this matter. It is his duty to see to this matter. The city of Washington, as the representative of the citizens here, have the right to this wharfage in front of P street. They may find it necessary to build a city wharf. But if this right is conferred upon this corporation, as a matter of course it is in its nature exclusive, and no one else can build a wharf there, because they have it to the full width of P street. I do not wish to interfere with the Senator's bill, but I think he can frame an amendment to it that will accomplish the object of both of us.

Mr. GRIMES. If it is in order, I move to insert in the twenty-second line after the word "river," the words "or of the use of the street abutting upon said river;" so that the clause will read:

And so as not to interfere with the navigation of the Potomac river or of the use of the street abutting upon said river.

Mr. MORRILL. I have no objection to that. Mr. JOHNSON. There can be no objection to that, I presume.

Mr. GRIMES. With this amendment I am prepared to vote for this bill. I know something of its history during the last session of Congress. It is true that the mayor of the city opposed its passage through the Senate, but it is also true that almost everybody, I think, on the streets adjacent to the proposed road petitioned Congress most



strenuously that the bill might be passed as it stands before us; so that if there is any fair representation of the public sentiment before this body it seems to me to be in favor of the passage of the bill, rather than against it, although the official head of the city did protest against it.

If any one will go down to P street and see what facilities the city, who profess to own all these riparian rights, have furnished for the commerce of this city, I think he will agree with me that it is time Congress should interfere and allow private corporations to build some sort of wharves in order to promote the commerce of this city. Because something of this character has not hitherto been done nearly all the commerce of this city has been carried on with the northern ports of the Republic, and with the southern, too, before the commencement of this rebellion, from and through Georgetown; and to-day the packet lines that run between the Potomac river from this vicinity to New York and Boston and Philadelphia make all their landings at Georgetown. Why? Because the city government has not availed itself of its privilege to establish wharves and furnish the proper commercial facilities for the transaction of that business, or because Congress has not seen fit to grant to private individuals precisely the same rights which the Senator from Maine proposes to confer upon this corporation to enable them to build wharves in the future.

It seems to me that there is nothing clearer than that the best interests of the city require that if the city itself will not build wharves we should confer that authority upon somebody else who will furnish commercial facilities. As to the rivalry between these competing lines, I am in favor of giving them all the privilege of building wharves, so that the one does not interfere with the other.

Mr. SHERMAN. I will ask my friend from Iowa, before he gets through his remarks, is there any law in the city of Washington or any act of Congress that prevents any individual from building a wharf on his own land?

Mr. GRIMES. I do not understand that anybody owns this land.

Mr. SHERMAN. I mean the land of a private individual abutting on the Potomac.

Mr. GRIMES. The Senator from Maryland [Mr. JOHNSON] can probably say whether there has been any decision of the Supreme Court of the United States on that subject; whether the person who owns land adjacent to the Potomac owns into the stream or not; but if the construction that has been given by Judge McLean, and by some other eminent jurists, to a case somewhat similar to this prevails, then it is not true that individuals who own the real estate adjacent to and abreast of a street own into the river. I believe there was a case of that kind somewhat similar to this decided in the city of Detroit. The Senator from Maryland can inform the Senate on that subject, for I do not profess to be a lawyer, and he is an eminent one; but I do not think that any individuals own into the river under the construction of the judicial tribunals. I believe that all that property belongs to the United States where the United States was first the original proprietor and conveyed the lot.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Senator from Ohio [Mr. SHERMAN] moves to amend the bill by striking out a certain clause which has been read. The Senator from Iowa moves to amend that clause, by way of perfecting it before the vote is taken on striking out. The question will first be taken on the amendment of the Senator from Iowa to insert after the word "river" the words "or of the use of the street abutting upon said river."

Mr. JOHNSON. Mr. President, I do not understand that the Senator from Ohio, or any other Senator, entertains any doubt that Congress can grant the privilege proposed to be granted by the words which he suggests shall be stricken out; but he tells us that those words will confer a very valuable property upon this company. He objects to it upon the ground that it is too valuable a property to be transferred at all by the Government to the company unless they pay for it.

In the first place, it is necessary to see what is the meaning of the words proposed to be stricken out. The bill authorizes this company to make a railroad from a certain point until it gets to Four-and-a-half street, and then to run north to the Potomac river or to Sixth street, with the priv-

ilege of continuing the said roads along Four-and-a-half street to P street, and along P street to the Potomac river. I do not understand the Senator from Ohio to object to that. Under that authority the road may be constructed and is to be constructed to the river. After getting the road to the river, a measure which the bill supposes will be beneficial to the public, what should next be done? Ought they not to be able in some way or other to get all the trade that comes up the river or down the river or across the river to their railroad? They run down to the river for the very purpose of getting such trade, either traffic in passengers or traffic in merchandise. The very purpose of the bill, therefore, is to get in some way that business. How is it to be done unless somebody makes a wharf at which the passenger can land who comes either up or down or across the river, or on which property which seeks its transportation upon the railroad can be landed? My friend from Ohio suggests that it is a privilege. Certainly it is a privilege; but it is not a privilege that we ought to grant if we think—and the bill goes upon that presumption, and to a certain extent that presumption is admitted by a correct presumption—that the improvement will be a valuable one.

That being the object of the bill—the public benefit—what is the additional privilege which is proposed to be stricken out? It is not the right to run their railroad to the river, and cross it if it be necessary to cross it, or running along P street until they come to the terminus of P street on the river, but it is to build into the river a wharf; and what is proposed to be given, as my friend from Ohio supposes, as exclusive property to this corporation is the wharf which is to be built in the river. Whose property is the bed of the river? It is not the property of the city of Washington. It never was their property since the Constitution of the United States was adopted. It never was the property of the individual owners who had held the land, of which P street constitutes a part, by patents from the original owner.

The doctrine referred to by my friend from Ohio, that each riparian proprietor is authorized to go to the thread of the stream, is applicable to streams not navigable. The moment you come to a navigable stream it comes within the operation of the Constitution of the United States which gives to Congress the exclusive right to regulate commerce with foreign nations and between the States. It is subject exclusively to the control of Congress; and nobody, therefore, whether individual proprietor or corporation proprietor, (for the corporation of Washington is precisely in the condition of an individual proprietor,) has a right to build in the river without the authority of Congress, to whom the whole navigation of the river is intrusted. They are to decide what, if anything is proposed to be done, will interfere with that navigation. In all the States where the cities have improved upon navigable streams, no one has been permitted to build into the navigable stream without the consent of the Legislature. The mistake, therefore, into which I think my friend from Ohio has fallen is in confounding unnavigable with navigable streams. While the one is private property and the bed of the stream belongs exclusively to the riparian proprietors in equal moiety, each having the right to go to the thread of the stream, it is not true in relation to a navigable stream; for no individual proprietor who owns land upon a navigable stream, since the Constitution of the United States was adopted, has a right to go into the river at all without the consent of the sovereign, wherever that sovereignty may be.

In order to make the improvement a valuable one, if we are to have a place at which passengers are to land who may want to go upon this railroad, and where freight is to be deposited for the purpose of being transported upon this railroad, we must have some place at which they are to land, and on which the freight is to be deposited. You only want to put that upon the stream. If you put it upon the street, you stop up that highway, and unless you mean to say to this company, "You shall not carry on the business you are chartered to carry on," you would give to them necessarily the privilege of blocking up P street as far as the passengers who may be connected with the transportation upon their railroad and the freight that they may want to carry are

concerned. They may pile their barrels, pile their produce of every description, pile their lumber so as entirely to obstruct the passage up and down P street. That we do not want; but we want some place where the passengers and the freight may be landed. Passengers must land somewhere before they can get into the cars, or they must step out into the water; and those who have freight to send, if they have not a place on which to deposit it, must land it in the water. That we do not want. This bill proposes to do what is done in all the cities. I speak knowingly as far as Baltimore is concerned. There they are permitted to build their wharves, subject to the regulations which the city may impose, either directly or through the particular municipal corporation. They are permitted to build their wharves out into the water from the existing termination of the street, and you give them the right to charge wharfage. That is all this bill does.

There is no danger of any abuse, because the bill provides that that wharf is not to be built so as to interfere with the navigation of the Potomac river; and that it will not be so built we have the security furnished in the provision that it shall be built under the supervision of the Superintendent of the Coast Survey, and that the use and maintenance of the wharf shall be subject to the municipal regulations of the city of Washington, like all other wharves. Many of the streets that now reach down to the river have in front of them wharves. Do you not go upon a wharf when you get into the steamboat that goes to Alexandria, and when you come from Alexandria? You step upon a wharf built upon the front of a street, built from the original termination of the street. There is not one of the streets now which at the time you put these wharves there terminated where it was originally laid out. It follows the river, and you do not take in part of the street for the purpose of the wharf. You take the water, the land covered by the water, and upon that land you build your wharf. It seems to me therefore that the bill would be without the means of attaining the very end we want, if you do not give them the right to build a wharf at the termination of the route which you authorize them to take, and that termination is at the extreme end of P street.

Mr. HENDRICKS. I am sorry that the Senator from Iowa is not in his seat. I desire to suggest to him that his amendment certainly cannot be necessary. If it were necessary, I should vote for it. Clearly a wharf ought not to be constructed at the end of this street which would interfere with the use of the street; but this proposed wharf cannot do so. The Senate can see at a glance that a wharf cannot interfere with the use of the street. A wharf is a structure built upon the water. If it is built upon the land it is a storehouse. The word used in this bill excludes the possibility of interference with the use of the street. I think, therefore, that the amendment proposed by the Senator from Iowa is unnecessary.

I certainly agree with the Senator from Maryland that the city of Washington does not own the land underneath the waters of the Potomac river; and it is very clear that the proprietors along the shore do not own to the center of the stream. I think the argument of the Senator from Ohio was based upon that idea. That has been decided over and over again, as I understand, in this District. It has been decided by the General Land Office in all of its decisions; because if the riparian proprietor's right extends to the center of the stream, that carries with it the islands in the stream, and he would become the owner of the islands opposite to his property. The General Land Office, with the approval of the Departments of the Government, has disposed of these islands as being the property of the Government. It is very clear from this fact that the privilege of constructing this wharf cannot interfere with any property rights of the city or of the riparian proprietors.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa to the clause proposed to be stricken out by the Senator from Ohio.

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Ohio to strike out the clause which has been read.

Mr. SHERMAN. Just one word in reply to the Senator from Maryland. He says that this

will be a benefit to the public. Let me tell him that when this wharf is constructed, if any vessel belonging to any citizen of the United States should come to that wharf at the foot of a street in the city of Washington, it would not be allowed to land; and if you grant five such privileges as this, you will prevent any citizen of the United States from landing at a wharf in Washington without paying tribute to a private corporation. These are the facts; and the ingenious arguments of the honorable Senator cannot prevent it.

It is true that in a navigable stream the rights of the riparian owner are not so extensive as on streams that are not navigable. We are all familiar with that; but the right of wharfage always inures to the owner of the land, whether the stream is navigable or not. For the purposes of this argument there is no difference at all between a navigable stream and one not navigable. I am told that the wharfage of this city is limited; that it is all between Four-and-a-half street and, probably, Twelfth street; that there are only four or five streets jutting into the river where the privilege of the public is worth anything. The adjoining proprietors on either side of a street have the right to build a wharf. The question is, whether you will give to a private corporation the exclusive privilege of a wharf occupying the whole of the space of one of your public streets, when you have conferred that right on no other corporation, and when perhaps it is not to be conferred on any other corporation. Any individual, the owner of the adjoining lands, may build wharves, or this company may go and buy of any adjoining proprietor the right of wharfage. I have no objection to extend to them if necessary the right to build a wharf. The only question is whether you will extend to them the right to build a wharf on property belonging to the United States without any consideration.

Mr. JOHNSON. My friend from Ohio is mistaken. All those wharves are entitled to charge wharfage, subject to the regulations of the city. The city may, under their charter, as far as the existing wharves are concerned, prescribe the rate of wharfage, and the manner in which the wharfage is to be collected. This bill provides in the part proposed to be stricken out that the wharf, when built, shall be subject to the municipal regulations of the city of Washington. The city of Washington will take care that vessels that can come up the river shall come up. I speak knowingly on this subject, because it is a subject that I have argued half a dozen times. They have a right to come up. All that the city does, and what it is authorized to do, is to regulate the rates of wharfage, the manner in which vessels shall come from time to time, and how long they shall stay. That is the case here. This wharf is to be subject to all the regulations that the city of Washington may impose. If the Senator has any doubts about the effect of those general words let him make them more specific.

Mr. SHERMAN. If we agree so nearly, why not give the exclusive right to this company to build a wharf there on private property to be purchased by them? Why not give expressly to the corporate authorities of the city of Washington the right to fix the rate of tolls? If that is done I shall have no objection to it.

Mr. JOHNSON. As to buying private property, there is no private property there. They want a wharfage at the end of that street.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Ohio.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 20; as follows:

YEAS—Messrs. Collamer, Conness, Cowan, Davis, Harris, Sherman, Sprague, and Ten Eyck—8.

NAYS—Messrs. Anthony, Brown, Clark, Dixon, Farwell, Foot, Foster, Grimes, Harlan, Hendricks, Hicks, Johnson, Morgan, Morrill, Powell, Saulsbury, Sumner, Van Winkle, Wiley, and Wilson—20.

ABSENT—Messrs. Buckalew, Carlile, Chandler, Doolittle, Hale, Harding, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Ramsey, Richardson, Riddle, Trumbull, Wade, Wilkinson, and Wright—21.

So the amendment was rejected.

Mr. SHERMAN. I submit another amendment, to insert in the clause I proposed to strike out, after the word "wharf," in the twenty-fifth

line, the words "and the rates of wharfage;" so that the clause will read:

And the use and maintenance of said wharf and the rates of wharfage shall be subject to the municipal regulations of the city of Washington.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in, and ordered to be engrossed. The bill was read the third time, and passed.

#### EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

#### MILITARY SERVICE.

Mr. WILSON. I move to take up House bill No. 583, with a view of leaving it as the unfinished business for to-morrow.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, January 17, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### CAPTURE OF FORT FISHER.

Mr. RICE, of Massachusetts. Mr. Speaker, I have just received a dispatch from the Secretary of the Navy announcing the capture of Fort Fisher, and I send it to the Clerk that it may be read.

The Clerk read, as follows:

Fort Monroe, January 17, 1865.

Hon. GIDEON WELLES, Secretary of the Navy:

The Atlantic is just in from Wilmington. Fort Fisher and works on Federal Point are in our possession. The assault was made by the army and sailors on Sunday afternoon, and by eleven p. m. the works were ours. Losses heavy. Lieutenants S. V. Preston and B. H. Porter, of the Navy, are killed. Our captures were seventy-two guns and about two thousand five hundred prisoners. Generals Whiting and Lamb (rebel) are prisoners and wounded. The Vanderbilt is on her way North with dispatches. Two fifteen-inch guns were burst on the monitors.

E. T. NICHOLS, Commander.

[Great applause.]

#### LIGHT-HOUSE KEEPERS' PAY.

Mr. STARR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of increasing the pay of the light-house keepers, and to report by bill or otherwise.

#### DISABLED SOLDIERS' AND SEAMEN'S HOMES.

Mr. HOLMAN, by unanimous consent, introduced a bill donating public lands to the several States and Territories for the purpose of founding and endowing homes for disabled soldiers and seamen, and for other purposes; which was read a first and second time, ordered to be printed, and referred to the Committee on Public Lands.

#### ARMY REGISTER.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform this House whether there has been any compliance with the requirements of the resolution of the Senate and House of Representatives, in Congress assembled, entitled "A joint resolution to provide for the publication of a full Army Register," approved June 30, 1864; and if not, why said resolution has not been obeyed.

#### AMENDMENT OF INTERNAL REVENUE.

Mr. SLOAN. I ask unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the Committee of Ways and Means be, and hereby are, instructed to report a bill amending the act to provide internal revenue, &c., so that the revenues produced by said act shall be increased at least thirty-three and one third per cent.

Mr. STEVENS. If the resolution be modified so as to make it one of inquiry, and not one of instruction, I will not object to it; otherwise I shall have to do so.

Mr. SLOAN. I ask the gentleman to let the resolution come before the House, and let us have a vote on it as it is.

Mr. STEVENS. I object. It is not usual to positively direct what committees shall do.

#### STEAM WHISTLES.

Mr. SWEAT, by unanimous consent, presented the memorial of the Board of Trade of Portland for the use of steam whistles at various points on the coast in and near the harbors of Maine, and also the petition of ship-masters and ship-owners on the same subject; which were referred to the Committee on Commerce.

#### TRANSACTIONS WITH INDIAN TRIBES.

Mr. WINDOM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas it is believed and alleged by many persons that the troubles in which the United States are involved with various Indian tribes are the result of an unwise Indian policy and of fraudulent dealing with said Indians by the whites; and whereas an investigation of the facts may enable the Government to adopt a better policy and also to correct any abuses that may exist: Therefore,

Resolved, That a committee of five be appointed, whose duty it shall be to investigate as far as they may deem necessary all dealings and transactions of the Government through its agents or officers with said Indians, and that said committee be authorized to send for persons and papers.

#### BOUNTIES FOR VOLUNTEERS.

Mr. BROWN, of Wisconsin, offered the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing the President to offer bounties for volunteers to an amount in his opinion sufficient to secure the requisite number of volunteers, such amount, however, not to exceed the sum of \$600 for each volunteer; and also into the expediency, in connection with the offer of such bounties, of prohibiting all bounties of States, counties, municipal corporations, and individuals; and further, to suspend all proceedings by way of draft under the recent call until it shall have been demonstrated by actual experiment to the President that the requisite number of volunteers cannot be procured by the offer of bounties.

Mr. WASHBURN, of Illinois, objected, but subsequently withdrew his objection.

The resolution was then adopted.

#### GRANT OF LANDS TO MINNESOTA.

Mr. DONNELLY, by unanimous consent, introduced a bill making a grant of lands to the State of Minnesota to aid in the construction of a railroad from St. Cloud to the line of the Lake Superior and Mississippi railroad in said State; which was read a first and second time, ordered to be printed, and referred to the Committee on Public Lands.

#### SLAVES ENLISTED.

Mr. GRIDER submitted the following resolution:

Resolved, That the Secretary of War is respectfully requested to communicate to this House whether he has, according to the law approved February 24, 1864, appointed a commissioner in each of the slave States represented in Congress, to be charged with the duty to award to each loyal person, to whom a colored volunteer may owe service, "a just compensation, not exceeding \$300," for each such colored volunteer, to be paid out of the fund derived from commutation money.

Resolved further, That he state, as near as may be, the amount of said fund, and what further sum will probably be necessary to meet the requisitions of said law.

Mr. WASHBURN, of Illinois. I ask the gentleman to put it in the ordinary form, that the Secretary of War be directed, &c.

Mr. GRIDER. I agree to that. The resolution, as modified, was adopted.

#### INTERNAL REVENUE.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be hereby instructed to inquire into the expediency of amending the one hundred and twenty-fourth section of the act entitled "An act to provide internal revenue to support the Government, pay interest on the public debt, and for other purposes," as to embrace within its provisions legacies arising from the sale of real estate under will.

Mr. UPSON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be in-

structed to inquire into the expediency of so amending the internal revenue act as to make every person, other than one holding a license as a lawyer or claim agent, who shall draw deeds, bonds, mortgages, wills, writs, or other legal papers for others, or whose business it is to examine titles to real estate, to be held to be a conveyancer within the meaning of said act. Also, to provide a minimum percentage or rate of compensation for deputy collectors under said act. Also, to strike out of section one hundred and seventeen of said act, in estimating the annual income or gains of any person derived from the purchase and sale of stocks or other property, real or personal, "the increased value of live stock on hand;" and that they report by bill or otherwise.

#### MAJOR GENERAL J. J. PECK.

Mr. DAVIS, of New York, by unanimous consent, introduced a joint resolution tendering the thanks of Congress to Major General J. J. Peck; which was read a first and second time, and referred to the Committee on Military Affairs.

#### ENROLLMENT BILL.

Mr. LITTLEJOHN, by unanimous consent, introduced a bill to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes;" which was read a first and second time, and referred to the Committee on Military Affairs.

#### INDIAN APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending 30th June, 1866; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made the special order for Monday next after the morning hour, and from day to day until disposed of, and ordered to be printed.

Mr. HOLMAN. I presume this bill does not contain any appropriations not authorized by law, but I desire to reserve the question of order.

Mr. STEVENS. Let it be understood that on all appropriation bills this question of order is reserved.

Mr. HOLMAN. That will be satisfactory.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the support of the Army for the year ending 30th June, 1866; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made the special order for Tuesday next after the morning hour, and from day to day until disposed of, and ordered to be printed.

#### TAX ON TOBACCO.

Mr. STEVENS, by unanimous consent, introduced a bill to levy a duty on leaf and manufactured tobacco; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### REPORT OF ENGINEER J. W. KING.

Mr. RICE, of Massachusetts, by unanimous consent, introduced the following resolution; which was referred, under the rule, to the Committee on Printing:

*Resolved*, That there be printed for the use of the Navy Department one hundred copies of the report of the chief engineer, J. W. King, upon the dock-yards of Europe, with the maps accompanying the same.

#### CONSCRIPTION LAW.

Mr. CRAVENS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting an amendment to the conscription law, which shall provide that a person who has been drafted may put in a substitute from the list of those who have been subject to the draft but who have escaped the draft, by the person putting in the substitute taking the place of his substitute on the enrollment list, subject to subsequent drafts.

#### RECONSTRUCTION.

Mr. SPALDING. I now call for the regular order.

The SPEAKER. The regular order is the consideration of a bill (H. R. No. 692) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, reported from the select committee on the rebellious States, on which the gentleman from Massachusetts [Mr. ELIOT] is entitled to the floor.

Mr. ELIOT. I regret that I have not been able to support the bill, with the amendment, as reported from the select committee. If I had been able to give it my support I should not have felt called upon to detain the House at this time. Although I came to the examination of this bill prejudiced in its behalf, partly because of the interest which my friend at the head of the committee [Mr. DAVIS, of Maryland] has taken in the subject, and partly because at the last session, under the circumstances in which we were placed, I found myself with my friends upon this side of the House supporting a bill containing many provisions substantially similar to some in the bill now before the House, yet upon a careful examination of the principles of the bill, and of its specific provisions, I find myself not able to give it my support.

It will be remembered that at the last session no discussion was had upon the particular provisions of the bill then passed. There were strong reasons, as it was believed, for action at that time. Those reasons do not exist now in full, and there is time enough, if any bill shall be passed, to make it more perfect and more practicable than the amended bill as now offered by the committee seems to me to be. I desire, then, frankly to state to the House the reasons which will control my action.

I have offered an amendment to the bill as a substitute for it, and I have done so because I desired to avoid the charge that might otherwise be made of hindering legislation without attempting, at any rate, its improvement.

The first section of this bill—for I propose, without preface, to come to a direct examination of it—is in its terms peremptory; there are eleven States declared in rebellion, Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Tennessee, Louisiana, Florida, Arkansas, and Texas, and by the first section of the bill the President is called upon to appoint for each of these States a provisional governor, whose pay and emoluments shall not exceed those of a brigadier general.

There is no time, I submit to the gentleman from Ohio, [Mr. ASHLEY], allowed to the President for discretion, but he is called upon by the terms of the bill to make his appointments when the bill becomes a law. It may be said that this authority vested in the President would not be exercised until the time arrived when, within his discretion, it would be prudent; but that is not what the bill says. The day after this bill becomes a law the President has a right, and, for aught I see, would be called upon to exert the power to appoint these provisional governors for the States. My friend from Ohio will concede, as every gentleman upon the floor of the House must agree, that so far as all these States are concerned, excepting, it may be, Louisiana, Tennessee, and Arkansas, such appointments would be useless; they would be not only expensive, but of no effect, excepting, indeed, that the persons appointed to office could have a right to draw the pay which this bill contemplates; I say excepting so far as Louisiana, Arkansas, and Tennessee are concerned. The fifteenth section of this bill to a certain extent recognizes the governments which have been established in Louisiana and Arkansas; but the bill calls for the appointment none the less within those States of provisional governors, and, as I shall undertake to show to the House, if the bill becomes a law, notwithstanding what has been done in Louisiana, and in Arkansas, and in Tennessee, by the operation of this bill, the machinery of it is to be applied to each of those States.

The second section of the bill imposes upon the provisional governors to be appointed duties which they cannot perform, and other duties, I respectfully submit, which we ought not to compel them to perform. Of course they cannot perform any of the duties of governors until the military power of the United States has vindicated itself within the rebellious States; but when that has been done, the second section of this bill provides that the provisional governors shall see that this act and the laws of the United States and the laws of the State in force when the State government was overthrown by the rebellion, shall be faithfully executed.

Now, I want to know whether this House is

disposed, after deliberation, to confer upon the provisional governor of either of these States the power to see that the laws which were in force in those States in 1860 shall be faithfully executed, with no knowledge on the part of the House of the character or the import of those laws.

My friend from Ohio cannot tell us, I think, what the laws of the State of Mississippi, or Arkansas, or Tennessee, or Louisiana, or South Carolina are which he, in this bill, calls upon the provisional governors to see executed. Why should we demand the enforcement of the specific laws in these States regulating the collection of debts, the private and personal transactions of the inhabitants; concerning arrests; concerning the attachment and sale of property; concerning the jurisdiction of justices of the peace, the summoning of jurors, and the trial of causes; concerning crimes and their punishment by death or otherwise; the internal, minute, police regulations of those States where complexion appoints or reduces the punishment; concerning the establishment of courts, the election or appointment of judges; concerning the publication of books, punishing the circulation of books or writings advocating human rights; requiring the removal of free persons of color from the States; prohibiting free persons of color from engaging in business within the States; punishing by the lash free persons of color upon suspicion of false testimony and before conviction; prohibiting the employment of free persons of color who have recently come within those States, and authorizing the compulsory apprenticeship of free colored minors? There must be laws governing the internal administration of State affairs. But should we without knowledge undertake to compel the execution of laws without regard to their necessity or character or justice? We should not, I think, assume such responsibility.

There is a statute in one of these States requiring the authorities to cause to be apprenticed every free colored minor between the ages of seven and twenty-one. My friend from Ohio will hardly desire that such a law as that should be, by his vote, enforced, or that the provisional governor of that State should be called upon to see to its faithful execution. So also in regard to the law requiring the imprisonment of free colored sailors in southern ports. Yet all these provisions, and very many others contained on the statute-books of those States, and enforced in 1860, we are called upon by this bill to compel the provisional governors, to be appointed by the President, to see that they be faithfully executed.

I know that the bill says that the laws for the trial and punishment of white persons shall extend to all persons, but the converse of that is not contained in the bill; and there are, on the statute-books of the southern States, offenses which when committed by white men are punished in one way, and when committed by colored men are punished in another way. The punishment differs according to the color. There is no provision in this bill to permit colored persons to be witnesses on the stand; and although the laws for the trial of whites may extend to the negro, yet under the laws which the provisional governor is called upon to execute, negro witnesses are excluded from courts.

The third section of the bill contains provisions which, as it seems to me, ought not to be enforced. It provides that, until the recognition of a State government, the provisional governor shall cause to be assessed and levied and collected, for the year 1865, the taxes provided by law to be levied during the fiscal year next preceding the overthrow of the State government. That is to say, it requires the assessment for 1865 of the taxes provided by the laws of those States for 1860; and not only for 1865, but for every year thereafter. Of course, if these taxes assessed in 1860 were paid, it would not be contended by the committee that they ought to be paid again. I suppose that the object of the law is to require that the same amount of taxes, for the same purposes, shall be assessed in and for 1865, and for every year thereafter, that had been assessed in 1860. That is a remarkable proposition. Why should Congress undertake to say now that the amount of taxes levied and assessed in those States in 1860 shall be levied in 1865, 1866, and 1867, and until the State government shall be hereafter rec-



ognized—an arbitrary amount of taxation, fixed by Congress without any knowledge of the purposes for which they might be wanted, without any knowledge whether the amount is twice too large or not half enough? Suppose it should turn out that in 1860 the amount of taxation in any one State were, if you please, \$500,000—in which amount are included taxes for the administration of the State government, and taxes for all the purposes of county affairs, towns, parishes, highways, &c.—that aggregate amount would, by the terms of this bill, be levied for these different years, which may be twice as much as is wanted for the purposes of the provisional government; what is to become of the surplus? The whole amount of the taxes is to be paid to the governor to be expended by him, and any surplus is to be deposited in the Treasury of the United States, to the credit of such State, to be paid by and by on an appropriation by Congress after the State shall have been again admitted into the Union. That is to say, Congress undertakes to impose arbitrarily an amount of taxation; if it is too much, the surplus is to be returned, not to the people who have been made to pay it, but to the Treasury of the United States, for the ultimate benefit of the State.

It will be observed, also, that all the machinery for the collection of these taxes is adopted from the State laws. The property may be sold; the compulsory processes of law may be applied; titles may be changed; real estate may pass from one owner to another; and all these taxes are imposed without representation, without any parties being here to enlighten us; against the consent, without the knowledge of the parties concerned or the parties to be affected.

The fourth section, Mr. Speaker, is one which, so far as it goes, I find no fault with. It provides—

That all persons held to involuntary servitude or labor in the States or parts of States in which such persons have been declared free by any proclamation of the President, are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty under pretense of any claim to such service or labor, the courts of the United States shall, on *habeas corpus*, discharge them.

The fifth section I call the attention of the gentleman from Ohio to, because if it should come before him again, it seems to me that in one of its provisions it should be amended. It provides—

That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than \$1,500 and be imprisoned not less than five nor more than twenty years.

How large a fine may the court impose? It must not be less than \$1,500; it may be \$1,500,000. Now, I do not mean to say that that is an offense which is not black enough to justify the imposition of a fine that shall absorb the property of the man convicted.

Mr. ASHLEY. I copied that from the punishment inflicted for a violation of the fugitive slave law. I thought that if we had stood that so long it was but simple justice that it should be inflicted back on the enemy.

Mr. ELIOT. I do not doubt that my friend can find good reason for it. I simply suggest that, as a matter of legislation, it is better to fix a maximum punishment. Let the penalty be put at \$1,500,000, if my friend please, but let it be fixed. And I suggest that, as a principle of penal legislation, it is always better to fix the maximum punishment, leaving the minimum to the discretion of the court.

But the sixth section is open to another criticism of a different kind. It provides that every person who shall hereafter hold certain offices in the rebel government is "hereby declared not to be a citizen of the United States." Well, sir, that is applying the punishment before the offense is committed. See how it will operate. A private individual, carrying on his affairs, a lawyer, if you please, in Mississippi, is not affected as to his status by the provisions of this bill. He is a citizen just as much after its passage as before. But a month after its passage he takes one of the offices specified in this section. Then, according to the section, he is declared now not a citizen. I suppose that the intention of the committee was to provide that the holding of these offices shall be an act which shall deprive the offender of his

citizenship. But, further than that, we declare him not to be a citizen. Can he, then, be indicted for treason? I suppose that if we declare that a person is not now a citizen who shall by and by commit an offense, then when that offense comes to be prosecuted this bill will be his defense, if that prosecution should be for treason. A person cannot commit treason if he is not a citizen. I suggest that, for it seems to me a matter of some importance, that by and by, when the time shall come, we may have it within our power to bring to the bar of public justice, under indictment for treason, the leading traitors now in arms. I know it is said there is a qualified citizenship determined by residence when one has sought the protection of Government. But if Congress declares a man not to be a citizen it is very doubtful whether in our own country he could be punished as a traitor.

The seventh section, Mr. Speaker, is one which simply recognizes the government of Louisiana. I mean the seventh section of the amended bill, not of the substitute. I ought, perhaps, here to say that, by arrangement with the committee, the bill which was reported on the 9th of January as an amendment in the nature of a substitute is considered to be the text to be acted upon and altered by the House.

But I was saying, sir, that the seventh section, as it was contained in the other bill, is simply a recognition of Louisiana. I do not object to that, although the constitution of Louisiana is not entirely what I should like, as I shall have occasion presently to show. But that seventh section is now found in the bill which is under discussion as the fifteenth section; and if the gentlemen of the House will turn to the fifteenth section they will find that which originally was reported as the seventh. In the fifteenth section, not only the government of Louisiana, but the government of Arkansas is recognized. Now, it may be all well enough that the government of Arkansas should be recognized, and that the constitution adopted by the citizens of Arkansas in convention in January, 1864, at Little Rock, should be accepted. I understand that my friend from Missouri, [Mr. Blow,] from the committee, will state to the House reasons why that ought to be done. All that I have to say about it now is that we have yet had no reasons presented why Arkansas at this moment should be received as a State.

But the fifteenth section does not admit either of those States. It does not recognize either of those governments. The seventh section did; the fifteenth section only does it qualifiedly. It only recognizes the governments, provided the same or other conventions duly assembled shall first have incorporated into their constitutions certain provisions which are contained in this bill, and the marshal of the United States shall have returned to the President the enrollment directed by the eighth section, which is the seventh section in the substitute, to be made and returned to the provisional governor. That of course postpones all action for another year. But more than that, it makes it necessary to apply the machinery of this bill to the State of Louisiana and the State of Arkansas, just as if no action had been taken within those States by the citizens of them. I am inclined to think that was not the intention of my friend; but if he will look at the thirteenth line of the fifteenth section he will find that, before any recognition is given, the marshal must return to the President the enrollment directed by the seventh section to be made and returned by the governor. The "same" conventions that adopted the constitutions cannot act, for they have been dissolved. Other conventions cannot be "duly assembled" under this bill until an enrollment has been made of the citizens named in the bill and a convention of delegates elected pursuant to its provisions.

Now, sir, we will examine that seventh section presently; and I think it will be found before a full enrollment can be made and that action can be taken, it will be needful to have the provisional governor.

And that brings me to consider that section of the bill, which is—

That so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a suffi-

cient number of deputies, and to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall, together with the citizens of the United States from such State in the military or naval service of the United States, amount to a majority of the persons enrolled in the State, he shall, by proclamation, invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States.

Why, sir, that is an arithmetical impossibility. The majority of persons enrolled in a State presupposes more than one half of these men enrolled. Suppose you will have of the enrolled white men one hundred thousand, and the majority of that is more than fifty thousand. Suppose that forty thousand take the oath, that will leave sixty thousand who have not taken the oath. If you had eleven thousand colored soldiers, or sailors not enrolled you have fifty-one thousand, but you do not have a majority of the persons enrolled in the State. You have a number which is greater than one half of the number of persons enrolled, but you do not have one half of those persons. I suppose that the gentleman will say that the manifest intention of the bill is that a convention shall be called when a number is found, partly of the enrolled white men who have taken the oath, and partly of the colored soldiers who have not been enrolled, which is greater than one half of the number of enrolled men. Without stopping to show whether my criticism just now made was correct, let us assume the construction which the committee will give.

Now, sir, you will have in the case I have just stated forty thousand enrolled white men who have taken the oath, and you will have eleven thousand colored soldiers or sailors who are not enrolled, which with the forty thousand make fifty-one thousand, which constitutes a greater number than one half of the number of enrolled men. Take one step further. These colored soldiers and sailors are not made voters by this bill unless they are then in service. They are then to be counted in determining whether the convention shall be called. But suppose between the time of calling the convention and the time of electing the delegates these colored soldiers and sailors leave the service, there is nothing in this bill which gives them any rights, except so far as they are in the military or naval service. In the case supposed by me, at the time of the election of delegates if they are out of the military or naval service they will have no rights; and I think that will be more apparent when we come to consider the next section. The privilege of being counted only to determine whether a convention shall be called is given to them not because of their complexion but because of their condition in the service.

The next section provides that—

The convention shall consist of as many members as both Houses of the last constitutional State Legislature, apportioned by the provisional governor among the counties, parishes, or districts of the State, in proportion to the population enrolled by the marshal, in compliance with the provisions of this act, or in the military or naval service of the United States, as aforesaid. The provisional governor shall, by proclamation, declare the number of delegates to be elected by each county, parish, or election district; name a day of election, not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming, as nearly as may be convenient, to the places used in the State elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

Now, I call the attention of the committee to this section for the purpose of inquiring how that apportionment can be made and how the proportion is to be ascertained. The colored soldiers and sailors are not enrolled, they are not registered, they are not credited to any county or parish, they are aggregated. Suppose one county stands five thousand white men, that proportion is not fixed on that population. Suppose that there are twenty thousand colored soldiers or sailors in the service, what is to be done with them? How many of them are to be added to that five thousand of enrolled white men in that county? There is no way to determine how many belong there, and I submit, according to the provisions of the bill, it would not be practicable to distribute the men

who are in the military or naval service, among the different counties and districts in the State, so as to determine the proportion designated by this section.

If I have made myself understood by the committee I will pass on to the consideration of the next section.

Mr. ASHLEY. The gentleman will notice that the persons in the military and naval service are required to be enrolled.

Mr. ELIOT. I do not find in the bill any provision for enrolling those persons in the military or naval service. I will pause a moment whenever my friend will show me the provision. I think he will find it is the condition of being in the service that authorizes them to be counted and afterward to vote.

Then the ninth section goes on to say how the delegates shall be elected. We will now see what action is to be taken by the colored soldiers and sailors then in the service:

The delegates shall be elected by the loyal male citizens aforesaid of the United States, of the age of twenty-one years, and resident in the county, parish, or district in which they shall offer to vote, or in the military or naval service of the United States, and who shall take and subscribe the oath of allegiance to the United States in the form contained in the act of Congress of July 2, 1862.

Are these delegates to be elected on a general ticket? In Louisiana there were in the convention ninety-two delegates. In Missouri, the other day, when that glorious action was taken on the emancipation question, there were sixty-four votes. Suppose there are fifty delegates in any of these States to be chosen, are they to be elected upon a general ticket? Manifestly not, as I think; but by districts. If, then, they are to be elected by districts, I want to inquire in what district the absent colored soldiers are to vote? I have stated that they were not enrolled as belonging to any district. They have no legal, local habitation, or name. They may have belonged to men owning plantations in more than one district. Where shall they vote? The bill does not designate. For what district shall they vote? They vote for district "A" or district "B." They must themselves determine that question at the time. When the proper moment comes, for aught I see, they must themselves designate the district in which they choose to have their votes counted.

My friend [Mr. ASHLEY] says that is the way they do in Ohio with their soldiers. That is a very different thing, because the soldiers in Ohio are known to have homes, and known to belong to certain districts. That cannot be said of these parties who are now to be called upon to exercise the right to vote, because they are in the service of their country. They must designate the place, without any means of checking them, and without any means of ascertaining whether that designation of place be correct or incorrect.

The delegates shall be elected by the loyal male citizens aforesaid.

I wish to call the attention of the committee to that word "aforesaid," for the purpose of asking a question with reference to it.

The loyal male citizens aforesaid of the United States, of the age of twenty-one years, and resident in the county, parish, or district, \* \* \* or in the military or naval service, &c.

That refers to those same persons who were designated before in a previous clause as the persons to be counted in order to determine whether a convention should be called. I think that must be the intention of the bill. Now, sir, suppose the colored soldiers and sailors who were in the service at that time shall, before the time arrives for voting for delegates, have left the service, and suppose their places to be filled by other colored soldiers and sailors; which of those two classes shall vote? Shall it be the colored soldiers and sailors who are found in the service of the Government at the time they vote for delegates? They are not included within the term "aforesaid," because they were not counted in order to determine whether a convention should be called. Those who were counted when they came to vote are not enrolled, and are not in the service. Shall they vote? Certainly it would seem that those who are in the service when the delegates are to be voted for ought to have the right to vote; yet they are not included in the bill.

Now, Mr. Speaker, I have not time to go through the further sections of this bill, nor indeed do I

think it will be found necessary to do so. Whether the difficulties I have stated are inseparable from any bill upon this subject, I will not undertake to say. But I do say that it would be unsafe for us, in my judgment, to permit a bill containing these provisions to become a law. What is the need of any general bill? We passed one last session, I know, containing provisions, many of them like the provisions of this bill. There appeared to be reason to act then. But can we undertake in one bill to state what shall be applicable in detail in all these rebel States? Why is it not more wise to take the States as they shall present themselves for admission? We may, to be sure, agree upon certain principles. We ought to agree upon certain provisions which must be contained within the constitutions of the States before those States shall be recognized and permitted to act under the Government of the United States. I offered an amendment for this purpose to designate what it seems to me it is desirable that we should say. I will thank the Clerk to read the first section of that amendment.

The Clerk read, as follows:

That the States declared to be in rebellion against the United States, and within which the authority of the Constitution and laws of the United States has been overthrown, shall not be permitted to resume their political relations with the Government of the United States until, by action of the loyal citizens within such States respectively, a State constitution shall be ordained and established, republican in form, forever prohibiting involuntary servitude within such State, and guaranteeing to all persons freedom and equality of rights before the law.

Mr. ELIOT. Mr. Speaker, that section simply undertakes to set forth certain constitutional requirements—that the State of Mississippi, for instance, shall not be admitted to act as one of the States of the Union until a State constitution shall be ordained and established, republican in form, forever prohibiting involuntary servitude, and granting to all persons freedom and equality of rights before the law. Who here is not prepared to say that much? In offering this amendment, I need hardly say that I have acted for no party; that I am representing no interest; that I am only desirous of presenting to the House what it seems to me we ought to state as prerequisites of admission. If the House shall agree with me, I shall be glad, and I believe that the time will come, if it has not now come, when we shall all of us be prepared to stand upon and to defend successfully the doctrine of that amendment. Let them establish their constitution; let it prohibit slavery; let them grant freedom and equality of rights, and we need nothing else. No matter how they have done it, provided that it has been done by the loyal citizens of the State. Arkansas has acted in one way, Louisiana in another, and Tennessee is proceeding in still a different way. No matter, as it seems to me, how a State shall have brought itself before us, so only that it comes with a constitution that we can recognize.

In the second section of my substitute it is provided that the State of Louisiana is permitted to resume its relations with the Government of the United States. Now, that is in its effect just like the seventh section of the bill which the committee reported, and therefore I shall find no objection to that, I think, from my friends upon the committee. I confess that the constitution of Louisiana is not altogether what I like, but there is this provision within it, that the Legislature shall have power to pass a law extending the suffrage to citizens of the United States who, by military service, by taxation to support the Government, or by intellectual fitness are entitled thereto. We have every reason to suppose that the Legislature will speedily take this action. We all know that there are reasons, and strong reasons, why the State of Louisiana ought to be received and admitted again within our Government. There are ninety thousand men and women within that State who were slaves and were excepted from the benefit of the presidential proclamation. The constitution of Louisiana makes them free.

The constitution of Louisiana is admirably drawn. Its first article abolishes slavery forever, and its second article prohibits the Legislature from making laws recognizing the right of property in man. The powers of government are well distributed, and the provisions protecting elections and providing for public education are full and explicit. It is made the duty of the Legisla-

ture to provide for the education of all children between six and eighteen years of age, whether white or colored. And while it does not at once, as it ought to do, in my judgment, confer full political rights, it provides that the Legislature shall have power to extend all political rights to all persons who by military service, by taxation to support the government, or by intellectual fitness, may be deemed entitled thereto. From information derived from the highest sources I am satisfied that no time will be lost in taking such legislative action as shall be right.

Mr. KELLEY. I would like to inquire of the gentleman what reason there is to believe that the Legislature of Louisiana will execute the power intrusted to them by the constitutional convention? I confess that if that fact could be demonstrated to me, I would gladly support the bill. One reason why I hesitate about it is that I think I perceive a determination on the part of the Legislature not to do that thing.

Mr. ELIOT. Mr. Speaker, if I believed that there would be hesitation on the part of the Legislature, I for one would not recommend the bill.

Mr. GANSON. Mr. Speaker, I may suggest to the gentleman that the war may be continued down there till they do submit to it.

Mr. ELIOT. Mr. Speaker, in reply to the gentleman from Pennsylvania, I have to say that it has been with difficulty that I have brought myself to this action. There have been statements made here, from responsible authority, that the Legislature of Louisiana is about proceeding. There are influences bearing upon them which, I believe, will not be resisted. Nevertheless I do not pretend to conceal that I should, with a greatly increased zeal, advocate the restoration of Louisiana if the provision was contained within the constitution, as by the first section of the bill which I have offered it is provided that it shall be in the constitution of all the other States. And it is only because I believe that facts exist in connection with Louisiana that ought to entitle her to consideration now, and ought to induce us to act speedily in regard to her restoration, that I have been willing to act for it.

Mr. STEVENS. Will the gentleman from Massachusetts allow me to ask him a question which troubles me a little? If Louisiana and these other States are in the Union, by what authority do we legislate for their internal police? [Laughter from the Democratic side of the House.]

Mr. ELIOT. The question, as I understand my friend is, why, if these States are in the Union, we should legislate for their internal police. If they are in the Union just as Pennsylvania is, we ought not to; but the difficulty is that they are not in the Union in that sense, to that extent, thus fully. They are not out of the Union territorially, and yet rebellion has overthrown their governments for a time, and it is needful that the Congress of the United States should intervene and should legislate.

Mr. STEVENS. I understand the gentleman to say that they are partly in the Union, and partly out. About how much are they in the Union and about how much out? [Laughter on the Democratic side of the House.]

Mr. GANSON. The black part is in.

Mr. ELIOT. The government of Mississippi is not in the Union. It is a rebel government, established by the rebels, by traitors against the Government of the country, within the land and upon territory that is a part of the Union; and the Congress of the United States in that state of things has a right to legislate, because it is a necessity imposed upon it.

Mr. Speaker, there is no work imposed upon us by the people of the nation more full of consequences that reach into the far future than that of bringing back into the Union the States whose governments have been overthrown by traitors in arms against their country. As we discharge that duty rightfully and without fear, grounding our action on principle, or wrongfully, by enactments which compromise with principle, endeavor to evade the great and fundamental doctrines of freedom and equal rights before the law, so shall we be judged as true or as false in the years that are to come. We may not be able to construct at this time a plan by which, and by which alone, all the States in rebellion shall be admitted again to their political rights under our Government; but we

can declare, and we ought by solemn enactment to declare, that no rebel State shall be received until it shall come with a free constitution, prohibiting slavery forever within her borders, and containing provisions under which equal rights before the law may be secured.

Mr. FERNANDO WOOD obtained the floor. Mr. WILSON. I ask the gentleman from New York to yield to me to make a motion for the postponement of this measure.

Mr. FERNANDO WOOD. I shall do so.

Mr. WILSON. I move to postpone the consideration of this subject for two weeks from tomorrow; and on that motion I move the previous question.

Mr. ASHLEY. I ask the Chair whether the bill, if postponed, will maintain its present position.

The SPEAKER. It will. Being a special order it will be postponed as a special order.

Mr. DAVIS, of Maryland. I appeal to the gentleman from Iowa to withdraw his motion, and let the bill be disposed of one way or the other.

Mr. WILSON. I cannot withdraw the motion.

Mr. DAVIS, of Maryland. A vote to postpone is equivalent to a vote to kill the bill.

The previous question was seconded, and the main question ordered.

Mr. DAVIS, of Maryland, called for the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 34, not voting 45; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Arnold, Baily, Augustus C. Baldwin, Baxter, Blaine, Bliss, Boyd, Brooks, James S. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Cravens, Thomas T. Davis, Dawes, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eldridge, Eliot, English, Farnsworth, Finck, Frank, Ganson, Grider, Harding, Charles M. Harris, Herrick, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, William Johnson, Orlando Kellogg, Kernan, Law, Lazear, Littlejohn, Long, Mallory, Marcy, Marvin, McAllister, McIndoo, McKinney, Samuel F. Miller, Morrill, James R. Morris, Amos Myers, Leonard Myers, Noble, Norton, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Pike, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Scott, Shannon, Smith, Spalding, John B. Steele, Stevens, Strouse, Stuart, Thayer, Thomas, Townsend, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Chilton A. White, Joseph W. White, Williams, Wilson, Fernando Wood, Worthington, and Yennan—103.

NAYS—Messrs. Allison, Ashley, John D. Baldwin, Benham, Boutwell, Brundage, Broomall, Creswell, Henry Winter Davis, Eden, Garfield, Grinnell, Harrington, Holman, Kasson, Kelley, Francis W. Kellogg, Knox, Longyear, McBride, McClurg, Daniel Morris, Morrison, John O'Neill, Robinson, Ross, Schenck, Scofield, Sloan, Smithers, Starr, Stiles, Upson, and Wilder—34.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blair, Blow, William G. Brown, Dawson, Dumont, Gooch, Griswold, Hale, Hall, Benjamin G. Harris, Hooper, Hotchkiss, Hulburd, Hutchins, Jenckes, Philip Johnson, Julian, Kalfleisch, King, Knapp, Le Blond, Loan, McDowell, Middleton, William H. Miller, Moorhead, Nelson, Odell, Perry, Pomeroy, Pruyn, William G. Steele, Sweet, Tracy, Voorhees, Ward, Whaley, Wheeler, Windom, Winfield, Benjamin Wood, and Woodbridge—45.

So the bill was postponed till Wednesday, February 1.

Mr. WILSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MILITARY ACADEMY BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the special order, the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the bill making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866.

Mr. STEVENS. I move that the first reading of the bill be dispensed with, and that the bill be at once read by paragraphs for amendment.

The CHAIRMAN. If there is no objection the first reading will be dispensed with.

There was no objection.

The bill was read through by clauses.

Mr. BLAINE. I move to amend the bill by adding the following as a new section:

And be it further enacted, That section four of chapter forty-five of the public acts of the first session of the Thirty-Eighth Congress relating to cadets "found deficient" is hereby repealed.

I will endeavor to explain this amendment in a very few words. After an effort, persistently continued for many years, the academic board at West Point succeeded at the last session of Congress in incorporating in an appropriation bill the following section:

"That cadets found deficient in any examination shall not be continued at the Military Academy, or be reappointed except upon the recommendation of the academic board."

Now, Mr. Chairman, if the term "found deficient" referred simply to deficiency of cadets in their studies, and went to impeach their mental capacity, I should think the above an eminently proper law. No one desires to retain in the Academy for education at the public expense young men of inferior talents. But unfortunately, by the regulations in force at West Point, the "deficiency" of a cadet is founded as much upon petty irregularities of conduct—many of them utterly inconsiderable—as upon his character as a student and his rank and standing in the class-room.

For these trivial offenses the cadets receive demerit marks, and if these happen to reach one hundred in six months in the case of any one cadet he is doomed to dismissal from the Academy, and the provision which I have moved to repeal takes away from him his last appeal to the Secretary of War or the President. To show the character of the offenses for which a cadet may thus be dismissed, I quote from an official document a partial list of them, with the penalty attached:

"Bed not properly folded at 10 and 11 a. m.—one demerit."

"Bed down at inspection—one demerit."

"Curtains not drawn back at 6.45 a. m.—one demerit."

"Name of room-mate not on orderly board at 10 a. m.—two demerits."

"Unauthorized clothes-bag in possession—one demerit."

"Floor out of order near wash-stand—four demerits."

"Odor of tobacco-smoke in room—four demerits."

And a long list of similar grave offenses! The last one quoted is a little remarkable when it is known that tobacco and cigars are purchased by the cadets on the Point with the permission of the authorities of the Academy.

Now, Mr. Chairman, what I complain of is that a cadet may stand among the first of his class in attainments, in habits of study, in promise as a soldier, and yet if he gets one hundred demerit marks in six months for such petty offenses as I have quoted, there is no power in the War Department, there is no power in the President, there is no power under heaven that can retain him in the Academy—except the power of the Academic Board, which, by all the presumptions in the case, will not be exercised in his behalf. Let me give an instance that occurred within my own knowledge before this law of 1864 was passed—an instance which illustrates, so far as a simple example may, the beneficence of leaving the power of restoration in the hands of the Secretary of War. In 1861 I happened to be one of the Board of Visitors to the Military Academy, and while there a young man was "found deficient" and dismissed, because of one hundred demerit marks he had received in six months for such petty offenses as I have quoted. His "deficiency" had no reference to his scholarship, as he was conceded to be among the brightest and most promising of his class. Interested very deeply in his behalf, I came to Washington and successfully interceded with the Secretary of War, who, on hearing his case, ordered him to be readmitted to the Academy. He subsequently graduated very high in class-rank, and since his entrance upon active service has distinguished himself as an officer of great merit, serving with efficiency and distinction as an ordnance officer on Sheridan's staff in that splendid and victorious campaign in the valley of the Shenandoah. Sir, this is but one instance of many that might be named of cadets "found deficient"—restored to the Academy—graduating with honor and serving with distinction in the Army. I could give some very notable ones did not delicacy forbid my allusion to them by name in this public debate.

Many of the cadets, sir, who have been very precise and decorous in their conduct in matters

of petty discipline at the Academy, and manage to pass through smoothly, often graduating with high rank obtained by a very strict attention to "folding of beds by 10 a. m." and "drawing of curtains at precisely 6.45 a. m.," are unfortunately never heard from afterward. Their names do not always figure in the record of our bloody battles, and they have achieved no distinction in this war with all its thousand opportunities, while on the other hand not a few of the graduates of the Academy who at the Point had the "odor of tobacco in their rooms," and whose "floors were out of order near the wash-stand," have blazoned their names high on the roll of fame for conduct as gallant and skill as ever graced the battle-fields of any age or country.

I insist, therefore, Mr. Chairman, in conclusion, that we should restore to the Secretary of War and the President the power which the law of last year took away from them. If a case can be made out in favor of any cadet strong enough to warrant his restoration, he should be restored, and the Academic Board thus be reminded that their conclusions are not absolutely infallible, but that, like other men, they are liable to err—to err in the future as they have erred in judgment in the past.

Mr. STEVENS. Mr. Chairman, whether this will reach the object of the gentleman from Maine, I am not quite sure. Before this law was passed at the last session of Congress, there was a rule of the Academy precisely the same in its character. It was held that a member could not renominate a cadet when he was once dropped. It was held that he should be recommended by the Board of the Academy. When the law is repealed, will not that rule remain? If this amendment will, besides repealing the law of the last session, do away with the rule of the Academy to which I have referred, I think I will go for it. Before that rule was adopted, if a cadet were dropped, a member could fill his own vacancy and renominate the same cadet, who could be tried again. When that rule was adopted by the Academy a member could not renominate a cadet who had been dropped, nor could anybody else. I only want to know whether the amendment reaches the whole case.

Mr. BLAINE. It reaches effectively any such case where the Secretary of War or the President may think it right to intervene.

Mr. STEVENS. I should go further and say that a member should have the power to renominate.

Mr. SCHENCK. Mr. Chairman, I hope that this amendment will be adopted, and that the matter will be restored to what it was prior to the passage of the section at the last session which has been read to the House. The object of that section seems to protect the Academy against any possible supposition that it may be mistaken in its decision in regard to any cadet. I agree with the gentleman from Maine, and I would, as a general rule—of course there are exceptions—turn the graduating classes the other end foremost when I expected to secure efficient soldiers. The fact thus far seems to have been that the heads of the graduating classes at West Point, and so with the Naval Academy at Newport, are men peculiarly well qualified to become principals of female academies or colleges: excellent gentlemen, but with no qualities for field service. The removal of this objection is one step, it seems to me, toward a correction of the evil, and is one step toward correcting what may be the possible mistakes of the faculty of that Academy. It permits an appeal from their decisions, and enables young men of spirit and metal, mischievous sometimes, to have things *mala prohibita* but not *malo per se* prevented from denying them the privileges of the Academy. I hope that the amendment will prevail.

The amendment was adopted.

The Clerk read:

For commutation of subsistence, \$4,000.

Mr. SPALDING. I move to strike that out; and I would like to have an explanation of it.

Mr. STEVENS. It is nothing more than to pay for board, and has always been provided in this shape.

The amendment was disagreed to.

Mr. STEVENS. I move that the bill be laid aside to be reported to the House, and that we take up the legislative, &c., appropriation bill.



Mr. SPALDING. I object, and want a vote taken on laying the bill aside.

The CHAIRMAN. The Chair will put the question to the committee.

The question was put; and the motion was agreed to.

So the bill was laid aside to be reported to the House.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The committee next took up for consideration the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1866, which was made a special order for this day.

The CHAIRMAN. If there is no objection, the first reading of the bill will be dispensed with.

Mr. BROOKS. I must object for the present until I can have time to examine the bill.

The Clerk proceeded with the reading of the bill, but was subsequently interrupted by

Mr. BROOKS, who withdrew his objection.

No further objection being made the first reading of the bill was dispensed with, and the Clerk proceeded to read the bill by clauses for amendment.

Mr. SCHENCK. I move to amend by inserting on page 4, line sixty-two, the following:

For removing the unsightly high fence or railing which has been erected in the old Hall of Representatives, \$200.

It will be recollected that at the last session of this Congress a liberal appropriation was made for the purpose of putting the old Hall of Representatives into a condition for receiving such statutory as should hereafter be furnished by the several States, of eminent deceased citizens. Very properly, in pursuance of that provision of law, there has been a pavement or tile floor put down in that Hall; but for some reason understood by nobody, perhaps, but the architect himself, there has been a passage way, as every one knows, constructed, and shut in by a high bronze fence on either side, which makes the place look much more like a menagerie for shutting up on either hand such wild beasts as might come into the possession of the Government than for any other purpose.

As to the statutory, either in groups or single figures, no one, unless he be a tall man, will have the privilege to look at them from his place in that passage without raising upon his tiptoes. As to shorter persons, and ladies in particular, they cannot reach up to the top of the rail to get a peep at them; and no one will be permitted in any event to approach them in order to inspect and enjoy any works of art.

I would rather see the whole Hall left open, or if there must be a railing, a low, light, graceful railing, a work of art in itself, than that great rude, rough, unsightly structure now there, destroying the whole original object of the appropriation. I do not know whose taste it is, and I do not know that anybody agrees with me in the opinion I have expressed; but it strikes my mind that nothing could have been done which would more disfigure and destroy the effect of that fine hall or room or defeat all the purposes for which Congress chose to set it apart, than just what somebody has done by the work I speak of.

I do not propose anything being done except, first, the clearing out of the way that which has been done. Perhaps other gentlemen may have something to propose in the way of further improvement.

Before I sit down I will say that if it is designed that statutory shall be viewed at all, that object can be accomplished, if an inclosure at all is necessary, either by some light railing which will leave the statutory open to view, or by some sufficient railing, if that is required, around each group, thus leaving the whole Hall open to be walked through, like any other gallery of art in any other country. Now it looks more like a pen, or a menagerie, or anything else, rather than a place for works of art.

Mr. MORRILL. I presume the gentleman from Ohio has accomplished his main purpose by calling attention to the fact of the unsightly iron railing which now exists. I cordially concur with him in all his criticisms in relation to it. At the earliest moment after I saw the commencement of that railing, soon after reaching the capital, before the session of Congress commenced, I waited

upon the architect and remonstrated with him as to the style and manner of it. After some consultation he was ready to admit that it was wrong, and that he was willing to put in a very different railing of a very different style; but he said it would be impossible to do it while Congress was in session, with the constant passing to and fro through the hall, without interfering with the workmen; and hence that it would be necessary to delay the work until after the adjournment.

It is very obvious that the criticism of the gentleman from Ohio is just as to the massive character of that work. It is, for all useful purposes nothing more than a fence, not only to keep people away from the statutory that may hereafter be erected there, but to keep away spectators from viewing it. The railing should have been constructed so as to leave an open area in the center, either a circle or a hexagon, so that the spectators might have remained out of the way of those passing to and fro to this Hall, and ought to have been a beautiful structure, light and artistic, instead of being a very common and coarse one.

I trust, however, that under the circumstances, the House will not appropriate anything to remove the railing, for it has at least this useful purpose, that of preventing many frequenters of this building from scratching their names upon the beautiful columns there, as has already been done.

Mr. SLOAN. What was the cost of this railing?

Mr. MORRILL. I believe the cost was some \$3,700. [Cries of "Oh! Oh!"]

Mr. INGERSOLL. I suppose that some appropriation may be necessary in order to have this ungainly, unwieldy fence removed immediately. I hope that at all events \$100 will be appropriated, and that the fence will be taken out of the way forthwith. In my opinion an ordinary rail fence would be preferable, and would look better, put up by the original "rail-splitter" of Illinois. [Laughter.]

This is really a matter of some importance. Here is a fence within the Capitol of the nation that disfigures that part of the building which has been set apart wherein works of art and all that goes to beautify and adorn the Capitol are to be preserved and admired by those who come here to behold them; they are to be confronted with a fence nine feet high, I think; I may put it a trifle too high, but I think it ought to be removed at once. I think this appropriation ought to be made. I do not believe there is a member of this House who, when he passes through that Hall, does not shudder as if he were entering the walls of some prison rather than a chamber dedicated to works of art. I hope that an appropriation of \$100 will be made to remove the fence, and that no appropriation will be made for another fence. I do not think we need to be fenced up in this manner. When the works of art are placed there, let a policeman be stationed there to preserve them from those who might be vandals enough to destroy them; but let us not be debarred from admiring what may be worthy of admiration; let the fence be removed, whether there is any statutory there or not.

Mr. SCHENCK. I will modify my amendment so as to make the appropriation \$100 instead of \$200. I do not shrink, sir, from my purpose and desire to have this fence removed in consequence of anything which has been said by the honorable gentleman who represents the Committee of Ways and Means. I am inclined to believe that perhaps my first proposition, made on the spur of the moment, to appropriate \$200 was too liberal, and I therefore prefer to modify the amendment so as to give only \$100.

Mr. THAYER. I suggest to the gentleman that he add the words "or so much thereof as may be necessary."

Mr. SCHENCK. I accept that modification of my amendment. I would go further if it were possible, and would make the architect, whoever he may be, who designed and put the fence there, himself pay for its removal. I do not understand, however, to whom we are indebted for this work of art, and I would beg the gentleman who represents the Committee of Ways and Means to tell me if he can who was designated to carry out that provision of law.

Mr. MORRILL. I believe that the architect of the Capitol is wholly responsible for the design and for the work.

Mr. SCHENCK. Now, sir, in reply to the gentleman from Vermont I have this objection to make. I am unwilling to leave the matter to the discretion of anybody who was capable of putting it there in the first place. It seems to me that a man who exercised the discretion committed to him by the law of last session by putting up such an erection as that is not fit for anything except to carry out our purpose by taking it down. I am not willing, therefore, having seen such specimens of his discretion and taste, to make the provision any other than absolute, that he shall remove, and remove immediately, what he has put there.

The gentleman from Vermont, says, however, that it is important to keep it there during the session of Congress, in order to protect the pillars of that fine old Hall from being scratched and disfigured. Why, sir, in the two lines immediately preceding the point in the bill where I propose to have this amendment inserted, I find an appropriation of \$10,234 for Capitol police. If our Capitol police, to whom we give ten or eleven thousand dollars, are not capable of protecting these pillars from injury by men or boys, it seems to me that we make but a poor appropriation in that direction too. I am willing to have the whole fence removed, and to leave the protection of that Hall and of its surroundings just as they were and had been, somewhat to our disgrace, for a number of years before we made this appropriation last winter for its renovation and better condition. I have no fear, therefore, that our Capitol police, if it be good for anything, will not be able to protect the pillars of the old Hall, even from members of Congress, without the help of that fence.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I propose to say only a few words on this matter. It certainly is not very surprising that we have this debate on this subject here to-day. Nothing must be done at the last session of Congress but to vote an appropriation of money for fitting up that old Hall. We made a very liberal appropriation; and the architect, Mr. Walter, a very distinguished and eminent gentleman in his profession, has gone to work and put up this fence. And I beg leave to differ most emphatically from the gentlemen from Ohio [Mr. SCHENCK] and my colleague [Mr. INGERSOLL] in regard to it. I admire the taste of it, [laughter]; and I trust that the work having been done, we will not go to spending more money to have the fence taken down. It is a good strong fence. [Laughter.] The gentleman from Ohio could not jump over it. [Laughter.] It leaves a straight way to the Senate, to which some gentleman have not yet been able to arrive. [Laughter.] I trust that the committee will not go to making any further appropriations for this purpose.

There is another plan on foot now. We have had this magnificent Hall constructed—a Hall which, I believe, every gentleman who was condemned to sit in the old Hall was satisfied with; but a proposition is on foot to expend half a million, more or less.

Mr. MORRILL. More.

Mr. WASHBURNE, of Illinois. More, the gentleman from Vermont says, in order to remodel this Hall. I am opposed to all of this. I think that matters are well enough as they are, and that it is well for us in the present state of affairs not to make any more appropriations in this way.

Mr. MORRILL. While I do not differ from the gentleman from Ohio in his main object, yet I think this is the wrong place to offer the amendment which he has proposed, and if I had not been entirely willing that he should make this *exposé* I would have raised a point of order on the amendment. But as it is very certain that the architect, whose taste, in some respects at least, we all admire, made a mistake in this matter, which he is ready to correct at the earliest opportunity, I think we should give him a fair opportunity. In reference to removing this fence I will say to the gentleman that the posts on which this railing rests are all of them deeply anchored in the foundation; and if the fence is to be removed it will be necessary that a large share of the tiling be taken up. I trust, therefore, that these repairs will not be required to be made during the session, and that gentlemen will be willing to wait till the close of the session.

The question was taken on Mr. SCHENCK's amendment, and it was agreed to.

Mr. BROOKS. I observe in the bill the following item:

For expenses of heating and ventilating apparatus, \$16,000.

Now, there is no question that the heating apparatus is very efficient; but I would be glad if the committee would give us some information as to the ventilating apparatus. [Laughter.]

Mr. MORRILL. I believe that almost every gentleman has taken occasion to "ventilate" himself during this session; and so far as ventilating the Hall is concerned, I suppose we shall have to wait until the special committee report. They are now receiving evidence on that subject, and I understand will report soon.

Mr. SPALDING. Mr. Chairman, I observe that the Clerk has just read this clause:

For miscellaneous items, \$30,000.

I desire, for my own information, to have this item explained. I do not see the necessity of considering these appropriation bills unless we understand what the appropriations are for. Here is the round sum of \$30,000 appropriated—for what? I call upon the members of the Committee of Ways and Means to explain so that we may vote understandingly upon this subject. If it is meant as a contingent fund for any officer of the Senate, let it be so understood. If it is for any specific items, let them be stated, so that we may vote understandingly. Otherwise I shall move to strike it out.

Mr. MORRILL. It has been the practice heretofore to allow each House generally to control its own expenses. These items are just as they have been for years in relation to the Senate, and we have not felt at liberty to change them. I confess that I do not know precisely for what purposes this amount is appropriated to the Senate; but it is nothing more than what has usually been allowed heretofore.

Mr. SPALDING. If it has been usual to allow it, I must submit. I have nothing further to say.

Mr. PRICE. I move to amend by striking out this item of \$30,000. I am asked by a gentleman on my left why I would have it stricken out. I answer, because I do not know any reason why it should be there. If I should vote \$30,000 for miscellaneous items, and should afterwards be unable to tell what was the object of thirty cents of that expenditure, I should occupy, I think, a rather unenviable position before my constituents, before the world, and before the bar of my own conscience.

Now, I think that we have gone far enough in voting appropriations without knowing what they are for. I opposed, last session, the appropriation to fix up the old Hall; and now we learn that \$3,700 of that money has been squandered for a "fence." We are now asked to vote \$30,000 for "miscellaneous items," and no man on this floor can tell what thirty cents of that appropriation are for. Is money so plentiful in our Treasury that we can afford thus to vote it away? I have yet to learn that fact. But it has been the practice of this House ever since I have been a member of it to vote money without stint or limit, at the same time when we are appealing, not only to our own people, but to Europe for money to carry on this war. How long will it be before we shall exercise a little common sense and prudence in voting away the money which the people are taxed to the utmost limit to raise? Here is an appropriation for \$30,000, with no man able to tell us where it is to go! How can I vote for an appropriation of that kind? I think that we have gone about far enough. If we are determined to proceed in this way, it is about time that we should do what Judas did when he had received his thirty pieces of silver. Such outrageous legislation is without any excuse whatever. Gentlemen get up here and ask the members of the Committee of Ways and Means what certain appropriations are for, and they cannot tell. The only information we can get is that such appropriations have been made heretofore! Can usage sanctify so improper a system? No man in his private affairs attempts to do business in this way.

Sir, I speak with some feeling on this subject, because I have again and again and again attempted to raise my voice in opposition to this system of reckless expenditure; but it has been

as chaff before the wind. I undertake to say that it is time that the Representatives of the people should look to this matter, and practice in their public capacity the same principles of economy which they follow in their own private business affairs. When we do thus we may expect the people to pay their taxes with some kind of good nature. It is but natural that the people should expect us to give some reasonable statement of the objects of the appropriations which we make, that they should expect us to give an account of our stewardship. If we continue our present reckless system, we can only say to the people, "We do not know what has become of your money. We did not lay it away in a napkin, like another unfaithful steward; but we have squandered it, and have nothing in the world to show for it." I shall oppose it although I may be alone; and I shall oppose all such appropriations. I shall vote for nothing unless I am satisfied there is some utility in it, so that when I go back to my constituents I can be able to answer them intelligibly what I have done in reference to their money. For, sir, it is their money and not ours. It is their money, and we ought not to appropriate \$30,000 until we know exactly where it is going. We have not so much money, I take it, that we can throw it away recklessly. No, sir; I say that this House ought not to pass an appropriation until it is satisfied that it is for a good purpose. Let money only be applied to good purposes and then the people will cheerfully bear the burdens of this war. If we go on in this reckless manner we must expect complaints.

Mr. MORRILL. Mr. Chairman, from the gentleman's earnestness one would suppose that a large portion of the revenue collected in the United States was collected in his district. If the gentleman will examine he will find that but a small portion comes out of his own particular people. If the gentleman had made an inquiry in reference to the expenditures in the House of Representatives and had waited until we had progressed that far in the bill, I would have been ready to have replied. He will find that the same amount is appropriated for the House of Representatives, and that is appropriated for the various expenditures for repairs of the Hall, repairs of the furniture, funeral expenses of members, Sergeant-at-Arms, contestants, &c. They are the expenditures which have been alluded to. I presume that that is the character of the amendments of the Senate; but so far as this House is concerned, as I said when I rose at first, we have not felt at liberty to control the expenditures of the Senate, claiming the right on our part to control the expenditures of the House.

Mr. WILSON. I am not prepared, Mr. Chairman, to say that I shall vote to strike out this item, but I am prepared to say that this House receives very little comfort from the Committee of Ways and Means, when any inquiry is made concerning items embraced in appropriation bills. I do not say that it is because they do not desire to give us the information, but I presume it arises from the fact that the committee is not able to give examination to all of the items embraced in the bills which they report. That arises, sir, from the fact that they have too many duties to perform. That committee has absorbed business enough in this House to demand the attention of three or four committees. The appropriations, themselves, aside from all the other business which goes to them, is sufficient for the attention of any one committee of the House.

During the last session I sent a resolution to the Committee on Rules, requesting that committee to inquire into the expediency of creating two additional standing committees in order that the business which now goes to the Committee of Ways and Means might be divided and receive the attention of three committees of this House instead of one. But no report was made at that session. I have renewed that application by a resolution sent to that committee at this session, and I hope that it will be acted upon favorably.

Now, sir, the manner in which these appropriation bills are received from that committee and the manner in which they are disposed of in this House results in this, that the heads of the Departments hold to-day the appropriating power of this Government. What a head of Department recommends is put into an appropriation bill as a matter of course. If the Committee of Ways

and Means is asked for information in relation to any item we are told that it has been recommended by such and such officer. Thus the Representatives of the people, who are engaged in appropriating money, receive no information, not, I say again, because the committee have no desire to give information, but because they have not time to devote to the various items in the bill in order to be prepared to give that information.

I make these remarks, sir, more for the purpose of calling to the attention of the House the necessity of reform in this respect than to support the motion to strike out this item. We must have reform or we can never know what these appropriations are for; we can never know whether they are just and proper; and we can never know whether we are appropriating too much money or too little. We should have a committee that should have abundant time to prepare bills so that the members may have full information on the subject.

I hope, therefore, that this measure of reform will receive some attention, not only at the hands of the Committee on Rules but also the attention of the members of the House, for it is one very much needed for the good of the public service.

Mr. KASSON. I do not propose, in the absence of the chairman of the Committee of Ways and Means, to enter into a general defense of the action of that committee. I am unwilling, however, as one humble member of that committee, to allow to go unanswered the suggestion of my friend and colleague from Iowa, in which he said that the heads of Departments are the controlling power in making appropriations.

Mr. WILSON. I made that suggestion chiefly upon the fact, which is apparent to every member of this House, that when an appropriation bill is under consideration and information is asked, the chairman of the committee or the member of the committee having the measure in charge, invariably turns to the estimates furnished by the heads of Departments and says, "Here is the estimate furnished by the Department, and it calls for so much."

Mr. MORRILL. Allow me to interrupt the gentleman to say that the estimates are based upon positive law, as are our bills, in which we propose to appropriate precisely what is required of us—that is, the expenses authorized by law.

Mr. WILSON. Certainly the gentleman from Vermont will not pretend to say that the law determines what amount of appropriation shall be made for each particular purpose; what amount of appropriation shall be made for the support of the Army and Navy, for instance. If, sir, the law determines all these facts, what necessity of consuming the time of the House in considering appropriation bills at all?

Mr. KASSON. I will now proceed to say what I rose for the purpose of saying. So far from the habit of the committee being that suggested by my friend and colleague, it is the constant habit of the committee to do two things: one is, that if they deem it necessary to make an examination themselves personally more fully than the head of a Department can do it, the committee go to the Department for that purpose; and secondly, that scarcely a day, certainly I may say not a week, passes, in which, in compliance with the request of the committee, some of the heads of the bureaus are not brought before the committee for the purpose of making the precise explanation which we are charged with inability to make. I beg my friend and colleague to make the charge specific, if he has one, touching the inability or failure to make these examinations. This morning no less than two heads of bureaus have been before the committee for the very purpose of giving the committee information which they desired to have. And now, to come to the precise point before the House, let me say that not only the particular items named by my colleague upon the committee, but the incidental expenses of the committee rooms, the ice that cools our water (I hope nothing which heats the water) and everything of that kind is included in the incidental expenses. A thousand things are included, embracing the expenses of contested-election cases, and the fees of the Sergeant-at-Arms in carrying out the orders of the House. And I will state to the gentleman what perhaps he does not know, that the system touching the auditing of these expenditures is as well established by the auditor and

comptroller in charge of the matter as in reference to any other expenditures made by the Government. The accounting officers hold the disbursing officers of the two Houses to the same strict responsibility in the production of vouchers, and in requiring those vouchers to conform to the long-established usages of the Government, as if there was a specific law touching this appropriation. The whole thing is guarded by the usage which has become a law in the accounting Department of the Government.

If either my colleague or any other gentleman of the House can tell me how much these incidental and miscellaneous items will amount to for the next year, I will vote with them to fix them at that sum; but if they cannot it is their duty, I say, as it is mine, to accept the estimates made by the officers of the Senate and House as the probable amount that will be required.

Mr. DRIGGS. At the last session of Congress we made an appropriation of \$12,500 to rebuild the President's stables. I would inquire of the gentleman from Iowa if he has any information leading him to know what amount of that appropriation has been expended, for it seems to me, looking at the condition of the walls of those stables after they were burned, eight or ten thousand dollars was all that was required to rebuild them.

We have heard nothing in reference to the manner in which that appropriation has been expended, and I would like to know how the matter stands.

Mr. KASSON. I shall be obliged to refer my friend to the auditor having charge of that portion of the expenditure of the Government, and to the Committee on Expenditures appointed by this House, as that matter does not come within the province of the Committee of Ways and Means.

Mr. PRICE. I wish to say a word in reply to the gentleman from Vermont.

Mr. KASSON. I yield the floor to my colleague.

Mr. PRICE. I have but a word to say, and I should not have said that word but for a remark or two which fell from the gentleman from Vermont that I think were entirely irrelevant to the question before the committee. It is true that the residents of my district, the men that I represent, do not pay all the taxes to support this Government. If that item of information is of any value to the gentleman from Vermont he now has it. But I want to say that no constituency, in proportion to their means and ability, pay any more of the expenses of this Government than do my constituents. They fight well, they vote well, and they pay well. If you want any better constituency than that, I do not think you can find it even in the mountains of Vermont.

But the gentleman makes another observation: he says that there is a similar appropriation made in this bill for the House. Ay, sir, that is the point. Pass this appropriation for the Senate, an appropriation of \$30,000 for what you do not know anything about, and when you come to the similar appropriation for the House, if there is any attempt to resist the appropriation of \$30,000 for the House, it will be said, "Oh, you have voted \$30,000 for the Senate, and established the precedent, and therefore you must vote \$30,000 for the House; because you have done one wrong you must do another."

Now, I never was educated in that school and do not understand that way of doing business. Show me what you want this money for and that it is necessary for the purpose of carrying on the machinery of the Government, and I will vote for every dollar that the Committee of Ways and Means ask, and then I can go home to my constituents and ask them to stand any kind of taxation. But do not ask me here now, or at any other time, or in any other place, to vote one dollar or one cent unless I can be assured by some gentleman who is presumed to know something about it, that the money is absolutely necessary for the purposes of the Government.

In regard to the remark of my colleague who is on the Committee of Ways and Means [Mr. Kasson] that there are ten thousand items—that, I think, was his expression—that we cannot know anything about, I ask any gentleman to examine this bill and tell me whether the specifications are not tolerably numerous. There is a specification of almost everything, and of some things that no

one would think of unless he read it. Every conceivable item is specified, and then you put in an item of \$30,000 for this end of the Capitol and \$30,000 for the other, making \$60,000 to be expended, and not a man above ground, not a man living or to be born hereafter can tell what it is for. You ask men in their sober senses to vote \$60,000 without knowing what sixty cents of it is for. I am utterly astonished, perfectly surprised. I would not be so much surprised but that the same thing is done here time and again. I undertake to say that if gentlemen look through this appropriation bill, they will find other items of a kindred character. I hope the House will not vote anything unless they know what it is for. I ask for tellers on my amendment.

Tellers were ordered, and Messrs. PRICE and MORRILL were appointed.

The committee divided, and the tellers reported ayes 37, noes 54.

So the amendment was rejected.

Mr. KELLEY. I move to amend the bill on page 6, line one hundred and eleven, by inserting after the appropriation for the Congressional Globe the words:

And to pay the publishers for binding the same, \$48,800.

The Globe of last session has not been delivered, so far as I can learn, to any member of the House, and I propose that the publishers shall proceed to bind it, so that it may be delivered while gentlemen remain members of Congress. It will save the Government printing office just the amount that this will cost. The work is now bound at the Government printing office, and that establishment is so overburdened that we have not yet got the Globe for last session, and do not know when we will get it. This amendment merely transfers the work; it neither increases nor diminishes the cost, but transfers the work to an establishment that will be able to deliver the Globe to members during this Congress.

Mr. NOBLE. Mr. Chairman, I would suggest to the gentleman from Pennsylvania to amend his amendment so as to limit the time within which the work shall be done. I have had a conversation at the Globe office, wherein I was told that the work could be done there, and that the volumes could be ready for delivery within ninety days from the close of any session of Congress.

Mr. KELLEY. I am not advised on that point. I therefore make no suggestion. I know that it would expedite the delivery of the books very much. I will accept as an amendment any proper and just limitation.

Mr. NOBLE. I had a conversation with the chief clerk at the Globe office, in which he said that they could do the work within that time.

Mr. KELLEY. Well, will the gentleman suggest a proviso?

Mr. NOBLE. I will; "provided the work be done within ninety days from the close of the session."

Mr. KELLEY. I accept the modification.

The question was taken on Mr. KELLEY's amendment, as modified, and it was agreed to.

Mr. KERNAN. With a view to obtain information, I move to strike out the words "Capitol Police, \$13,920." We have already passed over an item of \$10,234 for Capitol police. I should like to know what we want with two appropriations of over \$24,000 for Capitol police.

Mr. MALLORY. Because it takes that amount of money to keep them. [Laughter.]

Mr. KERNAN. No one knows it.

The CHAIRMAN. The amendment cannot be entertained except by unanimous consent, the committee having passed from that portion of the bill.

Objection was made.

Mr. KELLEY. It has been suggested to me that it would be well to modify my amendment in regard to the binding of the Congressional Globe, by inserting the words after the amount, "or so much thereof as may be necessary."

There being no objection, it was so modified.

Mr. PRICE. I should like to know what this item is for:

For one complete set of the Congressional Globe and Appendix for each Representative and Delegate in the first session of the Thirty-Ninth Congress, who has not already received the same, \$23,000.

I want to know whether it is for furnishing complete sets of the Congressional Globe from the commencement of the work.

Mr. MORRILL. I would refer the gentleman from Iowa to the act of last session making a new bargain with the publishers of the Globe, by which the old terms were to be continued, to give a complete set to new members.

Mr. PRICE. I move to strike out the following item:

For horses, carriages, and saddle horses, \$9,000.

I make the motion to strike it out in order to know what the item is for. It may be necessary, but I do not know it. I want to know what the necessity is for the use of horses and carriages, and saddle horses. We have city cars which give us the means of getting from one point of the city to another without having to hire carriages and saddle horses.

Mr. MORRILL. These horses and carriages are used for the purpose of carrying mails and books to and from the public printing office. There are one or two horses used for mail boys or pages to carry letters and packages.

The question was taken on Mr. PRICE's amendment, and it was rejected.

Mr. PRICE. I move to amend by striking out the following: "For miscellaneous items, \$30,000." I make the motion for the same reason that I have already given to the committee, and I shall not consume time in reiterating those reasons. We have traveled over one page only of this bill since we passed a similar item of \$30,000, and here is another appropriation of \$30,000 staring us in the face "for miscellaneous items," which covers all creation and the rest of mankind. [Laughter.] It may be right. I do not know but it is. I want to know whether it is so or not before I vote for it. I see no reason for putting in the sweeping appropriation of \$30,000 for miscellaneous items without specifying what they are. Our Government has been in operation long enough for us to know what money is wanted for. It appears to me that there are specifications of items enough without putting in on every page an appropriation of \$30,000 for miscellaneous items.

Mr. BROOKS. That is evidently a misprint, and I think that we are much indebted to the gentleman from Iowa for calling attention to it. It is a misprint, I am sure. It never was the intention of the committee to double the amount. This but confirms the fact that the Committee of Ways and Means have so much to do that they have not time to read their own bills.

Mr. MORRILL. It but confirms the fact that the gentleman from New York [Mr. Brooks] has not had time to read this bill, although he first announced that he had read it through. If he had read it through he would have discovered that this is an appropriation for the House, whereas the other was an appropriation for the Senate. [Laughter.]

Now, Mr. Chairman, it is due to myself to say that I was not aware that I was to have charge of this bill till a few moments before it came up; therefore I had no opportunity to inform myself particularly in regard to it. But I believe that all the information which any fair-minded gentleman has a right to demand in relation to this item has been communicated by the committee. Every gentleman of common business understanding must know that, in relation to the expenditures of this House, it is utterly impossible to include in a bill of this kind every particular item. The House has already been informed that the major part of this expenditure is for the purpose of supplying various articles to the House in the way of repairs; that it is to defray the expenses of contestants of elections; that it is to defray the expenditures of the Sergeant-at-Arms.

Under these circumstances, the matter having already been discussed, I do not think it worth while to consume further time on the subject.

Mr. PRICE. Now, sir, I insist that a gentleman who is acquainted with business transactions does not find it to be the fact in his own affairs that there must be, as the gentleman from Vermont asserts there must be here, a large amount of "miscellaneous" items that cannot be specified. I think, sir, that there are in this House some gentlemen who have some claims to business capacity outside of the Committee of Ways and Means; and I mean no disrespect to that committee, because when I place them on a level with other gentlemen of this House in reference to busi-



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2d Session.

THURSDAY, JANUARY 19, 1865.

NEW SERIES.....No. 20.

ness capacity, I have done nothing to their disparagement. Now, will any gentleman in this House tell me that sufficient attention has not been paid in this bill to specification, when even the horses that are to carry pages with letters from the White House to the Capitol, and from the Capitol to the White House, are specified, and when \$9,000 has been appropriated for that purpose? Why, then, have we an item here of \$30,000 for "miscellaneous expenses" of which no one can give us the specifications? If this Government were just going into operation as an experiment, we might appropriate large items for incidental expenses, but our Government has been in operation more than three quarters of a century, and we ought by this time to be able to tell the exact nature of the appropriations needed to carry on the Government.

There is another matter to which I wish to call attention. The gentleman from Vermont says that a portion of this money is to pay expenses of contestants of elections; and he emphasizes that statement. Why, sir, if I understand this matter, such expenses are paid out of another fund. I have spoken on this subject with members of the Committee on Elections, and they agree with me in this opinion. Why cover up in a general appropriation of this kind something that those outside (I will not say those in this House, because that would be out of order) would call "stealing?" That is what they do call it, and I am very much afraid that they are in many instances more than half right. I do not mean to be, knowingly, a party to any such transactions. It is said outside of this Capitol that there are done here many things that ought not to be done; and I presume that, even when we have exercised the utmost vigilance, there will still be done some things that ought not to be done. But it is the part of Representatives here not to give opportunity for such proceedings by voting wholesale \$60,000 for something which nobody can explain; something which has no foundation except in somebody's imagination. I say that it is the part of wisdom to reject all such appropriations as these till proper specifications are given to us. We have deficiency bills every year; and if there are any items of expenditure which cannot be anticipated, let them be included in such a bill; and if the expenditures have been properly made, we shall be prepared to vote the necessary appropriations. But let us not appropriate \$60,000 wholesale, without some specification, without something to show the people of the country, who pay the taxes, where the money goes and for what it is expended.

Mr. MORRILL. Mr. Chairman, I beg the gentlemen from Iowa to understand that so far as I am concerned I do not wish to discourage his attempts, or those of any other member, in the effort to save money to the country; and if the gentleman will strike at an item which, in my judgment, demands reduction, he shall not only have my vote but my voice in favor of it.

There is but a single point to which I wish to reply to the gentleman, and that is in reference to the pay of contestants. He seems to undertake to say that I was mistaken. If he will examine he will find that they are paid according to the orders of the House. If the House directs that they shall be paid out of the miscellaneous fund, then they are so paid; and if they are directed to be paid out of the contingent fund, then they are paid out of that fund.

Mr. PRICE. Is this the contingent fund of the House?

Mr. MORRILL. No, sir; this is not; this is the miscellaneous fund.

Mr. PRICE. Exactly; the further you go the deeper you get. [Laughter.] Why this \$30,000, then; for the gentleman has said that the contestants are paid out of the contingent fund of the House? I ask him whether this is the contingent fund of the House, and he says no.

The question recurred on Mr. PRICE's amendment.

The CHAIRMAN ordered tellers, and appointed Messrs. PRICE and MORRILL.

The committee was divided, and the tellers reported—ayes 26, noes 68.

So the amendment was rejected.

Mr. KASSON. Mr. Chairman, I move to make the appropriation \$29,900, and I will explain my reason for the motion. It is to have the opportunity to state to the twenty-six members who voted for my colleague's amendment, and whose opinions are entitled to respect, some figures of the expenditures under this head at the last session of Congress. One item which I stated to the House awhile ago was one of the leading items in this appropriation is in reference to contested-election cases. I have been to the Clerk to obtain the figures, and I find at the last session that \$25,000 was expended to defray the expenses connected with contested-election cases.

Mr. PRICE. Does that come out of this miscellaneous appropriation?

Mr. KASSON. I expressly stated that it came out of this appropriation, and is charged under this head. I propose to state only generally what the items are. I will inform my colleague who is arguing in favor of the Christian virtues that cleanliness is provided for under this head of appropriation. [Laughter.] We pay for the washing of towels out of this appropriation. We pay for soap, for ice, and for all of the incidental things which are estimated for at the commencement of the session, and vouchers for which are approved by the Committee of Accounts of this House. That committee has the control of the accounts, and can approve or reject them.

I have deemed it due to the gentlemen who voted for the amendment to state these facts. The principal item is connected with contested-election cases. The Sergeant-at-Arms's expenses are also paid out of this appropriation; and I will state the further fact that this appropriation is not excessive in view of the expenditures at the last session of Congress, and that contested-election cases are to be renewed at the next session, being the first of the next Congress.

Mr. PRICE. I wish to get myself right on this question. I asked distinctly and emphatically the gentleman from Vermont, [Mr. MORRILL] who is on the Committee of Ways and Means, whether this miscellaneous appropriation was the one out of which the expenses of contested-election cases were paid, and he answered me as clearly and distinctly that it was not.

Mr. MORRILL. If the gentleman will permit me I will say that I answered him that sometimes they were paid out of one fund and sometimes out of another, according to the order of the House.

Mr. PRICE. I want to know whether I am right. I want to know whether contestants are paid out of the contingent fund. I want an answer from the Committee of Ways and Means. If they are paid out of the contingent fund, what, then, is the necessity for this miscellaneous appropriation of \$30,000?

Mr. MORRILL. If the gentleman will look at the bill he will see that all of these items are embraced under the head of contingent expenses of the House. I find that I was mistaken in supposing there was a separate item put down for contingent expenses, as is the case with all the Departments. The miscellaneous fund is the fund of the House.

Mr. PRICE. I am satisfied with that explanation, but I could not be satisfied with the previous answer.

Mr. KASSON, by unanimous consent, withdrew his amendment.

The Clerk read, as follows:

For one complete set of the Congressional Globe and Appendix for each Representative and Delegate in the first session of the Thirty-Ninth Congress, who has not already received the same, \$23,000.

Mr. WASHBURNE, of Illinois. I wish to call attention to these appropriations for the Congressional Globe. I am not disposed to complain as a general thing of appropriations for that purpose, for I believe it is the duty of Congress to keep up the Globe. It will be perceived that

these appropriations in this bill amount to \$86,800.

## MESSAGE FROM THE SENATE.

The committee informally rose, and the House received a message from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had insisted upon their amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the fiscal year ending the 30th of June, 1865, agreed to the committee of conference asked for by the House, and had appointed Mr. SHERMAN, Mr. CONNESS, and Mr. BUCKALEW such committee upon the part of the Senate.

Also, that the Senate had passed, without amendment, an act (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864.

Also, that the Senate had indefinitely postponed a joint resolution (H. R. No. 121) granting additional compensation to the employees of the two Houses of Congress.

Also, that the Senate had passed a bill and joint resolutions of the following titles; in which the concurrence of the House was requested:

An act (S. No. 389) relative to clerkships in the Post Office Department;

Joint resolution (S. R. No. 91) appointing General Richard Delafield to be a Regent of the Smithsonian Institution; and

Joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the quartermasters' depots of the United States, and in possession of the naval storekeepers of the United States.

## LEGISLATIVE APPROPRIATION BILL—AGAIN.

The committee resumed its session.

Mr. WASHBURNE, of Illinois. One particular item which I wish to inquire about is this clause in reference to paying the publishers of the Congressional Globe one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, amounting in all to \$10,900. Now, the provision for paying \$7 50 a column for reporting and publishing the debates is one which was contained in the former law upon this subject; but as I understand it, the matter to which I refer is a new provision incorporated into this bill. I desire information upon that point.

The other item of \$23,000 for complete sets to members who have not already received the same is properly here, because that is to carry out a law which we made last session.

Mr. MORRILL. If the gentleman from Illinois will examine the records he will find that at the last session of Congress we changed the law in reference to the arrangement with the publishers of the Congressional Globe, and that this appropriation of one cent for every five pages is in conformity to that law.

Mr. WASHBURNE, of Illinois. If that is so the explanation is satisfactory.

But there is another thing to which I wish to call the attention of the House and committee. The fact is we have not yet received the Congressional Globe for last session.

Mr. MORRILL. That matter has already been explained by the gentleman from Pennsylvania, [Mr. KELLEY], and by an amendment offered by him, the binding of the Globe is transferred from our own public printing house to that of the Congressional Globe. In consequence of the large amount of work on hand, the public printing office has not been able to bind the Congressional Globe. As I said before, the binding has been transferred to the publishers of the Congressional Globe, and I understand they will be able to perform the work within ninety days after the close of each session.

The Clerk resumed the reading of the bill.

Mr. MORRILL. I move to amend the clause last read, making an appropriation of \$373,710 24 for public binding, by striking out the sum of \$19,400, that being the amount, I believe, we have

elsewhere appropriated for binding the Congressional Globe by the publishers thereof.

The amendment was agreed to.

The following clause having been read—

For lithographing and engraving for the Senate and House of Representatives, \$90,000—

Mr. WILSON said, I move to amend that clause by striking out "\$90,000" and inserting "\$50,000." By reference to the appropriation bill of last session I find that \$50,000 was the amount then appropriated for this object. I desire to know what necessity there is for appropriating this large amount for lithographing and engraving for the Senate and House of Representatives?

Mr. MORRILL. Many of the public documents from the War and Navy Departments contain drawings which require to be lithographed or engraved, and placed upon record in order to illustrate the text of the documents. This expenditure has been very largely increased since the commencement of the war.

Mr. WILSON. I would inquire of the gentleman from Vermont what information the Committee of Ways and Means have upon which they formed the belief that it will be necessary to appropriate \$40,000 more for next year than was required for this year.

Mr. MORRILL. It is found in the superior activity of the Army and Navy for the last year.

Mr. WILSON. That certainly seems to me to be no answer to my question. I ask for definite information. I want to know what information the committee have which leads them to believe that this increased amount will be needed.

Mr. MORRILL. We had the Superintendent before us, and examined him very thoroughly upon that point as well as others. The expenses are much greater now than they have been, owing to the increased cost of materials and the price of labor.

Mr. WILSON. I desire to ask further what information the Committee of Ways and Means had which induced them to believe that during the year 1866, for which this appropriation is made, there would be a greater demand for money for this purpose than during the year 1865, when we all expect, judging from the present condition of our national affairs, that our military operations may be reduced within that time?

Mr. MORRILL. The gentleman should be aware that we have already made a very large appropriation for a deficiency for 1865, which will make the amount appropriated for this purpose for that year equal to the amount now appropriated.

Mr. WILSON. Then I desire to know if the gentleman has reason to believe that there will be a deficiency to be provided for for 1866?

Mr. MORRILL. We think so.

Mr. WILSON. How much?

Mr. MORRILL. That I cannot say.

Mr. WILSON. The fiscal year has not yet elapsed for which this former appropriation was made. Again, this appropriation is for lithographing and engraving for the Senate and House of Representatives and not for the War Department.

Mr. MORRILL. The gentleman must understand that the appropriations made for 1865 for the printing department have already been exhausted, and that we have at this session made additional appropriations in order to enable that department to carry on its business.

Mr. WILSON. I am informed that the engraving and lithographing for the War Department are paid out of the military appropriations.

Mr. MORRILL. Not for documents printed by order of this House or the Senate.

Mr. WILSON. Why, sir, the gentleman certainly does not mean to be understood that the War Department has this lithographing and engraving done for documents, and that then the House and the Senate have those lithographs and engravings duplicated for the purpose of putting them in the documents that we order?

Mr. MORRILL. They furnish them for reports printed by order of this House.

Mr. WILSON. I insist on my amendment to reduce the sum to \$50,000.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out the following item:

For payment of judgments to be rendered by Court of Claims, \$1,000,000.

It will be time enough to make the appropriation after the judgments have been rendered.

Mr. HOLMAN. Before that motion is put, I hope some gentleman will explain this matter. I have not been able to lay my hand upon any document which throws the slightest light upon this appropriation. I have sought to ascertain what have been the judgments heretofore rendered, and what amount has been applied to their payment; but no such information can be obtained so far as I have been able to ascertain. I trust that this entire appropriation will be stricken out, and that hereafter we shall know what judgments have been rendered before we make any appropriations.

Mr. WILSON. I find in the appropriation bill of last year that the amount appropriated for this purpose was \$300,000, and now it is proposed to appropriate \$1,000,000.

I should be glad to know what information the Committee of Ways and Means had in relation to the judgments which may yet be rendered in that court, which induced them to report an appropriation of \$700,000 more than last year.

Mr. MORRILL. The information before the committee was to this extent, that all over the country there are numerous claims, and some of them for very large amounts, for which the United States is liable, growing out of this war.

Mr. WILSON. Congress, at its last session, passed an act taking away the jurisdiction of the Court of Claims in relation to claims growing out of the Army and Navy.

Mr. MORRILL. So far as the information before the Committee of Ways and Means upon this head is concerned, we understand from the docket of business before the Court of Claims that this will be at least as small an amount as will be necessary to discharge the judgments of the court. We have already provided that the judgments of this court shall be final in certain cases, and if that law is to have any effect we should make this appropriation.

Mr. WASHBURNE, of Illinois. So far as I recollect the law to which the gentleman refers, it is not contemplated that Congress shall make the appropriation until after the judgments are rendered. Congress has in that respect retained the jurisdiction in its hands. My objection to this provision is radical. I am not for appropriating one dollar till the Court of Claims shall have rendered its judgments, and till I know what the judgments are. I propose to reserve some sort of control to Congress over this matter if we have the power to do so.

Mr. MORRILL. I voted with the gentleman from Illinois when that law was before the House; but, as he is aware, it was carried against our votes. I think our duty is to conform to the law as we find it. If the gentleman has any radical objection to the law let him introduce a bill to repeal it.

Mr. WASHBURNE, of Illinois. My objection is founded on the law. What I mean to say is that there is nothing in the law which compels us to make appropriations for judgments to be rendered.

Mr. MORRILL. I ask the gentleman whether it is possible to reach those cases by having a revision of them before the House.

Mr. WASHBURNE, of Illinois. Yes, sir; reach them by refusing to make appropriations for them; which amounts, in fact, to a repeal of the law so far as that is concerned.

The question was taken on Mr. WASHBURNE's amendment, and it was adopted.

Mr. WILSON. I desire to be informed in regard to this paragraph:

Treasury Department:  
For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, supervising architect and assistant architect, clerks, messengers, assistant messenger, and laborers, \$118,920.

I find that the sum appropriated for the same purpose last session was only \$116,340. I desire to know the cause of the increase.

Mr. MORRILL. If the gentleman will look at the book of estimates he will find a reference to the law by which we increased the pay of clerks.

Mr. WILSON. I desire information in regard to this paragraph:

In the office of the Secretary of the Treasury:  
For copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, \$50,000.

I find that the appropriation at last session was only \$30,000. Now we are asked to appropriate \$50,000.

Mr. MORRILL. On calling on the Treasury Department in regard to that, we were informed that the increase is owing to the vast increase in the business of the Department, which rendered the increased appropriation absolutely indispensable. There are a great many more clerks employed there than were employed a year ago.

Mr. WILSON. I desire to know what is meant by the words "and extra clerk hire."

Mr. MORRILL. It is for paying clerks who are required to work extra hours.

Mr. WASHBURNE, of Illinois. I desire information in reference to the proviso in the following item:

For compensation of temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services, \$250,000.

The object of that proviso is undoubtedly to raise the salaries of clerks in an indirect way. I am willing to meet that question when it comes up fairly, but I am not willing to have it come up in this way. It is independent legislation in an appropriation bill.

Mr. MORRILL. If the gentleman from Illinois will wait, I propose to offer an amendment in regard to this item.

Mr. WILSON. The words "extra clerk hire" the gentleman from Vermont has explained to mean compensation for extra labor performed. I find that the gentleman is mistaken, for in the second paragraph on the 14th page of the bill I find the following:

For compensation of additional clerks who may be employed by the Secretary, according to the exigencies of the public service, and additional compensation for extra labor of clerks in his office, \$25,000.

I therefore, sir, raise the point of order upon the provision of the section that we are considering, that it is independent legislation and should not be embraced in an appropriation bill, and that therefore the term "extra clerk hire," in lines three hundred and three and three hundred and four, should be stricken out.

The CHAIRMAN. The Chair understands that the Clerk had proceeded to line three hundred and seven.

Mr. WASHBURNE, of Illinois. I will waive my point of order until the gentleman from Iowa [Mr. Wilson] can make his point of order on the preceding paragraph.

The CHAIRMAN. The Chair is of opinion that the gentleman cannot go back to that paragraph of the bill.

Mr. WILSON. Permit me to explain. I was misled by the explanation given by the gentleman representing the Committee of Ways and Means. He told me that a certain appropriation was for a particular purpose. That purpose is embraced in another branch of the bill.

The CHAIRMAN. The remark of the gentleman from Iowa shows that the committee had already passed the item.

The Chair overrules the point of order raised by the gentleman from Illinois [Mr. WASHBURNE] under the last clause of the 120th rule, which the Clerk will read.

The Clerk read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. WASHBURNE, of Illinois. Do I understand the Chair to overrule the point of order that this is independent legislation, and cannot be put into an appropriation bill?

The CHAIRMAN. The Chair is of opinion that it comes under this clause, "for the contingencies for carrying on the several departments of the Government."

Mr. WASHBURNE, of Illinois. I am aware that the present Chairman is deciding in accord-

ance with the decision of our honorable Speaker in all similar cases, which decision I think contrary to all previous decisions upon the subject.

The CHAIRMAN. Does the gentleman from Illinois take an appeal?

Mr. WASHBURN, of Illinois. I propose to take an appeal in order to settle the matter. I think it very important that this rule of the House should be strictly adhered to, because departure from it may involve expenditures of millions upon millions to the Government.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The decision of the Chair was sustained; there being, on a division—ayes fifty-six, noes not counted.

Mr. WASHBURN, of Illinois. I move to amend by striking out all from line three hundred and seven to line three hundred and eleven, inclusive, reading as follows:

For compensation of temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services, \$250,000.

Mr. MORRILL. I move to amend the amendment by inserting, in lieu of the words proposed to be stricken out, the following:

For compensation to temporary clerks in the Treasury Department, and for additional compensation to clerks in same Department: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That the Secretary of the Treasury may award such additional compensation to clerks as in his judgment may be deemed just, and may be required by the public service, \$250,000.

Mr. WASHBURN, of Illinois. I am certainly opposed to that amendment, more opposed to it than to the clause as it stands.

Mr. HOLMAN. I raise the point of order that, so far as the amendment proposes to authorize the Secretary of the Treasury to pay additional compensation, it is without any precedent in appropriation bills. It does not propose to carry out any provision of existing law, nor does it properly come under the head of "contingencies for carrying on the several departments of the Government."

The CHAIRMAN. The Chair overrules the point of order.

Mr. MORRILL. I send to the Clerk a letter from the Secretary of the Treasury, and ask that it be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, January 10, 1865.

SIR: I have the honor to request that you will cause the item, on page 23 of the printed estimates, which reads as follows: "For temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services," to be changed in its phraseology, so that it will read: "For compensation to temporary clerks in the Treasury Department, and for additional compensation to clerks in the same Department: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That the Secretary of the Treasury may award such additional compensation to clerks as in his judgment may be deemed just, and may be required by the public service, \$250,000."

Very respectfully, your obedient servant,

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. T. STEVENS, Chairman of Committee Ways and Means, House of Representatives.

Mr. MORRILL. This is rather an important question, and I want a fuller House than we have at present to consider it. I therefore move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Military Academy appropriation bill, and had directed him to report the same back to the House with an amendment; and further, that it had under consideration House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and had come to no resolution thereon.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DAWES demanded the previous question on the Military Academy appropriation bill.

The previous question was seconded, and the

main question ordered; and under the operation thereof the amendment of the Committee of the Whole on the state of the Union was concurred in.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, its Chief Clerk notifying the House that that body had passed House bill No. 203, for the relief of Jacob Weber, without amendment, and House bill No. 186, to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company, with amendments; in which he was directed to ask the concurrence of the House.

#### EXTRA TREASURY CLERKS.

Mr. WASHBURN, of Illinois, moved that the amendment pending in the Committee of the Whole on the state of the Union in reference to extra clerks in the Treasury Department be printed for the use of members.

The motion was agreed to.

And then, on motion of Mr. MORRILL, (at ten minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, January 18, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. COWAN presented the memorial of the Board of Trade of Philadelphia, praying the postponement of any action on the bankrupt bill now pending until opportunity is afforded northern creditors to enforce their claims on the restoration of the authority of the Government in the rebellious States; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a petition of medical storekeepers in the service of the United States, praying to be allowed the pay and emoluments of surgeons in the Army of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. DIXON presented a petition of persons engaged in the millinery and cloak-making business in the city of Hartford, Connecticut, praying for an amendment to the internal revenue law approved June 30, 1864, so as to impose on each of said classes of work a specific tax beyond a certain exempted amount of each; which was referred to the Committee on Finance.

He also presented a petition of citizens of Connecticut and members of the Cigar Makers' Union of Windsor, praying for the repeal of the law taxing cigars, and that the tax may be placed on the raw material; which was referred to the Committee on Finance.

Mr. HARRIS presented the petition of the local board of steamboat inspectors of Buffalo, New York, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented additional papers in support of the claim of Joshua B. Todd, a lieutenant in the Navy, praying to be allowed the difference of pay between master and passed midshipman during the time he was acting master; which were referred to the Committee on Naval Affairs.

Mr. TRUMBULL presented the petition of the local board of steamboat inspectors for the eighth district, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. CHANDLER presented a resolution of the Board of Trade of Detroit, Michigan, recommending the construction of a ship canal around the falls of Niagara on the American side; which was referred to the Committee on Military Affairs and the Militia.

#### COMMITTEE SERVICE.

Mr. WADE. I hold in my hand a letter from the Senator from Oregon, who is a member of the committee on the conduct of the war. I send it to the desk to be read.

The VICE PRESIDENT. If there be no objection, the letter will be read.

The Secretary read, as follows:

January 17, 1865.

SIR: Because of ill health I am unable to attend the meetings of the committee, as I would like to do, and therefore hope that this, my resignation as a member of the committee, may be accepted.

Will you do me the favor to present this to the Senate, and ask that I be excused from further service in that capacity?

I am, very respectfully, your obedient servant,

B. F. HARDING.

Hon. B. F. WADE,

Chairman of Committee on Conduct of the War.

Mr. WADE. I make the motion that Mr. HARDING be excused at his request from further service upon the committee.

The motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Postmaster General transmitting, in compliance with the resolution of the Senate of the 12th instant, a statement furnished by the Auditor for the Post Office Department of the amount allowed and paid for attorneys and counsel fees of every kind and description, exclusive of the regular salaries paid to district attorneys, from the 1st of July, 1863, to the 31st of December, 1864, as shown by the records of his office; which, on motion of Mr. FOSTER, was ordered to lie on the table, and be printed.

#### REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a resolution of inquiry as to the propriety of consolidating the three great districts, &c., reported adversely thereon, and the report was agreed to.

Mr. HOWARD. The Committee on Military Affairs and the Militia, to whom was referred a resolution presented by the Senator from Minnesota, [Mr. WILKINSON,] in relation to the treatment of Union prisoners and the course to be pursued by the Government in reference thereto; and also a joint resolution (S. R. No. 95) presented by the Senator from Ohio, [Mr. WADE,] regulating the treatment of confederate prisoners in custody of the authorities of the United States; and also a petition of citizens of Indiana, praying for the passage of a law to place all rebel prisoners now in our hands under the control of those officers and men who have been in rebel hands, have directed me to report these papers back to the Senate, accompanied by a joint resolution on the subject.

The joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents, was read and passed to the second reading.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print three thousand copies of the Navy Register for 1864, reported in favor of it, and the resolution was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 80) for the adjustment of the claim of J. & O. P. Cobb & Co., of Indiana, reported it with an amendment.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 382) to provide for the better organization of the pay department of the Navy, reported it with amendments.

Mr. BROWN, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the subject, reported a bill (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the land on which the same is located;" which was read, and passed to a second reading.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 621) making appropriations for the support of the



Military Academy for the year ending 30th of June, 1866.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, which thereupon received the signature of the Vice President:

A bill (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864; and

A bill (H. R. No. 203) for the relief of Jacob Weber.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, was read twice by its title, and referred to the Committee on Finance.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

Mr. POWELL. I offered a resolution in the early part of the session directing the Secretary of War to transmit to the Senate the report made by a commission appointed to investigate the conduct of General Paine in and about Paducah. That resolution was referred some weeks since to the Committee on Military Affairs. I wish now to make an inquiry of that committee as to the disposition they have made of that resolution. If it is not their purpose to report it, I wish to move the Senate that they be discharged, and let the resolution come before the Senate for action.

Mr. WILSON. In reply to the inquiry of the Senator from Kentucky, I have to say that the Committee on Military Affairs have not yet taken up and considered the resolution referred to them on that subject. We shall probably be able to do so in a day or two. We have been busily employed and have not yet reached it.

Mr. POWELL. I now move that the Committee on Military Affairs be discharged from the further consideration of the resolution, and be directed to report it back instantly to the Senate. Since I introduced the resolution I have received the report of the commission, but not the accompanying documents. I find that the report I was in quest of was transmitted by the Governor of Kentucky to the Legislature as a document accompanying his message; but the affidavits and proofs, one hundred and eighty I understand, that accompanied the report are not published with the Governor's message. The report discloses a degree of barbarity, cruelty, and pillage, that I venture to say cannot be equalled in the annals of any Christian people. I desire the resolution to come back to the Senate, and I desire the Senate to pass it, so that we may see the proof referred to in this report, and take action touching and concerning this man Paine. I have already introduced a resolution, which now lies upon the table of the Senate, requesting the President to have this guilty man tried upon the charges made against him in this report, in order that he and those engaged with him may, if convicted, be punished. I do not think we should delay for a moment having prompt action in this matter. This report, allow me to say, was made by two gentlemen of high character, both of whom voted for the President at the last election. The report was made by General Fry and Colonel Brown. I will read one single paragraph of the report only:

"The tenor of Brigadier General Paine's conduct has been briefly alluded to. The particulars are to be found in the numerous affidavits which we submit herewith. Your committee will not disguise the feelings of indignation and disgust which their investigation of the conduct of affairs in western Kentucky has inspired within them. The administration of Verres and Warren Hastings may be safely challenged to show a parallel to the fifty-one days of terror and rapine that measured the duration of General Paine's authority.

"Well may we blush for the tarnish attached to the national uniform when debased to such ignoble uses by an officer whose only glory seems to have been the oppression of non-combatants and a loud-mouthed denunciation of his superior officers as 'cowards and scoundrels.' Such were the epithets repeatedly attached to Major General Halleck's name by General Paine. In healthy contrast, your committee beg leave to allude to the firm, judicious, and effectual administration of Brigadier General S. Meredith."

I hope, sir, that the Senate will direct my resolution to be reported back at once, in order that we may call upon the Secretary of War to transmit to us this report, with the accompanying doc-

uments, showing the guilt of this man, his cruelties, his plunder, his rapine, his barbarity; and that then we may take such proceedings as will, if possible, cause him to be tried and punished for his crimes. I hope there will no longer be any dilly-dallying or delay upon such a matter. I feel that I have been already negligent of my duty as a representative of the people of Kentucky, in not urging in the Senate action upon this matter before. I verily believe, not only from a perusal of that report, but from conversations with citizens of the highest respectability in that region of country, that when the facts shall be known it will be found that in all the dark and bloody annals of tyrants and men who overthrow the rights of the citizen, there never has been, in any Christian age, such acts of barbarity, cruelty, and plunder as have been inflicted on that people by this man Paine and his confederates. I wish them brought to trial, and, if found guilty, to be punished by death; for if one tithe of the statements in these papers are true that is the lightest punishment they deserve.

I hope, sir, that the Senate will no longer delay, but will order back this resolution and put it on its passage. Let us have the facts that are referred to in this report, so that we may see whether or not the resolution which lies on your table requesting that General Paine be tried, and if found guilty punished, should pass.

Mr. TRUMBULL. As the resolution called for by the Senator from Kentucky was on my motion referred to the Committee on Military Affairs, it may be proper that I should say a word in regard to the motion that is now made.

At the time the resolution was under consideration before I had not seen General Paine, and had no information from him in regard to the report; but my reason for making the motion was that I thought it unjust to an officer to publish a report affecting his character, which I understood was *ex parte*, and made by a commission before whom he did not appear. Since then I have seen General Paine and had a conversation with him, and I learned from him that the report was of the character I had supposed. I learned from him further, that he, after hearing that a commission was proceeding to inquire into his conduct, before which he did not appear at all, filed a reply or answer to their report, and also that the report made by this commission was reviewed by the Judge Advocate General; and he informed me that he had no sort of objection to having the report of the commission published, provided his answer to it and the review of the report by the Judge Advocate General should be published also. I for one am willing, therefore, that the Senator's resolution should be passed if it should be amended so as to call for all the papers. It will then appear, as I am informed, that so far from General Paine being the blood-thirsty and guilty man that the Senator from Kentucky has pronounced him without a trial, he has but done his duty.

I was a little surprised at the language of the Senator from Kentucky when he rose in his place in the Senate and demanded that this "guilty man" should be tried, thus condemning him before his trial. Why call him guilty? Every man is entitled to a trial, and presumed to be innocent until his guilt is established. But the Senator from Kentucky in his zeal would forestall the case of General Paine. He pronounces him a guilty man here in the Senate, and yet has introduced a resolution to put him upon trial! Why, sir, a person who would give utterance to such an expression as has fallen from the Senator from Kentucky would be disqualified to act as a juror in any court in Christendom, because he has expressed his opinion before hearing the evidence, and pronounced him guilty.

I will not undertake to say that General Paine is guilty or innocent. I do say that since this resolution was introduced I have seen him, and he tells me he has no objection to the report of this *ex parte* commission being published, if his reply setting forth the real facts and the report of the Judge Advocate General can also be published with it. If they are all published together they will do no harm. I presume the Senator from Kentucky does not want a portion of the papers only published, unless he is to proceed upon the hypothesis announced in his speech, that a man is to be declared guilty before he is put upon his trial.

Mr. POWELL. The Senator from Illinois seems to object to my speaking of this officer as guilty without his being tried. I do not wish General Paine to be punished unless he should be properly tried and found guilty. When I used the word "guilty," I did it as enunciating what had been found by this commission. They say that those parties are guilty of the offenses that I have indicated. The Senator says that the proceeding was an *ex parte* one. These gentlemen in their report say that the very evening they got to Paducah, General Paine left, and took away all the papers and his officers about him. It was his fault that he was not there. I have no personal knowledge as to whether General Paine is guilty or innocent; but I do know that this report stamps him with the most damning guilt. I want him to be tried before a proper tribunal with power to investigate, and to punish him if he shall be found guilty. I hope for the credit and honor of the flag of my country that General Paine may prove to be innocent of the charges made against him, but I have not the most remote idea that he will.

If the resolution shall be brought back from the committee, I shall be willing to accept the proposition of the Senator from Illinois as an amendment to it. I want no *ex parte* statement. If General Paine can benefit himself by the report made by the Judge Advocate General, let it come. If he has any statements that he wishes to make, let them come. I want to have the whole facts; and then when they come, I want another and a different commission, one that has power to punish, to sit upon this man's case. I repeat, that this commission found General Paine and others guilty of the crimes that I have indicated, and it was because such was the finding of the commission that I pronounced him guilty. If the Senate will order the resolution back from the committee, I will accept the proposition of the Senator from Illinois, and let all these papers come before us. I would not do General Paine or any other man intentional injustice. I shall be rejoiced if he can prove himself innocent of these charges. If they are true, (and of the truth of the evidence before me I have no doubt,) he is guilty of crimes shocking to human nature—crimes such as I venture to say no military commander in any Christian country has been guilty of for the last five hundred years.

Mr. TRUMBULL. The Senator will persist that he has no doubt of the truth of the report of this *ex parte* commission. It shows to me, I had almost said, a perversity on his part and a determination to hold General Paine guilty. He says that General Paine absented himself. I know nothing about the facts, except as I have heard them from General Paine, who tells me that he waited ten days for this commission to enter upon the discharge of its duties, and they would not move a step until he had left Kentucky and gone away, and then they instituted their proceedings to inquire into his character, and when he heard of it he made an answer refuting the whole proceeding.

Mr. POWELL. If the Senator will allow me, I wish to read a paragraph or two from the report of the commission:

"Your committee would report that they had much difficulty in procuring information from official sources, as Brigadier General Paine and his assistant adjutant general left Paducah on the evening of our arrival, taking with them, or having sent away, every clerk who was familiar with the office business of headquarters.

"The records of the assistant adjutant general's office were submitted to our inspection by Brigadier General Meredith, the successor to General Paine, but were so incomplete and irregularly kept that they proved of little service in the investigation. Many orders, proved to have been issued by Brigadier General Paine, have no entry on his books."

They say he left there the evening they arrived, and the officers most familiar with the business about his headquarters went with him.

Mr. TRUMBULL. Is that statement at all inconsistent with what I have been informed? My information is that this commission kept away and would not enter upon the discharge of their duties, and that General Paine waited ten days for them to institute their proceedings. When they found he had gone, they came to Paducah to enter upon the examination. The whole thing was an *ex parte* proceeding; and I have not only information from General Paine, but I have had more than one letter from gentlemen high in posi-

tion in the State of Kentucky, since this matter was called up before, stating that General Paine was the only officer ever in command of that portion of Kentucky, with a single exception, who protected Union men and treated traitors as they deserved.

I have no objection to the whole of these papers being published, if the Senator wants to see them, and the Secretary of War deems them proper papers to be communicated. At any rate, in behalf of General Paine, I am authorized to say that he is quite willing and anxious that every paper on this subject shall be published.

Mr. POWELL. The Senator from Illinois, on behalf of General Paine, says that the members forming this commission kept away from Paducah on purpose so long as General Paine remained there. Both of the gentlemen who made that report are known to me. They are highly honorable gentlemen; and let me tell the Senator from Illinois, notwithstanding what General Paine may say, they would scorn such conduct. I will venture the assertion that they never kept away one minute in order to allow General Paine to be absent or to go away. They are gentlemen of the very highest honor and respectability.

The Senator says that he has received letters from men high in position in Kentucky saying that this man Paine was the only one who protected Union men and punished rebels in that region of country. If the Senator will give the names of those parties, I think it will be found that they were men in Kentucky who were sharing in the plunder and robbery of General Paine. I would like to know the names of those Kentuckians in that region of country who dare to say that this man Paine was the only man who protected Union citizens; and I will venture the assertion that when the names are given, and the whole facts shall be proved, it will be found that they were the guilty accomplices of that wicked man. I, too, have received letters from that section of the country; I have talked with numerous citizens from that section of country; and let me tell the Senator, from what those most highly respectable citizens in that region of the State tell me, this report does not give one tenth of the enormities of this man. Men of the most elevated character, men who have been Union men from the very beginning, many of whom have borne arms in defense of the Union during this strife, tell me with one unanimous voice that the treatment of the people there was most atrocious.

I know there are civilians there who by possibility may say General Paine was the right man in the right place, because this record unfolds the fact that some of the civil officials there were acting with General Paine and dividing the spoil and plunder that he was wringing from those injured and downtrodden people. I should be obliged to the Senator if his correspondents would allow him to give us their names, that we might know who they were that vindicated the monstrous, outrageous, wicked, corrupt, plundering, murderous conduct of that man about Paducah.

Sir, I use harsh language, but I have the proof to substantiate it. Arraign that man, and I will see that the proof is forthcoming. Publish this document, and you will have it; and there is proof outside of that; for while that commission carried out their investigation faithfully and honestly, yet, for want of time and owing to other circumstances, they have not embodied in their report one tenth of the enormities committed upon the people there. Let all the vindication that General Paine has come; let the report come; and then I wish to take up and have passed my resolution demanding that he be tried.

Mr. CONNESS. Mr. President, I will not vote to order this resolution back from the Committee on Military Affairs and discharge them from its consideration upon the request or motion of the Senator from Kentucky, after the statement made by the chairman of the Committee on Military Affairs. If it were not an ordinary circumstance for the honorable Senator from Kentucky to launch his denunciations against the officers of the Government, and they alone, in this Chamber, I would feel more inclined, for one, to vote with him on many occasions when he offers resolutions similar to the one now under discussion. But, sir, it is a singular fact that the only atrocities, the only crimes, the only plunderings, the only murders that he finds eloquent language to de-

nounce in this body are those alleged to be committed by Union officers. This has been done by the Senator over and over again in the Senate since I have had the honor of a seat here, and it has gone out to the country frequently unchallenged, uncontradicted here. Senators have sat and borne it again and again while these *ex parte* statements have gone out implicating officers of this Government in the commission of crimes the most horrible and unnatural that can be imagined.

For one, sir, I confess that I am tired of listening in silence to it; and I wish to put in my protest here, and to invite the honorable Senator from Kentucky occasionally to divide his vengeance with the cruel and barbarous wretches who, as the honorable Senator from Indiana [Mr. LANE] recently described, have persecuted, starved, and murdered our brave men in the field who have been taken prisoners. It becomes us, Mr. President, here in our independent position of Senators to resist denunciations upon criminals who wear the insignia of our country; but it does not become us, nor any of us, nor the Senator from Kentucky, to visit his denunciations alone upon and direct them against those men.

Why, sir, the public mind has become demoralized almost, and its courage has absolutely been sunk and put below its proper status, by the common and the ordinary commission of crimes committed against our people by the rebels. The Senator represents a State here that has suffered most grievously at their hands. He represents a State bordered by States and territory populated by Americans who have been robbed and plundered, ruined by the ferocity of the men engaged in the rebellion. But if, perchance, or whether or no, Union officers in the performance of their duty step beyond the point of propriety, then the thunders of the Senator from Kentucky are heard, being launched against them and them only.

Mr. President, as I have said, I tire of listening to these *ex parte* statements, these *ex parte* denunciations, this pretense (I will undertake to say) of denouncing officers of our Government in vindication of the flag. The flag may need vindication; but, thank God, it is being vindicated. It would become the honorable Senator more to engage in that denunciation by joining his fellow Senators here in ferreting out and pursuing those base criminals not only against our countrymen, but against civilization and humanity and liberty everywhere, than to confine his efforts alone against Union officers.

I have nothing to say about the case of General Paine; I leave that to the honorable Senator who has undertaken, not his defense, but a word of justice in his behalf. I am willing to vote with any Senator for the development of proper charges against any officer of this Government. I repeat again for the third time that I tire, I tire, I tire of this tirade against Union officers in this Chamber.

Mr. BROWN. I do not desire to participate in this debate further than to say that while members of the Senate protest their anxiety to take care of the credit and honor of the officers of this Government, I trust they will recollect that this is a matter in which a question is involved between different officers. The men who make this report are also officers of this Government, and are entitled to just as much respect in any discussions that may arise concerning this action as the person who is implicated here. I say this in behalf of those who have made this report implicating General Paine, and preferring charges of a very grave nature not only against him but against others, who are accused of speculation and of plunder.

I shall not support the motion of the Senator from Kentucky, to take this matter from the hands of the Military Committee, because I believe there is just exactly the place it should be, and that that committee, whenever they see fit to make any report concerning this matter, should also accompany it with the evidence upon which this report has been predicated. I trust, therefore, that the matter will be left where it is until the committee shall have time and opportunity to make the necessary examination.

Mr. HENDRICKS. Mr. President, I understood the Senator from Illinois to say that General Paine was the only general stationed at Paducah, with one exception, who had given the proper treatment to the Union loyal citizens of that section of country.

The VICE PRESIDENT. The Senator from Indiana will pardon the Chair: it is now one o'clock, and it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday.

Mr. POWELL. I ask that the special order may be passed over informally until this subject has been disposed of.

The VICE PRESIDENT. If there be no objection, that course will be taken. The Chair hears none. The Senator from Indiana will proceed.

Mr. HENDRICKS. General Meredith, a citizen of the State of Indiana, has been in command of that point since the removal of General Paine. I wish to ask the Senator from Illinois whether General Meredith is the exception which he makes from the general denunciation which he says is made by his correspondents against the commanders at that point.

Mr. TRUMBULL. I do not recognize the authority of the Senator from Indiana to interrogate me as to who the exception made is. He has not stated precisely, I think, the language which I used. I intended to say, and believe I did say, that I had been informed that General Paine, with a single exception, was the only person who had properly protected Union men and punished traitors—putting both together—who had dealt properly, particularly with traitors. Whether that information be correct or not, of course I do not vouch. There may have been other persons there who may have treated traitors rightly as well as Union men, but the information I had from my correspondents was that with a single exception he had been the only officer who had satisfied the Union men there.

Mr. HENDRICKS. The Senator questions my right to ask the question which I have asked. Perhaps he is right, sir; but if he is right in that, I have the right to question the propriety on his part of introducing testimony which can raise a suspicion against a gallant man from the State of Indiana. General Meredith has seen service in the field; he has done gallant service in battle, and as I understand has never made a dollar wrongfully in this war. His conduct at Paducah is commended by the officers of the Army in an official report; and inasmuch as his fair fame and good name as an officer was at least placed in question by the statement of the Senator, I thought it my duty to vindicate him from the suspicion that might arise from what the Senator said.

I am not going into the discussion of the character and conduct of General Paine, except to say that if rumors which came over from the State of Kentucky to the State of Indiana are at all to be relied upon, he ought to be put upon trial. He ought to be put upon trial for the good of the public service, for the honor of the Army, if any portion almost of the reports that came to our State from Kentucky be true. What is this *ex parte* examination that is now before the Senate? Is it not an examination known to the usages of the Army? Are courts of inquiry not frequent? For what purpose? Much for the same purpose that investigations are had before a grand jury. The party is not heard before a grand jury in our courts; the investigation is *ex parte*; but when the grand jury returns an indictment into court, although their investigations were in secret and the party accused had no hearing there, still he must go upon his trial. Here is a proceeding in the Army very analogous to that, known to the usages of the Army, which convicts this man of high crimes; and is it not right, then, that he should go upon his trial?

But, sir, I did not intend to continue the argument. I wished to suggest to the Senator from Kentucky that as the chairman of the Committee on Military Affairs promised the Senate an early report, perhaps it would be as well to wait a very short time until that report is received. I understand from the chairman of the committee that a very short time will elapse before the report is made.

Mr. WILSON. I think the committee can be prepared to report on Monday next without doubt.

Mr. HENDRICKS. Then I suggest to the Senator from Kentucky to give the committee that time. It is a committee that has very heavy business upon its hands, and I cannot see that the committee has willfully neglected an investigation of the subject or designs to prevent the Senate having an opportunity to act upon it. So much

business is before that committee that I think some further time may very appropriately be given it by the Senate.

Mr. POWELL. Mr. President, I have not charged the Committee on Military Affairs with negligence. I supposed their inattention to this resolution arose from the great press of business before them, and I desired to relieve them by having this resolution brought back to the Senate.

The Senator from Illinois says correspondents of his in Kentucky declare that there has been but one officer in command at Paducah, other than General Paine, who has punished rebels and protected Union men. I should be obliged to him if he would give us the name of that other individual. There have been many post commanders at Paducah. The present Lieutenant General Grant, when a brigadier general, was there at one time. I hope it was not General Grant who failed to give protection to Union citizens and to punish rebels. There was that true-hearted, that noble, that gallant soldier, General Charles F. Smith, who was for a long time in command of the post at Paducah, whose daring, whose skill, whose gallantry, and whose military achievements we regard as part of our cherished history. Was it General Smith that failed to protect Union men and punish rebels? General Wallace, of Indiana, I believe was in command there at one time. Was it General Wallace? There have been various commanders there. So far as regards General Meredith, a constituent of my friend from Indiana, it affords me very great pleasure to say that I hear on all hands that he is a gentleman and a soldier, and discharges his duty fully and faithfully. The commission who make this report on the conduct of General Paine bear high testimony to the soldierly qualities and the honest dealing of General Meredith with the people of his department.

But, Mr. President, I have no doubt that the correspondents of the Senator from Illinois will tell him a great many things in favor of General Paine, for I verily and conscientiously believe that if the gentleman would give us the names of those correspondents, which I will not ask unless he is authorized to give them, it would be found that they were the confederates of this man in plunder. I have heard such a volume of testimony from this people on the subject that I do not believe there is an honest man in all Kentucky who would dare to vindicate this man Paine.

But, sir, one word to the Senator from California. He seems to think that he is a kind of censor morum of the Senate, and says he is tired, tired, tired of hearing my denunciations of Union officers. Sir, I dare say the Senator will grow much more tired than he is already. I am not responsible for the Senator's being wearied when he hears criminals, robbers, and thieves denounced. If it wearies that Senator to hear corrupt and guilty men denounced, I would not care if he should faint under his weariness from sheer exhaustion. I have never denounced a soldier who did his duty. I honor the brave, the gallant, the true-hearted Christian gentleman and soldier who carries the flag of his country amid the storm of battle. The profession of arms is a noble one, and that brave and true-hearted Christian warrior who bears the banner of his country with courage, with skill, with bravery, and wins victories never indulges in the persecution of non-combatants and the pillaging of the people. All honor to the brave soldiers who fight and do not steal; disgrace, infamy eternal, to pillagers and plunderers. Upon what battle-field did General Paine win honors? And of all the men who are charged with peculation and who have been denounced by me, I would ask the Senator to point to a single battle-field where they carried the stars and stripes to victory. Men who go about punishing women and children and plundering the people are miscreants and cowards; they disgrace your arms when you intrust them with commands. I have denounced none except those who I believed were guilty of crime, of peculation, robbery and plunder; and all I desire in regard to such persons is that they should be tried, and, if found guilty, punished.

The Senator says he could endure my denunciations no longer. I regret that the honorable Senator cannot have a little more patience, because at the proper time I expect to denounce rogues, public plunderers, and robbers, more fully

than I have done heretofore. The Senator says he could not allow this occasion to pass without saying a few words. I do not think many questions have passed here of any moment or consideration, or indeed any question, however insignificant and trifling, that has not elicited "a few brief remarks," or, as my friend from Indiana who sits near me [Mr. LANE] would say, "a few desultory remarks" from the Senator from California. I believe the Senator from California thinks nothing can be done here as it ought to be unless he gives us the benefit of his wisdom, his sage counsel, his large experience and statesmanship. The Senator's speech might lead one to suppose it was the first time he had spoken in the Senate, and that he had sat still until his very patience was threadbare. I will venture to assert that on the very next question which comes up the Senator will be in the same condition; he will think the Senate cannot properly pass upon it until he has been heard. I have never grown so weary and tired of the Senator's remarks. He had a right to make them; and if he thought his wisdom was necessary to give measures proper shape it was his duty to make them. I make no complaint of that; but a Senator who so universally gives us his counsel ought not to grow so weary of one who in comparison with himself so seldom trespasses on the time of the Senate.

The Senator thinks I should denounce other people. When I know of any officers in the military or any other department of the Government who do not discharge their duties, they will receive my censure; and all who discharge them faithfully, and with capacity and integrity, will receive my praise. He wonders why I did not unite with the Senator from Indiana [Mr. LANE] in denouncing the treatment by the rebels of certain prisoners in their hands. I differ in one respect from the honorable Senator from California. I think there are Senators here who discuss a question in such a manner as to exhaust it, and that it does not require my aid or assistance to add force to what they say. I am unlike the Senator in that respect; he thinks that no argument is complete, that no question is fully elaborated and discussed, until we have had the light of his wisdom upon it. I could add nothing to the statement of the destitution of those prisoners made by the Senator from Indiana and the Senator from Ohio. Allow me to say to the Senator from California that I think any persons who would treat prisoners cruelly act exceedingly wrong, and they have my denunciation, whether they be rebels or loyal men; they have no favor from me. I am not advised as to how they treat their prisoners; but if some of the accounts that we get in the newspapers are correct, our prisoners are badly treated in some respects; and whenever they are badly treated it is very wrong, and meets with my hearty condemnation. I hold that those who will treat prisoners badly, who will treat cruelly an unarmed man who surrenders, is anything else than a true-hearted and brave soldier.

But the Senator seems to labor under a kind of hallucination; I think he has a sort of monomania on that subject, if he will allow me to use the word; he seems to think no person ought to speak on any subject without denouncing rebels and their cruelties. It strikes me that a Senator might be permitted to discuss some questions without so far departing from the subject under debate as to step out to give the rebellion a kick. The Senator must be most extraordinary in his demands against these poor rebels, for I had supposed that such was his high opinion of his own powers that when his denunciation was exhausted upon them it would be idle and futile for anybody else to come in to kick the poor dead corpse; but he seems to wish everybody to do just as he does. I regret that I cannot coincide in opinion with that honorable Senator on that subject. I have great regard for him. He is a most pleasant, amiable gentleman. I believe, however, that he has quite as good an opinion of himself as his fellow Senators have of him; but vanity is a very amiable weakness; it hurts nobody, and I have no doubt it does the Senator good in its enjoyment. I would rather congratulate him that he has such unbounded sources of pleasure. I am sure I have no disposition to interpose when he caters to his own consequence and sharpens the appetite upon which his vanity feeds. And even though he should make my humble self the subject of his

criticism, if by that means he can exalt his own self-importance, I am so amiable as to feel gratified that I have been the poor instrument of enabling him to show off a little to the gaping crowd in the galleries.

But allow me, with great kindness, to say one word to the Senator. I think I know something about my duties here, and I think I know how I ought to present questions to the Senate; and, in my judgment, it is not becoming in that Senator to tell me what character of speeches I should make; nor, when I am talking about the misconduct of an officer of my own Government, does it become him to demand of me that I go outside and abuse rebels and rebellion. If rebels and rebellion were the subject at issue before the Senate, the Senator might twit me if, in speaking upon that subject, I did not stick to rebels and rebellion. But the Senator has certain idiosyncracies to which I have already alluded. I hope he may enjoy all his own self-consequence, and that his vanity may continue forever to be in full bloom; and I hope, for his own sake, that he may cause other people to think as highly of him as he thinks of himself, and if he does I have no doubt he will be President very soon.

Now, sir, at the suggestion of my friend from Indiana [Mr. HENDRICKS] and other Senators, I withdraw my motion; and I hope that the chairman of the committee will report the resolution at an early day.

Mr. CONNESS. Mr. President—

The VICE PRESIDENT. The Senator from Kentucky proposes to withdraw his motion. His motion will be considered as withdrawn unless objection be made.

Mr. CONNESS. I object, at present.

Mr. POWELL. I withdraw the withdrawal of my motion if the Senator wishes to speak.

Mr. CONNESS. I shall not detain the Senate an instant, and am entirely willing that the Senator shall withdraw his motion. I shall not disgust the Senate nor violate the proprieties of this place by engaging in a vulgar tirade with the Senator from Kentucky. The Senator has descended, I think, in the opinion of the Senate, and I shall not follow him. I did say that I was tired of the speeches of the Senator from Kentucky. I now say to that Senator that I think his constituents have tired of them, too. I leave it simply to the readers of the Congressional Globe to determine between that Senator and myself as to all he has said. I never had the appreciation shown me yet when I rose in this body of being left to empty benches as an audience. If the Senator had been sensitive he would have often closed his addresses in this body and made them more brief than he has done. But, sir, I do not intend to follow him. Whenever that Senator in discussions here shall, as I believe, fall within the scope of my comment, I give him notice that he shall always receive it; and when he receives it he shall receive it in such a manner as I shall see fit to impart it. The Senator shall never be a criterion for determining how I shall speak while I have a seat in this body and while he has. I will not repeat myself, as the Senator so often does in this Chamber, nor delay the Senate longer on a subject that has been certainly sufficiently discussed.

Mr. TRUMBULL. Before this matter passes from the consideration of the Senate, as the Senator from Kentucky has been so persistent in his statements in regard to the cruelties and thefts and robberies of General Paine, I feel it due to state that his information is entirely at variance with such as I have received. When this matter was called up I did not have before me the letters which have been written to me from the State of Kentucky, and I have not got them now, with the exception of two that I happen to find from gentlemen of very high character, and whom, I am sure, if the Senator from Kentucky knew, he would not denounce as participants in embezzlement or robbery. One of these gentlemen says in his letter to me:

"We feel that the effort now being made to stigmatize the name of General Paine is but a blow at the Union men of western Kentucky, and if there is any protection due to Union men anywhere the Union men of this region are entitled to it. In the beginning of the rebellion our best Union men were insulted on the streets and ordered to leave the city; they were hunted up in their workshops and driven from their labor to places of security; they were made to leave their homes with the punishment of death if they returned. This is the character of people over which General Paine was sent to rule. He drew a line between the



friends and the enemies of this Government which no one could fail to see. He was well acquainted with this people before he came here to take command; he knew with whom he had to deal, having been stationed here in an early day."

"All the stories of his having killed so many innocent men is no more nor less than bosh; he had five guerrillas killed here, and only five. As to his ever receiving any money or being engaged in any swindling transactions is simply absurd, and is believed by no one here. If the man can be found who will swear that General Paine was ever engaged in swindling or embezzling while in command in this district the people would like to see him."

"The Union men here court an investigation of General Paine's administration while in command of western Kentucky. We are satisfied that no charge of a disgraceful character can be sustained against him. The Union men here sustain General Paine as our man, and as said above, if we ever have an opportunity we will do so. We ask no favors, only such as are due to the loyal men of the country."

"That is from one gentleman."

Mr. POWELL. Will the Senator give me his name?

Mr. TRUMBULL. No, sir.

Mr. POWELL. Is the Senator at liberty to do so?

Mr. TRUMBULL. No, sir.

Mr. POWELL. I do not ask it.

Mr. TRUMBULL. As a matter of course, the Senator from Kentucky, when he asks these questions, knows that it would be improper for me to give the names.

Mr. POWELL. I know that sometimes correspondents write and give permission to use their names. I only wished to know if the Senator had permission to give the names in this instance.

Mr. TRUMBULL. I have not permission to use the names of the persons who write to me. Another gentleman writing to me says of General Paine:

"He has served in this region a good while, and is pretty well known here. My own acquaintance with him is quite limited, and with his administration very slight. This, however, I know: he was the terror of rebels and their friends, and the refuge of Union men. One man like him is worth an army of such as some who have been here in authority. Quite possibly he may have erred and done some indefensible things. It would be strange if he had not. The usual rebel policy against our officers is, if possible, to corrupt them by presents, dinners, and attentions; or, if this cannot be done, to seize upon some act of indiscretion, mistake, oversight, or short-coming, and clamor them into disgrace. General Paine's case comes within the latter category."

"I am much inclined to suspect a great error was committed in relieving him from Paducah."

"Perhaps I shall be excused for adding that I have no interest whatever in the matter, except a desire that no injustice be done to an officer who, I believe, has endeavored to do his duty while commanding in one of the worst localities in Kentucky."

This is the character of the information I have received; and now I insist that it is very unjust to a public officer, about whom there is evidently this disagreement of opinion, to rise here in the Senate and in advance proclaim him to be a guilty man and a thief and a murderer. Sir, I would protect no such man; I would protect no man who is guilty of any such transactions; I would say nothing in his favor. But I know personally one of the gentlemen who writes me one of these letters; I know him to be a gentleman of high character, and the Senator from Kentucky knows him well; and I only refer to these letters as an answer to this *ex parte* report which the Senator from Kentucky keeps thrusting before the Senate and the country, as I think to the unjust prejudice of a man who has had no trial. If these papers are to come forth, let them all come—his defense and the report which has been made to the Judge Advocate General upon this investigation had by an *ex parte* proceeding.

Mr. SUMNER. I now move that the Senate proceed to the consideration of House joint resolution No. 91, which was reported yesterday from the Committee on Foreign Relations.

The VICE PRESIDENT. There is a motion still pending before the Senate.

Mr. POWELL. I rise to withdraw my motion.

The VICE PRESIDENT. If there be no objection, the Senator will be allowed to withdraw his motion.

Mr. POWELL. Before withdrawing the motion I wish to say a single word; I am not going to make a speech. The Senator from Illinois lays great stress upon my charging this person with being guilty. I stated in reply to that Senator at first that I was only stating what this commission charged him with, and they made their report

upon proof. I do not know whether he is guilty or not; I hope he may prove to be innocent; but this commission charges him with all the offenses I have indicated, and say that they accompany the charges with the sworn proofs; and the commission was open, and all General Paine's friends were invited to come and testify. I now withdraw my motion.

The VICE PRESIDENT. The Chair hears no objection to the withdrawal of the motion. It is withdrawn.

#### ORDER OF BUSINESS.

The VICE PRESIDENT. The special order is House bill No. 583, which is the unfinished business of yesterday.

Mr. SUMNER. What is that bill?

The SECRETARY. A bill to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Mr. SUMNER. My colleague who has charge of that bill is not now in his place, and therefore I move that for the present it be passed over.

Mr. SHERMAN. I have an amendment pending to that bill. I do not think it will take more than a few moments to pass it.

Mr. SUMNER. I am inclined to think there may be some discussion on it.

Mr. SHERMAN. As far as I know there will be none.

Mr. SUMNER. I think I had better persevere in my motion.

Mr. SHERMAN. The Senator's colleague is now present. The bill has been before the Senate two or three times.

The VICE PRESIDENT. The question before the Senate is an amendment proposed by the Senator from Ohio, which will be read.

Mr. SHERMAN. I propose to modify the amendment—

Mr. SUMNER. I understand from my colleague that there is no particular haste in regard to this bill.

Mr. WILSON. I understand that my colleague is desirous of pressing this joint resolution now. If there be need of it, I will give way with this bill, and let it go over until to-morrow.

The VICE PRESIDENT. Does the Senator from Ohio yield the floor?

Mr. SHERMAN. The Senator from Massachusetts has charge of the bill, and if he desires to lay it aside I have no objection. It has been before the Senate three times, but I shall not interfere with his management of the bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts [Mr. SUMNER] to postpone the further consideration of the bill in order to proceed to the consideration of the joint resolution indicated by him. The motion was agreed to.

#### NAVAL FORCES ON THE LAKES.

The Senate, as in Committee of the Whole, accordingly proceeded to consider the joint resolution (H. R. No. 91) in relation to the treaty of 1817. As the resolution was passed by the House of Representatives, it recited that the treaty of 1817, as to the naval force upon the lakes, was designed as a temporary arrangement only, and, although equal and just at the time it was made, has become greatly unequal through the construction by Great Britain of sundry ship canals; that the vast interests of commerce upon the north-western lakes, and the security of cities and towns situated on their American borders, manifestly require the establishment of one or more navy-yards wherein ships may be fitted and prepared for naval warfare; and that the United States Government, unlike that of Great Britain, is destitute of ship canals for the transmission of gunboats from the Atlantic ocean to the western lakes, and therefore proposed to direct the President of the United States to give notice to the Government of Great Britain that it is the wish and intention of the Government of the United States to terminate the arrangement of 1817, in respect to the naval force upon the lakes, at the end of six months from and after the giving of the notice.

The Committee on Foreign Relations reported an amendment, to strike out all of the preamble and resolution, and to insert as a substitute the following:

Whereas the United States of the one part and the Uni-

ted Kingdom of Great Britain and Ireland of the other part, by a treaty bearing date April, 1817, have regulated the naval force upon the lakes, and it was further provided that "if either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice;" and whereas the peace of our frontier is now endangered by hostile expeditions against the commerce of the lakes, and by other acts of lawless persons, which the naval force of the two countries, allowed by the existing treaty, may be insufficient to prevent; and whereas, further, the President of the United States has proceeded to give the notice required for the termination of the treaty by a communication which took effect on the 23d November, 1864: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of 1817, regulating the naval force upon the lakes, is hereby adopted and ratified as if the same had been authorized by Congress.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. DAVIS. Mr. President, I do not concur in this resolution as it is reported, and I will merely state my objection to it. I am in favor of notice being given for the termination of that treaty or arrangement to which the resolution refers. My objection to the resolution is simply this: I hold that the notice to terminate the treaty or the arrangement can be given only by the Congress of the United States; that the Executive has no power rightfully to give the notice; the Executive has given the notice, and the action which the committee recommends for the adoption of the Senate is that we shall adopt and ratify the action of the President and give validity to the notice from the time the President directed it to be given. I object to that proceeding for the reason that it is a function of the legislative branch of the Government to give that notice. The President has no more power to give the notice than has the judiciary. The President has interfered with the legislative power of the Government, and in my judgment it is an interference which ought to be condemned, instead of being approved by adopting it.

It may be said that the British Government cannot take any exception to the regularity of the notice, but that it is a matter between our own Government and people. I do not admit that position to be altogether sound and true. For myself I utterly controvert the position that an unauthorized act performed by the Executive can be adopted and receive validity by its being ratified by an act of Congress. I will illustrate my position by an example: Congress has power to declare war. The President might assume to himself the power to declare war; and the time may come when Presidents of the United States will assume that power. Suppose a President of the United States should take upon himself to declare war against Great Britain, or any other Power with whom we are at peace, would an act of Congress, adopting and ratifying his declaration of war, make that declaration of his valid and binding? There is a clause in most of the treaties between the United States and foreign Governments that in the event of a declaration of war on the part of the United States against that Government the citizens or subjects of that Government who are domiciled here shall have six months within which to remove their property from the United States. Suppose the President of the United States should declare war against England, and the property of the subjects of England within the United States at the expiration of six months from the declaration of war by the President should be seized and confiscated by our authorities, the question would then come up whether the right of the subject of England to remove his property from the United States did not date from the declaration of war by Congress, the regular war-making power. Would the liability of the subject of England to have his property forfeited take effect from the declaration of war by the President, or would the act of ratification and adoption of the President's declaration of war by Congress give the effect to the President's declaration to authorize the confiscation of the property of the subject of Great Britain from the date of the declaration of war by the President? I say it would not.

Although the Government of England and the courts of England could not take cognizance of

that irregularity in the declaration of war, still the subject of England might make the question, and have the advantage of it in our courts; and if a case was to arise in the courts of the United States in which a subject of England should make that question, I entertain no doubt whatever that the courts of the United States would decide that the presidential declaration of war had no effect, and that there was no regular and valid declaration of war until war was declared by Congress, and that the subject of England had the full six months from the time of the declaration of war by Congress within which to remove his property from the United States, and it would not be subject to confiscation until the full expiration of six months from the time of the declaration of war by Congress.

That is one objection I have to the resolution in the form in which it is reported. Another is that it is a mischievous precedent. It is a precedent the effect of which is to sanction and to give authority to an unauthorized act by the President. It is to give validity to an act which, without the ratification of Congress, would have no validity at all. It is to sanction and to give not only acquiescence but approval to an act of usurpation by one department of the Government upon the constitutional authority of another. It is in that sense an eminently mischievous and wrong precedent, and therefore also I oppose it.

It may be said that unless we do what is now proposed we shall lose the time that has elapsed between the notice, as it has been directed to be given by the President, and the present time. That is a consideration of no importance whatever. The effect of this resolution is to terminate a treaty. That treaty has existed between the two countries since 1817. There is no particular haste for bringing that treaty to an irregular and unauthorized termination by the act of the President. There is no reason for it, in my judgment. I believe that the interests of the country would not suffer by the delay between the time when the notice was given by direction of the Executive and the time when it should be, as it ought to be, regularly communicated by the action of Congress. I have no idea that there is an interest of the country that would suffer; but even if the fact was otherwise, the amount of good that would result to the country from gaining this short time would be altogether inconsiderable, and inadequate, in my judgment, to compensate for the establishment of any such vicious precedent.

I did not rise, sir, to make any elaborate argument in relation to this matter, but simply to state the grounds upon which I object to the form of the resolution. I am in favor of the notice being given, but I insist that it ought to be given so as to propose to have effect, as it can legally and constitutionally and rightfully have effect, only from the time that it is given in obedience to the joint resolution passed by Congress.

Mr. SUMNER. Mr. President, the difference between the Senator from Kentucky and the committee, it would seem, is rather one of form than of substance. The Senator is in favor of giving the notice, but he criticises the way in which it has been done. Now, that the Senate may understand the way in which it has been done, and be prepared to approach the precise question in issue, I ask permission to read from a document which I have in my hand the actual terms of the notice already given. I have in my hand a copy of a dispatch addressed by our minister in London to Earl Russell, bearing date the 23d of November, 1864, drawn up in pursuance of instructions from the Department of State. In this dispatch there is a minute statement of the grievances and the outrages which had recently occurred on our northern frontier, setting forth at great length especially that outrage to which the Senator from Ohio [Mr. SHERMAN] called our attention the other day, on Lake Erie. After proceeding with these details, this communication goes on as follows:

"It must be obvious to your lordship that at the time of the adoption of the arrangement between the two Governments in April, 1817, which limited their naval forces on the lakes, a condition of things like the present could scarcely have been anticipated. The purpose clearly was to prevent either party from keeping up a force which might endanger the other, thus entailing upon both the necessity of maintaining a more or less burdensome armament. It certainly did not contemplate the possible intervention of a third party, ill disposed to both, which should malignantly avail itself of the known provisions of the compact for the

purpose of working certain mischief to that which it hated the most, and possible injury even to the other, by provoking strife between the two. Neither could it have foreseen the precise position in which her Majesty's Government has been placed by recognizing as belligerents persons capable of abusing the privileges conceded by that measure to the most malicious purposes. In view of these extraordinary events, against the recurrence of which on the Canadian side, no provision adequate to meet the immediate exigency seems to have been made on the part of her Majesty's Government, it would seem to be the imperative duty of the United States to provide at once some stringent measures. Inroads by marauding ruffians upon the population of the United States on that border cannot be tolerated.

"Among the papers which I have the honor to lay before you, I beg in this connection to call to your notice a letter of the Secretary of the Treasury, directing the outfit of two steam propellers, one upon Lake Erie and the other upon Lake Ontario, with the object of checking, and if possible suppressing, depredations on the trade or attacks upon the population connected with those waters.

"In consequence, however, of the later outrage perpetrated at St. Albans, I am directed to say that the preceding measures are not deemed by any means adequate to answer the desired purpose. The proceedings taken together are regarded as deserving of further and prompt action on the part of her Majesty's Government, in order to avert the dangers of ultimate conflict upon the Canadian borders.

"It gives me great satisfaction to be able to acknowledge to your lordship that the Canadian executive authority has thus far coöperated with my Government in faithful and diligent efforts to bring these disturbers of the public peace to due account. It is a matter of certainty, though not perhaps susceptible of judicial proof, that all movements of this character are set on foot by a notorious person named Jacob Thompson, who, with other disloyal citizens of the United States, is temporarily domiciled in Canada, and furnished with funds by his coadjutors at home for these iniquitous operations through the banking institutions of that province. It is impossible not to feel their presence and their activity in that region to be a constant threat against the safety of the people occupying the entire long line of the border. I am, therefore, with great regret, instructed to give this formal notice to your lordship, that in conformity with the treaty reservation of the right, at the expiration of six months from the date of this note the United States will deem themselves at liberty to increase the naval armament upon the lakes, if, in their judgment, the condition of affairs in that quarter shall then require it.

"In taking this step I am desired to assure your lordship that it is resorted to only as an indispensable measure to the national defense, and so far from being in a spirit of hostility that it springs from a wish no less earnest than heretofore to preserve the most friendly relations with Great Britain. I take pleasure in adding that it is the fixed purpose of my Government in every case to direct its energies to the prevention of all attempts to invade the British territory, whether by way of retaliation or otherwise."

This note, I have already said, bears date November 23, and on it is minuted as follows: "Delivered at the Foreign Office at fifteen minutes past six o'clock, p. m." The Senate will therefore observe that it is from that date that the notice given by this communication may be said to take effect; but here the question is presented which has been raised by the Senator from Kentucky as to the validity of a notice given by the President under such circumstances and in such a way. That question has occupied the attention of the committee, and after careful consideration of it they came to the conclusion which is embodied in the resolution now under consideration. In their opinion, a treaty may be regarded as to a certain extent a part of the law of the land, to be repealed or set aside only as other law is repealed or set aside: that is, by act of Congress. I might illustrate this conclusion by various authorities, judicial and legislative. I content myself with simply reading the words of Mr. Justice Story in his Commentaries on the Constitution of the United States. Speaking of treaties, he says:

"It is, therefore, indispensable that they should have the obligation and force of a law, that they may be executed by the judicial power and be obeyed like other laws. This will not prevent them from being canceled or abrogated by the nation upon grave and suitable occasions; for it will not be disputed that they are subject to the legislative power, and may be repealed, like other laws, at its pleasure."—*Story's Commentaries on the Constitution*, sec. 1838.

I will quote also the words of Mr. Justice Iredell in giving the opinion of the Supreme Court of the United States in the case of *Ware vs. Hylton*, 3 Dallas's Reports, page 260:

"It is a part of the law of nations that if a treaty be violated by one party, it is at the option of the other party, if innocent, to declare in consequence of the breach that the treaty is void. If Congress, therefore, who I conceive alone have such authority under our Government, shall make such a declaration in any case like the present, I shall deem it my duty to regard the treaty as void."

I assume, therefore, that the intervention of Congress is necessary to the termination of this treaty, and the President has already, to the extent of his power, interfered to give the notice which it is now proposed that Congress shall give, which, indeed, the other House, during the last session,

actually undertook to give so far as one branch of the Legislature could act. But the Senator from Kentucky tells us that the original defect in the notice as given by the President is of such a character that it cannot be cured, if I may so express myself, by any subsequent ratification, and he proceeds to present what he will excuse me if I call rather imaginary cases—cases which I think could hardly occur, and which are widely different from the case now under consideration. I will not undertake to express any opinion on the cases which he does present; as for instance, if the President, during the recess of Congress, should undertake to involve the country in war. Let that case take care of itself when it arises for judgment. The case now before us is more simple, and is one with regard to which there are no private rights or interests. It is simply a question of a domestic character as between Congress and the President of the United States. He has given the notice. As regards the Government of Great Britain, that notice, I cannot doubt, is perfectly valid. That Government will never call it in question. It is for our own security, and for the conformity of our precedents with just principles, that we now propose by a formal act of Congress to throw over this act of the President the shield of congressional sanction, and the question is, can that be done? Can Congress, by an act of ratification, impart to the original notice given by the President that power and character which, without subsequent ratification, it would not have? On that point I content myself with reading the authoritative words of the Supreme Court of the United States in the decisions known as the *Prize Cases*, 2 Black's Reports, page 671. There the court express themselves as follows:

"Without admitting that such an act was necessary under the circumstances, it is plain that if the President had in any manner assumed powers which it was necessary should have the authority or sanction of Congress, that on the well-known principle of law, '*omnis ratiobilit retrotrahitur et mandato equiparatur*,' this ratification has operated to perfectly cure the defect. In the case of *Brown vs. United States*, (8 Cranch, 131, 132, 133.) Mr. Justice Story treats of this subject, and cites numerous authorities to which we may refer to prove this position, and concludes, 'I am perfectly satisfied that no subject can commence hostilities or capture property of an enemy, when the sovereign has prohibited it. But suppose he did, I would ask if the sovereign may not ratify his proceedings, and thus, by a retroactive operation, give validity to them?'"

All that is proposed on the present occasion is that Congress shall ratify the notice already given to the British Government, and by a retroactive operation give validity to it.

Mr. DAVIS. Mr. President, a treaty was made between the United States and Great Britain in relation to the armaments to be kept up on the lakes that form a boundary between the British possessions and the United States. There is a provision in that treaty that either party may terminate it by giving the other party six months' notice. My own opinion is that the altered condition of Canada, resulting from the construction of her ship-canal, has rendered it expedient and proper for years past that the United States should terminate that treaty, and I have always been ready since I have been a member of this body to vote for its termination. The honorable chairman of the Committee on Foreign Relations is not more in favor of taking that step than I am myself. The only question between him and the committee and myself is as to the regularity of the proceeding that is recommended by the committee for terminating the treaty.

This is not a treaty between the President of the United States and Great Britain. It is a treaty between the United States and Great Britain. One of the stipulations of the treaty is that either party to it may terminate it. Who, then, are the parties that are authorized to terminate it? Who are the parties that are competent respectively to give notice to terminate the treaty? They are Great Britain on the one side, and not the President of the United States, but the United States itself, on the other side. The committee are unanimously of opinion that the act of the President in giving notice to terminate the treaty is an act without any authority, and until it is ratified and confirmed by the action of Congress, as every gentleman acknowledges, it has no effect or operation whatever.

By an express provision of the Constitution treaties are made the supreme law of the land. Treaties may be unmade, and they are unmade in

our Government by the action of Congress upon two principles: first, because Congress has power to declare war; and second, because a treaty being in the nature of and having the effect of a law can only be repealed or abrogated by the law-making power. These two principles establish conclusively that it is indispensably incumbent and necessary, in order to secure the termination of this treaty, that it shall be terminated not by the action of the President, but by the action of Congress.

Mr. CLARK. The Senator will pardon me for interrupting him for a moment. Do I understand him to take the ground that we cannot so ratify the act of the President as to give validity to it from this time?

Mr. DAVIS. I am coming to that in a moment. That is the conclusion which I reach. I assume, as seems to be generally conceded, that the action of Congress is necessary to give the notice, and thus to terminate the treaty. On that proposition there is no dissent of opinion, as I understand. Now the question is, as the President has irregularly, and without any effect in the act *proprio vigore*, given the notice, is it competent for Congress to ratify that act and adopt the notice and give it effect from the time the notice was given? I assume two positions in relation to that question. The first is that, in my judgment, according to the principle and the theory of our Government, it is not competent for Congress to ratify a void and unauthorized act by the President so as to give it vitality, effect, and operation from the time that act was performed. In the next place, I say that if it was competent for Congress to give by its ratification this effect to the act, it would be inexpedient and in the highest degree impolitic to attempt to give it any such effect.

In my judgment a great mistake in relation to the construction of our Constitution and of the powers created by it results from the continual habit of our functionaries, officers, and people, of drawing analogies between our Government and other Governments, when, according to my position, there is no such analogy. There is but one law of our Government, and that is the Constitution of the United States. Whenever the powers of our Government are to be ascertained on any controverted question, how is it to be settled? In my judgment it is to be settled by a resort to, and a correct understanding of, the Constitution, not by drawing analogies from other Governments.

Our Constitution establishes the principle that the powers of Government are divided into departments; the legislative are assigned to Congress, the executive to the President, and the judicial to the courts. Let me ask the honorable Senator from Massachusetts, the chairman of the Committee on Foreign Relations, this question: suppose the President of the United States was to assume a judicial power, and was to render a judgment that appertained, according to the principles of our Constitution, to the judiciary alone, could the judiciary afterward, after he had rendered his judgment, and had endeavored to give it effect and validity, ratify the judgment of the President, and by that ratification give the same effect and consequences to that judgment from the time it was rendered by the President which it would have had if it had been rendered in the first instance by the judiciary itself? He would answer no. I think that it is just as competent for the judiciary to recognize and to give a validity and sanction to a judgment which ought to have been rendered by the courts, but which in fact had been rendered by the President, as it is for Congress to give effect to a legislative act that has been attempted to be performed by the President, and which Congress could alone perform validly and effectively according to our Constitution.

The principle contended for by the honorable Senator would break down the separation of powers among the departments of Government; it would intermingle the executive and legislative powers, and it could as validly and logically intermingle the judicial and executive powers. My position is, that the President has no right to exercise any judicial or legislative powers; and though he may assume to exercise the one or the other, the sanction of the department of the Government to which they properly and constitutionally appertain to his exercise of such powers can-

not give it the least effect whatever. But if I am mistaken in that general principle, and I do not believe I am mistaken in it, according to a correct interpretation of the powers of Government, still, on the question of expediency, I hold that where one department of the Government sets the example of trenching upon the powers of another department of the Government, and does an act which it has no power to do, and which, if it attempts to do, has no legal effect whatever, the department to which appertains the right and the prerogative to do the thing, even by sanctioning the unauthorized usurpation of power by the other department of the Government, has no effect to give any validity to the unauthorized act of the department that usurps the power.

The honorable Senator has read from the decision in the prize cases. There was a variety of opinions in relation to the correctness of that decision; but it is the highest adjudication that can take place in our country, and all have to submit to it; but that adjudication establishes a principle only in analogy to such cases as were decided in that particular suit. In relation to this question it established no principle whatever; in relation to this question that decision is *coram non iudice*; and if this question could come up in a case of *meum and tuum*, in which private rights would be involved, I have no doubt that the Supreme Court itself would take and hold the position that the case on which the honorable Senator relies applies only to the strict line of cases like it.

But, sir, waiving that question, and conceding that Congress may approve of this void act of the President, this unauthorized act of the President, this act of the President that has no effect whatever until it is ratified and confirmed by Congress, the question then arises, is it not in the highest degree inexpedient and vicious, and may it not be eminently vicious in the future that it should thus ratify his act? Why, sir, what is the effect of a bad precedent? What is the limit to the mischievous consequences of a bad precedent? What is to be the effect and what is to terminate the mischief of power being usurped by one department of our Government that properly pertains to another? It takes the future with all its events, all the varieties of questions that may come up involving the power that has been irregularly and unauthorizedly exercised by the President, and to which we are now seeking to give effect; it takes the indefinite future to measure the mischievous consequences of such a precedent. There is but one safe rule, and that rule is not to give such a precedent any countenance, not to give it any sanction, not to encourage a disposition and tendency upon the part of one branch of the Government to trench on the powers of another by that other department attempting to sustain and to sanction, or to give validity to this usurped power and the act that has been attempted to be performed under the usurped power.

I had not intended to say many words on this subject. I rose simply to state my dissent from the resolution recommended by the committee and the grounds upon which I made that dissent.

Mr. SUMNER. Mr. President, if this were a question of private rights, if, according to the language of the Senator from Kentucky, there was any question of *meum and tuum*, there would be a certain force, perhaps, in his argument; but there are no private rights involved, there are no private individuals who can be affected one way or the other by this proposed ratification of the notice already given. I therefore put out of view that class of suggestions. It is, then, simply a question of general power on the part of Congress when the exercise of it involves no question of private rights.

I conclude that Congress has this power, and I put my conclusion on two distinct grounds. The first ground is the reason of the case, its common sense; for without this power on the part of Congress I can imagine that sometimes great difficulties or embarrassments might ensue in the administration of Government. I say that the power must exist in Congress of ratifying, if it sees fit, certain executive acts. The second ground on which I put it is the ground of authority; that the Supreme Court of the United States, after careful consideration in recent cases which the whole country knows had the amplest attention and were most fully argued, has affirmed the power on the part of Congress of ratifying an

executive act which without that ratification might otherwise have been invalid. But I do not content myself with referring to that single decision, recent and authoritative as it is; I call attention also to that earlier decision which is referred to in the prize cases, the case of *Brown vs. The United States*, in 8 Cranch, which is well known to all lawyers to have been one of the best reasoned judgments that can be found in our books, and in that case you will find the same power attributed to Congress.

I say, therefore, on grounds of reason and on grounds of authority, that I am not permitted to doubt that Congress may exercise this power.

Mr. JOHNSON. Mr. President, the committee I believe were unanimous in thinking that the treaty of 1817 should be terminated. The only doubt which existed in the minds of the committee was whether the preparatory step had been properly taken which was taken by the President on the 23d of last November in giving the notice for the termination of the treaty. Some of the members of the committee were under the impression, and perhaps in that opinion the honorable chairman concurred, that the President had no authority to give that notice. The honorable member from Kentucky, who thought that there was no authority on the part of the President to give the notice, supposed that we could not ratify the notice given by him so as to make it effective as from the day on which the notice was given.

There were two questions, therefore, before us, and there are now two questions before the Senate, although, so far as the resolution is concerned, it is important only to pass upon one of them. The first is whether the President had not the power to give the notice without any antecedent legislation on the part of Congress. I am not prepared to say now—and I have not examined it, because it was immaterial, as I have just suggested, to the consideration of the resolution itself—whether he has not the power. We know that under the Constitution of the United States, the only organ between the United States and foreign Governments is the Executive. They have nothing to do with the Congress of the United States or with the judiciary of the United States. The whole foreign relations of the country, as far as they are to be carried on by negotiation or in any other way, are to be conducted by the President. Foreign nations, therefore, have a right to suppose that what he does in behalf of the United States he does under some proper authority. I have not had time, or at least I have not thought it necessary, as I have just stated, to examine into that question; but my recollection is that the proclamation of neutrality which was issued by General Washington during the war between England and France was justified by Mr. Hamilton in his celebrated letters signed "Pacificus," upon the ground that that was a purely executive act. And he reasoned with the clearness which distinguished all his productions; he reasoned with very great power to show that the President himself, because he was the organ as between the United States and foreign nations, had the power to issue that proclamation of neutrality, he esteeming the issuing of a proclamation of that description as an executive act, and reasoning from the provisions of the Constitution that every act which is not by the terms of the Constitution declared to be legislative or judicial is in its nature executive, and to be performed on the part of the Executive.

But, as I have said, it is unnecessary to inquire whether that notice of itself, because of the power of the President to bind us absolutely by the giving of that notice, answered that purpose or not. I suppose it to be very clear that England, on the 23d of November, when the notice was given by the President, had a right to assume that the President had the power to give that notice. She would have no right to tell the President, "You are acting without authority; you are warring against the provisions of your own Constitution; you are transcending your own limited power; we appeal, therefore, from your decision to Congress, and we shall pay no regard to the notice until Congress shall act." I am sure England never contemplated that she was authorized to make an objection of that description, and I presume that the United States would not be altogether pleased if England had made such an answer to the President's notice of the 23d of November.



Mr. SUMNER. Will the Senator allow me to interrupt him there? I understand that, in point of fact, Earl Russell took notice of the action in a formal communication addressed to the Department, which has been received within a few days, and recognized the validity of the notice, and, if I may so express myself, received it in good part.

Mr. JOHNSON. I was just about to refer to that.

Mr. SUMNER. I beg the Senator's pardon.

Mr. JOHNSON. I have said, Mr. President, that the English Government would have no right, as I think, it would have been discourteous in the extreme, it would have been offensive to the United States, to have told the President, when it received the President's notice of the 23d of November, that he was acting without authority; and, instead of pursuing that discourteous course, as the chairman has informed the Senate, the proper organ of the British Government replied—and I was very glad to see that the reply was couched in the terms in which it was written—in very courteous terms; said in substance that there was nothing in the notice of an offensive character; he recognized the authority of the United States to put an end to the treaty, and looked upon it rather as a friendly than as a hostile act; and that is now of record.

Then how do we stand? The President, the only organ between ourselves and England, has assumed the right to give the notice, and has given it. The English Government has accepted the notice as properly given. The English Government might at the very time that notice was given, or the day after, or at any day between that day and the present, have come to the conclusion that, looking to the interest of that Government, it was important to them that the treaty should be terminated, and might have abstained from giving the notice which they were authorized to give, that the treaty was to terminate at the end of six months, upon the assumption that the notice was in fact given by the United States, and that it was therefore unnecessary to give a duplicate notice, because the notice given by the United States and accepted by England was precisely as effective as a notice given by England and accepted by the United States. Then at the end of six months from the 23d of November England may say to us—and I speak it with all deference to my friend from Kentucky, or any other member of the Senate who may entertain the same opinion that he does—"The treaty is at an end, and we will increase our force upon the lakes." Could the United States then say, "You shall do no such thing; the treaty is not at an end; the treaty is still just as effective as it was in 1817, when it was first negotiated, or as it would have remained effective if no notice had been given at all?" I submit, not.

Then if England would have a right at the termination of six months from the 23d of November to consider the treaty as abrogated, it would seem necessarily to follow that we have a right to consider the treaty as abrogated at the termination of six months from the 23d of November. What do we propose to do? There existing some doubt, as between the President and ourselves—not as between the President and foreign Governments—whether the President had a right, without our antecedent authority, to give the notice on the 23d of November, he having, however, given it and bound the United States to England that we will consider the treaty as terminated at the expiration of six months from that date, and that England may consider the treaty as terminated at the expiration of the same period, we say, as between him and ourselves, "You have represented us perhaps beyond the limit of your authority, but you have bound us; we feel that we ought to be bound; now we want to indemnify you; we want to show that you have done nothing of which we complain; we want the treaty put an end to; England has a right to consider it as terminated because of that notice, and we want to say as between ourselves and you that although you may have gone beyond the very letter of your authority, you have only done that which we desire to be considered as legally done, and we will ratify it."

What difference is there between a case of that description and any other case of principal and agent? The President is the agent of the United States. He is the agent of the legislative author-

ity of the United States. If my friend from Kentucky and those who think with him are right, he is only authorized as the agent of the United States in relation to this treaty to give the notice after Congress shall have authorized or directed him to give it. But he has given it before. Cannot we confirm what he has done before? If we would have authorized him to do it at the time that he did it, cannot we say "We will have the benefit of his act, although it might not have been binding upon us as between him and ourselves?" Why not? How is it as between individuals, agents and principals? A man goes into the world under the authority of a limited power of attorney; he transcends it; his principal knows it; his principal acquiesces in it; his principal expressly ratifies it: is not that subsequent ratification equal to original and antecedent authority? Certainly; and all that the Supreme Court of the United States decided in the case, in 8 Cranch, which has been cited, and what the majority of the Court in the prize cases have said was correctly decided, to which the honorable member from Massachusetts has referred, is this: that whatever is done by an agent may be ratified by his principal afterward, so as to make it just as effective an act of agency as if it had been authorized in advance. What was that case?

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. DAVIS. Suppose the President was to proclaim war against a foreign country—England, for instance—and three months afterward Congress by an act should attempt to ratify his declaration of war by proclamation, would the recognition of the war by Congress make it effective from the time that the President had proclaimed it?

Mr. JOHNSON. I say yes, and that is precisely what the Supreme Court have decided.

Mr. DAVIS. Let me ask this further question. Under a treaty between the two countries, in case of a declaration of war, the subjects of England and the citizens of the United States, in the two countries respectively, have six months within which to withdraw their property. Suppose that within the six months after the proclamation of war by the President, but before the expiration of six months after the ratification of the war by Congress, there was a confiscation of the property of English subjects in this country, would that confiscation of property be valid? Would not the subject of England have the right to claim his property upon the ground that there had been no valid declaration of war?

Mr. JOHNSON. That does not alter the case at all. What is war? It is a prosecution of some supposed right by force; that is all. What is the character of the conflict that is going on in the United States now? It is too late to question that it is war; and what made it war? Not any declaration of war by Congress; for Congress took no action in relation to it until the 13th of July, 1861. Everything antecedent to that time was done by the Executive; and yet the Supreme Court have unanimously decided that long before the passage of the act of July 13, 1861, a state of war existed which gave to each of the parties, the confederate States and the United States, every belligerent right.

Mr. DAVIS. I will ask the Senator, with his permission, if he maintains that the decision of the Supreme Court referred to by the honorable Senator from Massachusetts decides that every belligerent right appertains to both parties before the recognition of a state of war by Congress, or even after the recognition of a state of war by Congress? Was not the effect of the decision simply restricted to the question of the right of prize upon the ocean?

Mr. JOHNSON. No, sir.

Mr. DAVIS. That is my understanding of it.

Mr. JOHNSON. The particular cases before the Court were cases which involved the question whether the prize law was applicable to the hostilities existing between the United States and the confederate States. The objection taken by the minority of the Court, consisting of the Chief Justice and three of the associates, to considering the war as existing even with reference to the application of the prize law was that to consider it as existing was incidentally to make them all enemies; but if the honorable member will read

the dissenting opinion given in behalf of the dissenting judges by Mr. Justice Nelson, he will find that it was upon the very ground that it would involve all the rights of war that he dissented; but he admitted, and all the Court admitted, that after the act of July 13, 1861, was passed, every belligerent right, every right of war, and all the incidental rights growing out of a state of war existed.

My honorable friend will not forget the Mexican war. How did that war exist until May, 1846? How was it brought about? We said, and Congress said by passing the act of May, 1846, that Mexico had made war upon us, and that the President had the right, or his military officers had a right, to accept the war, to fight the battles upon the Rio Grande.

Mr. FOSTER. "War existed by the act of Mexico."

Mr. JOHNSON. I know; and when we passed the act of May, 1846, the preamble of that act stated that war existed by the act of Mexico, not by any declaration of war by Congress; and nobody doubted that after Congress passed that act, or independent of the passage of that act, a state of war existed which made the people of the United States the enemies of the people of Mexico. That is all that we have done in relation to this war.

But, sir, that is not exactly this case. There is no question as to who shall declare war growing out of the proposition upon your table. The question is, whether we have not the right to ratify an act done by our agent, the President, assuming for the sake of the argument, (and the necessity of the ratification does assume it,) that as between him and us he stands in need of a ratification. He has offended against us, not as against England. England has a right to consider us as bound by his act, and to call us to an account hereafter if we refuse to abide by his act.

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. DAVIS. I assume, and a great many gentlemen do with me, that the President has performed a great many unauthorized and illegal acts for which he is responsible in our courts of justice to the persons injured. Does the honorable Senator contend that the passage of an act by Congress ratifying all those acts of the President, indemnifying him, and attempting to save him harmless and irresponsible for those acts, would have the effect of making those acts valid and legal?

Mr. JOHNSON. Certainly, but not in the general, sweeping terms the honorable member states. They cannot justify the President in doing what neither President nor Congress together could do; but so far as the President has done acts which Congress could have authorized him in advance to do, then their subsequent legislation confirming what he has done will place such acts precisely upon the footing in which this particular act will be placed if we pass the resolution upon your table.

Mr. DAVIS. Does the honorable Senator assume the position that private rights may be forfeited in that way; that the President may make an encroachment upon private rights against law, and for which he would be responsible in our courts, and for which he would be responsible even if there was an act of Congress authorizing him at the time to perform those acts? Does he assume the position that where the President does those acts without any authority of law, and becomes a trespasser and a wrong-doer, he may be indemnified and rendered harmless by Congress afterward passing laws to ratify those acts? Do I understand the honorable Senator to assume that position?

Mr. JOHNSON. I do not wish to be misunderstood; and I am sure the honorable member does not desire to misunderstand me, and still less to misrepresent me.

Mr. DAVIS. Most certainly not.

Mr. JOHNSON. What I mean to say is this: that everything which the President of the United States could do, as Commander-in-Chief of the Army, being such because he is President, in the execution and carrying on of this war, if Congress by legislation had authorized him to do it in advance, he is to be considered as having properly done it if Congress afterward by legislation sanctions it. If the honorable member will consult

the opinions of the Supreme Court since the war commenced he will find that there is hardly a judge upon the tribunal who has not gone to that extent—not one. Whether a particular act was right or not will be decided hereafter when the question arises. There are some acts which the President may have perpetrated—I do not know that there are any such—which will not be protected by any legislation in the nature of indemnity which Congress may subsequently have adopted; but they are only such acts as Congress themselves could not have authorized.

The honorable member says that the President has no right to create a state of war. Suppose England invades the United States and the President meets her at the threshold, calls around him all the military force that he can have, and fights battles: will the honorable member say that the President had no right to do so, that all his acts were void; that he has committed murder, because there could be no war legitimately existing in the United States, and no authority in him to carry on a war or to kill upon the battle-field, without an antecedent act of Congress declaring that a state of war existed? I am sure he would not; and yet construe the Constitution by its words and you would suppose that a state of war cannot exist as between the United States and any foreign Government until Congress shall declare it. Those words are to be taken with a qualification. War is an existing fact. Does it exist, or does it not exist? England has the same right to make war that we have; and if England, either when Congress is in session or in the recess, thinks proper to commit an act of hostility against the United States, it is not only the President's right, but his duty to meet it, and the conflict becomes war, not by virtue of any declaration of war on the part of Congress, but by virtue of the fact; and if my friend will read the decision of the majority of the court in the prize cases, he will find that that doctrine is recognized throughout. The court say that they cannot shut their eyes to the actual condition of the country before Congress passed its act of the 13th of July, 1861; they cannot close their eyes to the fact that eight or ten or more States had claimed the power of going out of the Union, had organized a separate government, and were arraying within their own borders large armies and meeting the armies of the United States upon the battle-field. That creates war, whether Congress says that war exists or whether Congress should say that war did not exist. That is what the Supreme Court have said.

But it has nothing, perhaps, to do with the particular question before the Senate now. The question is, whether the Executive, who is the sole representative of the United States as between the United States and foreign Governments, having given a notice which he had no right to give under the Constitution of the United States, but which we are willing to take advantage of, may not, as between him and ourselves, be set right by our passing this resolution which says that that notice is to be just as effective and operative, and considered as having been given under precisely the same authority that it would have if, instead of passing the resolution now, we had passed it before the 23d of November, and authorized him to give the notice.

Mr. WILSON. When the President gave this notice the condition of the country was such that I have no doubt he felt it to be a high public duty. As it has been given, it is now proposed to ratify it, and I shall vote to ratify it; but if it were an original question to-day, with the lights I have, I would not vote for it. I see that this resolution talks about the establishment of one or more navy-yards on the lakes.

Mr. SUMNER. Oh, no.

Mr. WILSON. I beg your pardon. I find in the preamble to the resolution these words:

And whereas the vast interests of commerce upon the northwestern waters, and the security of cities and towns situated on their American borders, manifestly require the establishment of one or more navy-yards wherein ships may be fitted and prepared for naval warfare.

That is the House proposition. I expect this resolution to pass, and I suppose we are to have a call for the establishment of several navy-yards, and then a large number of fortifications, and millions and tens of millions of dollars are to follow the passage of this resolution. I do not believe there is need of any of it.

At the time this notice was given, the condition of affairs on the frontiers of Canada was very bad. The condition of the country to-day, the change in public sentiment there, all satisfy me that there is no need of any of this great expenditure nor this great anxiety. But the President of the United States has given the notice; it has been accepted; it is thought here that we ought to ratify it as far as Congress is concerned; and therefore I shall vote for it. But, sir, I warn Senators against what we are to have hereafter, and that is, a raid on the Treasury of the United States for vast expenditures of money along these inland seas. That I do not believe is necessary. If the time shall come when there is to be a war between us and Canada, I believe our people will flock over the lines everywhere, and that all opposition there will be brushed away in a few hours. Believing that, I must confess I do not see the wisdom of doing what I see is expressed in the House resolution, and what I know is to come, that we are to have calls here for a large number of navy-yards and heavy expenditures on the inland seas of the country.

Mr. SAULSBURY. I shall not vote for this joint resolution, and my action will be founded on this consideration: while we are in our own domestic difficulties, I do not intend to give any vote in this body which may be misconstrued by foreign nations. I am one of those who believe that foreign nations have treated us in our present troubles with great consideration; that they have not been unjust to us. I regretted to see an amendment adopted the other day to the consular and diplomatic appropriation bill inserting the words "republic of" before "Mexico," because I thought I saw that that might lead to disastrous consequences. We know that the Government of Great Britain has been accused by the press of the country with being unkind to us and with dealing harshly by us; we know that the Government of France has also been charged by the public press, and by some American statesmen, with being unkind to us; but give this notice, and how will it be interpreted? It is said that there are persons in this country who desire a foreign war. However much I regret the present deplorable civil war, in my place in the Senate of the United States I cannot give any vote or utter any word that shall be a pretext to any foreign nation of having just quarrel, or supposed just quarrel, with us. For these reasons I shall vote against this joint resolution.

Mr. DAVIS. Mr. President, a state of war is a state of active strife between two nations. There is but one power in the United States that can legitimately change our condition of peace toward other Powers, and that is Congress. Congress is the only power to declare war. What do these gentlemen propose to do? They propose to take up a wholly invalid act of the President, and to give it validity and effect by this ratification. What is that act? It is to terminate a treaty which is to be terminated, not by the President, but by the United States, by the express terms of the treaty itself. I hold that is as much within the power and competence of the President, to change the condition of our country from a state of peace to a state of war with England, as it is for him to terminate a treaty with England, which, by its terms, is to be terminated by the United States, and which necessarily involves the power of the termination of that treaty by the act of the Congress of the United States, both the legislative and the war-making power.

I admit that one nation may make a war upon another; England may make war upon us, and if she does so a state of war exists between the United States and Great Britain; but that is an evasion of the question. The question is this: what authority in the Government of the United States can change our condition of peace with Great Britain or with any Power to a state of war? The President is not the power. The only power that can legitimately change the relation of peace on the part of the United States toward England, so far as the United States is concerned, is Congress.

Now, sir, in relation to this treaty by analogy: the treaty may be terminated by either of the parties. The question arises, how is it to be terminated by the United States? Not by the act of the President. Until my honorable friend from Maryland suggested his doubt on the subject I thought it was conceded universally that the act of

the President to terminate this treaty was wholly invalid, that it would have no effect, no operation, whatever, until it was adopted by Congress; it then would become the act of Congress, but, as I maintain, from the time that Congress did the act, and not from the time that the President attempted to perform it. It seems to me it would be just as legitimate and operative for the President to decide a case which ought to be decided by the Supreme Court, and then for the Supreme Court, by its mandate or judgment adopting the decision which the President had given in the case, to endeavor to give validity and effect to that decision from the time the President had so decided it, as it would be to terminate this treaty by attempting to ratify and confirm a void, illegal, unconstitutional, and unauthorized act of the President.

Mr. FARWELL. I agree entirely with the Senator from Massachusetts [Mr. Wilson] upon this subject, and I regret exceedingly that the Committee on Foreign Relations, instead of reporting this resolution, did not bring in a resolution asking the President of the United States to invite England to renew this clause of the treaty which it is proposed to terminate. It has not been the policy of this Government to have large naval establishments; and I hold that it is not good policy to introduce or inaugurate measures that shall oblige us to keep up a large naval establishment upon the lakes.

What is our condition upon the lakes? We own almost the entire commerce of the lakes. We have a vast number of steamers which could be fitted almost in a day into effective war vessels. England has but few there. To be sure, it will be argued that England has the Welland canal through which she can bring up her gunboats into the lakes; but with our vast military superiority on the land, and England being obliged to transport her soldiers some three thousand miles across the ocean, except what little force she has in Canada, would Senators fear any gunboats coming through the Welland canal? How long do you think it would be after a cloud of war with England should appear before we should have possession of the Welland canal, before we should be able to block up the Welland canal, and prevent any vessels passing through it from the ocean into the lakes? I should have no fear at all on that score.

I think, as the Senator from Massachusetts [Mr. Wilson] has said, that this measure will result in great drafts upon the Treasury to build unnecessary, useless vessels upon the lakes that are more likely to involve us in trouble with Great Britain than to do us any good; but as the notice has been given, I shall vote to ratify that notice, although I doubt very much (and I observed carefully that the honorable Senator from Maryland expressed no opinion on that point, but rather on the other hand expressed a doubt) whether it is necessary to ratify this notice. The Constitution provides that the President shall make treaties, providing two thirds of the Senate concur; and the same clause in the Constitution provides that he shall appoint foreign ministers and other officers. It does not say that he shall not remove them without the consent of the Senate. It requires their consent for their appointment; but the practice always has been, and I believe nobody doubts the right of the President to remove foreign ministers or other officers without consulting the Senate upon the subject. I believe, and if the honorable Senator from Maryland had gone far enough to state an opinion on that subject I think he would say, that the President has the right to terminate any treaty which by the treaty itself may be terminated upon giving notice. However this may be, I propose to vote at this stage for the ratification of the act of the President, and only say that I hope the President will institute proceedings or a commission with Great Britain to renew this article at an early day.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is, Shall the amendment be engrossed, and the joint resolution read a third time?

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed; and its title was amended so as to read: "A joint resolution to terminate the treaty of 1817, regulating the naval force on the lakes."

## THANKS FOR THE VICTORY AT FORT FISHER.

Mr. DIXON. I ask the unanimous consent of the Senate to introduce two joint resolutions, one giving the thanks of Congress to Rear Admiral Porter, and the other to Major General Terry, for the recent brilliant victory at Fort Fisher; and I will observe that although these distinguished officers were jointly engaged in this victory, I have followed the precedents in proposing to give them the thanks of Congress in separate resolutions.

By unanimous consent leave was granted to introduce the joint resolutions; and they were severally read twice by their titles, and referred as indicated below:

A joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry and to the officers and men under his command for their gallantry and good conduct in the recent capture of Fort Fisher—to the Committee on Military Affairs and the Militia.

A joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the recent capture of Fort Fisher—to the Committee on Naval Affairs.

## MILITARY SERVICE.

Mr. WILSON. I move now to take up the bill that was laid aside on the motion of my colleague this morning.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

## ISAAC R. DILLER.

Mr. FOSTER. I move that the Senate now proceed to the consideration of executive business.

Mr. DAVIS. Will the honorable Senator from Connecticut allow me to call up a private claim that was laid over yesterday?

Mr. FOSTER. Certainly; I withdraw the motion.

Mr. DAVIS. It is House bill No. 94, for the relief of Isaac R. Diller. I will ask that the report be read. The reading of it was called for yesterday.

Mr. GRIMES. The Senator from New Hampshire [Mr. Hale] who called for the reading of the report is not in the Chamber, and I therefore suggest that the bill had better go over until tomorrow.

The PRESIDING OFFICER. Does the Senator from Kentucky insist on his motion?

Mr. DAVIS. As the Senator from New Hampshire is not in the Chamber I will let it be passed over informally.

## EXECUTIVE SESSION.

On motion of Mr. FOSTER, the Senate proceeded to the consideration of executive business, and after some time spent therein the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 18, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

## INDIAN AFFAIRS.

The SPEAKER announced the following select committee on Indian affairs, in compliance with a resolution of the House of yesterday: Messrs. WINDOM, HUBBARD of Iowa, ROSS, HIGBY, and WORTHINGTON.

## OVERLAND MAIL.

The SPEAKER laid before the House a communication from the Postmaster General, transmitting copies of papers referring to the overland mail route to California; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

## QUESTION OF PRIVILEGE.

Mr. SMITH. Mr. Speaker, I rise to a question of privilege. I noticed a few days ago in one of the accompanying documents of the message

of the Governor of Kentucky, sent to the Legislature of that State on the 4th instant, that a commission had been appointed by the military commandant of the district of Kentucky to investigate certain alleged wrongs on the part of the commanding general in the first district of Kentucky. Among other charges in that paper is one against my colleague [Mr. ANDERSON] of a serious and damaging character. I feel it, therefore, a duty to myself, to the State, and to him, to have that matter inquired into here. I offer the following resolution:

Whereas in a public document dated Lexington, Kentucky, September, 1864, signed by Brigadier General Speed S. Fry and John Mason Brown, Colonel of the forty-fifth Kentucky volunteer infantry, transmitted to the Kentucky Legislature by Governor Thomas E. Bramlette with the message of January 4, 1865, Hon. Lucien Anderson, a member of this body, is charged with corruption, bribery, and malfeasance in office: Therefore,

Resolved, That a committee of three members of this House be appointed by the Speaker to investigate said charges, with power to send for persons and papers, and report thereon.

Mr. WASHBURN, of Illinois. I think that the committee should be enlarged to five members.

Mr. SMITH. I have no objection.

The resolution was modified accordingly, and then adopted.

## RELIEF OF TEAMSTERS AND OTHERS.

Mr. BROWN, of West Virginia, by unanimous consent, introduced a bill for the relief of certain teamsters and other employes in the armies of the United States; which was read a first and second time, and referred to the Committee on Claims.

## COMMON SCHOOLS IN MISSOURI.

Mr. McCLURG, by unanimous consent, introduced a bill for the support of common schools in Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

## AID TO MISSOURI RAILROAD COMPANIES.

Mr. McCLURG also, by unanimous consent, introduced a bill granting aid to certain railroad companies in Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

## MARY A. LYON.

Mr. KASSON. There is on the Speaker's table a House bill granting an eight-dollar pension to a widow. It went to the Senate and was there modified in form and language, but not in substance; and I ask unanimous consent to take it from the Speaker's table for action.

No objection being made, the bill (H. R. No. 390) for the relief of Mary A. Lyon, with Senate amendments thereto, was taken from the Speaker's table for consideration.

The Senate amendment was to strike out all after the enacting clause, and insert a provision directing the Secretary of the Interior to place upon the pension roll the name of Mary A. Lyon, widow of Alfred M. Lyon, late a sutler in the twenty-third regiment of Iowa volunteers, but who volunteered as a private in company A of that regiment, and while serving in that capacity was mortally wounded at the battle of Black river, Mississippi, on the 17th of May, 1863, and died on the field; the pension to be at the rate of eight dollars per month, commencing on the 17th of May, 1863, and to continue during the widowhood of the pensioner.

The amendment was concurred in.

## MILITARY IMPRISONMENTS.

Mr. GANSON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Military Committee be, and they are hereby, directed to ascertain and report to this House as soon as possible the number of persons now confined in the Old Capitol and Carroll prisons; when such persons were respectively arrested and confined, and upon what charges their arrests were made; whether any of such persons are officers of the Army, and have been confined without a trial beyond the time in that respect prescribed by law or by the regulations in the military service; and whether any persons so in prison are confined without any written charges made against them; and whether there are any persons now in said prisons who have not had any trial; if so, to report the names of such persons, the time when they were arrested, and the alleged cause of their arrest respectively; and that the said committee be, and they are hereby, authorized to send for persons and papers.

## ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 623) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864; and An act (H. R. No. 203) for the relief of Jacob Weber.

## COMMUNICATION WITH THE TERRITORIES.

Mr. RICE, of Maine, by unanimous consent, introduced a joint resolution to facilitate communication with the Territories of New Mexico, Arizona, and Colorado; which was read a first and second time, and referred to the Committee on Territories.

## FORTIFICATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending 30th June, 1866; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made a special order for Friday next and from day to day until disposed of, and ordered to be printed.

## ACTING ASSISTANT TREASURERS, ETC.

Mr. STEVENS also, by unanimous consent, introduced a bill to provide for acting Assistant Treasurers or depositaries of the United States in certain cases; which was read a first and second time.

Mr. STEVENS. I ask that the bill may be now put upon its passage.

No objection being made, the House proceeded to the consideration of the bill, which provided that in case of the sickness or unavoidable absence of any Assistant Treasurer or depositary of the United States from his office, he may at his discretion authorize the chief clerk, or some other clerk employed therein, to act in his place and discharge the duties required by law of such Assistant Treasurer or depositary; provided the official bond given by the principal of the office shall be held to cover and apply to the clerk appointed by him to act in such cases; and provided further, that such acting officer for the time being shall be subject to all the liabilities and penalties prescribed by law for official misconduct of the Assistant Treasurer or depositary for whom he shall act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SALARIES OF COAST SURVEY CLERKS.

Mr. STROUSE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of increasing the salaries of the clerks and employes of the United States Coast Survey Office in the city of Washington, so as to place said clerks and employes upon an equal footing with clerks of the same rank in the Treasury Department proper.

## SORGHUM SYRUP, ETC.

Mr. EDGERTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the Commissioner of Internal Revenue has decided that under the internal revenue act, approved June 30, 1864, the manufactured products in syrup, molasses, or sugar, of sorghum or imphee are subject to a duty of five per cent. *ad valorem*, and it admits of question whether such construction of said act is in accordance with the intent of Congress: Therefore,

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending said act as that the same shall exempt from duty the said products of sorghum or imphee, and that said committee report by bill or otherwise.

## COAL AND PETROLEUM OIL REFINERIES.

Mr. A. MYERS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be requested to inquire into the expediency of classifying coal and petroleum oil refiners, so that those of small capacity



shall pay less, and those of large capacity more licenses, than under existing laws.

#### COURTS IN NEVADA.

Mr. WILSON. I ask the unanimous consent of the House to report from the Committee on the Judiciary bill of the House No. 640, providing for a district and circuit court of the United States for the District of Nevada, and for other purposes, with an amendment in the nature of a substitute.

No objection was made, and the report was received, and the substitute read.

Mr. GANSON. I would like to ask the gentleman from Iowa [Mr. WILSON] why he gives a salary of \$5,000 to this judge, when, in the old States, they only get \$2,500 or \$3,000?

Mr. WILSON. I will state that the Committee on the Judiciary, from the representations made by the gentleman from Nevada, [Mr. WORTHINGTON,] and other persons, were induced to believe that, with the present cost of living in Nevada, a judge there could hardly support himself on a less amount than \$5,000. Whether a provision ought not to be made by which the salary may be reduced in the future, I am not prepared to say. I believe that the gentleman from Illinois [Mr. WASHBURN] intends to offer an amendment to that effect.

Mr. WASHBURN, of Illinois. There may be something in the views which the gentleman from Iowa presents. I suppose that Nevada is the most expensive Territory that we have at present and that the cost of living there is immense. I think, however, that a salary of \$5,000 is too much even at present, but I will concede that provided the gentleman from Iowa will consent that after 1867 the salary of this judge shall be \$3,500 and no more.

Mr. GANSON. Can the salary be reduced, under the Constitution, during the term of office?

Mr. WASHBURN, of Illinois. There can be no objection to fixing it as this bill fixes it. We can fix the salary at \$5,000 for the present, and say that it shall be diminished after a certain time. My amendment is to add to section six of the substitute the following proviso:

*Provided*, That after the 1st day of January, 1867, the annual salary of the said judge shall be \$3,500, and no more.

Mr. KERNAN. The object of the provision of the Constitution, I presume, was to make the judges independent of Congress as to their compensation; but if we can say that their compensation shall be so much now but shall be reduced at our pleasure, they will hold their salaries at our pleasure.

Mr. WASHBURN, of Illinois. This amendment does not reduce their salaries, it merely fixes them.

Mr. KERNAN. I understand that, but if we can fix the salary of the judge in this constitutional way, we can say that he shall have a compensation of \$5,000 until such time as we change his salary and put every judge in the position that we shall have the right in the future either to continue the old salary or to reduce his salary at our pleasure.

The Constitution seems to provide that the judges of the United States shall have a fixed compensation, which shall not be reduced during their continuance in office. As I understand this amendment, it provides that the salary of this judge shall be so much for a time and so much hereafter.

Mr. WASHBURN, of Illinois. The amendment only fixes his salary.

Mr. KERNAN. True, but if he makes himself personally popular with Congress, his salary will be continued under the old limitation. I do not say that this proposition is unconstitutional, but I desire to call the attention of the House to the point.

Mr. SPALDING. I am opposed to the adoption of this amendment, as I am also opposed to the passage of the bill in its original form. I wish to state for the information of the House, that most of our district judges in the western States have no more than \$2,000 per annum, and I know that they transact ten times the amount of business per annum that this judge could possibly be called upon to perform in the next ten years. I know, also, that those judges are all coming before us for increased salary, and this bill, fixing the salary of this judge at \$5,000, is only the entering wedge to an increase of salaries

to all our district judges. Now, sir, if the gentleman is willing to modify his bill so as to give this district judge a salary of \$3,000 per annum, I shall be content; but in any other shape, I shall object to it and vote against it.

Mr. WORTHINGTON. I regret very much, Mr. Speaker, that gentlemen who are not acquainted with the disadvantages under which all those who reside in Nevada labor, and the difficulties by which we are surrounded, should seek to determine by an improper standard what is reasonable compensation for a judicial officer performing the duties required under this bill. When the act was passed by Congress providing for the organization of the Territory of Nevada, the compensation of these judges was fixed at \$1,800 per annum. Upon the organization of the court, the Legislature of that young Territory, seeing the necessity of doing something that would give to those judges a compensation adequate to the duties they were required to perform, increased the compensation \$4,200, payable in gold coin, giving them a compensation of \$6,000 per annum for the performance of their judicial duties. The judges of the supreme court of Nevada to-day receive \$6,000 a year, payable in gold coin; and there is not a district judge in the State of Nevada who receives less than \$5,000, payable in gold coin.

It must be borne in mind, Mr. Speaker, that the people of Nevada are necessarily and almost exclusively a mining population. The agricultural resources of that State are comparatively insignificant. Therefore we are entirely dependent upon what we import four hundred miles from California on the one side, and five hundred miles from Salt Lake upon the other. We raise very few vegetables. We are altogether dependent for subsistence upon what we receive from abroad. I will inform gentlemen who are not acquainted with that country, that it requires the exercise of the utmost economy to enable any one to live in that State on less than \$5,000 per year. Now, sir, when you propose to give to a judicial officer \$3,000 or \$3,500, you really cut down his compensation to some \$1,750 in the present depreciated condition of the currency of the country. The result will be that you will not get anybody to take the position who will either discharge its duties or reflect credit upon the Government.

A gentleman from the western country [Mr. SPALDING] has suggested that not more than \$2,500 is paid to any judicial officer there, and that judges there do much more work than will be required of a judge in the State of Nevada. But it must be recollected that because of the agricultural products of the gentleman's section the judges are enabled to live much more cheaply than can such officers in Nevada. Nor is the gentleman correct when he says that those western judges do ten times more business than will be required of a judge in Nevada. Nearly all the corporations in the State of Nevada are foreign corporations, composed of persons from abroad, who have their capital invested there, and these will seek a Federal court for the determination of their disputed rights. I will venture the assertion that there is no gentleman who has ever lived in that country who does not appreciate the force of what I say.

Now, sir, the district judge of Oregon receives \$3,000 a year; yet the people of Oregon, because of its great agricultural as well as mineral resources, are enabled to live upon much less than the people of Nevada, because of the facts I have already stated. The Government to-day does not give sufficient to pay any of the Federal officers in the State of Nevada; and there is not a Federal functionary in the State, and never has been since the organization of the Territory, who has not gone in debt in discharging the duties of his office.

I therefore hope, Mr. Speaker, that this amendment will not prevail, and that members of this House will appreciate the necessity of giving in this case such a compensation as will be adequate, both with reference to the circumstances of the country and the duties to be performed by the judge.

Mr. WILSON. I demand the previous question on the amendment of the gentleman from Illinois, [Mr. WASHBURN.]

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was rejected.

Mr. WASHBURN, of Illinois. I move to

amend by striking out "\$5,000," and inserting "\$3,500."

Mr. WORTHINGTON. I demand tellers. Tellers were ordered; and Messrs. WORTHINGTON and KERNAN were appointed.

The House divided; and the tellers reported—ayes 52, noes 42.

So the amendment was adopted.

Mr. WASHBURN, of Illinois. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON. I desire to offer an amendment, not as coming from the committee, although I have no doubt that the committee would concur in it. I move to amend by adding to the eighth section the following proviso:

*Provided*, That the clerk in each of said districts shall be allowed by the Secretary of the Interior to retain of the fees and emoluments received by him as clerk of both courts, over and above the necessary expenses of his offices, and necessary clerk hire included, to be audited and allowed by the proper accounting officers of the Treasury, only such sum per annum as is now allowed by law to the clerk of one of said courts, and shall pay the remainder into the public Treasury under oath, in the manner and under the regulations now prescribed by law.

Mr. COLE, of California. Mr. Speaker, this is a matter affecting the judicial system of the Pacific coast, and affecting it seriously, and it comes up without previous consideration on the part of the House. I therefore move that the further consideration of the subject be postponed till next Tuesday. There are strong reasons for this postponement, but I will not detain the House to-day by stating them.

Mr. WILSON. I hope that the motion will not prevail.

Mr. COLE, of California. The gentleman from Nevada [Mr. WORTHINGTON] will be back by that time.

Mr. WORTHINGTON. Every member has a copy of the printed bill upon his desk, and I hope the House will act on it to-day. I shall be obliged necessarily to be absent from my seat for several days. I want the matter disposed of at once. We have in Nevada a complete State organization, but we have no Federal court, and there is necessity for immediate action so that we may have a Federal court.

Mr. COLE, of California. Mr. Speaker, it is true that the bill has been printed, but not as it has been amended by the Committee on the Judiciary. Alterations have been recommended by that committee which have not been heretofore brought to the attention of the House; and it is for that, among other reasons, that I move the further consideration of the subject be postponed until Tuesday next.

I am willing to take any day that may suit the gentleman from Nevada. The bill does not take effect until April next, and there will be no detriment to the public service by the postponement. I am willing to take any day that may suit the gentleman from Nevada or the House.

Mr. WILSON. This day suits the Committee on the Judiciary. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to postpone was disagreed to.

Mr. WILSON. I demand the previous question on the bill and pending amendments.

Mr. COLE, of California. I have an amendment to submit.

Mr. WILSON. I withdraw the demand for the previous question.

Mr. Wilson's amendment was agreed to.

Mr. COLE, of California. I move to insert in section seven, after the word "Oregon," the words "and the southern district of California."

Mr. WILSON. I hope that the amendment will not prevail, and for this reason: by the provisions of the substitute reported from the Committee on the Judiciary the clerk of the circuit court will act also as the clerk of the district court, so that there will be only one clerk for the two courts. The amendment will provide for two clerks, one for the district court and one for the circuit court, consequently it will cost twice as much in the compensation of clerks.

Mr. COLE, of California. The gentleman is mistaken in his statement. It does not relate to the clerk at all, but only to the compensation of the marshal and the district attorney. Certainly there can be no reason for including Oregon, and

not the southern district of California, where the parties are less compensated than in Oregon.

Mr. WILSON. I oppose the amendment, and demand the previous question.

The previous question was seconded, and the main question ordered.

The amendment was disagreed to.

The substitute of the committee was adopted; and then the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MILITARY IMPRISONMENTS.

Mr. STEVENS. I move to reconsider the vote by which the House this morning adopted the resolution submitted by the gentleman from New York [Mr. GANSON] in reference to military imprisonments. I do it because there was a misunderstanding of its character. I thought that it was a resolution of inquiry, and I now find that it is absolute and directory.

Mr. GANSON. The resolution directs them to investigate and inquire.

The resolution was read.

Mr. STEVENS. If my motion be agreed to I will move to amend by instructing the committee to inquire into the expediency, &c.

Mr. GANSON. I would like the gentleman to state why he wants to do that. If there is any information obtained by this committee which ought not to be disclosed, under the rules we can go into secret session. I do not think any harm can result.

Mr. STEVENS. I do not like secret sessions.

Mr. GANSON. I know the case of one of my constituents, a captain, who has been confined in prison since the 27th of October last without charges being preferred against him, and after he had served three years and a half in the Army. I called upon him on Saturday and was permitted to inquire into his case in the presence of a turnkey, who insisted upon sitting between him and myself and listening to our conversation. I felt it to be a personal indignity, and I am determined that the position of this prisoner shall be investigated if there is any power in this House to have it done.

Mr. STEVENS. I am sorry that the gentleman should have felt a personal indignity, but there is this compensation, that the turnkey, doubtless, felt very much honored, but I think that if it is proper to inquire into this matter the Committee on Military Affairs will inquire into it.

Mr. GANSON. I will state to the gentleman from Pennsylvania that I submitted this resolution to the chairman of the Committee on Military Affairs, and that it meets with his approval.

Mr. STEVENS. Then there is no objection to the committee inquiring into the expediency.

Mr. GANSON. I am satisfied as to the expediency, and I presume the House is.

Mr. STEVENS. Perhaps the House may be, but I am not quite satisfied.

Mr. DAVIS, of Maryland. I ask that the resolution be again read.

The Clerk read the resolution.

Mr. DAVIS, of Maryland. Mr. Speaker, I do not see why that resolution should not stand. I suppose it is the right of the House of Representatives, and more than its right, its duty, to see that the liberty of the citizen is not unlawfully violated. If persons have been confined in these prisons beyond the period allowed by law, we are entitled to know it that we may apply a remedy. If persons are there confined, under the discretionary order of the President, which discretion we have conferred upon him by the law suspending the writ of *habeas corpus*, that is an adequate and conclusive reply to any investigation. If any officer of the Army has been arrested, not under the discretionary power conferred upon the President, but in the administration of the ordinary laws for the government of the Army, there is a law that entitles him to trial or to his discharge at the expiration of a certain period of time if he be not tried; and I understand the gentleman from New York [Mr. GANSON] to have said that within his knowledge there is one case of that kind.

Mr. GANSON. I know of two such cases.

Mr. DAVIS, of Maryland. The honorable gentleman states that he knows of two such cases. My impression is that it is likely there are other cases of this kind; and one such case justifies and requires the adoption of the resolution.

There is another ground upon which, in my judgment, it ought to stand. The law suspending the writ of *habeas corpus* in some respects, in my judgment, too much limited the discretion which ought to have been confided to the President when that writ was suspended; yet, being the law of the land, it must be obeyed, and I think—I had almost said with my knowledge—it has not been obeyed.

The reason for the suspension of the writ of *habeas corpus* was not to enable the President to arrest persons guilty of any crime known to the law and punishable by law, for which adequate evidence existed to carry the case before the courts of the United States, but it was because in times of revolution and public danger there are persons of dangerous influence engaged in plots and preparing insurrections, centers of secret information and communication with the enemy, known but not proved, or so imperfectly developed as not to be, perhaps, the subject of criminal process, yet so dangerous and so pressing as to require swifter and freer measures of prevention than judicial forms afford—discretionary executive power, precautionary, not punitive; executive, and not judicial—and it is this power which the act suspending the *habeas corpus* has confided to the President. When the safety of the Republic requires it, the right of the citizen to judicial guarantees must be subordinate to the public safety. This is a case of adverse dangers, where a choice of evils alone is possible; and this discretion can be nowhere so safely vested as in the President. But this great discretionary power over the liberty of the citizen is not a substitute for the administration of the criminal law. It is a grave abuse to use it for any such purpose. It is political in its character, merely precautionary, to avert dangers, not to punish crimes; it looks to the future, not to the past; it is in war and on grave political dangers what security to keep the peace is in the daily administration of justice.

When the writ of *habeas corpus* is suspended, it is suspended in order to deal with cases that cannot, in the nature of things, be dealt with before the ordinary courts of justice; for they deal with acts and the past, while this prevents the accomplishment of purposes and looks to the future.

The law which was passed, while it suspended the writ of *habeas corpus*, suspended it under limitations which, very possibly, may, nay must, in many cases where the exercise of the discretion is proper, defeat its end by discharging the prisoner before the danger is past. But being a law, it must be obeyed. If it take away or limit a discretion necessary to be vested in the President for the purposes of that act, I am ready here to-day to modify that law. But while it is the law let it be obeyed.

That law requires that any person who has been arrested under the order of the President or of any military officer—events that must, in the course of such a war as this, occur, and legitimately occur, every day—may be held for a certain time in confinement. But when persons are arrested in a State where the courts of the United States are open—where there is a government recognized by the Government of the United States, and there is no rebellion disturbing the ordinary administration of the law—the act provides that the names of all persons arrested shall be reported to the judges of the circuit and district courts of the United States, and after a grand jury shall have once met and adjourned without finding an indictment against them, they shall be discharged, unless they are prisoners of war, or refuse the oath of allegiance, or fail to give security if required by the court.

Now, it will be readily seen that that will apply a remedy in the case of a very great number of arrests—justifiable, it may be, at the time when they are made, but not justifiable in their prolonged imprisonment. It is equally certain that there may be cases in which obedience to that law may seriously impair the authority conferred upon the President for great public purposes. For there may be persons, as in the case of Mr. Vallandigham—I refer to his case simply for the

sake of illustration, and without meaning to express any opinion upon his guilt or innocence in any way—there may be persons of great influence, supposed to entertain sinister designs, plotting and conspiring against the Government, yet not within the range of an indictment, not subject to trial before a court, yet the control of whose persons may be vital to the safety of the people. A person of that sort would, under the existing law, if it be obeyed, (and while it is the law it should be obeyed, and this House ought to compel obedience to it,) be discharged after the first meeting of a grand jury, should that grand jury fail to indict him; and it could not indict him for an intent without an act, and an act defined to be a crime and proved by legal testimony.

Now, I am ready to-day to vote to enlarge the liberty which is conferred upon the President in the manner described by me; but I shall vote with the gentleman from New York to stop the abuse of continued, perpetual, and reiterated disobedience to that law, while it is the law upon the statute-book, disobedience not excused by any public necessity, not in cases when the purpose of the act are defined by its provisions. Sir, there are not a few persons in illegal confinement in Maryland, and in many of the northern States, some on no specified charges, some on illegal convictions by military commissions, some illegally held for trial before illegal military commissions, not liable to their jurisdiction, for offenses punishable by the laws of the United States upon indictment before the courts of the United States, and not cognizable by military commissions; and many for acts not criminal under any law of the United States; yet I know of no such list as the law requires ever being furnished to the judge, nor of any one discharged on his order, though more than one grand jury has met and adjourned. I say let this committee go and examine the facts and spread them before the American people; and then let them say, when they know the facts, whether there exists any law upon the statute-book of the United States that authorizes the confinement of any American citizen not in the military service, in a loyal State, upon the judgment of a military commission, at the pleasure of subordinate officers of the Government, or even by the order of the President, contrary to the law conferring and limiting the discretion.

For these purposes, sir, I shall vote against reconsidering the resolution, with great pleasure.

Mr. COX. I would like, Mr. Speaker, to have read for the information of the House the first and second sections of the law to which the gentleman from Maryland [Mr. DAVIS] has just referred; I mean the law which regulates the suspension of the writ of *habeas corpus*, which lays down expressly the effect of such suspension, and directs that the Secretary of State and the Secretary of War shall report to the judges of the circuit and district courts of the United States the names of prisoners. I should like also to enlarge the scope of this resolution so as to inquire why it is that that law has not been obeyed, and whether there has been any attempt made to carry out the law, by the indictment of the persons whose duty it is under that law to report the names of those who are in prison. I would like to know whether the district attorneys of the United States have done their duty; whether such lists have ever been furnished, or whether the law made by the American Congress is a dead letter; whether the executive department, even the legal portion of the executive department, can set aside our laws when they please for their own purposes.

I do not make these remarks without having cases in my eye—not alone the distinguished case referred to by the gentleman from Maryland, the case of Mr. Vallandigham. There are other cases; cases in which the Secretary of the Treasury, under some peculiar "higher law" unknown to our statutes, has, for purposes connected with the revenue, or to protect the issue of greenbacks or shipplasters against counterfeiting, caused persons to be arrested by the military power. And there are now men in the Capitol prison, almost within the sound of the voice of at least some of the members of this House, who are kept there month after month on the mere order of the Solicitor of the Treasury on the charge of forgery. Applications have been made by their friends again and again to have their persons removed to the proper jurisdictions in the States and districts

where the law is unimpeded by the military authority, and no attention has been paid to the request. They still remain there. There is a case from my own district of an old man who has been suspected of counterfeiting. He could be released at any moment by the Solicitor of the Treasury, if he chose. Is there no relief for these abuses? Shall we not be permitted to inquire about them with a view to future legislation?

Mr. Speaker, I should like, in order that the House may fully understand what the law is, how it has been infringed, what penalties are provided for the infraction of it, to have the first and second sections of an act relating to *habeas corpus*, regulating judicial proceedings in certain cases, read.

The Clerk read, as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the present rebellion, the President of the United States, whenever, in his judgment, the public safety may require it, is authorized to suspend the privilege of the writ of *habeas corpus* in any case throughout the United States, or any part thereof. And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of *habeas corpus*, to return the body of any person or persons detained by him by the authority of the President; but upon the certificate, under oath, of the officer having charge of any one so detained that such person is detained by him as a prisoner under the authority of the President, further proceedings under the writ of *habeas corpus* shall be suspended by the judge or court having issued the said writ so long as said suspension by the President shall remain in force and said rebellion continue.

"Sec. 2. And be it further enacted, That the Secretary of State and the Secretary of War be, and they are hereby, directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States, and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States, by order or authority of the President of the United States, or either of said Secretaries, in any fort, arsenal, or other place, as State or political prisoners, or otherwise as prisoners of war, the said list to contain the names of all those who reside in the respective jurisdiction of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest; the Secretary of State to furnish a list of such persons as are imprisoned by the order or authority of the President, acting through the State Department; and the Secretary of War a list of such as are imprisoned by order or authority of the President, acting through the Department of War. And in all cases where a grand jury, having attended any of said courts having jurisdiction in the premises, after the passage of this act, and after the furnishing of said list, as aforesaid, has terminated its session without finding an indictment, or presentment, or other proceeding against any such person, it shall be the duty of the judge of said court forthwith to make an order that any such prisoner desiring a discharge from said imprisonment be brought before him to be discharged; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than \$500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court: *Provided, however*, That no person shall be discharged by virtue of the provisions of this act until after he or she shall have taken an oath of allegiance to the Government of the United States, and to support the Constitution thereof; and that he or she will not hereafter in any way encourage or give aid and comfort to the present rebellion or the supporters thereof: *And provided also*, That the judge or court before whom such person may be brought, before discharging him or her from imprisonment, shall have power, on examination of the case, and, if the public safety shall require it, shall be required to cause him or her to enter into recognizance, with or without surety, in a sum to be fixed by said judge or court, to keep the peace and be of good behavior toward the United States and its citizens, and from time to time, and at such times as such judge or court may direct, appear before said judge or court, to be further dealt with according to law as the circumstances may require. And it shall be the duty of the district attorneys of the United States to attend to such examination before the judge."

Mr. COFFROTH. Mr. Speaker, I know that Lieutenant Nelson, a brave and gallant officer from my district, has been confined in the Capitol prison for four long months. By permission of the Secretary of War I went on Monday last to see him, and he told me that there had been no charges up to this time preferred against him, and that he did not know why he was imprisoned. He had served in the Army two years; he had been wounded and had a limb amputated, and he was hobbling through that prison on crutches. In cases of this kind, I think it is right for this House to carry out this resolution, and make it compulsory upon the committee to examine into this matter and let the people of the country know why their friends are detained in these prisons.

Mr. COX. The remarks which I have submitted to the House have not been made with

any partisan view, nor to find fault unnecessarily with any of the Executive Departments. This law which has been read here was not passed with the concurrence of this side of the House, but it was passed by gentlemen upon the other side. It was their law. They took the liberty of suspending the writ of *habeas corpus*, but they took care at the same time to qualify the suspension in such a way as to guard against the undue, illegal, irresponsible arrest of persons, so that there might be a remedy at least for improper arrests. I ask gentlemen upon the other side to sustain their own law and let this investigation go on so that we may see where it has been violated. The gentleman from Pennsylvania has first mentioned one case, and other cases have been suggested to me by members upon this side of the House since I rose, where there was adequate punishment for crimes, such as counterfeiting, by the civil tribunals in States where the laws remain unimpeded by military operations. What will you do? Is there to be no law in the free States? Is a man not to be entitled to a fair trial when he is suspected of or arrested for counterfeiting, for instance? Shall he be held, confined in a loathsome prison, at the caprice of any man holding a military commission who chooses to lay his hand upon him? Shall there be no relief, and no information given with a view to such relief? Shall we not carry out the law which you yourselves enacted only two years ago?

Mr. GANSON. I introduced this resolution under a sense of duty. I knew that one of my constituents had been confined in the Capitol prison ever since the 27th of October last, who had faithfully served his country in the Army for three years and a half, and who had held the position of captain. He did not know why he was arrested. No charges were made against him, to his knowledge, and none have been made to this day. I was credibly informed that there were several other cases similar to that, both of civilians and officers and men in the Army. I therefore felt it my duty—and especially as these prisoners were within speaking distance of this Hall—to move to direct some committee, and I know of none who can discharge the duty more faithfully or more properly than the Committee on Military Affairs, to investigate the matter and report to the House whether we require any additional legislation upon the subject. I have no desire to find fault with any Department of the Government, or to criticize the action of the Government in any respect; but I do desire to know whether there are abuses of this kind, and if so, it is our duty, as the Representatives of the people, to rectify them by some positive legislation. I was informed by the chairman of the Military Committee that complaints of this character were so numerous that the committee was on the point of introducing a joint resolution to have a commission go over the entire country to investigate all the prisons in the land. This resolution is confined to the two prisons within speaking distance of this Capitol; and therefore, without any disrespect to the gentleman from Pennsylvania, I must move to lay his motion to reconsider on the table.

Mr. STEVENS. Will the gentleman withdraw that motion for a moment?

Mr. GANSON. Certainly.

Mr. STEVENS. The usual course in such cases is not to assume the facts, but to direct a committee to inquire into and report upon them. I cannot see any reason why the gentleman from New York, [Mr. GANSON,] having the ear of the Military Committee, should object to that same course now.

Mr. DAWES. What are assumed as facts?

Mr. STEVENS. It is assumed as a fact that various people are illegally imprisoned without knowing the charges against them.

Mr. DAWES. I do not know the exact phraseology of it, but I understand its scope to be to inquire whether the facts are so, and to report them to the House.

Mr. STEVENS. The whole resolution, as explained by the various speakers, and the gentleman from Maryland [Mr. DAVIS] especially, is censorious on the War Department. Now, if the Department deserve censure I am willing that it shall have it. But there may be several things that are not expedient to report up, that it may not be expedient at this moment to disclose except it were in secret committee, as the gentleman

has said. If the usual form be observed of directing the Military Committee to inquire into the expediency of investigating these matters, I shall have no objection to the inquiry. But no one can deny that the passage of the resolution is a direct censure on the Department. I do not say that it was so intended, but I do say that it has that effect. However, if the gentleman from New York has no objection to letting me look into it more carefully, I will move to postpone the further consideration of the matter.

Mr. GANSON. I have an objection. I insist on the motion to lay on the table.

Mr. DAVIS, of Maryland, and Mr. KASSON addressed the Chair.

Mr. GANSON. I yield the floor for a moment to the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. I desire to add my testimony, so far as it may go—and will give my reasons for it, to the propriety of the investigation proposed. It would constitute not the slightest objection with me, resting my opinion on facts within my own knowledge, that it may imply censure on one Department of the Government; for I believe that the time has arrived when it is due to the people of this country that Congress shall examine the extent and manner in which the power of the Secretary of War is exercised. I state it on my responsibility as a member of the House that an order taken from the President to the Secretary of War, for a certain object has been met with the reply "I shall not do it, sir;" and when an explanation has been asked it has been met by the reply, "I do not propose to argue the question; I am responsible to the President, and to him alone, for my conduct." When a Representative of the people is met by a responsible officer of the Government in that way, it constitutes with me no objection to a proposition that it may possibly imply censure on the head of an executive Department.

Now, sir, I urge the adoption of this resolution for the reason that when an officer has it in his mental constitution to shut off from the Representatives of the people every information from his Department, as the Secretary of War has done by general order, except it be given by himself or on his own express order—no matter if the information even be whether some poor woman's only son has been killed in battle—and when, in addition to that, he positively denies his responsibility to the Congress of the United States, and affirms it to be to the President alone, remitting us to our own forum, I think the time has come when Congress should inquire how far that arbitrary habit of mind extends, touching the liberties of citizens throughout this broad land.

For myself I hope that this committee may be raised; and I will be the first to vote for the exculpation of the Secretary of War if he be found innocent of aggression on any persons in the Army or out of the Army. I wish it to be understood by the Army of the United States that although its officers may be compelled to tremble at his power as that of an absolute dictator, the Congress of the United States thinks it right to inquire into the management of his Department where either the liberties of the people are concerned or the rights of gallant men in the Army may be denied to them.

One thing more: if he be the man he is charged with being, who could in June last have exchanged prisoners of war of the United States on terms recognized throughout all civilized nations, yet left ten or twenty thousand of our gallant men to perish in rebel pens during the last summer, again I find a reason why his administration of that Department should be investigated. I do not want the letters to increase on my table urging Congress to investigate some of these facts connected with the exchange of our soldiers in rebel hands. For the satisfaction of my own constituents, at least, I desire to have an investigation wherever the public interests may require it, and wherever the military rights of soldiers or the personal rights of citizens are involved.

Mr. DAVIS, of Maryland. I desire, Mr. Speaker, to say a single word by way of explanation in view of the remarks of the gentleman from Pennsylvania, [Mr. STEVENS.]

It seems to be considered by some gentlemen that this resolution is necessarily censorious on the President or some of his Secretaries. I do not know, sir, that that is exactly a fair inference.



There may be very many abuses connected with the prosecution of a war of this magnitude which have never been brought to the attention either of a Department or of the President. I think that there is nothing assumed on the face of the resolution excepting what is involved in the distinct statement of the gentleman who moves it, that there are at least two cases which, whatever may be the excuse or the reason standing behind them, are, as they appear to him, in violation of law. If nothing but that appears, that more than justifies the resolution.

But I do not wish to stop them. I do not desire to be understood as saying that the law is violated under one Department of the Government more than under another. Nor must it be assumed that arrests are made only under the order of the President, or of the heads of Departments. Wherever the fault may lie, they are made by every lieutenant and every provost marshal, from one end of the country to the other, at discretion, and almost without complaint. I speak now directly of what I know to be the case in Maryland. These arrests are sometimes justifiable, and sometimes unjustifiable; sometimes made by a person calling himself a provost marshal, not known to the laws of the United States, acting absolutely without knowledge on the part of the Secretary of War that he held authority from him or from anybody else. And such is getting to be the habit of everybody in the country to act at the bidding of any provost marshal or military officer that the very independence of the American character is being broken down under the unchecked license of military arrests. The law, sir, is not so deficient; but the people have been educated within the last three years in the belief that the existence of a state of war justifies anything and everything in the shape of discretionary and arbitrary authority on the part of military officers, high and low, until the very laws of the land intended for the protection of the citizen are not invoked by the people, because they fear that to invoke them will offend the military power and bring its irresponsible vengeance on their heads. When I say that, I say it on my personal knowledge.

Gentlemen have appealed to me to redress, in the un-American mode of soliciting favor, some of the grievances suffered in Maryland by persons who are loyal citizens. I have pointed them to the law on the subject, and asked, "Why do you not indict the wrong-doers? The law for the suspension of the *habeas corpus* is your adequate protection. Why do you not indict them?" "We are afraid," the reply has been, "to incur the displeasure of the military authorities." I wish it to be understood that there is a power higher than the military authority, whether that authority be lodged in the hands of a lieutenant, or of a provost marshal, or of the President of the United States, and that that power is here. I impeach nobody; I cast reflections upon nobody; I speak of things, not men; of grievances, not of the persons responsible for them; but I say abuses are committed by subordinates, if not by gentlemen in superior authority, that require our intervention, and I shall most cheerfully vote for this resolution. I will not stop to inquire who may suffer by the investigation. I think it will be found that the evil exists as much under one as under another Department. I know the Secretary of War has endeavored to mitigate these abuses by commissions of responsible gentlemen to correct the acts of irresponsible subordinates, and it may be others have done the same. But oppressions are inseparable from all illegal arrest or imprisonment; and it is our duty not so much to inquire into the intentions of acts as their legality, and to remedy every illegal detention.

Mr. GARFIELD addressed the Chair.

Mr. WASHBURN, of Illinois. Unless the gentleman from New York withdraws the motion to lay on the table, I object to further debate.

Mr. GANSON. I withdraw it, with the understanding that the gentleman from Ohio [Mr. GARFIELD] will renew it when he shall have concluded his remarks.

Mr. GARFIELD. Mr. Speaker, I will detain the House for a moment only. The resolution which passed the House yesterday I will say is now being executed by the Committee on Military Affairs. I have this moment arrived in the Hall, after a visit of two hours to one of the pris-

ons in this city in obedience to that resolution; I am not now at liberty to disclose the action of that committee, for the investigation is still pending. But I earnestly hope that the House will not reconsider the vote by which that resolution was adopted, and thus put a stop to the investigation.

Mr. STEVENS. The resolution which my motion to reconsider refers to was adopted this morning, and not yesterday.

Mr. GARFIELD. The object of the two resolutions is the same.

Mr. STEVENS. I was not aware that any resolution had been adopted previously looking to the same object.

Mr. WASHBURN, of Illinois. Do I understand that the committee have commenced the investigation under the resolution?

Mr. GARFIELD. They have.

Mr. WASHBURN, of Illinois. Then that is a good reason for not interfering with the resolution.

The SPEAKER. The resolution under which the committee is acting was adopted day before yesterday.

Mr. GANSON. I offered my resolution day before yesterday, and asked unanimous consent for its introduction, but a gentleman from Illinois, not now in his seat, objected. I renewed it today, and the resolution was adopted; and it seems that it was so proper that the Committee on Military Affairs at once commenced the investigation.

Mr. GARFIELD. I have not the resolution before me under which the committee is acting, but if I recollect rightly it is quite similar to this; almost in the same words.

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. GARFIELD. Certainly.

Mr. DAWES. The resolution which was passed this morning has been read. I ask that it be again read.

The resolution was again read.

Mr. DAWES. If the gentleman will permit me, this, Mr. Speaker, is a resolution of the largest inquiry, and was adopted on the allegation of a member of this House that he knew, of his own personal knowledge, that men were confined in military prisons without process of law. I have no allegation to make against any Department of the Government; I have within my personal knowledge no case; but if I had such knowledge in reference to one of my constituents, and rose upon this floor, and upon my responsibility as a member stated that fact and asked for an inquiry and a report of the facts to this House, it seems to me that I should be much astonished if any member of the House should object for a moment to such inquiry. I cannot understand upon what ground objection to such an inquiry can be made. It pains me very much that a member of the House should so far have forgotten in these times the rights of the citizen as to object to an inquiry like this.

The SPEAKER. The following is the resolution under which the Committee on Military Affairs is acting:

*Resolved*, That the Committee on Military Affairs be, and the same is, directed to inquire and report to the House what legislation or action, if any, is necessary to secure to persons arrested and imprisoned by military authority a prompt examination into the cause of their arrest, and their discharge if there be no adequate cause for their detention, and a speedy trial where there is such cause.

Mr. GARFIELD. The difference between the two resolutions is that the one adopted this morning empowers the committee to send for persons and papers, and the one just read does not so empower the committee. With that difference they are nearly identical.

I wish to make two observations. First of all I agree with what the gentleman from Maryland [Mr. DAWES] has just said; and in illustration of what I desire to say I call attention to a bill that passed the House last session, but did not pass the Senate, and which, in my judgment, is vitally important as a means to preserve the independence of the officers of our armies. Early in the war, it will be remembered, Congress for good reasons gave to the President the power of summary dismissal when he believed the public service would be subserved thereby. At that time the Army was full of traitors, and it was necessary that by a more summary process than court-martial they should be driven out.

But it was thought by the House of Represent-

atives last winter that the danger had so far passed that we might safely repeal the law. Important as that law has been in some respects, and none will doubt its value and necessity at the time of its enactment, I am satisfied that in other respects it has had a very unfortunate influence. It has gone very far toward weakening the manliness and independence of officers in the Army. If, sir, I am in the Army and know that my superior officer can make such representations as will cause me to be dismissed without a hearing and without a trial, how strong is the tendency of that knowledge to make a timid, subservient tool! The whole tendency of it is to take away the personal independence and manliness of the subordinate officer, because he has no guard for his standing and position except the favor of his superior; no right to demand, as the American officer always had in former times, that he should be speedily and fairly tried by a jury of his official peers. For this reason we passed a bill last winter by a very large majority, almost unanimously, I believe, to repeal the law giving this power to the President. That bill is dying a lingering death at the other end of the Capitol. I believe that that bill ought to become a law.

I desire in the second place to call attention to the fact that it is now the law, and has been since the foundation of our Government, that when an officer of the Army is arrested for any supposed crime or misdemeanor he shall be held in arrest—it may be in close confinement and under guard, according to the supposed enormity of the offense—no longer than eight days without being furnished with a copy of the charges against him. The law also allows him a speedy trial.

Now, without trenching upon the business in which the Committee on Military Affairs was engaged this morning, I will say that one officer at least has been in confinement for five months within sight of this Capitol. Both he and his keeper declare that he has not been furnished with a copy of the charges against him. He says that he has again and again demanded in vain to know with what crime he is charged. He is a man who bears upon his person honorable scars received in the service of his country; he is a colonel; and the vengeance of some one fell upon him like a bolt from the clear sky. He declares that he knows no reason for it, and can learn none. An agent of the War Department, an officer unknown to the Constitution and laws of the country, lays his hand upon a man, puts him in prison, where he is kept until said agent or some power above him is pleased to release him. There are plenty of alleged cases where officers and citizens, after being confined for a long period, have been allowed to go out without a word of explanation concerning either the arrest or the discharge.

I ask the House of Representatives whether that kind of practice is to grow up under this Government, and no man is to raise his voice against it or make any inquiry concerning it lest some one should say he is factious, he is unfriendly to the War Department, he is opposing the Administration? Gentlemen, if we are not men in our places here, let us stop our ears to all complaints; let every Department do as it pleases, and with meekness and in silence vote whatever appropriations are asked for. I do not say, for I do not know, that the head of any Department is responsible for these things, or knows them. It may be that they have been done by subordinates. It may be that the heads of the Departments are not cognizant of the facts. I make no accusation; but I do say that it is our business to see that the laws be respected, and that if a man has no powerful friend in court he shall at least find the Congress of the United States his friend. I hope the resolution will not be reconsidered, and I renew the motion to lay on the table the motion to reconsider.

Mr. O'NEILL, of Ohio, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 136, nays 5, not voting 39; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Ancona, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Bontwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Freeman Clarke, Clegg, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Denison, Dixon, Donnelly, Driggs, Eden, Edgerton, Eldridge, Eliot, English, Farn-

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, JANUARY 20, 1865.

NEW SERIES.....No. 21.

worth, Finck, Frank, Ganson, Garfield, Grider, Griswold, Hale, Hall, Harrington, Charles M. Harris, Herrick, Higby, Homan, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, William Johnson, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Knox, Law, Lazear, Le Bid, Long, Longyear, Mallory, Marcy, McClurg, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Perham, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Starr, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Townsend, Tracy, Upson, Van Valkenburgh, Washworth, Ward, Elibu B. Washburne, William B. Washburn, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, Fernando Wood, and Yeaman—136.

NAYS—Messrs. Cobb, Eckley, McBride, Spalding, and Stevens—5.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blow, Chautler, Ambrose W. Clark, Dumont, Gooch, Grinnell, Harding, Benjamin G. Harris, Hooper, Hulburt, Hutches, Jencks, Philip Johnson, Julian, Orlando Kellogg, Knapp, Littlejohn, Loan, Marvill, McAllister, McIndoo, McKloney, Middleton, William H. Miller, Nelson, Odell, Pomeroy, Pruyn, Radford, Schenck, William G. Steele, Thomas, Vonther, Whaley, Winfield, Benjamin Wood, Woodbridge, and Worthington—39.

So the motion to reconsider was laid on the table.

## LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1866; the question being on the amendment of the gentleman from Illinois [Mr. WASHBURN] to strike out the following clause:

For compensation of temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services, \$250,000.

To which the gentleman from Vermont [Mr. MORRILL] offered the following amendment:

Insert, in lieu of the words proposed to be stricken out, the following:

For compensation to temporary clerks in the Treasury Department and for additional compensation to clerks in same Department: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That the Secretary of the Treasury may award such additional compensation to clerks as in his judgment may be deemed just and may be required by the public service, \$250,000.

Mr. MORRILL. Mr. Chairman, I modify my amendment by proposing to strike out also the following clause:

For compensation of additional clerks who may be employed by the Secretary according to the exigencies of the public service, and additional compensation for extra labor of clerks in his office, \$25,000.

I believe the amount asked for in my amendment will cover all that is included in the two items. I deem it my duty to explain this amendment somewhat in detail. I have no doubt that it will be objected that it is giving too much discretion to the Secretary of the Treasury. At the same time I believe that it is the most economical way in which the money can be voted. Since the commencement of this war the amount of duties thrown on the Treasury Department has been increased perhaps more than tenfold. The Auditors, the Comptrollers of the Treasury, the Commissioner of Internal Revenue, the Comptroller of the Currency, the Commissioner of Customs, and the Register of the Treasury, have all had their duties so much increased that we have had to give them a large additional number of clerks. If we were to classify the clerks and allow the Secretary of the Treasury a class of clerks with a salary larger than any now paid, we should undoubtedly expend a larger sum than if the matter were left entirely to the discretion of the Treasury Department. When the Internal Revenue Department was created, a sum of \$500,000 was left entirely at the discretion of the Secretary of the

Treasury. The organization of the department is nearly completed; and in a bill that is to be reported it will be proposed to limit the discretion still further, and to specify the officers and clerks more particularly than they have been hitherto specified, and to fix their salaries. At the present time it is almost impossible for the Treasurer and the Comptroller of the Currency to keep the best and highest rated clerks for any considerable length of time. The outside demand for similar services is so great that, after the Department has had them in training for a short time, a higher salary is offered for their services elsewhere.

There is no difficulty in relation to the clerks whose salaries are \$1,200 and \$1,400; but the difficulty is to retain that kind of talent and experience required for the purposes of the Departments in the higher classes of clerkships. Many of the men now in the employ of the Treasury Department could obtain perhaps fifty per cent. more salary elsewhere than they are now receiving; and unless we shall conclude to authorize this amount of discretion to be intrusted in the hands of the Secretary of the Treasury, several of the present heads of departments—among others the Comptroller of the Treasury—declare that it will be impossible for them to conduct the business of their departments.

I know that gentlemen here have their desks piled up with applications for clerkships in the Departments. There is a great amount of mischief resulting from the pressure upon the Departments of applications urged by members of Congress for the appointment of men of inferior experience and capacity for the discharge of their proper duties; and I have no doubt to-day that, if these Departments were all allowed to employ their own clerks throughout, we might appropriate a sum one third less in the aggregate than we now do, and the business would be better and much more economically done.

Mr. WASHBURN, of Illinois. Mr. Chairman, when we had this matter under consideration at the last sitting of the committee, I stated my objections to the clause in the bill, as looking indirectly to an increase of the salaries of the clerks generally; and it being, in my view, independent legislation in an appropriation bill, I thought it improperly there under the rules. I therefore appealed from the decision by which the Chair held it to be properly in the bill. I stated that when this question of the increase of salaries should come up squarely I was willing to meet it squarely, but I did not like the provision in this bill looking, as I supposed, to that end.

The gentleman from Vermont [Mr. MORRILL] at that time offered a substitute, which the House ordered to be printed, and which he had received from the Secretary of the Treasury. I had occasion this morning to see that officer, and I asked him for an explanation of this legislation which he desired. He stated in substance what had been stated by the gentleman from Vermont, that it will be impossible under the present system for him to carry on his Department; that his best, most experienced, and most valuable clerks are resigning—some days half a dozen per day—on account of the inadequacy of their salaries, and that, while he is opposed to a general increase of salaries and would not recommend it, he knows of no way of overcoming the present difficulty but for Congress to invest him with this authority, in order that he may give additional compensation to certain clerks. I have found fault with the principle, and I yet find fault with it; but under the circumstances I do not know but that it is the very best thing we can do, putting upon this provision a limitation which I will offer as an amendment; a limitation which I think it would be proper for the House to adopt with regard to every increase of salary if it should be determined, as I hope it will not be, to adopt a general increase of salaries under the present pressure. The limitation which I propose is, that the increase shall cease after the 1st day of July, 1866. If the Committee of the Whole should be disposed to adopt the recommendation of the Secretary of the Treas-

ury, I will ask them to adopt this amendment, to add to the amendment proposed by the gentleman from Vermont the following:

But the said Secretary shall not have the authority to award any such additional compensation to such clerks after the 1st day of July, 1866.

Mr. MORRILL. I have no particular objection to the amendment; but it will be seen that it is altogether unnecessary, because the appropriation extends only to 1866.

Mr. WASHBURN, of Illinois. I understand that very well; but the provision of law would exist, and these gentlemen would come here and demand an appropriation in order to carry out an existing law.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. WILSON. The Clerk has just read this item:

In the office of the Second Auditor:

For office furniture, and miscellaneous items, including two of the city newspapers, to be filed and preserved, for the use of the office, \$25,000.

At the last session there was appropriated for the purpose specified in this paragraph the sum of \$15,000. It is now proposed to appropriate \$25,000. I desire to ask the gentleman from Vermont what necessity exists for the increase of this appropriation; and further, what information the committee have in relation to this item of furniture.

Now, sir, I think that there is room for improvement, as that item runs through all of the various Departments. If we go to the Departments we find many of the rooms fitted up in a style of elegance which would not discredit the houses upon Fifth avenue, New York city.

I do not know how much of this \$25,000 is to be appropriated for this purpose; but I do think that in this department of the public expenditure there ought to be some economy. I ask therefore that the gentleman from Vermont will state what information the Committee of Ways and Means has in reference to this item of furniture, and for which we are now asked to appropriate this amount. I presume that the item is intended for that purpose. Newspapers, I suppose, do not cost much more than they did last year.

Mr. MORRILL. Mr. Chairman, in reply to the gentleman from Iowa I will say that I have no doubt there has been extravagance in fitting up parts of the Treasury building, but this is for fitting up rooms for clerks hitherto confined in the building known as Winder's building. We have largely increased the number of the clerks of the Second Auditor, and I am told by him that he has not yet enough of clerks to adjust promptly the cases which come before him. At the last session of Congress we increased the number of clerks in that Department about ninety, and I believe that the Second Auditor has procured rooms outside of that Department to the extent of about fifty. They will require furniture, of course. They will have to be supplied with desks; but I do not suppose they will be covered with expensive carpets. We increased his Department last year to the extent of about ninety clerks and this year about one hundred and thirty, and I think that the amount is moderate enough for the rooms to be furnished.

Mr. WILSON. I will submit an amendment, in order that my remarks may be in order. I move to strike out "\$25,000" and insert in lieu thereof "\$15,000."

Mr. Chairman, I have no doubt that the business of that bureau is far behind. I cannot account in any other way for the absence of replies to my own letters sent to the Second Auditor. Some have been resting a year without answer. I presume the bureau does require additional clerical force to bring up the business. But, sir, the Second Auditor has no right to increase the clerical force until we have authorized the employment of additional clerks.

I think, sir, that the vacant rooms in Winder's building, if there be any, can be furnished at a

less cost than \$25,000, and I have therefore moved to reduce the appropriation to \$15,000. I hope the amendment will prevail.

Mr. MORRILL. I do not presume that the gentleman from Iowa proposes that the business of the office shall stop. We certainly did authorize the employment of ninety clerks at the last session of Congress.

Mr. WILSON. At that session did we not make an appropriation to meet that?

Mr. MORRILL. In this very bill are paragraphs, which have escaped the attention of the gentleman from Iowa, already acted on, authorizing the employment of one hundred and thirty more clerks. We had the Second Auditor before us, and he explained to us the magnitude of the business of his office. Many of the paymasters have not been settled with for eighteen months. It is utterly impossible, as he states it to us, to bring up the business of that office without a large increase of the clerical force. He states that twice the number now proposed will be insufficient to do it.

The amendment was disagreed to.

Mr. WASHBURNE, of Illinois. I wish to inquire of the gentleman from Vermont whether it has been usual heretofore to pay for newspapers for each of these offices.

Mr. MORRILL. It has always been customary to take these papers for the purpose of being filed.

The Clerk read, as follows:

For the general purposes of the southeast executive building, including the extension:

For compensation of twelve watchmen and eleven laborers of the southeast executive building, \$16,560.

Mr. WILSON. The same number of men are employed as last year, and I ask the gentleman from Vermont why the amount is increased.

Mr. MORRILL. If the gentleman will refer to the act passed June 25, 1864, he will find that we increased their salaries.

Mr. HUBBARD, of Iowa. I move to amend the clause "for compensation of the surveyor general of the Territories of Dakota and Montana, and the clerks in his office, \$8,300," by striking out "\$8,300" and inserting in lieu thereof "\$6,000." The sum I have named is the amount which we appropriated last year for this same purpose, and I know no reason why there should be an increase of the appropriation. There are to be no additional clerks in that office that I am aware of, and I know of no need for any.

Mr. MORRILL. There was an act passed in June, 1864, which makes this increased appropriation necessary.

Mr. HUBBARD, of Iowa. I am not aware that the clerical force in this office has been increased, or that there is any necessity for such increase. They have the same number of clerks, and the same kind of service is to be performed for the coming year that was performed last year.

The amendment was not agreed to.

Mr. KASSON. I am directed by the Committee of Ways and Means to offer an amendment, to be inserted after line four hundred and ninety-two, at the end of these appropriations for surveyors general and their clerks. It includes the same item which was appropriated last year. It is the following:

For pay of the wages of one clerk in the consolidated land offices at Des Moines, Iowa, \$1,000.

Mr. WASHBURNE, of Illinois. I think that is not in order.

Mr. KASSON. It is the same appropriation which has been made heretofore. I quote the exact language of the appropriation bill of last session for this identical purpose; and it is for the purpose of carrying on the operations of the land office there.

Mr. WASHBURNE, of Illinois. I would inquire if the office of that clerk has been created by law.

Mr. KASSON. Yes, sir; and he is to be paid according to law.

Mr. WASHBURNE, of Illinois. If this amendment carries out an existing law it is in order. Is there any necessity for this clerk?

Mr. KASSON. It is necessary, as I know of my own knowledge.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I desire to call the attention of the committee to the very ex-

traordinary item contained in lines six hundred and seventy-seven and six hundred and seventy-eight:

For contingencies, viz: for stationery, purchase of library, laboratory, rent, and miscellaneous items, \$11,500.

The appropriation we made last year for the same purpose was \$4,500; and here it is increased to \$11,500; and it is made up in part of items which are not made specific. This amount is intended to cover, as I understand by the report of the Commissioner of Agriculture, the salaries of certain draughtsmen, chemists, and others, and all sorts of stealings. I therefore move to strike out "\$11,500" and insert in lieu thereof "\$4,500." I do not think the condition of the Treasury will justify such appropriations as this.

Mr. MORRILL. The appropriation of last year was larger than I then thought necessary, and the House will therefore see that I am in no mood to dispute the point made by the gentleman from Illinois. But I desire to correct him in reference to the amount we appropriated last year. It was \$7,500. The increase, therefore, is \$4,000 only. Almost all the items required for that Department this year have increased in price above what they were last year.

Mr. WASHBURNE, of Illinois. Then as I was mistaken in the amount I will modify my amendment by making the amount to be inserted "\$7,500."

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to amend, in lines six hundred and eighty and six hundred and eighty-one, which are, "for collecting agricultural statistics in loyal States, \$20,000," by striking out the entire appropriation. I do not believe these statistics are worth the money. I live, I believe, in the best agricultural district in the country, and I am sure my constituents do not get their portion of this amount.

Mr. INGERSOLL. I must correct the gentleman. The fifth district, which I have the honor to represent, is the best agricultural district.

Mr. MORRILL. I suppose I have the right to move an amendment to correct the text before the pending amendment is put. Previous to making the motion, I will say that I believe some amount of expenditure can be profitably employed in collecting and gathering together these statistics, and therefore I should regret to see the entire amount stricken out from the bill. There are other appropriations for this Department in the bill far more extravagant, I think, than this.

I hope the clause will not be stricken out; but I object to its phraseology, and I therefore move to amend by striking out the words "in loyal States." I do not see why we may not collect statistics from all the States.

Mr. HOLMAN. I have been in the habit of following the views of the gentleman from Illinois very generally, and I am certainly not in favor of any extravagant expenditures in the civil departments of the Government; but it seems to me that the gentleman from Illinois is mistaken as to the value of the statistical information gathered together by the Commissioner of Agriculture. That information is published bimonthly and shows the condition of the crops of the country.

Mr. WASHBURNE, of Illinois. I would ask the gentleman from Indiana if he ever read any of these pamphlets which are sent out bimonthly by the Agricultural Department, or has ever known any person who has read them?

Mr. HOLMAN. I not only represent an agricultural interest, but I happen to be myself to some extent engaged in agricultural pursuits, cultivating a small farm. The gentleman from Illinois, representing a mineral region, probably has not the same interest in this subject that I have. I have not only received and carefully read these tables and statistics, but my constituents around me have also done so.

An appropriation of \$20,000 for this purpose is not a large appropriation. It must be distributed in small amounts to reach a great many persons, and it seems to me that the agricultural interests of the country have been promoted by the expenditure of this small amount of money in the past. It is but an experiment, and one made with a very small amount of money. It is expended upon a subject of great and general interest—the statistics of the crops throughout the entire country.

While I have never favored appropriations

which I thought could be dispensed with at all, I am not now in favor of parsimony on the part of the Government which could prevent the ascertainment of facts affecting a great interest such as the agricultural interest of the United States.

The question was taken on Mr. MORRILL's amendment, and it was agreed to.

Mr. WASHBURNE, of Illinois. I will modify my amendment so as to strike out "twenty" and insert "ten," and add to the clause this proviso, which I think will meet the approbation of the House:

Provided, That hereafter there shall not be published any bimonthly report of the Agricultural Department.

Mr. HOLMAN. I trust that neither of those amendments will be adopted. If we appropriate any amount it ought to be \$20,000. That is the smallest amount that can be of any avail for this purpose. To appropriate \$10,000 would be simply to throw away that much money, and to appropriate any amount and not provide for the publication of these statistics would be a waste of money. This bimonthly statement goes into every agricultural community; it is carefully examined by the agricultural societies of the country, and is of great value. I do not know, myself, of a single farmer in that section of the State of Indiana in which I reside who does not deem this publication of value to the country.

I trust that neither of the amendments offered by the gentleman from Illinois will be adopted. If either of them be adopted we might as well strike out the entire appropriation. Ten thousand dollars would be of no use whatsoever. I trust that the gentleman from Illinois, in his eagerness for economy, will not forget that we do not appropriate many large sums of money for the benefit of the agricultural interests.

Mr. WASHBURNE, of Illinois. If the agricultural interests derived any benefit from this appropriation I should not object to it; but they do not derive any.

Mr. SLOAN. I would like to inquire how the money is expended—whether it is paid to the correspondents of the Department for furnishing the information? If I understand the matter, this information is obtained by the Department by simply addressing letters to those engaged in agricultural pursuits, and the answers to those letters contain the information upon which the Commissioner makes up these tables and statistics.

I have always doubted whether the information is sufficiently accurate to be of any real service. I do not understand how any considerable sum of money can be necessary to obtain the information. There is a clerical force already in the Department sufficient, I should suppose, to carry on all the correspondence. I do not understand that those who furnish this information from various parts of the country receive any compensation; and I ask the gentleman from Vermont how the money is to be expended?

Mr. MORRILL. I design to be perfectly fair in this matter. I suppose that the Department is in the habit of paying out money, in some instances, for the information received by it. It is true that, in certain localities, men will perform this labor gratuitously; but in other localities the Department is compelled to pay out money for it. Payment is made, as I understand, for the estimates of crops, and also for meteorological information. Men cannot be procured in all localities to perform that class of service without compensation. Payments are also made for articles in the annual report.

In regard to the publications made by the Department, some of the estimates of crops have been very valuable. I am not sure, however, that the information cannot be communicated to the newspapers. If the information be valuable the newspapers would be very glad to publish it as an item of news or as information of some interest to their readers. I am not sure that the publication of these bimonthly reports, which is a new feature, is of such great service as that it cannot be dispensed with, and the publication provided for in some way that will be equally acceptable and serviceable to the agriculturists of the country.

Mr. GARFIELD. I move to amend by inserting the words "and publishing;" so that it will read:

For collecting and publishing agricultural statistics in loyal States, \$20,000.

I hope, Mr. Chairman, that the appropriation



will not be stricken out. If any appropriation made by Congress for agricultural purposes has been valuable, so that its value has manifested itself to my mind, it has been the appropriation for publishing these bimonthly reports. I do not know that they are entirely correct and reliable. I do not suppose that so immediately after their commencement they could be entirely reliable; but they are manifestly a close approximation to reliable reports, and they give in a cheap form to every farmer in the United States a history of the progress of the crops. They let him know how the crops are coming on so that he can make his calculations for the next season.

Mr. MORRILL. If the gentleman from Ohio will permit me, I do not think that his amendment is necessary. No part of this appropriation is for the purpose of publishing these reports. The Department has the work done in the public printing office.

Mr. GARFIELD. If it is not necessary, I of course withdraw the amendment. But I will say, before leaving the floor, that I hope most earnestly that the agricultural interests of the country will not be deprived of the valuable documents distributed through this Department. They are not merely important to the agriculturists, but they are important to every merchant, every trader, every man who has an interest in knowing the probable prices of products in the coming season.

Mr. STROUSE. I hope my friend from Ohio will not withdraw his amendment.

Mr. GARFIELD. It is provided for in another place.

Mr. HOLMAN. The effect of inserting the words "and publishing" would simply be to diminish the appropriation for collecting statistics. The whole sum would not pay for the printing.

Mr. STROUSE. If that be so, I have nothing to say on the subject; but I desire to say a word in favor of the appropriation. I do not know of any appropriation for a sub-department of the Government that is more advantageous to the country at large than this comparatively small appropriation for the benefit of the most valuable and greatest interest of all. I trust, Mr. Chairman, that there will be but few votes cast here against any liberal appropriation that may foster, protect, and benefit the great fundamental interest of the Government, agriculture, on which all the other collateral interests must necessarily depend.

I may say here that the Agricultural Department has been well managed, and deserves, as has been suggested, the fostering care of the popular branch of Congress, as well as of the country at large.

Mr. RANDALL, of Pennsylvania. Although I represent a district within the city limits, yet I have during my experience here been enabled to discover that these reports on the subject of agriculture are of immense importance. I hope, therefore, that there will be no interference with the usual appropriations for this object, but that we shall afford to the country every possible means of information within the possession of the Agricultural Department. I hope that no further opposition will be made to the appropriations for this Department.

Mr. INGERSOLL. Mr. Chairman, the district which I represent is one of the finest agricultural districts in the world, and, sir, it seems to me that out of the millions of dollars appropriated by Congress, the agricultural interests should not be neglected. The interests of the farmer, which constitute the solid basis of the wealth of the country, should be thought of and cared for in the appropriations made by this House.

I hope, sir, that the amendment of my colleague from the Galena district [Mr. WASHBURN] will not prevail. Rather than cut down this appropriation, I would be in favor of increasing it. I receive these bimonthly reports from the Agricultural Department and send them to the local newspapers of my district, and into these newspapers is copied such information as is of interest and benefit to the agricultural community. It is read by the farmers, and unquestionably they derive advantage from it. Sir, let us not forget the interest of the farmer.

Mr. GRINNELL. Mr. Chairman, I hope that the amendment proposed by the gentleman from Illinois will not prevail. I am sorry, sir, that dislike toward a certain gentleman or a certain

management not here expressed should prejudice the minds of this House against the Agricultural Department. I believe that the publication of these statistics is of immense value to the producing class in this country. I can tell the gentleman the manner in which his constituents learn how to sell their products. He will find that in the various counties of his State there is selected a man of known intelligence and enterprise, enjoying the respect and confidence of the community, whose business it is to collect and forward facts in regard to the productions of the county from month to month. Those facts are summed up in the Agricultural Department, an exhibit is made, and conclusions are drawn, whereby the farmer in the gentleman's district may know how to sell his wheat, his corn, or other products that may be in excess of a good crop or be cut short by a drought or a superabundance of rain.

Let me tell the gentleman further, that if he will go to the Agricultural Department he will find no drones there. When I go into some of the other Departments I find gentlemen with apparently plenty of leisure, reading newspapers (which I cannot get time to do) and smoking cigars which have by common esteem a very fine flavor. But go into the Agricultural Department and you see there activity, life, and a purpose. I repeat it, no drones are visible there.

Now, sir, it is proposed to cut off this information, which I know to be of great benefit to the farmer. I have hundreds more applications for these bimonthly reports and the annual agricultural volume than I can supply. A farmer wishes to know how the crop is in another part of the country in order that he may determine what price to put upon his own products, and whether to sell late or early. This information he receives under the present system; and I am in favor of continuing it. Yet some gentlemen propose to cut down this appropriation of \$20,000 to pay for collecting statistics throughout the various States in regard to their agricultural products. I hope that the gentleman from Illinois, who is not a farmer, and has been too much of the time on the front, and has been too much occupied with other matters to give attention to this subject, will not set up his judgment as superior to that of those whose peculiar branch it is.

Mr. WASHBURN, of Illinois. I propose to stand by my amendment to reduce the amount to \$10,000. I am glad to hear the compliment paid by the gentleman from Iowa [Mr. GRINNELL] to the clerks in this Department. I understand that one of these gentlemen, paid by the Government, occupies a seat in the reporters' gallery. Undoubtedly he has listened to the gentleman, and has made a good report of his Buncombe speech.

Mr. GRINNELL. I wish to inform the gentleman from Illinois that I am not in the habit of consulting gentlemen in the gallery either with my eyes or my ears. I do not propose to go outside to bolster up the few remarks which I may make. I think that it would require several reporters to report all that some gentlemen say on this floor. [Laughter.] But, sir, I will not be personal.

I desire to resist the cutting down of an appropriation which looks to the ascertainment of the products raised throughout the United States, and the giving of this information, not to editors of newspapers, not to members of Congress, but to those whose business requires them to be acquainted with the state of the markets. This is a small, an infinitesimally small sum to quarrel about, when we, without question, vote hundreds of thousands and millions to objects no more meritorious. This appropriation is due, as has been suggested by the gentleman from Illinois, [Mr. INGERSOLL] to those who are not here to speak for themselves. Let us promote their prosperity. Let us give them as much light as possible on this subject of agriculture.

Mr. SPALDING. Mr. Chairman, I wish simply to say that there is no appropriation, to my knowledge, made by Congress which is more acceptable to my constituents than this one for the Department of Agriculture, and in their behalf I protest against reducing the amount one single dollar. I shall vote for every dollar inserted by the Committee of Ways and Means in this part of the bill, and feel that I can do no act which will better justify me to my constituents.

Mr. MORRILL. For the purpose of closing debate I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Dawes reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and had come to no resolution thereon.

Mr. MORRILL. I move that debate be closed in the Committee of the Whole on the state of the Union on the paragraphs in reference to the Department of Agriculture in one minute after their consideration shall be resumed.

Mr. HOLMAN. I raise the question of order that that motion is not in order, as it would cut off the five minutes' debate.

Mr. MORRILL. I propose to leave the paragraphs open to amendment.

Mr. HOLMAN. General debate has not yet been closed on the bill.

The SPEAKER. The Chair sustains the point of order, as the general debate has not yet been closed.

Mr. MORRILL. I move that general debate on the bill be closed in one minute after its consideration shall be resumed in the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. MORRILL moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866.

The CHAIRMAN stated that general debate had been closed in one minute.

The question recurred on the amendment of Mr. WASHBURN, of Illinois, and it was disagreed to.

The Clerk read, as follows:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, \$61,000.

Mr. PIKE. I should like to know what method is adopted by the Commissioner for the distribution of those seeds. I have received from time to time a very small quantity of seed, which with great care I preserved and directed to my constituents. They have been of exceedingly small value; and I have amused myself by multiplying the value of the seed I have received by the number of Senators and Representatives, and I cannot make out how the amount can reach anything like \$61,000. I do not know what other mode is adopted. I represent an eminently agricultural district, and I never heard of a seed getting into it except through my humble instrumentality. If a different mode is pursued I want to know it, so that my constituents may get their proper proportion.

Mr. BEAMAN. I move to reduce the appropriation to \$10,000. My experience has been like that of the gentleman from Maine. I presume during the last year that I have received for distribution an amount of seed that may have cost twelve shillings or two dollars, which consisted chiefly of Tuscarora seed corn, black seed onion, marigolds, mangel-wurzel, &c., which are to be found in abundance upon almost every farm and in almost every garden in my district. I do not know how much benefit this will be to the country, but it seems to me that it is an extravagant and profligate appropriation. I have therefore moved to reduce it to \$10,000.

Mr. GRINNELL. The gentleman from Maine lives away down East, where the people do not need much seed, as they live by fishing. They do not of course care for the agricultural interest. I would inform him, however, that if there is an agricultural society in his district it regularly receives large bundles of seed.

Mr. COX. I make the point of order that the gentleman must address the Chair.

Mr. GRINNELL. I am addressing the Chair and the gentlemen of the committee alternately.

Mr. PIKE. I will yield my portion to the Chair.

Mr. GRINNELL. Now, sir, the answer to all this matter is that there are, I presume, more than five hundred local agricultural societies in the United States that receive the benefits of this appropriation. I know these seeds are distributed throughout my district and to all our agricultural societies. Our people have not the opportunity of becoming possessed of the rare seeds found in large cities. In those cities, of course, the people can go to the seed stores and obtain them; but we have no large cities in my district, as is the case with other gentlemen, and our people consider it an acquisition to become possessed of these imported new seeds.

I will mention one fact. The article of sorghum seed had become so much deteriorated by admixture with the broom and common corn that it was feared that the introduction of this seed would not prove of so much advantage to the country as anticipated. Now, a part of the appropriation made by Congress heretofore was used to import a large amount of pure sorghum seed, and the result is, that if you will to-day go into the prairies of Illinois and Iowa you will find the farmers successful growers of the cane, and the women and children, whose husbands and fathers are in our armies, living upon the sweets extracted from this sorghum cane, as the only sweet which they are able to obtain. I give but a single illustration of benefits, one of many which could be named.

Mr. SLOAN. I move to amend the amendment by making the amount \$50,000. I was disposed to favor the amendment proposed by the gentleman from Michigan, [Mr. BEAMAN:] I inquired of the gentleman from Maine what had become of this large amount of seed for which \$54,000 was expended last year, and as the gentleman from Iowa [Mr. GRINNELL] has satisfactorily answered the question by showing that a large portion of it has gone into his district, I shall certainly favor keeping up the appropriation.

Mr. MORRILL. The gentleman from Maine [Mr. PIKE] very properly asked for information in reference to the manner in which these seeds were obtained, and the way in which they were distributed. I believe it has been the practice with the Department to obtain seeds not only in this country but abroad; and I believe that a very large amount has been annually spent for seeds abroad in order to introduce new varieties; and it is for each gentleman to judge for himself whether we have obtained any new varieties for the last few years. At the present time, I believe, there is an agent of the Department in China obtaining new sorghum seed, because in this country what we had was allowed to mix with other kinds of corn, as was observed by the gentleman from Iowa.

The mode and manner in which seeds are distributed is mainly through members of Congress. It is true, I believe, that the Department distributes seeds to its correspondents, and also to the various agricultural societies of the country, of whose names they have been informed by members or by others. Last year we did not appropriate so much as we propose to appropriate this year by \$4,000. I thought last year that the sum we then appropriated was too much, but I do not now propose any amendment.

Mr. SLOAN. I withdraw my amendment to the amendment.

Mr. WASHBURN, of Illinois. I move to amend by making the appropriation conform to what it was last year, \$57,000.

The amendment was not agreed to.

The amendment offered by Mr. BEAMAN was not agreed to.

Mr. WASHBURN, of Illinois. I move to amend in the next line, which appropriates \$5,200 for employes in seed room, by striking out "\$5,200" and inserting "\$4,000," the precise amount which was appropriated for the same purpose last year. This raises the salaries of the employes, and I am opposed to it.

Mr. STROUSE. With all respect to the gentleman from Illinois, I think it is false economy to reduce this very small appropriation of \$5,200 for the employes in the seed room. It is offered probably on the principle of saving at the spigot and wasting at the bung. The persons employed by the Commissioner of Agriculture to do this

work are females, many of them the wives or sisters or daughters of soldiers, who earn a scanty living by working in the Agricultural Department for a very short time in the winter preparatory to distributing the seeds in the spring. They receive a very moderate compensation indeed. It may be that their salaries have been very slightly increased; but I think it ill becomes the Congress of the United States to be shaving down a small appropriation for so meritorious a purpose as this, and only to save \$1,200. Let us not begin our economy with such small things as this, but act with a spirit of liberality and justice.

The question was taken on Mr. WASHBURN's amendment, and it was disagreed to.

Mr. COX. I move to add to the clause the following proviso:

*And provided, That none but females shall be employed therein.*

Mr. WASHBURN, of Illinois. I raise the point of order that the amendment is not in order unless that be one of the "contingencies for carrying on the Government." [Laughter.]

Mr. COX. The gentleman raises a point of order on everything except whisky. The gentleman's recent experience ought to make him a little cautious how he intrenches upon dignified Legislatures. [Laughter.]

The CHAIRMAN. The Chair overrules the point of order.

The question was taken; and the amendment was disagreed to.

Mr. COFFROTH. I move to strike out the following item:

For propagation and distribution of plants, cuttings, and shrubs, \$14,000.

I make this motion for the reason that during the last session of Congress an appropriation was made for this very same purpose, and I received no share of the plants, cuttings, and shrubs. I do not know whether any other gentleman in this House received them or not, but if they were received by any other person I consider that it would be unfair for this House to pass this appropriation unless these plants, cuttings, and shrubs are to be distributed equally among the members.

Now, sir, all the seeds that have come from the Patent Office or from the Agricultural Department to my district would not exceed in value fifteen or twenty dollars. I received about the same amount that the gentleman from Maine [Mr. PIKE] spoke of, a few onion seeds, a few cabbage seeds, and a little lettuce, and probably more celery seed than anything else; and there is very little of that article raised in my district. My constituents complain too that many of the seeds sent them do not grow, that they will not come up, that they are a bad article, and therefore I think it useless that we should spend the money of the people for this purpose, for seeds which will not grow and which are not fairly distributed among the people.

Mr. HOLMAN. A number of years ago I made an effectual effort to have this appropriation stricken out. It was then but \$5,000, it is now \$14,000. I am satisfied, from the disposition manifested by the House, that this appropriation will not be stricken out now; but I wish to call the attention of the House to the fact that last year we appropriated only \$10,800 for this object.

Gentlemen sometimes confound the propagating garden with the botanical garden. It always seemed to me that we appropriated a sufficient sum of money for the embellishment of this Capitol and its grounds, when we appropriated money to keep up the botanical garden, but this propagating garden is assuming the same proportions under the patronage of the Agricultural Department.

I have two amendments which I desire to submit. One is to reduce the amount of the appropriation to \$10,800, and the other is to add to the clause the following proviso:

*Provided, That the propagation of plants, cuttings, and shrubs shall be confined to such as are adapted to general cultivation, and to promote the general purposes of horticulture and agriculture throughout the United States.*

Mr. COFFROTH. I would like to ask the gentleman if he has not had more than his share of those seeds and cuttings.

Mr. HOLMAN. Mr. Chairman, I am compelled in justice to myself, as well as to the Agricultural Department, to say that if gentlemen

have received from the Agricultural Department last year no more than they have stated, I and my constituents have been peculiarly favored by Sir Isaac Newton. [Laughter.] I am satisfied that I have received for my constituents valuable seeds, proportioned to the appropriation, and I regret that other members and their constituents have not, for any reason, received the same advantages. It is proper to state, as a reason why my constituents have been so much favored, that I represent a moral agricultural district.

Mr. COFFROTH. I move to amend the amendment by adding "and that they shall be equally divided among the members of the House."

Mr. HOLMAN. The other branch of Congress, I believe, has some little interest in this propagating garden. I trust this House will not permit itself to be charged with illiberality in excluding members of the Senate.

Mr. COFFROTH. I will modify my amendment so as to make it include Senators. The amendment is necessary because there are some members who are a little diffident about going to the Agricultural Department to ask for these seeds, or who have not such winning ways as the gentleman from Indiana [Mr. HOLMAN] has, and who otherwise would not get their share of these shrubs and seeds.

The question was taken on Mr. COFFROTH's amendment to the amendment, and it was rejected.

The question recurred on Mr. HOLMAN's amendment, and it was adopted.

Mr. HOLMAN. I move to amend by striking out "\$14,000" and inserting "\$10,800;" so that it will read, "for propagation and distribution of plants, \$10,800."

The amendment was rejected.

Mr. ALLISON. I desire to inquire from the gentleman from Vermont the necessity for the following appropriation:

Territory of Nevada:

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, \$9,700.

Mr. MORRILL. I believe that since the estimates were made Nevada has become a State. I do not know that there is any necessity for the whole of the appropriation, but there is no harm in letting it remain. A portion of it will most certainly be required—that portion in regard to the superintendent of Indian affairs. Of course only what is legitimate and proper will be expended.

Mr. WILSON. I suggest that the appropriation be reduced to \$2,000.

Mr. MORRILL. The Indian agent, chief justice, and two associate judges are to be paid.

Mr. WILSON. The chief justice and two associate judges and secretary were all officers under the territorial government, and their functions end when the Territory becomes a State. I move to amend by striking out "\$9,700" and inserting "\$2,000, or so much thereof as may be necessary."

Mr. COLE, of California. I ask the gentleman from Iowa if he has any information on which to base this amount of \$2,000. He may require more than that for the Indian superintendent.

Mr. WILSON. I believe the salary of the superintendent of Indian affairs is \$1,800. That officer will doubtless be continued, and it will be necessary to pay his salary.

The question was taken, and the amendment was adopted.

Mr. WILSON. I move to amend the clause further by making it read, "for salary of superintendent of Indian affairs, \$2,000."

The amendment was adopted.

Mr. WILSON. I move to amend by striking out the next item, "for contingent expenses of said Territory, \$1,000."

The amendment was adopted.

Mr. WILSON. I move to amend by striking out the next item:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

The amendment was adopted.

Mr. ALLISON. The Clerk has just read this item:

For special and other extraordinary expenses of California land claims, \$10,000.

I desire to inquire as to the necessity for this appropriation.

Mr. MORRILL. There have been pending in California for several years some cases involving large amounts of money. Those cases are not yet closed, and they require an amount of time and attention that the district attorney is unable to devote to the subject. Therefore the Department thinks it indispensable that this appropriation be continued at least one year longer.

The Clerk read to line eight hundred and fifty, when

Mr. MORRILL said: I desire to offer the following amendment to supply what was accidentally omitted from the printed bill:

After line eight hundred and fifty insert the following:  
For compensation of the district marshals, \$12,000.

The amendment was agreed to.

Mr. HOLMAN. Lines eight hundred and fifty-five and eight hundred and fifty-six read as follows:  
For additional salary of the treasurer of the Mint at Philadelphia, \$1,000.

On this I raise a point of order. On the 29th page of this bill we have already appropriated the usual amount as the salary of the treasurer of that Mint, it being embraced in this item:

For salaries of the director, treasurer, assayer, melter and refiner, chief coinier and engraver, assistant assayer, and seven clerks, \$26,400.

I raise the point of order that this is simply an increase of salary from \$2,000 to \$3,000. This same point was made when the bill was under consideration at the last session, and my recollection is that it was sustained on the ground that this was a direct increase of salary.

The CHAIRMAN. The Chair is of opinion that it comes under the last clause of the 120th rule, as stated yesterday. Since yesterday the Chair has had occasion to examine the history of that clause, and finds that it originated in this way: the rule stood originally without that clause. While so standing, in the year 1838, Mr. Cambreling offered in the House an amendment to an appropriation bill, increasing the salaries of custom-house officers, officers in the Treasury Department. The point of order raised yesterday was made by Mr. Briggs, of Massachusetts, and sustained by the Chair. Upon the next day Mr. Briggs offered as an amendment to the rule the clause which is now incorporated in it, for the purpose of covering the precise case. The matter was referred to the Committee on Rules, laid over one day, and on the next day was brought up by Mr. Cambreling, who stated that it was for the purpose of covering these cases. The amendment was adopted and incorporated in the rule. The history of the case will be found in the Congressional Globe, volume six, commencing on page 224. This clause, therefore, was introduced into the rule for the express purpose of covering precisely these cases. The Chair, therefore, overrules the point of order.

Mr. HOLMAN. I move, then, to strike out this item. It will be observed that we have already made an appropriation for the salary of the treasurer of the Mint at Philadelphia. This is simply a proposition to increase the salary by the addition of \$1,000. No fact has been brought to the attention of the House indicating any necessity for such an increase; and although the ruling of the Chair, in view of the precedent, is undoubtedly right, yet it is certainly a very unwise policy to increase here and there a salary by an appropriation of this kind, unless there be some special and extraordinary necessity for it.

Mr. MORRILL. In reply to the argument of the gentleman from Indiana, [Mr. HOLMAN,] I will state that this appropriation is in pursuance of law. The appropriations have heretofore been made in precisely this form. A part of these additional salaries was authorized as long ago, I believe, as 1846, while a small part of them was authorized last year, on account of the necessity that was felt for a further increase of salaries at one or two particular points.

Mr. L. MYERS. I only desire to state, as a further reason why this increase of salary should be made, that the treasurer of the Mint at Philadelphia is obliged to give \$200,000 security.

Mr. MORRILL. I will say to the gentleman from Philadelphia [Mr. L. MYERS] that this proposes no payment of salary in addition to what that officer now receives. In a subsequent part of the bill there is a proposition to still further increase the salaries of these men; but this does not propose any increase.

Mr. L. MYERS. I am very glad to learn that there is to be in a subsequent part of the bill an addition to the salary which this officer now receives.

Mr. WASHBURNE, of Illinois. If what the gentleman from Vermont says be correct, then we should strike out the word "additional." If it is not an additional salary I would like to know why that word is there.

Mr. HOLMAN. As the gentleman says that this is in conformity to former appropriation bills and in pursuance of established law I withdraw my motion to strike out.

Mr. MORRILL. It is in pursuance of laws a part of which have been upon the statute-book since 1846.

Mr. SPALDING. I move to strike out the word "additional," as the gentleman says that it is not an additional salary.

Mr. MORRILL. It merely makes it conform to the law.

The amendment was disagreed to.

The Clerk read, as follows:

For additional salary of the treasurer of the branch mint at Denver, \$500.

Mr. SPALDING. I move to strike that out, as I understand it is a new appropriation.

Mr. MORRILL. It was authorized last year. The amendment was disagreed to.

The Clerk read, as follows:

For salaries of additional clerks in the office of the Assistant Treasurer at Boston, which are hereby authorized, \$11,500.

Mr. WASHBURNE, of Illinois. I move to strike that out.

Mr. MORRILL. I do not know that it is necessary to say anything in reference to these officers. Their duties have increased, and an increased force is absolutely necessary to the Government. They receive payments for the loans made by the Government. Many of them are poorly paid, as they say. So far as the business of the Government is concerned they are indispensable, and unless the gentleman wants to prevent the Treasury from performing its legitimate functions he will vote for this item.

Mr. WASHBURNE, of Illinois. I want to know the number of clerks now employed and their salaries, and also what salary it is proposed to pay these clerks. Does he propose to leave it with the Secretary of the Treasury or the Assistant Treasurer at Boston to fix the salary? I think that this is very loose legislation.

Mr. HOOPER. This appropriation is not for a proposed increase of officers in the office of the Assistant Treasurer at Boston, but for those who have been there for the past two years.

Mr. WASHBURNE, of Illinois. If that be the case, it seems to me to be worse than I imagined. It is for salaries for additional clerks which "are hereby authorized." If these clerks have been employed there without authority of law it is something that this House ought not to tolerate.

Mr. HOOPER. My impression is that the same appropriation was made last year.

Mr. WASHBURNE, of Illinois. I think that this is very blind legislation. We have no knowledge whatever in regard to the number of clerks now in that office; we have no knowledge in regard to the duties they are called on to perform; and yet we are asked to make this appropriation for additional clerks in this appropriation bill. I think that we ought to have some little regard for the Treasury and refuse to make appropriations until we know what they are for.

Mr. MORRILL. I hope that the committee will not vote this provision out.

The CHAIRMAN. Further debate is not in order.

Mr. MORRILL. I move to strike out "five" and insert "four." As I understand the question there is a necessity for an increased force at this office. The large number of millions of dollars subscribed in Boston to the United States loans has made the employment of more clerks indispensable, in order that the duties of the office may be accurately and promptly performed. In addition to all their other duties heretofore, they have not only to receive subscriptions to the loans, but to count the money; and it takes a large force to do that. I hope the motion of the gentleman from Illinois will not prevail.

Mr. WILSON. I ask the gentleman from Vermont why the necessity of putting the item in this form. How many clerks does it authorize, five, ten, or twenty-five? If he chooses to appoint twenty-five clerks will we not be called at the next session, in a deficiency bill, to appropriate money to pay them? There is no limitation of power here. I think the language should be changed, or the paragraph stricken out.

Mr. MORRILL. I do not know that we should be unwilling to allow this discretion to the Secretary of the Treasury. It is a proper one. It is for the employment of clerks where the responsibility is very great. I know of no place where the could better trust the Secretary of the Treasury with some degree of discretion than in reference to the office of the Assistant Treasurer at Boston.

Mr. WASHBURNE, of Illinois. The explanation made by the gentleman from Vermont does not satisfy me. The gentleman from Massachusetts [Mr. HOOPER] states that the Committee of Ways and Means have passed upon a bill to cover the past delinquencies of the Department in this matter. I have looked over the bill which the Committee of Ways and Means have determined to report, and I ask attention to its provisions for one moment. It organizes this sub-Treasury department at Boston.

Mr. HOOPER. I rise to a question of order. I was instructed some days ago to report this bill from the Committee of Ways and Means, and the gentleman from Illinois [Mr. WASHBURNE] refused to give his permission; and I think it hardly fair for the gentleman to bring it before the House now.

The CHAIRMAN. The Chair thinks the gentleman from Massachusetts has stated the point of order correctly, and the Chair sustains it. [Laughter.]

Mr. WASHBURNE, of Illinois. Mr. Chairman, I did object to reporting the bill at that time, but I had not then the opportunity of stating the reasons why. This bill which my friend from Massachusetts proposed to report organizes the sub-Treasury of the city of Boston, and I call the attention of gentlemen to it. It provides for one chief clerk at a salary of \$2,500; one disbursing clerk at a salary of \$2,000; two clerks at a salary of \$1,500 each; one clerk at a salary of \$1,400; one clerk at a salary of \$1,200; six clerks at a salary of \$1,000 each; two clerks at a salary of \$800; one messenger at a salary of \$700; and two porters at a salary of \$600 each. This makes the aggregate salaries \$19,600 in order to run this sub-Treasury machine in the city of Boston, while the whole expense of running the State government of the State of Illinois is not \$10,000. It is proposed to fix these salaries indefinitely as to time, no matter how much better the currency may become; and after giving a messenger to all those clerks, it adds two porters at a salary of \$600 per annum each.

Mr. MORRILL. I withdraw my amendment to the amendment.

Mr. HOOPER. I renew the amendment. I wish to state to the House that this appropriation is designed to meet an arrangement of the sub-Treasury at Boston, which has been found necessary for the past year. The bill which has been referred to was prepared to authorize the appointment of these officers in the usual form. It was necessary to carry on the office, and the expenditure beyond the appropriation has been paid heretofore from the contingent fund of the Treasury Department.

In reply to the remarks made by the gentleman from Illinois in reference to the absurdity of appointing clerks, while he may be a very good judge of their necessity, I desire the Clerk to read the letter from the Treasury Department which accompanied this bill.

The letter was read, and is as follows:

TREASURY DEPARTMENT, December 20, 1864.

SIR: I have the honor of submitting for the consideration of your committee the inclosed draft of a bill "to provide for the appointment of clerks in the office of the Assistant Treasurer of the United States at Boston, Massachusetts, and to fix their salaries." It has been prepared in accordance with the views of Mr. Chandler, the Assistant Treasurer, in which I concur, and therefore recommend the passage of the bill.

With great respect,

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. T. STEVENS, Chairman Committee of Ways and Means, United States House of Representatives.



Mr. HOOPER. I wish to add that from my own knowledge of that office I am confident the business cannot be conducted without this appropriation.

I withdraw my amendment.

The question recurred upon the amendment of Mr. WASHBURN to strike out the clause.

Mr. MORRILL. I move that the committee now rise, leaving the amendment pending, as I desire to have a full vote.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and had come to no resolution thereon.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Post Office Department containing a statement of all the payments from the contingent fund of that Department; which was laid on the table and ordered to be printed.

And then, on motion of Mr. FARNSWORTH, (at four o'clock and fifteen minutes,) the House adjourned.

#### IN SENATE.

THURSDAY, January 19, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of Josephine Rice, widow of Brigadier General James C. Rice, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of medical officers in the service of the United States, praying that the rank and pay of hospital stewards be increased to that of brevet second lieutenants of artillery, to take rank next after the graduates of the Military Academy at West Point; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of hospital stewards, United States Army, praying an increase of rank and pay to that of brevet second lieutenants of artillery, to take rank next after the graduates of West Point Military Academy; which was referred to the Committee on Military Affairs and the Militia.

Mr. DIXON presented the petition of Woodruff & Beach, of Hartford, Connecticut, contractors for building iron-clad vessels for the Navy, praying for additional compensation; which was referred to the Committee on Naval Affairs.

Mr. SUMNER. I offer a memorial of three hundred and thirty-six enlisted colored soldiers at Camp Casey, Virginia, in which they ask Congress to provide by law that colored soldiers, irrespective of former condition, shall receive equal pay and bounty as promised by the Government to other soldiers of the same date of enlistment. I believe that in all perspective cases that equality is secured, and that therefore this memorial can be only applicable to a few past cases, in regard to which, as will be remembered, there was a complaint at the last session of Congress, and that complaint still continues. I believe there is a bill now pending, perhaps before the Senate, to provide a remedy in that case. I hope the remedy will be provided. Meanwhile, I ask that this memorial be referred to the Committee on Military Affairs and the Militia.

The memorial was so referred.

Mr. TRUMBULL. I present the petition of William Nicholls, praying for a pension; and in connection with it I ask leave to withdraw from the files a former petition of his, with the papers in support of it, on which there was an adverse report based upon the fact that he did not establish proof of his having served in the war of 1812. He has since ascertained that he can supply that proof, and proposes now to do so. I make this statement so as to come within the rule of the Senate, which does not permit papers to be withdrawn where there has been an adverse report.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) They may be withdrawn by unanimous consent. The Chair hears no objection.

Mr. TRUMBULL. I move that those papers, with the petition which I now present, be referred to the Committee on Pensions.

The motion was agreed to.

#### THANKS TO GENERAL TERRY.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry, and to the officers and men under his command, for their gallantry and good conduct in the recent capture of Fort Fisher, have instructed me to report it back with an amendment putting the resolution in a new draft, and I ask that it be put on its passage now.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

The amendment of the Committee on Military Affairs was to strike out all after the resolving clause of the resolution, and to insert the following:

That the thanks of Congress are hereby presented to Major General Alfred H. Terry, and to the officers and men under his command, for the unsurpassed gallantry and skill exhibited by them in the attack upon Fort Fisher, and the brilliant and decisive victory by which that important work has been captured from the rebel forces and placed in the possession and under the authority of the United States, and for their long and faithful service and unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

And be it further resolved, That the President of the United States be, and he hereby is, requested to communicate this resolution to Major General Terry, and through him to the officers and soldiers under his command.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The resolution was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read, "A joint resolution to present the thanks of Congress to Major General Alfred H. Terry and the officers and men under his command."

#### THANKS TO ADMIRAL PORTER.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher, to report it back without amendment, and recommend its passage. I ask that it be put upon its passage at once.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 100) to extend the time for the payment of the special income tax by persons in receipt of salaries from the United States Government; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILSON also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 404) to secure impartiality in the administration of justice in the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### FOREIGN IMMIGRATION.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 403) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes; which was read twice by its title.

Mr. SHERMAN. This is an amendment to the immigration bill of last session which was reported by me from the Committee on Agriculture and was in my charge; but the chairman of that committee is not present, and I move that this bill be referred to the Committee on Finance. There is really no appropriate committee for it. It relates to immigration, and probably might be

referred either to the Committee on Foreign Relations or the Committee on Finance.

Mr. GRIMES. If it relates to the carrying of passengers it ought to be referred to the Committee on Commerce.

Mr. SHERMAN. It only amends the act relating to passengers, so far as immigrants are concerned. It is principally an amendment of the act of the last session relating to immigration. I have no objection to the bill going to the Committee on Commerce, except that I desire speedy and prompt action in order to repair evils that exist now to a certain degree in New York.

Mr. SUMNER. It seems to me that, all things considered, perhaps this bill had better go to the Committee on Finance, of which the Senator from Ohio is chairman. It is well known that the Senator introduced and carried through the Senate, at the last session, the bill which it is now proposed to amend, and I think that the proposition to amend it should be committed to the same hands from which the original bill proceeded. I hope, therefore, that it will be referred to the Committee on Finance.

The bill was referred to the Committee on Finance.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 390) for the relief of Emily A. Lyon.

The message also announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes; and

A bill (H. R. No. 689) to provide for Acting Assistant Treasurers or depositaries of the United States in certain cases.

#### CONDITION OF THE INDIAN TRIBES.

Mr. DOOLITTLE. I move to take up the resolution which was reported from the Committee on Indian Affairs, in relation to the raising of a joint commission to examine into Indian affairs and the treatment of the Indian tribes by the civil and military authorities.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities. It provides for the raising of a joint committee, to consist of three members of the Senate and four members of the House, to inquire into the present condition of the Indian tribes, and especially into the manner in which they are treated by the civil and military authorities of the United States, with power to sit during the recess of Congress; to send for persons and papers; to employ a clerk; to subpoena or compel the attendance of witnesses; to hear the complaints of Indian chiefs, and to report at the next session of Congress such legislation as may be necessary for the better administration of Indian affairs; and appropriates the sum of \$15,000 to defray the expenses of the same.

The joint resolution was reported to the Senate without amendment.

Mr. GRIMES. I will inquire of the chairman of the Committee on Indian Affairs how he is going to get members of the House of Representatives to serve on that committee. If I recollect the reading of the resolution, it requires that the committee shall consist of three members of the Senate and four members of the House of Representatives, constituting a joint commission, who are to report at the next session of Congress. The time of the members of the present House of Representatives will expire on the 4th of March, and the new House will not be organized until the 1st of December. It seems to me that the only course the chairman of the Committee on Indian Affairs, or the committee, can pursue, is to make this a Senate committee, and direct them to report at the next session. It is not possible to have members of the House of Representatives added to this committee if they are to sit during the recess. Those that may be added, if the committee is constituted now, will cease to be members of the House on the 4th of March next, and then there will be no members until Congress

shall convene again on the first Monday of December.

Mr. DOOLITTLE. I suppose it might be amended so as to provide for the appointment by the Speaker of four members of the present House who are also reelected to the next House. The law can confer that authority.

Mr. GRIMES. I suppose the commission that these men will hold from their Speaker will expire at the same time that the power of the Speaker expires. How is the Speaker going to know in advance who are reelected and who are not until the credentials can be filed in the House of Representatives?

Mr. SUMNER. There can be no objection, for instance, to Congress appointing persons who are not members, outsiders absolutely.

Mr. GRIMES. That is another question. The question here is, whether we shall appoint members of the Senate and House of Representatives or not. We cannot appoint those who are said by common rumor to have been reelected to the next House, because those very men may be decided by the House itself not to be members of that body.

Mr. DOOLITTLE. Perhaps all that might be avoided by amending the resolution so as to read, "four members of the House, to be appointed by the Speaker of the House of Representatives." Then, if he should name any four persons who are not elected to the next House, the law would confer upon them the authority to act on the committee during the recess. He, doubtless, would appoint those who are elected to the next House. Personally, of course, I should have no objection if this commission were confined to the Senate; but I think it would be more satisfactory to the country, and more satisfactory to the House of Representatives, as well as to the Senate, that the commission should be a joint one, consisting of members of the House as well as members of the Senate. That was the view of the Committee on Indian Affairs in reporting this resolution. I therefore move to amend the resolution as I have indicated.

The PRESIDING OFFICER, (Mr. CLARK.) The Senator from Wisconsin moves to amend the resolution by inserting in line four the word "present" before "House," and after the word "House" by inserting "to be appointed by the Speaker of the House of Representatives," so that it will read:

That there be raised a joint committee, to consist of three members of the Senate and four members of the present House, to be appointed by the Speaker of the House of Representatives, to inquire into the present condition of the Indian tribes, &c.

Mr. WILSON. It does seem to me that three members of this body will make a committee large enough for the purposes of this investigation. It will cost something, and I do not see any necessity of adding to expense in that direction. If any committee is raised, I hope we shall appoint a committee of three of this body, which will be ample in its numbers for all purposes. I hope the resolution will be so amended as to provide for the appointment of a committee of three members of the Senate to make this investigation. It will be large enough, and will be cheaper to the country than the present appropriation. We cannot afford to make any expenditures which can be avoided.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Wisconsin.

The amendment was agreed to; there being, on a division—ayes 20, noes 12.

Mr. DOOLITTLE. I wish to say one word to my friend from Massachusetts. He suggests that this ought to be a committee composed entirely of members of the Senate, and that it should not consist of more than three in number. I think that is a mistake. If we are to go into an investigation of this matter, I think the committee ought to be numerous enough to allow it to be subdivided, so that it could take testimony in different sections of the United States bearing on this question. It would be impossible for three men to do anything or make any investigation that would be efficient and worth anything. If we are to go into it, so far as I am concerned, I desire that it shall be thoroughly done. If it shall be composed of seven members, two members of the committee sitting together could take testi-

mony and examine in relation to the state of Indian affairs in a certain section or in the Territories, while the others were employed elsewhere. I think it would be more satisfactory to our country to have the committee composed of members of the House as well as members of the Senate.

Mr. MORRILL. I should like to inquire of the Senator from Wisconsin, the chairman of the Committee on Indian Affairs, who has introduced this proposition, what is expected to be accomplished by it, and what is really the public necessity or exigency for such a measure.

Mr. DOOLITTLE. Every one, it seems to me, must be aware that a great deal is said both publicly and privately among members of Congress in relation to the administration of Indian affairs both by the superintendents and agents who are appointed and have charge of these matters as well as by the military authorities who are dealing with them in the various Territories of the United States. It is alleged—I will not vouch for the truth of all these allegations—that in some of the Territories some of our military officers in command sometimes enter upon an expedition and get up an Indian war involving us in the expenditure of millions of dollars. It is also alleged that the superintendents and agents in the administration of Indian affairs in the Territories have been guilty of fraudulent practices by which the Government is subjected to great expense and the Indians themselves badly treated. So much has been said on the subject that it is believed that if we cannot reform altogether the administration of Indian affairs, it would be a matter of economy at least to the Government to spend some money and some time in having an investigation into the truth of these allegations, and to report to the next Congress any suggestions which may occur to the committee for the better administration of Indian affairs.

Mr. HENDRICKS. I shall vote for a committee representing both branches of Congress. I think it ought to be a congressional committee, because it is for the investigation of a very important subject. In addition to what the Senator from Wisconsin has said, I will say that this morning I learned that in August last the Governor of the Territory of Colorado issued a proclamation in which, after reciting that some of the Indian tribes were in a state of hostility against the whites, he required all the Indians to report themselves at certain military posts, stating that those who did not report themselves at these posts were to be regarded as in a state of hostility against the people of that Territory. He then called upon the people there to organize into military companies, directing them, after being thus organized, to exterminate the Indians who did not report themselves at the military posts, and said to those companies he had no means of paying them, but that they must pay themselves by taking the property of the Indians. That was the proclamation as I read it—and I presume it was a correct copy of the proclamation, brought to me by a gentleman in whom I have confidence—dated on the 11th of August last. I presume the troubles in that region of country have grown out of that proclamation—a most horrible thing. I am in favor of a committee representing the entire Congress, and that the investigation shall be thorough. I do not intend to throw any blame on the Administration here about it. I believe the wrongs to the Indians have continued for a number of Administrations; and I believe, further, that most of the Indian wars are the results of outrages committed by our own people upon them. I think Congress ought to take such steps as will save the nation from the calamities of Indian wars.

Mr. DOOLITTLE. I move to amend the resolution so as to provide that the three members on the part of the Senate shall be appointed by the President of the Senate.

Mr. GRIMES. I suggest to the Senator that he leave that out, and also strike out that portion of the resolution which directs that the members on the part of the House of Representatives shall be appointed by the Speaker. It does not strike me as proper for the Senate to undertake to prescribe to the House how they shall appoint their committees. I think that should be left out, and let each body appoint its own members of this committee according to the regulations and rules established by the body. We have a method by

which we provide for the appointment of our committees; I believe not by the President. It would not be proper for the House to send us an amendment to the resolution declaring that they shall be appointed by ballot; and it may be that the House have their regulations as to how their committees shall be appointed. If the Senator will leave out all of the resolution in regard to the mode of appointment of the committees, then it will be right.

Mr. DOOLITTLE. In answer to the suggestion of the Senator from Iowa, I will say that those words were inserted on my motion with a view to avoid a supposed difficulty growing out of the fact that the term of the present House expires on the 4th of March; and by inserting in the resolution, which has the effect of a law, the words "four members of the present House to be appointed by the Speaker," it will confer upon him the power to appoint them and give them power to sit beyond the termination of the present House of Representatives. That was the reason why that amendment was inserted. The only question is, whether those words are not put in there by way of amendment in such a form as substantially to say that all the members of the committee, the members on the part of the Senate as well as the members on the part of the House of Representatives, shall be appointed by the Speaker of the House of Representatives. I wish to avoid ambiguity on that subject. I ask the Secretary to read the clause as it stands.

The Secretary read, as follows:

That there be raised a joint committee, to consist of three members of the Senate and four members of the present House, to be appointed by the Speaker of the House of Representatives, to inquire into the present condition of the Indian tribes.

Mr. DOOLITTLE. I move to insert after the word "Senate" the words "to be appointed by the President of the Senate."

The motion was agreed to.

Mr. WILKINSON. I see by looking at this resolution that it provides that the committee may sit during the recess of Congress. I will inquire whether a committee of the present House of Representatives, which expires on the 4th of March, can sit properly after the termination of their term of office.

Mr. TRUMBULL. That point has already been discussed.

Mr. WILKINSON. I was not aware of it.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

ISAAC R. DILLER.

Mr. DAVIS. I move to take up House bill No. 94, for the relief of Isaac R. Diller.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, the pending question being on the amendment reported by the Committee on Foreign Relations, in line six, after the word "thousand," to strike out "six hundred and fifty-five," and in line seven to strike out the words "and fifty-five cents;" so that it will read:

That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Isaac R. Diller, late consul at Bremen, the sum of \$3,000, in full for the expenses incurred by him for extra clerk hire in his office, and for moneys advanced to destitute American citizens during the interval between the 1st day of August, 1857, and the 20th day of September, 1861.

Mr. DAVIS. I ask for the reading of the report made on this claim by the Committee on Foreign Relations at the second session of the Thirty-Seventh Congress.

The Secretary read the report made by Mr. SUMNER on the 16th of June, 1862:

The Committee on Foreign Relations, to whom was referred the memorial of Isaac R. Diller, late United States consul at the port of Bremen, Germany, praying compensation for moneys expended by him while in the discharge of his official duties, have had the same under consideration, and now report:

It appears from the memorial that Mr. Diller was appointed by the President of the United States, and confirmed by the Senate, as consul to Bremen, in the year 1857; that he took possession of the consulate on the 1st day of August of that year, and that he continued to perform the duties thereof until the 23rd day of September, 1861, a period of four years, one month, and twenty days. That during this period he received as compensation for his services the sum of \$4,000 per annum, as provided by the act of August 18, 1856, which was not sufficient to defray his personal expenses, and that he was also called upon to expend his private funds for clerk hire, fuel, and lights, trav-

elling expenses on official business, and the relief of destitute seamen, to the amount of \$4,380 55, a reimbursement of which he asks.

The inadequacy of the salary which Mr. Diller received, and the necessity for employment by him of clerks, in order to properly perform his official duties, is clearly set forth in a letter from Hon. Lewis Cass, Secretary of State, to Hon. G. W. Hopkins, chairman of the Committee on Foreign Affairs of the House of Representatives, dated January 12, 1859.

"The compensation attached to the consulate at Bremen," wrote Mr. Cass, "is \$2,000 per annum, and the consul is not permitted to transact business. The consular fees, which in 1857 amounted to \$1,177 27, are, under existing provisions of law, paid into the United States Treasury. A large number of American vessels are constantly arriving in Bremen, requiring the immediate attention not only of the consul himself but one or two clerks, and since the establishment of a line of steamers between New York and Bremen the consular duties have been largely increased by the number of American travelers arriving and departing. The Bremen office is also made, to some extent, a distributing office for parcels and letters transmitted from the Department to the United States consular and diplomatic officers residing on the Continent, the rate of postage being about fifty per cent. less upon mail matter sent directly to Bremen than if forwarded via Liverpool. Bremen is also the principal port from which emigrants take their departure to the United States, the number thus leaving amounting in the first ten months and a half of 1858 to twenty-two thousand five hundred and twenty-two, and for the first nine and a half months in 1857 to forty-four thousand nine hundred and fifty-one. It will be readily seen that the time of an intelligent consul must be much occupied in furnishing emigrants with information and in attending to their wants. A competent clerk cannot be obtained for less than \$600 per annum, which, in consequence of the repeal of the seventh section of the act of August 18, 1856, regulating the diplomatic and consular systems of the United States, must be paid from the compensation provided for the consul. The cost of living in Germany has also, within a few years, largely increased, as will be seen by reference to the accompanying extracts from dispatches of the United States minister at Berlin and the consul general at Frankfurt, relating to the consulate at Bremen."

Governor Wright, minister at Berlin, informed the Department, in a dispatch dated September 18, 1858, that the consul at Bremen "cannot, with the most rigid economy, live upon his present salary," and S. Richer, Esq., consul general at Frankfurt, said, in a dispatch dated October 12 of the same year, that, for reasons which he gave at length, it was his "entire conviction that \$4,000 salary and \$1,000 for office expenses would be no more than a reasonable compensation" for Mr. Diller.

The memorialist states that to procure the services of an American citizen as consular clerk, in accordance with the "regulations," who was acquainted with the language of the country, he was compelled to pay his first assistant \$600 a year, which he did actually pay during the four years that he held the office, and that the German correspondence relating to emigration occupied nearly the whole of this individual's time during that period. To a second clerk he paid \$200 a year, which, he represents, was not a remuneration commensurate with the amount of labor performed, but as much as the memorialist was able to pay under the circumstances. The total amount paid by him for clerk hire is shown to have been \$3,305 55.

The memorialist further represents that he was obliged to expend \$120 for fuel and lights for the consular office; that he paid \$350 for the relief of destitute American citizens, many of them sent to him by United States consuls in the interior of Germany, that they might be sent home; and that his traveling expenses on official business during the period of his consulate were \$605. These journeys were to Berlin, to consult with the American minister there in relation to the compulsory enlistment of American citizens; to Frankfurt, to consult with the United States consul there on the transfer of German vessels to the American flag during the Italian war; and to the port of Bremen, to ascertain the real nationality of vessels for which United States papers were asked to render them neutrals.

The committee having requested the opinion of the Department of State in regard to the above items of expenditure by the memorialist, received in reply a letter from Hon. William H. Seward, Secretary of State, dated April 12, 1863, in which he said:

"In regard to office expenses 'for fuel and lights,' I have to state that the Department has never authorized any consul to charge such expenditures to the Government.

"Neither are consuls allowed to charge the Government their 'traveling expenses,' unless, which is very rarely the case, they are traveling on public business under the special orders of the Department, or of a United States legation.

"There is no appropriation subject to the disposition of the Department to enable it to refund to ministers and consuls the donations which they may make in charity to destitute American citizens other than seamen. On two occasions a bill for this purpose has passed the Senate, but was lost in the House of Representatives after debate, on the ground that it would lead to a large and constantly increasing expenditure. In this view of the subject the Department fully concurs. Special appropriations have been occasionally made by Congress, from time to time, for the relief of the consuls at Panama, Havana, Hong Kong, and Mauritius, for the relief thus afforded to American citizens; at the two places first named, American citizens are often overtaken with sickness, and thrown destitute upon the charity of the consul and his countrymen.

"At Bremen, also, a port from whence a large part of the emigration to the United States takes its departure, and where naturalized American citizens constantly arrive, there is a large and frequent call upon the consul for his charity.

"Should it appear that such charitable gifts have been judiciously made, and the proof be such as has been accepted by the accounting officers in adjusting the claims of consuls under similar appropriations, to which I have re-

ferred above, the Department is of opinion that an appropriation under this head for the relief of Mr. Diller might justly and equitably be made.

"In regard to clerk hire, I have to state that the repeal of the seventh section of the diplomatic and consular act of August 18, 1856, has operated very severely upon many of the consulates at which the consular business is such as to require the employment of clerks, whose compensation must be defrayed by the consul himself from his salary. The communications of my predecessors will furnish you with the opinion of the Department on this subject. (See Ex. Doc. No. 68, H. of Rep., 35th Congress, 2d sess., pp. 3, 5-13, 15-18, 20, 21, 55-62; also Ex. Doc. No. 44, H. of Rep., 35th Congress, 2d sess., pp. 1-9; see also Report No. 364, H. of Rep., 36th Congress, 1st sess., p. 2; also, manuscript letter dated December 12, 1861, of this Department, addressed to Hon. William P. Fessenden, chairman of the Committee on Finance, United States Senate.)

"The opinions of the Department in regard to the inadequacy of the compensation heretofore paid to the United States consul at Bremen have received confirmation during the present session of Congress, by which it has been increased to \$3,000 per annum.

"The circumstances of the case, in view also of the precedents to which I have referred, are such, in the opinion of the Department, as to warrant the recommendation which is now made of an appropriation for the relief of the petitioner."

The committee have been unwilling to recognize the claim for fuel and lights; nor can they recognize the claim for travel except beyond the limits of his consulate. But taking into consideration the inadequacy of his compensation and the meritorious character of much of the services for which the memorialist now seeks remuneration, they think it advisable that the Secretary of State should be directed to audit and settle his accounts on principles of justice and equity, within the limits of \$3,000. They report a bill accordingly, and recommend its passage.

Mr. HALE. Mr. President, I am sorry to be obliged to oppose this bill; but I feel it to be my duty to do so. In this case Congress is asked to do for an old employé of the Democratic party some years ago, what it has refused to do by a direct vote for a meritorious servant of their own at the present time. There is no pretense, or if there is there is no evidence, that Mr. Diller discovered that he was doing such a losing business all the while he was doing it. He was appointed in 1857 and remained until 1861, and received the salary provided by law, which he says was not sufficient for him. I understand—and I get it from my learned friend on my left [Mr. SUMNER]—that applications are coming from all over the world to this Government at the present time stating the inadequacy of the compensation that is paid to consuls now; and I understand the honorable Senator to think that a great many of those representations are well founded, and that their compensation is inadequate. In the case of the consul at Halifax, referred to the other day, we not only had these facts, which I think commended themselves to the whole Senate, but we had the recommendation of the Committee on Commerce.

The PRESIDING OFFICER. (Mr. CLARK.) It becomes the duty of the Chair to interrupt the Senator to call up the order of the day, being the unfinished business of yesterday.

Mr. HALE. Very good, sir; I shall have the floor when this claim comes up again, I suppose.

#### MILITARY SERVICE.

The PRESIDING OFFICER. The unfinished business of yesterday is the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Mr. CHANDLER. I believe the House bill No. 307 was made the special order for this time.

The PRESIDING OFFICER. The Chair will inform the Senator that the unfinished business of yesterday supersedes the special order by the operation of the rules and practice of the Senate.

Mr. CHANDLER. I give notice that I will call up that bill the very moment this is disposed of.

The PRESIDING OFFICER. The question before the Senate is on an amendment of the Senator from Ohio [Mr. SHERMAN] to an amendment of the Senator from Massachusetts, [Mr. WILSON.] The bill and the amendment, and the amendment to the amendment, will be read for the information of the Senate.

The Secretary read them. The amendment submitted by Mr. WILSON is to add the following additional sections:

Sec. 2. *And be it further enacted*, That it is not within the intent of the first section of the act of March 3, 1863, entitled "An act to authorize the brevetting of volunteer and other officers in the United States service," authorizing the President to confer brevet rank for gallant actions

and meritorious conduct, to make a distinction as to pay between officers of volunteer and other forces, including the regular Army; but that such brevet rank does not entitle any officer, either of the regular Army or volunteers, to any increase of pay or emoluments.

Sec. 3. *And be it further enacted*, That if a soldier, discharged for wounds received in battle, die before receiving the bounty provided by the act of March 3, 1863, entitled "An act to amend an act to authorize the employment of volunteers," &c., the bounty due shall descend to his heirs in the same manner and order of succession as if he had died in the service.

The PRESIDING OFFICER. The Chair is informed that the Senator from Ohio yesterday proposed to modify his amendment to the amendment. Will he state the modification?

Mr. SHERMAN. My amendment is not offered as an amendment to that of the Senator from Massachusetts, but as an independent proposition.

The amendment of Mr. WILSON was agreed to.

Mr. SHERMAN. I now offer my proposition as a new section:

*And be it further enacted*, That no alien who has resided in the United States for five years prior to the 19th day of April, 1861, and who if naturalized would have been subject to military duty, shall be hereafter naturalized, any act to the contrary notwithstanding.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed. The bill was ordered to a third reading, was read the third time, and passed. Its title was amended by the addition of the words "and for other purposes."

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 689) to provide for Acting Assistant Treasurers or depositaries of the United States in certain cases, was read twice by its title, and referred to the Committee on Finance.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. I now move to take up House bill No. 307, which was made the special order of the day.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. JOHNSON. Mr. President, the bill which is now before the Senate, according to my view, involves principles of great importance, which it is very desirable, if they have not been settled, should be settled at the very earliest possible time. I do not know officially, for there is nothing on the face of the bill which gives the information, whether it is the purpose of the bill only to act practically upon a particular railroad or to affect all the railroads in the country. The legal operation of the bill will of course be coextensive with all the railroads that there may be now or at any time hereafter in any of the States of the Union.

During the long period that has elapsed from the adoption of the Constitution to the present time, no such measure as this has ever been proposed; and as far as I am advised, the statesmen by whom the Constitution was framed, and those who assisted in the organization of the Government under it, and all the men whom we have a right to consider as the great men of the age in which they lived, who have from time to time administered the Government either in the halls of Congress or on the bench, have never pretended, as I think, that Congress has any authority to pass a bill of this kind.

Coeval with the Government, and during the whole of the period to which I have adverted, it seemed to be admitted as a proposition perfectly clear, admitting of no argument to enforce it, that over the internal commerce of a State the State had exclusive jurisdiction, and also to be admitted that with reference to all the territory within the limits of a State the State had exclusive jurisdiction. The United States are not at liberty, by any authority communicated by any express words of the Constitution, to obtain jurisdiction over any portion of the States, except, with the assent of the State governments. That is very clear. If you want a navy-yard, if you want a mint, if you want a court-house, if you want any other matter that requires for its success the possession and jurisdiction over it of any portion of



the territory belonging to any one of the States, you can only obtain it with the assent of the State. The power given to the Government by the provision to which I have adverted, of obtaining jurisdiction over any portion of a State, was given because without it, in the judgment of the Convention, there would have been no means of obtaining jurisdiction at all. It was therefore an independent power in the judgment of the Convention; not a power incidental to any of the other powers conferred upon the Government, but a power which it was necessary to confer by a special provision in order to give to the Government the benefit of the exercise of that power.

There was at one time a doubt as to the true meaning of the clause to be found in the eighth section of the first article which gives to Congress the right "to establish post offices and post roads." The question turned upon the meaning of the word "establish," as there used. Some few contended that it gave to Congress the right to make roads as well as to say what roads already made by the States they would use for the transportation of their mails; but the received opinion after a while, which was adopted and has been uniformly acted upon, and since recognized as the correct opinion by the judiciary in every instance in which any analogous question has been before the Supreme Court of the United States and the circuit courts of the United States, has been that the meaning of the clause giving to Congress the right to establish post roads meant only that they had the power to designate roads already existing.

In 1800 Congress authorized the construction of the Cumberland road by the act of the 29th of March of that year. The State of Ohio had been given by the act creating that State a right to a certain portion of the proceeds of the sales of the public lands for the purpose of making roads to that State and in that State; and Congress, at the time the act of 1800 was passed, supposed that the proceeds of the sales of those lands would be sufficient to construct the road which they proposed to make by that act. That road was to commence at Cumberland, was to run of course through a portion of Maryland, a portion of Virginia, and through Ohio to its terminus on the Ohio-line. It became very important, as Congress supposed, to provide for the construction of that road, not only for the benefit of Ohio, but for the benefit of the country at large; but the Congress who passed that act supposed, as is very evident from their language, that they had no power to make that road without obtaining the assent of Maryland, Virginia, and Ohio; and the law therefore provides that the road is only to be made with the assent of those States. That the Senate will see by the terms of the act itself.

From time to time, however, appropriations were made for the further continuation of the road out of funds in the Treasury, the fund received from the sales of the public lands in Ohio being found inadequate to accomplish the purpose; and then this question arose, what authority had Congress to appropriate moneys of the Government to such a purpose? There is in the Constitution no express authority to appropriate money at all; it is to be implied from the provision that "no appropriation of money" for raising and supporting armies "shall be for a longer term than two years," and the provision that "no money shall be drawn from the Treasury but in consequence of appropriations made by law;" but except so far as the implication of the power to appropriate is to be made from the existence of the limitation upon the power in these two clauses, there was no particular provision in the Constitution which authorized Congress to do anything more than to lay and collect taxes, duties, imposts, and excises. But in the same clause which gives to Congress the authority to lay the taxes, &c., it is provided that they shall also "pay the debts and provide for the common defense and general welfare of the United States." The proposition before Congress, which was submitted by a bill afterward vetoed by Mr. Madison, and by another bill afterward vetoed by Mr. Monroe, was that under that authority it was perfectly immaterial whether Congress had the authority to make the road or not by express grant, it being insisted on the part of those who gave a broad construction to the terms of this latter power, that it was itself an independent power; that is to say, that Con-

gress could appropriate the moneys derived from the taxing power to any purpose which in the judgment of Congress was material to the common defense and general welfare. But that was soon found to be altogether untenable; and Mr. Monroe, in a paper which, as I think, exhausts the argument on the point, communicated with his message of May, 1822, vetoing that particular bill submitted to him, came to the conclusion I will now state, admitting, however, that in doing so he had changed his original views. The language of the clause, as the Senate will remember, is that Congress shall have power "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

The strict constructionists, those who were known at the time as the Virginia school of politicians, insisted upon it that there was no authority to appropriate the money derived from taxes under the clause which gives to Congress the authority to provide for the common defense and general welfare, except to the attainment of some of the particular objects over which Congress was given exclusive jurisdiction, and that it was incumbent, therefore, to go into all the enumerated powers conferred in the clause when you were called upon to appropriate the public money, in order to ascertain whether that appropriation was necessary to carry out the end sought to be accomplished by either one of the enumerated powers. In the paper to which I allude, communicated with his message of May, 1822, Mr. Monroe argued with great force (admitting, as I have just stated, that in that particular his own opinion had been changed on examination) that as there was no limitation at all to the power to lay taxes, &c., as Congress could levy any amount of taxes, any amount of imposts, any amount of duties, and any amount of excise, it was equally true that they could do anything with the money which they should get from the imposition of these taxes that they in their judgment might think would conduce to the common defense and the general welfare; and that the only guard against an abuse of the latter power was precisely the same guard (and which the Constitution supposed to be a sufficient guard) against the abuse of the taxing power; that is to say, responsibility to the people.

The people need not be apprehensive that more than a sufficient amount of taxes would be raised; first, because such taxation would operate on the members of Congress who might impose it; and second, because they would know when they were imposing it that they must go home and account why it was that they had levied such an amount of taxation on the people; and as that was, according to the theory of the Constitution, taken to be a sufficient protection against the abuse of that power, it was also a sufficient guard against the abuse of the other power—the power of appropriating money which they should get by means of the taxing power to any improper or injurious purpose; and he came therefore to this conclusion, that if there was money in the Treasury, which could only get there through the taxing power, Congress might use it in any way that Congress thought proper, and that it would be a legitimate use if they used it for the accomplishment of any national as contradistinguished from any mere local or State object, but that they had the right to decide for themselves what was national; and if they decided erroneously it was a matter that could not be inquired into in any other way than by an appeal to the people and a change of the members of the legislative councils of the country, and the repeal of the statute. He came then to the conclusion, with reference to the particular bill, that Congress might appropriate whatever money it thought proper for the completion of the Cumberland road, and for the completion of any other work of internal improvement; but he considered—and in that he was justified by the whole course of the Government—as perfectly clear that the authority to appropriate money for the construction of any internal improvement did not carry with it the authority to construct the improvement. That involved the exercise of territorial jurisdiction, and the territorial jurisdiction was a matter intrusted entirely to the States. If, therefore, a road was to be made, the road was to be made by State authority; and so in relation to a canal.

I have not got the book by me, but I know I speak it correctly. It would be very unnecessarily trespassing upon the Senate to read the decisions which from time to time have been given upon that clause, or upon the clause authorizing Congress to establish post offices and post roads. It is sufficient for my purpose to refer to a sentence or two in an opinion of the circuit court for the seventh circuit, which I say, with perfect knowledge, is in accordance with the decisions of the Supreme Court where such questions have arisen, and with the opinions of the other circuit courts before whom the question has been presented. And it should be the more persuasive, I think, because it was pronounced by Mr. Justice McLean, who was, if such an expression could be used in relation to a judge, rather latitudinarian in his constructions of the Constitution, and thought that there was hardly anything that the Federal Government could not do under some of its powers. The limitations to which, according to his view, it was alone subjected, were limitations comparatively few in the opinion of many others who differed from him; but so far as this particular question is concerned, he decided in accordance with the view I have stated in what was called the Rock Island case; and I read from his opinion in that case, as reported in the sixth volume of his own Reports, page 524, a sentence or two. The case before the court was an application on the part of the United States to have arrested, by injunction, the bridge proposed to be thrown over the Mississippi at Rock Island, upon the ground that it would interfere with the commercial power, under which power all navigation upon navigable rivers was to be made free, except so far as Congress, from time to time, might impede navigation by the exercise of regulations of their own, passed under the authority which they had to make regulations concerning commerce between the States:

"Under the commercial power, [said Judge McLean,] Congress may declare what shall constitute an obstruction or nuisance, by a general regulation, and provide for its abatement by indictment or information through the Attorney General; but neither under this power, nor under the power to establish post roads, can Congress construct a bridge over a navigable water. This belongs to the local or State authority within which the work is to be done. But this authority must be so exercised as not materially to conflict with the paramount power to regulate commerce."

"If Congress can construct a bridge over a navigable water under the power to regulate commerce or to establish post roads, on the same principle it may make turnpike or railroads throughout the country. The latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported; and the former by the regulation of commerce upon the high seas, and upon our rivers and lakes. If these limitations are to be departed from there can be no others, except the discretion of Congress."

And then he goes on to speak of what might be the practical mischiefs arising from the possession of such a power by Congress; that is to say, an unlimited power to go into the States to build bridges over the navigable rivers of the States, and to make railroads for transit. As I have said, that limitation upon the authority of Congress is recognized by every judicial decision as far as I am advised which any of the courts have pronounced upon any question at all analogous to the question that is now before the Senate.

Now, Mr. President, what is this bill? It is not a bill to make a railroad anywhere; and for the purpose of illustrating the view which I am about to take it is not necessary to speak of the operation of a bill all over the country; I will take a single case for the purpose of showing what the bill does. I do not say that it has been passed for the purpose of effecting that object, for I do not know it officially, however I may suspect it. The State of New Jersey in the infancy of the railroad system, as far back as the year 1830, when nobody knew with anything like certainty what would be the result—we had no experience at that time which would enable a man or a government or a company to decide whether it would be a profitable business to engage in enterprises of this description—authorized the construction of a railroad under a charter granted to the Camden and Amboy Railroad Company. At the same time they authorized a company to make a canal called the Delaware and Raritan canal. The latter, perhaps, was under all the circumstances supposed to be a more perilous enterprise than the former; for although in Europe canals had been made, yet a canal of this length had never

been constructed through a State like New Jersey, not then with the population that now teems upon her fields, and terminating in the cities of Philadelphia and New York, not then as now numbering a population by millions, but cities almost in their infancy comparatively. It was exceedingly doubtful whether either of these enterprises would prove to be lucrative on the part of the corporators. What did New Jersey say? What was she obliged to say? What was her object in saying it? She wanted a railroad between Philadelphia and New York; she wanted canal transportation between those two termini; it was not only important to her, and it was not only important to Pennsylvania and New York; it was important to the United States. Every man who came from the West, traveling north to the East, and every man who came from the opposite quarter traveling West, and every man who had any merchandise to send of any description from west to east or east to west, was interested in having a mode of transportation for himself and merchandise through New Jersey. New Jersey, then, actuated by that enlightened policy which I think has illustrated her career, and by that patriotic policy which has illustrated her career from the beginning of her existence as a State, during the period of the revolutionary struggle down to the present time, determined that she would, if she could, have made through her limits a railroad and a canal which would operate so beneficially not only for herself but for the rest of the country. But how to do it was the question.

This enterprise required an expenditure of millions; she could not make the expenditure, she had not the means of making the expenditure, without very heavy and onerous taxation. Who would make it? Individuals. How could they be induced to do it? By giving them a charter that promised to make the railroad and the canal, when they should be constructed, profitable. How was that to be accomplished? There were two ways to accomplish it: the first was to authorize them to levy any amount by way of toll that they might think proper; the other was to guard them against all competition. It was better, in her judgment, and, as I think, she decided right, that she should hold out the latter motive to the individuals who might be willing to construct this railroad and this canal, because to tax by a heavy imposition of toll would be not only to injure her citizens who might want to travel on these improvements, but would be to injure us and the other citizens of the United States who might want to travel and to transport their merchandise upon them. A smaller tax might be made sufficiently remunerative and satisfactory, and a sufficient inducement to engage in the enterprise, provided the parties were secured as against the injurious effect of competition.

Now, Mr. President, a word or two will show, as I think, that New Jersey had a right to do both. New Jersey was under no obligation to make a road or a canal. I suppose that will be admitted. There is nothing in the Constitution of the United States which compels New Jersey to spend a dollar for the benefit of other States, to spend a dollar in the construction of roads or canals in her own State. What she does for the benefit of her own citizens she is authorized to do, and may be compelled to do, not by the United States, but by the influence of her own population. They elect her Legislature; and if they, the people of New Jersey, are willing to have roads constructed, they, the people, will instruct the members of their Legislature to construct any particular road or canal that they want, but the United States have no right to interfere. If New Jersey was not under any obligation to the United States, or any citizen whatever living in any other State, to construct a road or canal in 1830, when these two improvements were authorized, and she determined upon constructing a road and canal, had she not a right to say upon what terms she would authorize them to be constructed? Who can doubt that? She had the power to make either of these improvements, and nobody had a right to enforce as against her the execution of that power. It was a power confided to her own sole discretion; and being in the full and unlimited possession of the power, she had a right to exert it just in the manner she thought proper; and if she, in her judgment, believed that she could make this road by means of this charter,

and by force of all the provisions contained in the charter, including that provision which secures the company as against competition, who has a right to complain of it? Can the corporators complain after they have got the charter? I suppose that question answers itself. And if they cannot complain, who else can complain?

My friend from Michigan is a citizen of the United States, but a citizen of Michigan. He wants to come to Washington. He gets to the eastern limit of New Jersey and he insists upon the right to come through. When he gets there, there is no road to bring him through. What is he to do? File a bill in equity against the State of New Jersey to compel the specific performance of some duty which she owes to the United States, to compel New Jersey to make a road over which my friend from Michigan can travel to Washington or from Washington home? Certainly not. When he gets there, and there is no road, does he stand in a stronger relation to the government of New Jersey than every Jerseyman stands in relation to that government? And if no Jerseyman could complain that New Jersey had not provided for a road through her limits, it would follow necessarily that my friend could not complain that she was without such a road and that he had to foot it the best way he could.

But the question, as I think, is not open to serious doubt. I have said that being under no obligation to make a road at all, being because of the absence of any obligation to make a road clothed with the power to exercise unlimited discretion in making a road, she had a right to determine upon what terms she would make it. She has made it, and she has authorized some of these companies to charge toll. When the honorable member gets to the eastern limit of that State, has he a right to come through New Jersey upon that road without paying toll? How was it before the system of railroads was adopted? How were the turnpike roads made? Not by any act of Congress; not by any power supposed to be derived to the States by any act of Congress, but by virtue of a power antecedently existing in the States, not surrendered by the Constitution of the United States to the Government of the United States, and therefore remaining just as effective and operative as it would have been if the Constitution of the United States never had been adopted. Does anybody doubt that upon those turnpikes, such as were made in all the States of the Union before the railroad system was adopted, no man had a right to travel without paying toll? That question also, I presume, is too clear for debate.

Then, if you cannot travel upon a railroad or a turnpike without conforming to that provision to be found in the charter under which turnpikes or railroads are made that authorizes the companies to charge toll either for the transportation of passengers or the transportation of merchandise, what right have you to complain—I mean legal right, constitutional right? You may think it unkind in New Jersey, a want of comity, the absence of an enlightened policy, that she will have her system of railroads such as it is now; but what right have you to complain that you are placed in the position of all the citizens of the State of New Jersey, and all the other citizens of the country at large?

Why, Mr. President, if you do not pass this bill cannot these companies surrender their charters to New Jersey to-morrow, and then can she not close the road permanently, and permanently close the canal? I suppose nobody doubts that; and if New Jersey could do both, or either, it is only because over the construction of a road or a canal the jurisdiction of a State is not concurrent with any jurisdiction possessed by the United States, but is exclusive of all power on the part of the United States.

When New Jersey passed her act chartering the Camden and Amboy Railroad Company, on the 5th of February, 1830, and by the same act chartered the Delaware and Raritan Canal Company, she granted them certain privileges. The railroad company was authorized to charge ten cents a mile on each passenger and ten cents on each ton of merchandise. There was a provision in that charter, however, which gave to the State a right to take the road or the canal at any time during the thirty years for which the charter was granted upon a valuation; the State was an incorporator to the extent of a thousand shares, I think,

and she was entitled by the original act of course to all the dividends that those one thousand shares would earn. Soon, however, the companies and the State became satisfied that it would be to the advantage of both parties, the corporations and the State, that there should be a change in the charter. Several changes were made, but it is only material to my purpose to mention two. The rate of tolls has been decreased to three cents a mile for the through travel, and the company having accepted the change have no right now to charge more than three cents; and the State, in consideration of the company giving up the right to charge the tolls which they were authorized to charge by the original act, agreed to waive her right to take the road and the canal at any time before the expiration of another period, and extended the charters to 1869. They have now, therefore, to run four years. The companies stipulated to pay a certain sum in gross, no matter what might be the receipts; that is to say, provided the receipts did not give such a sum as the State desired, she was to have in all events a specified amount—I forget what it was; but I think about thirty thousand dollars a year.

But the State did more. The companies had her charter, with which she had no right to interfere, as I am sure all Senators understand very well—certainly all the lawyers in the body do. The State could not alter the charter; every provision of it was good as long as the charter lasted. The State could not induce the companies to surrender their right of charging the toll which they were authorized to charge by the original charter of 1830, by alone waiving the right to take the road and the canal until 1869, but had to go further and give them the benefit of another provision, and that was that during the entire period which might elapse from the acceptance of the supplementary act of 1832 until 1869 the State would authorize no road or canal to be made which could compete at all with this road and this canal. That has all been done; that was done in 1832.

Then how does the State stand? I will take the case of one company, for it is fatiguing to mention both. She has granted to the Camden and Amboy Railroad Company a charter which authorized them to construct and keep running up to 1869 a railroad between Camden and Amboy; she has said that in consideration of the company agreeing to charge only three cents—more than two thirds less than they were authorized to charge—in consideration of their agreeing so to release a right which the State had given them, and over which she had no further control, which right stood protected by the United States as a contract, she would agree upon her part that she would not, during the whole period from 1832 to 1869, construct or authorize the construction of any other road which should compete at all with the road of this company. I suppose there is no doubt that the State had a right to make that agreement.

There have been some doubts as to the extent of the provision of the Constitution of the United States which prohibits the States from passing any laws impairing the obligations of contracts. In the beginning of the Government it was supposed that it did not apply to anything assuming the form of a contract to which a State was a party; and therefore no legislation constituting a company, or making a grant of land, and entering into stipulations with the grantee on the part of the State, was by some supposed to be embraced by the prohibition against the States impairing the obligation of contracts. But in the case of the State of New Jersey *vs. Wilson*, reported in 7 Cranch, and recognized ever since by all subsequent cases, the Supreme Court decided that the contract made in that case was protected. What was that? It was a very strong case, and about which a good deal might have been said at the time, and a good deal was said. There were differences of opinion—not on the bench, for the court was unanimous, but at the bar—whether that contract, if it could be called a contract, was binding at all upon the State, on the ground that it was a contract which the State had no right to enter into. The State of New Jersey took possession of certain lands belonging to Indians within her limits, and agreed to purchase for them other lands, and agreed that the other lands which she was to purchase should not be subject to the taxing power of the State. The Indians sold those lands, and they

came into the hands of the parties who were in possession of them, and who were parties to the case which I have just mentioned, and the question before the Supreme Court of the United States, on appeal from the courts of New Jersey, was whether it was competent for the State to surrender at all the taxing power; whether it was not simply void legislation, not because of any clause of the Constitution of the United States, but because of the nature of the power itself. It was imagined to be a power so necessary to State existence, that a State could not deprive herself of it. The Supreme Court, however, decided that in that case the agreement was a contract, and therefore protected by the constitutional inhibition upon the States interfering with contracts.

I shall not fatigue the Senate by referring to other cases. That case has been recognized by every judicial decision pronounced by the Supreme Court since. Precisely the same question was involved and decided in a case before the Supreme Court so recently as 3 Howard. Maryland wanted to make a road from Baltimore to Cumberland to strike the national road; and it was that system which made Baltimore what she was before the system of railroads was adopted. The State had not the money to make the road; but she had banking institutions, and she had persons who were anxious to enjoy banking facilities, and she renewed the charters of the existing banks and has authorized other banks to be instituted, provided, as a condition of their charters, that they should pay a certain amount as a fund to be appropriated to the construction of those roads. The State claimed the right to impose an additional tax. The question came up to the Supreme Court of the United States in the case of Gordon vs. the Tax Court; and the Supreme Court unanimously held that Maryland, in the first place, had a right to agree with these banking institutions for the consideration stated in their charter; that is to say, if they would give their money to be appropriated to the construction of these improvements, she in consideration thereof would impose no further taxes upon them during the continuance of their charter. The court were unanimous. The same doctrine was maintained in the prior case of Dartmouth College, reported in 4 Wheaton.

Now, Mr. President, if I am right so far, what does this bill do? It says, no matter what are the limitations to be found in any railroad charter, no matter what they are prohibited from doing, whether, among other things, they are prohibited from carrying upon and over their road, their connections, their boats, their bridges, or their ferries, all freight, all property, all mails, all passengers, all troops and Government supplies, or are prohibited from carrying over such improvement any particular freight, any particular property, or any particular class of passengers or troops, they are to have that privilege by virtue of this act. Is not that altering the franchise? If you have a right to do it, what is the effect of it? Does it not last just as long as the proprietors of the road desire to have it continued? If New Jersey goes to any particular company not authorized by her charter to do these things, and claims and asserts that they are doing what the charter does not authorize; that they are carrying passengers when they are unauthorized by their charter to carry passengers at all; or they are carrying passengers between termini between which they are not authorized to carry them by their charter; and that the charter is forfeited by reason of that abuse of the franchise; they answer "Congress tells us, in spite of you, that we are authorized to do that which you did not authorize us to do, and although we abuse your charter in point of fact, step beyond the limits of the franchise; although you acted honestly with us in limiting the franchise, and supposed that that limitation would be observed by us; and although you granted the charter upon conditions that the limitation would be observed, we do not mean to observe it now. We will claim all the privileges you have granted to us, and we will get rid of the limitations imposed in the charter granting us those benefits, under the authority of Congress."

It is even a greater power than authorizing the road to be made. It is denying to the State the right to make roads of this description as she thinks they ought to be made, because to admit that she has a right to impose limitations as be-

tween herself and the holders of the franchise, and to hold at the same time that it is within the power of Congress to free the holders of the franchise from the obligations of the franchise, is to tell New Jersey, (to apply it to New Jersey,) "Your authority to make railroads is to be exercised in subordination to our authority to extend the privileges and to do away with the conditions without which you never would have authorized the roads to have been made at all."

Under this bill they are authorized to receive, for the transportation over their road of what by it they are authorized to transport, compensation. What compensation? How is it to be regulated? What limitation is there upon it? The charter has no limitation, because (according to the assumption I have made, that this is to apply to a road which is not authorized to carry passengers and freight through,) the charter does not authorize them to charge at all for carrying passengers and freight through. Then, if there is no authority in the charter to carry passengers and freight from one terminus to the other, there is no limitation in the charter upon the right to carry such passengers or freight; and as you are about to authorize them to carry passengers and freight, and to receive compensation therefor, without limiting the compensation which they are to receive, you are about to give them the authority to charge just what they please.

I do not know that that is the purpose of the framers of the bill, but that is the effect of it. Then you place New Jersey in this situation: She thought it advisable, and experience has proved that it was sufficient for the purpose of the improvement, that there should be a limitation; you come in and say that with reference to a certain description of work upon the road, transporting passengers or transporting freight, there shall be no limitation, but that, on the contrary, any company to whom this bill may be applicable can charge just what they please.

I do not know, because as yet, except in very general terms, the authority of Congress to pass this act has not been placed upon any particular ground, upon what grounds the friends of this bill suppose the power to pass it is to be found. Is it to be found in the authority to establish post roads? As I have said, it is rather too late in the day to claim this particular power under that clause of the Constitution. The settled doctrine on the subject has been that it gives no power of that kind at all. That is a power to designate some existing road and nothing else, and was not intended to take from the States the authority to stop the road at any time it thought proper. The security against public mischief to result from it is in the interest which every State has in having a connection by these improvements with its own roads or over others. It appeals—and that was supposed to be a sufficient guarantee against abuse—not only to the motive of pecuniary interest, but to the motive of a high and elevated patriotism, the love of country, the love of neighbor; and our fathers thought that the latter would be abundantly sufficient to secure a free communication between the different sections of the country.

It may be said that New Jersey has no right to say that a citizen from Michigan or from Massachusetts shall not come through her territory. It will be sufficient to argue that question when New Jersey says it. She has not said any such thing. If New Jersey is under no obligation to make roads, and particularly under no obligation to make the particular roads which are complained of, the Camden and Amboy railroad, and the Delaware and Raritan canal, all that she has done by making them is to say that a certain description of travel through her territory may be made upon that road and upon that canal; but she has not said that unless you go upon the canal or upon the road you cannot go through her territory. Go upon the other road; if she has turnpikes resort to the turnpikes; if she has no turnpikes travel what are called the country roads; if she has no country roads walk through. If such a suicidal policy was adopted by New Jersey you would not suffer half as much as New Jersey. It would make her a wilderness if she adopted a policy of that description. She is bound, with a view almost to her own existence, certainly to the promotion of her own prosperity, to furnish the means by which travel into or through her

territory from the other States may be made; but she is under no obligation to say that she will spend her money to give you a favorite mode of transportation except upon her own terms. She is under no obligation to make these roads at all.

She has resorted to the other mode of making them to which all the States of the Union have resorted. She has constituted companies, and clothed those companies with the authority to exercise eminent domain in order to get the right of way over which the roads are to pass. It was at one time doubted whether that right of eminent domain could be transferred, but that doubt has long since been set at rest. Each State can take private property for public uses independent of any express authority. It is an inherent right of sovereignty, and every State has the authority to do it upon making compensation; and it has been uniformly held from the beginning of the system of roads of every description and of canals, that the State having the authority to do it herself, can do it by means of private companies chartered for the purpose; although one of the effects of such enterprises is the benefit of the particular corporators, the public interest is so far promoted that it well falls within the power which a State has to take private property for public use.

I have no interest in these companies, not the slightest. I wish it suited the policy of New Jersey to have a railroad through every county of the State; but that is a matter for herself to decide.

It is said that she has exacted from the citizens of other States a tax for the privilege of passing over her own territory. That is not so. I do not know what the particular provision of the New Jersey charter is, but I know what the provision in the charter under which the road from here to Baltimore has been made is. The State of Maryland authorizes the company to charge a certain amount of toll per mile for passengers and freight. That she has a right to do, and nobody has a right to complain. The honorable member from Michigan [Mr. CHANDLER] would not complain if the charter provided that the whole amount of that charge was to go into the exchequer of the company; but his complaint is that Maryland in the one case, or New Jersey in the other, is deriving benefit by getting a part of the toll which the companies are authorized to charge. Has she not a right to do it? If she has a right to make a charge without the payment of which no man has a right to travel upon the road, who has a right to complain of the manner in which she disposes of the money which she may receive from the operation of the road? Whether she gives it to the corporators individually, or whether she says that it is to be shared in certain proportions between the corporators and the State, nobody has a right to complain.

The only ground of complaint—not a legal ground of complaint—would be one resting on the assumption of its being a want of proper policy, charging more than should be charged; but what is to be done with the amount is a matter between the State granting the franchise and the corporators under the franchise. In fact, in legal intentment, when a charter of this description is made, the State granting the charter becomes *quasi* a corporator. The individual passenger pays on going from here to Baltimore \$1.50 for the privilege of going expeditiously, with increased safety, at all hours of the day and night. The company have said that they will make a road and they will transport. The States say, "Make the road and transport, and you shall have the privilege to charge \$1.50 upon each passenger transported either way, and you and I will share in that \$1.50 in the proportion of one fifth to four fifths;" that is to say, Maryland is *quasi* a corporator as far as that is concerned. I do not know the provision in the New Jersey charters, but I suppose it is substantially the same.

Then the question comes around to and at last results in the proposition I have stated in the beginning: was New Jersey under any obligation to make that road? Everybody must say no. Had anybody else a right to make it except under the authority of New Jersey? I think everybody must answer no. If there was no obligation upon her to make it, and nobody else but herself could make it or authorize it to be made, then she had a right to say upon what terms she would make it; and he who undertakes to make it, or does make



it, under a charter which subjects him to certain conditions, does not act honestly, certainly does not act legally, unless he complies with the condition. If he abuses the power, transcends the authority conferred upon him by the franchise, the franchise will be taken from him; the road is no longer his, and vests in the sovereign.

But here you propose to step in and say to New Jersey, who alone could have made the road, to whose exclusive jurisdiction the subject itself is confided, because not delegated by the Constitution; "It is true you had a right to make the road; you have made it; it has been made under your authority; you never would have authorized it to be made except upon the conditions included within that authority; but Congress now says to you your limitations are wholly inoperative as against us; it is our right not to assist anything that you have done, not to complete your road, not to appropriate money for the purpose if money should be wanted, but to step in and annul the very conditions without which you never would have authorized the construction of the road."

With a view to illustrate the operation of this bill, I have spoken of this legislation upon that particular road; but I warn Senators that there is involved in this measure a principle which is destructive of the sovereignty of their own States. If you pass this measure, and it can stand judicial examination—I am sure it will not; at least I think so—you submit the authority of the States now supposed to be exclusive to the unlimited power of Congress, or, to use the language of that part of the opinion of Mr. Justice McLean to which I have just referred,

"If these limitations are to be departed from"—

the limitations upon the power of the Government of which he has been speaking, to establish post roads and to regulate commerce—

"then there can be no others except the discretion of Congress."

Congress may do with any of your roads just what Congress may think fit to do; and in a controversy between any one State and all the other States in which the Representatives from the other States may be brought to believe that the interest of their particular constituencies will be promoted by disregarding the limitations in the franchises under which the roads in the particular States have been made, they will be done away with; and then see how we shall stand with our people. We are sent here to take care, among others, of the rights of our States. Our oath to support the Constitution of the United States is not merely to execute all the powers which it confers, but to abstain from exerting any powers which it does not confer. It is an obligation, therefore, to preserve all the limitations upon the power of the Federal Government in order to protect the inherent and original, and undelegated powers which belonged to the States before the Constitution was adopted. We come here, then, with roads made under the authority of our own State legislation, an authority which no one before ever questioned, and if Congress claims the right by their legislation to repeal State legislation, or to do away by congressional legislation with any limitations imposed by State legislation in cases of this description, it is in its result precisely the same as if in words you had said that all the legislation of the States in relation to their several roads are to be considered from this time null and void.

I am sorry, Mr. President, to have occupied so much of the time of the Senate, and conclude with stating the results to which my reflections on the subject have led me, that is to say, that over this subject Congress has no authority whatever. It is a power never delegated by the States, remaining with the States, and a power exclusive because not delegated, and decided to be exclusive by every court that has been called upon to pass judgment upon the subject, and as far as I know, by every statesman who has figured in the councils of the nation, whether in the executive department or the legislative department of the Government, from the time of the adoption of the Constitution down to the bringing of the bill into the House of Representatives.

Mr. MORRILL. I do not suppose there is any expectation of taking the question upon the bill this afternoon; and I do not know whether there is any Senator who desires to address the Senate upon it this afternoon. I understand

there are other Senators who design to speak upon the bill. I hope, therefore, the Senator who has charge of it will not object to its postponement to allow me to take up Senate bill No. 212. I move that the further consideration of this bill be postponed to, and made the special order of the day for Tuesday next, at one o'clock.

The motion was agreed to, two thirds of the Senate concurring therein.

#### ADJOURNMENT TO MONDAY.

Mr. GRIMES. I move that when the Senate adjourn to-day it adjourn to meet on Monday next. I believe there is no business before us of any kind of consequence. The appropriation bills have not yet reached us.

The motion was agreed to.

#### HENRY A. BRIGHAM.

Mr. MORRILL. I now move that the Senate proceed to the consideration of Senate bill No. 212.

The motion was agreed to, and the bill (S. No. 212) for the relief of Henry A. Brigham was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Henry A. Brigham the sum of \$2,000, being the amount of his check drawn in favor of the Assistant Treasurer of the United States at New York, on the 7th of November, 1862.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading; and was read the third time.

Mr. TRUMBULL. I will inquire if there is any report in this case. The bill itself does not explain why it should pass.

Mr. MORRILL. There is a report, which I will ask to have read.

The Secretary read the following report:

The Committee on Claims, to whom was referred the memorial of Henry A. Brigham, military storekeeper and paymaster in the ordnance department of the Army of the United States, report:

The claim is for \$2,000, the amount of a check which the petitioner alleges he was compelled to draw in favor of the Assistant Treasurer of the United States in the city of New York, without any consideration therefor, and for which he has never received the amount of said check, or any part thereof.

The facts, in substance, are these: the petitioner holds the office of military storekeeper and paymaster in the ordnance department of the Army of the United States, on duty at the Watervliet arsenal, New York, and had his disbursing account with the Assistant Treasurer of the United States in the city of New York, and paid the employees at said arsenal monthly in funds drawn from said Assistant Treasurer. To enable him to make his monthly payment of October, 1862, on the 7th of November of that year he presented to the cashier of said Assistant Treasurer in New York city a written statement of the amount and denomination of Treasury notes and postage currency required, amounting in all to the sum of \$36,300, in notes of denominations of from one to fifty dollars, and \$500 in postage currency.

On the following day, during business hours, he called for the money at the counter where he had been accustomed to receive his money.

He shortly gained the attention of the cashier, passed him his check for the sum required, (\$36,300,) whereupon the cashier brought a tray from the desk of the pay department to a convenient opening in the counter, the contents of which had been made up in marked packages by one of the paying tellers, for the purpose of making payment thereof to said paymaster—the parties standing upon opposite sides of the counter.

The money had been arranged in packages, notes of fifty dollars in two packages of \$3,000 and \$5,000, making \$8,000 in one bundle, around which was a strap with the amount marked thereon. Notes of twenty dollars, in six equal packages of \$2,000—all contained in one general bundle, and marked and strapped as above, and so on for the rest.

The cashier proceeded to take these packages or bundles from the tray, "calling off" the amount marked on the straps as each parcel was passed to the side of the tray in the counter, each amount so "called off" being set down by the paymaster, when the whole amount so stated was found to be \$36,300. Both parties still maintaining their positions, said paymaster proceeded to "satisfy himself" of the correctness of the count, commencing with the package of notes of the largest denomination, being that of \$8,000.

Upon examination of the bundle marked \$12,000, in packages of \$2,000 each, there was in fact but five packages, making \$10,000. Search was made by the cashier for the missing package of \$2,000 at the desk of the pay department and on the floor at the counter where the parties stood, but without success.

The parties had observed, while the cashier was passing the packages from the tray, and the paymaster was setting down the figures, a man—a stranger—standing near the paymaster, with his hands upon the postage currency, and who immediately retired.

It was assumed by the cashier that the delivery of the money was complete when he had "called off" the amount of the several packages or bundles, and passed them from the tray to the counter, as stated above, that the missing \$2,000 had been stolen by the stranger, and that having been so delivered and stolen, it was the loss of the pay-

master, who was accordingly required to draw an additional check for \$2,000, in order to obtain the amount required for his monthly payment.

It is not doubted that the paymaster drew his check in favor of the Assistant Treasurer of the United States for the sum of \$2,000 more than he actually received, and that he has been the loser to that amount.

Mr. TRUMBULL. Mr. President, I am not satisfied with that report, and I think the attention of the Senate ought to be called to the precedent we are establishing here. It seems that a paymaster under coercion drew a check for more money than he received, and thereupon, inasmuch as he did not get as much money as he checked for, he comes to Congress and asks Congress to make up the difference. That is all there is of the case. A paymaster calls for a certain amount of money. The cashier gives him within \$2,000 of the amount he asks for, and says, "I will not give you the balance unless you draw another check for \$2,000; if you want \$36,000 in money, you must draw a check for \$38,000, and you shall have it;" and inasmuch as he wants \$36,000, he draws for \$38,000, and thereupon the Congress of the United States is to come in and pass a law appropriating \$2,000 to make up the amount he drew the checks for! If there was a loss of money in this case by the cashier of this bank, let him be responsible for it; or if a case is made out that it was stolen from the cashier, and Congress thinks proper to relieve him, relieve him; but it seems to me to be the worst of precedents to allow a paymaster under coercion as it were in this way to draw a check for more money than he gets, and then for Congress to come in and pay the balance. It is establishing what I should think in private transactions would be a most dangerous precedent. The morality of it even is questionable.

Mr. MORRILL. I think if my friend from Illinois had paid a little more attention to the facts of the case perhaps he would not have come to the conclusion that he has announced. I think it not unlikely that the conclusion the Senator from Illinois draws might be just in the case he states; but that is not the case before the Senate.

This paymaster was an agent of the Government, and was dealing with the Government. He was not dealing with a bank, as the Senator supposes. He being an agent of the Government desirous of paying the bills of the Government, applied in his individual capacity as an officer to the Assistant Treasurer at New York for \$36,000, giving the specifications, and the Government, through its agents, gave him \$2,000 less, under the circumstances detailed in that report, and they made him draw his check for enough to cover the supposed loss, \$2,000. It was a transaction with the Government throughout, and a transaction with nobody else. I submit that the paymaster on that statement of the facts has no remedy on earth but the one proposed here. He cannot sue the Government; he cannot deal, as I understand, in any way whatever with the Government except to appeal to Congress.

With the permission of the Senate I will state in a word how the case presented itself. This paymaster went to the Assistant Treasurer at New York and made a requisition for \$36,000 to be paid to the employees of his arsenal. They told him to call the next day for the money. When he called, the cashier, or the party acting as cashier, brought the money in a tray to an open space in the counter and undertook to verify the count, the paymaster standing on one side of the counter and the cashier on the other side in the open space. The cashier commenced the verification of the count, and handed out the packages as he had prepared them and said "There are your \$36,000." Thereupon, the parties being in the presence of each other, the paymaster said, "Now I will verify the count." He took the packages and opened them in the presence of the cashier and said "There are \$2,000 less than \$36,000 here." Thereupon they both reexamined them, and both saw that there were \$2,000 less. Now, how is it accounted for? The cashier suggested that it must have been taken by some stranger who casually came into the room while these parties were verifying this count; but the committee were not satisfied that that suggestion was at all in accordance with the fact. They thought it was not even probable. There was no intimation, no suspicion, that the paymaster had stolen it, because he was in the presence of the cashier all the time, and the mo-

ment that it was suggested he subjected himself to and insisted upon an examination. The committee came to the conclusion, upon these facts, that either inadvertently a mistake had been made in the office in putting up those bills, or that the \$2,000 had been abstracted from those packages after they had been put in the tray the night before for the paymaster, and that it was either in the hands of the Government when he was made to draw his additional check, or in the hands and pockets of its unfaithful agents.

Under these circumstances it seemed to be but the sheerest justice in the world that this man, who had no remedy, and no place to go elsewhere, should come to the Congress of the United States and should be indemnified for this loss. I submit to my friend from Illinois whether, with the statement that it is a transaction all through of the Government, and not of a third party, it is not manifestly just that the Government should refund this amount to him. There is not the slightest suspicion from any quarter, either from the Secretary of the Treasury or his agents, whose communications accompany these papers, that there was anything improper on the part of the paymaster, or any want of fidelity or any want of care on his part.

Mr. TRUMBULL. I certainly have no other desire, in calling attention to this matter, than to properly protect the interests of the Government. I know none of these parties, and knew nothing of this claim until I heard the bill read at the Secretary's table, and called for the reading of the report; but it does seem to me it would be establishing a very dangerous precedent, and be unsafe to the Treasury of the United States, to allow a bill of this character to pass. If, however, Senators think not, of course they will pass it.

As it appears now, the transaction was wholly between Government officers. Perhaps when it was up before I stated that the check was upon a cashier, and I may have said of a bank.

Mr. MORRILL. I thought you were under that impression.

Mr. TRUMBULL. Perhaps I did say so; but it was on the cashier of the sub-Treasury. Then the case simply stated as the Senator from Maine presents it is this: two officers of the Government met together to pay money from one over to the other; they found themselves short \$2,000 between them; one did not have as much by \$2,000 as he ought to have, and the other insisted that he had got the \$2,000; and thereupon the party who had not got as much by \$2,000 as he ought to have, drew another check for \$2,000 more and made up the sum; and the Government of the United States, without any proof at all that this money has been stolen from these parties, proposes to pass a bill to make the thing good. If this bill should pass, then if hereafter a couple of Government officers get together for one to pay over money to the other, and the amount paid does not correspond with the check which the man receiving the money has drawn, he need only draw another check and Congress will make it up. I cannot think that there is any safety to the Government if bills of that kind can pass. I move to lay the bill upon the table. If any gentleman wishes to say anything upon it I will withdraw the motion.

Mr. MORRILL. I desire to say a word.

Mr. TRUMBULL. I withdraw it.

Mr. MORRILL. Let me look on the other side of that picture. As my friend from Illinois has said something about the morality of this thing, let me see what the morality on the other side would be.

The Government of the United States appoints an agent to disburse its funds, as in this case. Everybody knows that when that agent applies for the money he has got to make a requisition, he has got to apply to the Treasury. Everybody understands that he is entirely within the power of the Government represented by the Treasury. The funds are all on the side of the Government; the tray and the treasure are in the hands of the Treasurer and the Government; and he very humbly and meekly stands on the other side with his check and hands it over, and the Government hand him out just what they please, and charge him in his account and on his bond with the full amount. And yet when he comes here and makes out a perfect case and shows you that you either stole it yourselves or lost it thought your infi-

delity, Senators rise up and say that the morality of the Government does not allow it to rectify mistakes or blunders, or to hold its own officers to responsibility; we have got the power; you cannot sue us, and we will not correct any mistakes! It was not possible for this man, under the circumstances, to correct it.

Mr. TRUMBULL. Will the Senator allow me to ask him a question right there?

Mr. MORRILL. Certainly.

Mr. TRUMBULL. Would the Senator have given him receipt or drawn his check for \$38,000, when he received but \$36,000, under those circumstances?

Mr. MORRILL. I cannot say what I would have done if I had been a paymaster, and, upon the report, liable to be dismissed. It might have been weak or it might not. That does not alter the fact. It does not alter the morals and does not alter the equity of the case at all. The Senator inquires of me whether I would have given the receipt in this case. I want to call his attention to the fact in the case while I answer that inquiry. The fact shows that in this case, before they allowed the paymaster to have a shilling, or even to look at the money, they required him to draw his check for the whole amount, and they passed that back on the inner side of the counter, he standing on the other side, and then they handed him out what they chose; so that it was not a question whether he would give a receipt or not; they had got his check for \$36,000; he was in their power; and they handed him out \$2,000 less. There is no mistake about that, no question about it; and they handed it to him under such circumstances that he could not resist it.

Mr. GRIMES. Was there no receipt drawn?

Mr. MORRILL. There was no receipt drawn, and none required. The check was in the custody of the officers in the sub-Treasury, and they handed him out what they chose, and they handed him \$2,000 less than his check called for. I say the Government cannot stand a moment in equity or in good conscience under such a state of facts and refuse to indemnify this man.

Mr. CLARK. I want to inquire for a moment of the Senator what that paymaster could have done under such circumstances. He needed the \$36,000 to discharge his duty, and to pay the men under his employ. He notified the Assistant Treasurer beforehand that he should want so much money and in such and such parcels and denominations, and desired that they might be ready for him the next morning. He goes the next morning to the Assistant Treasurer, and says, "Sir, I want that money," and passes over his check. The Assistant Treasurer or one of his clerks takes his check and begins to count him out the money. He counts it on the counter. When he had counted it he passes it to the paymaster to count; and after he has counted it he says, "I have not got my money; I have only got \$34,000 instead of \$36,000. You have got my check for \$36,000." They kept that check, and declined to give him any more. He has, then, \$34,000 for his check; he has \$34,000 wherewith to pay \$36,000. He might have gone away with his money, as they had his check for \$36,000, and found himself so much short for paying the men in the employ of the Government; but that did not relieve him. He was then \$2,000 short, and there would have been that deficit; but, faithful to his trust, he says, "I must at any rate have \$2,000 more; I must have \$36,000 in money to pay these men at the arsenal, and if you will not let me have \$36,000 on my first check, as I must have \$2,000 more, I will give you another check for \$2,000." Now, who shall lose that money in justice and in right? There is no suspicion that this paymaster was in any way in the wrong; there is no suspicion that he was not faithful; there is no suspicion that he touched a dollar of the money; but on the contrary, he was out of pocket \$2,000.

Mr. GRIMES. Was there any suspicion that it was stolen from his custody?

Mr. CLARK. None in the world; there was not the slightest evidence given to show it. The fault was somewhere in the office of the Assistant Treasurer.

Mr. TRUMBULL. If the Senator from New Hampshire will allow me, let me put that very case. Suppose the Assistant Treasurer is that dishonest man; and it is not impossible that such a case might arise with some of the Assistant

Treasurers of the United States. Suppose an officer calls upon him with a check for \$36,000, and he gives him \$30,000, and refuses to give him any more, there is no question about it; there is pretense set up that it may have been taken away by some person passing through the office at the time. I want to know from the Senator from New Hampshire if he is prepared by legislation to say that the man who brings the check there shall draw an additional check, and relieve that dishonest officer?

Mr. CLARK. I am prepared to say that it is the duty of the Government to relieve this paymaster, for there is no suspicion of dishonesty upon him. I do not charge any dishonesty upon anybody connected with the office. It may have been a mistake; but the committee are as entirely certain as they can be by any proof that this paymaster was an honest man and did not receive the money. If you lay this bill upon the table or refuse to pass it, then this paymaster remains out of that sum of money; he is a defaulter to that amount. You propose to make him pay \$2,000 for you, and then not allow him for it. That is exactly the transaction. It is between him and the Government. If you are satisfied that this paymaster was an honest man, as the committee are, then it is the duty of the Government to see that he is not harmed by their officers. That is the way the case stands. There is not a pretense, there is not a suspicion that he received the money. If it was stolen by anybody, it must have been stolen before the delivery was complete to him. If there was any dishonesty, the committee are satisfied the dishonesty was before the money came to him. We do not charge that there was. It may have been a mistake. We are satisfied that he was not to blame about it, and therefore the committee recommend that he should be reimbursed the money, and I hope the bill will be passed.

Mr. GRIMES. I understood the Senator from New Hampshire to say in response to my inquiry that there was no intimation that this money possibly had been stolen from the paymaster. I will read from the committee's own report on this subject. They say:

"The parties had observed, while the cashier was passing the packages from the tray, and the paymaster was setting down the figures, a man—a stranger—standing near the paymaster, with his hands upon the postage currency, and who immediately retired."

That postage currency, I believe, was this sum of \$2,000.

"It was assumed by the cashier that the delivery of the money was complete when he had 'called off' the amount of the several packages or bundles, and passed them from the tray to the counter, as stated above; that the missing \$2,000 had been stolen by the stranger, and that, having been so delivered and stolen, it was the loss of the paymaster, who was accordingly required to draw an additional check for \$2,000, in order to obtain the amount required for his monthly payment."

Mr. CLARK. I misunderstood the drift of the Senator's inquiry if he meant to confine it to the transaction at the tray. I thought his inquiry was as to whether the money was stolen after the paymaster had taken the money. It was found out before he accepted the money.

Mr. GRIMES. It must have been delivered to the paymaster, or else this stranger's hand could not have been upon the package.

Mr. CLARK. Here was the tray containing the money, and the clerk counts it out in the tray to the paymaster. While he is counting it out they observe a man there with his hand on the package of postage currency. The paymaster had not received the money. There was no pretense that the paymaster had received the money at all. But I understood the drift of the Senator's inquiry to be whether somebody could not have stolen it from the paymaster after he had received it. He objected to receiving it, and this was entirely before it was passed to him. He could not have been accountable for it if it had been stolen. The delivery must have been complete before he was accountable for the money.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The question is on the passage of the bill.

Mr. TRUMBULL. I move that the bill be indefinitely postponed.

Mr. NESMITH. Before the vote is taken, if it is in order, I wish to say a word.

This is the most extraordinary case of a claim I have ever known brought before the Senate.

Here are two men, both represented to be Government officers, engaged in a pecuniary transaction where there are \$2,000 missing, and one party who receipts for \$2,000 more than he receives, or gives his check for it, which is the same thing, comes in and asks Congress to relieve him. It is alleged that this paymaster was an honest man. I will not undertake to impeach his honesty, but he certainly manifested a very great want of sense.

It has been said that a paymaster going to a sub-Treasurer with a draft, and presenting it, is entirely at the mercy of the Government, or of the sub-Treasurer. I deny that proposition. If the Senator from New Hampshire goes to the Treasurer in this city with a draft for his salary, and the Treasurer says, "Here are \$3,000 for your salary," handing him out a fifty-cent postage stamp, would he accept of that? No, sir. And it was as much the duty of this paymaster when he saw that the amount of money was \$2,000 less than the amount of his draft, to refuse to accept it and have nothing to do with it, as it would be of the Senator from New Hampshire to refuse the fifty-cent postage stamp for a \$3,000 check for his salary.

This case manifests a want of diligence and a want of sense on the part of the officer drawing the draft. He should have refused to accept a cent of the money under the circumstances. Why, sir, if you adopt a policy of this kind, recognizing this sort of transactions between Government officers, you open the door wide for the perpetration of all sorts of frauds. It is the duty of the Government officer, before he delivers up his check, or at least before he becomes responsible for the money, to see that he has the amount to which he is entitled; and it was a want of diligence on the part of this officer to receive \$2,000 less than the amount he was entitled to, and then to give an additional check for \$2,000 more. Why, sir, the transaction on the face of it will bear no sort of scrutiny. I take the responsibility of stating that in all the various multiplicity of bills for relief that have been introduced into Congress, there can be found no parallel to this case.

Suppose that this Government officer, in the plenitude of his power, as the Senator from New Hampshire says he had a right to exercise, had offered this paymaster a dollar; would that have relieved him? Would that have been a sufficient consideration for the \$36,000 draft? I think not. I think it was the duty of this paymaster, as it would be between individuals in a private transaction, to see that he had the full amount of the money to which he was entitled.

The presumption according to the statement of the case would be that there has been fraud somewhere. This person who was near the tray when the money was passed out may have stolen it. If he did steal it, the blame must necessarily attach to the party who then had the money in possession. It was the fault of the sub-Treasurer to allow a stranger to be in such close proximity to so large an amount of money. He was lacking in the exercise of due diligence in that regard. But if this bill passes the Government must eventually be the loser by the transaction, whether the money was stolen by the person who was near the tray, or whether it was stolen by the sub-Treasurer. If the money was not stolen by the individual who was near the tray, but there was a mistake, and \$2,000 less paid than should have been paid, then that money must be in the vaults of the sub-Treasurer, and it is very easy to ascertain by his cash account in comparison with his drafts whether the money overran or not on that day; and if he is a dishonest man it would be equally easy for him to retain that amount of money. The thing looks so suspicious on the face of it that I cannot under any circumstances vote for it.

Mr. HENDRICKS. I recollect the examination of this case before the committee at the last session. We all agreed with what the Senator from Oregon says, that it was a singular case, and that drew the attention of every member of the committee to the case, and I believe the whole evidence was read in the presence of the committee. But there was no difference of opinion on the part of the members of that committee as to the duty of the Government to give this paymaster relief.

The facts, as we understood them, were just these: a paymaster had to make a payment on a certain day at his post of duty, of \$36,800. On

the evening before the day the payment was to be made, he called at the proper department and informed them how much money he needed. That money was counted out all ready for him in packages. When he called to get his check paid, he handed it to the officer; the check was received and laid by; the clerk brought the tray, on which he had arranged the packages, to the proper counter. The Senator from Oregon finds fault with the officer for allowing that stranger in the office. That could not be objected to. It was a public place, where moneys were being paid out.

Mr. NESMITH. With the Senator's permission, I would like to ask him whether it is the usage for strangers to be about places where money is being paid with their hands on other people's money?

Mr. HENDRICKS. There is no evidence in the case to prove that this stranger had his hands on the package. From the whole evidence I never was satisfied the stranger got the money; but I was satisfied that the paymaster did not get the money. That is a very clear thing. No gentleman of the committee doubted on that question; but the committee were not unanimous that the stranger stole the money. There was a stranger at the back of the paymaster during some portion of this transaction.

Then, when the tray was brought to the counter, the clerk counted out the packages of money, and the paymaster made a note of the sums as he counted. When that was concluded, the paymaster said that he would count the money. He commenced counting it upon the same counter, and found that there were \$2,000 less than the clerk had counted.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. HENDRICKS. Yes, sir.

Mr. GRIMES. I believe he is a member of the Committee on Claims, and of course he has investigated this matter. Were the sub-Treasury officers in New York examined on the subject, or did the committee satisfy themselves that the sub-Treasury accounts did not show a surplus of \$2,000? It would be very easy for the committee to ascertain whether this \$2,000 was paid out of the sub-Treasury or not by referring to the cash account of the sub-Treasury on the day the payment was made. Did the committee inform themselves on that subject?

Mr. HENDRICKS. There was a letter from the Assistant Treasurer at New York discussing the whole case—a lengthy letter, as I now recollect. I cannot state to the Senator exactly what were the contents of that letter. But the money had been counted out, as I was going on to state, by the clerk, and then when the paymaster came to count the money he found that there was a deficiency of \$2,000; and here was the point made by the Assistant Treasurer, and also by the Secretary of the Treasury—

Mr. GRIMES. In the letter from the Assistant Treasurer was it admitted that the accounts did not balance for that day, or did balance? That is a very material point, one upon which the whole case hinges.

Mr. HENDRICKS. I cannot answer the Senator on that point. I recollect that the main discussion by the Assistant Treasurer was on this point: he claimed that the payment was complete to the paymaster as soon as the clerk had counted out the packages from the tray on the counter, and he said it could not be allowed, according to the usage of banks, that the party should recount the money. He denied to the paymaster the right to count the money himself. That was the principle that he discussed in his letter, which was before the committee.

The committee were entirely satisfied that the paymaster did not get the money; but the committee were not fully satisfied upon the question as to who did get the money. They were not satisfied as to whether the clerk got it, or whether he made a mistake, or how it was. But right at the counter the paymaster claimed to count the money before he took it from the counter. It was recounted and found to be \$2,000 short. The paymaster made a full examination right there before he left the counter. After it was found the money was not there, and his check was inside, he being compelled on that day to make a payment to the employés of the Watervliet arsenal of \$36,800, to get that money he had to give this

additional check. I cannot see any objection to the course pursued by him about that. Was he to say that the money should not be paid that day to the men at the arsenal, or was he to pay some and leave some unpaid? He could not well do that, and in order to pay the employés at the arsenal he gave this additional check for \$2,000. Perhaps I am obtuse on the question, but I am not able to see why he did not do right in that regard. He had \$34,800. The officer claimed that that was full payment. He needed \$2,000 more to make the payments, and he gave his check for it. It seems to me to be a plain case, and that the paymaster ought to be relieved.

Mr. COWAN. If it were possible to pass a bill here to make this paymaster lose \$1,000 of this money and the clerk the other \$1,000 for allowing it to be stolen out under their noses upon the counter of the sub-Treasury at the time they were counting it, I should much rather vote for it than for this bill. It does seem to me extraordinary that two men of ordinary intelligence should allow such a thing to take place immediately under their own eyes at a time when their attention must necessarily have been drawn to the transaction.

Mr. CHANDLER. This paymaster may be a very honest man, but from the character of the evidence in this case I should think he was a very foolish one. The evidence is, that he passed over his check for \$36,000 to the cashier without receiving that amount in funds. In that case he should have thrown the money back and refused to accept any of it. It is a matter of daily occurrence in every bank in the United States that mistakes occur either in the paying-teller or the recipient of the money; and any merchant or merchant's clerk might as well come to Congress and ask for the correction of an error that occurred of that kind between himself and the teller of a bank as for this paymaster to come to Congress and demand the return of this \$2,000. It was a business transaction.

Mr. CLARK. Will the Senator allow me to ask him a question?

Mr. CHANDLER. Certainly.

Mr. CLARK. What could the paymaster have done? He passes in his check and the Assistant Treasurer, or his clerk, counts out the money. The paymaster proceeds to count it himself and ascertains the loss. The Assistant Treasurer says, "That delivery was complete; you cannot have your check; there is the money." Shall he go away and leave the money? He cannot get his check back.

Mr. CHANDLER. He can either leave the money or demand his check, or he can accept the money. Does the Senator pretend to say that if I go into a bank and draw a check for \$36,000 and they pass me \$34,000, and will not give me any more, that I should therefore draw a check for \$2,000 more? Why, sir, the idea is absurd.

Mr. CLARK. I do not say that; but that is not this case.

Mr. CHANDLER. It is a very similar case.

Mr. CLARK. He is an officer of the Government who wants \$2,000 to complete his payments; and now, he says, "However this loss may fall I will take this money and give you a check for the \$2,000, which you will not give me without, and make up the complement for the purpose of paying these men I am to pay, and then this matter is to be settled afterward."

Mr. CHANDLER. It was a business transaction between the paymaster and the sub-Treasurer, the same precisely as the drawing of a check from a bank; there is no difference; and there is no reason on earth, no apology for coming to Congress for the payment of this \$2,000. If the paymaster got only \$34,800, instead of \$36,800, he should have received none of it unless he made up his mind to lose the \$2,000 himself.

Mr. CLARK. Will the Senator tell me and tell the Senate where he is to get his money?

Mr. CHANDLER. That is his own lookout.

Mr. CLARK. No, I beg the Senator's pardon; it is not his own lookout, because the man must not suffer for the Government. If he is an honest man and has paid the money for the Government, the Government should see him harmless.

Mr. CHANDLER. He had no right to part with his check until he got the money. As a business man, engaged in a plain, straight-for-



ward, every-day transaction, he ought to have known better. I do not claim that he was dishonest, but I think he was a big fool.

Mr. HENDRICKS. I desire to ask the Senator from Michigan whether it is usual to pay the money out before a check is handed in, at a bank or at a sub-Treasurer's office?

Mr. CHANDLER. Not at all. The check is always handed in; but if the amount counted out is not correct, I take it no business man would ever receive it.

Mr. HENDRICKS. Then, in answer to the Senator, I desire to say that the Assistant Treasurer took the ground that as soon as the clerk had counted out these bundles of money the payment was complete, and the money was in the hands of the paymaster, and he had nothing to do but to carry it away, leaving his check of \$36,800 and taking away only \$34,800, or to give another check of \$2,000, enough to make up the payment to the hands of the arsenal. That is the whole of the question.

Mr. GRIMES. I beg the Senator's pardon, Mr. Cisco does not put it exactly on that ground. He says:

"The delivery was according to the custom of this office and every banking institution in the country, full and complete the moment that the money had been laid upon the counter for Mr. Brigham, and he had taken possession of it."

Mr. HENDRICKS. Yes, sir, and in this particular case he argues that he had taken possession of it because it was taken out of the tray and put upon the counter, and he was in the act of counting it over himself.

Mr. CLARK. That fact of counting was the possession, as they contend.

Mr. HENDRICKS. They claimed that that was possession. As soon as it was handed from the tray and laid upon the counter the Assistant Treasurer contended that it was in the possession of the paymaster, and would give him no relief.

Mr. CHANDLER. The case is just as plain as cases that occur I suppose a thousand and perhaps a million times a day. A merchant sends a clerk to a bank to draw a check. If the bank does not pay that clerk the amount the check calls for, he throws back what is handed to him, and says "I will not touch it; I will go and inform my superior that I have handed you that check, and that you will not give me the amount of it," and then the superior goes to the bank and says "Give me that check, sir, or give me the amount of it." It was the duty of this paymaster to have thrown the money back, and said "There is not \$36,800 here; there is only \$34,800," and then he should have gone to his superior and reported the case, and not come here to Congress asking payment for his own default. There is no reason, propriety, or common sense in it. I hope the bill will be indefinitely postponed.

Mr. MORRILL called for the yeas and nays, and they were ordered.

Mr. JOHNSON. I am not sure that I understand the facts; but if I do understand them they are these: a paymaster the day before this mistake occurred informed the bank that he wanted \$36,800 under a requisition which he had a right to make, and he was told that he could get his \$36,800 the next day if he would call. He called the next day, and the cashier brought to him notes which he said in the aggregate amounted to \$36,800; and he handed him his check and took the notes, and standing at the counter in the presence of the cashier counted the money to see if there was that amount, and he discovered on his count and before leaving the counter that there was a deficiency of \$2,000 in one of the packages.

Now, in point of law that was no payment, if it be true, and if there be no doubt in point of fact, that what was given to him as \$36,800 amounted only to \$34,800. The rule of all banks, and the rule from necessity, in order to guard against imposition, is that they will correct no mistakes except such as are discovered at the counter. I go with a check, say of \$1,000, and the money is counted out to me; they say, "Here are \$1,000;" they have got hold of my check; the check is their voucher for \$1,000 as against me, if it is my own check; but it is fraudulent to charge me with a debit of \$1,000, unless I have got the money. They hand me what they say is \$1,000, and I, in the presence of the cashier or of the paying teller,

count what is handed to me and find that there is only \$800. I am not bound to take it. It is no payment. To make it a payment is to enable the bank to perpetrate a fraud upon the customer.

I once heard of a case which illustrates the practical injustice often of carrying out these rules of banks strictly in all cases, when the mistake is not discovered until afterwards. I got the story from Mr. Benton. When Mr. Randolph was passing by the Bank of the Metropolis on his way to the meeting that was held afterward between himself and Mr. Clay, Mr. Benton being one of his friends upon the ground, he said to Mr. Hamilton, when he got to the Bank of the Metropolis, "There are \$6,000 here on deposit belonging to me, and I want to get it out, because I do not know what may happen to me." They stopped, and he went in and demanded his money. They counted him out notes, and he said, "I want money, not notes." The cashier was very much surprised, but he had to count the gold out to him. His servant took it and carried it to the carriage, and they went off with \$6,000, as they supposed. A messenger from the bank coming up at full speed met them this side of Georgetown, stopped the carriage, and told Mr. Randolph that the cashier had made a mistake, that the bank had paid him \$6,100. Mr. Randolph responded, "If it had not been \$6,000, you would have said the payment was conclusive upon me; would you not?" "Yes." "Then go back and tell him I will have no corrections; it is not fair to make one side correct and not the other." But after the messenger had left him, he told Colonel Hamilton, "If I should fall I want this money counted, and if they have paid me \$100 too much, as they allege, go and pay it back, because notwithstanding the bank is willing to play the rogue, I am not; I will correct the mistake."

It is bad enough to suffer the banks to prescribe a rule which often practically leads to injustice; for very few men think of counting their money. I am one of the reckless ones, and I never think of it, though I do not know that I have ever been taken in. But without meaning to take you in they make a mistake in counting the money, and you do not discover it until you get home and count it yourself; then they will not correct it; but if you stand at the counter and count the money in the presence of the cashier, he having the check which he has no right to hold until he gives you the money, and you discover in his presence that he has not paid you the amount of the check, to call that a payment is to permit him in open day to perpetrate a fraud on the customer; and that, as I understand it, has been done in this instance, provided it be true, about which I am told there is no dispute, that in point of fact the money handed to this officer was short \$2,000, and it was discovered by him to be short in the presence of the cashier before he put the money in his pocket. He offered then to give his check for the amount which he had, \$34,800, and they would not let him have that unless he gave his check for \$36,800. In other words, knowing that he would lose the \$2,000 unless he could be indemnified, they made him give a check for \$36,800, knowing that they paid him only \$34,800. It appears to me that this claim upon us is only a just demand, provided the facts be as they have been stated.

It is said by my friend from Pennsylvania that some of these men deserved to lose the money, because they were such blockheads as not to discover the fraud that was perpetrated at the counter. I do not understand that the fraud was perpetrated there, or that the mistake occurred there. The notes were put up the day before in packages.

Mr. COWAN. The allegation is that the \$2,000 was stolen at that time.

Mr. JOHNSON. That is not it, as I understand.

Mr. COWAN. That has been the argument.

Mr. JOHNSON. I was about to state what is represented to me to have been the fact. He goes on one day and says he wants \$36,800; he has a right to \$36,800; he has money there to answer his check; he is told to come the next day and the money will be ready for him. The money is counted out in the interim, and when he comes the next day an amount is handed to him at the counter and represented as containing in the aggregate \$36,800. The young man who put it up said that he put up \$36,800. The cashier carries

the money to the counter and says, "Here are \$36,800." The paymaster counts the money and finds that it is \$36,800, less \$2,000; and they refuse to pay him the \$34,800 unless he will give a check for \$36,800. That, as it seems to me, is a downright fraud on the paymaster. When the money was taken, or whether it was taken by anybody, whether the funds were short or not, I do not know. It may not have been taken by anybody; it may have been a miscount by the clerk who counted the money; or if taken at all, it was taken before the money was delivered to the paymaster; he knew nothing about it; he discovered the mistake in the presence of the cashier.

Mr. GRIMES. I ask for the reading of the deposition of the teller in the sub-Treasury at New York detailing all the facts within his knowledge in connection with this case. Then we shall get at the facts.

The Secretary read, as follows:

*City and County of New York, ss:*

Edward H. Birdsall of said city, being duly sworn, doth depose and say: That he is at the head of the receiving, counting, and testing department in the office of the Assistant Treasurer of the United States in said city. That on the 8th day of November, in the year 1862, this department had the following business transaction with H. A. Brigham, United States military storekeeper and paymaster for the Watervliet arsenal at West Troy, in the State of New York. He, said H. A. Brigham, was paid by this department, on his (Brigham's) check on said Assistant Treasurer, the sum of \$36,800 in United States notes and postage currency, in manner following: a tray, the contents made up in marked packages by one of the paying tellers, and containing this amount of money, was taken by this department from the desk of the pay department to a convenient opening in the counter for the purpose of making to said Brigham a delivery of said contents. The paper hereto attached was then handed by this department to the said Brigham, he (this deponent) at the same time saying, "The items of notes and currency are somewhat different from the memorandum furnished us by you, and you had better make a new list as the money is handed out." Said Brigham then made the figures as they appear in black pencil on said paper as each parcel was passed to him and called off by this deponent. After entering the last item and drawing the line for footings, said Brigham returned the said paper to this deponent, who added up the column and made, as appears in blue pencil mark, the total, \$36,800, and the delivery was thereupon complete. Said Brigham then remarked, "You have satisfied yourself it is all right, now hand me the list and I will satisfy myself;" which said Brigham proceeded to do, commencing with the larger denomination of notes, and checked, as will appear by the check mark on said paper, the first item of \$8,000 in notes of the denomination of \$50, this deponent continuing to stand by said opening on said counter in order to afford to said Brigham any facilities which he might require.

When said Brigham came to the second item on said paper, being \$12,000 in notes of the denomination of \$20, said Brigham remarked, "How is this? I have only \$10,000 in \$20 notes," or words to that effect. This deponent then said, "You must have made some error in counting," and commenced to look over the different packages and bundles, and also to examine the floor both inside and outside the counter. The missing bundle of \$2,000 was not found, it having disappeared since the delivery to said Brigham of the total amount of his check. This deponent then remarked to said Brigham, "The \$2,000 you may be certain has been stolen," and also asked said Brigham who the individual was who had been standing by him, the said Brigham's, side during the time of the delivery, and who was allowed by said Brigham to place his hand on certain of the postage currency subsequent to such delivery, and who was supposed by this deponent to be either the clerk or the personal friend of said Brigham; other paymasters coming to the said office of the Assistant Treasurer of the United States at New York for the purpose of receiving large amounts of money almost invariably have some such attendant to assist them. Said Brigham replied, "I don't know the man, and never saw him before in my life until he spoke to me a few moments ago when I came into the office." This deponent then said, "He has taken your money." To which said Brigham replied, "I don't consider it my loss." This deponent then said, "If you have any doubts on that point, I will go with you to the head of the office." This deponent then took the tray of money, containing \$34,800, placed it for safe-keeping behind the counter during their absence, and he with the said Brigham then had an interview with John J. Cisco, Esq., the Assistant Treasurer. Mr. Cisco, after hearing the facts, pronounced the delivery of \$36,800 in United States notes and postage currency to have been in all respects proper and complete, and made in manner and form as all such payments are made both in his own office and in the various moneyed institutions of the country on like occasions. Said Brigham then returned to the outer or public office with this deponent, and drew a check for \$2,000, making, so far as the deponent is aware, no formal protest. And further, this deponent saith not.

E. H. BIRDSALL.

Sworn to, at the city of New York, before me, this 10th day of February, A. D. 1863.

W. T. LATIMER, Commissioner of Deeds.

Mr. COWAN. I think the position I took is now made good. Of course I am not here to contend that this delivery was perfect, because the person to whom the money was delivered objected upon the spot that the amount was insufficient; but what I meant to say was, not that I was not

going to vote for this bill, but that I would rather vote for a bill to impose this sum of \$2,000, one half of it upon the teller and the other half upon the paymaster, than to vote for this bill, because they had allowed it, if they were honest men, to be stolen from under their own eyes at the very time they were engaged in counting it. It is a most extraordinary thing to me that such a theft could have taken place there.

Mr. NESMITH. It should be borne in mind that there is no evidence presented to the Senate or to the committee that the amount of money was ever counted out correctly. The deponent, whose affidavit has been read, says it was counted by another person and put up in the bundles. There is no evidence that the full amount of money was ever put in the packages or in the tray. The deponent swears that some other person did so. He does not swear of his own knowledge that it was done. But, sir, looking at the cavalier manner in which this paymaster disposed of a matter of \$2,000, when finding the count to be \$2,000 short, he said substantially, "It is a matter of no consequence; I do not consider that I am the loser by it," there was a carelessness in the transaction of public business and the handling of public money which, if recognized, indorsed, and encouraged, will throw open the doors of the Treasury to illimitable robbery.

Mr. MORRILL. I wish to make a single remark in reply to the inference that this money was stolen. Of course the committee considered that question as to the probability of its having been stolen. It will be observed that this money was in large packages, that the package from which the \$2,000 was missed was a package of twenty-dollar notes, done up in \$2,000 packages, and all embraced in a larger package. The \$2,000 that were lost were missed from that large package. How could \$2,000 be got out of that general package while it was lying in that tray in the presence of both the cashier and the paymaster? The committee came to the conclusion that there was not the slightest probability of its having been stolen, and the inevitable inference the committee drew was that it either was not put into the tray at all by the clerk who made it up, or afterward put into his own pocket and the books made to balance.

Mr. HARRIS. I have intentionally refrained from taking any part in the discussion of this question, for the reason that Mr. Brigham, this paymaster, is my personal and very intimate friend; and I have not been disposed, acting rather in a judicial capacity, to take part in the discussion of these facts. I know him to be as upright and honorable a man as sits within these walls. I am satisfied that no Senator here believes or suspects, that no human being believes or suspects, that he has had a dollar of these \$2,000. And yet if this motion is to prevail, this innocent man, a man of uprightness and intelligence honestly and faithfully attempting to discharge his duty to the Government, is by the deliberate action of this Senate to be charged with this sum of \$2,000. That is just the predicament of this question. If the Senate choose under these circumstances to postpone this bill indefinitely, this honest man, this faithful servant of the Government, this intelligent and loyal man must submit to be charged with \$2,000, when nobody believes, nobody suspects, that he ever had a dollar of it.

Mr. BROWN. I desire to ask the Senator from Maine who made a statement connected with this matter just now, whether the evidence shows that there was an entire package missing or only part of a package? In the reading which the Clerk gave I understood that there was one of the packages missing.

Mr. MORRILL. No, sir; \$2,000 out of the general package of \$12,000. The package was marked and passed over to the paymaster as \$12,000, in sub-packages of \$2,000 each, and it turned out that there were in that general package only five packages of \$2,000 each.

Mr. BROWN. I did not understand the reading of it correctly when read by the Clerk.

Mr. MORRILL. The fact is as I have stated, and that fact we thought negated the idea of larceny in the presence of the parties.

Mr. CHANDLER. I believe the honesty of this paymaster has not been called in question in the course of this debate. It is a matter of constant occurrence for men doing large business, particularly manufacturers, to give notice the day

before to a bank that they require a given amount of money in given denominations of bills. It would appear that this money was put up in advance in that way; and in all probability, instead of there being six \$2,000 packages of twenty-dollar notes there were really but five such packages, so that there was but \$10,000 in the package of twenties though it was marked on the outside \$12,000. By the count as given by the teller he had \$36,800, but when he came to examine the packages himself and to take off the figures there were but \$34,800. That was discovered on the spot, and, as the Senator from Maryland justly observes, it was no delivery; he never received the \$36,800; that sum was not delivered to him. He had no right to receipt for \$36,800; he had no right to give a check for the other \$2,000. There is not a merchant in the country doing a large business who would not have said to his clerk who permitted such a transaction, "Sir, I do not know that you are a knave, but you are a fool; you are totally unfit to transact this business; you must leave my employment;" and if he held bonds that were good he would compel the clerk to pay \$2,000 before he discharged him, and he would never let him draw another check in the world.

Mr. MORRILL. That question was referred to the Assistant Treasurer, and he decided that it was a delivery, and that the paymaster was bound by it.

Mr. CHANDLER. But common sense says it was not a delivery, and therefore the paymaster should have said, "I demand back the check;" and if the check was not returned he should have referred the case to his superior officer. There was no delivery. The fact that the teller decided it was a delivery did not make it a delivery. It was neither a delivery in point of fact nor in point of law. He has no claim whatever. I hope the bill will be indefinitely postponed.

Mr. HENDRICKS. I wish to ask the Senator from Michigan just one question. If he did not get the \$12,000, and only got \$10,000 in that general package, and if, in fact, it was not a delivery, and if, in fact, the paymaster said "This shall not be my loss," and the clerk proposed that they should go and see the Assistant Treasurer, and they went and consulted him, and he said the case was against the paymaster and for the office, and this officer submitted his judgment to the judgment of the superior officer there, ought he to lose \$2,000 for that?

Mr. CHANDLER. He had no right to submit it to that officer. He might as well have turned round and submitted it to the porter. It was his duty to submit it to his superior officer, the party for whom he was acting as agent. If I send my clerk to draw \$36,000, and that clerk says "I will leave it to another clerk in this bank whether this is a delivery or not," he cannot come back to me and say "I have given away \$2,000 of your money." I would say "You had no right to give it away; you must produce me that \$2,000; and inasmuch as you have been foolish enough to yield that \$2,000, you shall never draw another check for me; you are totally incompetent and unfit to transact this kind of business; now account to me for the \$2,000 and leave my employment as not a fit man to exercise these duties further."

Mr. FARWELL. I suppose this paymaster was obliged to have the money; if he could not get the whole he was obliged to take enough to make his payments, and he did. He could not go off and leave the money. There is, however, one point upon which I want information. There can be no doubt, I think, that this \$2,000 was stolen. The cash account of the Assistant Treasurer would show whether the money was stolen, or whether it remained in the sub-Treasury. If it was stolen by the clerk of the Assistant Treasurer, this man most certainly ought to have relief. If it was stolen through his neglect, by the person who is testified to have stood beside him, he ought not to have relief. Upon this question the deposition which has been read leaves some doubt on my mind; and I should like to know from the committee who investigated this matter how it presented itself to their minds, whether there was any explanation in regard to the man who appears by the testimony to have been a stranger and to have handled the money after it had come into the possession of this paymaster.

Mr. MORRILL. The committee attached no importance to the suggestion that the man had stolen it. We thought it not at all probable that the money could be accounted for in that way.

Mr. FARWELL. It is the only point that raises any doubt in my mind about which way I ought to vote. If I understood correctly the deposition which was read, there was a man there who was a stranger who had his hand upon these packages of money while they were lying on the counter after their delivery to the paymaster. These men are sometimes very adroit and will take money in situations and places where it would appear almost impossible. I really feel some difficulty in the case. If the money was stolen from the paymaster, he ought to lose it. If it was stolen by the agent of the Government, by the teller who put it up, the Government ought to lose it.

Mr. SUMNER. I think on the whole we had better adjourn; and I move that the Senate do now adjourn.

Mr. MORRILL. Let us dispose of this bill; otherwise it will take another day.

The motion to adjourn was not agreed to; there being, on a division—yeas 13, noes 16.

Mr. BROWN. I desire to vote understandingly on this question, and to deal with liberality as far as possible to this paymaster; but there is one point on which I should like to ask whether any evidence was adduced before the committee, and that is, did the cash account of the Assistant Treasurer the next day show his cash in a correct state, or was there any surplus over?

Mr. MORRILL. We had no especial evidence on that subject except what is contained in the statement of the cashier. He did not state how that was.

Mr. BROWN. The inference, then, is that the cash was correct.

Mr. MORRILL. That is the fair inference probably from that statement; but he did not make any statement as to the exact condition of the books.

The PRESIDING OFFICER, (Mr. Foor.) The question is on the motion to postpone the bill indefinitely.

The question being taken by yeas and nays, resulted—yeas 16, nays 18; as follows:

YEAS—Messrs. Brown, Chandler, Conness, Cowan, Dixon, Farwell, Foster, Grimes, Harlan, Henderson, Nesmith, Sprague, Ten Eyck, Trumbull, Wilkinson, and Wilson—16.

NAYS—Messrs. Anthony, Clark, Davis, Doolittle, Foot, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Morgan, Morrill, Powell, Ramsey, Sumner, Van Winkle, Wade, and Wiley—18.

ABSENT—Messrs. Buckalew, Carlile, Collamer, Hale, Harding, Howard, Howe, Lane of Kansas, McDougall, Pomeroy, Richardson, Riddle, Saulsbury, Sherman, and Wright—15.

So the motion was not agreed to.

The question recurring on the passage of the bill,

Mr. CHANDLER. I should like to have the yeas and nays on this bill. It is a very important precedent.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 10; as follows:

YEAS—Messrs. Anthony, Clark, Cowan, Davis, Dixon, Doolittle, Foot, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Morgan, Morrill, Powell, Ramsey, Sumner, Van Winkle, Wade, Wiley, and Wilson—21.

NAYS—Messrs. Brown, Chandler, Farwell, Foster, Grimes, Harlan, Nesmith, Sprague, Trumbull, and Wilkinson—10.

ABSENT—Messrs. Buckalew, Carlile, Collamer, Conness, Hale, Harding, Henderson, Howard, Howe, Lane of Kansas, McDougall, Pomeroy, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, and Wright—15.

So the bill was passed.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate communications from the Secretary of the Treasury and the Secretary of the Navy, in answer to a resolution calling for a statement of counsel fees paid by the various Departments; which, on motion of Mr. TRUMBULL, were ordered to lie on the table.

#### EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. NICOLAY, his Secretary.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

SATURDAY, JANUARY 21, 1865.

NEW SERIES.....No. 22.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 19, 1864.

The House met at twelve o'clock, m. Prayer by Rev. JAMES I. FERREE, United States Army. The Journal of yesterday was read and approved.

### SPECIAL COMMITTEE.

The SPEAKER appointed GREEN CLAY SMITH of Kentucky, GLENNI W. SCOFIELD of Pennsylvania, JAMES C. ALLEN of Illinois, JOHN H. HUBBARD of Connecticut, and JAMES S. BROWN of Wisconsin, the special committee ordered by the House yesterday, to investigate charges against Hon. LUCIEN ANDERSON.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed, with amendments, a joint resolution (H. R. No. 91) in relation to the treaty of 1817, in which the concurrence of the House was requested.

### DESTROYED BONDS.

Mr. WASHBURN, of Massachusetts, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means consider the expediency of providing by law that where satisfactory proof is furnished the Secretary of the Treasury that any Government bond has been destroyed, he be authorized to issue a duplicate therefor.

### INCOME TAX.

Mr. MILLER, of New York, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of laying a tax of one per cent. upon the first \$600 of income now exempt from taxation; with leave to report by bill or otherwise.

### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 390) for the relief of Emily A. Lyon; when the Speaker signed the same.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, notified the House that the Senate had passed with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Also, that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities;

Joint resolution (S. R. No. 98) to present the thanks of Congress to Major General Alfred H. Terry and the officers and men under his command; and

Joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher.

### MAJOR DAVID H. HASTINGS.

Mr. DAWES. I have in my hands the finding of a court-martial of so peculiar a character that I desire to introduce a resolution in relation to it, and I hope there will be no objection.

Before a court-martial lately held in this city Major David H. Hastings was arraigned upon three charges: first, embezzlement of money of the United States; second, knowingly using forged vouchers; and third, forging vouchers. He was convicted upon each of these charges, and in all upon

twenty-six specifications. The sentence of the court-martial was as follows:

"To be cashiered and utterly disqualified to have or hold any office or employment in the service of the United States; to refund and pay into the Treasury of the United States the amount found to have been embezzled by him, to wit, \$26,675, to pay a fine of \$5,000, and to be imprisoned, in such place as the Secretary of War may direct, for one year, and until the amount embezzled and the fine as herein fixed shall be paid into the Treasury of the United States; provided that the whole amount of imprisonment shall not exceed five years."

This sentence has been reported to the War Department. With the finding of "guilty" that Department has not interfered; but it has interfered with the sentence, and has commuted it. I ask the attention of the House to the sentence as it now stands, for embezzlement of \$26,675, for knowingly using forged vouchers, and for forging vouchers. The sentence, as it now stands, is this:

"It is therefore ordered that his sentence be commuted to suspension from rank, pay, and emoluments, for the period of six calendar months!" [Laughter.]

I therefore ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of War be directed to communicate to this House the record of the late trial by court-martial of Major David H. Hastings, who has been suspended from rank, pay, and emoluments for six calendar months, upon conviction by said court-martial of forgery and the embezzlement of \$26,675.

The SPEAKER. If there be no objection, the resolution will be considered as introduced and agreed to.

There was no objection.

Mr. DAWES. I move to reconsider the vote by which the House has agreed to the resolution, and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PREVENTION OF SMUGGLING.

Mr. WASHBURN, of Illinois, by unanimous consent, presented a communication from the Secretary of the Treasury in regard to smuggling; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WASHBURN, of Illinois, also, by unanimous consent, introduced a bill for the further prevention of smuggling; which was referred to the Committee on Commerce, and ordered to be printed.

### CREDIT FOR HUNDRED DAYS' MEN.

Mr. NOBLE, by unanimous consent, introduced a joint resolution; which was read, as follows:

*Resolved by the Senate and House of Representatives, &c.*, That the Secretary of War be instructed to give credit, in any draft hereafter to be made, for the amount of services furnished by the State of Ohio and other States, by troops called into the service for one hundred days, during the year 1864; that, in giving such credits, the same shall be reduced to years and credited to the districts and subdivisions of districts to which the troops may have belonged.

The joint resolution was read a first and second time, and referred to the Committee on Military Affairs.

### PACIFIC RAILROAD.

Mr. COLE, of California, by unanimous consent, reported from the select committee on the Pacific railroad, a bill to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon; which was read a first and second time, and postponed for one week.

### EXPLORATION OF EASTERN ASIA.

Mr. CLAY. I am directed by the Committee on Agriculture to move that the memorial presented some time ago from Dr. McGowen for a scientific exploration of eastern Asia be printed. The motion was agreed to.

### SHIP CANAL AROUND NIAGARA FALLS.

Mr. LITTLEJOHN. I hold in my hand a bill entitled "An act authorizing the construction of a communication around the falls of Niagara, in the State of New York, for the passage of gunboats and other vessels." I shall offer this bill

as a substitute for the bill on the same subject which has already been introduced, and I move that it be printed.

The motion was agreed to.

### MILITARY ROAD IN WASHINGTON TERRITORY.

On motion of Mr. SCHENCK, by unanimous consent, the Committee on Military Affairs was discharged from the further consideration of the memorial of the Legislative Assembly of Washington Territory in relation to the military road across the Cascade mountains, and the same was referred to the Committee on Public Lands.

MRS. A. M. ROLAS Y ROBALDO.

On motion of Mr. SCHENCK, also by unanimous consent, the Committee on Military Affairs was discharged from the further consideration of the petition of Mrs. A. M. Rolas y Robaldo, praying to be paid for certain property destroyed by order of the officers of the American Army in Mexico; and the same was referred to the Committee of Claims.

### READING MATTER FOR THE ARMY.

On motion of Mr. SCHENCK, also by unanimous consent, the Committee on Military Affairs was discharged from the further consideration of the petition of officers of the army of the Potomac for reading matter; and leave was granted to the petitioners to withdraw said petition.

### STEAMBOAT PILOTS.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of amending the act regulating steamboats passed in 1852 by providing safeguards in the appointment of pilots by local boards appointed for that purpose, with leave to report by bill or otherwise.

### IMPRISONMENT OF JUVENILE OFFENDERS.

Mr. WILSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the imprisonment of juvenile offenders against the laws of the United States in houses of refuge instead of jails and penitentiaries.

### PETITION PRESENTED.

Mr. SHANNON, by unanimous consent, presented the memorial of Samuel Morris, of California; and the same was referred to the Committee on Indian Affairs.

### CONSCRIPTION.

Mr. HUBBARD, of Connecticut. I ask the unanimous consent of the House to offer the following resolution:

Whereas a circular has been issued by Provost Marshal General Fry which is in the words following:

[Circular No. 1.]

WAR DEPARTMENT,  
PROVOST MARSHAL GENERAL'S OFFICE,  
WASHINGTON, January 2, 1865.

The attention of Acting Assistant Provost Marshals General of States and Boards of Enrollment is called to the fact that the quotas assigned under the call of December 19, 1864, for three hundred thousand men, must not be reduced, except by actual enlistments in the Army, Navy, and Marine corps since the 19th ultimo.

JAMES B. FRY,  
Provost Marshal General.

And whereas said order is manifestly unjust to such localities as have in good faith filled their quotas by enlistment in advance of said call: Therefore,

*Be it resolved*, That the Committee on Military Affairs be directed to inquire whether some measure should not be adopted to obviate the hardship that will result by such a construction of the law, and that they report by bill or otherwise.

Mr. BOUTWELL. I have no particular objection to this resolution, but I desire to state that I called upon Provost Marshal General Fry for an explanation of that circular, and was informed that credit will be allowed for all enlistments made prior to the 19th day of December last, before the quotas are fixed, so that there will be no such result as the gentleman from Connecticut anticipates.

Mr. SCHENCK. I was desirous before this



matter was referred to the Committee on Military Affairs to submit an explanation somewhat like that which has been made by the gentleman from Massachusetts, [Mr. BOUTWELL.] I took occasion to call upon the Provost Marshal General in reference to this very order, and I may say, in brief, that he explained it all away; it does not mean anything in particular, and there is to be no action under it such as might be expected from reading it. Nothing is intended by that order except that care shall be taken in making the assignment of quotas that no credit shall be given except that to which the district is properly entitled. It was also occasioned in part by the fact that the December returns had not come in, and the explanation of it is that the people of each sub-district shall receive full allowance of credit in making the draft for every man put into the Army, whether before or after the 19th of December. In other words, I think that the interpretation put by the Provost Marshal General upon that order obviates the necessity of making any inquiry about it. The interpretation put upon the circular by the gentleman from Connecticut was a very natural one, but, as I have said, it has been explained away, and in practice no difficulty will arise from the publication of the order such as might reasonably have been expected from its terms.

Mr. HUBBARD, of Connecticut. I am very happy to know that that is the interpretation of the circular. It has been understood very generally to mean what its terms import.

Mr. SCHENCK. I admit the incongruity between the terms of the order and its interpretation.

Mr. HUBBARD, of Connecticut. In view of the explanation which has been made, I withdraw the resolution.

#### DUTIES ON IMPORTS.

Mr. PENDLETON, by unanimous consent, introduced a joint resolution supplemental to the resolution passed April 29, 1864, entitled "A joint resolution to increase temporarily the duties on imports;" which was read a first and second time, and referred to the Committee of Ways and Means.

#### THE ENROLLMENT LAW.

Mr. SCHENCK. The Committee on Military Affairs, it will be remembered, reported a few days ago a bill (No. 678) to amend the act entitled "An act further to regulate and provide for enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and other acts relating to enrollment and draft, which was recommitted to the committee and ordered to be printed. The bill is now printed and in the possession of members of the House. It is proposed by the committee to report back that bill and ask that a time be fixed for the consideration of the subject. There are a great many applications from all sides of the House for amendments to the enrollment act. The committee have embodied in their report in the form of a bill such amendments as they think essentially necessary, making them as few as possible, for its greater efficiency and for more general justice to those citizens who have objected to it.

There are gentlemen on all sides of the House who have other amendments to propose to the bill when it comes up, and the committee desire that the bill should be discussed so as to leave open the opportunity for amendment. I propose, with the consent of the House, that this day two weeks, or some other day—I will not interfere with other subjects—be set apart for the consideration of this bill, and we will report it back with that understanding or order.

Mr. HOLMAN. I ask the unanimous consent of the House for the privilege of having an amendment to the bill ordered to be printed.

Mr. SCHENCK. I hope that there will be a general order for the printing of all amendments to be proposed to the bill, so that when we come to the consideration of the bill we shall have the amendments before us in proper form.

There was no objection, and it was ordered accordingly.

The bill was then received, ordered to be printed, and made the special order for two weeks from this day, after the morning hour.

#### LIGHT-HOUSE DUES.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, presented the memorial of the

Board of Trade of Philadelphia, recommending the levying of light-house dues upon foreign vessels trading with this country; which was referred to the Committee on Commerce.

DANIEL J. BROWN.

Mr. HALE, by unanimous consent, moved that leave be granted for the withdrawal from the files of the House of the petition and papers of Daniel J. Brown.

The motion was agreed to.

#### THANKS FOR THE CAPTURE OF FORT FISHER.

Mr. BRANDEGEE. Mr. Speaker, I ask the unanimous consent of the House to introduce a resolution which I think will meet with the approval of every member upon this floor.

The resolution was read, as follows:

*Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the thanks of Congress be, and are hereby, tendered to Brevet Major General Alfred H. Terry, of the Army, and to Admiral David D. Porter, of the Navy, and to the gallant officers and men of their respective commands, for the splendid, united, and successful operations by land and sea which have resulted in the capture of one of the strongest fortresses ever defended, and the closing of the last open port from which the rebels were deriving their supplies.*

Mr. SCHENCK. Mr. Speaker, I am ready to give thanks to the Powers above and those below for this victory. But it does seem to me that the principle the House appears disposed to adopt of referring to appropriate committees resolutions of this character is the proper one. If as much of the resolution as relates to the Army is referred to the Committee on Military Affairs I promise that it shall be reported back to-morrow morning, and I think that the same promise can be made for the Committee on Naval Affairs, although I do not know the day of its meeting.

The other day a resolution was offered giving thanks to Major General Sherman, which was referred to the Committee on Military Affairs, and it was there so modified as to make it a more grateful compliment to his friends, as I happen to know, and also, I think, to the general himself, by enlarging its scope and changing its language. I do not know that that is the case here, but I think we should refer these resolutions, so as to add to the value of the compliment in expressing not only the opinion of the House, but in expressing that opinion after deliberation and thorough examination.

I will not make objection provided so much of the resolution as relates to Admiral Porter be referred to the Committee on Naval Affairs, and so much as relates to General Terry be referred to the Committee on Military Affairs.

Mr. COX. When the resolution was offered the other day thanking General Sherman, and was passed, I thought it was eminently due to Major General Thomas that some recognition should be made of his very distinguished service. And, sir, a great many civilians and military men think that his services were more valuable than those even of General Sherman, inasmuch as they drove the rebels from the State of Tennessee and broke an army to pieces. I think now, as the House is in a thankful mood, that we should have a resolution thanking General Thomas and his army. I have drawn up one already; I will have it read also, and, if it is the pleasure of the House, have it referred to the Committee on Military Affairs, who, I have no doubt, will put it in a graceful shape, and have it properly reported to the House.

Mr. SCHENCK. I will only remark that I do not apprehend there will be the slightest difference of opinion between my colleague and the Committee on Military Affairs connected with the proper disposition manifested to thank those various leaders of our Army. I alluded to the correction made in the resolution of thanks to Major General Sherman, not with a view to claim that the Committee on Military Affairs can couch such a resolution in language any more graceful than could my colleague, particularly, who is a master, as every one knows, of all the arts of rhetoric. In the case of General Sherman, and I refer to it only as a matter of illustration, the original resolution thanked him for his brilliant expedition through Georgia. The committee, on examining the resolution, thought it more appropriate, and entirely deserved by General Sherman, that he should be thanked for his successful and memorable campaign from Chattanooga to Atlanta, and

then for his triumphal march through Georgia and the capture and occupation of Savannah.

If the resolution of which my colleague [Mr. Cox] gives notice shall be introduced after that which has been introduced by the gentleman from Connecticut has been disposed of, we shall be very glad to have it referred to the Committee on Military Affairs, and I will make the pledge to him that the Committee on Military Affairs will be prepared to report it back, I think, certainly as early as to-morrow. All I contend for is that it is the better rule in all these cases, no matter how eminent may have been the services, how deserved the compliment this House thinks proper to bestow, to refer such resolutions to a committee before final action upon them.

Mr. BRANDEGEE. To debate such a resolution as this seems to me to deprive it of half its benefit; to refer it, if the gentleman does not debate it, seems to me to impair its value.

Mr. WASHBURN, of Illinois. Is this resolution before the House?

The SPEAKER. If the gentleman from Ohio objects it is not.

Mr. SCHENCK. I withdraw my objection. Mr. WASHBURN, of Illinois. All I desire is to know whether it is before the House for discussion.

No further objection being made, the resolution was read a first and second time.

Mr. SCHENCK. Now I move that so much of the resolution as relates to Admiral Porter be referred to the Committee on Naval Affairs, and so much as relates to General Terry be referred to the Committee on Military Affairs.

Mr. BRANDEGEE. Is that debatable?

The SPEAKER. The Chair does not see how the resolution can be divided so as to refer one part of it to one committee and another part to another committee. If it were in the shape of two resolutions they could be referred separately.

Mr. BRANDEGEE. I was going on to remark that to refer a resolution of this character is to impair half of its efficiency. Indeed he is twice thanked who is thanked at once. In the light of what the American people know has transpired within the last ten days, it is asking too much that a simple resolution of thanks to the officer who led the land part of this expedition, and to the officer who commanded the naval part of the expedition, should be referred to a committee. There is nothing in that resolution of a complicated nature. There is no such question in it as that which the gentleman from Ohio raised in relation to General Sherman, as to whether he should be thanked for other things than the taking of Savannah.

This resolution, in the name of the American people, by the mouth of the American Congress, thanks those two officers for their united, successful, and splendid expedition which resulted in the capture of Fort Fisher. I have no doubt that the Committee on Military Affairs, and especially the able gentleman who so gracefully presides over that committee, could couch the resolution in more grammatical phrases, but what it would gain in grammar it would lose in force.

Now, in reference to the resolution of thanks to General Sherman I will say, if it is proper to refer to the body sitting in the other end of the Capitol, I understand that that resolution passed *instantly* upon its presentation to that body, and a motion to refer to a committee was voted down.

I hope the motion to refer this matter to a committee will be voted down. There is a difficulty, as the gentleman has already seen, and as the Speaker has announced to the House, in sending this resolution to any committee of this House. The resolution is predicated upon the fact that this victory was the united achievement of the Army and Navy, and it thanks in one sentence and in one breath the officer who led the Army and the officer who commanded the Navy.

Mr. ELDRIDGE. I desire to ask the gentleman a question: does not this resolution, in the form in which he has drawn it, reflect upon Major General Butler?

Mr. BRANDEGEE. Not at all, sir. It is expressly guarded in that respect, and was intended to be so guarded. I have no reflections to make at a time like this upon one of the earnest men of the nation. The hour of triumph is certainly not the hour to make an assault upon that val-

iant officer. I may add that, if I am rightly informed as to General Butler's views, he rejoices in this victory to-day equally with any man on this floor or anywhere. I was about to say, Mr. Speaker, that the resolution is not susceptible of division; and there is no one committee of this House to which it can be or ought to be referred, unless it is the Committee of the Whole on the state of the Union, for it is a Union resolution, complimenting both Army and Navy, both men and officers, both the sea and the land force. Without intending to debate it, (it is certainly a work of supererogation to present reasons for its passage,) I hope the House will adopt it at once.

Mr. GRIDER. I desire to ask, Mr. Speaker, whether there is now before the House a proposition to thank General Thomas for his gallantry.

The SPEAKER. No such proposition is before the House.

Mr. GRIDER. Is it in order to say anything on that subject?

The SPEAKER. It is not, under the rules of the House.

Mr. GRIDER. I ask the unanimous consent of the House to occupy two minutes on that subject. [Cries of "Go on!"]

The SPEAKER. The Chair hears no objection. The gentleman will proceed.

Mr. GRIDER. Nobody, I believe, on either side of the House, objects to complimenting the gallantry of either our soldiers or the officers who command them. I do not know why a suggestion should come from the gentleman from Ohio [Mr. SCHENCK] opposing a resolution to compliment General Thomas. I beg leave to state that the victory achieved by General Thomas over Hood was the most decidedly useful and grand victory to certain sections of this country that has been accomplished during this war. If Hood had overcome Thomas—

Mr. SCHENCK. Do I understand the gentleman to say that I have said anything which would imply an objection to thanking General Thomas?

Mr. GRIDER. I understood the gentleman to object.

Mr. SCHENCK. Why, sir, so far from doing so, I promised that if my colleague would introduce such a resolution, it should receive the prompt action of the Committee on Military Affairs, and be reported, if possible, to-morrow.

Mr. GRIDER. I am glad that the gentleman has made that explanation. I should not have arisen if I had so understood him.

Mr. SCHENCK. I am perfectly satisfied that, if anybody is entitled to thanks, General Thomas is entitled to them.

Mr. GRIDER. Then I will simply say, in conclusion, that I hope that everybody in this House is willing and anxious to make a proper acknowledgment of the services of General Thomas.

Mr. SCHENCK. Mr. Speaker, I think, with the gentleman from Connecticut [Mr. BRANDEGEE] that a discussion of the merits of this resolution would take away half its value; and I have therefore utterly refrained from its discussion. I have spoken nothing about the propriety of thanking or not thanking these officers, assuming that this House would be, as I think it ought to be, unanimous in giving most decided approbation in the form of a resolution of thanks to these officers, both naval and military, for their conduct in the attack on Fort Fisher. I did claim that, as a matter of precedent and practice, it is better that every such resolution should go to a committee, and be by the committee considered and reported back without delay, promptly, in order, by such promptness, to add more to the value of the resolution. But, since the gentleman has, very unnecessarily, spoken about the ability of the Committee on Military Affairs to report such a resolution in better form, I will now speak in reply to what he has said upon that point.

The first objection that I would make to this resolution is, that it does not even give correctly the title of Porter. It calls him "Admiral Porter." We have no "admiral" in our service. The gentleman, as a member of the Committee on Naval Affairs, ought to know that "admiral" is as distinct a rank as vice admiral, or rear admiral, or captain, or lieutenant. Porter is, as I understand, a rear admiral. We have no admiral;

we have a vice admiral, and six or eight rear admirals, of whom Porter is one.

There is one of the blunders. If this resolution is to be engrossed upon parchment and framed, as I think it should be, for the benefit of the children of that gallant commander, whom I admire personally as well as for his professional eminence, (for he is a friend of mine, and I will not be the last to thank him,) if this resolution is to be used in that way, to be handed down as an heirloom in his family, Rear Admiral Porter would certainly desire that it should be correct in its form, so that future generations might at least know what was his rank in the Navy. Yet this resolution, though it comes from a member of the Naval Committee, does not even give correctly the title of this officer, but, on the contrary, gives him the title of an officer unknown in our Navy. That is my first objection.

Again, this resolution speaks of Fort Fisher as one of the strongest fortresses ever defended. Well, that sounds a little newspaperish. It is a very strong work, from all the accounts we have of it, and it has tended to prove the great strength of earthworks against any bombardment; that is one of the results of the experience of this war; but, as compared with some of the fortresses of the world which have been both attacked and defended, I undertake to say history will show that it is not one of the strongest ever defended, whoever may say to the contrary. There may be a difference of opinion about that.

Again, the resolution goes on to speak of closing up the last open port through which the rebels are drawing their supplies. It was not an "open port" in the strict sense of the words; it was a blockaded port, and it was not the last port into which blockade runners could go. There are several yet on the coast of Texas, and they can even go into Charleston. So that that statement is incorrect in point of fact. It is a little newspaperish too. It would do for an article in a newspaper, and would be a very excellent article. I would prefer, in giving thanks to our admirals and generals who have distinguished themselves as these two officers most eminently have, that the resolution of thanks should be simple and dignified, so as to express the fact, and accompany that fact with thanks, full thanks, unmeasured thanks, and not go off upon any doubtful questions as to the strength of fortresses, or whether all the southern ports are closed, or as to any other collateral issue.

I have been drawn unwillingly into this comment upon the resolution, but the discussion upon it has been provoked by the gentleman on the Naval Committee, the gentleman from Connecticut [Mr. BRANDEGEE] himself. Perhaps I might say that it was not at all on account of the particular form or phraseology of the resolution that I offered my proposition that it should be referred, but I did it for the sake of the precedent and practice. I think it best that all such resolutions should be referred. As the Speaker has decided that this resolution is not divisible, although I believe a different practice has prevailed in the Senate in regard to similar resolutions, I will move that the whole resolution be referred to the Committee on Naval Affairs, the committee of which the gentleman from Connecticut is himself a member, as I have no fear but that when he comes to reconsider it and rewrite it he will present it in a simple, clear, and satisfactory shape to this House, and we shall all be glad to vote for it.

Mr. FARNSWORTH. I simply desire to remind the House of the fact that a few days ago, when a resolution was introduced into this House giving the thanks of Congress to General Sherman, I then rose in my place and asked that a vote should be taken on the resolution at that time without referring to the Committee on Military Affairs. That was objected to, and the House decided to refer the resolution to the committee.

Now, it seems to me that it would be invidious and wrong to treat a resolution of thanks to any other officer in a different manner from the manner in which we treated that resolution. Having established the precedent of referring these resolutions of thanks to the appropriate committees, we ought, in all consistency, to follow that precedent. I was then in favor of voting thanks promptly when a resolution was introduced and the officer was deserving of thanks, but the House

established a different precedent, and we ought now to follow it.

Mr. BRANDEGEE. I have no ambition to enter the lists with the gentlemen from Ohio; [Mr. SCHENCK,] either before the country or before the House, to decide upon points of grammar. The gentleman from Ohio is a mighty grammarian; I am willing to concede that; but I hope the gentleman will not forget that good old maxim that he who sticks in the letter sticks in the bark. His habit I think is to stick in the bark before this House, and that style of oratory which he adopts is pretty familiar to most of us.

Now, the gentleman's criticism, so far as there is any criticism worth replying to, is that the title of the naval officer we propose to thank here is misquoted in the resolution. The gentleman had that resolution before him, and if he had been disposed to deal fairly by it, or the member who presented it, he would have stated to the House that a blank or space was left before the word "admiral," for the very purpose of putting in the title of Rear Admiral Porter before the resolution was acted on by the House. The resolution was drawn in a moment at my desk, and it could not then be ascertained what his real title was. If it is the main objection of the gentleman from Ohio that Admiral Porter is not designated as Rear Admiral Porter, it is perfectly competent for any member of the House to submit an amendment in that regard, and I notify the gentleman that I will accept the amendment.

With regard to his other criticism, as to whether this was one of the strongest fortresses, I think that the judgment of the country, and of military and naval men, will not agree with the criticism that he has passed, that this was not one of the strongest fortresses. Certainly they who went down on the first expedition to take Fort Fisher came back with no such opinion as that gentleman entertains.

Now, with regard to the precedent. The precedent has been both ways, and there has been, in other words, no precedent at all. The gentleman from Illinois [Mr. FARNSWORTH] states that in his opinion it would have been more proper to have passed the resolution of thanks to General Sherman without referring it to the Committee on Military Affairs. And although it is not parliamentary to refer to the Senate, the practice has been in cases of emergency and importance for the Senate to pass resolutions of this character without reference. This, of course, is a matter of no particular emergency, and I do not want to hinge any debate on it. It has been three days since the news came, and was announced by the Speaker from his desk, of one of the most magnificent victories of this or any war, and I think it is high time that a resolution should be brought before Congress thanking those gallant officers of the Army and Navy for this remarkable service.

It seems to me, and it is one of the grounds upon which I urge the passage of the resolution, there is eminently more propriety in passing such a resolution at once than in referring it to a committee as there is no appropriate committee to which it can be referred, a fact admitted by the gentleman from Ohio himself.

The SPEAKER. As the decision of the Chair has been somewhat questioned, and as the action of the Senate has been brought into the discussion both by the gentleman from Illinois and the gentleman from Ohio, the Chair asks that the action of the Senate may be read.

The Clerk read, as follows:

"Mr. DIXON. I ask the unanimous consent of the Senate to introduce two joint resolutions, one giving the thanks of Congress to Rear Admiral Porter, and the other to Major General Terry for the recent brilliant victory at Fort Fisher; and I will observe that although these distinguished officers were jointly engaged in this victory, I have followed the precedents in proposing to give them the thanks of Congress in separate resolutions.

"By unanimous consent, leave was granted to introduce the joint resolutions; and they were severally read twice by their titles, and referred as indicated below:

"A joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry, and to the officers and men under his command, for their gallantry and good conduct in the recent capture of Fort Fisher—to the Committee on Military Affairs and the Militia.

"A joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher—to the Committee on Naval Affairs."

The SPEAKER. It will be seen that two sep-

arate resolutions can be referred to separate committees, but the Chair cannot see how one joint resolution can be mutilated and part sent to one committee and part to another committee.

Mr. BRANDEGEE. I modify my resolution by inserting the word "rear" before "admiral."

Mr. COX. I do not believe that the House and country will regard the reference of this resolution to the Committee on Military Affairs as a reflection upon the officers, soldiers, and sailors who are thanked by it. It is time that this House had some rule in relation to resolutions of this character—some general rule—for the gentleman from Connecticut has himself confessed that these resolutions are drawn in a hurry, *currente calamo*, in a spirit of patriotic impulse, at the desk of members, without any special care as to style or manner, or the toilet of the resolution, if I may use the expression, and these resolutions become tame and mere platitudes unless there is some grace given to their expression. I do not mean to say that the present resolution lacks proper expression, dignity, and grace, but I will say this, sir, that when we undertake to give thanks it ought to be done in some sort of graceful style. It ought to have on its best clothes and its best manners. Therefore I think that this and all similar resolutions should be sent to a committee with a view, if you please, to give them a proper polish. I expect to introduce a joint resolution of thanks to General Thomas, and to move to send it to the Military Committee.

Mr. WASHBURN, of Illinois. Does the gentleman object to the peculiar language of this resolution, and if so, will he not suggest some modification?

Mr. COX. I cannot do it just now. I would like to read it critically, and I would like to have the aid of gentlemen familiar with classical models. I remember very well, when these resolutions became so common and so tame in the last Congress, upon the taking of Vicksburg by General Grant, I had the honor of drawing up a resolution of thanks, and I consulted General Sickles, and consulted Grecian models; and I got it up in artistic style. A resolution is more valuable and more acceptable when got up in taste and good style. Although the gentleman from Connecticut may have all graces of style, I insist that while he has a rush of patriotic impulse at his desk he is not in a proper condition to draw up a proper resolution; and therefore it should be referred in order to give the resolution the grace and polish which are due to a resolution from this Congress.

Mr. BRANDEGEE. If there is any defect in style in the resolution I will say that my style has been partly modified by and partly founded upon a very classical book entitled "The Buckeye Abroad."

Mr. COX. I have already been overwhelmed with compliments by the chairman of the Committee on Military Affairs, and I will now have to throw myself into embarrassment from the remarks of the gentleman from Connecticut. [Laughter.]

Not only is there a dispute as to style, but matters of fact are in question here, and surely the gentleman would not push a resolution when the facts themselves are in question. A reference is no reflection whatever upon General Terry, and none whatever upon Admiral Porter. It rather gives weight to a resolution if it is properly referred, and passed after a careful review by an appropriate committee.

Mr. WASHBURN, of Illinois. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was referred to the Committee on Naval Affairs.

#### THANKS OF CONGRESS TO GENERAL THOMAS.

Mr. COX, by unanimous consent, introduced a joint resolution expressive of the thanks of the American people to Major General George H. Thomas and the army under his command; which was read a first and second time, and referred to the Committee on Military Affairs.

#### TAX ON BANK NOTES.

Mr. BROOMALL asked unanimous consent to introduce the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of providing that a stamp of one per cent. be required to be placed by the bank

or the holder on every State bank note before issuing or passing it; and renewed every six months; and report by bill or otherwise.

Mr. STROUSE objected.

#### PROSECUTION FOR LIBELS IN THE DISTRICT.

Mr. ASHLEY, by unanimous consent, introduced a bill in reference to the prosecution for libels in the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### REPORT OF SUPERINTENDENT PUBLIC PRINTING.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Superintendent of Public Printing; which was laid on the table, and ordered to be printed.

#### REPORT ON INTERNAL REVENUE.

Mr. MORRILL, by unanimous consent, introduced the following resolution; which was referred, under the rule, to the Committee on Printing:

*Resolved*, That five thousand extra copies of the report of the Commissioner of Internal Revenue be printed: two thousand for the use of the members of this House, and three thousand for the use of the Commissioner of Internal Revenue.

#### REPORT OF J. W. KING.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution:

*Resolved*, That there be printed for the use of the Navy Department one thousand copies of the report of Chief Engineer J. W. King on the dock-yards of Europe, with the maps accompanying the same.

Mr. WASHBURN, of Illinois. How much will the engraving of the maps cost? We have already made an appropriation of eighty or ninety thousand dollars for engraving.

Mr. A. W. CLARK. About one thousand dollars. The Committee on Printing were at first opposed to engraving the maps; but the Department considered that the work would be comparatively worthless without the maps.

Mr. WASHBURN, of Illinois. I will make no objection if the gentleman will add a proviso to the effect that the engraving shall not cost to exceed \$1,000.

Mr. A. W. CLARK. Our estimate was \$700, but I stated in round numbers \$1,000, so as to get it large enough.

I call the previous question.

Mr. RICE, of Massachusetts. I desire to say upon this subject that the report of Chief Engineer King is an elaborate document, the result of a special visit to and examination on his part of the dock-yards of Europe. It is an elaborate statement of the character and appliances of those yards, procured at the request of the Secretary of the Navy, and bearing directly upon the future interests of the naval service in this country; and the maps which accompany the report are an essential portion of it, and the report itself would be quite unintelligible without them.

This resolution, which was sent yesterday, I think, to the Committee on Printing, was framed upon a letter received from the Secretary of the Navy, addressed to me as chairman of the Committee on Naval Affairs, desiring that this work might be printed in the form recommended in the resolution. I do not think the cost of the maps and charts will exceed the amount he has asked for, or if it exceeds it at all it will be in a very slight degree. I think it important that the maps should be printed.

Mr. A. W. CLARK. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed, as a special order, the

consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1866; the pending question being upon the motion of Mr. WASHBURN, of Illinois, to strike out the following clause:

For salaries of additional clerks in the office of the Assistant Treasurer at Boston, which are hereby authorized, \$11,500.

Mr. MORRILL. All I desire to say in regard to that amendment is that this is the sole and entire appropriation that is made for the sub-Treasurer's office in Boston, and from information before the Committee of Ways and Means they were satisfied that an appropriation of this amount is absolutely indispensable, and they will, perhaps, before the close of the session propose to increase it beyond the present amount upon the representations made by the sub-Treasurer of that city. I call for tellers on the amendment.

Tellers were ordered; and Messrs. MORRILL, and WASHBURN of Illinois, were appointed.

The committee divided; but the tellers were unable to agree upon a report, and Messrs. BAXTER and NOBLE were appointed tellers.

The committee again divided; and the tellers reported—ayes 50, noes 50.

The CHAIRMAN voted in the negative, and the amendment was rejected.

Mr. MORRILL. I offer the following amendment:

On page 38, after line nine hundred and fifteen, insert as follows:

For procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and other expenses of carrying into effect the act of June 30, 1864, \$1,100,000.

For paper, special dies, and printing of circulating notes and expenses necessarily incurred, including express charges in procuring the same, \$677,500.

In explanation of that amendment I will state that it has been usual to make this appropriation in the miscellaneous bill, but since this bill was printed it has been thought better to have all these appropriations included in this bill. Since the estimates were made out, a communication has been received from the Secretary of the Treasury showing that a further sum will be necessary above what was estimated for, in consequence of a decision of the Comptroller of the Treasury that certain expenditures for the Internal Revenue department must be paid out of the Treasury instead of being paid out of the current revenues. I send a letter to the Clerk's desk to be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, December 14, 1864.

SIR: I have the honor to call your attention to the estimate of \$700,000 "for procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and any other expenses of carrying into effect the act of June 30, 1864," to provide internal revenue, &c., submitted with the other estimates for the year ending June 30, 1866. (See printed estimates, page 23.)

The Commissioner of Internal Revenue now represents that this sum will be insufficient, for the reason that since the estimate was submitted he has learned that the First Comptroller has directed that the salaries of the revenue agents and inspectors appointed under the above act shall be paid from the appropriation thus asked for, rather than from the accruing revenue. The Commissioner estimates that \$350,000 will be required for the payment of such agents and inspectors for the fiscal year ending June 30, 1866; and that \$50,000 will be required for the purchase of cotton tags for the same period.

I therefore request that \$400,000 may be added to the amount already submitted, making \$1,100,000.

I am very respectfully your obedient servant,

W. P. FESSENDEN,

Secretary of the Treasury.

HON. THADDEUS STEVENS,  
Chairman Committee Ways and Means.

[The committee here rose informally; and, the Speaker having resumed the chair, a message was received from the President of the United States, through Mr. NICOLAY, his Private Secretary, announcing that he had approved and signed a joint resolution (H. R. No. 56) providing for the termination of the reciprocity treaty of June 5, 1854, between the United States and Great Britain. The committee resumed its session.]

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from Vermont how much, if his amendment be adopted, will then have been appropriated for this purpose.

Mr. MORRILL. This amendment will not embrace the same subject. The usage hitherto has been to include it in the miscellaneous appropriation bill. The estimates require \$677,000 for paper, special dies, printing of circulating notes, express costs, &c. As I have stated, the



Comptroller of the Treasury has decided that these expenses are not to be paid from the current revenue of the Department. This last item, therefore, does not increase the expenditures of the Government at all.

Mr. WASHBURN, of Illinois. This item of \$2,000,000 "for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes" is certainly a very startling amount to be appropriated for that purpose, and I should like some information about it. How is this sum to be absorbed? For what purpose is this \$2,000,000 to be expended? I desire to know if the Department is taking money out of this fund to make certain experiments in hydrostatic printing, and if so how much. I want to know whether a vast amount has not been expended in experimenting on this subject by parties who are applying for a patent at the Patent Office for that invention. I would be glad that some information should be given to the committee on this subject before the appropriation is made.

Mr. MORRILL. Although we have already passed that item, my amendment not relating thereto at all, but coming in as a substantive proposition, still I am perfectly willing to reply to the query of the gentleman from Illinois. The item of \$2,000,000 covers not only the expenses of printing notes and bonds issued by the United States, but it covers all the expenses in relation to obtaining loans, commissions, &c., and the expenses of printing fractional notes.

Mr. WASHBURN, of Illinois. I propose to amend the amendment offered by the gentleman from Vermont by adding to it the following:

*Provided further, That no further expenditure shall be made for experiments on the system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.*

Mr. MORRILL. I have no objection to the adoption of that amendment.

Mr. HOOPER. I hope that the amendment offered by the gentleman from Illinois will not be adopted. I think he is entirely mistaken in supposing that there is a waste of money in printing at the Department. I think, from the information obtained by the investigating committee on this subject last session, that the cost of printing at the Department is not more than half of what would be charged for the same work by the bank-note companies.

Mr. WILSON. I ask the gentleman whether he has any information as to the cost of these experiments, and as to the number of impressions made on these presses per hour or per day.

Mr. HOOPER. I have no other information except from my own observation, which is that they print at least as rapidly as the common presses.

Mr. WILSON. I am quite as well satisfied, from the testimony taken before the committee that investigated the subject last session, that the printing is not so rapid. I think the testimony showed very clearly the difference—some witnesses making the difference as fifty is to two hundred between the hydrostatic presses and the rolling presses; one witness stating, I believe, that they made but seventy impressions per day on the hydrostatic presses. I have no doubt at all of the propriety of this amendment. I think that these experiments ought to be stopped until there can be such investigation into this matter of printing as will induce Congress to authorize it by law.

Mr. WASHBURN, of Illinois. I was glad to see that the gentleman who has charge of this bill did not interpose any objection to the amendment which I propose. Now, sir, I am authorized to state that \$300,000 of the money that we appropriated has been taken to experiment upon the subject of hydrostatic printing; while the amount of money which had been printed by this method on November 15, 1864, was only \$312,000. We have paid \$300,000 for printing and experimenting upon \$312,000. This experiment upon hydrostatic printing, as it is called, has been continued, without any authority of law, for two and a half years. It is the revival of an experiment which, after trial of more than twenty years, had been abandoned. This money has, for the purpose of testing this matter, been taken from the Treasury by two parties, Spencer M. Clark and Stewart Gwynne; and these men have filed in

the Patent Office a caveat for a patent of the process for experimenting upon which they have taken the money of the Government. This is the precise state of the case. This is my reason for offering the amendment, and the reason why I put the question to the gentleman from Vermont. I ask this committee whether they are prepared, under such a state of facts, to vote down this amendment. I ask the committee to pass upon the conduct of men in the Treasury Department, who, after taking the Government money for the purpose of these experiments, are applying to the Patent Office for a patent, thus seeking to appropriate to themselves the benefit of the experiments which have been made.

Mr. MORRILL. If there is any real abuse at the Treasury Department in relation to printing, I, for one, will not vote against any measure that shall look to its correction. Some of the facts stated by the gentleman from Illinois are, perhaps, as he states them; in others he is undoubtedly incorrect. Congress did authorize the Treasury Department to establish a printing office in the Treasury building without any limitation; and consequently whatever that Department has done has been in pursuance of positive law. Now, in relation to any experiments that have been undertaken at that Department, my information, as gathered from an investigation at the last session, was this, that some losses had been incurred by the Treasury Department in obtaining some machinery which is now useless; but I was assured that the gain to the Treasury Department was more than four times in excess of the amount of the loss.

Mr. WILSON. As I understand this matter of printing in the Treasury Department, the hydrostatic presses are used solely to print the fractional currency. They are not used for the purpose of printing the bonds, the certificates of indebtedness, the Treasury notes, or the notes of the national banks. The amount of the fractional currency is but small compared with the whole amount of printing done in the Department. I think that any gentleman who will take the trouble to look through the testimony taken before the committee will come to the conclusion, as I did, that the expenditure for the purpose of experimenting on hydrostatic presses for printing fractional currency is far beyond what Congress authorized.

Mr. MORRILL. If the gentleman will so frame his amendment as not to hamper the Treasury Department in its ordinary proceedings; if he will so frame it as to meet the precise point which he makes—that is, to prevent men from using the public funds to further their own private speculations—I will vote for it; but if it goes beyond that I must oppose it. I think that the language of the amendment, in its present form, is too broad.

Mr. WASHBURN, of Illinois. I call for the reading of my amendment. I think the gentleman would not object to it if he understood it.

The Clerk read the amendment.

Mr. WASHBURN, of Illinois. I do not propose to change that amendment. I think that if the gentleman has listened to it it must meet his approbation. It certainly cannot interfere with any of the legitimate operations of the Department. The gentleman from Massachusetts [Mr. Hooper] withdraws all objection to it.

Mr. GARFIELD. If there is any way in which I can move an amendment I should like to do so, as I want to say a few words on the subject.

The CHAIRMAN. Further amendment is not in order.

Mr. GARFIELD. I am sorry, for I think that the gentleman has made a great mistake.

The amendment of Mr. WASHBURN, of Illinois, was agreed to.

Mr. BROOKS. I do not know that all of this sum may not be necessary.

The CHAIRMAN. Debate is not in order.

The question recurred on Mr. MORRILL's amendment as amended.

Mr. PRICE. I want to understand the amendment as it has been amended. I understand that it makes an expenditure of near four million dollars. Am I right? I understand there are \$2,000,000 in the text as it stands, \$1,200,000 in the amendment, and then \$600,000 besides.

Mr. MORRILL. I have already explained this amendment twice.

The CHAIRMAN. Debate is not in order.

Mr. WASHBURN, of Illinois. I ask, by unanimous consent, that my amendment be transposed, and placed before the amendment of the gentleman from Vermont.

There was no objection, and it was agreed to accordingly.

Mr. MORRILL's amendment, as amended, was then adopted.

The Clerk read, as follows:

SEC. 2. *And be it further enacted, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York, at \$7,000 per annum; and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis, at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated: Provided, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer.*

Mr. HOLMAN. I move to reduce the salary of the Assistant Treasurer at New York from \$7,000 to \$6,000.

I wish to inquire of the gentleman from Vermont who has charge of this bill what is the present salary of the Assistant Treasurer at New York.

Mr. MORRILL. Six thousand dollars.

Mr. HOLMAN. The present salary is \$6,000, while the salary of the Treasurer of the United States is \$5,000. This increases that salary from \$5,000 to \$6,000. The salary has been doubled within the last four years, or since the war began. It was only \$3,000 at that time. And it is now proposed to increase the salary of the Assistant Treasurer at New York to \$7,000—\$1,000 more than is proposed to be paid to the Treasurer of the United States. Is it not rather singular to pay the first officer connected with the Treasury \$6,000 and one of his assistants \$7,000? This also increases the salary of the Assistant Treasurers at Philadelphia, Boston, and St. Louis from \$4,000 to \$5,000. It seems to me that we ought not to encourage this increase of salaries, and therefore I have moved the pending amendment. I hope the House will not increase the salary of the Assistant Treasurer at New York beyond \$6,000.

Mr. MORRILL. Mr. Chairman, as a general principle I concur entirely with the gentleman from Indiana and all those who oppose the increase of salaries, but evidence was presented to the Committee of Ways and Means which they thought sufficient to induce them to make a unanimous report in favor of the increase of this amount. Why, sir, there is no comparison between the amount of business done by the Treasurer of the United States now and what was done four years ago. You can hardly induce men who give bonds to an enormous amount for the faithful performance of their duties to hold these offices at the present salary. No man in this House could be hired to take the risk as a mere commercial speculation for the amount of this salary. And in relation to the Assistant Treasurer of the United States at New York, it was with the utmost difficulty that a man of sufficient character and experience in that city could be pressed to take that office. The present incumbent was only induced to accept the office by the Treasurer upon the understanding that he would recommend to Congress an increase of his salary. At the time he was appointed he was receiving \$8,000 per annum in the business of a private company, and he was also promised \$10,000 the next year. The Committee of Ways and Means propose to increase his salary to \$7,000, and the balance he must take in honor. Under the circumstances it has become indispensable, as shown to the Committee of Ways and Means, that we should have not only men of ripe experience but men who are willing to devote themselves as diligently to the service of the Government as they would to their own private offices, and that cannot be done without a liberal salary.

Mr. ODELL. I move to amend by striking out "\$7,000" and inserting in lieu thereof, "\$8,000," so as to make the salary of the Assistant Treasurer of New York \$8,000. I do so believing that the services rendered by the gentleman who now occupies that position are worth that money. I have no sympathy with the sentiment expressed by the gentleman from Indiana [Mr. Holman] with reference to the salaries of these high offices of trust. He who now occupies this position, Mr. Stewart, left a position giving him a higher salary at the

urgent solicitation, I might almost say the demand of the Government, and took the head of that department in New York. It is known to gentlemen here that other gentlemen had the proffer of that place, but that Mr. Stewart, almost at the command of the Government, consented to occupy the place at a salary less than he was receiving before from a private banking institution of which he was president. I hope the salary will be put at \$8,000.

Mr. HOLMAN. I take it for granted that a public officer in the performance of any given duty devotes his entire time and talents to its performance, and I should suppose that the former Assistant Treasurer at New York, whose salary was only \$4,000 per annum was compelled to give his entire time and experience to the discharge of his duties, and that his responsibility was of the same character as it is to-day. The increase of the business of a department does not increase the duties or the responsibilities of its head. If he be a man of integrity he can incur no responsibility, he does not even by the perfidy of his subordinates.

What astonishes me more than all else is that those gentlemen upon the other side of the House who have been the leaders in economy in assailing these petty items of increase of comparatively small salaries are so passive when it is proposed to increase a salary from \$5,000 to \$7,000. Those gentlemen have devoted hours of debate in opposition to a slight increase of small salaries—the salaries of clerks. The gentleman from Iowa [Mr. WILSON] and from Illinois [Mr. WASHBURN] attacked with great vehemence the attempt to increase the salaries of clerks and of the police, and other humble salaries; but when a proposition is introduced to increase the compensation of this high officer of the Government, no voice is raised against it.

Mr. WASHBURN, of Illinois. We were waiting for the other side of the House to show a little spirit upon this occasion. We have been fighting the effort to increase these salaries all through, and we have received very little support from that side of the House.

Mr. HOLMAN. On the contrary, so far from that being correct, on the very proposition which was a short time since lost by the casting vote of the Chairman, the gentleman from Massachusetts [Mr. DAWES]—there being 50 to 50 on a division—most of the opposition came from this side of the House. The only division which has been had to-day was on that proposition.

What means all this talk about there being only a few men who can fill this position? Why, sir, the country is full of men competent to any of the offices. It could not be otherwise in a country full of intelligence and energy. There are men in the ranks of your armies who are competent both in integrity and ability to perform the duties of this position, and who have the experience necessary to enable them to perform them. The truth is, as every man knows, that the more arduous and difficult duties in connection with all these Departments are performed, not by the heads of the Departments, but by those occupying comparatively inferior positions, and receiving but a pittance of compensation—men who have served in the capacity of clerks for a lifetime. It is not true in fact, with all deference to the opinions of gentlemen, that there are so few men in the country fit to fill offices such as is filled by this gentleman in New York as to justify an extravagant increase of salary to secure any particular one, and yet it is said that we must pile up the salary for the purpose of obtaining the benefit of competent services. Salary alone seems to be considered; the honor of the position, the claims of the country upon its eminent citizens at a time when so many sacrifices are being made, are never taken into the account.

I have always estimated the duties of the Treasurer of the United States as of a very delicate character, requiring eminence at least in integrity and general experience in affairs, and I thought when this war began that a salary of \$3,000 a year, although the Treasurer then devoted all his time to the duties of the office, was scarcely sufficient, and hence I made no opposition to raising it to \$4,000, and subsequently to \$5,000; but when the House deliberately at the last session, not only in Committee of the Whole but in the House, struck out the item making that salary \$6,000,

and, when the Senate put it in, disagreed to it, it seemed to me that the Committee of Ways and Means, bowing to the solemnly expressed judgment of the House, would not again insist upon bringing this subject to our consideration unless directed by the House.

I should complain of the action of that committee whatever might be my views now of the policy of increasing his salary. And yet I should greatly prefer seeing his salary increased than any other. I think it now lower, duties and responsibilities considered, than any enumerated in this section. Standing alone, now, there would be less objection to increase his salary than in the connection in which it stands. The eminent services of General Spinner are appreciated. His spotless integrity and patient and laborious performance of his duties are known and appreciated. The country has been most fortunate in having such a citizen the custodian of the public treasure. I cannot believe that his salary should be less than the Assistant Treasurer at New York. I am not proposing any motion on the subject of the increase of his salary. I do not propose if the increase of the other salaries is stricken out to get belligerent over the increase of the Treasurer's salary alone. I know there are strong arguments for the increase if any of the higher salaries are to be increased, but this is not now before the committee.

The question now before the committee is upon a proposition to increase the salary of the Assistant Treasurer in New York to \$7,000, while leaving the salary of the Treasurer of the United States, who is responsible for the whole of the public funds, and to whom the Treasurer at New York is but an assistant, both in the dignity of position and in responsibility, at \$6,000. I have heard no argument, and I do not believe there is an argument which will justify this discrimination, which puts the salary of the subordinate \$1,000 higher than that of the principal.

The question was taken on Mr. ODELL's amendment, and it was rejected.

Mr. WASHBURN, of Illinois. I now move to amend the section by striking out the word "six" in the third line and inserting "five" in lieu thereof.

Mr. HOLMAN. The pending amendment is to strike out "seven" and insert "six," and it seems to me that another amendment of the text cannot be made.

The CHAIRMAN. The amendment of the gentleman from Illinois pertains to a different subject than that to which the original amendment applies, and therefore, during the pendency of the original amendment, it is not in order.

Mr. WASHBURN, of Illinois. What is the amendment of the gentleman from Indiana, [Mr. HOLMAN]?

The CHAIRMAN. It refers to the salary of the Assistant Treasurer in New York.

Mr. WASHBURN, of Illinois. What is it?

Mr. HOLMAN. It is to strike out "seven" and insert "six," so as to make the salary \$6,000.

Mr. WASHBURN, of Illinois. I move to amend so as to make it \$5,000, and that will enable me to say what I desire to say. I think the committee may as well meet this question of raising salaries here as at any other time, and meet it squarely.

It is true, as the gentleman from Indiana has stated, that this question of raising the salary of the Treasurer of the United States was passed upon at the last session of Congress, and Congress determined that the salary should not be raised. The Senate, according to my recollection, put in an amendment raising it and the House rejected it. I was one of those who voted against raising the salary of the Treasurer of the United States, as that was a marked case. I believed then, as I believe now, that if any salaries are to be raised at all the salary of the Treasurer ought to be raised. He is a gentleman of the highest integrity and capacity, with whom I had the pleasure of serving in Congress for six years, and there was not a closer voter in Congress than General Spinner was. He was the first man in the House to oppose any increase of salaries and all extravagant expenditures.

The gentleman from Indiana [Mr. HOLMAN] might have observed that the gentleman from Iowa, [Mr. WILSON], and his colleague, [Mr. PRICE], and myself have become somewhat fa-

tigued in endeavoring to cut down these expenditures. We have almost invariably failed, and have not received the aid of gentlemen upon the other side of the House. This is a proposition to raise the salary of the Assistant Treasurer at New York \$1,000, and I should like to know why that officer should have \$1,000 more salary than the Treasurer of the United States. And then it makes the salaries of the Assistant Treasurers at Philadelphia and Boston and St. Louis \$5,000, increasing them \$1,000 or \$1,500 per annum. But other equally meritorious cases have been passed over. I desire to know why the salary of the Assistant Treasurer at Chicago, where I believe there is very nearly as much business as at Boston, or St. Louis, or, perhaps, even at Philadelphia, has not been raised when the salaries of others are being raised? I would have introduced an amendment to raise the salary of the Assistant Treasurer at Chicago, but, as I have said, I am opposed to the raising of any salaries. As the gentleman from Iowa, [Mr. WILSON], who sits near me says, all of these sub-Treasurers whose salaries are raised are fortunate enough to be represented on the Committee of Ways and Means. I do not undertake to say that that has had any influence in getting the salaries of these officers raised; but I observe that the salaries of these officers, with equal claims, have not been raised. I trust the committee understands the subject, and will pass upon it now, and say whether we are willing to go into a general increase of salaries or not.

Mr. MORRILL. Mr. Chairman, I believe I have performed what is my simple duty in relation to this matter. After looking over the whole subject I became satisfied that there was a necessity for raising the salary of the Assistant Treasurer at New York if the Government would have the services of a first-class man for the place. The office, as is well known to all members of the House, went a begging for months. Mr. Cisco declined and resigned his place, and was only induced by the urgent persuasion of the Secretary of the Treasury to remain until he could find a suitable and proper man. A man who holds that position in New York is necessarily subject to a much larger expense than if he held it in this city. He has to negotiate large sums, has a very large number of clerks under his charge, and is under the necessity of living in greater style, perhaps, than is the Treasurer at Washington. Nevertheless the increase of the pay of the Treasurer here is demanded as a matter of justice to the present incumbent. There is no more faithful officer in the whole land than the present occupant of that position. As is well known to the members of the House, he has nearly broken down his health by long and continuous labor in that office. For a large part of the time during the last four years he has labored in that office no less than sixteen hours a day, taking his meals in his office.

Now, in relation to the matter of the Treasurer at Chicago, I desire to ask the gentleman from Illinois what the name of the Treasurer is at Chicago.

Mr. WASHBURN, of Illinois. I can tell the gentleman from Vermont the name of the collector, who also discharges the duties of treasurer. It is Luther Haven, one of the most responsible and estimable gentlemen in the country; a man of the highest intelligence, and equally worthy of a high salary as any of the other officers provided for in this bill.

Mr. MORRILL. Mr. Chairman, we did not report an increase of salary for a sub-Treasurer at Chicago, simply because there was no officer of that class there. The West has not been neglected. The gentleman charges that all those places are represented in the Committee of Ways and Means. That is a mistake. I represent none of them.

Mr. HOLMAN. The gentleman from Vermont suggests that the question of increasing the compensation of General Spinner is not involved in this discussion. I believe, myself, that there are infinitely stronger arguments in favor of increasing his salary than there are in favor of increasing any of these other salaries.

The question was taken on Mr. WASHBURN's amendment, and it was rejected.

Mr. BLOW. I move to amend the amendment offered by the gentleman from Indiana, [Mr. PRICE],

HOLMAN,] by increasing the salary of the sub-Treasurer at New York to \$7,500. I desire to say a few words only in reference to the agent of the Treasury at the city of St. Louis. If there is no assay office there there ought to be. As to the agent of the Treasury, I have this much to say: that officer, some months ago, resigned his position, simply because the salary was not a sufficient inducement for him to hold the office and incur the responsibility of paying out \$130,000,000 per annum. After his resignation was tendered, the honorable Secretary of the Treasury tried for months, and we aided him all we could, to procure another equally suitable and competent person to take that position, but he failed in finding a man of that character who would be willing to take the responsible position for a compensation of \$4,000 per annum. The consequence is that Mr. Farrell is still the agent of the Treasury at St. Louis, not because he desires to hold the position, but at the special request of the Secretary of the Treasury. I think we have fixed the compensation of these officers very justly, at the moderate sum of \$5,000 for the sub-Treasurers at Boston, Philadelphia, and St. Louis.

I can say this much in addition, that in the city of St. Louis (I do not know how it may be in other cities) men are not willing to take these vast responsibilities and give the immense securities required, when the salary of the office is so meager that it will not compensate them for the burden resting upon them.

Mr. WASHBURNE, of Illinois. The treasurer of the State of Illinois receives a salary of but \$800 a year. The present treasurer is a constituent of my colleague, [Mr. Ross,] and I have never heard his integrity questioned. The late treasurer, a constituent of my colleague, [Mr. FARNSWORTH,] performed faithfully the duties of the office for the same salary.

Mr. BLOW. What is his responsibility?

Mr. WASHBURNE, of Illinois. It is very great.

Mr. BLOW. How much? Ten millions?

Mr. WASHBURNE, of Illinois. Well, the responsibility is about a thousand millions, I reckon! [Laughter.]

The CHAIRMAN. The time of the gentleman from Missouri [Mr. Blow] has expired.

The amendment of Mr. HOLMAN was agreed to.

Mr. COLE, of California. I move to amend by inserting after the words "per annum," in the fifth line, the following:

For compensation of Assistant Treasurer at San Francisco, \$6,000.

I wish to say, Mr. Chairman, that the present compensation of this officer is but \$4,500, which he receives in paper, in a country where gold is the circulating medium. That amount is altogether insufficient to afford him a respectable support for himself and his family. This officer is obliged to give bonds in the sum of \$500,000; and the responsibility resting upon him is exceedingly great. He in fact discharges the duties of some three or four officers. He discharges the duties of sub-Treasurer of the United States for that post, and also the duties of treasurer of the Mint of the United States, which, at that place, as is well known, does a great deal of business. Besides that, he is obliged to receive, as depository, all the money that is sent out by the Government for all that coast, and also all the stamps that are used on the Pacific side, and to distribute them to the several States and Territories without any compensation. He is also required to receive subscriptions for the loans of the United States, for which no compensation is paid to him. This proposition for an increase of his salary is certainly a very modest and reasonable request on his behalf.

There is a great deal of complaint on account of the low compensation that this officer receives, and there is a real necessity for its increase to at least the amount which I propose. I hope that the committee will recognize the justice of this application, because it is impossible for a faithful officer to discharge the duties of this office at the present salary, unless, as in the present instance, he does so from pure motives of patriotism.

Mr. SHANNON. Mr. Chairman, while there is a great deal of truth in what my colleague has stated in relation to this officer, I wish to say that, if he will resign his place, there are probably not less than twenty responsible gentlemen who will

apply for it immediately and will gladly take it at the present salary, with all its labors and responsibilities; there are probably not less than twenty patriots who will come forward and demand the position.

Mr. COLE, of California. I have no doubt, Mr. Chairman, that there would be hundreds of applicants for the position; but they would not be such men as would be required for the administration of the office.

Mr. SHANNON. Yes, sir; they would be perfectly good men.

The amendment of Mr. COLE, of California, was rejected.

Mr. WILSON. I now move to strike out the entire section. The case which has just been presented by the gentleman from California is no doubt a very meritorious case; but the committee cannot be brought to see it in the light in which he regards it. I have no doubt that there are other cases equally meritorious. Here, for instance, is the case of the gentleman from Vermont, [Mr. MORRILL,] who is a most laborious member of this House, devoting all his time and attention to the public business, and who, I am quite sure, does not receive an adequate compensation in view of the labor which he performs and the value of his services. But, unfortunately, he, like the rest of us, has to bear his proportion of the losses resulting from the present state of war. All public officers must do the same thing. If a dollar in paper will not buy as much as did a dollar in gold before the war, we must all alike bear the consequences of the changed condition of affairs. I therefore hope, sir, that the committee will strike out the entire section of the bill.

Mr. STEVENS. Mr. Chairman, the committee may as well determine now whether the Government is to have faithful and competent agents, and we are to pay them an adequate price, or whether we are to have bunglers and swindlers, for it comes to that. It is well known that the late Assistant Treasurer of the United States at New York left his office, although the Government asked and urged him to remain. He found the compensation inadequate to his labors. The Treasurer in his report tells us that he had to make several applications before he could get a competent man to take it, and that with the assurance that he would present his case to Congress for the purpose of an increase of his salary. I have no doubt, sir, that when this Congress adjourns without giving him an increased salary he will go back to the place that he left, where he was receiving \$8,000 per annum with much less labor, and there was an offer to increase it in one year to \$10,000. The Government then will be left to those poor paupers who seek these places because they can get nothing else to live on—men who are wholly unfitted for these offices. This is a time when skilled men are needed for the service of the Government. We do not want poor creatures who are fit for nothing except to draw their salaries. We need men who are fit for these responsible places. Such men can find employment anywhere at liberal pay, and yet it is proposed that the Government shall take the refuse matter. We cannot get men who are fit for these places at low salaries. In my judgment, sir, there never was a more false economy than paying competent officers niggardly salaries. There was never a more false economy than in trying to get men at low salaries, when those low salaries will not enable us to procure men of ability and skill.

Mr. Chairman, these are not suggestions of the Committee of Ways and Means. They are the suggestions of the heads of the Departments, who say that they cannot carry on the business of the nation in this manner. These are times which require much skill and labor, and unless we can get men in whom we can have confidence we may as well stop altogether. I think, therefore, the opposition made to this section is a mistake. If gentlemen will consult the heads of Departments, and learn the trouble they are put to in order to procure these men, they would think exactly as I do. They have to labor to prevent them from resigning.

I have no doubt that what the gentleman from California has said of the office in San Francisco is true; and that he could find enough of men there, turned out from the mines and canals, who would be willing to take it.

Mr. Chairman, there are as good men as any in this House who are willing to take it at the present salary.

[Here the hammer fell.]

Mr. SPALDING. I move to strike out "seven" and insert "four." I am not prepared to dispute with the gentleman from Pennsylvania the proposition that the class of employes of the national Government provided for in this section are perhaps paid too low for their services. I am not prepared to deny his proposition that ordinarily to command the first-class ability we have to give the first-class pay. But, sir, I do differ with him when he says that this Government must, in its present embarrassment, raise the pay of its employes. And I am not prepared to take a distinction between officers and soldiers of our Army, and officers and sailors of our Navy, who are poorly paid, and these gentlemen who exercise a trust in the office of the sub-Treasury in the different cities. It cannot be unknown to the members of this committee that at this moment every class of employes under our Government are pressing upon us applications for increase of pay, and upon the same grounds now stated by my friend from Pennsylvania, that they cannot live upon their monthly pay and salaries.

Why, sir, the Committee on Naval Affairs, of which I have the honor to be a member, is now overburdened with applications from every part of every department of the naval service for increased pay; and I understand that the Committee on Military Affairs is pressed in the same way. We know that the officers and men in the Army and Navy ask for increased pay. If any class of our citizens be heard they should be heard in regard to an increase of pay for their services. But it is not confined to them, for all the clerks in all the Departments here in Washington are making an attack upon this Congress for an increase of their compensation. Now, it becomes this committee at this point to determine whether the Government is prepared with money to answer these repeated demands now made upon it. Why, sir, if I understand the condition of things correctly, it is with difficulty that we pay from quarter to quarter the soldiers we have now under arms in the field. Is it not so? Are there not millions of suspended accounts now in the Treasury Department, and are we prepared to swamp the Treasury at once, by casting upon it, in the shape of increased pay to the employes of the Government, I do not know how many hundreds of millions more, but hundreds of millions it must be?

I object, in the first instance, to any increased pay; and I intend to follow up that course until I find a disposition in the House to enlarge salaries, and when they do that, I am for taking down the bars and letting all come in. And what will be the consequence?

Mr. BROOKS. I did not intend to say anything upon this subject, nor do I intend now to extend my remarks beyond that of the sub-Treasurer of New York. Seven thousand dollars, I know, is an enormous salary in the estimation of many gentlemen who live where such salaries are not common. But in the city of New York, salaries of \$25,000 a year are given to parties having far less responsibility than the sub-Treasurer at New York. This is an office which must be given to a rich man. It is not an office for a poor man. It is an office which no poor man can possibly have, for at the start he is obliged to give bonds to the amount of \$400,000; and no poor man can give such a bond unless he has some preliminary arrangement outside to steal more than the amount of the bond. There are hundreds of men in New York who would take the greatest pleasure in giving this \$400,000 bond, give \$1,000,000 for the position of the New York sub-Treasurer for a single year. I could furnish a regiment of such applicants for office; but in order to obtain the right sort of a man a salary must necessarily be given him corresponding to that which is given in like cases in other employments. When the incomes of men border upon a million a year, it is not to be expected that such men will desire to take the office of sub-Treasurer at \$7,000 a year. And therefore the Department had exceeding difficulty in obtaining a man of so high a character as the gentleman who now holds that office.

Gentlemen from the interior must not estimate their salaries in the interior by the salaries which



are necessarily given in New York city. Many men in the interior obtain their butter, for example, for twenty, thirty, and forty cents a pound, and the farmer makes a profit by making it at fifteen cents a pound. We in New York are obliged to pay seventy and seventy-five cents a pound for it; and eggs, and everything else, are high in proportion. The rent of a house, respectable for a man entrusted with such a high office, would absorb fully one half of the salary we propose to give. Gentlemen must bear in mind that a new system of administration of the Government has been established since the war broke out. The sub-Treasury of New York has become a great national banking institution, and disburses directly or indirectly, in some form or other, by exchange or otherwise, \$1,000,000,000 annually; and the Assistant Treasurer handles, in all probability, a far greater sum of money than would be necessary to carry on the pecuniary administration of this Government. We have voted to-day \$3,700,000 for the mere printing of this money which the Assistant Treasurer of New York has more or less to handle. Our appropriations for the great Mint at Philadelphia are only \$150,000 in this bill, while the appropriation for the paper money which runs through the hands more or less of the Assistant Treasurer of New York—

Mr. MORRILL. Of course the gentleman from New York does not mean to misstate anything, but we have not appropriated any such sum as he states for the mere printing. It includes the whole expense of the loans, paper, and a large number of other items.

Mr. BROOKS. There was an appropriation in the bill of over two million dollars, and the gentleman has offered an amendment which we have passed appropriating \$1,100,000 more.

Mr. MORRILL. That includes the expense of adhesive stamps and other things.

Mr. BROOKS. Well, that is merely an incidental topic. I am desirous of sustaining the position taken by the gentleman from Vermont that this is hardly an adequate salary. I am quite sure the House cannot do better than vote this sum.

Mr. SPALDING. I withdraw my amendment to the amendment.

Mr. ARNOLD. I renew the amendment, so that my remarks may be in order. I hope the motion of the gentleman from Iowa [Mr. Wilson] will prevail. I think we may as well meet this question of the increase of salaries and of compensation at once. If, however, that motion shall not prevail, I shall then move to insert the city of Chicago among these other places where the compensation is increased. I know that the person who discharges the duties of this office there receives only \$1,400 compensation, and he is responsible for more than \$100,000,000 per annum which passes through his hands. Of course the compensation is entirely inadequate, and the disparity between the value of the services rendered and the compensation given can be no greater in New York, or Boston, or Philadelphia, or anywhere in the United States. There is no officer under the Government who discharges as responsible duties, in my judgment, for such small compensation; and yet, in the present condition of the finances of the country, there is patriotism enough there to enable the Government to obtain a competent man to discharge the duties of that office at the present rate of compensation, and I believe there is patriotism enough everywhere to discharge the duties of these offices.

The gentleman from New York [Mr. Brooks] refers to the large yearly incomes of gentlemen living in the city of New York, and he says there are plenty of men there who would be willing to take the office for the sake of the stealings of the office. I would like to know if there is not some patriotic wealthy man in New York who would take the office at such a time as this and discharge its duties for the compensation now allowed by law, and for the honor and distinction of serving the country at the present time. I believe that you can obtain at the present rate of compensation competent men to discharge the duties of all these offices, and that an increase of compensation is entirely unnecessary. It is not pretended that men in the employment of the Government are adequately paid in these times. There is scarcely a high officer in the Army or a man in high civil position, who is paid an adequate pecuniary com-

pensation for the services which he is now rendering; but we do not see patriotic soldiers or civilians leaving the public service at such an hour because their compensation is too small. We do not see distinguished members of this House retiring because their compensation is inadequate. I trust, sir, that the House will to-day indicate, by rejecting this entire section, an indisposition to increase the salaries of civil officers.

Mr. MORRILL. The gentleman from Illinois has made a conclusive argument against the amendment which he says he will offer hereafter, and hence it is not necessary for me to refer to it.

Mr. Chairman, "facts are stubborn things." We cannot resist the evidence that we have tried low salaries in some of these places and they have been found insufficient to accomplish the purposes of the Government. We know from actual experiment that the requisite ability and experience cannot be had in the city of New York for the salary that we have heretofore paid. In the face of this evidence I do not believe it wise on the part of the committee to go on and legislate so that we shall have no competent officers in these places. I believe in keeping the fountains pure at their source.

What are the facts? Since the commencement of this rebellion not a dollar has been lost through frauds in these sub-Treasuries. That is not our experience in the past history of the country. It is well known that the sub-Treasurer at New York has a large force under his command and is made responsible for them. Some days they have to receive and pay out not less than \$20,000,000 in a single day. To be sure, a large portion of this is in paper. But on some days it is very large, amounting to millions in absolute coin. If one of his clerks take a counterfeit note, or a spurious coin, the sub-Treasurer alone is responsible. It is a very difficult matter to carry on operations of such a gigantic nature, and to have them always come out without the loss of a dollar.

Under these circumstances I trust that the House will act with its usual judgment. It is a separate and distinct question from that of raising salaries generally; and I am glad to see so much evidence on the part of members that we will rather undertake to improve the currency and make it more valuable to the men who have salaries, and to our officers and soldiers in the field, than to go upon the principle of a general increase of salaries throughout the country.

Mr. ARNOLD. I withdraw my amendment.

Mr. DAVIS, of Maryland. I move a *pro forma* amendment in order that I may say why I shall vote for the proposal of the Committee of Ways and Means. In the first place it is my habit to follow that committee with only about half an eye open; and in this particular case my eyes have been opened wide by the debate that has sprung up on the proposition. I am opposed to any increase of salaries that have heretofore been fixed at a proper rate for the services performed, where that increase is asked because of the depreciation of the currency or the increase of the nominal value of articles. I thought at the last session, and I think now, that the remedy for the evil is in remedying the currency and not in increasing salaries. I will vote for any measure that tends to reduce the volume of the currency and thereby add to its value; but I shall not vote to increase any salary merely because it is insufficient by reason of the depreciation of the currency.

Mr. WILSON. Will the gentleman from Maryland permit me to make a remark here?

Mr. DAVIS, of Maryland. Certainly.

Mr. WILSON. The gentleman will be inconsistent with this section of the bill, because it is provided that the increased compensation authorized shall not continue in force for more than two years from the 4th of March next. I presume the Committee of Ways and Means expects to return to specie payments before then.

Mr. DAVIS, of Maryland. Or the Committee of Ways and Means may suppose that the war will be ended and the extraordinary expenses of the Government reduced within such a volume as that less compensation will procure adequate business talent to perform the duties. One hypothesis is as legitimate as the other; and either is only hypothesis. The reason for the increase asked here is this: you must have business men to transact the business of the Government. The patriotism of the people may very well be called

upon in every legitimate form to support the Government; but you do not anywhere else rely on the patriotism of the people to fill the offices of the Government. If you are to transact business you must have business capacity, and pay for it at business rates. Now, the amount of business cast on this particular officer has no just proportion to the compensation paid him in comparison with the salaries paid for like services in the ordinary business of the country. This is not the increase of an inadequate salary, become inadequate because of the depreciation of the currency, but it is the increase of a salary inadequate on its original basis, and therefore requiring to be increased.

For these reasons, Mr. Chairman, I shall vote for the proposition of the Committee of Ways and Means. In my judgment a responsible officer will save a thousand-fold his salary every year, whereas an incompetent man, by mere errors, bungling, and stupidity, to say nothing of possible cheating, will cost the Government ten times his salary every year. I withdraw my amendment.

The amendment of Mr. WILSON, to strike out the second section, was not agreed to; there being on a division—ayes 43, noes 51.

Mr. WILSON. I will not call for tellers on this question, if it be understood that we shall have an opportunity to take a vote on the question in the House.

Mr. MORRILL. I shall have no objection to that, because I shall move to reinsert the section as it was originally, except in one particular, and that will give the gentleman the opportunity he desires.

Mr. ARNOLD. I now move to amend by inserting, "the salary of the Assistant Treasurer at Chicago shall be \$4,000." The salary of that officer is now \$1,400. I ask the gentleman from Vermont to give his assent to this amendment.

Mr. MORRILL. I cannot give such assent. There has been no action of the committee on this subject.

Mr. ARNOLD. An increase of this salary was repeatedly recommended by the late Secretary of the Treasury. I could, were it necessary, have read to the House a communication from the late Secretary of the Treasury recommending an increase of this salary. There is no case anywhere of such inadequacy of salary with reference to the amount of labor and the responsibility. This office was created and the salary fixed when Chicago was a village of five or ten thousand inhabitants, with no considerable commerce. It has now grown to be one of the largest cities in the Union, and this officer at that point now has the responsibility of receiving and paying out hundreds of millions of dollars per annum. Because he has not been persistently demanding an increase of salary certainly he should not be made the victim of an unjust discrimination, when an increase of compensation is given to the Assistant Treasurers at New York, Boston, and St. Louis. I say with the utmost confidence that in no one of the cities where the salary is increased is there so great a disparity between the labor and the responsibility on the one hand and the salary on the other, as there is in the case of this officer in the city of Chicago. He has not been dogging the heels of the Committee of Ways and Means, urging an increase of his pay; but if an increase should be made anywhere, it should certainly be made in the case of this most meritorious officer, who has not been persistent in demanding an increase, but has faithfully attended to the discharge of his duties. I hope, therefore, that this amendment will be adopted.

Mr. MILLER, of New York. Mr. Chairman, I cannot vote for the amendment of the gentleman from Illinois, [Mr. ARNOLD,] and I hope that the House will hereafter adopt the proposition of the gentleman from Iowa, [Mr. WILSON,] to strike out the whole section.

Mr. ARNOLD. If this amendment be adopted I will cheerfully vote with the gentleman to strike out the whole section.

Mr. MILLER, of New York. I wish to say, Mr. Chairman, that I cannot see why the argument pressed by the gentleman from Maryland, [Mr. DAVIS,] will not apply to every other case in which we are asked to increase salaries. Have not the labors of every head of a Department or bureau increased during this war? Have not the

labors of every civil officer increased? These officers are all asking, with one accord, for an increase of salary. If we allow an increase in this instance we must of necessity allow it in every other. This matter does not involve simply the increase of \$2,000 asked in this case; it involves the question whether we shall add millions of dollars to the expenses of the Government by increasing the salaries of all our public officers. For if we adopt the increase in one case it will be brought forward as a precedent for an increase in numerous other cases—a precedent the force of which we cannot consistently deny.

I am not surprised, as some gentlemen appear to be, that, in our efforts to check the increase of expenditures we do not get assistance from gentlemen on the other side of the House. We all understand that when the slavery question shall be removed from our discussions the questions attracting the public attention will be chiefly of a financial nature. We are going to be met with the cry of "economy in our expenditures." We cannot expect gentlemen on that side of the House to stay our course when we are rushing on this rock of extravagance. I do not expect it; and I am not surprised to find that gentlemen on that side of the House are willing to assist members on this side to increase salaries. I expect that in a few days there will come from that side of the House a proposition to increase the pay of our soldiers and our sailors; and it is to be seen how that proposition will be met. When I have been appealed to by clerks from my own district to vote for an increase of salaries, I have said to them, "I cannot do it;" and I have told them, "There are three or four thousand patriotic men from my district, who are not only serving their country, but facing their country's enemies; and the salaries of these men should be increased first; but I do not believe that the situation of our Treasury will allow even that." And can we resist that when we vote for this increase? Not at all. Men who are holding office under the Government are suffering as men are suffering who are living upon salaries all over the country; no more and no less.

Everybody in this time is living economically. Everybody at this time is suffering from the increased price of everything throughout the country. Everybody is suffering from the increased cost of living. And when men are patriotically bearing the expenses of taxation and patriotically living upon small salaries all over the country, is it a time to increase the salaries of the employes of the Government? I know that these men when they are applicants for office profess a great deal of patriotism, and I think that they can bear the present salary when they have tried so hard to get the places in the first instance. I shall vote against any increase of salary; but I will say the first increase I can be induced to vote for is when gentlemen on the other side shall propose to increase the pay of our officers and soldiers and sailors.

[Here the hammer fell.]

Mr. KERNAN. I move to amend the amendment by making it \$3,500, in order to say a few words. I am a good deal surprised that my colleague from New York, whose remarks were made apparently with a view to an effect elsewhere, should, in view of the enormous expenditures which have been made of the public money, rise in his place here and charge that it is because we on this side of the House will not help them on that side to do what is right. I am a very young member upon this floor, but I remember one occasion when we on this side of the House endeavored to oppose some measure—it was the measure which afterward failed in the other House—I mean the confiscation bill—and its failure showed that we were right although it was forced through this House by members on the other side. On that occasion, sir, we were told, and I will give substantially what was said, that we on this side had better confine ourselves to our legitimate business, the business for which we were sent here, of embarrassing and opposing, as the people trusted, that side of the House. And the House will remember that they said that they would take care of the Government which had been intrusted to them. We on this side have submitted on all occasions. What did we find to be the case? That it was fatal, almost, to any measure to have it come from this side of the House.

We were not able to get anything through. What then, Mr. Chairman, were we to do? We were told by members on that side that this was not the time for economy when we proposed to reduce appropriations, that seemed too large. All we could do then was, when members on that side endeavored to cut down what we believed to be larger expenditures than were necessary, to help them, as we were not allowed any chance of success if we proposed to do so ourselves.

The gentleman from New York says that he would ask what encouragement we had given. Why, sir, at this very Congress there has been an appropriation of \$108,000 for furniture for the Treasury building; and yet the other day, when I endeavored to strike out \$15,000 of that amount in order to show the disapproval of Congress of such extravagant expenditures, I could scarcely raise a friend to support me except on my own side of the House.

Mr. WASHBURN, of Illinois. How many members on the gentleman's side of the House voted with him?

Mr. KERNAN. I believe that they all voted with me, and that that side voted the other way.

Mr. WASHBURN, of Illinois. No, sir; I voted with the gentleman.

Mr. KERNAN. I give the gentleman credit; and I am glad to know there are men on that side who vote with us against extravagant expenditures. But I do not want the insinuation to go out, as it is an unjust one, that we would not help them, and were therefore responsible. I have remained here during the action on this long bill, and have voted on all occasions for the reduction of extravagant appropriations; and this side has voted in the same way.

[Here the hammer fell.]

Mr. MORRILL. As I believe this debate is wandering from the bill, I move that the committee rise for the purpose of terminating the debate upon the whole bill, unless unanimous consent be given to take the question.

Mr. KERNAN. I withdraw my amendment to the amendment.

Mr. HOLMAN. I desire to offer an amendment to this section.

Mr. MORRILL. You can offer it.

Mr. HOLMAN. I want to explain it.

Mr. MORRILL. I insist upon my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Dawes reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the special order, being House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and had come to no resolution thereon.

Mr. MORRILL. I move that all debate upon the special order in the Committee of the Whole on the state of the Union be terminated in two minutes after the committee resumes the consideration thereof.

Mr. HOLMAN. I suggest that the gentleman makes it ten minutes.

Mr. MORRILL. I will modify my motion according to that suggestion.

The motion was agreed to.

#### ADJOURNMENT OVER.

Mr. STILES. I move that when the House adjourns it adjourn to meet on Monday next.

The motion was not agreed to.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Dawes in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1866; the question being on the amendment of the gentleman from Illinois, [Mr. ARNOLD.]

Mr. FARNSWORTH. I move to amend the amendment of my colleague by reducing the amount to \$3,500. I do this not merely for the

purpose of opposing the amendment of my colleague, for if any of these gentlemen are entitled to have their compensation increased, this officer at Chicago is as much entitled to it as any of them, but it seems that he has not been sufficiently in the ring to get into this combination for increasing salaries. But what I more particularly desired to say is that it does seem to me that this attempt to increase the salaries of these high officers is most impudent and atrocious.

Mr. THAYER. The gentleman talks about rings being formed for raising salaries, and pronounces the effort impudent and atrocious. Now, as one of the gentlemen who is to be affected by this proposed increase of salaries is a resident of my district, I desire to know whether the gentleman has any reason for supposing that he is in the ring.

Mr. FARNSWORTH. He is certainly in the ring of this section, which rings of an increase of salaries.

Mr. THAYER. Then the gentleman does not mean to impute anything improper by his language.

Mr. FARNSWORTH. No, sir; not at all. I do not propose to indulge in any attack upon the character of these men; but I do repeat that I think the commencement of increasing salaries at this end of the route, beginning with high officers, is a most impudent and atrocious thing. There are some branches of our Army that have not been paid for nearly six months. A few days ago I received a letter from an officer in command at New Orleans, in which he informed me that the paymaster had not been there for nearly six months. Here are soldiers drawing only sixteen dollars a month, and exposing their lives to danger and death, and no complaint comes from this Committee of Ways and Means that they are not receiving enough; there is no proposition to increase their pay. But when these men who, the gentleman from New York [Mr. Brooks] says, have an income of \$1,000,000 a year, come and ask for an increase of their salaries, behold they must have it.

Why, sir, if these gentlemen in New York who are demanding an increase of their salaries have an income of \$1,000,000 a year, it seems to me they are engaged in a very small business in demanding of us an increase of one, two, or three thousand dollars a year. Why, I am astonished at the declaration which has been made here that you cannot get competent men to fill these offices unless you increase the compensation. Who has ever resigned? When, sir, has there been more than one instance under this Administration of an officer resigning because of the inadequacy of his salary? Not at all. The men who deserve an increase of salary are the men who cannot resign, who are mustered into the service, and who if they attempt to resign are put under arrest; they are the poor men, the men who are exposing their lives every day, and what will not a man give in exchange for his life?

[Here the hammer fell.]

Mr. HOLMAN. I very cordially concur in the views expressed by the gentleman from Illinois, while I am not in favor of his amendment. We upon this side of the House shall be very happy to cooperate with him in behalf of justice to a class of persons who cannot get out of the service.

But in connection with this subject I desire to bring to the attention of the House a proposition which will accomplish a great act of justice on the part of this House; and I am happy to believe that the ruling of the Chair will enable that proposition to come before the House as a contingency for carrying on a Department of the Government. I ask that my amendment may be read. It is in the nature of a limitation upon this appropriation.

The Clerk read the amendment, as follows:

Add to section two the following:

And provided further, That the appropriation made by this act shall be on the condition that every private soldier who shall have enlisted in any regiment or battery previously organized, with the distinct assurance given at the time of the enlistment by the recruiting officer, or by the Governor of the State where the enlistment was made, that he should be mustered out of service with the regiment or battery in which he enlisted, shall, upon his application, be mustered out of the service with such regiment or battery, in accordance with such assurance; or if the regiment or battery shall have been mustered out such soldier shall be forthwith discharged, anything in the mustering-in roll of such soldier to the contrary notwithstanding; and the Secretary of War shall, subject to the approval of the Pres-

ident of the United States, adopt the proper rules as to proofs of such enlistment necessary to carry this provision into effect.

Mr. MORRILL. I cannot raise a point of order upon that amendment. I presume the gentleman having got in his Buncombe speech, does not care to press it.

Mr. HOLMAN. I do care a great deal about it.

Mr. MORRILL. I make the point of order that the amendment is not germane to the bill, and is independent legislation.

Mr. HOLMAN. It is a limitation upon the appropriation, and provides for one of the Departments of the Government that comes within the ruling of the Chair already made.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HOLMAN. I must appeal from that decision of the Chair most respectfully. The amendment certainly comes within the ruling made by the Chair since this bill has been under consideration.

The question was taken on the appeal, and the decision of the Chair was sustained as the judgment of the committee.

Mr. SCHENCK. Is there any time remaining for debate?

The CHAIRMAN. The Chair thinks there is about one minute left.

Several MEMBERS. Two minutes.

Mr. SCHENCK. As I propose to vote in favor of the amendment to strike out this whole provision, I desire to explain in a few words why I shall do so.

I believe that such is the condition of the currency of the country, such the embarrassments of the Treasury, and such the necessity for the appropriation of our means to the carrying on of this war, that in the present state of affairs, however meritorious the application, we cannot increase generally the salaries of the officers of the Government throughout the country. I believe that there are very few of the present officers of the Government, civil or military, who are not compelled to be exceedingly frugal to live at all within the means that we give them for that purpose; but if we commence at all, we must go through with the whole list; and I am very unwilling to commence with gentlemen who are receiving comparatively large salaries, however inadequate they may be, who by living a little more closely to the wind, a little more frugally, can manage to get on, if at the same time we deny an increase to the clerks here and the lieutenants and others in the Army who cannot possibly live upon the means that we furnish them.

[Here the hammer fell, the time allowed by the resolution of the House for debate on the bill having expired.]

Mr. ARNOLD. I will accept the amendment of my colleague, establishing the salary of the sub-Treasurer at Chicago at \$3,500.

The question was taken on Mr. ARNOLD's amendment as modified, and it was rejected.

Mr. MORRILL. I move that the committee do now rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, as a special order, had under consideration House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and had directed him to report the same back to the House with sundry amendments.

#### SENATE BILLS REFERRED.

Mr. SCHENCK. I ask the gentleman from Vermont to give way to me a moment.

Mr. MORRILL. Certainly.

Mr. SCHENCK. Joint resolutions giving the thanks of Congress to General Terry and Admiral Porter have just arrived from the Senate. I move that they be taken from the Speaker's table, and referred respectively to the Committee on Military Affairs and the Committee on Naval Affairs.

There being no objection, joint resolution (S. No. 98) to present the thanks of Congress to Major General Alfred H. Terry and the officers and men under his command, and joint resolution (S. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and to the officers,

petty officers, seamen, and marines under his command for their gallantry and good conduct in the recent capture of Fort Fisher, were taken from the Speaker's table, read a first and second time, and referred: the former to the Committee on Military Affairs and the Militia, and the latter to the Committee on Naval Affairs.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The House resumed the consideration of House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866.

Mr. MORRILL. I move to strike out the last section of the bill, as follows:

Sec. 2. *And be it further enacted*, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York at \$6,000 per annum, and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer.

And to insert in lieu thereof the following:

Sec. 2. *And be it further enacted*, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York at \$7,000 per annum; and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis, at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer: *And provided further*, That nothing herein contained shall be construed as increasing the annual compensation of the Treasurer of the Mint, *ex officio* Assistant Treasurer of the United States at Philadelphia, beyond \$5,000 for his services as Treasurer of the Mint and as Assistant Treasurer.

Mr. WILSON. I hope that substitute will be allowed to go in without a contest, and then the House can take a vote on striking out the whole section.

The SPEAKER. Is there objection to the substitute being incorporated in the bill as the original text?

Mr. HOLMAN. I object.

Mr. MORRILL. The section is modified in the last proviso, in order that the Assistant Treasurer at Philadelphia shall not from any construction of the law receive a double salary.

Mr. ARNOLD. Will the gentleman from Vermont modify it by inserting a provision for the Assistant Treasurer at Chicago?

Mr. MORRILL. I would be glad to do so, but I am not at liberty, as I am acting under the direction of the Committee of Ways and Means. Besides I do not see that we would gain anything by it, for the gentleman from Illinois has already announced that he will vote against it, whether that is on or out.

Mr. WASHBURN, of Illinois. The gentleman from Vermont agreed that if his substitute was accepted we should have a vote on striking out the section as amended. By that means those who are opposed to this increase of salaries would get the opportunity they desire, and we would save a good deal of time.

Mr. HOLMAN. The objection to that is that in the section as amended by the Committee of the Whole on the state of the Union, the salary of the Assistant Treasurer at New York is fixed at \$6,000, whereas the substitute fixes it at \$7,000. If the House were not to strike out the section as it now is, that salary would remain at \$6,000; but if the substitute of the gentleman from Vermont were allowed to be incorporated as the original text, and were not to be stricken out, that salary would be \$7,000.

Mr. MORRILL. I must insist that this is not the same question as the general question of raising salaries throughout the country. I make the point that this increase is represented, by the proper organ of the Government, to be indispensable to the conduct of this Department. I know that at New York, the only city where the salary of this officer has been reduced by the action of the Committee of the Whole, the officer is one of experience, tact, and skill, who saves to the Government daily more than the amount of his salary. I think it, therefore, the part of wisdom that we should consent, not to an extravagant salary,

but to make it what it ought to be, considering the vast amount of business that is done at that office.

Mr. GARFIELD. I hope that the amendment in relation to dry plate printing in the Treasury Department will not be adopted by the House. I will not enter into an argument of the case, but I will simply state a few facts. It has been stated here that vast sums of money are being expended in the Treasury Department for an experiment—an experiment which has been a failure. Now, sir, I hold in my hand the report made by the investigating committee last fall; and on page 360 is a letter from the late Secretary of the Treasury, Mr. Chase, in regard to the cost of printing money under that system, and, indeed, in regard to the whole cost of printing in the Treasury Department. That letter of the Secretary of the Treasury and other documents show conclusively that the cost of this printing is more than one hundred per cent. more when done by bank-note companies than when done in the Treasury Department.

Mr. WILSON. I desire to ask the gentleman whether, in the statement submitted by the Secretary of the Treasury, the entire cost of printing is not included, whereas the amendment to which the gentlemen refers relates only to the experiment with the hydrostatic press.

Mr. GARFIELD. Certainly. If the gentleman had waited, I should have come to that.

Now, sir, the cost of printing in the Treasury Department, as given in these tables, includes the entire outlay for hydrostatic presses. The expense of large and heavy machines, now thrown aside as worthless, is included in the cost. Yet, notwithstanding all this, the cost of printing is not so great, by one to three hundred per cent., as it was when done under contract by the bank-note companies of New York.

In regard to the dry plate printing, to which the gentleman has referred, the committee did report that the machinery was very heavy and expensive, that the experiment had not yet been completed, and that they could not recommend the system on the score of economy. It seemed to us to be an expensive experiment and one of doubtful success. But since that time the experiment has proved highly successful. I think there can scarcely be found an instance of so marked a success in any branch of mechanical ingenuity as this experiment in dry plate printing. If the gentleman will visit the Treasury Department he will find that printing is there executed far faster by this method than by the old method; and not only faster, but far better. The printing is executed in such a way as to afford almost an absolute security against counterfeiting. Within the past few months one of the most accomplished engineers of England has visited the printing establishment of the Treasury Department, and he declares the printing machinery now in use there to be a master-piece of skill in mechanics. And I am informed to-day by a gentleman on this floor that Professor Agassiz, who has witnessed the operation of that machinery within the past week, pronounces it one of the wonders of the age—one of the marvels of mechanical science.

These facts, which have come to light since the committee made their report, constitute, I think, a triumphant vindication of the genius of the man who has perfected this mechanism, whatever may be said against his personal character. I hope that these facts will convince the House of the impropriety of retaining an amendment which would throw a reflection upon the whole system.

Mr. PRICE. As the gentleman was a member of the committee charged with the investigation in reference to the printing of bills, I wish to ask him what is the cost per thousand for printing?

Mr. GARFIELD. I will read from the letter of the Secretary of the Treasury, which I hold in my hand:

"The cost per \$1,000 of five-cent fractional currency."

Mr. PRICE. That is not the question. I wish to know the cost per thousand of printing the bank bills?

Mr. GARFIELD. The cost of printing the bank bills has nothing to do with dry plate printing. I beg to remind the gentleman that I am speaking on the subject of dry plate printing, and the fractional currency is the only kind of currency printed in that way.

Mr. PRICE. The question under consideration involves the printing of the bank bills as well as the fractional currency.



Mr. GARFIELD. It does not. Dry plate printing is used only in producing fractional currency. It has, therefore, nothing to do with bank bills. Dry plate printing is what is now under consideration.

Mr. PRICE. I repeat the question—the gentleman has been on the committee and can answer it—what is the cost of printing bank bills per thousand impressions?

Mr. GARFIELD. I can tell the gentleman, but that is not germane to the subject under consideration at all. I will tell the gentleman after awhile.

Mr. PRICE. I prefer to have my question answered now.

Mr. GARFIELD. And I prefer, as I am upon the floor, to consider the question pertinently and in my own way.

I ask the attention of the House to what I shall read from a letter of the Secretary of the Treasury:

"The cost per \$1,000 of five-cent fractional currency has been \$24.59; postage currency, \$38.77. The cost per \$1,000 of ten-cent fractional currency has been \$12.29; postage currency, \$29.38. The cost per \$1,000 of twenty-five-cent fractional currency has been \$6.14; postage currency, \$14.69. The cost per \$1,000 of fifty-cent fractional currency has been \$3.03; postage currency, \$7.34.

"The whole amount of postage currency furnished by the bank-note companies has been \$20,192,956; the number of impressions 6,680,364, and their cost \$393,548.99. The whole amount of fractional currency furnished in the Department to the 2d day of June, 1864, was \$6,934,691; the number of impressions, 1,681,856, and their cost, \$50,930.10.

"A production corresponding in face, value, and numbers, with that of the bank-note companies would cost in the Department, as nearly as can be estimated, \$158,571.89."

Mr. WASHBURN, of Illinois. I ask the gentleman to answer the question whether it did not cost over \$300,000 to print \$312,000 under this experiment?

Mr. GARFIELD. I expect that the first sheet of the postage currency cost \$200,000, provided they had only printed that single sheet. It would have cost that amount if they had printed only one sheet and had charged to that sheet all the expense of getting up the necessary machinery. It would indeed be a costly sheet that on its face was worth only two dollars and would cost the Government nearly a quarter of a million of dollars. But, sir, that is not the way to estimate the cost of printing.

Mr. DAWES. I ask the gentleman from Ohio whether he approves of an arrangement by which the head of a bureau who makes the contract is permitted to be a part owner of the patent under which the printing is done?

Mr. GARFIELD. In the first place, Mr. Speaker, I was not aware that any such arrangement had been made. If there is any such arrangement I most certainly do not approve of it.

Mr. DAWES. Does it not appear in the report of the committee of investigation?

Mr. GARFIELD. There was nothing in the report concerning the patent.

Mr. DAWES. I do not speak so much of the report as the evidence taken before the committee.

Mr. GARFIELD. That is not involved in this case.

Mr. DAWES. I thought the gentleman had his own opinion on the subject.

Mr. GARFIELD. I have given my opinion.

Mr. DAWES. What is the gentleman's opinion on the point I make, that the head of the bureau who makes the contract for printing is a part owner of the patent for the new kind of paper on which it is done.

Mr. GARFIELD. If that statement is true it does not seem to me to be a proper arrangement. But that is not the question before the House. I am ready at any time to be led into a general debate concerning this whole report. The subject before the House is, shall we condemn in this bill the new mode of printing our public securities? Shall we condemn it here and now?

Mr. DAWES. I say that it is pertinent to the gentleman's argument that we shall limit this appropriation, and stop the application of the money of the Treasury to experiments to be made under the superintendence of the head of the bureau, so long as he acts in the double capacity of making the contract and owning the patent about which the contract is made.

Mr. MORRILL. I can yield no further for this discussion. I ask unanimous consent to make a correction.

Mr. ROSS. I object.

Mr. MORRILL. I move, then, an amendment.

When the proposition was adopted by which the binding of the Congressional Globe was transferred to the Globe office, I moved a larger deduction than should have been made. I want now to make the proper deduction of \$18,600, so as to leave the appropriation \$55,111.24; and on that amendment, and the bill and amendments, I call the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof all the amendments recommended by the Committee of the Whole on the state of the Union, together with those offered in the House, were agreed to, with the exception of those indicated below.

Second amendment reported from the Committee of the Whole:

On page 6, line one hundred and eleven, insert after the appropriation for the Congressional Globe the words:

And to pay the publishers for binding the same, \$48,800.

Mr. A. W. CLARK. Debate is not in order strictly, but I ask unanimous consent to make a remark or two.

Leave was granted.

Mr. A. W. CLARK. That appropriation, under a misapprehension of facts, was made greater in amount than was necessary. That amount of appropriation covers both the printing and binding. The Superintendent of Public Printing called upon me and stated that the appropriation was very much larger than was necessary to do the work at the Government printing office. The attention of the proprietors of the Globe was called to the matter, and they informed me that the \$48,800 covers the whole expense of printing and binding. The Public Printer desired me to state to the House that the expense of binding at the Government office was ninety cents a volume; and I find by taking these figures that the binding, as proposed at the Globe office, would cost perhaps one dollar a volume. The Public Printer also informs me that the facilities for binding in his office are entirely adequate to all the wants of the Government. He asks, therefore, that the binding should be retained where it is now, and that this amount should not be deducted from the item of the bill making appropriation for binding public documents.

Mr. MORRILL. This amendment was introduced into the Committee of the Whole on the state of the Union with a statement that the Government printing office was utterly unable to bind and deliver this work in proper season; that the volumes have been withheld ever since last session from members, and that they have not yet received them. The gentleman from Pennsylvania [Mr. KELLEY] stated that the proprietors of the Globe were willing to bind these volumes for the same price that it cost at the Government office, and that they would deliver the work in ninety days after the close of each session. I have already offered an amendment diminishing the amount appropriated for binding public documents by only \$18,600, instead of \$48,600.

Mr. NORLE. I will remark that I made the statement that the Globe proprietors would do the work for the same price that it cost at the Government office, and that they would deliver the work in ninety days after the close of each session, and I made it by authority.

Mr. A. W. CLARK. In reply to the gentleman from Vermont [Mr. MORRILL] I will state that the cost at the Government office is ninety cents per volume; and that the Globe people propose to do it at the same price. They authorized me to make that statement to the House. The Public Printer is now delivering the entire set to the House. He has forwarded the binding with all his energy, and he says his facilities for binding are greater than that of any other establishment, and asks that the work may remain where it is now. One argument used upon the part of the Globe office is the safe delivery of the Globes. The printing office is now held responsible for the same. The work has been done well, and as promptly as it could have been done by any other binding establishment in this city.

The amendment was not agreed to.

Mr. MORRILL. As this first amendment fails the other amendment on the same subject ought to fall with it. I will withdraw my amendment to diminish the sum appropriated for public printing by the amount of \$18,600, if there be no objection.

There was no objection, and the amendment was withdrawn.

The amendment recommended by the Committee of the Whole, to diminish the amount appropriated for public binding by \$48,600, was also disagreed to.

Sixteenth amendment:

Strike out section two, as follows:

And be it further enacted, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York at \$6,000 per annum, and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis, at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer.

And insert in lieu thereof the following:

Sec. 2. And be it further enacted, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York at \$7,000 per annum, and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis, at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer: *And provided further*, That nothing herein contained shall be construed as increasing the annual compensation of the treasurer of the Mint, ex officio Assistant Treasurer of the United States at Philadelphia, beyond \$5,000 for his services as treasurer of the Mint and as Assistant Treasurer.

Mr. MORRILL. I demand the yeas and nays upon that amendment.

The yeas and nays were not ordered.

The amendment was not agreed to.

The next question recurred upon striking out the second section, as follows:

Sec. 2. And be it further enacted, That the compensation of the Treasurer of the United States be, and the same is hereby, fixed at \$6,000 per annum; the compensation of the Assistant Treasurer at New York at \$6,000 per annum, and the salaries of the Assistant Treasurers at Philadelphia, Boston, and St. Louis at \$5,000 per annum each, to commence from the 4th day of March next; and the amount necessary to pay the same for the current and next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the increased compensation authorized by this section shall continue in force for two years from the 4th day of March next, and no longer.

Mr. WILSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 39, not voting 65; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Boutwell, Boyd, Broomall, William G. Brown, Chandler, Clay, Cobb, Cole, Cox, Cravens, Dawes, Dawson, Denison, Dixon, Eckley, Eldridge, Finck, Ganson, Gooch, Grinnell, Hale, Harrington, Benjamin G. Harris, Holman, Ashel W. Hubbard, John H. Hubbard, Ingersoll, Orlando Kellogg, Kernan, Lazear, Le Blond, Loan, Long, Mallory, Marey, McClurg, McDowell, Middleton, Samuel F. Miller, Amos Myers, Noble, Norton, Orth, Perham, Perry, Price, Samuel J. Randall, William H. Randall, Edward H. Rollins, Ross, Schenck, Scofield, Sloan, Spalding, William G. Steele, Sules, Strouse, Sweet, Townsend, Tracy, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilson, Windom, and Yeaman—78.

NAYS—Messrs. Beaman, Blow, Brooks, Ambrose W. Clark, Coffroth, Creswell, Henry Winter Davis, Deming, Driggs, Elliot, Frank, Garfield, Hall, Hotchkiss, Jenckes, Julian, Kelley, Francis W. Kellogg, Knox, Littlejohn, Longyear, McAllister, McBride, Moorhead, Morrill, James R. Morris, Leonard Myers, Charles O'Neill, Pike, Alexander H. Rice, John H. Rice, Scott, Shannon, Smithers, Stuart, Thayer, Upson, Van Valkenburgh, and Wilder—39.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Bailly, Blair, Bliss, Brandegee, James S. Brown, Freeman Clarke, Thomas T. Davis, Donnelly, Dumont, Eden, Edgerton, English, Farnsworth, Glider, Griswold, Harding, Charles M. Harris, Herick, Higby, Hooper, Hulburd, Hutchins, Philip Johnson, William Johnson, Kalfabeck, Kasson, King, Knapp, Law, Marvin, McIndoe, McKinney, William H. Miller, Daniel Morris, Morrissor, Nelson, Odell, John O'Neill, Patterson, Pendleton, Pomeroy, Priyan, Radford, Robinson, Rogers, James S. Rollins, Smith, Starr, John B. Steele, Stevens, Thomas, Voorhees, Ward, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—65.

So the second section of the bill was struck out.

Pending the roll-call,

Mr. COBB stated that his colleague, Mr. McINDOE, was confined to his room by illness.

Mr. FARNSWORTH stated that he was paired off with Mr. STEVENS.

Mr. A. W. CLARK stated that his colleague,

Mr. HULBURD, had been called home by sickness in his family.

The vote was announced as above recorded.

Mr. ARNOLD moved to reconsider the vote by which the second section of the bill was struck out; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRILL moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation of the previous question the bill was passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SECOND ASSISTANT SECRETARY OF WAR.

Mr. DEMING. I ask unanimous consent to have taken from the Speaker's table and referred the bill of the Senate authorizing the President to appoint a Second Assistant Secretary of War.

There being no objection, an act (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

#### GUNBOATS ON THE LAKES.

Mr. COX. I ask unanimous consent to have taken from the Speaker's table and referred the joint resolution of the Senate terminating the treaty as to gunboats on the lakes.

There being no objection, the joint resolution referred to was taken from the Speaker's table, read a first and second time, and referred to the Committee on Foreign Affairs.

#### PROPOSITION TO ADJOURN OVER.

Mr. HOLMAN. I move that the House do now adjourn.

Mr. MORRIS, of Ohio. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The question was taken, and the motion was not agreed to.

#### RAILROAD GRANTS IN MINNESOTA.

Mr. WINDOM. I ask unanimous consent to introduce for reference a bill extending the time for the completion of certain land-grant railroads in Minnesota, and for other purposes.

Objection was made.

Mr. HOLMAN. I now insist on my motion to adjourn.

The motion was agreed to; and thereupon, (at twenty-five minutes past four, p. m.,) the House adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, January 20, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### CANCELING POSTAGE STAMPS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General on the subject of a patent for canceling and marking the stamps used by the Post Office Department; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (S. No. 212) for the relief of Henry A. Brigham, in which the concurrence of the House was requested.

#### TRADE WITH CANADA.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of December 20, 1864, a report of what goods have been permitted to pass from the United States through Canada and again into the United States, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

#### BURSTING OF NAVAL GUNS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the House of the 5th instant, a report in regard to the bursting of guns on board the vessels of the United States fleet in the bombardment of Fort Fisher; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### THANKS FOR THE CAPTURE OF FORT FISHER.

Mr. SCHENCK, by unanimous consent, reported from the Committee on Military Affairs, with an amendment, joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry, and the officers and men under his command, for their gallantry and good conduct in the recent capture of Fort Fisher.

On motion of Mr. SCHENCK, the House proceeded to the consideration of the joint resolution; which was read, as follows:

*Resolved*, That the thanks of Congress are hereby presented to Major General Alfred H. Terry, and to the officers and men under his command, for the unsurpassed gallantry and skill exhibited by them in the attack upon Fort Fisher, and the brilliant and decisive victory by which that important work has been captured from the rebel forces and placed in the possession and under the authority of the United States, and for their long and faithful service and unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

*And be it further resolved*, That the President of the United States be, and he hereby is, requested to communicate this resolution to Major General Terry, and through him to the officers and soldiers under his command.

The amendment proposed by the Committee on Military Affairs was to insert in the fourth line, before the word "major," the word "brevet."

The amendment was agreed to.

The joint resolution was ordered to be read a third time. It was accordingly read the third time, and passed.

Mr. SCHENCK. I move to amend the title by inserting before the word "major" the word "brevet."

The amendment was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT TILL MONDAY.

Mr. SCHENCK. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. STEVENS. I hope the gentleman will not press that motion at this time.

Mr. SCHENCK. I withdraw the motion for the present.

#### THANKS OF CONGRESS TO GENERAL THOMAS.

Mr. GARFIELD, by unanimous consent, reported back from the Committee on Military Affairs a joint resolution expressive of the thanks of the American people to Major General George H. Thomas and the army under his command, with an amendment in the form of a substitute.

On motion of Mr. GARFIELD, the House proceeded to the consideration of the joint resolution; which was read, as follows:

*Resolved*, That the thanks of the American people are eminently due, and are hereby tendered, to General Thomas and the army under his command for their brilliant courage and endurance, which resulted in the defeat of the rebel army under Hood, and the expulsion of the enemy from the State of Tennessee.

The amendment proposed by the Committee on Military Affairs was to strike out all after the word "resolved," and insert the following:

That the thanks of Congress are due, and are hereby tendered, to Major General George H. Thomas, and the officers and soldiers under his command, for their skill and dauntless courage, by which the rebel army under General Hood was signally defeated and driven from the State of Tennessee.

The amendment was adopted.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXCUSED FROM COMMITTEE SERVICE.

Mr. J. C. ALLEN. I learn from the reading of the Journal this morning that the Speaker has

appointed me a member of the special committee charged with the duty of investigating certain charges against a member of the House. I feel it my duty to ask to be excused from service on that committee. I do not believe it will be possible for me to devote to the matter that attention which will probably be necessary.

There was no objection; and Mr. ALLEN was excused.

#### MERCHANTS' EXCHANGE, NEW YORK.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a joint resolution authorizing the Secretary of the Treasury to give the necessary notice stipulated of the intention of the United States to purchase the building known as the Merchants' Exchange, New York city, now used for custom-house purposes.

The joint resolution was read a first and second time; and on motion of Mr. STEVENS the House proceeded to its consideration.

It authorizes the Secretary of the Treasury to give notice to the owners of the building in New York city known as the Merchants' Exchange, and occupied as a custom-house, of the intention of the United States to purchase the same for the sum of \$1,000,000, in accordance with the terms stipulated in the existing lease of the property to the Government.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. STEVENS. House bill No. 598, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866, has been returned from the Senate with a few amendments, and we do not think it worth while to have them referred to the Committee of Ways and Means. I ask that they be taken up and concurred in.

There was no objection, and the bill and amendments were taken up.

First amendment of the Senate:

In the following, before the word "Mexico" insert the words "republic of:"

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Grenada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, \$308,500.

Mr. COX. If there be a perfect concurrence in that amendment I have nothing to say; otherwise I should like to have the yeas and nays.

Mr. STEVENS. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Second amendment:

Strike out "St. Lambert and Longueuil" from the list of consulates, schedule B.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Third amendment:

In the following, increase the appropriation from \$5,000 to \$20,000:

For expenses incurred under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, \$5,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fourth amendment:

Add at the end of the bill:

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, \$13,250.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Mr. STEVENS moved to reconsider the votes by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## WAGON ROAD.

Mr. WALLACE, by unanimous consent, introduced a bill to construct a wagon road from Lewistown, in the Territory of Idaho, to Virginia City, in the Territory of Montana; which was read a first and second time, and referred to the Committee on Public Lands.

## LAND GRANT TO MICHIGAN.

Mr. UPSON, by unanimous consent, introduced a bill to amend an act entitled "An act to amend the act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes;" which was read a first and second time, and referred to the Committee on Public Lands.

## PROSECUTIONS FOR LIBEL.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 692, in reference to prosecutions for libel in the District of Columbia, with a substitute.

The substitute was read, as follows:

That in all prosecutions or indictments for libel instituted, or which may hereafter be instituted, in the District of Columbia, the truth thereof may be given in evidence under the general issue as a justification of the alleged libel; and if it appear that the matter charged as libelous was true, and was written or published with good motives and for justifiable ends, the defendant shall be acquitted.

The substitute was adopted. The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## WESTERN DISTRICT COURT OF MISSOURI.

Mr. KING, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 631, to provide for holding courts in the western district of Missouri, and prescribing the times thereof, with an amendment.

The amendment was read, as follows:

That hereafter the judges of the eastern and western districts of the United States courts for the district of Missouri, shall each receive as a salary the sum of \$3,000, to be paid in the manner now provided by law.

Mr. HOLMAN. The title did not indicate the purpose of the bill and amendment. It simply provided for the holding of the courts, otherwise I should have objected to its introduction. I object to the reporting of an amendment to a bill changing materially its character.

The SPEAKER. The objection comes too late.

Mr. HOLMAN. The title does not express the character of the bill.

Mr. KING. Mr. Speaker, if the House agree to the amendment of the Committee on the Judiciary it is competent to amend the title of the bill. I admit that the title does not exactly correspond to the bill as amended.

I will remark that the present salaries of these judges is \$2,500. I know that there is great objection to increasing salaries, but I also know that they have been increased during this session in one or two instances under precisely the same circumstances. There are two places of holding the district court of the United States in Missouri at this time. This bill proposes to provide a third place, St. Louis. The judge that held that court, if he should, as he has done heretofore, reside at Jefferson City, will be two hundred miles from St. Louis; and if he undertakes to get there by railroad communication he will be three hundred miles.

The business in the western district of Missouri I am sure will increase very much, as it has increased in the eastern district. The present salary is wholly inadequate, and therefore I ask the adoption of the amendment proposed by the Judiciary Committee.

Mr. HOLMAN. It will be remembered that there are two judicial districts in Missouri, and that this provides for the salary of the two judges, \$3,000 each, \$2,500 being the present salary. I trust the House will not increase this salary to the extent proposed. The State which I have the honor in part to represent constitutes one judicial district, and has as much business as the two dis-

tricts of Missouri combined; and the salary of the judge is \$3,000 per annum.

It seems to me that this precedent should not be established now, and therefore I move that the amendment—if that will not carry the bill with it—be laid on the table.

The SPEAKER. That would carry the bill with it.

Mr. HOLMAN. Then I move that the bill be recommitted to the Committee on the Judiciary.

Mr. KING. I would like to say one word in reply. I do not know how the gentleman arrives at the information that the State of Indiana has as much judicial business as the two districts of Missouri. I am sure I have not that information, and I do not know how he gets it; but I do know that the business of the eastern district of Missouri, at St. Louis, has increased fourfold of late, and the prospects are that it will continue to increase. The present rate of high living, the amount of tax which is taken off of salaries, the depreciation of the currency, and the appreciation of everything else, really puts the present salary below that which a lawyer, qualified for the high position of judge, is entitled to receive.

Mr. WASHBURN, of Illinois. I did not hear the amendment read, but I understand that it is a proposition to increase the salaries of the judges of the two districts of Missouri \$500 each. I am opposed to that proposition, as I am to all propositions for increasing salaries. I am opposed to it upon the ground, first, that the Treasury is in no condition to pay increased salaries; and secondly, that if we are to make any increase of salaries, the increase should be general. I will state that the judge of the southern district of Illinois—a district which has a great deal of business, and which has increased largely since the breaking out of this rebellion—has only a salary of \$2,500; and if there be any justice in increasing the salary of these two judges of Missouri, the salary of the judge of the southern district of Illinois should also be increased. But I object to that, too.

Mr. HOLMAN. My information that the judicial business of the State of Indiana is equal to that of the two judicial districts of Missouri is based upon the population of the two States and the extent of their maritime jurisdiction. I admit that in the eastern district of Missouri, owing to the position of a large city there, the business is larger than in any one locality in my own State; but I know that the business of the whole State is equal to that of the two districts of Missouri. But inasmuch as the bill is unobjectionable, except so far as the amendment is concerned, I will withdraw my motion to recommit; and with a view of allowing the House to take a vote upon the amendment I demand the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the amendment was not agreed to. The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KING moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## THANKS OF CONGRESS TO ADMIRAL PORTER.

Mr. RICE, of Massachusetts, by unanimous consent, reported back from the Committee on Naval Affairs, with a recommendation that it do pass, a joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher.

The resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ADVANCE OF NAVAL RANK.

Mr. RICE, of Massachusetts. I ask the unanimous consent of the House to take from the Speaker's table bill of the House No. 607, to provide for an advance of rank to officers of the

Navy and Marine corps for distinguished merit, which has been returned from the Senate with an amendment.

No objection being made, the bill was taken up, and the amendment of the Senate was concurred in, as follows:

In section one, line five, strike out the word "fifty" and insert "thirty"; so that the clause will read:

"That any officer of the Navy or Marine corps, by and with the advice and consent of the Senate, may be advanced not exceeding thirty numbers in rank, &c."

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## TRADE WITH THE REBEL STATES.

Mr. DRIGGS. I ask the unanimous consent of the House to offer the following preamble and resolution:

Whereas it is reported that one G. N. Lane, of Baltimore, received a permit in December last from H. A. Risley, chief agent of the Treasury, to proceed to North Carolina and exchange provisions with the rebels for cotton: Therefore,

Resolved, That the committee on the conduct of the war be instructed to inquire into the facts, and to report to this House whether there is any authority vested in the Treasury Department to give the right to any one to furnish the rebels with supplies from our lines; and if not, to report such a bill or resolution as may be necessary to bring the guilty to justice and to protect the interests of the Government in the future, or to take such other action as may be deemed proper to secure the object in view.

Mr. STEVENS. I suggest to the gentleman that he modify his resolution by inserting the word "alleged" before "facts."

Mr. DRIGGS. I will accept that modification.

Mr. DAWES. I would suggest to the gentleman from Michigan that the committee on the conduct of the war is already so overwhelmed with business that he had better refer this subject to some other committee. I do not know what standing committee would be the proper one, but I am in favor of the investigation.

Mr. DRIGGS. It is suggested to me that the matter be referred to the Committee on Commerce, and I will so modify my resolution as to refer it to that committee.

Mr. DAWES. It occurs to me that the Committee on the Judiciary would be a better committee, but I do not wish to interfere with the gentleman from Michigan.

Mr. DRIGGS. I modify my resolution so as to refer the matter to the Committee on Commerce, instead of to the committee on the conduct of the war.

Mr. FARNSWORTH. I suggest to the gentleman from Michigan and to the House that the Committee on Military Affairs are now investigating this whole subject of trade with insurrectionary districts.

Mr. DRIGGS. I think the Committee on Commerce is the proper committee to examine into this subject.

Mr. WASHBURN, of Illinois. There is no use in referring this subject to the Committee on Commerce or any other committee, unless you arm the committee with some authority to examine the matter. I suggest to the gentleman that he add to his resolution the words, "with power to send for persons and papers."

Mr. DRIGGS. I accept that modification.

The resolution as modified was then agreed to.

Mr. DRIGGS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## FRANKLIN INSURANCE COMPANY.

Mr. STEELE, of New York. I ask the unanimous consent of the House to take from the Speaker's table, for the purpose of putting it upon its passage at this time, bill of the Senate No. 384, to amend an act entitled "An act to amend and extend the charter of the Franklin Insurance Company," approved March 2, 1838.

No objection being made, the bill was taken up and read a first and second time. It proposes to extend and continue in force the amendatory act recited for twenty years from the 9th day of April, 1858, the time at which such amendatory act expired, and legalize the acts of the company between the period when said act expired and the date of this act.



Mr. WILSON. I suggest to the gentleman from New York that this bill ought to go to the Committee for the District of Columbia.

Mr. STEELE, of New York. I would state to the gentleman from Iowa that it is simply an extension of the charter of this insurance company. The charter expired by a mistake, and I cannot conceive that anybody can have any objection to the bill. The District Committee in the Senate reported it unanimously, and it passed the Senate unanimously.

Mr. WILSON. Has the Committee for the District of Columbia of this House passed on this bill?

Mr. STEELE, of New York. We have not considered it, but I do not think there is any necessity for its reference. This company has been in existence for forty years in Washington.

Mr. WILSON. I move that the bill be referred to the Committee for the District of Columbia.

Mr. STEELE, of New York. I do not think it necessary to refer it.

Mr. WILSON. I think it had better be examined by the committee, if they have not already examined it.

Mr. WILSON's motion was agreed to; and the bill was accordingly referred to the Committee for the District of Columbia.

#### UNITED STATES COURTS IN VIRGINIA.

Mr. BOUTWELL, by unanimous consent, reported back from the Committee on the Judiciary bill of the House No. 664, for changing the time of holding the circuit courts in the district of Virginia, with an amendment in the nature of a substitute.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### OATH OF OFFICE.

Mr. BOUTWELL also, by unanimous consent, and from the Committee on the Judiciary, reported back, without amendment, bill of the Senate No. 72, supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The bill provides that no person, after the date of this act, shall be admitted to the bar of the Supreme Court of the United States, or at any time after the 4th of March next be admitted to the bar of any circuit court or district court of the United States, or the Court of Claims, as an attorney or counselor, or be allowed to appear by virtue of any previous admission, or any special powers of attorney, unless he first takes and subscribes the oath prescribed in the "act to prescribe an oath of office," approved July 2, 1862, which said oath so taken and subscribed shall be preserved among the files of such court, and that any person who shall falsely take said oath shall be guilty of perjury, and, on conviction, be liable to the pains and penalties of perjury, and the additional pains and penalties prescribed in the said act.

The bill was ordered to a third reading; and it was accordingly read the third time, and was passed by a vote of—ayes 66, noes 26.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

On motion of Mr. BOUTWELL, also by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of bill of the House No. 578, prescribing an oath of loyalty to all persons practicing law in any of the States declared to be in rebellion, and the same was laid on the table.

#### TESTIMONY IN UNITED STATES COURTS.

Mr. KELLOGG, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether it is not expedient to enact further laws providing for perpetuating testimony of wit-

nesses and taking the testimony of witnesses *de bene esse* in the Supreme Court and in the circuit courts of the United States; and report by bill or otherwise.

#### WILLIAM HANCOCK.

Mr. TRACY, by unanimous consent, introduced a bill for the relief of William Hancock; which was read a first and second time, and referred to the Committee of Ways and Means.

#### HUNDRED-DAY REGIMENTS.

Mr. SCHENCK, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House on what terms and understanding men were accepted from Ohio and other States during the year 1864, to serve in the Army for one hundred days, and whether there exists any reason why credit should not be given on any draft to be made to the several States or districts which furnished these men, in proportion to their terms of service.

#### COMMUTATION ILLEGALLY PAID.

Mr. NOBLE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House why the amounts paid for commutation by persons who were declared to have been illegally drafted, on a supplementary draft made after the 4th of July last, on a call made prior to that date, have not been refunded to them.

#### PRIVATE BUSINESS.

Mr. HALÉ. I ask the Chair whether the regular order of business to-day is not the consideration of private bills.

The SPEAKER. It would be if the House had not, by a suspension of the rules, made the loan bill a special order.

Mr. HALÉ. I suggest, then, that next Friday be set apart for the consideration of private business exclusively. We have had no day at all this session for that business. I ask unanimous consent for this proposition.

There being no objection, it was so ordered.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that the President had approved and signed an act (H. R. No. 203) for the relief of Jacob Weber; and

An act (H. R. No. 625) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864.

#### WAYS AND MEANS.

Mr. STEVENS. I now insist upon the special order.

The SPEAKER. The special order is the consideration of the bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864.

The Chair will state that this bill is made a special order in Committee of the Whole on the state of the Union, and it will require unanimous consent to consider it in the House.

Mr. HOLMAN. I suppose there will be no objection to considering the bill in the House as if in Committee of the Whole on the state of the Union subject to the same rules.

The SPEAKER. Is there any objection to that proposition?

Mr. SPALDING. I object.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPALDING in the chair,) and proceeded to the consideration, as a special order, of a bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864.

The bill was read, as follows:

That in lieu of any bonds authorized to be issued by the first section of the act entitled "An act to provide ways and means for the support of the Government," approved June 30, 1864, that may remain unsold at the date of this act, the Secretary of the Treasury may issue, under the authority of said act, Treasury notes of the description and character authorized by the second section of said act: *Provided*, That the whole amount of bonds authorized as aforesaid, and Treasury notes issued and to be issued in

lieu thereof, shall not exceed the sum of \$400,000,000; and such Treasury notes may be disposed of for lawful money, or for any other Treasury notes or certificates of indebtedness or certificates of deposit issued under any previous act of Congress; and such notes shall be exempt from taxation by or under State or municipal authority.

Sec. 2. *And he it further enacted*, That any bonds known as five-twenties, issued under the act of 25th February, 1862, remaining unsold to an amount not exceeding \$4,000,000, may be disposed of by the Secretary of the Treasury in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable. And the Secretary of the Treasury is further authorized to issue bonds of the description issued under the authority of the act of 23d June, 1860, in pursuance of the notice for "proposals for loan," dated 8th September, 1860, to subscribers to that loan for the one per cent. deposited under said notice and not repaid: *Provided*, That the bonds so issued shall bear not more than five per cent. interest: *And provided further*, That fractional amounts may be repaid in lawful money of the United States.

Mr. BROOKS. I desire to ask the chairman of the Committee of Ways and Means for some explanation of this bill. The act itself, as it reads, is somewhat blind, and it requires a good deal of study in connection with other laws to understand it properly. I think that the House and country will be much obliged to the chairman of the Committee of Ways and Means if he will put it in English. I do not mean to say that the bill is not English, but if he will translate the act into mercantile language, so that every one will be able to understand it, it will be very desirable.

Mr. STEVENS. Mr. Chairman, it will be recollected that by the act of 30th June last Congress authorized the issue of a loan of \$400,000,000, half of which the Secretary had a right to issue in seven-thirties, as they are called. He has gone on and issued to within sixty or seventy million dollars of that amount.

Mr. BROOKS. Making about how much issued?

Mr. STEVENS. About \$130,000,000 issued. They seem to be a favorite form of loan. The Secretary is of opinion that if the whole \$400,000,000 authorized by the act of June 30, 1864, were to be issued in this shape, it would be more acceptable than in the form of bonds; and he has requested the same permission for the one \$200,000,000 that he has for the other. There is about \$130,000,000 of that loan still undisposed of in any form; and the Secretary of the Treasury desires authority to issue that amount on the same principle on which he issued the seven-thirties. That is all that this bill proposes. But lest he might issue under this authority some legal-tender notes, interest-bearing, the Committee of Ways and Means has instructed me to offer at the end of the bill a further proviso that this act shall not be so construed as to give any authority for the issue of any legal-tender notes in any form beyond the amount heretofore authorized by law. We thought that, taking the two acts together, it might be doubtful whether the Secretary of the Treasury would not have that power unless we put in this proviso. We had no idea that he intended to do this; but, as the power might possibly exist, we deemed it best to insert the proviso.

Mr. KERNAN. Do I understand that the Secretary of the Treasury has issued the \$200,000,000 of notes provided for by the act of June 30, 1864?

Mr. STEVENS. He has issued them in the shape of seven-thirty notes.

Mr. KERNAN. Are not those notes, of which the second section of this bill proposes to allow him to issue \$130,000,000 more; a legal tender to every extent except that they cannot be used in the redemption of the currency used by the United States banks?

Mr. STEVENS. None of them are legal tenders. In that law authority was given to the Secretary of the Treasury to make those that were payable at maturity a legal tender for their face.

Mr. KERNAN. Precisely.

Mr. STEVENS. But no part of that has been executed; and by this proviso we propose to restrain that power and not allow him to make them legal tenders.

Mr. KERNAN. Those issued, as I understand, are not made payable at maturity?

Mr. STEVENS. No, sir; none of them.

Mr. ALLEY. As I understand this matter, no additional loan is to be created by this bill. It simply proposes to change the form of the five-twenty loan to a seven-thirty loan. That is the sum and substance of the whole proposition. Am I right?

Mr. STEVENS. That is exactly what it is

intended to effect, with the further restraint which I have already mentioned.

Mr. ALLEY. I understand further that no part of this loan is intended to be a legal tender in any shape.

Mr. STEVENS. It cannot be if we pass the amendment proposed. No part of it has yet been issued in that form, and we do not intend to allow it to be.

Mr. BROOMALL. I desire to ask whether or not this issue is intended to be in the form of notes calculated for circulation?

Mr. STEVENS. It is intended to be in the form of seven-thirty notes, precisely in that form.

Mr. BROOMALL. I wish to ask also whether the \$200,000,000 authorized by the act of June, 1864, are not now circulating to a considerable extent as currency?

Mr. STEVENS. I have no knowledge on that subject. They have been issued probably in the shape of bonds with coupons. They may circulate in the same way as promissory notes do.

Mr. BROOMALL. I see no provision in the law requiring them to be issued with coupons. May they not be issued under the law as compound-interest-bearing notes, such as are really in circulation?

Mr. STEVENS. No, sir; because by this proviso we propose to restrain the Secretary of the Treasury in that respect.

Mr. BROOMALL. The gentleman does not exactly understand my question.

Mr. STEVENS. There are notes running for three years, which bear compound interest, and are a legal tender for their face.

Mr. BROOMALL. Are there not also in circulation similar notes, made a legal tender, but bearing interest compounded at six per cent.?

Mr. STEVENS. I have not seen any. I have no knowledge of them.

Mr. BROOMALL. Is there anything in the law that prevents these notes from being issued simply in the shape of the compound-interest notes now in circulation, and without coupons?

Mr. STEVENS. As I stated before, the object of the proviso is to prevent that.

Mr. BROOMALL. The proviso, if I understand the gentleman aright, provides that they shall not be made a legal tender. I also understand the gentleman to say that the present issue, the \$200,000,000, are not made legal tenders; that the Secretary of the Treasury did not see proper to exercise the power given to make them a legal tender. Am I right?

Mr. STEVENS. You are right.

Mr. BROOMALL. Then the \$130,000,000 will be precisely like the present six per cent. compound-interest-bearing notes in circulation, lacking the element of legal tender?

Mr. STEVENS. No six per cent. compound-interest-bearing notes have been issued under this law; they have been issued under the law of 1863.

Mr. SCOFIELD. I wish to inquire of my colleague [Mr. STEVENS] whether under that act and the amendment he proposes the Secretary of the Treasury will not still have the power to issue about \$70,000,000 more of legal-tender notes than have been issued hitherto?

Mr. STEVENS. We do not interfere with the first \$200,000,000, but we do interfere with the balance, which we are now providing for.

Mr. SCOFIELD. My inquiry is this: if we pass this bill, then, with the proviso which the gentleman has proposed, will not the Secretary have the power to add to the volume of the legal-tender notes now in existence some \$70,000,000?

Mr. STEVENS. The gentleman means by legal-tender notes compound-interest-bearing notes.

Mr. SCOFIELD. I mean the notes to pay duties, and which are usually known as legal-tender notes.

Mr. STEVENS. There is an express limit to the legal-tender notes of \$450,000,000. That is the law now.

Mr. SCOFIELD. There are about \$70,000,000 of notes which may be issued under this act, and when we authorize the Secretary to issue them in the form of seven-thirties he will then have power to make them legal-tender notes under the two acts, notwithstanding the proviso.

Mr. STEVENS. No, sir.

Mr. SCOFIELD. Then strike out all after the word "for," in the proviso, and say that he shall

not have power to issue any more legal-tender notes in any form.

Mr. MORRILL. Will the gentleman yield to me for a moment?

Mr. SCOFIELD. Certainly.

Mr. MORRILL. Mr. Chairman, I will state to the committee what I understand to be the precise facts in connection with this matter. The Committee of Ways and Means do not propose to give to the Secretary any power to issue any legal-tender notes by the bill now before the committee. They do not propose to repeal any authority he now has in relation to that matter. Under the first section of that act that power is not yet exhausted, and the gentleman from Pennsylvania is correct in supposing that there is still the option on the part of the Secretary of the Treasury to issue some sixty or seventy million dollars more. We do not propose to interfere with the law as it now stands upon the statute-book. That is considered by the Secretary of the Treasury as exceedingly useful in the negotiation of loans as it now stands. So far it has only been used to issue compound-interest-bearing notes to take up previous notes issued bearing five per cent. interest. There have been no legal-tender notes issued, as I understand, under this act—not a dollar. We propose now simply to give authority to the Secretary to issue seven-thirty bonds or notes, as you may choose to call them, to the extent of \$200,000,000. That is all there is of it, more or less.

Mr. PIKE. I wish to move an amendment to the first section of the bill.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to the floor.

Mr. STEVENS. I think that there is yet unexhausted, under the law giving to the Secretary of the Treasury the right to issue seven-thirty bonds, \$70,000,000, and some \$130,000,000 under the other. Under that section no legal-tender note in any shape, no compound-interest-bearing note, has been issued. They have all been issued simply in the form of seven-thirty bonds.

Mr. BROOMALL. Let me call the gentleman's attention to the law.

Mr. STEVENS. I yield for that purpose.

Mr. BROOMALL. I find in the act of Congress which this bill proposes to alter these words:

"And the said Treasury notes may be disposed of by the Secretary of the Treasury on the best terms that can be obtained, for lawful money; and such of them as shall be made payable, principal and interest, at maturity, shall be a legal tender to the same extent as United States notes for their face value, excluding interest, and may be paid to any creditor of the United States at their face value, excluding interest, or to any creditor willing to receive them at par, excluding interest; and any Treasury notes issued under the authority of this act may be made convertible, at the discretion of the Secretary of the Treasury, into any bonds issued under the authority of this act."

How does the gentleman get over the provision of law making them legal tender?

Mr. STEVENS. They are only legal tender when they are made payable at certain times; and it is so expressed on their face. None of them have been issued, not a dollar. They have issued seven-thirty bonds, and none have been issued under the other power contained in that law.

Mr. PIKE. If the gentleman will allow me, I will offer an amendment.

Mr. STEVENS. I will hear the amendment. The amendment was read, as follows:

And provided further, That the Treasury notes hereby authorized shall be three-year notes with coupons, and may be convertible into bonds of the United States.

Mr. STEVENS. I cannot agree to that, because he may wish to issue one or two year notes. I think that discretion should not be taken away from the Secretary; but we do propose to take away from him the power of making the notes a legal tender.

Mr. PRICE. I am not particular about the time. I only wish to obviate the difficulty which exists in the minds of some gentlemen upon this floor, and therefore my proviso was designed to fix the fact that the notes shall be coupon notes, and shall stand upon the same footing as the coupon notes now authorized to be issued under existing acts. I am not particular about the time, whether it be one, two, or three years; but I desire to fix the fact that they shall be coupon notes; because it is no secret that these notes are intended to be used for banking capital. By making the notes coupon notes, and taking away the

objection which exists in the minds of gentlemen, I presume the bill will pass without any objection.

Mr. PIKE. I desire to offer an amendment.

Mr. STEVENS. I desire to say what I have to present, and then I will yield the floor to others. The Secretary of the Treasury is of opinion that he ought to be left the same discretion which the former Secretary had, and he says it aids him very much in making loans. He is enabled with it to make loans when otherwise he could not; but the committee, so far as the \$200,000,000 are concerned, are not willing to leave him quite that discretion. They have not thought proper to interfere with him in executing the law as it now stands. We did not think it expedient to do so. But it is well known that all notes he has issued have been issued in the shape I have mentioned. No one of them has been a compound note, or a legal tender. But as I said before, as we are enlarging the authority of the Secretary, it seems right to restrain, so far as we choose to do so, his power in regard to issuing legal-tender notes.

These notes are not intended as banking capital. I never heard of their being the foundation of banking capital. They are not of the kind used for that purpose. Registered bonds have to be used, and if others are offered they are not received, but are required to be converted into registered bonds. So I think there can be no kind of difficulty about this. As my colleague [Mr. MORRILL] has said, we do not propose to change the present law in regard to the seven-thirties; but when we give further power to issue seven-thirties we do propose to restrain the Secretary more than he is now. If the House does not think proper to give him the discretion to convert these bonds into seven-thirties, they will say so.

Mr. HOLMAN. I move to amend by striking out the last clause of the bill.

Mr. PIKE. That is what I sought the floor to do.

Mr. HOLMAN. I hope the gentleman will yet have an opportunity to present his views. I move to amend by striking out the last clause, as follows:

And such notes shall be exempt from taxation, by or under State or municipal authorities.

I do not see how we can well avoid conferring upon the Secretary of the Treasury the authority sought to be obtained by this section. I understand that the only effect is that whatever may remain of the \$200,000,000 authorized by the act referred to, may be issued in the form of bonds or Treasury notes, bearing interest not to exceed seven and three tenths per cent., and having a period of not more than three years to run. Whatever gentlemen may say upon the subject, it is under this authority that the Secretary of the Treasury can issue—if he has not already issued—compound six per cent. Treasury notes. The object of my amendment is this: the whole benefit of this Treasury note feature of legal-tender notes bearing interest is to inure to the benefit of the bankers of the country. It does so in this way: the bankers of the country are required to keep on hand a given amount of money. Instead of keeping on hand legal-tender notes, not bearing interest, they throw them into circulation and place on deposit the six per cent. legal-tender notes authorized under this law. It is very true they cannot issue them over their counter, but they can use them for all other purposes the same as legal-tender notes, as men do in their ordinary transactions. The effect then is this, that the whole banking interests of the country are enabled to deposit in their banks a paper bearing interest, at least at the rate of six per cent., and compound interest at that, and at the same time be exempt from all taxation.

Now, while I do not well see how the authority to issue these notes can be withheld from the Secretary of the Treasury, because means must be obtained to carry on the Government, yet I do protest against conferring upon an interest already receiving such extraordinary favors under our system of finance, the power not only to receive interest on the money deposited in their vaults, and that too at enormous rates as compared with those of other nations, but, at the same time, exempt it from all taxation whatever. Sir, it is withdrawing from taxation for national purposes, for State purposes, for county purposes, for municipal purposes, millions and millions of

our capital, and at the same time throwing upon the labor of the country, upon the producing interests of the country, increased burdens of taxation. It seems to me that nothing could be more unwise.

Gentlemen may say that this question has already been discussed in this House, and that the House by a small majority has decided in favor of exempting this species of property from taxation. But it will be remembered that when the question was before the House the argument was that the exemption only applied to the bonds; but now, by the express terms of this bill, the principle of exemption from taxation is to apply to the notes, and not only to the notes, but to the legal tenders to the amount of their face; and at the same time, bearing interest, those notes go into circulation; independently of the bond feature to which I have referred, they are found in the hands of our citizens everywhere, so that any man can exempt himself from his share in the burdens of taxation which the extraordinary expenditures of the times have imposed upon every town and township and county in the loyal portions of the country; he may exempt himself from the payment of a single dollar of taxes by simply investing his means in the six per cent. compound notes or the seven and three tenths authorized by this act.

It is not sufficient for gentlemen to say that under the second section of the original act "to provide ways and means for the support of the Government, and for other purposes," approved 30th June, 1864, no six per cent. compound notes have been issued, because, in point of fact, they can be issued under the second section of that act which has been already read upon this floor, and which clearly confers upon the Secretary of the Treasury the power to issue these notes at an interest not exceeding seven and three tenths per cent. per annum, and running three years, and makes them a legal tender to the amount of their face.

In view, therefore, of the effect of withholding this species of property from taxation, in view of its injustice, in view of the fact that by exempting this particular interest in favor of the capitalists of the country, you increase the taxation of those who are engaged in industrial pursuits, I must protest against it, and protest against it more especially as the Representative of an agricultural community who cannot receive the full financial benefit of a provision like this to the extent to which it will result to the commercial interests of the country.

Mr. KERNAN. I think that the amendment proposed by the gentleman from Indiana will not effect his object. Within a year and a half past the United States courts have held, reversing the decision of the courts of the State of New York, that the bonds, the security issued by the Government, are exempt from taxation by virtue of the Constitution of the United States without any law; and hence, if they are to be taxed, it is necessary that Congress shall expressly waive the privilege which the courts hold that the Government has under the Constitution of the United States. It will be necessary that we shall declare expressly that they shall be subject to taxation, or else under this decision they will be exempt by the Constitution itself. Hence I suggest to my friend from Indiana that if he desires to legislate upon this subject he must legislate in reference to that decision, assuming it, as I must do, to be right.

Mr. BROWN, of Wisconsin. The gentleman from Indiana will allow me to call his attention to another fact in reference to this question which, from remarks which have been made in this House, I think is not understood. This bill provides for the issue of so many millions of Treasury notes, according to the provisions of section two of the act approved June 30, 1864. Section two of that act authorized the issue of a certain amount of notes, which were legal tender, in lieu of the bonds authorized by section one, but it did not exempt those notes so issued from taxation. The provision of the bill now proposed is a new provision. The policy of exempting this class of securities from taxation is for the first time proposed this session.

Mr. BROOMALL. Mr. Chairman, I wish to call the attention of the chairman of the Committee of Ways and Means to a note which I

hold in my hand, and which purports to be issued under the act of June 30, 1864—the act proposed to be amended by the act now pending. This note is made, on its face, a legal tender to the extent of its principal, without interest. I find that the issue under that act is in the form of currency without coupons, if the note which I hold in my hand is a fair sample. I want to be understood, however, that I do not oppose this on account of the notes being a legal tender. On the contrary, if the currency is to be further increased, I prefer it to be uniform, and that all the notes should be made legal tenders, if any are. My objection is to the form of the note. If the Committee of Ways and Means will put this bill in a shape such that the issue under it shall not enter into the currency of the country and further inflate it, I will vote for it. But nothing but being satisfied that the condition of the Treasury absolutely demands the further issue of notes that can enter into the currency in any shape, will induce me to vote for such a measure. I think that the great mistake made heretofore is in having inflated the currency too much. I think it would be better to increase the rate of interest on bonds until sufficient money can be obtained in that form, than to inflate the currency further than it is inflated. If the matter can be so modified that no further inflation of the currency shall take place under the act, I will vote for it with pleasure.

Mr. STEVENS. I desire to say that with regard to the note produced by my colleague, [Mr. BROOMALL,] it was issued under a section which authorized them to be issued for the exchange of legal-tender notes. None of the \$200,000,000 referred to in the act of June 30, 1864, was issued in the form of the note which my colleague has shown. That is one of a class of notes issued in exchange for other legal-tender notes.

Mr. HOLMAN. There can be no question, Mr. Chairman, that when the Secretary of the Treasury issued these compound-interest notes, he undoubtedly had the power to do so; for the express terms of the act are that he may issue, to the extent of \$200,000,000, notes running for three years, and not exceeding a given rate of interest, seven and three tenths. It is subject to that authority that the balance of the other \$200,000,000 is proposed to be issued. I believe the gentleman from Pennsylvania stated the balance at \$130,000,000.

Mr. STEVENS. Yes, sir.

Mr. HOLMAN. I do not agree with gentlemen that we can avoid conferring this power on the Secretary of the Treasury. I would go as far as any gentleman to avoid a further expansion of the currency; but it seems to me that it is almost impossible to avoid authorizing the Secretary of the Treasury to exercise some discretionary power in this matter, else in many instances you may subject him to the rapacity of the banks. The objection that I raise is mainly confined to the one fact, the exemption of these notes from taxation. My friend from Wisconsin [Mr. BROWN] suggests that by the act of 30th June, 1864, Treasury notes were not exempt from taxation; he may be correct. Yet when you examine this act you will find that the last clause of the first section provides "that all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under any State or municipal authority." The gentleman argues that notes to be issued under the second section of that act are not embraced by that general provision. I am apprehensive that he is mistaken in this construction, although when the subject was before the House last session it was argued, with some degree of force, that the principle of exemption from taxation did not apply to the legal-tender notes bearing interest, but to the bonds only.

In reply to the gentleman from New York [Mr. KERNAN] who has referred to a decision of the Supreme Court, I understand that decision not to have been made with reference to the circulating medium of the country, but that, on the contrary, it was held that the principle applied only to the bonds issued by the Government of the United States. It seems to me, Mr. Chairman, that there is a wide distinction between bonds issued by the Government and the circulating medium of the country; for if it be true that the whole circulating medium of the country, issued by authority of the Government, is exempt from taxation, then the whole body of the wealth of the country held by

the banks and capitalists is exempt from the burdens of State and municipal taxation, leaving the burden on the tangible wealth and labor of the country. If such is the result it will be the most oppressive and disastrous result that ever sprang out of the misfortunes of war; not a temporary but a permanent evil, under which the labor of the country would bend for ages; a result almost fatal to free government, for labor then would be at the mercy of capital, the one stooping under taxation for the sole benefit of the other. This is inevitable if we do not resist this exemption of the many millions of Government securities from taxation. But, Mr. Chairman, to avoid any ambiguity about this matter, and in order that the purpose of Congress may be clearly declared, I adopt the suggestion of the gentleman from New York, [Mr. KERNAN,] and propose not only to strike out these words, but to substitute words expressly conferring upon the States and municipal authorities the power to tax these notes. I move to amend by striking out these words:

And such notes shall be exempt from taxation by or under State or municipal authority.

And inserting the following:

And the notes issued under this act shall be subject to State and municipal taxation as other property.

I suppose that the use of the words "as other property" would oblige the States to impose no greater tax upon this species of property than might be imposed upon other property of a similar character situate within their jurisdiction.

Mr. SCOFIELD. I desire to move an amendment; to add the following proviso:

Provided further, That no legal-tender notes shall be issued by authority of this act, or the act to which this is a supplement.

Mr. GRINNELL. Mr. Chairman, I am constrained to support the amendment proposed by the gentleman from Indiana, [Mr. HOLMAN.] At the last session, when this subject was under discussion, I took ground in favor of exempting these notes from taxation. You remember, sir, that those were darker days than these. You remember, sir, that at that time there were doubts entertained by some in regard to the character of our securities. We wished to dissipate the doubts then existing in regard to the future of the Government, and to induce capitalists to take those securities. Hopefully, sir, they took them. They have proved extraordinary investments. Every one holding them is satisfied with them. You now find that those who own very large amounts of these securities declare that they can afford to be taxed. Of course, I do not propose that there shall be any *ex post facto* law on this subject; but we can provide now that the future issues of these notes shall be subject to taxation for State and municipal purposes.

We have been told, and will be told, that the surplus money of the country is stored away, and escapes the excessive taxation which must be felt by all classes of the country for years to come. Now, sir, I wish to obviate any objection of this sort. Our taxes will be heavy. Let them be levied judiciously; let them be borne equally; let them fall upon those who are able to pay them.

Mr. WILSON. I desire to ask my colleague whether he supposes that the Government of the United States can dispose of six per cent. bonds, if those bonds are subject to a State taxation of two or three per cent., as the case may be, and also to municipal taxation.

Mr. GRINNELL. I do not know what the tax may be. I do not know whether it will be so much as two or three per cent.

Mr. WILSON. If they are subject to State and municipal taxation it may be in some instances more than two per cent.

Mr. GRINNELL. I know that in the State which the gentleman and myself in part represent, the taxation is not so high as that. One per cent. is there deemed excessive taxation.

Mr. WILSON. I will suggest to my colleague that in some places the State and the municipal taxes will amount to three per cent.

Mr. HUBBARD, of Iowa. I would like to ask my colleague [Mr. GRINNELL] whether, in many of the counties of the State of Iowa, the taxes, State and municipal, do not amount to over three per cent.

Mr. GRINNELL. I am not acquainted with any such county.

Mr. HUBBARD, of Iowa. Well, I am ac-



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quainted with a good many counties of that character.

Mr. GRINNELL. Even if that be true, sir, I still maintain that it is right that this Congress should so legislate that there shall in the future be no occasion for remark as to class legislation. How is it now? Nineteen twentieths of the people of this country who pay taxes are those who are engaged in business. They belong to the middle classes. They are merchants, manufacturers, men engaged in commerce, or the smaller class of farmers. Now, sir, shall we say that those who are so fortunate as to live in great cities, and can lay by their surplus funds in these Government securities, because of their peculiar facilities for making money, shall be exempted from taxation on their investments? I believe that the adoption of the legislation now proposed, without some such amendment as that of the gentleman from Indiana, will cause many people to declare, and with some justice, that we have been legislating for a privileged class in this country. I desire that our taxation shall rest equitably upon all.

I know it will be said that, by making these notes liable to State and municipal taxation, we shall enhance the value of the securities already issued and taken. I cannot help that, sir. That increase of value will be the good fortune of those who regarded hopefully the prospects of the Government in darker days, who looked upon the bright side, who were willing to trust the Government, although there was a possibility that they might lose. Let them have this good fortune. Let them make this money, and not those who have continually talked as though the Government was to be put down, and its securities were to become worth nothing. I am not willing to favor any legislation which will bear heavily upon the industrial classes and upon the great masses of our people, and which will grant superior advantages and privileges to one class over another. But I do not wish to consume the time of the House.

Mr. STEVENS. Mr. Chairman, I do not suppose that my friend intends it, but he is so elated with the good news that he thinks the war will now carry itself on, and that we need furnish no further supplies. No man supposes with such a provision, leaving these bonds open to every State and municipal taxation, that a dollar of them will be sold. No, sir, not one farthing of them would be sold to any man having common sense. I do not even believe that the gentleman himself is so elated that he would advocate that provision. The effect of this provision of the committee is to enhance the value of the bonds which have been sold already, and to place these bonds in the market upon a good footing. Now, sir, it would be an excellent thing for capitalists to have these bonds limited to the number that they have in their hands. I suppose that these bonds would then go up twenty per cent. I am convinced that it would be highly improper to subject these bonds to taxation when we still need money, and when we have not enough in the Treasury to pay the Army.

I move that the committee rise to close debate. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SPALDING reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 677, to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, and had come to no resolution thereon.

Mr. STEVENS. I move that all general debate be closed in the Committee of the Whole on the state of the Union in one minute after the consideration of the bill shall be resumed.

The SPEAKER. That will leave five minutes debate.

The motion was agreed to.

Mr. STEVENS moved to suspend the rules,

and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPALDING in the chair,) and resumed the consideration of the special order.

The question recurred on Mr. HOLMAN's amendment.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. HOOPER and HOLMAN were appointed.

The amendment was rejected, the tellers having reported—ayes 39, noes 61.

Mr. FRANK moved the following amendment to the amendment:

*And provided further, That the Treasury notes hereby authorized to be issued in pursuance of this section, may be used as a basis for the issue of circulating notes in the same manner as other United States securities are used under the provisions of the act entitled "An act to provide a national currency, secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof," passed June 3, 1864.*

The amendment was rejected.

Mr. BROWN, of Wisconsin. I submit the following amendment:

*And provided, That said Treasury notes shall not bear interest.*

Mr. Chairman, I offer this amendment for the reason that the very worst form in which you can issue a legal-tender note is the one provided for in this section. The first blunder that was made in our financial system was in making a distinction by the Government itself between that class of money which it forces the people at large to take and another kind of money, gold, which it provided for special purposes and for a special class of individuals. The result was speculation in gold and depreciation of that currency which the Government had provided for the people. You now come and commit another fault of the same kind providing for an issue of another class of legal-tender notes which are to pass into circulation, in the first instance, and then to be locked up in the vaults of the banks while they will force out into the hands of the people at large that class of money which bears no interest. The result must inevitably be to depreciate that currency which we ordinarily use.

It appears to me, Mr. Chairman, that we have gone far enough in providing for the advantage of large capitalists. The whole system is one which exempts the rich who can invest large sums in the bonds of the Government, and places all the burdens of taxation upon the poorer classes. This goes even a step further. This enables the bankers to hold in their vaults legal-tender notes which bear interest, and no bill which the gentleman has introduced this season for the purpose of preventing speculation in gold will have the pernicious effect upon the gold market which this clause of the bill will have.

Mr. STEVENS. I presume the gentleman wishes to make these notes a legal tender, as he would have them bear no interest, and he must intend them for circulation. True, he has not expressed himself in so many words. If he intends them as a loan, and could get anybody to take them without interest, it would be advantageous to the Government, I admit; but the only doubt about it in my mind is—and it is a pretty strong doubt—whether capitalists will take the loan, especially for a long period, and without interest. That is the whole proposition of the gentleman.

The amendment was not agreed to.

Mr. PRICE. I offer the following amendment, to come in at the end of the section:

*Provided, That the Treasury notes hereby authorized shall be one, two, or three years' notes, with coupons, and may be convertible into bonds of the United States, as provided in section two of the act to which this is an amendment.*

The object I have in offering this amendment is simply this: we talk here every day of the session, whenever there is any currency or financial question before the House, about decreasing the

volume of currency, and we allege that the price of gold is attributable to the fact that the currency of the country is too large. That is true; and my amendment is designed to obviate that difficulty. If you make these notes seven-thirtieths you do not swell the volume of currency. I do not think any gentleman will say that he has seen any seven-thirtieth bonds circulated as currency. I propose to put this matter beyond a doubt by requiring that they shall be seven-thirtieths; and that, therefore, they shall not enter into the circulation, thereby increasing the price of gold in the market. If you leave the matter open the notes may be issued in some other shape, and may enter into the volume of currency, and thereby increase the price of gold. I am in favor of the bill and its general provisions, and I offer this as an additional reason why the amendment should be adopted. Any other shape these notes may take may swell the volume of currency, which every gentleman knows is too large now, and while we talk about it every day, the sun sets every day upon a larger volume of currency than it rose upon in the morning.

Mr. KASSON. I do not wish to duplicate the arguments already made, or the facts stated. I have but a few words to say upon this whole subject, and they are these: that the power to inflate the currency, which was given by Congress, and has been in force more than six months, is, by this bill, amended as proposed by the Committee of Ways and Means, reduced more than fifty per cent. We are informed by the Secretary of the Treasury that some remaining power, although very much less than that granted to his predecessor in office, but not used by him, is necessary for the successful administration of that Department, although he himself, I may perhaps properly state, is firmly opposed to any increase of the currency except under an emergency not now foreseen, where the safety of the Government may possibly depend upon it. And although the power has never yet been used, I am not myself disposed to tamper with this delicate machinery of financial operations between the Treasury Department and the financial world by taking entirely from the Secretary the power which his predecessor had, and which he asks to be continued, and which he will have, only in a less degree, when the recommendation of the committee is adopted.

I believe this committee will clearly see the propriety of leaving this partial and restricted power over the unissued balance under the second section of the bill. The Secretary of the Treasury may have no occasion to use it, but still, as it has been before a power in the Department, and as it becomes day by day less important in amount, as the seven-thirtieths are put upon the market, I would not interfere with it. This seven-thirtieth loan is being absorbed to the great satisfaction of the friends of the Treasury and of the country, and any incumbrance now put upon the policy which has made it successful endangers the future success of the balance of that loan.

Mr. PRICE. I want to say that what I said with reference to the increase of the volume of currency does apply to issues made by the Treasury Department. Every person knows that every day, and almost every hour, during the last two years, national banks have been chartered, and those banks put notes into circulation. It matters not from what source the volume of the currency is increased; the fact is patent that it is increased. I propose to make this popular loan of seven-thirtieths still greater by my amendment, and that we shall have seven-thirtieths and nothing else.

Mr. KASSON. There is no question that the issues of the national banks are somewhat increasing, though not so very largely, the volume of the currency, because a great many of the national banks are mere substitutes for or conversions of the State banks established under the old laws, and the notes of these institutions have been withdrawn from circulation.

Mr. ALLEY. Mr. Chairman, I move to strike out the first two words of the pending amend-

ment. No one, I know, in this House can be more opposed to increasing the volume of the currency than I am. I concur fully in the remarks of the gentleman from Iowa farthest from me; [Mr. PRICE,] so far as the disastrous influence upon the currency which an increase of its volume produces; but I say further, that the evil does not lie entirely or mainly with the issues of the Government currency, but beyond that, as much, or more, with the issues of the State banks. I am not in favor of entirely restricting the power of the Government to issue its own currency, in a time of war, like the present, although I am entirely opposed to the exercise of that power by the Secretary of the Treasury, except upon the most urgent necessity. As the gentleman from Iowa nearest to me [Mr. KASSON] has well remarked, the time may arrive, as it has been in the past, when it may be absolutely and indispensably necessary for the carrying on of the finances of the Government that this power should not only be lodged in the hands of the Secretary of the Treasury, but occasionally and discreetly exercised. Mr. Chairman, I believe with him that the evils growing out of this expansion of the currency are incalculable. The high price of gold to-day rests upon two causes. The first cause is the increase of the volume of the currency, and the next the want of confidence in the ability of the Government to meet all its promises to pay. If all the capitalists of the country believed fully and beyond doubt that this rebellion would be suppressed and this Government reestablished, then, sir, you would not find gold more than twenty per cent. above the lawful money of the country. But as it is, sir, that absolute and entire confidence does not exist, partly from fear of non-success and partly from fear of the action of the Government in allowing an increase of the volume of the currency, both national and State—an increase much more fearful in its effects from the action of State banks, sanctioned by the State Legislatures of the land, than from any other cause; and I hope that this Congress, before it adjourns, will tax out of existence all the State bank circulation of the country, and I hope that the power will be vested in the Secretary of the Treasury to issue legal-tender notes when it shall become absolutely necessary to carry on the finances of the Government. But I hope and believe that the Secretary of the Treasury will never exercise that power except upon the most urgent necessity, for I have very great confidence in that gentleman's judgment and discretion, and so believing, I am opposed to the amendment of the gentleman from Iowa.

Mr. DAWES. Will my colleague inform me why \$100,000,000 of national currency does not inflate the currency just as much as \$100,000,000 of State currency? It may not be so, but I would like to know why.

Mr. ALLEY. I will answer my colleague by saying that it does inflate the currency to just the same amount, but there is this difference: the Government not only saves the interest but has the control of the whole thing in its own hands, and if it is indispensable to the salvation of the Government that it should issue \$100,000,000 of legal-tender currency, as it has been obliged to do in the past, then I am in favor of it for the same reason that I was in favor of making the Government issues a legal tender as an uncontrollable necessity and choice of evils.

[Here the hammer fell.]

Mr. SCOFIELD. I want to ask the gentleman from Massachusetts if I understood him aright. If I understand his position, he is opposed to the issuing of any more legal-tender notes, but is in favor of a law to authorize their issue, just as our Democratic friends said here the other day on the constitutional amendment, they were all opposed to slavery but were equally opposed to its prohibition.

Mr. ALLEY. Mr. Chairman, I am opposed to the exercise, as I said, of this power except upon the most urgent necessity. I was in favor of the passage of the legal-tender act, as I have said, as a matter of uncontrollable necessity, and upon no other ground. I am in favor now of conferring this power, because the time may arise when the very salvation of the Government depends on its exercise, and I would hold the Secretary of the Treasury responsible for a rigid adherence to this policy of decreasing rather than

increasing the volume of the currency, which he has proclaimed over and over again as being sound policy. I have the most undoubting confidence in the integrity and discretion of the Secretary of the Treasury, and do not believe that he would, with this power given him, issue one dollar additional unless a necessity existed which was all-controlling. And so believing, I am in favor of giving him the power; but I am not in favor of his exercising it except in the emergency and upon the conditions I have named, and which I trust and believe may never occur. If I can understand logic at all, there is no inconsistency in the two positions. As I merely moved it *pro forma*, I now withdraw my amendment.

Mr. DAVIS, of Maryland. I move to amend the amendment of the gentleman from Iowa by striking out the first two words. I am not certain, Mr. Chairman, that I precisely understand the effect of the bill proposed by the Committee of Ways and Means. There was a law passed last session, the first section of which authorized the issuing of bonds of a particular form. The second section allowed \$200,000,000 of the amount authorized by the first section to assume the form of Treasury notes, differing in form, susceptible of being applied to different purposes, and of a form which permitted them, I believe, to constitute an additional circulating medium. I understand the proposal now to be—and if I am in error I will be very glad to be corrected—to enlarge the quantity of money, or of value, that is authorized to be issued under the second section of the act of June 30, 1864, in the form peculiar to that second section. In other words, it is to extend the amount of those notes beyond the \$200,000,000 in the form which the second section allows.

Mr. KASSON. Mr. Chairman, in compliance with the request of the gentleman from Maryland, [Mr. DAVIS,] I desire to correct that misapprehension of his. There were \$200,000,000 authorized under the first section of the act of June 30, 1864, to be issued in the peculiar bonds which he has referred to. That power was partially, and only partially, exhausted by the Treasury Department. Under the second section they have proceeded with the issuance of seven-thirties, and are still proceeding with it, until there is but a small portion, less than half, of the amount authorized by the second section remaining unissued. The Department cannot return to the first section and issue the balance unissued under it, in seven-thirties, for the first section does not authorize it. The effect of this bill, therefore, with the proviso proposed by the committee, is, so far from enlarging the power of the Secretary, to confine the exercise of that power to the balance unissued under the second section, and does not permit the Secretary to go back to the issue of bonds under the first section.

Mr. DAVIS, of Maryland. Mr. Chairman, I am still not clear as to the operation of this bill, or what is intended to be accomplished under it. The first section of the act of June 30, 1864, authorizes the Secretary of the Treasury to borrow, on the credit of the United States, \$400,000,000, for which he is to issue a particular form of bond. The second section says that the Secretary of the Treasury may issue on the credit of the United States, and in lieu of an equal amount of bonds authorized by the preceding section, Treasury notes not exceeding \$200,000,000. I understand, now, that the purpose is to allow a sum additional to the \$200,000,000 provided for in the second section to be issued in the form authorized in the text.

[Here the hammer fell.]

Mr. KASSON. I trust the gentleman will be allowed to proceed, as I have consumed part of his time.

Mr. DAVIS, of Maryland. I am endeavoring to get, if possible, some intelligence of the matter before the House. At this moment I am absolutely at sea. As to doing it in five minutes, I cannot do it.

Mr. KERNAN. Mr. Chairman, as I understand it, the effect of passing the law proposed will be to authorize the Secretary of the Treasury to add \$70,000,000 of legal-tender notes to the legal-tender notes now in circulation. In other words there is now \$70,000,000 unissued of what was authorized to be issued by the second section of the law of last June. The Secretary is authorized to issue that, and, in addition, to issue \$130,-

000,000—in ten dollar notes, if he chooses to do so—which he has power now to issue in bonds under the first section of the act of June 30, 1864. We therefore confirm his authority to issue \$70,000,000 legal-tender notes, which he now has, and, in addition, if we pass this act, he may issue \$130,000,000 more in circulating notes bearing interest, but which are not legal tender. In other words, we give him by law authority to issue \$130,000,000 in notes which he may now, as the law stands, issue in bonds.

Mr. DAVIS, of Maryland. I withdraw my amendment, and offer another one—to strike out the last word, merely for the purpose of making further inquiry.

The first section of the law of last session authorizes the issuing of \$400,000,000 of bonds. The second section provides that \$200,000,000 of that amount may be put in the shape of Treasury notes. The bill now reported from the Committee of Ways and Means declares that, in lieu of the bonds authorized to be issued by the first section of that act, the amount remaining unsold at this date may be issued in the form of Treasury notes, under the second section; so that the effect of the bill is to transfer \$200,000,000 from the first section to the second section, or so much of the \$200,000,000 as may now remain unissued—stated, I believe, at \$70,000,000 or some larger amount. The Treasury notes issued under the second section may be and have been issued in such a form and of such denominations as to enter into the circulating medium of the country. A gentleman in this House showed me awhile ago a fifty dollar note professing to be issued under that section.

Mr. STEVENS. Under a subsequent section, not under that section. These notes were issued in exchange for legal tenders, with a view to the destruction of the latter.

Mr. DAVIS, of Maryland. There is, Mr. Chairman, nothing to prevent just such notes being issued under the second section. The gentleman who is at the head of the Committee of Ways and Means proposes to offer a proviso limiting to some extent the discretion of the Secretary of the Treasury under the second section; that is, providing that no legal-tender notes shall be issued. But, sir, something more is required. Although a note be not a legal tender—that is, although a man may not be coercible to receive it—yet if it be in form and amount susceptible of being used in ordinary exchange, its value is the same as if it were an absolute legal tender. It will pass from hand to hand to the same purpose; it will be received upon the credit of the same Government; it will have exactly the same effect in increasing, and therefore inflating, the currency.

Now, sir, I am not willing to put in the hands of any officer the power to issue one more dollar, if it can be, under ordinary circumstances, treated or used as or converted into a circulating medium. The credit of the Government can supply itself, and must supply itself, by loans, on long date or short date, for regular investments here or in Europe, without disordering the currency of the country or making people pay two or three prices for the necessities of life, or reducing the fixed incomes of persons to one half or one third of what they really are. There is no state of circumstances that can justify such a thing; there is certainly none now probable; and I will act only in view of what is probable, and will cast no vote that directly or expressly or by implication authorizes such a thing in one shape or another. Now, if it is possible to put this bill in such a shape as to prevent that construction being put upon it, it shall have my vote; otherwise, I cannot vote for it.

Mr. PRICE. I must oppose the amendment of the gentleman from Maryland. I desire that he shall not strike out any part of my amendment. I am in favor of assisting the Committee of Ways and Means in this matter; and I am only sorry to find that my efforts to assist them have been so little appreciated. Now, sir, this cuts down the amount of bonds to be issued, and increases the amount of Treasury notes to be issued; and all I have to say, and all that need be said, in reference to it is simply this: I propose that the Secretary of the Treasury shall not have power to issue anything but seven-thirties. The seven-thirties are a good investment; everybody appears

to be in favor of them; and I propose that the Secretary of the Treasury shall not issue anything but the seven-thirties.

In reference to the argument that he cannot issue anything else, let me say one word. I hold in my hand a fifty dollar note, issued on the 15th of August, 1864, and under the authority of the act of June 30, 1864, the very act which this bill proposes to amend. A gentleman near me has another note of the same kind, a ten dollar note. So you see, Mr. Chairman, that, under that act, the Treasury Department does issue notes which go to swell the volume of the currency; and I propose that this shall not be done under this bill when it becomes a law.

Mr. STEVENS. I thought I had already sufficiently explained that those notes were not issued under the first and second sections, but under a subsequent section, authorizing the issuing of them for the exchange of legal tenders, with a view to the destruction of the latter. All the notes in that form have been issued under that section of the act.

Mr. PRICE. That explanation is legitimate and correct; but I think the committee must see that if the Secretary of the Treasury could, under the original law, issue these bills, which are legal tenders, and which go to swell the volume of the currency, he can, under the amendatory act now proposed, do the same thing, provided we do not restrain him in that respect.

Now, if the seven-thirties are what the country wants—and all the gentlemen say that they are—then I do the country and the Secretary of the Treasury no injustice in offering my amendment, because I only propose that the Secretary of the Treasury shall issue just what the country says it wants, and what the gentlemen on this floor, including the Committee of Ways and Means, say is demanded. I propose to restrain the Secretary of the Treasury from doing just what everybody says he ought not to do. What objection, then, can there possibly be to my amendment? Certainly none whatever.

Mr. DAVIS, of Maryland. I withdraw my amendment, and move to strike out the last four words.

Mr. Chairman, there is still a little confusion on this subject. The gentleman at the head of the Committee of Ways and Means states, what I have no doubt he is perfectly accurate in stating, that, as a matter of fact, no new legal-tender notes have been issued under this section, and that the fifty dollar note shown me by my friend from Ohio and the ten dollar note shown me by my friend from Massachusetts were issued under a particular clause of this section giving to the Secretary of the Treasury the right to cancel and destroy any Treasury notes heretofore issued under the authority of this act, and substitute therefor an equal amount of Treasury notes such as are authorized by this act. While it is true in point of fact that the Secretary of the Treasury may not have exercised his discretion to issue all of them in a shape susceptible of being used as currency, yet the power, it seems to me, still there exists, and it was because the power existed he was authorized under this very section to redeem in another form of security and issue these very notes in lieu of them.

I am not complaining of the Secretary of the Treasury. I do not see that he has abused the confidence reposed in him. I do not say that he has issued a single dollar of the original \$200,000,000; but I say that the language of the section authorizes him, and that authority I object to.

Mr. KASSON. I wish to state further, in answer to the gentleman from Maryland, that the purpose I at least, as one of the members of the Committee of Ways and Means, sought to accomplish will be shown by interpreting the amendment proposed by that committee. It is provided that this act shall not be so construed as to give any authority for the issue of any legal-tender notes in any form. So far I use the language of the committee. Now for my own: "Beyond the balance unissued of the amount authorized by the second section of the act to which this is an amendment." I state that to be the purport of the committee's amendment, and certainly what I intended to be the purport of it. I desire to have it fully expressed, as much so as any member of this House.

Mr. SCOTFIELD. Let me interrupt the gen-

tleman. Why issue any more legal-tender notes? Why not stop where we are?

Mr. DAVIS, of Maryland, rose.

Mr. KASSON. Let me answer the gentleman from Pennsylvania. I will say that I know of no reason or necessity for the issuing of them at this time.

Mr. SCOTFIELD. Let us stop them.

Mr. KASSON. If from some disaster in the money market our troops should be deprived of the payment necessary for the support of their families, and we should not have means to recover from that disaster, where is the member who would deny the power to furnish depreciated currency, if gentlemen choose to call it so, and supply the wants of the Government?

Mr. SCOTFIELD. Where is the capitalist in the country, if that emergency should arise, who would not furnish the means to pay the troops?

Mr. KASSON. Mr. Chairman, I am sorry to say that I agree with the chairman of the Committee of Ways and Means, that these capitalists are not willing to loan money without some compensation; and I also think that they will not loan it unless they believe they will do better in loaning it to the Government.

I will now hear the question the gentleman from Maryland desires to ask.

Mr. DAVIS, of Maryland. I ask my friend from Iowa why he will not accept this as an amendment to the section?

*Provided, That no note issued under this law shall be a legal-tender note, and no note shall be issued of a less denomination than \$100.*

That prevents it, first, from becoming a legal-tender note; and secondly, of being of such a denomination as will circulate as currency. I propose to offer the amendment at some proper time.

Mr. KASSON. I have no objection to so much of the amendment as fixes the denomination of \$100. Touching the other I have no authority from the committee.

Mr. DAVIS, of Maryland, by unanimous consent, withdrew his amendment.

Mr. MORRILL. I move to strike out the last two words to make a few remarks.

Mr. Chairman, if the Committee of Ways and Means had concluded to report a bill here merely authorizing the Secretary of the Treasury to obtain loans according to the form of the second section of the act of June 30, 1864, I suppose that all the purposes of the Secretary of the Treasury would have been accomplished. That is all this act will do if we pass it as it has been reported from the Committee of Ways and Means, with the amendment subsequently proposed by the chairman. We did not think it wise at the present time to give any authority to the Secretary of the Treasury to issue legal-tender notes in any form. That power, under the law of June 30, 1864, has not been exercised except to issue notes for those which have been canceled, and under a former law varying the form, so as to issue six per cent. compound-interest notes. But there has been no absolute increase of currency, but rather a diminution of even that class of notes under the administration of the present Secretary of the Treasury.

Now, as the Secretary will be bound by law, if this act shall pass, he will have the authority which was conferred upon him by the act of June 30, 1864, to issue legal-tender notes to the extent of sixty or seventy million dollars. With that we do not propose to interfere at all. The Secretary of the Treasury says that power is indispensable to him, and that it will be indispensable to anybody who administers the power which he now has, that he shall have that option remaining in order to enable him to negotiate loans on fair terms. That he considers to be all that will be necessary, and he will be perfectly content if no more power be granted. I trust that under the present circumstances in reference to the power, now nearly exhausted, for the issuing of these seven-thirties, we shall not restrict him as to the particular form.

It has been said that the power should be limited to the issuing of notes not less in amount than \$100. Why, many of our soldiers will be glad to obtain these bonds in small amounts, and so will many small capitalists.

Mr. GARFIELD. I am very anxious to have the gentleman answer a question or two. The first section of the act of June 30, 1864, author-

ized the issuing of \$400,000,000 in bonds. The second section allowed \$200,000,000 of that amount to be issued in Treasury notes, compound interest, semi-annually, or in other forms. Gentlemen tell us that of that \$200,000,000 not a dollar has been issued under that clause; and therefore the Secretary of the Treasury has the whole range of that \$200,000,000.

Mr. STEVENS. Some of it has been issued in the shape of seven-thirties.

Mr. GARFIELD. Now, the bill before us asks that the remaining bonds of the first section, which could not be issued in notes, may also be issued in notes. It seems to me therefore, if, as gentlemen say, the Secretary has not used the power conferred upon him under the first clause of the second section, they want to give him still more power than that which he has already.

On the 12th day of this month there had been issued at the Treasury Department \$120,000,000 of compound-interest notes, like those which have been exhibited on the floor this morning, six per cent. compound notes, interest payable semi-annually. I took the information myself from the Treasury Department.

Mr. BOUTWELL. Does the gentleman mean that we shall understand that \$120,000,000 of the six per cent. notes have been issued under the authority contained in the second section of the bill? Have they not been issued to redeem previous notes, called United States notes?

Mr. GARFIELD. I do not say they were all issued under the authority of the act referred to, but I do say that the whole issue of notes of that description was \$120,000,000 on the 12th of this month; and that they, together with all other notes issued by the Government of the United States, not including national currency, amounted to a fraction over \$707,000,000.

Mr. BOUTWELL. I would inquire whether the \$120,000,000 were not issued to cancel legal-tender notes?

Mr. GARFIELD. I understand they were issued to take up legal-tender notes, and that it is a mere transfer of the currency before the country. But the \$200,000,000 of notes of this description authorized by the second section of the act of June 30, 1864, have not been used, and it is proposed to extend the power in reference to them.

Mr. MORRILL. I withdraw my amendment.

Mr. STEVENS. I move to strike out the last word of the amendment for the purpose of saying, once for all, that gentlemen do not seem to understand that these compound notes referred to are to be issued under the second section of the act of 1863, which will be found upon page 710 of the Statutes, of which \$400,000,000 were authorized to be issued upon the conditions therein contained. By the bill of 1864, the Secretary of the Treasury was allowed to issue the same kind of notes, but merely to exchange for those. It was done in that way, and no other.

Now, if gentlemen wish to embarrass the Department, when we have gone as far as we think it proper to go in the proposed amendment, that no legal-tender notes shall be issued; if they wish to take away all authority to issue seven-thirties, without which the Department cannot get along, let them do it. It is for our friends to say whether they intend to sustain this Government or not.

I move that the committee rise for the purpose of closing all debate upon this bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SPALDING reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the special order, being a bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the special order be closed in one minute after its consideration shall be resumed.

Mr. HOLMAN. I believe the debate can be closed upon only one section at a time.

The SPEAKER. Only upon one section.

Mr. STEVENS. Then I move to close all debate upon the first section and the amendments pending thereto.

The motion was agreed to.



Mr. STEVENS. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the special order, the pending question being on the amendment offered by Mr. PRICE.

The question was taken, and the amendment was disagreed to—ayes eleven, noes not counted.

Mr. DAVIS, of Maryland. I move to add to the first section of the bill the following proviso:

*Provided*, That no notes issued under the law shall be a legal tender, and no notes shall be issued of a less denomination than \$100.

The question was taken, and there were—ayes 22, noes 45; no quorum voting.

Mr. WILSON called for tellers.

Tellers were ordered; and Mr. HOOVER and Mr. DAVIS, of Maryland, were appointed.

The committee divided, and the tellers reported—ayes 54, noes 39.

So the amendment was agreed to.

There being no further amendments offered to the first section of the bill, the Clerk read the second section.

Mr. STEVENS. I move to amend the second section by striking out all after the word "advisable" in the seventh line down to the end of the section, as follows:

And the Secretary of the Treasury is further authorized to issue bonds of the description issued under the authority of the act of 23d June, 1863, in pursuance of the notice for "proposals for loans," dated 8th September, 1860, to subscribers to that loan for the one per cent. deposited under said notice and not repaid: *Provided*, That the bonds so issued shall bear not more than five per cent. interest: *And provided further*, That fractional amounts may be repaid in lawful money of the United States.

Mr. Chairman, I make this motion because I am not quite satisfied, from the evidence which we have, that these bonds ought to be issued. It may be that hereafter we shall be supplied with sufficient evidence to induce us to grant these bonds. During the last Administration, proposals were made for bonds payable, I believe, in 1871, and a deposit was required at the time that proposal was made of one per cent. A large number of those who made proposals paid up, but the loan fell in value according to my information. Some say that it was because the Secretary of the Treasury did not call for it, and others say that it was because the loan thus fell; but for some reason or other a portion of those who had bid did not go on and comply with their contracts. The loan went below par. Now it is above par, and they come in and ask that the deposit which they had made as a forfeiture shall be given to them in bonds.

As I said before, I am not satisfied that it was the fault of the Government that they were not paid. My information about that is various. The Treasury Department has heard that Mr. Cobb did not call for them. The information from other very respectable sources is that they declined to pay it up. Therefore I do not wish to express an absolute judgment on the question now, and would rather have further time to consider it. If it is proper we can put it into another appropriation bill.

Mr. BROOKS. Mr. Chairman, that obviates the necessity of some inquiries that I was about to make of the chairman of the Committee of Ways and Means; but there are one or two other points on which I desire information. The gentleman will excuse me, for I have no other means of obtaining information on the subject. The first point on which I desire to make an inquiry is in regard to the amount of \$4,000,000 specified in the fourth line of the second section. Why is that special sum selected? I wish also to make an inquiry about the sixth line—"or, if he shall find it expedient, in Europe at any time" to dispose of these bonds he may do it. Is it worth while to put in these words? What is the object of them?

Mr. STEVENS. When these bonds were issued, \$4,000,000 worth of them were sent to London for the purpose of being disposed of. They were never disposed of. They remain on hand now in Europe. This is to authorize the Secretary of the Treasury to dispose of them either here or in Europe, and to receive either our own

money or the money of Europe for them; that is, not only our own gold coin, but European gold coin. That is the only object.

Mr. BROOKS. One further inquiry. I should like to know from the chairman of the Committee of Ways and Means in whose hands these bonds are in Europe.

Mr. STEVENS. The Secretary of the Treasury does not name the parties in whose hands they are. But I understand they are deposited in the hands of Baring.

Mr. BROOKS. Hypothecated there?

Mr. STEVENS. No, sir. Deposited there for sale.

The question was taken on the amendment offered by Mr. STEVENS, and it was adopted.

Mr. STEVENS. I intended to offer an amendment, but as that offered by the gentleman from Maryland [Mr. DAVIS] has been adopted, I am not sure whether we will ask the House to pass the bill. I move now that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SPALDING reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, a bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, and had directed him to report the same back to the House with two amendments.

Mr. STEVENS. I move the previous question on the bill and amendments.

Mr. SCOFIELD. I ask my colleague to withdraw the motion so as to let me offer an amendment.

Mr. STEVENS. What is it?

Mr. SCOFIELD. I wish to amend the amendment offered by the gentleman from Maryland, [Mr. DAVIS,] by inserting after the words "this law" the words "nor the act to which this is a supplement."

Mr. STEVENS. I rather think that if the House agree to the amendment proposed by the gentleman from Maryland we shall not ask for the passage of the bill. I cannot withdraw the motion for the previous question.

The previous question was seconded, and the main question ordered, which was first on the first amendment reported by the Committee of the Whole on the state of the Union, as follows:

Add at the end of the first section:

*Provided*, That no note issued under this law shall be a legal tender, and no note shall be issued of a less denomination than \$100.

Mr. DAVIS, of Maryland, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KASSON. I wish to inquire of the Chair whether that amendment is not susceptible of division.

The SPEAKER. It is not. An amendment reported by the Committee of the Whole on the state of the Union must be voted on as a whole.

Mr. KASSON. There are two distinct propositions in it.

The SPEAKER. The rule is that an amendment reported from the Committee of the Whole as an entire amendment is not divisible. If the amendment were offered in the House as an independent proposition, it would be divisible; but, being reported from the Committee of the Whole on the state of the Union, it must be voted on as a whole.

The question was taken; and it was decided in the negative—yeas 60, nays 63, not voting 60; as follows:

YEAS—Messrs. Allison, Ancona, Augustus C. Baldwin, Blaine, Brooks, Broomall, James S. Brown, Chanler, Clay, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Denison, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Charles M. Harris, William Johnson, Kalbfleisch, Orlando Kellogg, Kernan, Lazenby, Long, Mallory, McDowell, Middleton, Samuel F. Miller, Noble, Odell, John O'Neill, Pendleton, Perry, Price, Samuel J. Randall, Rogers, James S. Rollins, Ross, Schenck, Scofield, Sloan, Spalding, William G. Steele, Strouse, Townsend, Tracy, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, and Wilson—60.

NAYS—Messrs. Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Ambrose W. Clark, Cobb, Denning, Dixon, Donnelly, Eckley, Elliot, English, Frank, Garfield, Gooch, Grinnell, Hale, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Philip Johnson, Julian, Kasson,

Kelley, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McIntode, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Orth, Perham, Pike, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scott, Shannon, Stevens, Stuart, Thayer, Thayer, Upson, and Van Valkenburgh—53.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Blair, Bliss, Brandegee, William G. Brown, Freeman Clarke, Coffroth, Cravens, Thomas T. Davis, Dumont, Farnsworth, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Higby, Hulburd, Hutchins, Francis W. Kellogg, King, Knapp, Law, Le Blond, Marcy, McKinney, William H. Miller, James R. Morris, Morrison, Leonard Myers, Nelson, Charles O'Neill, Patterson, Pomeroy, Pruyn, Radford, Robinson, Smith, Smithers, Starr, John B. Steele, Stiles, Thomas Voorhees, Ward, Webster, Whaley, Windom, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, Worthington, and Yeaman—60.

So the amendment was rejected.

Mr. JOHNSON, of Pennsylvania. I move to reconsider the vote just taken.

Mr. STEVENS. I move that the motion to reconsider be laid on the table.

Mr. JOHNSON, of Pennsylvania. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 64, not voting 53; as follows:

YEAS—Messrs. Ames, Arnold, Baily, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Ambrose W. Clark, Cobb, Denning, Dixon, Donnelly, Eckley, Elliot, English, Farnsworth, Frank, Gooch, Grinnell, Hale, Benjamin G. Harris, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIntode, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Stevens, Stuart, Thayer, Upson, Van Valkenburgh, and Whaley—65.

NAYS—Messrs. Allison, Ancona, Augustus C. Baldwin, Blaine, Brooks, Broomall, James S. Brown, Chanler, Clay, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Dawes, Dawson, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grider, Harding, Harrington, Charles M. Harris, Philip Johnson, William Johnson, Kalbfleisch, Orlando Kellogg, Kernan, Law, Le Blond, Long, Mallory, Marcy, Middleton, Samuel F. Miller, Noble, Odell, John O'Neill, Pendleton, Perry, Price, Samuel J. Randall, James S. Rollins, Ross, Scofield, Spalding, William G. Steele, Strouse, Townsend, Tracy, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, and Wilson—64.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Ashley, Blair, Bliss, Brandegee, William G. Brown, Freeman Clarke, Thomas T. Davis, Denison, Dumont, Griswold, Hall, Herrick, Hulburd, Hutchins, Francis W. Kellogg, King, Knapp, Lazenby, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Patterson, Pomeroy, Pruyn, Radford, Robinson, Rogers, Scott, Smith, Smithers, Starr, John B. Steele, Stiles, Sweet, Thomas Voorhees, Ward, Webster, Windom, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, Worthington, and Yeaman—53.

So the motion to reconsider was laid on the table.

The next amendment adopted in Committee of the Whole was read, as follows:

Strike out in the second section all after the word "advisable," as follows:

And the Secretary of the Treasury is further authorized to issue bonds of the description issued under the authority of the act of 23d June, 1863, in pursuance of the notice for "proposals for loans," dated 8th September, 1860, to subscribers to that loan for the one per cent. deposited under said notice and not repaid: *Provided*, That the bonds so issued shall bear not more than five per cent. interest: *And provided further*, That fractional amounts may be repaid in lawful money of the United States.

The amendment was agreed to.

Mr. STEVENS. I ask unanimous consent to offer an amendment.

There was no objection.

Mr. STEVENS. I move to amend by adding the following:

*Provided*, That this act shall not be so construed as to give any authority for the issue of any legal tender notes in any form, beyond the balance unused of the amount authorized by the second section of the act to which this is an amendment.

On this amendment I call the previous question.

Mr. DAVIS, of Maryland. I ask the gentleman to allow me to move an amendment to his amendment, providing that these notes shall not be of a less denomination than \$100.

Mr. STEVENS. I cannot yield for that purpose. That is the very part of the gentleman's amendment to which I most objected.

The previous question was seconded, and the main question ordered, and under the operation thereof the amendment of Mr. STEVENS was adopted.

The bill was ordered to be engrossed and read

a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The bill was then passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OVER.

Mr. SCHENCK moved that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

#### POST OFFICE APPROPRIATION BILL.

Mr. STEVENS. I move to take up House bill No. 639, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866, in order that it may be considered in the House as in Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. Is it the ordinary Post Office appropriation bill?

Mr. STEVENS. It is.

Mr. WASHBURN, of Illinois. Then I hope it will be taken up and passed.

The bill was taken up and read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ABOLITION OF SLAVERY.

Mr. ASHLEY, by unanimous consent, presented joint resolutions of the Legislature of Ohio directing the Senators and requesting the members from that State to vote for the amendment to the Constitution of the United States in relation to slavery; which were laid on the table and ordered to be printed.

#### APPORTIONMENT OF NAVAL RECRUITS.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House, a report in regard to the apportionment of naval recruits among the different enrollment districts; which, on motion of Mr. PIKE, was referred to the Committee on Naval Affairs, and ordered to be printed.

#### CHANGE OF VESSEL'S NAME.

Mr. ODELL, by unanimous consent, introduced a bill changing the name of the William F. Storck, owned by Charles H. Marshall, to the International; which was read a first and second time, and referred to the Committee on Commerce.

And then, on motion of Mr. STEVENS, (at five minutes to four o'clock, p. m.) the House adjourned.

#### IN SENATE.

Monday, January 23, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of Thursday last was read, containing the following passage:

"Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry, and to the officers and men under his command, for their gallantry and good conduct in the recent capture of Fort Fisher, reported it with an amendment."

#### PROPOSED CORRECTION OF THE JOURNAL.

Mr. WILSON. I desire to move a correction of the Journal. I see that it states that the joint resolution of thanks to General Terry was reported back with an amendment. There was no title to the resolution as it was originally introduced, and it was reported back in a new draft in order to perfect it. I propose to amend the Journal by saying that it was reported back without amendment.

The VICE PRESIDENT. That is a proposition not in accordance with the fact. The resolution was reported back with an amendment, according to the Senator's own statement, and the Journal is right.

Mr. WILSON. The form of the resolution as reported was precisely the same as the original resolution, with the exception of the title. It was not intended to amend the resolution except to make a new draft to render it more perfect.

The VICE PRESIDENT. The Journal is in accordance with the fact, however.

Mr. DIXON. Do I understand the Chair to decide that the Journal cannot be corrected?

The VICE PRESIDENT. Certainly not. The Journal now stands precisely according to the facts in the case, if the Chair understands the Senator from Massachusetts. The Journal can be enlarged by stating the additional fact that the amendment was precisely the original resolution with a title, if that be the fact.

Mr. DIXON. With deference to the Chair, I will say that the amendment of the title was a different amendment, entirely, and subsequent to the first proposition. The chairman of the committee stated that he reported the resolution with an amendment, and he then sent to the Chair the identical resolution without the crossing of a t or a dotting of an i, and the Senate then proceeded to accept that as an amendment. Afterward the chairman also recommended that a title should be added, and that amendment was made. The Journal states that the resolution itself was reported with an amendment, striking out the whole resolution and inserting another, which I, with due deference to the Chair, submit was incorrect in point of fact. I submit this amendment to the Journal, to make it read—

"The Committee on Military Affairs and the Militia, to whom was referred the joint resolution," \* \* \* "reported it without amendment and recommended its passage."

The VICE PRESIDENT. If that is in accordance with the fact, the Journal can be so amended, but that is not in accordance with the statement of the Senator from Massachusetts.

Mr. WILSON. I desire simply to say that the resolution as it went to the committee had no title. The committee reported it back in a new draft, not intending to call that an amendment, but with a view of having a title and having the proposition perfect; but the body of the resolution as reported and passed was word for word as it was introduced.

The VICE PRESIDENT. If the Senator will state the transaction precisely as it took place in the Senate, the Journal will be made to correspond with the fact.

Mr. WILSON. I should like to have it corrected by inserting the additional words proposed, and that will make the whole matter right.

The VICE PRESIDENT. If the Senator will state that he meant to report the resolution without amendment, the Journal will be so corrected if there be no objection.

Mr. CLARK. I submit that it can be of no consequence in the world to amend the Journal after these explanations. It should stand as it is.

The VICE PRESIDENT. The Senator from Connecticut was understood to offer a proposition.

Mr. DIXON. I understand that the Senator from Massachusetts does state, as the Chair has suggested, that the committee intended to report the resolution back without amendment.

The VICE PRESIDENT. If the Senator from Massachusetts so states, the Journal will be so corrected.

Mr. WILSON. I do.

The VICE PRESIDENT. The Journal will be so corrected, if there be no objection.

Mr. CLARK. What was said by the Senator from Massachusetts was entirely correct. I occupied the chair at the time. He reported back the resolution in a new draft, and it was taken up as in a new draft and amended and passed. The Journal is right as to the precise point of fact.

The VICE PRESIDENT. The proposed correction will be made, the Chair hearing no objection.

#### CREDENTIALS PRESENTED.

Mr. CHANDLER presented the credentials of Hon. JACOB M. HOWARD, chosen by the Legislature of the State of Michigan a Senator from that State for the term of six years commencing

March 4, 1865; which were read and ordered to be filed.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, stating that he will cause a prompt response by the Adjutant General to resolutions of the Senate of the 10th instant calling for information in relation to major and brigadier generals in the service of the United States and officers of the regular Army of the United States; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, copies of the accounts of the superintendents and agents having in charge the refugee Creek, Choctaw, Chickasaw, and Seminole Indians, for the third quarter of 1864, which was referred to the Committee on Indian Affairs.

He also laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 12th instant, information in relation to the amount paid by that Department for attorney and counsel fees from June 30, 1863, to January 1, 1865, which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, in response to a resolution of the 5th instant calling for information as to the number of men enlisted in the naval service who have been credited on the military quotas of the respective States and the principle and evidence on which such credits were allowed; which was ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of citizens of Ohio, praying that provision may be made for the exchange of Union soldiers now in the hands of the rebels; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of a committee appointed at a convention of the publishers of weekly newspapers in Ohio, held at Columbus, January 4, 1865, praying for a repeal of the duty on printing paper; which was referred to the Committee on Finance.

He also presented thirty-four petitions of officers in the military service of the United States, praying for an increase of the pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the petition of Brigadier General T. J. Wood and other officers in the military service of the United States, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

He also presented fifty-five other petitions of officers in the military service of the United States, praying for an increase of the pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

Mr. HARLAN presented the memorial of Robert B. Riell, lieutenant United States Navy, praying that he may be allowed his proper promotion in the grade of commanders, which has been denied him in consequence of the report of a medical board; which was referred to the Committee on Naval Affairs.

Mr. HOWARD presented the memorial of the officers of the 4th Michigan infantry, asking for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of clerks in the Treasury Department, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of acting assistant surgeons United States Army, praying for an increase of compensation and that they may be exempt from draft, and that they may be reimbursed for all expenses necessarily incurred in the line of their duties; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of the United States residing in New York, praying for the enactment of a law to secure a republican form of government and abolish and forever prohibit slavery in the United States; which was referred to the select committee on slavery and freedmen.

Mr. MORGAN presented the petition of Thomas Murphy, praying that he may be re-

lieved from any obligation to the Government under his contract of the 26th of June, 1864, to furnish two hundred thousand blankets at ninety cents per pound; which was referred to the Committee on Claims.

Mr. VAN WINKLE presented a petition of citizens of Baltimore, praying for the adoption of the metric system of weights and measures; which was referred to the Committee on Commerce.

Mr. COWAN presented a petition of officers in the military service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GRIMES, the memorial and papers of John Ericsson, praying compensation for services in the construction of the machinery and propeller of the United States steamer Princeton, were ordered to be taken from the files and referred to the Committee on Claims.

#### AMENDMENT OF THE CONSTITUTION.

Mr. WADE. I desire to present a joint resolution from the Legislature of Ohio, instructing the members of Congress from that State in relation to amending the Constitution of the United States relative to slavery, which I ask to have read.

The Secretary read, as follows:

Joint resolution instructing the members of Congress from this State in relation to amending the Constitution of the United States relative to slavery.

Whereas the declaration "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed," is as true and self-evident now as when first enunciated by the fathers and founders of the Republic; and whereas the Constitution of the United States was ordained and established "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty" to the people of the United States; and whereas slavery, or involuntary servitude, except as a punishment for crime, is a violation of the inherent and inalienable rights of men, a crime against justice and humanity, a disturber of the Union and of domestic tranquillity, a hindrance to the common defense, a spoiler of the public liberties, has inaugurated civil war, and is the cause of our national calamities: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That our Senators and Representatives in Congress be requested to use their influence and vote for the proposition now pending in Congress to amend the Constitution of the United States so that neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction, and giving to Congress power to enforce such prohibition by appropriate legislation.

Resolved, That the Governor be requested to forward to each of our Senators and Representatives in Congress a copy of these resolutions.

JOHN JOHNSTON,  
Speaker of the House of Representatives.  
CHARLES ANDERSON,  
President of the Senate.

Mr. WADE. Inasmuch as that subject has been acted upon by the Senate, I move that the resolutions lie upon the table, and be printed.

The motion was agreed to.

Mr. BROWN presented resolutions passed by the constitutional convention of the State of Missouri instructing the Senators and Representatives from that State to cast their influence to secure the passage of the constitutional amendment to abolish slavery throughout the United States; which were ordered to lie upon the table, and be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit; and the bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866.

The message further announced that the House had passed the following Senate bill and joint resolution, without amendment:

A bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; and

A joint resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D.

Porter, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher.

The message further announced that the House had passed the joint resolution (S. R. No. 98) tendering the thanks of Congress to Major General Alfred H. Terry, and the officers and men under his command, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills and joint resolutions, in which the concurrence of the Senate was requested:

A bill (H. R. No. 631) to provide for holding courts in the western district of Missouri, and to prescribe the times thereof;

A bill (H. R. No. 664) for changing the time for holding the circuit courts in the district of Virginia;

A bill (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866;

A bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864;

A bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia;

A bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866;

A joint resolution (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command; and

A joint resolution (H. R. No. 140) authorizing the Secretary of the Treasury to give the necessary notice stipulated, pending the intention of the United States to purchase the building known as the Merchants' Exchange, New York city, now used for custom-house purposes.

#### DEFICIENCY BILL.

Mr. SHERMAN. I desire to present a report from the committee of conference on what is called the deficiency bill. I ask that it be read, and then I desire to submit a motion in regard to it.

The Secretary read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House, No. 620, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, having met, after full and free conference have been unable to agree.

THADDEUS STEVENS,  
GEORGE E. PENDLETON,  
EDWIN H. WEBSTER,  
Managers on the part of the House.  
JOHN SHERMAN,  
JOHN CONNESS,  
CHARLES R. BUCKALEW,  
Managers on the part of the Senate.

There being no objection, the Senate proceeded to consider the report.

Mr. SHERMAN. I desire to submit a motion that the Senate insist upon its amendments disagreed to by the House of Representatives, and ask for another committee of conference. Before that motion is put, I wish to call the attention of the Senate to the question of difference on this bill, and I should like to have the attention of the Senate and a deliberate vote upon the question between the two Houses. It is very important that this bill should be passed to-day or to-morrow. Many of the appropriations are necessary for the support of the Army and Navy. The bill contains an appropriation of over one hundred million dollars, nearly all of which is for the Army and Navy. The point of controversy between the two Houses grows entirely out of this clause of the deficiency bill:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for that purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives; but no payment shall be made under this provision to any other persons than the clerks, officers, or other employes of the House, and the reporters for the Congressional Globe.

The Senate struck out this clause containing an appropriation for twenty per cent. extra compensation to the employes of the House for the last session, by a unanimous vote of the Com-

mittee on Finance, and also by the unanimous vote of the Senate, there being no discussion in the Senate, however, and no vote by yeas and nays. The House now insists that we shall retain this provision in the deficiency bill. The other amendments of the Senate are not disagreed to. Although they are not yet concurred in, there is no disagreement in regard to any of them except this one; and now we must treat the question deliberately, whether or not we will consent to the increase demanded by the House of twenty per cent. to their employes for the last session. The conferees on the part of the House insist that it is discourteous to the House to refuse to allow them to make this appropriation, and they evince some feeling on the subject. The appropriation by the resolution of the 4th of July last is admitted to be illegal. They first proposed to pay this \$37,000 out of the contingent fund of the House. The Clerk of the House of Representatives refused to pay the money without the sanction of the Comptroller. The question was submitted to the Comptroller, and he refused to pass the vouchers for the payment of this money. I have before me the letter of the Comptroller, referring to the law on this subject, from which it is perfectly clear that neither the House of Representatives nor the Senate could provide for such an appropriation as this without a law authorizing it.

Senators who have been here for some years will remember the controversy about extra compensation to the employes of the two Houses. Prior to 1854 it was usual for both Houses to allow their employes twenty per cent. extra compensation at the end of each session. In 1854, however, the increase was made permanent, and all further allowances of that kind were prohibited by law. But subsequently, between 1854 and 1858, the custom again sprang up of allowing the usual extra compensation of twenty per cent. In 1858, as it was supposed, Congress cut off all pretense of that kind in either House by this provision:

"That no part of the appropriations which may at any time be made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, unless such clerk, messenger, or other attendant be so employed by a resolution of one of said Houses."

Under this law, no extra compensation has been allowed to the employes of the two Houses since 1858, and it was believed that this fifth section cut off all power by either House to allow extra compensation. When the House, however, passed the resolution of last session, the question was submitted to the Comptroller. He quoted this law and decided that he was not authorized to pay the money demanded by the House of Representatives, and he has refused to pay it. Thereupon this provision was inserted in the deficiency bill, to legalize the payment by the Comptroller, and the question is whether we shall assent to it.

I may say on behalf of the Committee on Finance that we determined unanimously that we would not approach the question of the increase of the compensation in this way; that the House had no more power to increase the pay of their officers than the Senate, or the President, or the Executive Departments. The law expressly forbids it, and expressly provides that the contingent fund shall not be used for increasing the pay of the employes. The law is clear and plain. We had to meet this question, therefore, not as a question of privilege on the part of the House, because the House had no power to raise the compensation of their employes; but we had to meet it as a question of policy, whether we will now consent to increase the compensation of our own employes. Looking at the question in that light, when we came to examine the pay of the employes of the Senate and the House of Representatives, we found that it was already higher in proportion than the pay of corresponding officers in the Executive Departments. Besides that, as the employes of the two Houses only work during the session, and many of them are paid for the whole year, they have that advantage over the employes of the Executive Departments. We therefore could not justify an extra allowance to



our own employes, to those who are around us and most attached to us, without at the same time allowing this extra compensation to extend to all the Executive Departments. No reason can be given for increasing the pay of our employes here that will not equally apply to all the Departments.

The proposition now before the Senate applies only to the employes of the House, and is confined to the House. Why should the pay of the employes of the House be increased and not those of the Senate? Why should the pay of the employes of Congress be increased and not those of the Departments? How could we approach this question of increase of compensation to our own employes alone, when we have petitions from thousands of officers, especially line officers of the Army, who are suffering from the deficiency of their pay owing to the condition of the currency? The Committee on Finance deemed that they could not in justice to the country, and in justice to their own reputations, increase the pay of the employes of Congress when we refuse to increase the pay of the Army and Navy. Under these circumstances we had but one course left, and that was to strike out the appropriation and to insist that it should be left out. Let us approach the question of the increase of the compensation of the officers of the Government as a separate and distinct proposition. If we are compelled by the circumstances of the time to increase the pay of any one, we certainly ought in the first instance to increase the pay of those who are suffering from an inadequacy of pay in the Army, the line officers of the Army; but to increase the pay of the employes of the House of Representatives alone, without providing for any other officers of the Government, seems to be unjust and improper; and therefore it was that the conferees on the part of the Senate insisted that this appropriation should be omitted. If, however, the Senate think differently, we have nothing to say. I submit the question now to the Senate, so that we may take a vote upon it. The motion I now submit is to still further insist and to allow the House of Representatives to have another vote. That does not defeat the bill, because the House may recede from this appropriation. I cannot say what the House may desire to do. It does seem to me that the House will not, in the face of the absolute want of the money appropriated in the bill for the benefit of the Army, insist on delaying the bill for this matter. The Secretary of War told me yesterday that one or two of these appropriations are now indispensable necessary, that he wants them to-day or to-morrow, and that the bill should be passed at once. The spectacle of hanging up this bill in order to secure the passage of twenty per cent. additional pay to a few civil employes of the Government is one certainly which I do not wish to regard. We may recede and pay these employes, but if we do so we enter upon a course which, in my judgment, will be injurious to the public service, and dangerous in the extreme in the present condition of our finances. I feel disposed, therefore, although the amount is comparatively small, to make a point of it and stand upon it.

There is another thing. Neither House ought to put upon an appropriation bill a measure that does not receive the free assent of the other. Every portion of the appropriation bill ought to be assented to freely by both Houses. Certainly after the Senate has deliberately acted on the question, we ought not to be required to take from the national Treasury this sum of money against our will merely to secure the passage of the deficiency bill. It seems to me that is the correct principle; it is one upon which I have always acted as a member of Congress, that where either House objects to any independent appropriation bill, to abandon it, because the appropriation bill ought not to be used as a medium to force through Congress an objectionable proposition to either House.

Mr. McDOUGALL. Mr. President, I do not think that one wrong justifies another, nor do I see the justice of the argument presented by the Senator from Ohio, which reasons that because the line officers of the Army are not properly compensated the clerks should not be properly compensated. I know very well that they are not receiving a compensation sufficient for their services. I know very well, so far as the officers of the Army are concerned, that a lieutenant in the service cannot pay his mess bill and his washing

bill. That is a matter of fact. They are not properly compensated. We have been playing the demagogue in both Houses of Congress and voting high compensation to the privates and nothing to the officers, because there are a great many privates to every officer. I think the increase of compensation to the clerks is a matter of justice, as would be the increase of compensation to officers of the Army; but because one is right and the other is right, and one is presented first, that is no good reason why the first should be ignored. There is good reason why it should be done; and when the time comes for giving proper compensation to officers of the Army so that they may be able to live and not have to draw on their friends at home for necessary current expenses, I will vote for that.

Mr. TRUMBULL. Without at this time going into the question whether we should increase generally the salaries of officers of the Government in consequence of the depreciation of the currency in which they are paid, I think there are other reasons entirely sufficient why the Senate should not accede to a proposition to add twenty per cent. to the compensation of the House employes. I very well recollect since I have been in the Senate the difficulty that arose out of this species of legislation, and the action which gave rise to the passage of the law of 1858 referred to by the Senator from Ohio. In the closing hours of the session there would always be found some member of the body who, in the superabundance of his kindness to the employes about the Senate, (that have always since I have been here been very accommodating and kind and have ingratiated themselves into the good feelings of the members of the body,) would make a motion of this character, that twenty per cent. additional be paid them as a compensation. It was always exceedingly unpleasant on the part of any member of the Senate to object to such motions, and they were suffered to prevail at several sessions against the better judgment of members, because of the disinclination there was to interpose an objection in a small matter of that kind; but finally Congress, in 1858, determined to relieve itself of this legislation by providing that money should not be paid on a resolution of this character passed by either House. The salary of the officers was fixed at what was thought to be a proper sum, and it was determined to leave it there, and I believe that this body, and so far as I am aware the House of Representatives, for the last six or seven years, has refused, until the present occasion, to pass a vote of this character. Now, sir, if we concur in this provision of the bill adopted by the House of Representatives, we open the door again; and I do not care what you fix the pay of the employes of the two Houses at, there will, at the conclusion of a long session, when we all feel the services that have been rendered by the employes of the body, be somebody who, in his kindness, will move to give them extra compensation; and it would be done almost as a matter of course, done usually on the last night of the session, perhaps not half a dozen Senators present sometimes when it is done, and thus we should fall into the old practice again.

If it is necessary to raise the salaries it ought not to be done in this way. It is not in accordance with the law that it should be so done; and I rejoice that the Committee on Finance of this body has taken the position it has taken, and I am sure that the House of Representatives will not insist upon the defeat of a bill of importance to the country rather than lose an appropriation made in this particular way, because the appropriation may be brought up in a bill if it is thought desirable hereafter to increase the pay of the employes of the two Houses of Congress, or of either House. The refusal to concur in this provision of the bill will not prevent the passage of a law that shall give them additional pay if it is thought advisable to pass it; but I am quite sure that the House of Representatives will not insist upon a resolution being enacted into a law which all must admit who examine the legislation of the country was passed contrary to the law. I hope the vote of the Senate will be unanimous in sustaining the action of the committee of conference on the part of the Senate in refusing to agree to this proposition of the House of Representatives.

Mr. DAVIS. I am in favor of making this compensation to the officers, not only of the House of

Representatives, but of the Senate. In addition to that I am in favor of making additional compensation to the members of the Senate and of the House of Representatives. I am in favor of paying a just and reasonable salary to every class of officers and every officer of the Government who does not receive such compensation. I have been in both Houses when the additional compensation at the close of the session referred to by the honorable Senator from Illinois has been usually voted; but that is totally a different case from the one under consideration.

There was then no depreciation of the money of the country in which those officers were paid, and the extra allowance that was made to the officers of the House of Representatives in such states of case as that referred to by the honorable Senator was simply a bounty or an act of special justice. Now, sir, I am in favor of an act not only of enlarged but of universal justice to every officer and every employe of the Government.

The honorable Senator from Ohio remarked that the officers of the Army were more poorly paid than any other class of officers or employes under the Government. I do not think so. I think the members of the two Houses of Congress, who can engage in no other business, all of whose time for the year is necessarily absorbed by their service in Congress, and who have families at home or here to support, are the most poorly compensated of all the officers or employes of the Government. I believe in charity, and I believe in the old proverb, that charity begins at home. I am in favor of an additional compensation to the members of the Senate for two reasons: first, because it is just; and second, because I feel that I am entitled to more money than I receive, and I am in need of it.

We were promised \$3,000 compensation per annum in money, and there is nothing that is money but gold or silver, and all the legislation of Congress cannot make any other thing money than gold or silver, and the commercial world will not receive anything but gold or silver as money. Now, what have we been paid for the last two years for that compensation that is tendered by an act of Congress to the members of the two Houses? Between forty and fifty cents for each dollar. I say that that is an injustice to the members of Congress. I say that members of Congress cannot live upon that compensation. I say that that is a less rate of compensation than has been contracted by the Government to pay them, and I say that it is a less rate of compensation than the Government ought to pay.

Now, sir, for one, I am willing to vote justice to every class of officers, and, as I said before, to every officer and every employe under the Government. If you satisfy my reason that such a class or such an officer does not receive a fair compensation, I am always ready to vote for a sum that will make it a just and a reasonable compensation. The members of the two Houses of Congress who live within a short distance from the metropolis, and who get little or nothing in the way of mileage, are, I think, most unjustly dealt with by the present compensation which they receive. It is a matter of imperative justice and right to them that they should receive an additional rate of compensation. I believe that the officers of the House of Representatives ought not to have been grouped together, but that the members of the two Houses and the officers of the two Houses ought to have been put together in a joint resolution or a bill for that purpose, and that a fair and adequate compensation should have been provided collectively for them all. I prefer that the matter should take that course.

If the officers of the Army do not receive a fair and adequate compensation it is the duty of Congress to afford it. It is the right of the officers of the Army that they should have a fair compensation, one that will enable them to live and to support their families; but because the proposition does not embrace the officers of the Army it is no reason why justice when it may be done shall not be done to the officers of the House or of the Senate or to the members of the two Houses. I will vote myself that the Senate adhere to its position for the purpose of getting this question as it relates to the members of the two Houses of Congress and the officers of both Houses before the two Houses in a more legitimate mode, by a joint resolution or by an act to be passed for that

purpose, which shall establish such a rate of compensation as shall be fair and reasonable. I am not going to vote against such a proposition because it does not include all the classes of officers that ought to be embraced by such a measure. I would vote to pass a measure in that form and then you might bring up all the residue of the officers of the Government, either by classes or in the aggregate, and I would vote for the same just measure of compensation to them all.

Mr. MORGAN. In order to test the sense of the Senate on the motion of the honorable Senator from Ohio, in which I fully concur, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FOOT. Before the vote is taken, I deem it due to my colleague [Mr. COLLAMER] to say that he is detained from his seat and attendance in the Senate on account of sickness.

The question being taken by yeas and nays, resulted—yeas 35, nay 1; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Davis, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Indiana, Morgan, Morrill, Nesmith, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, Willey, and Wilson—35.

NAY—Mr. McDougall—1.

ABSENT—Messrs. Brown, Carlile, Collamer, Cowan, Doolittle, Harding, Hicks, Howard, Johnson, Lane of Kansas, Ramsey, Wade, and Wright—13.

So the motion of Mr. SHERMAN was agreed to.

By unanimous consent, the Vice President was authorized to appoint the members of the second committee of conference on the part of the Senate; and Messrs. CLARK, TRUMBULL, and POWELL were appointed.

#### BILL RECOMMENDED.

Mr. WILKINSON. I move that the bill (S. No. 295) making additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State, which was introduced at the last session and referred to the Committee on Public Lands, and by that committee reported back, as I understand, without any action upon it, be taken up and recommended to the Committee on Public Lands.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of the Legislature of Oregon, in favor of the location of a national foundry, arsenal, and manufactory of arms at the falls of the Willamette, near Oregon City, in that State, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the memorial of William A. Hammond, late Surgeon General of the United States Army, praying that inquiry may be made into all the circumstances connected with his recent trial and dismissal, and that the Senate will suspend action in the matter of confirming his successor in office until such inquiry shall have been made, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 404) to secure impartiality in the administration of justice in the District of Columbia, reported adversely, and moved the indefinite postponement of the bill; which was agreed to.

Mr. DAVIS, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 109) for the relief of Captain M. M. Hawes, submitted an adverse report; which was ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 689) to provide for Acting Assistant Treasurers and depositaries in certain cases, reported it with an amendment.

#### PRINTING OF A BILL.

On motion of Mr. SHERMAN, it was

Ordered, That the bill (S. No. 493) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes, be printed for the use of the Senate.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

Mr. NESMITH. The Committee on Military Affairs and the Militia, to whom was referred a resolution introduced by the Senator from Kentucky [Mr. POWELL] calling for the report of a military commission appointed to investigate the conduct of Brigadier General Paine, have directed me to report it back with an amendment and recommend its passage, and I ask for its present consideration.

Mr. CLARK. I desire to inquire of the Senator from Oregon if that resolution is likely to lead to any debate?

Mr. NESMITH. I think not. There was a pretty general discussion on the subject a few days since, and it seemed to be conceded that the resolution should pass with proper amendments.

Mr. CLARK. I have no objection to its present consideration, provided it does not lead to debate, and with the understanding that if it does lead to debate it shall be laid aside.

Mr. NESMITH. I think it will not lead to debate.

By unanimous consent, the Senate proceeded to consider the resolution.

The amendment of the Committee on Military Affairs and the Militia was to strike out all after the word "resolved" and insert the following:

That the Secretary of War be directed, if not incompatible with the public interests, to transmit to the Senate the report and evidence taken by the military commission, of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine, of the United States Army, in and about Paducah, Kentucky; the defense of Brigadier General Paine; the review of Judge Advocate Holt, and all the papers relating to the case.

The amendment was agreed to.

Mr. POWELL. I think the resolution ought to be further amended by striking out the words "if not incompatible with the public interests," so as to make it in the usual form.

The VICE PRESIDENT. That amendment will be made, if there be no objection. The Chair hears none.

The resolution, as amended, was agreed to.

#### MINERAL LANDS.

Mr. HARLAN. A few days before the close of the last session a joint resolution (H. R. No. 99) "reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants," was passed by the Senate, but through some inadvertence was not sent back to the House of Representatives, so that it failed then to become a law. In order to secure the object now, some amendments are necessary, which I am authorized by the Committee on Public Lands to propose; and to reach that stage I move first to reconsider the vote by which the joint resolution was passed.

The motion was agreed to.

Mr. HARLAN. I now move to reconsider the vote by which the joint resolution was ordered to a third reading.

The motion was agreed to.

The VICE PRESIDENT. The resolution is now open to amendment.

Mr. HARLAN. The committee propose to strike out the words "present session" and insert "first session of the Thirty-Eighth Congress," and to add to the resolution "unless otherwise specially provided in the act or acts making the grant," so as to make the resolution read:

That no act passed at the first session of the Thirty-Eighth Congress granting lands to States or corporations to aid in the construction of roads, and for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be and are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

The amendments were agreed to.

The amendments were ordered to be engrossed and the resolution to be read the third time.

The joint resolution was read the third time, and passed. Its title was amended by striking out the words "present session" and inserting "first session of the Thirty-Eighth Congress."

#### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read

twice by their titles, and referred as indicated below:

A joint resolution (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 631) to provide for holding courts in the western district of Missouri, and to prescribe the times thereof—to the Committee on the Judiciary.

A bill (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866—to the Committee on Finance.

A bill (H. R. No. 664) for changing the time for holding circuit courts in the district of Virginia—to the Committee on the Judiciary.

A bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864—to the Committee on Finance.

A bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia—to the Committee on the Judiciary.

A bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866—to the Committee on Finance.

#### NEW YORK CUSTOM-HOUSE.

The joint resolution (H. R. No. 140) authorizing the Secretary of the Treasury to give the necessary notice stipulated pending the intention of the United States to purchase the building known as Merchants' Exchange, New York city, now used for custom-house purposes, was read twice by its title.

Mr. CLARK. I desire to say that the matter of that resolution was before the Committee on Finance this morning, and they were unanimously of opinion that it is desirable to purchase the property, and I ask the consent of the Senate to pass the resolution at once, as the time of giving the notice expires in the present month.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### HENRY A. BRIGHAM.

Mr. DAVIS desiring to move a reconsideration of the vote by which the bill (S. No. 212) for the relief of Henry A. Brigham was passed, a message was directed to be sent to the House of Representatives requesting the return of the bill, and on its being returned, the motion to reconsider was made by Mr. Davis and entered.

#### SLAVES TAKEN INTO THE ARMY.

Mr. POWELL submitted the following resolution, and asked for its present consideration:

Resolved, That the Secretary of War be directed to inform the Senate why he has not appointed "a commission in each of the slave States represented in Congress charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each colored volunteer," as he was directed to do by the twenty-fourth section of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces and for other purposes,'" approved March 3, 1863.

Mr. CONNESS objecting to the consideration of the resolution, it lies over under the rules.

#### CONTRACTS OF TREASURY AGENTS.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate a full statement of all contracts executed by one Hanson A. Risley, an agent of the Treasury Department or of the United States Government, since the 4th day of July last, specifying the name or names of the parties with whom the contracts were made, the name or names of the persons at whose solicitation or upon whose recommendation the contracts were made, the date of each contract, the amount and description of goods, property, or material thus contracted for, where to be procured, or where represented to be situated at the date of the contract, when to be delivered to the agent of the Treasury, and at what price.

Resolved further, That the Secretary of the Treasury be directed to communicate to the Senate the same particulars in relation to any other contracts made by Treasury agents that have been returned to or that are known to the Department.

#### INTERNAL REVENUE COLLECTIONS.

Mr. WILSON submitted the following resolution:

tion; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and is hereby, directed to furnish the Senate, on or before the 15th day of February next, a statement showing the amount of collections in each internal revenue collection district, and the amount of moneys deposited in authorized depositories or paid to the Commissioner of Internal Revenue on drafts or otherwise by the collectors of each district from the date when the excise act went into operation to the 30th day of June, 1864, with the differences between the amounts collected and the amounts deposited or paid over as aforesaid by the collectors in each district, and the total differences in the amounts for said period.

#### GOVERNMENT DEPOSITS IN NATIONAL BANKS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and is hereby, directed to furnish the Senate, on or before the 15th day of February next, separate and detailed statements showing the amount of public moneys deposited and the amount withdrawn from each of the national banks during each month from the date of their organization to June 30, 1864, with the difference between the sums deposited and withdrawn monthly, in each case, and the amount of the differences.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 406) for the benefit of officers of the Army in the field; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) for the relief of Lieutenant Commander Cilley, of the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 101) proposing an amendment to the Constitution of the United States; which was read twice, and referred to the Committee on the Judiciary. The proposed amendment is to insert in lieu of the fifth paragraph of the ninth section of the first article of the Constitution this clause: "Congress shall have power to lay a tax or duty on articles exported from any State."

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 103) for the relief of A. G. Bodfish; which was read twice by its title, and referred to the Committee on Claims.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 102) declaratory of the sense of Congress upon negotiations and terms of settlement with the rebels; which was read twice, and ordered to be printed. It declares that no negotiations, terms of settlement, concessions, or compromises should be entered into, proposed, yielded, or made with the rebels, directly or indirectly, until they have manifested their implicit and unconditional submission to the authority of the Government; and that, however much peace may be desired, the present war must be waged with all the energy and resources of the Government until such submission shall be secured, and the supremacy of the Constitution and laws established over the entire territory of the United States as heretofore claimed.

#### SPENCER AND HUBBARD.

On motion of Mr. TRUMBULL, the bill (S. No. 136) for the relief of A. T. Spencer and Gurdon S. Hubbard was read the second time, and considered as in Committee of the Whole. It proposes to instruct the Postmaster General to audit and adjust the account of A. T. Spencer and Gurdon S. Hubbard, for carrying the United States mail from Chicago, Illinois, to Mackinac, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan; La Pointe, and Superior, Wisconsin, during the years from 1854 to 1859, inclusive, and allow therefor such amount as to him shall appear just and equitable, not exceeding the amount allowed for the same service to the party who afterwards performed the same under contract; and the sum so found due is to be paid out of the Treasury.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### ISAAC R. DILLER.

Mr. HALE. On Thursday last a private bill, which was reported by the Senator from Ken-

tucky, [Mr. DAVIS,] was, as he says, arrested by my act, the morning hour having expired while I was on the floor. I move now that that bill be taken up, so that it may be disposed of.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 94) for the relief of Isaac R. Diller, the pending question being on the amendment of the Committee on Claims to reduce the appropriation from \$3,655 55 to \$3,000.

Mr. HALE. I do not wish to say much about this bill. It is a bill to pay an old consul for services rendered prior to the coming in of this Administration. I was remarking when I was on the floor the other day that the chairman of the Committee on Foreign Relations had told us that there were applications, some of them very urgent and pressing, coming from all parts of the world where we have consuls, stating that their compensation is inadequate now; but the Senate, on a case brought before them, where there was a unanimous report from the Committee on Commerce, and the recommendation of the Secretary of State, refused to increase the salary of one of these officers, the consul at Halifax. It was understood then to be the general policy of the Senate not to increase compensation at this time. I simply want to say that as we have refused to pay for present services, I think that to go back and open an old account will be setting a worse precedent than would the increase of compensation in the future, and that all the gentlemen who make these applications now, when their compensation is confessed to be inadequate, will have a vastly better claim upon our successors than the present ones have upon us. I hope the bill will not be passed.

Mr. DAVIS. I hope this bill will be passed. I think it is much safer to legislate for the dead than for the living, and that there will be a much less amount put up as claims due the dead than to the living. But I will state one or two facts in connection with this claim. Mr. Diller was consul at Bremen; his consular duties there were very heavy and expensive. His rate of compensation was \$2,000 a year. Since he went out of office the compensation for that consulship has been increased to \$3,000. It is in proof in the case that the actual amount which he paid for clerk hire was over \$3,300, and that this clerk service was indispensably necessary to enable him to get along with the duties of his office. This claim originated in the payment of clerk hire and in the advance of money by the consul to American sailors who were in a destitute condition and who applied to him for assistance to return to their native country. The other House passed this bill for his benefit, appropriating over \$3,600. The Committee on Claims reduced the amount to \$3,000. The case was before the Committee on Foreign Relations two years ago, and the chairman of that committee made a very elaborate report setting forth all the facts. It was submitted by that committee to the State Department, and the Secretary of State recommended an appropriation of \$3,000 for extra compensation to this consul. The Committee on Foreign Relations considered the subject. The learned and laborious chairman examined it very attentively and made a very elaborate report, which was read a few days ago to the Senate, and that vigilant and able and economical chairman of the Committee on Foreign Relations himself recommended an appropriation of \$3,000 to satisfy the claims of all descriptions of Mr. Diller. In my own judgment, for clerk hire and for money advanced to indigent seamen, he is fully entitled to the \$3,655 55 which the House of Representatives agreed by the bill which it passed to pay him. In obedience, however, to the instructions of the Committee on Claims, I reported the bill with an amendment reducing the amount to \$3,000. In my judgment, that is considerably less than this man is entitled to upon the sheerest principles of justice. I hope the bill will pass.

Mr. HALE. I move that the bill be indefinitely postponed.

The motion was not agreed to.

The VICE PRESIDENT. The question is on the amendment reported from the Committee on Claims reducing the sum from \$3,655 55 to \$3,000.

The amendment was agreed to.

The bill was reported to the Senate as amended,

and the amendment was concurred in and ordered to be engrossed.

The bill was ordered to be read a third time; and it was read the third time.

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. ANTHONY. I understand that this bill is to pay for disbursements actually made for destitute American seamen in the port where this man was consul, and I shall therefore vote for it.

The question being taken by yeas and nays, resulted—yeas 26, nays 9; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Clark, Conness, Cowan, Davis, Harris, Henderson, Hendricks, Lane of Indiana, Morgan, Morrill, Hendricks, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Wiley—26.

NAYS—Messrs. Chandler, Dixon, Farwell, Foot, Foster, Grimes, Hale, Harlan, and Wilson—9.

ABSENT—Messrs. Brown, Collamer, Doolittle, Harding, Hicks, Howard, Howe, Johnson, Lane of Kansas, McDougall, Ramsey, Sherman, Wade, and Wright—14.

So the bill was passed.

#### THANKS TO GENERAL TERRY.

The Senate proceeded to consider the amendments of the House of Representatives to the joint resolution of the Senate (S. No. 98) to present the thanks of Congress to Major General Terry and the officers and men under his command, which were in line four before the words "major general" to insert the word "brevet," and to amend the title of the resolution by inserting the word "brevet" before the words "major general."

Mr. TRUMBULL. I should like to inquire of some member of the Committee on Military Affairs, as I do not see the chairman in his seat at present, whether that amendment is in accordance with the facts. I do not know whether it is or not. Perhaps the Senator from Indiana [Mr. LANE] can give the information.

Mr. LANE, of Indiana. He is a full brigadier general in the regular Army, and a brevet major general of volunteers.

Mr. TRUMBULL. Then the amendment of the House is in accordance with the facts?

Mr. LANE, of Indiana. Yes sir.

Mr. SUMNER. Is it customary to insert those details?

Mr. DIXON. I think it is not. I think it is improper to insert the word "brevet."

Mr. SUMNER. I think so too.

Mr. DIXON. General Terry has the rank of a major general, but does not receive the pay.

Mr. LANE, of Indiana. He has been confirmed as a brevet major general, and will go on the Army Register with that rank, and certainly in giving him a vote of thanks we should be precisely correct as to his title.

The amendments were concurred in.

#### CONFISCATION OF REBEL PROPERTY.

Mr. TRUMBULL. I desire to give notice that to-morrow I shall call up the joint resolution from the House of Representatives, No. 18, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862. That resolution was reported back from the Committee on the Judiciary adversely. When the resolution comes up to-morrow, if I can get the attention of the Senate to call it up, my object will be to offer an amendment to it to repeal so much of the joint resolution to which this refers, passed in 1862, as limits the confiscation of the real estate of rebels to the life estate, so that their estates may be absolutely confiscated. I give notice of it now, because there was a difference of opinion in the Committee on the Judiciary, a majority being opposed to the repeal of the joint resolution of 1862. When this House resolution shall come up I intend to move, as a substitute for it, a clause repealing the joint resolution of 1862.

Mr. SUMNER. I will remind the Senator that, on his motion, the Senate has already adopted that proposition and attached it to the bill known as the Freedmen's Bureau bill. That bill is at this moment before a committee of conference of the two Houses. That committee has had a session to-day, and one on Saturday and one on Friday, and we hope to be able to report at an early day; and in our report, I have no doubt, we shall preserve the proposition moved by the Senator.



Mr. TRUMBULL. I was not aware that a committee of conference was acting on that bill. It is immaterial to me how we attain the object. I will not press action upon this joint resolution under those circumstances until the committee shall have had time to act.

#### ST. LOUIS ARSENAL.

Mr. GRIMES. I move that the Senate proceed to the consideration of Senate bill No. 382, to provide for the better organization of the pay department of the Navy.

Mr. BROWN. If the Senator will permit me, I should like to call up a local bill, which it will not take more than a moment to pass.

Mr. GRIMES. This is a general bill.

Mr. BROWN. Mine is a special bill to repeal an old law in relation to the St. Louis arsenal, and it is desirable it should be passed at once. I do not wish to interfere with general legislation, but I do not think it will take more than a second to pass the bill.

Mr. GRIMES. Very well. I withdraw my motion for the present.

Mr. BROWN. I move to take up Senate bill No. 402.

The motion was agreed to, and the bill (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located," was read a second time, and considered as in Committee of the Whole.

Mr. BROWN. I will simply state in explanation of this bill that, prior to the breaking out of the war, a law was passed at the instance of gentlemen who thought their property was more interested in getting rid of this arsenal than anything else, and, perhaps from some other motives, authorizing the sale of the ground and the removal of this arsenal. The law, however, has remained a dead letter; but it conflicts with certain arrangements and improvements that are necessary there, and I have been applied to by the officer in charge of the ordnance department at that place to have this law repealed, so that the arsenal may not be embarrassed in its operations by it. The bill meets with the unanimous concurrence of the Committee on Military Affairs, and I presume there will be no objection to it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PAY DEPARTMENT OF THE NAVY.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 382) to provide for the better organization of the pay department of the Navy.

The bill provides that, from and after its passage, the active list of the pay corps of the Navy shall consist of one hundred paymasters, fifty passed assistant paymasters, and fifty assistant paymasters. Paymasters are to be regularly promoted and commissioned from passed assistant paymasters, and passed assistant paymasters from assistant paymasters, subject to such examinations as are required by law and such as may be established by the Secretary of the Navy.

The second section provides that passed assistant paymasters shall give bonds for the faithful performance of their duties in the sum of \$15,000, and that their annual pay shall be, at sea, \$1,500; on other duty, \$1,400; on leave or waiting orders, \$1,100.

The third section provides that if any pay officer, or any other officer, or agent, or employé, or servant connected with or in the employment of the Navy Department at the time the offense was committed shall have defrauded, or attempted, or been privy to any attempt to defraud the Department in any manner whatever, he shall, upon conviction before a naval court-martial, be fined in any sum not exceeding \$10,000, and be imprisoned in some penitentiary in the United States not exceeding ten years.

The Committee on Naval Affairs reported the bill with an amendment to strike out in section three, line five, the words "or attempted," and after the word "been" to insert the words "accessory or," and in line six to strike out the words "attempt to defraud" and to insert "fraud committed upon," so that the section will read:

"That if any pay officer, or any other officer or agent, or employé, or servant connected with or in the employment

of the Navy Department at the time the offense was committed, shall have defrauded or been accessory or privy to any fraud committed upon said Department in any manner whatever, he shall, upon conviction thereof," &c.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in.

Mr. GRIMES. Though there does not seem to be much attention paid to the bill, I think it is my duty to explain it to the Senate.

In the first place, in regard to the duties of a paymaster in the Navy, all those who are familiar with the subject, I suppose, understand that the duties are those which are performed in the Army by the paymaster, the quartermaster, and the commissary. He has charge of all the stores of every description that are put on board ship, and turns them out to the men, to the ward room, and to the different messes as they may be required. He is required to draw for money if it may be necessary in order to discharge the expenses of the ship, or to pay the men or officers their salaries, and to pay it over, and to keep his regular accounts.

There are in the service to-day, or were on the 1st of the present month, one hundred paymasters and assistant paymasters established by law. There were sixty-four paymasters and thirty-six assistant paymasters, and there are three hundred and ninety-six, or nearly four hundred acting assistant paymasters. It is proposed by this bill to enable the President, or the Secretary of the Navy, to select out from among these four hundred young men who are acting assistant paymasters one hundred of them who shall have best exhibited their capacity for the proper discharge of these duties, and attach them to the Navy proper as assistant and passed assistant paymasters, and for this reason: it is not supposed that there will be any time in the future when there will not be required at least two hundred paymasters. If we keep one hundred vessels in the service in commission, we shall require about two hundred paymasters, because we have established a rule now for the employment of paymasters in various places on shore. We have paymasters at Portsmouth, New Hampshire, Boston, New York, Philadelphia, Baltimore, Washington, District of Columbia, Norfolk, Newbern, Beaufort, North Carolina, Port Royal, Key West, Pensacola, New Orleans, Cairo, Mare Island, and Panama, New Grenada, which are naval depots of provisions, clothing, and small stores, making sixteen in all on shore. We then have a paymaster at Macao, in China, one at Callao, in Peru, and one in the Potomac flotilla. When you reserve the proper number of relays or reserves to take the place of paymasters when they come home from a cruise you will not have, according to the estimation of the Department, when you have increased the number to two hundred, more paymasters than will be necessary; certainly not if you maintain your Navy at the standard of one hundred vessels, while you have now got nearly seven hundred.

The bill also creates a new grade, that of passed assistant paymasters. The regulations and the law as it now stands require that every young man who is appointed an assistant paymaster shall undergo a thorough clerical examination, besides bringing testimonials as to his capacity and moral qualities. After having served a certain length of time, his returns to the Department having shown to be correct, and his capacity being guaranteed by the exhibition which he has made of himself, he is then to be sent before another board of examination, just as our surgeons and our engineers are now sent before boards, and if he passes that second examination, he is to be made a passed assistant paymaster with the pay of \$1,500 and one ration, corresponding in rank and in title also with the passed assistant surgeon.

I believe that is the purport of the bill. I will say that the bill has come to the Committee on Naval Affairs with the approval of the Department.

Mr. POMEROY. I wish to inquire of the Senator from Iowa whether by this bill any reference is had to the age of the assistant paymasters for the acting assistant paymasters. The law now provides that assistant paymasters shall be under twenty-six, but acting assistant paymasters may be of any age. In appointing assistant paymasters from the list of acting assistant paymasters

under this bill as it is now framed, can the appointments be made from those who are over twenty-six?

Mr. GRIMES. I do not understand that they can. This bill is merely cumulative, and authorizes the creation of a certain number more in the rank of assistant paymasters, and creates the grade of passed assistant paymasters.

Mr. POMEROY. The bill as it now stands says they shall be "subject to such examinations as are required by law and such as may be established by the Secretary of the Navy." That may perhaps be a sufficient guard that they shall not be over twenty-six years of age.

Mr. GRIMES. Do you mean the passed assistant paymasters?

Mr. POMEROY. Yes, sir.

Mr. GRIMES. When an assistant paymaster goes into the Navy, he is required to be of a certain specific age. This bill does not specify what the examinations of this officer shall be, for they are already established by law; but then, after speaking of the assistant paymasters, the bill says:

And passed assistant paymasters from assistant paymasters, subject to such examinations as are required by law and such as may be established by the Secretary of the Navy.

It is not possible for us to establish the age for passed assistant paymasters, and for this reason: we may have our grade full to-day, and peace be declared to-morrow. If so, promotion will be exceedingly slow in those grades, and the man now at the foot of the list as an assistant paymaster may be forty-five years old before he becomes a passed assistant paymaster. Hence it is not practicable for us to establish any age that the passed assistant paymaster shall attain at the time he is appointed.

Mr. POMEROY. I merely wanted to have the bill so guarded that the assistant paymasters, not the passed assistant paymasters, shall come within the law, that they shall not be over twenty-six years of age.

Mr. TRUMBULL. I desire to call the attention of the chairman of the Committee on Naval Affairs to the third section of this bill, which provides:

That if any pay officer, or any other officer, or agent, or employé, or servant connected with or in the employment of the Navy Department at the time the offense was committed, shall have defrauded or been accessory or privy to any fraud committed upon said Department in any manner whatever, he shall, upon conviction thereof before a naval court-martial, be fined in any sum not exceeding \$10,000, and be imprisoned in some penitentiary in the United States not exceeding ten years.

I submit to the Senator from Iowa whether it is competent to do that. That would be punishing for a past offense. Ought not the language to be changed? The words, "shall have defrauded or been accessory or privy to any fraud committed upon said Department," would punish an act committed before the passage of this bill. The bill as it stands would, if passed, be an *ex post facto* law. If it meets the approbation of the Senator, I suggest that the word "have" be stricken out, and "defrauded" changed to "defraud," and the word "was" altered to "is." I make that motion, to strike out the word "was" in the fourth line, and in lieu of it to insert the word "is;" to strike out the word "have" at the end of the fourth line, and change the word "defrauded" to "defraud," and the word "been" in the fifth line to "be;" and after the word "fraud" in the sixth line, to insert the word "hereafter;" so that the section will read if amended as I propose:

That if any pay officer, or any other officer, or agent, or employé, or servant connected with or in the employment of the Navy Department at the time the offense is committed, shall defraud or be accessory or privy to any fraud hereafter committed upon said Department in any manner whatever, he shall, upon conviction thereof, &c.

These alterations will only make the bill prospective instead of retrospective.

Mr. HENDRICKS. I do not think there is any objection to the amendment proposed by the Senator from Illinois. The construction then of this section would be what it would be in its present phraseology. I do not think the amendment proposed will change the construction of the section, but perhaps it will make it a little clearer. I have no objection to it.

Mr. TRUMBULL. If I understand the section as it now stands, it is in the past tense, that if any officer "shall have defrauded" the Gov-

ernment he shall be liable to punishment. As I propose, it will read, "if any person shall defraud or be accessory or privy to any fraud committed upon said Department, he shall be punished." If the amendment I suggest does not accomplish the object, I think it should be further amended. It now clearly provides for the punishment of an offense heretofore committed, and would be manifestly unconstitutional.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Illinois.

The amendment was agreed to.

Mr. HALE. I confess that for one I do not see the necessity for this bill. When this war commenced we had no paymasters. They were then called pursers. I do not remember the precise number of them; I believe we had somewhere about sixty. Soon after the war commenced, we increased the corps from sixty to one hundred, but we increased it, I think, by making an addition of a new grade, to wit, assistant paymasters. That made them one hundred in number, and they have remained at that number from that day to this. This bill proposes to increase that number one hundred per cent. more. In the first place we made an addition of about fifty per cent., increasing the number to one hundred; and we now propose to make it one hundred per cent. more. And let it be remembered that this proposition increases the assistant paymasters sixteen, and makes an additional corps of fifty new officers, at an annual compensation which is named in the bill, and these are to be put upon the Navy as a permanent addition. I suppose there is no man who hopes, or expects, whatever may be the condition of the country after the war is over, that the number of these officers will ever be lessened if they are now attached permanently to the Navy. It seems to me that it is the part of wisdom not, under the pressure of a great emergency like that which we are now in, to make such a permanent increase as this to the officers of this particular branch of the naval service.

The chairman of the Committee on Naval Affairs spoke of what was now required of paymasters in the Navy. According to my judgment a good many of the duties that are imposed upon them have been imposed by regulation and not by law; and the tendency of the action of the Naval Department is to increase the number and the scope of the subjects over which these officers have exclusive control. I do not know that I am correct in the matter, but I have been informed that the Navy Department within the past year have suspended several Navy agents from their places upon allegations of fraud, and have conferred their duties upon paymasters in the Navy. I believe that was the case at the navy-yard at Brooklyn and also at the navy-yard at Philadelphia. The Navy agents there were removed upon the ground of fraud, and their duties conferred upon these paymasters, who are now in the exercise of those duties.

However that may be, whether it is so or not, here is an addition of one hundred per cent., doubling this corps of officers which we have already increased fifty per cent. since the war commenced, and we are to fasten them upon the Navy for all time. I am not a convert to the doctrine that the way to put down this rebellion is to increase these officers and increase their compensation. I think it would be wise to wait before such an addition as this is made until this war is over, when there will be a revision and reduction both of the naval and land forces, and we can then fix a permanent peace establishment. It will be much more difficult to get rid of any officers than it is to put them in.

In addition to that, where is the necessity for this measure? The Secretary of the Navy now has an unlimited power of creating acting assistant paymasters just exactly to any extent that he thinks the public service requires, and he exercises it with a liberal hand. As he has this power, and the public service cannot suffer, where is the necessity at this time of creating this additional corps of officers, who will be fastened upon us forever? In my judgment it would be unwise and injudicious, and therefore I shall vote against the bill.

Mr. GRIMES. In answer to the last inquiry of the Senator from New Hampshire, as to the

necessity for this measure, I will read the reply of the chief of the bureau:

"Forty-five acting assistant paymasters resigned during the last year, and many other resignations are on file which cannot properly be accepted until the officers shall have returned and rendered their accounts, as it is difficult and embarrassing to detach a paymaster while on a cruise. Many of these were excellent officers, who might have been retained, though their pay was small, (\$1,300), had there been a reasonable expectation of obtaining permanent positions in the service."

It is true, as has been stated by the Senator, that various duties have been assigned to paymasters by regulation. As an example, it was not until the commencement of the present war that this country has ever had fleets. We had squadrons in foreign service, but we never had any of these large squadrons, and never operated in that capacity. It has been found expedient by the Navy Department to establish fleet paymasters. The purpose in appointing fleet paymasters is this: that there may be some man in each fleet to look after the service in that department, and see that all the paymasters properly discharge their duties, and make regular, monthly reports to the Department here. If there is any paymaster who does not properly turn over to the men the rations required, does not see that they regularly receive their pay, or does not keep his books in proper order, it is the business of the fleet paymaster to supersede him, and send him home.

Mr. HALE. That is already provided for by law.

Mr. GRIMES. That is a new class of officers that has been created since the war began when we had only sixty paymasters, as has been said by the Senator from New Hampshire. I have here a list of officers who are required to be taken from the number of paymasters:

"One chief of bureau; six fleet paymasters for the North and South Atlantic, the East and West Gulf, the Mississippi, and Pacific squadrons; six inspectors in charge of provisions and clothing at Boston, New York, Philadelphia, Norfolk, and Cairo; two superintendents of bread and flour at Boston and New York; one paymaster at Maro Island; two paymasters at Cairo for the station and receiving ship."

Making eighteen in all, in addition to those that I named when I was up before. I do not understand that anybody says it is not necessary that these paymasters should be assigned to this particular duty at these stations. I do not understand that anybody says it is not very essential that we should have these inspectors of provisions and clothing at these various yards. In consequence of having kept up this organization I am free to say—I think I say it with truth—that there has been no bureau of this Government where there has been so much money passed through it that has been so admirably managed and so accurately as the bureau of provisions and clothing. From the commencement of this war down to the present moment I have not heard a single complaint against it; and I apprehend it is in part because of the organization that has been made in it by the selection of the proper men for these various offices of inspectors and paymasters at these particular depots and by the selection of proper men as fleet paymasters to supervise all the subordinate acting paymasters that were within their particular jurisdiction, seeing that each one of them performed his duty.

It will be observed that of the one hundred paymasters now authorized by law under your present organization, some twenty-five or thirty of them are used in this way. Is it probable that we shall reduce our Navy below one hundred vessels? Is it probable that we are going to do it very speedily? If it is probable, if you propose to do it, do you not think it is advisable to hold out this inducement to these young men who are now in the service, and who are resigning, as we are told by the chief of the bureau, because the inducement of a permanent position is not held out to them, and when the war is over, if we have too many, we can then get rid of those who are most incompetent.

Mr. HALE. I agree to everything that the Senator has said about the administration of the bureau of provisions and clothing, and I think one great reason, and a very important and prominent reason, is, because there is at the head of that bureau an honest—and I want to speak that with all the emphasis that can be imagined—an honest, vigilant, and faithful man. I believe that; and I

believe that he attends to his duties. If there has been under the present machinery and administration of the office no fault found, not a word of complaint, as the chairman of the Committee on Naval Affairs says, from any quarter, and there being no possible place in any Government where so much money has been distributed and none lost, it seems to me the urgency of the case cannot be so great as that we are required to multiply these officers one hundred fold at the present time, when the Department have unlimited power to appoint just as many acting assistant paymasters as they please.

Mr. President, it is a bad time to make these permanent additions to the Navy. The chairman of the Committee on Finance says they want all the money they can get. We have refused to increase, perhaps not the number, but the compensation of consuls who are constantly complaining. If this branch of the service has had resignations I do not know whether they are peculiar or not; but I should like to have the Secretary of the Navy, or whoever urges this bill, tell us what is the list of applicants well vouched for for business capacity and integrity for appointments to this very class of assistant paymasters. I happen to know something about how it was some time ago. There were men who had every qualification, so far as they could show it by recommendations, for the place, whose names were not reached for consideration for more than a year after they were put on the list; and I apprehend it is so to-day.

But, sir, I do not know that I can do any good or any hurt by talking about this bill. I have a duty to perform to myself, and I have done it in expressing the objection I entertain to this bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered, and being taken resulted—yeas 27, nays 4; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Conness, Cowan, Dixon, Fool, Foster, Grimes, Harlan, Harris, Hendricks, Howe, Lane of Indiana, Morgan, Morrill, Nesmith, Pomeroy, Powell, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Turnbull, Van Winkle, and Willey—27.

NAYS—Messrs. Buckalew, Davis, Farwell, and Hale—4. ABSENT—Messrs. Brown, Chandler, Colliamer, Do-  
little, Harding, Henderson, Hicks, Howard, Johnson, Lane of Kansas, McDougall, Ramsey, Richardson, Saulsbury, Wade, Wilkinson, Wilson, and Wright—18.

So the bill was passed.

#### RETALIATION ON REBEL PRISONERS.

Mr. WADE. I move to take up Senate resolution No. 97.

Mr. SUMNER. What is it about?

Mr. WADE. About retaliation.

Mr. SUMNER. I would not go on with that to-day.

Mr. WADE. You would if you were in prison. [Laughter.]

The motion was agreed to; and the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents was read the second time, and considered as in Committee of the Whole.

As it has come to the knowledge of Congress that great numbers of our soldiers who have fallen as prisoners of war into the hands of the insurgents have been subjected to treatment unexampled for cruelty in the history of civilized war, and finding its parallels only in the conduct of savage tribes; a treatment resulting in the death of multitudes by the slow but designed process of starvation and by mortal diseases occasioned by insufficient and unhealthy food by wanton exposure of their persons to the inclemency of the weather, and by deliberate assassination of innocent and unoffending men, and the murder in cold blood of prisoners after surrender; and as a continuance of these barbarities, in contempt of the laws of war and in disregard of the remonstrances of the national authorities, has presented the alternative of suffering our brave soldiers thus to be destroyed, or to apply the principle of retaliation for their protection; the resolution declares that, in the judgment of Congress, it has become justifiable and necessary that the President should, in order to prevent the continuance and recurrence of such barbarities, and to insure the observance by the insurgents of the laws of civilized war, resort at once to measures of retaliation; that in the opinion of Congress such retaliation ought to be

inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them; that with a view to the same ends, the insurgent prisoners in our hands ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case, until the President, having received satisfactory information of the abandonment by the insurgents of such barbarous practices, shall revoke or modify those instructions. Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise a resort to them as demanded by the occasion.

Mr. HENDRICKS. I think it was the intention of the Senator from Maryland [Mr. JOHNSON] to discuss this resolution. I am not sure about that, but I know he was looking into the question, and I should myself desire very much to hear his views and reasons on the subject. He is not in his seat to-day. I suppose he is necessarily detained from the Senate. I move that the further consideration of the resolution be postponed until to-morrow.

Mr. WADE. Did I understand the Senator from Indiana to say that the Senator from Maryland was anxious to debate this subject?

Mr. HENDRICKS. I said I thought it was the intention of the Senator from Maryland to discuss it. The Senator from Kentucky [Mr. POWELL] informs me that he heard him say so. This is an important subject. We all listen to that Senator with a great deal of interest, and myself with profit, and I should like to hear him on this subject. I therefore move the postponement, as I have suggested, until to-morrow.

Mr. WADE. I shall not resist the postponement until to-morrow on the suggestion that a Senator is anxious to debate this subject; and yet I feel that if the gentlemen who wish to debate it were in the condition of many of our prisoners, they would not want to hear long speeches on the subject, but they would want us to act at once. I feel that I am not really doing my duty when I agree to let it stand over until to-morrow, but I do it with the understanding that I shall press it at the very earliest opportunity.

Mr. HENDRICKS. One suggestion made by the Senator from Ohio perhaps demands a reply from me. Sir, I made a usual motion to accommodate a very distinguished member of this body, to accommodate myself in hearing him upon the question. A motion to postpone was not an unusual one, and did not call for debate except so far as I have suggested the reason. If the reason was not sufficient, then the Senator from Ohio ought to have objected to the postponement. If the reason was sufficient, then as a matter in the course of business in the Senate a postponement ought to take place.

The Senator saw fit to say that the Senator asking this postponement, if he were in the condition of some of our prisoners would not ask it, thereby implying perhaps that I did not feel that sympathy for the prisoners that I should feel. Perhaps, sir, there is no member of this body who feels more sensitively upon that subject than I do myself. I have a brother now in a southern prison who has been there since the 5th day of June last. The personal relation perhaps of no Senator to this subject can make him more sensitive than I am; but I am very free to say, without fully examining this subject, that the remedy for their unfortunate condition suggested by the Senator from Ohio in this joint resolution is not such a one as I had hoped to see come from him, and especially from the Administration. I think there is another remedy, and that is the exchange of our prisoners. We have nearly two to their one. I believe it is in the power of the Administration to bring our imprisoned soldiers home again, and

in a very short time restore them to their friends and families.

I am free to say I do not feel that the condition of my friends in the southern prisons will be made any better, and they made any happier, by seeing some men in our prisons here in the North starved to death. If we could inflict the punishment that is suggested by the Senator, upon the officers in the southern army who have contributed to the misfortunes of which he complains, I would agree with him; but here in our northern prisons are many men who entered into this war in the southern army against their wish, conscripted, compelled to obey the demands of a government *de facto*, having no part nor lot, no connection whatever with the wrongs that are inflicted upon our soldiers in the southern prisons, and now we propose to retaliate upon them, individually, and starve them to death, because the Senator says some of our friends in southern prisons have been starved! Reach the men that are in fault; strike them if we can; but where is the propriety, where is the Christianity of starving a man to death against whom we can lay no fault except that perhaps he has been compelled to obey the demands of the rebel government, a government, as was illustrated with great power by the Senator from Vermont, not now in his seat, [Mr. COLLAMER,] *de facto*, which the people down there for the time being had to obey?

But, sir, I did not intend to discuss this resolution now, but simply to reply to what the Senator said, which I thought was unjust to myself, having made this motion for a reason very proper, as I believed. I hope to see this proposition so amended as to bring our soldiers home again. Let them come back to their families. We can make these exchanges; and while I am upon that point I will read from a statement of fact made by a distinguished member of the House of Representatives the other day, not of my political party, but a distinguished member of the House of the same political party with the Senator from Ohio. Mr. KASSON, of Iowa, speaking of the Secretary of War, said:

"One thing more: If he be the man he is charged with being, who could in June last have exchanged prisoners of war of the United States on terms recognized throughout all civilized nations, yet left ten or twenty thousand of our gallant men to perish in rebel pens during the last summer, again I find a reason why his administration of that Department should be investigated."

If this statement be true, there is a reason why it should be investigated. If months ago, as is stated by a distinguished member of the party to which the Senator from Ohio belongs, this Administration could have brought our friends home again, restored them to their places in their families, and prevented this starvation, I say it is the highest charge that can be brought against this Administration. I want to know if we cannot have a remedy that will save this suffering rather than a remedy which will increase the suffering, not upon our prisoners perhaps, and it may be upon them. Their condition may be made better, but I fear it will be made worse by the course suggested in this resolution. If we can adopt some action on the part of the Senate which will compel the Administration to do that which a distinguished member of the other House says the Administration for five months might have done, and bring them home, I shall feel that we have accomplished something.

Mr. WADE. The Senator has made his argument on the subject, and I doubt now whether we ought to delay the passage of the joint resolution. I think he has made as strong an argument as the Senator from Maryland or any one else could have done.

THE PRESIDING OFFICER. (Mr. POMEROY.) The question is on the postponement of the resolution.

Mr. WADE. I am opposed to the postponement. If this resolution will not tend to effect the purpose designed by us, it should not pass. No one is more sensible than I am that for mere vindictive purposes we ought not to pass a measure like this. My impression, however, is that it will have a very useful effect; it will have the effect to relieve thousands upon thousands who are now in southern prisons, and treated with such hardship that they are dying all over the southern country.

Retaliation has in all ages of the world been a means of bringing inhuman and savage foes to

a sense of their duty, and has frequently had the effect to promote the objects of justice. It has been so in this war; we have tried it already successfully. There was a time when the enemy took our officers and placed them as a kind of protection against our assault on their fortifications. They placed our officers within the range of our guns, hoping thereby to protect themselves against our assaults. In order to prevent that we were compelled to retaliate in kind, and we selected a like number of their officers and placed them in like jeopardy; and the moment they saw that we sternly intended to do that, they did not persist in their barbarous course any longer; when they found we were inexorable upon that subject, and that we would place their officers in like jeopardy, the effect was very soon manifest; our officers were immediately released from their position, and the rebels sought to make peace upon that subject. So they would upon this.

Sir, I have no doubt on investigation of this subject that it is a deliberate purpose of theirs to destroy every prisoner that comes into their hands. They do not intend that he shall be returned to us in such a condition that he can ever again take the field. Their inhuman treatment is probably owing more to this consideration than to mere feelings of malice. It is a system of savage policy, and it has had a most powerful effect on our Army. Of the thousands of prisoners we have had in their hands scarcely one of them is ever returned to us in such a condition that he can take the field again; while on the other side the prisoners that come into our possession are treated precisely the same as our own soldiers are, and they go back refreshed, recuperated, and ready to take the field against us, every man of them. I have no doubt that a prompt and stern resort to this measure of retaliation will have as beneficial an effect as the measure to which I have referred had in the case to which it was applied.

The gentleman talks of Christianity. Sir, I do not understand that there is very much Christianity in war. If you go to war you have departed from the great principles laid down by Christ and His followers, as I understand them; and if you go to war you must not only depart from those principles, but you must follow out that departure, for it leads to other necessities that do not square precisely with the doctrines of Christianity. You commit a great offense when you go to war; but the world has not yet reached that need of perfection when war can be avoided. I say, then, you cannot invoke the principles of Christianity in vindication of all the incidents and doctrines that grow out of war. "They that take the sword shall perish by the sword," it is said. But, sir, I do not profess to be very familiar with these theological questions. I believe that when the Almighty imbued every man who receives an insult or an injury with a sense of resentment He intended that it should be used and manifested on proper occasions. You can hardly eradicate this idea from the human mind. I know that, like other passions, it may run too far; it may be stimulated to excess; but I say again I do not believe that the Almighty endowed a man with a sense of resentment for an injury with the idea that it should not be exercised. I think it is proper to resent injuries sometimes, and frequently proper to retaliate as a means of putting an end to acts of wrong and barbarity. I think it is rather a mawkish idea of humanity that fears to subject rebel prisoners to the same treatment that we know our own brave soldiers are daily subjected to.

I think the influence of such a measure as that now proposed will be to do away with bad treatment on both sides; for when the rebels see that you will resort to retaliation, that their men in our hands will be subjected to the same hardships to which they subject ours, it will be a reason why they should relieve our men. Milder arguments have been utterly ineffectual. I do not know now but that other measures will be effectual. If so, I would resort to them at once; but I have seen no attempt to do so; I have seen nowhere the attempt on the part of this Government to redress these wrongs that are inflicted on our soldiers. I feel that something should be done. My sense of humanity is not entirely on one side, and that the side of the rebellion. As I go through the hospitals, my sense of humanity will be no more harrowed up by seeing that reb-



els are subjected to these hardships than it is when I see our own men returned from their prisons mere skeletons, shadows of what they were. I have seen this; and if a man can go through our hospitals with composure and see our men who have been returned from southern prisons and not have his sense of resentment aroused, he is more or much less than human.

Now, sir, I think this measure will be effectual; it will have the effect to do away with this great inhumanity. I proposed it as a remedy, and I hope it will be a remedy. As to what the Senator says about the exchange of prisoners, I have only to declare that if our Government has allowed our soldiers to be retained in this barbarous keeping when it had full power in its own hands to make equitable exchanges, it cannot be excused for such conduct. I do not know how the fact is. I have always understood that there was something in the way of the fair exchange of prisoners, and I have never been able exactly to understand what it was. It may be that the Government here is greatly to blame. The Senator says there are no reasons against it. I do not know that there are, but I have always supposed that there was reason—

Mr. HENDRICKS. I did not express any opinion myself upon that question, but I read the statement of the fact, delivered under very responsible circumstances, that exchanges could have been made for months past upon terms consistent with the usages of nations.

Mr. WADE. I did not rise, Mr. President, with any intention of arguing this question. I want it decided by the Senate. If they are determined to see our prisoners subjected to these hardships without any endeavor to relieve them, be it so. If any one cavils at this measure and suggests no other, I think he is not in the way of doing much good. This proposition has been presented not only by me, but I understand that this resolution was reported with the approbation of the Committee on Military Affairs, I believe unanimously, though I do not know how that fact was.

Mr. HOWARD. There was referred to the Committee on Military Affairs a resolution which was presented by the honorable Senator from Ohio, [Mr. WADE]; also a memorial which was presented by the honorable Senator from Indiana, [Mr. LANE]; the Committee on Military Affairs took these measures into consideration, and instructed me to report a joint resolution to the Senate, which I did. It is joint resolution No. 97.

Mr. WADE. That is the one under consideration.

Mr. HOWARD. That is all I know about it. The PRESIDING OFFICER. The question before the Senate is on the motion to postpone the joint resolution until to-morrow.

Mr. HENDERSON. I have an amendment that I desire to offer to the resolution, that I wish to have printed. Will it be in order to present it now?

The PRESIDING OFFICER. The amendment can be offered.

Mr. HENDERSON. I now offer it that it may be printed, and I desire the action of the Senate upon it when the joint resolution shall be again taken up.

The PRESIDING OFFICER. The amendment will be received informally and ordered to be printed, if there be no objection. The Chair hears none.

Mr. HARLAN. I desire to offer an amendment also when this resolution shall come up for further discussion; but I wish to make a remark in connection with the subject as it has been presented to-day. Some three years ago I wrote a letter, and presented it to other Senators for their signatures, requesting the President to exchange prisoners with the rebels. I then believed that it was politic. Our condition has changed vastly since that time. The rebels are no longer able to meet us in the open field. Their armed soldiers fight us now almost exclusively behind their works and in strong fortifications. Military men tell us that it requires at least four men outside to take one inside of a fort. We have been expressing our thanks as a Congress to the commanders of the Army and the Navy that have taken a fort containing a garrison of about twenty-three hundred men. The Navy, I think, floated between six and seven hundred heavy guns; there was an army

landed, we are told, of something like eight thousand men; it required the united strength of this immense naval power and eight thousand troops to take a fort defended by but twenty-three hundred men. Now the Senator from Indiana demands that we shall exchange a rebel prisoner held by us for each one of the prisoners of ours held by them. Suppose they hold thirty thousand Union prisoners of war, and we exchange for them at once thirty thousand rebel soldiers. These thirty thousand rebel soldiers will be thrown into strong works like Fort Fisher, and then you will be compelled to marshal an army of one hundred and twenty thousand strong to be able to meet that thirty thousand sent there by you. The thirty thousand Union soldiers you receive, and ninety thousand additional troops will be required to recapture them.

This is the present condition of the contest. The rebellion has been so far suppressed that they are no longer able to meet us in the open field; they are now ensconced behind the strongest works that human skill and energy can produce; we are the assailing party; we are compelled to fight them in those works, and to capture those garrisons by assault, or the tedious process of a siege in order to secure complete success. I think, therefore, it is very doubtful whether we are damaged by the refusal of the rebels to make a fair exchange; an exchange man for man will make the rebels relatively stronger. It is therefore doubtful, to say the least, whether a far-seeing, sagacious humanity would not induce this Government to refuse to exchange prisoners from this time forward. If this course should be adopted, then of course if the rebels treat Union troops held by them as prisoners of war with premeditated cruelty and inhumanity, it will furnish a just occasion for retaliation.

Such retaliatory measures should not be adopted rashly or needlessly, because it will always seem hard to compel the innocent to suffer for the guilty; on the surface it may seem cruel and inhuman, but only in the same sense in which it is cruel and inhuman to shoot a prisoner of war in retaliation for the murder of one of our own soldiers held by the enemy. Yet this is in accordance with the usage of all civilized nations. It is resorted to in order to compel the enemy to treat with humanity those whom they may capture in battle. There is nothing more cruel, it seems to me, in putting a rebel prisoner on lean fare, than there is in shooting a rebel prisoner in retaliation.

I desire that this resolution, if it is to pass, shall be amended somewhat so as to require the punishment to be strictly retaliatory; to be inflicted on officers and men of equal number and of the same rank; and so as to instruct the President to notify the rebel authorities that this punishment is inflicted in retaliation for the inhuman treatment of our troops held as prisoners by them, and will be continued only until they treat our prisoners with the humanity demanded by the usages of civilized nations.

I would rejoice to see every prisoner of ours held by the rebels released at once, but when I know that the release of a Union prisoner by the rebels requires the release of a rebel prisoner by our Government, and that he will be at once thrown into strongly fortified works, and that you will be compelled to recruit three other soldiers to unite with our returning prisoner to make the combat equal; that four lives are to be put in jeopardy to recapture the rebel whom we have released, I cannot criticize the Secretary of War if he should refuse to exchange prisoners from this time forward until the close of the war, even if a fair exchange could be secured; but I apprehend there are very few Senators here who believe that a fair exchange can be effected. They so analyze all prisoners that they hold of ours as to release those whose terms of service have expired or are about to expire. Their soldiers are mustered in practically during the war. Every southern citizen able to bear arms is enrolled as a soldier during the continuance of the war. Then when we release a rebel prisoner we put him into their army during the continuance of the war, while in nine cases out of ten, probably, the soldier received by us in return will be at once well fed and mustered out of service. In addition to this, we know from the facts that have been developed by the committee on the conduct of the war that they do not return

to us able-bodied men, but only exchange the sick and dilapidated for those that are able-bodied and vigorous. We cannot, as I am informed, secure a fair exchange. If a fair exchange could be secured, I probably would accept it; but when a fair exchange cannot be had, I cannot complain of the Secretary for insisting on it with pertinacity when the delay is ruinous to the rebel cause and is hastening their ultimate overthrow.

Mr. CLARK. If the resolution is to be postponed, I have no objection to its being postponed now; but if the discussion is to go on, I want to say a word on the subject before the vote is taken. I have no desire to take up the time of the Senate now, if it is proposed to postpone the subject.

Mr. WADE. I propose to amend the motion to postpone, so as to make this joint resolution the special order for to-morrow at one o'clock.

The PRESIDING OFFICER. The Chair is informed that there is a special order for to-morrow at one o'clock.

Mr. CLARK. I suggest to the Senator from Ohio merely to postpone it until to-morrow, and we can take it up at any time at the pleasure of the Senate.

Mr. WADE. Very well; but I shall move to take it up to-morrow.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed a joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, used for books and newspapers exclusively, in which the concurrence of the Senate was requested.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills, and they were thereupon signed by the Vice President:

A bill (H. R. No. 390) for the relief of Emily A. Lyon;

A bill (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1866; and

A bill (H. R. No. 607) to provide for an advance of rank to the officers of the Navy and Marine corps for distinguished merit.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, used for books and newspapers exclusively, was read twice by its title, and referred to the Committee on Finance.

#### J. AND O. P. COBB AND CO.

Mr. CLARK. I move that the Senate now postpone all prior orders and proceed to the consideration of the joint resolution (H. R. No. 80) for the adjustment of the claim of J. and O. P. Cobb & Co. of Indiana, and I wish to say at this time that I desire to have it before the Senate for the action of the Senate, as this joint resolution will be a guide to the Committee on Claims in regard to several other claims which are before them, and the committee desire the action of the Senate on this for their information.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to direct the Quartermaster General to examine and adjust the claim of J. and O. P. Cobb & Co. of Indiana, for the loss sustained by them on the 11th and 12th days of July, 1863, by the destruction, by military order, of their barges and other vessels employed in the shipment of hay to Memphis, Tennessee, under a contract with the Government of the United States, and the hay on board of the vessels which was being shipped by the firm in the fulfillment of the contract, and other property connected with and being used in the fulfillment of the contract, the property having been burned and destroyed by the United States gunboat No. 33. The claimants are to be allowed the value of the property, not exceeding \$11,000, to be paid out of any money heretofore or hereafter appropriated applicable to the payment of claims against the Quartermaster's bureau.

The amendment of the Committee on Claims was to strike out all of the resolution after the

words "military order" in line eight, and in lieu of the words stricken out to insert:

Of a certain quantity of hay loaded by them on certain barge and flatboats, on the Ohio river, to be delivered at Memphis, Tennessee, under a contract with the Government of the United States; and that he allow the said claimants the contract price of said hay so destroyed, less the expense of transportation from the place where destroyed to the place of delivery, to be paid out of any money heretofore or hereafter appropriated applicable to the payment of claims against the Quartermaster's bureau.

Mr. CLARK. There is a report of the committee in this case which may be read if it is desired; but I think by a short statement I can bring the point to the attention of the Senators, if they will listen to me.

Cobb & Co. were merchants in Indiana. They contracted with the proper officer of the Government to deliver a certain number of tons of hay—a large number, I think five thousand tons of hay—at Memphis, Tennessee. They proceeded to execute that contract at a given price per ton, twenty-eight dollars and some cents, to be paid at Memphis. They procured their hay and loaded it on certain barges in the Ohio river. When the hay was thus loaded on the barges, General Boyle, in command of the department, gave an order to a gunboat to proceed up the river and seize all the boats and barges on the river and destroy them, for the purpose of preventing John Morgan, who was then in Indiana or Ohio, from crossing the river southward into Kentucky. The officer of the gunboat proceeded up the river and destroyed all the boats on which this hay was loaded, together with the hay.

These contractors show precisely the number of pounds they had upon the boat, and the House of Representatives have considered the case, and their committee having reported this resolution, it has passed that House and come here, directing the Quartermaster General to pay them for the hay and for the barges as well. So far we have considered no claim arising out of damages done by our forces in the war. The hay which was on board the barges the Government should pay for, upon the principle that where the promisee puts it out of the power of the promisor to perform his promise, he is excused from it; and these parties having the hay loaded to be delivered at Memphis, and it having been destroyed while it was upon the river by the Government, the Government should pay for it less the expense of transportation to Memphis. But following the action of the Senate, or rather the want of action of the Senate heretofore, the Committee on Claims have struck out the payment for the barges because there was no contract in regard to them; they stand exactly like any other property destroyed. There is a very large number of claims before the committee for pay for property which has been destroyed during the war. If it is the pleasure of the Senate that the committee should consider and report those claims to the body, the committee will do so; but if it be the pleasure of the Senate that they shall wait until the war is over, or nearly so, in order that we may see what the damages may be, or what is the course proper to be pursued by the Government, then the committee will not report more of those claims.

There has been an attempt in the Senate to establish a commission who should examine the value of the property destroyed. Senators will see that the testimony in regard to the value of the barges is all upon one side. The testimony in regard to the hay is exact, because the Government was to pay a given price for it. The parties show that they put on board just so many pounds at just such a price. That, therefore, can be arrived at exactly; but the committee had no evidence as to the value of the barges, except what was furnished by the claimants themselves.

But what the committee desire to know, and what they desire to accomplish by this amendment, is to ascertain the sense of the Senate in regard to claims for military damages. Many of them are very vast and they are very pressing; parties have lost large amounts of property; they are distressed for the pay for that property; and perhaps it may be said that property destroyed in that way should as justly be paid for by the Government as any other property; but the committee seek to know whether the Senate are of opinion that we should take up these claims *seriatim*, one after another, and act upon them on such testimony as we shall have, and report them

to the Senate, or whether they shall be detained in the committee, and there shall be some provision made for a decision and adjustment of all of them. The committee have no choice about it; but if this amendment be adopted, the result will be to pay for the hay, and leave unsettled the question of payment for the barges. If it be not adopted, and the resolution be passed as it came from the House of Representatives, we shall pay for the hay and the barges both. They state their barges in round numbers to be worth \$5,000. They have evidence to show that the valuation they put upon them is a just valuation, but that is from the opinion of persons who saw the barges. Other persons who might see them might say that they were not worth so much, but that testimony we have not. The price of the hay is fixed, and we think the Government should pay for that, at any rate, because it would have been delivered in a very few days if the Government had not destroyed it.

Mr. TRUMBULL. I should like to inquire of the Senator from New Hampshire whether this hay was delivered. Perhaps he stated how that was, but my attention was not called to it at the moment. My inquiry is whether the hay was received by the Government officer. Had delivery been made?

Mr. CLARK. That is the point; delivery had not been made fully. It was to be delivered at Memphis.

Mr. TRUMBULL. And it was destroyed on the Ohio river?

Mr. CLARK. Yes, sir. The Government prevented the delivery by their own act, and may be considered, perhaps, in that view to have accepted the hay.

Mr. TRUMBULL. Suppose this property had been burnt up accidentally where it was, would it have been the loss of the Government of the United States or the contractor's loss? Manifestly the contractor's.

Mr. CLARK. Certainly; the contractor's loss.

Mr. TRUMBULL. Then it had not been delivered; it had not been received by the Government. I am merely asking these questions for information, without expressing at this time any opinion in regard to a very large class of cases where a great many deserving individuals have such claims. I ask how does this case differ from the case of the destruction of property in Missouri, or across the river here in Virginia, where farms have been laid waste by our forces in the prosecution of this war? All over Kentucky property has been destroyed necessarily. It was deemed necessary by the military authorities in command that the property should be destroyed for military purposes. How shall we distinguish this case of property destroyed before it was delivered to the Government, and before the contract was completed, from the destruction of other property by the Army in other places?

Mr. CLARK. The committee thought there was this clear distinction between the two classes of property; here the Government had contracted with these parties to supply it with a certain amount of hay, the parties had gone and collected that hay on the Ohio river in pursuance of their contract, and were in fulfillment of their contract and would have delivered their hay if the Government, the other party contracting, and who was to take the hay, had not seized and burnt it. The principle, as I said before, is that where the promisee renders the promise impossible of execution, the promisor is excused. Suppose the Government had taken the hay right there and fed it out to its horses would it not have been responsible? It is a very different case, it seems to me, from that which the Senator from Illinois puts, because these parties were in the fulfillment of their contract with the Government and the Government, the promisee, destroyed the property. It is a very different case from that of property destroyed by accident. It was clearly at the risk of the parties getting the hay, until the Government interfered with it; but when the Government interfered with it, it took upon itself the risk. The committee had no question about payment for the hay, and no question about the justice of the claim to the barges to a certain amount, though the value of the barges is not proved as clearly as the other part of the case, and the committee desired the attention of the Senate to that point for the purpose of ascertaining how they should proceed.

Mr. COWAN. I should like to ask the chairman of the Committee on Claims whether the law is not as clear that the barges should be paid for as that the hay should be paid for.

Mr. CLARK. I think I may answer the Senator very readily, that the law is perhaps as clear. The question in my mind is not whether we shall eventually pay for the property, but whether we shall postpone the payment until we can fix some proper tribunal to ascertain the value of the property that we are bound to pay for. Here is entirely *ex parte* testimony in regard to the value of the barges. It is proved by opinion. A has got to go and look at a barge, and A says he knows what that barge is worth, and he thinks it is worth so much. There is nobody to show to the Senate that it was not worth so much. If we cut down the price we may do the man injustice; if we allow the price, we may do ourselves injustice, upon that insufficient testimony. My own judgment is that we must establish some tribunal that shall have the power of compelling witnesses, as perhaps the Senate might authorize the committee to do, of taking testimony *aliunde* at proper places, and hearing the parties and perhaps counsel on both sides in some cases. Otherwise we may pay where we ought not to pay, and in some cases twice as much as we ought to pay. There is great difficulty in the matter. It is not the desire or wish of the committee to delay or defer anybody who has a just claim. We only desire to ascertain from the Senate what may be their wish in regard to the subject, and we ask the Senate to express their opinion from what they see in these cases, that it is dangerous to proceed without some proper tribunal, and to turn their attention to the establishment of some sort of tribunal. We have not so far, I think, reported an individual case, waiting to see what would be the result. Whether we shall wait further and delay these applicants and claimants, or whether the Senate will take cognizance of them now, is what we desire to ascertain from the Senate.

Mr. TEN EYCK. I want to be informed and enlightened on this subject. I have listened attentively to the discussion, and I am not able to see any distinction between this case and the case of so much hay belonging to individuals who had no contract with the Government to deliver it at all, who may have had a contract to deliver hay in Memphis to some private individual, or who had no contract, but were seeking a market down the river. Now suppose under the order of General Boyle, hay thus belonging to private individuals had been destroyed in order to prevent the boats upon which it was loaded being seized by Morgan and his men in an attempt to escape across the river out of Ohio. If the hay had belonged to private individuals and there had been no contract with the Government, it would have presented a case of ten thousand other cases involving thousands of millions of dollars, where property has been destroyed since the commencement of this rebellion in Kentucky and in all the border States throughout this Union. If there is any distinction in principle and in law between property thus circumstanced and this property, my vision is too obtuse to discover it. I should like to be informed on that point for it will regulate the vote I shall give.

Mr. DAVIS. I should like to make an explanation on the point suggested by the Senator from New Jersey. Here is the case that is now before the Senate: Cobb & Co., of Indiana, contracted to deliver a certain quantity of hay to the Government at Memphis; they loaded the hay on board of boats and barges, and the hay was on its way to Memphis to be delivered in conformity to the contract. The Senator from Pennsylvania wants to know the distinction between the case of the hay and the barges, and the Senator from New Jersey wants to know the difference between this case and the common case of the destruction of property in any of the States. The difference is a very plain and palpable one. Here the contract was in the course of execution by the covenantor to deliver the hay. The Government is the covenantee, and the covenantee interposes, when the hay is *in transitu* to be delivered in the execution of the contract, and destroys the hay. Now, the question is whether the destruction of the hay by the covenantee does not conclude the covenantee from denying that the contract was executed on the part of the covenantor. There

is no plainer principle of law; and it is a principle that is recognized and acted upon every day in our courts of justice. When there is a covenant, and one party is in the course of executing that covenant, and the other party interposes and defeats the execution of the covenant, the party who thus interposes and defeats the execution of the covenant cannot allege that the covenant is not performed on the part of the other party.

The reason that the committee made a difference between the boats and the barges and the hay was this: there was no contract on the part of Cobb & Co. to deliver the boats and the barges; it was simply a covenant to deliver hay, and the boats and barges were the vehicles or the means of transportation by which they were in the course of executing their covenant. It cannot be said, then, in relation to the boats and barges, that there was a covenant to deliver them by Cobb & Co. to the Government, and that the Government interposed and by its act defeated the delivery of the boats and barges which had been covenanted to be delivered, because there was no such covenant. The covenant was restricted to hay.

Mr. COWAN. Will the honorable Senator allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. COWAN. It is whether Cobb & Co. could not have recovered for the hay without going upon the contract, on the same principle that they ask to recover for the barges, namely, that the Government officer in a moment of emergency had destroyed this property, and therefore the law was that they were entitled to pay for both, without saying anything about a contract.

Mr. DAVIS. I admit that to be true, but still there is a distinction. The one would be a case of trespass, a wrong. The destruction of the boats and barges would be a case of wrong, and the Government would be responsible for their destruction as a wrongdoer; but the responsibility of the Government for the hay is upon a different principle. It is upon a principle arising in a matter *ex contractu*, where one of the parties to the contract is the cause of the other not having executed it. It is a plain and universal principle of law, that where two parties make a contract and one is in the course of the execution of that contract, and its execution is defeated by the other, it does not lie in the mouth of the other to assume that the contract has not been executed by the opposite party. I admit that there is the same principle of right and of justice generally for payment for the boats and barges as for the hay, but it is upon a different principle of law, and the committee acted and reported in the case so as to keep separate and distinct the principle upon which the Government would be bound to pay for the hay.

Mr. COWAN. I ask the honorable Senator again whether the committee did not feel themselves as much bound to pay for damages on account of a tort of the Government as damages for a breach of contract?

Mr. DAVIS. I feel that obligation, and I suppose the committee do; but as the Senator from New Hampshire, the chairman of the committee, says, the number of claims of that character against the Government is infinite; their amount is indefinite; it would come up to hundreds and probably to thousands of millions of dollars. It would be greatly in its amount beyond any such claims arising *ex contractu* as the claim of Cobb & Co. on the Government for the value of this hay; and here was one reason that I agreed to the report of the committee in the form in which it has been made. I admit that those whose property has been destroyed by the Government and its agents are entitled to remuneration from the Government, and ought to receive it.

Mr. COWAN. I will ask the honorable Senator whether the distinction which he takes between the barges and the hay is not destroyed by the intervention of this particular fact, that not only the hay but the barges were invited to that particular point where they were destroyed by the contract of the Government? *Non constat* that the hay and the barges might not have been hundreds of miles away but for this contract; and does not that distinguish it from a case where property is destroyed by the Government or its officers in an emergency, where the Government has done nothing to invite the property to occupy that particular locality where it has been destroyed?

Mr. DAVIS. My honorable friend is an able lawyer, and it seems to me that nothing can be plainer to a legal mind than the palpable distinction between the hay and the barges. It is not only because hay is not a barge nor a barge hay, but it is simply for this reason: Cobb & Co. contracted to deliver the hay, and they did not contract to deliver the barges and the boats to the Government. They could have wagoned the hay, or they could have taken it upon the railroad cars, or by any other mode of transportation. Therefore the passage of the barges and boats toward Memphis was not in the course of the execution of any contract by Cobb & Co. with the Government, but the passage of the hay to Memphis was in the course of the execution of a contract by that firm to deliver the hay to the Government. The Government arrested the hay that was being transported in the execution of this contract, by its general officer, and destroyed it.

Mr. COWAN. Will the gentleman allow me to ask him another question?

Mr. DAVIS. Certainly.

Mr. COWAN. It is whether Cobb & Co. would be able to distinguish between the loss they suffered from the destruction of the hay, and the loss they suffered from the destruction of the barges? Whether they do not feel that they have the same right precisely to be compensated for the loss of the one that they have to be compensated for the loss of the other? And if there is no distinction in morals, how can there be such a distinction as is taken by the committee in law?

Mr. DAVIS. I admit the general principle of the Senator; but I was going to state another consideration upon which the committee had made the distinction between the hay and the barges. If it be the policy and present purpose of the Senate and of Congress, as I conceive it ought to be, to make full compensation for all property that may be destroyed by the armies of the United States belonging to loyal citizens, the committee are of opinion that all this responsibility ought not to be met by private, individual, single claims as they arise, but that there ought to be a general law establishing a commission or a board, before which all these claims should be presented and established by proof, and instead of a few active claimants who have friends in the Senate or in the House of Representatives getting ahead of all the others in the nation who have as good a claim and as just a claim as themselves, by their private bills, Congress ought to provide for that whole class of cases by the establishment of a general commission, and require all these claims to be presented there for proof.

As the chairman of the committee says, there are a great many claims precisely of the same nature and depending upon the same principles of justice and law as that of Cobb & Co. for the value of their barges and their boats against the Government. The committee want to be instructed by the Senate whether it is their purpose to satisfy that order of claims or not. If it is the purpose of the Senate now to satisfy that class of claims, the committee are ready to be instructed by the Senate and to report all that are now depending upon that principle, and to report for the full satisfaction of the destruction of any and of all property by the armies of the United States, whether that property was about to be delivered in the execution of contracts or not. But the committee think, at least I do, that as a matter of justice and of policy, instead of permitting all these claims, that amount to a countless sum of money, almost to, no doubt, thousands of millions of dollars, to come up in detail, each claim by itself, and each claim to be heard upon the amount of proof that the claimant may bring before Congress to sustain him, Congress ought, on the contrary, to establish a general commission which should hear all the proof in relation to such claims and to report upon them to Congress, that Congress should then pay the whole class of these claims together.

If I have made myself understood, that is the distinction of principle and the consideration upon which my conduct as a member of the committee was determined in consenting to this report.

Mr. CLARK. The question presented to the Senate is of more importance than the mere joint resolution itself. I do not wish to press its passage at this time; I desired simply to accomplish the purpose of bringing it to the notice of Sen-

ators, so that they might be considering this great question which must come before the Senate. These claims will be continually pressing, and the Senate and House of Representatives will be obliged, in my judgment, to provide some method of ascertaining them. Now, let me state a claim which is before the committee at the present time. Certain parties of Tennessee allege that they were the owners of a large plantation down in Arkansas; that they were Union men always; stood by the Government; that they had upon that plantation seventy negroes; one hundred mules; so many hogs; so much fodder of this kind, and so much fodder of that kind; and that the army came and destroyed a part, and somebody else destroyed a part; that a portion of their negroes came back, and a part got free papers and went to Ohio. They present a claim to us and ask us to adjudicate upon it and award them so much damages. I pray you, sir, how is the committee ever to determine the value of that claim? Here certain parties come and say that they think the seventy negroes were worth so much, and certain other parties come and say they think the mules were worth so much, and certain other parties say they think the hogs were worth so much; and the army destroyed about so many of the hogs, and so on. It is entirely indefinite. It is impossible for the committee to decide on a claim of that kind; and even if the testimony were definite as far as it goes, it would create injustice to decide the case upon *ex parte* testimony.

It is suggested to me by the Senator from Vermont [Mr. Foot] that in that event we must do as a court of justice would do, reject the claim; but then, for the want of a proper jurisdiction, the parties will come again. You reject again, and they come again, and so by continually coming, the Senate at last becomes weary, and the danger is that the claim will pass at some time without a proper adjudication. We desire to submit to the Senate whether it would not be better in the outset, if it can be done, to turn our attention to providing a tribunal who shall ascertain upon one side and the other what is the proper measure of damages.

There is another question arising in this case of Cobb & Company. The committee present the joint resolution to the Senate with an amendment. If the Senate agree to the amendment, which is to strike out the allowance for the barges, the hay is left for the action of the body, and the committee would understand that the Senate did not intend at the present time to consider claims for such damages where there was no contract. They may then afterwards, if they choose, refuse to pay either branch of the claim, on the ground that it is all a war claim, and then the committee would have ascertained what they want to ascertain, that the Senate does not at the present time intend to act on that class of claims; and then we propose to leave Cobb & Company to their remedy at law. If this were a contract between two private parties, between A and B, if B had contracted to deliver hay to A which A destroyed *in transitu*, could not B go into court and sue A for the value of that hay on his contract? I think very clearly he could; but here is the Government on one side, and the question is whether it is not under the same obligation.

I desired to bring this case to the attention of the Senate. Perhaps Senators may wish to reflect upon it. I will now move that the joint resolution be postponed until to-morrow, and at some future time I shall call it up again. I have accomplished my purpose in bringing it to the attention of the Senate at the present time.

Mr. HOWE. I shall offer no opposition to the postponement, but I want to say just on this occasion that this amendment by some means or other got through the Committee on Claims without attracting my attention. I do not know whether I was present during the meeting at which it was considered or not. At any rate it did not attract my attention.

Mr. CLARK. My impression is that it was agreed upon in committee before the Senator came in, but I am not certain.

Mr. HOWE. That is very likely. I make that remark as preparatory to this: that for my single self I make no sort of distinction between the obligation of the Government of the United States to pay for these barges and its obligation to pay for the hay. I am entirely satisfied that if the Gov-



ernment of the United States destroyed either the hay or the barges for the purpose of the national defense, the United States ought to pay for them. If the committee moved this amendment for the reason that they were entirely satisfied with the proofs upon the question of the hay, but were not satisfied with the proofs upon the question of the barges, that is a good reason.

Mr. CLARK. If the Senator will allow me, I will say that the committee were mainly influenced in moving the amendment by two reasons: one was to ascertain what would be the opinion of the Senate in regard to claims of that nature, and to bring the question distinctly before the Senate.

Mr. HOWE. If that be one of the purposes, or the leading purpose, then I could only meet the views of the committee by voting against the adoption of the amendment, because, so far as my vote can influence the action of the Senate, I mean that it never shall make any such distinction; I mean that the Senate never shall intimate to the country that they intend to repudiate one of these obligations.

Mr. CLARK. We do not intimate any such thing.

Mr. GRIMES. Do I understand the Senator from Wisconsin to say that it is the theory of the Committee on Claims that we are bound by the laws of war and of nations to make good all losses that may have been sustained by individuals in the public defense?

Mr. HOWE. I do not understand the Senator from Iowa.

Mr. GRIMES. Do I understand the Senator from Wisconsin to say that it is the idea and opinion of the Committee on Claims, of which he is a member, that this Government is bound by the laws of nations and of war to make good to every individual any loss that he may have sustained in promoting the public defense? I understood the Senator to make a statement as broad as that.

Mr. HOWE. The Senator misunderstood me in two particulars. In the first place, he misunderstood me, if he understood me to speak for the Committee on Claims at all. If I understand my own position here, I am speaking in opposition to the Committee on Claims. In the second place, if he understood me to speak of the laws of nations or the laws of war, he misunderstood me. Now he will understand me correctly if he understands me to be speaking for myself, and to say for myself that it is my own opinion, irrespective of the laws of war or the laws of nations, that the Government of the United States is bound, by its own laws, and by every principle of equity and of good conscience, to pay for every dollar of property that it appropriates or destroys for the public defense.

That is my position, and I do not resort to the laws of war or to the laws of nations for my defense of it, and such being my opinion, I take this early opportunity to declare it. It is the opinion that has guided me so far in my action upon the Committee on Claims, and so far in my action in the Senate.

I should not have acquiesced in this amendment to the pending resolution for any reason in the world, unless I found upon the examination of the proofs that the measure of damages was clearly established in reference to the hay, and was not clearly established in reference to the barges.

Now it is said that the idea prevails among some members of the committee, and perhaps elsewhere, that it is not safe for Congress to act upon these claims individually, that the Treasury would be better protected by the creation of one tribunal, one committee, if you please, or one commission to proceed to hear all these cases. My own judgment is, and I say it now, that I think the Treasury will be vastly safer if you wait for these claims to come here rather than if you establish a commission to go and look them up.

Mr. CLARK. Nothing of that kind has been said.

Mr. HOWE. I understood it to be thrown out as the other course.

Mr. CLARK. I have not heard a word here about a commission going to hunt them up.

Mr. HOWE. No, but if you establish a commission, I suppose it is with a view of going into the localities and hearing testimony.

Mr. CLARK. The Senator will pardon me; I had not any such idea. My main difficulty is, that cases of this kind before a committee of Congress are tried only upon one side. I want some tribunal to have an opportunity of trying both sides, not a peripatetic commission to go around the country and hunt up claims to be tried and allowed; but I desire something that shall ascertain for the Government, as well as for the individual, what loss has been sustained.

If the Senator will permit me here, as I am now up, I desire to say, for the sake of being guarded, that the committee do not propose to repudiate any such claim as that of the Messrs. Cobb. I should be sorry to have such an impression prevail from the remarks of the Senator, he being upon the committee, because that remark coming from him might come with more force than it would from a person off the committee, as leading the public to suppose that the committee entertained the idea. The committee acknowledge the justice of many of these claims, and they acknowledge, too, that Congress, in their judgment, must pay for them when some way shall be ascertained for determining the amount of the damages.

Mr. HOWE. What I said in reference to repudiation was not predicated on anything I had heard in the committee. It was induced by remarks I had heard on the floor of the Senate and during this debate. So much on that point.

Now, in reference to this suggested commission rather than proposed commission, let me say that I understand the difficulty in the way of getting at the exact truth in reference to these claims perhaps as well as the Senator from New Hampshire, the chairman of the committee; but I do not understand why we cannot clothe your Committee on Claims with all the power in reference to obtaining evidence and examining witnesses that you can any other tribunal. We may, I believe, in the matter of proof, guard the public interests just as well as any tribunal that you can establish. I think it would be decidedly better for us to make no distinction, to assume at once what is conceded to be the law of the land, that all these claims are equally to be respected, and proceed to hear them as the evidence is adduced, and to report upon them only when the evidence adduced satisfied us of the justice of the claim.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire, to postpone the further consideration of this joint resolution until to-morrow.

Mr. COWAN. I am willing to postpone this resolution, but at the same time I desire to say a word on the argument offered by the committee, that there was no evidence before them on the part of the Government to show the value of these barges.

Mr. CLARK. The Senator misunderstood me if he understood me to say there was no evidence.

Mr. COWAN. I certainly understood the honorable chairman to say that the evidence they had before the committee as to the value of the barges was *ex parte*, and he thought it dangerous to report it on such evidence.

Mr. CLARK. Exactly.

Mr. COWAN. Then if it was *ex parte*, it must be on the part of the owners of the barges, and not on the part of the Government. I suppose that in appearing before a committee here, representing to a certain extent the Government, it was not necessary that formal notice should be given to the General Government to appear before the committee when a claimant came before Congress to have his just dues paid.

For my own part, I think that the obligation to pay for this hay is perfect and complete, because in either event the Government was guilty of a tort toward the owner, or of a breach of contract. The obligation to pay for the barges is equally complete, because it destroyed, in an emergency, the property of the citizen for the common defense of the whole, and it is well known that in such cases the whole always feel themselves obliged to pay. How far we are able to pay now for damages which arise from torts done by the Government to the citizen is another question, and, as I understand the committee, that is the question which they desired to raise by this amendment. If we adopt this amendment now, it is to be taken that we will pay whatever damages we are bound to pay for the breach of our contracts, but that we

postpone all the damages which have accrued to individuals on account of our torts. That will be the result of it; and perhaps the committee are right in desiring a clear, fair understanding as to the course we intend to pursue with regard to this question, although I am free to say that I cannot see the slightest difference in the world between the force of the obligation which rests upon us in the one case and in the other.

If there is any difference in the force of this obligation, how are we to justify ourselves to one who has suffered by saying to him, "Although the obligation of the law rests upon us in your case as strongly as it does in the case of another, we cannot afford you relief?" How are we to say to the Government contractor who has agreed to deliver to the Government five thousand tons of hay upon a given day and it is destroyed *in transitu* for the defense of the whole, that we will pay him the amount we contracted to pay, and yet to another man equally meritorious, and equally loyal, with an equal amount of hay, and destroyed equally in defense of the whole, "We cannot pay you?" Will not the citizen be likely to ask, under circumstances of that kind, why you make a difference between a man who contracts with you and one who does not contract? You destroy his property for the defense of the whole and you pay him; you destroy mine for the defense of the whole, and you do not pay me; and why? Because I am not a Government contractor. I confess that I do not see this distinction, which certainly exists without a difference so far as the citizen is concerned. Whether there is policy in postponing the claims of those who are not Government contractors, because of their enormous magnitude, is another question; but if one is to be postponed, I do not see why the other ought not to be, for the benefit of the exchequer, unless it may be, perhaps, that if we postpone the claims of contractors we shall have no contractors; if we decline to pay those who have contracted to furnish us goods by a day certain, which we are obliged to destroy *in transitu*, perhaps nobody will contract with us; but that is another question.

All these questions I understand are raised by this amendment, and I have no objection that the bill be postponed in order that the Senate may act advisedly upon it, because it is a question of graver importance than would appear at first sight—one upon which, perhaps, the fate of the country may depend, because the fate of the country may depend upon the exchequer, and if its coffers are drained to pay these damages we may not be able to replenish them in time to carry to a successful conclusion the enterprise we have undertaken.

Mr. HENDRICKS. Perhaps it is proper that I should say one or two words in behalf of my constituents who are interested in this joint resolution.

The PRESIDING OFFICER. The question before the Senate is on postponing the resolution until to-morrow.

Mr. HENDRICKS. I believe the debate has extended slightly beyond that technical question. I do not desire to occupy the attention of the Senate more than a moment. I shall not object to the postponement, but I hope this resolution will not be postponed so as finally to be lost in the Senate if the amendment should be made.

Mr. CLARK. I assure the Senator that I intend to call it up again.

Mr. HENDRICKS. I rely upon that. If the amendment shall be made eventually, of course the resolution will have to go to the House of Representatives again for consideration of the amendment there; and Senators are aware of the difficulty of securing the consideration of that body to private bills. When I was a member of the Committee on Claims at the last session, I think there was a difference between the two classes of obligations on the part of the Government. We must pay contractors, else we cannot get supplies; and we cannot postpone the claims of contractors until after the war is closed without impairing the faith of the Government to such an extent as to make it difficult to get supplies. So we ought to pay these contractors as if the hay were actually delivered. But I desire to say that according to my understanding in committee, the question was not so much whether the Government is bound to pay for property which she herself has destroyed, as whether Congress shall make an

# THE CONGRESSIONAL GLOBE.

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WEDNESDAY, JANUARY 25, 1865.

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appropriation in each particular case, or provide by a board or in some other way for ascertaining the claims generally.

I do not think there was very much difference touching the obligation of the Government to pay for property that was destroyed by the Army to prevent its falling into the hands of the enemy, or to prevent its being used as a matter of defense to the enemy. But I want to make this suggestion to the chairman: inasmuch as by the act of the Government these claims are united, and inasmuch as the full investigation of the Senate and House of Representatives has been given to them, is it not better to let both go together as a whole? There is no question about the right of the case; and may we not pass this joint resolution as it came from the other House without establishing a precedent that will govern us hereafter? We do not want to take up each claim and decide it now; but these necessarily came together; we have examined them, and I think we may as well pass this resolution as it came from the House of Representatives, and then this case will never come before Congress or a commission again.

Mr. CLARK. I desire to say to the Senator from Indiana that I have not the least objection to allowing the whole claim if the Senate so decide; and he is entirely right, I think, when he says that there was but very little difference among the Senators composing the committee in regard to the justice of this class of claims; but as they pressed upon the committee in large numbers, the committee determined at an early day to bring a knowledge of that fact to the Senate so that they might have some indication which they may regard, and that is all they desire to accomplish by this amendment.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business. The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, January 23, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

### APPOINTMENT OF MEMBER OF COMMITTEE.

The SPEAKER announced that he had appointed Mr. STEELE, of New York, to fill the vacancy on the committee of investigation on certain charges against Hon. LUCIEN J. ANDERSON, in place of Mr. J. C. ALLEN, excused.

### THANKS TO MAJOR GENERAL SHERIDAN.

Mr. WASHBURN, of Illinois. Mr. Speaker, is it now in order to offer a resolution of thanks to Major General Philip H. Sheridan?

The SPEAKER. Not until after the morning hour. The Chair only enforces the construction of the rules made by the Committee on Rules at the last session.

Mr. WASHBURN, of Illinois. Then I give notice that after the morning hour I shall submit such a resolution.

### CALL OF COMMITTEES.

The SPEAKER stated the first business in order to be the call of committees for reports to be referred and not to be brought back by a motion to reconsider.

#### BENJAMIN ROACH.

Mr. HALE, from the Committee of Claims, reported a joint resolution for the relief of Benjamin Roach; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

#### COURT OF CLAIMS.

Mr. HALE. I am instructed to report from the same committee an act supplementary to an act entitled "An act to restrict the jurisdiction of the

Court of Claims," &c., and to ask that it be considered now.

The SPEAKER. That cannot be done at this time.

Mr. HALE. Then I ask that the bill be re-committed to the Committee of Claims.

The SPEAKER. The Chair will have the rule read. It is a question whether the objection does not apply. The rule is imperative.

The Clerk read the rule, (a portion of rule 51,) as follows:

"On the call for reports from committees on each alternate Monday, which shall commence as soon as the Journal is read, all bills reported during the first hour after the Journal is read shall be committed, without debate, to the Committee of the Whole, and, together with their accompanying reports, printed; and if during the hour all the committees are not called, then, on the next alternate Monday, the Speakers shall commence where such call was suspended: *Provided*, That no bill reported under the call on alternate Mondays and committed shall be again brought before the House by a motion to reconsider."

Mr. HALE. I withdraw the report.

Mr. HOLMAN. I suggest to the gentleman that he pursue the same course in reference to the joint resolution first reported by him.

Mr. HALE. I withdraw that also.

The SPEAKER. That can only be done by unanimous consent.

No objection was made.

Mr. SCHENCK. Do I understand that reports made under this call must go upon the Calendar without debate?

The SPEAKER. That is the rule, and they cannot be brought back by motions to reconsider.

### CALL OF STATES FOR RESOLUTIONS.

The call of the committees having been concluded, and no further reports being made, the Speaker proceeded, as the next business in order, to call the States and Territories for resolutions and bills on leave, commencing, where the call was last suspended, with the State of Ohio.

Mr. SPALDING. I desire to offer a resolution.

The SPEAKER. Only one bill or resolution can be offered by any member upon this call. The gentleman offered one last Monday; but if there be no objection, he can offer another now.

Mr. WASHBURN, of Illinois. I must insist upon the regular order. I want the State of Illinois to be reached.

The SPEAKER proceeded with the call.

### DUTY ON PAPER.

Mr. WASHBURN, of Illinois. I offer the following joint resolution:

*Be it resolved, &c.*, That in lieu of the duty on printing paper, unsized, used for books and newspapers exclusively, now levied by law, there shall be levied, collected, and paid, a duty of three per cent. *ad valorem*.

The joint resolution was read a first and second time.

Mr. WASHBURN, of Illinois. I demand the previous question on the engrossment and third reading of the joint resolution.

Mr. FARNSWORTH. I hope that resolution will not pass without some discussion upon it. It is too important to be decided under the previous question in this summary manner.

The SPEAKER. The demand for the previous question cuts off debate.

Mr. FARNSWORTH. I hope the previous question will not be sustained. This is a very important question.

Mr. WASHBURN, of Illinois. I suppose debate is not in order. I take it the House understands the question fully, and we may as well try the question now.

Mr. BROOMALL. Is it in order to have this resolution considered to-day?

The SPEAKER. It is.

Mr. BROOMALL. Being a joint resolution?

The SPEAKER. It is in order.

Mr. SPALDING. I move to lay the joint resolution on the table.

Mr. MOORHEAD. Is it in order to move to refer the resolution to the Committee of Ways and Means?

The SPEAKER. It will be in order if both

the pending motions, for the previous question and to lay on the table, shall be voted down.

Mr. FARNSWORTH. I appeal to the gentleman from Ohio [Mr. SPALDING] to withdraw his motion and let us refer the resolution to the Committee of Ways and Means.

Mr. SPALDING. I withdraw my motion, and shall vote against sustaining the previous question.

Mr. FARNSWORTH. I move to refer the joint resolution to the Committee of Ways and Means.

The SPEAKER. The motion is not in order pending the demand for the previous question.

The House divided on the demand for the previous question, and there were—ayes 31, noes 34; no quorum voting.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and GANSON, were appointed.

Mr. JOHNSON, of Pennsylvania. I would like to inquire what is the present duty on paper?

The SPEAKER. The Chair cannot answer that question. It is in the nature of debate.

The House again divided, and the tellers reported—ayes 56, noes 47.

So the previous question was seconded.

The question recurred upon ordering the main question to be now put.

Mr. DAWES. I demand the yeas and nays.

We want an opportunity to discuss this question.

The SPEAKER. Debate is not in order.

The yeas and nays were ordered.

Mr. FARNSWORTH. I move to lay the joint resolution upon the table.

Mr. COX. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. I would like to inquire whether it would be in order to ask to be excused from voting on this measure on the ground that the question is now pending before the Committee of Ways and Means. [Laughter.]

The SPEAKER. The Chair will direct the rule to be read, if the gentleman desires it.

Mr. WASHBURN, of Illinois. To relieve the gentleman, I will, if he desires it, move that he be excused from voting.

The SPEAKER. The question is now on the motion that the joint resolution be laid on the table, on which the yeas and nays have been ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 84, not voting 53; as follows:

YEAS—Messrs. Alley, Ames, Ashley, Bally, Boutwell, Broomall, William G. Brown, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Elliot, Farnsworth, Frank, Garfield, Griswold, Hale, Higby, Hooper, Jenckes, Kelley, Orlando Kellogg, Knox, Marvin, McBride, McClurg, Moorhead, Morrill, Amos Myers, Leonard Myers, Charles O'Neill, Peiham, Pike, Alexander H. Rice, John R. Rice, Shannon, Spaulding, Stevens, Thayer, Tracy, and William B. Washburn—43.

NAYS—Messrs. James C. Allen, Allison, Ancona, Anderson, Arnold, Augustus C. Baldwin, Baxter, Beaman, Blaine, Boyd, Brooks, James S. Brown, Ambrose W. Clark, Cobb, Coffroth, Cox, Cravens, Dawson, Denning, Denison, Donnelly, Eckley, Eden, Edgerton, Eldridge, Flinn, Ganson, Grider, Harding, Harrington, Charles M. Harris, Herick, Holman, Asabel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazarus, Le Blond, Long, Longyear, Malory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Noble, Norton, John O'Neill, Orth, Patterson, Pendleton, Price, Samuel J. Randall, William H. Randall, Robinson, Edward H. Rollins, Ross, Schenck, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Strouse, Sweat, Townsend, Upson, Wadsworth, Elithu B. Washburn, Whaley, Wheeler, Clifton A. White, Joseph W. White, Wilder, Wilson, Windom, and Yeaman—84.

NOT VOTING—Messrs. William J. Allen, John B. Baldwin, Blair, Bliss, Blow, Brandegee, Chamber, Freeman Clarke, Clay, Driggs, Dumont, English, Gooch, Grinnell, Hall, Benjamin G. Harris, Hotchkiss, Hubbard, Hutchins, William Johnson, Julian, Kibbleschick, Knapp, Littlejohn, Loan, Marey, McAllister, McKimney, William H. Miller, Daniel Morris, James R. Morris, Nelson, Odell, Perry, Pomroy, Pruyn, Radford, Rogers, James S. Rollins, Smith, Smithers, Starr, Sutes, Stuart, Thomas, Van Valkenburgh, Voorhees, Ward, Webster, Williams, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—53.

So the House refused to lay the resolution on the table.

**THE SPEAKER.** The question now recurs on ordering the main question to be now put, on which the yeas and nays have been ordered.

The question was taken, and it was decided in the affirmative—yeas 88, nays 44, not voting 48; as follows:

**YEAS**—Messrs. James C. Allen, Allison, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blaine, Bliss, Boyd, Brooks, James S. Brown, Ambrose W. Clark, Cobb, Coffroth, Cox, Cravens, Dawson, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Grinnell, Harding, Harrington, Charles H. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Kernan, King, Law, Lazear, Le Blond, Long, Longyear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Noble, Norton, Odell, John O'Neill, Orth, Patterson, Pendleton, Price, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scott, Sloan, John B. Steele, William G. Steele, Strouse, Sweet, Townsend, Upson, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, and Yeaman—88.

**NAYS**—Messrs. Ames, Baily, Boutwell, Broomall, William G. Brown, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, Farnsworth, Frank, Garfield, Gooch, Griswold, Hale, Higby, Hooper, Jenckes, Kelley, Orlando Kellogg, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Perham, Pike, Alexander H. Rice, Shannon, Spalding, Stevens, Thayer, Tracy, William B. Washburn, and Williams—44.

**NOT VOTING**—Messrs. William J. Allen, Alley, John D. Baldwin, Blair, Blow, Brandegee, Chanler, Freeman Clarke, Clay, Dumont, English, Hall, Benjamin G. Harris, Hotchkiss, Hulburd, Hutchins, William Johnson, Kalbfleisch, Francis W. Kellogg, Knapp, Knox, Loan, Marcy, McAllister, McKimney, William H. Miller, James R. Morris, Nelson, Perry, Pomeroy, Pruyn, Radford, Rogers, Schenck, Smith, Smithers, Starr, Stiles, Stuart, Thomas, Van Valkenburgh, Voorhees, Ward, Webster, Windom, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—48.

When the call of the roll had been concluded, Mr. ALLEY, who was not within the bar when his name was called, asked leave to vote.

Mr. HARRINGTON objected.

The result was then announced as above stated.

So the main question was ordered, which was on ordering the joint resolution to be engrossed and read a third time.

Mr. SPALDING. I move that the House adjourn; and on that motion I demand the yeas and nays.

Mr. BROOMALL. I was just going to make the same motion.

The yeas and nays were ordered.

Mr. MORRILL. Mr. Speaker, I rise for the purpose of asking unanimous consent to make a suggestion to the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I do not object, provided I am permitted to reply.

Mr. RANDALL, of Pennsylvania. I object, unless we all have a chance to be heard.

The question recurred on the motion to adjourn.

The question was taken; and it was decided in the negative—yeas 13, nays 115, not voting 54; as follows:

**YEAS**—Messrs. Baily, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Hale, Jenckes, Law, Moorhead, Alexander H. Rice, Spalding, Thayer, and William B. Washburn—13.

**NAYS**—Messrs. James C. Allen, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boutwell, Boyd, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cobb, Coffroth, Cole, Cravens, Creswell, Dawson, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Eden, Edgerton, Eliot, Farnsworth, Frank, Garfield, Gooch, Harding, Harrington, Charles H. Harris, Herrick, Higby, Holman, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Le Blond, Littlejohn, Long, Longyear, Marvin, McClurg, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Pike, Price, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Stevens, Strouse, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—115.

**NOT VOTING**—Messrs. William J. Allen, Alley, Brandegee, Chanler, Freeman Clarke, Dumont, Eldridge, English, Ganson, Garfield, Grider, Grinnell, Griswold, Hall, Benjamin G. Harris, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Hutchins, William Johnson, Kalbfleisch, Knapp, Knox, Lazear, Loan, Mallory, Marcy, McAllister, McBride, McKimney, William H. Miller, James R. Morris, Nelson, Pendleton, Pomeroy, Pruyn, Radford, Smith, Smithers, Starr, Stiles, Stuart, Sweet, Thomas, Voorhees, Ward, Webster, Whaley, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—54.

So the House refused to adjourn.

During the vote,

Mr. JOHNSON, of Pennsylvania, stated that his colleague, Mr. STILES, was absent from the city, and that he had no doubt if he were present he would vote for the adjournment.

Mr. HERRICK stated that his colleague was detained from the House by illness.

Mr. SLOAN moved that the reading of the list be dispensed with.

Mr. SPALDING objected.

Mr. VAN VALKENBURGH stated that his colleague, Mr. POMEROY, was absent on account of illness.

Mr. MORRILL stated that his colleague, Mr. WOODBRIDGE, was detained from the House by sickness in his family.

The vote was then announced as above recorded.

Mr. BROOMALL moved that when the House adjourns to-day it adjourn to meet on Wednesday next, and on that motion demanded the yeas and nays.

Mr. MORRILL. I hope the gentleman from Pennsylvania will withdraw that motion.

Mr. ELDRIDGE. I object to debate.

The yeas and nays were not ordered.

The motion was then disagreed to.

Mr. BROOMALL moved that the House do now adjourn; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered; and the motion was then disagreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURNE, of Illinois, demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. RICE, of Massachusetts, moved that the resolution be laid upon the table.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 91, not voting 49; as follows:

**YEAS**—Messrs. Alley, Ames, Baily, John D. Baldwin, Boutwell, Broomall, William G. Brown, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Eliot, Farnsworth, Garfield, Hale, Higby, Hooper, Jenckes, Kelley, Orlando Kellogg, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Perham, Pike, Alexander H. Rice, Shannon, Spalding, Stevens, Thayer, Tracy, William B. Washburn, and Williams—42.

**NAYS**—Messrs. James C. Allen, Allison, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boyd, James S. Brown, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Dawson, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Frank, Ganson, Grider, Harding, Harrington, Charles H. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazear, Le Blond, Longyear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Noble, Norton, Odell, John O'Neill, Orth, Patterson, Perry, Price, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Strouse, Townsend, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—91.

**NOT VOTING**—Messrs. William J. Allen, Allison, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boyd, James S. Brown, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Dawson, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Frank, Ganson, Grider, Harding, Harrington, Charles H. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Le Blond, Littlejohn, Long, Longyear, Marvin, McClurg, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Pike, Price, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Stevens, Strouse, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—49.

The question recurring on the passage of the resolution—

Mr. JENCKES demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 98, nays 40, not voting 44; as follows:

**YEAS**—Messrs. James C. Allen, Allison, Ancona, Arnold, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grider, Grinnell, Harding, Harrington, Charles H. Harris, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazear, Le Blond, Long, Longyear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Norton, Odell, John O'Neill, Orth, Patterson, Pendleton, Perry, Price, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Stevens, Strouse, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—98.

The question recurring on the passage of the resolution—

Mr. JENCKES demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 98, nays 40, not voting 44; as follows:

**YEAS**—Messrs. James C. Allen, Allison, Ancona, Arnold, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grider, Grinnell, Harding, Harrington, Charles H. Harris, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazear, Le Blond, Long, Longyear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Norton, Odell, John O'Neill, Orth, Patterson, Pendleton, Perry, Price, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Stevens, Strouse, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—98.

The question recurring on the passage of the resolution—

Mr. JENCKES demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 98, nays 40, not voting 44; as follows:

**YEAS**—Messrs. James C. Allen, Allison, Ancona, Arnold, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boyd, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grider, Grinnell, Harding, Harrington, Charles H. Harris, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazear, Le Blond, Long, Longyear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Morrison, Norton, Odell, John O'Neill, Orth, Patterson, Pendleton, Perry, Price, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Stevens, Strouse, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—98.

H. Randall, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scofield, Scott, Sloan, John B. Steele, William G. Steele, Strouse, Sweet, Townsend, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, Windom, and Yeaman—98.

**NAYS**—Messrs. Alley, Ames, Baily, John D. Baldwin, Boutwell, Broomall, William G. Brown, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Eliot, Farnsworth, Frank, Hale, Higby, Hooper, Jenckes, Kelley, Orlando Kellogg, Marvin, McBride, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Perham, Alexander H. Rice, Shannon, Spalding, Stevens, Thayer, Tracy, William B. Washburn, and Williams—40.

**NOT VOTING**—Messrs. William J. Allen, Anderson, Ashley, Brandegee, Dumont, English, Gooch, Griswold, Hall, Benjamin G. Harris, Herrick, Hulburd, Hutchins, William Johnson, Kalbfleisch, Knapp, Knox, Littlejohn, Loan, Marcy, McAllister, McClurg, McKimney, William H. Miller, James R. Morris, Nelson, Noble, Pike, Pomeroy, Pruyn, Radford, Smith, Smithers, Starr, Stiles, Stuart, Thomas, Voorhees, Ward, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—44.

So the resolution was passed.

Mr. WASHBURNE, of Illinois, moved that the vote by which the resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**THANKS OF CONGRESS TO GENERAL SHERIDAN.**

Mr. WASHBURNE, of Illinois. I ask unanimous consent to introduce a joint resolution.

Mr. BROOMALL. I object.

Mr. WASHBURNE, of Illinois. I move to suspend the rules. It is a resolution of thanks to General Sheridan.

Mr. BROOMALL. Then I withdraw my objection.

Mr. WASHBURNE, of Illinois, then, by unanimous consent, introduced a joint resolution tendering the thanks of Congress to Major General Philip Sheridan, and the officers and men under his command; which was read a first and second time, and referred to the Committee on Military Affairs.

**AMENDMENT OF THE CONSTITUTION.**

Mr. FRANK, by unanimous consent, presented a concurrent resolution of the Legislature of New York, proposing an amendment to the Constitution of the United States so as to abolish slavery; which was laid on the table and ordered to be printed.

Mr. COX. I suppose such resolutions can be referred under the rule.

The SPEAKER. Resolutions from State Legislatures are generally received in the House and ordered to be printed. But the Chair is informed by the Journal Clerk that this resolution has already been printed.

Mr. FRANK. I think not.

The SPEAKER. If it has been printed, it will not be printed again.

Mr. SCHENCK. I rise to a question of privilege.

**PRINTING OF AGRICULTURAL REPORT.**

Mr. HUBBARD, of Connecticut. I ask the gentleman from Ohio to yield to me a moment.

Mr. SCHENCK. I will yield.

Mr. HUBBARD, of Connecticut. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Committee on Printing be directed to inquire into the cause of the delay in printing the agricultural and mechanical report for the year 1863, and make a report thereon.

Mr. Speaker, it has been announced by a portion of the press that these valuable reports have been printed and prepared for distribution, by reason of which, the farmers of the country are constantly calling for copies, and we are unable to respond. I was informed on Saturday by the superintendent of the folding-room, that the members of the House were entitled only to ten copies each, to that time, and that the balance would not be ready for distribution till some time in June next. I have offered the resolution to ascertain the reason of the delay, and that correct information may go to the country on the subject.

By unanimous consent the resolution was admitted, read, and agreed to.

**USE OF THE HALL OF THE HOUSE.**

Mr. FARNSWORTH. Will the gentleman from Ohio yield to me to present a resolution?

Mr. SCHENCK. I will; but I cannot yield any further.



Mr. FARNSWORTH. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the use of the Hall of this House be given to Bishop Simpson, for the purpose of a lecture, on Wednesday evening next, the 25th instant.

Mr. COX. I object to using the Hall for any purpose except that of legislation.

Mr. FARNSWORTH. I move to suspend the rules.

Mr. ROSS. What kind of a lecture is it to be?

Mr. FARNSWORTH. It is to be a moral lecture, and therefore I hope my colleague will not object. [Laughter.]

On the motion to suspend the rules, the House divided; and there being—ayes 54, noes 51,

Mr. ECKLEY demanded the yeas and nays.

The yeas and nays were not ordered.

So the rules were not suspended, two thirds not voting in favor thereof.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles:

An act (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit; and

An act (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1866; when the Speaker signed the same.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Department of the Interior transmitting an account of the superintendent and agent of the southern superintendency having charge of refugee Indians; which was laid on the table, and ordered to be printed.

#### EXCHANGE OF PRISONERS.

The SPEAKER also laid before the House an answer of the Secretary of War to a resolution offered on the 21st of December last, in regard to the exchange of prisoners; which was read, ordered to be printed, and referred to the Committee on Military Affairs.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Military Affairs be authorized to send for persons and papers, and to examine witnesses, in their investigation as to the exchange and treatment of prisoners of war under former resolutions of this House.

There being no objection, the resolution was considered and agreed to.

#### BREACH OF PRIVILEGE.

Mr. SCHENCK. I now rise to a question of privilege, and I ask first to have read at the Clerk's desk the proceedings before a police court in this city, as published in a newspaper of Washington yesterday morning, in relation to a member of this House.

The Clerk proceeded to read an article from the Sunday Chronicle.

Mr. MALLORY. I rise to a question of order. Can that be regarded as a question of privilege in this House?

The SPEAKER. The Chair cannot yet ascertain whether it is a question of privilege or not.

Mr. SCHENCK. After the reading of the proceedings I propose to offer a resolution.

The SPEAKER. The Chair would state to the gentleman from Ohio that the proper mode would be to offer the resolution first.

Mr. MALLORY. I should say so.

The SPEAKER. The Chair can then decide whether it is a question of privilege or not.

Mr. SCHENCK. I can do that; but I supposed that, as a statement by a member is sometimes made accompanying the resolution, this publication might be received as such statement, but as that is objected to I will offer the resolution first.

Mr. MALLORY. If I could understand that it was a question of privilege I would not object to the manner of its introduction.

The Clerk read the resolution, as follows:

Whereas it is understood that on the evening of Friday, the 20th instant, A. P. Field, a citizen of Louisiana, did attempt by language of intimidation, and by bullying, to deter

William D. Kelley, a Representative in this House from the fourth district of the State of Pennsylvania, from the free and fearless exercise of his rights and duties as a member of Congress, and voting and deciding upon a pending subject of legislation, and did follow up the said attempt at intimidation and bullying by an assault upon the person of the said Representative Kelley, thus committing a breach of the privilege of this House: Therefore,

*Be it resolved*, That a select committee of five members be appointed by the Speaker to inquire into the said alleged breach of privilege; that the said committee have power to send for persons and papers, and to examine witnesses; and that the committee report as soon as possible all the facts and circumstances of the affair, and what order, if any, it is proper for this House to take for the vindication of its privilege, and right, and duty of free legislation and judgment.

Mr. MALLORY. I raise the question of order that the case set forth by the gentleman from Ohio does not bring the matter within the question of privilege.

The SPEAKER. The Chair would refer the gentleman from Kentucky to the 145th page of the Digest. In the Twenty-Second and Twenty-Third Congresses it was decided that an assault upon a member was a breach of privilege, and even the use of menacing language toward a member out of the House. The Chair has looked at it since the point was raised by the gentleman from Kentucky, and the various precedents have been there cited by the Journal Clerk of the House.

Mr. MALLORY. I am happy to hear that we are surrounded with more safeguards for our protection than I had supposed.

The Clerk then read the statement, as follows:

THE ASSAULT AND BATTERY UPON JUDGE KELLEY.—The case of A. P. Field, charged with assault and battery on Judge W. D. Kelley, member of Congress from the fourth district of Pennsylvania, was brought before Police Justice F. A. Boswell, at his office on E street, near Thirtieth street, at three p. m. yesterday.

Hon. Thomas Corwin, of Ohio, appeared as counsel for Field. Most of the congressional delegation from Louisiana were present.

Judge W. D. Kelley was sworn, and testified as follows: I was spending the evening of yesterday with Hon. Charles O'Neill, at his rooms on F street, where I met several friends. After a while we proceeded to Willard's Hotel to supper. At first I did not recognize what persons were at the table. Soon Judge Field asked, "Why do you keep us out in the cold? Why don't you admit us, like a man?" Rather than appear rude, I simply said, "I have nothing to do with admitting you; the question is in the committee, and is not yet before the House." Then he said, with an oath, "Why do you not come up like a man and toe the line?" I then remarked in subdued tones, "Judge Field, if you will inquire of my friends, you will find I am in the habit of toeing the mark; of marching up to the line." He then broke out more violently, "You dare not go home and face your constituency; you would quail before them." I replied, "Judge Field, my constituency will not rebuke me for excluding a man like you, who, before ladies, can act as you are doing." He then, uttering another oath, quitted the room, remarking as he did so, "I will hold you responsible; you shall feel me for that." I left the supper room in about fifteen or twenty minutes thereafter, and on passing into the hall saw Judge Field conversing with other gentlemen. On purpose to avoid him I endeavored to pass out the other way, but he saw me, and running to me, seized the collar of my coat with his left hand, while with his right hand he struck me, exclaiming as he did so, with an oath, "You shall give me satisfaction." The blow appeared to strike to the bone, and clear across it. I said, "You are an old man, and I wish you would go away; I do not want to strike you." He then made a second effort to strike me, but Major Harper seized his arm. Meanwhile I felt the blood trickling down, [witness here exhibited the wound; it was about one and a half inch long, on the back part of the hand, near the wrist.] People gathered around, and some at the tables of the hotel insisted on my going away. I told them I was not the culprit; they should take the other man away; he was the disturber. Judge Field went on the platform and talked with other gentlemen, saying he was armed, and he could take care of himself.

Judge Field. Did you not tell me at the table to go back and tell the people of Louisiana to send a more decent man there?

Answer. I uttered no such words; what I said was, my constituency will not rebuke me for excluding a man as you are, who behaves in the presence of ladies as you do.

Major Harper testified as follows: In the company of Judge Kelley and Hon. Leonard Myers, I went to the rooms of Hon. Charles O'Neill, about nine o'clock; left at half past ten or eleven o'clock, and went to supper at Willard's; I sat next to Judge Field, and Judge Kelley sat on my right; Judge Field leaned over and said, "Judge, why do you keep us out in the cold?" Judge Kelley replied that the delegation business was in committee, and had not come before the House; Judge Field then said Judge Kelley ought to toe the mark; a lady was sitting near, when Judge Field with an oath, said, "You dare not go before your constituency; you would quail before them;" he then left the table, saying he would see them before he was responsible. Suspecting there would be trouble, I came out first to see where Field was, and if possible prevent a collision; noticing the Judge sitting on the heater, I returned, and told Judge Kelley he had better go out by the side door; as he was passing out, I observed Judge Field advancing rapidly toward Judge Kelley, and as I came up he struck with his right hand and grappled with his left; on his attempt to strike the second blow, I saw the knife and arrested his arm; he wanted me to let go, but I would not; a clerk belonging to the hotel wished Judge Kelley to go

away; the Judge replied that he was the injured man, and that the other should be taken care of; I went with Judge Kelley to get his wound dressed; when we returned Judge Field was walking up and down very much excited; I went with Judge Kelley to his room, and when I returned I found Judge Field had been arrested.

The knife he used was a dark-handled one with a small blade.

Judge Field. Did not Judge Kelley tell me to go and tell my constituency to send a more decent man there?

Answer. I sat between you, and I say Judge Kelley made no such remark as that. Such words did not issue from his mouth. You said you would hold him responsible, and have satisfaction.

Judge Field, with an oath, said the witness lied.

The court reminded the accused that such language could not be tolerated.

[Despite this reminder of the court, Judge Field continued, in the same style of language, to interrupt the witness with questions and remarks, which we deem it proper to exclude from our columns.]

Judge Kelley said: I have other witnesses, but I suppose their examination might be dispensed with. In view of the fact that Judge Field has told many persons that he would take my life, I ask that the bail be of so substantial a character that I can feel I have protection while going about my public duties.

Justice Boswell said he should require Judge Field to find bail in the sum of \$500 to answer the charge of assault and battery at the next term of court, and a further bail of \$1,000 to keep the peace toward Judge Kelley for the space of six months.

Mr. John D. Hammack became his bail for the sums named.

Mr. FARNSWORTH. I offer the following amendment, to come in at the end of the resolution:

And until the report of such committee shall be made, the said A. P. Field shall be excluded from the privileges of this floor.

I understand that at present, by order of the House, he is entitled to the privilege of the floor; and that should be denied him.

Mr. JOHNSON, of Pennsylvania. I think we had better have him tried first. The committee will probably be able to report by to-morrow. We had better give this gentleman a fair opportunity of making his defense.

Mr. FARNSWORTH. I think the facts are sufficiently verified already for us to take this action. Until the report of the investigating committee can be made, this man ought to be excluded from the floor.

Mr. JOHNSON, of Pennsylvania. I do not like to see the precedent established that upon the mere reading of a newspaper article the House should take such action as this. Let us have a full investigation of the matter, and I will go as far as any gentleman will in making any order which may be necessary to protect any member from any threat or violence from any blackguard either inside the House or outside of the House, whether it be upon this side of the House or upon the other side.

Mr. MOORHEAD. I desire to know from the Chair whether an amendment to the amendment is in order.

The SPEAKER. It would be if it were germane.

Mr. MOORHEAD. Mr. Speaker, I dislike the appearance of the Pennsylvania delegation or of any member of it coming here invoking the protection of the House. I dislike the asking of a committee to investigate this matter.

Mr. COX. I would like to inquire whether the amendment proposed by the gentleman from Illinois [Mr. FARNSWORTH] has been accepted by the mover of the original resolution.

Mr. SCHENCK. I have no objection to it; but I do not accept it. I leave it to the House.

Mr. COX. Is it in order to debate it?

The SPEAKER. It is; and the gentleman from Pennsylvania [Mr. MOORHEAD] is on the floor debating it.

Mr. MOORHEAD. I think that this was so gross an outrage, without any provocation, without any cause, that this House should adopt the amendment offered by the gentleman from Illinois, [Mr. FARNSWORTH], and exclude Mr. Field from the privileges of the floor. I hope that will be done promptly and by a unanimous vote of the House. I do not think there is any member here who would wish to be associated with a man who would be guilty of so gross an outrage. But I do not wish to have the thing magnified. The question as to whether this man has a claim to a seat here has not been examined; but I would have him immediately excluded from the privileges of the House. I hope, therefore, that the amendment of the gentleman from Illinois will be adopted in place of the original resolution. I do not want to have any report from a committee.

I want to have this man excluded from the floor, and there have done with the matter. I move that as a substitute for the original resolution.

Mr. SCHENCK. Mr. Speaker, I am sorry to hear the remarks of the gentleman from Pennsylvania [Mr. MOORHEAD] in reference to the character of this proceeding. I hold that you cannot magnify this proceeding in regard to its character. Whether Mr. KELLEY, a member of the House, has been assaulted, or whether Mr. Field or any one else has been admitted to the privileges of the floor, is a matter of the least possible consideration, as is also the question whether Mr. KELLEY comes from Pennsylvania or from Ohio, as compared with the great question which underlies this whole proceeding which I propose to the House.

Mr. Speaker, I know how able my friend from Pennsylvania [Mr. MOORHEAD] is to protect himself. I have not spoken in this resolution of this man Field as having been admitted, by any former resolution of the House, to the privileges of the floor. I studiously excluded that, wishing to present to the House the simple question whether any citizen, of any State or of any country, can undertake to intimidate or prevent from the free exercise of judgment and action on questions of legislation a member of Congress of the United States. I knew that that question had been distinctly raised in the case of Stanbery and Houston in 1831-32, and that the House, against its political character—it being then largely Democratic—maintained the ground that an attack made upon a member for words spoken in debate on this floor was such a breach of the privileges of the House as should be visited by punishment. After a long investigation at the bar of the House, Houston was brought before the bar of the House of Representatives and publicly reprimanded for his conduct by Mr. Stevenson, the Speaker, according to the order which the House had made. In that reprimand, which I commend to the consideration of the gentleman from Pennsylvania, [Mr. MOORHEAD,] Mr. Stevenson, with all his political affinities and prejudices in favor of the culprit, took occasion, nevertheless, to speak in noble terms of the immense importance of protecting and defending free speech and free legislation in the House of Representatives against any attempt at intimidation from any citizen or other person.

Mr. DAWES. If the gentleman from Ohio will yield to me I will cite another instance that occurred in the other branch of Congress. When the late Senator Shields was elected, as he claimed, Senator from the State of Illinois, and when his seat was contested on the ground that he was not naturalized within the constitutional period, some one wrote a threatening letter to him and the Senate took action on it similar to that proposed here.

Mr. SCHENCK. The precedent to which I have referred is not by any means the only one; but it is one dating as far back as 1831-32, to which I believe every other since that time has conformed.

Now, it is true, perhaps, that this man, A. P. Field, who has made the assault upon a member, has been admitted to some privilege upon this floor, as one claiming a seat here as himself a Representative of the people. I have taken care not to mention that in the resolution, because I desire that, if such should be disclosed as a part of the history of the case and of the relation of that individual to this House, it should come in by way of aggravation of his offense, just as, in the case of Houston, the fact that he had been himself a member of Congress before the time of his making this assault upon one who was then a member, was cited by Mr. Stevenson, the Speaker, as a reason why he particularly had incurred the just censure of the House, being a man who ought better to have understood the privileges of the legislative body.

I beg leave to read, in reply mainly to the suggestion made by the gentleman from Pennsylvania, some of the remarks made by Mr. Stevenson, of Virginia, Speaker of the House, (afterward minister to England,) in reprimanding Houston:

"If, in fulfilling the order of the House, I were called upon, as its Presiding Officer, to reprimand an individual uneducated and uninformed, it might be expected that I should endeavor, as far as I was able, to impress upon him the importance and propriety of sedulously guarding from violation the rights and privileges secured to the members of this House by our invaluable Constitution; but when

addressing a citizen of your character and intelligence, and one who has himself been honored by the people with a seat in this House, it cannot be necessary that I should add to the duty enjoined upon me by dwelling upon the character or consequences of the offense with which you have been charged and found guilty. Whatever has a tendency to impair the freedom of debate in this House, a freedom no less sacred than the authority of the Constitution itself, or to detract from the independence of the Representatives of the people in the rightful discharge of their high functions, you are, no doubt, sensible, must, in the same proportion, weaken and degrade not only the Legislature of the nation itself, but the character of our free institutions."

It is therefore, I say, a matter of very little consequence who has been assaulted, so far as he himself is concerned; a matter of very little consequence who is the person who has made the assault; a matter of very little consequence whether the person assaulted or others in this House may or may not be able and willing to defend themselves against personal attacks. I trust there is no one here who would be craven enough to permit himself to be drubbed at pleasure by anybody outside for what he had done here while waiting for the House to act; but over and beyond that, and beyond the action of the police courts of the country, arises this question towering above all others, how far this House, as a part of the legislative department of the Government, will sit quietly by and permit anybody to interfere with members and assault them or undertake to intimidate and bully them and deter them from the free course of legislation here, and the part which they have taken, and which it is their duty to take, in that legislation.

Mr. COX. Mr. Speaker, there is, I think, no one upon this side of the House who does not believe that this is a question of privilege. There is no one upon this side of the House, so far as I am aware, who would object to the motion as made by my colleague from Ohio; and I think that the compliments of the House are due to the gentleman for having presented this matter in the proper shape and with its proper dignity. But I think that the motion of the gentleman from Illinois [Mr. FARNSWORTH] will tend to embarrass the matter somewhat, because it prejudices the case; it debars a *quasi* member, or a man who seeks privileges upon this floor, already granted to some extent, from coming here to present the claims of his constituency and the claims of his State. I would not, sir, be instrumental in debarring any one from presenting a case like that to be presented from the State of Louisiana. Whatever may be my opinion in the matter, I would not so far prejudice or prejudge the case as to rule out this man merely on the testimony as presented. First let us have this examination; let us know just what is the grievance complained of; let us know how far this man has violated the privilege of this House, either by intimidation or otherwise, and then the House will be prepared to take action upon the case. The man who is inculcated should also be heard, not on his own account, but on account of the constituency that he claims to represent. I think that the gentleman from Illinois will see the propriety of withdrawing his amendment and allowing the resolution of my colleague to be passed, so that an examination may be made and a fair hearing given to the man inculcated. Every man is entitled to be heard fairly before adjudged or convicted; and the amendment of the gentleman from Illinois [Mr. FARNSWORTH] goes upon the idea that this man is already guilty. Perhaps he is; but let us first have an examination into that, and then we will be prepared to vindicate the privileges of the House.

Mr. Speaker, I do not know that I would bring my case, if I had one, before the members of this body. I think that I would be prepared, owing to my physical capacity, to defend myself under the circumstances. [Laughter.]

But that is not the question before us. The gentleman from Pennsylvania over there—I refer to the gentleman from Pittsburg [Mr. MOORHEAD]—having a ponderous frame, having the ability to defend himself, does not feel the case as it comes home to me and other members upon this floor. There is a dispute as to the facts apparent already on the first reading. The gentleman from Pennsylvania claims that there was intimidation of him and his action upon this floor. The party inculcated says that he did not intend to intimidate the action of the gentleman from Pennsylvania. Let us have the issue fairly understood, and then the House will be prepared to act

on the subject. But I will not prejudge the case by voting for the amendment of the gentleman from Illinois.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body further insisted upon its amendments to House bill No. 620, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, disagreed to by the House, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Messrs. CLARK, TRUMBULL, and POWELL the committee of conference on the part of that body;

That it had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located;" and

An act (S. No. 136) for the relief of A. T. Spencer and Gurdon S. Hubbard;

That it had passed House bill No. 94, for the relief of Isaac R. Diller, with amendments, in which he was directed to ask the concurrence of the House;

That it had passed House joint resolution No. 140, authorizing the Secretary of the Treasury to give the necessary notice stipulated pending the intention of the United States to purchase the building known as the Merchants' Exchange, New York city, now used for custom-house purposes, without amendment;

That it had agreed to the amendment of the House to Senate joint resolution No. 98, to present the thanks of Congress to Major General Alfred H. Terry, and the officers and men under his command; and

That it requested the return of Senate bill No. 212, for the relief of Henry A. Brigham.

#### BREACH OF PRIVILEGE—AGAIN.

Mr. THAYER. Mr. Speaker, I desire to call the attention of the House to the fact that in Houston's case, which has been referred to by the gentleman from Ohio who introduced this resolution, immediately on the communication being presented to the House from Mr. Stanbery, member of Congress from Ohio, Mr. Vance, one of the Representatives from the State of Ohio, moved the following resolution:

"Resolved, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending this House, commanding him to take in custody, wherever to be found, the body of Samuel Houston, and the same in his custody to keep, subject to the further order and direction of this House."

The resolution was read; and after debate thereon a motion was made by Mr. Speight to amend the same by striking out all after the word "resolved," and inserting the following:

"That a select committee be appointed, to whom shall be referred the communication of Hon. William Stanbery, a member of this House from the State of Ohio, in relation to an assault and battery committed on him by Samuel Houston, with power to take such steps as will insure a thorough investigation of the transaction."

After further debate, the question was put on Mr. Vance's original resolution, and it was adopted on the mere communication from a member of this House who had been assaulted. This House, by a large majority, adopted the resolution of Mr. Vance, and commanded the Speaker of this House to issue his warrant for the immediate arrest of the offender, and his compulsory attendance before the House to answer for a high breach of its privileges.

There is another case which occurred at the second session of the Twenty-Third Congress, in which Mr. John Ewing, a member of this House, was assaulted by John F. Lane, a lieutenant of the United States Navy, and on the communication of the fact to the House, the House immediately asserted its jurisdiction and took all the proceedings in the premises.

Now, sir, it is objected by the gentleman from Ohio [Mr. Cox] that the amendment of the gentleman from Illinois presupposes the guilt of the defendant. The principle upon which this House has heretofore acted in cases of this kind is this: that where a *prima facie* case has been shown to the House of a breach of its privileges, this House will act immediately by an arrest of the offender,

and bringing him to the bar of the House to answer for his high offense. That was done in the Houston case. He was immediately brought to the bar of the House.

A VOICE. He was a member.

Mr. THAYER. No, sir; I beg the gentleman's pardon; he was not a member of the House, but he had been a member. And, sir, I suppose that the case of a man who is here asking for admission to this House presents quite as strong a case for the action of this House as that of a man who had been a member of the House.

But the action of the House has never been confined to cases of assaults committed by a member upon a member. The cases are numerous on the Journal of the House in which the House has asserted its determination to maintain its privileges and its dignity by arresting and bringing to its bar, and trying and punishing anybody, it makes no difference who, who is guilty of a breach of the privileges of this House. There can be no greater breach of the privilege of this House than an assault upon a member of the House for his political action.

Now, I suggest to the gentleman from Ohio [Mr. Cox] if the House of Representatives was justified in Houston's case, upon the simple statement of Mr. Stanbery, a member of the House, in ordering its Sergeant-at-Arms to take Mr. Houston into custody, and bring him immediately to its bar for trial, where he was tried and punished, that we do not go beyond the precedent simply in passing a resolution that the gentleman who is accused of having committed this breach of privilege shall be excluded from the privileges of the floor of this House during the examination which is contemplated by the resolution before the House.

Mr. COX. Do I understand the gentleman to say that he would vote for this amendment as a punishment, without giving the gentleman from Louisiana a hearing upon this floor?

Mr. THAYER. Not at all.

Mr. COX. Then you are not in favor of the amendment?

Mr. THAYER. I favor it upon this ground: I think that no man against whom a *prima facie* case is made out by a member of this House of an assault upon him in the exercise of his representative privileges, is fit to come into this House while he rests under that charge. If the investigation shall prove that the charge is groundless, that there has been an error of fact, I will be as quick as anybody to vote to restore the gentleman to the privileges of which he is deprived. But I maintain that a proper assertion of the dignity and self-respect of this House requires, when a *prima facie* case is made against a man of an assault committed upon a member of this House for the exercise of his privilege as a Representative, that that man shall not be permitted to come into this House until he has cleared his skirts of the charge preferred against him.

I have only to add that the present circumstances place this case in as strong a light as the case of Houston. Although no communication has been addressed to this House by my colleague, who was subjected to this gross and brutal insult, yet the testimony of that gentleman, given before the tribunal which examined into the charge, has been read within the hearing of my colleague, and he has not denied its correctness, and, by remaining silent, he has given his acquiescence to the correctness of the report. Members of the House, then, in my opinion, are bound to take the statement which has been read within the hearing of the gentleman from the fourth district of Pennsylvania [Mr. KELLEY] as the statement of the gentleman himself. It is the record of his own testimony; it is a record which, by listening to here, he indorses as correct; and therefore it stands before the House in as strong a light as if the gentleman from the fourth district of Pennsylvania had sent a written communication to this House, informing this House of all the circumstances of the assault—the manner in which it was done by Stanbery in the Houston case.

The House cannot be too jealous of its dignity and its rights. We do not inquire in regard to a private injury. It is upon no such idea that the action of this House is predicated. It goes upon higher grounds, and those grounds are that the rights of the people in the keeping of their Representatives here upon the floor of this Hall, as well as the untrammelled liberty of the Repre-

sentative to act according to his best conscience in regard to the rights and interests of his constituents on political questions which come before the House, are of so sacred a character that the House will rebuke the first intimation of an invasion of them in attempting to influence the conduct of a member of this House by an appeal to violence. It is upon this principle that this House has always acted. It is upon this principle, I trust, that the House will act now; and I hope that the House will not show by its action in the present case that it is behind the Twenty-Second Congress in its appreciation of its own dignity and self-respect, and in the assertion of its determination to bring to immediate justice anybody who outrages the rights of the people in the person of the Representative. Sir, I hold that while this inquiry is going on, and in the face of the *prima facie* case which has been presented to the House, the person who has been charged with this offense should be excluded from the privileges of the floor of this House.

Mr. COX. Mr. Speaker, I wish to add only a word or two. I think my colleague [Mr. SCHENCK] has followed the precedents laid down in the Houston and Stanbery case, and that he intends to give a fair chance for an examination of this case before he proceeds to affix a penalty. That case of Houston and Stanbery was a case that excited a great deal of interest at the time. It is well known, and especially in my own district, for Stanbery happened to be a predecessor of mine in the district which I formerly represented, and he never came back to Congress because he submitted to this flogging by Houston. But the resolution offered by Mr. Davis, of Massachusetts, in that case looked to a fair hearing before punishment. An order was made that Houston should be placed at the bar of the House and that the letter of Stanbery should be read to him; after which the Speaker put to him certain interrogatories. Here is one of them: "Do you deny or admit that you assaulted and beat the said Stanbery, as he has represented in the letter which has been read, a copy of which has been delivered to you by the order of the House?" This was preliminary to punishment. But the gentleman proposes to hang the man first and try him afterward. That is not fair; it is not according to the rules of criminal jurisprudence.

Mr. THAYER. The gentleman will allow me to say that I do not propose to do any such thing. I do not propose to punish this man until he be duly convicted; but I do propose, after a *prima facie* case is made out against him, to exclude him from the floor of the House until investigation shall prove him innocent.

Mr. COX. Well, I look upon that as a penalty, as a punishment, and perhaps the only punishment that this House can inflict upon him. The only connection he has with the House is the privilege of the floor which the House has granted him.

Mr. SCHENCK. Will my colleague yield to me for a moment?

Mr. COX. Certainly, sir.

Mr. SCHENCK. Mr. Speaker, I have made myself familiar with this Stanbery case, and indeed I had a pretty lively recollection of that case from its political aspect; for, although then a very young man, I was connected with one of the members here who was very active in the course of this proceeding, in seeing that proper action of the House was had against Houston.

The member from Pennsylvania [Mr. THAYER] is right in this, that in that case, instead of appointing a committee in the first place to investigate and report to the House, a warrant was immediately issued, and Houston was brought to the bar of the House. I have no objection at all to that course being pursued now. I thought that perhaps the one which I have proposed might save time and accomplish the end as well. That was my only reason for deviating from that particular precedent. After Houston had been brought to the bar of the House, however, a committee was appointed, at the head of which was Mr. Davis, of Massachusetts, to report what proceedings the House would take in the case. That committee reported that Houston, who had been sent from the bar while the matter was being discussed, should be again brought to the bar and certain questions put to him in succession, touching his admission or denial of the charge made

by Mr. Stanbery; and after a full examination of Houston, himself, at the bar, he was again withdrawn, and the House proceeded to consider what they would do.

Now, it so happened that Houston, having been a member of the House, had the privilege of the floor at that time. There was a proposition to exclude him from the privileges of the floor pending the consideration of his case; but after the case had been fully heard a motion was made that he be punished in this form: first, that he be brought to the bar of the House, and reprimanded by the Speaker for the assault made on a member of the House; and second, that he be deprived of the privileges of the floor under—I think it was—the 13th rule. The House, it being in high party times, voted down that part of the punishment which excluded him from the floor; but it did adopt the resolution directing the Speaker to reprimand him, and he was punished accordingly. So that not only did the House not exclude Houston from the floor during the progress of the inquiry, but when that was proposed as a form of punishment it was voted down. That happens to be the fact in regard to Houston's case, who himself had the privilege of the floor as an ex-member, just as Field has now the privilege of the floor by an express resolution of the House. It was for that reason that I left out everything relating to Field's having the privilege of the floor, intending to leave that part of it for a future proceeding. If it be thought that part of the punishment should be to deprive him of the privilege of the floor, I, for one, shall think it a proper mode of punishment, and a very small part of what should be extended to him. But I did not propose that that should be done in the first instance.

Again, the gentleman is mistaken in this; but it is only to be accounted for by the fact that it was in high party times. Mr. Stanbery communicated by letter to the House that an assault had been made upon him by Mr. Houston, a citizen, near his lodgings on Pennsylvania avenue. On the motion being made to arrest Houston, a discussion arose, and it was questioned whether there was sufficient showing for the action of the House in the written statement of the member; and some of the colleagues and friends of Mr. Stanbery yielded a point which I think I never would have yielded, and in the midst of the discussion they sent out Mr. Stanbery and had an affidavit made of the truth of the facts stated in the letter. All that is obviated here, however, because the testimony which I have introduced is already sworn to. I do not think that any member has objected to it on the ground of its not being sufficient. I think I should prefer that Mr. Field should be brought to the bar of the House by the Sergeant-at-Arms, as was done in Houston's case; but, on consideration, I supposed that the other was a better mode. I should not object to an amendment proposing that Field should be brought to the bar of the House instead of what is proposed by my resolution; but in regard to the other matter of excluding him from the floor now, it is not only, as my colleague [Mr. Cox] has said, anticipating the decision and giving punishment before inquiry, but it is, so far as Houston's case is concerned, directly in face of the precedent where the House refused to take away from him the privileges of the floor.

Mr. FARNSWORTH. Mr. Speaker, if this were a proceeding like the proceeding in the case of Houston, where the Speaker was directed to issue his warrant for the immediate arrest of the offender, there would be, of course, no propriety in refusing the individual the privilege of the floor, because, in such case, he could only come on the floor under arrest. The resolution offered by the gentleman from Ohio [Mr. SCHENCK] is for the appointment of a committee to investigate the case and report upon it to the House. This individual is not entitled, by right, to the privileges of the floor; nor is there any rule of the House entitling him to it. There is only an order of the House giving him that courtesy. It does seem to me that where a *prima facie* case like this is made out by the statement of the aggrieved party from Pennsylvania, it is eminently proper that this courtesy, heretofore extended to the culprit, should be withdrawn until the case shall have been investigated.

I do not propose to reply to the argument of



the gentleman from Ohio [Mr. Cox] in regard to the rights of this man's constituents. He is not on the floor of the House as a member representing a constituency. He has no right here to engage in debate, or to vote. He is only entitled, under the order of the House, to the courtesy of appearing on the floor until his case is decided, and to debate that particular case, and nothing else.

Waiving all discussion as to the question whether this man's presence in the House, or his absence from it, under existing circumstances, would be most prejudicial to the rights and interests of Louisiana, I think it is due to ourselves, due to our dignity, due to the propriety of the House, and to the rights of members, that a man who has committed so gross and unprovoked an assault as that should be denied the courtesy of appearing on the floor, especially as the interests of Louisiana will not be injured by his absence.

HENRY A. BRIGHAM.

The SPEAKER, by unanimous consent, laid before the House the following message from the Senate, which was read:

IN THE SENATE OF THE UNITED STATES,  
January 23, 1865.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. No. 212) entitled "An act for the relief of Henry A. Brigham," passed by the Senate and sent to the House for its concurrence on the 19th instant.

Attest: J. W. FORNEY,  
Secretary.

The SPEAKER. If there is no objection, the bill will be returned as requested.

There was no objection.

#### BREACH OF PRIVILEGE—AGAIN.

Mr. COX. Mr. Speaker, I would not have undertaken to trouble the House in relation to this matter but for the fact that all these questions may hereafter be drawn into a precedent. They may be quoted hereafter under other circumstances, not so aggravated as the present; and what may now seem almost nothing may some time become a monstrous outrage, of which the House will have to take cognizance.

I do not propose, in saying what I have said, to defend the conduct of this *quasi* member from Louisiana. He may be all that is charged, both a bully and a blackguard; but as he comes before us with the privileges, granted to him by this House, of appearing here for the purpose of sustaining the great right of representation in the popular branch of the national Legislature, he is entitled to more consideration than was Mr. Houston, whose term as a member of Congress had expired, and who had no such business and no such privilege in that highest sense. Now, sir, it will appear from this precedent that the House of Representatives, before undertaking to punish Mr. Houston for this attack upon a member, was more careful even than our courts of justice are in the trial of criminals. The House did not punish simply upon the *prima facie* case, as the gentleman calls it—the case sustained by affidavit and the communication of Mr. Stanbery sent in writing to the Speaker; but after the arrest, the House proceeded to pass resolutions, reported to the House by a committee that was raised, proposing questions to be put to the accused—questions in relation to the assault, questions in relation to the motive of the assault, and finally requiring all the testimony to be reduced to writing; and then, before any punishment, before any deprivation of privilege, the House resolved to give Mr. Houston a chance to be heard by himself and by counsel, according to the old rules of the common law.

Mr. FARNSWORTH. I desire to ask the gentleman whether the House did not deny Mr. Houston a privilege by ordering him to be placed under arrest and by keeping him under arrest, and whether that was not as great a punishment as it would be to refuse a man the courtesy of the floor.

Mr. COX. It has never been considered as a punishment to bring a man up before a court of justice; that is preliminary to the punishment. If the gentleman will bring in a resolution to arrest this man Field and bring him here, and give him then a hearing, I will vote for it. I care nothing for him. All I want is that we shall not establish any precedent inconsistent with the right of every one to a fair trial.

Mr. THAYER. I desire to ask the gentleman whether in the case referred to, the defendant did not remain in the custody of the Sergeant-at-Arms, either actually or constructively, from the very moment of his arrest until the final action of the House in his trial and the sentence of the Speaker.

Mr. COX. And I would have no objection now to have Mr. Field brought here and placed in charge of the Sergeant-at-Arms, and put, as we have put witnesses, away down among the crypts of this Capitol, with nobody but the Speaker to have the privilege of looking at him. I might be willing to punish him even in that way, sir.

Mr. THAYER. The gentleman will allow me one moment. If I am correct in my statement that Houston remained in the custody of the Sergeant-at-Arms from the moment when he was taken into custody, by virtue of the Speaker's warrant, up to the time when his trial concluded before the House and the Speaker passed sentence upon him, then, of course, it is manifest that he could not have enjoyed the privilege of this floor during that time; and therefore the argument of the gentleman from Ohio, so far as it is founded upon any analogy to Houston's case, must, it seems to me, fail.

Mr. COX. Well, Mr. Speaker, suppose it to have been the fact that Mr. Houston was constructively in the custody of the Sergeant-at-Arms, he no doubt was upon the floor of the House during all the time. Besides, as I have already suggested, it has never been reckoned a punishment to arrest a man. That is only a preliminary to the trial; and the punishment is consequent upon the trial. And in the case of Houston we have the very analogy for this special case, because, so far as he had the privileges of the House, he was not punished by taking from him those privileges until his own testimony had been heard and reduced to writing, until he had been heard by counsel, and the House had judged upon his case; and then they punished him, and punished him in the manner which is in this case proposed in advance by the proposition of my friend from Illinois.

Mr. J. C. ALLEN. Mr. Speaker, there is one consideration which will settle my vote on this resolution of my colleague from Illinois, [Mr. FARNSWORTH,] and it is this: the whole case is presented by the resolution of the gentleman from Ohio, [Mr. SCHENCK,] and I expect to vote for it. I repeat that I expect to give that resolution my vote; but while we are trying this man Field for an assault, I am willing to grant to him the privilege granted to every criminal in every court of being present and heard by himself or counsel in reference to the charges preferred against him. My colleague's resolution would not only deprive Mr. Field of the privilege of the floor, but would make this a sort of Star Chamber proceeding.

Mr. L. MYERS. Mr. Speaker, I did not expect at this time to have said anything about the subject before the House, and I should not now do so but for some remarks which fell from the gentleman from Ohio [Mr. Cox] on the other side of the House. I wish to say to him and to the country, on behalf of my colleague from the fourth district, [Mr. KELLEY,] that he neither presented this case here, nor did he prosecute it before the police court. When this man Field was arrested my colleague was sent for as a witness, and gave his testimony as in duty bound. The subject has been presented here, and with great propriety, by the distinguished gentleman from Ohio, [Mr. SCHENCK,] Still further; I witnessed the cowardly and brutal assault upon my colleague. I saw the whole proceeding from beginning to end, and without desiring to give evidence in the matter, I must add that while the language of this Mr. Field was as uncalled for, unprovoked, and insolent as his conduct was violent and outrageous, my colleague's replies to him were most proper and becoming, and when assaulted he was amply able to defend himself, held Field at a disadvantage, stating that his age alone protected him, and in fact exercised the greatest forbearance.

So much for the remarks of the gentleman from Ohio, [Mr. Cox.]

Mr. COX. I made no charge of that kind against the gentleman's colleague.

Mr. L. MYERS. There was an intimation which went upon the records; I know that it seemed to be made jocularly, but upon the record

it appears serious. The gentleman [Mr. Cox] said that he doubted whether he would have come here to defend himself.

Mr. COX. That was a playful remark referring to my physical ability. [Laughter.]

Mr. L. MYERS. I understood the comic as well as the serious portion of the remark, but do not choose to leave anything to inference hereafter.

Now to another matter. The Journal of the proceedings of the House will show that the first day of this session, among others, this man Field presented himself here for admission with others claiming to be Representatives from the State of Louisiana. A resolution entitling them to seats in the House pending their application was offered—this is in answer to my friend from Illinois [Mr. J. C. ALLEN]—and was modified and passed, entitling them only to the privileges of the Hall of the House. Yet, sir, the gentleman would now go further and permit this Mr. Field to occupy a seat here by my colleague, whom he has so foully assailed, with privilege to discuss his case here.

Mr. J. C. ALLEN. I ask my friend from Pennsylvania whether a man should be denied the privilege of being present when he is being tried for grave offenses, and when, if guilty, it is proposed to punish him?

Mr. L. MYERS. Certainly not, sir; I would permit a criminal to be present when he is being tried.

Mr. J. C. ALLEN. The very thing it is now proposed to deny.

Mr. L. MYERS. Not at all, sir; the gentleman is begging the question, unless he wants this man brought to the bar of the House as a criminal—a course which, although eminently a proper one, is not now proposed. The resolution refers the case to a committee, so that testimony may be taken as to the character of the assault, and the facts be reported to the House for its action. The amendment offered adds that the privileges of the Hall heretofore granted to this A. P. Field shall be rescinded. That privilege, Mr. Speaker, was entirely a matter of courtesy, and certainly there is evidence enough before us, undisputed, to justify its withdrawal, without entering into the question of criminal intent.

There cannot be a doubt that the language used to my colleague was for the purpose of intimidating him from the discharge of what he might deem his duty as a member of this House, and if possible to influence his action and vote in regard to the admission of those claiming seats here from Louisiana. The attack followed close upon that language, leaving time only for a deliberation which but aggravates the case. Now, sir, it matters very little to me whether the amendment of my friend and colleague [Mr. MOORHEAD] shall take the place of the original resolution, or whether the amendment of my friend from Illinois [Mr. FARNSWORTH] be agreed to instead. I prefer the latter, however, as an addition to the resolution. What I desire is that the House shall take immediate action upon the matter as presented, and I trust it will assert its own dignity and exercise its undoubted prerogative by excluding this Mr. Field at once from the privileges of the floor, and then let his case be acted upon before the committee, where he may be heard if he sees fit.

Mr. HARRINGTON. I ask that the resolution, amendment, and substitute may be read.

They were read accordingly.

Mr. HARRINGTON. It seems, then, that the charge before the House is that a member of this House has been assaulted by one who claims to be a member-elect, upon certain grounds which are a breach of the privileges of this House. For one, I am opposed to the amendment. There is no evidence before the House, unless it be that taken before a police court, that there has been any violation of the privileges of the House. I would be as ready as any gentleman to punish a violation of such privileges under the provisions which are applicable to this body; but it seems to me that the exclusion of a man who is charged with this violation of privilege in itself is unwarranted and utterly at variance with every principle which has been recognized in these investigations. I do not know why the House should exclude a man from being heard in his defense because a member has been assaulted, any more than that a court should exclude a criminal or a supposed

criminal for his offense because he has been indicted.

I do not know the cause which resulted in this encounter between the gentleman from Pennsylvania [Mr. KELLEY] and the member-elect from Louisiana. It may have been a personal matter. If it was a matter of insult which the gentleman from Pennsylvania gave to the gentleman from Louisiana, it is a matter entirely between themselves. If it arose out of a personal insult, I would abide by the law and submit to the punishment, and I would resent it wherever it was given.

It is said here that the gentleman from Pennsylvania [Mr. KELLEY] has not asked for these proceedings. His sitting silent in his seat during these proceedings shows that he approves of and asks them, as he asked sureties for the peace before the magistrate in Washington, by the declaration that he was in fear of personal injury from Field. I would not do that if a thousand Fields were arrayed against me.

I insist, then, that the gentleman from Louisiana should be heard, unless you desire to declare, as the French Chamber declared, that every member of this assembly and his person is inviolate, whatever insults he may offer to the populace. I do not say that the gentleman from Pennsylvania insulted Mr. Field. I do not know how the matter was. If he did insult him, and Field had integrity and manhood, the gentleman should have been met and punished. But if Mr. Field, on account of something which transpired in the House only, attacked the gentleman from Pennsylvania, then the question of privilege applies.

For one, I am against the amendment, because to refuse to give to the gentleman from Louisiana a hearing upon this floor would do honor simply to the time of Jeffreys; would do honor to principles inapplicable to the jurisprudence of this country, at least. I do not believe the House of Representatives ought to belittle itself in such a manner as to declare that a man shall not be heard here because he happened to insult some gentleman upon this floor. I have heard the gentleman from Pennsylvania hurl his anathemas at this side of the House, in legitimate debate, in such a manner and spirit that had it been done elsewhere than in this House he would have been called to immediate account. And if he used such language to Field outside of this House he ought to have been called to account, and no man who laid any claim to manhood would have hesitated one moment to call him to account.

But, as I said before, I do not know the facts of the difficulty between these men, and I wish to hear the evidence. I wish to know what transpired between them, whether the gentleman from Pennsylvania did use toward the gentleman from Louisiana the same language with which he has insulted heretofore members upon this side of the House under shield of the privileges of the House. If he did, then I say his chastisement was just, and no man who had a spark of manhood would hesitate to visit it upon him. If he did not, if the assault was simply for something which he had done in the House, and it shall so appear upon the investigation, I will vote cheerfully to punish the offender, as having violated the privileges of the House.

Mr. THAYER. I do not see, the gentleman will excuse me for saying, much argument in what has fallen from him, and I regret that he should have amused himself by putting hypothetical cases to the House reflecting upon the character of the gentleman injured, rather than upon the aggressor.

But I do not want to take up the time of the House with that matter. I simply rose for the purpose of calling the attention of the House to the fact which appears upon the Journals of the House—it will be found on page 600 of the Journal of the first session of the Twenty-Second Congress—that Houston, who made an attack upon Stanbery, of Ohio, was in the custody of the Sergeant-at-Arms from the period of arrest upon the Speaker's warrant up to the time of his conviction and punishment by the House.

On page 600, for example, I find:  
“Mr. DAVIS, of Massachusetts, from the committee appointed yesterday to report a mode of procedure in the case of Samuel Houston, who is now in custody by virtue of an order of the House, made a report,” &c.

The reported case in the Journals of this House

shows conclusively that he was in custody from the time of his arrest under the Speaker's warrant until his case was disposed of.

Now we propose a much more lenient mode of dealing with the alleged aggressor in the present instance. I suppose that the method of proceeding which was adopted by the House in the Houston case would be more proper and more in accordance with the dignity and authority of this House; but, sir, inasmuch as if we were to proceed, as the House proceeded in that case, to arrest the defendant and bring him to the bar of the House, it would be necessary for the House to proceed with his trial, and in that event he could not be tried by a committee of the House, but must be tried in the face of the House by the members of the House; and inasmuch as that would consume a great amount of the public time which there is a pressing necessity to apply to the business of the Government, it is better that the course should be adopted which is contemplated by the resolution of the gentlemen from Ohio as first offered by him. But, sir, there is nothing in the amendment of the gentleman from Illinois [Mr. FARNSWORTH] which is at all in conflict with the Houston case, as the gentleman from Ohio seems to suppose.

Both the gentlemen from Ohio [Mr. Cox and Mr. SCHENCK] seem to have argued that because no motion was made to deprive Houston of the privileges of the floor during his trial it is to be inferred that the House did not deem it proper to deprive him of that privilege; but if you will read the report as it appears on the Journal you will see that he was deprived of the privilege, because, from the moment the charge was made in a responsible shape by a member of the House, he was taken into custody by the Sergeant-at-Arms, and remained in his custody until sentence was passed upon him by the Speaker. Now, the course contemplated by the gentleman from Illinois toward the alleged aggressor in this instance is of a much more mild character than the course of proceeding adopted in the Houston case; and I trust this House will, for the vindication of its own dignity, adopt both the resolution and the amendment.

Mr. TOWNSEND. Mr. Speaker, I do not propose to occupy the time of the House at any great length. I cordially concur in the resolution offered by the gentleman from Ohio, [Mr. SCHENCK,] and also in the amendment of the gentleman from Illinois, [Mr. FARNSWORTH,] with this exception, that I think something is due to the representative character of Mr. Field. I beg leave to suggest the following modification of the amendment, which I believe will meet with the assent of the gentleman from Illinois, and which would be more acceptable to me and to other members upon this side of the House:

And until the report of the committee shall be made, the privileges of the floor of this House heretofore extended to the said A. P. Field are suspended.

Several MEMBERS. That is precisely the same thing.

Mr. FARNSWORTH. I have no objection to that, and will accept it as a modification of my amendment.

Mr. STEVENS. I now move the previous question.

The previous question was seconded, and the main question ordered, being first upon the amendment offered by Mr. FARNSWORTH.

The question was put, and there were, on a division, yeas 72, noes 45.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative; yeas 83, nays 38, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ganson, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Orlando Kellogg, Knox, Lazear, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Stevens, Thayer, Townsend, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Windom—83.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Chandler, Clay, Cox, Cravens, Denison, Eden Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Philip Johnson, Kernan, King, Law, Le Blond, Long, McDowell, Morrison, Noble, Pendleton, Perry, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Spalding, Strouse, and Joseph W. White—38.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blair, Bliss, Brandegee, Brooks, James S. Brown, William G. Brown, Freeman Clarke, Coffroth, Creswell, Dumont, English, Frank, Garfield, Hall, Holman, Hulburd, Hutchins, William Johnson, Kathfisch, Kasson, Kelley, Francis W. Kellogg, Knapp, Mallory, Marcy, McAllister, McIndoe, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, John O'Neill, Pomeroy, Pruyn, Radford, Scott, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stiles, Stuart, Sweat, Thomas, Voorhees, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, Worthington, and Yeaman—59.

So the amendment offered by Mr. FARNSWORTH was agreed to.

The question recurred on the amendment offered by Mr. MOORHEAD as a substitute for the original resolution.

Mr. MOORHEAD. As the House has adopted the amendment offered by the gentleman from Illinois, [Mr. FARNSWORTH,] and inasmuch as there has been so much discussion of the matter, which has, perhaps, magnified unduly its importance, I will withdraw my substitute.

The resolution, as amended, was then agreed to.

#### DEFICIENCY BILL.

Mr. STEVENS presented the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1865, having met, after full and free conference have been unable to agree.

THADDEUS STEVENS,  
GEORGE H. PENDLETON,  
*Managers on the part of the House.*  
JOHN SHERMAN,  
JOHN CONNESS,  
C. R. BUCKALEW,  
*Managers on the part of the Senate.*

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman from Pennsylvania [Mr. STEVENS] on what point the disagreement arises.

Mr. STEVENS. There are, I think, four points of disagreement. There are large appropriations for California, some for Denver, and an appropriation for the contingent fund of this House; on all of which we disagreed.

Mr. WASHBURNE, of Illinois. I had understood that the only subject of disagreement between the two Houses was in relation to the additional compensation to employees of the House.

Mr. STEVENS. No, sir; there are other questions.

Mr. Speaker, as the Senate request the appointment of a new committee of conference, and have already appointed a committee on their part, I move that the House take similar action.

The SPEAKER. If there is no objection, the committee will be discharged and a new committee appointed.

There was no objection.

#### QUESTION OF PRIVILEGE.

Mr. BROOKS. Mr. Speaker, I rise to a question of privilege.

The other day, in the course of a controversy which I had with the honorable gentleman from Pennsylvania [Mr. SCOFIELD] who sits before me, I had occasion to speak of a major general of the Army of the United States, who had been in command at New York, as a “gold robber.” In some of the public prints (no doubt from misunderstanding) I was reported as having spoken of him as a “bold robber.” Since those remarks have gone before the public I have received a letter from a major general of the United States who seems to suppose that the remarks which I made were particularly applicable to him, although there was in command at New York at the time another major general, and although that city is the favorite tarrying-place of major generals, there being probably six or more, on an average, at some of the hotels throughout all the year. I send to the Clerk a letter which I have received from a major general of the Army of the United States in reference to those words spoken in debate. I ask that it be read.

The Clerk read, as follows:

WASHINGTON, January 20, 1865.

SIR: I find in the Daily Globe of the 7th instant a report of your remarks in the House of Representatives on

the 6th instant, an extract of which, personal to myself, is appended.

I have the honor to inquire whether your remarks are here correctly reported, except, perhaps, the misprint of "bold" for "gold," as the remarks were quoted in other papers; and also whether there were any modifications, explanations, or limitations made by you other than appear in this report.

The gentleman who hands you this will await or call for an answer at any time or place you may designate.

Very respectfully,

BENJAMIN F. BUTLER,  
Major General.

JAMES BROOKS, Member of the House of Representatives.

[Extract.]

"I am bound to say that an effort was made by the Federal Government, during the pendency of the late presidential election, to control the city of New York by sending there a bold robber, in the person of a major general of the United States. Robber as he was of the public Treasury, and major general of the United States as he was, he dared not exercise the power given him to attempt to control the actions of those whom the gentleman calls thieves and robbers in his own city."

True copy:

F. C. CLARKE, Captain and A. D. C.

Mr. BROOKS rose.

Mr. BOUTWELL. I rise to a question of order. I submit that, if that be the evidence on which the gentleman from New York [Mr. Brooks] raises his question of privilege, it is not sustained by the evidence.

The SPEAKER. Before deciding this question, which affects a member of the House, the Chair would ask the gentleman from New York to designate which part of the letter he regards as an infringement of the privileges of the House.

Mr. BROOKS. Section six of article one of the Constitution, in defining the privileges of Senators and Representatives, provides that "for any speech or debate in either House they shall not be questioned in any other place."

The SPEAKER. The Chair sustains that point, and would decide that the gentleman from New York could, under that provision of the Constitution, refuse to answer the question propounded by the major general. [Laughter.] But the Chair is serious in asking the gentleman from New York which part of the letter he regards as bringing it within the rule.

Mr. BROOKS. If the Chair will allow me, I will state presently.

That letter was presented to me by a Captain Clarke, who stated himself to be an aid-de-camp of Major General Butler. He was dressed in the uniform of the United States, and was in person a very handsome gentleman, who would grace the court as well as the camp. He was desirous of an early answer. I could not like, and I do not like, the presence of military gentlemen in the chambers of members of the House, requiring immediate answers, or any answer, to notes from their superior officers, [laughter,] and I stated to this aid-de-camp from General Butler that I would not give him an answer, but that in due time, after proper deliberation and in the proper manner, I would give an answer to the questions which General Butler desired to have answered. These remarks, respecting a major general of the Army of the United States, were made in debate, on the floor of this House, and I do not choose to enter into an epistolary correspondence with Major General Butler respecting them or any other remarks that I may make as a member of this House. Here, where I made them, I then propose to answer his question.

Mr. BOUTWELL. I rise to a question of order. The gentleman from New York is debating the subject while there is a question of order pending before the House.

The SPEAKER. The Chair sustains the point of order raised by the gentleman from Massachusetts.

Mr. JOHNSON, of Pennsylvania. I should like to know the question of order before the House.

The SPEAKER. The Chair will state it for the information of the gentleman and of the House. The gentleman from New York [Mr. Brooks] rises and presents as a question of privilege a letter received by him from Major General Butler. The gentleman from Massachusetts [Mr. Boutwell] raises a question of order and claims that the letter, as read, does not show any breach of the privileges of the House. The Chair stated to the gentleman from New York that he desired to be referred to the particular word or sentence which, in his opinion, constituted a violation of

the privileges of the House. The gentleman then refers to a clause in the Constitution which states that no member shall be questioned for words spoken in debate. To that the Chair replied that that, of course, authorized the gentleman from New York to refuse to answer General Butler. The Chair does not yet see what part of the letter is objectionable. The Chair will state, however, that he can very well understand how a letter can be so worded as to mean something else than that which is apparent on the face of it; but there is nothing in this letter which might not be properly addressed to any member of the House.

Mr. BROOKS. If the Chair will allow me, I will state the point which I regard as a breach of privilege.

The SPEAKER. The gentleman from Massachusetts raises the point of order that the gentleman from New York must not debate the entire subject, but must refer to the particular part of the letter to which he objects.

Mr. BROOKS. I refer to the whole letter, but particularly to the closing paragraph of it—the letter being presented by a military gentleman in uniform.

"The gentleman who hands you this will await or call for an answer at any time or place you may suggest." That is the language often used in the duello; and if I had time to look up precedents, I have no doubt that I could find twenty cases where duels resulted from such language as this.

The SPEAKER. The Clerk will again read the letter, when the Chair will give his decision. The letter was again read.

The SPEAKER. It appears from the letter just read that the gentleman from New York stigmatized, in a speech which he made on this floor, a certain gentleman as a "gold robber," and that that language having been reported in the public papers a gentleman who supposes himself to be meant, writes the letter just read. It appears to the Chair that there is nothing in the language used in this letter which involves a breach of the privilege of the House. If he ruled that it were then he would be compelled to rule that letters addressed by constituents to members of Congress as to how they had voted or spoken on pending propositions were also infringements upon their rights.

We know that language, differing in some degree but still somewhat of the same character, has been used as a preliminary to further correspondence under what is called the "code of honor," but which the Chair regards as a code of murder. If the Chair thought this language could be brought within the language of what is called the code of honor, the Chair would have decided that the gentleman's question of privilege was well taken. But it appears most natural, and not improper, that when a person has been stigmatized here as a gold robber, he should inquire whether the speech which contained the report had been correctly reported, and whether there had not been some qualifications of such a charge made by the gentleman from New York other than in this report. There is no menace in this inquiry that the Chair can see. The Chair thinks the inquiry a natural one, and not couched in improper language, and therefore rules that it is not a question of privilege.

Mr. BROOKS. I appeal from the decision of the Chair. Is that appeal debatable?

The SPEAKER. It is.

Mr. BROOKS. Mr. Speaker, I have received a letter, which has been read to this House, from a major general in the Army of the United States. Undoubtedly he had some object in sending this letter to me. If his object had been to know whether I had been reported correctly, he could have found the authorized proceedings of this House in the Congressional Globe, revised by me on that occasion, known to have been revised by me, and which he could have learned by an appeal to the reporters of the speech, who reported me at that time. The means of obtaining information were clear and well known to him, and he has proved that they were well known to him, because in the Daily Globe he read "bold robber," and in the Congressional Globe "gold robber," which was the language I uttered. Major General Butler, of the Army of the United States, has clearly and eminently shown that he has considered both reports, the one in the Daily Globe,

and the one in the Congressional Globe. So that he knew by actual investigation and inquiry that the report of my remarks were revised by myself, and that the words used on the occasion, approved and indorsed by me, were "gold robber." He could not, therefore, have written this letter to me with any desire to obtain information, for if that were his whole object that information he had in the authorized and official reported proceedings of this House.

If he had wanted to inform himself on the subject, the proper course was to have addressed me as other gentlemen address me when mistakes occur in the reports, and that is, through the United States mails, through the city post office here, or through some friend of his, a member of this House or otherwise. But on Saturday last, for purposes well known to himself, he sends to me no civilian, no member of Congress, no letter by the city post office or otherwise, but as I was at my breakfast an aid-de-camp, in full military panoply and in the uniform of the United States, and in the military service of General Butler, came into my apartment and demands politely but earnestly, an answer to the letter which he handed to me. The letter is in the ordinary form that duelists resort to preliminary to the arrangement for an apology or a fight. If I had been a duelist I should have well apprehended what he meant, and acted upon that apprehension forthwith. If, in other days, such a letter had been received, written from a southern gentleman to another southern gentleman, or to a northern gentleman, the meaning of that closing paragraph would have been well understood, and if I had been a party then to such a letter I should have consulted a second, and thus have had an immediate correspondence and communication with the aid of Major General Butler, to whom our mutual interest would have been intrusted.

In these latter days, however, when the duel and duelists are supposed to have departed from the Halls of Congress, I know of no such proper way to respond to such a letter as this here, in person. Hence, as a member of this House, I have never upon a question of privilege in a matter pertaining to the freedom of debate which is guaranteed to me by the Constitution to say what I have to say, with no desire to enter into any personal or epistolary correspondence whatever with Major General Butler, whose literary talents I well estimate, and which, if not altogether Chesterfieldian, have nevertheless the vigor and verve of Junius. I chose then, as a member of Congress of the United States, to answer this major general of the Army of the United States upon this spot where I made the remarks of which he is supposed to complain. It is upon that ground I have appealed to the House, and ask here the right to say whether I have been correct or incorrect in the language by which I impugned the course of Major General Butler.

Mr. INGERSOLL. Will the gentleman from New York explain to the House what reason he had for charging that Major General Butler was a gold robber?

Mr. BROOKS. That is what I want to do, but I cannot do it in discussing a question of order. [Cries of "Let us hear it." "Let us have it."]

The SPEAKER. Is there any objection to the gentleman from New York proceeding in the line of remark indicated by the gentleman from Illinois?

Mr. STEVENS. I think the gentleman had better confine himself to the point under discussion.

Mr. BROOKS. The gentleman from Pennsylvania is a parliamentarian of thirty years experience, and he knows that within the next thirty hours, even if he objects now, I can say, and in order, too, all I desire the country to know.

Mr. STEVENS. I do not know what the gentleman may do. I can hardly tell; but I know that I require that he shall stick to the text now.

Mr. BROOKS. Am I to understand that I can or cannot answer the question of the gentleman from Illinois, and state the reasons why I pronounced Major General Butler a gold robber?

The SPEAKER. It can be done only by unanimous consent, and the gentleman from Pennsylvania objects.

Several MEMBERS on both sides. Suspend the rules; it can be done on Monday, two thirds assenting.



Mr. INGERSOLL. I move to suspend the rules so as to allow the gentleman from New York to proceed without limitation upon debate.

The motion was agreed to, and the rules were suspended, two thirds of the House voting in the affirmative.

Mr. BROOKS. Mr. Speaker, I am much indebted to the House for the courtesy with which they have permitted me to extend the range of my remarks, and I will try to say nothing, while stating facts, which will offend any gentleman upon either side of the House.

First permit me to state as a reason why I did not reply by letter, or otherwise, courteously to General Butler, that I had noticed when in the city of New York, that he was surrounded by a staff of twenty or twenty-five officers in the Hoffman House on Fifth avenue, having ten or fifteen horses in front of that hotel richly caparisoned, and that from that house he sent out aids-de-camp to summon gentlemen before him. And when one gentleman appeared before him he found him sitting at a table with two large pistols, one on his right and one on his left; and therefore I did not choose to reply by letter to the demand of one aid-de-camp, though if a posse of United States soldiers or a platoon had appeared with that aid-de-camp I certainly should have yielded to so large a physical force, and have sent the requested reply. These displays and manifestations in New York indisposed me to any, even epistolary, courtesy to be carried on through a staff officer of the general when transferred to the city of Washington.

The grounds upon which I based my charge upon that occasion of a gold robber, were certain transactions in the city of New Orleans, in which, it appeared by testimony taken before a court in New York, that a rich brother of Major General Butler, who had been largely trading in New Orleans, had bequeathed to him, the major general, a large sum of money. General Butler came to New York to execute the will through the surrogate, when a suit was instigated against him to collect from the proceeds of that will the value of some fifty thousand dollars in gold, which the plaintiff in the case alleged had been robbed from him by the then commanding general. The plaintiff was a northern man, from Ballston, Saratoga county, New York, who had spent many years of his life in amassing a fortune in New Orleans, of which fortune, in part, General Butler had been plundering him.

I found my remark upon a deposition submitted in the court of common pleas by the plaintiff in the case, to which I call the attention of the House, and which I ask the Clerk to read.

The Clerk read the deposition, as follows:

Court of Common Pleas, for the City and County of New York: Samuel Smith and Andrew W. Smith against Benjamin F. Butler.

City and County of New York, ss:

Samuel Smith, one of the plaintiffs above named, being duly sworn, on solemn oath deposes and says:

That some twenty years ago he left the county of Saratoga, in this State, where he was born, and where his aged mother still resides, and went to New Orleans, without any means but youth and hope, to seek for better fortune.

By severe economy, constant toil, and the unremitting industry of long years, he and his brother Andrew together, succeeded in acquiring a considerable property, and they became extensively engaged in the business of private banking; the very nature of their business compelled them to make constant advances of money on southern credits; when the war broke out they were extended, and it was not possible for them to collect in their claims without much delay. The State of Louisiana seceded; deponent opposed the secession, and quietly remained to liquidate his affairs, and save what he could. It is easy for those who were safe in the North to talk bravely about their patriotism, and to boast of what they would have done; but had such been where we were, they might have thought differently.

On the 24th of April, 1862, news came that Admiral Farragut had passed the lower Forks. The greatest consternation prevailed. All who had any money wished to conceal it. The fear was of the wild mob and the soldiery, in case the city should be given up to pillage. Deponent had about sixty thousand dollars in gold coin in his safe, which he had been collecting together, and which he had hoped to save. In this frightful consternation deponent took \$54,000 of the gold coin and secreted it in the air cells around his safe and left about \$6,000 of his own in the safe, besides a small amount belonging to some of his customers. Admiral Farragut's success left New Orleans at his mercy, and General Butler entered the city on the 1st of May and the rebel soldiery fled, and there was no pillage of the town. Fortwith General Butler issued his proclamation, dated May 1, 1862, and directed every man to return to his business, and promising the fullest protection, and expressed himself in these words: "All the rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States. All the inhabitants are

enjoined to pursue their usual avocations. All shops and places of amusement are to be kept open in the accustomed manner, and services are to be held in the churches and religious houses, as in times of profound peace."

Deponent did not suppose that this solemn proclamation by a general of the United States was intended as a delusion and a snare, and opened his banking house in the fullest confidence that the general would not violate his plighted faith.

The secreted coin could not be reached without tearing down a wall of masonry, and deponent being unwilling to excite notice by tearing down a heavy brick wall and withdrawing the coin, when the city was in such a fearful state, let it remain for a few days to await events.

General Butler soon began to examine into the affairs of banks, bankers, and men supposed to have money, for what public end no one could understand.

On the 10th of May General Butler ordered deponent to open his safe, which he did; but the general finding but \$6,000 in coin in the safe, while deponent's books showed \$60,000 in hand, demanded the concealed coin, which deponent refused to give up, telling General Butler that it was concealed, and the object of the concealment, but declining to reveal the place where it was secreted.

The general then ordered deponent to prison and threatened to confine him in Fort Jackson until he revealed the place of concealment. Deponent was powerless; without the protection of law and at the mercy of despotic force, after being imprisoned in the manner above described, deponent revealed the place where his gold was secreted. General Butler tore down the masonry and carried off the \$54,000 in gold, besides the money in the safe, and after a few days he returned to deponent the \$6,000 left in the safe, and \$4,000 of the concealed coin, keeping \$50,000 in gold, which he has retained from deponent to this hour; the general then let deponent go, despoiled of his hard-earned property, and with his business broken up and destroyed, and now when deponent seeks in a lawful way to obtain redress he is met with these false telegrams from Washington. The statement that "this gold was condemned by a military commission as the proceeds of the robbery of the United States mint at New Orleans" is without a shadow of truth, is utterly malicious, and is in every syllable basely false.

Every dollar of it belonged to the plaintiffs; it was the proceeds of long and patient toil; not a penny ever belonged to the mint or to any confederate State office or department thereof, and the military commission so found, and the one who ordered that false telegram sent knew or ought to have known it. Deponent makes this affidavit with a true copy of that commission and report before him. That commission was composed of three able and upright men—Governor Shepley, Hon. Thomas J. Durant, and Dr. Mercer—and their report was made in June, 1862, and proves the shameless falsity of these slanderous telegrams.

Deponent took the oath of allegiance, the amnesty oath also, and is as true and loyal a man as he who by military force has taken away deponent's property.

Deponent respectfully submits that this false charge about a copperhead attachment, and these false and slanderous charges that deponent's gold "is the proceeds of a robbery of the United States mint" published in the newspapers through telegrams from Washington while General Butler was there, and for the purpose of deceiving the public and of prejudicing their minds before the trial of the cause, (which cause had been legitimately commenced under the order of this court,) deserved the rebuke and severest condemnation of every judge and right-thinking man in this community. SAM. SMITH.

Sworn to this 29th of November, 1864, before me,  
FRED. SMYTH, Notary Public, New York.

Mr. BROOKS. Mr. Speaker, that deposition will explain to the public and to the House whether I was justified or not in the use of the words which I did use in the course of my controversy with the gentleman from Pennsylvania, [Mr. SCOFIELD.] I have only to add that those \$50,000 in gold have never been paid into the Treasury of the United States, and yet remain in the hands of Major General Butler.

Mr. LOAN. Will the gentleman allow me to ask him a question?

Mr. BROOKS. Certainly.

Mr. LOAN. I desire to ask the gentleman whether the money has not been returned to the proper Department?

Mr. BROOKS. It has never been returned to the Treasury of the United States. It is not there.

Mr. LOAN. Does the gentleman know if General Butler has not reported it to the War Department as subject to their order, and to be paid over when the War Department may so direct?

Mr. BROOKS. I am not able to answer that question, not having any connection with the War Department.

Mr. LOAN. I understand that that is the case.

Mr. STEVENS. I would like to ask the gentleman from New York what was the result of that suit in the New York court?

Mr. BROOKS. It is yet pending.

Mr. STEVENS. A pretty document, then, to read here! Why, no decent man would have done it.

Mr. BROOKS. The fact is not to be disguised, decent or indecent, that the \$50,000 are not where they ought to be, in the Treasury of the United

States, but are in the sole control and possession of Major General Butler.

Mr. GOOCH. I ask the gentleman from New York to yield to me for one moment.

Mr. BROOKS. Certainly.

Mr. GOOCH. I will say to the gentleman from New York that if, before making his charges upon this floor, he had taken occasion to investigate the facts; if, before charging General Butler with being "a gold robber," he had inquired at the War Department, he would probably have learned that Major General Butler had reported that he had this money in his possession, the circumstances under which it was taken, and his readiness to obey any order of the War Department or his superiors in relation to it.

Mr. BROOKS. At what time did he make that report?

Mr. GOOCH. I apprehend it was before he was sued.

Mr. BROOKS. How long before?

Mr. GOOCH. I cannot fix the time.

Mr. BROOKS. Does the gentleman know the fact?

Mr. GOOCH. I say I do not know the time.

Mr. BROOKS. I know it was not until the suit was threatened.

Mr. GOOCH. Was it or was it not before the gentleman made his statement upon this floor?

Mr. BROOKS. I know that Major General Butler used the writers for the press in this city to proclaim through the press of New York that the money was in the Treasury of the United States when it was not there.

Mr. GOOCH. I ask again, was it or was it not before you used your position upon this floor to charge General Butler with being "a gold robber?"

Mr. BROOKS. I charged, and I reiterate the charge, that a man who robs a loyal citizen of \$50,000 in gold, and keeps that money, deserves the epithet which I applied to him.

Mr. GOOCH. Does the gentleman say of his own knowledge that such was the fact?

Mr. BROOKS. I say it is so stated to me.

Mr. GOOCH. But have you ever investigated it; and did you know when you made the charge here the other day that General Butler had not made that report to the Secretary of War?

Mr. BROOKS. I know that he did not make that report till this suit was threatened and till he was affrighted into making it.

Mr. GOOCH. That is not the question. Had you, before you made the accusation, ascertained whether or not General Butler had reported that he had this money to the War Department?

Mr. ANCONA. I rise to a question of order. The gentleman from Massachusetts is not addressing the Chair.

The SPEAKER. The Chair sustains that point of order.

Mr. GOOCH. I would like the gentleman from New York to give me an answer to the question I have put. If General Butler, while in command of New Orleans, has wrongfully taken money from anybody, and has not reported the fact to the Government, but has attempted to conceal it, he has committed a wrong. If, on the other hand, the gentleman from New York, rising in his place as a Representative, has charged General Butler, without investigation, with being a gold robber, he has done a wrong. And, sir, it seems to me that he is the last man who should come here and claim that he should not even receive a note of inquiry from the man whom he has charged with being a gold robber, and try to shelter himself behind his privileges as a member of this House. I would like an answer to my question.

Mr. BROOKS. And I would like an answer to this question, has General Butler that gold, or has he not?

Mr. GOOCH. General Butler has that gold, ready to respond for it to the Government or to anybody entitled to receive it. [Derisive laughter from the Democratic side of the House.]

Mr. BROOKS. Well, Mr. Speaker, I will leave you to judge between him and me, and that must end this controversy with the gentleman from Massachusetts, [Mr. Gooch,] whether a major general of the United States who takes by force and violence \$50,000 in gold from a northern man, and keeps that gold from him until this day and hour, is or is not a robber of that loyal man of the North.

Mr. GOOCH. Mr. Speaker—  
 Mr. BROOKS. I have no more controversy with the gentleman from Massachusetts.  
 Mr. GOOCH. I wish to say simply—  
 Mr. BROOKS. I will not yield to the gentleman—

The SPEAKER. The gentleman from New York has the floor, and is entitled to proceed without interruption.

Mr. BROOKS. Mr. Speaker, this money was taken from this banker—from Saratoga county, in the State of New York—in the city of New Orleans in May or June, 1862. It is now past the middle of January, 1865, and this \$50,000 in gold has been in the possession of Major General Butler throughout all that period of time, without any deposit of it whatever in the Treasury of the United States. I think the country will comprehend now and judge whether or not I was right in the remarks that I made on the floor of this House.

If General Butler or his friends are dissatisfied with those remarks, the proper mode and manner of defending him was to have asked a committee of investigation. His course as an honest and upright man was to have demanded an investigation here, not to have sent me a letter of this sort, whether threatening or not, to engage me to enter into a controversy with him on the subject.

While I am on the floor, Mr. Speaker, permit me to say, in defense of the adjective which I applied to General Butler, that there are other transactions which, in the course and progress of the investigation will, if I am not greatly mistaken, fully justify me in the application of that adjective to him.

An honorable gentleman from Michigan [Mr. DINGES] introduced, the other day, into this House a resolution respecting certain trade permits and cotton transactions in Norfolk, Virginia, and in North Carolina. I know not under what information that honorable gentleman introduced that resolution; but I am sure, if I am not misinformed, that there have been transactions in connection with that, which transactions, I hope, will be investigated by the Committee on Commerce, to which this subject was referred, and of which committee the honorable gentleman from Illinois [Mr. WASHBURN] is chairman. When those transactions are fully developed, I feel confident, from his uprightness and the uprightness of that committee; I feel confident, too, from the facts now well known in the War Department; I feel confident, too, from the submission of the facts to Lieutenant General Grant, who is about to institute an investigation into those trade permits and cotton transactions; I feel confident, too, from the uprightness of the Secretary of the Treasury, whom I have known for forty years as an honest man, and who has suspended an agent of the Treasury, Mr. Risley, from issuing any more of these permits, in order to look into them all; I feel confident, too, from the action of the War Department, which, if I am not misinformed, has also called here Brigadier General Shepley to explain these transactions, so far as he may be cognizant of them, when under the conduct and command of Major General Butler in the department of North Carolina; I feel confident, I say, that when the whole subject is brought before the Committee on Commerce and thoroughly ventilated, as I trust it will be, facts will come out which will fully justify me in the remarks which I have made. It will appear that a certain G. N. Lane, who was found guilty of fraud to a large amount in the forage department here in the vicinity of Washington, at Alexandria, and who, after detection, refunded a large sum of money to the United States Treasury, was recommended by Major General Butler to Mr. Risley to receive from this Mr. Risley permits to enter into a trade with the rebels of North Carolina. These permits, embracing only the simple articles of cordage, hoop skirts, and ladies' wearing apparel, &c., were used for the purpose of transporting through the command of Major General Butler to General Lee numerous articles that were contraband of war.

Among the articles furnished were Army shoes, coffee, salt, pork, hats, blankets, &c. They went up the Chowan river, and the Nottoway, to a point near the rebel headquarters, at Marpies depot, within the lines of the rebels; and on one occasion two hundred and fifty-five bales of cotton were

brought out by one steamer, which cotton was brought in twenty-three rebel wagons, marked "C. S. A.," confederate States of America, and exchanged for these blankets, this coffee, this salt, &c. These transactions amounted in all, in the months of November and December last, to \$700,000. These blankets, this salt, this coffee, went direct to the rebel army of General Lee, and helped to supply the vigor and vitality with which the rebels of that confederate army have assailed and assaulted the brave soldiers of the United States.

It will appear, too, in the course of that investigation, if I am not misinformed, that a brother-in-law of Major General Butler—a Mr. Hildreth, of Massachusetts—received in only one transaction, for his share of profits in these transactions, a check for \$7,000, while in other cases other sums were given, the amount of which it is not in my power to name.

Let me state in this connection, for the honor of the Treasury Department, that the collector of Norfolk reported to General Butler these transactions, and remonstrated against them, and that they were well known to numerous people within the command of Major General Butler, and that these people did not dare to make exposition of them for fear of Major General Butler while he was in command of those forces there.

With these remarks, Mr. Speaker, let me add that I make no charge of corruption or forgery against the Departments of this Government, nor against the honorable gentlemen on that side of the House. The Secretary of the Treasury immediately upon suspicion and discovery of these facts did his duty. The Secretary of War, on these facts being made known to him, discharged his duty. I have only stated what is the information that a few gentlemen on the other side of the House are possessed of, but who are not in a position to speak with that freedom which I, as a member of the Opposition, can speak.

I do not, sir, speak for party purposes. I have no party in any controversy like this. I acquit every member on that side of the House of any participation in this affair. I rise here now, as I did in the last session of Congress, when I felt it to be my duty to discharge a disagreeable duty as to an investigation into the Treasury, and in like manner I now assume a painful position to disclose facts which I think I may say I know the other side will investigate fully. I do not feel, however, that I should have been tempted to take this disagreeable position if I had not been invited by this letter of Major General Butler, when I made my remark the other day in reply to the gentleman from Pennsylvania, [Mr. SCOTFIELD.] General Butler was potent in this country, with full command, high in authority, and, as I believed, in the full confidence of the Administration; and now when he has fallen—as he seems to have fallen—I would not have made these remarks respecting a man in that position if he had not invited me by the letter which he sent through an aid-de-camp as if daring me to answer.

I wish to enter into no epistolary correspondence with him. As, in another sphere of duty, the pen is the instrument I use, there I will fully respond to any letters he may send to me when I return to that sphere of duty. But here upon this floor, claiming the privilege of a member to freely discuss public men and public matters, I appeal to no outside tribunal of letters, but content myself with the forum here. I address the House in the presence of the country, and disclose the facts I have disclosed here to-day to justify the adjective and the epithet I applied the other day, in the hope—I trust no vain hope—that such disclosures will be of service to the country.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862;

A joint resolution (S. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the recent capture of Fort Fisher; and

A joint resolution (S. No. 98) to present the thanks of Congress to Brevet Major General Alfred H. Terry and the officers and men under his command.

#### QUESTION OF PRIVILEGE—AGAIN.

Mr. STEVENS. Mr. Speaker, we have heard much to-day about the privileges of this House; and there are some high privileges which have been infringed. Members decent, decorous, and respectable in their behavior have been assailed by ruffians. But there is another privilege injurious and dangerous to the country. It is the privilege which members assume to rise in their places and in a vindictive, in a malignant, in an outrageous and indecent manner, to scatter their filth and slanders upon the great men and patriots of this nation, and then to come into this House and skulk responsibility, shield themselves from answer because they are members upon this floor. That privilege when thus used is an abuse of the privilege, and ought to recoil upon the head of any man who practices it. Here he stands under the shield of this privilege, and without one particle of proof sends forth charges which are to affect the character of those who are fighting for our liberties and who are among the patriots and eminent men of our country. This is not the place, and this is not the privilege to be thus abused.

The gentleman from New York said he did it from revengeful motives; that he was provoked to it by the letter which has been read. I have no doubt it was revengeful. But, sir, I hardly blame the gentleman from Illinois as much as I do those around me—I will not refer to gentlemen—and I am only sorry the names of those who gave that privilege are not upon the record, that the country might see and point at them with scorn. Sir, how can it be possible that a man could be brought to sustain such a motion, with a fair notice of what would follow, unless it were to gratify an appetite which loves the filthiest garbage which is thrown forth from the foulest stomach by malignant hate?

Mr. SCHENCK. If the gentleman from Pennsylvania will give way, I will move that the House adjourn, and he can resume his remarks to-morrow.

Mr. STEVENS. I will do so. It is right that we should have an opportunity to put a few facts before the House.

#### SERVICE ON COMMITTEE.

Mr. SCHENCK. With the permission of the House, before I move to adjourn, I desire to say that I have understood from the Speaker that he would place me upon the committee to investigate the assault made on the member from Pennsylvania, [Mr. KELLEY,] and that I would be expected to serve. I wish to ask now, before the committee is announced, to be excused from serving thereon. I will not shrink from taking a fair share of any labor of that kind, but I will state to the members of the House, that upon matters which the Committee on Military Affairs are charged to investigate they have sent for witnesses and business has so accumulated before us that we are compelled to meet four mornings in the week, and we probably shall have to meet every morning, and I feel that I cannot possibly give that attention to investigating the assault that I would like to give to any matter of investigation.

The SPEAKER. The Chair not having appointed the committee, he will take the intimation of the gentleman as a desire to be excused from service upon that committee.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced to the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, a joint resolution (H. R. No. 99) reserving the mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants.

Also, that the Senate had passed an act (S. No. 382) to provide for the better organization of the pay department of the Navy; in which the concurrence of the House was requested.

Mr. SCHENCK. I move that the House adjourn.

## USE OF THE HALL.

Mr. FARNSWORTH. Will the gentleman from Ohio allow me to offer a resolution?

Mr. SCHENCK. I yield for that purpose.

Mr. FARNSWORTH asked unanimous consent to submit the following resolution:

*Resolved*, That the Hall of the House of Representatives be hereby tendered to Bishop Simpson on Wednesday evening, the 25th instant, to repeat his lecture on the state of the country.

Mr. COX, Mr. ANCONA, and others, objected.

Mr. FARNSWORTH. Then I move to suspend the rules.

The SPEAKER. That motion is not in order pending the appeal from the decision of the Chair taken by the gentleman from New York, [Mr. BROOKS.]

And then, on motion of Mr. SCHENCK, (at four o'clock and thirty five minutes,) the House adjourned.

## IN SENATE.

TUESDAY, January 24, 1865.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

## COMMITTEE SERVICE.

On motion of Mr. CLARK, and by unanimous consent, the Vice President was authorized to fill the vacancy in the committee on the conduct of the war occasioned by the resignation of Mr. HARDING; and

The Vice President appointed Mr. BUCKALEW.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and agreed to the further conference asked by the Senate upon the disagreeing votes of the two Houses thereon, and had appointed Messrs. R. C. SCHENCK of Ohio, D. W. C. LITTLEJOHN of New York, and S. J. RANDALL of Pennsylvania, managers at the conference on its part.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the Vice President:

A resolution (S. R. No. 98) to present the thanks of Congress to Brevet Major General Alfred H. Terry, and the officers and men under his command;

A resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter, and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the recent capture of Fort Fisher;

A bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; and

A joint resolution (H. R. No. 140) authorizing the Secretary of the Treasury to give the necessary notice stipulated, pending the intention of the United States to purchase the building known as the Merchants' Exchange, New York city, now used for custom-house purposes.

## PETITIONS AND MEMORIALS.

Mr. COWAN presented the memorial of the Board of Trade of Philadelphia, remonstrating against any alteration of the duty on unsized paper; which was referred to the Committee on Finance.

He also presented the petition of the local board of steamboat inspectors of Philadelphia, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. HOWE. I present the memorial of S. D. Carpenter, praying for an appropriation to test a new principle in the construction of gunboats. I move that the memorial be referred to the Committee on Naval Affairs, and as its subject-matter is one of great public interest, and the theory of the memorialist seems to be ingenious and plausible, as far as I can discover, I am requested to move that it be printed.

The memorial was referred to the Committee on Naval Affairs; and the motion to print was referred to the Committee on Printing.

Mr. RAMSEY presented the memorial of Joseph Nock, praying a renewal of the patent for an improved lock granted to him July 16, 1839; which was referred to the Committee on Patents and the Patent Office.

Mr. HARLAN presented the petition of settlers in Alameda county, California, remonstrating against the passage of a special act granting the lands on which they have their homes to the claimants of the pretended San José mission grant and to the parties claiming by purchase under them; which was referred to the Committee on Public Lands.

Mr. CHANDLER presented the petition of the local board of steamboat inspectors of Detroit, Michigan, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. MORGAN presented concurrent resolutions of the Legislature of New York, in favor of the passage of the joint resolution submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States by abolishing slavery; which was ordered to lie on the table and be printed, the subject having been acted on by the Senate.

Mr. TEN EYCK. I present the memorial of Walter Rutherford, B. G. Clark, Denning Duer, and others, a committee of citizens of the counties of Hudson and Bergen, in the State of New Jersey, requesting that the act of Congress of February 21, 1863, by which the counties of Hudson and Bergen, in New Jersey, were made a part of the collection district of the port of New York, may be so amended that the assistant collector shall have charge of loading and unloading vessels to and from foreign ports and the warehousing of merchandise, and that he be also empowered to enroll and license vessels in the coasting trade owned in whole or in part in these counties, and to do such other acts and things as will promote the interests of New Jersey and of the United States.

I beg leave very briefly to state in favor of this memorial that the population of these two counties now is over one hundred and fifty thousand, and as they lie upon the western shore of the Hudson river and upon other important rivers, they naturally afford most abundant facilities for shipping and commercial business. There are now a bi-weekly line of steamers to and from Liverpool, and a monthly line of steamers to and from the West Indies, arriving at and departing from Jersey City, and a monthly line of steamers to and from Hamburg, arriving at and departing from Hoboken in Hudson county. There are five different lines of important railways terminating in the county of Hudson, by which a large share of the products of the West, together with the coal and iron and oil of Pennsylvania and West Virginia, are transported to the seaboard. The importations and exportations by foreign vessels loading and discharging on the west shore of the harbor of New York are now very considerable; and these memorialists are satisfied that if the assistant collector was empowered to take charge of the loading and unloading of these vessels and the warehousing of merchandise in that part of the district, the business would be vastly increased, and the charges upon merchandise arriving from abroad and domestic products intended for exportation would be greatly diminished.

I will further state that the object of the memorialists is not to change the limits of the district, but merely to increase the power of the assistant collector who has charge of this part of the district. In presenting it, I beg leave also to call the attention of the Senate to a clause of the ninth section of the first article of the Constitution, which declares that "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another." I move that the memorial be referred to the Committee on Commerce.

The motion was agreed to.

Mr. TEN EYCK. I present another memorial on the same subject, from the mayor and common council of the city of Hudson, New Jersey; and also one from the town council of Bergen, New Jersey; and also one from the mayor and

common council of Hoboken city, New Jersey; also one from the mayor and common council of Jersey City, New Jersey; and also a memorial signed by a large number of members of the Legislature of the State of New Jersey; all for the same purpose. I move that they be referred to the Committee on Commerce.

The motion was agreed to.

## BILLS INTRODUCED.

Mr. McDUGALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 409) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

## REPORTS FROM COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 479) for the relief of John Warren & Son, reported adversely thereon, and moved that it be postponed indefinitely; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 48) for the relief of Aaron F. Doll, reported adversely thereon, and moved that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 489) for the relief of D. McV. Stuart, reported adversely thereon, and moved that it be postponed indefinitely; which was agreed to.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the bill (H. R. No. 387) for the relief of Solomon Parsons, submitted an adverse report.

He also, from the same committee, to whom was referred the bill (H. R. No. 111) for the relief of Major John A. Whitall, paymaster in the United States Army, on account of lost or stolen vouchers, submitted an adverse report.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of George W. Allen praying for the adoption of measures for the exchange of all the officers of Colonel Straight's command captured near Rome, Georgia, asked to be discharged from its further consideration; which was agreed to.

Mr. DIXON, from the Committee for the District of Columbia, to whom was referred the bill (S. No. 386) to incorporate the National Protection Insurance Company of the District of Columbia, reported it without amendment.

## LECTURE BY BISHOP SIMPSON.

Mr. WILKINSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the use of the Senate Chamber be tendered to Bishop Simpson on to-morrow (Wednesday) evening for the purpose of delivering a lecture therein.

## SYSTEM OF CHECKS IN THE TREASURY.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Finance be directed to examine the system of checks in the office of the Register



of the Treasury, and report if any legislation is needed for the safer keeping of the public securities there, and also what losses, if any, of public securities have occurred in that office during the last year, and the circumstances of said losses.

#### ACTING ASSISTANT TREASURERS.

Mr. SHERMAN. I move that the Senate proceed to the consideration of the bill (H. R. No. 689) to provide for acting Assistant Treasurers or depositaries of the United States in certain cases.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that in case of the sickness or unavoidable absence of any Assistant Treasurer or depositary of the United States from his office, he may, at his discretion, authorize the chief clerk, or some other clerk employed therein, to act in his place, and to discharge all the duties required by law of such Assistant Treasurer or depositary, but the official bond given by the principal of the office is to be held to cover and apply to the acts of the person appointed to act in his place in such cases, and such acting officer is to be for the time being subject to all the liabilities and penalties prescribed by law for the official misconduct in like cases of the Assistant Treasurer or depositary respectively for whom he shall act.

The Committee on Finance reported the bill, with an amendment to strike out in line five the words "at his discretion," and to insert "with the approval of the Secretary of the Treasury," so that it will read:

That in case of the sickness or unavoidable absence of any Assistant Treasurer or depositary of the United States from his office, he may, with the approval of the Secretary of the Treasury, authorize the chief clerk, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed. The bill was ordered to be read a third time; and was read the third time, and passed.

#### MISSOURI MILITIA CLAIMS.

Mr. HENDERSON. I move to postpone all prior orders and proceed to the consideration of the bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that—

Immediately after its passage the President shall appoint a commissioner, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri in enrolling, equipping, subsisting, and paying such State forces as have been called into service in the State since the 24th of August, 1861, to act in concert with the United States forces in the suppression of rebellion against the United States.

The commissioner so appointed is to proceed at once to examine all the items of expenditure made by the State for these purposes, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander. And no allowance is to be made for any troops which did not perform actual military service in full concert and co-operation with the authorities of the United States, and subject to their orders.

In making up the account for the convenience of the accounting officers of the Government, the commissioner is to state separately the amounts expended respectively for enrolling, equipping, arming, subsisting, and paying the troops, and from the aggregate amount he is to deduct the amount of direct tax due by the State to the United States under the act of 1861, or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

In the adjustment of accounts the commissioner is not to allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases. So soon as the commissioner shall have made up the account and ascertained the balance, he is to make a written report showing the different items of expenditure to the Secretary of the Treasury; and if from the report it shall appear that any sum remains due to the State, he is to draw his warrant for the same payable to the Governor of the State, and deliver it to him. The

commissioner to be appointed, before proceeding to the discharge of his duties, is to be sworn that he will carefully examine the accounts existing between the United States and the State of Missouri, and that he will, to the best of his ability, make a just, true, and impartial statement thereof. He is to receive such compensation for his services as may be determined by the Secretary of the Treasury. The sum of \$4,000,000 is appropriated to carry this bill into effect.

Mr. WILSON. This is a very important bill, and I suggest to the Senator from Missouri to fix a day or two hence for its consideration in order that Senators may have an opportunity to read the report in support of it and examine the subject carefully. I think if the bill is taken up at this time without that examination, it will be prejudiced by it. The Senator had better fix Thursday, or Friday, or some future day for its consideration, and give notice that the bill will then be pressed to a vote. Perhaps it would be better to fix some day early in the next week. I do not think the Senate is prepared to act upon the measure now.

Mr. HENDERSON. While the bill is up I desire to offer an amendment to fill up the blank in the title of an act alluded to in the third section. The title of that act is "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861. In line eight of the third section I move to insert in the blank the words "provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and to insert in the blank in line nine the words "August 5."

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) That amendment will be made, if there be no objection.

Mr. HENDERSON. Before any disposition is made of the bill now before the Senate, I wish to state that I have no desire whatever to urge its passage now if Senators have not examined the report made on the subject, and I believe unanimously, by the Committee on Military Affairs. It is Senate report No. 107. I am exceedingly anxious that Senators should examine it, so that they may understand the reasons influencing the Senators from Missouri in urging the passage of this bill.

It provides for the appointment of a commissioner or commissioners to proceed and examine into this matter. The Senate will remember that during the closing days of the last session I undertook to introduce a bill of a similar character, and it was objected to. I stated then to the Senate that I feared the result of doing nothing at that time would be to bring upon our State the horrors of an invasion, which afterward came. I do not suppose Senators much thought at that time that we should have the invasion which we had in Missouri last fall.

I will now simply state that ever since 1861 the department commanders in Missouri sent there by the United States have always been appointed major generals of our State militia by an arrangement that was made between the Governor of the State and the President of the United States, and that those department commanders from year to year have called out the militia of the State, which were carefully organized under an act first of the convention and subsequently of the Legislature of Missouri. They have kept large numbers of that militia in the field, and upon the calling out of the militia they have always required the State of Missouri to pay them. We not only paid the militia out of our State treasury, the State broken down as it was, but up to January 9, 1863, as Senators will see on page 12 of the report that has been made by the Committee on Military Affairs, the militia were subsisted by the State. Afterward, in June, 1863, General Halleck issued an order that issues of clothing, camp, and garrison equipage should be made to those troops while actually employed, but those troops have always been paid from the State treasury.

By examining this report the Senators will see what the State of Missouri in its present condition has been compelled to pay the troops called into the field by the department commanders who have been sent there by orders from Washington. We could not do otherwise. Those troops have performed good service, as is testified to by all the department commanders of Missouri, General

Schofield, General Curtis, General Rosecrans, and others; and in fact, the present commander of that department has a large number of those troops now in the State, and the Legislature of the State has heretofore been compelled, and is now engaged in making arrangements for the payment of those troops. We have been taxed very heavily in Missouri for this purpose. There is a heavy poll tax, and a commutation tax of thirty dollars on every man's head in the State in order to pay these troops. They are acting under the orders of the military commanders sent there by the United States, and in every way have been subject to their orders. I think, therefore, that there should be no hesitation whatever to provide for the adjustment of these accounts.

I desire very much that this bill should be acted upon at as early a day as possible. I do not desire to urge it now if it be the wish of Senators to postpone it in order that they may examine the report on the subject which accompanies the bill. The report states all the facts, and states them fully.

Mr. POMEROY. I hope this matter will be attended to at any rate at a very early day. I know the condition in which the action of our Government has left the State of Missouri. I have seen the effect of it; and I think it is absolutely necessary, in order to save that State in her finances, that we should pass a measure of this kind. I do not know precisely what amount should be appropriated, but a measure of this kind ought to be passed at an early day. I hope if the bill is to be postponed, that it will not be postponed for many days. If the Senators from Missouri desire to have it postponed for a few days, I certainly shall not press any reasons why we should pass the bill now; but if it is to be acted upon to-day I shall give some reasons why I think it ought to be passed.

Mr. BROWN. I do not desire to press this bill at the present time, for evidently Senators have not had an opportunity of examining the merits of it. I desire simply to call the attention of the Senate to the report which was made from the Committee on Military Affairs covering this case, and setting forth the evidences and grounds upon which the bill is predicated. I trust Senators will give the report their attention, for the reason that this bill rests upon special grounds which cannot perhaps be well understood without examining the facts there stated.

It is very important to our State that this matter should be adjusted, and adjusted as speedily as possible, because it is the initial point in all reform of the present distressed financial condition of that State. It is impossible to make any movement to rectify the financial condition of our State there without having this initial measure first passed, for the reason that the Union military bonds with which our troops have been paid are made payable for taxes, and we are now receiving nothing but them in taxes. Until we can have some mode of funding them, and enabling us to get taxes in money, we can do nothing at all. I move that this bill be made the special order for Tuesday next. I would name an earlier day, Monday or Friday, if it were not for the fact that I expect to be absent from the city on both those days, and I would be glad to be present when the bill is taken up. I move that it be made the special order for Tuesday next at one o'clock.

The motion was agreed to, two thirds of the Senate agreeing thereto.

#### SLAVES TAKEN INTO THE ARMY.

Mr. WADE. I move to postpone all prior orders and take up the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents.

The motion was agreed to.

Mr. SUMNER. I move to strike out all of the resolution after the enacting clause, and insert what I send to the Chair.

Mr. POWELL. With the indulgence of the Senator from Ohio, I desire to ask the Senate to take up a resolution of inquiry which I submitted yesterday. I am sure it will occasion no debate.

Mr. WADE. I am willing to give way if, by so doing, I do not displace the measure which I have called up.

Mr. POWELL. I do not seek to displace that. I move to take up the resolution I offered yesterday calling upon the Secretary of War to state

why he has not appointed a commission, in obedience to the twenty-fourth section of the act of February 24, 1864. That section is:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each such colored volunteer, payable out of the fund derived from commutations;" &c.

That commission has not been appointed. I do not know why the Secretary has neglected to discharge that duty. This resolution merely inquired why it has not been done.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Chair will entertain the motion of the Senator from Kentucky, if there be no objection.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted yesterday by Mr. POWELL:

*Resolved*, That the Secretary of War be directed to inform the Senate why he has not appointed "A commission in each of the slave States represented in Congress charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each colored volunteer;" as he was directed to do by the twenty-fourth section of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863."

Mr. WILSON. I am opposed to the passage of the resolution. There is censure in it, by implication, of the Secretary of War, and I think we have had quite enough of that here. It has got to be quite fashionable to get up here and by resolution or by speech censure the Secretary of War for not making reports or taking action that it is thought devolves upon him. I think that resolutions should not be passed in the Senate which censure or which can be construed as censuring the Secretary of War, pressed as he is and toiling as he is toiling for the country. For one I am opposed to the passage of this resolution or any resolution that has in it anything that looks like a censure of the Secretary of War for his action in this matter. I was surprised and grieved the other day to hear the Secretary censured in the Senate for not making reports, reports that he could not make because he had to send out of his Department to get the facts of the case before he could make them. Every part of the Secretary's office, everybody in it is worked and pressed as perhaps is the case in no other Department of this Government. When we send there for information, it has to be gathered up; officers have to be set upon it; and I think proper time should be given. Now, sir, I know nothing about this case, but I take it that the Secretary of War intends to obey the laws of the country. At any rate I am opposed to passing a resolution that on the very face of it is a condemnation of the Secretary of War for non-action.

The PRESIDING OFFICER. The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the special order which was assigned for that hour, which is the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. WADE. The joint resolution which I moved to take up was taken up, and I allowed it to give way to the resolution of the Senator from Kentucky, supposing that that would not lead to debate. I suppose the Senator from Kentucky will not press it under the circumstances.

Mr. POWELL. I will not press it now under the circumstances, and I should not have appealed to the courtesy of the Senator from Ohio to enable me to call it up if I had not supposed that it would not lead to debate. I should like, however, to be allowed to make a single remark in reply to the Senator from Massachusetts.

Mr. WADE. I fear that I shall lose the chance to have my joint resolution considered if I give way.

Mr. FOSTER. You have lost it already.

Mr. WADE. Only by common consent.

Mr. FOSTER. The special order has put it off.

The PRESIDING OFFICER. The Senator from Kentucky may proceed by common consent.

Mr. POWELL. I hope the Senate will indulge me in one minute's remark. I do not intend to make a speech.

The PRESIDING OFFICER. The Chair hears no objection; the Senator from Kentucky will proceed.

Mr. POWELL. The Senator from Massachusetts objects to the passage of the resolution because, he says, it is a censure of the Secretary of War. I intended no censure of the Secretary of War in the matter, but I am free to say that if I thought he deserved censure, I would be willing to censure him. The law I have just read makes it the duty of the Secretary to appoint a commission to do a certain thing. This law has been on the statute-book now nearly a year. It is a matter of very deep moment to my constituents, and I have been written to almost every week since I have been here by persons who wish to know why he has not complied with the law. The object is not to censure him; but we certainly have a right, after this long lapse of time, to ask the Secretary why he has not complied with the imperative requirements of the law. That is all there is of it.

There are a great many persons in my State deeply interested in having this law carried out. We want this commission appointed. The only means I know of to ascertain why it has not been appointed is for me to offer a resolution, in no language of censure, but simply calling for the information, and I certainly see no reason why the objection taken by the Senator from Massachusetts should prevail. It is obvious that the law says the Secretary of War shall appoint this commission; the law has been upon our statute-book nearly a year, and yet he has not appointed it. I simply inquire of him why he has not done it. That is all. If that is a censure, let it be so; I can only say that it was not my object to censure anybody. It is a matter of deep importance to my constituents and the constituents of other gentlemen from the border States. I will not press it now if there is to be further debate, as the Senator from Ohio yielded to me as a matter of courtesy the right to take up this resolution while another subject was pending of which he has charge.

Mr. CLARK. I suggest, then, to the Senator from Kentucky, as he does not intend to press the resolution now, if it leads to debate, that he let it lie over, for certainly in the minds of some of us it conveys a very severe censure on the Secretary in its present form. The point is that the Secretary shall inform the Senate why he has not done a certain thing, as he was required by law to do.

Mr. POWELL. Yes.

Mr. CLARK. It is not very courteous, in my judgment, in its expression. I think it implies a censure, and a very grave censure. We have no official information that he has not done it. It would be certainly much more courteous to inquire of the Secretary whether it has been done or not, and if not, what were the reasons for not doing it.

Mr. POWELL. I am willing to amend the resolution as the Senator suggests.

Mr. CLARK. I do not propose to amend it at this time, because it will require a re-draft of the resolution, but if the Senator will let it lie we can frame it in some form that will not imply a censure, and then I shall have no objection to it.

Mr. POWELL. I will let it lie for the present.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society, for the support of certain recaptured Africans in Liberia.

#### RETALIATION ON REBEL PRISONERS.

Mr. WADE. I now move to postpone the special order, and all other orders, with a view to take up the joint resolution to which I alluded before.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents.

Mr. SUMNER. I now ask that the amendment which I have sent to the Chair be read.

The Secretary read the proposed amendment, which is to strike out all after the resolving clause of the resolution, and to insert the following:

That retaliation is harsh always, even in the simplest cases, and is permissible only where, in the first place, it

may reasonably be expected to affect its object, and where, in the second place, it is consistent with the usages of civilized society; and that, in the absence of these essential conditions, it is a useless barbarism, having no other end than vengeance, which is forbidden alike to nations and to men.

*And be it further resolved*, That the treatment of our officers and soldiers in rebel prisons is cruel, savage, and heart-rending, beyond all precedent; that it is shocking to morals; that it is an offense against human nature itself; that it adds new guilt to the great crime of the rebellion, and constitutes an example from which history will turn with sorrow and disgust.

*And be it further resolved*, That any attempted imitation of rebel barbarism in the treatment of prisoners would be plainly impracticable, on account of its inconsistency with the prevailing sentiments of humanity among us; that it would be injurious at home, for it would barbarize the whole community; that it would be utterly useless, for it could not affect the cruel authors of the revolting conduct which we seek to overcome; that it would be immoral, inasmuch as it proceeded from vengeance alone; that it could have no other result than to degrade the national character and the national name, and to bring down upon our country the reprobation of history; and that being thus impracticable, useless, immoral, and degrading, it must be rejected as a measure of retaliation, precisely as the barbarism of roasting or eating prisoners is always rejected by civilized powers.

*And be it further resolved*, That the United States, filled with grief and sympathy for cherished citizens who, as officers and soldiers, have become the victims of Heaven-defying outrage, hereby declare their solemn determination to put an end to this great iniquity by putting an end to the rebellion of which it is the natural fruit; that to secure this humane and righteous consummation, they pledge anew their best energies and all the resources of the whole people, and they call upon all to bear witness that in this necessary warfare with barbarism they renounce all vengeance and every evil example, and plant themselves firmly on the sacred landmarks of civilization, under the protection of that God who is present with every prisoner and enables heroic souls to suffer for their country.

Mr. SUMNER. The resolutions which I have moved as a substitute explain themselves; perhaps it is hardly necessary that I should add another word; and yet, if the Senate will pardon me, I will call attention briefly to the nature of the original resolution before them, and also I will add one word of illustration from some of those authorities to which we are in the habit of referring on such matters.

The resolution of the committee sets forth what we all too painfully know, that our prisoners—"have been subjected to treatment unexampled for cruelty in the history of civilized war, and finding its parallels only in the conduct of savage tribes; a treatment resulting in the death of multitudes by the slow but designed process of starvation, and by mortal diseases occasioned by insufficient and unhealthy food, by wanton exposure of their persons to the inclemency of the weather, and by deliberate assassination of innocent and unoffending men; and the murder, in cold blood, of prisoners after surrender."

After setting forth in the preamble the treatment to which our soldiers, their prisoners, have been subjected, the resolution proposes that we on our part, by way of retaliation, should imitate this example. It expressly declares that certain officers now in our custody "ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them;" and "that with a view to the same ends, the insurgent prisoners in our hands ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case." Thus, according to the requirements of this resolution, rebel prisoners in our hands are to be subjected to a treatment "finding its parallels"—I adopt the words of the committee—"finding its parallels only in the conduct of savage tribes," and they are to be subjected to a treatment, in the words of the resolution, "resulting in the death of multitudes by the slow but designed process of starvation, and by mortal diseases occasioned by insufficient and unhealthy food;" and still further by "wanton exposure of their persons to the inclemency of the weather." I will not proceed any further with these details, all of which will be found in the preamble to this very resolution.

Now, sir, I believe that the Senate will not undertake in this age of Christian light, under any inducement, under any provocation, to counsel the Executive Government to enter into any such competition with barbarism. Sir, the thing is impossible; it cannot be entertained; we cannot be cruel, or barbarous, or savage because the rebels whom we are now meeting in warfare are cruel, barbarous, and savage. We cannot imitate that detested example. Sir, we find no precedent for it in our own history nor in the history of other nations. We find no precedent, I say, in our own history. This question was one of the earliest that General Washington had to deal with after he took command of the American forces at Cambridge. From his headquarters there, under date of August 11, 1775, he addressed a letter to General Gage, the commander of the British forces in Boston, and I believe that this letter contains the full extent to which a nation can honorably go; and I must say that as I read it I felt new pride in that commander of our forces who thus early in the discharge of his great duties showed such an insight into their proper limits and responsibilities. In addressing General Gage, he said:

"Sir, I understand that the officers engaged in the cause of the liberty of their country, who by the fortune of war have fallen into your hands, have been thrown indiscriminately into a common jail appropriated for felons; that no consideration has been had for those of the most respectable rank when languishing with wounds and sickness; that some of them have been even amputated in this unhealthy situation."

After proceeding to remind General Gage of the cause in which he was engaged, he continued:

"My duty now makes it necessary to apprise you that for the future I shall regulate my conduct toward those gentlemen who are or may be in our possession exactly by the rule you shall observe toward those of ours now in your custody."

"If severity and hardship mark the line of your conduct, (painful as it may be to me,) your prisoners will feel its effects; but if kindness and humanity are shown to ours, I shall with pleasure consider those in our hands only as unfortunate, and they shall receive from me that treatment to which the unfortunate are ever entitled."

Senators about me say "that is sound." I am glad they say so, and if they can find in this correspondence any sanction for the adoption of the savage system which is now inaugurated in rebel prisons, let them point it out. The correspondence has its own limitations in the statement of facts on which it proceeds. What are they? Prisoners had been thrown indiscriminately into a common jail appropriated for felons, and no consideration had been had for those of the most respectable ranks, when languishing with wounds and sickness; and some of them had been even amputated in this unhealthy situation. There is, sir, no such painful suggestion as that they "have been subjected to treatment unexampled for cruelty in the history of civilized war, finding its parallels only in the conduct of savage tribes; treatment resulting in the death of multitudes by the slow but designed process of starvation." No such thing appears in the case; and the judgment of Washington was applied strictly to the facts before him.

But this is not all. Search the history of our country and you will find that the practice seems to be fixed; the rule seems to have received an accuracy of statement from which there can be no escape. I have before me here the words of Chancellor Kent in his commentaries, volume one, page 93, where he touches this question:

"Instances of resolutions to retaliate on innocent prisoners of war occurred in this country during the revolutionary war, as well as during that of 1812; but there was no instance in which retaliation, beyond the measure of secure confinement, took place in respect to prisoners of war."

There you have the authoritative testimony of that great expounder of our history and of our jurisprudence, the late Chancellor Kent. I may add also the testimony of another American writer on this subject, whom I have quoted more than once in this Chamber, General Halleck, who, in his work on International Law, thus expresses himself on page 296:

"Retaliation should be limited to such punishments as may be requisite for our own safety and the good of society; beyond this it cannot be justified. We have no right to mutilate the ambassador of a barbarous Power because his sovereign has treated our ambassador in that manner, nor to put prisoners and hostages to death, and to destroy private property, merely because our enemy has done this to us; for no individual is justly chargeable with the guilt of a personal crime for the acts of the community of which he is a member."

I said, sir, it was without a precedent in the history of other nations. I believe that I am right. I believe that no authentic record can be shown where such savage treatment has been imitated by way of retaliation, by a Christian Power. One of the most learned writers on the law of nations, Vattel, dealing with this very subject, very aptly puts the following question:

"What right have you to cut off the nose and ears of the ambassador of a barbarian who had treated your ambassador in that manner?"—Vattel, book 2, chapter 18, § 339.

That question of this learned publicist strikes at the heart of this whole subject. What right have you to adopt any barbarous conduct because the barbarous enemy with whom you deal has set the example? This same eminent publicist, in another place, says:

"It was a maxim of the Roman Senate that war was to be carried on with arms, and not with poison."

"The Senate, and even Tiberius himself, thought it unlawful to adopt the use of poison, even against a perfidious enemy, and as a kind of retaliation or reprisal."—Vattel, book 3, chapter 8, § 155.

That statement, sir, covers the whole case. Why is it unlawful by way of retaliation to adopt poison? Because it is barbarous; and for the same reason it is unlawful for us to adopt starvation, to adopt all that cruel system of treatment which is so emphatically set forth in the preamble to this resolution. And yet, sir, I know well that by the laws of war retaliation is permissible; but it has its limits, and those limits, as I have ventured to say in the resolutions which I have sent to the chair as a substitute, are at least twofold: first, the retaliation must be useful, it must reasonably promise some practical result; and, in the second place, it must be in harmony with the usages of civilized nations. The retaliation that is proposed, as I have already explained in the resolutions, is useless, for it can have no practical result; and it is not in harmony with the usages of civilized nations.

I have said that the laws of war recognize retaliation. The recent most formal and explicit declaration on the subject from any quarter is in the very elaborate "instructions for the government of the armies of the United States in the field," drawn up since this war began, under the direction of a learned commission, and by the pen of one of the ablest and most learned publicists of our age. I refer to Dr. Lieber, once and for many years professor in the University of South Carolina, and now professor in the University of Columbia, at New York. In these instructions he thus affirms the general law of retaliation:

"The law of war can no more wholly dispense with retaliation than can the law of nations of which it is a branch. Yet civilized nations acknowledge retaliation as the sternest feature of the war. A reckless enemy often leaves to his opponent no other means of securing himself against a repetition of barbarous outrages."

Such is the general principle laid down in these instructions. And now, sir, I shall read to the Senate the commentary of this same learned publicist on these very instructions in a letter which I have received from him this morning. Bear in mind, sir, that the writer of this letter is a student of the laws of war, that he vindicates their exercise, and that in proper cases he vindicates the exercise of retaliation; and now allow me to present his criticism on the retaliation proposed:

"I am unqualifiedly against the retaliation resolutions concerning prisoners of war. The provision that the southerners in our hands shall be watched over by national soldiers who have been in southern pens is unworthy of any great people or high-minded statesman. I am not opposed to retaliation because it strikes those who are not or may not be guilty of the outrage we wish to put an end to. That is the terrible character of almost all retaliation in war. I abhor this revenge on prisoners of war, because we would sink thereby to the level of the enemy's shame and dishonor. All retaliation has some limit. If we fight with Indians who slowly roast their prisoners, we cannot roast in turn the Indians whom we may capture. And what is more, I defy Congress or Government to make the northern people treat captured southerners as our sons are treated by them. God be thanked you could not do it, and if you could, how it would brutalize our own people! I feel the cruelty as keenly as any one; I grieve most bitterly that people whom we and all the world have taken to possess the common attributes of humanity, and who after all are our kin, have sunk so loathsome low; I feel the hardship of seeing no immediate and direct remedy, except conquering and trampling out the vile rebellion; but I maintain that the proposed (yet unfeasible) retaliation is not the remedy. Indeed, calmly to maintain our ground would do us in the end far more good. Revenge is passion, and ought never to enter the sphere of public action. Passion always detracts from power."

"I believe that the ineffable cruelty practiced against our men has been equaled in the history of our race by the Spanish treatment of the Indians and by the Inquisition,

but counter cruelty would not mend matters. Those who can allow such crimes would not be moved by cruelties inflicted upon their soldiers in our hands. These cruelties, therefore, would be simply revenge, not retaliation, for retaliation as an element of the law of war, and of nations in general, implies the idea of thereby stopping a certain evil. But no mortal shall indulge in revenge."

"I am indeed against all daily treatment of the prisoners in our hands, but for the love of our country and the great destiny of our people, do not sink, even in single cases, to the level of our unhappily, shameless enemy."

"If you could march out some ten thousand prisoners in our hands and say to the enemy: Either you treat our prisoners better or we execute every one of these ten thousand prisoners in our hands, and if you could make the enemy believe you, I would say this is plain retaliation. But could you do it, would you do it? And as to starve those who have starved our sons, and by the thousand, why every one knows the thing cannot be done, and Heaven be praised it is not."

"The only remedy for this bitter evil, as for all others that beset us now, is, let us send men, and men, and men to our Sherman and Thomases that they may strike, and strike, and strike again. Let us place ourselves right before our own times and before posterity, and let the foul enemy see how he can place himself before the world and in history when lying has ceased. It is his affair."

I have read this letter, and I quote it as authority because it is written by the very pen which wrote that proposition embodying retaliation in the instructions to the armies of the United States.

Mr. WADE. Mr. President, I hope the amendment proposed by the Senator from Massachusetts to this resolution will not prevail, because so far from intimidating the enemy or inducing them to believe they must give up their inhuman treatment of our soldiers, it will rather be an invitation to them to continue it. The Senator from Massachusetts has proved, in the course of his argument, what I supposed was well settled international law, that the principle of retaliation is part and parcel of the law of war. It has been practiced by all civilized nations, as often as there has been occasions for it. The first example that the Senator read was that of the father of his country in the revolutionary war. Very early in the struggle, at the very outset of the war, as soon as it came to his ears that the British were mistreating our men who were prisoners in their hands, he gave them to understand that their treatment of our prisoners in their hands would be the measure that he would award to their prisoners in our hands. That he lays down clearly as a principle, and he deduced it from the well settled laws of nations. He did not lay down any limitation of it. He simply went on to sum up what he understood to be their treatment, and said that he should observe the same toward them. Does the Senator believe that if their treatment had been infinitely more inhuman than it was, that fact would have induced Washington to drop the principle altogether? Would it not rather have been a seven-fold reason why he should enforce it with greater vigor? He did not lay it down as a limitation, but as a settled principle of law which he would adhere to, that his treatment of prisoners in his hands should be precisely the same with the treatment by the enemy of the prisoners in their hands.

So the authors to whom he has referred all lay it down that it is no new thing I am contending for. The great writers upon international law all treat it as a well settled doctrine that is to be resorted to when there is a necessity for it, though of course not for the purpose of indulging in vindictive feelings or vengeance. If it was only prompted by such feelings, it would be savage and utterly unworthy of our consideration for a moment; but that is not the feeling which prompts us, nor has it among civilized nations become part and parcel of international law for the purpose of revenge, but simply because it is frequently a necessity of war, because you cannot get justice done to your own side, to your own men, unless you resort to this great principle. It arises out of the feelings of human nature. It is that remedy which suggests itself even to a child. It is part and parcel of human nature, and is consequently incorporated into the law of war by all civilized nations.

The Senator says that it will not be useful, that it will not have the effect which we ascribe to it. If he could show that, I agree with him there would be no reason why I should urge it upon the Senate, or why they should adopt it. If it would not prevent this savage barbarity, if it would not provide a remedy, there would be no reason for my urging it or for the Senate adopting it; but the law itself is founded upon the idea that



it will prevent the enemy practicing these barbarities. It has grown up and become part and parcel of the well recognized international law, not because it is mere vengeance, but because it is supposed to grow out of the necessity of the case and because it is supposed that it does interpose a remedy for these inhumanities. It is with that view alone that I urge it.

I know that the letter which the Senator read is not the only declaration on this subject that the father of his country made. If I am not greatly mistaken, he wrote a letter to Lord Howe early in the war, saying, "Your treatment of our prisoners will be my measure of treatment to yours."

Mr. COLLAMER. The exact words were, "Your conduct will govern mine."

Mr. WADE. That is better expressed still: your conduct toward our prisoners will govern mine toward yours. So I ask the American people to say to this confederacy, "Your treatment of our prisoners will be the measure of our treatment to yours." But the Senator says they have become so inhumane, so outrageously and savagely barbarous, that we must drop the great principle and suffer the evil to go on. He says that in very slight cases of inhumanity the principle is proper, but when you come to the most savage, where the necessity is seven-fold more than in other cases, you must quit the principle itself. Is that sound logic or law? You do not find it in any of your books. The Senator's learning, which I admit is great, can find no such limitation of this principle of war. When you investigate this principle, if you stop for a moment to analyze it, you will find that war itself is nothing else than the exercise and practice of the principle that I am now urging upon the Senate, and, of course, the greater the abuse the greater the necessity for putting an end to it by applying the remedy.

I have said that it is nothing more than the principle of war as carried out in practice. I ask why have we engaged in war? Because our enemies commenced an unprovoked assault upon us. Was it not that? I am opposed to all offensive war. I do not believe there is any necessity for any offensive war. But, assuming this war on our part to be defensive, as it is, and that we are entirely in the right, as we are, why have we waged a defensive war? The enemy commences an attack upon us, murders our men, seizes our property, and what are we to do? If we kill him, is it not retaliation? If we go on and destroy his property, in order to limit his power for destruction, is that revenge?

Sir, there is nothing in the principle which I advocate on this occasion more or less than the principle of war itself, which is a principle of force against force limited by nothing except it be the power of one party to injure the other. No man regrets more the necessity of such a measure as this than I do; but I know it is a necessity. Inhumanity, suffering from barbarism, will not be increased by adopting this principle, but will be greatly diminished and probably put an end to by it. The experience of all civilized nations has shown that it is a remedy; and the principle is adopted universally, because long practice has shown that it is a remedy; and for this reason it has become a part of the law of nations.

Have we not practiced it in this very war? I remember many a military order issuing from our officers in the field where men have been murdered by guerrillas declaring what punishment should follow, and we have sometimes taken out two men, that were in our hands, in no way connected with the murder or depredation we complained of, and killed them for the murder of one of our men by guerrillas. For the murder of two we have killed four, and we are to-day practicing upon that principle by which we have almost put an end to guerrilla warfare in some of the States. I wonder that the Senator from Massachusetts does not know that that is our practice. If we can take life in retaliation and to prevent such depredations, can we not resort to remedies short of the taking of life to effect the same thing? It all results in this, if there is any hope that by practicing retaliation we shall succeed in putting an end to these horrors and barbarities the measure is perfectly justifiable, and we are exceedingly wrong if we do not adopt it.

I know that it is called for as a measure of re-

dress from every part of the country. The people are amazed that we suffer these barbarities to be inflicted on our soldiers without any attempt whatever to invoke international law in their behalf. We sit here with our arms folded; and my friend from Massachusetts, pursuing what he thinks is a principle of humanity, would fold his arms still longer and say we are utterly powerless to do anything, while thousands and tens of thousands of our brave soldiers are suffering everything short of death, yea worse than death itself. Now, is it any harder for a rebel soldier or officer to suffer some of these things than it is for our poor brave men who are battling in the cause of their country, to be subjected to them? Is all your pity expended upon these barbarians, and have you none for our own brave soldiers who are suffering in our cause? Do you add anything to human woe and suffering by inflicting retaliation on those who, by raising their hands against their Government, have justly forfeited their lives? These criminals must be treated with the greatest humanity! Hands off! Pamper them so that they may go back again as soldiers to fight against us, while our poor men are suffering death by inches! We are to fold our arms and tell the poor soldier, "We will not raise an arm in your behalf; it would be inhuman;" and thereby we encourage these barbarians to go on in their accursed course with impunity, and without any apprehension that they will meet with the like treatment at our hands.

Mr. COWAN. Mr. President, I am as much in favor of retaliation as anybody, I think, can be. I am in favor of it, because it is the only sanction which is possible in the laws of nations; there is no other way by which we can enforce those laws. I beg leave, however, to differ somewhat from the principle laid down by the Senator from Ohio as to the manner in which that retaliation should be administered. If I understand him correctly, he takes the ground that the retaliation should be in kind; that is, in order to retaliate, we should do precisely the same things to rebel soldiers which the rebels do to ours.

Mr. WADE. I barely laid that down as a rule, and I understand that to be the way it has been practiced and become a part of international law. I suppose, however, any other mode that should be thought better, would be acceptable.

Mr. COWAN. I merely wish to speak to that, because I understand that is the principle involved in the proposition which the Senator advocates; that is, if the confederate States of America starve our soldiers, we are therefore justified, or indeed bound, if we undertake to enforce the laws of nations, to starve their soldiers. I think that is not a correct principle. I think there are thousands of cases in which it would be totally inapplicable.

Mr. WADE. I think the gentleman does not understand me exactly. It is true that this joint resolution contemplates retaliation in kind. If, however, any other mode that he can suggest would be more effectual than the particular one laid down here, very well. It would be perfectly in accordance with international law, I suppose, and might be better adapted to the case than this.

Mr. COWAN. Mr. President, I am opposed, then, to the mode contemplated in this resolution. I know there was a time in the history of the world when an eye for an eye and a tooth for a tooth was the *lex talionis* of the universe; but, as I understand, that law, by a higher authority than ours, has been abrogated; and I suppose that if we were as perfect as He who abrogated that law, we should perhaps find another rule; but we are not, and we are still obliged, in order to enforce the laws of nations, to resort to some mode of retaliation. I am willing that any mode shall be adopted which can be executed by our own people; but I would desire to ask those who advocate this measure whether it is possible that American officers and American soldiers, even those who have suffered all these barbarities at the hands of the rebels, could be induced to starve a rebel soldier?

Mr. WADE. There would be no difficulty about it.

Mr. COWAN. I think there would be a great deal of difficulty. I think it would be impossible to procure in the American Army an officer or a soldier either, who would stand by and see a man starve—a man, sir! particularly when it is admitted that that man, individually, may be as innocent

as you or I. Mr. President, for the sake of my country, of my people, of our race, I do not believe that it is possible. I am willing to believe that Senators upon this floor feel as sensibly and as acutely as anybody living the sufferings which our soldiers endure; and yet I am satisfied that there is not a Senator upon this floor who could stand by coolly and deliberately and see a rebel soldier starve without attempting to feed him. It is not the kind of retaliation which we are to exercise upon an enemy. A file of our soldiers may shoot a man to the death in retaliation, but our soldiers are not to turn the executioners of a slow and terrible torture. My object is to save them, not to save the enemy, but to save ourselves and to save the instruments which we would use for the purpose of enforcing this retaliation. I will agree to anything honorable, anything manly, anything effective which will not destroy for ourselves that self-respect which it is due to ourselves and to all other people that we should maintain for ourselves.

Mr. President, I am one of those, unfortunately, perhaps, who differ with a great many Senators on this side of the Chamber, in believing that in the distribution of powers and authorities under this Government this is a question which does not belong to this Senate to consider. I have understood it to be admitted in the course of this debate by the honorable Senator from Ohio, as it must be admitted by all men who know of our Constitution and the peculiar organization of our Government, that if we retaliate at all we retaliate according to a law already in existence, not one which is to be made. What is meant when it is said to us that we are to retaliate according to the law of nations? Is that a law in existence, or is it a law to be enacted? If it is a law in existence, this not being an executive body, but legislative, there must be some other power, and some other authority in this Government to exercise it. As I understand this question, it is a question for the Commander-in-Chief of our armies and his subordinates. It is an authority to be exercised by them according to the exigencies which arise, and to be abandoned by them as the exigencies fail to happen.

Mr. WADE. Do I understand the Senator to lay it down that Congress has no power to prescribe the principles upon which the war should be conducted?

Mr. COWAN. I have repeatedly upon this floor given my opinion distinctly upon that subject. So far as all foreign Powers are concerned, and so far as all belligerent Powers are concerned, at war with this Government, our only point of contact with them is in the Executive. We are a part of the legislature of the country; we are a part of the law-making power. Our powers and authorities are municipal. Our enactments reach those against whom we can enforce them, and those against whom we can enforce them are, of course, those who owe us allegiance and are citizens; but as against belligerents and as against foreign Powers they can have no possible operation whatever. But I answer the question sufficiently when I say that the honorable Senator from Ohio himself has repeatedly said that we do this thing because we have a right to do it, by a law preëxisting, heretofore made, and that is the law of nations. Then, if we have a right to do it by the law of nations, we need no additional law to do it. We make laws; we do not execute laws.

Mr. WADE. If the gentleman will allow me, I find he does not understand my argument. I suppose we may, if we think proper, by an act of Congress change the law of nations so far as respects us, and all nations must abide by it so far as our power extends. We might alter the law of nations if we would. Nor did I invoke the law of nations for this. I only alluded to the law of nations to show that the practice which I advocated was not new nor unknown to the laws of war; that is all.

Mr. COWAN. Mr. President, I agree we might do a great many extraordinary things; we might do a great many foolish things; we might do a great many barbarous things; things which would bring down upon our heads the odium of the civilized world if we were of accord to do it; but what I mean to say is, that the legislative department of this Government have no power to do that thing; and that in order that we should

have the power even to do it, to violate the laws of nations, and to put us in this unfortunate and reprehensible position with regard to all other nations, it would require the accord of all three departments of the Government to achieve it. It would be necessary, if we undertook to alter and change the law of nations, that the Legislature should first pass the law, that the Executive should sanction it and agree to execute it, and that the courts were to carry it into effect; but all that would be subversive of the very frame and texture of the Constitution of the country.

Therefore, sir, in my opinion this is a question for the Executive of this Government to decide. It is for him to examine into these facts; it is for him to determine whether the exigency has occurred when he will give this terrible sanction to the laws of nations, whether he will make them vindictive in this case. I cannot believe that the Executive is so derelict to his duty, so false to all that we require of him, so faithless to his obligations to our officers and soldiers that he will allow a barbarous enemy to inflict upon them the punishments complained of without taking the matter into consideration, and careful, and prayerful, anxious consideration, in order that he may apply the proper sanctions to prevent it.

Mr. WADE. What are the proper sanctions to prevent it?

Mr. COWAN. The honorable Senator asks what are the proper sanctions to prevent it. I can only answer to the honorable Senator that if I were President of the United States, (which is the most unlikely thing, I should think, that would ever happen,) or if I were called into the councils of the President of the United States, and the question were put to me, then I should be obliged to answer it. As it is now, it is not part of my senatorial duties to determine that question; and if I were to determine it, in my opinion, it would be a usurpation, it would be tyranny.

Sir, what is tyranny? Tyranny consists in the usurpation of power and authority on the part of men to whom it is not given. However much I might desire to correct an evil, however much I might be satisfied that it existed, however much I might protest to the authority having power to correct it, yet, if it was not within the scope of the powers delegated to me, if I undertook to correct, that would be usurpation. As I understand, the boast of this Government, that which characterized it in its inception, that which hallowed it through the course of three quarters of a century, and which gave it success, was the fact that it was a Government of law, a Government of well-defined, clear-settled, distinctly authorized law, each department acting within its own sphere, and responsible for that action. If we are to usurp the proper functions belonging to the President as the Commander-in-Chief of the Army, if we are to distribute that responsibility among the two or three hundred men who assemble here as the Legislature, where will the responsibility be? If we distribute that responsibility over the forty-five or fifty members of this Senate, where will the responsibility be? If there is any dereliction of duty on the part of those who have the power to execute this law, the law of nations, not the law which we make, but the law which has been made, and which is part of the laws of the land by the Constitution, then I will join the honorable Senator from Ohio and all others heartily in going to the source of proper authority, and insisting there that that duty shall be performed.

Sir, how are we to know the facts of the case? Where are we to get them? I do not know them now. I know them from vague rumor and from uncertain report. I am sorry to say that I believe they are true; and I am willing to say that I resisted for a long while the belief that these barbarities were practiced upon our prisoners. I could not conceive that Americans, that men who had been citizens of the United States of America, who had enjoyed its blessings, who had lived in the light of the age which it adorned, and who had derived from its benign, beneficent Government, the advantages which it conferred, could come down so low in the scale of barbarism that they would ever resort to such a diabolism as the deliberate starvation of our prisoners. I repeat, I resisted this belief as long as it was possible that I could resist it for the credit of my country, my countrymen, and my race; but I am afraid now

that it is true; and I am willing in every other capacity than that legislative capacity which is limited by the powers and authorities conferred, to do anything and everything I can to induce the President, and the generals who command his armies, to enforce some principle of retaliation which will put a stop to this thing. I am willing that any measure may be adopted, I am willing to recommend any measure which a soldier and a man can execute, which will be calculated to stop for the future these barbarities; but I am unwilling, and cannot here undertake to usurp an authority which I do not believe we have, with all deference to others who do believe it. I have no reflections to make upon them. I have no doubt they are quite as honest in entertaining the opposite opinion as I am in entertaining mine; but I cannot, with the opinions I have, undertake by a law to say to the President that he must do this or that or the other in the premises, simply because, if the President is unwilling to retaliate, if he thinks it improper to retaliate, having full power now to do so, it is utterly useless for us to attempt to drive him to the performance of that duty which we think he owes to our people and to the country.

Nor, sir, would I desire to do that. I have confidence in the President, and I have confidence in his advisers. I have confidence in the men who lead our armies. I think they deserve our confidence. I think the time has now come when we may stand up as American citizens and be proud of the progress that we have made even in the terrible art of war. I believe that we have a right to be proud to-day that we are in the possession of and own the most terrible armies that now shake the earth with their tread in any hemisphere. I say I have confidence in their leaders. I have confidence in the fact that they know the laws of nations, and that they will not sanction their violation. I believe in their forbearance, in their humanity, and I know they will not retaliate as long as it is possible to avoid that disagreeable contingency; but I have no doubt that when the occasion comes, when it offers itself, and they fear it is upon us, they will be equal to the emergency, and they will, without our action, take such measures as will compel the enemy on the other side to respect those laws of humanity, of progressive civilization, and of Christianity, which will enable us, if we make war at all, to make war as men and gentlemen.

Then, Mr. President, if we pass this joint resolution, the effect of it can only be that we recommend to the President to retaliate in case he believes the time for retaliation has come. I have understood that the President himself has declared publicly that if he was satisfied the time had come, if he was satisfied that a proper and fit occasion for it had come, he would not hesitate for a moment to resort to it. I believe him. I believe that he will do it. But I know how easy it is to exaggerate the reports of these barbarities; I know how easy it is to impregnate the minds of the masses of the people with the idea that our soldiers are not as well treated as they should be; and I know how difficult it is that any man should believe, at the same time, that there were demons, fiends incarnate in human shape who would coolly and deliberately, to prevent the exchanged soldier from going again into the ranks of battle, starve him and incapacitate him. I know the difficulty on both sides of this question; and I would say here that one of the highest evidences of the wisdom of the Constitution is to be found in the fact that a single man was made Commander-in-Chief of the armies of the United States, that to a single head was intrusted that extraordinary power.

I know, sir, that there will be difficulties. There never was a great occasion in the world such as this is that was not surrounded by difficulties equally great. It is a law of things that such should be the case, and it is equally a law that, when the occasion comes and its corresponding difficulties come, we should struggle to endeavor to correct them. But, Mr. President, let us be true to our obligations; let us be true to our trust; let us execute the powers confided to us, and let us exercise them, if we can, so as to make them effectual in all their length and breadth; but as to others intrusted with different power, clothed with other authority, let us hold them to the responsibility of doing their duty, and then we shall have done ours. And, sir, I am pleased to say

that even in this I think I see a better result than if we were to usurp that which does not belong to us; that we should usurp the conduct of this war, and declare what is our view of the law of nations, and insist that that view should be taken by the Executive. I say I think I see a better result—

Mr. WADE. I should like to know if the Senator contends that Congress cannot make articles of war, and that we cannot, if we see fit, make an article of war as to how prisoners shall be treated? Does he deny to Congress that power?

Mr. COWAN. I will answer the gentleman quite as distinctly as he puts the question. We have the right to make articles of war for the government of the Army in itself, *inter se*, but I deny that we have the right to make an article of war which shall declare how prisoners shall be treated. You cannot make an article of war which would require the President to burn prisoners, to scalp prisoners, to violate women. That authority has not been delegated to the legislative department of this Government.

Mr. SUMNER. Nor to starve them.

Mr. COWAN. Nor to starve them, in the emphatic language of the Senator from Massachusetts.

Mr. WADE. If the Senator will allow me, he cannot dodge the principle as to where the power is lodged by extreme cases. If we have the power, we can use it as savages, if we will, or as Christians if we are Christians; but that is no argument as to the limitation of the power. Have we the power or have we not to make articles of war, and can we not prescribe the principle on which the President shall prosecute this war, or do we sit here with no power at all? Is it a one-man business altogether, and can we dodge every question that properly comes before us by saying the President ought to do it?

Mr. COWAN. Mr. President, I have not been in the habit of "dodging."

Mr. WADE. You have not told us what you prescribe as a remedy.

Mr. COWAN. That is the honorable Senator's opinion. I have answered a plain question by a plain answer, and I question whether there is a Senator on the floor who did not understand me exactly unless it were the honorable Senator from Ohio; but I trust even to make him understand me. I have not "dodged" any part of his question. I have admitted that we had a right to make articles of war; but whom do articles of war govern? Does the honorable Senator say that our articles of war govern the enemy; that they govern foreign Powers; that they govern belligerents? Not at all; nobody pretends that that is the case. Articles of war are made to govern our Army. The articles of war are the municipal regulations which prevail within our Army, which operate upon the Army itself, and which the Army and those who severally enter into the Army agree to abide by. But articles of war are not the laws of nations. The laws of nations govern us in our conduct with regard to belligerents; to foreign peoples; and, as I said before, you cannot make an article of war which will authorize your soldier to violate a woman, to scalp a prisoner, or to tie him to a stake and burn him. There is no such authority in this Government.

Mr. WADE. That is pettifogging.

Mr. COWAN. "Pettifogging!" the contrary is pettifogging, if the honorable Senator pleases, with his side-bar remarks. I am no more pettifogging than he is pettifogging. I am no more capable of pettifogging than he is. I do not know why any Senator should be supposed capable of pettifogging on this floor. I have the same interest at stake that he has: I trust we all have. I do not know upon what meat this Cæsar feeds that we should walk about under his legs and seek for ourselves dishonorable places—not graves, I hope, because I do not think there is any danger of graves. I say all that in reply to the side-remark of the Senator about pettifogging. I hope that will all be abandoned upon this floor. There is no necessity for that kind of thing. It neither intimidates nor does anything else, that I know of, that is very good. It will make people angry; that is, people who are not as good-natured as I am; it never affects me in the slightest; but that is about the whole effect of it.

Now, I say, when the Constitution of the coun-

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try was adopted, the laws of nations, as they then existed, were adopted along with it, and provision was made in that Constitution that we should have authority, not to make them, but that we should have authority to devise ways and means by which they should be executed. For instance: piracy is an offense by the laws of nations, but there is no punishment imposed upon piracy in this country unless Congress should impose it, and therefore Congress is authorized to impose punishment upon piracy and other crimes against the laws of nations. But, by the Constitution, the laws of war, as they existed at the time it was formed, are binding and obligatory upon this people precisely the same as the municipal laws which we enact here in Congress are binding upon them.

In further answer to the question, by the laws of nations we are bound to treat our prisoners, and the enemy are bound to treat theirs by the same law, as, according to the custom of nations, the Christian and civilized people in Christendom treat their prisoners, and we have no power and authority in the world to declare that we shall treat them otherwise; I mean no legitimate power and authority. We may usurp the authority to do as the Indians do; but that is another question. Therefore, I say, in answer to the gentleman's question—I hope he will not consider me as "dodging" it this time—that we have no authority under heaven, under the Constitution, under the delegated authority given by the American people to the honorable Senator and myself to stand upon this floor and represent them, by which we have any right to change or alter the laws of nations. They are there, fixed, immutable.

Mr. TRUMBULL. Cannot we define piracy?  
Mr. COWAN. No, sir; you cannot define piracy.

Mr. WADE. We have done it.  
Mr. COWAN. You cannot define piracy, and I doubt, although I do not speak from the book, whether you have done it.

Mr. COLLAMER. We have said that the slave trade shall be considered as piracy.

Mr. COWAN. Very well, that is a matter of description; but you cannot make that piracy which is not piracy.

Mr. DOOLITTLE. There is a clause in the Constitution that Congress may define and punish piracy.

Mr. TRUMBULL. That does not make it any clearer.

Mr. COWAN. Not a bit. This clause which authorizes Congress "to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations," is the very clause to which I refer when I say that when the Constitution was adopted and when it was made the paramount law of the land, it made the laws of nations also obligatory upon the country and upon all the people.

Mr. FOSTER. That is, to punish our own people.

Mr. DAVIS. The honorable Senator from Pennsylvania is right.

Mr. COWAN. I hope so.

Mr. DAVIS. The Congress of the United States cannot define piracy, or make any act piracy for other nations which is not piracy by the laws of nations. But Congress can define piracy, or make acts piracy for our own people by its laws, which are not piracy by national law; but such laws would be only a part of the municipal law of the United States, and would not become a part of the law of nations. The slave trade was made piracy by law of Congress, when entered into by the citizens of the United States; and most of the civilized nations have also passed laws making it piracy against their own subjects, or citizens, to enter into the slave trade. But Spain and Brazil refused either by their legislation, or by treaties, to make the slave trade piracy; and consequently the act of entering into the slave trade by the subjects of Spain and Brazil is not piracy, and cannot be punished as such by the courts of those,

or any other countries. An act which is piracy by the laws of nations may be punished as such by the courts of any country; but piracy defined by the laws of any particular country can only be punished by the courts of that country. The law of nations is made by the consent and usages of all civilized nations; no single nation, nor a majority of them, nor a less number than the whole can change or alter the laws of nations, or make any act piracy which by that law is not piracy.

Mr. COWAN. I understand the force of the objection, but as I cannot possibly answer all objections upon the instant I was obliged to defer this; and I have no doubt that, perhaps, this clause was introduced in order to avoid a principle which pervaded the laws of nations, which has always pervaded it, I believe, until recently, and which pervades it yet, except so far as it has been altered by treaty; and that was in regard to human slavery. Human slavery by the law of nations was not an offense; the slave trade was not an offense; but in order that this Government might be clothed with the authority to declare it an offense this clause was inserted in the Constitution by which we were given the general power to define what piracy was; that is, it was a general power, but it was limited by the general common sense of mankind. We could not declare that piracy which did not amount to piracy, and did not resemble it, but those things which according to the enlightened sense of the Christian world of this day amounted to robbery upon the high seas might be piracy; whether it was the robbery of a merchantmen, or whether it was the robbery of a man in his canoe, in both cases they should be made piracy.

I am aided very much by the suggestion of the learned Senator from Vermont, [Mr. COLLAMER,] whose opinion I should think, not only upon this floor, but with the nation generally, would be conclusive upon this point, that this clause enabled us to define as to our own people, and our own people alone, what piracy should be, but not what it should be as to other people. If we declared that something which we fancied was piracy, and which was not piracy by the laws of nations before that time, should be so regarded as to foreigners, what would it amount to? Nothing at all; no more than any other enactment of ours at the present time adding to or amending the laws of nations would amount to anything.

Then, sir, I think I have disposed of the question as to the authority of the legislative department of this Government to make articles of war, or to prescribe the rules of our conduct toward belligerents; and I trust that I have at least satisfied perhaps some people that we have no authority to intermeddle in the premises here contemplated by this resolution. If it was a resolution recommending to the President retaliation, in case he believed that retaliation was necessary, I should vote for it, although I would much prefer some other channel by which to convey our sense of his duty in that behalf; but I am not prepared to go so far as to make a law obligatory upon him based upon facts of which we are not and cannot be sufficiently cognizant, the facts as to whether the contingency has happened; and I am not prepared either for this. Suppose we pass this resolution, and we are informed a few days after by the President that the course of conduct which we supposed offensive and against the laws of nations on the part of the rebels had been abandoned by them, what are we to do then? Suppose we pass the resolution to-day, and to-morrow the President informs us that our law is entirely unnecessary, because the rebels have abandoned that course of treatment which they heretofore pursued against our soldiers, then I would like to know what I am to do in this contingency. My honorable friend, the Senator from Ohio, is the chairman of the committee on the conduct of the war, and he comes in here in his honest, eager, ardent way, and says, "It is all false; they have not abandoned it at all; we must have another resolution and compel the Executive to retaliate." What am I to believe under those circumstances?

Why, sir, I can only believe the same that I now believe. Whatever might be the evidence before the committee on the conduct of the war, however much it may have impressed the Senator with the necessity of action, I can only believe in charity that the President is not impressed with the force of this evidence, or I cannot conceive why he would not act.

Mr. WADE. If the Senator would only read the resolution, he would be relieved from the necessity of making that part of his argument, because it authorizes the President to abandon this system of retaliation when the rebels shall treat our men differently.

Mr. HOWARD. I will correct him.

Mr. WADE. Very well; put him right all around.

Mr. COWAN. I am exceedingly innocent about walking into any pitfalls, and when it is announced that there is danger in front, I think it is only fair that a man should betold what it is. If there is any trap—

Mr. WADE. There is no trap. I only advise you that it would have been better to read the resolution before making your argument.

Mr. COWAN. If you suggested anything, I should be pleased to know what it was, so that I might not be overwhelmed by the horse, foot, and artillery of the honorable Senator from Michigan, when he comes up. However, I believe I will run the risk, and not insist upon any further interference.

I say then, again, (I have only to repeat it once more,) that as the matter now stands I cannot believe that the President has in his possession the evidence of this barbarous treatment, or of its persistent continuance, which is asserted on the part of the honorable Senator from Ohio, or I think he would have corrected it already by retaliation. I would be glad to know if this evidence is in the possession of this body; if they have it, whether they have communicated it to the President, whether he is cognizant of it, whether the commander-in-chief of our armies under him is cognizant of it, whether the several commanders are cognizant of it, whether they stand by with folded arms and see our men tortured by a slow death in this way without doing something in order to prevent it. As I have said, I have no disposition to quarrel with the Executive in anything which he does do, provided it is consistent with the humanity of the age. I am willing that he shall resort to any mode of retaliation which he deems proper, provided it be such a mode as will not disgrace our own officers and soldiers in the execution of his plan. I will not agree that soldiers shall be burned in retaliation, however I might agree that they might be shot by a file of infantry. I will not agree that they shall be scalped and mutilated, however much I might agree to any kind of confinement to which they might be subjected; and I will not agree, so far as I am concerned, that they shall be tortured to a slow death, in order to achieve this retaliation; and it is particularly the case when I come to reflect who those soldiers are, and I would be understood now to be speaking of the rebel soldier, not the rebel officer.

Who is this soldier, sir? Was he a secessionist? Was he part and parcel of that great scheme and conspiracy by which this Union was to be dissolved, by which this fair fabric was to be rent in twain? Not at all. He was a citizen of the United States, owing allegiance to it, bearing willing allegiance to it, I have no doubt, up to the time of secession. Overborne by the conspiracy, carried away by the flood-tide of events, what was he to do? What was the soldier of Georgia to do? What was the soldier of Tennessee to do? What was the soldier of any of these States to do when this calamity came upon him? Resist his State government? How was he to resist his State government when it had all the reins of power in its hands, and when it had the insignia of government and could compel his obedience? What did the Government of the United States do in that contingency? I speak of the commencement of these troubles,



and I appeal to the honorable Senator from Ohio whether I do not speak it rightly. What did the Government of the United States do in the fall and winter of 1860-61 when this citizen of the United States was anxious to do his duty, it may be? And I have no doubt there are thousands of cases in which they were as honest as the Senator and I were. When the cry of usurpation was raised on the part of the secessionists, and when their States were to be carried out of the Union in spite of them, what did the Government of the United States do? Did it come to their rescue? Did it go there to repel that usurpation? Did it go there to drive away the secessionists and restore these men to their rights?

Mr. WADE. No. Buchanan thought that would be retaliation.

Mr. COWAN. Mr. Buchanan thought he could not coerce them. The Government of the United States announced publicly to these men that they could not coerce the rebellion; and I believe the Attorney General of the United States wrote a letter stating that it was not the law that the Executive could coerce them. Then I ask how long was it before the Government of the United States came to the conclusion that it could coerce the secessionists and restore these citizens to their rights in the Union? From about the 1st of December until the 4th of March; and then from the 4th of March until about the middle of April, before the incoming Administration decided that it would go to their rescue. All that time we left them under the administration of the secessionists. We went out of possession. We allowed ourselves to be kicked out of possession. We allowed our property to be taken from us; and we allowed them to carry everything with a high hand. But at the end of that time, about the middle of April, 1861, we came to the conclusion that we would do our duty toward these citizens of the Union, that we would come to their rescue, put down the usurping government, and restore them to their rights in the Union. Have we succeeded in doing it? God be praised, we have succeeded in a great measure; but the work is not yet done; and before we can ask these people to submit, the work must be completely done. We cannot ask a man, when we go there and take possession of his neighborhood, to turn in and be immediately loyal when we may go away ourselves the next week and abandon him to the tender mercies of the rebels. We must establish our dominion and our authority over the country before we can ask the people to bear us true allegiance.

And yet, sir, thousands of the men who are to be starved under the barbarous policy contemplated in this resolution, who are to be tortured to the slow and lingering, and of all the most horrible of deaths, are the men whom we ourselves have abandoned to the tender mercies of the conspirators who originated this rebellion. Sir, I cannot consent to that. Whatever I might be willing to do by way of retaliation to the officer, to the man, who goes into the rebel army voluntarily of his own free will and accord, to the man who carries the insignia of office upon his shoulders and the commission of office in his pocket, I am unwilling to inflict it upon the private soldier, driven by a merciless conscription into the ranks of the rebel armies, and compelled to serve there perhaps against his will and truly against his interests. I repeat, I am unwilling to inflict this retaliation upon him, whatever I might be willing to do to those who are voluntarily in the service of the rebellion.

I hope then, Mr. President, if any measure of this kind is to be passed by this body, it will be couched in such phrase as not to offend against the progressive humanity of civilization, couched in such phrase as will not offend against our own sense of justice, couched in such phrase as that in long years hereafter, when we look upon that glorious flag which we all love so much, we shall not see upon a single fold of it the stain of inhumanity and barbarism even in retaliation as a sanction of the laws of war and of nations.

Mr. HOWARD. Mr. President, the strangeness and inapplicability of many of the comments made by the Senator from Pennsylvania upon this joint resolution lead me to the conclusion that he has never read it; has never paid the respect to it of giving it a perusal; otherwise I cannot conceive that he could have made so great a mistake

in commenting upon it as to suppose that in its terms it was mandatory upon the President, or assumed to give him any direction whatever in regard to the treatment of prisoners. There is nothing of the kind in the resolution. It is from beginning to end advisory to the President, and not in any degree mandatory. If the Senator had perused the resolution; if, instead of coming here and treating the Senate to a protracted declamation upon what he assumed was contained in the resolution, he had condescended to read it, I fancy he would not have made so great a mistake.

It seems, however, that he committed this oversight for a purpose. He had "method in his madness." He was anxious again to instruct the Senate, as he has done heretofore on numerous occasions, in his favorite doctrine that it pertains to the President of the United States, in the character of Commander-in-Chief of the armies, and to him alone, to exercise all the laws of war, and that Congress is not vested with any authority whatever to direct as to the mode in which a war shall be carried on and conducted, after it has once been declared and commenced. I have had heretofore occasion to say a word on this subject, and I do not wish on this occasion to reiterate the arguments I then advanced. It is sufficient for my purpose to say that I reject entirely this groundless assumption in favor of the President. I deny that he possesses any power except such as is given him by the Constitution, or by an act of Congress, for the purpose of carrying on a war which has once been declared or commenced.

The Constitution declares that Congress shall have power to declare war. I need not say to the learned Senator that this language has ever been construed by the best writers upon the Constitution as meaning that Congress shall have power to wage and carry on war. The power of Congress is by no means limited to the simple process of making a declaration of war, for the Senator knows as well as I that there are many wars which do not commence by declaration at all, and it is by no means necessary by the laws of nations that a war should be commenced by a formal declaration. A lawful war may exist without a declaration. Such wars do often exist, and during the present century, even, have occurred on repeated occasions. Sir, it is for Congress, whenever they may see fit, to declare by proper enactments in what mode a war shall not only be declared but carried on and conducted in all its stages, in all its forms, in all its incidents, whether those incidents relate to the treatment of prisoners of war or to the mode of arming, equipping, and conducting an army in the field or a navy upon the ocean. But, sir, I will not weary the Senate by further reference to the singular ground taken by the Senator from Pennsylvania.

Now, sir, what is this resolution which has been so violently, and I think so unjustly, denounced, both by the Senator from Massachusetts, [Mr. SUMNER,] I regret to say, and by the Senator from Pennsylvania? The Senator from Pennsylvania, like the Senator from Massachusetts, will have it that its object is to "imitate" the barbarities of the rebels; and odium is attempted to be thrown upon it, because it does, in point of fact, require a retaliation upon the rebels of the same treatment which they extend to our prisoners in their hands by calling it an "imitation." It is conceded, *in limine*, by both Senators that retaliation is in perfect accordance with the laws of civilized warfare; and the learned professor whose letter was read to us by the honorable Senator from Massachusetts concedes this point also, that retaliation is lawful and allowable. We all know quite well what retaliation means. It is returning like for like; it is treating your enemy as he treats you, for the purpose of restraining him from crime, and inducing him by the use of the like severity to observe the laws of civilized war. If retaliation be lawful and allowable, I insist that the measure now before the Senate is strictly in accordance with the laws of war as expounded even by the Senators themselves, and by the professor whose letter we have heard read.

But, sir, it is unnecessary to argue this question of the right of retaliation. It has ever existed since the commencement of civilized society. It is as old a practice as war itself, and so long ago as you read of hostages in ancient history, so long is it since the principle and practice of retaliation have been observed between nations at war.

But, sir, the question arises more particularly whether the Senate have before them evidence sufficient to justify us in resorting to the principle of retaliation. Judging from some remarks that fell from the Senator from Pennsylvania, I was led to suppose that he was still in doubt upon the question whether the provocations given us by the rebels have been of such a character as to justify the measure. On this subject I beg to lay before the Senate and before the country a few extracts from a document I now hold in my hand. It is a report made by a committee appointed by the United States Sanitary Commission at New York, on the 19th of May, 1864. In order to show the character of this committee, and what were the functions imposed upon them by the society, I read the resolution under which they were appointed. There are names here, sir, that will go down to posterity. The gentlemen engaged in performing the duty prescribed by the resolution I am about to read, are gentlemen, as we all know, of the highest respectability for truth and veracity as well as for professional learning and industry. I rest, and rest with perfect security, upon the veracity of their statements. I can entertain no doubt whatever of the truth of the facts they relate, and of the conclusions at which they arrive. The following is the resolution:

"Resolved, That Dr. Ellersie Wallace, Hon. J. I. Clark Hare, and Rev. Treadwell Walden, of Philadelphia, and Dr. Valentine Mott, Dr. Edward Delafeld, and Gouverneur M. Wilkins, Esq., of New York, be respectfully requested to act as a commission for ascertaining by inquiry and investigation the true physical condition of prisoners recently discharged by exchange from confinement at Richmond and elsewhere within the rebel lines; whether they did, in fact, during such confinement suffer materially for want of food, or from its defective quality, or from other privations or sources of disease; and whether their privations and sufferings were designedly inflicted on them by military or other authority of the rebel government, or were due to causes which such authorities could not control. And that the gentlemen above named be requested to visit such camps of paroled or discharged prisoners as may be accessible to them, and to take in writing the dispositions of so many of such prisoners as may enable them to arrive at accurate results; and to adopt such other means of investigation as they may think proper."

Prefixed to their report is the following note by the committee themselves:

"The commissioners appointed in the foregoing resolution by the standing committee of the United States Sanitary Commission respectfully submit the following narrative and report, drawn from the mass of evidence collected by them, and printed in the Appendix, as the result of their inquiry and investigation."

I do not intend to weary the Senate with any extracts from this report, save such as I deem necessary in order to solve the question propounded in the resolution itself which appointed them. These gentlemen had every facility necessary to enable them to ascertain the facts about which they were to make inquiry, and to arrive at proper conclusions. Speaking of the scenes of distress and privation which existed in the Libby prison in Virginia, in the year 1863, they use the following language:

"It was about the middle of last autumn (1863) that this process of slow starvation became intolerable, injurious, and cruel to the extent referred to. The corn bread began to be of the roughest and coarsest description. Portions of the col and lusk were often found ground in with the meal. The crust was so thick and hard that the prisoners called it iron-clad. To render the bread eatable, they grated it, and made mud of it, but the crust they could not grate."

Again:

"Those who were entirely dependent on the prison fare, and who had no friends at the North to send them boxes of food, began to suffer the horrible agony of craving food and feeling themselves day by day losing strength. Dreams and delusions began to distract their minds."

"Although many were relieved through the generosity of their more favored fellow-prisoners, yet the supply from this source was of course inadequate. Captain Callahan speaks of suffering 'a burning sensation on the inside, with a general failing in strength.' 'I grew so foolish in my mind that I used to blame myself for not eating more when at home.' 'The subject of food engrossed my entire thoughts.' 'Captain Stevens having received a box from home sat down and ate to excess, and died a few hours afterward.' 'A man had a piece of ham which I looked at for hours, and would have stolen if I had had a chance.'"

"But the most unaccountable and shameful act of all was yet to come. Shortly after this general diminution of rations, in the month of January last, the boxes, which before had been regularly delivered, and in good order, were withheld."

That is, the boxes that were sent by the friends of these prisoners from their homes, in order to mitigate their sufferings in that prison.

"No reason was given. Three hundred arrived every week, and were received by Colonel Ould, commissioner

of exchange, but instead of being distributed, were retained and piled up in warehouses near by, and in full sight of the tantalized and hungry captives. Three thousand were there when Lieutenant Colonel Farnsworth came away."

"There was some show of delivery, however, but in a manner especially heartless."

I desire gentlemen who have manifested so much mercy and forbearance toward the keepers of our prisoners in the hands of the rebels to listen to a few of these extracts. I wish them to hearken to this evidence; and if it does not drive from their hearts that sentimentalism which would refuse the protection of a just retaliation to our prisoners in the hands of the rebels, then I shall be almost compelled to believe that this sentimentalism, instead of being mercy and generosity, is but another name for cruelty and injustice, unworthy of Congress, and unworthy of the character of the nation we represent. Hearken to it; let the whole world hear it, for, sir, we are about to take a step which, in my judgment, we can fully justify in the face of the civilized world:

"Five or six of the boxes were given during the week. The eager prisoner, expectant, perhaps, of a wife's or mother's thoughtful provision for him, was called to the door and ordered to spread his blanket, when the open cans, whether containing preserved fruits, condensed milk, tobacco, vegetables, or meats, were thrown promiscuously together, and often ruined by the mingling."

"These boxes sometimes contained clothing as well as food, and their contents were frequently appropriated by the prison officials. Lieutenant McGinnis recognized his own home-suit of citizen's clothes on one of them, pointing out his name on the watch-pocket."

"The officers were permitted to send out and buy articles at extravagant prices, and would find the clothes, stationery, hams, and butter which they had purchased bearing the marks of the Sanitary Commission."

The very clothes and provisions, in numerous instances, which were forwarded by the friends of these prisoners at home were stolen, confiscated, and sold by the wretches who were employed to take charge of the Union prisoners—a deliberate act of larceny, depriving these starving men of the small donations sent them by their own families to save their lives. And yet we are told here that it is unjust, ungenerous, and cruel for us to retaliate upon such blackguards for the treatment they have exercised toward our innocent and unoffending prisoners!

Again:

"In one instance this constant thievery became an unexpected advantage to the inmates. After the famous 'tunneling out' by which so many effected their escape, the guard confessed that they had seen the fugitives, but supposed that they were their own men stealing the boxes! The tunnel, after running under the street, had its outlet near where the boxes were piled up."

"All through the winter and late into the spring was this suffering, chiefly from hunger, prolonged. There is evidence of its continuation even so late as the month of May last."

"Surgeon Ferguson, who was confined there at that time, gives a most painful picture of what he saw."

"No one can appreciate, without experience, the condition of the officers in the prison during the twelve days of my stay; their faces were pinched with hunger. I have seen an officer standing by the window gnawing a bone like a dog. I asked him, 'What do you do for?' His reply was 'It will help fill up.'"

"They were constantly complaining of hunger; there was a sad, and insupportable expression of face impossible to describe."

"There is no suffering that can be mentioned greater than that of the slow and lingering pains of famine, except it be, perhaps, the agonies of absolute death from hunger—but of this no Libby evidence was collected. The description of Libby life might therefore end at this point so far as having reached the climax of all possible misery on the one hand, and of all possible barbarity on the other. But the testimony develops still other instances of cruelty, which may as well be introduced here, in order to show the animus of the confederate authorities."

"It is stated that for offenses, whether trivial or serious, the prisoners were consigned to cells, beneath the prison, the walls of which were damp, green, and slimy. These apartments were never warmed, and often so crowded that some were obliged to stand up all night. It was in these dungeons that the hostages were placed."

"But the inhumanity was not confined to the living. It extended even to the disposal of the dead. The bodies were placed in the cellar, to which the animals of the street had access, and very often were partly devoured by hogs, dogs, and rats. The officers had the curiosity to mark the coffins in which they were carried off, to find out whether they were buried in them. But they proved to be only vehicles for bearing them away, returning a score of times for others."

Speaking of the indescribable sufferings of the ten thousand men who were confined as prisoners upon Belle Isle in the James river, this committee use the following language:

"The men resorted to every expedient to keep from perishing. They lay in the ditches as the most protected places, heaped upon one another, and lying close together as one of them expressed it, 'like hogs in winter,' taking turns as to who should have the outside of the row. In the morn-

ing the row of the previous night was marked by the motionless forms of those 'who were sleeping on in their last sleep'—frozen to death!"

"Every day during the winter season numbers were conveyed away stiff and stark, having fallen asleep in everlasting cold. Some of the men dug holes in the sand in which to take refuge. All through the night crowds of them were heard running up and down to keep themselves from freezing. And this fate threatened them even more than it would have threatened most men exposed to an equally severe temperature, even with such thin clothing and inadequate shelter, for they were starving!"

"The very sustenance of animal heat was withheld, and one of the most urgent occasions of hunger, a freezing temperature, which makes the bodily necessity stronger and the appetite for food greater, was given full opportunity to make havoc among them. So the last stay and power of resistance was taken away; the cold froze them because they were hungry; the hunger consumed them because they were cold. These two vultures fed upon their vitals, and no one in the southern confederacy had the mercy or the pity to drive them away. Only once was there heard a voice of indignant remonstrance in the rebel congress from a noble-hearted statesman, but it was heard with indifference, and brought about no alleviation."

"The surgeons, themselves, were unanimous in their opinion as to the cause of their condition, not only from the uniform story of the men, but from the characteristics of the different diseases, the revelations of the post mortem examination, and especially and most conclusively of all, the invariable treatment which proved most efficacious, namely, not medication, but simple nutrition and stimulation."

"They all agreed in attributing the condition of the men to one or more of the following causes: deprivation of clothing; insufficient food, in quantity and quality; want of fresh air on account of overcrowding; consequent and unavoidable uncleanness; want of adequate shelter during the fall and winter; and mental depression, the natural result of all."

The committee discuss the question whether the rebel authorities possessed the means necessary to the proper support and supply of our prisoners in their hands, and this is the language they use:

"It has been said, and has been the general impression, that the rebel government was itself embarrassed for want of supplies, that its own soldiers were naked and hungry, and that even the prison guards shared the privations of the prisoners."

"It will be noticed that this excuse, urged strenuously by their friends, and half accepted by every one disposed to be moderate and just, after all only accounts for a small portion of the conduct of the rebels to their captives."

"Why were they robbed of their private property; the money, and the few trinkets a man usually carries with him? Or if this was the uncontrollable habit of a wild soldiery, why was it the regular proceeding of the Libby authorities on the entrance of an officer? Why was stolen done with brutal violence when the person undergoing the process expostulated?"

"By whose connivance were the supplies of food and clothing sent from the North stolen? By whose neglect, or by whose order, were they withheld in immense quantities from men palpably starving and freezing?"

"How is it that—after three years of war, during which everything military had grown colossal and correspondingly complete, with them as with us—flat no extensive barracks, even of the cheapest and flimsiest kind, offering, at least, space to move in, and shelter from the weather, were not erected; but that open encampments, or city warehouses too small for such occupation, continue in use to this day?"

"How is it that, even under such circumstances, supposing them for some reason unable to have done better, they made no provision for the prisoners still further, exposing them to the poison of foul air, generated by unavoidable personal uncleanness, and by the equally unavoidable accumulation of filth under certain conditions of disease, for which either no provision was made, or if made, they were capriciously prevented from using?"

The committee go on to say:

"These grave developments of the testimony, by no means new to many at the North, and occasionally the subject of newspaper reports, (though never in such detail as now related,) have as yet elicited no excuse or explanation, and until an excuse or explanation comes the government by whom such things are authorized, and the people by whose public sentiment such things are encouraged, will stand arraigned for almost immeasurable inhumanity and criminality before the civilized world."

"The conclusion is inevitable. It was in the power of the rebel authorities to feed sufficiently and to clothe whenever necessary their prisoners of war. They were perfectly able to include them in their military establishment; but they chose to exclude them from the position always assigned to such, and in no respect to treat them like men taken in honorable warfare. The commonest soldier was never compelled by hunger to eat the disgusting rations furnished at the Libby to United States officers. Their most exposed encampment, however temporary, never beheld the scenes of suffering which occurred daily and nightly among the United States soldiers in the encampment on Belle Isle."

"The excuse and explanation are swept away. There is nothing now between the northern people and the dreadful reality."

Which was, that these barbarities were deliberately resorted to and practiced by the rebel authorities who had the ability to act differently, and to treat our prisoners well—resorted to for

the inhuman purpose of destroying the lives of our men by the slow process of starvation. In this they had a double design. The first was one which is perfectly obvious, to strike terror into the northern population, by the atrocities committed by the rebel authorities, and by the sufferings and agony our prisoners underwent in the hands of their rebel captors; and there is no telling the extent of this evil. History will never be able to answer the question, to what extent did this brutal treatment tend to discourage enlistments at the North, and reduce the Union army. Sir, it has beyond all doubt or cavil obstructed the recruiting of our armies to a very large extent. The story told by men who underwent these agonies at the South was circulated from neighborhood to neighborhood, from town to town, and from city to city. Thousands, I had almost said hundreds of thousands of young men were deterred from entering the military service for the prosecution of this war by the fear of falling into the hands of these barbarians. It has greatly obstructed us in recruiting the Army, and has at the same time deprived us of the services of a great number of men who, if they had been properly treated and returned to us according to the laws of war, would have been towers of strength in the prosecution of the war."

Sir, I have only time to allude to that part of this report of the committee which relates to the cruelties committed upon our prisoners at Andersonville in Georgia. It is sickening to read the authentic accounts that come to us both from officers and soldiers who have been the victims of the barbarities of Andersonville. Only two or three days ago I received by mail the following letter from a constituent of mine, a gallant young man from my own State, who, at the commencement of the rebellion, volunteered to act the part of a patriot and soldier in subduing this insurrection. It bears date more than six months ago, and was brought to our lines by a flag of truce:

CAMP ANDERSON, GEORGIA, July 12, 1864.

DEAR SIR: I am a prisoner here, with about thirty-five thousand others. Do take the most active measures to have us paroled or exchanged. A few months will end two thirds of us.

Very respectfully, CHAS. H. HUNT.

HON. J. M. HOWARD, Washington, D. C.

And, sir, since that young man wrote me that letter, he has succumbed to this same inhuman treatment at the hands of rebels, and young Hunt now fills a hero's and a martyr's grave in the State of Georgia."

Sir, the barbarities committed upon our men at Andersonville are absolutely indescribable. Human language is impotent to bring home to the heart and the soul of a man the horrors of those scenes. Artists have been compelled to resort to something more expressive than human language, and painting and engraving have been called in to aid in conveying to the mind the full idea of the brutalities practiced by the rebel authorities upon our soldiers. Out of those thirty-five thousand, I presume not more than one half, if as many, still survive to tell the tale of their sufferings; and the testimony is as clear as the noonday sun that these barbarities were deliberately practiced upon our men for the double purpose of crippling and reducing our armed force and of striking terror into the northern population in order to prevent enlistments. There does not remain ground for a doubt that the rebel government designedly resorted to the slow process of torture and death by starvation, and to freezing and starving united, operating minute by minute, hour by hour, day by day, week by week, and month by month, until the man became a living skeleton and an idiot, no longer able to recognize his wife, his children, or his friends; no longer of any value either to himself or his country; and this for the purpose of weakening our military arm and deterring our people from prosecuting the war."

Sir, I ask any man of humanity, any man who feels a respect for his country, Does it not become us to punish these barbarities, and to punish them in the only way that is left us? which is, the original and actual offenders having made their escape or not being in our power, to seize upon their countrymen, prisoners in our hands, and subject them to the same severities practiced against us. I know, sir, that the heart of a generous man naturally revolts at the practice of retaliation. I am not a stranger, I trust, to the ordinary feel-

ings of humanity; but when the voice of my own countrymen cries to me from the dungeons of Libby, and from the putrid pools of Andersonville and implores me to interpose whatever power I may possess to deter the rebels from the infliction of such cruelties on them, I cannot, and, so help me God, I will not shut my ears to their cries. I think it to be our duty, our duty as a Christian nation, as a Government claiming the respect of the world, to punish these barbarities and to make it necessary for the rebels, if they intend further to protract this war, to submit to the code governing civilized nations.

Now, sir, the resolution does not, as has been incorrectly stated by the Senator from Pennsylvania, whose sensibilities were so exercised on this subject, assume to punish the rebel common soldier who has fallen into our hands as a prisoner. It treats him as a soldier and a prisoner of war ought to be treated. No inhumanity, no retaliation whatever in any form or degree, is to be exercised toward him, but only toward the rebel officer who has fallen into our hands as a prisoner.

Sir, let us touch the rebel authorities in their most vital part. Let us make it necessary for the officers of their army, from the highest to the lowest, to set a better example of humanity than they have hitherto done. My opinion is that if we shall pass this resolution it will have the effect at once to deter the evils of which we complain. I cannot entertain a doubt that when the rebels see that their officers in our hands are to be subjected to ignominious treatment, ay, sir, to the same treatment which our men and officers experience at their hands in Libby prison, on Belle Isle, and at Andersonville, death by slow starvation, horrible as it is to contemplate, they will quit their foul practices, and the honorable Senator from Pennsylvania will not any longer have occasion to exclaim in holy horror that the honor of the United States is tarnished.

Sir, the history of the world, certainly the history of the civilized world, presents no parallel to the brutalities committed by the rebels. Read the story of Dartmoor prison, you find nothing to be compared with them. Read the story of the Black Hole of Calcutta, you find nothing there. Read the story of the ancient British hulks, in which twenty thousand French prisoners were kept in close confinement for three or four years off the coast of England, in spaces not more than four and a half feet high between decks, and you will find nothing there to be compared with these cruelties. In the whole history of modern civilized war, these crimes stand out in hideous prominence. There is nothing that we can find short of the history of Indian barbarities to which they can be likened. And as I said before, Mr. President, I look upon it as the duty of the Government of the United States to punish such gross infractions of the laws of civilized warfare, and to protect our prisoners in the hands of the enemy by holding out the salutary terror of an earnest and prompt retaliation.

The Senator from Pennsylvania, among the other evils which in his fertile imagination he seemed to discover, took it for granted that this retaliatory law, as he called it, was to be enforced even after the rebel authorities should have abandoned their vile practices. It shows that the Senator had never read the resolution at all. The language of the resolution on that subject is perfectly clear. It says that "explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case, until the President, having received satisfactory information of the abandonment by the insurgents of such barbarous practices, shall revoke or modify said instructions."

Then, again, there is another clause which will answer the other objection which the Senator makes, that the object of this resolution is to restrict the authority of the President of the United States. The last clause of the resolution removes that objection, if it be an objection:

Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise a resort to them as demanded by the occasion.

Leaving the whole field of retaliation in all its imaginable forms open and free to the Executive of the United States, should he see fit to resort to it, and without binding or restricting him to the

particular mode or principles of retaliation set forth in this resolution.

I hope, sir, the resolution will pass without amendment.

Mr. WILSON. I propose to amend the amendment. I move to strike out the entire amendment offered by my colleague as a substitute for the resolution, and to insert in lieu of it:

Whereas it has come to the knowledge of Congress that great numbers of our soldiers who have fallen as prisoners of war into the hands of the insurgents have been subjected to treatment unexampled for cruelty in the history of civilized war, which has resulted in the death of multitudes by the slow process of starvation, and by mortal diseases occasioned by insufficient and unhealthy food, and by wanton exposure of their persons to the inclemency of the weather: Therefore,

Resolved, &c., That the President of the United States be, and he is hereby, authorized and required, as soon as may be after the passage of this resolution, to appoint two commissioners to confer with the confederate authorities, with a view of devising some practicable plan for the relief and better treatment of our prisoners of war.

I suppose we all agree that our prisoners have been most inhumanly treated by the rebel authorities, and I suppose we all agree that some action ought to be taken by our Government for their relief. It is proposed in the original resolution to retaliate upon prisoners in our hands, with a view to bring the rebel authorities to their senses. It is proposed in the amendment of my colleague that we shall not retaliate at all; that it is inhuman, unchristian, and barbarous to retaliate. Now, sir, it seems to me that the best thing we can do is to authorize and require the President immediately to appoint commissioners who shall confer with the rebel authorities, and devise some plan, some system, for the relief of our prisoners, and for their better treatment in the future. I have not the shadow of a doubt that we can do it. If two fit and proper persons be sent to Richmond I have no doubt that we can so arrange this matter as to bring practical relief, and I think we had better try that mode than to adopt either of the plans proposed.

I certainly feel the force of the argument as to the inhumanity and barbarism of retaliation. I could not shut a dog up and starve that dog, although I might knock the dog's brains out very easily. I am sure of one thing, that while the nation is calling for retaliation, and while everybody asks for action, if the process was adopted of treating rebel prisoners in our hands as they treat our prisoners in their hands, the humanity of the nation would cry out against it. When we come to practical action we shall find that our people are too good to treat rebel prisoners in our hands as they have treated our soldiers. General Butler proposed, some months since, what I think is the only plan that would have been effective, that I have seen announced in this war; and that was to take officers of the rebel army down on the coast, say to Hatteras, and there put up every day the same bill of fare for these officers that was served at Libby prison.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. WILSON. Yes, sir.

Mr. GRIMES. I understand that the Secretary of War has, in response to a resolution of the House of Representatives, informed that body that negotiations are going on, and that he anticipates that in a very short time exchanges will be made. I want to know from the Senator if that is so.

Mr. WILSON. I do not know.

Mr. GRIMES. I am not inquiring of the Senator as to whether the Secretary of War has so informed the House of Representatives; but is that the information that he has from the War Department?

Mr. FARWELL. It is so reported in the Globe.

Mr. WILSON. I read this morning a statement made by the Secretary of War in response to a resolution, I think, of the House of Representatives, stating that exchanges were now going on very well, and I have no doubt they will go on very well hereafter; but I suppose it will never be the case that we shall not have quite a number of prisoners in rebel hands and have some of theirs in our hands.

Mr. GRIMES. I desire to inquire what is the necessity for any legislation on the subject if exchanges are going on regularly, and if, as I understand, the Secretary of War intimates to be his

opinion, there will be no future difficulty on that subject—

Mr. COLLAMER. And the balance is in our favor.

Mr. GRIMES. A large balance, forty thousand, I believe, in our favor. In this state of the case I cannot see the necessity for any legislation on the subject.

Mr. SUMNER. I should like to ask my colleague one other question of fact: whether, in point of fact, commissioners were not sent, not very recently, but since the war began, into the rebel States in order to examine into the condition of our prisoners there; and whether they were not refused? I remember very well that a very distinguished citizen of New York, a predecessor in this body of my friend by my side, [Mr. Morgan,] Governor Fish, and a bishop, and one or two other colleagues associated with him, actually went as far as Norfolk, and permission was refused to them to visit our soldiers who were their prisoners. They were sent by the Secretary of War or the President. I remember very well reading in manuscript the instructions under which they went, and that they got to a certain point, and then they were sent back. That being the case, I ask the question whether it is advisable for Congress in a formal way to direct that commissioners shall be sent again.

Mr. HENDERSON. I should like to ask the Senator from Massachusetts at what time those commissioners were appointed by the President, and whether they were authorized in reality by the President to proceed there for that purpose.

Mr. SUMNER. I understand that they were authorized to proceed there, and I named one of the commissioners, a distinguished citizen of New York, Governor Fish.

Mr. HENDERSON. At what time was that?

Mr. SUMNER. Some two years ago.

Mr. FOSTER. More than that. They were not to negotiate about treatment, but to go through the southern country and visit the prisons.

Mr. SUMNER. They were to visit all our prisoners and all the prisons.

Mr. FOSTER. Yes.

Mr. SUMNER. And make report thereupon.

Mr. FOSTER. But not to negotiate as to the treatment of prisoners.

Mr. WILSON. I cannot see that the refusal of the rebel authorities to allow persons appointed by the Government to visit our prisoners is any reason why we should not now, after the treatment our prisoners have received at the hands of the rebels, send commissioners to devise, in conjunction with the rebel authorities, some practicable plan by which our prisoners can be relieved who are in their hands, and those who may fall into their hands hereafter be better treated in the future. I believe such a plan can be devised. It may cost us some money to do it, but for one I care nothing about the money spent to take care of our prisoners in the hands of the rebels. I would rather adopt some action here looking to a system agreed upon between our Government and the confederate authorities for the relief and good treatment of our prisoners, than to pass resolutions in favor of retaliation, or, above all, pass resolutions against retaliation. I must confess that while I am not ready to vote for the first, I should feel that it was entirely out of place to vote for the latter after the treatment our soldiers have received.

I hope, then, we shall adopt a practical plan such as I have suggested; and I will say here that some men in the country who have had experience, believe that such a plan can be devised, and that it ought to have been tried months and months ago. I know, sir, that some of the best minds of the country have been for a year and a half in favor of trying a plan of this sort, and I think we had better try it. I have undoubting faith that if two proper men are sent to Richmond to represent to the rebel authorities the wrongs that they have committed against our soldiers, men of practical sagacity, some plan will be devised for the relief of our soldiers. At any rate, I think it is right to try it.

Mr. HENDRICKS. Mr. President, as I listened to the speech of the Senator from Michigan [Mr. Howard] I was struck with the fact how much easier it is to float with the passion of the hour than to stand firmly where a man thinks it is right. I know that this is a subject of extreme



interest in the country. Every neighborhood has its representative in the southern prisons, and whatever is said in the Senate is listened to in every neighborhood with extreme interest. But, sir, whatever may be the passion of this hour, I feel that the right will justify a man in the future. During the times of the French Revolution the orators in the Convention who were inspired by the frenzy of passion, and called for blood, blood, blood, were the gods of the hour, and were borne upon the shouts of the mob in the streets, and the applauses in the club-houses, but history has assigned them their right place; and I am not afraid even upon this question to say what I believe is right. I do not believe that my honor as a man, or the honor of my country, is to be promoted by adopting a measure which has been so forcibly described by the Senator from Massachusetts [Mr. SUMNER] this morning as barbarous and cruel.

The Senator from Ohio [Mr. WADE] yesterday, in reply to a remark of mine, said that war was against Christianity, and that the usages of nations engaged in war had not been influenced by the sentiments of our religion. I do not agree with him. Does the Senator say that the usages of this day, and the benign influences of Christianity among nations at war, are such as prevailed in the more barbarous and the darker ages of the world's history? Why is it that no longer any civilized nation dare to strike its foe with a poisoned arrow? Why is it that an invading army dare no longer to poison the springs and the wells in an enemy's country? Because the influences of Christianity and the civilization of the century forbid it. Mark where Christianity extends upon the earth's surface, and see the difference. Where ever Christianity now controls the judgment of the world, we have a civilization to some extent even amid the horrors of war; but go beyond that; go into China, where our Christian religion is not regarded, they flay the captive alive to-day; go into Tartary, and into all the nations where any system of religion except our own controls the judgment of the country, and you find yet barbarities that marked wars in the earlier ages of the world's history.

But, sir, I am not going to discuss the question whether war is right or wrong, or whether it is according to Christianity. We have a war, and as civilized men it is our duty to mitigate the cruelties and sufferings attendant upon war to the greatest extent in our power, not to add to them, not to bring our fair fame and good name as a civilized and Christian people down, but rather to hold it up.

I have advocated an exchange of prisoners, and I am glad to hear the chairman of the Military Committee urge that as a possible and practicable mode of relieving the country of its present anxiety in respect to our prisoners. The Senator from Ohio concurred in the views that I expressed at that point, in very strong language. He said that if the War Department could have exchanged our prisoners, it was the duty of that Department to have done so; and if they had neglected to do so, they ought to be severely censured. Perhaps these are not the words used by the Senator, but this is the sentiment.

Mr. JOHNSON. "Culpable" was the word.

Mr. HENDRICKS. "Culpable," I believe, was the term he used, a stronger word than I employed. He said that the Administration was culpable if it was in its power for these months past to have brought our brothers and friends home again and it refused to do so. But the Senator from Iowa [Mr. HARLAN]—and even with the high respect I entertain for that Senator, I am glad that no other Senator has adopted his sentiments on this subject—has said to the Senate, in the course of this debate, that it was right for the Administration thus for months to have refused to exchange prisoners when it might have been done. Why so? For the reason that we can better afford to leave men in prison than they; that we have more men; that we may bring additional hundreds of thousands into the field and not feel the burden very much, because our population is so large, while the South is exhausted in its fighting force. That is the argument of the Senator.

Mr. HARLAN. Is the Senator professing to quote from my remarks?

Mr. HENDRICKS. No, sir; I am not. I

am attempting to give the argument of the Senator. If he prefers that I should read his words, of course I can do so. His argument went further. He said that we were now fighting the enemy within works; and that one man to the enemy was worth three or four to us. I think I give the argument of the Senator correctly. The whole of it amounts to just this: that we can afford, in a military point of view, to leave our soldiers suffering in southern prisons, dying under the influence of a southern climate, and under southern diseases, as well as (if I may admit the fact) by starvation; that we can afford to do this, and make in a military point of view, and therefore we will do it.

Again, the Senator said that the term of service of the greater portion of these prisoners of ours in southern prisons has now expired, and that if we bring them home again, we simply lose that number of men, and send to the South men who are yet bound to do military service to the southern government, and therefore they would make in the swap. These considerations I could understand in the exchange of property between man and man, but when the appeal comes to us in the name of humanity on behalf of our suffering friends in the South, I cannot appreciate the sentiment of the Senator from Iowa. We are not bound to exchange prisoners. We are not bound by the laws and usages of war to parole prisoners. It is not a question between us and the belligerents opposed to us whether we shall exchange prisoners. The South as a belligerent cannot demand it of us as a right. The question is between the Government of the United States and its soldiers; and now what is the law upon that subject? I quote from Halleck's International Law:

"But while no State is obliged, by the positive rules of international law, to enter into a cartel for the exchange of prisoners of war, there is a strong moral duty imposed upon the Government of every State to provide for the release of such of its citizens and allies as have fallen into the hands of the enemy. They have fallen into this misfortune only by acting in its service and in the support of its cause. This," says Vattel, "is a care which the State owes to those who have exposed themselves in her defense."—Halleck's International Law, page 432.

The question is between us and the men who have fought for the Government and who have fallen into this misfortune because they were engaged in the public service; and the Senator from Iowa says we shall not consider this obligation which we owe to the soldier who has fallen into this misfortune, because we can make a military profit by leaving him to die in a southern prison. I am glad that sentiment has found no response from any other Senator in this body.

But I wish to carry this thought a little further. The Senator from Iowa says that the term has expired. Is that an argument why we shall leave them in southern prisons? It is the conclusion of the Senator; but to my understanding it is an argument why we should bring them home. Their term has expired, the Senator says. Then what is their right? It is not a question any longer of moral obligation; but what is their right in law? Under the law, they said they would serve for two or three years, and that term has expired. If they were in the ranks, they would be discharged to-day. They are in southern prisons, the misfortune of war. What is their right? Their right is to say to us "Our term has expired and we demand to be brought home." I say, then, the argument is strengthened. If these friends of ours in southern prisons no longer owe military duty to the Government, and the Administration has it in its power to bring them home, these soldiers have the right to be brought home, and in their name I demand that these exchanges be made.

Mr. President, I wish to call a little more fully the attention of the Senate to the proposition before the body. It was done so fully and with such great power by the Senator from Massachusetts, [Mr. SUMNER], that I find it necessary to add but a very few words to what he has said. What is here proposed? The resolution declares that in the opinion of Congress "such retaliation ought to be inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands, as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them."

It is a very general resolution. My colleague

I think is under the impression that it does not include the soldiers as well as the officers whom we hold as prisoners. I wish to call his attention, then, to the residue of the resolution:

That with a view to the same ends, the insurgents, prisoners in our hands, ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case.

I am sorry that the committee reporting this resolution has dignified a policy such as this with the term "principle"—a principle to starve men to death! But I wish my colleague to observe the language of the resolution. It applies not alone to officers who may have been in fault in some time past, but it applies to the conscript of the South, who has fallen under a misfortune even heavier than our own soldiers; the conscript who against his will has been compelled to go into the southern army, and has been taken prisoner and brought up here; constrained to serve against his will, against his wish, against the sentiments of his heart toward this Government; and now we propose to starve him to death!

That we shall treat them as they have treated our prisoners is claimed to be the right. How does the Senator from Michigan in the preamble say our soldiers have been treated by the southern officers and army? Let us see. We are to do to them as they have done to us, for that is the language of the resolution; "or other mode of dealing with them," is the general phrase. I will read the whole preamble:

Whereas it has come to the knowledge of Congress that great numbers of our soldiers, who have fallen as prisoners of war into the hands of the insurgents, have been subjected to treatment unexampled for cruelty in the history of civilized war, and finding its parallels only in the conduct of savage tribes—

Now, I ask the attention of Senators to the following—

a treatment resulting in the death of multitudes by the slow but designed process of starvation, and by moral diseases occasioned by insufficient and unhealthy food, by wanton exposure of their persons to the inclemency of the weather, and by deliberate assassination of innocent and unoffending men, and the murder in cold blood of prisoners after surrender.

This is the charge which the Senator from Michigan, in the preamble, brings against the southern officers and soldiers in their conduct toward our soldiers and officers. He says, then, in the resolution, that we must do likewise. Do what? Assassinate a captive after he has surrendered? After he has laid down his arms at your feet, assassinate him in cold blood? That is one of the charges brought in the preamble; and we must do likewise, must we? Deliberate assassination! Not only that, but we must expose them to the inclemency of the weather! Not only that, but we must give them unhealthy food, that disease may come upon them and they may die of horrible disease! Not only that, but we shall deny to them food, that they may die by starvation!

Is it possible that, according to the usages of civilized nations in this century, we may retaliate in kind when these charges are brought against the insurgents, that we in like manner shall treat their prisoners in our hands? I deny the right. I am not sure but that the Senator from Massachusetts, [Mr. SUMNER], in his exhaustive argument on this subject, quoted the authority to which I am now going to refer. When he was reading from Halleck my attention was called away, and it is very likely that he read the very section to which I now wish to call the attention of the Senate:

"There is, however, a limit to this rule of reciprocity. If the enemy refuses to shape his conduct by the milder usages of war, and adopts the extreme and rigorous principles of former ages, we may do the same; but if he exceed these extreme rights, and becomes barbarous and cruel in his conduct, we cannot, as a general thing, follow and retort upon his subjects, by treating them in like manner. We cannot go beyond the limits prescribed by international law to the rights of belligerents. Thus, the conduct of Great Britain toward Denmark in 1807, in condemning Danish vessels as droits of admiralty, thereby exercising an extreme right of war, justified Denmark in resorting to the corresponding extreme right of sequestering British debts due from Danish subjects. So, also, the sequestering of English debts by France, in 1793, justified England in retaliating by a countervailing measure. Again, the seizure and condemnation of French vessels by Great Britain, in 1803, was an exercise of an ancient and severe rule of war, for which Napoleon retaliated by the exercise of another

and still more extreme right, also contrary to the milder rules of modern usage, by seizing all English travelers in French territory."

I ask the attention of Senators to this qualification of the rule:

"But suppose an enemy should massacre all prisoners of war, this would not afford a sufficient justification for the opposing belligerent to do the same. Suppose our enemy should use poisoned weapons, or poison springs and food, the rule of reciprocity would not justify us in resorting to the same means of retaliation. A savage enemy might kill alike old men, women, and children, but no civilized Power would resort to similar measures of cruelty and barbarism under the plea that they were justified by the law of retaliation."—*Halleck's International Law*, page 445.

If there is any authority directly against the Senator from Michigan in supporting this proposition, it is the authority of the President's chief of staff to-day. It is not enough for the Senator to read a pamphlet here that can have no effect upon the judgment of the country except to excite and increase passions which ought to be quieted rather than stimulated. He must show the Senate of the United States, I take it, that according to the laws of nations as between belligerents we have a right to do this, certainly a terrible thing, that he proposes. It is well enough, perhaps, to read the pamphlet if he wishes to have a political effect upon the country; but to inform the judgment of the Senate as to our rights as a belligerent in a great war, I take it that a pamphlet which does not come authenticated to this body is not very high authority.

Mr. HOWARD. The honorable Senator from Indiana will allow me to ask him one single question?

Mr. HENDRICKS. Certainly.

Mr. HOWARD. I ask the Senator whether he is in favor of any retaliation with a view to compel the rebels to treat our prisoners with more kindness and humanity?

Mr. HENDRICKS. I am in favor of carrying on this war upon our part as a civilized and Christian people. I am in favor of compelling the southern people to carry on the war upon their part as a Christian and civilized people, and if they refuse to do it, I am in favor of retaliating for the protection of our people and soldiers just so far as the usages of civilized nations will justify, and just so far as a civilized and Christian people, we ought to go, and no further.

Now, sir, the only authority that I have read condemns what the Senator proposes. He has not given us a citation of a single authority of force and respectability in this body justifying the high measure which he proposes. I expected to hear it. He is the champion of the measure; he reports it to the body; but instead of referring to accredited authority upon the subject, he gratifies the Senate by reading from a pamphlet containing a report of a committee appointed by the Sanitary Commission who go down and say they take testimony. I have much testimony within my own knowledge upon this subject. I believe there is much exaggeration upon it, as I get the facts from men who were in the very prison that the Senator read about. I dare say most Senators recollect the case of Captain Flinn, an officer in Libby prison, a captain from the town in which I live; a captain who had commanded in battle as a brave and gallant man. He was selected by lot to be shot in retaliation for two southern officers that were shot out in Kentucky under the command of General Burnside. I took a great deal of interest in his case. He was my personal friend. He wrote to me that he thought an exchange could be secured. I saw the President at once, and the President, a kind-hearted man, made the order on the part of this Government, and Captain Flinn was exchanged, and when he returned to his neighbors he told them that the prisoners were as well provided as the men who guarded them. I take his word on that subject while he was there as equal to the word of any man. It may have been worse afterward, but I do not know how the fact was.

Mr. HOWARD. Do I understand the Senator from Indiana to assert upon this floor that the Union prisoners in the hands of the rebels were as well provided for as the rebel soldiers or as the rebel prisoners in the hands of the Unionists? Will he assert that principle upon this floor?

Mr. HENDRICKS. I do not understand that that is a principle; it is a question of fact.

Mr. HOWARD. Well, the fact.

Mr. HENDRICKS. The Senator asks whether he understands that I have said that our own prisoners were treated as well as their guards. I did not say so. He has read testimony here taken by a commission in respect to Libby prison. I have given the statement of an honest man who was a prisoner there for months, a part of the time in a dungeon, selected by lot to be shot. When he came home he made this statement to his neighbors. I have no doubt that there have been cruelties inflicted on the Union prisoners in southern prisons, and that is one reason why I want them brought home; but I do not believe that it has gone to the extent reported in the country. I do not believe, upon the information I have on the subject, that it is at all to the extent stated in the pamphlet from which the Senator read to-day.

Mr. BROWN. Will the Senator permit me to ask why, if that is the case, does he object so strenuously to their prisoners being put in exactly the same position?

Mr. HENDRICKS. There is no force in the Senator's question; there is ingenuity in it. I say so with entire respect. The committee, in the preamble to this resolution, have undertaken to say precisely what has been the treatment of our prisoners, and the resolution declares that corresponding treatment shall be inflicted upon rebel prisoners in our hands. The committee has undertaken in this preamble to foreclose any inquiry on the part of the President; the committee has not left the President to judge how our prisoners have been treated; but the committee says to the President, in this resolution, "Sir, our prisoners have been starved, our prisoners when they have laid down their arms have been assassinated in cold blood; our prisoners in southern prisons have had diseases brought upon them by being allowed only unwholesome food; and, sir, we, the Senate of the United States, expect you, Mr. President, to administer unwholesome food, that disease may crawl into the system of rebel prisoners in the North. We, the Senate of the United States, expect you, Mr. President, to see that when the southerner lays down his arms and acknowledges himself a captive, he shall be assassinated in cold blood. The Senate of the United States expect you, Mr. President, because we have recited the fact of similar treatment in the South, to so restrict the food that shall be given to rebel prisoners in our hands, that they shall die minute after minute, hour after hour, day after day, month after month," in the language of the Senator from Michigan. So the question of the Senator from Missouri is answered by the committee. If the Senator from Missouri thinks it right to do this thing, to do a thing unheard of for hundreds of years, to do a thing that has not darkened the page of the history of our race since the days of the Edwards, to do a thing that is not done this side of western Asia, I am not prepared to go that length. I say the country is not prepared for it; Senators have mistaken the desire of the people at home.

The Senator from Michigan particularly shows deep feeling upon the subject. He shows it here. This debate goes out and he becomes the champion of the cause of our prisoners in the South, becomes the particular favorite of their friends at home, I suppose. That makes him strength; I am glad of it, but I wish to ask the Senator this: what does that Union prisoner down at Andersonville, who wrote him that letter saying that there were thirty-five thousand prisoners there, and that if they were not soon released two thirds of them would die, ask? Does that brave man in Andersonville ask the Senator from Michigan to go to poisoning or starving brave men in our hands? No, sir; that constituent of the Senator asks him to procure his exchange that he may come up into the North, into a climate to which he is accustomed, and where his health may return again.

Mr. HOWARD rose.

Mr. HENDRICKS. Before the Senator interrupts me I want to ask another question now. Inasmuch as the Senator from Michigan has shown such great zeal on this question, I want to know from him, as he is highly connected with the military movements—his position on the Military Committee makes him so—what steps he has taken in his official capacity to secure an exchange of prisoners.

Mr. HOWARD. If there has been any law enacted by Congress upon that subject I have probably voted for it, and the Senator from Indiana is as capable as myself of ascertaining what my action has been on that subject. The question is therefore supererogatory. I am not the Executive of the United States, and have no authority to act for him; and I suppose the Senator, in speaking of my "official capacity," does not wish to ascribe to me as a Senator from Michigan what pertains to the Executive.

Mr. HENDRICKS. I had hoped that the Senator from Michigan who reported this resolution, or the Senator from Ohio at the head of the committee on the conduct of the war, could tell us why our friends had not been brought home. The Senator from Ohio says there are some reasons; he hears of some reasons, but he does not know what they are. I had hoped that with his strong will and with his earnest nature, and with the passion of the Senator from Michigan, an address and a demand should have been made on the Department at the other end of the avenue which would have brought our brothers home. The Senator from Michigan says that his constituent in the prison of Andersonville now fills a southern grave. Of course we are all ready to drop a tear upon it.

Mr. HOWARD. Yes, sir, and he fills it in consequence of the deliberate starvation and cruelty of the rebel keepers toward him and his companions in arms, as the Senator knows well. That constituent of mine predicted that unless they were relieved, there would be two thirds of that thirty-five thousand dead in a short time. How they were to die the Senator from Indiana knows as well as I; that he expected to perish under this savage treatment of the rebels, as he has done.

Mr. HENDRICKS. I think we all understand that particular view which the Senator took of the subject. The point is this—

Mr. SUMNER. If the Senator will give way, I will move an adjournment.

Mr. HENDRICKS. I shall not occupy much more of the time of the Senate, and I would rather conclude now, unless Senators are restless.

Mr. SUMNER. There are several Senators who wish to speak.

Mr. HENDRICKS. I would rather finish what I have to say. I do not want this to be understood as anything like a speech. I wish to make a few remarks on the subject, and I shall not occupy much time, if the Senate will excuse me.

The point is this: it has been in the power of the Administration to secure an exchange, and I say that is the protection to our soldiers that I want. There is practical legislation proposed by the Senator from Massachusetts, [Mr. Wilson.] Send a commission; agree upon what shall be done. It can be agreed upon, for the Secretary of War tells the House of Representatives that there is no trouble, there is no difficulty, in bringing about an exchange. Why has it not been done? I take it for granted the reasons assigned by the Senator from Iowa have been the reasons, and they are not sufficient. If this constituent of the Senator from Michigan had been exchanged, had been brought up here into a northern, healthy climate, no doubt he would have recovered, and lived to comfort his friends and to enjoy life among them.

There is but one more suggestion that I wish to make on this subject. From the commencement of this war to the present time I have not believed that anything like barbarism or cruelty, any departure from the usages of civilized nations in prosecuting wars, has been any advantage to the northern cause. I believe that when we stand closely by the humane sentiments that have finally come to be incorporated in the laws of nations, it has been for the good of the North, and I shall refer to but two instances in illustration.

A beautiful valley in the State of Virginia has been made desolate, I suppose under the order of General Grant, until, as some one expressed it, a crow could not fly over the Shenandoah valley any more unless he carried a knapsack. Desolation broods where there were wealth and happiness once. What has been the effect of making war upon private property, of burning houses, and barns, and stacks? To make every man, woman, and child in all that region of country the bitter foe of this Government, uncompromis-

ing and unyielding, driven to despair, nothing to hope from us, nothing to hope but in the success of their cause. That is one policy.

General Sherman during the last year has made the most brilliant campaign I think that history records. From the time that he left Chattanooga until he carried his grand army to Savannah and captured that city, I think there is nothing like it in all modern history for the care that he took of his men, for the skill with which he accomplished every movement, not throwing, as Grant has done, thousands of men against breastworks to die, but by the interposition of high military genius he has carried his army in triumph over the mountains and along the rivers until that army has marched clear across the southern confederacy. I regret that in a military point of view before he left Atlanta he found it to be necessary to destroy that city; but when he came to Savannah, and that was at his feet, in the power of the General Government, private property was respected and individual security was made yet more secure; and what has been the effect? The effect of General Sherman's wise and humane policy at and about Savannah has made the power of Jeff. Davis and the southern confederacy tremble through all the Empire State of the South. Senators know it. And in my action and votes here I am going to consult what I believe, with the best lights I can command, to be the true interest and honor of my country, and not one minute shall I consult the passions of the day. I want this Union restored, not of one people to hate another; I want it restored under such circumstances that we may once more be friends.

Why is it that according to the laws of nations certain rules have been adopted for the regulation of belligerents, between foreign Powers engaged in war? It is that the war shall be prosecuted without inhumanity, barbarism, and cruelty, so that when the war is over there may be mutual respect and confidence, that the ancient relations of commerce and trade may return unimpaired. If that is an argument in favor of standing by the laws of nations, that high code which civilization has established between foreign Powers, belligerents, is it not a much more potent argument in favor of standing by those sentiments when we wish to bring back into the family these people of the South, and make us once more one Government and one people with one destiny?

Mr. HENDERSON. I move that the Senate adjourn.

Mr. SUMNER. Before that motion is put I wish to have the amendment that I moved, and also the amendment of my colleague, ordered to be printed for the use of the Senate.

The VICE PRESIDENT. That order will be made if there be no objection. The question is on the motion of the Senator from Missouri.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, January 24, 1865.

The House met at twelve o'clock, Mr. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department in relation to the hundred-day men accepted from Ohio and other States; which was ordered to be printed, and referred to the Committee on Military Affairs.

Also, a report from the same Department in relation to the amount paid for commutation by persons illegally drafted; which was ordered to be printed, and referred to the Committee on Military Affairs.

### SELECT COMMITTEE.

The SPEAKER appointed, as members of the select committee on the assault on Hon. WILLIAM D. KELLEY, in pursuance of the resolution of the House of yesterday, Mr. BEAMAN, of Michigan, Mr. ROLLINS, of New Hampshire, Mr. ROBINSON, of Illinois, Mr. BALDWIN, of Massachusetts, and Mr. TOWNSEND, of New York.

### VERIFICATION OF INVOICES.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill further to pro-

vide for the verification of invoices; which was read a first and second time, and referred to the Committee on Commerce.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKY, its Chief Clerk, notifying the House that that body had postponed indefinitely bills and a joint resolution of the House of the following titles:

An act (H. R. No. 479) for the relief of John Warren & Son;

An act (H. R. No. 489) for the relief of D. McV. Stuart; and

A joint resolution (H. R. No. 48) for the relief of Aaron T. Doll.

Also, that it had passed House bill No. 689, to provide for Acting Assistant Treasurers and depositaries of the United States in certain cases, with an amendment, in which he was directed to ask the concurrence of the House.

### LIGHTS AND SIGNAL VESSELS.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire into the expediency of imposing a tax on commerce for the purpose of defraying the expense of lights and signal vessels, and report by bill or otherwise.

### AMENDMENT OF THE CONSTITUTION.

Mr. MORRIS, of New York, by unanimous consent, presented the concurrent resolution of the Legislature of the State of New York, proposing an amendment to the Constitution of the United States so as to abolish slavery; which was laid on the table.

### RAILROAD TRAVEL IN THE UNITED STATES.

Mr. ARNOLD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the numerous and increasing instances of personal injury and loss of life occurring on the railroads of the United States, and as post roads for the transportation of soldiers, indicate gross carelessness in the management of such roads, and that travel upon them is becoming more and more perilous; and whereas it is the duty of the Government, as far as it has the power, to secure the safety and security of its soldiers and citizens so traveling on said railroads: Therefore,

*Resolved*, That the Committee on the Judiciary be, and they are hereby, directed to inquire and report whether any legislation is necessary to render the travel and transportation of soldiers and citizens on railroads and post roads of the United States safe and secure, and that they report by bill or otherwise.

### TARIFF AMENDMENT.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means are hereby instructed to inquire into the expediency of reporting a bill repealing the tariff upon all materials used in the manufacture of paper.

### BUREAU OF FREEDMEN AND REFUGEES.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported a bill to establish in the War Department a Bureau for the Relief of Freedmen and Refugees; which was read a first and second time, recommitted to the Committee on Military Affairs, and ordered to be printed.

### MRS. HENRIETTA L. ELDRED.

Mr. JOHNSON, of Pennsylvania, by unanimous consent, introduced a bill for the relief of Mrs. Henrietta L. Eldred; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### INTERNAL REVENUE REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That five thousand extra copies of the report of the Commissioner of Internal Revenue be printed; two thousand for the use of the members of this House, and three thousand for the use of the Commissioner of Internal Revenue.

### PRINTING OF DOCUMENTS.

Mr. A. W. CLARK. I am also instructed by the Committee on Printing to report the following resolutions, and I ask that they be passed at this time:

*Resolved*, That the orders made by the House of Representatives during the first session of the present Congress for printing the accounts of the superintendent of Indian

affairs for the southern superintendency be, and the same are hereby, rescinded.

*Resolved*, That the order made by the House of Representatives on the 12th of February, 1864, for printing the statement of fines imposed and deductions made from the pay of contractors for carrying the mails during the year ending June 30, 1863, be, and the same is hereby, repealed.

*Resolved*, That similar reports hereafter made to the House, shall not be printed unless special directions be given therefor.

Mr. WASHBURN, of Illinois. Is that a House resolution or a joint resolution?

Mr. A. W. CLARK. The order for printing was made by the House.

Mr. WASHBURN, of Illinois. I supposed that this statement of fines was printed under a provision of law.

Mr. A. W. CLARK. It was ordered to be printed by the House.

Mr. WASHBURN, of Illinois. I supposed there was a provision of law which required these things to be printed. I think the resolution is just and proper. The only question is whether it should not be a joint resolution, in order to repeal an existing law on the subject.

Mr. A. W. CLARK. No, sir; it was merely an order of the House.

The resolutions were then agreed to.

### LANMAN'S DICTIONARY OF CONGRESS.

Mr. A. W. CLARK. I am also instructed by the majority of the Committee on Printing to report the resolution which I send to the Chair. Permit me to say that I dissent from the report, but make it under the instructions of the committee.

The resolution was read, as follows:

*Resolved*, That there be printed for the use of the members of this House a sufficient number of extra copies of the Dictionary of Congress to make the quota of the House equal to that already ordered by the Senate: *Provided*, The copyright hereby directed to be paid by the Clerk shall not exceed the amount heretofore paid per copy for the same work.

Mr. KERNAN. I desire to inquire the cost of printing these extra copies.

Mr. A. W. CLARK. Anticipating that this resolution might elicit some debate, I took the precaution to ask the Public Printer the expense of the contemplated work. According to this resolution, each member of this House would be furnished with an additional supply of twenty-three copies of this Dictionary, the whole expense of which, according to the estimate of the Public Printer, would amount to \$11,250, \$5,000 of which would go as copyright to Mr. Lanman. He, however, in a letter to me, says that if the type which has been set up has already been distributed, he proposes to receive fifty cents per copy as his compensation for the copyright, reducing the amount to \$2,500. A majority of the committee were in favor of the report, but were unanimous in saying that the expense for copyright should not exceed fifty cents for each copy.

I now call the previous question.

Mr. FARNSWORTH. I move that the resolution be laid on the table.

Mr. SCHENCK. This is one of the worst of all the jobs that have ever been brought into this House.

The SPEAKER. The previous question has been called, and debate is not in order.

Mr. A. W. CLARK. If the gentleman from Ohio [Mr. SCHENCK] wishes to make some remarks on this subject, I withdraw the call for the previous question.

Mr. SCHENCK. Mr. Speaker, this is one of those resolutions for book purchasing and book distributing at the expense of the Government which I think ought not to pass. It is proposed to buy, for the use of members of this House and for distribution, a book which, if it has any merit, belongs to that class that ought to be obtained by application at the bookstores in the usual way by those who have occasion for it. I would as soon think of distributing any other Dictionary as a Dictionary of Congress, which, I believe, is simply intended to give a brief biography, not only of every honorable gentleman here now, but of all those who at any time heretofore have served in the legislative councils of the nation. It seems to me that it ought to be enough to defeat a resolution of this kind to refer to the fact that it is a book whose general character is such that members and their constituents ought to supply it to themselves, if they are curious in that kind of literature, without putting the public to the expense of purchasing it for them.



But if we look to this particular book I undertake to say that the character of the job of thus furnishing it at the expense of the Government is still more flagrant. Take, in the first place, the style of the book. Look at its introduction. "Political laws," are the first two words. I should like to know what "political laws" are. Organic laws, constitutions, might possibly be regarded as "political laws;" but how it is that the laws which are passed here or by any legislative body are "political laws" is past my comprehension. And yet those two words, the very first in the book, are a sample of its whole style.

But the style, it may be said, is much less important than the matter. Very well; take the matter.

Mr. STEVENS. I desire to ask the gentleman whether the style of the different biographies is not as various as the styles of the gentlemen who wrote them. [Laughter.] Nobody supposes that they were all written by Mr. Lanman.

Mr. SCHENCK. I do not think that all those who have been members of this or any other Congress have written their own biographies for this volume. Here, for instance, is the case of W. W. Irvine, of Ohio. He is set down as having been chargé d'affaires to Denmark in 1843. Well, as he died at Lancaster, Ohio, in 1842, it is not probable that he furnished the memoranda in his own case.

Mr. STEVENS. The information may have been received through a spiritual medium. [Laughter.]

Mr. SCHENCK. That is a specimen of the accuracy of the book, unless it may have been since amended. As suggested by my friend from Pennsylvania, the hypothesis of a spiritual medium might account for this way in which the material was obtained. In another case, of which I have a note, it is stated that a certain gentleman was in 1863 appointed by President Lincoln a judge of the Court of Claims, while he was in fact appointed by President Buchanan. I hold in my hand sixty-two specimens of this kind of the accuracy of that book; but I will not detain the House by commenting upon them.

But there is another feature in this case—the evident political bearing, if it may be so called, of the book. If gentlemen will look at the various biographies, they will find that it has generally been thought sufficient to speak of a member as having been elected to Congress, together with a statement of his birth and death, accompanied by the date of each. This, in such brief biographies, is perhaps sufficient, and all that ought to be expected. But when you come to the case of such a person as Jacob Thompson, the rebel member of the Cabinet of Mr. Buchanan, and a rebel while he was a member—the man who connived at frauds and thefts in his Department, and communicated information to the enemy while he was of the council of the President—you find that the biographer is disposed to speak, not merely of particular facts, but to comment a little upon the popularity with, and the great performances for the benefit of, his constituency which led to that gentleman's success in his aspirations for a position in Congress.

So, again, when you look at the cases of Boteler and some six or eight others, who withdrew from this House because they were rebels, it softens that down to a resignation, when no such resignation was made. And thus throughout that book, from the beginning to the end, whenever it is thought proper and necessary to speak of one who occupies that relation to the Government which led finally to rebellion and insurrection and treason, you will find them handled very gingerly, and if there is an encomium to be passed upon them there is a little enlargement of the merits of the individual, while no pains are taken to illustrate the character and history of any one who has stood by the country. Take, for instance, the case of my former venerable colleague, Joshua R. Giddings. In order that a fling may be made at him, he takes especial pains to show that he died in a billiard room. The style of the book is not so diffuse, nor the number of facts introduced so general, as to call for a trifling and unimportant matter of that kind to be mentioned, unless there was an object in it. I only allude to this to show the general malice and the general tone of that book as regards the character, leaning, inclination, and sympathy of the gentleman,

whoever he may be, who had charge of its general preparation.

Then again, sir, the book has been gotten up at different times. Several years ago the first of it was prepared, and that has been added to since; and those things, now in 1864—the date the book bears and the date of the introduction—which were true two years ago remain as if they were true yet. That is the position of a man as given some three or four years ago, or whenever it was the first edition of this book was published, and it remains as if he still were in that position. Gentlemen are put down as members of Congress who are not here now. Gentlemen there now occupy places which are not the places they held at this time. The book relates back to some former time. These corrections have not been made in the book I have seen, certainly not in the one of 1864. I have notes to show that it is full of anachronisms and solecisms which would be disgraceful to anything which pretends to be history, as this does.

But I did not purpose to detain the House further than to direct its attention to the kind of matter which we propose to charge the United States with, that we may get it for our own use and to distribute it to our own constituents. If it is of any value we ought to signify our belief in that value by buying the volume for ourselves, or to present it to our constituents, or leave those outside of these Halls to buy it on their own account.

Mr. FARNSWORTH moved that the resolution be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 42, not voting 37; as follows:

YEAS—Messrs. Atley, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Blair, Beaman, Boutwell, Boyd, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eden, Eliot, Farnsworth, Ganson, Garfield, Gooch, Grinnell, Griswold, Harding, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Littlejohn, Longyear, Mallory, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Othys, Patterson, Pendleton, Perham, Perry, Pike, Price, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Williams, Wilder, Wilson, and Windom—93.

NAYS—Messrs. James C. Allen, Bailly, Blaine, Brooks, Clay, Cox, Dawson, Denison, Edgerton, Eldridge, Fluck, Frank, Grider, Hale, Benjamin G. Harris, Charles M. Harris, Herrie, Philip Johnson, Kalbfleisch, Law, Lazear, Le Blond, Long, McAllister, McDowell, Middleton, William H. Miller, Moorhead, Noble, John O'Neill, William H. Randall, James S. Rollins, Ross, Scott, Spalding, John B. Steele, Strouse, Stuart, Sweet, Whaley, and Yeaman—42.

NOT VOTING—Messrs. William J. Allen, Allison, Ancona, Anderson, Bliss, Blow, Braudagee, Chanler, Freeman Clarke, Coffroth, Cravens, Dumont, English, Hall, Harrington, Hooper, Hotchkiss, Hulburd, Hutchins, William Johnson, Kelley, King, Knapp, Loan, Marcy, McKinney, James R. Morris, Nelson, Pomeroy, Pray, Radford, Samuel J. Randall, Rogers, Smith, William G. Steele, Stiles, Townsend, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—37.

So the resolution was laid on the table.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLONIZATION SOCIETY.

Mr. COX. I ask the unanimous consent of the House to present, from the Committee on Foreign Affairs, a joint resolution in reference to a settlement with the Colonization Society by the Secretary of the Interior. I ask that the resolution may be read, as well as a letter from the Secretary of the Interior.

The Clerk read the title of the joint resolution, as follows:

Joint resolution to facilitate an adjustment of certain accounts of the American Colonization Society for the support of captured Africans in Liberia.

Mr. COX. If there is no objection to the introduction of the resolution, I will demand the previous question.

Mr. SPALDING. Will the gentleman allow me to take up, in connection with that, the Senate bill in reference to a gunboat to Liberia?

Mr. COX. We cannot take up two matters at once.

No objection being made, the resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX. I move that the vote by which the resolution was passed be reconsidered, and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COX. I will ask to have printed in the Globe the letter of the Secretary of the Interior, instead of having it read to the House.

Consent was given; and the letter is as follows:

#### DEPARTMENT OF THE INTERIOR,

WASHINGTON, December 16, 1864.

SIR: During the years 1860 and 1861, this Department, in virtue of the authority conferred upon the President by the act of Congress approved June 16, 1860, entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade,'" (Statutes at Large, volumes 12, 40,) entered into four several contracts with the American Colonization Society for the support, for one year, of a large number of Africans, about five thousand in all, who had been recaptured on the high seas by armed vessels of the United States, and, by order of the Government, taken into the republic of Liberia. By the terms of these contracts the United States agreed to pay at the rate of \$100 per annum for each African over the age of eight years, and at the rate of fifty dollars per annum for each one under that age. The payments were to be made monthly for the first three quarters of the year, the recapitatives were to be supported, for every African landed in Liberia without regard to age. The payments for the last quarter were to be deferred until the end of the quarter and until a certificate should be produced from the agent of the United States, setting forth the number of Africans fed, clothed, and sheltered during each month of the year, and that the contract had otherwise been faithfully executed by the society. The object of deferring the payment for the last quarter was to enable the Department to deduct from the amount which might become due for the last quarter any sum found to have been overpaid during the first three quarters.

Prior to the termination of the contracts the American Colonization Society, at the instance of the Liberian authorities as is understood, entered into an agreement or sub contract with the Government of Liberia, by which that Government assumed the guardianship of the recapitatives, and the obligations which the Colonization Society had engaged with the United States to perform toward them—the payments by the United States continuing, however, to be made as previously to the American Colonization Society.

In my annual report of the 5th of December, 1863, I referred to this subject as follows, namely:

"The accounts of the American Colonization Society for the support of recaptured Africans in Liberia have not yet been finally settled, owing to the imperfect manner in which they have been kept by the resident agent of the United States in that republic, and by the Liberian authorities after the transfer of the recapitatives to them. The information and facts required to be regularly reported not having been recorded and preserved by them, it is feared they cannot now be obtained with the accuracy of detail contemplated by the strict terms of the contracts, and hence it is respectfully recommended that the Department be authorized by law to adjust and settle the accounts on equitable principles."

The Department has no reason to suppose that the terms of the contracts have not been faithfully fulfilled and the welfare of the recapitatives duly cared for, but in consequence of the omission referred to, it is found to be impossible to effect a final settlement of the accounts without the aid of further legislation on the subject.

I am satisfied that there is a balance equitably due to the republic of Liberia, through the American Colonization Society, which that Government is anxious to have paid; and with a view to the only practicable mode of settling the accounts, I submit to you the accompanying draft of a joint resolution for the consideration of the Committee on Foreign Relations.

I have the honor to be, with much respect, your obedient servant,

J. P. USHER, Secretary.

HON. CHARLES SUMNER, Chairman of the Committee on Foreign Relations, United States Senate.

#### TREASURY PRINTING BUREAU.

Mr. JENCKES, by unanimous consent, submitted the following preamble and resolution:

Whereas in the annual report of the Secretary of the Treasury no mention is made by him of the Printing Bureau of the Treasury Department:

Resolved, That the Secretary of the Treasury be directed to communicate to this House the present condition of the Printing Bureau, together with the annual report of the bureau, and any and all reports with reference to said bureau which have been made to the Secretary during the past year.

The SPEAKER. This being a call for executive information, requires unanimous consent for consideration to-day.

No objection was made.

Mr. WASHBURNE, of Illinois. I move to

amend the resolution by adding thereto the following:

Together with all the expenses incident to the same.

Mr. JENCKES. I accept the amendment.

The resolution, as amended, was agreed to.

#### MEDICAL DEPARTMENT OF THE NAVY.

Mr. ODELL, by unanimous consent, introduced a bill to reorganize the medical department of the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### MAIL SERVICE TO CHINA.

Mr. COLE, of California, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill to authorize the establishment of ocean mail steamship service between the United States and China; which was read a first and second time, ordered to be printed, and recommitted to the Committee on the Post Office and Post Roads.

#### CHINCHA ISLANDS.

Mr. COLE, of California, by unanimous consent, introduced the following resolution; which was read, and referred to the Committee on Foreign Affairs:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States of America view with distrust the violent and unprovoked seizure of the Chincha Islands by the Spanish authorities on the 14th day of April last, as well as the continued and unjustifiable retention of those islands from the Peruvian Government; and that they regard the transaction as part of a scheme, in connection with the movements of France and Austria in Mexico, to subvert the Spanish-American republics.*

#### PRINTING OF NAVY REGISTER.

Mr. RICE, of Massachusetts, by unanimous consent, introduced the following resolution; which, under the rule, was referred to the Committee on Printing:

*Resolved, That there be printed, for the use of the members of this House, two thousand five hundred copies of the Navy Register.*

#### MAJOR M'FARLAND.

Mr. ROLLINS, of New Hampshire, by unanimous consent, introduced a joint resolution with reference to Major McFarland; which was read a first and second time, and referred to the Committee on Military Affairs.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 140) authorizing the Secretary of the Treasury to give the necessary notice stipulated pending the intention of the United States to purchase the building known as Merchants' Exchange, New York city, now used for custom-house purposes; when the Speaker signed the same.

#### GUNBOAT FOR LIBERIA.

Mr. SPALDING. I ask unanimous consent to take from the Speaker's table the Senate bill with regard to furnishing a gunboat to Liberia.

Mr. HOLMAN. I demand the regular order of business.

Mr. SPALDING. Will not the gentleman allow me to take up this bill?

Mr. HOLMAN. I think we had better proceed to the regular order.

#### QUESTION OF PRIVILEGE.

The SPEAKER. The regular order is the consideration of the appeal taken yesterday from the decision of the Chair by the gentleman from New York [Mr. Brooks.] Upon that question the gentleman from Pennsylvania [Mr. Stevens] is entitled to the floor.

Mr. STEVENS. I do not wish to imitate the example of the gentleman from New York [Mr. Brooks] so far as to speak without evidence, or to hope that the House will take my assertions as true, and therefore I will give a portion of my time to the gentleman who represents General Butler's district, [Mr. Boutwell,] who will give us the facts of which he has possession. We will then see how far the remarks of the gentleman from New York are justified.

Mr. BOUTWELL. Mr. Speaker, under the circumstances which exist it is quite possible that I may be compelled to ask the indulgence of the House for a longer period of time than is assigned

by its rules to the gentleman from Pennsylvania, [Mr. Stevens.] I do not propose to take time in making remarks, but there is a certain amount of evidence necessarily to be submitted to this House and to the country in order that this question may be understood; and as my course of proceeding will necessarily be determined by the measure of time which the House may be disposed to allot to me, I take this opportunity of asking the House to allow me one hour beyond what remains of the time assigned to the gentleman from Pennsylvania, with the hope that in that period I can offer what I have to submit to the House, and leave also time for the gentleman from Pennsylvania to submit the remarks which it is his purpose to make.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that his time may be extended one hour.

Mr. COX. I will not object if the same privilege be extended to the gentleman from New York [Mr. Brooks] to reply. That is nothing more than fair.

The SPEAKER. Is there objection to the proposed extension of the time of the gentleman from Massachusetts, with the understanding that the gentleman from New York shall have a similar extension, if he desires to reply?

No objection was made.

Mr. BOUTWELL. It is my fortune, Mr. Speaker, and not ill fortune, that I represent the district of Massachusetts in which General Butler resides. When the gentleman from New York [Mr. Brooks] on a day now some time since passed, charged upon General Butler the crime of being "a gold robber," I paid no heed to it. I had seen from the commencement of this war that secessionists, and men whose sympathies are with the purposes of the secessionists, had not hesitated, whenever and wherever they could obtain the ear of the public, to arraign whomsoever they might upon whom in any degree, in their estimation, rested the crime of being patriots. I remembered that General Butler had been the first man to expound to this country and to the world the true doctrine as to the rights of the negro race on this continent, and to expose to mankind the course necessary to be pursued in order that this rebellion might be crushed. I regarded the observation of the gentleman from New York as an observation made in harmony with these continued and oft-repeated declarations made by secessionists in the South and secessionists and their sympathizers in the North. I did not properly appreciate the circumstance that he spoke from this floor, that he was here shielded by the Constitution, that he had in a certain sense the ear of the American public, and perhaps of the world, and that what he uttered went upon the records of this House and became a part of the history of the country.

General Butler being the subject of that observation, took a different view entirely of the matter, and when the remark was brought to his notice he addressed a letter to the gentleman from New York. That letter has been read before this House, and its contents are known to the country generally. If it had been what the gentleman from New York assumed upon this floor that it was, a challenge to him to mortal combat, if he had not been overwhelmed by his fears, he would have rejoiced that that day for which he longed, the day for the reconstruction of this Union as it was, had approached, in that the assassination was attempted in one part of this city of a member for words spoken in debate, and that there was a challenge to another, reviving recollections which must have been grateful to him of those days when the Union did exist "as it was" and there was no freedom of speech upon this floor or upon the floor of the other House of Congress; but his fears overcame entirely the tendency which he otherwise would have had to rejoice in the restoration of the palmy days when assassination and dueling were tolerated in the capital of the country. But those days are passed, and now that there are no longer plantation masters here or to be represented here, I trust that plantation manners also will depart from us.

It was the last of the designs of General Butler to challenge the gentleman from New York to mortal combat. The letter to the gentleman was dated on the 20th day of January. On that same day General Butler addressed a letter to

the Speaker of this House, which was not sent. I have examined General Butler's letter book; and I find that the letter to the Speaker anticipates in order the letter addressed to the gentleman from New York, and if there were no other evidence, it would sufficiently explain the purpose, which General Butler had in view. I send that letter to the Clerk, and ask that it be read to the House.

The Clerk read, as follows:

WASHINGTON, January 20, 1865.

SIR: I take leave most respectfully to request you to lay before the House of Representatives this note, in order to avail myself of the only means of redress known to me, without breach of the privileges of the honorable House.

Mr. JAMES BROOKS, a member of the House, on the 6th of January, is reported to have used in debate the following language:

"I am bound to say that an effort was made by the Federal Government during the pendency of the late presidential election to control the city of New York, by sending there a bold robber, in the person of a major general of the United States. Robber as he was of the public Treasury, and major general of the United States as he was, he dared not exercise the power given to him to attempt to control the actions of those whom the gentleman calls thieves and robbers in my own city."

The correctness of the report of which I have taken measures to ascertain.

Here, then, is a charge made upon the responsibility of the position Mr. Brooks occupies of very high crimes and misdemeanors alleged to be committed by an officer of the United States which, if he is guilty, ought to be visited by the most condign punishment.

If the charge is calumnious and false, then it is due to the national honor that it should be unstained by the imputation of the employment of such a person in its service in high official position, and it would seem also due to the dignity of the House that a public slanderer should be rebuked.

The Constitution and laws of the United States and parliamentary usage give to the officer thus charged no means of redress through the ordinary courts of law, or any other mode known among honorable men; therefore, appealing to the sense of justice of the honorable House, I respectfully ask that an investigation may be ordered of the charges so preferred against me by a member of the House, through a committee of its members with the most ample powers of inquiry.

Further, in order not to embarrass the investigation by confining it to the single charge made, I desire to have put in issue every official act of my public life which can in any way be supposed to affect my official integrity or personal honor, and that my accuser have leave to make good his accusation before the committee of the House, so that if the accused be found guilty, proper prosecution may be ordered in the courts for his punishment; or if the accusation be found false and calumnious, the honorable House may be in position to vindicate its own honor and dignity by the due punishment of a public calumniator and slanderer.

I have the honor to be, very respectfully,

BEN. F. BUTLER.

Hon. SPEAKER House of Representatives, Congress of the United States.

Mr. RUTWELL. That is a copy from General Butler's letter book of a letter which he intended to address to the Speaker of this House whenever the gentleman from New York should have replied to the letter sent to him on the 20th of this month. Lest there should be any misunderstanding I will say this in regard to these letters: up to yesterday, after the adjournment of the House, I had never conversed with General Butler or with any friend of his in reference to any official act of his life. As the gentleman from New York was about closing his remarks I went over to the seat of the honorable member from Pennsylvania [Mr. Stevens] and said to him that I desired that the House should adjourn before this debate closed, and that to-morrow I would probably present official documents to this House. At that moment I had no knowledge that any official documents existed, but I had known General Butler for twenty-five years. I knew his faults; I knew his virtues; I knew his failings; I knew his capacities; I knew that in a transaction involving \$50,000 he had evidence incontrovertible as to the position he occupied. And when I approached him, as I did last evening, without any suggestion from him, and reported to him in brief the statements that had been made on this floor, and said to him that if he had any documents to present to the House, I, as his Representative, should be happy to be the means of communicating them, he opened his letter book and showed to me the two letters, the one addressed to the gentleman from New York and the other to the Speaker of the House. He said that both were written at the same time; and they appeared on the letter book in their proper position, only that the copy of the letter to the Speaker preceded that of the letter to the gentleman from New York. At the same time I had the boldness to meet there Captain Clarke, who was in the uniform of the Republic. I know that if he had worn gray uni-

form when he approached the gentleman from New York that gentleman would not have been so affrighted. I asked him to state what he knew about the matter. He said, "I wrote the letters at the same time, on the same day, from the dictation of General Butler; and they were recorded just as they appear."

A single word now in reference to a matter on which I do not propose to spend much time—the affairs at Norfolk. The gentleman [Mr. Brooks] did not present yesterday any evidence whatever as to General Butler's transactions at Norfolk. I shall not, therefore, spend much time over it; but when I approach the greater subject, the House will see, and the country will see, that any statement of his, without testimony, as to the transactions of anybody, cannot be believed by the country. I say, from an inquiry this morning, that the records of the War Office furnish no testimony whatsoever impeaching General Butler's reputation or conduct in reference to trade transactions in the district which he has lately commanded.

Now, Mr. Speaker, I come to the testimony in reference to the \$50,000 transaction in New Orleans. I ask the attention of the gentleman from New York to one point, because, when I have presented the evidence, I shall put to him a question on my own responsibility as a member of this House, as a Representative of a district, as a citizen of this country, interested somewhat in the reputation of a man who is already historical, and who, since the administration of Hastings in India, has had a larger command and greater interests of the country placed in his hands than almost any other person, and I shall expect a definite and distinct answer to that question; and therefore I put him on his guard at this early moment. The question I shall put to him is, (asking the Clerk first to read the extract from the gentleman's speech which was contained in General Butler's letter,) whether he reaffirms the statement which he made or whether he retracts it? And according to the course which he takes shall be mine as to some observations which I will then submit.

The gentleman from New York laid before the House yesterday what he calls a "deposition" of one Samuel Smith, which turned out to be an affidavit *ex parte*, and not true at that. I have here a letter signed by the United States district attorney at New Orleans, and the United States marshal, dated 12th May, 1864, which, although subsequent to the transactions that are now in question, throw some light on the character of this charge. I ask the Clerk to read them.

The Clerk read, as follows:

OFFICE OF THE UNITED STATES DISTRICT ATTORNEY,  
New Orleans, May 12, 1864.

Sir: By the last mail I received your note of the 23d ultimo, making inquiry relative to the status of Samuel Smith & Co. respecting their loyalty. As I left this city soon after the commencement of hostilities, and remained in Washington city till May of last year, I cannot speak from personal knowledge. Having made diligent inquiry, however, I learn that Mr. Smith was a sympathizer with, and an aider and abettor of the rebellion while it was in power here. The firm were the agents for the confederate loan, and their books and blanks are still in the upper room of their former banking house on Camp street in this city, showing their agency as above stated. The general reputation of Mr. S. Smith was that of an enemy of the United States, before the arrival of General Butler, and for some time afterward. Andrew W. Smith, his only partner, was even more bitter in his disunion sentiments.

My information is derived from gentlemen of the highest standing, constant loyalty, and continued residence here throughout the rebellion up to this time.

If I can be of any service in preventing impositions upon the Government, such as I am informed have already been practiced by secessionists here representing themselves otherwise in Washington, you have but to intimate it. If you wish affidavits of the statement made above with regard to Samuel and A. W. Smith, composing the firm of Samuel Smith & Co., they shall be forwarded.

I have the honor to be, your obedient servant,

RUFUS WAILES,

United States District Attorney.

Hon. Wm. Whiting, Solicitor of the War Department.

I concur in the correctness of the foregoing statements relative to Messrs. Samuel Smith & Co., from my own personal knowledge.

JAMES GRAHAM,  
United States Marshal.

Mr. BOUTWELL. I have caused that to be read as furnishing a basis in evidence for the seizure of the money in question. The affidavit of Samuel Smith says:

"The statement that 'this gold was condemned by a military commission as the proceeds of the robbery of the United States mint at New Orleans' is without a shadow of truth, is utterly malicious, and is in every syllable basely false."

I hold in my hand the order of Major General Butler constituting a commission. I have also the evidence taken before the commission; also the award of the commission. Although the \$50,000 was not condemned as being the proceeds of the property of the Treasury of the United States, and in that respect the statement of Smith is true, it was, nevertheless, condemned in consequence of the conduct of Smith in his transactions with the confederate officers at New Orleans. I ask that the Clerk shall read the document which I now present; but before it is read, I will state that Farragut passed the forts at the mouth of the Mississippi river, I think, on the 24th day of April. On the 2d day of May General Butler took possession of the city of New Orleans. Although I have not the date of the seizure of this money, it was at some time between the 2d day of May and the 12th day of June, when the order was issued constituting the commission.

The Clerk read, as follows:

NEW ORLEANS, June, 1862.

GENERAL: We have the honor to submit the following report of the proceedings, evidences, and findings of the commission authorized by the following special order:

[Special Order, No. 96.]

HEADQUARTERS DEPARTMENT OF THE GULF,  
New Orleans, June 12, 1862.

A commission composed of General Shepley, military commander, Dr. W. N. Mercer, and Thomas J. Durant, Esq., of New Orleans, is ordered to hear and determine whether there is reasonable cause to believe that the specie and property seized by the United States in the banking house of Samuel Smith & Co. is the property of the confederate States, or of any department or office thereof, or whether said specie and other property has been used in any way to aid the confederate States or any officers thereof in concealing any property of the confederate States, or whether said Samuel Smith & Co. have in any way so acted in behalf of this rebellion as ought to cause the further detention of said specie and other property for hearing before the Department at Washington.

This board to sit at the expense of the parties claimants, it having been ordered at their request. Captain Peter Haggerty is appointed recorder for the commission.

By order of General Butler:

R. S. DAVIS,  
Captain and A. A. G.

In obedience to the above order the board met on the 15th June, at half past seven o'clock, at the St. Charles Hotel.

Present, General Shepley, W. N. Mercer, and Thomas J. Durant, commission, and Captain P. Haggerty, recorder. The parties being present with the witnesses, the claims of the United States authorities to hold the property mentioned in said order, the admitted facts in relation to said property, as well as the reasons for making said claim, were presented by Major General Butler.

The following affidavit of Marcelin Esnard was then read, namely:

I, Marcelin Esnard, of lawful age, do depose and say that, on the day Mr. Guirot went away (April 24, 1862) with the specie of the mint, I took \$50,000 in gold from Mr. Samuel Smith on his order, which order is exhibited to me here. A few days before that, (four or five days), Mr. Guirot, having a quantity of silver which he wished to change into gold for the convenience of carrying away the specie, procured Mr. Smith, director of some bank, to have this bank take the silver and give gold for it, which the bank did, and I received it from Mr. Smith as by receipt shown me here, and carried it to Mr. Guirot, and he carried it away with him, and on the same day gave me the books of the mint which were captured at my house.

M. ESnard.

Then came before the above-mentioned M. Esnard, and swore that he told the truth, the whole truth, and nothing but the truth, in reference to these proceedings.

BENJ. F. BUTLER,  
Major General Commanding.

And here the Government rested their case.

Messrs. Samuel Smith & Co. then proceeded, through A. L. Rozier, Esq., to state their side of the case, and recite the following statement of Jacob Staub, namely:

Jacob Staub, being duly sworn, says that he is the porter of the Canal and Banking Company; that on or about the 23d of last month, by order of the president of said bank, he received from the mint \$50,000 in silver coin, ten boxes of which, each containing \$1,000, he placed in the adjoining banking house of Samuel Smith & Co., who were aiding the bank in the redemption of their bills, and that Samuel Smith & Co. returned to the Canal Bank four of the said boxes, containing each \$1,000, and \$6,000 in their bills, which they had redeemed, the residue he placed in the said Canal Bank; that during the day Mr. Guirot, the assistant treasurer of the mint, called at the bank, and he (Jacob) requested Mr. Guirot to send for the gold which he had been ordered by the president of the bank to deliver to him in exchange for the silver received, which Mr. Guirot promised to do. At two o'clock, when the bank closed, the gold was not sent for, and he, by order of the president, placed it in the banking house of Samuel Smith & Co., who usually kept their banking house open later in the day than the incorporated banks, to be delivered to Mr. Guirot when called for.

JACOB STAUB.

Sworn and subscribed before me this — day of May, 1862.

D. F. MITCHELL,  
Justice of the Peace.

And also called Jacob Staub, who testified as follows, to wit:

"Am a porter employed in Canal Bank. We received the money in April. An officer of the mint, I think it was, said Mr. Guirot sent him with the money. I gave Smith ten boxes of it, and the rest was to be used (as small) in paying the small notes of the bank. On the 23d, Smith gave four boxes back to us. Guirot came next day; he said, 'Will you give me that money in gold?' I told him I had \$50,000 in gold and he could take that; said he would come at two o'clock. The gold was rolled into Smith's window, and the porter told him it was Guirot's money. On Saturday, the 19th, we had only silver for an hour or so. On Tuesday morning I heard arrangements had been made with the mint for the specie. The bank was crowded. I think we got a little silver from Mr. Barker's bank. I know that ten boxes went to Mr. Smith and that four were returned to us. I think the 23d was Wednesday. The silver came in on Tuesday and Wednesday; think we got \$50,000 on Wednesday about eleven o'clock. Mr. Guirot told me he wanted the gold and would come for it before two o'clock. I saw the gold rolled into Smith's; it was done up in bags and then put in a keg. Mr. Guirot did not know that we were going to put it into Mr. Smith's. On the 22d and 23d, Smith had a pretty large amount of gold. I think he sent into our bank a check for \$37,000; the paying teller and myself did the paying out. I did not know that Smith had a large amount out on the 22d. I saw him about the bank three or four times that day, and I know that some money was going into Smith's."

"I cannot tell who brought the large check of Hewitt, Norton & Co., or who it was paid to; I did not know of any other large amounts paid to Smith & Co. about that time; I have no recollection of paying the large check or setting aside the coin to pay it."

"Bank began to pay specie Saturday, April 19; Monday and Tuesday specie began to run short. On Wednesday the president or cashier told me that money would come from the mint. I understood next morning from the officers of the bank some more money would come; gave no receipt for it, \$25,000, which came first; I was not asked for a receipt the next day; know Mr. Guirot very well; he came in about two hours after we had the specie. I received orders from our bank officers to pay to Guirot the amount in gold. He came in about eleven o'clock; did not take it then, but said he would come for it at two o'clock. The money we put into Mr. Smith's because he was close by the bank; I said that day as late as six or seven o'clock and Mr. Guirot did not come; I think it was the 23d, Wednesday."

The affidavit of Mr. J. Rathbone, president of the New Orleans Canal and Banking Company, was then read, as follows, to wit:

Mr. J. Rathbone, president of the New Orleans Canal and Banking Company, being duly sworn, says that Mr. Samuel Smith, a director of the bank, called on him on about the 22d of April, 1862, to know if the bank would give gold for silver, stating that Mr. Guirot of the mint was desirous of making the exchange, and that he on the part of the bank told Mr. Smith that as the bank had little or no silver, and the gold in the vault then ready to pay out was in twenty-dollar pieces, it was difficult to pay amounts under twenty dollars. The bank would make the exchange to the amount it should pay out. Then Mr. Smith told the deponent that his firm would redeem the notes of the bank in silver to aid in satisfying the run on the bank for the redemption of its notes, and that this deponent was informed by the clerk or porter that the bank and Samuel Smith & Co. had thus used of the silver to the amount of \$50,000 which he ordered handed over to Smith & Co. in gold.

J. RATHBONE.

Sworn before me this — day of May, 1862.

D. F. MITCHELL,  
Justice of the Peace.

Mr. Rathbone was then called as a witness by Samuel Smith & Co. and testified as follows:

"I am president of the Canal Bank, and did not make any arrangement with Guirot for the gold. My impression is that I told some one that I thought it best to put it into Smith's office. This gold was put into bags of \$5,000 and then put into kegs, but not in bags constructed for our bank. I do not think the bag was sealed; I have no personal knowledge of the payment of Hewitt, Norton & Co.'s check; I do not know anything of the \$50,000 afterward; my impression is that the transaction was on the day preceding the passage of the forts by the United States forces; I do not know that any receipt was given for the silver; they told me that \$50,000 had been paid out; I told them to pay it out with a keg of gold. Before we began to pay specie there was no consultation by the board of directors as to when the bank should obtain its supply; I think Mr. Smith told me he would supply us; I think we had it of him before we heard of Guirot."

"My impression is that Mr. Smith asked if I would take some silver, that he would get some of Guirot. I said yes, so far as we wanted it, and we would pay for it in gold. I do not recollect whether anything was said between myself and Mr. Smith as to the object for which Mr. Guirot wanted to change the coin. Mr. Smith told me, as I understood him, he wanted it in smaller compass in case he wanted to send it away. This was my impression. We must have used Mr. Smith's money before it (this coin) came from the mint."

The affidavit of Samuel S. Booth was then read, as follows:

Samuel S. Booth being duly sworn, says that he is a clerk in the banking house of Samuel Smith & Co.; that they were employed in assisting the Canal Bank in paying out specie for their bills; that their silver running short Mr. Smith procured it from others during hours of business. Mr. J. Guirot came to the bank and had a conversation with Mr. Smith on the 22d or 23d of April last, and when Mr. Guirot left Mr. Smith remarked that the Canal Bank was to give \$50,000 in gold, soon after which the silver came up on a cart, and most of which went into the Canal Bank, the residue into the banking house of S. Smith & Co. for



the mint, which was delivered to Mr. Esnard by me on the following morning on presentation of the order book appended.

SAM. S. BOOTH.

Sworn to and subscribed this — day of May, 1862.  
D. F. MITCHELL,  
Justice of the Peace.

Messrs. Samuel Smith & Co.: Please deliver to the bearer, Mr. Esnard, the \$50,000 in gold.

A. J. GUIROT.

Respectfully,  
April 24, 1862.

Mr. Neville, a witness called by Sam. Smith & Co., testified as follows:

"I am one of the clerks of Sam. Smith & Co.; keep their books, [cash book of Smith & Co. exhibited.] I was not present at any one of those transactions. I only know generally that Smith & Co. ought to have the amount of \$64,000 which is set down in the cash account of Smith & Co. of April 23; it is in Mr. Booth's handwriting. I have no knowledge of what amount they should have at any time other than appears on the books."

And here the court adjourned to meet to-morrow evening at seven and a half o'clock.

SATURDAY EVENING, June 14.

Met according to adjournment; all the members of the commission and the recorder being present, when the hearing was resumed.

Mr. Neville, being recalled, says as follows:

"I collected from the Bank of Louisiana \$2,500; Mechanics and Traders, \$700; Union, \$500; Canal, \$11,000. The entry in the cash book, except as to amount, was an error of mine. I do not remember of any other large amount of gold coming in on that day or 22d April. I know that a large exchange bill sterling had been sold; the books show on the 23d April \$64,000 and odd. We were in the habit of buying and selling coin and bank notes every day without affecting our capital. On September 16 we had a specie balance of about \$37,000 and odd. The agreement made by the Canal Bank with Sam. Smith & Co. was that whatever was due at the time they resumed specie payment they would assume and pay."

The deposition of C. Bell was then read as follows:  
Colville Bell, being duly sworn, says that on the 22d of April last he received from Sam. Smith & Co. a bill of exchange on London of £6,608, for which he paid Sam. Smith & Co. \$36,700 in gold by giving them a check on the Canal Bank, payable in gold, which is hereto annexed.

COLVILLE BELL.

Subscribed and sworn to before me this 24th day of June, 1862.

D. F. MITCHELL,  
Justice of the Peace.

NEW ORLEANS, April 21, 1862.

#### CANAL BANK:

Pay to the order of Sam. Smith & Co. (in gold) thirty-six thousand seven hundred dollars. (\$36,700).

HEWITT, NORTON & CO.,  
Per C. BELL.

Mr. C. Bell was then called by Smith & Co., and testified as follows:

"I purchased of Mr. Smith a bill of exchange on April 21. I paid for it next day in gold. This was a portion of what was due to Hewitt, Norton & Co."

"Mr. Norton was a director in the Canal Bank. I was directed by the president of the bank to collect my balance in gold. [The above check shown.] I handed it to Mr. Smith. The affidavit was made next day. The check is hereby dated. I went to Mr. Smith and got the check in sterling exchange."

The affidavit of Lafayette Guyal was then read, as follows:

Lafayette Guyal, being duly sworn, says he is a bookkeeper in Canal Bank, and keeps the accounts of Hewitt, Norton & Co.; that he knows Sam. Smith & Co. presented for payment on the 23d April, 1862, Hewitt, Norton & Co.'s check for \$36,700, payable in gold; that said Smith & Co. brought also into the bank Canal Bank notes and gold, and made a settlement with the cashier, and received a keg of gold in payment, said to contain \$50,000; recollects the circumstances from having assisted at its delivery.

LAFAYETTE GUYAL.

Subscribed and sworn to before me this 14th June 1862.

D. F. MITCHELL,  
Justice of the Peace.

And here the evidence closed. The views of Smith & Co. were then presented by Messrs. Barker and Rozier, and the views of the United States by Major General Butler.

Here the commission adjourned to meet Monday evening, June 17.

On Monday evening, June 17, the commission met, according to adjournment, and proceeded to the consideration of the case presented, and having heard the evidence on both sides, consisting of admitted facts, affidavits, books of S. Smith & Co., of a commercial character, and documents, and also listened to full argument on both sides of the cause, and having maturely deliberated upon the whole case, has rendered the following conclusions:

First. The admitted fact that Smith & Co. concealed \$50,000 in gold coin at the time of the approach of the United States forces, and on being questioned as to the same, at first strenuously denied both its concealment and existence—facts that have not in any way been explained by Smith & Co. in the trial—tend to raise a violent presumption that these \$50,000 may be the same which were sent by Mr. A. J. Guirot, treasurer, from the mint, and this presumption is by no means weakened by the singular occurrence in which Smith & Co. have left the affair of the other \$50,000 in gold, which apparently was made up by Hewitt, Norton & Co.'s check on the Canal Bank for \$36,700, and the remainder by the payment from Smith &

Co.'s own funds. In addition to this, the testimony of Staub, compared with that of C. Bell, brings the two transactions, if two they were, of the two kegs of specie upon the same day, or possibly consecutive days, and the whole of the testimony on Smith & Co.'s side so far would go to raise a presumption that the \$50,000 lot of gold seized by the United States is the same that Guirot sent silver for from the mint, and if it stood uncontradicted, the commission would feel bound to declare that there was reasonable ground for holding it as being the same.

But the commission has before it, on the other hand, the positive testimony of Esnard and Booth, whose affidavits have been allowed to go in without affording the commission the benefit of a  *viva voce*  examination, and the witnesses swear positively that the keg of gold promised to Guirot was actually taken away by Guirot's agents from Smith & Co.'s banking house. This positive testimony the commission feels bound to regard as outweighing all the suspicious circumstances which tend to show identity, and therefore determines that there is no reasonable cause to believe that the specie and property seized by the United States in the banking house of Samuel Smith & Co. is the property of the confederate States or of any department or office thereof. Having come to this conclusion, from the evidence upon the question of the identity of gold seized and that destined for Guirot in exchange for the silver he sent from the mint, the commission has heard no evidence going to show that the said specie and other property has been used in any way to aid the confederate States or any officer thereof, in concealing any property of the confederate States.

Having thus disposed of the first and second points, the commission now proceeds to the last, to inquire whether said Smith & Co. have in any way so acted in behalf of this rebellion as ought to cause the further detention of said specie and other property for hearing before the Department in Washington. It was in evidence before the commission, by the testimony of Rathbone, president of the New Orleans Canal and Banking Company, that Samuel Smith had informed him on or about the 23d of April that inasmuch as the bank was drained of silver coin, and needed a large amount to pay off its bill-holders, \$50,000 could be procured from him by Guirot, the treasurer of the mint, for a like sum in gold, and that Guirot had informed him he wished to change the silver for gold, in order that he could more conveniently carry it off. This conversation with Rathbone in the view taken by the commission, fixes upon Smith a knowledge of the design entertained by Guirot of withdrawing the money in the mint from the reach of the United States, and shows further that Smith, being a director of the bank, by making with it the arrangement on behalf of Guirot, directly aided the latter in carrying off the funds of the mint, and so assisted in thwarting the military operations of the United States. Whether any or what penalty is now, or will be by law, attached to such conduct, the commission do not know. They think that under no circumstances can it possibly exceed the amount which Guirot was assisted to carry away, and therefore that all specie or other property seized beyond the \$50,000 in gold should be released, and that with regard to such surplus there is no cause for further detention. With regard to the \$50,000, the commission thinks there is ground for detention until the proper Department at Washington can be heard from.

G. F. SHEPLEY,  
THOMAS DURANT,  
W. NEWTON MERCER.

The undersigned having by their judgment done all that by the strict requirements of law they felt themselves bound to perform, would now beg leave most respectfully to submit that in their opinion as citizens and men, in consideration of the penance Mr. Smith has already undergone, it seems proper to them to suggest to General Butler that in the exercise of his discretion, he should, in laying this matter before the proper Department at Washington, recommend as advisable a lenient course, looking toward a restoration of the money, in case such action should not be inconsistent with law, or such other form of recommendation as the general might think proper.

G. F. SHEPLEY,  
THOMAS J. DURANT,  
W. NEWTON MERCER.

Major General BUTLER,  
Commanding Department of the Gulf.

Mr. BOUTWELL. It will be borne in mind, Mr. Speaker, that this award was made and submitted to Major General Butler on the 17th day of June, 1862. The gentleman from New York, when questioned yesterday by my colleague [Mr. Goocn] as to whether General Butler had made any report to the Department in reference to this \$50,000 in gold, said that no report had been made until the suit was threatened. It will appear from the documents which I shall have the honor to submit that the first letter from the attorney of Smith to General Butler was dated February 29, 1864. I have before me, and I shall ask the Clerk to read, a communication from General Butler to the Secretary of the Treasury, dated the 2d of July, 1862, at his headquarters in New Orleans, fifteen days after this award was made. The gentleman from New York, who comes here to arraign a man who has sacrificed the comforts of home, a lucrative profession, the esteem of his friends, his standing in the community, and exposed himself to the perils of war, and has done service in the cause of the country, while we—I do not say the gentleman from New York alone—while we sluggards have done nothing; the gentleman from New York, who comes

here to arraign such a man, does not even take the pains to inquire whether the statements which he makes are false or true.

The Clerk read, as follows:

HEADQUARTERS DEPARTMENT OF THE GULF,  
NEW ORLEANS, July 2, 1862.

STR: Will be found inclosed herewith minutes of the doings of a commission to inquire into the seizure of the specie of Samuel Smith & Co.

The finding is that the case should be sent to the Department for investigation. I should have sent the specie (\$50,000) to you, but this remarkable state of things exists: two paymasters came down here with \$385,000, too little money to pay the troops of the department, some of whom have not been paid for six months, and they and their families are suffering for their just dues, which, from the inefficiency of the pay department in not making proper requisitions, has not been furnished them. I shall therefore appropriate this \$50,000 toward the payment of the troops left unpaid, one of which is a western regiment not paid since December, and a Maine one not paid since October. I shall borrow of one of the banks here \$50,000 more in gold (I cannot get Treasury notes) upon my own order and pledging the faith of the Government. This I have promised shall be refunded in gold in sixty days, with interest at the rate of six per cent. per annum, and trust that pledge will be made good, as I shall have to suffer the loss. I shall also obtain of Adams & Co. here \$50,000 in Treasury notes, or thereabout, and by leaving the allotments unpaid here, but to be paid in New York, I shall be able to have the payment completed. But this only pays the March payment, leaving two months still due. May I ask, therefore, that my draft of \$—, in favor of Adams & Co. be honored, and a future draft, not exceeding in all \$50,000, be honored at sight, so that Adams & Co. can send forward the remittances to the soldiers' wives which have been used here to pay others, and that \$50,000 in gold be sent me to repay that which I have borrowed? I could not let my soldiers go longer unpaid. It was injuring the credit of the Government with our foes, and breeding sickness and discontent among my men.

Trusting that this action will meet approval in the emergency, I am most truly yours,

B. F. BUTLER,  
Major General Commanding.

Hon. SALMON P. CHASE, Secretary of the Treasury.

Mr. BOUTWELL. I may state, Mr. Speaker, that this \$50,000 in gold was taken by General Butler at a time when there was no considerable difference between gold and paper. In the exigency which existed he loaned it to the paymasters of New Orleans. When they received funds from the Government it was returned to him; and it was twice used in that way for the purpose of relieving the claims of the soldiers upon the Government; and it was finally left in the hands of General Butler.

I ask now that a memorandum which accompanied General Butler's account to the War Department, which was in February following, shall also be read to the House.

The Clerk read, as follows:

Memorandum to accompany the Accounts filed in the War Department.

In the matter of the item of \$50,855 taken from Samuel Smith & Co., bankers.

This money was seized from Smith & Co. upon the belief that it was either the identical money taken from the United States mint by the rebel superintendent, or else gold exchanged by him for silver, which was paid out by the Canal Bank after the fleet passed the forts, and by Smith concealed by being bricked up in the rear of the vaults of his banking house. By agreement with Mr. Smith, the questions of this seizure were submitted to a commission of Governor Shepley, Dr. Mercer, president of the Louisiana Bank, and Thomas J. Durant, Esq., a leading lawyer of New Orleans. A protracted hearing was had, and full examination of evidence by counsel in behalf of the claimants, and report made that all but two kegs, containing \$50,000, be returned to Smith & Co., which was done; but as to the \$50,000, that should be held by the United States, subject to the disposal of the Government at Washington. This report was forwarded to the Secretary of the Treasury (see my letter inclosing same). In the absence of funds to pay the troops, some of whom had been six months without pay, upon the decision of the commission, this, with other moneys, were turned over to the paymaster, Major Hewitt, to pay the troops, and his receipt taken. When the money came for payment of the troops, and is now held for the use of the United States, Smith & Co. are both active rebels, and have returned to their allegiance. They have threatened to hold the general making the seizure personally responsible for this amount, and he only desires such order may be made as will, if the United States receive the money, relieve him from personal responsibility.

All of which is respectfully submitted.

BENJ. F. BUTLER.

WASHINGTON, D. C., February 11, 1863.

Mr. BOUTWELL. If I were to stop here, Mr. Speaker, the charge of robbery made by the gentleman from New York would have failed entirely. Within fifteen days after the award of the commissioners, as appears from incontrovertible testimony, the circumstances were reported to the Treasury Department and subsequently were made known to the War Department. The sug-

gestion was made by the general that if the War Department would relieve him from personal responsibility the money would be placed in the hands of the Government; and it will appear from the testimony which is to be herewith submitted that the War Department refused to relieve General Butler or receive the money; and he has been compelled from that day to this to keep it, in order that he might save himself from personal responsibility either to the Government or to Samuel Smith.

I now present and ask the Clerk to read the correspondence between Mr. Pierrepont, counsel of Mr. Smith, and General Butler.

The Clerk read, as follows:

TREASURY DEPARTMENT, February 29, 1864.

DEAR SIR: Samuel Smith, of Saratoga county, New York, formerly private banker in New Orleans, has a claim for \$50,000 in gold used by General Butler in 1862 for payment of his troops in New Orleans. I write this in the Treasury Department with the letter of General Butler to the Secretary before me; it is dated July 2, 1862. It was supposed by the Secretary that as the letter of General Butler stated that the money was used to pay the troops, that the credit for that \$50,000 would be found in Paymaster General's or Auditor's office. I have this day been over the accounts with the clerks, and no mention of the money appears. Will you do me the favor to say to what paymaster this money was given, and in what accounts this \$50,000 should appear? I am the counsel of Mr. Smith, and the Paymaster General suggests this as the quickest way to learn what paymaster had the money. Your letter of July 2, 1862, only states the fact that the money was paid to your troops without naming this, what paymaster.

The accounts of Hewitt, Sherman, Locke, and Usher, have all been examined, and we find no account of it. Will you do me the favor to reply to this at my residence, 103 Fifth avenue, New York city, and much oblige, Yours, very respectfully,

EDWARDS PIERREPONT.

Major General BUTLER.

TREASURY DEPARTMENT, March 3, 1864.

GENERAL: When I had the honor to address you on the 29th ultimo, I was not as well advised as now. As counsel for Samuel Smith & Co., whose \$50,000 in gold was taken in New Orleans, and which matter you had referred to the Treasury, together with all the papers, I have had case examined, and have produced Mr. Smith and had his deposition with others taken here and filed. I had reached the point when I had supposed the money would be paid over, and the Secretary undertook to find to what credit it stood, and not being able to find out, at the suggestion of the Paymaster General, I wrote to you.

Now I have just learned from the Secretary of War more about the matter. Will you do me the favor to inform me who has the money, and to whom, in your judgment, I ought to look for it, and to whom it rightfully belongs?

I am, very respectfully, your obedient servant,

EDWARDS PIERREPONT.

16 Wall Street, New York.

Major General BUTLER.

16 WALL STREET, NEW YORK, March 15, 1864.

GENERAL: Two weeks ago this day I wrote from Washington to learn where the \$50,000 in gold taken from Samuel Smith & Co., New Orleans, now is. I wrote with yours of July 2, 1862, directed to the Secretary of the Treasury before me, in which you speak of this gold; the letter is now on file with the report of Governor Shepley and others. I am Samuel Smith's counsel. Will you do me the favor to say what was the disposition of Mr. Smith's gold, where it is, and to whom, in your judgment, it rightfully belongs?

I also addressed you a second letter on the same subject. As I have no reply from either, I fear that you may not have received them.

To avoid accident I will send this in duplicate, and very respectfully await your reply.

Ever your obedient,

EDWARDS PIERREPONT,

Counsel for Samuel Smith.

Major General BUTLER.

HEADQ'RS DEP'T VIRGINIA AND NORTH CAROLINA,  
FORT MONROE, March 21, 1864.

EDWARDS PIERREPONT, Esq.:

I am in receipt of your letter in regard to the money alleged to be of Samuel Smith & Co., bankers, at New Orleans, up to the time of the capture of that city by the United States forces. As you are aware, I am in the field and have, therefore, no books or papers with me relating to former transactions, and was obliged to wait until I had examined some memoranda before I could make as full an answer as I could wish. This must be my apology for the delay in answering your letters. I am now without dates and amounts, but the facts and the order of sequence I am quite sure will be without mistake.

The case of Smith & Co. was as follows: within a few days after my arrival in New Orleans I received information that the director of the United States mint, before the appearance of the United States fleet, had fled up the Red river with Governor T. O. Moore and a portion of the mint and some of the New Orleans banks. That he had deposited with Samuel Smith & Co., bankers, whose place of business was next door to the Canal Bank and banking house, \$50,000 of the specie which belonged to the United States. Upon further examination, it appears that the mint director, finding the silver bulky to carry away, had placed a large sum with Smith & Co., who had loaned it, or a portion of it, to the Canal Bank, which during some days

just before the taking of the city of New Orleans had been redeeming its circulation in specie. That this silver had been paid out by the bank to its customers and bill-holders. That Samuel Smith & Company had received for specie \$50,000 in gold in two kegs, either from the director or bank, which being simply in exchange for the money of the United States, was, of course, the property of the United States, Smith & Co. having this idea of concealing the stolen specie of the United States. Thereupon I caused Samuel Smith & Co. to be brought before me for examination, and in the most solemn manner they denied as well the exchange of the silver as the possession of the gold or silver; knew not where there was any concealed or conveyed away; owned that their books would show that they had no gold of any amount. I ordered their books and papers to be seized and examined. Finding upon their books, which had been altered and erased for the occasion, that the firm had a quantity of gold, although by no means the amount of \$50,000, and feeling sure of my information, I ordered Smith to be sent to Fort Jackson. Smith thereupon confessed that the whole story, therefore, had been a lie, and that he had bricked up, in the air space between his safe and the wall of his counting house, a large amount of gold and silver. Upon sending there, we found the two kegs of \$25,000 each we were in search of, and some bags of gold and silver, amounting to some fourteen or seventeen thousand dollars more, some of which corresponded with some of the entries on Smith & Co.'s books. I thereupon seized the specie and held it for the use of the Government.

Afterward, Mr. Jacob Barker applied to me for a hearing upon the question of property and whether there was probable cause for holding this gold as the property of the United States. I appointed a commission consisting of General Shepley, military governor, Dr. Mercer, president of the Bank of Louisiana, and Thomas J. Durant, (I believe), an eminent lawyer of New Orleans, to adjudicate and determine these questions. A full hearing was had, witnesses were examined, books produced and examined, and counsel heard in arguments. I remember the president of the Canal Bank was examined and made a very lame explanation of how Mr. Smith got this money out of his bank and of the way he borrowed silver of the mint. Smith's brother was also examined, who gave a still more lame account of the alteration of the books, and why there appeared in the cash account about that time so many thousand dollars' worth of *lead*, and on the next page, so many thousand dollars' worth of "Tin." Suffice it to say that after a laborious examination the board reported that the fourteen or seventeen thousand dollars of specie was the property of Smith & Co., and should be given up to them, and that there was cause for holding the two kegs of \$25,000 each. This report with the accompanying documents was thereupon forwarded to the Treasury Department at Washington. All the smaller sums of fourteen thousand dollars or so, and papers were returned immediately to Smith & Co., with the exception of about thirteen hundred dollars, about which a dispute arose between Smith & Co. and my officers, they avowing that they had never received the amount, while Smith claimed that they had.

Afterward, before I left New Orleans, in order that there might be no just cause to suspect the integrity of my officers, I paid Mr. Barker (Smith's counsel) the sum in dispute, and took his receipt. In the mean time my troops had remained unpaid for more than six months, and, although repeated requisitions had been made on the Treasury, still the money had not been transmitted. Believing that this gold belonged to the United States, as I now believe, and there being no difference at that date between gold and Treasury notes in New Orleans, and but little anywhere, for reasons stated in my reports to the Treasury I turned over this gold from time to time to my paymasters, to be paid out to the troops, and it was done; and when afterwards they got funds they repaid me, and, indeed, I believe it was advanced to them and returned more than once. The reasons why, probably, you cannot find that gold, "*ex nomine*," in the accounts of Majors Hewitt and Usher, was that no difference was made in paying the troops between that and Treasury notes, and therefore, receiving it, and returning it when they had funds, there would be no appearance of it.

You will find, therefore, in my accounts settled at the War Office, that I have charged myself with that amount of \$50,000, and made myself responsible to the Government for it in a final settlement of my account, taking care that any supposed rights of Smith & Co. should be preserved by a written statement filed with the accounts in the War Office as well as my report to the Treasury. In the usual case of a disputed claim I should hardly have felt myself called upon to answer to the counsel of one party, to have given so full a statement of facts; but having taken this money as an executive officer of the Government, I have felt it my duty to make full expositions of all the facts so far as they have come to my knowledge and are now within my recollection. I may, however, be permitted to add a single fact, which will perhaps be no information to their counsel, that the two brothers, Smith & Co., were both bitter, active, and unrepenting rebels, who refused to take the oath of allegiance so long as I remained in New Orleans, and one or both, I believe, went to Canada to reside. If you should desire any other questions answered in this regard, you have only to propose them, and if you will give me opportunity to go to books and papers, I have no doubt but I can give you sums and dates.

I have the honor to be, very respectfully, your obedient servant,

B. F. BUTLER,

Major General Commanding.

Mr. BOUTWELL. Following that letter was another from Mr. Pierrepont, which I ask the Clerk to read, as well as the answer of Major General B. F. Butler.

The Clerk read, as follows:

16 WALL STREET, NEW YORK, March 26, 1864.

MY DEAR GENERAL: I am very truly obliged by your satisfactory letter received this hour. It fully explains the delay by which I have been a little annoyed. Pardon this suggestion; why not pass over the money to the War Of-

fice or to the Treasury, and leave me to such remedy there as the Government may think fit?

They now say the money is not in their hands. Please let me hear upon this.

Very truly yours,

EDWARDS PIERREPONT.

Major General BUTLER.

HEADQ'RS DEP'T VIRGINIA AND NORTH CAROLINA,  
FORT MONROE, March 28, 1864.

DEAR SIR: Your note of the 23rd instant is received, and I am glad to be able to answer it speedily. I am much obliged for your suggestions. When I settled my accounts at the War Office, the question of what shall be done with this money of Samuel Smith & Co. came under discussion, and I then said to the Secretary of War, that as a lawyer I supposed that I might be held personally for the sum, and that if he would give me an order to pay over the money to the War Office in such form to release me from responsibility if hereafter called upon by Smith & Co., I should be glad to pay the money over. He doubted whether this could be done, and suggested the money might lie in my hands until the Department was called upon for it, and that a proper memorandum should be put on file, so that Smith & Co.'s rights, if they had any, should be preserved as well as my own. There is no difficulty in dealing with the money now in the same way.

If the War Department directs an order to me to pay the money either into the Treasury or contingent fund of the Department, and Smith & Co., acting under your advice, will give me a memorandum stating that such payment shall relieve me from personal responsibility, I will give a draft for the amount on the Assistant Treasurer of the United States that will be honored at once.

I think it but right, however, that my first letter to you stating the facts of the capture of the money should be laid before the War Department for its information before any order is made on the subject, transferring the funds to Smith & Co.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General Commanding.

Hon. EDWARDS PIERREPONT, New York.

P. S. Since writing the above note I have received from my clerk a copy of the memorandum filed at the War Office at the time of the settlement of my accounts of which I have.

Mr. BOUTWELL. I ask that some further correspondence be read.

The Clerk read, as follows:

16 WALL STREET, NEW YORK, April 1, 1864.

MY DEAR GENERAL: I am very glad to receive your letter of the 28th of March. I am not one of your enemies. That matter will now be adjusted, and I will write you some statement of facts of which it is evident you are not apprised. Immediately after the seizure of the gold Smith came here; he was born in Saratoga county, where his mother now lives, and he has been with her here, and in Washington, most of the time since.

He employed Senator Reverdy Johnson and myself as his counsel; as the younger man I have been the more active. The report of the commissioners which you appointed clearly established beyond all controversy that the gold belonged to Smith. The commissioners so report; and the evidence returned with the report abundantly established the conclusion.

These papers, with your letter of July 2, 1862, are now in the Treasury Department, and I have complete copies of them all. I took Mr. Smith to Washington, and his deposition was taken at great length and is now on file with the other papers. Mr. Smith is a Yankee, born of a Yankee, bred a Yankee, has taken the oath of allegiance, and is as true and loyal as you or I. He has not been in Canada at all; he tried in the fright and terror which prevailed in New Orleans to save his property in part. Dr. Mercer, who acted on the commission, is now here. I am truly glad that this matter is about to be adjusted. Not every one who has been in the case has the same desire to have it quickly settled as I have. My own view about the case is this: I think it quite clear that you could not successfully resist a suit in New York brought by Smith to recover whatever damages he can prove. I think the true way to settle it is for you to pay Smith and take a release, with the assent of the War Department. If you agree with me I will see that it is done in such way as you shall see is liberal and just. I await your reply.

Ever truly yours,

EDWARDS PIERREPONT.

Major General BUTLER.

April 4, 1864.

MY DEAR SIR: I can only repeat my offer that whenever the War Department will order the money paid over to your client, and he shall give me a release, my draft for the amount will be forwarded. I am glad to hear that Mr. Smith is loyal. His conversion I trust is sincere. For yourself, I thank you for your expressions of kindness and confidence, and while they are very gratifying indeed to one who has been so much maligned as I have been, yet you will see in this transaction I have so lived as to defy my enemies. Allow me, my dear sir, further to say "*Ex uno disce omnes*." For a while you will confess to yourself that you doubted my action in this business. I am as willing that every act of my official life shall be as thoroughly investigated as this may be. Therefore you will see that while I am obliged for the friendly feeling which prompted you to desire this case "*quickly settled*," still if those who desired otherwise had had their way I should have been as well pleased, because conscious of having endeavored to do my duty. An attack upon me in this case would have failed, and thus answered a thousand others to which no reply can ever be otherwise made. Upon the point of law which you suggest, pardon me if I differ from a lawyer so distinguished as yourself. I do not believe that a military commander in a captured city, taking money (contraband

of war) which might be used against that officer's army, from an alien enemy, can be held liable for the capture as a trespasser for the tort in not returning upon demand which might sustain trover after the enemy became a friend and incapacitated to sue. I am inclined to think that having paid the money to his Government would answer the demand. It was to avoid this after-question, however, (I had no doubt on the first,) that I hesitated to pay the money to the Government. Still I am rusty at the law, and my opinions are not now, if they ever were, worth much.

Yours, truly, B. F. BUTLER.

16 WALL STREET, October 26, 1864.

MY DEAR SIR: You leave Mr. Smith no alternative but to commence an action. It is not necessary there be any publications in the papers if you will authorize any attorney to appear for you, but otherwise it is necessary.

I do not wish any publication unless you wish it. Please let me know your attorney at once, if you have one here. Truly, EDWARDS PIERREPONT.

Major General BUTLER.

HEADQUARTERS NEAR VARINA, October 28, 1864.

MY DEAR SIR: Your note inclosing the summons and complaint in the case of Mr. Smith and Brother was received last evening in the field. I hasten to answer.

Although not a resident of New York or amenable to the jurisdiction of her courts, so that a summons could hardly bring me in, yet I shall at once acknowledge service and instruct my attorney, John A. Hackett, Esq., to make answer. Having done this, I shall rely on your courtesy to allow me a little time to go to Washington to make the following disposition of the cause. When you desired me to assent to a friendly suit I could make no answer to the proposition, because as an official I could do nothing in any way to compromise the rights of the United States. Now, however, your proceeding in *institum* leaves me in a different situation, because although I am acknowledging service, still as I must come to New York and can hardly travel *incog*, you could obtain service, and therefore without prejudice a suit may be considered fairly begun.

I will now apply to the War Department, and ask the Government to assume the defense; if that is done, then I have no further interest in the matter; if not, then I am at liberty to arrange with your client, or contest the suit as I choose, and am left free to negotiate about a matter in which I can have no personal interest except to save myself from cost. So soon, therefore, as I can get away, which I hope to be in a few days, I will make answer, or will meet you as you prefer, and be able to state exactly my position on this subject. Of course, the suit, if it goes forward, will be removed into the courts of the United States. You will not need to be told that these suggestions do not proceed from any desire to delay your clients; but, in fact, to further their interests, if they have any. You will please answer me at once whether this course will meet your concurrence.

As to publication, I beg leave to repeat to you that I can have no objection to any person knowing every fact connected with this transaction. The most exaggerated stories have been told about it privately, from which I am suffering; but what can I do about it that I have not done? Respectfully, BENJ. F. BUTLER, Major General.

Hon. EDWARDS PIERREPONT, Counselor at Law, 16 Wall Street.

16 WALL STREET, November 2, 1864.

MY DEAR GENERAL: Yours received, and satisfactory. You have been a general since you were a lawyer, and when you speak of jurisdiction I think you have not read our recent statute.

We have a way to get jurisdiction not like old way; but that is no matter. I will show you when we meet. Your proposition is satisfactory, and I shall confer with your attorney.

I send you my speech.

Yours, EDWARDS PIERREPONT.

Major General BUTLER.

MR. BOUTWELL. Mr. Speaker, the last letter indicates that General Butler was about to apply to the War Department for leave to pay over the money, and that the Department should assume the responsibility of the defense. I now lay before the House his letter to the Solicitor of the War Department and the reply of the War Department, which will close the papers on this branch of the case.

The Clerk read, as follows:

HEADQUARTERS DEPT. VIRGINIA AND NORTH CAROLINA, FORTRESS MONROE, VA., November 28, 1864.

MY DEAR WHITING: I inclose herewith to you a note to the Secretary of War, in relation to the matter of Samuel Smith & Co., bankers, of New Orleans.

I think it a clear case for a test question, and hope the Government will defend it. Please bring the paper to the notice of the Secretary, and get his permission to allow me to publish the note in my own justification.

Although somewhat thick skinned to newspaper attacks, yet some of my good and true friends are writing me that I ought to explain the facts, and I know no better way to do so than by such publication.

If I may rely, upon those friendly relations which exist between us, upon you to procure this to be done, you will add another to the many obligations under which I am to yourself.

By the by, why do you not come to the "front" and see how war is actually carried on? I will give you a "plate and a blanket."

Yours, truly, BENJ. F. BUTLER, Major General.

Hon. WILLIAM WHITING, Solicitor of the War Department.

WAR DEPARTMENT, WASHINGTON CITY, December 6, 1864.

GENERAL: I am instructed by the Secretary of War to inform you—

First. That your communication dated at Fortress Monroe, November 28, and addressed to him in relation to the claim of Samuel Smith & Co. against you, was referred to the Judge Advocate General for opinion and report on the question of indemnity you ask for.

Upon that reference, the Judge Advocate General reports:

"The question of indemnification cannot be determined at this stage of the proceedings. Should there be a judgment against the applicant his rights to be indemnified against it will depend upon the character of his conduct, considered in all its bearings, which has given rise to the suit. This will be best understood when examined in the light of the testimony which will be produced on the trial. If the applicant acted within the scope of his powers, fairly interpreted, his claims to protection against the results of this suit should be allowed. The fact that he has retained the gold seized and now holds it, subject to the order of the Government, is not considered as affecting the right or obligations involved."

This report is approved, and will govern the action of the Department upon your request for indemnity.

Second. In relation to your request for leave to publish your letter to the Secretary of War, the Secretary directs me to say that no objection is made by the Department to your publication of any statement in regard to the claim of Smith & Co. which you may deem essential for your vindication.

Third. In reference to the information given by you to the Department, a copy of your memorandum in relation to the gold of Smith & Co., seized by you, filed with your accounts and vouchers in the War Department, is hereto annexed.

I am, general, very respectfully, your obedient servant, E. D. TOWNSEND, Assistant Adjutant General.

Major General B. F. BUTLER, Commanding Department of Virginia and North Carolina, City Point, Virginia.

MR. BOUTWELL. Mr. Speaker, this closes the documentary evidence I have to submit to the House in regard to the charge made by the gentleman from New York, [Mr. Brooks.] As far as I can judge of the weight of evidence, it is conclusive in its refutation of this statement made by him.

In the first place, there is no element of the crime of robbery in this transaction from the beginning to the end. The seizure was made by a public officer, a military commander, in pursuance of what he believed then to be his duty, and what I believe a jury of his countrymen anywhere, on the evidence, would find to have been his duty under the circumstances in which he was placed. He submitted the whole question of the right of property, as far as it could be submitted, to a military commission, and he followed the decree, or award made by that commission, and within fifteen days reported the facts to the Government, and from that day to this he has always been ready and responsible. He has again and again solicited the Department to take the money and assume the responsibility—either to take it as belonging to the Government, or pay it over to Samuel Smith & Co., and relieve him.

I am not here as the defender of General Butler. He has no claim upon me, and I have no obligation toward him, except what I owe to my countrymen whenever and wherever applying for justice. Believing, also, that wherever the slander is made, there, if possible, in that place, it should be exposed, I have volunteered so far as to submit this evidence in this particular case. And I say, further, while I have no information in regard to any other transaction of General Butler, I believe, whenever the issue is made with him in reference to any transaction of his, he will be as clearly triumphant over his enemies as in this day and this place I believe him now to be.

I ask the Clerk to read an extract from the speech of the gentleman from New York; and then I will submit to him the question I indicated at the beginning of my remarks.

The Clerk read, as follows:

"I am bound to say that an effort was made by the Federal Government during the pendency of the late presidential election to control the city of New York by sending there a bold robber, in the person of a major general of the United States. Robber as he was of the public Treasury, and major general of the United States as he was, he dared not exercise the power given to him to attempt to control the actions of those whom the gentleman calls thieves and robbers in his own city."

True copy: H. C. CLARKE, Captain and A. D. C.

MR. BOUTWELL. Now, Mr. Speaker, I ask the gentleman from New York whether from the evidence which has been submitted to this House, and in view of all the circumstances in the case, he reaffirms the extract which has been read from

the Clerk's desk, or retracts it? I yield for a reply.

MR. BROOKS. Has the gentleman concluded his remarks?

MR. BOUTWELL. I have not.

MR. BROOKS. Whenever the gentleman concludes I shall be happy to make reply. The introduction of his remarks shows that he is not entitled to courtesy. He spoke of me as in sympathy with the secessionists. At the conclusion of the gentleman's remarks, and finding what he has to say, I shall be ready to reply.

MR. BOUTWELL. I understand, then, that the gentleman is neither prepared at this moment to reaffirm the statement made in that speech, nor to retract it. On this evidence, conclusive as to the falsity of the charge, the gentleman from New York stands silent, and will neither reaffirm the declaration that he has made to this House and to the country, that Major General Butler of the Army is a gold robber, nor will he, upon this evidence, retract it. Has it make no impression upon him? Does he not comprehend it? Does he yet persist in allowing that declaration made in his speech to stand upon the record? If he has a name to live, does not the dread of posterity inspire him to do justice to a servant of the country? Is he still silent? Has he no voice to reaffirm what he has declared, or is he yet destitute, shall I say of manliness, to admit that he was mistaken?

I yield to the gentleman from Pennsylvania [Mr. Stevens] whatever may remain of the time allotted to me.

MR. STEVENS. I presume the gentleman from New York [Mr. Brooks] desires to be heard, and as I intend, when I finish my remarks, to move to lay the appeal upon the table, I will conclude my remarks after the gentleman from New York shall have finished.

MR. BROOKS. I prefer that the gentleman shall conclude his remarks.

MR. STEVENS. As those remarks will depend much upon the course taken by the gentleman from New York I will take my chance to obtain the floor again.

MR. BROOKS took the floor.

MR. JOHNSON, of Pennsylvania. I rise to a question of order. Yesterday, sir, the privilege of a gentleman was suspended because of some supposed intimidation toward a member of this House. The Halls of this House have been very largely crowded with faces strange to me, and they may be strange to others. I ask that the rule which excludes persons who have not the privileges of the floor be enforced.

THE SPEAKER. As the Chair is requested to enforce the rule, all persons not allowed to remain by the rules of the House will retire, and the Doorkeeper will enforce the rules.

Proceedings were suspended for a few moments while the Hall was being cleared of persons not entitled to the floor.

MR. JOHNSON, of Pennsylvania. I understand that many gentlemen have not retired from the Hall, but only into the cloak room. I ask that the rule may be enforced.

THE SPEAKER. It has been decided repeatedly, upon appeal, that the doors of the cloak room are the bar of the House, and therefore persons outside of those doors are outside of the House.

MR. BROOKS. I am not surprised that when, in the discharge of a high public duty, I assailed a series of corruptions, I am met with the spirit with which I have been met by the honorable gentleman from Pennsylvania, [Mr. Stevens,] and the not less honorable gentleman from the State of Massachusetts [Mr. Boutwell] who represents the district from which Major General Butler comes. The honorable gentleman from Pennsylvania, in a speech last night, chose to use adjectives which, if not unbecoming his dignity, his age, and his position, at least are unbecoming the dignity of this House, for he used adjectives like these: "vindictive," "malignant," "outrageous," "indecent," nouns like these: "filth," "slanders," verbs like this: "skulk." And when two thirds of this House yesterday voted me the privilege to go on, the honorable gentleman from Pennsylvania rose and lectured the other side—no, not the other side; on this question there is no other side; neither side wishes to see the property of this country plundered or the enemy fed



and supplied by men in the conduct of our own armies; on these things there is but one side—I say he lectured his own people in a style like this:

"I am only sorry the names of those who gave that privilege are not upon the record that the country might see and point at them with scorn."

Talk of plantation manners! [Referring to Mr. BOUTWELL's remarks.] There is no overseer in Alabama or in South Carolina who would talk to the negroes on his plantation in a style like that which the honorable gentleman from Pennsylvania addressed to the Republican members yesterday on the floor of this House. He treated the Republican party as his plantation, and a negro plantation! Members of that party must be considered by him as serfs or slaves to endure a lecture like that from the honorable gentleman from Pennsylvania. Toward them he would point the finger of scorn; and of them he required a record, in order that the country might point at them the finger of scorn. Plantation manners all this; nothing but plantation manners! For thirty years I have been on or about the floor of this House, and no overseer of a plantation in South Carolina or Georgia ever seated here did I ever hear address white men as the honorable gentleman from Pennsylvania addressed his white men yesterday upon this floor.

"Sir," asked he, "how can it be possible that a man could be brought to sustain such a motion, with a notice of what would follow, unless it were to gratify an appetite which loves the filthiest garbage which is thrown forth from the foulest stomach by malignant hate?"

I know not what vocabulary that gentleman had been studying; I know not in what school he has been taught during his vacation. Certainly not in that classic place to which another honorable gentleman referred the other day, the Five Points of New York; for they do not, nor will they, use any such language as that which the honorable gentleman introduced into this debate yesterday, and applied to the Representatives of this House.

There are three gates in London somewhat renowned and peculiar for their style of literature: Newgate, the gate of the prison; Cripple-gate, the gate of the cripples; and Billingsgate, the gate of the fishwomen; and the gentleman from Pennsylvania must have studied his vocabulary in all the three—Newgate, Cripple-gate, and Billingsgate—before he came here yesterday to lecture his party in this House. [Great laughter.] Sir, there are certain fountains which run out in the progress of time, and when they do run out they flow with nothing but with mud and with "garbage," and there are certain persons

"Who chew on wisdom past,  
And totter on and blunder to the last."

[Laughter.]

Sir, such language as the gentleman used is not decorous nor proper to be applied, I will not say to me, but to any member or to any portion of the members of the House of Representatives. It is not argument, it is not logic, it is not retort; it hardly rises even to the dignity of parliamentary blackguardism.

The honorable gentleman from Massachusetts [Mr. BOUTWELL] in the discharge of his duty as the Representative of Major General Butler—and it may be due to him to say that it was perhaps the discharge of a necessary duty—chose to connect me with secessionists, or to describe me as one whose sympathy with secessionists prompted and inspired the remarks which I made respecting Major General Butler upon the floor of this House. I challenge the record of the past with the honorable gentleman from Massachusetts from the beginning of his career and of mine. At no time, now, during the war, or before it, have I ever been allied in any manner with those who are disloyal or unfaithful to the Constitution of my country, or to the flag, the stars and stripes, of that country. I have never been allied with those who thought that the Constitution was a compact with hell. I never have been connected with those who desired a new Constitution or a new Bible, for I have been content with the Constitution as it came down to us from our fathers, and the Bible as it was expounded by our fathers.

Sir, the disunionists and secessionists, if not now, who have been hitherto on the floor of this House and elsewhere, are those who inspired the causes which led to this war, not alone in the southern but in the northern country; those who created a riot in the city of Boston because they

would violate or not enforce the law surrendering fugitive slaves; those who trod down the United States marshal in the execution of that law; those who furnished John Brown with pikes to invade the State of Virginia, and to drive those pikes into the hearts of the innocent women and children of Virginia; those are the oldest secessionists, the preliminary rebels of this war.

No record of mine, no document, no speech, no expression of mine here or elsewhere, ever connected me with the rebels of this country. From the moment the gun was fired at Fort Sumter, I had no heart or sympathy with them. They were my enemies then as they are now. Yet the honorable gentleman from Massachusetts has chosen to say that if an aid-de-camp of some general not dressed in Army blue, but with the gray armor of the rebels, had approached me, I should have been less concerned than when an aid-de-camp of General Butler invaded my room. But that is only rhetoric, perhaps. It is worse, however, it is slander; and it is as unjust as it is slanderous. It comes certainly with an ill grace from Massachusetts, with the records of rebellion that that State has, and with the antecedent record that he himself has. And what is the record of his client and constituent in this case? No man, Mr. Speaker, did more, or, I might say, as much, to excite and arouse the feelings of this country, and to bring about that hostility which led to the clash of arms as Major General Butler. Belonging to the Democratic party, and the most ultra of that party, he was ever first and foremost in stimulating and encouraging that hostility and invective which would lead to excitement and to war, and whenever the Democratic party was disposed to compromise or make concessions in any way which would lead to pacification, he was the last of all to yield, and the first and foremost to bring about that collision of opinion which would lead to this clash of arms. And yet I, who am of the school of Clay, and of Massachusetts's own Webster, trained in obedience to the Constitution and laws, never even responsible for any of the errors of the Democratic party, hardly connected with that party except so far as it chose to honor me here with its sympathy and its votes, elected here upon the floor of this House in opposition to the machinery of that party; I am denounced by the Representative of this General Butler as a man more disposed to welcome a rebel uniform of gray than the blue uniform of a soldier of the United States!

Sir, in the Charleston convention, which led to the rupture of the Democratic party and the election of Lincoln, if Butler himself had been the paid agent of Jeff. Davis and of the conspirators to destroy this Union, he could not have acted a more efficient or a more fatal part in sundering and dividing that party and bringing about this collision than he did as a delegate from Massachusetts to that convention. I never voted in my life for Jefferson Davis, while Major General Butler voted fifty-seven times in the Charleston convention for this same Jefferson Davis, to make him President of the United States. Compare my record, then, with his. Compare my past with his. A sagacious man, like General Butler, a man of talent and power and capacity, must have known very well, while he was thus acting in the Charleston convention, where all that action would lead; that it would lead to a disruption of the party of the Democracy, and in that disruption to a triumph of the Republican party. This agent, this colleague, this associate of Jefferson Davis, in a letter addressed to the Speaker of this House—turning up now this day for the first time from his letter book, after his letter to me had been delivered for days—calls me a calumniator, and urges this House to exercise its power in order to drive me from my seat on this floor home to my constituents. Calumniator! No man is capable of uttering words more calumnious than Major General Butler. No man oftener or better selects his subjects when he inflicts these calumnies—safe subjects, such as ministers of the gospel, women and children, or often persons subject to his absolute control; and yet he denounces others as calumniators, and me among them, as calumniating him. Sir, no calumny can ever be used which would quite describe the life and history of this Major General Butler.

The honorable gentleman from Massachusetts [Mr. BOUTWELL] spoke, and so did the honorable

gentleman from Pennsylvania, [Mr. STEVENS,] of the services which General Butler has rendered to his country. Sir, he has done no more than I have done. We both have shed large quantities of ink for our country, but upon the whole I think I have shed the most. Neither of us has done anything more. No blood of his has been spilled. No successful victory of his has been recorded. No thanks of Congress have ever been rendered to him. Big Bethel and Fort Fisher stand as monuments of disaster and shame, under his control, while no such record, at least, stands against me. The services which he has rendered to his country have been services of injury, in exciting passions, in exasperating the South, and in dividing the North. These are the services he has rendered to his country—no more.

I am told that he curbed the proud Empire city of New York; that he restrained it within proper boundaries on the day of election; that but for him there was no knowing what might have passed. At least we might have been in the throes and agonies of civil war. Sir, we but amused ourselves when General Butler came to the city of New York with the pictures that he exhibited. There were some twenty, twenty-five, or thirty aids-de-camp, mounted on horses, riding to and fro up and down our beautiful Fifth avenue, to the astonishment of our males and to the gratification of our ladies. But, so far from exercising any influence through fear or by authority, with not the least terror did he ever inspire the lofty and proud people of that magnificent city. If we were born ever to be subjected—that city of a million people—to anything but the Government and laws of the country, we never were born to be overriden and subjected to any Major General Butler. We did not scorn him; we did not even defy him. We looked upon the whole show in front of the Hoffman House in Fifth avenue as we would look on a body of circus riders in some beautiful amphitheater, [laughter,] amusing ourselves with the various performances of his aids as they pranced off for different parts of the city.

Sir, he did render, however, some essential service. In my judgment, and in the judgment of our friends, he increased the Democratic majority from five to ten thousand votes. The Democratic party—if my Democratic friends will forgive my saying so—sometimes contains certain members who are not always orderly on election days. Among the laboring classes the election is a holiday. They are sometimes in the habit of indulging in a generous glass of the cheapest liquor which some neighboring porter-house may administer to their comfort or zeal. On that election day and a few days before we told them that General Butler had come there to create an excitement and disturbance, and we exhorted this Democratic people to allow no glass of liquor to be drunk in the city of New York till after sunset of that day, and if they saw any scolding going on, to take the scolding person aside without any collision or controversy with him. The consequence was that we voted in solemn column, like men marching to a solemn duty, without liquor, without controversy, without any excitement whatsoever; and the peace of that election ran up the Democratic majority toward forty thousand in the Empire city. Sir, that was the only service that he did the country there; the rest was but jest, melodrama, theatrical war.

The honorable gentleman from Massachusetts was pleased to say that since the record of Hastings in India no man had had so wide and so extensive a command as Major General Butler. The honorable gentleman from Massachusetts will permit me to say that I think that was a most unfortunate allusion. The history of Hastings in India is in a good degree the history of Major General Butler at New Orleans and throughout all those regions on the Mississippi. I will not recall that history; but I will recall the fact that years afterward the proudest and the loftiest spirits in the British Parliament, from Burke onward, arraigned Hastings for his conduct in India as I have arraigned Butler here, and as others hereafter will arraign him on the floor of this House, for his conduct in New Orleans and elsewhere. And, sir, the history of Butler will, I venture to predict, be the fate of Hastings: supported by a ministry, though but feebly and partially supported, yet recorded in history as a plunderer and a robber, and bequeathing to pos-

terity a name immortal for that plunder and robbery alone.

Mr. Speaker, I have not had time or leisure, and I have not the opportunity now, to examine in detail the numerous and lengthy documents which the honorable gentleman from Massachusetts has presented. But, if I understand those documents, they disclose these facts: that a certain sum of money—\$50,000, or over—was forcibly extorted, by threats and violence, from a Mr. Smith, a banker in New Orleans, originally of Ballston, Saratoga county, in the State of New York—one of those numerous northern men who, in earlier times, had gone to New Orleans to accumulate fortune, with the intent, when that fortune was accumulated, to go back to the land of their birth and there enjoy their *otium cum dignitate*. No matter what slanders General Butler, for his own purposes, may fix upon these worthy gentlemen from Ballston, there are their relations in the State of New York; there is the home of their fathers; there is the land where they were born, and to which they intended to go. If, under those threats and that extortion, they concealed their gold, they paid but a proper tribute to the rumored character of Major General Butler; and they may be excused for that concealment when they supposed that they were to be plundered of fifty or sixty thousand dollars, the accumulation of a long life of labor.

A court of inquiry was then instituted. Instituted by whom? It was no civil court, but a mere military court, the creation of General Butler, at the head of which was an officer of the Army, and at the end of which were two gentlemen of New Orleans, for the time being subjects of General Butler. They found, first, that this was not Government money; it did not belong to Government; it did not come out of the mint of the United States. They found, second, that that money had not been used for the purpose of aiding the confederate States. When they found that, they had discharged their duty so far as to acquit Mr. Smith of treason, of collusion with the confederates, or of robbing the mint of the United States.

There are other facts in connection with those papers which the honorable gentleman has submitted; and among them is this leading fact, that the Secretary of War would not take the responsibility, by assuming in any degree whatsoever the control of this money. The Secretary of War looked upon it as money illegally and wrongfully seized, and he would not be held responsible for it in any manner, but chose to leave it all in the possession and control of Major General Butler. Neither the War Department nor the Treasury Department would undertake to indemnify him for the great wrong which he had committed. They left upon him and him alone the responsibility for seizing that money, with all the consequences thereof, he to be subject to all the costs and to all the indemnity.

Another fact has come out: though this money was taken in June, 1862, yet, after the long correspondence with Mr. Pierrepont, so remarkable for its courtesy, not even till this day has that money been paid over to the bankers to whom it belongs, Smith & Co. So that for two years and nine months the gold which was taken from Messrs. Smith & Co. in New Orleans, illegally and forcibly taken, has been kept from them, and is now in the forcible possession of Major General Butler. Major General Butler, up to the suit at law in November last, as I disclosed in the affidavit of Mr. Smith read by me; up to that day in last November, notwithstanding this long controversy with Mr. Pierrepont and this long possession of the money, refused to surrender these \$50,000 in gold, and these \$50,000 in gold are now in possession of Major General Butler.

Mr. Speaker, these are the leading facts which the record discloses, and these are the facts which are to go throughout the country. If any statement of mine is in contravention of that record here made, let that correction go forth with that statement, for I intend no misstatement of facts.

But here is this additional great fact, well worth the public attention, and which, though not a legal, is a moral fact, to go before the people of this country: Major General Butler, at the opening of this war, was a criminal lawyer in the manufacturing city of Lowell; with no great renown as a distinguished juriconsult; with no large practice; with no important cases which have appeared

before the high court of Massachusetts or the Supreme Court here; a lawyer of moderate practice, doubtless with moderate means. He went to New Orleans in command of the army of the United States, his brother being with him, neither being known to have had any accumulation of money. That brother died in New York, after living in New Orleans under the military administration of Major General Butler, leaving in his will a fortune, an immense fortune as stated in the public prints. He left that fortune to his brother, Major General Butler. The two brothers accumulated this large fortune, which the records in the surrogate's court of New York disclose, while one was the military commander of the richest military department of this Government. No other major general in the Army of the United States has any such record of any such fortune. Where is the fortune of Lieutenant General Grant? Who ever accused him of plunder and robbery? What trouble has he with outsiders whatever? What complaints are made against him by members of the Opposition party? There is Major General Sherman, who, with humble possessions, is yet content with those possessions. There is Admiral Farragut, who by his navy opened the way to New Orleans so as to permit General Butler to enter it; he has nothing but his salary to live upon; he has no accumulation of fortune. There is General Thomas, a gallant, noble soldier, who has won victories for us; he has no accumulation of money. Yet here is a major general without a victory, who, with his brother, accumulated, while in possession of New Orleans, a very large fortune.

These may not be legal facts nor legal testimony, but purely record evidence bearing upon the substance and principle of the remarks I made the other day.

I might enter into a full examination of the documents which the gentleman from Massachusetts, in this *ex parte* exhibition, has placed before this House. I might ask whether they have been on file in the Department. Whether they have been on file in the Treasury or War Department, and how long they have been there. There has been a dispute already as to the money, we see, and the paymaster to whom it was paid. I might ask what record has been made of the transaction. Really, sir, the only thing known in regard to this \$50,000 in gold is that for two years and nine months loyal people from the North doing business in New Orleans have been deprived of it by Major General Butler. How will the return of this money, this \$50,000 in gold, be any compensation for what they have lost? The control and possession of \$50,000 in gold for two years and nine months, during which time gold has been up to 285, if now returned at 200, would in itself be no inconsiderable fortune. The possession of \$50,000 in gold for these two years and nine months, with the fluctuations that have been constantly going on, is of itself a fortune to the possessor. Sir, if this judgment is rendered in the courts of law, or if General Butler refunds it under the laws of the country in lawful money, worth now about fifty cents on the dollar, that will be legal return, under the judgment of a court, for the money thus taken. The \$50,000 in gold is now worth \$100,000 in legal tender, and was worth \$120,000 not long ago.

Mr. Speaker, I will not renew my epithets or my adjectives. I leave these facts and this record to go forth to the country, and the country will judge between me and Major General Butler, whether I was right or not in the language I used upon the floor of this House. I am not to be deterred from duty by invective, or rhetoric either. The declamations of honorable gentlemen who are excusing these wrongful extortions and prolonged possession of an honest man's gold, have got to be offset by the facts and the record. I listened with satisfaction to the challenge for a committee and an investigation, thrown out, and I take it as an accepted fact that, in consequence of the letter from Major General Butler, demanding an investigation not only into this gold transaction, but into all his proceedings in the department of the Mississippi, and elsewhere, the honorable gentleman from Massachusetts [Mr. BOWWELL] will feel it his duty, ay, must feel it his duty, to institute a select committee for a thorough examination of all these facts; or, if he does not do that, at least will by express resolution trans-

fer the whole subject to the Committee on Commerce, which has the investigation of no inconsiderable portion of this subject already.

I have but little more to say, except to add that controversies of this nature are not to my liking or of my choice. I do not plunge into them. In an excited and warm controversy with the honorable gentleman from Pennsylvania, [Mr. SCOTFIELD,] who was sharply assailing the people I represent, I felt it my duty to vindicate that people from the allegations which he was making, and in the course of those remarks the name of Major General Butler was brought in. I would have been willing that the subject should have dropped. No revenge, as the honorable gentleman from Pennsylvania stated, has prompted me; no spirit or love of revenge. I have no revenge to gratify against Major General Butler.

Mr. STEVENS. The gentleman will see that there is a misprint in the Globe. The word "no" is inserted, and should have been left out, as the rest of the context will show.

Mr. BROOKS. I will assure the honorable gentleman from Pennsylvania that I never act upon this floor under the promptings of a spirit of revenge. If Major General Butler had not, in a seemingly threatening letter, addressed me as he did, I would have answered him through a member of this House, or through any other gentleman except the military gentleman sent to me from his personal staff. I never have acted in a spirit of revenge, and I never intend thus to act as a member of this House. I act in the spirit of public duty.

Honorable gentlemen on the other side, especially when the honorable gentleman from Pennsylvania lashes them as he did yesterday, require more than ordinary courage to expose facts in connection with the Administration, or even with the subordinates of the Administration, and hence the duty was devolved upon me, in this case, to present certain facts in the history of General Butler, and to bring those facts before the House and before the country. No revenge, no desire or love of revenge, prompted me. What I did was done simply in the discharge of a high public duty. If on an investigation General Butler can vindicate his character in the administration of the departments of the Mississippi and North Carolina and Norfolk, I will have given him an opportunity to redeem his character, which is not pure, before the people of the country. His character is not good in the estimation of the world. The names of Butler and of Haynau are associated together in all European languages, and are one and indivisible. And if I shall have given General Butler an opportunity to vindicate his name and fame before mankind, I have rendered him an especial service, and he ought therefore to thank me.

Mr. Speaker, I appealed from the decision of the Chair yesterday under an apprehension that I was not to be permitted to go on with the remarks that I was making, and was to be cut short in those remarks. I now withdraw that appeal. I was loth to make it, and as the House has given me an opportunity of saying what I had to say, I have no further necessity to prosecute that appeal.

Mr. STEVENS. Mr. Speaker—  
The SPEAKER. The gentleman from New York withdraws the appeal, and there is no question before the House.

Mr. STEVENS. I shall have to renew the appeal. [Laughter.]

Mr. Speaker, when the gentleman from New York [Mr. Brooks] arose, I had hoped that he would do one of two things, either admit his error yesterday or speak to the subject which had been discussed and upon which evidence had been taken. Had he done that I might possibly have supposed that what he did yesterday was not prompted, as he said himself, by this letter which he had read here, or, as I say, by revenge, or I might possibly have believed—I will not say I do—that it was done from patriotic motives. [Laughter.] Then I should have had nothing more to say. But instead of addressing himself to the question before the House and to the evidence, he has spoken of everything else and scarcely touched that. The proportion of his remarks which referred to the subject, compared with the balance, was about like the quantity of bread to the quantity of sack in Falstaff's bill. [Laughter.]

The gentleman began by complaining of the conduct of the gentleman from Pennsylvania and the gentleman from Massachusetts in making remarks personal to himself. One who upon this floor had used every epithet of slander which the most foul tongue could utter against a man who was absent in the service of the country; a gentleman who had talked about "gold robber" and "cotton speculator," and of "contraband dealings with the enemies of the country," and had charged all that upon a gentleman who holds the commission and wears the epaulets of his Government; that gentleman has complained that my language was foul, and talked about its being learned in Billingsgate and Cripple-gate and New-gate. Sir, with all the gates that the gentleman has gone through and that he refers to, there is one gate which the gentleman will enter which I shall strive to avoid. [Great laughter.]

Mr. Speaker, for a gentleman who could hunt through the purlieus of bawdy-houses and seduction, who could take the testimony of prostitutes and the inmates of these vile houses, and who, after the committee associated with him unanimously, he being the only exception, refused to let that evidence see the light, could put that filthy stuff, which ought never to be seen outside of such places, surreptitiously, without the order of this House, as an appendix to a minority report and send it broadcast over the country, to talk to any man about Billingsgate and Cripple-gate! And yet that is the condition of the gentleman from New York. I hope you have none of you read this stuff. [Laughter.] I advise all of you never to read it. I have read but a little passage of it. It stinks in the nostrils.

But, sir, having said thus much, I perhaps ought to say that possibly I owe an apology to gentlemen upon this side of the House, because when they had, after full notice of what was to come, opened the floodgates of Billingsgate to flood this House and the country, in the heat of debate and of my feelings I may have used intemperate language. I did feel mortified and grieved, but my feelings are very much mollified by the evidence which has this day so amply vindicated the high character of Major General Butler, so far as it was brought in issue before this morning. I admit that that evidence has done great justice and great favor to Major General Butler, for, sir, there is not a candid man, there is not an honest man in this House who will dare to say that that evidence is not a complete and perfect vindication of Major General Butler from all the charges made against him by the gentleman from New York; it not only vindicates him, but shows him to have, in all his acts and in all his correspondence, acted, not only like an honest man and faithful officer, but like a gentleman and a well-educated man. The whole of the correspondence would do credit not only to his heart but to his great ability and his scholarship and his professional learning. And I will say here that, so far as professional learning goes, I was long ago struck with his correspondence with the gentleman who was sent down there by the Government, Mr. Reverdy Johnson. General Butler showed more ability, more knowledge of the law of nations, and was more correct in his positions than that gentleman; and if General Butler's doctrine had prevailed, \$800,000 in gold, which was seized by him, would have been kept from supplying the rebel armies, to which it was applied, when turned over, under the advice of the eminent counsel to whom I refer.

Is there a word in that correspondence which goes to show that General Butler ever designed to appropriate to himself a dollar of the money of those rebel Smiths?—for they are proved to be rebels, and there is nothing to the contrary but the remark of the gentleman from New York, which, I beg leave to say, is not now evidence in a court of justice. [Laughter.] Is there one single act of his that does not show that he seized it in his official capacity, and had ground for seizing it? He found these rebels there, who had been the agents, the riders and abettors, of rebels, and when he questioned them about gold, they denied that they had a particle of it; and it was finally found walled up in their place of business so as to keep it concealed from the Government of the Union. Was not that, in itself, sufficient evidence against these men?

Contrary to the charge of the gentleman from New York, General Butler immediately reported

the matter to the Government. He communicated it first to the Secretary of the Treasury, and then to his superior officer, the Secretary of War; and he was directed, instead of paying it over, to hold it till the matter should be decided. How is this making profit out of it, as the gentleman from New York now charges, for I think he gives up the principal and only sticks now to the interest? [Laughter.] Where has the money been? Why, some of the communications that have been read show that it is deposited in the sub-Treasury of the United States, on which General Butler offered, at any moment the Department would allow him, to give a draft that would be honored.

Now, sir, is it the character and conduct of an honest man, not of a high-minded, honorable man, but of a man of common honesty, after all this, still to persevere before the country in the charge that General Butler is guilty of dishonesty? No, sir. The gentleman from New York but faintly refers to that, and goes off about other matters, about which nothing was said yesterday and nothing has been said to-day except what he said himself. And he brings in the dead corpse of General Butler's deceased brother, to malign him, without stating a fact that anybody would believe who had heard him before. Now, the fact is that that brother had been in California, had been operating in many places before he went to New Orleans, and his fortune, instead of being the \$2,000,000 that was talked about, dwindled down to less than \$200,000, as I am told. This, to be sure, is going out of the record to answer extra testimony; and I merely mention it so that the gentleman's statement might not go alone upon the record.

The gentleman says that General Butler has done no service to his country. Service to his country! If it is true that he helped to kill the Democratic party, he did a great deal of service to the country. [Laughter.] I do not know that fact. That took place before secession, and is, therefore, a little further back than I choose to go. But if he was wrong then, the gentleman from New York has been going wrong ever since and getting worse all the time, while General Butler has been getting better and better, and is now an excellent man. I wish to God they would all reform in the same way. [Laughter.] Did he not come on in the midst of peril and seize Baltimore, which others had failed to do? Did he not go to New Orleans and seize it, and administer its affairs better, and to the greater satisfaction of every loyal man, than has been done since, although I do not draw comparisons? Talk about that being a parallel with the administration of Warren Hastings! All that I have to say is this: Warren Hastings was made immortal by the talents of the counsel who prosecuted him. He was acquitted, as the public will acquit General Butler. The only difference is that there has been no pure and upright and manly eloquence in this prosecution, to immortalize General Butler, as in the case of Warren Hastings.

Mr. Speaker, the gentleman refers to the gentleman from Massachusetts, [Mr. Boutwell,] whom I do not intend to defend. He also talks about John Brown. The gentleman well knows that that class of people to whom he referred were very few in the United States. None of the Republican party belonged to that class. But, sir, I will state the difference between John Brown and the gentleman from New York. While I have not a word to say in extenuation of the conduct of John Brown, nor anything to say against his sentence, yet, sir, there are times in the history of men when there are such great evils that the motives of some men who attempt, although in an irregular manner, to eradicate those evils, will overshadow all the irregularities in the eye of posterity, although we here at the moment cannot forget or forgive them. There are times, sir, when posterity will look beyond the immediate step to see where a man proposed to land, what were his intentions and his motives, and they will judge according to the ulterior design. Now, sir, the motive of John Brown—honest, upright, but mistaken in his means—no man who loves freedom can help applauding, although none of us would justify the means. But upon the principle which I have mentioned, when the gentleman from New York and myself will be moldering in the dust and forgotten, or only unpleasantly remembered, the memory of John Brown, I will venture to predict, will grow brighter and brighter

through coming ages; and the State of Virginia itself, by its own freemen and its own freedmen, will, within the lives of some now present, raise a monument to his memory upon the very place where his gallows stood.

Mr. Speaker, this is also traveling a little out of the record. But, sir, the gentleman says that he has dealt leniently with Major General Butler because he is a fallen man. Leniently! Why, in view of such "leniency," I should like to ask Beelzebub what he considers to be mercy. [Laughter.] Sir, the gentleman need not flatter himself that General Butler is a fallen man, or requires the sympathy of any one. His patriotism, his talents, his acquirements will hold him aloft amid the attacks of all his enemies. He has rendered services and shown a patriotic intention which will make him beloved throughout all this country. A single reverse may sometimes be endured and deplored; but that is not to destroy a man, for all men are liable to such reverses. Sir, I venture to declare this day, notwithstanding the recent defeat of General Butler, that if the question could be put to the loyal people of these United States whom they would select for their next President, a majority of them would vote for General Butler.

Now, sir, I do not wish to proceed much further, and perhaps I ought not to have proceeded thus far. But, sir, it seems to me a little strange that such men as the gentleman from Massachusetts should be rebuked by one who, after having slandered, scandalously slandered, one of the great men of the nation, after having uttered language fouler than ever issued from the mouth of the veriest drab that ever wallowed in Billingsgate, must, at the sight of a man in the United States uniform, run to this House, lay hold of the horns of the altar, and beg its protection. [Laughter.]

I have said all that I desire to say, and I withdraw the appeal.

Mr. INGERSOLL. Mr. Speaker, I renew the appeal. I desire to detain the House only a very few minutes. The gentleman from Pennsylvania, [Mr. STEVENS,] whom I have long admired for his talents, and esteemed for his patriotism, saw proper yesterday to impugn perhaps my motives, as well as those of the gentlemen who voted with me, because I moved to suspend the rules to allow the gentleman from New York [Mr. Brooks] to proceed; and the honorable gentleman from Pennsylvania took occasion to say that he regretted that the yeas and nays had not been called, in order that we might appear before the country as sustaining such a motion, and that the finger of scorn might be pointed at us. I, too, sir, regret that the yeas and nays were not called upon the motion. Whatever I am willing to do by my unrecorded vote, I am ready to place upon the record.

My motives in moving a suspension of the rules were, as I conceive, entirely praiseworthy. The gentleman from New York had grossly assailed, if the charges were untrue, a major general of the Army and an eminent citizen of this country. The gentleman who had been assailed desired to be vindicated. The very evidence that has been presented to the House shows that the gates had been closed against him. In one of his letters he asks Mr. Pierpont, in substance, "What more can I do? I am assailed upon this question from all points; and how can I answer the accusations that are made? I have asked the Secretary of War to print my letter, but that request is denied me. What more can I do?" Sir, by my motion, I desired to open the gate that had debarred General Butler from his own vindication. I wished to permit either the gentleman from New York to sustain the charges, or the friends of General Butler to vindicate his character, so that, if the truth were in favor of General Butler, he might come out of this ordeal brighter and purer, and the gentleman from New York stand convicted as a slanderer and maligner. Those were my motives, and undoubtedly those were the motives of the gentlemen who sustained the motion.

Mr. Speaker, I have been an admirer of General Butler. I am an admirer of him to-day; and I am proud as any man upon this floor that he has been so successfully and triumphantly vindicated. I know that his vindication will be read by the country much to his credit and honor. I have admired what he has done at New Orleans, and what he has done elsewhere. I have



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admired him for what he has done for the country. I do not admire him for what he did at the Charleston convention.

I will state here, Mr. Speaker, that if any gentleman upon this floor sees proper to assail General Butler for his failure to capture Fort Fisher I will move the requisite resolution, in order to have a free fight; and I am willing to guaranty that Major General Butler will come out as triumphantly in that matter as he has done in this. I grant that the communication addressed by Major General Butler to the gentleman from New York [Mr. Brooks] smelt of blood.

A MEMBER. No, gunpowder.

Mr. INGERSOLL. Gunpowder, and perhaps no blood. I should construe that communication into the foundation at least of a challenge. I have great confidence in the personal bravery and courage of Major General Butler. His character had been grossly assailed by the gentleman from New York, and he wanted to hold him to account. So I understood it.

Mr. GOOCH. I should like to make a statement to the House, to come in at this place.

Mr. INGERSOLL. I yield to the gentleman for that purpose.

Mr. GOOCH. Mr. Speaker, the gentleman from New York asserted to-day, if I recollect correctly, that Major General Butler was a man without fortune; that he was a lawyer in the interior of Massachusetts with a very moderate practice. If I have not quoted him correctly he can put me right. He does not correct me, and I presume therefore that my statement is correct.

Mr. BROOKS. I do not hear what the gentleman says.

Mr. GOOCH. I understood the gentleman from New York to say that when Major General Butler went into the Army he was a lawyer in the interior of Massachusetts with moderate practice and without fortune.

Mr. BROOKS. I said without large fortune, without much fortune. I qualified it with some adjective. I did not say that he was a poor man.

Mr. GOOCH. I think the gentleman said that he was a lawyer in the interior of Massachusetts, and of moderate practice. Now, General Butler was a man not of great fortune, like the millionaires of New York, to whom the gentleman has referred in this House, but he was a man of what would be considered in Massachusetts a liberal fortune. He was a lawyer in that State, of high standing and eminence, and had been for years.

Mr. ELDRIDGE. Let me ask the gentleman a question.

Mr. GOOCH. Wait till I get through.

Mr. WASHBURNE, of Illinois. Let us hear the question now.

Mr. ELDRIDGE. How much was General Butler worth before he went into the Army?

Mr. GOOCH. General Butler was a lawyer of high standing and extensive practice not only in Lowell but in Boston and throughout the State of Massachusetts. He had an office in Boston as well as in Lowell, where he resided, within twenty-five miles of Boston. He had one of the largest incomes from his practice of any lawyer in Massachusetts. Yet, sir, he sacrificed cheerfully the lucrative emoluments of his profession and early went into the military service to fight for his country.

Mr. COX. With the permission of my friend from Illinois I will make a remark. He has stated to the House that he was an admirer of General Butler, and especially of his military qualities. I have never criticised the military capacity of any general in this House, but from what has occurred here I think there has been an attack on General Grant for having removed General Butler, as well as upon the President of the United States. I want the gentleman from Illinois to call for his inquiry, to know whether that favorite of Illinois, that favorite of the Army, is to be maligned indirectly in this House. [Laughter.]

Mr. INGERSOLL. I am very happy to know that the gentleman from Ohio, and I hope other gentlemen belonging to the same party, have at

last come to the conclusion that General Grant is a great general, worthy of admiration, and that they are ready to defend him even upon the suspicion that he is assaulted.

Mr. COX. Will my friend join me in defending him against attacks, open and secret, of Major General Butler himself?

Mr. INGERSOLL. I will be in favor of defending and vindicating him, and of giving him an opportunity of vindicating himself, whenever, wherever, and by whomsoever he is assaulted.

Mr. COX. Now I ask my friend from Illinois what General Butler meant in that letter when he said he was removed from office because he would not sacrifice his troops as other generals did?

Mr. STEVENS. He did not say that.

Mr. COX. Needless sacrifice them.

Mr. STEVENS. He never said any such thing.

Mr. COX. It is in his letter.

Mr. BALDWIN, of Massachusetts. I rise to a question of order. I desire to know whether all this discussion is not out of order, and whether there is anything before the House which makes it in order.

The SPEAKER. The Chair very much doubts whether it bears upon the question of appeal. The Chair decided yesterday that the debate must be confined to the appeal; but the House took the matter out of his hands by suspending the rules, and the only question is whether that is extended and applied to this debate.

Mr. COX. I am upon the floor, and hold it by the courtesy of the gentleman from Illinois.

Mr. BALDWIN, of Massachusetts. That applied to the appeal taken yesterday, but this is a new appeal.

The SPEAKER. That is true; but the Chair will, upon this appeal, till withdrawn, allow the same latitude that has been allowed upon the previous appeals, from the fact that no appeal can be taken now while there is one appeal pending, and latitude of debate has been allowed thus far without objection.

Mr. COX. I presume my friend from Illinois will allow me a little latitude and longitude. The gentleman from Pennsylvania has denied that such a statement was made by General Butler. I read from his letter dated "Headquarters of the Department of Virginia and North Carolina, Army of the James, January 8, 1865," sent with the compliments of Major General Butler to all the Congressmen:

"Soldiers of the army of the Potomac!"

Mr. INGERSOLL. Will the gentleman allow me to resume the floor?

Mr. COX. One paragraph, and then I will sit down.

Mr. INGERSOLL. A short one, I hope.

Mr. COX. I would not have all that order read here for the world. It would startle the galleries. [Laughter.]

Mr. SCHENCK. The gentleman so seldom asks the indulgence of the House that I hope he will be allowed to go on. [Laughter.]

Mr. COX. My colleague craved that indulgence all day yesterday, and he ought to be the last one to say anything about it. "I have refused," says General Butler, "to order the useless sacrifice of the lives of such soldiers, and I am relieved from command." Why, what does that mean?

Mr. STEVENS. I do not know. [Laughter.]

Mr. COX. Is it possible the distinguished gentleman from Pennsylvania comes here and professes his ignorance of Major General Butler's own rhetoric, after paying him such a handsome compliment as he paid him to-day? Why, the gentleman has even nominated him for the next President.

Mr. STEVENS. I suppose it means that he was relieved from the command. [Renewed laughter.]

Mr. COX. The gentleman from Pennsylvania is not relieved, however, from his condition. Now I want, since my friend from Illinois, in coming here for the purpose of defending General Butler, has indirectly attacked my friend General Grant—

Mr. INGERSOLL. The gentleman will not assume that I desire to attack General Grant, or that I have done so by any innuendoes.

Mr. COX. The gentleman says he did not intend to attack General Grant; but I notice that the attacks made in this House without intention are so frequent and so dangerous that they ought to be stopped. [Laughter.] I never knew a violent attack made here, in reference to which members, attention being called to it, have not got up immediately and disclaimed any intention of making an attack.

Mr. INGERSOLL. If the gentleman from Ohio has no further questions, I must resume the floor.

Mr. COX. Only one more. I want to explain to this House precisely what General Butler means by not ordering a useless sacrifice of life. I ask if it is not a direct stab at General Grant and the army of the Potomac that honors him?

Mr. INGERSOLL. As I understand it, it simply means, in the first place, that he did not assault Fort Fisher, and in the second place, that he had been suspended and was going home. [Great laughter.]

Mr. COX. I acknowledge that my friend's explanation is entirely satisfactory. [Laughter.]

Mr. INGERSOLL. I was about to remark further, when I was interrupted, that I moved the suspension of the rules for another purpose, and that was that I desired that no personal encounter should ensue between Major General Butler and the Representative from New York, for the reason that I desired to save to the country a great general and to the Congress of the United States a great legislator. [Laughter.] I now withdraw the appeal.

## NIAGARA SHIP CANAL.

Mr. WASHBURNE, of Illinois. I now demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill in relation to a ship canal around the falls of Niagara.

Mr. SPALDING obtained the floor.

Mr. LITTLEJOHN. I ask the gentleman from Ohio to yield to me to offer the substitute for the bill of which I gave notice, and which has been printed.

Mr. SPALDING. I yield for that purpose.

Mr. LITTLEJOHN. I offer the substitute.

Mr. ARNOLD. I ask the gentleman to allow me to offer an amendment to the substitute, and to ask that it be printed.

Mr. SPALDING. I yield for that purpose. The amendment was received, and ordered to be printed.

## WASHINGTON AQUEDUCT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a supplementary report of the chief engineer of the Washington aqueduct; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. COLE, of California. I desire to enter a motion to reconsider the vote by which the bill reported by me this morning from the Committee on the Post Office and Post Roads was recomitted.

The motion was entered.

And then, on motion of Mr. LITTLEJOHN, (at seven minutes to four o'clock, p. m.) the House adjourned.

## IN SENATE.

WEDNESDAY, January 25, 1865.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the memorial of Dr. Rudolph Wiczorek, asking that the public lands shall henceforth not be sold, not conveyed to any person or persons, nor given as an equivalent for services rendered to the United States; that no one in this Republic shall possess land exceeding the amount of six hundred and forty acres; that every citizen, or person who has

declared his intention of becoming such, shall be entitled to one hundred and sixty acres of the public domain gratis, and free from all taxes and fees whatever; that any person owning more than one hundred and sixty acres of land in this Republic shall pay on the surplus an annual tax of not less than one per cent.; that any person owning more than six hundred and forty acres of land in this Republic shall give up the remainder to the people, and shall be entitled to a refunding of the original cost, added to a reasonable remuneration for the improvements thereon; which was referred to the Committee on Public Lands.

Mr. TRUMBULL presented the petition of chaplains in the United States Navy, praying for an increase of compensation; which was referred to the Committee on Naval Affairs.

Mr. WILLEY presented the petition of the heirs of Major Andrew Russell, praying compensation for services rendered by him in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. WILSON presented four petitions of officers in the military service of the United States, praying for an increase of the pay of Army officers; which were referred to the Committee on Military Affairs and the Militia.

Mr. HENDERSON presented resolutions of a meeting of receivers and shippers of American leaf tobacco at Baltimore, Maryland, remonstrating against the proposed tax on leaf tobacco; which were referred to the Committee on Finance.

He also presented a memorial of the manufacturers and dealers of tobacco in the city of St. Louis, remonstrating against the proposed tax on leaf tobacco; which was referred to the Committee on Finance.

Mr. POMEROY presented the memorial of Abelard Guthrie, praying to be allowed mileage and per diem as Delegate from Nebraska to the Thirty-Second Congress; which was referred to the Committee on Claims.

Mr. CHANDLER presented a petition of citizens of the State of Michigan praying for a grant of lands to aid in the construction of a railroad from Lac La Belle to the Cliff mine, Keweenaw county, thence to some point on the Montreal river and the western boundary of the upper peninsula of the State of Michigan; which was referred to the Committee on Public Lands.

Mr. JOHNSON presented the petition of the local board of steamboat inspectors of Baltimore, praying for an increase of salary; which was referred to the Committee on Finance.

He also presented resolutions of a meeting of receivers and shippers of American leaf tobacco at Baltimore, remonstrating against the proposed tax on leaf tobacco; which were referred to the Committee on Finance.

Mr. COWAN. I beg leave to present the petition of a large number of citizens of Pennsylvania, praying that the preamble to the Constitution of the United States may be amended so as to read in substance as follows: "We, the people of the United States, humbly acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the Ruler among the nations, and His revealed will as of supreme authority, in order to constitute a Christian Government, and in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the inalienable rights and blessings of life, liberty, and the pursuit of happiness to ourselves, our posterity, and all the inhabitants of the land, do ordain and establish this Constitution for the United States of America;" and also that such changes be introduced into the body of the Constitution as may be necessary to give effect to these amendments in the preamble. I ask that the memorial be referred to the Committee on the Judiciary.

Mr. HALE. I think the memorial just presented by the honorable Senator from Pennsylvania ought to be referred to the select committee to which various memorials in regard to the amendment of the Constitution have been referred, instead of to the Judiciary Committee; I do not think it relates peculiarly to that committee; I think it ought to go to the select committee, and I make that motion.

Mr. COWAN. What select committee?

Mr. HALE. The one of which the Senator from Massachusetts [Mr. SUMNER] is chairman.

Several SENATORS. The committee on freedmen.

Mr. HALE. Yes; the select committee on freedmen.

Mr. COWAN. I have no objection. I only desire that it shall have careful consideration at the hands of some committee.

The VICE PRESIDENT. The memorial will be referred to the select committee indicated, if there be no objection. The Chair hears none.

#### REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the memorial of Robert B. Riell, lieutenant United States Navy, praying that he may be allowed his proper promotion in the grade of commanders, which has been denied him in consequence of the report of a medical board, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of William A. Hammond, late Surgeon General of the United States Army, praying that inquiry may be made into all the circumstances connected with his recent trial and dismissal, and that the Senate will suspend action in the matter of confirming his successor in office until such inquiry shall have been made, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 664) for changing the time for holding the circuit courts in the district of Virginia, reported it without amendment.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the bill (H. R. No. 530) for the relief of George Calvert, reported adversely thereon.

#### BANKRUPT BILL.

Mr. FOSTER. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 424) to establish a uniform system of bankruptcy throughout the United States, have instructed me to report it back with an amendment. This amendment is by way of substitute for the original bill. It proposes to strike out all after the enacting clause and insert a substitute in lieu thereof. I ought perhaps to remark that this amendment is by no means a radical change of the original bill. The committee made divers modifications in the original bill, and thought it would be better to report a substitute so that the bills could be printed side by side, instead of having the amendments printed in the text of the original bill.

The same committee, to whom were referred memorials from divers citizens of Illinois, from the Board of Trade of Philadelphia, from the Board of Trade of Boston, and from merchants of the city of Boston, on the subject of a bankrupt law, have instructed me to report them back and ask that the committee be discharged from their further consideration.

Mr. HALE. I wish to say a word, as I am a member of the committee that has reported this bill. The committee had great difficulty in agreeing to its details. They were not all such as I could assent to; but I said to the committee that I was willing to vote with a majority to report the bill in order that the subject might be presented to the Senate, reserving to myself the right (without deceiving anybody, either the committee or the Senate), if I could not secure some material alterations in it, of voting against it although I consented to have it reported.

The VICE PRESIDENT. The bill will go upon the Calendar, and the committee will be discharged from the consideration of the memorials.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed the following bill and joint resolutions:

A resolution (S. R. No. 98) to present the thanks of Congress to Brevet Major General Alfred H. Terry and the officers and men under his command;

A resolution (S. R. No. 99) tendering the thanks of Congress to Rear Admiral David D. Porter and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the recent capture of Fort Fisher; and

A bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

#### BILLS INTRODUCED.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia; which was read twice by its title, and referred to the Committee on Commerce.

#### SURVEYS OF LAKE HARBORS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of compiling and publishing, from the reports on file in the Engineer Bureau of the War Department, a series of charts and surveys of the ports and harbors of the great lakes; said compilation to be made after the manner of the coast survey reports.

#### TAXES ON TONNAGE.

Mr. FARWELL. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Finance consider the expediency of relieving the tonnage of the country from all taxes and dues collected under the Internal Revenue act, and also consider the expediency of a reduction of the dues on chain anchors and canvas.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. FARWELL. I wish briefly to call the attention of the Senate, and of the Finance Committee particularly, to the subject of this resolution. There are some articles which will not bear taxation. That principle has been admitted and has been acted upon by the Committee on Finance and by the legislation of Congress. It was stated as one reason why the reciprocity treaty should be rescinded, that it prevented the taxation of some leading articles in the country. Why does it prevent the taxation of leading articles? Simply because no adequate protection can be given to them by taxation of foreign articles which come in competition. Now, sir, the tonnage of the country comes particularly under this denomination. The tonnage of the country cannot receive any protection by legislation. It is obliged to compete not only with the tonnage of the British provinces, but it must compete in open market with the tonnage of the world. The only measure of protection that has ever been attempted in this country is to exclude from the coasting trade foreign tonnage.

I submit that this is not the least measure of protection unless it is the intention of the Legislature to reduce the tonnage of the country to that point which merely leaves enough to do the domestic carrying trade. Whenever the coasting trade pays better than the foreign tonnage, of course all foreign tonnage goes into the coasting trade; all our tonnage employed in the foreign trade goes into the coasting trade until the equilibrium is established.

I do not ask for the repeal of the taxes upon the tonnage of the country for the purpose of relieving a class of citizens. There is no class of citizens in this country, or any other, so completely independent of the legislation of the country, so far as their property is concerned, as the owners of tonnage. It is a property appreciated everywhere. Every market in the world is open to it; and in every maritime country except this the greatest facilities are offered for the nationalization of tonnage. You can make an English ship of an American bottom almost anywhere in the world; in Nassau, in Halifax, in Australia, or in Liverpool. The English law grants the authority to their consuls to give a national character to a foreign ship, and she may be sailed under the English flag merely with a consular certificate. The English Government, who have always fought, desired, and resolved to be all-powerful upon the sea, have invariably exempted her tonnage from all taxation. To be sure, the light dues have been paid by her tonnage in part, but they have been so assessed that they made no interference with an open and fair competition. All vessels going to England from foreign ports

of whatever nationality pay the light dues for the support of the lights upon her coast. We have for years, while supporting our system of lights and buoys along our coast and giving the use and benefits of them free to England, been contributing largely to pay the expenses of her system of lights, which is managed by a corporation.

This I have always regarded as bad policy, and I think the Government should put upon tonnage arriving from foreign ports, both foreign and domestic, (as we must if we put it upon the foreign,) a tonnage duty. I think it would not be injurious to the tonnage of the country to place a tax upon it that should even yield as much revenue to the Government as is now collected from it, if it can be levied directly from the tonnage arriving in the United States from foreign ports, for that would leave us even competitors in the trade. If we pay it, foreigners pay it at the same time. I suggest, too, that this would be collected with very little or no expense or trouble, being paid at the custom-house upon the entry of the ship, instead of having the assessors all over the country assessing it in half a dozen different ways, as it is now assessed, and a great deal of it never collected in any way.

Sir, we have imposed a tax of two dollars a gallon upon whisky. Suppose we had done that and placed no tax on the imported article, what would have been the result? Simply that we should get no tax, that we should make no whisky, that the foreign article would supply the whole demand, and the men who have invested their property in real estate and machinery for the purpose of distilling would be ruined. The same principle will hold in regard to the tonnage of the country. If we tax the tonnage of the country, and it has got to compete with the untaxed tonnage of other countries, the result will be that our tonnage will go, as it is fast going, into the hands of foreigners, where it is not taxed. But the same result will not come to the owner of the tonnage that would come to the owner of the distillery. Why, sir, he can take it anywhere and sell it; he can whitewash it, as the phrase is, and, as a great deal of our tonnage is being done now, put it under foreign flags, and own it and pay no taxes at all upon it, depriving the Government of all the benefits and getting rid of all the burdens.

There are gentlemen, and many gentlemen, concerned in this species of property who will never do this, who will not own property covered by the British or any other flag except it is the flag of our own country; and I trust the legislation of Congress will be such that these men shall not be driven entirely from this class of property. It is a favorite class of property. It is a kind of property which gentlemen who have been engaged in owning dislike to abandon. There is a sort of lottery about it: sometimes it pays finely, makes magnificent returns, and again it is a blank, it is a failure. It is a favorite property in this country.

But, sir, within the last three years, I think, for we have no data brought up to a recent time; but I think when a data is brought up I shall be found to be correct that one half of all the sea-going tonnage of this country has gone from under our flag. This has not been entirely owing to the legislation of Congress. English pirates have been out preying upon our commerce. This has seemed to create a great hardship, and no doubt it has been to the people owning this sort of property; but upon the whole I am not sure that it has not been fortunate for the country that England has allowed these pirates to go out and prey upon our commerce. I saw it stated but a short time since that the Admiralty of England were compelled to haul up, dismantle, and lay up one of her largest-class frigates requiring something like a thousand men, because they could not ship the men to man her; and to-day England has more men in her commercial marine than any other country in the world. How have we got the fifty thousand sailors that have been enlisted in our Navy within the last three or four years? It is stated by the Secretary of the Navy that sixty-four thousand have been enlisted. It is because the English pirates have driven our flag from the sea, have driven our seamen from the ocean, and consequently they have gone into the Navy of the United States. So it will be with the English when there shall be a war between England and a great naval Power whose cruisers

shall drive her ships to sanctuary; then, instead of laying up a vessel for want of men, she can man a thousand such vessels with her seamen.

It has been the policy of all enlightened statesmen to try to increase the commercial marine of their country. We have a navy of seven hundred vessels, a navy regarded, I think, as the most efficient for offense and defense of any navy that has ever been wielded or controlled by one Power; but what would the use of that navy be to Spain or to Austria? Undoubtedly Spain or Austria could build a navy in three or four years as strong as ours is; but without the sailors to man it, which they have not, and cannot procure, it would be as harmless for offense and defense and of as little use to them as the spear of Goliath in the hands of General Tom Thumb. If we expect to maintain our supremacy as a naval Power, which I trust we do, and I trust we shall, we must foster, we must encourage, we must build up, the commercial marine of the country. When Napoleon found that he was unable or would be unable to maintain his colonial possessions upon this continent against the naval power of Great Britain, he tendered them to this country, remarking to his minister that he would have them go to a Power which was so situated as to be the rival of Great Britain upon the sea, a Power that would be able ultimately to dispute, and successfully dispute, the control of the seas with Great Britain; and I trust that we shall not disappoint the expectations of that great statesman in this respect.

Outside of our domestic affairs no statesman has ever had any apprehension of a conflict upon this continent that would be any way troublesome to us upon the land. We have always regarded the conflicts which this country is liable to be engaged in as being strictly conflicts upon the ocean. We have upon one border the Canadas, provinces of England, and upon the other border the ward of France—the two great maritime Powers of Europe. We are more likely to be involved in contests with them than with any other Power. Therefore that contest, if it ever comes between either of those Powers and us, will be entirely upon the ocean; and it behooves us to husband our strength, to encourage the education of seamen, to encourage the employment of American seamen, in order that we may be prepared when the time shall come to enter into these contests—as probably they will come—with the prospect of a happy and successful termination.

I doubt very much if members upon this floor have any idea of the taxes that have been laid upon this species of property, which I contend, and which almost every Senator on this floor has contended, ought not to be taxed at all. The great lumber interests of our country were not taxed at all in the internal revenue tax, because the lumber of the British provinces could come in to compete with it, and we had no authority under the reciprocity treaty to lay any impost tax upon that production. In the first place, there is a tax of twenty dollars per ton upon the iron that goes into the construction of a ship. To build a ship of a thousand tons will take eighty tons of iron. There is a tax of \$1,600 on the iron. The duck is taxed thirty cents a square yard, and twenty per cent. upon that; and that is \$2,600 of a tax on the duck necessary to put on a ship of a thousand tons. Chains paying two and a half cents per ton and anchors two cents, it will take \$2,000 to pay the duties on the chains and anchors necessary for such a ship. The tax of sixty dollars per ton on the rigging will take another thousand dollars, making more than seven thousand dollars in gold that is paid upon the leading articles that go into the construction of a ship; whereas in France and England, nothing that goes into the construction of a ship is taxed; every thing goes in free.

In England a ship may even go to the bonded warehouse and take out goods in bond which are subject to duty for consumption on board a ship. All our ships every time they fit out at home must take the goods and pay the regular duties for consumption. Then there is a tax of three per cent. upon the cost of constructing the ship, and at the same time an income tax must be paid upon all the earnings of the ship. Then there is a special tonnage tax of ten cents per ton upon all vessels arriving from foreign ports, which there is no complaint of, and also upon coasting vessels. If they make one voyage to the British provinces or to

the West Indies, the tax is doubled upon them for the year; whereas a British vessel, running from the provinces to our ports constantly through the year, pays the ten cents but once. For a charter-party, the tax is from one to ten dollars, according to the amount involved in the contract. On every manifest of cargo there is a tax of from one to five dollars. The sale of vessels is taxed fifty cents on every thousand.

Then there is an additional tax which it is believed generally was not contemplated to be imposed on these vessels. It is a tax laid upon steamboats and common carriers; but the language is so construed by the Department as to be applicable to all coasting vessels; and that is two and a half per cent. upon the gross earnings of the vessel. If the cost of sailing the vessel, the cost of keeping her in repair, port charges, and other necessary expenses, shall have consumed every cent of the gross earnings, as is very frequently the case, then the owners must be assessed upon their other property or other incomes; they must pay this two and a half per cent.—an extremely hard tax to pay. Most of the coasting vessels are sailed on shares, the captain taking one half for his wages and the wages of his crew. All the other expenses of keeping the vessel in repair and the port charges are to be paid by the owners, and then they are to pay two and a half per cent. upon the gross earnings of the vessel as a tax to the Government, which in many cases is more than all the net earnings, and in the average is taking more than a tenth of all the net earnings of the vessel under this one single tax.

Under this state of facts, is it wonderful that our flag is disappearing from the ocean, as disappearing it is, and disappear it will, unless this system of taxation is changed? But if our tonnage can be relieved from these taxes, if tonnage dues can be collected at the custom-house every time a vessel arrives from a foreign port, whether foreign or domestic, then if the receipts shall be enough to give the Government as much revenue as they get now, I hold that it will not be particularly onerous against the tonnage of this country. Why, sir, more than three fourths of all the tonnage employed in our foreign trade duty is foreign. They go into New York or Boston, take their cargoes, go out, and pay no duties, no expense, no tax; whereas an American ship, which is to run the same voyage side by side, is taxed in every direction. Give us even competition; it is all that is asked. Why, sir, the tonnage of this country ran up from 1815, when it was almost nothing, to 1861, to be the second if not the largest in the world, all this time competing against the cheap money of Europe. But it was owing to the superior enterprise, the superior intelligence, of American shipmasters and seamen, who upon an average made their voyages to and from the north of Europe back and forth, for years in succession, in seven days less time than British ships employed in the same trade. This gave them the preference in the market, gave them the advantage in the freight. The saving of expense by the shorter voyages enabled our folks to compete with the cheap money of the old country. But when we have got to compete with these enormous burdens laid upon our tonnage by Congress, together with the cheap money of the old country to operate against us, the result will be as it has been and is being, to drive our tonnage from the ocean. I trust, Mr. President, that the committee will examine this matter carefully, and, if I am right, at an early day introduce a measure of relief. It is a matter that requires the careful consideration of the committee. It is an immense interest, not only in its value in direct money value, but in the position it gives us among the nations of the world, the power and the influence it gives abroad. The resolution was agreed to.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of captured Africans in Liberia, was read twice by its title and referred to the Committee on Finance.

#### MEXICAN AFFAIRS.

Mr. ANTHONY. I move to take up a resolution which was reported from the Committee on Printing at the close of the last session but not acted on for the want of time, authorizing the



printing of some papers relative to Mexican affairs communicated by the Secretary of State in obedience to a resolution of the Senate.

The motion was agreed to, and the following resolution was considered and agreed to:

*Resolved*, That the papers relative to Mexican affairs communicated to the Senate by the President of the United States on June 20, 1864, be printed.

#### SLAVES TAKEN INTO THE ARMY.

**Mr. POWELL.** I move to suspend all prior orders and take up the resolution I offered on Monday last. I have prepared an amendment which I think will meet the objections of Senators on the other side of the Chamber.

**Mr. WADE.** I must object if that resolution will lead to debate. I am anxious to take up the unfinished business of yesterday, and proceed with it until we get through with it.

**Mr. POWELL.** I do not think the resolution will lead to debate. I have prepared an amendment which I think will meet the objections of the Senators.

The motion was agreed to; and the Senate resumed the consideration of the resolution submitted by **Mr. POWELL** on the 23d instant, calling on the Secretary of War to state why he has not appointed the commission required by the twenty-fourth section of the act of February 24, 1864.

**Mr. POWELL.** I move to amend the resolution so as to make it read:

*Resolved*, That the Secretary of War be directed to inform the Senate whether or not he has appointed a commission in each of the slave States represented in Congress "charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300, for each colored volunteer," as required by the twenty-fourth section of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863;" and if he has not appointed said commission, that he inform the Senate why he has not done so.

The amendment was adopted; and the resolution as amended was agreed to.

#### RETALIATION ON REBEL PRISONERS.

**Mr. WADE.** I move now to proceed with the unfinished business of yesterday.

**The VICE PRESIDENT.** The unfinished business of yesterday comes up regularly at this time without a motion. The joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents, is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Massachusetts [**Mr. WILSON**] to the amendment of the Senator from Massachusetts, [**Mr. SUMNER**]. Upon that question the Senator from Missouri [**Mr. HENDERSON**] is entitled to the floor.

**Mr. CLARK.** With the indulgence of the Senator from Missouri, I desire, before he proceeds, to submit an amendment which I have drawn. It is not now in order to offer it, but I ask that it be read for information, and that it be printed unless we come to a vote to-day.

**The VICE PRESIDENT.** The proposed amendment of the Senator from New Hampshire will be read, if there be no objection.

The amendment was read, as follows:

That Congress earnestly calls the attention of the President to the condition and treatment of our prisoners of war in rebel prisons and camps; and if, for reasons satisfactory to the controlling Executive, they cannot be exchanged, desires that he should employ every means in his power, embracing retaliation to such a degree as may be proper and effectual to prevent the continuance and recurrence of such barbarities, and to compel the insurgents to observe the laws of civilized warfare.

**The VICE PRESIDENT.** This proposed amendment will be ordered to be printed, if there be no objection. The Chair hears none.

**Mr. HENDERSON.** I believe it is not in order now, Mr. President, to offer an amendment to the resolution.

**The VICE PRESIDENT.** It is not.

**Mr. HENDERSON.** There is only one point in the amendment I have submitted informally, and which has been printed, to which I wish to call the attention of the Senate. I shall do so very briefly. It is this: I provide in the amendment that I design offering when it shall be in order, that the President shall appoint a commission, consisting of one or more persons, to proceed to the southern States and to examine into the condition of our prisoners, and to make a faithful report. I do not understand that that has been

done recently; and I do not understand that at the time the commission proceeded there, which was spoken of yesterday by the Senator from Massachusetts, [**Mr. SUMNER**], the complaints which now prevail against the confederate authorities on this subject existed; but I am very well aware that there is ground for the complaints that are now made throughout the country in regard to the treatment of our prisoners.

It was stated by the Senator from Indiana [**Mr. HENDRICKS**] yesterday that this complaint did not properly exist against the treatment at Libby prison. I believe, and I have always believed, that such is the fact. I have never heard such complaint against the treatment of prisoners at the Libby prison. If I understand it aright, the treatment complained of is at Andersonville and at Florence and other points in the extreme South. I think our prisoners generally have been treated well at Libby prison; that at least is the information I have received, but it may be incorrect.

But, Mr. President, the question arises before us now, what is the object, what is the design, of the resolution pending before the Senate? Is it revenge, or is it for the purpose of ameliorating the condition of our prisoners in the southern States? I think that we can come to the point at once, and I shall not detain the Senate, because that is the only point in this matter: is this resolution for the purpose of ameliorating the condition of our prisoners? If that be not the object, the resolution has no legitimate object. How is it best to accomplish that end? That is the question. This treatment, I have no doubt, to a very considerable extent exists. How is it best for us to get rid of this treatment on the part of the rebels? If we retaliate, may they not retaliate again and again, until, in the language of the President, this becomes a revolutionary strife in which all the principles of civilization will be entirely disregarded?

Then, assuming that the object of this resolution is to ameliorate the condition of our prisoners in the hands of the rebels, I ask if it is not in accordance with the rules of civilized warfare, and if we have not sufficiently acknowledged the belligerent character of the rebels, to enable us with the greatest propriety possible to appoint a commission to proceed there and see whether these complaints are just or not? Is there anything wrong in it? Have we not already entered into an arrangement for the exchange of prisoners? Can we not do with them what we have been in the habit of doing with other nations, foreign Powers, in time of war? Let us look back to the war of 1812. I find that during that war we had an arrangement with the English Government upon this subject, and I cannot see why humanity does not require that we should go just as far to ameliorate the condition of our prisoners now as we then went in the war with Great Britain. At page 354 of *Twiss's Law of Nations* I find this statement:

"The cartel of 1813, between Great Britain and the United States, provided that American agents might reside at Halifax and other places, and British agents at various places within the United States. It is usual, and obviously of the last importance, for carrying out the objects of a cartel, that a commissary of prisoners should reside in the country of the enemy."

We had agents superintending the exchange of prisoners residing upon British soil after the year 1813 and during the residue of the war of 1812. Now, if it be the object upon our part to ameliorate the condition of our prisoners in the enemy's hands, why in the name of sense can we not appoint, or ask the President, who has the control of this matter, to appoint, commissioners to go there and to examine into the treatment and condition of our prisoners, and demand of the confederate authorities that these commissioners be permitted to reside there and superintend this trust? Is it not possible to do so? Then we can have a correct report; and if we are driven to the dreadful thing called retaliation let us know for what we are doing it; let it be in such a shape that we can justify ourselves before the civilized nations of the earth.

I cannot say to what extent this doctrine of retaliation ought to be carried; it is impossible for us at present to determine, because I do not know how long this war will last; I cannot tell what will be the conduct of the confederate authorities toward our prisoners. I am not prepared to say, as the Senator from Massachusetts does in his

amendment, that under no circumstances ought retaliation to be adopted. I cannot go to that extent.

**Mr. SUMNER.** If the Senator refers to me, I have not said that.

**Mr. HENDERSON.** I understand that the amendment of the Senator goes to that extent; that is, if the conduct of the rebel authorities be of a very aggravated nature, if it be barbarous—

**Mr. SUMNER.** My proposition is that there can be no imitation on our part of rebel barbarism in the treatment of prisoners.

**Mr. HENDERSON.** Then the question arises, what is barbarity? I would not be willing, any more than the Senator from Massachusetts, to starve a prisoner to death; the fact is that it is perfectly revolting to me. Nor if, in the language of this resolution, the rebel authorities give to our prisoners food that is not wholesome, and thereby cause their deaths, would I under any circumstances whatever adopt a policy of that sort. But I cannot pretend to say that retaliation of some other character, much more effectual than that, and not disgracing us in the eyes of the civilized world, might not be adopted which would accomplish all the ends that we desire.

Now, Mr. President, what is this resolution? I must confess that I was somewhat astonished at the introduction of it. The resolution declares that it is a fact known to Congress, that the knowledge has come to us, that these things have occurred; that our prisoners "have been subjected to treatment unexampled for cruelty in the history of civilized war;" and that "its parallels" are only to be found "in the conduct of savage tribes;" that our prisoners have been starved to death and assassinated; and the proposition is made, not that we retaliate in some way which will accomplish the end, but that we retaliate in the same manner, retaliate with a conduct and a treatment similar in quantity and style to the conduct of the rebels themselves.

**Mr. BROWN.** If my colleague will give way to me for a moment, I desire to say that I think he misapprehends the purport of the resolution in one point. I think, if he will peruse it again, he will find that such is the case. The resolution, as I understand it, and I was a member of the committee which reported it, does not propose that we shall proceed to-day and retaliate in kind for every barbarity that has been inflicted upon those of our soldiers who have been taken prisoners, but it does propose that we shall take a number of their prisoners now in our hands, and, after making inquiry, subject them to treatment similar to that which is persisted in against our own men. It is a resolution looking to future action, to be regulated by future action on their part as well as our part; and that is the intent and that is the meaning of retaliation, as used in the law of nations and as used between belligerents; that the same cup shall be commended to their lips which they commend to ours, and for the reason that they can best appreciate then any inhumanity that may exist in it. I think that was the intention of the committee, and I trust they have so expressed it in their resolution.

**Mr. HENDERSON.** I have no doubt, from my colleague's statement, that he is correct in reference to the intention of the Military Committee; but I think, on examination of the resolution itself as presented by that committee, he will find that I am correct in the construction I give it. I certainly cannot mistake the proper construction of the resolution. It asserts that certain treatment has been bestowed on our prisoners of war, and "that in the judgment of Congress it has become justifiable and necessary that the President should, in order to prevent the continuance and recurrence of such barbarities, and to insure the observance by the insurgents of the laws of civilized war, resort at once to measures of retaliation; that in our opinion such retaliation ought to be inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them; that, with a view to the same ends, the insurgent prisoners in

our hands ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case, until the President, having received satisfactory information of the abandonment by the insurgents of such barbarous practices, shall revoke or modify said instructions."

Mr. BROWN. Those last words explain the whole resolution, showing that it is to cease at the moment of the abandonment of the same course on their part. It is to be parallel with it.

Mr. HENDERSON. But I will call my colleague's attention to the fact that it is stated in the preamble to the resolution, that—

Mr. BROWN. The preamble is no part of the resolution; it is a simple declaration of fact.

Mr. HENDERSON. It merely explains the circumstances on which the resolution is based. Now, what is that preamble? It is not stated in the preamble that it is believed by Congress that such is the fact. I only refer to the preamble as explanatory of the resolution; and it declares that it has positively come to the knowledge of Congress that such is the fact, and then it is said that now the prisoners in our hands ought to be subjected to this treatment until the rebels cease their treatment. Then this is to be done at once; we are right at once to commence this treatment because their treatment is going on, as we are told by the preamble, at the present time, and it becomes our duty, if we retaliate at all, to retaliate at once, until (and we are only to cease the retaliation when) the rebels themselves cease this business.

Now, Mr. President, let me call the attention of my colleague to the consequences of the principle he has stated. My colleague insists that the very same treatment should be accorded to the prisoners in our hands that they accord to the prisoners in theirs. He and I agree upon the policy of putting negro troops in the Army, and we have ever agreed upon the proposition that these negro troops ought to be exchanged, and that they ought to be exchanged for white men whom we may capture from the enemy. Now I believe as verily as I believe any statement made in this preamble, that the confederate authorities have on some occasions sold into slavery negroes captured from our Army. The resolution is that the same treatment ought to be accorded to those prisoners whom we capture from the rebels as they accord to ours. Let me ask my colleague if he would be in favor of taking an equal number of prisoners of the southern States and putting them upon the block and selling them to the highest bidder.

Mr. BROWN. I will answer my colleague very frankly and say that I would not, and I do not conceive that in making that answer I involve myself in any contradiction at all. I stated, not that we should in all cases apply the same modes of retaliation, but I stated that the law of retaliation justified the application, as far as might be necessary of the extremest modes in order to correct any such punishments inflicted on our own prisoners. How far I might deem any particular mode desirable; how far I might deem one thing more advantageous than another, is a question of judgment, upon which I should expect to exercise my judgment. I simply assert that the law of retaliation as practiced by all nations has justified extreme measures, even to the taking away of life for the purpose of preventing inhumanity to the prisoners that are in the hands of the enemy.

Mr. HENDERSON. My colleague has given the answer that I knew he would give to my question; and it only requires that the enormity of this proposition shall be fairly presented, in order to satisfy every Christian gentleman in this body that the resolution itself will not do. I will not disagree with my colleague in regard to retaliation in some cases; and, in fact, he and myself know perfectly well that retaliation as retaliation has frequently been necessary in the State of Missouri. I will give instances. The rebels seize upon prominent citizens, Union men, in a certain neighborhood, and we fear that their lives will be taken. How do we prevent it? What

sort of retaliation do we resort to? We seize—we have done it repeatedly there—an equal number of prominent men who belong to the other side of the question, and notify the rebel officers that if any harm comes to the men whom they have arrested, punishment of an equal character will be visited upon those whom we have taken. Then it is a question afterward whether we shall carry out the threat thus made, or not. It is a question to be determined after we have seen the conduct of the rebel authorities toward those whom they have arrested. It frequently, I know generally, results in the turning loose of those men who have been arrested. Therefore, as my colleague has properly said, it will not do to declare that under no circumstances will we resort to retaliation.

But he says that we may retaliate properly under the laws of nations, even to the taking of life. It seems to me that this resolution does retaliate to the taking of life. What does it propose? It says that we know perfectly, we are perfectly satisfied already, that the rebels have administered to our men food of a poisonous character, and that thereby they have died; that we know perfectly well that they have assassinated them in cold blood, and we must turn round and do the same thing; that we know perfectly well that they have exposed them to the inclemency of the weather, and thereby caused their deaths; and we must do the same thing. Mr. President, that is not retaliation. It seems to me that it is revenge. If my colleague will insist that it is right to retaliate even unto death, I say to him with all candor it would be infinitely better to take fifteen or twenty or a hundred rebel prisoners and have them shot down by a squad of soldiers, than to subject them to treatment of this character.

Again, Mr. President, I cannot give my sanction to a resolution of this sort, because I am not willing to have such a resolution go forth stamping the character of this great nation. This resolution says that the rebels have starved our soldiers who were prisoners in their hands, and therefore we will slowly starve theirs who are in our control. What is that for? Is it to prevent the same treatment in the future, or is it mere revenge? If it be revenge, all will agree that it ought not to be resorted to. There was a code of morals laid down many years ago, which I believe individuals as well as nations may safely, under all circumstances, obey; and in that code of morals I remember it is said, "Recompense to no man evil for evil." I remember further that in that code it is said, "Therefore, if thine enemy hunger, feed him; if he thirst, give him drink." Is this in accordance with the resolution we are considering? I think not. I think we are told in this resolution that the enemy whom we have under our control is not to be treated in accordance with the divine command; but that because the rebels have starved somebody else this enemy is to be starved.

Mr. BROWN. I would inquire of my colleague whether he carries his doctrine to the extent of a condition of war, and whether he would advise General Grant and his army to present the other cheek to be smitten when one cheek has been smitten?

Mr. HENDERSON. Mr. President, I certainly would not. I am speaking of a very different thing. I say that he who is assaulted has a perfect right to defend himself. That is a principle which I do not think the Bible ever denied. I know perfectly well that it is in accordance with the divine command, and in accordance with our own nature. This war has been brought against us, and it is our duty to defend ourselves; but I submitted the question whether it was in a spirit of revenge or really for the purpose of preventing the outrages complained of, that it is proposed to resort to the principles laid down in this resolution; and I am arguing against it upon the idea that it is revenge, and cannot be anything else. How will it accomplish anything? How is it to accomplish anything? Do we, by it, do anything else than disgrace ourselves in the eyes of the civilized world? I think not. Can we not make retaliation more terrible and effective than by thus disgracing ourselves? If the loss of life is necessary, is it not better to take these men out and shoot them? Is it not better to shoot ten or fifteen than thus to starve one to death? In the name of God, I do not wish to resort to any slow process of

punishment of this character, because, I say, it is of the very essence of revenge. You can only finally accomplish the death of the man. Then why not accomplish it speedily? Why kill him by inches? Is not that revenge? I have quoted from the good Book in order to show that under no circumstances can we resort to revenge.

My colleague will not differ with me, I suppose, upon the subject of duty, even though we may differ upon this question: This resolution says that whereas the rebels have done certain things to us which are evil, we must do likewise. I think that in that code of morals to which I have referred we are taught this doctrine: "Therefore all things whatsoever ye would that men should do to you, do ye even so to them." I do not suppose that my colleague will dispute the authority of this duty by any means, and I say that, generally followed, it is safest for nations and safest for individuals. It is not our duty under the circumstances to do as others do. That is not the proper plan; it accomplishes nothing. The best idea in regard to this matter, in my judgment, is to do what we regard to be our duty, that which is right in the eyes of all men; and what is that? I say that under some circumstances retaliation may be resorted to, but not that cruel and barbarous retaliation which would merely bring disgrace and odium upon our own country.

Mr. President, I desire to state another consideration. I do not believe that the soldiers of this country generally, if these rebel prisoners were placed in their hands, would be disposed, or that you could compel them to adopt a course of policy such as is indicated in this resolution. I know too much of the soldiers of this country, their magnanimity, their generosity, their spirit, and feelings of mercy, to believe that they would adopt any such course of policy. If retaliation is to be resorted to, let it be resorted to in such manner as will take the life of the individual at once.

History records that in 1793 or 1794 the Committee of Public Safety at Paris, they themselves being perfectly secure in that city, adopted a resolution making it obligatory upon the French soldiers then in the army to shoot every English prisoner the moment he was captured. A short time after the battle of Fleurus, under Pichegru, some English soldiers were brought in captives before the commanding officer, and the question was propounded to the lieutenant who brought them in why he brought those English prisoners there. "Why did you not shoot them?" was asked. He said that his refusing to do so saved just so much powder and ball. "But," said the officer, "the committee of public safety have demanded at our hands that this thing be done, and I tell you that it must be done." The lieutenant promptly answered, "It is not we that will commit this deed; but send them to the Committee of Public Safety at Paris, and if they desire to shoot them they can do so, and eat them too; but I will not do it." The soldiers of the French revolution refused to carry out any such barbarous decree; it was never done by them under any circumstances; and I undertake to say that in consequence of that action of theirs much was gained for the humanity of the French nation, and much perhaps of the success that afterward crowned their arms was due to it. I have no question of that.

While upon this subject, Mr. President, I may refer to the matter of the exchange of prisoners, which is also embraced in the amendment which I propose to offer. I do not desire to reflect on the War Department, because perhaps the War Department has done all within its power to release our prisoners and ameliorate their condition; but it seems to me that it is high time the Congress of the United States should look into the matter. According to reports, there are some fifty or fifty-five thousand soldiers of ours who are prisoners in southern prisons. What has been of late years the course of civilized nations in relation to prisoners taken in battle? Has it not been immediately to exchange or parole them? It unquestionably has been. I know that the English Government, in the war of the Revolution, said that prisoners could not be exchanged with rebels; but the British authorities soon got over that. They found that it was necessary to make exchanges. Why not let us come up boldly to the proposition, and make these exchanges at

once? During that war our privateersmen were seized, and the English authorities declared that they were guilty of piracy, and should not be exchanged. Have we not done the same thing during this war? In the early part of the war we convicted rebel privateersmen in Philadelphia of piracy; but we were compelled afterward to abandon that policy and to exchange them. Then, if we ourselves have yielded the proposition that the rebels are belligerents—and we ought certainly to yield it at once, magnanimously, as becomes a great nation—why shall we not proceed to exchange? In 1862, I find that a cartel was agreed upon, which used this language:

"The stipulations and provisions to be of binding obligation during the continuance of the war, it matters not which party may have the surplus of prisoners, the great principles involved being, first, an equitable exchange of prisoners man for man, officer for officer, or officers of higher grade exchanged for officers of lower grade, or for privates, according to the scale of equivalents; second, that privateersmen and officers and men of the different services may be exchanged according to the same scale of equivalents; third, that all prisoners, of whatever arm of the service, are to be exchanged or paroled in ten days from the time of their capture, if it be practicable to transfer them to their own lines in that time, if not, as soon thereafter as practicable;"

Remember, this is the agreement we ourselves entered into with the rebel authorities in 1862—

"Fourth, that no officer, soldier, or employé in the service of either party is to be considered as exchanged and absolved from his parole until his equivalent has actually reached the lines of his friends; fifth, that the parole forbids the performance of field, garrison, police, or guard, or constabulary duty."

I am told that some misunderstanding on this subject has arisen between our Government and the confederate authorities; but even in that agreement there was a provision of this character:

"And in case any misunderstanding shall arise in regard to any clause or stipulation in the foregoing articles, it is mutually agreed that such misunderstanding shall not interrupt the release of prisoners on parole as herein provided, but shall be made the subject of friendly explanations, in order that the object of this agreement may neither be defeated nor postponed."

Why has this cartel not been carried out? Why is it that our prisoners have not been exchanged within the ten days, or as soon thereafter as practicable, as required by the cartel? Can exchanges not be effected now? I do not know. I confess that I am not familiar with the conduct of the War Department on the subject, and therefore I am not qualified to speak; but it seems to me that it is worthy of investigation on the part of the Senate to ascertain why these exchanges have not been made. There are thousands of our men dying in prisons, I care not how well the rebel authorities may treat them. And I care not how well we may treat prisoners in our hands, we know that thousands of them must die. We cannot give them the comforts that we ought to do; it is utterly impossible. How many rebel prisoners have we now? Perhaps sixty or seventy thousand. Why not, then, proceed to exchange?

It was stated some time ago that an objection was presented on the part of the rebels to exchanging, in consequence of the fact that they declined to exchange negro troops. Why not proceed with the exchanges until we come to that difficult question? And now I submit to the Senate that whenever we arrive at that point in exchange, how is it possible that the rebels can refuse to exchange? They will not do it. Will they not be willing to give up a negro soldier to us for one of their men, and especially so if the position taken the other day by the Senator from Iowa [Mr. HARLAN] is correct? He said that one of their soldiers is worth to them, fighting behind fortifications and within garrisons, two or three of our men to us. You know, every Senator here knows, what opinion they have of negro troops, whatever may be our opinion on that subject; and will they refuse to give up for one of their men a negro soldier? I say they will not do so.

As was stated yesterday by the Senator from Indiana, this is a question on the part of this Government to its soldiers. It is a question of humanity. It is a question that we ought deeply to consider. If exchanges can be effected, they ought to be effected. I differ from the Senator from Iowa on that subject. I know that the rebels in the beginning of this war had the opinion that one of their men was worth some five or six of ours. I know that the boast was very common in my own State

that every rebel soldier would be a match for five or six, and sometimes it was said for ten Yankees. That delusion has passed away. The rebels themselves now claim no such thing. They are fully satisfied that every man of ours is equal, if not superior to a man of theirs. Therefore we have nothing to lose by a fair exchange.

The only difficulty in my judgment in getting along with this war heretofore has been that we have refused to march upon their soil, as was recently done by General Sherman. There never was any difficulty in going upon their soil. There was always enough there to support armies. There is enough to-day in Georgia to support an army of the United States of any size whatever. There is enough to-day in Texas to support a United States army of three hundred thousand men, and to support whatever rebel armies can be put there. The difficulty has been that we have not been enabled to release from chains and from slavery the opinions and sentiments of men in the southern States.

At this point of distance from the oppression and outrages committed in that country we may very easily imagine that men can speak their opinions and sentiments there. Sir, it is becoming so, but it has not heretofore been the case. There was a period of time in my own State in the beginning of this rebellion when it was dangerous in my own town to speak a sentiment in favor of the Union; and yet we had an organized band of Union men at all times, and we on our side had the arms and they did not have them. How has it been in the southern States? This revolution was precipitated upon them, brought upon them almost in an instant of time. The arsenals were ransacked, the arms were seized; those who were determined to subvert the Government constituted the power of the land. How was it with the more peaceable? How was it with the men who were really in favor of the perpetuation of the Union? They had no arms; they had no power to get arms. We have never been enabled so far to relieve them. And why? Because our military officers heretofore have been afraid to leave their base of supplies. Sir, we did not want any base of supplies; there never has been a moment since the rebellion commenced that armies could not be maintained in any one of the southern States. It is the richest country in the world; the crops were then abundant, and they have every year been abundant; and it was an easy matter to have gone in upon the rebels at any time, torn down the civil authorities erected in the different States, taken possession of their capitals, and encouraged the loyal men to come up and to form the nucleus of a civil government around which the loyal element could rally.

Sir, it is the only way yet that we shall ever conquer the South. It is to take advantage of the loyal element in the southern States. How are you to do it? You must do it as the Senator from Indiana said yesterday—he was very correct in that—by doing as General Sherman has done at Savannah, take possession of their cities; take possession of their capitals; maintain your armies upon the country; do justice as far as it is possible to do under the circumstances; leave private property untouched wherever it can be done; encourage the loyal men to erect a civil government; call the loyal element around you; enable them by all the means in your power to establish and maintain a civil government, and let them pass the laws necessary to make the rebel property in the country tributary to the cause of the Union.

Mr. President, how was it that we saved Missouri? Missouri, I dare say, was as disloyal a State in the beginning as Alabama or Georgia. How was Maryland saved? Maryland and Missouri were both saved by the Union men securing the civil government in the State. Instead of permitting rebel authorities to conscript us; instead of permitting rebel authorities to pass laws for the purpose of making our property tributary to the cause of rebellion, we, having the control of the civil government of the State, passed laws to conscript rebels and put them into the service on our side, and also to take possession of their property and make it subservient to the purposes of the Union. It was in that way that it was done. As has been very properly stated here before by others, thousands and thousands of the men in the rebel armies whom we capture are mere ignorant, innocent conscripts who have been forced

into military service in the different States of the southern confederacy.

I say then, Mr. President, that I am unwilling to resort to any such measures as this, while, at the same time, I am unwilling to declare that under no circumstances whatever will I resort to retaliation. But why not adopt a provision something like that which I have submitted? I do not wish to stop short on the subject of retaliation; I think we ought to make our voice felt as far as is in our power on the subject of the exchange of prisoners. If we can accomplish an exchange, let us do it. If we cannot, let us know the reasons why it cannot be made; let us at least know the truth. The first proposition of the amendment which I have submitted, and intend to offer at the proper time, is to let the President appoint a commission to proceed to the South. Will the rebel authorities refuse to receive it? That plan was adopted between England, France, Sardinia, and Turkey on the one side, and Russia on the other, in the Crimean war. Agents were sent into the different countries by the respective belligerents for the purpose of superintending the exchange of prisoners, just as we did in 1813 during the war with England. We had our agents stationed on British soil at all times during that war, ameliorating the condition of our prisoners and producing exchanges whenever it could be done. Can we not resort to the same plan now? Do we not wish to ameliorate the condition of our prisoners? Then let us send a commission to the South; let us see what the facts are. If our men have been mistreated, let honest commissioners go there and report the facts. Let them go not only to one prison, but to all. Let us see what the condition of our men has been; what their treatment now is, and what the rebel authorities propose to do in the future. Let us see what the defects of the system are. Let medical men of our Army who know what treatment ought to be accorded to our prisoners go and demand admission into that country. Will they be refused? Dare these men refuse admission to them on an errand of mercy of this character? No, sir, they dare not refuse it. They will be admitted. The rebels dare not go before the civilized world and say that they are mistreating our soldiers who are prisoners of war in their hands, and intend that we shall not investigate the subject. I say, therefore, let us appoint this commission, and let us have in an authoritative way before us the facts as to the condition of these men, and then let our medical officers suggest, as they ought to suggest, and as they no doubt will do, the treatment that ought to be accorded on our part to the prisoners in our hands.

But, Mr. President, suppose they are refused, or suppose when they go there they find a condition such as is represented in the preamble to this resolution, what then? I apprehend that we shall find that the rebel authorities are not exactly as well fixed for treating kindly prisoners of war as we are; and yet I am satisfied beyond any doubt that they resort to deliberate cruelty upon our prisoners, and these are the facts which I want to get at. I am not willing to declare before the civilized nations of Europe that we, as a nation, will resort to the same infamous cruelty that they have resorted to. What, then, shall we do? Shall we say, as I understand the amendment of the Senator from Massachusetts [Mr. SUMNER] to declare, that when that cruelty is of the most barbarous character we must fold our arms and do nothing? I am not prepared to say that. Sir, extreme, strong measures of retaliation may be resorted to without staining our own hands so that all the water of the earth would not wash it out. We may resort to measures merely retaliatory that will not inflict a slow, cruel, and barbarous death upon those who are placed in our hands.

Mr. President, there is something due to ourselves in a merciful point of view. I do not think that it argues the magnanimity of a nation or the nobility of an individual to resort to extreme and cruel measures if they can be avoided. We are told that mercy—

"Is mightiest in the mightiest; it becomes  
The throned monarch better than his crown."

Mr. President, I believe it. Is it necessary for us to resort to this measure? Gentlemen tell us that the rebels do it and that we must do it. Are we no better than they? At what are they aiming? They are aiming at the everlasting over-



throw of our Government. They are attempting to divide and segregate. What are we attempting to do? We are attempting to reunite. After we have reunited this country what do we want? We want the same feeling that once animated the nation. We want the causes of this rebellion removed. What are they? We say slavery is the cause. Let it be removed. Let us insist upon that in any reconstruction that may take place. I agree most heartily to that; but when that is done what else is to be done? Let us bring about a cordial reunion; let us bring about the union of hearts, the union of hands; and let us, if possible pursue such a course that when the present exigency has passed, we shall not be ashamed of what we have done in the eyes of the world, and so that there shall be nothing to which "the slow unmoving finger of scorn" can be pointed in the future. Let us resort to no measure that will lead the rebels hereafter to point to our conduct in this war with reproach. Let us be superior to them. Sir, they love their own rebels and they mistreat our men. If we mistreat rebels and love our own men, how much better are we than they? "Do not even publicans the same?" Sir, we must not only love the neighbor, but as far as consistent we must love the enemy. Such a command is upon us.

It is said you shall not be hearers only but you must be doers of these commands that are put upon you. He who heareth these things and doeth them not, we are told, is like the foolish man who built upon the sand, and the rains fell, and the floods came, and the winds blew, and the house fell, and great was the fall. Mr. President, I believe, as I have ever believed, that the true code of morals is the proper one to be followed. It is to do unto others as you would that others should do unto you. How would you have your prisoners treated in southern pens? Would you have them treated with kindness? If so, shall you not treat their prisoners in your hands with kindness? You are not commanded to do as others do, but you are commanded to do as you would that others should do unto you. It is not for me to determine how far these great rules of morality may be violated under circumstances of this sort, but I am satisfied that, so far as we can consistently with our own existence as a nation, and consistently with our own salvation in the present emergency, we ought to cling to them.

But, Mr. President, we are told by gentlemen that if we do not resort to this course of policy, the rebels will continue their inhuman treatment of our soldiers who fall into their hands as prisoners. I think we are told that the most effectual way of heaping coals of fire on the head of your enemy, is to feed him, and to give him drink when he thirsts. But it is said that if we do not resort to this policy our men will continue to die in southern prisons. Sir, I do not propose in my amendment to let them inflict these punishments with impunity. Let us send there and see what course of conduct is being pursued. When we ascertain that, or when they refuse to receive our commissioners so sent, my proposition is:

If the insurgents shall refuse such authority to the commissioners, and having granted it, the said commissioners shall find that our prisoners are being subjected to the wantonly barbarous and cruel treatment which we have reason to believe has heretofore been practiced by the insurgents—a treatment so shocking to the impulses of humanity and so disgraceful to the civilization of the age—it is the opinion of Congress that, however repugnant it may be to the feelings of a Christian people, the President should adopt such stringent measures of retaliation, consistent with the rules of civilized warfare, and not derogatory to the national honor, as will effectually put an end to such conduct in the future, and secure to our prisoners the treatment due to them at the hands of a people claiming to be civilized.

Mr. SAULSBURY. Will the Senator allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. SAULSBURY. I ask the Senator whether he will so modify his amendment as to grant to the confederates the same privilege to send commissioners or agents to inspect the prisons here and see how their prisoners are treated?

Mr. HENDERSON. Certainly. If I am not mistaken, it was very recently the case that, on complaints being made by both sides, confederate officers were released here and Federal officers were released in the South, and the confederate officers went to New York and purchased blankets to be given to their prisoners in our hands, and cotton was brought from the South in order

to pay for them. Why can we not do the same thing again? Is it not amelioration that we are seeking? Unquestionably, if these prisoners must remain prisoners of war during the remainder of the war, however long it may last—I hope to God the war will soon have a close; but if they are to remain for a year, or two or three years longer, why shall we not adopt some measures to look into their true condition and to make it better if we can? Can we do anything toward it? When they suffered for clothing a short time ago, we made arrangements by which clothing could be furnished on both sides. Is it not strictly in accordance with humanity, is it not in accordance with the better impulses of a noble nature, that we shall again resort to the same means?

I am perfectly willing that their agents shall come here and examine the prisons. I can state to the Senator from Delaware that they will find, when they come, that their prisoners are treated with humanity everywhere. I have not any question about that. The prisoners of war in our hands have been treated with humanity. There may be cases of civil prisoners, political prisoners, in which the treatment was not proper. I am inclined to think so, from what I have understood; I cannot say that such is the fact; but I have never heard any complaint in regard to the treatment of the prisoners of war which we hold in our charge from the confederates. Then let them come, and let them report. I have no objection to it whatever. If the prisoners are to be retained during this bloody strife for a year, or even six months to come, let us ameliorate their condition in every way that we possibly can.

Then, sir, I desire that the second resolution which I have submitted shall also be adopted, in these words:

That the President is hereby earnestly requested to urge a speedy exchange of all our prisoners, white and black, now held by the insurgents.

I say nothing about the cartel adopted. We have already a plan adopted for the exchange of prisoners, the same that existed between Great Britain and our country in 1812. Let us resort to that. We have already agreed upon it. I say nothing about the mode and manner of exchange, because that has been agreed upon between the two parties.

Mr. President, if this course of policy be adopted I have no doubt but that the condition of our prisoners in the southern prisons will be better to a very great degree, and that cruelty which has existed heretofore will die away under this threat of retaliation; and I wish to make no threat of retaliation except such as may be adopted in strict accordance with the principles of civilized warfare, and which will not in any manner disgrace the civilization of our country. I wish none other adopted, and if we hold out none other we neither disgrace ourselves nor foreign nations, nor shall we hereafter look with regret upon our own conduct, but we shall have accomplished the end that we have in view; we shall better the condition of our prisoners, and save them the miserable deaths which they are dying in southern prisons. Therefore, sir, when the proper time arrives, I shall offer the amendment submitted by me a few days ago, and I hope that the Senate will consider it favorably. I think it accomplishes all the purposes that we desire.

Mr. BROWN. Mr. President, as a member of the committee which reported this joint resolution I feel desirous of presenting some of the reasons that operated upon us in submitting it to the Senate, and also of indicating what was understood, at least by myself, and I believe by others of the committee, to be the true intent and meaning of the resolution itself.

The preamble of the resolution recites a condition of facts. It tells of the cruel treatment that our prisoners have received at the hands of the enemy. It specifies the atrocities that have been perpetrated upon those who have surrendered, and details what I venture to say is the common understanding of the country at large, the modes and manner of dealing with our prisoners by the enemy in the South. It is said by Senators that we have no technical evidence before us of these facts. That was not the view of the committee. They considered that there was evidence before them in the reports made by other committees of this body, one of which I hold in my hand. I refer to the report of the committee on the con-

duct of the war, in which the horrors of the Fort Pillow massacre and other matters connected with the condition and treatment of our prisoners are detailed at great length and substantiated by evidences. I think I shall be borne out fully in the remark when I say that that report, of which the Senate has ordered twenty thousand additional copies to be printed, will confirm every allegation made in the preamble to this resolution. I, therefore, feel that if there were nothing to rest its declarations upon other than the reports which we have before this body, they would be fully and fairly borne out; but in addition to that, I assert that we have the right, standing here and legislating for the country, to recognize and accept and act upon those common convictions which are the common property of the community, and which are as well known, evidenced by all the accepted modes of proof used among men, as could possibly be the fact that daylight is here present with us now.

Nobody can successfully call in question the fact that atrocities of the kind cited have been systematically perpetrated. The history of this whole war shows it. The reports of our generals declare it. The anguished narratives of our returned prisoners establish it. The common cry of the country proceeding from so many sources demonstrates it in a manner that we cannot longer doubt. Therefore I think that the quibble (if I may so term it) which has been raised against the report of the committee, that there was not evidence in official form before us of the exact condition and treatment of our soldiers in southern prisons, is unworthy of the occasion and not entitled to the weight which some Senators are inclined to give it. It was in that belief upon the grounds of evidence set forth that the committee proceeded to recommend that retaliation should be adopted. Such was their judgment—a deliberate judgment, too, arrived at in full view of the past, in full view of the future, and in full view of the appliances which had heretofore been used without success to alleviate this cruel wrong, and with these recognitions they concluded to recommend to the Senate this last resort of retaliation as the only mode left of getting justice and mercy out of the confederate authorities in this matter of the treatment of our prisoners.

It has been said by a Senator that retaliation is repudiated by all civilized nations. I deny the proposition. I do not believe there is any principle better recognized throughout the law of nations than that belligerents have the right to resort to retaliation of the extremest character, even to the taking away of life for the purpose of protecting their own soldiers who may fall into the hands of the enemy. I do not think that the proposition can be controverted with any show of authority from the books. I certainly have heard no authority here stated which comes in conflict with that doctrine, and I therefore cannot understand the bearing of the argument of the Senator from Pennsylvania touching the law of nations, failing as he did to show wherein it limited the modes of retaliations. On the contrary, I believe that it is fully recognized; and I state further that it has not only been commonly recognized, but that it has likewise been practiced in every war that has ever taken place in which any such cruelties have been initiated on the one side or the other. The Senator from Massachusetts [Mr. SUMNER] yesterday cited a letter which was republished a few days ago in the Boston Advertiser, I believe, from General Washington during our revolutionary war. He cited it to sustain his argument. I submit whether the letter does not overthrow his argument, which was against the whole policy of retaliation. The letter is by General Washington in reply to General Gage, in regard to the treatment which our prisoners had received at his hands. I will read it:

HEADQUARTERS, CAMBRIDGE, August 11, 1775.

SIR: I understand that the officers engaged in the cause of liberty and their country, who by the fortune of war have fallen into your hands, have been thrown indiscriminately into a common jail, appropriated for felons; that no consideration has been had for those of the most respectable rank, when languishing with wounds and sickness; that some of them have been even amputated in this unworthy situation.

Let your opinion, sir, of the principle which actuates them be what it may, they suppose they act from the noblest of all principles, a love of freedom and their country. But political opinions, I conceive, are foreign to this point. The obligations arising from the rights of humanity, and

claims of rank, are universally binding and extensive, (except in case of retaliation.) These, I should have hoped, would have dictated a more tender treatment of those individuals whom chance of war had put in your power.

Nor can I forbear suggesting its fatal tendency to widen that unhappy breach which you, and those ministers under whom you act, have repeatedly declared you wish to see forever closed.

My duty now makes it necessary to apprise you that for the future I shall regulate my conduct toward those gentlemen who are, or may be, in our possession, exactly by the rule you shall observe toward those of ours now in your custody.

If severity and hardship mark the line of your conduct, (painful as it may be to me,) your prisoners will feel its effects; but if kindness and humanity are shown to ours, I shall with pleasure consider those in our hands only as unfortunate, and they shall receive from me that treatment to which the unfortunate are ever entitled.

I am to be favored with an answer as soon as possible, and beg, my sir, your very humble servant.

G. WASHINGTON.

The letter is specific and emphatic, that he will retaliate, and retaliate precisely in the same manner in which punishment is inflicted upon his soldiers, prisoners in the hands of the enemy. There is no equivocation about the language. It is a full and original notification that hereafter he will treat their prisoners precisely as his prisoners are treated, and there is no limitation as to the treatment, or to the manner of that retaliation. I say, therefore, that so far as the practice during our revolutionary war is concerned, it fully bears out the statement that retaliation was there adopted as an extreme measure to extort from the enemy humane treatment; and I may add that it was a successful measure; it attained the object that was designed.

But I desire to call the attention of Senators to the further fact that the doctrine of retaliation has been recognized and has been applied by the Government of the United States and its officers in the present war; that it has been resorted to time and again in numerous isolated instances; and that in every instance in which it has been resorted to it has been successful in accomplishing its end.

Senators need scarcely be reminded by the fact that when our prisoners at Charleston were taken and placed in front of the breastworks of the enemy, and we were told that if we fired we should fire upon our own men, an equal number of theirs were taken and they were notified that the like treatment would be enforced against them; and the result of it was that the practice was promptly discontinued and our prisoners were removed to a secure position.

Nor can they fail to remember the further fact that when in the construction of a redoubt down near Richmond some of our soldiers held as prisoners were placed in front of the earthworks by the enemy while they were at work, and we were notified that we should have to shoot through them if we made any attack, immediately some of theirs were taken and placed in the Dutch Gap canal as a matter of strict retaliation, and it at once brought the rebels to a sense of their inhumanity, and our prisoners were removed.

Again, let me cite to Senators the further fact that when, owing to some transactions which occurred in New Orleans, it was stated by the rebel authorities that some of our prisoners would be executed in return and they were set apart for that purpose, on the other hand, a relative, I believe, of the rebel General Lee, held as a prisoner of war was set apart on ours, and they were notified that execution by them would be followed by retaliation in kind, and that that also accomplished its end, and they desisted from their threat.

There, sir, are three direct and specific illustrations of the application of the principle of retaliation during this war, in each of which it has served the purpose for which it was designed; and yet are we to be told that retaliation is inhuman? Was it inhuman to save the lives of our men by that mode? Did that result in redoubling murder, in making barbarians of us, or did it result in saving life, and in elevating the humanities of this war?

The committee, I need scarcely say to the Senate, were actuated by no motives of revenge. I will not do injustice to any Senator on this floor by assuming that any such bad passion reigns in his bosom; and I certainly would not do injustice to any committee of this body by assuming that so evil a spirit could influence their deliberations. I say, therefore, that the committee when taking this matter in hand were actuated simply and solely by the one object, the relief of our gallant soldiers who are now suffering in the pris-

ons of the South, and upon whom these cruelties are being systematically practiced. They believed that all other means had been resorted to; they believed that the Executive Government of the country, with the power and with the disposition to use all its appliances to obviate their sufferings, had not been unfaithful to its trust, had not utterly neglected that great matter, but had made its endeavors, had filed its protests and appeals, had sent its representations through its commissioners of exchange and otherwise, and had failed in impressing upon the enemy a sense of the horrid barbarity that had been practiced toward us; and they believed that the time had come when, if we were to be true to those who had fought so nobly for us, and who were languishing in the South under these inflictions, we must come to sterner measures, and notify them that a change must take place, or retaliation would be surely and sternly inflicted. The committee in that view of the case believed likewise, not that retaliation would result in redoubling, as some Senators seem to think, those horrors of starvation and multiplying the muster rolls of death; but in their calm and deliberate judgment they felt assured that it would result in terminating them entirely. It was for the purpose of putting an end to these barbarities, and not for the purpose of enhancing them, that they recommended the joint resolution now before the Senate.

Sir, I believe that all the evidences we have upon this subject of retaliation, both in the present and in the past, justify us in assuming that, however insensible the enemy may be to the cruelties they practice upon our soldiers, yet, when that cup is commended to their lips, they will understand how bitter it is as practiced against their own officers. I feel persuaded that if we cannot through any appeal to their humanity, if we cannot through any reference to the moral sense of the civilized world, convince them that this course is inhuman, we can convince them when we apply it to their own relatives. They will then know what it is. They will then understand how bitter, how atrocious is such treatment; they will see it brought on by their own conduct; they will recognize the policy as determined, and they will desist. That is the animus of this joint resolution, and I should do very poor justice to the committee if I had not set forth in their behalf that their presentation of it was founded upon the thorough and exclusive conviction that the adoption of measures of retaliation would result in terminating this state of affairs, and that milder measures of negotiation, viewed in the light of past transactions, held out no assurance of any such success—no probability of any speedy relief.

I do not desire to prolong this discussion, but felt impelled to make that statement in behalf of the committee of which I was a member. I was not charged with the conduct of this measure before this body, but as a member of the committee myself, and being somewhat conversant with the views which were presented in support of the resolution, I felt it due that this statement should be made.

Now, as to the language of the resolution—Mr. HENDERSON. If my colleague will permit me, before he proceeds any further, I desire to inquire whether he alludes to any remark made by me as charging the committee with deliberating in a spirit of revenge? I did not intend to make any such charge, neither against the gentleman nor against the committee. I simply gave the construction which I thought the resolution would bear. I have no idea that any member of the committee desires to carry out against the enemy, or against anybody, a spirit of revenge. I merely desired to state that I thought such a construction could be given to the resolution, and that such a construction would be likely to be given to it in the eyes of the civilized world.

Mr. BROWN. I did not intend to impute such an intent to the Senator at all. It was in response to a remark that fell from some one else, I forget now whom, that the disclaimer was made.

Mr. President, I differ from some Senators who have preceded me in regard to the construction which should be placed upon this resolution. I think that the language, when read carefully and read in connection, shows that the whole of the resolution is prospective; that while it is predicated upon a state of facts that still exist, and which calls for retaliation, it does not necessarily

imply that that retaliation shall be, instance for instance, case for case, the present for the past; but, on the contrary, it is intended to apply to the future, to go into effect now, and to have its efficacy in the hereafter, and to terminate this treatment of our prisoners. It implies notice, necessarily, to the enemy, and thereby gives them opportunity in advance to avoid retaliation by practicing humanity. If the language of the committee is defective in that respect, I am not at all wedded to it, and shall be very glad to see it corrected so as to correspond with the evident intent and meaning which a connected reading carries along with it. In proof of this, I will call attention to the last clause of the resolution, which says:

“Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise a resort to them as demanded by the occasion.”

That is the concluding sentence, and serves as a key-note to the whole context. It shows that the evident intent was that the principle should be asserted and should be applied, and that the President, as the Executive Officer of the Government, charged with its execution, was not to be understood as being limited in his action by any suggestion which might be contained in the body of that resolution. I think that language is sufficient to take it out of the exception which has been taken against it by several Senators. At all events, I say that such was the design; and if it has not been satisfactorily set forth, I will be glad if it shall be perfected so as to do so more explicitly.

One point, however, deserves a passing allusion here. The only detail in which the application of this doctrine of retaliation is suggested, is in regard to food, diet, medical attendance, &c., to be graduated toward their prisoners by the same scale applied to our prisoners. It was believed by the committee that the suggestion thrown out presented the most decisive mode of arriving at a true solution of this difficulty. It was felt that there could be no better criterion, no better mode of bringing the rebel authorities to a sense of what they were practicing themselves, than by this specific manner of retaliating in kind, which is here suggested. It would array their inhumanity on our side, and make it speak trumpet-tongued to their hearts, appealing to them to desist from such practices; not alone against our soldiers, but against their soldiers.

THE PRESIDING OFFICER, (Mr. Foor in the chair.) Will the Senator suspend his remarks to receive a message from the House of Representatives?

Mr. BROWN. Certainly.

#### DEFICIENCY BILL.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had receded from its disagreement to the amendment numbered one, two, six, seven, and eight of the Senate to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and adhered to its disagreement to the fourth amendment of the Senate.

Mr. CLARK. I ask the indulgence of the Senate to make a report from the committee of conference on that bill, in order to dispose of it.

There being no objection, the Senate proceeded to consider the report; which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House (H. R. No. 620) to supply the deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, having met, after full and free conference, have been unable to agree.

DANIEL CLARK,  
LYMAN TRUMBULL,  
LAZARUS W. POWELL,  
Managers on the part of the Senate.  
R. C. SCHENCK,  
D. W. C. LITTLEJOHN,  
S. J. RANDALL,  
Managers on the part of the House.

Mr. CLARK. I move that the Senate adhere to their amendment to the bill, and on that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK. I will state to the Senate what the amendment is, so that the question will be intelligibly before the Senate. There were six or

seven points upon which the House of Representatives and the Senate disagreed. One of those points was the payment by the House of Representatives of twenty per cent. extra compensation to their employes for the last session. The House have agreed to every other amendment of the Senate but the one striking out that provision for the payment of the employes. I will give a little history of the matter, so that the Senate may understand it.

At the last session the House passed a resolution paying their employes twenty per cent. more than the regular salary for that session. This they could not do because it was in the face and eyes of the law of 1858, which provided that neither of the two Houses should pay to their employes any gratuity of that kind out of its contingent fund. When the matter came to the Comptroller of the Treasury he refused to allow it, and so it could not be paid and was not paid. When the deficiency bill came before the House they inserted in it a provision that that gratuity, if you call it so, it was not a deficiency certainly, should be authorized and legalized by law; that is, that the Senate should agree to it. The Senate struck out that provision, and would not agree that the House should pay this twenty per cent. out of its contingent fund. We had one committee of conference and they did not agree upon it. We had another committee of conference, and found that we could agree to everything else, but came to the conclusion that we could not agree to this. It then went back to the House. The House have agreed to all our amendments with the exception of the one striking out the provision allowing them to pay their employes twenty per cent. extra, and on that they have adhered. They choose that this deficiency bill shall fail unless they can force the Senate to agree to what is contrary to law. We decided it by a vote of 37 to 1 the other day, and I move now that the Senate adhere to its amendment, and let the bill fail rather than the Senate should be forced to do what is contrary to law by such a process as this.

The PRESIDING OFFICER, (Mr. FOOT.) The Secretary will read the action of the House upon the bill before the question is taken upon the pending motion.

The Secretary read, as follows:

IN THE HOUSE OF REPRESENTATIVES,  
January 23, 1865.

*Resolved*, That the House recede from their disagreement to the amendments of the Senate to the bill of the House No. 630, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, numbered one, two, six, seven, and eight.

*Resolved*, That the House adhere to their disagreement to the amendment of the Senate to the said bill numbered four, which proposes to strike out all on page 4 from line twenty-two to line eight on page 5, inclusive, in the following words:

To enable the Clerk of the House of Representatives to execute the resolutions of the House of July 4, 1864, directing payment of additional compensation to its officers, clerks, and other employes, and to the House reporters for the Congressional Globe, a sum sufficient for that purpose, being \$37,991 40, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the same is hereby added to the contingent fund of the House of Representatives; but no payment shall be made under this provision to any other persons than the clerks, officers, and other employes of the House, and the reporters for the Congressional Globe.

The PRESIDING OFFICER. The Senate amended the House bill by striking out the words which have just been read. The House of Representatives disagreed to that amendment. Upon the first committee of conference the committee divided and disagreed in reference to that amendment and were discharged. A new committee of conference was appointed, and that committee disagreed as to this amendment. The House have receded from their disagreement to all the other amendments of the Senate and adhered to their disagreement to this amendment. The Senator from New Hampshire, as chairman of the committee of conference, now moves that the Senate adhere to this amendment, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 38, nays 1; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Colman, Conness, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Hendricks, Hicks, Howard, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroi, Powell, Ramsey, Richardson, Riddle, Saulsbury, Sprague, Sumner, Ten Eyck, Trumbull, Wade, and Wright—35.

NAY—Mr. Carlile—1.

ABSENT—Messrs. Chandler, Hale, Lane of Kansas, McDougall, Nesmith, Sherman, Van Winkle, Wilkinson, Willey, and Wilson—10.

The PRESIDING OFFICER. The motion to adhere prevails, and the bill fails upon the disagreement between the two Houses.

#### RETALIATION ON REBEL PRISONERS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents.

Mr. BROWN. Mr. President, if I have been successful in presenting the grounds upon which the committee arrived at the opinion that the time for measures of retaliation had come, and have carried forward Senators to concur in the argument so far, I think I shall have little difficulty in justifying the committee further in any suggestions it may have made as to the modes of that retaliation. With this specific understanding in advance, that it was not intended to limit or restrict the action of the executive department of the Government to any suggestions that have been made, it was yet deemed proper by the committee that they should make those suggestions, because they struck them as favorable toward the end to be accomplished. Now what is the clause to which exception is taken? After affirming the doctrine of retaliation, the resolution goes on to say:

"That such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them."

And for that purpose, and in view of getting at appreciative justice in the case, it is submitted that those of our prisoners who have been in their hands shall be, as far as practicable, made their custodians. Now I ask Senators to put the question to themselves, where is the difference in principle between setting apart soldiers of theirs with the notification that they will be shot on the morrow if the putting our captured soldiers in front of their breastworks is not desisted from, or taking soldiers of theirs and placing them in such positions that they will be exposed to their own artillery in retaliation for like treatment on their part of our soldiers—where is the difference in principle between those measures—both of which, recollect, accomplished the desired result, and taking their prisoners, and saying, "We will subject you to the same treatment, in regard to diet and food, that you subject ours, and if you persist in systematically subjecting our men to such inhuman cruelties, remember you will cause the same to be visited on your own officers. You have the option. It rests with you." For one, I do not see the distinction; and for one, I am free to say that, so far as the question of humanity is involved, so far as any barbarism goes to the root of the question, the more inhuman and the more barbarous the treatment is, the greater the necessity for adopting the retaliation in order to make it cease. I say that the more you pile up the epithets in denunciation of this course, the more you accumulate the reasons why you should resort to the ultimate measure that will produce a stoppage of it in the face of the failure of all others to do so. At least such is the manner in which it strikes my own mind. If it be true that our soldiers are being systematically and intentionally starved to death, then I say that the call of this whole country is imperative upon us to give notice that we will resort to retaliation even in kind if it will produce the desired result and stop this process of destruction.

What shall we say to the rebels—If you are inhuman up to a certain point we will retaliate in order to make you cease, but if you go beyond that point then we shall stop; you may do so with impunity, we will not resort to the only mode that will bring you to a sense of your barbarism? Is that the doctrine Senators would advance? Must we offer them a premium on cruelty to our prisoners in our squeamishness and sensitiveness about the modes of retaliation and the measure of retaliation? Shall we say we are more sensitive about our own conventional modes of putting to the death, if it should ever come to that, which it never would, than we are about the starving, dying thousands of our soldiers being executed slowly in southern prisons? But that is the most extreme view that can be taken, and there is no

likelihood that it would result in such infliction upon their prisoners up to the point of starvation or anything like it. That is all clap-trap. At least it cannot be thrown out with any propriety as a reflection against the committee, for their conviction, witnessed by the very introduction of this resolution that it would be efficacious to stop these barbarous practices of the enemy, is also conclusive against their having to be carried out to their extremity by ourselves. But do not let us indicate a point beyond which we dare follow, and say if you go on with your barbarism beyond that point you may be cruel with impunity inasmuch as I will not retaliate.

I do not think, therefore, that anything can be established against the justice of this resolution by depicting the inhumanity of the course of the rebel authorities. On the contrary, every argument which is presented showing it to be in contrast with the usages of civilized war goes the more conclusively to demonstrate the necessity of our taking such action here and now as will put a period to it summarily. We have seen by the results of retaliation in other instances that the surest and the swiftest mode of terminating such outrages is to give notice that we will retaliate like for like, even unto death. What then shall commend us to a sickly sentimentality in this instance and in presence of so dire a continuing outrage?

Mr. President, let me say, therefore, that while I believe I am naturally as humane as other Senators, while I claim to be as much influenced by the moral sentiment of the community at large and by those general principles which obtain among civilized people, I cannot in this matter, and with the facts that are so fully evidenced, hesitate to recommend that that very measure shall be adopted which now presents itself as the only one which in my estimation will produce the desired result of stopping the present treatment of our prisoners in the South. If Senators could show me any other mode that would produce the result more speedily, if they could show me any other mode that had not been tried, and failed, if they could show any feasible resort that would result in putting a period to these barbarities, I should be exceedingly glad to adopt it; but I say, that having been forced to the doctrine of retaliation as we now are, having predicated it upon the ground that a necessity has arrived for putting it in force, you have no right to shrink and cry horror at the modes of doing it and say those commissioned to give practical effect to your views are acting with inhumanity in recommending its most common application of like for like. Is it not inhuman to place one of the enemy's soldiers before your breastworks when they are firing upon it? So does the measure suggested by the committee partake of great harshness. Can you, however, draw the lines of inhumanity so that they will exclude the one and include the other? Clearly not. Therefore, such fact itself is evidence conclusive that that mode of reasoning cannot apply to the case; that in accepting the doctrine you accept its consequences, and you justify your resort and at last justify your own humanity, not in narrow technical modes of punishment and death, but in the broad fact that it will stop such barbarous cruelties on their part and necessarily preclude it on yours.

Nor can I understand the objection which is taken to this procedure by those Senators especially who proclaim that our soldiers in southern prisons are not being treated with inhumanity, who declare here that all this common sentiment of the country which has come to them by the skeletons who have returned from those prisons, and who have testified around all the firesides in the land, is a living lie; that these confederates are treating them with humanity, with kindness, with consideration, and with full and abundant living, and that they are not guilty of the gross barbarities charged. When that declaration is set forth by Senators, they deprive themselves of any retort upon this measure as a measure of inhumanity; they answer their own argument; they cut themselves off criminating others. If there is no such treatment going on there, if these evidences are all fallacious, if it is not true, how is it going to be an act of inhumanity to put their soldiers on the same rations? Facts will govern the case; notice will precede it; all the charities will guard the execution. Now, then, can it



prove a measure of cruelty if there is no cruelty to measure it out by? The answer is conclusive, and cannot be gainsaid.

Mr. President, so far as the joint resolution is concerned, I am not wedded to the suggestion which is contained in the body of it. I am perfectly content that that matter should be left to the discrimination of the executive branch of the Government. I am not insisting that we shall set out here and now all the modes by which retaliation shall be exercised; but in one point I would be very glad if the resolution were somewhat stronger than it is. I would be better satisfied if this resolution, instead of being simply suggestive, were mandatory upon the Executive of the United States. I should be rejoiced if this Senate here to-day would take upon itself the responsibility to pass a joint resolution notifying the President of the United States that the time for putting a period to the suffering of our starving soldiers in the rebel prisons had come, and requiring it of him as a duty that he should apply the principle of retaliation. In that respect I should like to see the resolution more emphatic than it has been reported by the committee. I simply state that, however, as my own sentiment, not as the sentiment of the committee, for I believe that view was not concurred in when it was presented there.

Mr. President, in concluding what I have to say, permit me to add one other remark, and that is in reply to some allusions which have been made by Senators to those Christian principles, which should govern us in the conduct of our affairs. My colleague, I believe, presented the argument, and if I mistake not the Senator from Massachusetts [Mr. SUMNER] presented the proposition. Sir, I profess myself to be a Christian. I trust that I am as much actuated by such sentiments as any other Senator. I certainly hold myself amenable to the full force of all such arguments, and would be loth to cast any reflection upon any doubt that might arise in the most sensitive conscience; but I do not see the application in this instance of the moralities which the Senators have invoked, and I cannot understand how, unless they are carried up to the point of non-resistance altogether, you can make them obtain in a state of war. I do not see how you can apply specialties of the moral law designed to govern the individual relations of men in civil society to the treatment of prisoners, to the punishments of State, to the conduct of armies, to all the exigencies of a general state of war; and I, therefore, must confess very frankly that I do not feel the force of that portion of the argument, or that portion of the proposition which has been presented in this body which indicates that in all this matter we must return good for evil; that where our own prisoners are inhumanly butchered and maltreated, we must make it the text for exceeding excellent treatment on our side; that we must reciprocate, but we must reciprocate with increased tenderness and care; for, sir—and the argument with me is conclusive—if you are to apply it at all, it will obliterate your state of war; it will disturb your armies, and reduce you to the attitude of submission and non-resistance; a doctrine in which I do not concur in any sense. I believe, sir, that the doctrine of self-defense takes precedence of many of those tenets which otherwise are of binding force, and resting firm in that faith I propose to apply its principles here and now.

Mr. FOSTER obtained the floor.

Mr. WADE. Before the Senator proceeds I have an amendment that I intend to offer to this resolution.

Mr. FOSTER. I will give way to the Senator from Ohio to enable him to offer his amendment.

Mr. WADE. I propose to strike out all of the resolution after the word "retaliation," in the seventh line, leaving the preceding portion and the preamble to stand as they are, and insert what I send to the Chair.

The PRESIDING OFFICER. It will be read for the information of the Senate, it not being in order now to consider it.

Mr. WADE. I do not ask for its present consideration. I only ask that it be read for information.

The PRESIDING OFFICER. It will be read as an amendment to be offered when in order.

The Secretary read the amendment; which was

to strike out all of the resolution after the word "retaliation," in the seventh line, in the following words:

That in our opinion such retaliation ought to be inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them; that with a view to the same ends, the insurgent prisoners in our hands ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case, until the President, having received satisfactory information of the abandonment by the insurgents of such barbarous practices, shall revoke or modify said instructions. Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise a resort to them as demanded by the occasion.

And to insert in lieu thereof:

That the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner and kind as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

The PRESIDING OFFICER. The immediate question now before the Senate is on the amendment moved by the Senator from Massachusetts, the chairman of the Committee on Military Affairs, [Mr. WILSON,] to the amendment moved by his colleague [Mr. SUMNER.] That is the question now pending.

Mr. WADE. I will barely say that I shall move the proposition which has been read as an amendment at the proper time. I want to make this resolution mandatory upon the Executive.

Mr. HOWARD. Where does the Senator from Ohio propose that his amendment shall come in?

Mr. WADE. After the word "retaliation" in the seventh line.

The PRESIDING OFFICER. The Chair will inquire of the Senator from Ohio if his proposition is a proposition to amend the original resolution by way of perfecting it before the question is taken on the motion to strike out?

Mr. WADE. Certainly.

The PRESIDING OFFICER. If that be so, it is in order now, and must be considered prior to the amendment moved by the Senator from Massachusetts.

Mr. WADE. Then I offer it now.

Mr. FOSTER. Mr. President, it ought, perhaps, to be no matter of surprise that upon a question involving the application of the doctrine of retaliation to prisoners of war there should be a difference of opinion. It is a great question; broad, comprehensive, imposing. It is difficult to make up one's own opinion, at least I find some difficulty in coming to a precise and definite conclusion as to the course we should adopt. That we should differ, therefore, among ourselves is to be expected, and I am not surprised at it.

But, sir, I am surprised that any gentleman in this Chamber, or any intelligent man in this country, should now express a doubt whether our prisoners in the hands of the rebels from the first day of the war have not been treated inhumanly, barbarously, cruelly, and that this treatment continues to the present time. I am astonished, astonished beyond measure, especially that an honorable Senator so intelligent, so well-informed as the honorable Senator from Indiana [Mr. HENDRICKS] should express a doubt, as he did yesterday, upon this subject.

Indeed, I understood him to go further, and to assert that from knowledge obtained by him of prisoners who had returned home from rebel prisons, he believed that the general treatment of our prisoners was good; and he referred to an officer, to a Captain Flynn, to whose good character he gave his own sanction, to corroborate his own statement. This man, having been a prisoner in Libby prison, at Richmond, for a considerable time, bore witness, as the honorable Senator from Indiana stated, to the good treatment of the prisoners in that prison. I certainly cannot deny that this man had the means of knowledge, and if the honorable Senator from Indiana affirms him to be a respectable man, and that he makes this statement, so far as that officer is concerned, far be it from me to deny or to con-

tradict it; but, sir, I know men, and many of them, as respectable as Captain Flynn, let him be ever so respectable, who were confined in that prison for months, whose treatment, as well as that of their fellow-prisoners, was such as would disgrace savages.

The honorable Senator from Michigan [Mr. HOWARD] yesterday read from the report of a committee appointed by the Sanitary Commission; and the honorable Senator from Indiana, I will not say sneered at the document, but intimated that it was from no official source, and that testimony from such a quarter was scarcely worthy of credit. Sir, we all know that the gentlemen composing that committee are among the most respectable men in our land. It is true they were not members of Congress; they were not politicians; and there may be those in the country who think that their qualifications to perform this duty correctly were none the less for those reasons. They were intelligent, educated men; they were men of high moral and intellectual character, some of them I know personally; and the country knows them all. Those men have brought forward a mass of testimony upon this subject which it seems to me would convince the most skeptical.

One of the officers whose testimony they took, I think his name was mentioned by the honorable Senator from Michigan yesterday, Lieutenant Colonel Farnsworth, is a man whom I know intimately. He is a native of my own town, and was born next door to my own residence. I have known him from his cradle. He was an officer in our Connecticut cavalry, and served in the valley of the Shenandoah, a brave, dashing officer; no man more gallant, and he is a man whose word is entirely reliable. He gives his testimony in that report, and from personal conversations with him I know that the treatment of the prisoners in the Libby prison while he was an inmate was as I have before described it, disgraceful; it would disgrace savages.

The honorable Senator from Missouri who has just taken his seat [Mr. BROWN] alluded to the report of the committee on the conduct of the war. That certainly is not obnoxious to the charge made against the document read by the honorable Senator from Michigan. That document, which comes from a committee of our own body, at the head of which is the honorable Senator from Ohio, [Mr. WADE,] has also testimony upon this subject, conclusive, as it seems to me, to the mind of every intelligent man who reads it. And lost there should be those who would not believe what is stated there, it being almost too horrible to be credited, the portraits of the men who were subjected to this treatment—not portraits painted from fancy, but photographs taken from life, taken of men in the agonies of death—are added to attest the correctness of the fact that our prisoners were treated in the way I have described.

Sir, it is too late to make a question in regard to the manner in which our prisoners have been and are treated. Who of us does not get letters daily, or almost daily, in regard to our soldiers who come home famished, diseased, and perishing, from starvation and ill treatment, or whose remains are brought home for burial? I have one on my desk at this moment, written only a few days ago, on the 17th of January, 1865, from a neighbor of mine, a gentleman of the highest respectability. He says:

"On Friday of last week we buried Herbert Beckwith from our church. He was starved and frozen in a rebel prison, brought to Annapolis on the 24th of December very low, rallied a little at the sight of our flag and from knowing that he was under the protection of his Government, but died from actual starvation on the 30th. If there is any power at Washington which can by any possibility release our starving men from the fendish grasp of the enemy, they would only require to look upon the dead face of such a one as Beckwith in order to act with all their might."

This young man was a near neighbor of mine; I think under twenty years of age. He went into the service for the defense of his country as full of life and hope as any young man, served faithfully, was taken prisoner, and this is now his history.

Nor, Mr. President, is this treatment confined to any one locality. It was only the last week that I conversed with an officer of the seventh Connecticut volunteers who had but just escaped from Richland jail in Columbia, South Carolina. He succeeded, after several previous attempts,

which failed, in finally making his escape. He made an attempt at escape in the early part of November. He, with two other officers, passed down the Congaree river in a very small boat, large enough to contain two persons, but not large enough to float three in safety. As they would be observed from the shore during the day, they had to lay up their boat to the bank, and conceal it, and pass down the river during the night. On a very dark, foggy night, following the 8th of November, the day of our presidential election, the boat struck a snag in the middle of the river, and upset near a railroad bridge, where the water was between twenty and thirty feet deep, and running rapidly. After struggling a long while, and until they had nearly perished, they finally succeeded in getting up the bank to the shore, but in such a worn-out condition that they were unable to stand. They were soon retaken by some rebel soldiers who were guarding the bridge, and sent back to Columbia.

This officer succeeded in again escaping in the latter part of December, I think on the 24th, and this time there were thirteen others with him. They procured, through the kindness of some negroes upon the river, a flat-boat large enough to carry fifty cords of wood, and upon that boat they made their way down the river again by night, laying by day, provision being supplied by the kind blacks upon the shore, every one of whom always offered them whatever they had. My friend had a considerable amount of Confederate money with him which he paid liberally to the negroes, they, by the way, saying they would give all they had to these Yankee officers, bidding "God bless them," and saying to them that if they could do it they would put wings on them that they might fly. That was the expression of one of the negroes: "God bless you, massa, I would put wings on you if I could, and you should fly home to your wife and children."

It was under these circumstances that they went down the river, and this time succeeded in getting to its mouth at the ocean, the Congaree being one of the branches of the Santee, which flows into the ocean near Georgetown, about fifty miles above Charleston, South Carolina. Here they signalized a gunboat which lay off shore, and they were taken on board in a pitiable condition, having been obliged to live for some days upon raw sweet potatoes, not daring to make a fire for fear they should be discovered.

I inquired of this officer, Captain Dennis, as to the treatment, so far as provisions were concerned, of these men at Richland while he was there and when he came away, and he gave me the ration. He said that five days' rations were now given out to them at once, and the ration for five days was five pints of Indian meal, a few pinches of salt, and occasionally—not uniformly, but occasionally—a small quantity of sorghum, which was little more than dirty molasses and water, the water predominating.

This was the whole ration for five days, and it amounts to one pint of Indian meal, a little salt, and possibly a little sorghum per day. No means were furnished for cooking it; no utensils, nothing at all but the bare pint of Indian meal with a little salt, and possibly a little of this sorghum; this alone to sustain life from day to day. Mr. President, will any man say that this is not inhuman, barbarous, shocking to humanity? It may keep men alive for a short time; but we all know that a man confined to such a diet after no very long period of time must either lose his health and impair his constitution or perish. It is impossible that human life should be sustained and that a man should be comfortable for any length of time on a diet so meager as that.

These and other facts to which I might allude, and which I presume all intelligent men of the country know as well as I do, make me wonder why anybody should entertain a doubt as to how our prisoners are treated. If such testimony does not satisfy them, they would hardly be persuaded though one rose from the dead.

This Captain Dennis, I can assure the Senate, is a most trustworthy and reliable man. He was a captain in the seventh Connecticut, a brave regiment worthy of their leader; and when I tell you that their leader was General Alfred H. Terry, that it was his old regiment, the Senate will understand me. After General Terry ceased to command it it was commanded by a man whose name

is not unknown in this war, General Joseph Hawley. I say that Captain Dennis was a man worthy to be the peer of men like General Terry and General Hawley; and when he states facts of this kind every man may believe, and, indeed, may know, so far as we can know from human statement, that what he says is true. He was in six different prisons; the treatment varied, but it was best at Charleston, and as that locality has much to answer for it ought to be known, that they may have the credit for it.

So much, Mr. President, for the point whether our men are well or ill treated; but the question is, what shall we do? What shall be done so that this treatment may be changed? It is a question not without its difficulties; and although, as I suggested in the outset, it is not strange that there should be differences of opinion upon it, yet our differences—so far as they have been developed here—are by no means so great as at first they would seem to be. While on one side the doctrine of retaliation is insisted upon, is it denied on the other? No, Mr. President. I do not understand that anybody here has undertaken to assert that retaliation, to a certain extent, is not just and proper in time of war.

But as to how far this principle shall go there is a difference, at first a wide difference. On the one side it is asserted that the retaliation should be like for like; that is, whatever our enemy does to our prisoners in his hands, we should do, and do in the same way, to his prisoners in our hands. All cannot agree to that, and indeed I have hardly heard anybody assert that the doctrine to that extent is to be justified. If any Senator does assert it, when he comes to the practical question he shrinks from applying the test. When it is asked, "If the enemy scalp or burn a prisoner, shall we scalp or burn a prisoner whom we take from him?" everybody says no; nobody advocates that. If the rebels when they take our men prisoners sell them into slavery, shall we, when we take their men prisoners, sell them into slavery? I do not understand that anybody argues for that.

What, then, is the difference between those who assert that retaliation is a proper mode of proceeding, and those who assert that it is not? Simply this, that certain persons will go to one extent in applying the principle of like for like; certain others will go a little further, but all will stop at some point.

There is no question but that by the laws and practices of nations retaliation within certain limits is now recognized. It was practiced by us in former wars. It was practiced in the revolutionary war. It was practiced in the war of 1812. I remember a particular case. Commodore Hull, in the Constitution, captured the British frigate *Guerriere* and brought in the prisoners whom he captured on board that ship. A number of our men were at that time held as prisoners by the British at Halifax. They had been all, I think, but six discharged, exchanged in a cartel; and six were held, who they claimed were British subjects, although taken fighting in our Navy, and they claimed the right to hold them and hang them as traitors to the British flag.

Mr. COLLAMER. They claimed that they were deserters from the British navy.

Mr. FOSTER. Yes, as my friend from Vermont suggests, the British claimed that those men were deserters from the British navy, and that as deserters and traitors to their flag they were to be hanged under the rules of war. The prisoners of the British frigate *Guerriere* were placed in a cartel and put under the charge of an officer, and as he was sailing out of the harbor of Boston he met the frigate President, Commodore Rodgers, coming in, and Commodore Rodgers stopped this cartel, gave to her commanding officer this information from Halifax that the British were holding back six sailors under these circumstances whom they threatened to hang and would not exchange; then directed the officer in charge of the cartel to muster all the crew of the *Guerriere* who were on board, and as he passed along the line of those prisoners to select twelve of the finest and most athletic men of the lot and take them on board the President as he was going into Boston, and should hold those twelve men as hostages whom he would hang if the British admiral hung the six sailors in Halifax. Then the cartel went on.

When the British admiral at Halifax heard of this state of things, he discharged five of those

men to begin with, and Commodore Rodgers discharged ten of the men thus taken from the *Guerriere*, holding two. Before the war was over, the man held at Halifax was exchanged and discharged, and then the two whom we held were also discharged.

Mr. President, I believe in retaliation to that extent certainly. I believe in retaliation to that extent, that if the rebels take our prisoners and shoot or hang them we should take their prisoners and shoot or hang them; but if they take our prisoners and torture them by scalping them or in any other mode practiced by savages and not by civilized nations, I do not think we should adopt the same practice, and I do not understand that any man here claims that we can or ought to do that.

I do not understand the honorable Senator from Ohio, who is very frank and very decided on this subject, to claim that any such practice as that should be resorted to by any means. He agrees with the honorable Senator from Pennsylvania on that point, I believe. As I before suggested, when we come to put a distinct case, the difference is much less than when we are talking about an abstract principle which we do not apply to a particular case. The honorable Senator from Ohio says, "I believe in this doctrine of retaliation, like for like; as they treat our men, so will we treat theirs." The honorable Senator from Pennsylvania says, "No, I do not believe in that." And when he asks the honorable Senator from Ohio "Would you scalp a man because the enemy scalps one of our men?" the latter answers, "No."

There is not, then, a difference in the application of the principle, although there is a difference on the general principle, and so, as I believe, in regard to every practical question that has been put here, there has been an agreement even between those who seem to differ most widely, unless it be on the single question of starving a man to death, and I have not heard anybody as yet avow the belief that it was right or just to put a man in prison and starve him to death, even although the rebels have done it and it may be are doing it.

It is urged, as I understand it, that the threat will be available, and that if we say we will do this thing it will work out the deliverance of our soldiers. If saying so will do it without our performing this deed of cruelty, I am for saying it; but I am not in favor of starving a man to death because the rebels starve our prisoners to death. Even in view of such letters as those I have read, showing such treatment to young men who were born, have lived, and grown up near my own house, I cannot agree to take a young man from South Carolina or anywhere else, and starve him to death in the same manner by way of retaliation. I can no more do that than I can vote to sell him into slavery, or to scalp him, or commit any atrocity on his remains after he is dead, which, as I suppose, has been done by the enemy more than once. As I suppose and believe, on what I think is good evidence, though I do not know the fact personally, even our dead who have fallen like brave men on the battle-field have been mutilated, their bones have been taken and used as ornaments, trophies of the prowess of the southern chivalry over the northern Yankee.

Sir, human nature shrinks back from retaliation of that description. And we are not, as compared with these rebels, standing on equal ground with them on this subject. We are a nation. We have a history. It is true we have not been a nation for centuries, but we have been a nation for many years, and I for one, as an American citizen, am proud of the history of the United States of America. I am not for doing anything which shall tarnish the fair fame and the glory of this nation either in peace or in war.

Who are our opponents? They have never yet been admitted into the family of nations, and I trust in God never will be. They are unworthy of a seat in a congress of nations. In any place where nations are recognized they are not, and ought not to be, and will not be recognized. They are a band of insurgents, robbers, traitors, malefactors on land, pirates on the deep; and because such men descend to what would disgrace savages in the treatment of prisoners, not disgracing any national name, for they have no national name to disgrace, shall we, who are citizens of the United States of America, each man feel-

ing that he has a part of the national honor and character to sustain, do that which disgraces them? No, Mr. President; no, no, no.

I would go as far, I trust, as the honorable Senator from Ohio to relieve our men; but I believe that if that Senator and myself were set to guard prisoners under an order that they should be kept on such rations that they would starve and perish, the honorable Senator from Ohio, quite as soon as I, would from his own pocket take his last crust or his last morsel rather than see a fellow-being perish with hunger. I know he would. The generosity of his own heart would compel it.

The honorable Senator from Indiana who is near me [Mr. LANE] made a mistake, if he will allow me to say so, in suggesting that if this policy were adopted and carried out the soldiers and officers who had been in southern prisons, and had been subjected to this treatment, should be the men set to guard the prisoners and carry into effect these orders. These men having felt the awful pangs, which none but he who feels knows, of dying by hunger and starvation, would not inflict even upon one who had inflicted it upon them the same torture. They might blow his brains out with a musket, or run him through with a bayonet, but they would never starve him to death and stand by looking on. Much less would such a man do it to one who had been taken in fair fight—fair, I mean, so far as the fight itself was concerned, not fair in the fact that the man was properly engaged in it—who had surrendered, dropped his weapons, and given himself up to the mercy of his captors as a prisoner of war.

The honorable Senator from Indiana has himself been a soldier, and a brave one, before he was a Senator. He would not do this thing, I am sure he never would. He must get some other guard around these men than brave soldiers who have served in battle and suffered in prison. The brave are always generous. The pirates and robbers who do these deeds are not brave men. Even those men who have suffered tell us over and over again that occasionally some brave man who had fought against them, perhaps in the field, has surreptitiously, and in danger sometimes of being punished, slipped a loaf of bread or a piece of meat into the hands of these starving men. It is impossible but that nature will finally assert her dominion in the minds of men who have a heart; and brave men have a heart that can always be appealed to.

Now, Mr. President, in regard to these propositions that are before the Senate, I esteem the one introduced by the honorable Senator from Massachusetts, the chairman of the Committee on Military Affairs, [Mr. WILSON,] as the one which is the most likely to work out a practical result. I am for that which is the most practicable, believing that the great object which we have in view is to relieve these men. I know it is the object of the honorable Senator from Ohio [Mr. WADSWORTH] and the honorable Senator from Indiana, [Mr. LANE,] I am sure it is. It is a principle of humanity which moves those Senators to the course they advocate, and I respect them for it. I go with them as it regards the result to be obtained, but I am compelled to differ from them in regard to the means to be used.

The proposition of the honorable Senator from Massachusetts, the chairman of the Committee on Military Affairs, it seems to me will be the most practically beneficial to our men; meantime, certainly, the Executive can, as I suggested, and it is his duty, take all means which he can take lawfully, constitutionally, properly to ameliorate the condition of those men if he cannot secure their exchange, which is his first duty. If this proposition shall succeed, it will succeed sooner than any other, because it can be the soonest made available. The other process of course would be one comparatively slow, for we have in the first place to give notice to the rebel authorities that unless they change their course we shall retaliate. That is contemplated. It may be that I am wrong in saying that notice is to be given.

Mr. COLLAMER. It is not contemplated in the resolution.

Mr. FOSTER. It may not be in the resolution, but of course it would be understood that the rebels should at some period, and that very early, understand that we have adopted this plan,

or it would be of no use. Every one would say that it is certainly of no use to adopt a policy of starving men by way of retaliation unless we let them know it. That would be mere wantonness. We are, then, to let them know it.

Mr. JOHNSON. But to starve first, according to the resolution.

Mr. FOSTER. I hardly believe that is what the honorable gentlemen who advocate the resolution intend; I do not so understand them. I do not understand that anybody would advocate the shutting up of a given number of prisoners here, and going immediately to commence the process of starvation. I suppose that is not meant, but, as I suggested, the meaning is that they shall have reasonable notice of this intention; and that we shall proceed then promptly and energetically with this mode of retaliation in order to relieve our men. That will take time. It will take time to ascertain whether they have changed their policy, and meanwhile our prisoners are suffering.

We can send, or at least make the proposition to send, to Richmond in order to ascertain whether steps may not be taken to relieve our prisoners from this terrible suffering. If it can be done, and done at once, the object is accomplished. If it is refused, and nothing can be done in that way, then the course which the gentlemen propose is certainly open to us, and it seems to me we shall lose very little by the short delay of making this attempt first. I am therefore for the proposition of the honorable Senator from Massachusetts who heads the Military Committee. He is not now in his seat, and I can therefore say, and it is but a proper tribute to him to state, that, being connected as he is with our military affairs, he knows, I will not say better than the rest of us, but he knows, I confess, better than I, what will be most likely to effect the object we have in view.

Mr. HENDRICKS. Before the Senator from Connecticut closes his remarks I wish to correct him in one respect. He did me the honor to refer to the argument that I presented to the Senate on this subject yesterday evening. I know the Senator would not designedly misrepresent what I said, for there is no person within these walls, or outside of these walls, who, I think, would be more frank in the statement of the position occupied by one with whom he does not agree than the Senator from Connecticut. But he evidently did misunderstand my remarks on the subject to which he alluded in the commencement of his speech. I understood him to say that I had assumed that there were not cruelties inflicted on our soldiers in southern prisons. Sir, I did not say that; I did not wish to be so understood. The Senator from Michigan [Mr. HOWARD] asked me a very pointed question, and in reply I said—I read from the Globe, as taken by the reporter, without my having seen it from the time I spoke until it appeared in print—

"The Senator asks whether he understands that I have said that our own prisoners were treated as well as their guards. I did not say so. He has read testimony here taken by a commission in respect to Libby prison. I have given the statement of an honest man who was a prisoner there for months, a part of the time in a dungeon, selected by lot to be shot. When he came home he made this statement to his neighbors. I have no doubt that there have been cruelties inflicted on the Union prisoners in southern prisons, and that is one reason why I want them brought home; but I do not believe that it has gone to the extent reported in the country."

That is my judgment. I have no doubt there were cruelties very shocking indeed, but not to the extent as reported in the country. I further said:

"I do not believe, upon the information I have on the subject, that it is at all to the extent stated in the pamphlet from which the Senator read to-day."

This is the substance of what I said on the subject. I do not doubt now, I will repeat, that there have been cruelties, not justified by the usages of Christian warfare, inflicted on our prisoners in the South. That is a reason, and a very strong reason, governing me in demanding that an honorable exchange shall be made, and that they shall be brought home.

Mr. FOSTER. I certainly did not, as the honorable Senator does me the justice to state, intend to misrepresent him. I did understand him as I stated. Perhaps I was wrong in so understanding him; of course I was wrong if he disavows it; but when he spoke of the testimony borne by Captain Flinn in regard to the treatment, I think he said that Captain Flinn represented his treat-

ment at Libby to have been good, so far as provisions were concerned, and that he was as well provided as the soldiers of the rebel army, or something like that.

Mr. HENDRICKS. I will read what I said about that.

Mr. FOSTER. While the honorable Senator is looking for the paragraph I will say another word. It is certainly not my desire to place the Senator in any false position. If I understood him, as I certainly did, after his explanation, incorrectly, I am most happy in making the correction. Indeed it pained me for a moment to think that a Senator so intelligent as the honorable Senator is should have such an impression. I was wrong in it, and I am glad of it.

Mr. HENDRICKS. This is what I said of Captain Flinn:

"I took a great deal of interest in his case. He was my personal friend. He wrote to me that he thought an exchange could be secured. I saw the President at once, and the President, a kind-hearted man, made the order on the part of this Government, and Captain Flinn was exchanged; and when he returned to his neighbors he told them that the prisoners were as well provided as the men who guarded them. I take his word on that subject while he was there as equal to the word of any man."

This as I was informed by his neighbors with whom he conversed immediately on his return. Of course that is confined to Libby prison. I suppose Captain Flinn knew nothing about any other.

Mr. DAVIS. Mr. President, I presume every Senator concedes the principles of retaliation. The principles and spirit of the speech of the honorable Senator from Connecticut [Mr. FOSTER] in the main concur with mine. I make no essential difference with him. But, sir, it is just as well settled by the laws of nations and by the uniform usages of nations, that retaliation has its limitations, as that the principle of retaliation exists. The laws of war have been very much ameliorated in the last five or six hundred years, and the law of retaliation as a part of the laws of war has been progressing toward the same amelioration. The question is not what retaliation was in the time of Edward III and of the Black Prince, nor what it was two hundred years ago. The question is, what is the law of retaliation in the present age of Christian civilization? I will read from two American authorities that treat upon the subject of retaliation. One of them I believe was read by the honorable Senator from Massachusetts [Mr. SUMNER] yesterday. Kent says:

"Cruelty to prisoners and barbarous destruction of private property will provoke the enemy to severe retaliation upon the innocent. Retaliation is said by Rutherford (Inst. 2, c. 9) not to be a justifiable cause for putting innocent prisoners or hostages to death; for no individual is chargeable, by the law of nations, with the guilt of a personal crime merely because the community of which he is a member is guilty. He is only responsible as a member of the State in his property for reparation in damages for the acts of others; and it is on this principle that, by the law of nations, private property may be taken and appropriated in war. Retaliation, to be just, ought to be confined to the guilty individuals who may have committed some enormous violation of public law."—Kent's Commentaries, part 1, page 93.

In a note to the same page I find this:

"In the case of the Marquis De Someruelles, (Stewart's Vice Admiralty Reports, 482,) the enlightened judge of the vice admiralty court at Halifax restored to the Academy of Arts, in Philadelphia, a case of Italian paintings and prints, captured by a British vessel in the war of 1812, on their passage to the United States; and he did it 'in conformity to the law of nations, as practiced by all civilized countries,' and because 'the arts and sciences are admitted to form an exception to the severe rights of warfare.' Works of art and taste, as in painting and sculpture, have, by the modern law of nations, been held sacred in war, and not deemed lawful spoils of conquest. When Frederick II of Prussia took possession of Dresden, as conqueror, in 1756, he respected the valuable picture gallery, cabinets, and museums of that capital, as not falling within the rights of a conqueror. But Bonaparte, in 1795, compelled the Italian States and princes, including the Pope, to surrender their choicest pictures and works of art, to be transported to Paris. The *chef d'œuvres* of art of the Dutch and Flemish schools, and in Prussia, were acquired by France in the same violent way. This proceeding is severely condemned by distinguished historians, as an abuse of the power of conquest, and a species of military contribution contrary to the usages of modern civilized warfare. (Alison's History of Europe, vol. 3, p. 42. Sir Walter Scott's Life of Napoleon, vol. 3, pp. 58-63.)"

I will now read a short paragraph from Professor Woolsey, an American writer on international law, from the State of the honorable Senator from Connecticut:

"That retaliation in war is sometimes admissible all agree. Thus if one belligerent treats prisoners of war



harshly, the other may do the same; or if one squeezes the expenses of war out of an invaded territory, the other may follow in his steps. It thus becomes a measure of self protection, and secures the greatest amount of humanity from unfeeling military officers. But there is a limit to the rule. If one general kills in cold blood some hundreds of prisoners who embarrass his motions, his antagonist may not stain himself by similar crime, nor may he break his word or oath because the other had done so before. The limits of such retaliation it may be hard to lay down. Yet any act of cruelty to the innocent, any act, especially, by which non-combatants are made to feel the stress of war, is what brave men shrink from, although they may feel obliged to threaten it."—*Woolsey's International Law*, page 293.

These high authorities lay down distinctly that there is a limit to this right of retaliation. The first author from whom I read, who was one of the most enlightened writers upon public law in this or any other country, lays down the general principle that the law of retaliation cannot be properly inflicted upon an innocent man. Before it can be justified by the laws of nations and the usages of the civilized world and by the principles of humanity, you must first lay your hands upon the guilty; that a man is responsible only personally in his person and by personal punishment for his own individual crimes; and that he is not responsible for the acts of his nation, of his countrymen, or of his Government, in their violations of national law in any other regard or relation except in his property. That is what Chancellor Kent lays down. Woolsey lays down the same principle in effect, when he says:

"If one general kills in cold blood some hundreds of prisoners who embarrass his motions, his antagonist may not stain himself by similar crime."<sup>28</sup>

What were the laws of war and what were the rights of retaliation two hundred years ago, especially four hundred years ago? They recognized the principle distinctly that if one army defeated another and took a larger amount of prisoners than it could secure, the conquering army had the right to put the prisoners to death. The laws of nations of the present Christian and civilized age utterly reprobate and reject that principle. The laws of war in this Christian and civilized age reject the principle of devastating the property of non-combatants and the inflicting of the ravages of war on the monuments and the fruits of the arts of a country. What is proposed in the present resolution? It is one of the most striking features in the proposition to retaliate upon the rebels by starving their prisoners to death because they have starved our prisoners to death. There is no power on this earth that would ever win or wring from me my sanction to such a barbarous principle of retaliation as that. It would be torture.

Would the Senate pass a resolution requesting the President to bring confederate prisoners to the thumb-screw, to all the tortures that prevailed in the dark and barbaric ages of Europe? If the proposition were made in that form, it would be rejected unanimously by the Senate. Is it not now made in a form equally cruel and more horrible—in the form of starvation? Sir, what greater torture is there than for a man to be starved to death? None. I am astonished that the monsters of the southern confederacy, or of any other country, could be found to look patiently upon the wasting health and energies of a captive prisoner and see that prisoner condemned to the slow torture of starvation. The honorable Senator from Massachusetts [Mr. SUMNER] is true to the highest impulses of human nature and of Christian civilization when he protests against any such principle of retaliation as that.

Sir, I will revert to retaliation in my own State. There has been retaliation there by the commander of the department to this extent: he has captured guerrillas, and he has taken prisoners of war that were captured in battle, as I understand, from their prisons, from their captivity, men who had no connection whatever with those guerrilla acts that brought murder and desolation upon particular sections of our State, and he has caused them to be shot to death. I say that retaliation to that extent even is condemned by the Christian and enlightened principles of Chancellor Kent and of Professor Woolsey; and I maintain that that form of retaliation is a mistake; it corrects no evil; it prevents no crime upon the part of those who committed the first crime. We know in Kentucky that for the forty or fifty men who have thus been seized and shot to death without trial by order of the general, on the principle of retaliation, the guerrillas and the confederates, whenever they have taken captives, have killed and murdered, in the same summary manner, two or three for each one that was executed by the order of our officer.

Mr. President, I would, in some extreme cases, vote for retaliation even to the execution of an innocent man, where that execution would promise to do any good in restraining crimes and excesses and violations of the laws of war by our enemy; but I would have to be thoroughly convinced that there was a reasonable promise of those results before I would ever give my sanction for retaliation upon an innocent man that was entirely disconnected, free from and unstained by the particular crime for which retaliation was about to be resorted to. But, sir, if I could be induced to come to make such an exception as that, I would limit it to the officer. The private soldier, by the military discipline of every army, be that army insurgents, or an army maintained by a regular Government in the waging of a regular war, is bound by the penalty of death to obey the order of his superior; and in no case would I ever vote for or give my sanction to the punishment by death of a private soldier for having obeyed the orders of his superior officer. The utmost verge to which I would press the principle of retaliation would be to execute that law upon officers or some class of officers whose example by way of punishment might be presumed reasonably to have an effect in restraining the cruelties and the excesses of their Government in the administration of the laws of war.

The honorable Senator from Iowa, [Mr. HARLAN,] a few days ago, assumed the position that it was no more cruel and no greater outrage upon the laws of humanity to starve a man to death than to shoot him. From that position I dissent altogether. I could and would vote in some particular cases to have a captive of the enemy, an officer, executed by a file of men; but I never would doom an officer or a soldier to the horrible torture of death by starvation upon any principle of retaliation whatever, and there is no influence on God's earth that would ever bring me to give my sanction to any such horrible mode of execution.

The honorable Senator said, furthermore, that he thought from this time henceforth there should be no exchange of prisoners; that our prisoners in the rebel prisons were starved; they were exhausted in their energies and strength and health; that if they were relieved from their prisons by exchange their times would be about to expire; or that they would be in such a condition of physical health that they could render no service to their country by reëntering the Army.

Mr. HARLAN. Does the Senator attribute that remark to me?

Mr. DAVIS. Yes, I do.

Mr. HARLAN. I have only to remark that the Senator misapprehended my statement entirely.

Mr. DAVIS. Well, sir, I will read the Senator's statement. Here are his words:

"This is the present condition of the contest. The rebellion has been so far suppressed that they are no longer able to meet us in the open field; they are now ensconced behind the strongest works that human skill and energy can produce. We are the assailing party; we are compelled to fight them in those works, and to capture those garrisons by assault, or the tedious process of a siege; in order to secure complete success. I think, therefore, it is very doubtful whether we are damaged by the refusal of the rebels to make a fair exchange; an exchange man for man will make the rebels relatively stronger. It is therefore doubtful, to say the least, whether a far-seeing, sagacious humanity would not induce this Government to refuse to exchange prisoners from this time forward. If this course should be adopted, then of course if the rebels treat Union troops held by them as prisoners of war with premeditated cruelty and inhumanity, it will furnish a just occasion for retaliation.

"Such retaliatory measures should not be adopted rashly or needlessly, because it will always seem hard to compel the innocent to suffer for the guilty; on the surface it may seem cruel and inhuman, but only in the same sense in which it is cruel and inhuman to shoot a prisoner of war in retaliation for the murder of one of our own soldiers held by the enemy. Yet this is in accordance with the usage of all civilized nations. It is resorted to in order to compel the enemy to treat with humanity those whom they may capture in battle. There is nothing more cruel, it seems to me, in putting a rebel prisoner on lean fare than there is in shooting a rebel prisoner in retaliation.

"I desire that this resolution, if it is to pass, shall be amended somewhat so as to require the punishment to be strictly retaliatory; to be inflicted on officers and men of equal number and of the same rank; and so as to instruct the President to notify the rebel authorities that this punishment is inflicted in retaliation for the inhuman treat-

ment of our troops held as prisoners by them, and will be continued only until they treat our prisoners with the humanity demanded by the usages of civilized nations."

"I would rejoice to see every prisoner of ours held by the rebels released at once, but when I know that the release of a Union prisoner by the rebels requires the release of a rebel prisoner by our Government, and that he will be at once thrown into strongly fortified works, and that you will be compelled to recruit three other soldiers to unite with our returning prisoner to make the combat equal; that four lives are to be put in jeopardy to recapture the rebel whom we have released, I cannot criticize the Secretary of War if he should refuse to exchange prisoners from this time forward until the close of the war, even if a fair exchange could be secured; but I apprehend there are very few Senators here who believe that a fair exchange can be effected. They so analyze all prisoners that they hold of ours as to release those whose terms of service have expired or are about to expire. Their soldiers are mustered in practically during the war. Every southern citizen able to bear arms is enrolled as a soldier during the continuance of the war. Then when we release a rebel prisoner we put him into their army during the continuance of the war, while in nine cases out of ten, probably, the soldier received by us in return will be at once ill fed and mustered out of service. In addition to this, we know from the facts that have been developed by the committee on the conduct of the war that they do not return to us able-bodied men, but only exchange the sick and dilapidated for those that are able-bodied and vigorous. We cannot, as I am informed, secure a fair exchange. If a fair exchange could be secured, I probably would accept it; but when a fair exchange cannot be had, I cannot complain of the Secretary for insisting on it with pertinacity when the delay is ruinous to the rebel cause and is hastening their ultimate overthrow."

There is the argument of my honorable friend. I listened to it with immense surprise and with great regret. More than twelve months ago I endeavored to bring the attention of the Senate to this identical subject of our suffering countrymen in rebel prisons. I proposed in the Senate a resolution calling upon the Executive for all the correspondence between the two Governments on the subject of exchanges. The Senators will recollect that I made a lengthy speech, and with all the little power that I possessed I endeavored to enlist the reason and the sympathies of the Senate and of the country for our suffering prisoners in rebel prisons, but all without any success.

Now, Mr. President, there are two parties to this treatment of our unfortunate and gallant men who have been perishing in rebel prisons. Who are the two parties? The one is the rebel government and rebel authorities; the other is our own Government and our own authorities. I stated on this floor that about eighteen or twenty thousand Union prisoners had been taken into Libby prison and the prison on Belle Isle in twelve months, and that a friend of mine who had returned from there informed me that while he was there one third of the whole number perished from exposure and want of sufficient food and attention in their sickness.

Mr. CLARK. I ask the Senator from Kentucky to give way for a moment to allow me to introduce a bill, if it is agreeable to him to do so.

Mr. DAVIS. Certainly.

Mr. CLARK. I ask the unanimous consent of the Senate to introduce a bill of which no previous notice has been given. It is a bill precisely in the words of the deficiency bill which has failed, with the exception of the items to which the Senate refused to agree. I desire that it may be received and put upon its passage.

The VICE PRESIDENT. The Senator from New Hampshire asks the unanimous consent of the Senate to introduce a bill. Is there any objection?

Mr. SUMNER. I would rather have it lie over until to-morrow morning.

The VICE PRESIDENT. Does the Senator object?

Mr. SUMNER. I do object.

The VICE PRESIDENT. Then it is not admissible.

Mr. JOHNSON. With the leave of the Senator from Kentucky, as it is now past four o'clock, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 25, 1865.

The House met at twelve o'clock, m. Prayer by Rev. W. Y. Brown, chaplain of Douglas hospital.

The Journal of yesterday was read and approved.

CONFERENCE COMMITTEE APPOINTED.

The SPEAKER appointed as the second committee of conference on the disagreeing votes of

the two Houses on the amendments of the Senate to the deficiency bill, Messrs. SCHENCK, LITTLEJOHN, and RANDALL of Pennsylvania.

#### MINING LAWS IN ARIZONA.

Mr. POSTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be, and they are hereby, instructed to inquire into the expediency of adopting the code of mining laws passed by the Legislative Assembly of the Territory of Arizona hereto appended.

The papers accompanying the resolution were ordered to be printed.

#### PAY OF MEMBERS OF ARIZONA LEGISLATURE.

Mr. POSTON presented the memorial and joint resolution of the Territory of Arizona, asking Congress to increase the pay of members of the Legislative Assembly and territorial judges; which were referred to the Committee of Ways and Means, and ordered to be printed.

#### COLORADO INDIANS.

Mr. POSTON also presented the memorial of the Territory of Arizona, asking of Congress an appropriation of \$150,000 for placing the Indians of the Colorado on a reservation; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### NAVIGATION OF THE COLORADO RIVER.

Mr. POSTON also presented the memorial of the Legislative Assembly of Arizona, asking an appropriation of \$150,000 for the improvement of the navigation of the Colorado river; which was referred to the Committee on Commerce, and ordered to be printed.

#### WAR AGAINST THE APACHES.

Mr. POSTON also presented the memorial of the Territory of Arizona, asking of Congress an appropriation of \$250,000 in aid of the war against the Apaches; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### ARMS FOR ARIZONA.

Mr. POSTON also presented the resolutions of the Territory of Arizona, requesting arms; which were referred to the Committee on Military Affairs, and ordered to be printed.

#### MAIL FACILITIES FOR ARIZONA.

Mr. POSTON also presented the resolutions of the Legislature of Arizona, requesting mail facilities; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### BOUNDARIES OF ARIZONA.

Mr. POSTON also presented joint resolutions of the Legislature of Arizona, instructing the Delegate from that Territory to ask of Congress the appointment of commissioners to fix the boundary line of the Territory of Arizona and other Territories; which were referred to the Committee on Territories, and ordered to be printed.

Mr. POSTON also presented the memorial of the Territorial Legislature of Arizona asking for a change of the boundary line between that Territory and the State of California; which was referred to the Committee on the Territories, and ordered to be printed.

#### SALTING RAILROAD TRACKS.

Mr. STEELE, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of adopting such measures as may be necessary to prevent the use of salt on the tracks of the street railroads in said District, and to report by bill or otherwise.

#### EXCUSED FROM COMMITTEE SERVICE.

Mr. STEELE, of New York. Mr. Speaker, I desire to ask to be excused from service on the select committee to investigate the charges against Hon. LUCIEN ANDERSON, to which the Speaker did me the honor to appoint me. My reason for asking to be excused is that Mr. ANDERSON is a member of the same committee of which I am a member; and in consequence of the continued absence of the chairman of the Committee for the District of Columbia, I have been, by the request of my associates, and am still, acting as chairman

of that committee; and of course my time is very much occupied.

There being no objection, Mr. STEELE was excused.

#### TRADE WITH REBELLIOUS STATES.

Mr. WASHBURN, of Illinois. Mr. Speaker, I am directed by the Committee on Commerce to ask the adoption of the following resolution:

*Resolved*, That the Committee on Commerce, to whom was referred the resolution of the House of Representatives of the 20th instant, directing the said committee to inquire into the matter of a permit granted by the chief agent of the Treasury Department to G. W. Lane, of Baltimore, to proceed to North Carolina and exchange provisions with the rebels for cotton, is hereby directed further to inquire into all the facts and circumstances connected with the trade with the rebellious States since the breaking out of the rebellion, either by permit from the Treasury Department or otherwise; that the said committee have leave to sit during the sessions of the House, and to report at any time; and that the Clerk of the House be directed to pay all the expenses of the said committee out of the contingent fund of the House on the certificate of the chairman.

Mr. FARNSWORTH. I object to that resolution. I do so because that whole matter is now before the Committee on Military Affairs, by order of the House.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, informed the House that the President had this day approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 607) to provide for an advance of rank to officers of the Navy and Marine corps for distinguished merit;

An act (H. R. No. 390) for the relief of Emily A. Lyon;

An act (H. R. No. 598) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1866; and

A joint resolution (H. R. No. 140) authorizing the Secretary of the Treasury to give the necessary notice stipulated, pending the intention of the United States to purchase the building known as the Merchants' Exchange, in New York city, now used for custom-house purposes.

#### HENRY KARSTAU.

Mr. PRICE, by unanimous consent, introduced a joint resolution for the relief of Henry Karstaus; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### NORTHWESTERN SHIP CANAL.

Mr. ALLISON, by unanimous consent, presented a memorial to the President and Congress of the United States, by the Northwestern Ship Canal Convention, assembled at Dubuque, Iowa, May 4, 1864; which was referred to the Committee on Roads and Canals, and ordered to be printed.

#### NIAGARA SHIP CANAL.

Mr. WASHBURN, of Illinois. I demand the regular order of business. I desire that the committees may be called.

The SPEAKER. The question pending at the adjournment yesterday was the bill (H. R. No. 126) to construct a ship canal around the falls of Niagara. It is, therefore, the regular order, unless it be set aside by unanimous consent or postponed.

Mr. SPALDING. I move that that bill, with the pending amendment, be postponed until Monday next, and made the special order for that day after the morning hour.

The motion was agreed to.

#### CABINET OFFICERS IN CONGRESS.

Mr. PENDLETON. I rise to a privileged question. I desire to call up the motion to reconsider the vote by which the bill (H. R. No. 214) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives was recommitted to the select committee.

Mr. STEVENS. Will the gentleman yield to me a moment?

Mr. PENDLETON. I yield to the chairman of the Committee of Ways and Means.

#### TAXES IN INSURRECTIONARY DISTRICTS.

Mr. STEVENS. I report back from the Committee of Ways and Means, with an amendment

in the nature of a substitute, Senate bill No. 171, entitled "An act further to amend an act entitled 'An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes,'" approved June 7, 1862. I move that this bill be recommitted, and be ordered to be printed.

The motion was agreed to.

#### INCREASED PAY OF GOVERNMENT EMPLOYÉS.

Mr. STEVENS. I also report from the Committee of Ways and Means a bill to provide for the temporary increase of the compensation of certain clerks and employés in the civil service of the Government. I ask that this bill be made the special order for Thursday of next week.

Mr. WASHBURN, of Illinois. I must object to this bill being made a special order. I object to making any bill for raising salaries a special order to the exclusion of public business.

Mr. STEVENS. It is not to the exclusion of public business.

Mr. WASHBURN, of Illinois. It does exclude everything else, as a matter of course, if it is made a special order.

The SPEAKER. To make the bill a special order at this time requires unanimous consent, and the gentleman from Illinois objects. It can be postponed by a majority, or acted upon now by a majority.

Mr. STEVENS. I move, then, that the bill be postponed until Thursday of next week after the morning hour, and be ordered to be printed.

The motion was agreed to.

#### CABINET OFFICERS IN CONGRESS—AGAIN.

Mr. PENDLETON. Mr. Speaker, I now propose to call up the motion to reconsider the vote by which House bill No. 214, to provide that the heads of the Executive Departments may occupy seats upon the floor of the House of Representatives, was recommitted to the select committee.

Mr. WASHBURN, of Illinois. Does the gentleman desire to go on with the subject to-day?

Mr. PENDLETON. I desire to go on with it for a period, as there are one or two gentlemen who wish to discuss it, and whose convenience will be subserved by discussing it to-day.

Mr. WASHBURN, of Illinois. I ask the gentleman to consent to postpone the bill till after the morning hour. The committees have not been called for a long time.

Mr. PENDLETON. If that will subserve the convenience of the House I certainly have no disposition to object.

Mr. STEVENS. I am anxious to go into the Committee of the Whole on the state of the Union to pass several appropriation bills; but I do not, of course, want to interfere with the gentleman from Ohio.

Mr. PENDLETON. I have only to say, in reference to this measure, that I am inclined to do anything which will suit the convenience of the House. I have waited, as my colleague on the Committee of Ways and Means well knows, in order to have a convenient time to bring it up so as not to interfere with any important business of the House.

Mr. STEVENS. If the gentleman proceeds at once, we can after a while go into the Committee of the Whole on the state of the Union; but if he waits till after the morning hour, there will be no time left to do so.

Mr. PENDLETON. I hope, then, that the gentleman from Illinois will not persist in his request, as I am unwilling to decline, and yet it is evident I cannot accept.

Mr. WASHBURN, of Illinois. The committees have not been called for weeks, and I know that many have a large amount of business to report. The Committee on Commerce has, for one.

Mr. PENDLETON. How soon will the morning hour commence?

The SPEAKER. It has already commenced. Mr. WASHBURN, of Illinois. I ask consent to make one report from the Committee on Commerce.

Mr. PENDLETON. Will it give rise to debate? Mr. WASHBURN, of Illinois. I do not think that it will.

Mr. PENDLETON. I will yield for that purpose.

## TRADE WITH REBELLIOUS STATES.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the Committee on Commerce, to whom was referred the resolution of the House of Representatives of the 20th instant, directing the said committee to inquire into the matter of a permit granted by the chief agent of the Treasury Department to G. W. Lane, of Baltimore, to proceed to North Carolina and exchange provisions with the rebels for cotton, is hereby directed further to inquire into all the facts and circumstances connected with the trade with the rebellious States since the breaking out of the rebellion, either by permit from the Treasury Department or otherwise; that the said committee have leave to sit during the sessions of the House, and to report at any time; and that the Clerk be directed to pay all the expenses of the said committee out of the contingent fund of the House, on the certificate of the chairman.

Mr. SCHENCK. I ask the gentleman to withdraw the demand for the previous question for a moment.

Mr. WASHBURN, of Illinois. I withdraw the call for the previous question to hear the gentleman.

Mr. SCHENCK. Mr. Speaker, this whole matter of trade across the lines with the rebel States has once already been referred to the Committee on Military Affairs. They are now engaged in collecting information on the subject and have been considering it. Therefore, to my mind, when the whole subject has been referred to one committee, there is a manifest impropriety in referring it to another committee, and that too when we are in the midst of the investigation. I hope, therefore, that the resolution will not be passed, or, if passed, that the Committee on Military Affairs will be discharged from this subject.

Mr. FARNSWORTH. Mr. Speaker, I do not rise merely to reiterate the statement of my colleague on the Committee on Military Affairs. By a resolution introduced into this House by the gentleman from Massachusetts, [Mr. BOWWELL,] the Committee on Military Affairs was charged to investigate the whole question of trade with the rebel States, the transit of the products of the loyal States to those States, and the purchase of their products in return. Subsequently another gentleman from Massachusetts submitted a resolution calling upon the Secretary of War for the correspondence with General Canby. Then the letter of General Canby and other correspondence were referred to the Committee on Military Affairs. That committee has been for some time engaged in collecting the facts and statistics in regard to this trade.

It seems to me that it is a proper subject for the investigation of the Committee on Military Affairs. It appertains very much to the conduct of military affairs. It is a question of trade across the lines, between the loyal and the rebellious States. I agree with my colleague, that when this subject was referred to one committee it is certainly an impropriety to charge another committee with its consideration. It was for this reason that I objected when my colleague asked unanimous consent, a short time since, to introduce this resolution.

Mr. WASHBURN, of Illinois. The House will recollect that a few days since the gentleman from Michigan [Mr. DRIGGS] introduced a resolution which directed the Committee on Commerce to inquire into a specific case which was mentioned in the resolution. The committee proceeded to discharge that duty; and they have had brought to their attention, while examining that particular case, other cases in precisely the same channel.

Now, sir, I desire to say, on behalf of the Committee on Commerce, that this is an investigation which that committee does not court. We have no feeling whatever in relation to the matter. The subject was sent to them by the House, and in good faith they have entered upon the discharge of that duty, and the committee deem it proper, if the House desire this investigation, that they should have this resolution to work upon.

That is the whole question. If the House desire that the Committee on Commerce shall go forward and make this investigation, they can adopt this resolution. If they do not desire it, but desire that the Committee on Military Affairs shall make the investigation, the Committee on Commerce is satisfied. We are satisfied from what has already appeared before us that this sub-

ject opens a wide field for examination, and will require the attention of any committee pretty much all the time from this to the end of the session. If the Committee on Military Affairs have time to attend to it, and the House determine that that is the proper committee to make the examination, the Committee on Commerce are entirely satisfied.

Mr. FRANK. I would inquire of the gentleman from Illinois what will be the expense attending this investigation?

Mr. WASHBURN, of Illinois. It is impossible for me to answer that question. I think I can assure the gentleman from New York that there will be no unnecessary expense incurred; but all the expense necessary to a full investigation will be incurred.

Mr. UPSON. How is it proposed to continue this committee beyond the present session?

Mr. WASHBURN, of Illinois. There is nothing in the resolution which contemplates any continuation of the committee beyond the present session. Of course everything falls with the Congress.

Mr. SCHENCK. I do not wish any misunderstanding about this matter. I suppose no committee courts an addition to its labors. I do not know how it may be with the Committee on Commerce, but sure I am that very little time can be bestowed upon that, beyond what we are now called upon to give to any special subject, by the committee over which I have the honor to preside.

I simply desire to call the attention of the House to the fact that this whole subject has once been referred, with instructions, to the Committee on Military Affairs, and that committee is now engaged, according to the best of its ability and time, in the investigation. And it is now proposed that another committee shall be charged with the same investigation. The Committee on Commerce, it appears, has been charged to look into what has been done in a specific case, having no relation to the general investigation of the whole policy. What is now asked is, that in addition to the inquiry committed to them, their power shall be extended over the whole subject, and they be instructed to report in regard to the whole policy of trade with the rebel States, thus covering, in addition to what they are now charged with, precisely the ground occupied by instructions given in the former resolution to the Military Committee.

Having no particular desire to engage in these investigations, under these circumstances, if the courtesy of the Committee on Commerce and this House is such as to make it seem to them proper to charge the Committee on Commerce with the precise subject of investigation before the Committee on Military Affairs, and with which that committee is now occupied, I shall, after the resolution is passed, ask that the Committee on Military Affairs be discharged from any further consideration of the subject.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. ALLEY. I ask the gentleman from Illinois to yield to me a moment. I will renew the demand for the previous question.

Mr. WASHBURN, of Illinois. I will withdraw my demand, under the circumstances.

Mr. ALLEY. I believe no more important resolution has been presented to this House since the commencement of this session, and I hope it will be adopted. For one, I should prefer that this subject had been referred to a select committee, owing to its importance and to the labor necessarily involved in the investigation of the matter, which precludes the possibility of such complete investigation by most standing committees as we desire. I know that great complaint has been made in some quarters, and I fear justly, in regard to this subject. If the allegations that have come to my ear are true, then this matter ought to be investigated, and investigated speedily and thoroughly.

I have great confidence, of course, in the Committee on Military Affairs; no one more so, I know. Everybody in this House understands that that committee is more burdened with work than almost any other committee of this House. Its labors are very arduous; and an important subject of this character, which requires a speedy and thorough investigation, and involves such a

great amount of labor, seems to me should be referred to some other equally appropriate committee.

As I said before, I should have preferred that this matter should have been sent to a special committee; but as the House refused to do that, I am for the next best thing, and hope the resolution will be adopted, and that the Committee on Commerce will be charged with the investigation, and by their report let the House and the country know what truth there is in the reports that a few favored individuals are granted exclusive privileges, of immense value to the recipients, which are denied to the great mass of equally worthy applicants.

I renew the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to—ayes 66, noes 30.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

Mr. DAVIS, of Maryland. I demand the yeas and nays on the latter motion.

The yeas and nays were not ordered.

The motion to lay the motion to reconsider on the table was agreed to.

Mr. SCHENCK. I now ask that the Committee on Military Affairs be discharged from the further consideration of all questions relating to trade between the loyal and the rebel States, heretofore referred to them by resolution of the House. We will not pay any attention to that resolution, whether we are discharged or not.

Mr. ELDRIDGE. I would like to inquire what the subject is from the consideration of which the committee ask to be discharged. Is it the same that we have just referred to the Committee on Commerce?

Mr. SCHENCK. It is precisely the same.

The SPEAKER. It is the subject of trade between the loyal and rebel States.

Mr. SPALDING. Is it in order to move that the Committee on Military Affairs be discharged with the thanks of the House? [Laughter.]

The motion of Mr. SCHENCK was agreed to.

The SPEAKER. Reports are still in order from the Committee on Commerce.

Mr. ELIOT. I am instructed by the Committee on Commerce to report a bill for action at this time.

Mr. WASHBURN, of Illinois. I feel bound to suggest to my colleague on the committee that it was the understanding with the gentleman from Ohio [Mr. PENDLETON] that he was only to give way for a single report.

Mr. ELIOT. Then I withdraw my report.

## CABINET OFFICERS IN CONGRESS.

The SPEAKER. The gentleman from Ohio [Mr. PENDLETON] calls up the motion to reconsider the vote by which the joint resolution of the House (No. 214) to provide that the heads of Departments may occupy seats on the floor of the House of Representatives was recommitted to the special committee on that subject.

Mr. STEELE, of New York. I appeal to the gentleman from Ohio to allow me to make a single report from the Committee for the District of Columbia. It will take but a moment.

Mr. PENDLETON. I will yield for that purpose.

## FRANKLIN INSURANCE COMPANY.

Mr. STEELE, of New York, by unanimous consent, reported back from the Committee for the District of Columbia bill of the Senate No. 384, to amend the act entitled "An act to amend and extend the charter of the Franklin Insurance Company," approved 2d March, 1838.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOLMAN. I now demand the regular order of business.

## THANKS TO MAJOR GENERAL SHERIDAN.

Mr. DEMING. I wish, with the permission of the gentleman from Ohio, to report back from



the Committee on Military Affairs the resolution of thanks to Major General Sheridan.

Mr. HOLMAN. I will withdraw my demand for the regular order of business for that purpose only.

Mr. DEMING. I am instructed by the Committee on Military Affairs to report back the joint resolution of the House, (No. 142,) giving thanks to General Sheridan, with an amendment in the nature of a substitute.

The substitute proposes to resolve that the thanks of Congress are hereby tendered to Major General Philip H. Sheridan, and the officers and men under his command, for the gallantry, military skill, and courage displayed in the brilliant series of victories achieved by them in the valley of the Shenandoah, and especially for their services at Cedar Run on the 19th of October, 1864, which retrieved the fortunes of the day and averted a great disaster; and it further requests the President of the United States to communicate this resolution to Major General Sheridan, and through him to the officers and soldiers under his command.

The substitute was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. SCHENCK demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 131, nays 2, not voting 49; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Cobb, Coffroth, Cole, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, Farnsworth, Plack, Frank, Ganson, Garfield, Goodell, Grider, Griswold, Hale, Harding, Charles M. Harris, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Killebrew, Kossow, Kelley, Kernan, King, Knox, Lacey, Littlejohn, Loan, Longyear, Mallory, Marvin, McAllister, McBride, McClurg, McDowell, McCluskey, Samuel F. Miller, William H. Miller, Leonard Myers, Morrill, Daniel Morris, Morrison, Ames Myers, Leonard Myers, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Pike, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spaulding, John B. Steele, William G. Steele, Stevens, Strouse, Stuart, Thayer, Thomas, Townsend, Upton, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburne, Webster, Whaley, Wheeler, Joseph W. White, Wilson, Windom, and Yeaman—131.

NAYS—Messrs. Benjamin G. Harris and Chilton A. White—2.

NOT VOTING—Messrs. Alley, Bailey, Bliss, Brandegee, Chanter, Freeman Clarke, Clay, Creswell, Dawson, Dumont, Eden, Eldridge, English, Hall, Harrington, Horrick, Hubbard, Hutchins, Philip Johnson, William Johnson, Francis W. Kellogg, McKelvey, McKelvey, Knapp, Law, Le Blond, Long, Kellogg, McKelvey, Middleton, James R. Morris, Nelson, Odell, Pendleton, Perry, Pomeroy, Pruyn, Starr, Siles, Swart, Tracy, Voorhees, Ward, Williams, Wilder, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—49.

So the joint resolution was passed.

Mr. DEMING moved that the vote just taken be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DEFICIENCY BILL.

Mr. SCHENCK. I rise to a privileged question. On behalf of the managers on the part of the House in the committee of conference on the disagreeing votes of the two Houses on the amendments to the deficiency bill, I submit a report; which I send to the Clerk's desk.

The Clerk read, as follows:

The second committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, having met, after full and free conference have been unable to agree.

ROBERT C. SCHENCK,  
SAMUEL J. RANDALL,  
D. C. LITTLEJOHN,

Managers on the part of the House.

DANIEL CLARK,

LYMAN TRUMBULL,

L. W. POWELL,

Managers on the part of the Senate.

Mr. SCHENCK. Mr. Speaker, before any action be taken by the House on that report, I desire to submit a brief explanation.

When this second committee of conference met,

we found that, in consequence of the action of the House and Senate respectively, there remained but six amendments about which there was question between the two Houses. These were all of them amendments which had been added to the bill by the Senate. The first of these was an amendment in relation to a small appropriation of some four or five hundred dollars for the Denver mint. There was exhibited to us a letter from the Department, explaining the necessity for that appropriation, which satisfied the managers upon the part of the House that the House ought to recede from its disagreement to that amendment.

The second amendment is a large appropriation attached by the Senate for deficiency in the appropriations for the support of the mint at San Francisco. This, being considered by the committee of conference, was found to rest on this state of facts: last year only \$50,000 was asked for the support of that mint in one of its items, and altogether some two hundred thousand dollars. This year there is asked for that mint an amount exceeding that by more than two hundred thousand dollars. This deficiency is explained in the papers as having been occasioned by the difficulty in procuring services, by the increased pay for subsistence, by the derangement of the currency, and the difficulty about the use of the paper currency in California. These facts are alleged as explaining why \$134,000 more is asked to make up the deficiency of last year. If that deficiency be allowed, the appropriation will still be less, by a very considerable sum, than the appropriation made the present year. Yet the appropriation is large. The committee turned their attention to the papers which were before them, and found that the head of the Department states, upon his authority, that the difficulties stated are such as to render necessary this further appropriation for that deficiency; and he states this with the additional knowledge he is presumed to have, he having had the subject specially under his attention, not only as Secretary of the Treasury, but while serving as a Senator upon the Finance Committee of the Senate. All things considered, the committee were not unwilling to agree that the House should recede from its disagreeing vote on that amendment.

There are three other amendments, numbers six, seven, and eight, of like character, founded upon a letter from the Secretary of the Treasury to the chairman of the Committee of Ways and Means of this House, showing the necessity of supplying deficiencies, which had not been brought to the attention of Congress, in three of the bureaus of the Navy Department. This letter is understood not to have reached the Committee of Ways and Means of this House, nor the House, until after the bill had been acted upon here, and consequently these amendments were added in the Senate. The committee were not unwilling to agree to these.

There remained then, Mr. Speaker, the fourth amendment, providing for an addition of twenty per cent. to the pay last year of the employés of this House. The objection made to that on the part of the Senate is this: that there had prevailed a custom in both the Senate and House of Representatives through a long succession of years of voting by resolution at the close of each session of Congress, in the hurry of adjournment, an increased compensation, a gratuity to its employés, to be paid out of the contingent fund of that particular branch where the vote took place. In 1858, to break up this custom, an act of Congress was passed which prohibited the Senate or House from making such an appropriation out of the contingent fund, and requiring that every such appropriation should be made by law. It is claimed by the Senate, and is, I believe, according to the fact, that since 1858 there has been no infringement of this law, or an attempt to infringe it by either House of Congress till this time. On the 4th of July last, on the last day of the last session, the House passed a resolution giving a gratuity of twenty per cent. to its employés. The Senate passed no such resolution. In the deficiency appropriation bill of this session a provision was introduced appropriating some thirty thousand dollars to pay this twenty per cent. additional salary to the employés of the House. It was to pay them what it seems they could not receive under the act of 1858.

So far as the managers of the committee of con-

ference of the House are concerned, they felt that the House had committed itself in some degree to its employés by the resolution of the House at the last session of Congress. I do not know what would have been the opinion if the question had been an open one. The first committee of conference on the part of the House adhered to that amendment, and were sustained with a good degree of unanimity. The second committee of conference therefore felt itself instructed upon this point by the House.

Now, sir, in order to narrow the whole question, I move that the House recede from its disagreement to the first, second, sixth, seventh, and eighth amendments of the Senate, relating to Denver, San Francisco, and the bureaus of the Navy Department, so that there shall be left open between the two Houses nothing but this question in reference to the employés of the House. This will narrow it down to such a point that the House will be enabled to determine whether to abandon the bill or recede from the disagreement to this amendment.

Mr. WASHBURN, of Illinois. In order to test this whole question, I move to amend the gentleman's motion by receding from our disagreement to all the amendments of the Senate, and to recede from our disagreement to the amendment which is specially objected to. The gentleman from Ohio has stated plainly and clearly the differences between the two Houses.

At the suggestion of gentlemen, I withdraw my amendment so as first to let the vote be taken on the motion of the gentleman from Ohio. When that is disposed of, I will renew my motion to recede from our disagreement to the fourth amendment of the Senate, and to agree to the same.

The SPEAKER. The first question will be on agreeing to the report of the committee of conference, and will then recur upon the amendments pending before the House.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, having been a member of the second committee of conference on the part of the House, I have had the opportunity to make a deliberate investigation of the merits of the differences between the two Houses. I am convinced, sir, that there is no propriety in the action of the other House in so far as it attempts to interfere with the disposition of this House in reference to its own domestic affairs, if I may be permitted to use the expression. It is well known that this has been an extraordinary year in respect to the increase of all the articles of living; and it is also well known that this increase falls with great hardship upon the recipients of small salaries.

Now, as a member of the committee on the part of the House, and with a disposition to yield everything except where the faith of the House is pledged, let me say that many of the employés of the House have regulated their financial matters with reference to this increase of pay. This action of the Senate stands, so far as my knowledge goes, and all the information I can get, without precedent. Never has a successful effort been made upon the part of either House to interfere with what I might term the domestic relations of the other House.

I have, therefore, and I say it with great frankness to the House, clearly been convinced that this money should be voted. I do not want to stop the passage of the deficiency bill, nor do I want to lack the proper dignity which I conceive to be due to the House in connection with its own officers; and therefore I move, as an amendment to the motion of the chairman of the committee, that the House adhere to the amendment disagreed to by the Senate.

The SPEAKER. The first question before the committee is upon agreeing to the report of the conference committee. The gentleman can make his motion to adhere, but the question must first be taken upon the motion to recede, as that has priority.

Mr. RANDALL, of Pennsylvania. That would make my amendment inappropriate.

The SPEAKER. That would depend upon what disposition is made of the first motion.

Mr. RANDALL, of Pennsylvania. My motion will be in order if that is voted down.

Mr. SCHENCK. My motion to recede applies only to the first, second, sixth, seventh, and eighth amendments, leaving out the one relating to the extra compensation.

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2d Session.

FRIDAY, JANUARY 27, 1865.

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Mr. STEVENS. I wish to state a matter of fact which the chairman of the conference committee seems not familiar with, which the Senate seemed to overlook, and which was entirely misstated in some remarks made in that body. It has been the habit of the House, since the passage of the act of 1848, to increase the salaries of its employes—and that was the only thing provided for by that law—by making at the end of the session a gratuity to its employes, payable out of the contingent fund. I have offered more than one resolution of that kind, which has been passed, and the money paid under it. I remember that there was a special case where one of our clerks, Mr. Mehauffey, had an addition made to his salary by way of a gratuity, and it was paid out of the contingent fund. I recollected that that was so; and when I told the chairman of the Senate committee that it was so, he doubted it, and I thereupon consulted with the clerks and was told that I was right in reference to my recollection. Now, if the Senate are inclined to interfere with our domestic institutions and overthrow them, I do not feel disposed to let them.

The question being put upon agreeing to the report of the committee of conference, it was decided in the affirmative.

Mr. SCHENCK. I now move that the House recede from its disagreement to all the amendments of the Senate except the one relating to the twenty per cent. extra compensation.

Mr. HOLMAN. I move to amend by including all the amendments disagreed to by the House.

Mr. JOHNSON, of Pennsylvania. As that motion comes from this side of the House, I desire to say a word in opposition to it. It is unnecessary, I think, for any gentleman to stand here and speak to the members of this House, or to persons who may be present in this city, upon the subject of the necessity of an increased compensation to those employes who are compelled to live and discharge their duties in this city. It is well known to every person who has been about Washington city for any number of years past that the cost of living is far greater in this city now than it ever was before; and that the cost of living is far greater in this city now than it is in any other city in the United States.

I am aware that there are gentlemen to whom this is a matter of light consideration, but I do not consider it so very high an honor for persons to come here to swing doors, to act as messengers, and to do the bidding of members from morning to night in the streets and through the storm, that they should work for nothing, find themselves, and live in back streets at that. I do know that no messenger can live in a front street in Washington comfortably, and pay his bill out of the compensation he now receives. Every gentleman knows that. Then why any squeamishness about increasing the compensation of this class of persons? We have heard considerable said from time to time about increasing the compensation of the soldier. We have increased his compensation, and he occupies a different position from the employes of this House, for he is furnished his living, and therefore the increased price of living does not affect him. It does not come out of his pay. The Government furnishes it to him. But the messengers of this House, the civil employes of the Government, (and these remarks apply to the employes in the Departments as well as to the employes of this House,) are bound all of them to find themselves, and the increased cost of living in this city over what it was two or three years ago, besides the increased cost in this city over other cities in the United States, demands, as an act of justice on the part of this House, that this compensation shall be increased.

I am sorry to see my friend from Indiana, [Mr. HOLMAN,] who has been so active upon all occasions in his efforts to increase the pay of the soldier, now turning round on the faithful employes of the House and of the Government in a different capacity, although, perhaps, not voting in his

district, and undertaking to confine them to what he must know is an inadequate compensation.

Mr. HOLMAN. I know that it is a very ungracious task to oppose, especially in the presence of the gentlemen who are to be affected, a measure increasing their official compensation, and argue in favor of a uniform and general rule by which the employes of the Government in all its departments shall receive a just compensation for their services; and it is a very easy and grateful task for the gentleman from Pennsylvania [Mr. JOHNSON] to argue before the very courteous and affable gentlemen who are around us, and who, from day to day aid us so much in the performance of our official duties, in favor of this increased compensation. It is very pleasant indeed, sir, and I should, if it were consistent with my sense of duty, aid the measure with the greatest pleasure, and would even attempt to rival him in its advocacy, for to support the interests of friends is always a pleasant employment.

But, sir, what strikes me with astonishment is that the gentleman from Ohio, [Mr. SCHENCK,] chairman of this committee of conference, is willing to concede appropriations of hundreds of thousands of dollars which the first committee of conference, under the lead of the gentleman from Pennsylvania, [Mr. STEVENS,] thought were totally unadvisable, that the House may by possibility be able to secure this appropriation of \$37,000 for the benefit of gentlemen around us, the employes of the House.

Mr. SCHENCK. The gentleman will allow me to correct him. In the first place, I will inform him that the present committee of conference considered the merits of these amendments as well as their amount; they were willing to yield them, although not the other amendment, upon their merits and upon the papers submitted to us. Further than that, the former committee of conference, as we were informed, came to the same conclusion.

Mr. STEVENS. The gentleman has no knowledge of that fact.

Mr. SCHENCK. I had the assurance of each one of the members composing the conference committee on the part of the Senate that the sole question which could have remained open, if they could have acted separately upon these amendments, which the committee of conference cannot do, for it must either agree in the whole or disagree altogether, would have been this one relating to the compensation of the employes of this House. But I want the gentleman from Indiana to understand that the decision on the part of the managers of the conference last held was upon the merits of each case, and the papers before them, and was not regulated by this particular amendment. The intimation, therefore, that we were willing to yield thousands and hundreds of thousands of dollars for other purposes and stood out on this particular point, is not a generous one, and not in accordance with the fact that we made special inquiries in each particular case.

Mr. HOLMAN. I do not think, judging from the record, that it can be said that the intimation is an ungenerous one. With this statement it would be, but I simply judge, as other members must do, by the record. The first committee reported a total inability to agree with the conferees on the part of the Senate without any explanation.

Mr. SCHENCK. So do we, for the simple reason—which the gentleman is parliamentary enough to understand—that committees of conference have to report either an entire agreement or an entire disagreement.

Mr. HOLMAN. I inferred from the absence of any statement that the disagreement in the committee of conference was on all the points. I know that the practice has prevailed here on the part of committees of conference, when they were unable to agree on all the points, to report that they were able to agree on certain points and not on others. But the fact remains that the other five or six items on which the first committee differed are to be yielded, and the only question which remains is whether this item of \$37,000 is

to be retained in the bill or not. I can scarcely believe that gentlemen the employes of the House, as excellent officers and citizens as I know anywhere, are very anxious to receive a compensation for their services of one fifth more than is paid under the general system of compensation in other departments of public employment. I do not think it would be very agreeable to them to receive this increased compensation by an invidious discrimination. It is not, as the gentleman from Pennsylvania [Mr. JOHNSON] seems to intimate, a general compensation of all the employes of the Government, but of a particular class of employes whose duties are similar to others. If there has been such a depreciation of the currency as to justify increasing the cost of all the necessities of life and requiring a general increase of twenty per cent., well and good; but let the increase be general, let the Government be equal and just in dealing with its citizens. I think that a body like the Congress of the United States ought to deal out justice equally, not on a system of favoritism. The benefits of the Government and even its favors should fall, like the dews of heaven, on all alike. Here we discriminate in favor of our own employes. However worthy they are, they are not more so than the employes of the Senate or of other departments of the Government. It does seem to me that the earnest anxiety on the part of gentlemen to effect this increase of salaries is almost without precedent in our legislation.

Mr. RANDALL, of Pennsylvania. The gentleman from Indiana has suggested that there ought to be a general increase of compensation. I desire to ask the gentleman whether he would vote for a general increase of twenty per cent. throughout all the departments of the Government?

Mr. HOLMAN. No, sir; I would not vote for a general increase of twenty per cent. But I say that the question before the House is very different from what it would be if, instead of this partial act of legislation, it were a proposition for the equal benefit of all persons in the employment of the Government. Gentlemen cannot fail to remember that the officers of our Army, whose compensation was fixed so far back as 1861, before any depreciation of the currency, are demanding an increase of compensation. They would be very willing, I presume, to receive an increase of twenty per cent., and yet there has been no movement on this floor in favor of such increase. But it is salaries now ranging from eighteen hundred to three thousand dollars a year that must be increased twenty per cent., while the great body of our citizens, thousands of whom are qualified for any position, now in Government employment, are receiving a pittance of sixteen dollars per month—\$192 a year—and with bounties and all not amounting, so far as the Government pays, to \$350 per annum. What are we thinking of? Here are republican legislators favoring a partial increase of compensation in one department of the Government, now respectably paid, to the extent of one fifth, while not a voice has been raised in favor of an increase of the pay of those who are imperiling health, life, and fortune for the salvation of the Republic. Are some to make all the sacrifices and others none at all for the public safety? Neither the Committee of Ways and Means nor the Committee on Military Affairs have taken any legislative steps to increase the pay of the soldier in the field. I, for one, protest against that partiality which discriminates in favor of one class of Government employes in a matter in which all are equally interested.

Mr. JOHNSON, of Pennsylvania. Is not the gentleman from Indiana aware of the fact that when the war commenced the pay of the soldier was eleven dollars a month? It was increased by legislation to thirteen dollars a month, and afterward to sixteen dollars. Thus, in addition to large bounties, the pay of the soldier has been increased twice within three years, while the compensation of the officers of this House has not been increased at all.

Mr. HOLMAN. My friend from Pennsylvania will recollect that there has been no increase of compensation of the officers of the Army since the beginning of the present war. Their compensation remains, as a general thing, what it was. My friend talks of the increased pay of the soldier. If you will point to me valuable citizens in the pay of the Government, who were receiving eleven, thirteen, or sixteen dollars per month when the war began, I will admit the parallel. But it is the increase of these mere pittance of compensation that you put against the increase of salaries which were \$1,200, \$1,600, or \$3,000, when the war began, and which it is now proposed to increase. I believe, sir, there is no employé of this House whose compensation is less than fifty dollars per month; I think I can say that there is none whose compensation is less than sixty dollars per month.

Mr. JOHNSON, of Pennsylvania. Will the gentleman allow me to correct him? I think that in the employ of this House there is a class of men who receive but \$1 50 per day. How the gentleman can make that sixty dollars per month I do not know.

Mr. HOLMAN. My friend is laboring under a misapprehension.

Mr. JOHNSON, of Pennsylvania. I think not.

Mr. HOLMAN. I think that if the gentleman will look over the reports made by the Clerk to this House, he will find that there is not a single employé of the House whose compensation is less than sixty dollars per month.

The salaries paid to the employés of this House vary from sixty dollars per month to three thousand or three thousand five hundred dollars per year. Yet the gentleman compares the salaries paid to these civil employés with the pittance which is paid to the soldier; and I am told as a Democrat, and told by a Democrat, that it is an ungrateful task to resist this increase of salaries on this partial principle of legislation. The Democracy have become very generous indeed, sir! I remember, when they have had the power of this Government in their hands, that their motto was a rigid economy in public expenditures, and that, too, with a full Treasury. Then, sir, no extravagance in salaries or anything else was tolerated. If the citizen engaged in the public service it should not be with the view to a compensation far exceeding that which is ordinarily received in private pursuits. I have yet to learn that the Democratic party of this country are becoming eager, by extravagant expenditure and large salaries and costly establishments, to make this a brilliant Government, a splendid Government—splendid in the emoluments to be realized by those who are in public employment, but miserable to those who bear the burdens.

Sir, when gentlemen tell me that the pay of the employés of this House is small, I will ask their attention to a single fact: that such is the expenditure of this single branch of the national Legislature, so extended and extravagant is the list of employés by this House, that an increase of only one fifth—twenty per cent., as now proposed—on their compensation amounts to the magnificent sum of \$37,000. Thirty-seven thousand dollars! This sum is required by the bill for an addition of one fifth of the amount which is now paid. How long ago was it that \$37,000 paid the whole expenses of the House? Yet gentlemen talk about our employés as being insufficiently and poorly paid. Sir, if this Government rose to the true dignity of a republic—if it were not simply a republic in name but one in fact—instead of the employé in civil life receiving from sixty dollars per month to \$3,000 per year, it would be the soldier, imperiling all for his country, meeting the leaden hail of death, who would receive the highest compensation, and not the citizen who, in the peaceful security of private life, advances as he may his own fortunes without any direct regard to the welfare of his country. Sir, while I remain upon this floor, representing a constituency who have made, in common with every other constituency, sacrifices for the public safety, I never will consent to any increase of salaries where they are reasonably sufficient for the honorable subsistence of the officer, while the fact remains that the soldiers in our Army—an Army that is the pride and boast of the nation, and filled with the intelligent and aspiring youth of the nation—are not receiving

a compensation that begins to be commensurate with that which is paid even for labor in the more peaceful, quiet, and secure pursuits. Gentlemen talk about an increase of salaries for the purpose of enabling our employés to live. Yet the soldier lives on his sixteen dollars per month, from which he must support his wife and his little children; and this meager pay is earned, not in the secure pursuits of peace, but amid the perils of war. Are the soldiers alone to make sacrifices?

Mr. Speaker, I object to this method of increasing salaries, and especially to the precedent now attempted to be set of appropriating money by the action of a single House, for the argument for the increase is a resolution of last session. It is unwise, sir, for either branch of Congress to attempt to increase the compensation of its own employés except by the enactment of a law. The Senate may well resist the action of the House. I desire, just as other gentlemen do, to stand very well with the excellent gentlemen who constitute the officers and employés of this House; I shall not forfeit their good opinion, if I possess it, by the independent performance of what I deem my duty, however much it may affect themselves. But, independently of this, I should not care. I am responsible only to my constituents for the performance of my duties, and I should perform them fearlessly and earnestly, however much I might regret that my sense of duty as a Representative came in conflict with the interests of worthy gentlemen or of proved friends.

I oppose this amendment because it is partial in its benefits; because I would not see a dangerous precedent established, by which virtually either House, without the concurrence of the other, may increase salaries; and because the salaries are not so poor as to demand an increase at a time when sacrifices may well be made by all. The Senate expresses its opinion against us, I cannot say with what unanimity; and there must be gentlemen upon this floor who, not simply upon the score of economy, but upon the ground of equity and justice, are opposed to this partial increase because it is *partial*, because it applies to only one class of our citizens, when the principle of legislation ought to apply equally to all classes of citizens in public employment. If these gentlemen have their compensation increased, the same principle should apply to every citizen similarly circumstanced in public employment whose duties are of the same character.

Mr. J. C. ALLEN. Mr. Speaker, I have listened with some interest to the discussion of this question, and beg leave to ask the indulgence of the House to one or two words in reply. I understand that the House during the last session of Congress passed a resolution increasing the pay of its employés, and that the Clerk, owing to some construction which was placed upon the general law by the Department, did not feel authorized at that time to execute the resolution of the House. In this bill I understand there is a provision to carry out what was the declared purpose of the House at the last session of Congress in reference to the increased pay of its employés. I say that we cannot, without a violation of the faith of the House, refuse to adhere to that provision in behalf of those employés who have been faithfully discharging their duties from that time to this.

And, sir, it does seem to me that the arguments of my friend from Indiana [Mr. HOLMAN] are indeed most strange. Why, sir, the expenses of living here, and to which the employés of the House are especially subjected, have increased threefold since their compensation was fixed. Yet the gentleman from Indiana insists that that compensation shall not be increased, but must remain as it is. He talks about making these officers exalted in a great Government! There is nothing of the kind. We only propose to give them what we have already promised, without increasing their importance whatever. The gentleman ought to be ashamed to make such an argument before this House. If he were a farmer, I presume, in order to carry out his own principle, when one of his employés called upon him and informed him that he could not live upon his pay and subsist his family, and that he must have it increased, he would turn upon him and use the argument that he used this morning. If he were a man of business, and one of his clerks demanded an increase of pay in consequence of the increased cost

of living, he would I suppose use the same argument, that his pay had been fixed already in former times, and therefore he could not grant any increase.

He alleges that he could not grant this increase of pay, looking to his Democratic proclivities. I, for one, as a Democrat, protest against his doctrine on that point. As Democrats we have felt it to be our duty for years to pay our employés liberal salaries for the labors which they are called upon to perform; and in justice to them, as the cost of living increased, we have increased those salaries; it is only just to those who serve us. And I am not to be moved from that position by any argument addressed to the popular ear in reference to the discrimination of the pay of our employés and the pay of our soldiers in the field. I have been ready to go with my friend from Indiana step by step for the increase of their pay; but that is not the question before the House.

The question is, what shall we pay our employés? The question is whether their compensation is sufficient for their support. Do we pay them a reasonable compensation for their labor? We have already answered that it was not; and we cannot recede from that position without a violation of our faith to those men who have been diligently and faithfully discharging their duties.

It seems to me that this House ought to be prompted to take care of its own interests by giving to its employés such compensation as it thinks reasonable. It is a fact not disputed that the employés of the Senate receive and have been receiving more pay than the employés of the House. We have not complained of that; we have only asked in this exigency of the times that we shall be allowed to pay to our employés such compensation as will afford them reasonable remuneration for their labors. We have done that and nothing more. We have done nothing more than we are entitled to do. I, for one, do not feel like receding from the position taken by the House upon this question. I will not recede at the dictation of the Senate of the United States upon a question which affects our own employés.

Mr. MORRILL. I demand the previous question.

The previous question was seconded, and the main question was ordered to be put.

The SPEAKER. There are three propositions before the House: first, the motion of the gentleman from Ohio [Mr. SCHENCK] to recede from the disagreement of the House to all the amendments of the Senate except the one which has been under discussion, the appropriation out of the contingent fund to pay the twenty per cent. extra compensation to the employés of the House; second, the motion of the gentleman from Indiana [Mr. HOLMAN] to amend by including all the amendments in the motion to recede; and lastly, the motion of the gentleman from Pennsylvania [Mr. STEVENS] that the House adhere to the disputed fourth amendment in reference to the payment of the extra compensation.

The first question is upon the motion of the gentleman from Indiana to amend the motion of the gentleman from Ohio so as to include all the amendments in the motion to recede.

The question was put; and on a division there were—ayes 33, noes 90.

Mr. PIKE demanded the yeas and nays.

The yeas and nays were not ordered.

So the amendment was not agreed to.

The question recurring on the motion of Mr. SCHENCK, that the House recede from its disagreement to all the amendments of the Senate except the fourth, it was put; and there were, on a division—ayes 70, noes 43.

Mr. JOHNSON, of Pennsylvania. There is evidently a misapprehension, and I call for the yeas and nays.

Mr. STEVENS. I would suggest to the gentleman that we had better reserve the yeas and nays for the last proposition, as that is the important one.

Mr. JOHNSON, of Pennsylvania. I will withdraw the demand.

So the motion was agreed to.

The question recurring upon the motion that the House adhere to its disagreement to the fourth amendment of the Senate.

Mr. HOLMAN. What will be the effect of agreeing to that motion?

The SPEAKER. The House will determine



by that vote that they will adhere to that provision of the bill. [Laughter.]

Mr. HOLMAN. Will it prevent another committee of conference?

The SPEAKER. It will not. It will prevent the House itself from asking another committee; but it will leave the Senate free to ask another committee.

Mr. PIKE. I move that the House recede.

The SPEAKER. That motion has just been voted down.

Mr. LITTLEJOHN. Will not the gentleman change his motion to a motion to insist, so that the House may ask another committee?

Mr. STEVENS. To adhere is the proper motion.

Mr. HOLMAN. I move that the House insist upon its disagreement.

The SPEAKER. That motion is not in order now, as the previous question has been sustained.

Mr. MORRILL. I desire to ask what condition the bill will be in provided the House vote to adhere? Will not the bill be lost unless the Senate recede?

The SPEAKER. It will not. A message will be sent to the Senate that the House recede from its disagreement to all the Senate amendments except the fourth, and in reference to that, that they adhere. The Senate can then recede, or ask another committee of conference. The Senate have sent a message to the House stating that they further insisted on their disagreement, and asked a second committee of conference, which was granted by the House. They have not notified the House that they adhered, for they could not, under any rule known to the Chair, adhere and ask a conference of the House; nor has the House been informed of any adherence by the Senate. But after one House adheres, the other can recede or ask a conference, as by the Manual, page 125, where four such instances are cited from 3d Hatsell, and even one case where there was a conference after a second or final adherence. But more familiar instances are found in House Journal, first session Thirty-Fourth Congress, page 1600, where the House adhered to their amendment to the Army appropriation bill, August 23, 1856, but granted a conference asked by the Senate thereon; and in House Journal, first session Thirty-Fifth Congress, page 604, where the House adhered to their amendment to the Senate bill for the admission of Kansas into the Union, and yet, a few days after, on April 14, 1853, page 620, agreed to a conference thereon asked by the Senate.

Mr. PIKE. Upon the motion to adhere I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 91, nays 46, not voting 45; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Ashley, Bailey, Blair, Bliss, Blow, Boyd, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Dixon, Driggs, Eckley, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Ganson, Grider, Griswold, Benjamin G. Harris, Charles M. Harris, Herrick, Hotchkiss, John H. Hubbard, Jencks, Philip Johnson, Kalbfleisch, Kelley, King, Knox, Law, Le Blond, Loan, Longyear, Mallory, Marvin, McAllister, McBride, Middleton, Moorhead, Daniel Morris, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Scheuck, Scott, Shannon, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stevens, Strouse, Stuart, Swent, Thayer, Townsend, Van Valkenburgh, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph IV. White, Williams, and Yeaman—91.

NAYS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Garfield, Gooch, Grinnell, Hale, Harding, Harrington, Higby, Holman, Hooper, Asahel W. Hubbard, Ingersoll, Julian, Kasson, Orlando Kellogg, Kernan, McClurg, McIndoe, Samuel F. Miller, Morrill, Norton, Patterson, Perlman, Pike, Price, Edward H. Rollins, Sloan, Spalding, Thomas, Tison, Elihu B. Washburne, William B. Washburn, and Wilson—45.

NOT VOTING—Messrs. Augustus C. Baldwin, Brandegee, Brooks, Clay, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Dumont, English, Finck, Frank, Hall, Hubbard, Hutchins, William Johnson, Francis W. Kellogg, Knapp, Lazear, Littlejohn, Long, Marcy, McDowell, McKinney, William H. Miller, Amos Myers, Nelson, Odell, Perry, Pomeroy, Pruyn, Alexander H. Rice, John H. Rice, Seefeld, Stiles, Tracy, Voorhees, Wilder, Winford, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—43.

So the House determined to adhere to a disagreement to the fourth amendment of the Senate.

During the roll call,

Mr. PIKE stated that his colleague, Mr. Rice, was unavoidably absent, but that if present he would have voted "no."

The result of the vote having been announced as above recorded,

Mr. STEVENS moved to reconsider the vote by which the House adhered to its disagreement to the amendment of the Senate, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOLMAN. I now renew the demand for the regular order of business.

The SPEAKER. The regular order of business is the consideration of bill of the House No. 214.

Mr. SCHENCK. I ask my colleague [Mr. PENDLETON] if he will allow me to offer, in behalf of the Military Committee, two or three resolutions calling for information.

Mr. PENDLETON. If they can be passed without objection, I shall not object; otherwise I must—

Mr. HOLMAN. I insist on the regular order of business.

#### CORRECTIONS OF THE JOURNAL.

Mr. GRISWOLD. I rise to a privileged question. I desire to correct the Journal of the House. I find that my name is not recorded against the joint resolution that passed the day before yesterday reducing the duty on paper to three per cent. I voted "no."

The Journal was, by unanimous consent, ordered to be corrected.

Mr. BALDWIN, of Massachusetts. I find myself recorded as voting "no" yesterday, on the motion to lay on the table the resolution concerning the Dictionary of Congress. I voted "ay." I ask that the Journal be corrected.

The Journal was, by unanimous consent, ordered to be corrected.

#### OFFICERS IN SUBSISTENCE DEPARTMENT.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House at as early a day as practicable a list of the officers of the subsistence department, showing severally their rank and where each of them is employed, and for how long they have been respectively employed.

#### MAJOR GENERAL HALLECK.

Mr. SCHENCK also, by unanimous consent, and from the same committee, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House what is the duty or command to which Major General H. W. Halleck, United States Army, is assigned; whether he is drawing double rations; and if so, under what order such allowance is made, and by what authority of law.

#### OFFICERS IN QUARTERMASER'S DEPARTMENT.

Mr. SCHENCK also, by unanimous consent, and from the same committee, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be instructed to communicate to this House a list of all officers assigned under the tenth, eleventh, and twelfth sections of the act to provide for the better organization of the quartermaster's department, approved July 4, 1864, stating the duty to which each of said officers has been assigned, the rank that assignment entitles him to, and whether selected from the volunteer service or from the regular Army, and from what former duty taken.

#### CABINET OFFICERS IN CONGRESS.

The House then proceeded to the consideration of the motion to reconsider the vote by which joint resolution of the House, (No. 214,) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives was recommitted to the select committee upon that subject, and upon which Mr. PENDLETON was entitled to the floor.

Mr. PENDLETON. I desire to yield the hour which is accorded to me by the rules in opening this debate to my colleague upon the committee from New York, [Mr. GANSON.]

Mr. GANSON. Mr. Speaker, the gentleman from Ohio [Mr. PENDLETON] at the last session, on the 6th day of April, introduced into the House a joint resolution providing that the heads of the

Executive Departments might occupy seats on the floor of this House, which resolution was referred to a select committee of seven for consideration and report. That committee reported at the present session in favor of that resolution, recommending its passage with two amendments, and also recommending an amendment to the rules providing the proper machinery for carrying out the proposed project.

The resolution, when it was introduced, did not embrace within its terms the Secretary of State or the Attorney General. The committee, upon consideration, saw no reason why the privilege proposed to be extended to the other heads of the Departments should not also be extended to the Secretary of State and the Attorney General, and why also they should not be subjected to the same duty that it is proposed to impose upon the heads of the other Departments by the second section, to wit, to attend the sessions of the House to answer such questions as may be put to them relative to the business in their respective Departments.

The resolution, as reported, contains two sections. The first provides—

That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney General, and the Postmaster General, shall be entitled to occupy seats on the floor of the House of Representatives, with the right to participate in debate upon matters relating to the business of their respective Departments, under such rules as may be prescribed by the House.

The second section provides—

That the said Secretaries, the Attorney General, and the Postmaster General, shall attend the sessions of the House of Representatives, immediately on the opening of the sittings on Mondays and Thursdays of each week, to give information in reply to questions which may be propounded to them under the rules of the House.

It will be seen that the resolution by its first section extends a privilege to the heads of the Executive Departments which they do not now enjoy; that is, to occupy seats on this floor and to participate, to a limited extent, in the debates of the House, that limitation being confined to matters which relate to the business of their respective Departments. The other section imposes on them the duty to attend the sittings of the House on Mondays and Thursdays in each week, to answer such questions as may be propounded to them, in accordance with the rule, relating to the business of their respective Departments.

The first question that naturally presents itself in considering this resolution, is whether there is anything in the Constitution conflicting with it; and the next is whether, if we have the power to pass the resolution, it is expedient to do so. The House will perceive that it is not contemplated to confer any other privileges on, or vest any other rights in, those officers than the right to occupy seats on the floor, and to participate to a limited extent in the debates. It confers no other right of membership on these executive officers. The Congress has exercised, ever since the organization of the Government, the same power which it is proposed to exercise in this instance. Congress confers on persons who come here claiming to represent Territories, a right to seats. It also extends the privilege of the floor to those who come to contest the seats of sitting members. It gives to Delegates the right of participating in debates, and to contestants the right of speaking to the question in which they are interested.

On the 2d day of September, 1789, Congress, in the law creating the Treasury Department, provided expressly that it shall be the duty of the Secretary of the Treasury to make report and give information to either branch of the Legislature in person or in writing, as he may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office. The committee saw no constitutional objection to this proposed measure. It saw that the measure harmonized with the action of previous Congresses since the formation of the Government. While the Secretary of the Treasury stands bound to appear here at the call of the House and give information, when interrogated, as to the business relating to his Department, the committee saw no reason why the same duty should not be imposed on the other heads of Departments. The committee thought also that it was just to those officers, while they were required to attend here at specified times and for specified purposes, that there should be

extended to them the privilege of seats on the floor, and the right of participating in debate relating to matters proposed by them.

In order, Mr. Speaker, that the House may the better understand what is proposed by the second section, I will ask the Clerk to read the amendments to the rules which the committee recommended.

The Clerk read, as follows:

*Amendments to the Rules, reported by the Select Committee.*

That the Clerk of the House of Representatives shall keep a notice-book, in which he shall enter, on the request of any member, any resolution requiring information from any of the Executive Departments, or any question intended to be propounded to any of the Secretaries, or the Postmaster General, or Attorney General, relating to public affairs or to the business pending before the House, together with the name of the member and the day when the same will be called up.

The member giving notice of such resolution or question shall, at the same time, give notice that the same shall be called up on Monday or Thursday of the succeeding week: *Provided*, That no such resolution or question shall be called up, except by unanimous consent, within less than three days after notice shall have been given.

The Clerk shall, on the same day on which notice is entered, transmit to the chief officer of the proper Department a copy of the resolution or question, together with the name of the member proposing the same, and of the day when it will come before the House for action.

On Monday and Thursday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information, and the Secretary of the proper Department may reply, giving the information or the reasons why the same should be withheld, and then, without further debate, the House shall vote on the resolution, unless it shall be withdrawn or postponed.

In putting any question to the Secretaries, or the Attorney General, or Postmaster General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question. And in answering such question, the Secretary, the Attorney General, or Postmaster General, shall not debate the matter to which the same refers, nor state facts or opinions other than those necessary to explain the answer.

Mr. GANSON. At present, Mr. Speaker, there is no authorized mode of communication between these executive officers and the House in regard to matters of legislation. The object of the resolution is to enable Congress to avail itself of the best possible means of information in regard to measures of legislation on which it may be called to act. The heads of Departments have necessarily a more thorough and intimate knowledge of what is requisite in legislation, so far as their Departments are concerned, than members of the House. They also have the experience of heads of bureaus, men who have been engaged for a long time in their public duties, and who are familiar with the details of their respective Departments. It is necessary that the knowledge thus acquired shall, in some manner, be communicated to this House for its proper action in reference to various measures of a public character.

The President of the United States is expressly authorized by the Constitution to require the heads of these Departments to give their opinion in writing in regard to any matter relating to their respective Departments. But this House cannot compel the giving of this information. The necessity for it is so great that it has grown into a uniform custom for the Executive to transmit with his annual message, and at other times, communications from these officers to the House, recommending legislation. The necessity for this communication is so great that the heads of these Departments seek private interviews with the members of the House; they attend the sittings of the various committees; they have oral and written communication of an unauthorized nature, necessarily. Now, we propose that, instead of this, they shall have the right to come upon the floor of the House, and in the face of the Representatives of the people and before the nation, not only give the information which they possess in regard to proposed legislation, but that they may urge the passage or the defeat of these measures, as the public interest and the welfare of the country may require.

It may be objected to this that we are giving to the heads of these Departments additional and dangerous powers. I have no doubt, Mr. Speaker, that if this bill be adopted it will give to the heads of these Departments an influence which they do not now possess; but it will be a due influence, instead of one that is undue. It will remove from them the necessity of having secret, unauthor-

ized, irresponsible communications with the members of this House or its committees, and to substitute for that their duty to appear upon the floor of the House, in the presence of the Representatives of the people and before the nation, to disclose the objects and purposes of the measures that they may desire to have passed. When this privilege shall have been conferred upon them and this power given to them, it will be unbecoming the heads of the Executive Departments to have these secret, silent, irresponsible interviews—this secret, private solicitation of the measures necessary for their Departments. When the doors of this House are thrown open to them, when they can come directly into the presence of the Representatives of the people and advocate their measures, they will have no occasion to use this invisible, intangible, irresponsible influence which every one now feels but cannot touch.

It may be objected that the project does not harmonize with the theory of our Government. But, sir, why are we here? To represent the people, and to provide such legislation as the welfare of the country and the interests of the people require. In order that this may be well and faithfully done, it is our duty to procure all the knowledge in our power to enable us to act intelligently upon these subjects. That knowledge is necessarily, in many instances, lodged exclusively in the Departments over which these executive officers preside. We have now no mode of reaching it with certainty and bringing it before us with promptitude. On the 21st day of December last a resolution was introduced into this House to ask what communications had passed relative to the exchange of prisoners. One month having expired, on the 21st of January we have a report upon that subject. If this bill should become a law, three days' notice will be served upon the head of any Department, and he will be required to come here and answer the questions propounded. It will facilitate our business; it will aid us in our legislation.

Furthermore, (and this I regard as its most important feature,) this measure will impose upon these officers a direct responsibility to the people, in the presence of their Representatives, for the faithful discharge of their executive duties. In addition to that, it will enable these officers, if they are improperly charged by any portion of the public, to come upon the floor of this House and make known the truth, so that if they are right they may be justified, and if they are wrong they may be condemned.

I would ask the attention of members of the House to some illustrations appended to the report in regard to the difficulty in obtaining information, and of its unreliable character. After reading those, and after recalling to their recollection numerous instances of the same kind that have occurred, they will, I think, be satisfied of the merit of this measure in this respect.

Mr. Speaker, it was the practice, in the earlier and better days of the Republic, for the heads of these Departments to come upon the floor of the House to furnish information of facts and to submit to inquiries; and I ask the Clerk to read from page 6 of the report some circumstances of this character.

The Clerk read, as follows:

"Wednesday, July 22, 1789.—The Secretary of Foreign Affairs [Mr. Jefferson] attended, agreeably to order, and made the necessary explanations.—*Annals of Congress, First Congress, vol. 1, p. 51.*

"Saturday, August 22, 1789.—The Senate again entered on executive business. The President of the United States came into the Senate Chamber, attended by General Knox, [Secretary of War,] and laid before the Senate the following statement of facts, with the questions thereto annexed, for their advice and consent.—*Annals of Congress, First Congress, vol. 1, p. 66.*

"And again, on the Monday following, the President and General Knox were before the Senate.

"Friday, August 7, 1789.—The following message was received from the President of the United States, by General Knox, [the Secretary of War,] who delivered therewith sundry statements and papers relating to the same.—*Proceedings of House of Representatives, Annals of Congress, vol. 1, p. 684.*

"Monday, August 10, 1789.—The following message was received from the President, by General Knox, [Secretary of War,] who delivered in the same, together with statement of the troops in the service of the United States.—*Proceedings of House of Representatives, Annals of Congress, vol. 1, p. 689.*

"Instances of this kind might be almost indefinitely multiplied, but these serve sufficiently to exhibit the practice established at an early day by those who framed the Constitution."

Mr. GANSON. These instances occurred in the regular proceedings of the House, it never being in executive session. I make these remarks because, as I understand, the gentleman from Vermont [Mr. MORRILL] has denied that it was the practice for these persons to appear upon the floor.

Mr. MORRILL. I merely contended that such instances never occurred in the House, but only in the Senate, with regard to executive communications.

Mr. GANSON. Two of these instances are from the proceedings of the House of Representatives, not of the Senate.

But, Mr. Speaker, I do not see why it is proper for the heads of these Executive Departments to go upon the floor of the Senate and participate in its proceedings to this limited extent, and not proper for them to have an opportunity to do so upon the floor of the House. The only objection that I can see to it is that it will enable them to exercise this influence to which I have referred. If any influence is to be exercised over the members of the House it should be open, authorized, done in the presence of the Representatives and before the people of the country. And the point I make is that we are subject to that influence now, and that it is exercised in a secret, unauthorized, private, irresponsible manner. We desire, sir, by this measure to substitute a responsible exercise of this influence for one that is irresponsible.

I regard the proposed measure as a decided step toward the people. I regard it as important in securing popular rights. I know that the project has been proposed frequently of electing these public officers in order that they may be directly responsible to the people for the faithful discharge of their public duties. This is a measure of like character, only not so direct as the one which would confer upon the people the right to elect these officers. They have no control over them other than to compel them to come in the presence of members and give reasons for their conduct.

I regard it as important, not only as being just to the officer himself, but as furnishing additional means for detecting faithlessness in the discharge of executive duty. Does any gentleman suppose, if this right had existed in 1860–61, when privy conspiracy was being concocted in this House and in the Departments; that if this right had then existed in the Representatives of the people to call the heads of Departments upon this floor to explain why they were disposing of the public property, why they were removing vessels at such distance so that they could not be used in time, and why they were selling the arms and munitions of war of the Government; does anybody doubt that there would have been an earlier disclosure and defeat of that conspiracy? I think not. The House was then required to go through the forms of creating committees for the purpose of instituting investigations, and the Sergeant-at-Arms had to be sent with subpoenas for the persons who were to be examined. All these difficulties had to be encountered to reach these concoctors against the Government of the country.

It was my purpose, Mr. Speaker, to do nothing more at this time than to explain to the House the provisions of this measure, and to give some of the leading considerations which induced the committee to report it favorably to the House. I leave to my associates on the committee, and the other gentlemen who may engage in the debate, the duty of discussing in detail the merits of the measure.

I hope, sir, that it will pass, believing, as I have said already, that it is a direct step toward the people and the security of popular rights. If it is adopted it will furnish more direct means of communication between this House and the Executive Departments. It will be open, authorized, responsible. It will give the House power to detect faithlessness in its officers. It will relieve us from private solicitations, and from acting upon private and unreliable information. It will enable us to discharge our duties more satisfactorily. I hope, therefore, the resolution will be adopted.

Mr. PIKE. If it is in order to move an amendment at this stage of the resolution, I have one to suggest. The resolution provides that all the heads of Departments may occupy places upon the floor of this House. I notice a very grave omis-

sion, that the head of the Department of Agriculture is not included.

Mr. GANSON. There will be no objection to include that, if the gentleman desires it.

Mr. MORRILL. Mr. Speaker, not having the time necessary to prepare a minority report, I shall yet use the materials gathered for that purpose in the form of a speech. The framers of our system of government incorporated so much that is wise and good from the British constitution, steering clear, however, of its aristocratic features; the rights and liberties of the people of both countries are so similar, save that here they are multiplied and expanded by the American sentiment of universality; and the statutes and legal literature of the American and English courts have so much in common, that it is not wonderful to find some untransportable prescriptions or usages, tolerable enough for Englishmen, but hitherto rejected by us, still exciting the lingering regret of some gentlemen whose democratic affinities remain unimpeachable.

The project introduced by my friend from Ohio, [Mr. PENDLETON,] that members of the President's Cabinet shall hold seats in the House of Representatives, it is, perhaps, not unfair to presume, results from a study and admiration of the British example, as it could hardly be asked of us to copy from the rebel States or from Spain, Costa Rica, or even Hayti. He proposes to modify the custom by giving the Secretaries seats with power of speech, and to compel them to be present two days of each week to answer to resolutions and interrogatories of which previous notice shall have been given, but without the right of voting.

Not having been able to agree to this proposition as now presented, I shall, as one of the minority of the select committee, present some of the reasons for my dissent, and try to show that the plan is opposed to the genius of our institutions, that it would be cumbersome, expensive, unwarranted by the Constitution, and accompanied by evils which would far more than counterbalance the advantages sought to be obtained. As the question is now seriously presented, I hope that gentlemen of more ability and more knowledge of the subjects involved than I possess, will discuss the negative and, as I think, the American side of the question.

It is obvious that what may harmonize with the British constitution might prove very incongruous and even mischievous to that of the United States. It may be useful to point out some of the broad distinctions, the incompatibilities, between the two.

The English idea is the conservation of monarchy, nobility, and an established church. The American idea is to maintain the principles of 1776, or that all men were created equal, with certain inalienable rights, including that of worshipping God according to the dictates of conscience. The American Congress, though having many similar functions, is very unlike the British Parliament. The House of Commons is elected for seven years. Here the House of Representatives is elected for two years only. We have a salary, equal to a moderate support, and no man is excluded on account of his poverty. A member of the House of Commons draws little or no pay, is subjected to heavy expenses, and cannot be sworn into office unless possessed of an annual rental of a specified amount. None but wealthy men can there afford to be even candidates, and poor men are wholly precluded. The House of Peers is mainly hereditary or composed of members for life, and all new appointments emanate exclusively from the Crown. Each peer in the House of Lords is there in his own behalf and represents nobody else. Here the Senate is elected by State Legislatures for six years only, and represents the several States. Great Britain is governed by the aristocracy and the monarchy. The House of Peers and the wealthy aristocracy really nominate or control a majority of the House of Commons. Compromises have nearly always been made between the monarchy and aristocracy. Only when they have been at variance has the power of the Commons increased. With the appointing power in the hands of the Crown, threatening an augmentation of members and a dilution of the peerage whenever a sufficient exigency arises—a measure always dreaded by the existing peers, whose value diminishes in proportion as they are multi-

plied—these titled parties are nearly balanced if they happen to be in conflict. When they act together they are, irrespective of the people, omnipotent, and the people have no check upon them except through a free press, that great agitator in behalf of human rights and common avenger of wrongs. The United States Government was ordained, has been sustained, and will be maintained by the people. It has confidence in and relies upon the people. The policy of every Administration is biennially reviewed and approved, or disapproved by the ballots of not less than four or five million jurors. A verdict thus given, next to the fiat of Heaven, commands and receives our acquiescence.

The President is almost as much the representative of the people as the House of Representatives. He is elected for four years, or twice as long as a member of the House and two thirds of the term of a Senator. He has constitutional rights not to be invaded by Congress. His Cabinet are his confidential and constitutional advisers, and responsible to him, and only to him, within the law and the Constitution. If he does not choose wisely or they act wrongly, four years is sure to terminate his and their career. The people decide the whole matter, unless such cases of delinquency arise as merit impeachment, and the people will and should hold the President to a just responsibility. They will not consent to a bureaucracy—a government by the heads of Departments, not elective, but holding their offices by executive appointment. The President should not be permitted to shirk off his responsibilities upon subordinates. He can call around him the ablest men of the country, as it is his duty to do, and if he does not do so, or if, having done so, he takes no counsel at their hands, he alone is accountable.

It is otherwise in Great Britain. The throne is never vacant, and by a considerable fiction it is assumed that the Crown can do no wrong. There the ministers alone are held to responsibility. If they advise measures which Parliament in face of their tact and eloquence determines against them, it is equivalent to a vote of want of confidence, and they lose their official places, or must venture upon the result of a dissolution of Parliament and a new election. But the mass of the British people are only lookers on, while a few electors decide the issue presented.

The number of Englishmen and Welshmen voting in 1852 was only 341,830 out of an adult male population of 4,500,000. If all had voted who were entitled to vote not more than one man in five could have done so. In a population of 20,000,000 less than one in twenty are voters. The whole number of registered voters was 918,683. Of these the average number required to make a member of Parliament was 691, and a majority of that number is 346, the actual number necessary to elect. Representation in proportion to numbers or population is entirely set at naught. The counties, with 507,754 registered electors, return 159 members, but the less populous boroughs, with only 410,929 registered electors, return 339 members, or more than twice the number of members and at the same time with 100,000 less voters.

The ministry govern only by parliamentary majorities, and to this end seats to them become indispensable. They strive to absorb the men of distinction, the Broughams, Peels, and Gladstones, and the task of leading the crowd of undistinguished "voting members," as they are called, is thus made easy. Such a form of government may be well enough adapted to a small island, but would most likely fail in a large continental country. If England had conceded to the American colonies the right to representation she would soon have become democratized, and the character of her Government would have been wholly changed. To talk of her as a representative Government like that of the United States is an absurdity. Words are said by a distinguished writer to have power when we see a man behind them. Representatives certainly should have power in proportion to the number of men behind them. With such a test my friend from Michigan, [Mr. UPSON,] with his 25,000 voters should count about equal to thirty-five members of Parliament, and our Speaker, [Mr. COLFAX,] with his 28,000 Indianians, should be equal to forty. And this is the difference between the American and the British standard of representation.

The excitement of an English election, even with so few participants, is far from inconsiderable. The multitude, who look on while the voting proceeds *vis à voce*, cheer or hiss the voter as they may be pleased or displeased with the vote. The expense is not small, and the corruption is formidable. But whatever the result, whether the *ins* or *outs* are Whigs or Tories, the inevitable rule of the aristocracy prevails. The Whigs in power are almost as reluctant to press reforms as their adversaries, and the Tories out of power are as eloquent in popular cries as those who have got their places by more liberal votes when in an irresponsible minority. The only difference between the oligarchical parties would seem to be that one party yields nothing, for example, in the way of extending the right of suffrage, lest in the end it should be forced to yield all; the other party would concede something now lest in the end it should be forced to give up all. Neither are believers in universal suffrage. Both are alike averse to it, and they only disagree as to the wisest method of warding it off. With such issues an oligarchy, dwelling compactly together within a small territory, may be able to maintain itself for an indefinite period, or until the masses discover that, whosoever wins, they are lost. North, Pitt, Peel, and Palmerston, each prolong their premiership for years, and yet British statutes present few ear-marks by which the Tory or Whig would be discovered.

If the Government of the United States had to bear the strain of a new national election, in addition to elections already provided for, whenever an Administration measure should be defeated, it would keep us in endless confusion and instability. The periodical return of these excitements is enough without the cometary visitations incident to a change of ministry to perplex the nation still more. The acquiescence of the American people in the decisions of the majority has been prominently evinced in our whole history, with but a single exception, and that exception we are so rapidly washing out with blood and erasing with the sharp points of the bayonet that it will be remembered only to be shunned and execrated. Let us concede that it might not be possible for Great Britain to adopt our form of Government—universal suffrage, voting by ballot, and frequent elections—and succeed. By her own confession she has less than a million people capable of self-government, for less than that number are permitted to vote. It would be quite as unwise for us to adopt many things which are the daily food of Great Britain, especially the commingling of the executive with the legislative department.

The examples to be found in some other Governments, where the sovereign power is lodged in the Executive, furnish an argument not for but against the adoption of the scheme proposed. It is not inconsistent with their theory, and their example is one we strove and yet strive to avoid. In France it makes no difference whether Richelieu and Louis XIV, or the Revolution and Napoleon, nor whether Louis Philippe or Louis Napoleon are triumphant, the grand march of centralization proceeds ever the same, and the executive power, by whomsoever wielded, maintains its primitive vigor with no signs of feebleness or decrepitude. Because Louis Napoleon permits his ministers to enter one or both of the legislative bodies which he has ordained and licensed, and insists that they shall be heard, it by no means follows that the United States should be swift to copy the latest French pattern. Nor can Spain or even modern Greece yet be invoked as our instructors. If all Europe led the way, and Brazil and all the twinkling stars of Central America followed in the train, our own time-honored example, in a case of this character, would be for us a higher, nobler, and safer precedent for abiding reverence and future practice.

I know that it is not proposed to extend this measure beyond a seat in this House to members of the Cabinet, with the liberty of speech. No greater innovation is at present contemplated. But it may be doubted much whether the half of the British example is better than the whole.

The Secretaries, if the measure passes, may be interrogated and fail to give satisfactory answers. They may lose the confidence of the House, and, retaining the confidence of the President, there they are still to remain till the end of the term. Their failure may be only an inaptitude of speech



or want of cleverness in explanation, so that a good cause may be sacrificed by forcing the client to become his own advocate. Legal gentlemen here, with strong partisan predilections, may desire to put a Cabinet to which they are opposed to the torture of a cross-examination, not for the single purpose of eliciting substantial information, but to gratify the passion of prosecutors, and to figure in frequent petty impeachments.

On the other hand, a Secretary may wield a large measure of persuasive power, and thus gloss and carry measures devoid of those solid merits upon which alone they ought to stand. Such a Secretary would be dangerous as a leader, or rather as a misleader.

It may be argued that the scheme would keep men of inferior capacity out of office. If this could be assured, it would certainly be a strong argument in favor of the measure. It is my belief, however, that incapacity would be more apt to fold itself and its victims in the suffocating embrace of unscrupulous patronage or to hide itself in nimble words and flippant rhetoric. Unfortunately, executive ability and knowledge of mankind, such as guaranty the selection of the best instrumentalities for the accomplishment of great purposes, are not always found in connection with eloquence or with readiness in debate. Some ancient orators, not to mention any modern, were disgraced when they took the field, and we may well doubt whether they would have succeeded any better as national financiers. Albert Gallatin was no debater, but he was one of our most successful Secretaries of the Treasury. Jefferson was a great man, but on this floor he would have been overmatched by Mike Walsh. Executive ability, the mastery of great principles as well as of minor details, coupled with knowledge of affairs and of men, is as rare as the possession of genius or the power of magnetism in debate, and we have to regret that it is a quality among our countrymen now more desirable than abundant.

The evils experienced in Great Britain in the practice of this measure, the worst part of which, when all parts are bad, we are now asked to copy, have been so great that the number of the Cabinet allowed seats in Parliament has been more than once reduced and limited. The goal of British ambition is the Cabinet. If men of mark are assembled there, yet the bulk of such men appear to shun the House of Commons; the place is too tame, and its glory is disappearing. Bright and Cobden almost alone represent the great commoners, the Chathams, Foxes, and Burkes.

When we build up the Executive Departments of our Government let us not do it at the expense of the Representatives of the people.

If we look at the details of this bill, and the practices, voluntary and compulsory, that will be generated by it, these will be found no less obnoxious than its fundamental principles.

Section first of the bill, as reported, gives the right to all the Secretaries and members of the Cabinet to occupy seats in this House, and to participate in the debates under such rules as may be prescribed by the House, and these rules may of course be modified at any time according to the pleasure of any accidental majority.

Section second requires that they shall absolutely attend the sessions of the House immediately on the opening of the sitting on Mondays and Thursdays of each week to give information in reply to questions which may be propounded to them under the rules of the House.

Thus it is proposed to change the rules of the House at the start of this new programme, so that the first business on Mondays and Thursdays shall be to consider the resolutions and questions of which any member shall have given notice, to the exclusion of all other business. It is also provided that the mover of the resolution or question may state succinctly the object and scope of his resolution and the reasons for desiring the information, and such arguments, opinions, and facts as may be necessary to explain his questions. The Secretaries are to reply—but suppose they refuse, what then?—giving the information or the reasons why the same should be withheld, stating facts and opinions so far as may be necessary to explain the matter; and then, without further debate, the House is to vote on the resolution, unless it shall be withdrawn. The amendments to the rules are put in the form of a negative

pregnant—that no more than this shall be done—and the logical conclusion and ruling would be that so much might be done and would be in order.

Any one tolerably conversant with such rules knows the latitude of debate which would spring up or could be achieved with such nominal restrictions, and that a fair parliamentarian would be able to give utterance to all he might desire without let or hindrance. Should it turn out otherwise, the rules would be changed or the decisions of the Speaker overruled. Except when answering to resolutions or questions, the Secretaries, upon business relating to their Departments, are to have the same latitude of debate enjoyed by members of the House, and would of course be liable to be interrupted by questions even without the three days' notice. Any bill containing a charge upon the Treasury could be debated by the Secretary of the Treasury; any proposed law whatever would be open to the Attorney General; and thus no matter of legislation could come up where the Executive Departments might not actively interfere. Even now, our "resolution days," so called, though often convenient, coming upon every alternate Monday—to say nothing of suspension day—are subject to great abuse, and are used by all parties more or less for the classic purposes of Buncombe. Old members on both sides of the House feel that these days are, as to legislative objects, mainly wasted, and they hail an early adjournment as a relief. It is here that smart gentlemen bring in cunningly-worded resolutions to obtain the weather gauge of their opponents—such resolutions as one party may swallow and such as another party must not refuse, but which, like Macbeth's *amen*, will stick in the throat. It is the perpetual entertainment of the fox and stork—dishes palatable to the hosts but unapproachable by the guests.

If we were to adopt this scheme we might thereby throw away eight days every month instead of two or four, and in this toilsome but useless labor the partisans of the Secretaries would be driven to a ceaseless activity, equal to and as conspicuous as that of their opponents. Instead of attending to legislative duties, the House would be the arena for skillful political fencing-masters, and the chief interest would soon center upon these eager encounters, where the victors would be congratulated and the vanquished derided.

Nor is it until after this takes place that the House reaches any vote. Any member may offer as many resolutions, wise or crude, as it may suit his pleasure, or may propound as many questions, restrained only by his sense of propriety. The Clerk's notice-book, where all these are to be entered, would soon be, in learned phrase, "a big thing." Any malignant outsider, who could obtain the kind services of a member willing to ask crooked questions, might here find the highway of his ambition. Now, in resolutions calling upon the Executive for information, anything frivolous is apt to be excluded, for we must have the sanction of a majority, at least, of the House, and usually the vote of the entire House is obtained when the object is truly legitimate, and then the response becomes a permanent record for all coming time. The document remains to be examined by every member, and does not pass away with the hour. It seems to me that this method is by far the most satisfactory.

Again, the House is to vote, but upon what is the House to vote? If the information sought has been communicated, what will be left to vote upon? And yet the resolution can only be withdrawn by the mover. If the information has been withheld for reasons satisfactory to the Secretary, what shape is the vote to assume? Is it to be "content" or "non-content"? Is it to be complimentary or censorious? The amendment to the rules leaves all this quite in the dark. If it was proposed to have the decision one of confidence or want of confidence, and the retention or dismissal of the Cabinet pending upon that decision, the proposition would not appear, as it now does, so objectless. To have a vote of "content" and yet to have the Cabinet go out, or to have a vote of "non-content" and yet have the Cabinet retained, would leave the position of the House quite as ridiculous as that of the Cabinet.

It will scarcely be denied that the new practice, if once inaugurated, would consume much valuable

time and greatly prolong the sessions of Congress.

The information now communicated to Congress, in fullness and variety, as to the annual condition of public affairs, is unsurpassed by that of any nation in the world. The President's message, the reports of the Secretaries, and the statements of the heads of all the different bureaus, in their elaborateness and completeness, rarely leave anything to be desired. If anyway at fault, it is that they are too voluminous and too minute to be seasonably read. It might gratify some members to have this abbreviated and given in concentrated doses, but I submit whether, in addition to the original sources of information, we shall institute abridged oral communications for the gratification of the indolently blind and halt? Let us not be dazzled by the idea of reform when only a change is offered, and that change the surrender of the substance for a vain shadow.

The proposition now made was of course not overlooked by the framers of our Constitution, and was, as most of our people have always thought, properly rejected, nothing having been provided unless it be its prohibition and avoidance. The power is nowhere directly granted, and if inferentially assumed it will be seen to be a maladroit assumption.

It is claimed by the majority of the committee that the power is found in the clause of the Constitution which declares that the President "shall from time to time give the Congress information of the state of the Union, and recommend to their consideration such measures as he shall deem necessary and expedient." How can it be seriously contended that Congress, under this clause, can compel the attendance of the President, either in person or by proxy, upon the sessions of either or both Houses of Congress? He alone is made the judge of what information or measures are "necessary and expedient" for him to communicate, and yet it is now proposed to make a law by which any member of this House may dictate as to the time and then bring the House to a direct vote upon the necessity and expediency. A clause which merely defines the duty of the President cannot be strained into a definition of the power and duties of Congress, nor will it justify the admission or coercion of seven gentlemen, however elevated in position, into this House with all the liberty of speech which may be accorded under the rules.

Washington and the elder Adams read their annual speeches to Congress, but Jefferson did not, and the practice has never been resumed. This practice, however, bears no relation to that of Cabinet ministers holding seats with the privilege of participating in debate, nor more especially of being catechised in this House. This involves principles of the utmost gravity. The reading of a speech in person, or the sending of it as a written communication, is a question of mere etiquette, of no possible consequence except as a bauble among monarchists, and properly belongs solely to the President. It is a matter of taste and without dignity in a constitutional argument. It will not be pretended that the President could hold a seat and participate in debates in our House. How, then, can you authorize him, far less compel him, to do by proxy, by seven agents, that which he cannot do as principal?

Nothing, perhaps, better exhibits the straits to which the advocates of this measure are driven for constitutional authority than the fact that they fly from one part of the Constitution to another, and finally alight on that which provides that "each House may determine the rules of its proceedings!" That is to say, in parliamentary proceedings each House determines the rules for itself and its own members, not for anybody else. Surely this clause does not confer power upon one House to determine the rules for the proceedings of the President, and if not upon one House certainly not upon both Houses. With equal propriety, under such a latitudinarian construction, and possibly with greater usefulness, might the Chief Justice of the United States be compelled to attend our sessions for the purpose of giving information and answering questions touching all legal matters.

If it had been intended to confer upon Congress the power to compel by law the attendance of the President's Cabinet in this House, then the power of enforcing such a law would also have been

given. But it was not. If the Secretary should refuse to appear, what are you to do about it? Can you punish him? The House can only punish members for disorderly conduct. Would these Secretaries in fact be members? If so, would their silence be disorderly? The maximum of punishment which the House can inflict is expulsion upon a vote of two thirds of the members present. How much punishment would expulsion be to a recalcitrant Secretary who had already chosen to absent himself?

The Constitution unmistakably declares that "no person holding office under the United States shall be a member of either House during his continuance in office." Language more absolutely denunciatory of this measure cannot, it appears to me, be found, and yet it may be said that it does not apply in this case. If its force applies to full membership, it cannot be parried by any contrivance of half membership or members in all respects save the right of voting. A member or semi-member cannot be hidden even in the robes of a minister. Any Delegate from a Territory to this House, holding office under the United States, would, for analogous reasons, be at once excluded.

I do not think it is going too far to say that the project indorsed by a majority of the committee is not warranted by anything in the Constitution, and this view is fully sustained by its earliest and best expositors. The question came up in the session of Congress in 1790—so far as the question could come up upon the admission of the Secretary of the Treasury for once only into the House of Representatives—upon the question of allowing Alexander Hamilton, Secretary of the Treasury, to make his celebrated report upon his plan for supporting the public credit, and, though the temptation could hardly be greater from the pressing nature of the subject and the eminent character of the man, it being the discussion of measures vital to our young Republic by the most accomplished Secretary of the Treasury this or any other country has furnished, yet, upon an occasion of such gravity, the House, composed of a large number of the distinguished men who had made the American Revolution a success, and who had based a Constitution upon its principles, rejected the proposition after a brief debate, and that nearly or quite unanimously.

It may not be improper for me to reproduce briefly the history of this proceeding. On the 9th day of January, 1790,

"A letter from Alexander Hamilton, the Secretary of the Treasury, was read, informing the House that agreeably to their resolution of the 21st of September, he had prepared a plan for the support of the public credit, and that he was ready to report the same to this House when they should be pleased to receive it."

It was then proposed to assign Thursday, then next, for the purpose, and Mr. Gerry moved to add to the motion that it should be in writing.

Mr. Boudinot, the friend of Mr. Hamilton, hoped the Secretary might be permitted to report in person in order to answer such inquiries as the members might be disposed to make, for it was a justifiable surmise that gentlemen would not be able clearly to comprehend so intricate a subject without oral illustration.

Mr. Ames conceived it to be the duty of the House to obtain the best information on any subject, and was willing to extend every indulgence to the Secretary, but he wished these communications to be in writing; in this shape they would obtain a degree of permanency favorable to the responsibility of the office, while at the same time they would be less liable to be misunderstood.

Mr. Clymer thought such communications ought to be in writing.

Mr. Benson thought we should receive the report in any manner in which it was prepared, but had no doubt this officer, actuated by motives of deference and respect, will conform to any rule the House may think proper to enjoin.

Mr. Gerry, enumerating the various topics likely to be discussed, said:

"Can the human mind retain with any degree of decision [precision] objects so extensive and multifarious upon a mere oral communication? This consideration alone ought to be sufficient to induce gentlemen to agree to his proposition of making the report in writing."

The resolution for receiving the report in writing was carried in the affirmative, and, so far as appears, without a division.

Many valuable suggestions made by Hamilton

were adopted, and his organization of the Treasury Department, a monument to his forecast and wisdom, remains with nearly all its original features hardly touched by modern innovations. But at the session already alluded to he made a report as to the Post Office Department, with a bill in conformity to it, and when the Clerk proceeded to read it a member objected to its being read on the ground of the impropriety of executive officers being permitted to bring bills before the House, and this objection was sustained. This exhibits the early and inherent jealousy of the House of executive influence in the most earnest manner. The action was instant and decisive. No such officer would now be permitted to bring any bill directly before the House, but it could not have been intended to forbid the draft of a bill from being sent to committees for their assistance in framing proper legislation, for that would be a little too nice. If a Secretary may unfold and urge a measure of legislation in his official reports, it is difficult to see why he may not submit the mere forms to a standing committee, (to be modified, adopted, or rejected,) which will in his judgment best carry out the substance of that legislation which he has already recommended.

Once more this question was incidentally discussed upon a report of a committee of the House upon the defeat of General St. Clair, whom they attempted to shield from blame, while they inculcated more or less the Secretary of War and the Secretary of the Treasury. The Secretaries, believing themselves to be greatly wronged, naturally desired to vindicate themselves. On the 13th of November, 1792, a resolution was offered by one of their friends notifying the Secretaries that the subject would be taken up on a day named to inquire into the causes of the failure, "to the end that they may attend the House and furnish such information as may be conclusive to the due investigation of the matter stated in said report."

Even this was refused by the House, which first voted to strike out all the latter part of the resolution, and then rejected it as thus amended.

But the earnest discussion which occurred is important, as it records the opinion of Madison upon the main question now before us, and this will be as authoritative as the opinions of any modern statesman, or even as that of learned scholiasts. In the Annals of Congress for 1792, page 680, it is reported as follows:

"MR. MADISON objected to the motion on constitutional grounds, and as being contrary to the practice of the House. He had not, he said, thoroughly revolved the matter in his own mind, and therefore was not prepared to state fully the effects which would result from the adoption of the resolution; but he would hazard thus much, that it would form an innovation in the mode of conducting the business of this House, and introduce a precedent which would lead to perplexing and embarrassing consequences; as it involved a conclusion, in respect to the principles of the Government, which at an earlier day would have been revolved from. He was decidedly in favor of written information."

I ask gentlemen to mark the emphasis of his conclusion. "It involved" said he, "a conclusion, in respect to the principles of the Government, which at an earlier day," only five years after the date of the Constitution, "would have been revolved from. He was decidedly in favor of written information."

The two cases cited are believed to be the only ones where Congress has acted on the question of giving the Cabinet any share of the privileges of members of the House. For more than seventy years there has been no attempt to bring about any change of this character. The House has neither sought to nominate or control the Cabinet of the President, nor has it exhibited any disposition to diminish its own importance by sharing its privileges with the President's nominees and be by them controlled. No ambitious minister has suggested the idea, and where Hamilton twice knocked at the door and was twice refused no others need apply.

Some commentators upon the Constitution have so high regard for the opinion of Hamilton that they even love his faults and stand always with their armor riveted on ready to do battle in behalf of even his most doubtful opinions. But because he desired a little more power when he was Secretary of the Treasury, and perhaps deservedly wielded a greater influence than any other man at the seat of Government, it will not be pretended that an opinion born at such a time is entitled to

more weight than that of the framers of the Constitution, including Madison, its acknowledged father; nor will it be pretended that it should have the effect of changing the settled and uniform practice of the House.

It is true that some examples can be cited in the earlier days of the first term of Washington when he went to the Senate in person to make oral communications and was accompanied by his Secretaries, or one of them went in lieu of the President. This practice commends itself when we understand that he and they went on executive business solely, and it is wholly irrelevant to cite such examples as precedents for the scheme now presented. The advice and consent of the Senate under the Constitution must be obtained for appointments to office and for the ratification of treaties. The Senate is an executive body, as well as a legislative, and in its capacity as such Washington, with rare modesty not only sought its consent, (all that is ever now done,) but in person often sought its advice in advance of his own action. Generally, whenever he desired immediate action, he went in person to the Senate, and when otherwise, he made his communications in writing. If he took his Secretary of War or Secretary of State with him, it was, let it be remembered, beyond being most respectful and useful, long prior to the introduction of private secretaries. The Senate had been expected by many to be a permanent body, ready at all times to give its advice. Having almost lost its advisory character, it has industriously increased its importance as a debating and legislative branch of the Government. I know of no examples where the President or the head of any executive Department ever participated in person in the proceedings of the House or in the Senate except upon purely executive business, but when it was partially attempted it was opposed, by such men as Madison, on constitutional grounds, and defeated.

Our fathers looked with jealousy upon the interference of executive officers with the legislative deliberations of Congress in either House. Their presence here, merely as visitors, pending any measure in which they or their Departments are concerned, even in more recent days, as far as my observation reaches, has always been looked upon with so much healthy aversion that it has more often injured than aided the progress of the measure.

The Executive Mansion, and other executive buildings, as is well known, were placed at one end of the city, while the Capitol was placed at the other, avowedly to avoid executive influence and to escape any encroachment upon legislative deliberations. Under the Manual it would be a breach of our privileges to state the views of the Executive upon any pending measure, save where it has been officially and openly communicated in writing; and now it is proposed to reverse all this, and have all the members of the Cabinet here all the time, if they choose, and semi-weekly, at any rate, to whisper in our ears some indication of the will of the Executive. We are to have this influence forever on the alert, not through one, but seven of the representatives of the Executive in this House—influential by position, character, patronage, and power—and these possibly hereafter to be increased, according to British precedent, so as to include the under or Assistant Secretaries! It should be remembered that British ministers hold their places in the House of Commons by virtue of an election, and not by appointment. They must have a constituency, and be elected to the House of Commons, and that after their acceptance of office, or they cannot occupy their seats. So jealous are they, even there, that members who receive appointments thereby vacate their seats, and must allow their constituents to pass upon the question whether they are willing the member should take an appointment from the Crown and still be their representative. But here the bald proposition is made to give certain official gentlemen seats in this House with no constituency whatever! A despotism or an absolute monarchy might look upon it with favor; but can a republic? As a measure involving grave principles—the preservation of the fundamental privileges and independence of a republican Legislature—I am persuaded we ought to give it no countenance or support.

It may be said that the object is to ask questions for the purpose of obtaining information

without the formal mode now pursued of seeking it by a resolution of inquiry, and that it would release many clerks now kept, at large expense, and employed to answer these calls. But these ideas, if entertained, are without any foundation. That the information could not be obtained with any more facility is clear. No Secretary can give *verbatim* from memory the contents of documents on file in his Department, or of accounts and tabular statements in figures. The scheme would not facilitate the business of the House, or relieve any Department from its present labors.

If we required the attendance, or admitted the presence, for instance, of the Secretary of the Treasury, he could not be expected to discharge the daily routine of his office, and we should have reason to copy British precedents still further by having an additional Secretary of the Treasury. There could be no diminution of clerks, for an equal force would be requisite to supply the facts and figures in detail for the use of the talking Secretary as are now needed to furnish the present officer before he can communicate to Congress answers to resolutions.

The more heads or chiefs that may be created for any service the more numerous will be the subordinates. Civilians, as well as military men, magnify their offices and feel honored by the extent of their commands. It can hardly be doubted that, instead of lessening the number of employes, it would increase them. As a matter of economy, then, the scheme should be rejected.

It may be suggested that by the change proposed we should have an open, face to face, communication with the heads of the Executive Departments, instead of a clandestine, secret, and suspicious one. I must deny the covert allegation. By the Constitution it is provided the President, not the Cabinet, "shall from time to time give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient," and this he does through the Secretaries annually, and oftener, when necessary, through their reports made to him and communicated by him to us. The Secretary of the Treasury reports to us because of law to that effect and because we hold the purse-strings of the nation. The option in the law allowed us to require it to be done in person, but this the House has never required and never permitted. All these reports are at once printed and promulgated to us and to the world. They are open to our scrutiny and the criticism of ages. The President speaks by his own authorized Secretaries. The responsibility cannot be shirked. The new scheme, however, would tend in the direction of making these officers responsible to the House, and to that extent relieving the President. If the Secretaries were of great force of character they would make the House bend to their will. If they were weak they would become the tools of a faction, or of some artful demagogue. But the idea that any less of secret and suspicious influence would be exerted when ampler opportunities of constant intercourse should be offered, hardly requires serious refutation.

Mr. Speaker, I have thus presented some of the objections to the admission of the President's Cabinet to seats in this House and to me they appear insuperable. However lamely presented, I feel confident the House is in no great danger of reaching a wrong conclusion, as all parties have an equal interest in the maintenance of its character and privileges. It will retain with most respectful attachment its ancient usages and bar out all attempts to undermine its constitutional independence. It will not seek obedience where it has no power to enforce its commands. It will never consent to dim either in form or substance the luster of its republicanism; and, conscious of having been created and elected to represent the people only, separated by fundamental law as well as by all our most revered traditions from executive alloy, it will not debase its original standard, no matter whether the solicitation comes from within or without.

Mr. COX obtained the floor, but yielded to

Mr. BLAINE, who said: I desire to ask the gentleman from Vermont a question, which I did not like to address to him during the progress of his speech, for I always dislike to interrupt a gentleman in the course of his remarks. I understood him to maintain, as one essential part of

his objection to this measure, that we had no power whatever to enforce the attendance of members of the Cabinet upon the sittings of the House, and that the power of expulsion does not extend to those officers; and that if it did exist against the heads of Departments it would have no further effect than a paper pronouncement. Now, I would like to ask the gentleman from Vermont whether the power of impeachment would not extend to them?

Mr. MORRILL. Undoubtedly, if they were guilty of any misdemeanor.

Mr. BLAINE. In case of an absolute and contemptuous disobedience of law, how would it be?

Mr. MORRILL. If this House or any officer of the Government imposes an unconstitutional obligation or order on any person or officer, he would not be bound to obey it.

Mr. BLAINE. But the law, if passed by a concurrence of the House and Senate, and the approval of the President, would be obligatory upon the members of the Cabinet. Now, does the gentleman from Vermont assume the ground that a member of the Cabinet might refuse to obey the law until a judicial test was had as to its constitutionality?

Mr. MORRILL. I take the ground that neither this House, nor Congress itself, has power, by the Constitution, to compel the attendance of members of the Cabinet on this floor.

Mr. BLAINE. That is begging the question entirely.

Mr. MORRILL. And I submit that there is no power under the rules of this House, as now adopted, by which we could compel the attendance here of those parties.

Mr. BLAINE. I undertake to say that if this measure should receive the vote of the Senate and House of Representatives, and the approval of the Executive, it would be a law, and that, until authoritatively decided, would be binding; the members of the Cabinet would be bound by it as much as you or I, or any other citizen, would be bound by any other law upon the statute-book.

Mr. MORRILL. I do not think the question which the gentleman from Maine proposes has very much relevancy to the matter. So far as I can learn what his views are, I agree with him that the Supreme Court of the United States is the ultimate expounder of all our laws. I think it rests with the gentleman from Maine and those who advocate his side of the question to show that there is any authority in the Constitution to pass such a law; and if he cannot show that, I think he had much better vote against this measure than to undertake to show here how an unconstitutional law can be enforced.

Mr. BLAINE. I did not rise to discuss the general merits of the question at this time; but I understood the gentleman to make the specific point that if Congress passed this measure, the members of the Cabinet could snap their fingers in the face of this House, and there is no power here to vindicate the authority of Congress.

Mr. MORRILL. I still maintain that there is no power in the Constitution, and no law which now exists, by which you could compel them to be present; and that if you pass this law the Executive may execute it or not, of course at their own peril.

Mr. THAYER. I would ask the gentleman from Maine how the constitutionality of the law is to be tried if it is violated?

Mr. BLAINE. And I would ask if the constitutional test could not be applied to this law as it is to any other law? We have documents brought in here upon almost every question to prove that a pending measure is unconstitutional, and it is proved over and over again, and yet in defiance of that we go forward and pass the measure into a law, and until it is passed upon by a judicial tribunal it is binding; and the argument of the gentleman from Vermont is that this is an exception to all law.

Mr. THAYER. I do not think the gentleman understood the force of my interrogatory. I understood the gentleman to reply to the suggestion of the gentleman from Vermont in regard to the obedience which is to be given by the members of the Cabinet to an unconstitutional law, if this law is passed, by saying that they would be bound to obey it until it was pronounced unconstitutional. I ask the gentleman from Maine how the opportunity to pronounce it unconstitutional

is to arise, unless the Cabinet ministers should refuse to obey the law.

Mr. BLAINE. I turn the question upon the gentleman himself; suppose they refuse to obey, how are you going to make a case on either side?

Mr. THAYER. If the power of impeachment existed, I suppose you would proceed under that; and in the course of the proceeding the question would arise and be decided.

Mr. BLAINE. Do I understand the gentleman to maintain that the power of impeachment does not exist?

Mr. THAYER. I do not say it does not.

Mr. BLAINE. I say it does. The Constitution says:

"The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Now, if an absolute and contemptuous disregard and defiance of law does not constitute a misdemeanor, what does?

Mr. THAYER. That depends entirely upon the constitutionality of the law.

Mr. BLAINE. Precisely.

Mr. THAYER. That is the very question in controversy.

Mr. BLAINE. Now, let us see whether this process of impeachment extends to these Cabinet officers. The Constitution says all "civil officers" may be impeached, and members of the Cabinet are distinctly recognized as "civil officers" in another provision of the Constitution. The gentleman from Ohio [Mr. SCHENCK] wants to know whether I consider the Secretary of War a "civil officer." [Laughter.] I do not consider that a very civil question. [Laughter.]

Mr. WILSON. I would ask the gentleman from Maine how the question is to be settled by the judicial department of the Government.

Mr. BLAINE. It is to be determined by the power of impeachment. The Constitution provides that civil officers of the Government may be impeached, and each head of an Executive Department of the Government is subject to impeachment.

Mr. WILSON. I understand that; but how in relation to the constitutionality or unconstitutionality of the law? Suppose the head of a Department should decline to appear in this House, and proceedings intended to result in an impeachment of him should take place, how would the constitutionality or unconstitutionality of this act of Congress be determined?

Mr. BLAINE. I will answer that question by putting another.

Mr. WILSON. Oh, no; answer my question.

Mr. BLAINE. Suppose you impeach any other civil officer anywhere for disobedience of law, how will you determine the constitutionality of the law that is disobeyed?

Mr. WILSON. Well, take any other civil officer. I come back to the same question.

Mr. BLAINE. I put the same question to the gentleman.

Mr. WILSON. Answer my question.

Mr. BLAINE. It would be done in this case through the same medium, the same instrumentality that is applicable to any other civil officer.

Mr. WILSON. What is that?

Mr. BLAINE. I would be very glad to hear it from the chairman of the Judiciary Committee.

Mr. WILSON. If the gentleman will pardon me, did I not understand him to say that this question must be decided by the courts of the country?

Mr. BLAINE. By no means. I maintain that a member of the Cabinet who is made amenable to a law has no more right to decide that that law is not constitutional than you or I have.

Mr. WILSON. Then I make this suggestion: suppose a Cabinet minister under the provisions of this law should withhold his attendance here, and proceedings should then be commenced looking to impeachment, and that he should insist that the law is unconstitutional; what tribunal is to determine that question?

Mr. BLAINE. I ask the gentleman the same question. I say that the process of impeachment is as applicable to Cabinet ministers as to all other officers. The House presents the articles of impeachment, and the Senate tries them. That is the whole of it.



I only rose to reply to that single remark of the gentleman from Vermont, and I will say in closing, as I said at the commencement, that the power to enforce this law when once enacted is just as ample as the power to enforce any other law.

Mr. COX resumed the floor.

Mr. GRINNELL. Will the gentleman give way for a motion to adjourn?

Mr. COX. I yield for that purpose.

Mr. GRINNELL. Inasmuch as the Cabinet are not expected here this evening, I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four minutes to four o'clock, p. m.) the House adjourned.

## IN SENATE.

THURSDAY, January 26, 1865.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior transmitting a copy of the supplemental report of the chief engineer of the Washington aqueduct, showing the condition of the work and the present state of the appropriations authorized and provided for by the act of July 4, 1864; which was referred to the Committee on Public Buildings and Grounds.

He also laid before the Senate a report of the Secretary of War in answer to a resolution of the Senate of the 17th instant calling for muster rolls of such of the regiments as have been raised in the State of Maryland in the present war which were composed in whole or in part of those who were at the time of their enlistment or draft slaves; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War communicating, in answer to a resolution of the Senate of the 25th instant, information in relation to the appointment of a commission in each of the slave States represented in Congress "charged to award to each loyal person to whom a colored volunteer may owe service a just compensation;" which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War communicating, in answer to the resolution of the Senate of the 22d of December, 1864, a report of the Adjutant General in relation to volunteers called out in the State of Delaware for thirty and for one hundred days; which was ordered to lie on the table, and be printed.

### CREDENTIALS PRESENTED.

Mr. RIDDLE presented the credentials of Hon. WILLARD SAULSBURY, chosen by the Legislature of the State of Delaware a Senator from that State for the term of six years, commencing March 4, 1865; which were read, and ordered to be filed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the bill (S. No. 384) to amend an act entitled "An act to amend and extend the charter of the Franklin Insurance Company," approved the 2d of March 1838; and also that the House had passed a joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command; and a bill (H. R. No. 705) for the relief of collectors and surveyors of the customs in certain cases; in which the concurrence of the Senate was requested.

### PETITIONS AND MEMORIALS.

Mr. SPRAGUE presented resolutions of the Legislature of the State of Rhode Island in favor of the passage of the joint resolution submitting to the Legislatures of the several States an amendment to the Constitution of the United States abolishing slavery; which were ordered to lie on the table, and be printed.

Mr. GRIMES presented a petition of chaplains in the Navy of the United States, praying that the law regulating their pay may be so amended as to give them the pay of the line officers with whom they rank; which was referred to the Committee on Naval Affairs.

Mr. CLARK presented a memorial of Sweeney, Rittenhouse, Fant & Co., praying that their claim reported upon adversely by the Court of Claims January 23, 1862, may be referred back to that court for a rehearing; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of Josiah Copeland, praying an extension of his patent for an improvement in boot crimps; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of Josiah M. Read, praying for an extension of the patent for an improvement in boot crimps to Josiah Copeland; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of boot manufacturers and crimpers of Boston, praying for an extension to Josiah Copeland of the patent known as Read's improvement in boot crimps, patented January 20, 1844; which was referred to the Committee on Patents and the Patent Office.

Mr. MORGAN presented the petition of citizens of Orange county, New York, praying for the passage of a law authorizing the Secretary of the Treasury to issue duplicates of United States bonds, certificates, and scrip which have been or may hereafter be lost or destroyed; which was referred to the Committee on Finance.

He also presented the memorial of William H. Webb, shipbuilder of New York, contractor with the Navy Department of the United States under date of July 3, 1862, for the construction and equipment of the iron-clad screw ram called the Dunderberg, praying for an additional allowance on his contract; which was referred to the Committee on Naval Affairs.

Mr. HARRIS presented the petition of Jane W. Nethaway praying for an allowance of back pay and bounty due her husband, and the passage of an act allowing her a pension; which was referred to the Committee on Pensions.

Mr. FARWELL. I present resolutions of the Legislature of Maine in favor of the abrogation of the reciprocity treaty with the British provinces. As that subject has been disposed of by the necessary legislation, I move that the resolutions lie on the table.

The motion was agreed to.

Mr. TEN EYCK. I present the memorial of owners and masters of vessels owned in whole or in part by residents of the counties of Hudson and Bergen, in the State of New Jersey, praying that the act of Congress of February 21, 1863, by which those counties of New Jersey were made a part of the collection district of the port of New York, may be so amended that the assistant collector shall have charge of loading and unloading vessels to and from foreign ports and the warehousing of merchandise, and that he be also empowered to enroll and license vessels in the coasting trade owned in whole or in part in those counties, and to do such other acts and things as will promote the interests of New Jersey and of the United States. I present also a similar memorial from the city of Hoboken. I move that these memorials be referred to the Committee on Commerce.

The motion was agreed to.

### BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia;" which was read twice by its title, and referred to the Committee on the District of Columbia.

### REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of light-house keepers in Narragansett bay, praying for an increase of salary, reported adversely thereon, the committee deeming it inexpedient at this time to increase official salaries.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads," have directed me to report it back with amendments. The amendments are merely verbal, and need not be printed.

Mr. POWELL. I move to take up the bill

just reported by the Senator from Vermont. It is a matter of very deep interest to the community generally to have the railway completed to which the bill refers.

The VICE PRESIDENT. The Senator from Kentucky asks the unanimous consent of the Senate to proceed to the consideration of the bill just reported by the Senator from Vermont. Is there any objection?

Mr. COWAN. I object. I want to read the bill first, and see what it is.

The VICE PRESIDENT. Objection being made, the bill must go over under the rules.

### BENJAMIN VREELAND.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs, to whom was referred the petition of Benjamin Vreeland, praying to be allowed the difference of compensation between the pay of an assistant surgeon and that of passed assistant surgeon from the date when he was entitled to his examination by law to the date of his passing his examination, to report a bill for his relief. It is a very small matter, and I ask for the present consideration of the bill.

By unanimous consent, the bill (S. No. 412) for the relief of Benjamin Vreeland, surgeon in the Navy of the United States, was read twice and considered as in Committee of the Whole. It provides for the payment of \$449 07, being the difference between the compensation of an assistant surgeon and a passed assistant surgeon from May 9, 1855, to March 30, 1857.

Mr. HALE. Is there a report in that case?

Mr. MORRILL. I believe the bill touches the general question of increasing salaries, against which the Senate has expressed itself so strongly.

Mr. ANTHONY. No, sir. I will explain the case. There is no written report. Assistant Surgeon Vreeland was ordered to sea about the time when he was entitled to an examination for promotion. At the time when all the other assistant surgeons of the same date were examined, he was at sea and could not be examined. As soon as he returned he was examined, and the board of examiners testified that he would have passed the examination at the time when he was entitled by law to receive it, but being absent at sea he could not appear before the board. This bill is to allow him the pay for the advanced grade between the time when he ought to have been examined and the time when he was examined. It is in strict accordance with precedent. As these cases have arisen occasionally, a general law has been passed covering them, but the law was not retroactive and did not reach his case.

Mr. MORRILL. It is a gratuity.

Mr. HALE. I do not know anything about the law referred to by the Senator from Rhode Island, but I know that I have had such cases as this and the Senate has refused to pay them. The case of young Dr. Suddards, of Philadelphia, I recollect, precisely similar to this, and the Senate refused to make the allowance. I wish that the bill may lie over until to-morrow, so that I may look into that law.

Mr. ANTHONY. I have no objection to that. I am sure that if the Senator examines the case he will find that the bill is according to precedent, and that there is a general law now covering such cases.

The bill was postponed until to-morrow.

### COMMITTEE ON BANKS.

Mr. GRIMES submitted the following resolution; which lies over under the rule:

Resolved, That there be added to the standing committees of the Senate a Committee on Banks and Banking Institutions, to consist of seven members.

### WAYS AND MEANS.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, to report it back without amendment, and I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that in lieu of any bonds authorized to be issued by the first section of the act of June 30, 1864, that may remain unsold at the date of this act, the Secretary of the Treasury may issue, under the au-

thority of that act, Treasury notes of the description and character authorized by its second section; but the whole amount of bonds authorized by it and Treasury notes issued and to be issued in lieu thereof is not to exceed the sum of \$400,000,000; and such Treasury notes may be disposed of for lawful money, or for any other Treasury notes or certificates of indebtedness or certificates of deposit issued under any previous act of Congress; and such notes are to be exempt from taxation by or under State or municipal authority. The second section of the bill provides that any bonds known as five-twenties, issued under the act of February 25, 1862, remaining unsold to an amount not exceeding \$4,000,000 may be disposed of by the Secretary of the Treasury in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable. There is a proviso that this bill is not to be so construed as to give any authority for the issue of any legal-tender notes, in any form, beyond the balance unissued of the amount authorized by the second section of the act of June 30, 1864.

Mr. SHERMAN. It is proper, as this is a bill of general importance, that I should state the purpose of it. By the act of the last session, approved June 30, 1864, the Secretary of the Treasury was authorized to borrow \$400,000,000 on the credit of bonds to be issued by the United States on the terms prescribed by the first section of that act, and he was authorized by the second section to issue, in lieu of \$200,000,000 of the bonds authorized by that first section, Treasury notes to an amount not exceeding \$200,000,000. Under this law, perhaps about seventy million dollars have been issued under the first section and about one hundred and twenty-five million dollars under the second section. The Secretary of the Treasury desires to avoid the issuing of bonds under the first section, to avoid the payment of interest in gold. He does not desire to increase that class of securities at present unless he is compelled to do so. The only effect of the first section of this bill is to authorize the issue of the same amount under the second section of that law, instead of under the first section.

The second section of the bill relates to \$4,000,000 of the five-twenty loan which was hypothesized for certain purposes in London, and is now there. It authorizes the Secretary of the Treasury to sell those bonds already issued in the market, rather than to issue new bonds, or to export gold to redeem them.

I believe this is the only explanation of the bill that is necessary. It is only a change of the form of security, and does not increase the amount now authorized by law.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MILITARY ACADEMY APPROPRIATION BILL.

Mr. SHERMAN. I move that all prior orders be postponed, with a view to take up the Military Academy bill. I will state that I should like very much to pass to-day the Military Academy bill, and also the Post Office appropriation bill, which have been lying on our table for three or four days.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866.

The Committee on Finance reported the bill with two amendments. The first amendment was to strike out lines thirty-nine and forty of the first section of the bill, in the following words:

For store-rooms for artillery and small-arms, \$25,000.

The amendment was agreed to.

The next amendment of the committee was to strike out the second section of the bill, in the following words:

Sec. 2. And be it further enacted, That section four of chapter forty-five of the public acts of the first session of the Thirty-Eighth Congress, relating to cadets "found deficient," is hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I move that the Senate proceed to the consideration of the Post Office appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 705) for the relief of collectors and surveyors of the customs in certain cases—to the Committee on Finance.

A joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command—to the Committee on Military Affairs and the Militia.

#### BILLS RECOMMENDED.

On motion of Mr. MORRILL, the Senate proceeded to consider the bill (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864.

Mr. MORRILL. I move that it be recommended to the Committee on the District of Columbia.

The motion was agreed to.

On motion of Mr. ANTHONY, the Senate proceeded to consider the bill (H. R. No. 387) for the relief of Solomon Parsons, which had been reported adversely by the Committee on Claims.

Mr. ANTHONY. I move that the bill be recommended to the Committee on Claims.

The motion was agreed to.

#### HENRY A. BRIGHAM.

Mr. HARRIS. A bill for the relief of Henry A. Brigham was passed by the Senate about a week ago after a very exhaustive discussion. Subsequently a motion was made by the Senator from Kentucky [Mr. DAVIS] to reconsider the bill. It was sent back from the House of Representatives for that purpose; and if the Senator from Kentucky has no objection, I should like to call that up now.

Mr. DAVIS assented.

The VICE PRESIDENT. The Senator from New York moves to postpone all prior orders for the purpose of proceeding to the consideration of the subject indicated in his motion.

The motion was agreed to; and the Senate proceeded to consider the motion of Mr. DAVIS to reconsider the vote by which the bill (S. No. 212) for the relief of Henry A. Brigham was passed.

Mr. DAVIS. I will merely state the ground upon which I made the motion for a reconsideration of the passage of the bill. I feel no particular interest in it. There was in the testimony in the case the evidence of a bank officer. That evidence proved the fact that while the dispute about the counting of the money was progressing, a third person came in and examined the package from which the money was lost; but it did not state whether this examination by the stranger, the third person, was before the money had been counted by the paymaster, or afterward. The testimony of the bank officer was indefinite on that point. I desired that the testimony should be retaken, and that that officer should make a definite statement on that point. If the examination by the stranger was before the deficit was ascertained and announced by the paymaster, I would not vote for the passage of the bill to give the paymaster relief, because I think that would be such an act of carelessness on his part, in admitting the money to be counted by a stranger and a third person, as to preclude him from asking any relief from the Congress of the United States. On the contrary, if that examination by the stranger took place after the deficit had been discovered and announced by the paymaster, I would vote most readily for the passage of the bill.

I feel entirely indifferent what disposition the Senate make of the motion to reconsider. That is all I have to say about it.

Mr. CLARK. I do not know that I understand distinctly to what examination the Senator from Kentucky refers.

Mr. DAVIS. The written evidence of the bank officer in the case.

Mr. CLARK. I understand that there was the written evidence of the bank officer; but did I understand the Senator to refer to the examination of the money by a stranger?

Mr. DAVIS. Yes, sir. That bank officer remarks in the course of his testimony that he saw the money that was then paid by the bank officer to the paymaster being examined by a stranger.

Mr. CLARK. The Senator misunderstood the testimony entirely, I think.

Mr. DAVIS. I think not. At any rate, he said that a stranger had his hand on it.

Mr. CLARK. That was while the officer of the Department was counting it out.

Mr. DAVIS. My recollection of the evidence is this: that the evidence of the bank officer, in regard to the money being handled by the stranger, is not clear upon the point whether it was before or after the deficit was ascertained and announced.

Mr. CLARK. It was before.

Mr. DAVIS. Before?

Mr. CLARK. I think so.

Mr. DAVIS. If the proof is that it was before, I think it is just such a case in which the paymaster ought not to have relief at all.

Mr. CLARK. After that, the paymaster took it and counted it himself, to ascertain if it was correct, and then they discovered the loss of the money.

Mr. DAVIS. The evidence itself is better to establish its contents than any understanding or debate between the honorable Senator from New Hampshire and myself in relation to what that evidence is.

Mr. CLARK. The evidence has gone to the House of Representatives. There is no evidence here. I tried to find it.

Mr. GRIMES. It is printed in the Globe.

Mr. DAVIS. I do not care what disposition is made of the motion.

The VICE PRESIDENT. The question is on reconsidering the vote by which the bill was passed.

The motion was not agreed to.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they thereupon received the signature of the Vice President:

A bill (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864; and

A bill (S. No. 384) to amend an act entitled "An act to amend and extend the charter of the Franklin Insurance Company," approved the 2d of March, 1838.

#### RETALIATION ON REBEL PRISONERS.

The VICE PRESIDENT. It being near the expiration of the morning hour, and there being no other matter before the body, the Chair will call up the unfinished business of yesterday, the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents, the pending question being on the amendment offered by the Senator from Ohio; [Mr. WADE,] and upon that question the Senator from Kentucky [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS. I shall not occupy much of the time of the Senate in continuation of the remarks I was making yesterday. I had stated the proposition that the law of retaliation existed as an undoubted principle of international law, and that the law of retaliation had its limits was just as certain and as indisputable as the existence of the principle of that law itself. I read from two American authorities in limitation of the law of retaliation, and both of those authorities established this general principle, that retaliation by death in any form could only be visited upon those who were personally guilty of the offense against national

law for which retaliation was resorted to. I do not contend myself for the latter or the qualified principle of retaliation to the extent that Chancellor Kent and Professor Woolsey do. I admit that there may be cases in which retaliation by death in some form may be visited upon persons who are not individually and personally guilty of the offense for which retaliation is resorted to as a preventive.

By way of example, there is bushwhacking now all over the States that border upon the confederacy. I concede that the bushwhackers may be shot down, and that they ought to be shot down without being captured; that prisoners should not be taken from bushwhackers at all, because they are a lawless set of robbers, assassins, and murderers who ought to be hunted down in that summary form. I concede, further, that if a man is a bushwhacker and our authorities desire to make an example by way of retaliation, a bushwhacker may be taken as the subject of that retaliation. But I would qualify that concession in this wise: I would not allow any commanding general by his own order to determine who was and who was not a bushwhacker, and order that man against whom there was an imputation of being a bushwhacker thus to be summarily executed. I would require the bushwhacker to be tried by a military court, and give him an opportunity of disproving the charge if he could do it, in order to exempt himself from that summary mode of execution. My friend from Maine [Mr. FARWELL] suggests that the Government ought to be required to prove the fact that he was a bushwhacker against him. I concede the justice of that position; but that is not the principle upon which the law of retaliation is practiced in relation to bushwhackers. The military commandant of the particular section of the country—at least it is so in Kentucky—decides for himself and by himself who is and who is not a bushwhacker; and any man that he determines to be a bushwhacker he orders to summary execution by being shot.

My own opinion, Mr. President, is that such mode of punishment might frequently result in the murder of an innocent man. It denies to a man the right of trial. It withholds from him the invaluable privilege of proving himself innocent of the charge that is made against him, and without any examination, mutual or *ex parte*, of the facts of the case, it dooms him to a sudden and to a horrible death. In that form I would not, if I could control the matter, permit any man to be punished. I would not consent that any man should be deprived of his life upon the imputation of crime without knowing what the charge against him was, and without having a fair and a full opportunity of bringing evidence of his exculpation from that crime. Retaliation exists only for one purpose and upon one reason, and that reason is not vengeance, not justice, but simply by the force of the example of retaliation to arouse another belligerent, who is in the inhuman violation of the laws of war, to a proper observance of those laws of war in waging hostilities; and that is the only legitimate consideration, in my judgment, upon which the principle can be executed. It is the reason upon which it is founded in the laws of nations.

Mr. President, this law of retaliation is not our law. It is not the law of the Congress of the United States. It is not the law of the President of the United States. It is the law of nations, that is established by their consent, their practice, and their usage. We have to receive the law as the nations of the earth have made it; we cannot modify it; we cannot add to it; we cannot restrict or repeal any of its principles or provisions; it exists as a code independent of all local legislation by any Government upon earth; it exists as the common, general law of the civilized world, that has received the sanction of the nations of the civilized world.

This law may be taken up by the President of the United States without any additional legislation upon the part of Congress just as it exists, and it may be executed by him; and as some of the members of the Senate have maintained, and I assent to the position, there is no reason whatever for the interposition of Congress in this matter at this time. So far as the law of retaliation exists, so far as it may be legitimately executed, it is to be decided by the law of nations, and the President of the United States, without any ancillary

legislation on the part of Congress, may execute that law just as he could and to the same extent and rigor with which he might execute it backed by any legislation which Congress would adopt.

I had furthermore said that the fate and the question of our prisoners depended somewhat upon two powers. The first is the rebel government and authorities that hold them in captivity. The second power is that of our own Government, and especially our military authorities, who have the function to exchange for them, and to relieve them from that captivity by the ordinary mode to which the civilized earth has resorted and resorts for the deliverance of prisoners, and that is, by exchange. I stated that I had asked the attention of the Senate to the latter point more than twelve months ago, and I had failed to attract any decided attention to the subject on the part of the Senate.

How did this difficulty in relation to the exchange of prisoners arise? I concede that there have been the most revolting and inexcusable cruelties practiced on the part of the rebel authorities toward our prisoners. The picture read by the honorable Senator from Michigan [Mr. HOWARD] in a report of a committee that examined the subject a few days since, was one of the most revolting that has ever been presented to my mind. I have no doubt that thousands and tens of thousands of our prisoners have perished in captivity substantially in the mode set forth in the vivid picture that is presented in that report. Who doomed those unfortunate and brave men to such a fate? It was the rebel authorities; but if there was a power, and that power was in their own Government, to redeem and to deliver these unfortunate men from that dreadful fate, and our Government and our authorities refused to make the deliverance, I ask if the condemnation against our own Government ought not to be as severe as that against the rebel government for bringing them into such a condition?

The honorable Senator from Maryland [Mr. JOHNSON] adverted to this subject about the time that I brought it before the Senate. A cartel for the exchange of prisoners was established between the two Governments at an early day. That cartel was read yesterday by the honorable Senator from Missouri, [Mr. HENDERSON.] It established the general principle that prisoners should be exchanged by the belligerent parties according to the terms recognized and practiced by the present civilized world. It furthermore stipulated that if either party had an excess of prisoners over the other, that excess of prisoners should be liberated upon their parole. The rebel authorities have contended all the time with distinct emphasis, that the cartel in relation to the release of prisoners upon parole was violated by the American authorities. If it was violated by the American authorities I suppose they had some very good reason for it. But be that as it may, the difficulty which arrested the exchange of white prisoners was that the rebel authorities refused to give negro prisoners in exchange for white prisoners. The Senator from Maryland adverted to the number of negro prisoners that were then in rebel prisons.

Mr. HOWE. If my friend will allow me, I should like to know what is the authority for the statement he has just made, that the difficulty in the way of exchanging white prisoners was because the rebel authorities refused to exchange colored troops.

Mr. DAVIS. I will read to the honorable Senator in a few minutes some authority on that subject. In the mean time I state that position, and I will sustain it by proof in a few minutes.

I understood, furthermore, that the rebel authorities were willing to exchange negro prisoners who had been freed before they entered the United States Army; they were willing to exchange negro prisoners whose ownership could not be ascertained; they only refused to exchange negro prisoners to the extent that those prisoners belonged to their own people; and they insisted and practiced upon the principle of returning those negroes to their owners in the confederate States, and therefore refused to exchange them as prisoners of war.

I recollect that the honorable Senator from Maryland stated near a year ago, when the subject was up before the Senate, in debate, that there were only between one and two hundred negro prisoners then held in captivity by the rebel mil-

itary authorities, and that all the obstacle to the exchange and to the deliverance from horrible captivity of ten, twenty, or thirty thousand white Union prisoners, was that there were between one and two hundred negro prisoners held by the rebel authorities which they refused to give in exchange.

Now, sir, I will read an extract from a letter of General Butler, dated in August last, to the rebel commissioner for prisoners, Mr. Ould:

"I unite with you most cordially, sir, in desiring a speedy settlement of all these questions, in view of the great sufferings endured by our prisoners in the hands of your authorities, of which you so feelingly speak. Let me ask, in view of that suffering, why you have delayed eight months to answer a proposition which by now accepting you admit to be right, just, and humane, allowing that suffering to continue so long? One cannot help thinking, even at the risk of being deemed uncharitable, that the benevolent sympathies of the confederate authorities have been lately stirred by the depleted condition of their armies, and a desire to get into the field, to offset the present campaign, the hale, hearty, and well-fed prisoners held by the United States in exchange for the half-starved, sick, emaciated, and unserviceable soldiers of the United States now languishing in your prisons. The events of this war, if we did not know it before, have taught us that it is not the northern portion of the American people alone who know how to drive sharp bargains.

"The wrongs, indignities, and privations suffered by our soldiers would move me to consent to anything to procure their exchange, except to barter away the honor and faith of the Government of the United States, which has been so solemnly pledged to the colored soldiers in its ranks.

"Consistently with national faith and justice we cannot relinquish this position. With our authorities it is a question of property merely. It seems to address itself to you in this form. Will you suffer your soldier, captured in fighting your battles, to be in confinement for months rather than release him by giving for him that which you call a piece of property, and which we are willing to accept as a man?

"You certainly appear to place less value upon your soldier than you do upon your negro. I assure you, much as we of the North are accused of loving property, our citizens would have no difficulty in yielding up any piece of property they have in exchange for one of their brothers or sons languishing in your prisons. Certainly there could be no doubt that they would do so were that piece of property less in value than \$5,000 in confederate money, which is believed to be the price of an able-bodied negro in the insurrectionary States.

"Trusting that I may receive such a reply to the questions propounded in this note as will lead to a speedy resumption of the negotiations for a full exchange of all prisoners, and a delivery of them to their respected authorities, I have the honor to be, very respectfully, your obedient servant,  
BENJAMIN F. BUTLER,

"Major General and Commissioner of Exchange."

The correspondence between the two commissioners of exchange was reported upon the call of the Senate; and, if I recollect that correspondence, it states distinctly that the difficulty, and the only difficulty, in the way of the exchange of white prisoners was, that the rebel authorities refused to exchange for negro prisoners. In the remarks that I made to the Senate on that subject at the time, I assumed the position that the Government and the military authorities of the United States ought to exchange for our white prisoners, even if the rebel authorities refused to make a solitary exchange for a negro prisoner. I assumed then that the holding of white Union prisoners in rebel prisons to languish, to be tortured by starvation, and to die, did not in any degree alleviate or make more comfortable the condition of negro prisoners. I assumed, furthermore, that if the rebel authorities were willing to exchange for any class of Union soldiers in captivity, white or black, that exchange ought to be made to the extent that was practicable, in order to deliver those who might be delivered from the horrors of such a captivity. I remarked then, as I now remark, that if from any whim, or principle, or policy, the rebel authorities refused to exchange white prisoners and were willing to exchange negro prisoners, the fact of their refusal to exchange white prisoners ought not to have been an obstacle with our military authorities even to exchanging negro prisoners; and with much more force and distinctness would I contend for the converse of that proposition. If the rebel authorities were willing to exchange for the ten, twenty, or thirty thousand white prisoners, who were in that loathsome captivity, and refused to exchange for negro prisoners, it was the dictate of humanity, of justice, of magnanimity, and of gratitude upon the part of our own Government to our own brave white men who were thus perishing in such loathsome prisons—it was the duty of our Government to those brave men, who were thus suffering martyrdom by all the horrors of starvation, to deliver them at once from such a wretched fate.

But what says General Butler? "The faith of



our Government is pledged to the negro soldiers." I understand that faith to have been, "We will not enter into exchange with the rebel authorities for white prisoners, unless they will agree at the same time to exchange for negro prisoners." That was the reason, and the solitary reason, if I understand the difficulty, why the exchanges for white prisoners did not proceed. Why, sir, suppose the rebel authorities had been willing to exchange for all white prisoners, except those from Tennessee, or any other State, would their objection and refusal to exchange for that class of prisoners be any excuse, much less any justification, to our military authorities not to exchange for the white prisoners that they were willing to make a free exchange for? I contend that this business of exchange was not a matter that interested mainly the rebel government; it was a matter that interested principally American Union prisoners who were perishing in prison.

Mr. HOWE. Will the honorable Senator allow me to interrupt him for a moment?

Mr. DAVIS. Yes, sir, with pleasure.

Mr. HOWE. The honorable Senator has just read from a letter of General Butler's, written in August last. I should like to know if it was not preceded by a letter from Commissioner Ould, of the rebel government.

Mr. DAVIS. Yes, sir; but I have not got that letter here.

Mr. HOWE. I should like to ask the Senator, further, if it is not within his recollection that the letter of General Butler, from which he has just read, was in reply to a letter from Commissioner Ould, in which Commissioner Ould said that our Government had, months preceding that date, offered, and repeatedly offered, to make the exchanges, man for man and rank for rank, which offer had been steadily refused by the rebel authorities, for two reasons, one of which was that they would not consent to treat colored soldiers in the American uniform as prisoners of war, and we must relinquish that pretense as the condition to exchange, and the other was that before they would exchange at all we must agree to parole the excess of prisoners in our hands.

Mr. DAVIS. I do not understand the facts as the honorable Senator from Wisconsin has stated them. I understand the position of the rebel government to have been this: that their authorities were willing to enter into an exchange of prisoners on the terms of the cartel agreed upon between the two Governments, that the rebel authorities were willing to execute the agreement in the cartel for the exchange of prisoners between the two Governments.

Mr. HOWE. Yes; and the Government of the United States refused to carry out that cartel, for the reason that the rebels had violated in numberless instances the paroles given by their prisoners, and therefore we refused to take paroles any longer.

Mr. DAVIS. But I understand the position of our authorities—and it is stated substantially by General Butler in the correspondence to which I have referred—to be that they had pledged their faith and honor to the colored soldiers that no exchange of prisoners should take place with the rebel authorities unless the exchange included negro prisoners as well as white prisoners. I may be misinformed; I may have read the papers inaccurately; and if so, I should like to be corrected; but I understand our Government to have assumed and steadily and inflexibly to have maintained the position that it would enter into no exchange of prisoners unless the rebel authorities would agree to treat negro soldiers just as white prisoners, and enter into their indiscriminate exchange. I understand General Butler to have stated this pledge to Commissioner Ould as one reason at any rate why the exchange for white prisoners had not proceeded.

I stated at that day and at an earlier day that this would be one of the ills and evils resulting from the enlistment of negro soldiers into our armies; that there would be disputes and questions about the exchange of negro soldiers which could not be satisfactorily adjusted with the rebel authorities, and that those difficulties would prevent, hinder, or defeat the exchange of white prisoners, and would condemn our white citizens to remain in these prisons where they were gradually starving to death. In my judgment our Government had no right to assume any such posi-

tion, and especially it had no right to maintain that position so persistently, so obstinately, and so inflexibly as to suffer twelve or eighteen months to expire without a general exchange of white prisoners between the two authorities, and in that way to have permitted thousands and tens of thousands of the best and bravest men of our land to perish by starvation.

A friend of mine came from Libby prison two or three months before the close of the last session of Congress, and he informed me that he had been in that prison thirteen months, that in that time there had been upward of eighteen thousand Union prisoners brought to Libby and to Belle Isle, and that more than six thousand of them had perished by exposure, want, and starvation, and the diseases resulting from insufficiency of food and from exposure. We have all seen the report of the mortality in the prisons of Andersonville in the southern confederacy during the summer. All the papers stated that at one time there were about thirty thousand Union prisoners confined in the prisons at Andersonville, and that in two months, either June and July or July and August, upward of eight thousand of our prisoners perished in that single place.

I have no doubt that at least thirty thousand Union soldiers have died from starvation and disease resulting from insufficient food and from exposure, from a want of shelter and other protection that a sick soldier ought to have, by being held in these rebel prisons. What a horrid fate! The vivid picture read by the honorable Senator from Michigan, the other day, from the report of a committee of the Sanitary Commission, I suppose did not portray it in colors too strong. The human heart and imagination recoil from torture. The rack and all the cruel modes of punishing and torturing criminals in the dark ages shock the sense of the present age of Christian civilization; but all of them were not more revolting, were not more horrid, and indeed not so much so, as the punishment of a prisoner by starving him to death. In my judgment, the most horrible death that my reason or my imagination could contemplate would be to be shut up in a dungeon and there starved to death. The men who can doom prisoners to such a fate are monsters, and any punishment of the guilty who do this deed that would promise to reform or restrict or curtail in any degree the horrid sufferings of our brave and unfortunate soldiers who are prisoners in the enemy's hands, I would be willing to resort to.

But, Mr. President, what liberality, what magnanimity, even what justice toward our poor unfortunate prisoners, had our Government a right to expect at the hands of these rebels, these criminals? None. They are engaged in a conflict of war, deadly, savage, desolating, almost without an example in modern times. But here is our own Government, which is charged with the fate of our brave but unfortunate captives in rebel prisons. These men, the soldiers of our Republic, had volunteered to bear aloft the flag of our country and to sustain the Union and the authority of the United States within all the borders of the United States. When those men were so unfortunate as to be captured, and especially when the direful misfortune of being lodged in such prisons as Libby, Belle Isle, Andersonville, and others equally horrible, was brought upon them, I ask if every principle of humanity and justice and policy did not require that their own Government should exhaust every means to deliver them from their dreadful condition.

I ask you, sir, and I ask the Senate, if the refusal of the rebel authorities to exchange for a few hundred negroes was any justification, any excuse, any palliation even, for our military authorities in not exhausting every means of exchange or parole and any other mode whatever by which these brave and perishing men might be delivered from their horrible captivity and its inevitable death. Isay to-day that if the subject of exchanges had been taken up honestly, earnestly, and in good faith by our Government and our military authorities eighteen months ago, more than twenty thousand gallant and true men who have died in these dreary prisons would have been restored to their country, their friends, their families; and with all the comforts of home and all the attentions of mother, wife, and daughter which they would have received, they might ere this have been restored to health, so that now, instead of

filling an unknown grave in a distant land, they would be cheering and sustaining and blessing their own homesteads and their own families.

Sir, I view with horror the conduct of the rebel authorities to these prisoners, and second, even if second to that, I view with repugnance, condemnation, and execration, the heartless, cruel, and unjust indifference of our own authorities toward the fate of these perishing brave men.

I never heard it controverted before this occasion that the great difficulty in the way of exchanging white prisoners with the rebel authorities was their refusal to exchange for negro prisoners. On this point I will read again a single clause from General Butler's letter:

"The wrongs, indignities, and privations suffered by our soldiers would move me to consent to anything to procure their exchange, except to barter away the honor and faith of the Government of the United States which has been so solemnly pledged to the colored soldiers in its ranks."

What was that faith? What was that pledge? What was it but simply this, that exchanges would not be entered upon by our Government unless they were treated as prisoners of war with our white soldiers, and unless the exchanges should extend to and include negro soldiers as well as white men? I dissent entirely from the position that the refusal of the rebel authorities to exchange a few thousand, yea all the negroes in America if they had been in captivity, should make one moment's delay or obstacle in the exchange of our white prisoners. The refusal to exchange negro prisoners did not mitigate the sufferings of those negroes. It made their condition no better. It gave them no additional comforts. It offered them no speedier or earlier deliverance from captivity. Then, when it produced no good fruits to the negro, and resulted in the wasting, torturing, starving to death of our white citizens in captivity, why should the latter dread consequence be looked upon calmly, with cold indifference and apathy, in its terrible consummation, by our military authorities and they not waive the condition of negro prisoners being also exchanged?

No, Mr. President, I would say and I do say that all the negroes in America should never have been one iota in the way of or an obstacle to the free and prompt deliverance of our unfortunate white soldiers from captivity. It is for that reason that, although I denounce and censure and abhor the cruelties of the rebel authorities that doomed our brave men to such a dreadful fate, I condemn with equal decision and with equal indignation that heartless policy of our military authorities which permitted those brave men there to remain and thus to perish. I like to hear the thunders of the denunciation of my eloquent and able friend from Michigan in condemnation of the cruelties of the rebel authorities; but here is a double cruelty; here is a cruelty, an apathy, a heartlessness, a devotion to an abstraction and a mischievous error on the part of our own authorities, that has resulted in the great destruction of the health, of the happiness, of the hopes, and even of life to all those prisoners of ours that have died in rebel prisons. I insist, then, that condemnation ought to extend to our own authorities also.

Sir, we have even heard the proposition advanced that exchanges ought now to cease because our prisoners are in an emaciated and unhealthy condition, while the rebels are in a healthy and hale condition, and will if exchanged go into their armies, and fighting behind fortifications one man of them will be equal to four of ours. For that reason we have been told that exchanges should not take place any more during this war; and nobody is able to determine or to predict when the war will close! Sir, I utterly repudiate that position. I do not care what advantage in a military point of view the exchange of our prisoners would give to the rebel armies or to the rebel power. The simple, single inquiry is, what does the obligation under which our Government lies toward our brave soldiers (who are in captivity in loathsome dungeons where they are starving to death and enduring such horrid tortures) require from our Government toward those men? Not that exchanges shall cease, not that exchanges shall be further postponed until the negro is exchanged, but to go forward to-day, to-morrow, whenever you can, with any class of our white soldiers, any number of them, without

regard to negro soldiers, without regard even to the States whence they come, if the rebels were to attempt to make that distinction, but so far as you can, if you can secure the exchange of one or one thousand, or of all, to proceed promptly to exchange our white soldiers, and in the name of humanity and justice restore them to their homes, to their country, although their terms of service may be about to expire and they will no longer enter into your armies. This is due to the relationship between such soldiers and their country. It is due to their patriotism. It is due to the manner in which they have braved death in the field and a more horrible death from disease in the camp and the prison. It is due to them, from all these considerations, that this justice should be done to them.

Mr. President, I favor the proposition to send a commissioner to the rebel authorities on the subject involved in this resolution. I am for trying everything short of retaliation which reasonably promises relief, before we resort to that dread remedy. I am for proposing to the rebel authorities a reasonable and just exchange of prisoners. To any and every extent that they are willing to enter upon that exchange, I would accept it. Because they would not exchange negro prisoners I would make it no difficulty in the way of exchanging white prisoners. Because they would not exchange white prisoners of a certain class, I would make it no difficulty to the exchange of white prisoners of every other class. I would snatch every white soldier, every American patriot, whose courage and love of country and of his Government prompted him to go to the battlefield and peril all in defense of the rights of his country, from prison, and especially from such a prison as these men are now in.

Mr. HOWE. Will my friend tolerate me in one more question?

Mr. DAVIS. Certainly.

Mr. HOWE. If the rebels were to say to-day that they would exchange our black soldiers and would not exchange our white soldiers, would the Senator be willing to effect exchanges so far?

Mr. DAVIS. I said half an hour ago that I would.

Mr. HOWE. I am very glad to hear it.

Mr. DAVIS. I said half an hour ago, I said twelve months ago, that I would. I say that it is the right of every man, white or black, who volunteers as a soldier in the United States Army, and who is received by our authorities as a soldier, who is so unfortunate as to be taken a captive, and whose captivity is of the revolting character of that of which we have heard—it is the right of that prisoner, whoever he may be and whatever may be his color, to be delivered from such a captivity at the earliest possible moment in which he can be delivered, and the Government ought to make use of every reasonable exertion in its power to deliver all of them, one of them, or any number of them.

Mr. President, as I said yesterday, I will never give my sanction to starving any man for any offense, upon any imputed crime, to subvert any purpose, the most holy that can be conceived of by the purest of living men. It is utterly abhorrent to my nature. I am no Christian; I wish to God that I was; but I have been educated in a Christian country, and I hope I have imbibed some of the pure and benevolent teachings of Christianity. Whether or not, it is so abhorrent to my whole nature and soul to starve a man to death that I never would give it any sanction, and wherever I could intervene by feeding a starved criminal, or imputed criminal, at any cost, I would thus minister to him, whether he was black or white, whoever he was, provided he was a man in the shape of a human being.

But, sir, when a proper effort is made by our President alone, or by our President encouraged by Congress, to have proper exchanges made, in whole or in part, or to any extent, and that effort fails, I shall be willing to take steps for retaliation; not retaliation by torture, not retaliation by starving to death any man, officer or private, not retaliation upon the private soldiers, who are mere machines with no volition, who have no mental and ought to have no moral responsibility in the matter, and whose sole and stern and unfortunate duty it is to obey orders. I never will consent that a man thus circumstanced, thus acting by a power and a force over which he can exercise no

control, shall be made responsible by the loss of his life in any form for the wickedness and crimes of others. But I might be willing to doom to death the officers of the confederacy, the men of influence and power who may be reasonably supposed to exercise some control, some restraining power, over the policy and measures of the confederation—not death by starvation, but the military death of being shot by a file of soldiers. I would, however, await for the case to arise, and I would adjudge of it in all of its circumstances. I would not retaliate even upon the officer unless there was a reasonable prospect of its resulting in some essential good to our own unfortunate prisoners. If Congress chooses to initiate a proceeding of that character, or if the President does it of his own accord, as I conceive he has the amplest power to do, I will sustain Congress or the President in it with the little feeble support morally or in any other form that I can give to such a humane measure; and when that measure has been reasonably tried, and has been found to fail, then I will judge how far retaliation, even upon officers, is, in my judgment, politic and humane. But that retaliation which violates the moral sentiment of the world and the Christianity of the age, which shocks mankind, and which fills the universal human heart with awe and revulsion, I will never consent to. It would be a greater crime and wickedness than that of the rebels themselves.

I will make a single remark more, and then take my seat. We waged the war of the Revolution, we waged the war of 1812, and there is not a solitary instance of retaliation throughout the whole course of those wars beyond confinement in close prison.

Mr. HOWARD. That is a mistake.

Mr. DAVIS. Such is my recollection.

Mr. SUMNER. That is the statement of Chancellor Kent.

Mr. HOWARD. He is incorrect in that as in some other things.

Mr. DAVIS. I know there were some English prisoners in the war of 1812 brought to Kentucky and confined in the penitentiary, and that was all the punishment imposed upon them. I know that some of our sailors were taken from off our decks and confined by the British, and in retaliation we imprisoned at Worcester, in the State of Massachusetts, some British sailors whom we had captured and intended to hold as hostages. The Legislature of Massachusetts had previously passed a law allowing the United States the use of its penitentiaries and jails for the imprisonment of prisoners. But although those English prisoners were held as hostages for the safety of our own citizens who had been dragged from under our flag and from our own decks, and whom the English authorities were threatening to execute as traitors, although those prisoners were held for that purpose, commending itself to the heart and reason and patriotism of every man, the Legislature of Massachusetts at once passed a law directing the prison-keeper to discharge those prisoners, and they were discharged and went into the British provinces. And that Legislature, furthermore, passed a law prohibiting the use of the prisons of Massachusetts to the General Government for any such purpose, and directed peremptorily, and if I recollect aright, under a penalty, that whenever any such prisoners, taken captive from the English, should be confined by our authorities, civil or military, in Massachusetts prisons, they should be discharged by the prison-keepers. Now, as to the question of fact, I will read from Chancellor Kent:

"Vattel speaks of retaliation as a sad extremity, and it is frequently threatened without being put in execution, and probably without the intention to do it, and in hopes that fear will operate to restrain the enemy. Instances of resolutions to retaliate on innocent prisoners of war occurred in this country during the revolutionary war as well as during the war of 1812, but there was no instance in which retaliation, beyond the measure of severe confinement, took place in respect to prisoners of war."

To sustain this he refers to the Journals of Congress and various other authorities. The same author says also in regard to war:

"There is a marked difference in the right of war carried on by land and at sea. The object of a maritime war is the destruction of the enemy's commerce and navigation, in order to weaken and destroy the foundations of his naval power. The capture or destruction of private property is essential to that end, and it is allowed in maritime wars by the law and practice of nations. But there are great limitations imposed upon the operations of war by land, though

depredations upon private property and despoiling and plundering the enemy's territory are still too prevalent, especially when the war is assisted by irregulars. Such conduct has been condemned in all ages by the wise and virtuous, and it is usually severely punished by those commanders of disciplined troops who have studied war as a science and are animated by a sense of duty or the love of fame. We may infer the opinion of Xenophon on this subject (and he was a warrior as well as a philosopher) when he states in the *Cyropædia* that Cyrus of Persia gave orders to his army when marching upon the enemy's borders not to disturb the cultivators of the soil; and there have been such ordinances in modern times for the protection of innocent and pacific pursuits. Vattel condemns very strongly the spoliation of a country without palpable necessity; and he speaks with a just indignation of the burning of the Palatinate by Turenne, under the cruel instructions of Louvois, the war minister of Louis XIV. The general usage now is not to touch private property upon land without making compensation, unless in special cases dictated by the necessary operations of war, or when captured in places carried by storm, and which repelled all the overtures for a capitulation. Contributions are sometimes levied upon a conquered country in lieu of confiscation of property, and as some indemnity for the expenses of maintaining order and affording protection. If the conqueror goes beyond these limits wantonly, or when it is not clearly indispensable to the just purposes of war, and seizes private property of pacific persons for the sake of gain, and destroys private dwellings or public edifices devoted to civil purposes only, or makes war upon monuments of art and models of taste, he violates the modern usages of war, and is sure to meet with indignant resentment, and to be held up to the general scorn and detestation of the world."

The laws of war have been gradually growing more humane for centuries, and they are more humane in the present age, in principle and according to the general practice of nations, than they have ever been before. The laws of war, and especially the law of retaliation, as I said yesterday, are ameliorated by the sentiment of this Christian and enlightened age, and it is a noble monument of the advancing enlightened philanthropy and Christianity of this day of the world that the horrors, even of the laws of war, are thus being mitigated. Instead of our Congress repudiating the maxims and the practices of the century, and going back to the bloody code, the barbarous and inhuman practices of more than a century ago, even in this great civil war, it better becomes us to advance further and further in this noble progress that mankind has been making.

Mr. HOWARD: Mr. President, it seems to have been the effort of the Opposition, in the comments which they have made upon the resolution now before the Senate, to make the Administration odious for not having perfected and carried out a system of exchange of prisoners with the rebels, and in that manner to have liberated our countrymen in their hands as prisoners of war. Instead of meeting the question fairly, upon its own merits, and upon the facts clearly in proof in the case, it seems to me they rather attempt to use the occasion as one for the promotion of party purposes, and for the purpose of assailing the Administration.

I do not wish, upon such an occasion as this, to imitate their example. I shall take it for granted that the Administration have done all in their power, all that could be required of them by the laws of war and by their duty to their country, to establish and carry out a system of exchange for the purpose of such liberation. I will not stand here to accuse them of the atrocious crime (for it would be a crime if they had committed it, or if it had been committed,) of permitting our soldiers to remain in the cruel custody of the rebels for some purpose other than the public good, for some purpose not authorized by their duty to their country. I shall presume in this discussion that the executive branch of the Government have at least tried faithfully to do their duty to the country, and that if they have failed in bringing about this exchange and the liberation of our prisoners in rebel hands, they have innocently failed, and failed upon such principles as justify their conduct before their country and before the world.

But, sir, I rose more particularly to pay a moment's attention to some observations made by the Senator from Indiana, [Mr. Hendricks,] the other day, upon this subject. The Senator from Indiana, entertaining, as he told us, a very strong doubt as to the weight of the testimony which I took the trouble to lay before the Senate, and denying that the present occasion is one for the exercise of retaliatory measures against the rebels, tells the Senate that the only authority from the books which he has read "condemns what the Senator from Michigan proposes;" that is, what

is proposed in the present resolution. He continues:

"He has not given us a citation of a single authority of force and respectability in this body justifying the high measure which he proposes. I expected to hear it. He is the champion of the measure; he reports it to the body; but instead of referring to accredited authority upon the subject, he gratified the Senate by reading from a pamphlet containing a report of a committee," &c.

The passage alluded to by the Senator from Indiana was from General Halleck, in which, although the general admits the propriety of the principle of retaliation, he declares that where one belligerent resorts to inhuman and barbarous practices in the treatment of prisoners, or in any other mode of carrying on the war, it is not permissible to a civilized nation to imitate his example by way of retaliation; and General Halleck, in support, as it would seem, of this declaration of his, refers to various writers upon the laws of war and the laws of nations. Since the passage has been called to my attention, I have examined the authorities referred to by the general in his text, and I do not find that he is supported by a single one of the distinguished writers to whom he refers and whom he cites in support of his proposition; and I say here in the Senate, with confidence, that there cannot be found in any of the writers commonly accredited as teachers upon the laws of war and the laws of nations any statement or declaration that corroborates and supports that of General Halleck in this regard. Vattel says—and this was the passage referred to by the Senator from Indiana—

"Retaliation, unjust between private persons, would be a much more unjust practice between nations, because here the punishment would fall with more difficulty upon those who have done the wrong."

This is the passage from Vattel upon which is predicated, I may say with propriety, I think, the whole of the argument against the measure of retaliation which is now proposed. It is asserted that Vattel condemns such retaliatory measures during war, and this passage which I have cited is used in support of that proposition. This passage has been erroneously applied to an existing war, whereas the author is speaking only of retaliation as a means of compelling a nation to do justice before making war upon her. He is speaking of this retaliatory law as one which may or may not be put in practice before the offended nation sees fit to take the remedy into its hands and enters upon a direct prosecution to right her wrongs. As such preliminary means the author condemns the use of it, but he nowhere censures, but everywhere recognizes, the principle of retaliation. This is obvious enough from the rest of the paragraph which the Senator from Indiana would have done well to read before attempting to cast his censures upon me. The same author uses the following language upon the subject of retaliation in the same paragraph:

"What right have you to cut off the nose or the ears of the ambassador of a barbarian who has treated your ambassador in like manner? As to those reprisals which in time of war partake of retaliation, they are justified by other principles, and we will speak of them in their place."

They are justified by other principles, by the principle, of course, of necessity, of a just self-defense and a just protection of one's own rights; and whatever may be that necessity, the honorable Senator will find that by the books it is bounded only by the principle of self-preservation, the preservation and defense of the nation and of its interests; and there is no other rule by which this necessity can be bounded or measured. He proceeds:

"All that is true in this idea of the *talio* is, that, all things being equal, the punishment ought to hold some proportion to the wrong which is to be punished."

This is Vattel's language—

"the end and foundation of punishment requiring it to be thus."—Vattel, lib. 2, chap. 18, sec. 339.

Mr. Wheaton, treating of the rights of war between enemies, says:

"The law of nature has not precisely determined how far an individual is allowed to make use of force either to defend himself against an attempted injury, or to obtain reparation when refused by the aggressor, or to bring an offender to punishment. We can only collect from this law the general rule that such use of force as is necessary for obtaining these ends is not forbidden." The same principle applies to the "conduct of sovereign States existing in a state of natural independence with respect to each other. No use of force is lawful except so far as it is necessary."

Necessity is then the standard by which the

force is to be measured and determined. If you are dealing with an enemy who is not restrained by the ordinary punishments inflicted by civilized nations engaged in war with one another, if you are engaged with a barbarous enemy who does not hesitate to put innocent prisoners to death without necessity and in his own wrong, if you find it absolutely necessary to resort to severer and still severer measures of retaliation, in order to compel your adversary to observe justice, then, sir, upon every principle of common sense and of common law, you are authorized to use that amount of severity which will insure the end at which you aim, which will compel him to abandon his evil courses, and to observe the laws of christianized, civilized war. It is a complete begging of the question to say that you may not by way of retaliation starve a prisoner to death. If your enemy persists in starving your prisoners in his hands to death, after you have notified him, after you have remonstrated with him against it, and it is perfectly apparent that a similar treatment of his own prisoners is the only means by which you can restrain him, I ask you, sir, whether it comports with humanity, with your duty to protect your own soldiers, to omit the employment of such means as will obviously restrain your enemy, and compel him to treat in the ordinary way of civilized warfare the prisoners in his hands?

Mr. McDOUGALL. Will the Senator from Michigan allow me to make an inquiry of him for information?

Mr. HOWARD. Yes, sir.

Mr. McDOUGALL. We have all read the rules that Vattel and other commentators on the laws of war have laid down on this subject; but I will inquire of the Senator, has it occurred in the history of civilized States to legislate a *lex talionis*?

Mr. HOWARD. Yes, sir.

Mr. McDOUGALL. When and where?

Mr. HOWARD. I will answer my honorable friend from California on that subject so perfectly that I think he will not be inclined to repeat the question before I get through.

Now, sir, upon the general subject of retaliation in the prosecution of a war—

Mr. McDOUGALL. If the Senator will allow me, I will state my position more exactly so that he will understand precisely how to answer my question. I understand that the *lex talionis* is a business of time, carried out by military commanders in the field pending war, not a matter of legislation. I do not remember in all history of anything of legislation on that subject.

Mr. HOWARD. I think I shall show the honorable Senator from California that in that respect he is mistaken also.

Mr. McDOUGALL. I may be.

Mr. HOWARD. I have another authority upon the general law of retaliation, the weight of which I think will hardly be denied or disputed. It is a no less authority than Napoleon himself, who probably was as good and as profound a judge of the rules of war between civilized nations as has ever lived, a man who for twenty-five years was almost in the daily exercise of those rights and usages, one to whom they were as familiar, doubtless, as any other branch of his great profession. History tells us that the Bourbon princes conspired together in London and in other places to assassinate Napoleon while he was First Consul; and so far did the conspirators go with their projects against his individual life as chief of the State, that they employed the "infernal machine," so called, for the purpose of destroying his life while he was passing through the streets of Paris. The historical incident is familiar to us all. By way of retaliation for such repeated attempts upon his life made by persons who were in the employ of his enemies, and who were, of course, to all intents and purposes, his public enemies, he seized one of their number, the Prince d'Enghien, on neutral territory, brought him by force to Paris, subjected him to trial by a military commission, by which he was sentenced to be shot, and the dreadful sentence was carried into execution even without the knowledge of the emperor. For this act of retaliation the emperor has, I believe, been generally condemned by English writers and English historians; but I refer to the incident, not for the purpose of showing that what he did was in itself just and right, but for

the purpose of showing what were his views upon this great subject of retaliation. "Who," he exclaims in his conversations with Las Casas—

"Who can blame me for having acted thus? What! blows threatening my existence are aimed at me day after day, from a distance of one hundred and fifty leagues; no power on earth, no tribunal, can afford me redress; and shall I not be allowed to use the right of nature and return war for war? What man unbiased by party feeling, possessing the smallest share of judgment and justice, can take upon himself to condemn me?"

"They [the Bourbon princes] could not reasonably pretend to be above the law to destroy others, and claim the benefit of it for their own preservation; the chances must be equal."

So exclaims the emperor, and so I say, "the chances must be equal." The rebels have no right in justice, or upon any principle, to claim for themselves immunity for atrocities committed against us. The emperor proceeds:

"My great maxim has always been that in war, as well as in politics, every evil action, even if legal, can only be excused in case of absolute necessity; whatever goes beyond that is criminal."—Las Casas, Jour., vol. 4, p. 260, London edition of 1823.

He put the question of retaliation upon the ground of necessity for the purpose of protecting himself, as chief of the State, from the attempts at assassination made against him by his enemies.

Mr. McDOUGALL. I understand the Senator to quote from a rule laid down by an emperor, at that time First Consul, who had acquired power in France.

Mr. HOWARD. I believe he possessed some power at the time he retaliated.

Mr. McDOUGALL. I do not understand that to be a piece of legislation, but the affirmation of a doctrine or a policy of war. Am I right in that? Was not that a policy of war laid down when adversaries were contending with each other? Was it legislation? Was it ever done in council hall by the men who undertake to make laws?

Mr. HOWARD. I am coming to that question directly. If the Senator will exercise his patience a little, I will come to that point in the course of my remarks. I really hope he will endeavor to control his impatience for a moment. I certainly will do as I promised. He need have no anxiety on that subject whatever.

Mr. McDOUGALL. The promise of the Senator is a very good one. I have great respect for him.

Mr. HOWARD. Now, sir, the honorable Senator from California, with that confidence in his own excellent understanding and well-informed mind which pertains to him, seems to throw a defiance to me to produce any act of legislation by which the principle of retaliation in war has received the sanction of any civilized Government; and I now address myself to that particular question. If the honorable Senator will turn to page 743 of the first volume of the Statutes at Large of the United States, published by Little & Brown, he will find an act, approved March 3, 1799, while the Congress of the United States were in existence, entitled "An act vesting the power of retaliation, in certain cases, in the President of the United States." That act declares:

"That on information being given to the President of the United States proving satisfactorily to him that any citizen of the United States who shall have been or may be found on board any vessel of war of either of the Powers at war with the French republic, and who shall have been impressed or forced by violence or threats to enter on board such vessel, hath suffered death, or hath received other corporal punishment, or shall be imprisoned with unusual severity by order of the executive Directory of the French republic, or of any officer or agent acting under their authority in pursuance of any decree of the said Directory or law of the French republic, it shall be lawful for the President of the United States, and he is hereby empowered and required, to cause the most rigorous retaliation to be executed on any such citizens of the French republic as have been, or hereafter may be, captured in pursuance of any of the laws of the United States."

There, sir, is the exercise of the *talio* by an act of Congress pure and simple, reflecting retaliation, not upon the guilty party who has committed the atrocity or the barbarity, not upon the officer or the soldier who has committed the crime upon American citizens, but upon any citizen or subject of the French republic who shall be captured by the authority of the United States. It will be recollected that at that time the United States were in a quasi state of war with the French republic. That is my first precedent; but I do not stop there.



As recently as 1813 the Congress of the United States passed a similar act, applicable exclusively to acts of the British military authorities during the war of 1812. I think the immediate occasion of the passage of this act was this: at the surrender of General Scott in Canada there were some two dozen British subjects of Irish descent made prisoners by the British army. Scott and his fellow prisoners were put into a prison-ship for the purpose of being transported to Boston and there to be exchanged as prisoners of war; but the British military authorities discovered that among these prisoners were several Irishmen, who were detected to be such from their peculiar accent, their brogue, and the captors, or the guard on board the ship, were carefully selecting out every one of these Irish prisoners, who were told that they were not to be exchanged as prisoners of war under the cartel existing between the two Governments, but that they were to be transported across the Atlantic to England, and there to be tried, convicted, and hanged as traitors against the Government of the country in which they were born. That was the threat at least, that they were to be hanged as British subjects found in arms against their country, under a very ancient principle of the laws of England, that a British subject cannot expatriate himself in such a manner as to throw off his allegiance; he cannot quit his own country and become the subject or citizen of another country to such an extent as to be incapable of committing treason against Great Britain. There was no other remedy left in the hands of our Government except retaliation, and immediately upon General, then Colonel, Scott making his report of these facts to the Secretary of War, the Congress of the United States, then in session, passed the following act:

"An act vesting in the President of the United States the power of retaliation.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all and every case wherein, during the present war between the United States of America and the United Kingdom of Great Britain and Ireland, any violations of the laws and usages of war among civilized nations shall be or have been done and perpetrated by those acting under authority of the British Government, on any of the citizens of the United States, or persons in the land or naval service of the United States, the President of the United States is hereby authorized to cause full and ample retaliation to be made, according to the laws and usages of war among civilized nations, for all and every such violation as aforesaid."

There is no notice required to be given to the British authorities of the purpose of Congress to carry out this principle of retaliation. They had not reached that sublimated wisdom which seems to have some influence in this Chamber, and by which, it would seem, we are required upon principles of honor and justice to notify these rebels that we intend to retaliate for violations of the laws and usages of civilized war. Our friends on the other side would have us believe that the innocent, verdant individuals who are at the head of this rebellion know nothing about the laws of war, that they are innocently ignorant of them all, and therefore it is becoming us, as a great and magnanimous people, to condescend to give them notice that we propose to enforce the principles of that code. I take it for granted that they understand the laws of civilized war as well as we do, and that therefore there is no necessity whatever for our giving them notice that we intend to enforce the principles of the code.

Section two of the same act declares, further:

"That in all cases where any outrage or act of cruelty or barbarity shall be or has been practiced by any Indian or Indians in alliance with the British Government, or in connection with those acting under the authority of the said Government, on citizens of the United States or those under its protection, the President of the United States is hereby authorized to cause full and ample retaliation to be done and executed on such British subjects, soldiers, seamen, or marines, or Indians in alliance or connection with Great Britain, being prisoners of war, as if the same outrage or act of cruelty or barbarity had been done under the authority of the British Government."

Sir, our predecessors in this body did not believe, it would seem from their legislation, that we are bound to give notice of our intention to carry out retaliatory measures, but they believed it was sufficient to enact, by an act of Congress, that it was a duty which was then incumbent upon the Executive as the Commander-in-Chief of the Army as it is now. They did not hesitate to apply the principle of retaliation and the retaliatory penalty to persons who were as innocent of the charge

committed against us as the angels in heaven. It was then and is now the only mode which is left us to bring home to the hearts and heads of our adversaries a restraining influence which shall induce them to treat our soldiers and prisoners in their hands with more mercy, with more kindness, and with more indulgence. In short, sir, you must, in such a case as this, punish the innocent for the guilty. It is not new in the history of human frailty, it is not new in the history of nations, or in the social history of mankind, for the innocent to be punished for the guilty. I agree that it is abhorrent to our feelings of humanity; but we must remember, at the same time, that we are not at liberty to suffer our prisoners who are in the hands of the enemy to lie there and perish by slow starvation when we have it in our power, by simply subjecting their own countrymen in our hands to the same punishment, to remedy the evil. I say it is the only remedy we have. It is a hard necessity, to be sure. To me it is one of the greatest absurdities to say that the exercise of this retaliatory right brings us upon the same level with the rebels themselves. I was amazed, and am still amazed I must confess, at the language of Professor Lieber, rather ostentatiously quoted by the Senator from Massachusetts in this debate. He says:

"I am decidedly against the retaliation resolutions concerning prisoners of war. The provision that the Southerners in our hands shall be watched over by national soldiers who have been in southern pens is unworthy of any great people or high-minded statesmen."

Certainly the professor could not have written with any feeling of disrespect toward the members of this body who have had the benefit of his letter at the hands of the Senator from Massachusetts; and certainly the Senator from Massachusetts could not have intended anything offensive by introducing a letter in discussion which contains this language. I take no offense at it. I can only say that the language of this learned professor indicates, to my mind, that he is rather a pedant in national law than a practical statesman, or even a practical scholar. But he proceeds:

"I am not opposed to retaliation."

Ah! what is retaliation? What is the *talis* spoken of in all the books upon national law? Is it not returning like for like so far as practicable? Certainly it is. It means that, and means nothing short of that. He adds:

"I am not opposed to retaliation because it strikes those who are not or may not be guilty of the outrage we wish to put an end to. That is the terrible character of almost all retaliation in war. I abhor this revenge on prisoners of war because we would sink thereby to the level of the enemy's shame and dishonor."

In the estimation of this writer, it seems, that by inflicting retaliatory punishment upon the rebels who have thus tormented our poor boys to death in southern prisons, we sink to the same level of shame and dishonor with them. Mr. President, are we guilty of the shame and dishonor of starving to death innocent and brave men? Are we guilty of crime when we resort to the only means that God and nature have left us of rescuing our countrymen from the hands of these barbarians? Are we chargeable with crime and infamy and dishonor when we say to the rebel authorities, "We will return to you like treatment for like treatment that you may authorize against our prisoners," and when we do this as the only means left us of protecting our prisoners in their hands? I cannot accept of any such doctrine. I cannot believe that the Congress of the United States, in the passage of the resolution now before us, will incur infamy, or dishonor, as imputed to them by Professor Lieber, while I see standing upon the statute-books of the United States an act passed by our predecessors here which is capable, if carried out faithfully, of producing precisely the same results which are specified and individualized only in the resolution now before us.

Sir, who voted for that act of retaliation of 1813? Among the names who voted for it, I find Calhoun, Cheves, Desha, Dismore, Grundy, Shaw of Massachusetts, Talafero of Virginia, and many others who have left a name and fame behind them worthy of our envy. I find that in the House of Representatives there were fifty-six voting in the affirmative, upon the final passage of that bill, and only seventeen against it. Those seventeen were Bigelow, Bingham, Champion, Chittenden, Emmet, Fitch, Grosvenor, Law, Lewis, Mosely,

Potter, Quincy, Reed, Rodman, Sheffy, Stanford, and White. The political character of those who voted in the negative is sufficiently indicated by their names. If there are those who desire to imitate them I certainly can have no objection to their following their own preferences.

Mr. WILSON. Mr. President, I rise for the purpose of moving that this resolution and all the amendments that have been proposed to it be re-committed to the Committee on Military Affairs. I think that the committee, in the light of this debate, can frame a resolution that we can pass with the general assent of the Senate. This debate has given us an opportunity of understanding the views and wishes of the members of the body. We have the original report. We have the amendment proposed by my colleague. We have the amendment that I have moved to his amendment. We have a proposition made by the Senator from Missouri, [Mr. HENDERSON,] another by the Senator from New Hampshire, [Mr. CLARK,] and another from the Senator from Ohio, [Mr. WADE,] and there may be others.

Mr. DOOLITTLE. If the Senator from Massachusetts will allow me to interrupt him, as he was not in his seat when the honorable Senator from Michigan read the two acts, one of 1799 and the other of 1813, I should like to have those acts go to the committee, for I am rather of opinion from hearing them read that they are better than any of the propositions that have been offered.

Mr. WILSON. If my motion is sustained by the Senate, the committee will certainly have what has been read by the Senator from Michigan before them. They will have all the laws of the country, and all the facts that we can gather from any quarter. I think that if we recommit this proposition, and the amendments to it, the committee can put the resolution in shape, and therefore I make the motion.

Mr. WADE obtained the floor.

Mr. HENDRICKS. I ask the Senator from Ohio to allow me one moment for an explanation.

Mr. WADE. Certainly.

Mr. HENDRICKS. The Senator from Michigan, in the course of his remarks, stated that I should have read further from General Halleck, and not stopped to censure him. I desire simply to say that in no remark that I submitted to the Senate did I intend any censure upon the Senator from Michigan, and I am not aware that I used any language that admits of that construction. I made such criticism as I thought I was allowed to make upon his argument, and in such language as I thought was courteous; but if I was misled in the haste of debate to use any language which can be regarded as a censure upon the Senator I certainly did not so intend, and would desire to withdraw it. I did not agree with the Senator, and attempted to show the reason why I did not, but intended to express myself with entire respect to that distinguished member of this body.

Mr. HALE. I send to the Chair the 5th rule of the Senate, which I wish might be read.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The reading of the 5th rule is called for, and it will be read.

The Secretary read, as follows:

"5. When two members rise at the same time, the President shall name the person to speak; but in all cases the member who shall first rise and address the Chair shall speak first."

Mr. HALE. I merely call the attention of the Senate to the rule because I think the provision of it was grossly violated in my case. I had intended to address the Senate upon this subject briefly, but as my right to the floor is not recognized by the person occupying the chair, I choose to postpone it until somebody does occupy it who will respect it.

Mr. WADE. Mr. President, I am opposed to this recommitment, because I am fully persuaded that if this resolution be recommitted, that will be the last of it. I do not know that we can carry it through here; but I know that, in the light of all the authorities that have been read, the resolution as proposed to be amended by myself stands precisely upon those authorities. It does not differ from those in the books. The Senator from Wisconsin desires the books to go before the committee to enable them to draw a resolution which he thinks will conform better to the idea of

the Senate than the one now before the Senate; but I assure him that if he will read the resolution in the light of the amendment that is now before the Senate he will find it is precisely in accordance with the authorities that have been read. There is nothing new about it.

I have been astonished since this measure has been introduced to find that among the statesmen and jurists composing the Senate there is such a diversity of opinion on the subject of retaliation. Why, sir, it is among the first things that any statesman reads in any of the books composed by the publicists. It is as common as any other. It is laid down in every book upon international law. There is no respectable author in modern times who has denied the right of retaliation, or who has doubted its importance. There is no respectable nation but has resorted to it in proper cases; and there never was a nation placed under circumstances where this remedy was so loudly and emphatically called for as the United States on the present occasion, because you cannot find any barbarities equal to those that are inflicted upon our poor soldiers in the hands of the enemy.

I do not exactly agree in all that my friend from Michigan has said. He thinks that the Executive Government and Congress have done all upon this subject they ought to have done. I do not believe it. I feel as it were guilty myself that I have delayed so long to bring such a measure before Congress. We have been told on this floor by a gentleman who is not very anxious for the passage of this resolution, that he has had his eye upon this subject until he has no doubt that more than thirty thousand men have been sacrificed by these barbarities of the enemy. Has there been any movement on our part to do away with them? Was there ever a Government that so entirely abandoned its brave men in the hands of a barbarous foe without remonstrance, without a voice raised in their defense?

I know there are gentlemen here who tell us that they have never heard that there was anything wrong in the treatment of our prisoners. I think the Senator from Indiana [Mr. HENDRICKS] told us that he was surprised we should make this accusation, that he had never heard anything about it; and yet, sir, it is more than two years ago since this body sent forth a committee to investigate the barbarities committed by the rebels at Bull Run.

Mr. HENDRICKS. Mr. President, I am surprised that the Senator from Ohio should make such a statement, as I have said the very opposite twice in the Senate. I have said that I believed there were cruelties inflicted upon our prisoners not justified by the usages of war and shocking in themselves, but I expressed the opinion that they had not gone to the extent that has been stated.

Mr. WADE. The extent to which they have gone is as palpably and as directly proven as that they were committed at all. For more than a year you have had before you a report of a committee of your body who traveled nearly one thousand miles and took nearly one hundred depositions to show the extent of the barbarities that have been committed upon your soldiers. They have told you how after a whole garrison had surrendered they were murdered in cold blood. They have told you how those in hospitals were taken out and murdered. Yea, they have told you more than that. They have told you how men were taken and crucified in the tents in which they lived and those tents set on fire and the men allowed to perish in that way; and yet you have not heard of it and do not believe the extent of the barbarities! The preamble of this resolution does not enter at all upon the extreme barbarities that are revealed in that testimony.

I understood the President to say at Baltimore, the very day that committee started on its mission of investigation, that if these barbarities, as alleged, should be proved, he would adopt the most stringent measures of retaliation. It was printed in the papers that he said so. When the report of that committee came out, when twenty thousand copies of it were called for by the Senate, and when it was spread broadcast over the land, I believed that the President would take some steps, at least, to protest against these horrors. I do not know but that he has done so; but if he has I have not heard a word of it. Certainly I do not charge this more upon the President than upon ourselves. We have all exercised

a forbearance here that is most culpable in my judgment. I take it to be one of the first duties of any nation that compels a soldier into the field to fight a barbarous foe to see that he is protected according to the principles of civilized warfare in modern days. When a barbarous enemy transcends the ordinary principles of war it is the first duty of a nation to see that their soldiers are protected against these barbarities. Am I wrong, sir? Is it a novel principle? Did you never hear of it before? Am I the barbarian that seeks retaliation here for the first time? I have been pointed at here by gentlemen, and reflected upon as though I stood here the advocate of unheard-of barbarity! I am naturally as averse to what may be called cruelty upon any mortal man as anybody else, I reckon; but when we are driven to this painful necessity, I say to you, disagreeable as the duty is, we have no right to shuffle it off.

The Senator from Connecticut, [Mr. FOSTER,] yesterday turned round to me and inquired, "Would the gentleman starve a prisoner to death?" Sir, if it becomes my duty to do that, or any other disagreeable duty in the performance of a still higher duty that I owe to the brave defenders of my country, my nerves I think can stand it. His nerves do not seem to be at all shaken over the proved and demonstrated fact that our poor soldiers are subjected to this treatment. That does not seem to disturb him. He knows it is so; he is not willing that it should be continued; he does not want this cruelty inflicted upon our soldiers; but he thinks it would be horrible for us to enter upon a like system for the purpose of rescuing both from the perpetration of such acts. I am amazed that men can look with perfect coolness upon the sufferings of our brave men in the hands of this barbarous foe, and without raising a hand in their defense, and yet shrink with horror from the idea that the miserable traitor who happens to be in our hands shall be reduced to a like condition, when the only object is to rescue both from the necessity.

Sir, do you not know that cruelties are inflicted to-day, not upon one, but upon thousands of our men who are dying by inches in southern prisons? Your own kin, your own friends, your own defenders, are there. Is it any worse if you see in your own hospitals the enemy subjected to the same treatment? It would hardly bring any more misery upon mankind than the other, especially as it is done with the express object of compelling the barbarous foe to reform his course. No nation has found any other remedy. God knows, if any Senator on this floor can devise any other means whereby our soldiers can be rescued from this condition, I shall be the first to go with him. There is no pretense that there is any other. The wisdom of man has never devised any other. The books on international law show you that, as yet, the wisdom of man has found no remedy for grievances like these except in the principle of retaliation.

Sir, how much better are we than our forefathers? They felt none of this mawkish sentimentality that compelled them silently to see their friends tortured to death without an attempt to rescue them. I have no doubt they were as humane as we are. But when the necessity of State was upon them, when their duty as men and members of this legislative body was upon them, when they reflected upon it and saw that there was no other remedy except retaliation, their nerves were sufficient for the purpose. Have the Senate become old women, that we cannot rescue our friends from this condition by the remedy that all civilized nations in war use in such cases? Are the gentlemen from Massachusetts more humane than the Father of his Country was? Do they claim a higher standing in morals or anything else than the good and glorious Washington did? Did he hesitate a moment to apply this principle? Early in the revolutionary war, the very moment he saw that our soldiers and officers were maltreated in the prisons of the enemy, he at once resorted to this remedy in accordance with public law. He did not stand hesitating over it as we do, but he at once said to General Gage, "I understand that our officers and soldiers in your prisons are huddled together; that they are treated with inhumanity and barbarity in a great variety of ways" that he mentions. "Now, sir, the measure you mete out to our men shall be

promptly dealt out to yours." It was no less a man than General Washington that said that. Humane as he was, revolting to him as was this remedy, he would not shrink from his duty because it required a little nerve to face it. While I know that I am treading in the footsteps of that great man, that I am only urging upon the American Senate an example that he so promptly set not only once but repeatedly, I feel that I am not to be pointed at here and called a barbarian because I propose the same remedy that the Father of his Country proposed in like cases.

Sir, were our ancestors barbarians? You have heard from the Senator from Michigan, who has thrown a light on this subject that cannot be shut out, what they have done on this subject. Gentlemen may vote against this resolution, they may vote against this principle, but the fact will nevertheless stare you in the face forever that your forefathers resorted to this remedy in a case not a hundredth part as urgent as the present.

But it is said it is dishonorable to do it, it is shameful to do it. Sir, I would rather stand upon the pages of history as the man who stood forth to vindicate our own glorious soldiery in a way that the public law points out than to stand there as the man who shrank from his duty because it was a disagreeable one. I tell you, sir, the honor of this nation is only to be vindicated by protecting the rights of your soldiery in the hands of the enemy. If you think you are going to treasure up honor to this nation by showing yourself too cowardly, too sublimated, to resort to the only remedy that is practical and pointed out by nations, you greatly mistake that meed of honor that nations give to each other for action. Nay, sir, we shall be pointed at as inhuman, as sneaking out of a duty incumbent upon us, that we did not vindicate the honor and dignity of the nation by protecting the poor men whom we had it in our power to protect. The honor of the nation, our honor as men, consists in the performance of this rugged and disagreeable but necessary duty.

I hope, sir, that this resolution will not pass from the consideration of the Senate. I will ask, just at this stage, that it may be read as I propose to amend it, and I ask Senators to listen to it to see if there is anything in it that requires that it should go again before the committee that they may get some further light on the subject.

The PRESIDING OFFICER. The reading of the resolution as proposed to be amended by the Senator from Ohio is called for, and it will be read if there be no objection.

Mr. WADE. I will thank Senators to listen to it, because it is the best argument that can be made against many of theirs.

The Secretary read the amendment, which was to strike out all after the word "retaliation" in the seventh line, in the following words:

That in our opinion such retaliation ought to be inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure, or other mode of dealing with them; that with a view to the same ends, the insurgent prisoners in our hands ought to be placed under the control and in the keeping of officers and men who have themselves been prisoners in the hands of the insurgents, and have thus acquired a knowledge of their mode of treating Union prisoners; that explicit instructions ought to be given to the forces having the charge of such insurgent prisoners, requiring them to carry out strictly and promptly the principles of this resolution in every case, until the President, having received satisfactory information of the abandonment by the insurgents of such barbarous practices, shall revoke or modify said instructions. Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise a resort to them as demanded by the occasion.

And to insert in lieu thereof:

That the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner and kind as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

So that the joint resolution will read:

Whereas it has come to the knowledge of Congress that great numbers of our soldiers who have fallen as prisoners of war into the hands of the insurgents have been subjected to treatment unexampled for cruelty in the history of civilized war, and finding its parallels only in the conduct of savage tribes; a treatment resulting in the death of multitudes by the slow but designed process of starvation, and by mortal diseases occasioned by insufficient and unhealthy food, by wanton exposure of their persons to the inclemency of the weather, and by deliberate assassination of innocent and unoffending men, and the murder in cold blood

# THE CONGRESSIONAL GLOBE.

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of prisoners after surrender; and whereas a continuance of these barbarities, in contempt of the laws of war and in disregard of the remonstrances of the national authorities, has presented to us the alternative of allowing our brave soldiers thus to be destroyed or to apply the principle of retaliation for their protection: Therefore,

*Resolved, &c.,* That in the judgment of Congress it has become justifiable and necessary that the President should, in order to prevent the continuance and recurrence of such barbarities, and to insure the observance by the insurgents of the laws of civilized war, resort at once to measures of retaliation; that the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner and kind as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

Mr. WADE. Now, Mr. President, if a Senator is for retaliation, if he is for the principle of it, he cannot have it in a milder form than it is there. It does not prescribe exactly what the retaliation shall consist in. The President is only directed to make it effectual by such means as to him shall appear proper to be used. I would have it much stronger than that. I would pay them in kind. I have no such scruples as induce gentlemen to shrink from retaliation in kind—an eye for an eye, and a tooth for a tooth, in time of war. That is my doctrine. That was the doctrine of General Washington. That was the doctrine of our predecessors in this body in all our previous wars.

Shall we treat rebels who really have forfeited their lives by their treachery more leniently than our forefathers treated our enemies of other nations in wars which were international wars? Is there anything that pleads in behalf of these rebels that does not apply to independent nations at war? By the admitted law of all mankind, a soldier fighting in a just war does not forfeit his life by being taken prisoner; he must be used according to the custom of civilized nations, which is, not to harm a hair of his head after he has surrendered. That is the principle as applied to independent nations. Do these rebels commend themselves to a milder treatment because they are rebels? When a man has perjured his soul before God, and committed treason against his country, is that a reason why special limitations should be made in his behalf? I trust not. The same principles apply here that apply in all wars, no more, no less. If we were to apply the principle in such cases strictly, it would be against these rebels, because they are rebels, and have thereby forfeited their lives.

But I ask no other treatment between us and them than as between independent nation and independent nation. I invoke the great principles of international law in protection of our poor soldiers in the hands of a barbarous enemy, and I ask no more. Will you give it, or will you turn your backs coldly on these poor men and say to them, "Our pity is reserved entirely for the enemy; we have none on our own men, for we cannot bear the idea that an accursed rebel shall receive the same meed of justice?" Is there a Senator here who wishes to go out of this body with this condemnation upon his head, that he would not invoke the well-known international law in behalf of our men suffering, as we are told, these horrible barbarities at the hands of this insolent and accursed foe? Shall we fold our arms and abandon the men whom we have compelled into the field to fight our battles, and to defend us against this accursed enemy, to their fate without an effort to rescue them?

The Senator from Massachusetts [Mr. Wilson] offered a remedy here, he offered an amendment to this resolution, which I observed was looked upon with favor by some Senators. It was that two commissioners should be appointed by the President to visit the rebel authorities and there enter into a compact on this subject with some of them; he did not tell us who, in his amendment. If they were to go to the civil authorities there and enter into such a compact, you would thereby acknowledge beyond doubt the independence of the confederate States. Is that what you intend to do? France and England and every Power in Europe would say at once, "You yourselves led the way to the acknowledgment of their independence the moment you sent commis-

sioners there to treat with them." I know the Senator did not intend this; but such is the law of nations and so it will be held by every nation in Europe. In that way our mouths would be stopped when they recognized the southern confederacy, for they would be able to say, "You yourselves did it first by making a compact with their civil and military authorities."

That is one reason why that proposition should not be adopted; but what would be the probable effect of it as a remedy if it were adopted? You send two commissioners down to Mr. Davis, and I suppose they are to hold up before him this "book of martyrs" containing the testimony taken by the committee, and to tell him, "Here, Mr. Davis, in Libby prison, right under your nose, subject to your observation daily, are the skeletons of men whom you have reduced from manhood to ghosts, whose lives have been sacrificed by your cruelty and exposure; now we come here somehow to argue you out of this." Mr. Davis would say before they could get there, "My friends, you cannot come within twenty miles of Richmond with such a statement on your tongues;" but he would tell them, "You come here as slanderers; we deny that we have treated your prisoners wrong and harshly, but if we have it is not in your mouth to allege it, because we say that you treat our prisoners as badly as we treat yours;" and they say it all over the South. That is all you would get by that.

First of all, then, the effect of such a proposition would be to recognize the independence of the rebels, and secondly it would be like sending Mr. Blair down there. [Laughter.] I hope to God that we have all got sick of that. I hope you will send some other commissioner there, if you will have one there; for I understand that he went and doffed his cap to Mr. Davis and said to him, "I have lost no confidence in you!" That is the way we read it. That man with his soul perjured before God and his hand red with the blood of his countrymen, has not acted so as to diminish the confidence in him of this missionary, and that is no reason why he cannot approach him with the same feeling as before! Thank God, that is not the common sentiment of our people. If you send commissioners I do not know but that you will have to send just such men there, and they are to go and kneel down at the feet of Jeff. Davis's throne, and ask him if he will not be kind enough to treat our prisoners better than he has done heretofore!

Sir, if you could get a man ever to go on such a miserable errand, who would be a commissioner to bear these tidings to Jeff. Davis, he would turn right round and say, "You are a slanderer," and he would put him in Libby before he had time hardly to speak, [laughter] and he ought to do so; I would do it if I were he, and you sent anybody to me on such a foolish mission as that. [Laughter.] What! two commissioners to go and ask Jeff. Davis not to be barbarous to our prisoners! Do you not think his heart would fail him before your commissioners? [Laughter.] In all the negotiations for the exchange of prisoners is it a fact—the proposition to which I am now referring presupposes it to be a fact—that not one word has been lisped about these barbarities, and that no attempt has been made to remedy them? It is the inference to be drawn from the proposition, and I fear before God that it is true.

I do not believe you can find in the history of mankind an instance where a great nation having its armies in the field, and having a knowledge for two long years of the inhumanities and barbarities that are grinding them to powder and reducing them to death by inches, has borne such things without any attempt to resent them. Not only were the facts made manifest two years ago, but the prisoners who have been returning continually at intervals ever since bear upon their persons the accursed marks of the martyrdom they have suffered; and those who ought to be the guardians of our brave soldiers, whose first duty is to protect them, have lisped not a word

on the subject. I know of nothing that has gone out either from Congress or the Executive to redress this great wrong. As I have said, I feel deeply that I have not brought the subject before Congress heretofore; but I hoped the Executive would do his duty, as I understood that he promised to do; but when we find that he has not done it, we cannot excuse it to ourselves that we have stood silent so long.

Reflect upon it, Senators; suppose those near and dear to you were in these prisons, and you saw that their lives were ebbing away day by day, and you knew that the horrors of their prisons would soon end their miserable existence unless you interposed in their behalf, would you not do it? I do not believe there is a Senator on this floor who has not been appealed to over and over again by wives and by mothers whose husbands and sons were in this jeopardy. How often have we received communications like this: "I have letters from my poor boy, and death is his certain doom unless he can be rescued in a very short time." Whose soul is not harrowed up with the idea that while the country owes its brave sons this protection, he has to reply to that poor mother, "I have no power to do anything in your behalf; the Government has not lifted its voice even to make a protest in your behalf?" And yet gentlemen think that we have done our full duty to these men who are thus dying in our cause! Sir, we have not done it. These barbarities have been proved so that they cannot be denied. Nobody pretends to deny them. You cannot look with composure now upon the daguerreotypes of those men whose skeletons are before you and have been for more than a year; and yet you go coolly away and fold up your arms and do nothing! The dreadful story of suffering is revealed by every prisoner who returns, by every man who escapes from prison. Every one of them knows precisely the inhumanities that are practiced. There is no dodging the fact, gentlemen, by shutting your eyes, and closing your ears. If you are non-resistants, if you have embraced the new doctrines of Christianity now preached here, that the world as a whole never heard of before, we shall know it by the disposition you make of these resolutions.

I want to know if you do not hold that we have a right to make defensive war; if we have no right to protect ourselves against aggression, as was strongly intimated by the Senator from Missouri, [Mr. HENDERSON.] He invokes peculiar doctrines, that, he says, are Christian doctrines, in behalf of this rebellion and as a bar to our doing anything to rescue our brave men. He says you must do good to your enemies; if they smite you on one cheek you must turn the other. This is the way he would rescue our men from these barbarities!

Mr. HENDERSON. I think the Senator from Ohio is doing me a very great injustice. When the question was put by my colleague whether I would not make defensive war, I think I made a positive answer. I have not examined the report this morning of my remarks; I have not seen the report of them; I have not looked over it; but I feel very well satisfied as to the answer that I made. I said that nations as well as individuals, by any code of morals which I had ever seen, had a right of defense; and I further stated that, in my judgment, this was a defensive war upon our part. We certainly did not commence the war; the rebels commenced it. I further said, and the very amendment that I have submitted goes to that extent, that, under certain circumstances, retaliation is right, and ought to be adopted. I neither argued against it nor does my amendment argue against it. I said nothing against it, but I did argue against the retaliation, in kind, proposed by the resolution. That I opposed, upon the ground that I thought it might be interpreted by the nations of the world, and would be interpreted by individuals throughout the country, to be in a spirit of revenge; but I expressly said that I did not charge any vengeance, or desire to visit vengeance, on the part of the committee.



Mr. WADE. Then I will ask the Senator in that connection, why did he quote those passages of Scripture which seemed to deny the right to retaliate?

Mr. HENDERSON. I did quote some from the Sermon on the Mount. I believe there were some gentlemen present on that occasion who expressed very great astonishment at the doctrines then proclaimed; and it seems the Senator from Ohio is equally astonished as was the multitude who gathered round upon that occasion.

Mr. WADE. Then the Senator invoked the Scriptures barely for the purpose of showing his learning in that direction, [laughter,] and not to affect the argument, if I understand him. He holds that we have a right to retaliate, and yet he invokes the Christian doctrine to show that we ought not to retaliate. He evidently does it, then, for our benefit. When we want that benefit we will make a preacher or a chaplain of him. [Laughter.]

Mr. HENDERSON. I desire to ask the Senator if he does not believe that the code of morals as taught, in the Sermon upon the Mount is correct, and that it ought to be followed by mankind?

Mr. WADE. I do, but I think you most egregiously misapply it. I do not think it applies to any such case as this. If the Senator does, what becomes of his argument for retaliation, which he says he holds to?

Mr. HENDERSON. I am very glad indeed that my friend from Ohio is a believer; but he ought to remember that "the devils also believe and tremble." [Laughter.]

Mr. WADE. I do not see any trembling in that quarter, and I am sure there is none in this. [Laughter.] But, Mr. President, putting all that aside, I do not really know what the Senator intended by the long argument he made. I am sincere in saying that I watched his argument, and when he got through I could not tell whether he was for retaliation or against it; because he said he was for retaliation and then he proceeded to quote Scripture—which he said he believed in—to show that it was altogether wrong and ought not to be resorted to. I thought I saw an inconsistency, and I think so now. I see, however, or think I see, that we can propose no sort of retaliation to which he will agree. He says he is opposed to retaliation in kind. There is nothing in any of these resolutions which says it shall be in kind. The resolution reported by the committee was merely advisory, not mandatory; my amendment makes it mandatory but does not prescribe the measure or form of the retaliation to be practiced. I leave that with the President. I say he shall retaliate in such a way as in his judgment will be effectual to accomplish the end we have in view. I go for that. If the rebels cannot be deterred from atrocities by the threat, I am for putting the threat into execution. The Senator from Connecticut need not point to me as a man whose nerves will quail before such a duty. I tell you, sir, I would starve the whole rebellion unless it becomes effectual so that they release our men from this jeopardy. I have no mincing of matters here. I say to you they shall be protected. I do nothing through wantonness. When they release our men from this barbarity, I am willing to say, "Hands off," and to make peace on this subject; but until they do I will make the South a desolation, and every traitor shall lose his life, unless they treat our men with humanity. That is my doctrine.

I know of no limitation to this principle. The Senator from Massachusetts [Mr. SUMNER] said there was a limitation; but I say that if you begin it, there is no limitation until it has the effect to remedy the evil complained of. You may begin moderately, if you please, as my amendment leaves the President a right to do; you may begin mildly; but unless what you do is effectual, I would censure the President if he did not follow it up with sterner and sterner measures until the effect should finally be produced, even if it condemned to death every rebel in the southern States.

There, sir, I stand; for, by the eternal God, our soldiers, defending their country, shall be protected, let it cause what evil it may to the other side. These are my doctrines. These are the doctrines of international law; they do not originate with me. They are doctrines as old as civ-

ilization, and interposed against barbarism as an effectual remedy, and as the only remedy that the wisdom of man has yet devised.

Mr. President, I say again that I hope this resolution will not be recommitted, because I believe that every one is satisfied that at present, as I propose to amend it, it is free from all these side-bar arguments that have been made against it. Almost every Senator has announced himself in favor of some kind of retaliation. Some say we shall give notice beforehand that we intend to retaliate in the future, and that we should let bygones be bygones. Others say that if we retaliate in kind, we shall starve their prisoners to death, and that will not do. The resolution, as I propose to amend it, runs clear of all these things. It is that the President shall retaliate for these offenses to the extent that he thinks will be effectual; and he is to make the retaliation effectual, let it cost what it may. I would not enter upon a system of retaliation unless I intended to make it effectual. The Senator from Connecticut greatly misunderstood me when he supposed that I offered the proposition barely *in terrorem* without intending to carry it out. Sir, I am not a man of shams. I get up no scarecrows here. I tell the rebel authorities, "We will punish your men until you reform." I no more want to see cruelty practiced than do other Senators; but I want to rescue our brave soldiers from the accursed cruelty to which they are subjected. That lies at the bottom of my efforts, and in order to rescue them I am willing to incur any denunciations that Senators or others may attempt to pour out upon my head, if I can in any degree release or relieve our poor soldiers from the accursed barbarism that is practiced upon them. They shall have my support and my aid and my voice. I will go to an extreme in that direction. There is scarcely anything that I would not be willing to do in order to effect this great purpose of protecting those whom it is our bounden duty to protect.

What, sir! stand here voting for conscription bills to compel the young, vigorous men of our country to take their lives in their hands and go forth to defend the nation against these accursed rebels; and then, when they are cruelly tortured to death by our barbarous foe, fold our arms and leave them to their fate! No, sir, no. I never was guilty of an act like that, and I never will be. They shall be rescued if my voice and my vote can effect it. I leave it to others to say that we, having left them in the hands of their enemies without an effort to rescue them for two long years, will not now interfere in their behalf. You may recommit this resolution; you may put it in your pockets if you will; but my voice is for retaliation until we reach a remedy which is the proper and legitimate object of what we aim at.

Mr. FOSTER. If I have understood the honorable Senator from Ohio right, he construed some remarks which I made yesterday as holding him up here as a person more barbarous than any of the rest of us, and as advocating acts of barbarity toward prisoners of war. If I misunderstood him, I wish he would say so.

Mr. WADE. I will say to the Senator that I did not suppose he really intended to say anything wrong; but I think the tenor of his remarks was calculated to show that we were advocating this measure were stirring up a pretty barbarous remedy, and one that we should not be warranted in resorting to, for he turned to me to know if I would stand by and see a man starve to death. My answer is that the death might be out of my sight, and not in it, and if the death is to occur, I would rather it should be the death of a rebel than of a Union soldier.

Mr. FOSTER. So far from imputing to the honorable Senator the barbarity to which he alludes, I very sedulously avoided saying anything of the kind, because I had no such belief or impression on my mind; but now, from the explanation of the Senator, I see that the wrong I did him was in supposing that he would not stand by and starve a man to death. I expressly said yesterday that I did not believe it. It seems that in that I was mistaken, for he now avows that he would. Of course he has a right to make the decision for himself; it is not mine, but his. I must, however, still beg his pardon for believing that I knew his mind in that respect, when it should come to the point, better than he does himself, and that, notwithstanding the impulse under

which he speaks, he would not stand by deliberately and hold a prisoner of war in his custody and starve him to death.

Mr. WADE. Not as a remedy for our starving prisoners in their hands?

Mr. FOSTER. Not as a remedy for anything. The Senator would not do it, in my belief. If he insists that he would, and that I am at the same time charging him with barbarity, or holding him up to the Senate as encouraging acts of barbarity, he will see that it is he who does it and not I.

Mr. JOHNSON. I do not rise, Mr. President, for the purpose of making an effort to influence the vote of any member of the Senate either upon the original proposition or upon the suggested amendments, because it is very evident that upon the whole subject the mind of the Senate is already made up. It could not well be otherwise, because the argument on both sides has been in a great measure, if not entirely, exhausted. My principal object is to state, as briefly as I can, the reasons that will influence my own vote; and before I proceed in that purpose I may be permitted to say that neither of the members of the committee by whom the original resolution was reported need have disavowed any inhuman purpose either on the part of the committee or on the part of any individual member of the committee. Those of us who know them, and their constituents who know them, and the country, will hardly for a moment credit even the suspicion that they design by this measure anything inhuman in the ordinary acceptance of the term, or anything else than such as they may deem proper to arrest the inhumanity which has been practiced upon our own soldiers.

I have another remark to make before I proceed further, as preliminary. We are now in the month of January, 1865. The only evidence that I am aware of, that is before the Senate or the country, of these outrages perpetrated upon our prisoners, was made known to the Senate and to the country by the report of a committee of our own made in May last. The honorable Senator from Ohio who shows so much zeal, and has discussed his side of the question with so much ability, was I think a member of the committee before whom the evidence was taken, and of course was a party to the report. That report as I find was submitted to the Senate on the 5th of May, 1864.

Mr. WADE. I will remind the Senator that there was a previous report made on another occasion, which showed these barbarities, long before that.

Mr. JOHNSON. I am aware of that, and that makes the argument stronger, I think, for the purposes for which I propose to use it. There was, then, a report made before 1864 on the same subject, and that report also disclosed to the country and to the Senate the existence of these barbarities. Now, I do not understand that, at least from the 5th of May, 1864, down to the present time, these barbarities have been continued. I have no evidence before me, and I do not believe that the evidence is to be obtained anywhere, that this conduct on the part of the rebels now exists.

Mr. FOSTER. Allow me to assure the honorable Senator that he is entirely mistaken. The last officer who escaped from Richland jail, in Columbia, South Carolina, left there as late as the 24th or 28th of December; he was ten days in getting down the river, and he has arrived here in the North in the month of January, within fifteen days past, and he stated to me, as I told the Senate yesterday, that the ration of the officers then confined, when he left there, on the 24th or 28th of December, (I am not certain which,) was one pint of Indian meal per day and a few pinches of salt, and occasionally a little sorghum; and that was the whole ration for a day.

Mr. JOHNSON. The honorable member misunderstood me.

Mr. SUMNER. If the Senator from Maryland will yield, I will move that the Senate now proceed to the consideration of executive business, which will leave this question in order for to-morrow.

Mr. JOHNSON. I have no objection, provided it is understood that I have the floor to-morrow. ["Certainly."]

Mr. WADE. Before the question is put on the motion of the Senator from Massachusetts, I wish to ask that the amendment I have offered to this resolution be printed.

The PRESIDING OFFICER. That order will be made.

#### EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, January 26, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

#### PRE-EMPTION RIGHTS IN COLORADO.

Mr. BENNET, by unanimous consent, introduced a bill in relation to pre-emption rights in Colorado Territory; which was read a first and second time, and referred to the Committee on Public Lands.

#### SETTLEMENTS ON THE PUBLIC LANDS.

Mr. BENNET. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the propriety of so changing existing laws as to legalize the settlement by loyal citizens upon any and all the public domain of the United States to which the Indian title has been or may be extinguished, and report by bill or otherwise.

Mr. HOLMAN. I shall not object to the resolution if the words "except mineral lands" be inserted.

Mr. WASHBURN, of Illinois. Accept that modification.

Mr. BENNET. Oh no, the resolution is intended to cover that.

Mr. HOLMAN. Then I object to it.

#### GEOLOGICAL SURVEY OF COLORADO.

Mr. BENNET, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the propriety of providing by law for a geological survey of Colorado and other mining Territories of the United States, and report by bill or otherwise.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I desire to move to postpone the consideration of the special order, being the motion submitted by the gentleman from Ohio, [Mr. PENDLETON,] to reconsider the vote of the House at the last session upon the joint resolution in relation to the admission of heads of Executive Departments on the floor of the House. As the gentleman entitled to the floor [Mr. Cox] is not now present, I move to postpone the special order until after the morning hour. We can get through some important business in that time.

The SPEAKER. The motion to reconsider, the consideration of which was pending at the time the House adjourned on yesterday, is not a special order. But being a motion to reconsider, it is a privileged question.

Mr. WASHBURN, of Illinois. Then I move to postpone its further consideration until after the morning hour. I want to get at the regular order of business.

Mr. PENDLETON. I hope the gentleman from Illinois, [Mr. WASHBURN,] instead of pressing the motion to postpone, will go on with whatever he may have to do until my colleague [Mr. Cox] comes in. The Committee of Ways and Means are striving very hard to get in some of their bills; and if the gentleman will just go on with the ordinary business of the House, that will answer his purpose.

Mr. WASHBURN, of Illinois. Very well; that is all I want.

No objection was made.

#### NATIONAL CURRENCY.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill to amend an act entitled "An act to provide a national currency secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof."

Mr. STEVENS. I ask that the bill be printed, and postponed until a week from next Monday, and made the special order for that day after the morning hour, and from day to day until disposed of.

The question was taken, and the motion was agreed to.

#### INSPECTORS OF CUSTOMS.

Mr. STEVENS also, by unanimous consent, reported from the Committee of Ways and Means a bill to amend an act entitled "An act to increase the compensation of inspectors of customs in certain ports," approved April 29, 1864.

Mr. STEVENS. I think there will be no objection to this bill after hearing it read.

Mr. WASHBURN, of Illinois. I cannot consent to have the bill taken up and acted upon at this time; I am willing to have it introduced, and postponed.

Mr. STEVENS. Then I move that the bill be postponed till Wednesday next, and made the special order for that day after the morning hour, and from day to day until disposed of.

The motion was agreed to.

#### COLLECTORS OF CUSTOMS.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill for the relief of collectors and surveyors of customs in certain cases.

Mr. STEVENS. I do not think that after the reading of this bill any objection will be made to its consideration and passage at this time. I therefore ask unanimous consent to take this bill up and consider it at this time.

The bill was read at length. It provides that in all cases in which any collector or surveyor of customs has paid or accounted for, or is charged with duties accruing under the joint resolution to increase temporarily the duties on imports, approved April 29, 1864, and in which the Secretary of the Treasury shall be satisfied that the collection of said duties was omitted by said collector or surveyor in consequence of not being informed of the passage of said resolution under which said duties have accrued, the Secretary of the Treasury, under such rules and regulations as he may prescribe, shall remit or refund, as the case may require, said duties to such collectors.

No objection was made to the consideration of the bill.

Mr. STEVENS. I will state in a few words the object of this bill. We passed an act, dated the 29th of April, 1864, signed at that time by the President. But it was not promulgated until the 30th of the month. In the mean time it took effect from the day of its being signed. Several collectors in different parts of the country did not hear of the passage of the act for two days after it was signed, and went on in the old way, omitting to collect the new duties imposed by the act. The collector of the customs at Chicago was one; and the collectors in all the western country are in the same condition. This bill is intended to enable the Secretary of the Treasury to release them and not hold them responsible for the non-collection of duties under those circumstances.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I desire to make some reports from the Committee on Commerce.

Mr. HOLMAN. Is it the understanding that the motion to reconsider, pending at the time of adjournment yesterday, has been passed over informally?

The SPEAKER. Passed over until the gentleman from Ohio [Mr. Cox] who is entitled to the floor upon that question shall come in.

Mr. HOLMAN. I desire to have the privilege of making the ordinary point of order upon the business as reported. If the gentleman from Illinois [Mr. WASHBURN] asks unanimous consent to report his bills, then of course the question comes up. I call for the regular order of business.

Mr. WASHBURN, of Illinois. The regular order of business will suit my case exactly. I move to postpone the regular order until the gentleman from Ohio [Mr. Cox] comes in.

Mr. HOLMAN. I withdraw the call for the

regular order, at the request of the gentleman from Ohio, [Mr. PENDLETON.]

Mr. WASHBURN, of Illinois. I desire to make regular reports from the Committee on Commerce, which the gentleman can hear from the Clerk's desk.

The SPEAKER. The privileged question of the motion to reconsider having been passed over informally, the Illinois ship-canal bill will come up before the regular order of business.

Mr. WASHBURN, of Illinois. Then I move to postpone the Illinois ship-canal bill until the time fixed for the consideration of the Niagara ship-canal bill.

The motion was agreed to.

The SPEAKER. The next business in order is the regular call of committees for reports, commencing with the Committee on Commerce.

#### UNITED STATES MINT AT DALLAS CITY.

Mr. WASHBURN, of Illinois. I am directed by the Committee on Commerce to report back the bill to relocate the United States branch mint at Dallas city, provided for by the act approved July, 1864, and to ask that they be discharged from the further consideration of that bill, and that it be referred to the Committee of Ways and Means.

The motion was agreed to.

#### FOG-BELL ON GOVERNOR'S ISLAND, NEW YORK.

Mr. WASHBURN, of Illinois. I am directed by the Committee on Commerce to report a bill which is founded on a letter by the Secretary of the Treasury and a report of the Light-House Board, to appropriate \$500 for the erection of a fog-bell or a fog-trumpet on Governor's island, in the harbor of New York. There seems to be a necessity for the erection of a fog-bell there. It is recommended by the Secretary of the Treasury, by the collector of the port of New York, and by the Light-House Board. If any gentleman objects, it must go to the Committee of the Whole on the state of the Union. If not, then I would ask to have the bill passed now.

The bill was read at length.

Mr. PIKE. I will not object to the consideration of this bill at this time if the gentleman will accept an amendment I desire to offer.

Mr. WASHBURN, of Illinois. I have no authority to accept an amendment, for this bill is a report from a committee.

Mr. PIKE. Then I object.

The bill was received and referred to the Committee of the Whole on the state of the Union.

#### ASSISTANT INSPECTORS OF STEAMBOATS.

Mr. WASHBURN, of Illinois. I am instructed by the Committee on Commerce to report back a bill (H. R. No. 667) to provide for two assistant inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to ask for its consideration at this time.

The bill was read at length.

Section one provides for the appointment of two assistant inspectors of steamboats in the city of New York, with an annual compensation of \$1,200 each; and two local inspectors at Galena, Illinois, with an annual compensation of \$800 each; whose duties shall be the same that are prescribed by the steamboat act of August 30, 1862.

Section two provides that in lieu of the fees for inspection now collected, there shall be levied and collected the sum of twenty-five dollars for each vessel of one hundred tons, and five cents for each additional ton.

Section three provides for the repeal of all acts or parts of acts inconsistent with the provisions of this bill.

Mr. SPALDING. I want to move to strike out the two inspectors at Galena, Illinois.

The SPEAKER. The gentleman from Illinois is entitled to the floor.

Mr. WASHBURN, of Illinois. I do not yield for that purpose.

Mr. MORRILL. As I am in favor of economy I would like to ask the gentleman from Illinois whether there is any necessity for these inspectors at Galena. I understand that the channel at that point does not afford a current for any steamboat of more than two feet draught.

Mr. STEVENS. I hope the gentleman will allow the bill to be postponed.

Mr. WASHBURN, of Illinois. I will state

to the House the provisions of the bill; and then, if a majority of the House do not wish to pass the bill, they can refuse to do so.

Mr. STEVENS. I understand it has not been printed.

Mr. WASHBURN, of Illinois. No, sir; it is not printed.

Mr. STEVENS. Mr. Speaker—

Mr. WASHBURN, of Illinois. I believe I am entitled to the floor.

The SPEAKER. The gentleman from Illinois declines to yield, and must be allowed to proceed without interruption.

Mr. WASHBURN, of Illinois. I send to the Clerk a letter from the Secretary of the Treasury, which I ask may be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, January 23, 1865.

SIR, I have the honor to acknowledge the receipt of your letter of the 11th instant, transmitting a copy of a bill introduced into the House of Representatives, creating two assistant local inspectors of steamboats for the district of New York, and a new local board for the district of Galena, Illinois, with a request that I communicate any suggestions I have to make upon the subject.

You also request a statement of the amount of fees received under the amendment of the steamboat law approved June 8, 1854.

The board of supervising inspectors in their last annual report say two assistant inspectors for the district of New York, and a new local board for the port of Galena, Illinois, will be required, in addition to those already authorized by law. I think their suggestion should be complied with; and I am also of the opinion that the salaries of the assistant inspectors at New York should be larger than are provided for in the bill inclosed by you.

In compliance with the request of the committee appointed by the board of supervising inspectors at their last annual meeting; and in a reply to a communication of the 12th instant from the chairman of the Committee on Commerce of the United States Senate, asking for information relative to the necessity and propriety of Senate bill No. 371, "To regulate the salaries of steamboat inspectors on the Pacific coast of the United States, and for other purposes," becoming a law. I transmitted on the 14th instant to the chairman of that committee a draft of a bill, a copy of which, with the letter accompanying it, is herewith inclosed.

The return of fees received under the "act to create an additional supervising inspector of steamboats," &c., approved June 8, 1854, can only in part be given, as complete returns have not yet been made to this Department.

I will take this occasion to suggest that the sixth section of the act last referred to be amended by the passage of the sections herewith inclosed.

With great respect,

W. P. FESSENDEN,

Secretary of the Treasury.

Hon. E. B. WASHBURN, Chairman of the Committee on Commerce, House of Representatives of the United States.

Mr. WASHBURN, of Illinois. The object of this bill is to create two assistant inspectors in the city of New York, and two local inspectors at Galena; and the second section is in relation to the tax upon tonnage. The attention of the Committee on Commerce was called to this subject by the report of the board of supervising inspectors, who have this whole matter in charge. They report to the Secretary of the Treasury, (I will read it for the benefit of my friend from Vermont,) that "two assistant inspectors for the district of New York and a new local board for the port of Galena, Illinois, will be required, in addition to those already authorized by law."

I will state to my friend from Vermont why this additional board is necessary. The district of the supervising inspector for that district extends from the mouth of the Illinois river to the Red river of the north and the northern boundary of the country. The law of last session requires the inspection of all ferry-boats, all tow-boats, and all tug-boats; and it has been found utterly impossible for the supervising inspector of that district to inspect all these classes of boats.

And in regard to the question of economy, let me say to my friend from Vermont that the law of last session provided for a very heavy inspection fee; so that this steamboat law, which formerly cost the Government \$80,000 per annum, has, by the legislation initiated by the Committee on Commerce at the last Congress and at the last session of this Congress, been made almost a self-sustaining machine. I addressed a letter to the Secretary of the Treasury asking the amount of fees which had been received under this law. He replies that he cannot tell, because the returns have not been received. But I have a memorial from the inspectors of the city of Buffalo, in which they state that in that port alone the fees which they have returned into the Treasury amount to more than ten thousand dollars.

Mr. MORRILL. I would like to ask the gentleman from Illinois whether the salary at Buffalo

is the same as those proposed to be paid at Galena.

Mr. WASHBURN, of Illinois. The salary at Buffalo, as now fixed by law, is \$1,200 per annum. The memorial asks an increase of this salary to \$2,000. That memorial has not yet been acted upon by the committee. In framing this bill, the Committee on Commerce, in consideration of the larger amount and the greater importance of the business at New York, have fixed the salary of the assistant inspectors at New York at \$1,200, and the salary of the same officers at Galena at \$800.

Mr. PIKE. The tonnage tax spoken of in the bill pertains, I suppose, to steam-vessels altogether.

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. PIKE. The bill, so far as I observe, does not specify. Would the gentleman object to inserting the word "steam" before the word "vessels?"

Mr. WASHBURN, of Illinois. I have no objection to that amendment.

Mr. PIKE. Then I move to amend by inserting the word "steam" before the word "vessels."

The amendment was agreed to.

Mr. SPALDING. I desire to ask whether the committee, in fixing the salary of the assistant inspectors at Galena at \$800 have not made it higher than the average pay of steamboat inspectors on the western rivers and lakes.

Mr. WASHBURN, of Illinois. I think not. I think the salary at St. Louis is \$1,500.

Mr. SPALDING. Out where I live, the pay, I know, is five hundred or five hundred and fifty dollars. But I believe there is now before the committee, of which the gentleman is chairman, a petition for an increase of those salaries. If the gentleman proposes to raise all these salaries in proportion to the pay of these officers at Galena, I have no objection.

Mr. WASHBURN, of Illinois. If the gentleman thinks that the salary proposed in the bill is too much, I will yield the floor that he may move to amend.

Mr. SPALDING. I move to amend by striking out "eight hundred," and inserting "six hundred."

Mr. WASHBURN, of Illinois. I have no objection to that amendment. I yield the floor to have that amendment submitted.

The SPEAKER. The amendment is pending.

Mr. WASHBURN, of Illinois. I now demand the previous question.

Mr. GANSON. I hope the gentleman will withdraw the demand for the previous question, to allow me to ask him a question.

Mr. WASHBURN, of Illinois. I withdraw it for that purpose.

Mr. GANSON. I presented a memorial from the local inspectors of Buffalo, and I want to know whether this relates to inspectors of that character.

Mr. WASHBURN, of Illinois. It does not.

Mr. SCHENCK. I should like to know what is the reason for providing that these inspectors shall be located at Galena, Illinois. May not there be other points where more vessels arrive and depart than at Galena?

Mr. WASHBURN, of Illinois. If my friend from Ohio had been present when I made my statement I think that he would have been satisfied without asking the question. The district extends from the mouth of the Illinois river to St. Paul and above. Galena is about midway between the two boundaries of the district.

Mr. SCHENCK. I ask the gentleman whether the inspector is required to make his headquarters at any particular place, or whether he is merely appointed for the district? Here it is provided that these inspectors shall be located at specified places. I desire to know from the chairman of the Committee on Commerce whether this bill harmonizes with the law in other cases.

Mr. WASHBURN, of Illinois. It does. The inspectors are appointed for districts, and they have to be located somewhere.

Mr. SCHENCK. The gentleman does not answer my question. Inspectors are appointed for districts, but the gentleman's bill goes further, and provides that these inspectors shall be located at Galena.

Mr. WASHBURN, of Illinois. My friend does not seem to comprehend this matter. By

the steamboat law the United States are divided into nine supervising districts; there is a supervising inspector for each district, and in each district there are local inspectors to aid the supervising inspectors. These supervising inspectors have charge of this whole matter, and recommend to Congress, through the Secretary of the Treasury, what is required for the public good. They recommend where boards should be established. This is not merely a matter for position. The bill only carries out the object of the steamboat law.

I will say to the gentleman from Ohio that the duties of the supervising inspector have so increased by bringing in tug-boats, ferry-boats, and tow-boats, that it is impossible for him to perform them without this assistance.

As to the question of the expenditure under the law which we passed at the last session of Congress, I will add that the fees more than pay all the expenses.

Mr. WILSON. As this is not a matter of office, but of convenience for the district, I ask the gentleman whether he is willing to allow me to offer an amendment fixing one of these inspectors at Dubuque, Iowa?

Mr. WASHBURN, of Illinois. I do not know that there is any local question here. I hope that my friend will not interfere with a matter of this kind.

Mr. SPALDING. I withdraw my amendment.

Mr. BLAIR. I hope that my friend will permit me to move an amendment, to appoint inspectors at Parkersburg and Wheeling, West Virginia.

Mr. WASHBURN, of Illinois. I will state to my friend from West Virginia precisely the state of this question. There were no less than four boards in that district; at Cincinnati, Wheeling, Louisville, and Pittsburg. The supervising inspectors recommended that the board at Wheeling should be discontinued because there was no necessity for it, and Congress at the last session accordingly repealed that portion of the act. They said that there was no necessity for a board at Wheeling, as there was one at Pittsburg, within one hundred miles, one at Cincinnati, and one at Louisville.

Mr. BLAIR. I ask the gentleman from Illinois whether, if there were none in his State, he would think it right and just. We have none in our State at all, and it is not right that we should be thus deprived of that privilege.

Mr. WASHBURN, of Illinois. If any of the gentleman's constituents at Wheeling desire to have their boats inspected they can in twenty-four or in twelve hours get a local inspector from Pittsburg down there.

Mr. HUBBARD, of Iowa. I desire to ask the gentleman from Illinois how many of the steamboats navigating the upper Mississippi pass by Galena.

Mr. MOORHEAD. I wish to state that it is within my personal knowledge that the abolition of the board of inspectors at Wheeling has caused great inconvenience, as the inspectors at Pittsburg have had to leave their business there and go to Wheeling. I hope the board at Wheeling will be restored.

Mr. BROWN, of West Virginia. I hope the gentleman from Illinois will allow an amendment to that effect to be offered. It is right and just that we should have one board of local inspectors in that State. The idea that the people of West Virginia must go to Pittsburg to have their boats inspected is preposterous.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. BROWN, of West Virginia. Then I hope the bill will be voted down.

Mr. GARFIELD. I would inquire of the gentleman where Galena is situated?

Mr. WASHBURN, of Illinois. I can tell the gentleman; it is in the third congressional district of Illinois; it is the residence of the greatest military hero of the age, General Grant. [Laughter.] I demand the previous question.

Mr. MALLORY. I ask the gentleman to yield to me a moment to offer an amendment.

Mr. WASHBURN, of Illinois. I cannot.

Mr. MALLORY. I ask that the bill may be read again. I was not in when this matter came up; and the gentleman from Illinois is acting very unkindly.

The bill was again read.



Mr. MALLORY. Now I move that the bill be laid on the table.

Mr. WASHBURN, of Illinois. Will the gentleman from Kentucky allow me to ask him a question? Does he desire to have the bill postponed for the purpose of having it printed?

Mr. JOHNSON, of Pennsylvania. I object to all discussion.

Mr. MALLORY. I asked the gentleman from Illinois to withdraw the demand for the previous question to enable me to offer an amendment. He declined, and now let the bill meet its fate.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 69, nays 58, not voting 55; as follows:

YEAS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, John D. Baldwin, Blair, Bliss, Boyd, Broomall, William B. Brown, Clay, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denison, Donnelly, Eden, Edgerton, Eldridge, Frank, Ganson, Garfield, Griswold, Hale, Harding, Harrington, Herrick, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Knox, Law, Lazear, Long, Mallory, McAllister, McClurg, McDowell, William H. Miller, Moorhead, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Schenck, Seofield, Smith, William G. Steele, Stevens, Stiles, Strouse, Tracy, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Winfield—69.

NAYS—Messrs. James C. Allen, Alley, Allison, Arnold, Baxter, Deannan, Blow, Boutwell, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Cole, Dawes, Dixon, Driggs, Eckley, Eliot, Grinnell, Benjamin G. Harris, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Orlando Kellogg, Longyear, Marvin, McBride, Melndor, Samuel F. Miller, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Shannon, Sloan, Smithers, Spalding, Stuart, Thayer, Townsend, Upson, Elihu B. Washburne, William B. Washburn, and Wilson—58.

NOT VOTING—Messrs. Ames, Anderson, Ashley, Bailly, Blaine, Brandegee, Freeman Clarke, Coffroth, Creswell, Dumont, English, Faruworth, Finck, Gooch, Grider, Hall, Charles M. Harris, Holman, Hotchkiss, Hubbard, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Knapp, Le Blond, Littlejohn, Loan, Marey, McKinney, Middleton, Morrill, Leonard Myers, Perry, Pomeroy, Pruyn, Scott, Starr, John B. Steele, Sweet, Thomas, Van Valkenburgh, Voorhees, Ward, Webster, Whaley, Williams, Wilder, Windom, Benjamin Wood, Fernando Wood, Woodbridge, Worthington, and Yeaman—55.

So the bill was laid on the table.

Mr. PENDLETON. I now demand the regular order of business.

The SPEAKER. The regular order of business is the motion to reconsider the vote by which the bill of the House, No. 214, was recommitted to the select committee. Before that subject is taken up the Speaker asks unanimous consent to present several executive communications.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State transmitting, in compliance with the act of August 26, 1842, a report of the incidental expenses of the State Department for the year ending June 30, 1864; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Treasury transmitting, in accordance with the act of April 2, 1792, an account of the receipts and expenditures of the United States Mint for the fiscal year ending June 30, 1864; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department in relation to the appointment of commissioners to award compensation to the owners of slaves enlisted as volunteers; which was laid on the table, and ordered to be printed.

#### COMMITTEE ON COMMERCE.

Mr. WASHBURN, of Illinois. As the reports made by the Committee on Commerce this morning were by unanimous consent, of course this morning is not considered as one day charged to that committee.

The SPEAKER. The Chair will state that the committee was called in its regular order, after first postponing the bill in reference to the ship-canal. The committee, however, have had but two fractions of morning hours, yesterday and to-day, and if there is no objection the Chair will consider the committee entitled to another morning hour.

Mr. SCHENCK. Mr. Speaker, I must require that the Committee on Commerce be called in order, and that it shall not be called again until the other committees have had their turn.

Mr. WASHBURN, of Illinois. The Committee on Commerce have had but one morning.

The SPEAKER. The Chair thinks otherwise. The committee was called yesterday and it was called again to-day. Yesterday the committee was regularly called, and it reported one bill. To-day it would have been called by unanimous consent but the gentleman from Indiana [Mr. HORMAN] objected. Then the Chair proceeded to call the regular order of business, which was in relation to providing that the heads of executive Departments may occupy seats on the floor of the House of Representatives. Thereupon, upon the motion of the gentleman from Illinois, that was passed by for the present, and the bill in relation to the ship-canal was postponed, and then the Committee on Commerce was called in its regular order. The Chair, therefore, thinks that they have had two morning hours, although very short ones on each day.

Mr. WILSON. I desire to say to my friend from Ohio, that the bills which I propose to introduce are to be referred to committees that will meet to-morrow, and I desire to introduce them for reference merely.

Mr. COX. I have no objection to yield if debate does not arise.

#### OPINIONS OF ATTORNEY GENERALS.

Mr. WILSON, by unanimous consent, introduced a bill to provide for the publication of the opinions of the Attorney Generals of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

#### UNION PACIFIC RAILROAD.

Mr. WILSON also, by unanimous consent, introduced a bill to aid in the construction of a railroad in the State of Iowa, for the purpose of facilitating the construction of the Union Pacific railroad; which was read a first and second time, and referred to the select committee on the Pacific railroad.

Mr. PENDLETON. I now call for the regular order of business, and object to everything else.

Mr. DRIGGS. I ask the gentleman to allow me to introduce a bill for reference.

Mr. PENDLETON. I would be glad to yield to all these gentlemen, but I am bound to the Committee of Ways and Means not to yield any more.

#### TRADE WITH THE REBEL STATES.

The SPEAKER. The Committee on Military Affairs was discharged yesterday from the further consideration of the subject of trade between the rebellious and loyal States heretofore referred to them, but that subject was not referred to the Committee on Commerce. If there be no objection, it will be referred to that committee.

No objection was made.

#### ORDER OF BUSINESS.

Mr. McBRIDE. Allow me to make an inquiry of the Chair in reference to the order of business. House bill No. 691, to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river, in Oregon, and Puget sound was postponed till this day.

The SPEAKER. It was postponed until Thursday, the 26th of January, and it will come up in regular order.

Mr. McBRIDE. I understand that it was made the special order.

The SPEAKER. It was not made a special order, according to the Calendar.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bill of the House No. 621, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed without amendment bill of the House No. 659, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866; and bill of the House No. 659, to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved the 30th of June, 1864.

\* Also, that the Senate had passed a bill (S. No. 212) for the relief of Henry A. Brigham, in which he was directed to ask the concurrence of the House.

Also, that the Senate had adhered to their fourth amendment to the bill of the House (No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, disagreed to, and such disagreement adhered to by the House.

#### CABINET OFFICERS IN CONGRESS.

The House then proceeded to the consideration of the motion to reconsider the vote by which the joint resolution of the House (No. 214) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives was recommitted to the select committee upon that subject, and upon which Mr. Cox was entitled to the floor.

Mr. COX. Mr. Speaker, the House is under obligations to the committee for presenting this measure. Great good and no harm will come from a free and full discussion of the distribution of the powers of the Government. In all innovations the burden is upon those who propose them to show their utility. The committee have proposed to change the machinery of our Government in two ways: first, that the heads of Departments shall have at all times the right to occupy seats and participate in debate upon all matters relating to the business of their Departments; secondly, that on two days of the week they shall attend the House and give information on all questions submitted to them.

The details of legislation to carry out these views I shall not consider. If the principle be adopted the measures will soon lose any stringency by amendments, and the coalescence of the executive and legislative will become, as in England, as perfect as the institutions of each country will permit.

I propose to discuss the question in the following order: first, to answer the report; second, to show the dangers of this innovation.

1. To answer the report. Under this head I consider, first, the constitutionality of the measure.

The committee entertain no doubt on this head. There is no provision against it in the Constitution, and it is regarded as a part of that power by which "each House may determine the rules of its proceedings." I will not contest our power to pass the resolution. But the discussion of its merits will show that its passage will be an infraction of the spirit if not of the letter of the Constitution, which provides that "no person holding any office under the United States shall be a member of either House during his continuance in office."

The same reasoning upon which this clause of disqualification is founded should forbid the admission of the Cabinet into Congress, either to debate or answer inquiries. I shall show that there is a stronger reason for the rejection of this measure than for the rejection of the Cabinet as members. That stronger reason is, that in case of membership they are liable to expulsion and censure, responsible to their constituents, who hold over them the rod of public opinion, backed by suffrage; while in the other case they are responsible to no one for their official tenure but the Chief Executive, whose subordinates and servants they are. A hundred censures cannot move them from their places. So long as they suit the President they can condemn the severest criticism and loudest anathemas of Congress.

When this clause of disqualification for membership was adopted it met with no opposition in the convention. So says Judge Story. Heads further:

"It has been deemed by one convention an admirable provision against venality, though not perhaps sufficiently guarded to prevent evasion. And it has been elaborately vindicated by another with uncommon earnestness."—Story, page 310, sec. 440.

And here it may be proper to say that the committee have invoked the wisdom and learning of Judge Story to sustain their views. This is a mistake. The committee have quoted only the arguments presented in favor of that side. He states, with equal point, the arguments upon the other, leaving the decision to the judgment of the student. The committee have not done justice to the question in thus partially presenting the case. I will

supply the omission by citing the omitted portions:

"The other part of the clause, which disqualifies persons holding any office under the United States from being members of either House during their continuance in office, has been still more universally applauded; and has been vindicated upon the highest grounds of public policy. It is doubtless founded in a deference to State jealousy and a sincere desire to obviate the fears, real or imaginary, that the General Government would obtain an undue preference over the State governments. It has also the strong recommendation that it prevents any undue influence from office, either upon the party himself or those with whom he is associated in legislative deliberations."

And after the passage quoted by the committee, he proceeds to say:

"Such is the reasoning by which many enlightened statesmen have not only been led to doubt, but even to deny the value of this constitutional disqualification. And even the most strenuous advocates of it are compelled so far to admit its force as to concede that the measures of the executive government, so far as they fall within the immediate department of a particular office, might be more directly and fully explained on the floor of the House. Still, however, the reasoning from the British practice has not been deemed satisfactory by the public; and the guard interposed by the Constitution has been received with general approbation, and has been thought to have worked well during our experience under the national Government. Indeed, the strongly marked parties in the British Parliament, and their consequent dissensions, have been ascribed to the non-existence of any such restraints; and the progress of the influence of the Crown, and the supposed corruptions of legislation, have been by some writers traced back to the same original blemish. Whether these inferences are borne out by historical facts is a matter upon which different judgments may arrive at different conclusions; and a work like the present is not the proper place to discuss them."—*Story*, pages 313, 314.

So that we may draw from these citations, these reasons against the measure proposed by the committee: first, extreme party dissensions, owing to the presence of the executive agents in the House; second, the progress of the undue influence of the Executive; third, the corruptions of the Legislature; fourth, a well grounded jealousy of Federal predominance over State governments. But to me the principal reason is the undue and corrupting influences of such a connection upon both Cabinet and Congress. If this reasoning be found valid, then the Constitution is violated in its essential spirit by the disturbance of that healthful equilibrium between the legislative and executive which it was designed by the framers of the Constitution to avoid. But of these points I will speak particularly hereafter.

Second, the practice and precedents appealed to by the committee.

The committee appeal to legislation and practice—to the law of 1787—authorizing the head of the Treasury to make report, in person or in writing, to either branch. Because of these precedents they regard the power as unquestioned. The fact that this law and custom, used in 1789 by the Departments of State and of the Treasury, and yet unrepealed, has fallen into desuetude, is rather evidence that not only has the guard of the Constitution been regarded as salutary as against membership, but, by "general approbation," against the *entrée* of the Cabinet into the debates and deliberation of Congress. At least, as Judge Story says, the reasoning from the British practice has not been deemed satisfactory to the public. In fact, as I shall show, the British experience led to their exclusion here. And yet "the rules," say the committee, "now recommended are almost identical with those of the British House of Commons." The gentleman from Vermont [Mr. MORRILL] has most thoroughly answered this portion of the report. If, however, the spirit of the Constitution is not to be regarded, the inexpediency of the measure will be sufficiently apparent.

Third, as to the influence of the Executive upon the Legislature. The committee state that the object of the resolution is to influence legislation by the Executive. They would recognize that influence and give it authority. Assuming that such an influence will, does, and must exist, they propose to make it open, official, and honorable, instead of secret, unrecognized, and liable to abuse. This sort of argument would find its par value in an argument like the following: robbery in the shape of burglary will exist; it is all wrong, but it exists; let us recognize the fact, and by law make it open, honorable, and authoritative, instead of secret, nocturnal, and liable to be abused; let us authorize highway robbery as something bold and romantic. Or, prostitution exists, secret and dangerous; let us license and legalize it, and

the practice, so deleterious when secret, will lose its deformity when open. Executive influence upon legislation is wrong, dangerous, and subversive of freedom; it exists, but is now covert and dangerous; let us make it open, bold, and authoritative, and it will be innocuous.

If the means were constitutional and it would dignify and purify the executive influence, I might vote for it. But I cannot see that because you increase the opportunities of executive contact with the legislature you diminish the contagion and the fatal corruption as its consequence. Because you debar the Cabinet member from a vote do you prevent his influence in the House? If you require open debate do you stop secret intrigue? Did not Walpole debate and corrupt the House? Did not the younger Pitt defy Parliament even in debate, and coerce the Commons? The whipper-in on a division, the manager of the House, were not these incident to open and authorized discussion? The Government felt more interest in the result of the vote, because it had been called directly to the bar. It stopped at no means to secure its triumph. The threats of the third George again and again to leave the island and to place those under the royal ban who voted against his measures, was the accompaniment of the fiercest wrangles of Parliament and the most open arraignment of ministers. I admit that if the influence of the Executive is desirable in our legislation, it should be open, declared, and authorized, rather than secret, concealed, and unauthorized. But this resolution facilitates the secrecy and authorizes the influence which we deprecate and should prevent.

Fourth, as to the information to be derived from the admission of the Cabinet, and the cases cited by the committee.

Two objects are sought by this measure, say the committee: first, general debate; second, information from Cabinet officers. Both are included in the second specification. If the object were only information, we have the means provided already. Conferences by committees with the Departments furnish one medium. The citations appended to the report of the committee show that this is almost always a prerequisite to the maturing of measures. In the cases cited on pages 11, 12, 13, *et seq.* of the report, the complaints were, not that the Departments would not furnish information or recommend measures, but that in those particular instances the information was not definite or the recommendation made in writing. But the debates in those cases showed that such information and recommendation were easily obtained. In the cases of the legal tender and gold bill, the debate brought out the letters of the Secretary of the Treasury. In the case of the loan bill, the instance cited is most unfortunate as an argument for this measure. The appearance of the Secretary and Assistant Secretary of the Treasury upon the floor of the House had the effect of subverting the judgment of the House. The gentleman from Pennsylvania had moved that the interest of the bonds should be paid in currency. It was carried by twenty-one majority. When reported to the House, lo! it was defeated 59 to 81, a change of forty-two on a question as to which the House were informed of the facts, as to which the executive officers only expressed their wish and opinion! What humiliation! No undue arguments were used; no bribe or corruption is charged. Simply their presence on the floor turned the heads of forty-two statesmen! If their casual visit and the expression of a wish without argumentation could work such wonders, what sort of a body would we become with the presence of the Cabinet here twice a week for information and at all times for debate and influence? The other instance cited is senatorial, on the bounty question. The only trouble in that case was that the chairman of the Military Committee had missed seeing the Secretary of War, and failed to possess himself of any authentic letter or recommendation of the Department. No one doubted but he might have received the information. The points were, not that the recommendation was not made, but, as Senator CLARK said, (page 17,) the information had not been asked for, and, as Senator GRIMES said, there had been no action of the Administration on the subject, or at least no unity of action. Afterward, the letter of Mr. Stanton was read, and the difficulty properly obviated.

So far, then, as the Congress require information and advice from the Departments, they can always obtain it, perhaps in over-abundance. If it come not in the graces of oratory it will come in the more pithy, and, in this age, more useful, and, in this House, indispensable, form of writing and printing. If the ordinary reports of the Departments and the answers to resolutions of inquiry are not sufficient, will not these informal interviews of members and committees with the heads of Departments answer every purpose?

If the object of the measure is information, we have the *media* now. If it be to influence action, that influence must be for good or evil. If for good, always and inevitably, Congress is utterly inconsequential and insignificant—a registering body, a contemptible and expensive nonentity, worse than the fifth wheel to a coach. For what, sir, is the need of Congress, if all the recommendations of the Executive are to be invariably followed? Better dispense with all legislation, or make our system conform to those cited by the committee from Europe and South America, where, except in England, (owing to peculiar circumstances hereafter considered,) the Legislature is the tool of the ministry as the ministry is too often the tool of the monarchy. If the Cabinet influence is generally good and only exceptionally vicious, we have the means already of reaching its valuable suggestions, and I do not propose to enlarge its sphere of evil. But if the influence of the Executive is generally evil, corrupting to both Cabinet and Congress, aggrandizing unduly one department of power to the detriment of another, and consequently to the derangement of our system, and if it is only occasionally good, then we are bound not only to prevent but to guard with extreme jealousy every attempt to encroach with such influence upon the province of the Legislature.

In the remarks which I have submitted, I meet the two propositions of the committee as elaborated by them: first, that Congress should avail itself of the best possible means of information in relation to measures; for do we not have at our command all that we could get by the presence of the Cabinet in the House? Second, as to the character of the influence of the Executive upon the Legislature; for have I not shown that this measure will not prevent it being secret, corruptive, or unauthorized?

Fifthly, a few words as to the argument *ab inconvenienti*. The committee somewhat anticipate this objection. They say (page 5) that "it has been said that the time of the Secretaries would be so engrossed that they could not attend to the discharge of their other duties. If this shall prove true, they must have more assistance." It is answer enough to appeal to members as to the condition of their own business now before the Departments. They are nearly all behind. We must have the ear of the heads of Departments; and if they are compelled to attend here, and take part in debates, what time will they have, even with the aid of the assistants we have already given, to attend to Department business? But I leave to others the elaboration of this argument. I say nothing now about their appearance and speaking here delaying our own labor. That would appropriately come under the *argumentum ad misericordiam*, [laughter,] for it would be intolerably irksome to have their explanations and speeches here on all questions raised.

II. I might rest the argument here. But I believe this measure is fraught with great danger. It is a step toward the absorption of the power of Congress by the Executive, and therefore a step not to be countenanced either at this time or at any other time.

On this head I consider its effect, first, on State rights. If, as I assume, this measure increases the executive influence and absorbs the legislative, it tends to aggrandize and consolidate power in the Federal Executive, and makes the array against the States much more formidable, and subtracts from them their proper influence in the economy of our Government. Some of the committee are looked upon as strong defenders of the reserved rights of the States. They look with apprehension on the encroachments of the Federal Government upon the ungranted domain of the States. It is for such that Judge Story's argument is emphatic, when he says that "the restrictions upon executive connection with the

Legislature were founded in deference to State jealousy, and a sincere desire to obviate the fears, real or imaginary, that the General Government would obtain an undue preference over the State governments." The gentleman from Vermont [Mr. MORRILL] has shown the views taken by the earlier statesmen, coinciding with this view of Judge Story. I need not recite them. The committee in their report seem not to have anticipated this argument; it is left for the disciples of Hamilton, like the gentleman from Vermont, to defend State rights. Surely, if you magnify and energeize the Federal Executive by an unfair aggregation of powers in that office at the expense of the Congress, you begin the work of consolidation. You give to power new material, until upon the ruins of our old system of a just distribution of power, we erect a throne of paramount power whose sovereign occupant in his supremacy would rob the States of their rights to aggrandize his own splendor. This plan, therefore, tends to create the same laws, the same kind of dependence, consequently the same notions and the same interests, throughout all the country with its diverse interests; for the power it would strengthen is the Executive, which is not like the Senate or the Congress, representative of States and localities, but in a sense more nearly representative of the people of the United States.

Second, the time is unfortunate for such a radical change as that proposed. Herein lies one of its dangers. It is a time of war. The Executive in such a time tends to enlarge its powers. This is not altogether avoidable. It then calls to its aid all the sophistry of necessity. It is the old satanic plea. With an Army of nearly a million, and a patronage of \$3,000,000 per diem, and with a corps of ambitious men—placemen and contractors—hanging about the chambers of power, desirous to placate the supreme will and to enjoy its favors, it is not surprising that in time of war the dispensing power should grow colossal, overshadowing all other departments and absorbing all other sovereignties. Yet it is at such a time that the committee proposes a measure which tends to increase the Executive. I know that the committee think that its effect will be otherwise, and give as a reason that power exercised openly in Congress will find its antagonism and barrier in honest deference to public opinion, and be restrained in its own disposition to increase. But is that the effect of the exercise of power by this Executive? In the face of a most earnest protest from every press and public man who had not slavishly bowed to its behests simply because it was power; in spite of a protest of nearly two million people, the power of the President expands boldly, openly, and flagrantly. Patronage is more powerful than logic. Necessity crushes the free press and arrests free speech. Would the *habeas corpus* be abolished, and all the restraints of personal freedom be annulled, and our prisons groan with victims, except in time of war? The power which, in time of peace, was a toy for a lady's hand, like the tent of the *faïence*, enlarges in time of war so that great armies repose beneath its folds. When did the executive power in England most overshadow and defy public opinion? The Crown augmented when Pitt defied the people and their Parliament; then king and minister became absolute. The wise commentator, Thomas Erskine May, (Constitutional History, volume one, page 82,) in drawing his picture of this era of English history, draws also a conclusion similar to the one which I now declare, when he says:

"A war is generally favorable to authority by bringing together the people and the Government in a common cause and combined exertions. The French war, notwithstanding its heavy burdens and numerous failures, was popular on account of the principles it was supposed to represent; and the vast expenditure, if it distressed the people, multiplied the patronage of the Crown, afforded a rich harvest for contractors, and made the fortunes of farmers and manufacturers by raising the price of every description of produce. The 'moneyed class' rallied round the war minister. Bought seats in Parliament with their sudden gains, ranged themselves in a strong phalanx behind their leader, cheered his speeches, and voted for him on every division. Their zeal was rewarded with peerages, baronetcies, patronage, and all the good things which an inordinate expenditure enabled him to dispense. For years opposition in Parliament to a minister thus supported was an idle form; and if beyond its walls the voice of complaint was raised, the arm of the law was strong and swift to silence it. To oppose the minister had become high treason to the State."

To oppose the minister in open Parliament, in

free debate, in time of war, when power found its antagonists and barriers, as it to-day finds them here, was accounted high treason! Yet, say the committee, the rules now recommended—now, in time of most gigantic war—are almost identical with those of the British House of Commons! Identical, sir, with a system which not only made war almost perpetual by filling the Legislature with placemen, pensioners, claquers, and contractors, rewarding them with peerages, baronetcies, patronage, and all the good things which come from an inordinate expenditure, but which made the Opposition a mere form in the Legislature, and stifled it with oppression when raised outside of the Legislature! Is it to this system that the committee would assimilate our own Congress? God forbid!

Third, I now consider the dangers of the intimacy between the Executive and the Legislature. If even the rights of the States were safe, and even if this were a time of peace, still I would, as a Democrat, as a Republican, never allow the Executive to approach any nearer the Legislature than is entirely consistent with the movement of each in their own well-defined circuit. As with nature, so with institutions. Of two plants in the vicinity of each other, the fruit of one will lose its peculiar flavor and be assimilated to the taste of the other, if that other have the stronger fiber, the richer nutriment, and happens to be near by. So in the stellar world the lesser luminary will, unless restrained, fly toward the greater, to be by it absorbed.

The committee truly say that the framers of the Constitution did not intend to establish an absolute separation of the legislative and executive departments. This is true. The separation is not absolute; if it were, they could not subsist in the same system; but I affirm that they endeavored by every guard to allow just as little connection between the parts as would enable the Government in its entirety to perform its functions.

The committee instance the veto power, to show that there is a connection between the law-making and law-executing departments. The argument proves too much. The veto of the President is the limit of the presidential interference, and its exercise is allowed only after the law is passed; and even then, after the Executive has exhausted his reasons for the veto, he may be overruled by a vote of two thirds. If the Executive, by his agents of the Cabinet, exert his influence in the making of laws, where is the necessity for the veto? His veto is then an absurdity. So Judge Story regards it. The veto is the Executive arm for the defense of its own powers. The Legislature is presumed to have no desire to favor them. When laws are passed by a Legislature misled by a love of power, a spirit of faction, a political impulse, or a persuasive influence, local or sectional, which may not reach the Executive, he being the representative of the whole nation in the aggregate, then the veto has its use. Says Story, page 32:

"He will have an opportunity soberly to examine the acts and resolutions passed by the Legislature, not having partaken of the feelings or combinations which have procured their passage, and thus to correct what will sometimes be wrong, from interference as well as design."

His responsibility is independent of Congress. To join his duties with law making is to destroy his responsibility and derange the proper distribution of powers. Go one step further. Suppose a law of great value passed, then vetoed; nevertheless two thirds of Congress favor it; but in come the Cabinet, and by threat, bribery, promises of patronage and gifts of honor, the legislative will is subordinated: are not the people robbed of their fair right in the Legislature? Voting is not the only way of making laws. Voting presupposes influences. Voting is but the sign of what has been done. If these influences are reached by Cabinet cajolery or honeyed blandishments from the masters of patronage and fountains of honor, the influence is not less, but rather greater, than if the Cabinet had the right to vote. Indeed, some Governments which allow the ministry to have the *entrée* to the Legislature expressly and strangely forbid their presence when the vote comes off. This is the case in Brazil, Costa Rica, Portugal, and Spain. But what guard is there in such cases—for the influence is exerted generally before and not at the vote? Still, even these guards show

the jealousy of the Legislature against the dominating influences of the Executive even in such monarchical countries.

What, then, are the relations which the three departments of our Government sustain to each other? How are they intended to act in harmony? Mr. Madison has considered this matter in Nos. 47 and 48 of the *Federalist*. The distinctness and separation of the three departments is by him, as it was by Montesquieu, regarded as an essential precaution in favor of liberty. He was careful to show that the several departments of power were so distributed and blended in our system as at once to preserve symmetry and beauty of form, and to prevent any part of it from being exposed to the danger of being crushed by the disproportionate weight of other parts. He regarded the accumulation of powers, legislative, executive, and judicial, in the same hands, as the very essence of tyranny. Hence, if there is any approach toward such accumulation, my argument is that there is an approach toward tyranny. If there can be no liberty where the Legislature and Executive are one, is not liberty endangered when you absorb an essential function or feature of one by the other. Says Montesquieu:

"There can be no liberty when the legislative and executive powers are united in the same body or person, because apprehensions may arise lest the same monarch or senate may enact tyrannical laws to execute them in a tyrannical manner; or were the power of judging joined with the legislative, the life and liberty of the subjects would be exposed to arbitrary control, for the judge would then be legislator. Were it joined to the executive, the judge might have all the violence of the oppressor."

Mr. Madison draws from the several constitutions of the States as then existing, New Hampshire, Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, and others, to show that the several departments are inhibited from exercising the powers of either of the other departments. The language of these early constitutions yet remain in our present constitutions. Not a single State of this large Confederacy has ever in its constitution so departed from the model of the Federal Legislature as to allow the membership of the Executive, (Cushing, page 610,) or of his aids in administration, or even their presence for debate or influence. Massachusetts early declared this fundamental article of liberty:

"That the legislative department shall never exercise the executive or judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them."

The jealousy of uniting one department with another has been carried so far that the departments have been only so far connected and blended as to give to each a constitutional control over the other. This is the degree of separation essential to a free Government. Allow this and you will have no despotic Congress with its many heads; no Congress dependent on one head; you will have no irresponsible judiciary; and no arbitrary Executive. If the Executive can use his appliances at will upon a legislature, either by intrigue or debate, then the Legislature becomes the executive tool; and although its own powers may expand yet if used by the Executive the growth of legislative privilege is the increase of the executive prerogative.

If it be proper to call the Cabinet to the lower House why should not some portion of it be called to the Senate? Is it because the model of the British constitution has carried away the committee?

If it be proper to call the Cabinet to the House, why not call in the President? We have no ministry as in England. The President is responsible, and he only. The Cabinet are but the ministers of his will. He can dismiss them at pleasure. They have no policy.

If it be proper to call the Cabinet, why not the Commander-in-Chief? Why not summon General Grant to sit here, and to answer the inquiries of civilians in search of military news and strategy? Why not? For the reason that all military officers are kept without the Senate-house. Because they are the hands of the Executive, and liberty permits no brute force to overawe or dictate. If the Commander of the Army is the mailed hand of the Executive, is not the Secretary of State also his hand gloved in silk? And is there more danger from the iron hand than the silken glove?

But if it be proper to call in the Cabinet, why



not call in the Supreme Court, or its chief? Do the committee wish to copy the British precedent, where the law lords can advise, though they do not vote with the legislator? Why not then admit the Chief Justice? Ask him of the legality of confiscation, legal tender, belligerency, and the new questions which this civil war is causing? The committee refer us, with a smile, no doubt, from its complaisant chairman, to Hayti for our guidance. [Laughter] That precedent was intended, for the other side of the House. I accept it in all earnestness. In Hayti the secretary of state and the grand judge are by the constitution the orators charged with representing the executive by oral communication to both houses. Why not send for Mr. Chase, along with Mr. Seward, and here let them struggle for the next Presidency before the people's Representatives?

The committee inform us that if the rules be defective, or limit too narrowly the right of a debate, changes can hereafter be made. They take the British House of Commons for their model, and they assert that the "rules now recommended are almost identical." If that be the case, the changes should involve an entirely new system of accountability among the departments of our Government. Indeed, our form of government will need a radical change. Judge Story says (Commentaries, page 329) that

"The whole structure of our Government is so entirely different, and the elements of which it is composed are so dissimilar from that of England, that no argument can be drawn from the practice of the latter to assist us in a just arrangement of the executive authority."

In England one branch of Parliament, the Commons, is ostensibly supreme. If not corrupted or made dependent on the Crown by intimidation, it is the ruling power of the realm. Though the Crown may appoint the ministry, it is the Parliament which dothrones them by a vote "of want of confidence." There is no responsibility for any act of administration upon the Crown. The sanctity of the Crown forbids it to be wrong. Ministers are toppled over, but the throne remains; hence the real power, if not corrupted, over the executive is in the Commons. The ministry is the fountain of honor and patronage in fact, though the Crown may be in name; hence the putrescent corruptions which have made the history of English legislation so infamous. Not so in this country. We have no ministry here, no premier. The Cabinet have power and do advise the President, but he, and not Congress, can alone displace them. Hence in our system the President has the power of the Crown and the ministry both, and is above the reach of the Commons or the Congress.

In England the queen only has the power to name the ministry; the Parliament has the power to direct its policy and compel its resignation; yet this measure would enhance the power of the President, making him not only king and ministry, but potential in the Legislature. Add to this his power to appoint judges, and the tendency is to unite all functions in one, which, as I have said, is the definition of tyranny. If the committee would then assimilate our practice to English rules, let them alter the Constitution, and require the Cabinet to be responsible to Congress, and the President and his Cabinet to abdicate when his policy is condemned. When you do this you change the very essence of our Government.

The President represents the aggregate people; Congress represents States in the Senate and the people of the States in the House. He is elected for four years. We take him for better or for worse. We may have a Congress in opposition to his policy for four years; and nothing we can do will prevent it, unless we by usurpation and by a corrupt judiciary trench on his powers, or he, by intrigue and usurpation and obsequious judges, is enabled to rob Congress of its powers. He may appoint judges, veto laws; that is the limit of his control over the Legislature and the judiciary. If his agents approach the fountain, and there at its source endeavor to influence the making of law, he becomes an intermeddler. Whether he does this by his military force or his cunning management, it amounts to the same thing. Wisely, therefore, our fathers, looking on English history at a time when a corrupt and imbecile ministry were illustrating how easy it was for a stubborn king to rule a subservient Parliament by the presence of a great minister or a strong will, forbade the membership of the Ad-

ministration in the House, and for a stronger reason should have forbidden their presence there. They saw, as an old writer says, "the king and his council (Craftsman, No. 440) by means of liveries and retainers, bring the whole kingdom to be of his livery;" or, as Lord Bolingbroke said to Walpole, they made the Parliament like slaves in a galley, united by their chains and tugging the oar together at the sound of the ministerial whistle. Seeing this in England, as the very cause of their own troubles with the parent country, they were jealous of such influences here. They may not have distrusted the first Presidents; but they would not allow an opportunity for the invasion of their own privileges or the public liberties. It was not the attack they feared from the first Executives which led them to keep the administration aloof from the Legislature, but they would not allow the breach, however small, in the rampart, through which an attack at some time might be made.

This principle, together with the English practice, leads me, Mr. Speaker, to be jealous of our privileges and powers. Indeed, sir, I am not particularly enamored of anything English now. I do not like English delight over our troubles; English cannon when found in Fort Fisher; English ships-of-war destroying our commerce under a hostile flag; English recognition of belligerency. All that is admirable in the English manners, literature, and laws I love and cherish, but this system of the committee is neither admirable or desirable.

If there is one feature in English history more marked than another, it is the constant conflict for centuries between the kingly prerogative and the parliamentary privilege. In the earlier times of the Plantagenets the motto obtained, that to be royal is to be loyal; the will of the king to be the will of the law: "*Que veut le roy, ce veut la loy.*" And although under the earlier kings, especially those most destitute of principle, the liberty of the people in the Parliament received its most efficacious support; although Magna Charta came in John's rule, and Habeas Corpus in the time of the second Charles, yet the royal prerogatives were broken by their inordinate strain by such monarchs, and liberty gained. It was enough for the king to be the fountain of honor and patronage, of pardon and power, generalissimo of the army, and source of all foreign embassies and treaty. The Commons, therefore, in early times, united with the people and nobility against the power of the Crown; and from having been called from boroughs and towns originally to provide only for the wants of the king, (De Lolme, volume second, page 511,) they became so powerful that ministers fell before their votes and voice. Upon their fiat hung the lives even of the ministers. The king himself was supposed by a fiction always to be present, really or by representatives; and even he was made liable, on a memorable occasion, to the power of the Commons by impeachment and death. But at last the popular element by the Revolution of 1688 became paramount. At least then began the struggle, which, after great convulsions, fixed the Crown, through the ministers as the instruments of the Parliament, and amenable to them. But this cannot be so in this Government, for the simple reason that the Congress has no control over the Cabinet. The extent and duration of the Executive, as to time and power, is clearly defined in a written constitution. Therefore no analogy can be drawn from English precedents, except those which show how power tends to increase in the Executive or ministry whenever it has the opportunity to use its appliances, or which show that the temptation to corruption is apt to be embraced when the object is near and the lure enticing. In illustrating this part of my argument, my only embarrassment is in the opulence of the illustrations from English history.

I do not select a few cases because they are so glaring. Nor do I value in an argument a few exceptional cases; *non ego paucis offendar maculis*. From the very beginning of the English Government until now, laws were passed to regulate elections and prevent the kingly influence upon the Commons. In the time of the Lancaster kings such statutes are common. "What else," asks Bolingbroke, (Craftsman, No. 440) "do all these resolutions, declarations, and acts mean from the time of Richard II to these days, against the in-

fluence of the Crown on the elections or on the members of Parliament?" He answers it by saying that a prince may govern according to his arbitrary will, or that of his more arbitrary minister, as absolutely and much more securely *with* than without the concurrence of a Parliament. He can do this in two ways: first, by the strain of his prerogative, or by the corruption of the Commons; and the instrument for both means, as shown by English history, has been an obsequious, audacious, or corrupt ministry sitting in Parliament. In the earlier eras of English Parliaments the stretch of the prerogative was the means used to overawe Parliaments. Not alone by the threat upon members, but by acts of imprisonment and decapitation; not alone by the threat but by the act of dishonor and sequestration, were the annals of Parliament sullied. In later times, after the Revolution of 1688, the civil list had increased, and with it the means of corruption; and not alone by indirect bribes in stocks, lotteries, pensions, places, and honors, but by a wanton lavishness of douceurs, directly given to members, the German princes on the English throne, and their ministers, controlled the Commons. This corruption extended then, as it does now, from the House to the hustings, from the Parliament to the people, until the English Parliament reeked, and in spite of all reform bills and bribery acts yet reeks, with the astounding rottenness of its representatives and electors. The only reason why in earlier times, as in the sixteenth century this same corruption did not exist is given by Hallam, (volume three, page 43,) that there did not then exist the means of that splendid corruption which has emulated the Crassi and Luculli of Rome. Whereas in 1571, a member bought his seat for Westbury for £4, an election in York in the eighteenth century cost £150,000! The elections were controlled by the officers of the Government. It became necessary, to save the constitution, to reform these abuses, and the English statute-book groans with laws against placemen sitting in Parliament, against revenue officers having the right of suffrage, the disfranchisement of boroughs, and penalty on members for bribery.

The Revolution of 1688 prevented the destruction of the English system by the use of the prerogative. It declared against making kings independent of Parliaments by prerogative, but it substituted therefor a system which made Parliaments dependent on kings by corruption. Which was the easiest mode to destroy, it is not for us to ask at a time when the executive influence not only has been exceeding its constitutional limit in this country, but when the means of corruption are as a thousand to one in this country compared with England. Indeed, in the time of Walpole it was contended that the Parliament should corruptly depend on the Crown as the expedient to supply the want of power denied to the Crown by the Revolution. Even so good a moralist as Paley justified the use of patronage to influence Parliament.

In glancing at this history I will arrange a few salient illustrations under these heads: first, the attempts by executive intimidation and power to overawe the Commons; second, by corruption of the people and of the Commons to create a dependency on their part upon the Crown. First, most of the valuable privileges enjoyed by the House of Commons is due, not to the presence of the ministry, nor to the monarchical part of the constitution, but to the vigilant perseverance of tribunes of the people in spite of all the threats and penalties of the Crown. As early as Edward III it was customary to imprison members for freedom of speech; but this, like other grievances, was redressed in time, not because the ministry were present to aid, but because the Commons protested, and accompanied their protests with intimations that if their protests were not heeded, supplies to the king would be wanting.

The first English council was the Witenagemote. It lost its place in the Government by the ambition of the monarch, who designed to make all his vassals, and none his equals, in the powers of the State. After the king began to need military service and taxation he called his Parliament, but used and disused them at pleasure. They were slavishly submissive. When the Tudors ascended to the throne the contest began which has ended, in this reign of Queen Victoria, in the subordination of nearly all executive power to

the ministry, or the Parliament, which can upturn the ministry. Henry VIII occasionally used his Parliaments, but used them through the personal interference of Cardinal Wolsey in the House of Commons. (Smythe, vol. 1, p. 345.) His son, Edward VI, by the influence of a bad minister seeking control of Parliament, issued a proclamation to influence members of Parliament; a precedent followed afterward by Mary and by James I, and which in this country, if the Executive were more nearly connected with Congress, would follow every two years, and certainly every four years, especially in time of civil war.

Then followed Elizabeth's reign. Great men adorned her court; but around her crouched a submissive Parliament. They were her knights, and not her statesmen. She had her ministry subservient to her female caprices; and they "touched" her Parliament, and it bowed as to an oriental princess. It is a relief to find, what we so rarely find in our own times among the Puritans here, that old Puritan parliamentarian, Peter Wentworth, standing out of this gloom by his conspicuous intrepidity—the forerunner of the Hampdens and Pym of a later day. When Elizabeth strove to stop legislation by the queen's pleasure, on religious matters, he spoke as follows:

"We are assembled to make, or abrogate, such laws as may be the chiefest surety, safe-keeping, and enrichment of this noble realm of England. I do think it expedient to open the commodities (advantages) that grow to the prince and the whole State by free speech used in this place."

This he proceeded to do on seven different grounds; and he concluded:

"That in this House, which is termed a place of free speech, there is nothing so necessary for the preservation of the prince and State as free speech; and without this, it is a scorn and mockery to call it a Parliament-house, for in truth it is none, but a very school of flattery and dissimulation, and so a fit place to serve the devil and his angels in, and not to glorify God and to benefit the Commonwealth."

The House, it seems, out of a reverent regard to her Majesty's honor, stopped him before he had fully finished; and "he was sequestered the House for the said speech." Finally he was sent to prison; but we read of him, years afterward, questioning with rare courage the dispensing power which lost James II his crown, and should have lost Mr. Lincoln his election. It was true of this and subsequent reigns, as Dr. Burnet recorded, that he that will go about to debate her Majesty's prerogative, had "need walk warily."

The reign of the Stuarts is an era of conflicts, signalized by the State craft of the kings, and the protests of the Commons. The first Stuart, James I, had invaded even the presence of the House, sent its members to the Tower, and contemplated the beheading of others. He had even torn their proceedings from the journals. Prerogative went so far that in the time of the first Charles no Parliament met for twelve years. Irregular levies of money and men, and the severities of the Star Chamber and High Commission, drove the people to exile in America, and to despair of their liberties. These institutions were the subservient Parliaments of the time—all their members being the tools of tyranny. At last a minister proposed the ship-money tax. Hampden opposed; then came the reaction and the revolution. The Parliament conquered; only to be in turn driven from their places by the Protector, because their debates were disagreeable. When the Restoration came, the "healing Parliament" met; and the king was their suitor, but not long a suitor. His ministers were in Parliament. The republican element was weeded out. It would have been worse, but that the profusion of Charles II in his pleasures was so great that "no minister could find sums sufficient to buy a Parliament." He stood, therefore, on his prerogative, strained as far as he durst, and made all the use of it he could." (Craftsman, No. 442.) He even depended on foreign gold to bribe his Parliament and pamper his mistresses. The House continued eighteen years, a large number of members practiced on, and a large number notoriously bribed. When a new Parliament was called their disposition was so sordid, and the flatteries around the throne so detestable that the English historian blushes as he records their slavish submission. Russell and Sydney shine out of this time only by the halo around their martyr-brows. When Charles died his brother, James II, added to this corruption

another strain of the prerogative, and a degree of bigotry which was wholly his own. The Parliament of his time had been managed, both at their election and when they met; and so successfully managed, that when James looked over the list of returns he declared there were not more than forty names which he could have wished not there. It sat a year. A few brave words from Coke of Derby, and he was sent to the Tower for undutiful reflection on the king. Then came another reaction. It was sudden, and the Revolution of 1688 was accomplished.

From that time the influence of the Crown upon the Parliament has been most apparent and deleterious by their corrupt dependency on each other. One of the first grievances to be remedied by the new dynasty was the purification of the Commons. A place bill was brought in. By it all members of the House of Commons were incapacitated from holding places of trust and profit. This was the model of our constitutional clause. It was passed in England finally, but rejected by the king's veto. Mr. Hallam (volume three, page 187) says:

"The baneful system of rendering the Parliament subservient to the administration, either by offices and pensions held at pleasure, or by more clandestine corruption, had not ceased with the house of Stuart. William, not long after his accession, fell into the worst part of this management, which it was difficult to prevent, and, according to the practice of Charles's reign, induced by secret bribes the leaders of parliamentary opposition to betray their cause on particular questions."

Secret-service money was proved to have been used among members. Hallam enumerates the facts, and from them it will appear why, even after the place bill failed, a check was still put upon the number and quality of placemen in the lower House. The proper remedy then was the banishment, as our American ancestors provided, of all the servants of the Executive from the legislative councils of the nation. One thing, however, they did establish. In 1694 the board of revenue were incapacitated from sitting in the House. In 1699 the law was extended. In 1700, by the act of settlement, all officers were excluded. In 1706 the law was repealed, and but for this repeal England to-day would exclude the cabinet altogether; but she preserved the principle and limited its extension.

One provision she did establish, which to-day operates against an overwhelming influence of the ministry. (Hallam, volume three, page 191.) Every member accepting an office must vacate and a new election must be had. She excluded pensioners. These provisions, says De Lolme, (volume one, page 476, &c.,) originated from the continued corruption of Parliament. An "act of security" limiting the number of persons in office eligible to Parliament was enacted. I refer to these precautions in favor of liberty now as the argument against the present measure. What was reasonable then is, so long as human nature remains the same, reasonable now. As De Lolme writes:

"It is impossible to question the policy of these enactments, for, as Algernon Sydney observes, 'Men are naturally prone to corruption; and if he whose will and interest it is to corrupt them be furnished with the means, he will never fail to do it. Power, honors, riches, and the pleasures that attend them, are the baits by which men are drawn to prefer a personal interest before the public good; and the number of those who covet them is so great that he who abounds in them will be able to gain so many to his service as shall be sufficient to subdue the rest. It is hard to find a tyranny in the world that has not been introduced in this way.' In truth, he who has tasted the sweets of dishonest and clandestine lucre would, in the words of the poet, be no more capable afterward of abstaining from it than a dog from his greasy offal."

Notwithstanding all these precautions, so long as the ministry remained in the Commons, Parliament was paramount. In the time of Anne, in 1712, bills were again brought in still further limiting the number of officers of Government who could sit in Parliament. Fifty was proposed. Even that number failed in the House of Lords. The principle of preserving the influence of the Crown unhappily prevailed. The same arguments now used for this bill were used then. The same indifference to personal probity and political integrity are observable. Well might Queen Anne, therefore, dissolve one of her Parliaments, declaring it was her pleasure to admit of no debate. Out of this right arose the golden dawn of Walpole! The forecast of the wise statesmen of England had been exerted in vain. In vain had place bills been again tried; in vain were elections contested for bribery; in vain were mo-

tions to retrench pensions. George II denounced all such bills as "villainous;" and his ministry did not scruple to send Tories to the Tower for contumacious debate. A bishop declared that an independent House of Commons was as inconsistent as an independent king. Truly was it exemplified. For the two powers became dependent on each other, made so by the golden mean of the minister who so long held his tainted sway. Doubtless Walpole had his amiable qualities. Some one says he would have been held worthy of his high station had he never possessed it. The lines applied to him are well known:

"Seen him I have, but in his happier hour  
Of social converse, ill exchanged for power;  
Seen him, uncumbered by the venal tribe,  
Smile without art, and win without a bribe."

Doubtless he used the arts of persuasion. His continuance in power is attributable not a little to this resource, but mostly to his mercenary management. He arose from personal merit. He managed the king as well as the Commons. Places, pensions, bribes, were profusely strewn along the aisles of St. Stephen's; and though partially hidden from the eyes of contemporaries by the burning of the papers of the minister, yet as Smollett reveals, (volume two, page 311,) the guilty minister quarreling with a confederate, Mr. Stanhope, revealed their practice of selling places and reversions. A member standing up said, "Since they had by mischance discovered their nakedness, the other members ought, according to the custom of the East, to turn their backs upon them." In his History, Mr. May (page 300) says that the majority of the House of Commons was long retained in subjection to the minister by an organized system of corruption.

This system was continued until the reign of George II; and Lord Bute secured the aid of Walpole's agent to keep up the management of the Commons during the early part of the reign of George III. The war with America never would have been undertaken or upheld but for the purchase of Parliament by Lord North. Shops were opened for members. Some years £41,000 of the secret service were used to purchase votes. Stock-jobbing and lotteries were substituted for direct bribes. Not until Mr. Pitt came into office was there a stop put on these infamies, and then only for a time. Contractors, nabobs, gold—these are the words upon which the changes were rung by Burke and others pleading for reform in the English Parliament. But Parliament strove in vain; the age was corrupted by war and avarice; it was a time

"When infamous Venality, grown bold,  
Wrote on its bosom, To be let or sold."

It was from this source that good men predicted the ruin of English liberty. Montesquieu said, "*Il périra lorsque la puissance législative sera plus corrompue que l'exécutive.*" But for the restraints of the press gradually freeing itself from the toils of the time, and the public opinion which was enfranchised by the French Revolution, the admission of the public to the Commons, and the publicity of the debates, the English constitution would either have been destroyed or revolution would have changed its features into something like our own. Of all the instruments of despotism a paid Parliament is the worst, just as the corruption of the best things are the worst. "Tyranny," said Sydney Smith, speaking of this time, "is worst where a majority of a popular assembly are hired, and a few bold and able men by their brave speeches make the people believe they are free." The secret influence of the Crown was at work through the influence of the younger Pittall through the French wars, and was sapping by its corruption the foundation of English liberty. From that time till the last reform bill of 1860 efforts have been made to lessen the corruption and bribery of the English elections and Parliaments, but in vain. So long as men are moved by their interests, so long will places, honors, emoluments, contracts, and power feed the servile horde of mercenaries who will buy out of the labor of the oppressed and tax-ridden people the very offices of legislation to prostitute them to power.

I do not detain the House with the specific modes by which the Crown or the ministry have ruled England through a subordinated Parliament. Sometimes they made the Speaker; sometimes shut the Opposition members in the Tower; some-

times the king himself, as George III at Portsmouth, interfered to secure the election of his friends; sometimes the list of court favorites was foisted in upon boroughs against the will of the people, as in Wilkes's case; sometimes, as in the case of Colonels Barré and A'Court, officers were deprived of their commands for their votes in Parliament against taxing America. Lord Shelburne was dismissed from his office as aid-de-camp to his Majesty, Mr. Fitzherbert from the Board of Trade, and General Conway from his office of Groom of the Bedchamber, for the same reason. James I had committed Sir Edwin Sandys as Charles I had committed Selden and others to prison, and the Georges had punished all prominent opponents so far as they could for their conduct in Parliament. Everywhere in English politics do we find not only open but secret interior cabinet influences at work to assail the Parliament and assist the monarch. Even Lord Chatham bowed so low to the king that he lost the dignity of his character in his obeisance, while he shed tears at the kindness of the king in making him the lord which killed his influence. In the time of George III the king staked his personal credit upon the success of his measures, and regarded opposition to his ministers as an act of disloyalty, and their defeat as an affront to himself. (May, 49.) During this reign, when England lost so much, Lord North supported the king against the aristocracy, the Parliament against the people; and the nation against the colonies. It was this influence which Mr. Burke called "the perennial spring of all prodigality and of all disorder; which loads us with millions of debt; which takes vigor from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution." Complaints of this influence did not stop with the death or insanity of George III. England learned nothing. In the subsequent reign of George IV Mr. Brougham denounced the same influences of the Crown. To it may justly be attributed the long discussions year after year as to reforms and Catholic emancipation, which in our system would never have been patiently listened to for a day. Upon the accession of Victoria the same jealousy was apparent. Sir Robert Peel would not take office or form a ministry until the ladies of the queen's bedchamber were dismissed!

But why enumerate these disgraceful conflicts, happily unknown to our system? We have as yet no corrupt civil lists, no patronage to influence our Congresses directly, no inordinate expenditure to satisfy the greed of placemen; no placemen in Congress who, having bought their places, are ready to sell their votes; no letters of Washington, Adams, or Jackson are exhumed like that of the English king, who wrote, "If the Duke requires some gold pills for the election, it would be wrong not to satisfy him;" no disgraceful traffic in boroughs; no "nabobs, commissaries, or West Indians" here to buy places with their shoddy wealth, and sell their votes for rank.

But these may come. In these times, when wealth springs so suddenly from a hundred sources; when contractors, lobbies, speculators, stock-jobbers, and millionaires are making the abyss so wide between the rich and poor; when even the old lean earth has become as round as an alderman, and as oozy of oil, [laughter.] may we not expect a mercenary Legislature who will follow the executive drum when it beats to quarters, even in this Hall?

But is it answered that Congress, like Parliament, holds the power of impeachment and the purse strings? England, too, boasted of this for her Commons; but impeachment has been rare in England—only two cases since the Revolution, and these not of ministers, though the corruption has been notorious. The ministers protected themselves against corruption by their presence and their patronage. In America we have had little corruption of our Cabinet, because there has been no contact of or responsibility to Congress, and no occasion for its exercise of impeachment.

But am I told that the Commons have a veto on the Crown by the vote on supplies? There is not a case since the Revolution, or at least but one or two, where the Commons have failed to grant just what ministers asked. (May, page 441.) They have acquiesced in all demands. Since they have controlled the finances the expenditure

has increased fifty fold, and a stupendous national debt. The people have ground to complain of their stewardship, but the Crown and its ministers have not.

It will be so here invariably when the heads of Departments are invited to our Halls. The subversy will be greater, inasmuch as our expenditure is so unexampled, and the civil war has so aroused party feelings. When that time comes, we should so amend this measure, as it was suggested by Bolingbroke in the time of Walpole, that all members, whose relatives had been preferred, or who had sold their votes, should be distinguished by some outward token, that the galleries might note them, as you may know a horse to be sold by a colored ribbon on his bridle.

The committee would assimilate our system with that of England. Let them not be backward, but go to the full length of the precedent. An attempt was made to copy the English custom and to remove our desks some few years ago. It was tried, and failed, because the body could not make themselves used to the change. Why not, at the same time, have our Speaker dressed after the fashion of the English Speaker, in a silken gown and a horse-hair wig? I would be willing to give my mileage in the next Congress [laughter] if you, Mr. Speaker, would be willing to be thus tricked out. [Laughter.] Why not also have our Sergeant-at-Arms, Doorkeepers, and assistants dressed in black tights and knee-buckles sworded and belted with authority? Why not have the members sit with heads covered, except when rising to debate? (Barclay's Digest, page 78.) Why not introduce the peculiar exercises by which jubilant or impatient members are wont in the English Parliament to greet the speakers whom they like or dislike? Our rules, as collated by Mr. Barclay, or rather in the Manual of Jefferson, (Barclay, page 75,) seem to point to some such diversions which the committee have overlooked:

"Nevertheless, if a member finds that it is not the inclination of the House to hear him, and that, by conversation, or any other noise, [laughter,] they endeavor to drown his voice, it is the most prudent way to submit to the pleasure of the House and sit down; for it scarcely ever happens that they are guilty of this place of ill manners [laughter] without sufficient reason."

The utility of such performances would be apparent as a relief from the tedium of a Cabinet disquisition or a lecture from the throne through the Secretary of State. It is recorded in Cobbett's Parliamentary History, in Elizabeth's time, when an arrogant ministry demanded subsidies of the Commons, that "an obsequious sergeant Hyle, said, 'I marvel much that the House will stand upon granting a subsidy, when all we have is her Majesty's,' at which the House hemmed, laughed, and talked." So that there was in England a remedy against ministerial arrogance in the boisterous clamor of the Commons. This system was brought to the highest refinement in these later days when I have seen in Parliament scenes of indecorum that would utterly startle any one but a Disraeli or a Peel from their propriety. Dr. Warren, in that authentic record of Titmouse's exertions when elected to Parliament, has happily illustrated the English system. That person so long kept down by modesty, the twin sister of merit, brought into requisition some of his early accomplishments, and attained a sudden distinction. He had been accustomed, when a haberdasher's clerk, to imitate the cries of cats, the squeaking of pigs, the braying of donkeys, and the yelping of curs, and the crowing of cocks. [Laughter.] The biographer, in referring to these elements of his genius, says:

"He could imitate a blue-bottle fly buzzing about the window, and, lighting upon it, abruptly cease its little noise, and anon flying off again, as suddenly resume it; a chicken, peering and picking its way cautiously among the growing cabbages; a cat, at midnight on the moonlit tiles, pouring forth the sorrows of her heart on account of the absence of her inconstant mate; a cock, suddenly waking out of some horrid dream, (it might be the nightmare,) and, in the ecstasy of its fright, crowing as though it would split at once its throat and heart, alarming all mankind; a little cur, yelping with mingled fear and rage, at the same time, as it were, advancing backward, in view of a fendish tom-cat with high-curved back, flaming eyes, and spitting fury."

It was upon a certain night when the ministry had a pitched battle with the Opposition that the opportunity came for the display of these qualities. The debate waxed hot and personal. The leader of the Opposition was replying to a minister. It was as if my friend before me was excoriating the War minister for his arbitrary arrests. [Laugh-

ter.] Vehement and tumultuous cheers burst forth in answer to his eloquent denunciations. The ministry sat pale and anxious. Closing his recapitulation of points with frantic energy, he exclaimed:

"And now, sir, does the noble lord opposite talk of impeachment? I ask him in the face of this House, and of the whole country, whose eyes are fixed upon it with anxiety and agitation, will he presume to repeat his threat, or will any one on his behalf? Sir, I pause for a reply."

And he did pause, several seconds elapsing in dead silence, when presently a most astounding and unprecedented sound of "cock-a-doodle-do-o-o" [great laughter] issued, with inimitable fidelity of tone and manner, from immediately behind Lord Bulfinch, who sprang from his seat as if he had been shot. Every one started.

Thus a ministry was saved. [Laughter.] Political importance, never vouchsafed to eloquence, followed this timely expression. The member became famous; English parliamentary history received an example which our committee would do well to consider in the future perfection of this English system reported by them!

During the debate of yesterday, Mr. Speaker, I cannot but think, after the splendid speech of my friend from New York, [Mr. Brooks,] in defense of his privilege, he had the right to crow his "cock-a-doodle-do-o." [Laughter.] Or perhaps the gentleman from Illinois, [Mr. INGERSOLL,] after his splendid defense of General Grant, [laughter,] was entitled to practice the same art of statesmanship. [Laughter.] I might have called on the venerable member from Pennsylvania, [Mr. STEVENS,] after his good-natured reply [laughter] to my friend from New York, [Mr. Brooks,] to give us an exulting crow over his success!

Were I possessed of such an accomplishment, sir, I would use it to usher in, with the notes of chanticleer, a better dawn for our country!

But, sir, these are arguments rather *ad absurdum*. Still, if we are to begin on the English model, where are we to stop?

Let the committee, therefore, assimilate our system altogether to that of England. See how it will work practically without a change of the Constitution; without the Cabinet responsible to Congress; without their being either elected when appointed, or resigning to be reelected when they take office. Place them here in our midst. Make a ministerial bench across the way. Remove, as was done a few years ago, these desks. Allow the members to be seated as in St. Stephen's or in the new Houses on the Thames. Let me make the picture—a Cabinet picture for the committee. Of course the heads of committees should sit by the side of the heads of Departments. My colleague [Mr. H. W. DAVIS] on the Foreign Affairs would occupy a seat by the side of Mr. Seward. The one represents Maximilian, the other Juarez, but no matter. Lovingly they sit. The chairman moves to impugn the statesmanship of the Foreign Secretary. The Houses sustain the committee. Mr. Seward complacently smiles at the *brutum fulmen*, and sends his minister to Mexico to recognize the empire! The Secretary of the Treasury is seated between the gentleman from Pennsylvania and the gentleman from Vermont. In comes the venerable Secretary of the Navy. Neptune with his grave beard and trident is not more solemn, rising from his saline couch. [Laughter.] The Secretary of the Interior! Around him gather the Indian, Land, and District Committees. The Attorney and Postmaster General, both new as to the House, urbane and tremulous, yet confident that no mistakes of theirs can be reached by congressional action. The House is opened—then is solemnized by prayer to the Inscrutable Essence whom it is our privilege to worship under the poetic piety of an accomplished Chaplain. [Laughter.] The Journal is read! The Speaker raises his gavel, when a rumble, like the *Temblor* which precedes the earthquake in volcanic regions, sounds through the corridors! All eyes are fixed upon the door! *Voilà!* the thundering Secretary of War appears! [Great laughter.] Upon his brow the very feature of Mars, to threaten and command! Room for the War minister! His flowing beard and spectacled face, so familiar to our eyes

"Assume the god, affect the nod,  
And seem to shake the spheres!"

[Laughter.]

What to him are the princes of Begum, referred



to yesterday in debate! What the princes of Lahore, with their Koh-i-noors? A whole casket lies in his glance; for is he not the dispenser of \$500,000,000 a year? [Laughter.] What to him the civil list of George III, which the Speaker Norton told the king was great beyond example? Millions hang upon his smile, where only thousands hung upon the smiles of the proud monarchs of England! What to him are the satrapies of the Indies? Whole hecatombs of greenbacks daily are sacrificed by his order! In plain attire, but potent mood, he comes! Far off his coming shines; in form and seeming buta man, but in imagination like the angel of the pit, floating many a rood on the burning marl of war! About him herd thousands of slaughtered beef. [Laughter.] Around him throng millions of tons of forage; guns and wagons, horses and mules—an innumerable host, too great for the contracted mind of man; and from his brow hang bounties for millions, and honors for all! Before him fall, as before an oriental throne, the prostrate House. In vain the Speaker calls to order! In vain the Sergeant-at-Arms brandishes the mace! Our symbol falls before the golden wand of this magician of war! At length he, too, deigns to sit. He is flanked by my military colleagues, [Messrs. SCHENCK and GARFIELD,] and the House is ready with their questions! Rare diversion here, Mr. Speaker. The record provided by the Clerk is produced. My colleague, [Mr. SCHENCK,] or rather my colleague, [Mr. GARFIELD,] with that sense of military skill and courage for which he is so distinguished, is the first to rise to inquire of the War minister, and not without embarrassment. The House is breathless as he asks—what? Whether the blowing out of the bulkhead of the Dutch Gap canal by Butler has seriously affected the backbone of the rebellion? [Laughter.] If ay, how many veterans are demolished; and after conference with the Naval Committee, whether the canal, in case of a tempestuous sea, is navigable for double-enders; and whether they cannot go either way therein without turning round? [Laughter.]

The gentleman from Illinois [Mr. WASHBURN] would call up the head of the Treasury and ask whether it would be best to tax the whisky drank in the last century, with a view to assist Legislatures of States to a patriotic choice of Senators, [laughter,] and if so, what amount should be levied on the spirits of '76? [Laughter.] The chairman of the Ways and Means—ever ready to defend his positions—would inquire, with the gravity of Pluto's iron countenance, whether it would not be wise to enact a law punishing with death all who might sell peanuts and putty on any other than a gold basis. [Laughter.] A chorus of voices would inquire whether the Treasury could not so interpret the five per cent. income tax as to relieve members recently defeated from all tax upon their mileage in the next Congress. [Laughter.]

Then the venerable Secretary of the Navy would be put to his catechism. A member from Massachusetts would inquire what effect the payment of codfish bounties, as a nursery for our seamen, would have upon the navigation of the iron-clads. [Laughter.] I might be tempted myself to ask of the same venerable master of the trident whether the Abyssinian was used by Cleopatra in her naval service; if so, were they at the battle of the Nile; and "were they there all the while." [Laughter.] If so, what Pompey thought of it. [Laughter.]

But the gentleman from Vermont, ever alive to the interests of New England, [Mr. MORRILL,] would inquire triumphantly of Mr. Fessenden whether the tariff should not be so amended as to increase the duty on dyestuffs and paper, so that, on a future issue of \$17,000,000,000 of greenbacks, the tariff will be prohibitory, the prices raised, and a satisfactory deficiency be produced in our revenues. [Laughter.] Or whether, by raising the price of dyestuffs and paper, the value of greenbacks in the market might not be made equal to the cost of their manufacture? [Laughter.] But what a stunning blow would be given by a Democratic member, who, rising solemnly, should inquire of the War Department what protection, in case of foreign war, is afforded by the manning of Forts Warren and La Fayette by their present loyal force; if so, how many are there at this time; how long have they been there, and with what prospect of relief. [Laughter.] I think my friend

from Maryland [Mr. HARRIS] would ask that question. [Laughter.]

Nor should the gentleman from Indiana, [Mr. HOLMAN,] the most useful member of this House, ever faithful to the soldier, be omitted from the programme. What, with crushing results, could he inquire of Mr. Stanton, what effect our Democratic efforts here to increase the pay of the soldiers has had on the recent elections. And if not, why not? [Laughter.] Perhaps this, too, interests my colleague in front, [Mr. PENDLETON,] who took some interest in soldier's pay and the last election. [Laughter.] Or, rising to the innocent sublime, the gentleman from Iowa [Mr. GRINNELL] should ask the Navy Department—

Mr. EDGERTON. What gentleman from Iowa does the gentleman mean?

Mr. COX. My pastoral friend. [Great laughter.]

Mr. GRINNELL. I simply wish to ask the gentleman from Ohio whether he proposes to revive the church-partnership movement in the State of Ohio.

Mr. COX. I have no doubt the question put by the gentleman from Iowa is very appropriate, and that it should have been addressed to one of the Cabinet ministers; but I did not hear it. [Laughter.]

Mr. GRINNELL. I am opposed to the admission of Cabinet ministers.

Mr. COX. I know you are opposed to it; but if they should come in you would probably like to ask a question about the sheep business. You would naturally, perhaps, ask the question of the Secretary of the Navy, Mr. Welles, whether or not the Argonautic expedition of Admiral Jason would have had any effect, in case the Golden Fleece had been captured in Australia, either on the gold market or the price of wool. [Laughter.]

I present these fanciful questions as an *argumentum ad absurdum*. If such questions were put by the veterans of the House, what might we not expect from the awkward squad? [Laughter.] One thing only they are designed to show: that, ridiculous as they seem, they are not more ridiculous than the questions of the English parliamentarians, which are invariably laughed at or avoided. These illustrations of the abuse of the legislative by the executive power are drawn from a country where the Government is parliamentary, and the responsibility ministerial. In our country the Government and responsibility are distributed between the Executive and the Legislature, and there is no such thing as a ministerial responsibility. The Executive is responsible to the people, on the expiration of his term of office, and no responsibility exists to the people or to the Congress which can, before that time, remove him. But enough is shown to conclude that if the Executive by its Cabinet were in contact with the Legislature, the people would lose, through the aggressions of power and the persuasions of corruption, their share of the Government, and the Legislature, representative of their interests, would become the pliant instrument of the Executive. The democratic element of our institutions would be expunged, and the power which in England reached Parliaments and people to corrupt and enslave would here be used for the same purpose.

The Executive here is not above the motives which have swayed men in high office in other times. There is a constant tendency in the Executive to enlarge his power. The princes of antiquity used to deify themselves. Even the English kings "surrounded their persons with the *jus divinum*." We find in democratic America a perpetual ascription of glory to power. Even in this House I have heard members say "Adopt this policy, because our rulers have ordained it." Indeed, the committee in this report have transfixed several members of this House on this point of passive obedience to the powers, (see page 15.) The gold bill and loan bill are the acts I refer to, and the gentlemen are from New York, [Mr. MORRIS,] from Massachusetts, [Mr. HOOPER,] and others. When the gentleman from Pennsylvania [Mr. STEVENS] spoke he gave another voice. "I bow," he says, "to the opinion of the Secretary of the Treasury—if it is right." I might well believe that he would not fall into an unreasoning acquiescence with the judgment or wish of any Department. I read in the debates of the Pennsylvania constitutional convention in 1837,

upon the dangers of Federal and Cabinet influences, that when Walter Forward sought to divorce his State from such dangerous and fatal connection and patronage, he gave his earnest support to Mr. Forward. I reckon upon his vote against this measure, which has similar tendencies.

The report dwells upon the practice of other countries besides that of England. I will not seek to draw my lessons in legislation from France, or even Italy or Spain. We know what degree of liberty is allowed in those lands. I doubt if France has made any progress in her assemblies since the middle ages. It is related of the minister De Marigny, that wishing to gratify the king, Philip le Bel, in a levy of taxes, he called the Assembly of States; a great scaffold was erected; the king lords, and bishops took their places on it; and the Commons attended at its foot. The minister proposed an excise. The king, says an old chronicle, rose from his throne and advanced to the extremity of the scaffold that he might second by his looks the harangue of his treasurer and see who refused and who consented. This is the idea of the committee. The Cabinet will be here, not to vote, but, by their looks, to second the demands of the President; and woe to him in all future who dares to vote against the Administration! The eyes of the Cabinet will be upon him. Bastilles, Towers, imprisonments, may be powerless now, to influence us; but who has not constituents of influence at home, anxious for the fat of contracts or the drippings of office!

Mr. Speaker, if I did not believe that this measure would tend to increase the power of the Executive at the expense of the Legislature, I would have remained silent. But, sir, in times like these I would be most careful of the purity of the Legislature. I believe that in these days of usurpation of power, when unheard-of claims and inexplicable conduct have marked the executive career; when the power of Congress in foreign affairs has been denied at a distant court; when the laws we pass here are set aside by the minions of power, and when the State is afflicted with a civil war and its incidents of expense, patronage, and increased authority, that we should guard our portals as sacred from the intrusion of the ministers of that power which debauches. I must enter my negative to the opportunity for corruption. I do not forget the prayer that we be "not led into temptation." I base my opposition to this measure in the depravity of our nature. I remember that nations have fallen when their rulers yielded to the lures of the mercenary. Rome reared her grandeur by centuries of virtue, wisdom, and blood. When she lost her virtue she lost her grandeur and her power. Luxury favored corruption, and venality gave to the tongue of her Juvenals the fiercest shafts of satire. When her magistrates were elected by bribes, the sentences of her judges were purchased and the decrees of her senate were sold, then her liberties fell, and the mistress of nations became the scorn and prey of the barbarian. Then she was ruled by a Claudius, a Nero, a Caligula, and a Narcissus; by ministers who were emancipated slaves, parasites to power, and panderers to rapacity. Shall such be the finale of these, our terrible trials? Let us beware that we do not open the door to this mask of death, this saturnalia of hell. Whether such would be the result of this junction of the Legislature and the Executive, it is not for me to allege; but I would not open the breach, even if I were careless of the attack.

It is thought that this union of the Cabinet and Congress will elevate the standard of eloquence and statesmanship. England is pointed at as an example. The greatest efforts of oratory have been made against ministerial corruption and executive aggrandizement even there; and now in England, where the system is in full operation, the forum cannot boast greater names than those who opposed these encroachments upon the popular assembly. Pym, Hampden, Wentworth, and Falkland in their great struggles with Charles; Pulteney, Wyndham, and Bolingbroke in their struggles against the corruptions of the time of Anne; Chatham, thundering against George III and his minister, and Fox echoing back his Demosthenic philippics against the son of the great Commoner; Burke with his splendid imagery; Erskine with his pure and earnest style; the finished precision of Wedderburn; the silver tongue of

Murray; the gentle persuasiveness of Wilberforce; the splendor of Sheridan; the wisdom of Camden; the vigor of Lord Grenville; the epigram of Grattan; the brilliance of Canning; the substantial logic of Peel; the invective, pathos, and humor of O'Connell; the brilliant antithesis of Shiel; the masterly force of Lyndhurst, and the rushing vehemence of Brougham, all adorn the parliamentary oratory of England, and would have adorned it still more had not the seductions of power often led them to degrade their genius and forget their inspiration as the guardians of England's greatness and glory. It is, alas! too true, that their finest efforts were made either in the defense or prosecution of great crimes and wrongs. Need I show to this House how nobly our own Senate and this House have been graced by our own orators? Their like will never more be seen here, until the Executive with his millions shall here creep into our free Halls, and by his corrupting influences call for the deep thunders and fierce lightnings of a nation's wrath expressed in the noble fervor of the future tribunes of the people.

In conclusion, Mr. Speaker, I place my warning voice, not so much against this measure, but using it as the occasion, against that truckling subserviency to the power of the Executive which will dethrone the people and make them fit tools for the corruption of an evil day. The exercise of arbitrary prerogatives may not be here enacted; no armed troops may enter here; no arrests may violate our privileges; but if they do not, the evil serpent of corruption may creep into our places and insinuate its cunning and thus corrupt the integrity of the Legislature. Members may here fall a victim to power, if not open and bold, secret and malevolent; and when that fall begins, where will it end except in the fall of our liberties? Recollect that in civil wars moral obligations are torn asunder, the peaceful habits of life and thought are disturbed and destroyed, and other virtues not so compatible with liberty, but always compatible with licentiousness, alone survive. When we have progressed so far on the path of military renown that the nation will begin to regard its best defenders as its foes, and the enemy of its corruptions as the enemy of its Constitution—then indeed will liberty have lost its last refuge, perhaps even here in this Hall of the people; and though, like its devotee, Algernon Sydney, it may move with serene eye, untroubled pulse, and unabated resolve, from this, its chosen forum, to the scaffold of its fate, we may yet mourn over its memory, or, disdainful of its executioner, soar away to some loftier code of justice and right, where equality and freedom can be realized in the splendor of a better vision.

Mr. GARFIELD. Mr. Speaker, I will not detain the House long on this subject. I know how difficult it is to get the attention of members, when they have just attended a place of amusement, to the consideration of a grave measure. I know how ungrateful a task it is to attempt to recall their attention after the exhibition to which the gentleman from Ohio [Mr. Cox] has treated them. The gentleman's speech sufficiently proves that he has read his law on the subject from Sergeant Buzfuz, and his constitutional and legislative history from Tittlebat Titmouse, to whom he has just referred; for certainly the history of legislation, as reflected in the Journals of Congress, gives no support to his position.

I am glad, Mr. Speaker, that we can, for once, approach the discussion of a measure on its own merits, uninfluenced by any mere party considerations. I wish we might in the discussion of this subject be equally free from that international jealousy, that hereditary hatred, so frequently and unreasonably manifested against Great Britain. I have noticed on the faces of members of the House a smile of satisfaction when any speaker has denounced the proposal to copy any custom of, or borrow any experience from, the Government of England. No man on this floor is more desirous than myself to see this Republic stand erect among the nations, and grant and exact equal justice from Great Britain. I fully appreciate how little friendship she has shown us in our great national struggle, yet I will not allow my mind to be so prejudiced as not to see the greatness, the glory, and the excellence of the British constitution. I believe that, next to our own, and in some respects perhaps equal, if not superior, to our own, the constitution of Great Britain stands

highest for its wisdom and its security to freedom of all the constitutions of the civilized world. It does not become us, therefore, to set it aside as unworthy of our study, of our careful observation. Gentlemen should not forget that, in the days of George III, England, as well as America, emancipated herself from the tyranny of kingly prerogative; and it may be well questioned whether the two streams that sprung from that great struggle have not been flowing in parallel channels of equal depth and greatness, one on this continent and the other in the British islands.

It may well be doubted whether there is not as much popular freedom and more parliamentary security in the Kingdom of Great Britain than in this Republic. A gentleman who has lately crossed the sea, a man of great ability, and a philosophical observer, has said that to-day the British ministry is nothing more nor less than "a committee of the House of Commons." And I believe he described it correctly. I believe that no nation has a ministry so susceptible to the breath of popular opinion, so readily influenced and so completely controlled by popular power, as is the ministry of Great Britain by the House of Commons. Let one vote be given against the plans of that ministry and it is at once dissolved. It exists by the will of the House of Commons. How does this come about? From the fact that at the very time we emancipated ourselves from the kingly prerogatives of George III, so by the parliamentary reforms in Great Britain did that nation also emancipate itself and establish parliamentary liberty in England. It does not, therefore, become gentlemen to appeal to our ancient prejudices, so that we may not learn anything from that great and wise system of government adopted by our neighbors across the sea.

In the consideration of this question I shall touch upon three leading points: first, precedents from our own history; second, the constitutionality of the proposed measure as exhibited in the early discussions and laws; and third, its policy.

The precedents cited by the gentleman from Ohio, [Mr. PENDLETON,] the chairman of the select committee, in his very able report, established beyond all question that in the early days of the Republic, under the Constitution, heads of Departments did come upon the floor of Congress and make communications. No man, I believe, has denied that; I think no gentleman can successfully deny it. My friend from Vermont, [Mr. MORRILL,] if I understand it, denies that they did more than to meet the Senate in executive session. I am glad to see that the gentleman assents to my statement of his position.

I will now cite two examples where the head of a Department came on the floor of the House and made statements. If the gentleman will turn to the first volume of the Annals of Congress, page 684, he will find the following entry under date of August 7, 1789:

"The following message was received from the President of the United States by General Knox, the Secretary of War, who delivered therewith sundry statements:"—

Some gentlemen may say those statements were in writing. I ask them to listen a little further: "who delivered therewith sundry statements and papers relating to the same."

So that the Secretary of War came to the House of Representatives and made statements.

Mr. MORRILL. I will say to the gentleman from Ohio [Mr. GARFIELD] that I take that to mean nothing more than what the Private Secretary of the President now does every day. At that time the President of the United States had no Private Secretary, but he used the members of the Cabinet for that purpose, and for that purpose here only.

Mr. GARFIELD. I would like to ask my friend from Vermont [Mr. MORRILL] whether the Private Secretary of the President ever makes any statements except the mere announcement of the message which he delivers?

Mr. MORRILL. I take it that that was all that was contemplated then. We daily have communications from the President, containing more than one document, statement, or paper.

Mr. GARFIELD. My friend from Vermont [Mr. MORRILL] has assisted me. He now makes the point that the expression "statements," here referred to, is merely the announcement of a message. I call his attention to the second case which I will cite, from the 689th page of the same

volume. On the 10th of August, 1789, the President sent in a message by the hands of General Knox, who delivered the same, "together with a statement of the troops in the service of the United States." He made to the House of Representatives statements about troops in the service, so that the statements referred to are not merely statements of the fact that he delivered a message of the President.

Mr. MORRILL. I do not like to interrupt the gentleman from Ohio, [Mr. GARFIELD,] but I must insist that his second instance does not prove the fact which he assumes. He will find, if he will proceed further on in the same volume, that when the question came up distinctly upon allowing the Secretary of the Treasury to come in here for once, and once only, it was then declared that it would be setting a new precedent, one which they could not tolerate, and which they did not tolerate, but voted down after discussion.

Mr. GARFIELD. The gentleman has helped to pioneer my way handsomely thus far. I am coming to the very example to which he refers, and which I have examined with some care. I come now to my second point, the discussions in the Congress of the United States touching the constitutionality of the proposed law. There were discussions at five different periods, and only five, so far as I have found, touching this general subject, in the history of Congress. The first occurred in the First Congress, when it was proposed to establish Executive Departments.

On the 19th of May, 1789, Mr. Boudinot, of New Jersey, moved that the House proceed, pursuant to the provisions of the Constitution, to establish Executive Departments of the Government, the chief officers thereof to be removable at the will of the President. Under that resolution arose a full discussion of the nature of the offices to be created, by whom the officers were to be appointed, and by whom removed. The discussion covers forty or fifty pages of the volume before me, and embraces some of the very ablest expositions of the Constitution to be found in the early annals of Congress. After this long discussion the following results were arrived at, which will answer some of the points just made by my colleague from Ohio:

First, that the Departments were to be established by Congress, and the duties and general scope of powers vested therein to be established by law; but the incumbents of these offices were to be appointed by the President, and removable at his pleasure.

It was clearly determined, in the second place, that these officers could be removed in two ways: first, by the President; second, by impeachment in the usual modes prescribed in the Constitution.

It was thus settled, in this great discussion, not, as is said by my colleague who has just taken his seat, that Cabinet ministers are the creatures of the President and responsible to him alone, but that their very Departments and the whole organization of them depend in every case upon the law of Congress, and they are subject to impeachment for neglect of their duties or violation of their obligations in those offices.

The second discussion occurred in the same year when the Treasury Department was established, and in that instance the discussion became more precise and critical, bearing more nearly upon the particular question now before us. A clause was introduced into the law establishing the Treasury Department, providing that the Secretary of the Treasury should be directed to prepare plans for the redemption of the public debt, and for all the different measures relating to his Department, and—

"That he shall make report and give information to either branch of the Legislature, either in person or in writing (as may be required) respecting all matters which may be referred to him, by the Senate or House of Representatives, or which shall appertain to his office."

The debate took a very wide range. It was objected by several members that the provision was unconstitutional, on the ground that the House was the only power authorized to originate money bills, and that such an enactment would put that power in the hands of the Secretary of the Treasury. A very long discussion ensued on what was meant by "originating a bill." Some contended that to draft a bill was to originate it. Others that no proposed measure was a bill until the House had passed it; while others

again said that it was a bill whenever the House authorized it to be introduced. Finally, it was determined that there was nothing incompatible with the Constitution in allowing the Secretary of the Treasury to report plans and prepare drafts of bills. It was thus settled, and has been the policy of the Government till the present day, that the Secretary of the Treasury may properly draft bills and prepare plans, and present them to Congress. And it is still a part of our law—I have the provision before me—

"That the Secretary of the Treasury shall make report and give information to either branch of the Legislature, either in person or in writing, as he may be required."

Let it be understood that in the First Congress of the United States a law was passed—approved September 2, 1789, by George Washington—acted upon before in the House and in the Senate, by the men who framed the Constitution; which law provided that it should be the duty of the Secretary of the Treasury to report his plans in writing or in person, as either House might require.

Mr. MORRILL. I desire to ask the gentleman a question. When the Secretary had made out his plan in pursuance of the resolution by which he was authorized to make it, did not the House, on the very first occasion when it could take action on the subject, distinctly discuss the question and refuse him the privilege of reporting in person?

Mr. GARFIELD. I am coming, in a moment, to that precise point.

The whole question of the undue influence which it might give to the Executive Departments to allow Cabinet officers to make their reports was fully examined; and after the fullest and freest discussion, which, even in a condensed form, covers some twenty pages of the book before me, the measure was passed without even a division, and became the law of the land.

I now come to the point to which the gentleman from Vermont has referred, the third of the five discussions. On the 9th day of January, 1790, the House received a communication from the Secretary of the Treasury, stating that, in obedience to their resolution of the 21st of September previous, he had prepared a draft of a plan for funding the public debt, and was ready at their pleasure to report—it being settled in the law, as I have already said, that he should report in person or in writing, as he might be directed. The question was discussed, as the gentleman from Vermont noticed in his examination of the case yesterday. Mr. Gerry moved that the report should be made in writing. The question was discussed whether it should be made in writing, or orally, and the chief argument used in the case was that it would be impossible for members of Congress to understand it unless it was reduced to writing, so that they could have it before them. It was also said that the scope and bearing of the whole report would be so extensive that the human mind could not comprehend the whole of it, unless they could have it before them in a permanent shape. It was conceded by several who spoke that the House could have the report made in writing or orally, or in writing with accompanying oral explanations. The constitutional doubt was not suggested in that discussion. It was decided, without a division, not that he should not be permitted to come into the House, but that his report should be in writing. The law still stood, as it now stands, that he shall report in person or in writing, as either House may direct.

The fourth discussion related to the defeat of General St. Clair. I will remind the House of the history of that case. In 1790 St. Clair was ordered to make an expedition against the Indians in the Northwestern Territory; his army was disgracefully defeated, and the case was referred to General Washington, who declined to order a court of inquiry, and the subject was taken up in the House of Representatives, and on the 27th of March, 1792, a committee was ordered to inquire into the causes of the failure of the expedition. On the 8th of May following, the committee made a report which reflected severely upon the Secretary of the Treasury and the Secretary of War. On the 13th of November, 1792, a resolution was introduced into the House, to notify the two Secretaries that on the following Wednesday the House would take the report into consideration and that they might attend. After a considerable discussion the resolution was nega-

tived, and it was resolved to empower the Committee of the Whole House to send for persons and papers in the case. On the following day the Secretary of War, General Knox, addressed a letter to the Speaker of the House, asking an opportunity to vindicate himself before the House. It was said by the gentleman from Vermont [Mr. MORRILL] yesterday, that General Knox was not permitted to come in. A discussion of the subject followed the presentation of his request. The House had not been satisfied with the report and recommitment to the committee for further examination. After the recommitment of the report, the Secretaries were brought before the committee and examined, so that their testimony reached the House in that mode. The question was never put to the House whether they would or would not receive the Secretaries in the House, but whether they should adopt the report or recommit it and order the committee to take further testimony. They did the latter. The proposition to admit them to the House was not directly acted upon at all.

Before leaving this subject I must refer to the opinion of Mr. Madison as expressed in the debate of November 13, 1792, on the question of admitting the Secretaries to the House to take part in the investigation of General St. Clair. This was the only quotation, I believe, which the gentleman from Vermont [Mr. MORRILL] found to apply directly to the point at issue. It is true that Mr. Madison did say he objected to the House resolution on constitutional grounds. (See *Annals*, Second Congress, page 680.) But he did not state what those constitutional grounds were. It is a little remarkable that he who had in 1789 spoke and voted for the Treasury act authorizing the Secretary to report in person or in writing, as either House might direct, should declare only three years later that it was unconstitutional to let the Secretary come before the House to give information or testimony.

Perhaps, sir, a little light of history will help to explain Mr. Madison's singular position. My friend from Vermont [Mr. MORRILL] will remember that within those three years Mr. Madison and Hamilton had become seriously alienated from each other, and the gifted authors of the Federalist were friends no longer. The great party strife had begun, and they had taken opposite sides, Mr. Jefferson leading one party, Mr. Madison following, and Mr. Hamilton leading another, and his friends, the Federalists, following him. It is not, therefore, very surprising that Mr. Madison should have been influenced, like others, by personal feeling, or at least by his political differences with the Secretary of the Treasury. It is well known that his political opinions were greatly changed by the influence of Mr. Jefferson.

The fifth and last discussion to which I shall refer occurred on the 19th of November, 1792, on a resolution of the House directing the Secretary of the Treasury to report a plan for the reduction of the public debt. The question of the constitutionality of his reporting a plan at all again arose. The whole ground was again gone over. Notwithstanding Madison's record in 1789, he opposed it; but the resolution was passed against him by the decisive vote of 31 to 25. So that even down to that day, after parties had taken their ground, after Madison and Hamilton had become antagonistic, after all the fierceness of personal feeling was awakened, still the House determined that the law should stand as it was enacted by the First Congress. As the result of all these discussions, the custom obtained to receive reports and information from the heads of Departments in writing rather than in person. That custom has now almost the force of law. But while the Treasury act of 1792 remains on our statute-book we have a clear right to change the custom. I claim that by a simple resolution of the House of Representatives alone, we can now call the Secretary of the Treasury here to explain in person any plan or measure of his, and he is bound to come. The Senate can do the same for itself. The very law which establishes his office and builds up his Department makes its obligatory upon him to come when thus ordered. This is true only of the Secretary of the Treasury.

I hold it, then, fairly established that the measure before us is clearly within the scope of our constitutional powers; that it is only a question how

a thing shall be done, the thing to be done being already provided by law. The heads of Departments do now make known their plans and views; they do now communicate to the House all that this resolution contemplates that they shall communicate. It is only a question of mode. They now communicate with the pen. This resolution proposes to add the tongue to the pen, the voice to the document, the explanation to the text, and nothing more. It is simply a proposition to add to our facilities by having them here to explain orally what they have already transmitted in documentary form.

And this brings me to the third and last point I propose to examine in this discussion—the policy of the proposed change, on which, I admit, there is much room for difference of opinion. The committee have given a very exhaustive statement of its advantages in their report, and I will only enlarge upon a few points in their statement. And, first of all, the proposed change will increase our facilities for full and accurate information as the basis of legislative action. There are some gentlemen here who doubt whether we have a right to demand information from the heads of Departments. Do we get that information as readily, as quickly, and as fully as we need it? Let me read an extract illustrative of the present plan. The President of the United States, in his last annual message to Congress, says:

"The report of the Secretary of War, and the accompanying documents, will detail the campaigns of the armies in the field since the date of the last annual message, and also the operations of the several administrative bureaus of the War Department during the last year. It will also specify the measures deemed essential for the national defense, and to keep up and supply the requisite military force."

Has that report been received? This message was delivered to us at the commencement of the present session; we are now within five weeks of its close; but up to this hour we have had no report from the Secretary of War, no official advice from him in reference to the "measures deemed essential for the national defense and to keep up and supply the requisite military force." We have been working in the dark, and it is only as we have reconnoitered the War Department, and forced ourselves in sideways and edgewise, that we have been able to learn what is considered essential for the national defense.

Had this resolution been in force, we should long ago had his report in our hands, or his good and sufficient reason for withholding it.

I call the attention of the House to the fact that our table is groaning under the weight of resolutions asking information from the several Departments that have not been answered. Who does not remember that at a very early day of the session a resolution introduced by a member from Indiana [Mr. HOLMAN] was unanimously adopted asking for executive information, and after four or five weeks had elapsed another resolution was adopted asking why the order of the House had been neglected and we had not been furnished with the information? But this also has fallen a *brutum fulmen*; we have received no answer. Could these things be if the members of the legislative and executive departments were sitting in council together? Should we not long ago have had the information or known the reason why we did not have it?

On the subject of information I have a word more to say. We want information more in detail than we can get it by the present mode. For example, it would have aided many of us a few days since, when the loan bill was under consideration, if the Secretary of the Treasury had been here to tell us precisely what he intended in regard to an increase of the volume of the currency under the provisions of the bill. We want to understand each other thoroughly, and when this is done it will remove a large share of the burdens of legislation.

One other point on the policy of the measure, and I am done. I want this joint resolution passed to readjust the relations between the executive and legislative departments, and to readjust them so that there shall be greater responsibility to the legislative department than there now is, and that that responsibility shall be made to rest with greater weight upon the shoulders of executive authority.

I am surprised that both the gentleman from Vermont [Mr. MORRILL] and the gentleman



from Ohio [Mr. Cox] declare that this measure would aggrandize the executive authority. I must say that, to me, it is one objection to this plan that it may have exactly the opposite effect. I believe, Mr. Speaker, that the fame of Jefferson is waning, and the fame of Hamilton waxing, in the estimation of the American people, and that we are gravitating toward a stronger Government. I am glad we are, and I hope the effect of this measure will cause the heads of Departments to become so thoroughly acquainted with the details of their office as to compensate for the restrictions imposed upon them. Who does not know that the enactment of this law will tend to bring our ablest men into the Cabinet of the Republic? Who does not know that if a man is to be responsible for his executive acts, and also be able to tell why he proposes new measures, and to comprehend intelligently the whole scope of his duties, weak men will shrink from taking such places? Who does not know that it will call out the best talent of the land, both executive and parliamentary?

What is the fact now? I venture to assert that the mass of our executive information comes from the heads of bureaus, or perhaps from the chief clerks of bureaus, or other subordinates unknown to the legislative body. I would have it that when these men bring information before us, they shall themselves be possessed of the last items of that information, so that they can explain them as fully as the chairman of the Committee of Ways and Means ever explains his measures when he offers them before us.

One word more, Mr. Speaker. Instead of seeing the picture which the gentleman from Ohio [Mr. Cox] has painted to attract our minds from the subject-matter itself to the mere gaudiness of his farcical display, instead of seeing that unworthy and unmanly exhibition in this House which he has described, I would see in its place the executive heads of the Government giving information to and consulting with the Representatives of the people in an open and undisguised way. Sir, the danger to American liberty is not from open contact with Departments, but from that unseen, intangible influence which characterizes courts, crowns, and cabinets. Who does not know, and who does not feel, how completely the reasons of a member may be stupefied by some one getting up and reading a dictum of some head of Department that he thinks a measure good or bad, wise or unwise? I want that head of Department to tell me why; I want him to appeal to my reason, and not lecture me *ex cathedra* and desire me to follow his lead just because he leads. I do not believe in any prescriptive right to determine what legislation shall be. No, sir; it is the silent, secret influence that saps and undermines the fabric of republics, and not the open appeal, the collision between intellects, the array of facts.

I hope, Mr. Speaker, that this measure will be fairly considered. If it do not pass now, the day will come, I believe, when it will pass. When that day comes, I expect to see a higher type of American statesmanship, not only in the Cabinet, but in the legislative halls.

Mr. THAYER obtained the floor.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act to amend an act entitled "An act to amend and extend the charter of the Franklin Insurance Company, approved March 2, 1838," when the Speaker signed the same.

#### DEFICIENCY BILL.

Mr. STEVENS. Mr. Speaker, unless my colleague [Mr. THAYER] is very anxious to go on with his remarks to-day, I should be glad to have a short time allowed to me, in order to report from the Committee of Ways and Means a deficiency bill—the same as that which has been lost between the two Houses—and one or two other matters that are very pressing.

Mr. THAYER. I do not intend to detain the House for a long time, and as it is somewhat doubtful whether this subject in reference to the admission of Cabinet ministers to Congress will be resumed, I prefer, unless there is some very great pressure of business, to say now what I have to say. There will be ample time, after I close

my remarks, for the gentleman from Pennsylvania to report his measures.

Mr. STEVENS. Very well.

#### CABINET MINISTERS IN CONGRESS—AGAIN.

Mr. THAYER. Mr. Speaker, I am surprised that any one can regard the measure now before the House as proposing anything less than a fundamental change of our present system of Government. The Constitution declares that the House of Representatives shall be composed of members chosen by the people. This bill provides that persons not elected by the people, but appointed by the President, shall occupy seats upon the floor of this House, and participate in the deliberations thereof. The Constitution declares that no person holding office under the United States shall be a member of either House during his continuance in office. This bill gives to such officers a qualified membership in this House. The Constitution makes it the imperative duty of the President to communicate directly with Congress, and to recommend to their consideration such measures as he shall judge necessary and expedient. The practical effect of this bill will be to substitute for this direct communication the agency of his subordinate officers, and for his recommendations the recommendations of those officers.

By the Constitution the heads of the Executive Departments are to be appointed by the President, by and with the advice and consent of the Senate, and, except on impeachment for high crimes and misdemeanors, are removable at his pleasure alone. By the plan proposed in this bill these officers, by the moral forces to be applied to them in this House, will eventually hold their offices at the will of the House of Representatives alone. By the Constitution the President alone is charged with the duty of administering the executive department of the Government. "The executive power shall be vested in a President of the United States of America," and, for the purpose of aiding him in the discharge of that duty, "he may require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices." As the executive power is wholly his, so the whole responsibility for its exercise rests upon him. By this bill that responsibility will eventually be transferred to and divided among the heads of the Executive Departments, and they transformed from mere executive agents—the President's head clerks, as John Randolph called them—into ministers of State, in the sense in which those words are used in the British constitution. The result will be that while the President will still continue nominally to hold in his grasp the whole executive authority of the Government, the responsibility for its exercise will be transferred to a cabinet of ministers, assuming in this House (under the provisions of the bill) the direction of public affairs, and successfully resisting or succumbing to the tide of public opinion according to the number of votes which they can command in the national Legislature. This may be a very good form of government, but it is not the form prescribed by the Constitution of the United States.

I repeat, therefore, sir, that I cannot forbear the expression of some surprise that changes so fundamental as these should be thought not to involve a change of the Constitution, and that it should be supposed that it is competent to alter the organism of the political system of the United States so materially as is proposed by this bill by the simple instrumentality of an act of Congress. Nor is my surprise diminished when I trace the paternity of this measure to the honorable gentleman from Ohio, [Mr. PENDLETON,] whom my observation during my brief experience here has led me (perhaps erroneously) to regard as belonging to the school of constitutional interpreters known as strict constructionists. The distinguished gentleman from Ohio, with many other honorable gentlemen, his political associates, resisted the passage of the bill submitting to the people of the United States the proposed amendment of the Constitution abolishing slavery; and his objections, if I properly understood him, were based not upon the broad and elevated philanthropy of the gentleman from New York, [Mr. FERNANDO WOOD,] that slavery is the best possible condition of the black race, but upon the more techni-

cal ground that the action thus proposed was not within the constitutional power of amendment. The gentleman also, if I am not mistaken, opposed the passage of the act enrolling and calling out the national forces, upon the ground that it was an exercise of authority not conferred by the Constitution, although that instrument had given to Congress an express, unqualified, and unlimited power to raise and support armies. Yet the honorable gentleman from Ohio sees nothing in the Constitution opposed to the summary introduction into our political system, by means of an act of Congress, of the great and radical changes proposed by this bill.

I am aware, sir, that neither the gentleman from Ohio nor the other friends of the measure now before the House will concede that it possesses the importance which I attribute to it, or that it will change, in any fundamental respect, the character of the Government. Whether it will or will not is the precise question in debate. I believe that it will; but that is in itself but the declaration of an opinion of little value, unless it be founded upon correct views of human conduct and a just and true conception of all the conditions of the case. I shall trespass, therefore, upon the attention of the House for a few moments while I attempt to vindicate the opinion I have expressed by a statement of the reasons which have led me to its adoption; and I do this with the less reluctance, sir, because the views which I take of the effect of the proposed measure, and the line of argument by which I shall oppose it, differ materially from those which have been presented by honorable members who have addressed the House in opposition to it.

In order to form a correct judgment upon the probable results of the proposed measure it is necessary to consider its effect upon Congress, its effect upon the heads of the Executive Departments of the Government, and its effect upon the presidential office.

I am not among the number of those who believe that either the independence, the political freedom, or the constitutional powers of the House of Representatives would be abridged by the presence in that body of the heads of the Executive Departments, and their participation in the deliberations of Congress. In the House, the numbers which compose it, its varied and popular character, and the frequency with which it is reconstructed from the masses of the people, furnish a sufficient guarantee against any apprehension. It is quite possible that at times the partialities arising from personal intercourse, the conflict of personal opinion, the rivalries of debate, and the appeals to party discipline, might exercise influences now unfelt upon the legislation of Congress, and that coteries might thus be formed in both Houses favorable or unfavorable to the measures advocated by the executive agents. But these are influences which, from the changeable character of this body, its natural jealousy of executive interference, and the independence which, by its very constitution, belongs to it, would, in my opinion, be sure to end, not in any diminution of the power and independence of Congress, but in the destruction of that of the heads of Departments, and, by consequence, of that of the Executive himself. I am not alarmed, therefore, by the terrible and Homeric picture drawn by the gentleman from Ohio [Mr. COX] of the advent of the Secretary of War, with his myrmidons in blue, to the House of Representatives. No, sir; the danger from the measure now proposed lies not in the abridgment of the power and importance of the legislative department of the Government, but in the disproportionate enlargement of that power and influence, the destruction of the legitimate influence of the executive office, the confusion and mingling of powers which are now wisely separated, and the destruction of that nicely adjusted balance which is now characteristic of our system, and constitutes one of its principal safeguards.

When the heads of the Executive Departments shall come into this House to participate in its debates, to be catechised by its members, to confront their votes, it requires no great amount of foresight to perceive that they must submit themselves to the judgment of this House and become subservient to its wishes and opinions, or relinquish the offices which they hold. When outvoted upon material issues they must retire. In

the necessity of this their own self-respect and the popular expectation would coincide. If it be asked why this should follow any more than at present, I answer because their relations to this body would be entirely different from the relations which they at present hold to it. They are now but the agents of the President in the administration of the executive power. They are appointed by him; they are under his control; they report their proceedings to him; they are responsible to him for the discharge of their several duties. If they recommend measures it is to the President. If those measures are approved by the President he assumes the responsibility of them. If submitted to Congress and rejected, it is simply a rejection of so much of the policy of the President. No direct issue arises between Congress and the President's subordinates. In the new attitude which they would hold under the provisions of this bill the case would be entirely altered. They would stand here the personal representatives and advocates of measures advised and promoted by themselves. They must enter the lists and level their lances in defense of a policy of which they stand forth the personal exponents and champions. They must, in such a contest, abide the issue of the personal struggle into which they have entered, and if vanquished they must retire and give place to the advocates of different measures and the champions of a different policy. In our system the legislative is the strongest department of the Government. It preponderates vastly over the other two departments. No other department can successfully contend against it. In a battle between the Representatives of the people and the advisers of the Executive the victory may be declared before the contest is joined. If the advisers are beaten they must succumb.

Between the Legislature and men holding to it the personal relations which this bill contemplates there must exist accord. When that accord ceases they can no longer be useful and must depart. Thus, by the few words of this bill, are the President's clerks to be turned into a responsible ministry, charged with the conduct of public affairs in this House, originating, proposing, urging, defending measures; speaking to-day amid cheers from the ministerial benches, sitting down to-morrow amid groans and jeers from the opposition benches; now drumming up votes for a crisis, and exhausting for that purpose all the resources of promises and rewards; now rejoicing in a fresh lease of power obtained by a majority of two; again retiring in disgrace under the passage of a want-of-confidence resolution, and that, alas! without the consolatory recollections of a white-bait dinner, for I do not understand that the Potomac will supply that aristocratic delicacy. It is natural to suppose that officials, dependent as those will thus necessarily be upon Congress for the continuance of their power and importance, will look rather to that body than to the President for support, and that they will address themselves rather to the securing of votes and popularity there than to the independent discharge of the duties of the executive branch of the Government. A large part of the executive power and influence will thus be transferred to the House of Representatives. This leads me to consider what will probably be the effect of these changes upon the presidential office. When the official agents of the President shall represent him in Congress, and the amount of their influence and their duration in office shall both be measured by the extent of their following and by the majorities which they can command there, it would seem to be a natural and probable result of such an arrangement that the executive office itself must in the end become subject to the absolute control of Congress. By such an arrangement responsibility is transferred from the President to a recognized ministry, who become his brain, his voice, his hand; and they who have the responsibility, and who will reflect in the mutations of their political fortunes the fluctuating opinions of the Legislature, must have the power also, for responsibility and power go together. The executive responsibility is thus transferred primarily to the parliamentary representatives of the executive office, but ultimately and really to the Legislature, which controls their conduct. Thus, by a total subversion of the present system, the subordinates become the ostensible chiefs, the agents become the principals, and the executive office, which, by the

plan of the Constitution, was made, within its proper sphere of duty, like the department of the judiciary, to a great extent independent of the legislative department of the Government, must, if it do not become wholly dependent upon it, lose much of the independence and power with which it is now invested. How long, for example, can it be supposed that the power of the veto would survive the consummation of the changes which have been indicated, or the supreme command of the Army and Navy?

Sir, I am no advocate of any extension of the powers of the national Executive beyond the limits which are at present prescribed for them in the Constitution; neither do I believe, on the other hand, that liberty is to be secured and perpetuated by a concentration of all the powers of the Government in the hands of the legislative department. I have been taught by history that of all tyrannies that is the most irresponsible and hopeless. That proposition was well stated by Montesquieu when he said, "There can be no liberty where the legislative and executive powers are united in the same person or body of magistrates." If we would maintain our free institutions we must maintain the partition of power among the several departments which is made in the Constitution, and the only way in which that can be done is, as Mr. Madison declared, "by so contriving the interior structure of the Government as that its several constituent parts may by their mutual relations be the means of keeping each other in their proper places." In order to accomplish this "each department should," as he also says, "have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others." I believe in the soundness of this doctrine, and hence I do not believe in the plan proposed in the present bill. I do not believe in the wisdom of conferring authority upon the President to appoint members of this House; nor do I believe in concentrating in this House the power which by the Constitution belongs to the Executive. The measure proposed by the gentleman from Ohio is well adapted, in my opinion, to destroy those mutual relations which were established by the Constitution, and which have hitherto answered the purpose of keeping the constituent parts of the Government in their proper places. "To what purpose," it was well asked by Mr. Hamilton, "do you separate the executive or the judiciary from the legislative power, if both the executive and the judiciary are so constituted as to be at the absolute devotion of the legislative?" Such a separation must be merely nominal, and incapable of producing the ends for which it was established.

The feature of government embraced in the present bill is evidently borrowed from the constitutions of England and other monarchical countries. In those systems, in which the principle obtains that the king is irresponsible and can do no wrong, it is a wise invention to limit a power which would otherwise be absolute; for it substitutes for him, in the persons of the ministers of State, individuals who are responsible for the exercise of the executive power. The only question which would vex the mind of a republican philosopher in regard to the excellencies of those systems would perhaps be this: of what use, then, is the king? But, sir, no analogies can be traced between those systems and ours. We have no such fictions and stand in need of no such aids. By the Constitution the people have distributed the powers of the Government among several departments. They who exercise those powers are directly responsible to them for their acts. By making them responsible to each other, or by shifting the responsibility from one to another, or by mingling the powers which are severally delegated to each, we shall only introduce confusion into what is now a harmonious system, and unsettle at once the well-defined boundaries of authority and the foundations of the Government.

The argument, that a necessity exists for the introduction of this innovation upon the organic structure of the Government in order that Congress may avail itself of the best possible means of information in relation to the measures of legislation on which it may be called to act, is destitute of any solid foundation in fact. No such necessity exists. The means which have hitherto

been resorted to on the part of Congress for obtaining such information have always been found adequate for the purpose. Indeed it must be obvious upon the slightest reflection that the information obtained by the deliberate and written response of the heads of Departments to the resolutions of this House must be superior in value to the information proposed to be obtained by the plan of this bill by as much as a deliberately prepared written statement of facts is superior in precision and accuracy of detail to an oral statement based upon the mere memory of the person who utters it.

The precedent for the proposed action, which is supposed to be found in the act of 1789, fails in this, that whereas that act made it the duty of the Secretary of the Treasury alone to make report and give information to either branch of the Legislature, in person or in writing, respecting matters referred to him by the Senate or House of Representatives, *whenever he might be required so to do*, this bill gives to the seven heads of the Executive Departments permanent seats in this body; and that, not for the single purpose of giving information, but for the purpose of participating in the debates of this House and influencing its action. I do not deny the power of the House of Representatives to seek information from any quarter to which it may see fit to apply for it. It is upon that principle it acts in allowing the claimant of a contested seat upon this floor to be heard, but the occasional exercise of that undoubted power is a totally different thing from adding permanent members to this House not elected by the people, and not possessing the qualifications demanded by the Constitution. Indeed, when the restrictive character of the act of 1789 is considered, together with the great caution which was taken to guard it against a construction which would authorize what is proposed in this bill, it furnishes the best possible evidence that the opinions of the statesmen of that day were adverse to the scheme which is now proposed. But the argument founded upon the alleged precedents for this action has been so completely answered and refuted by the gentleman from Vermont, [Mr. MORRILL,] that in my opinion no further argument upon that point is required.

It is well known that when the Constitution was formed several different plans were suggested in regard to the executive office and the executive power. One of them proposed a double Executive, consisting of two persons, between whom the power and responsibility of the office should be divided; another proposed a single Executive, hedged in by a council of State, whose assent should be necessary to render his acts valid. There was much public discussion before it was determined to give to the executive department of the Government the form and place which it now holds in the Constitution. But I am not aware that it was at any time proposed to mingle the executive with the legislative department of the Government after the manner of this bill. It was, on the contrary, a fundamental idea, agreed to by all and adhered to throughout, that the success of the plan adopted and the perpetuity of the system depended in no small degree upon keeping the different departments of power as separate as possible, and in rendering them no further dependent upon each other than was proper for the creation of such necessary checks as were indispensable to prevent the concentration of too much power in either. How perfectly the framers of the Constitution succeeded in this, let the harmonious working in all its departments of this unparalleled plan of government for a period of more than seventy years attest. There is nothing in the political history of the world which can be compared with it. There is no miracle of art, no triumph of mechanical ingenuity, which can, in the beauty of its proportions, the renovation of its strength, the regulation of its power, and the harmony of its operations, furnish us with any analogies to this great and wonderful framework of government, which, until our recent troubles began, performed its functions more like the silent influences of nature than a human invention; which guaranteed universal security and order, commanded everywhere authority and respect, filled a continent with peace, prosperity, and plenty, yet rested upon the shoulders of the people as lightly as the air they breathed.

It had, sir, but one wheel which in the roll of years could give way. That has broken, scattering ruin and destruction around; but the fragments are being removed, a new one, stronger and better, let us thank God, than the old one, is about to replace it, as much stronger as justice is stronger than injustice, as much better as liberty is better than oppression. But I deny that the organism needs any repair of the kind now proposed. I deny that any necessity exists for it. No such necessity has been shown to exist. The proposition is for an alteration purely experimental. It is not demanded by any exigency of public affairs. It is not justified by any public necessity. It is calculated to confuse the boundaries which should define the distribution of power and to unsettle the balance of the Constitution. The existing arrangements of the Constitution in this respect have not been proven to be either injurious or inconvenient. Why, then, should we tinker at them, or substitute for a plan which has stood the test of time and experience the imaginary improvements of the anarchists of Montgomery?

Mr. Speaker, I do not desire to occupy more of the time of this House upon this subject. I will yield the floor for the remainder of my time to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON obtained the floor.

The SPEAKER. There are twenty-five minutes of the time of the gentleman from Pennsylvania [Mr. THAYER] unexpired.

Mr. STEVENS. I ask the gentleman from Iowa [Mr. WILSON] to yield the floor at this time. If he will do so, then I will ask the gentleman from Ohio [Mr. PENDLETON] to consent to have this subject postponed until I can report a bill from the Committee of Ways and Means.

Mr. WILSON. I will yield the floor for that purpose.

Mr. PENDLETON. I shall be pleased to do as suggested by the chairman of the Committee of Ways and Means [Mr. STEVENS] if it shall suit the convenience of the House. Therefore, in order to test the sense of the House, I will move that the further consideration of this subject be postponed until one week from to-morrow, which I believe is the first day upon the Calendar which will be unoccupied by any special order, and that it be made the special order for that day. There is no vacant day to which I can postpone this subject until Friday of next week, which is private bill day. I desire to suggest to gentlemen who are interested in the Private Calendar that to-morrow has been especially assigned for its consideration. I hope the convenience of the House will be consulted by postponing this subject till that time.

Mr. WEBSTER. I desire to say that there has been no day devoted to the consideration of private bills during this session.

Mr. HOLMAN. To-morrow has been set apart for that.

Mr. WEBSTER. Very well. I will make no objection to the postponement.

Mr. PENDLETON. I now move that the further consideration of this subject be postponed till Friday of next week, and made the special order for that day, and from day to day until disposed of.

The motion to postpone was agreed to.

#### DEFICIENCY BILL.

Mr. STEVENS. I now ask leave to report from the Committee of Ways and Means a deficiency bill, for the purpose of starting it here and have it go to the Senate.

The bill was read a first and second time.

Mr. STEVENS. I ask that this bill be considered in the House, and at this time.

Mr. HOLMAN. I shall not object, provided the bill is considered, subject to the same rules and the same points of order as in Committee of the Whole.

No objection being made, it was ordered accordingly.

Mr. STEVENS. I think the House will dispense with the reading of this bill at length after I have stated what it is. It is precisely the bill which the House agreed to, including the amendments of the Senate for the California and Denver mints, &c.; all that we agreed to, except the clause in relation to the House employes. I have put that matter in such shape that it will not, I

think, offend the consciences of the Senate. I understand that it will most likely pass that body in the form in which it is now reported. All the rest of the bill is precisely what we agreed to before.

Mr. HOLMAN. I ask for the reading of the section referred to by the gentleman from Pennsylvania, [Mr. STEVENS.]

It was read, as follows:

Sec. 2. And be it further enacted, That the sum of \$38,000 be, and the same is hereby, appropriated, to be added to the contingent fund of the House, to enable the House of Representatives to fulfill its pledges and obligations heretofore made; and the same shall be audited and settled on such vouchers as shall be produced by the Clerk of the House.

Mr. STEVENS. That is the only alteration made in the bill. Some of the Senators said that when it was in the former shape they could not help seeing it, and therefore they objected to it. I now call the previous question.

Mr. HOLMAN. According to the order of the House this bill is subject now to the same rules as in the Committee of the Whole. It is therefore inconsistent with that understanding to call the previous question now. And I desire to move to strike out the feature of the bill which has just been read.

Mr. STEVENS. The gentleman can move to strike that out, and then I will call the previous question.

Mr. HOLMAN. That is not in accordance with the order of the House, that this bill shall be considered in the House subject to the rules in force in Committee of the Whole.

Mr. STEVENS. If the gentleman wants to debate the question for five minutes I have no objection, and will withdraw the call for the previous question for that purpose.

Mr. HOLMAN. I move to strike out section two of this bill. What I especially object to in that section is the proposition that this House is pledged to the payment of this additional twenty per cent. to the employes of the House. The gentleman from Pennsylvania, [Mr. STEVENS,] in discussing this subject yesterday, referred to precedents which had heretofore occurred, by which the House, by its own act, had appropriated out of the contingent fund sums of money. There are probably such instances, but I think no case can be found where so large a sum as this has been appropriated on the one hand, or where, upon the other hand, it was so distinctly and fairly a proposition to increase salaries.

Here is an attempt on the part of one branch of Congress to appropriate \$38,000, upon the idea that it has a right to act independently of the other branch of Congress in the appropriation of the public money. It is the most remarkable state of affairs that has ever presented itself in this House. I think the country owes something to the other branch of this Congress in resisting this assumption of power on the part of the House of Representatives. A pledge! Why the gentleman from Pennsylvania, [Mr. STEVENS,] it seems to me, insults the intelligence of the country and of this House. A pledge on the part of this House to give a certain sum of money! If gentlemen have been induced to go into the public employment upon the assurance and belief that they were to receive this additional compensation, then it might all be well enough. But, in fact, such is not the case.

On the other hand it is not to be presumed—I do not care what precedents may be referred to, it cannot be presumed—that any intelligent citizen believes that this House, by its own act, can increase by twenty per cent., or any other per cent., the salaries and compensation of public officers. I regret that the subject of such an amendment as this, involving a principle like this, should be deemed of so much importance on the part of the House. Gentlemen do not seem to consider that the employes of this House, gentlemanly as they are and as I have always asserted them to be, who have performed their duties faithfully and well so far as my experience has extended, are extremely well paid, it seems to me, in comparison with other employes of the Government.

Let me mention a single case by way of illustration. One gentleman, connected with this House as a committee clerk, who during this session will perform service for the period of three months, who is not required to remain here an hour after the expiration of the three months, will receive

for his three months' service the handsome compensation of \$1,800; and yet the duties of a clerk to a committee are not, even during the session, of the most laborious character. Yet some gentlemen talk about the employes of this House being unable to support themselves on the pay which they now receive!

The compensation paid to the employes of this House is in wonderful contrast with the salaries paid in other departments of the Government. Many of the departmental clerks, with wives and children to support, receive but \$1,200 or \$1,600 per annum, and this, too, for service, not during only three months, but during the entire year. Yet as a mere matter of favoritism—a favoritism which is the more readily exercised because bestowed upon those with whom we are in daily intercourse—members of this House are willing to exhibit this remarkable spectacle of partiality as legislators. I do not think, sir, that it is becoming to this House to so entirely forget other employes of the Government in a favoritism toward the employes of this House, however much these gentlemen may be entitled to our respect and confidence for the faithful performance of their duties.

I trust, sir, that the House will strike out this item of \$38,000, and that we shall not set the example of this partial system of legislation. I hope, especially, that gentlemen upon this side of the House, who have always, in their respective States, protested against partiality in legislation, will not be found giving their sanction to a proposition so abhorrent to every principle of Democracy.

Mr. RANDALL, of Pennsylvania. I desire, Mr. Speaker, to say only a single word in connection with this matter, for the subject was very fully discussed yesterday, and the judgment of the House on the question was very decidedly expressed.

Sir, I do not, as the gentleman from Indiana [Mr. HOLMAN] appears to do, regard this as a political question in any possible aspect. I have no appeal to make to this side of the House on political grounds. My appeal in favor of this appropriation is to justice and just men, irrespective of politics. These employes of the House are, I conceive, entitled to the money which we propose to appropriate. The faith of this House has been pledged to pay them this money, and I have no idea of allowing the other branch of Congress to dictate to us in relation to matters which pertain solely to this House, and which should be under our own control. I am not acquainted with any principle of Democracy that warrants me in doing injustice. On the contrary, the Democracy which I have learned has taught me to be just to all men.

Mr. STEVENS. Mr. Speaker, I only wish to say that this is the same proposition which was yesterday sustained in this House by a vote of two to one, except that it is now put in such a shape as will enable the Senate, without inconsistency, to acquiesce in it.

Mr. SLOAN. Will the gentleman from Pennsylvania [Mr. STEVENS] consent to an amendment?

Mr. STEVENS. Let me first hear what it is.

Mr. SLOAN. It is to substitute for the section as it stands the following:

That a sufficient sum be appropriated to pay all the employes of the Government, in the civil and military service, twenty per cent., in addition to the pay they are now receiving.

The SPEAKER. Does the gentleman from Pennsylvania yield for the purpose of allowing the amendment to be offered?

Mr. STEVENS. I suppose the gentleman from Wisconsin [Mr. SLOAN] is in fun. [Laughter.]

Mr. SLOAN. I am not in fun. I think my proposition is no more than just.

Mr. STEVENS. I decline to yield, and I move that the debate now close.

Mr. HOLMAN. I submit that, if this bill is to be considered as in Committee of the Whole, as the House has ordered, the gentleman cannot call the previous question, or move to close debate while any gentleman has an amendment to offer. That is the principle universally applied in Committee of the Whole.

The SPEAKER. The gentleman is familiar with the rules, and knows that the committee rises and goes into the House to close debate.

Mr. HOLMAN. That cannot be done while an amendment is pending.



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

SATURDAY, JANUARY 28, 1865.

NEW SERIES....No. 29.

The SPEAKER. The gentleman is mistaken. It is the practice every day for the committee to rise and to go into the House in order to close debate. It is true that a bill cannot be reported while amendments are pending.

Mr. SLOAN. I think I have a right to offer my amendment under the understanding of the House.

The SPEAKER. The gentleman's amendment is not germane even if he had the right to submit it. The question recurred on Mr. STEVENS's motion.

Mr. HOLMAN demanded tellers.

Tellers were ordered, and Messrs. RANDALL, of Pennsylvania, and SPALDING, were appointed.

The House divided; and the tellers reported—ayes 89, noes 6.

So the debate was closed.

The question then recurred on Mr. HOLMAN's amendment.

Mr. SPALDING demanded the yeas and nays.

Mr. HOLMAN demanded tellers on the yeas and nays.

Tellers were ordered, and Messrs. HOLMAN and STEVENS were appointed.

The House divided; and the tellers reported—ayes twenty-five; more than one fifth of those present; so the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 76, not voting 69; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Broomall, Ambrose W. Clark, Cobb, Farnsworth, Cooch, Grinnell, Harding, Higby, Holman, Asahel W. Hubbard, Ingersoll, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Kerian, Morrill, Daniel Morris, Norton, Perlman, Price, John H. Rice, Edward H. Rollins, Sloan, Spaulding, Upson, Elihu B. Washburne, William B. Washburn, and Wilson—37.

NAYS.—Messrs. William J. Allen, Ancona, Ashley, Bailly, Boyd, Chandler, Cole, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawson, Denison, Dixon, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Gardfield, Grider, Herrick, Hotchkiss, John H. Hubbard, Jenckes, Kalbfleisch, Kelley, Knox, Law, Lazear, Littlejohn, Long, Long, Longyear, Mallory, Marvin, McAllister, McBride, Moorhead, James R. Morris, Amos Myers, Leonard Myers, Nelson, Odell, Charles O'Neill, John O'Neill, Pendleton, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Shannon, Smithers, Starr, John D. Steele, Stevens, Stiles, Stuart, Thayer, Townsend, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Winfield, and Woodbridge—76.

NOT VOTING.—Messrs. James C. Allen, Anderson, Arnold, Blair, Bliss, Blow, Boutwell, Brandegee, Brooks, James S. Brown, William C. Brown, Freeman Clarke, Clay, Coffroth, Creswell, Dawes, Deming, Dumont, English, Frank, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hubbard, Hutchins, Philip Johnson, William Johnson, King, Knapp, Le Blond, Marey, McClurg, McDowell, Melrose, McKinney, Middleton, Samuel F. Miller, William H. Miller, Morrison, Noble, Orth, Patterson, Perry, Pike, Pomeroy, Pruyn, Alexander H. Rice, Robinson, Schenck, Seefeldt, Scott, Smith, William G. Steele, Strouse, Sweat, Thomas, Tracy, Van Valkenburgh, Voorhees, Ward, Wilder, Benjamin Wood, Fernando Wood, Worthington, and Yeaman—69.

So the amendment was disagreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## INSPECTORS OF STEAMBOATS—AGAIN.

Mr. MALLORY. Mr. Speaker, I rise to a privileged motion. I move to reconsider the vote by which the House laid on the table House bill No. 667, to provide for two assistant inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, which was reported from the Committee on Commerce by the gentleman from Illinois, [Mr. WASHBURN.] The motion was made by me under a misapprehension of the character of the bill.

The motion was agreed to.

Mr. MALLORY moved that the bill be recommitted to the Committee on Commerce.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by

which the bill was recommitted; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

## WAGON ROADS IN MICHIGAN.

Mr. DRIGGS, by unanimous consent, introduced a joint resolution to amend an act granting aid to the State of Michigan to construct wagon roads for military and postal purposes; which was read a first and second time, and referred to the Committee on Public Lands.

## GRANTS OF LAND FOR RAILROAD PURPOSES.

Mr. DRIGGS also, by unanimous consent, introduced a bill to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WILSON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## BURNING OF THE SMITHSONIAN INSTITUTION.

Mr. RICE, of Maine, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire into the origin of the fire by which the Smithsonian Institute building and the valuable deposits therein were on Tuesday last, in whole or in part, destroyed, the approximate loss to the Government and private persons, the means necessary to preserve the remaining portions, and such other facts in connection therewith as may be of public interest; and to report by bill or otherwise.

## CLAIMS FOR QUARTERMASTER'S STORES.

Mr. HOTCHKISS, by unanimous consent, introduced a bill to restrict the jurisdiction of the Court of Claims to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States, approved July 4, 1864; which was read a first and second time, and referred to the Committee on the Judiciary.

## METROPOLITAN RAILROAD COMPANY.

Mr. DAVIS, of New York, by unanimous consent, introduced a bill to amend an act entitled "An act to incorporate the Metropolitan Railroad Company of the District of Columbia;" which was read a first and second time, and referred to the Committee for the District of Columbia.

## TAX ON STATE BANK CIRCULATION.

Mr. SPALDING, by unanimous consent, introduced a joint resolution to tax State bank circulation; which was read a first and second time, and referred to the Committee of Ways and Means.

## NORTHERN PACIFIC RAILROAD.

Mr. SWEAT asked unanimous consent to introduce a bill to authorize the extension of the Northern Pacific railroad eastward to Ontonagon, State of Michigan, to provide for its connection eastward with the Ohio, Indiana, Michigan, and Canadian system of railroads at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton.

Mr. ELDRIDGE objected.

## ABOLITION OF SLAVERY.

Mr. LOAN, by unanimous consent, presented resolutions of the constitutional convention of the State of Missouri, instructing the Senators and Representatives of that State to vote for the constitutional amendment for the abolition of slavery; which was laid on the table, and ordered to be printed.

## NAVAL REGISTER.

Mr. A. W. CLARK, from the Committee on Printing, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the members of this House twenty-five hundred copies of the Navy Register.

Mr. A. W. CLARK moved that the vote by

which the resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts. I ask unanimous consent to take from the Speaker's table a Senate bill for reference only.

No objection being made, the bill of the Senate (No. 382) to provide for the better organization of the pay department of the Navy, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

## ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864; when the Speaker signed the same.

Mr. STEVENS. I now insist that we proceed to the regular order of business; and therefore I move that the House adjourn. [Laughter.]

The motion was agreed to; and thereupon the House (at four o'clock and ten minutes, p. m.) adjourned.

## IN SENATE.

FRIDAY, January 27, 1865.

Prayer by Rev. V. M. HURLBERT, of Yonkers, New York.

The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate of the 23d instant calling for a statement showing the amount of collections in each internal revenue collection district, and the amount of moneys deposited in authorized depositories, as paid to the Commissioner of Internal Revenue by the collector of each district, stating that the information called for is contained in the tabular statements accompanying the annual report of the Commissioner of Internal Revenue, which will be laid before Congress during the present week in printed form. The communication was ordered to lie on the table, and be printed.

## CREDENTIALS PRESENTED.

Mr. SUMNER presented the credentials of Hon. HENRY WILSON, chosen by the Legislature of the State of Massachusetts a Senator from that State for the term of six years, commencing March 4, 1865; which were read, and ordered to be filed.

## PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Holtenbeck & Zeigler, of Savannah, Georgia, praying payment for property taken by the military force under the command of Major General Sherman; which was referred to the Committee on Claims.

Mr. SHERMAN presented a petition of citizens of Ohio, clerks in the War, Treasury, and Interior Departments, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of citizens of Massachusetts, clerks in the Interior, War, Treasury, and Navy Departments, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented the petition of medical officers in the several regiments comprising the third division fifth Army corps, praying for an increase of the pay of surgeons and assistant surgeons in the military service of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWARD presented the memorial of Ernst Maurice Buerger, pastor of the German Evangelical Lutheran Church, Washington city, District of Columbia, and member of the German

Evangelical Lutheran Synod of Missouri, Ohio, and other States, praying that ministers of the gospel may be exempt from military duty; which was referred to the Committee on Military Affairs and the Militia.

#### BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 413) to establish a certain post road; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 104) for the return of Arkansas to the Union; which was read twice, and ordered to lie on the table, and be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 414) to authorize the construction of the Northern Pacific railroad eastward to Ontonagon in the State of Michigan, and provide for its connection eastward with the Ohio, Indiana, Michigan, and Canadian systems of railroads at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 415) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864; which was read twice by its title, and referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Frederick Bauer on behalf of the German Evangelical Church of Martinsburg, Virginia, paying compensation for the burning of their house of worship while being used by Union soldiers, reported adversely thereon, and moved that it be postponed indefinitely; which was agreed to.

He also, from the same committee, to whom was referred the petition of George P. Ihrie, late colonel and additional aid-de-camp on the staff of General Grant, praying compensation for the loss of personal baggage and property captured and burned by rebel cavalry on or about the 11th of January, 1863, reported adversely thereon, there being no case stated, and no proof furnished, and moved that its consideration be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the petition of Frederick Miller, praying indemnification for damages sustained by him in being ejected from his residence and place of business by a surgeon in the United States service, reported adversely, there being no sufficient proof of the justness of the claim, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the petition of James M. Confer, late surgeon of the twenty-ninth regiment Indiana volunteers, praying compensation for property lost while in the service of the United States, reported adversely thereon, there being no sufficient proof of the justness of the claim, and moved that it be postponed indefinitely; which was agreed to.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of Peter Hays, G. F. Randall, and Peter Monser-voue, praying to be reimbursed for loss of clothing and other personal effects occasioned by the sinking of the United States steamer Sumter on the night of the 24th of June, 1863, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the memorial of James N. Carpenter, paymaster United States Navy, praying compensation for horses and cattle pressed by the United States Army, and for property destroyed by the battles of Spotsylvania Court-House and the Wilderness, and for the confiscation of certain bank stock by the rebel government, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. HOWE, from the Committee on Claims,

to whom was referred the petition of Charles De Arnaud, praying additional compensation for services rendered the Government in obtaining valuable information concerning the movements of rebels, at the request of General Rousseau and other general officers of the Army, reported adversely thereon, and moved that it be postponed indefinitely; which was agreed to.

Mr. HOWE, from the Committee on Claims, to whom was referred the memorial of Henry Charles De Ahna, praying for the return of \$2,000 deposited by him with Jay Cooke & Co., to the credit of C. V. Hogan, an employe in the secret service of the Treasury Department, and a joint resolution (S. R. No. 71) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned, which relate to the same matter, reported adversely, and moved that they be indefinitely postponed; which was agreed to.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 390) relating to the postal laws, reported it with amendments.

Mr. COWAN, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 387) amendatory of an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863, reported it without amendment.

#### LOCAL IMPROVEMENTS IN WASHINGTON.

Mr. MORRILL. The Committee on the District of Columbia, to whom was recommended the bill (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864, have instructed me to report it back with an amendment, and to ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole.

The amendment was to strike out all after the enacting clause, and in lieu of the words stricken out to insert the following:

That the act approved May 5, 1864, entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," be amended so as to read as follows: "That the said corporation shall have full power and authority to lay taxes on particular wards, parts, or sections of the city, for their particular local improvements, and to cause the curb-stones to be set, the foot and carriage ways, or so much thereof as they may deem best, to be graded and paved; to introduce the necessary sewerage and drainage facilities under and upon the whole or any portion of any avenue, street, or alley; to cause the same to be suitably paved and repaired, and at all times properly cleaned and watered; to cause lamps to be erected therein, and to light the same; and to pay the cost thereof, the corporation of Washington is hereby authorized to lay and collect a tax upon all property bordering upon each street or alley that may be paved, sewered, lighted, cleaned, or watered by said corporation in accordance with the provisions of this act. And also to lay, or cause to be laid, simultaneously with the grading or paving of any avenue, street, or alley in which a main water-pipe or main gas-pipe, or main sewer may have been laid, water or gas service pipes or lateral house drains, from such water or gas main or main sewer to one foot within the curb line in front of every lot or subdivisional part of a lot which may bound on such avenue, street, or alley, and to which a gas or water service pipe or house drain may not have been already laid; and to pay the cost thereof, shall have full power and authority to lay and collect a special tax on every such lot or subdivisional part of a lot."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866; which thereupon received the signature of the Vice President.

#### DEFICIENCY BILL.

The message further announced that the House of Representatives had passed a bill (H. R. No. 709) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, in which it requested the concurrence of the Senate.

Mr. SHERMAN. I desire to have that bill taken up now and read twice.

There being no objection, the bill was read twice by its title.

Mr. CLARK. I do not desire to have the bill referred. I think the Committee on Finance understand what it is. It can be laid on the table, and we will examine it and see if it is like the other, and then be prepared to act upon it without a reference to the committee.

The VICE PRESIDENT. That disposition will be made of it, if there be no objection.

#### MEXICAN AFFAIRS.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred additional copies of the correspondence on Mexican affairs, heretofore ordered, be printed for the use of the Senate.

#### COUNTING OF PRESIDENTIAL VOTES.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of three members be appointed by the President of the Senate, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons chosen of their election.

The VICE PRESIDENT appointed Messrs. TRUMBULL, CONNESS, and WRIGHT, as the committee on the part of the Senate.

#### CONDUCT OF GENERAL J. C. DAVIS TO NEGROES.

Mr. WILSON. I offer the following resolution:

Resolved, That the committee on the conduct of the war be instructed to inquire into and report upon the action of Brevet Major General Jefferson C. Davis in preventing a number of negroes, who had joined the Army on the march through Georgia, from crossing a creek known as "Ebeneszer creek," near Savannah, by burning the bridge after the troops had crossed, on the night of the 8th of December last, many of these negroes having been killed by the rebel cavalry or drowned in attempting to cross the creek on rafts.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution?

Mr. LANE, of Indiana. I object; let it lie over.

Mr. WILSON. I do not desire to have the resolution considered this morning. I simply wish to send to the Chair a paper which I should like to have read, and then let the whole matter lie for investigation.

The VICE PRESIDENT. The paper will be read, if there be no objection.

Mr. GRIMES. I should like to know what the character of the paper is.

The VICE PRESIDENT. The Chair cannot tell without its being read.

Mr. GRIMES. Let the whole thing lie over. If it is a paper attacking General Davis, and the officers and men under his command, it is not proper that it should be read in this connection.

The VICE PRESIDENT. Objection being made, the paper cannot be read, and the resolution will lie over.

#### PASSENGERS ON STEAMSHIPS.

Mr. CONNESS. I offer the following resolution, and desire its present consideration:

Resolved, That the Secretary of the Treasury be directed to instruct the collectors of customs to enforce the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and the act entitled "An act further to regulate the carriage of passengers in steam and other vessels," approved July 4, 1864, and all other existing acts of Congress relating to the carriage of passengers by steamships and other vessels.

Mr. CONNESS. I hold in my hand a paper addressed to the Senators and members of the House of Representatives in Congress from California and Oregon, signed by a very large number of the passengers on the late trip of the steamer Costa Rica from Aspinwall to New York, which I ask to have read.

The VICE PRESIDENT. The paper will be read, if there be no objection.

The Secretary read, as follows:

ON BOARD THE STEAMER COSTA RICA,  
AT SEA, January 3, 1865.

To the Senators and Members of the House of Representatives in Congress from California and Oregon:

We whose names are hereunto subscribed respectfully call your attention to the following statement:

We left San Francisco on the 13th of December last in the steamer Golden City.

We paid for tickets to New York in gold coin the sums charged for our passage. At Aspinwall we came on board this steamer, and have not been able, so great was the crowd, to obtain places to sleep. Some of us having no blankets have purchased them here. We have been compelled to

sleep on deck, and been exposed to the severity of the weather, and to much suffering, at the risk of damaging health, and losing life. Few of us have the means or time to litigate for damages against rich men or rich corporations. We appeal to you and ask, if you cannot redress our grievances, that at least you will try to prevent the repetition of like outrage and cruelty to thousands of your constituents going by sea to California and Oregon. Not only sick men, but sick women and children, have been subjected to much suffering. We have other causes of complaint—such as have often been brought to public notice—but cannot dwell on them now.

We earnestly hope, by your efforts, to be able hereafter to boast that we have a Government whose laws are respected and obeyed by the most powerful and wealthiest men, while protection is afforded to the weakest and humblest American citizen.

Mr. CONNESS. Mr. President, I shall detain the Senate but a moment in reference to this subject. It will be observed that the petition of these passengers, detailing their sufferings by the trip referred to of the steamer *Costa Rica*, makes no charge of bad treatment or incapacity on the part of the ship upon which they traveled on the Pacific side; and I desire in what I shall say, which shall be very brief, to entirely exculpate and exonerate the Pacific Mail Steamship Company from any blame growing out of the management of their line and the carriage of passengers. On the contrary, I think they are entitled to commendation, which I am disposed to bear testimony to here. They furnish, in return for large prices charged for passage, the best mode of communication perhaps that is furnished out of any port of the United States of America to passengers. Their ships are large and commodious; they are built with all the modern conveniences, and with regard not only to comfort, but, to the extent that it can be secured, with regard to the perfect safety of the persons whom they take in charge.

The contrary, however, is the fact in regard to the ships composing what is known as the Atlantic Steamship Company, or, in other words, the company known as the Vanderbilt Company. It may be said with perfect truthfulness that there is not a ship going out of the port of New York and sailing for Aspinwall and back, of all the ships employed by that line, that is fit to get a clearance and go to sea. For perhaps more than two years past such steamships as the *Ariel* and the *Champion*, notoriously unfit and unseaworthy, have been employed by the company of which I have last spoken to transport passengers between these two ports, causing in the transit by sea the extremest sufferings as well as the greatest danger to the passengers intrusted to their charge. In many instances the voyages have been prolonged, and in every instance where passengers have offered in excess of the number allowed by law to go on board those ships and be carried by them, they have accepted them without any reference to whether they could accommodate them or not. I have myself made passages on their ships when the scene that was laid before my attention constantly was perfectly horrible to contemplate. Insufficient in regard to the quality of the ship, insufficient in regard to the amount of room proportioned to the number of passengers, insufficient in regard to the food furnished and its quality, insufficient in all respects, and scandalous to the American people that vessels in such a condition should be permitted to go out of such a port as the great commercial metropolis of America. But these things have gone on without cure or without remedy being applied.

It will be remembered that at the last session of Congress an act was passed which we now simply ask for the enforcement of. In conversation yesterday with the honorable Secretary of the Treasury on this subject, he said very promptly, "Introduce a resolution directing attention to the subject, and I will enforce the law." Our people will thank that officer for the readiness with which he is prepared to enter upon this important duty. There is no more crying abuse than that which exists at the present time upon this subject. The Oregon Senators, every citizen of the United States who travels by these lines, can bear testimony to the exact truthfulness of the statement made by these suffering passengers.

Not wishing to detain the Senate longer, I ask for action on the resolution.

Mr. NESMITH. I desire simply to concur in the statement by the Senator from California in relation to the treatment which passengers receive at the hands of those managing the company on this side, and I also concur in what he has stated in

relation to the treatment which passengers receive at the hands of the company on the other side. Those who charge an exorbitant amount for passage should certainly treat passengers as men should be treated, and not as brutes. The transition from the ships on the other side to those on this side is like that from a palace to a pig-pen; and I understand that the responsibility rests upon a very wealthy gentleman of New York, Mr. Vanderbilt, who, by means of his great wealth, has been enabled to keep off all competition, while he has utterly refused to give the people such accommodations as they have paid for. Sir, the horrors of the passage on this side of the Isthmus—I have made it frequently and it has been so every occasion—have only been equalled by what we read of the terrible miseries suffered in the "middle passage" by the victims of the African slave trade. He has destroyed not only the comfort and the health but the lives of our people. He has grown rich by a monopoly which has caused the sacrifice of the lives of many of those who have attempted to make the trip from the Pacific to the Atlantic and from the Atlantic to the Pacific. I have understood that this company is not now in the hands of this man Vanderbilt; but at least he, or his son-in-law, Mr. Allen, at present has the control of it, and I believe that Mr. Allen is actuated by the same principle which governed Vanderbilt, and that is to grasp all the money he can, sacrifice the health, comfort, and lives of passengers, and render them no equivalent for what they pay.

I am very anxious to see the resolution adopted. I do not know that any beneficial result will grow out of it. I fear not; but as the Senator from California states that the Secretary of the Treasury has manifested every disposition to cooperate with or to enforce any resolution the Senate may adopt, I hope that we may effectuate something by the passage of this resolution. Let us try it at any rate, and test it. When we fail in that, we shall have to resort to some other measure to secure justice against a wealthy, unprincipled monopoly which cares nothing either for the life, the comfort, or the health of those committed to its charge for transportation.

The resolution was agreed to.

#### BILL RECOMMENDED.

On motion of Mr. HARLAN, the bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes, was recommended to the Committee on Indian Affairs.

#### QUOTAS OF THE STATES.

Mr. DAVIS. I offer the following resolution:

*Resolved*, That the Secretary of War inform the Senate how many men in the aggregate, both for the military and naval service, have been recruited in each State, and how many negroes for such services have been recruited in each State, and how many negroes have been recruited in the State of Kentucky, and how many in each county in said State, giving under each head aggregate numbers.

Mr. SUMNER. I think that had better lie over.

The VICE PRESIDENT. The resolution will lie over under the rules.

Mr. DAVIS. Allow me to make a single remark.

The VICE PRESIDENT. The resolution is not open to remark, objection being made to its consideration.

Mr. DAVIS. I want the Senator from Massachusetts to withdraw his objection. I reckon he is at liberty to do that.

The VICE PRESIDENT. Certainly he is; and when he does so it will be time for the Senator from Kentucky to make his remarks.

Mr. DAVIS. The Chair interposed and would not give me an opportunity to ask the Senator to withdraw his objection. I hope he will withdraw it for a moment, and let the resolution be read again. I think he did not understand it.

Mr. SUMNER. I have no objection to its being read again, but I do not wish to lose the privilege of objecting.

The VICE PRESIDENT. If there be no objection, the resolution will be again read.

Mr. SUMNER. For information.

The Secretary read the resolution.

Mr. WILSON. I desire simply to say that the Committee on Military Affairs—

The VICE PRESIDENT. The resolution is

not open to any sort of discussion, the Senator's colleague having objected to its consideration.

Mr. DAVIS. Will the Senator from Massachusetts withdraw his objection, or will he insist upon it?

Mr. SUMNER. I would rather that the resolution lie over until to-morrow.

The VICE PRESIDENT. Objection being made, the resolution must lie over under the rules.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 94) for the relief of Isaac R. Diller, and to the amendment of the Senate to the joint resolution (H. R. No. 99) reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants; and had passed without amendment the bill (S. No. 363) to amend the charter of the Washington Gas-Light Company.

The message also announced that the House had passed the following bill and joint resolutions, in which the concurrence of the Senate was requested:

A bill (H. R. No. 714) supplemental to the act entitled "An act to restrict the jurisdiction of the Court of Claims," &c., passed July 4, 1864;

A joint resolution (H. R. No. 150) to refer the claim of Selmar Seibert back to the Court of Claims;

A joint resolution (H. R. No. 151) to refer the claim of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, back to the Court of Claims; and

A joint resolution (H. R. No. 152) to refer the claim of Danford Mott back to the Court of Claims.

#### DEFICIENCY BILL.

Mr. CLARK. I ask the Senate now to take up the deficiency bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 709) to supply deficiencies in the appropriations for the services of the fiscal year ending the 30th of June, 1865.

Mr. CLARK. I will state that, as I understand this bill, it is exactly like the deficiency bill which was before the Senate with the exception of the second section, which is substantially the same provision to which the Senate objected before, but in a little different form. I desire that that section of the bill be read to the Senate. It is a short section.

The section was read, as follows:

SEC. 2. *And be it further enacted*, That \$38,000 be, and the same is hereby, appropriated, to be added to the contingent fund of the House, to enable the House of Representatives to fulfill its pledges and obligations heretofore made, and the same shall be audited and settled on such vouchers as shall be produced by the Clerk of the House.

Mr. CLARK. This is in substance the same provision which the Senate twice struck out from the bill, but in a little different form. I move now that the bill be amended by striking out that second section; and on that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I ask the Senator from New Hampshire if the section which he proposes to strike out is identical with the one on which the Senate acted before?

Mr. CLARK. It is in substance the same, but it is in different form. The House of Representatives now propose that we shall allow them to add to their contingent fund such an amount as will enable them to pay their employes. Instead of a provision reporting it as a deficiency to pay their employes, they now ask to make it up to their contingent fund. It is only putting it in different form. The thing is the same under a different dress.

Mr. JOHNSON. Then it is not a provision for a deficiency?

Mr. CLARK. It is not a deficiency.

The yeas and nays being taken, resulted—yeas 33, nays 3; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark-Conness, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Powell, Ramsey, Sherman, Sprague, Sumner, Tea Eyck, Van Winkle, Wiley, Wilson, and Wright—33.

NAYS—Messrs. Richardson, Saulsbury, and Wade—3.



**ABSENT**—Messrs. Brown, Carlile, Collamer, Cowan, Harding, Hicks, Howard, Lane of Kansas, McDougall, Nesmith, Riddle, Trumbull, and Wilkinson—13.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed, and that the bill be read a third time. The bill was read the third time, and passed.

#### RETALIATION ON REBEL PRISONERS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents, the pending question being on Mr. Wilson's motion to recommit it to the Committee on Military Affairs and the Militia.

**Mr. JOHNSON.** Mr. President, at the adjournment of the Senate yesterday I was referring to the fact that as far as I was then advised, or, indeed, as I am now advised, there is not before us any official evidence that the cruelties practiced upon our prisoners which are mentioned in the report of the 5th of May, 1864, have been continued since. I was told by the honorable member from Connecticut [Mr. Foster] that he had it from one who had belonged to the Army, and who was unfortunate enough to be captured and imprisoned in one of the prisons in South Carolina, that there was, to a certain extent, at least, cruelty as far as cruelty consists in failing to give the prisoners a sufficient ration. What I meant, however, was that we have no official evidence other than what is contained in the report of May 5, 1864, that the outrages which are hypothetically stated, though stated as facts in the resolution reported by the committee, have been perpetrated since that report.

The honorable member from Ohio, [Mr. Wade], who was one of the committee by whom the report of May 5, 1864, was made, interrupted me yesterday by saying that there had been an antecedent report in which evidence was presented to the Senate of other outrages of the same description. The purpose for which I referred to the report of May 5, 1864, is rather strengthened than weakened by that fact, because it appears that even prior to the 5th of May, 1864, the Senate, and of course the committee, whose business it had been to examine into the facts, were advised that these cruelties had been practiced; and yet from that time until a few days since, I am not aware that any measures have been recommended by the committee or any member of the Senate, looking to a resort to such a system as is proposed either by the resolution introduced by the honorable member himself, or by the report made by the committee to whom that resolution was referred. I suppose, Mr. President—and they had a right to rely upon it—that the members of the committee, including my friend from Ohio, were under the impression that the President of the United States would take all proper steps to arrest these barbarous acts as against our own men.

Now, assuming as I do, notwithstanding what has fallen from the Senator from Connecticut, that the barbarities spoken of in the resolution now before the Senate were practiced some time ago, that we have no evidence that they are now being repeated, I submit as a clear proposition of national law that whatever may be the extent of the right to retaliate in order to prevent continuing outrages, it does not apply to a case of antecedent outrages, because so to apply it is to punish what is past and not for the purpose of preventing the recurrence of the same things in the future. It is (if the honorable member will permit me so to say) revenge and not retaliation. Conceding for argument's sake, and I make the concession only for that purpose, that there exists a right under the laws of nations to starve the prisoners who are in our hands, to torture them short of starvation, to subject them to the inclemency of the weather and to kill them by force of the elements, or to use as against them every possible mode of human torture to which the ingenuity of man may resort, assuming that such power exists under the laws of nations, I think I am safe in saying that that power has never been exerted for the purpose merely of punishing prior outrages of the same description.

In a case of that kind the law assumes that

the belligerent who has been guilty of such outrages has waked up to a sense of duty; he has dropped his character of savage and barbarian, and he has reassumed that of a Christian or of civilized men; he has since that, so far from promoting the purpose which he had in view by conduct of that description furthering the advance of his own cause, he has pursued a policy more fatal to him than anything that the enemy could do; and he must feel, or is supposed to feel, that in the judgment of the civilized world he stands condemned, and that of itself is, in the case in which the outrages have not been continued, supposed to be the cause, and a sufficient cause for their termination.

The honorable member says, and no one who knows him doubts him, that he is as far from entertaining any inhuman feeling, or seeking to accomplish any inhuman purpose as any member of the Senate or any man to be found anywhere. I certainly do not doubt it. He thinks, however, that a sense of duty in the case which he supposes to exist would compel him to do what is against his better nature, and to aid in the perpetration of horrors at which his original nature would stand shocked; but he would do it from a sense of duty. Then in order to enable himself, or any person who may be put to the discharge of a function of that description to do it at all, he must be satisfied that it is necessary to do it; and if in the particular case the outrages of which he complains are now no longer being perpetrated, and we have no evidence before us that it is the purpose of the enemy to perpetrate them in the future, how can it be that he will forget the humanity which God has written upon his heart?

**Mr. WADE.** I think, if the Senator will read the resolution that is now before the body, and the amendment pending, it will save him the necessity of making all that argument. There is nothing in it about punishing or retaliating for anything that has been done, and if there is nothing of this sort doing now, then there will be no retaliation. That is all there is about it.

**Mr. JOHNSON.** I will speak of that by and by. What the honorable Senator himself proposed was to commence the work of torture at once. What the committee proposed was to commence the work of torture at once. The effect of the amendment which he suggests is to leave it to the President to commence the work of torture at once. That is a power I would not give to any living man.

That I am right in the view I take of the original proposition of the honorable member, and of that of the committee, and of the proposition which he proposes in the amendment that he suggests, I will show the Senate in a moment; but I assume now that I am right; and the honorable member's interruption—kind interruption, I am sure—of me shows that even he could not bring himself to punish in this way for enormities in the past, not being repeated, and without any evidence that it is the purpose of the rebel enemy to repeat them.

You punish, by your penal laws in a case of murder, by hanging the culprit because he is the guilty party, and because it is necessary that he should be hung in order to guard against the repetition of like offenses by others. But if, in point of fact, it was possible to ascertain—a murder being once committed—that no murders would be committed in the future, and that the man might be permitted to live, the law of nature and of nature's God would say, and does say, let him live. If we could read his heart and see that it was entirely changed, that he never would repeat the offense, and we could be satisfied, by reading the hearts of the community, that such an offense would never be perpetrated by any member of the community, it would be cruelty in the extreme to take the life of him who had offended, and repented, under such circumstances.

Now, what is the resolution? My friend, saying, no doubt, what he believed he could do under such circumstances in the resolution which he proposed, felt, and well he might feel, that the duty which he was about to impose upon those to whose custody these prisoners were to be subjected was a duty hard, if not impossible, to perform; and he therefore provided that the officer who declined to carry out the punishment prescribed to the very letter should at once be stricken from the rolls of the Army.

**Mr. WADE.** I perceive the Senator is going upon a false hypothesis. I would stand now, if I could, for the original resolution, for I believe it to be exactly right, and I only yield on account of weak brethren. [Laughter.]

**Mr. JOHNSON.** The "weak brethren" will be able, I suppose, to take care of themselves, providing they will agree with the honorable member from Ohio that they are "weak brethren." I do not know what his idea of weakness is, but I should think that my friend from Michigan, [Mr. Howard,] in relation to this measure, was anything but a "weak brother." I think he has gone to the whole extent that any man born a Christian could go. I have not heard anything from the honorable member from Michigan, [Mr. Chandler,] and who, I believe, is a member of the same committee with the member from Ohio, that induces me to think that in this particular he can be considered a "weak brother." If they do not go as far as the farthest, they go as far as any other man living, except the honorable member from Ohio. He is farther than the farthest.

But I have referred to it, Mr. President, for the pose of showing what the original proposition was, and how my friend from Ohio, although satisfied, as he has told us, that he could discharge that duty, when he came to read his own heart in the solitude of his own room, and then that resolution, felt that there was something in the nature of the duty which he was calling upon an officer of the United States to discharge so revolting that he could not be made to discharge it, and he provided for the failure to discharge it by clothing the President not only with the power, but making it his duty to dismiss such an officer at once from the service.

Having said as much as I propose to say of the proposition first suggested by my friend from Ohio, I come to the proposition as reported from the committee, which is almost precisely the same in words, and is substantially identical with the original resolution offered by the member from Ohio, except that it omits the provision that the officer is to be dismissed if he does not perform his duty, and announces to the President that it is not the purpose of Congress in passing the resolution to make it obligatory upon him; but we are asked to say to him that it is his duty to resort to this measure. We are to tell him that a resort to this measure is absolutely necessary in order to put an end to the barbarities being practiced upon our own prisoners; and under some doubt—I do not stop to inquire whether it was well founded or not—of the authority of Congress by legislation to interfere with the President at all in relation to such duties as are stated in this resolution, it concludes with saying that it is to be understood merely as advising the President, and not as controlling him. Advising him to do what? The honorable member from Missouri, [Mr. Brown,] whom I do not now see in his seat, the other day said that it was not the purpose of the committee to suggest to the President the propriety of proceeding at once to the execution of this duty of retaliation; and he found, as he supposed, a reason for that construction in the latter clause of the resolution which declares that the resolution itself is designed to be merely advisory to the President. That is true; but what is the advice? What are we asked to do? What is every individual Senator asked to do? To advise the President that in our opinion he should proceed at once to starve, to torture, to assassinate, to freeze to death the prisoners who are in our own hands. The language of the resolution, not the preamble, is:

That in the judgment of Congress it has become justifiable and necessary that the President should, in order to prevent the continuance and recurrence of such barbarities, and to insure the observance by the insurgents of the laws of civilized war, resort at once to measures of retaliation; that in our opinion such retaliation ought to be inflicted upon the insurgent officers now in our hands, or hereafter to fall into our hands as prisoners; that such officers ought to be subjected to like treatment practiced toward our officers or soldiers in the hands of the insurgents, in respect to quantity and quality of food, clothing, fuel, medicine, medical attendance, personal exposure.

And every other mode of dealing such as our prisoners have been treated with in the hands of the insurgents. The President is advised to do that at once. My friend from Ohio, to assist his "weaker brethren," by the amendment which he sent up to the Chair the day before yesterday, and which is now before us, makes it not a matter of

advice to the President, but the obligation of the President. He proposes that the President shall be not only advised, but directed to pursue the policy mentioned in the resolution, and we assume that it is in the power of Congress in a matter of this sort to control the President in the management of prisoners. He does not mean to leave to the President any discretion. I speak now of the original amendment. His present amendment bearing upon this subject I will recur to in a moment. He says the President shall at once starve, torture, poison, refuse medicine to the sick, and surgical attendance to the wounded prisoners of the enemy, and if all will not do, if we become tired of the slowness of the remedy, the President is directed to have the poor victim of the chances of war assassinated.

Now, Mr. President, what is the other amendment proposed by the member from Ohio?

Mr. WADE. I have offered but one.

Mr. JOHNSON. I mean the other part of the amendment. You have offered one; but that is made up of two provisions.

Mr. WADE. It is one amendment.

Mr. JOHNSON. It is one amendment, but there is always in every good thing, and the Senator intends this as a good thing, more than one proposition. He proposes to strike out all that part of the original resolution which directs the President to subject the prisoners taken from the enemy to precisely the same kind of treatment that our prisoners receive, and to substitute for it what I will read:

And that the executive and military authorities of the United States are hereby directed—

Not advised—

to retaliate upon the prisoners of the enemy in such manner and kind as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

Not "as he shall judge to be effective," but "as shall be effective." He does not leave it to the President to decide whether any such measures of retaliation are necessary; he directs him to retaliate upon the prisoners of the enemy "in such manner and kind as shall be effective." What will the President have a right to say? The Senate of the United States have before them a proposition to retaliate in kind, starvation for starvation, torture for torture, assassination for assassination, exposure for exposure, and we are about to tell him that he must take the subject into his own hands, and measure out precisely the degree of punishment to prisoners in our hands as he shall deem necessary to prevent a recurrence of like enormities upon our prisoners in their hands. When is he to do it? The honorable member says it was not his purpose, nor will that be the effect of the resolution, to commence the work of retaliation at once, not to punish for past offenses. I certainly have no right and would be the last man in the Senate to question the sincerity of any purpose that the honorable Senator says he entertains; but I submit to him whether, if his amendment should be adopted as he proposes, the President is not to resort forthwith to retaliation. If his amendment striking out and inserting should be adopted, the resolution will read:

That in the judgment of Congress it has become justifiable and necessary that the President should, in order to prevent the continuance and recurrence of such barbarities, and to insure the observance by the insurgents of the laws of civilized war, resort at once to measures of retaliation.

Then comes in his amendment that the President shall adopt such measures as shall be effective. I have a right to assume that the President is as patriotic as the honorable member from Ohio; that he is as anxious to put an end to these barbarities as any member of the Senate; and that he may, therefore, do precisely what the honorable member tells us he will do. That, as I said just now, is a power I would not give to the President. I would not let him, if I could prevent it, resort to measures of retaliation of this description; and yet it is manifest that if we adopt a measure such as this will be after it shall have been amended as proposed by the honorable member from Ohio, the President will be directed at once to retaliate. Retaliate how? "In kind," and that is what the honorable Senator means. He is to retaliate in kind; so that at last we come up to the question; first, whether, if we had the power, it is expedient to exercise it; second, whether we have the power. By power I mean the right.

Now, is it expedient to exert it even if we have the legal power to exert it? The honorable member assumes that the starvation of the four or five thousand, or the twenty or thirty thousand, or whatever may be the number of prisoners now in our hands, will prevent the starvation of the thousands who are in the hands of the enemy or may hereafter come into the hands of the rebel enemy. Does he know it? Who can? If the rebel government was privy to the enormities practiced upon our prisoners, they are to be restrained by no moral restraint. Everybody will concede that. They are brutes in the form of man; they are savages worse than the wildest Indian that ever ran loose on the prairies; and nothing like moral restraint will prevent their continuing these barbarities. Suppose they do; are we to continue them? Then what will the world say? What would any man say if he had the power in his own hands? What will the voice of Christian civilization say? That such barbarities must be arrested. Other nations have an interest in it. They cannot stand by and see the people of the United States become a band of savages, not fighting in honorable warfare, meeting the foe face to face, but after he has succumbed and yielded to the power exerted against him by either side and gets into the hands of either party, the work of extermination is to begin in the most odious and disgusting form ever known to civilized man. Would not one man, if a Christian, having the power, arrest it? Who can doubt that? Will not the nations of Christendom be called upon to arrest it? Will the God of justice fail to proclaim that it is their duty to arrest it?

But then what is to become of the Union? Where is the struggle to end? From the first I never doubted how it would end if conducted upon high, elevated principle. I never for a moment questioned that the time would come, and as I think it should have come before, and would have come before if the armies of the United States had been properly used, but that the time was sure to come when the rebellion would be frustrated and the authority of the Government reinstated; and no matter what may happen, no matter what course from time to time the United States or the rebels may adopt, I shall continue to entertain the same expectation, and shall continue till the last ray of hope is extinguished in the darkness of perpetual night. But let us turn as against each other the arts of the savage; let us proclaim war to the knife, and, what is but little worse, a resort to such measures as are contemplated by this resolution, and the other side continue to meet us in the same way—I speak it with due respect to those who entertain a different opinion about this resolution—we shall no longer have the support of the God of justice; the war ought to cease; the destruction of the Union, the end of the freest constitutional Government that ever existed will have come, and ought to come if it is to be supported only by a resort to savage methods.

If we began this career, and if we should stop at the end of a year or two or three or ten years, what sort of a Union should we have? How long could we live together with a Union so restored? Years in the life of a Government are but as moments. How long would it be that the honorable member's descendants, and my descendants, if it were possible to suppose that we were on opposite sides of this rebellion, and he and I resorted to such a course as is recommended by these resolutions—how long would it be before our descendants, after a temporary arrest, should have occurred, would again be cutting each other's throats, trying to see which could starve the soonest, trying who was most expert in the arts of assassination, who could torture most, who could starve slowest, who could expose longest to the destructive influence of the elements, who could keep alive longest by refusing surgical and medical aid to the prisoner whom he may get into his hands? Success in such a contest—my friend will pardon me for saying it—is but infamy.

Then as a matter of policy, if I am right, assuming the power to exist, we ought not to adopt it. Have we the power? The honorable member from Ohio, my friend from Michigan, and the honorable member from Missouri [Mr. Brown] have told us, and told us properly, that the right to retaliate is recognized by the laws of war. We all know that.

Mr. WADE. Then what are you debating about?

Mr. JOHNSON. The question is as to the extent that you say the right goes. Like all other rights—

Mr. WADE. If you stop short of making it effectual, you had better not begin.

Mr. JOHNSON. Perhaps not. I will speak of that by and by. There are some things that should not be accomplished at all if they cannot be accomplished except by the perpetration of an enormous crime. The power of retaliation exists as a right of war, everybody admits; but has it no limitation in this age of the world? My friend from Michigan has told us that he has gone through all the authorities cited by Halleck in his system of international law, and he has looked everywhere else to find whether there was any authority that limits the exercise of this right of retaliation, and has found no authority which looks to such a limitation. The honorable member is clearly mistaken.

Mr. HOWARD. "Limited by necessity" was my language.

Mr. JOHNSON. Then necessity limits it?

Mr. HOWARD. That is what I said; and that is the only limit.

Mr. JOHNSON. So I understood you; and now, with due deference to the better judgment and greater research of the honorable member from Michigan, I say, and should say with perfect confidence, if he had not expressed a different opinion, that there is a very clear and defined limit. You can retaliate to accomplish a purpose in such cases, but there are cases in which you have no right to retaliate in kind; and just in proportion as the honorable member from Michigan described graphically, so as to excite the indignation of all, the enormities practiced upon our prisoners, just in that proportion did he go to prove that there was no authority to retaliate. The necessity in the contemplation of the law of nations terminates when retaliation becomes cruelty, and offensive to the laws of God and man. Let me imagine a case. I speak to humane men; I speak to Christian men. Suppose these rebels were to burn five hundred of our prisoners at the stake; would you burn five hundred? Can you find any book which will justify you in saying that you could retaliate in that way?

Mr. HOWARD. Does the Senator from Maryland desire an answer?

Mr. JOHNSON. Certainly.

Mr. HOWARD. Mr. President, in such a distressing case as that to which the Senator has alluded, if I were a commander in the field I should certainly forbear as long as reason and my duty to my country and my countrymen would allow; but should I finally discover that it was the persistent purpose of the enemy to burn my prisoners who should fall into his hands, if he should repeat the process so many times as to make it perfectly obvious to me that that was his settled usage and rule of conduct, and if I should discover to my own satisfaction that the only effectual mode of arresting the outrage was to punish his prisoners in my hands in kind, horrible and revolting as the spectacle might be, I should feel it my duty to my country and to my army to burn his prisoners also. I should regard the necessity of the case as the only limit to the rule, because (if the Senator will allow me) there must be some way of restraining and punishing and preventing these terrible barbarities; and the only way, as I said before, it seems to me, would be to punish in kind, after having waited a reasonable length of time and resorted to all other reasonable modes of preventing the evil.

Mr. JOHNSON. I do not think after that that my friend from Ohio can say the honorable Senator from Michigan is a "weak brother."

Mr. HOWARD. No, sir; not a bit of it.

Mr. WADE. I did not say he was before. I said there were weak brothers. I did not designate them.

Mr. JOHNSON. He is not one of them, certainly. Then suppose the enemy were contenting with were savages, and they put their prisoners to the stake, subject to the slow fire, and, to make the punishment as they think more effectual, dance around the prisoner while he is burning to death. My friend from Michigan, I suppose, if he was directed to perform the duty, and the recurrence of the same outrages could not be prevented in any other way, would be found leading the dance! "Necessary," says the hon-

orable member. The savage thinks it necessary, and the dance in the eyes of the barbarian is that which gives poignancy to the punishment. Nothing else will do it; he is to get his platoon or his regiment of soldiers around the funeral pile, and my friend will lead in the dance! How long would he be able to continue it without falling down in very shame and calling upon God to pardon him?

Mr. HOWARD. The dance is mere savagery of the process.

Mr. JOHNSON. There is nothing savage in the burning itself; the burning is a great deal more innocent than the dance! I should rather think that of the two the dance was much the more innocent.

But, Mr. President, I have said all that I proposed to say upon that, except to add that, highly as I esteem the authority of my friend from Michigan, who is fresh from the books, and in the daily habit of applying, and successfully applying, his knowledge on this particular branch of jurisprudence, I am rather inclined to lean with somewhat of more confidence upon the opinion of Professor Lieber. He is not only a jurist in the general acceptance of the term, but he is a publicist of the highest possible reputation. His thoughts have been turned to this subject from the commencement of the war; that is to say, have been turned to the subject of the manner in which the war was to be carried on; they have been specially directed of late to this particular measure; and he tells us that there is not only no such principle to be found in the doctrine of retaliation as known to international jurisprudence, but that it is abhorrent to that doctrine.

Mr. HOWARD. He expressly admits the doctrine of retaliation.

Mr. JOHNSON. Of course he does; so do I; and the only difference between us is how far are you to go. The honorable member from Michigan maintains that there is no limitation except such as you may think necessary to accomplish the purpose. The law says there is a limitation, and the power terminates at cruelty.

Mr. WADE. There is no necessity before cruelty begins.

Mr. JOHNSON. I mean savage and barbarous cruelty, such as has never been practiced, at least since the termination of the sixteenth century; but if I had any doubt whether I could rely with more confidence upon the opinion of Professor Lieber than upon the opinion of the honorable member from Michigan, that doubt would be removed if I could find that the opinion of Professor Lieber was supported by that of Chancellor Kent. I need not cite the passage referred to by my friend from Massachusetts, [Mr. SUMNER,] in which Chancellor Kent tells us that according to the modern laws of war the ancient doctrine no longer exists. At one time the indiscriminate slaughter of the prisoners was supposed to be the right of war. At another time, the first step in civilization, the captor might sell them as slaves. At another time, civilization still going on, he could discharge them upon ransom. Still progressing under the mild but powerful influence of the doctrines taught by the Saviour of men, the principle of exchange took its place. The world has become humanized. The cause of His advent upon earth was to humanize, to civilize, to change man's corrupt nature; to make man what God intended him to be, a brother and not a savage. And since the termination of the sixteenth century I defy the honorable member from Michigan to point out a single instance in which retaliation anything like that which is proposed in this resolution has ever been resorted to.

He quoted the act of 1813, passed under the Administration of Mr. Madison during the war of 1812. I do not know that the honorable member read it; but the retaliation authorized there was a retaliation—I use nearly the words of the act—that should be consistent with the rules of civilized war. Let me be sure that I am correct as to the phraseology of that act. It is the first section:

"The President is hereby authorized to cause full and ample retaliation to be made"—

How? To what extent? To the extent that may be necessary to accomplish the purpose? No—

"full and ample retaliation to be made, according to the laws and usages of war"—

Among savages? No—  
"among civilized nations."

So at last that act brings us back to the question, what, according to the laws of civilized nations, can be done under the system of retaliation? If I am right, it cannot be carried to the extent proposed by this resolution.

Now a word, before I close, as to the particular question before the Senate. The honorable member from Massachusetts [Mr. WILSON] suggests a recommitment of the whole subject to a committee. To that I have no individual objection. I think it very likely it would result in bringing before us a proposition in which we could all unite; but his colleague [Mr. SUMNER] a few days ago introduced a series of resolutions by way of amendment, and for those I could vote with great pleasure; they state, as I think, very correctly the true doctrine. My friend from New Hampshire [Mr. CLARK] has an amendment to which I object, because, as I think, it is so couched as to give the President the right to retaliate precisely in the same way in which we say retaliation shall be carried on by the original resolution. The honorable member from Missouri [Mr. HENDERSON] proposes the appointment of a commission. Why should we not have it? My friend from Ohio [Mr. WADE] tells us he is not for sending any commission to that rebel and political apostate, Jeff. Davis. Why not? It is too late now to debate whether we should consider this war as a war to be conducted on principles applicable to an international war, so far as relates to the manner in which prisoners are to be treated. Exchanges have been carried on, and if the object of the commission as proposed by the honorable Senator from Missouri is to effect a remedy for the wrongs of which we have been complaining, through the instrumentality of a commission, what possible objection can there be? Whether we are to enter into a negotiation which is to lead to peace is quite another question.

Before the late political campaign, if I may be permitted to go out of the subject immediately under debate, one of the political parties of the day suggested as a part of their platform the commencement of a negotiation to terminate the struggle; and that was very violently opposed and denounced by those who supported the reelection of the then incumbent and now incumbent of the presidential chair. It was considered almost evidence of treason. And yet if my friend from Ohio is right in his conjecture, and I take it for granted he is right, a minister almost plenipotentiary has gone down there for the purpose of some negotiation which is to look to a termination of the war. If the President of the United States has the power to send down a commissioner to negotiate with these rebel authorities in order to terminate the war, what possible objection can we have (falling short of him in that particular) to constitute a commission for the purpose of ascertaining whether the barbarities to our prisoners, of which we complain, may not be arrested and the condition of the prisoners on each side very much ameliorated? I can see none.

Now, let it not be for a moment understood, either by the members of the committee or by those who differ from me and differ from those with whom I concur, that we are not anxious to put an end to the cruelty to these prisoners. I have heard of cruelty practiced by some of our own subordinates on prisoners in our hands. I have heard of some being shot here within sight of the Capitol for looking out of a window. I have heard of thousands dying by improper treatment. To a certain extent, I fear, these things are true. In a war like this it is impossible to have always fit men in office; there will be brutes found on both sides; and would to God that I could believe we have not had a few on our own side. We denounce them when we discover them; but the enormities which they perpetrate are perpetrated before there is any discovery. What I want, therefore, is such a system of exchange as may put an end to these cruelties in the future, leaving the past where it is, leaving the rebel government, if they have resorted to the enormities stated in this resolution, as I have no doubt they have, to the judgment of the civilized world, which will pronounce a judgment of infamy against all who are concerned in them. Leave it to stand where it is. Take care of the future, and let the past take care of itself, or, if possible, be forgotten.

Mr. President, I think that there is very great cause of censure somewhere for the failure to exchange prisoners. The honorable member from Iowa [Mr. HARLAN] says, and no doubt he is right in point of law, that there is no obligation under the laws of nations to exchange at all. That I admit. It is a question for each of the belligerents to decide for himself, whether it will be advantageous to him, looking to a successful termination of the war, to exchange. He is right in saying that there are cases in which, if a belligerent thinks it is better for him to keep the prisoners he has, than to get back those of his own army that the other belligerent has, he may pursue that course. That is the strict right; but my friend from Iowa will find, if he looks at the books upon the subject, that there is connected with it this principle, that there exists in such cases the highest moral obligation to take care of your own men when they shall be captured, and to rescue them from the captivity to which they have been subjected. Going upon the field, risking their lives in your defense, and by the chances of battle becoming the prisoners of the enemy, the books say that it is the highest duty (not as between one belligerent and the other, but the highest duty as between the belligerent whose prisoners have been captured and the prisoners) to resort to every possible step to rescue them from their sufferings.

I am not here to censure the President of the United States; I do not know that he has not done everything that he could do; but I mean to say this, (pronouncing the opinion hypothetically,) that if he has purposely refused to exchange upon any ground that the exchange would inure more to the benefit of the enemy than of ourselves, he has perpetrated a high crime as against the soldiers of the United States; and if the difficulty attending the exchange is of another description, if he refused upon the ground that the enemy would not deliver the Africans whom they have taken in battle, while they were willing to exchange man for man of white soldiers, he has committed almost as great a crime. It by no means follows, because he cannot relieve the sufferings of a black soldier, that if he has the power to relieve the sufferings of the white soldier he should not exert it. The black is in no worse condition by rescuing the white. He is in a better condition, for when the white is rescued the armies of the United States are replenished. Now, whatever may have been the cause of the failure to exchange I do not know with anything like certainty. My opinion is that there is nothing which should have prevented an exchange; and if the President of the United States was advised that these enormities were being practiced, our men being starved and tortured and assassinated, and he had reason to believe that that system of barbarity was to be continued, then he committed if possible a still higher crime in not resorting to a system of exchange if he could resort to it. But, as I have said, I have no purpose of finding fault with the President of the United States.

I do not entirely agree with the honorable Senator from Pennsylvania [Mr. COWAN,] who supposes that we have no authority to legislate on this subject. I think over the exchange of prisoners and the treatment of prisoners Congress has authority. The executive duty is to carry out the laws of the United States passed in pursuance of the authority conferred upon the Congress of the United States by the Constitution; and, as I think, among the laws which Congress are authorized to pass, is a law to provide for the manner in which prisoners shall be treated, and if Congress shall so legislate, it will be the duty of the President to carry out its provisions.

I conclude then, Mr. President, with saying that I shall vote for the reference suggested, and when the subject shall be before the Senate again, if the proposition shall come in a form which is to apply the doctrine of retaliation prospectively, without empowering the President to go beyond the limits to which I think the doctrine is subject, I shall vote for the proposition.

Mr. HOWE. Mr. President, I have listened to this debate with a good deal of interest. I purposed in the outset of it to give my vote for this resolution; and seeing the resistance which it met, and the sources from which that resistance came, I felt under obligation to listen with a view of informing myself, if it were possible to do so from the debate, how and wherein I was



wrong, if I was wrong. I certainly would not support this resolution if I believed with the Senator from Maryland that the effect of it would be to muster out of our service the God of justice. I am very grateful for the favor He has shown us so far during this controversy, and I certainly do not wish to disband Him. But I do not believe it. I think the mistake that arises, both in our own contemplation of the subject and in what is supposed to be His contemplation of it, arises from the fact that we do not rightly consider what the evil is which we wish to relieve.

This resolution has been debated from the beginning on the part of those who have opposed it as if it were a bill for starving human beings. Now, I do not so regard it. I look upon it as a bill to prevent the starving of human beings; and the two questions to be considered, therefore, are, first, whether starving human beings is right? and second, whether this measure is calculated to put an end to it? I believe there is a very general agreement on the part of the Senators who have engaged in this debate that starvation is not quite a proper thing. It is almost the only subject on which I have ever known the Senate to be unanimous, and I think I need not spend any time to elucidate that point.

Will this measure proposed here have a tendency to put an end to it? If it will, it is no use to call it barbarous, for it is not. If it will put an end to starvation, it is no use to call it cruel, for it is not. If it will put an end to starvation, it is no use to characterize it as inhuman, for it is not inhuman; it is the very height of humanity. What is the evil before which we are placed, and which we must eradicate? It is not that our soldiers have been exposed; it is not that they have been starved; it is not that they have been assassinated. That is evil enough, God knows; but that is an evil which we cannot redress; it is an evil which I am profoundly grateful to know that He can redress, and I am profoundly happy to believe that in His own good time He will redress it; and I agree with the Senator from Maryland that to that redress we should leave these crimes. But this is the evil with which we have to do: that to-day—not yesterday nor last year, but to-day—men who have fought and bled for this Union and its flag are exposed to suns and to rains, to heats and to frosts, without shelter; that to-day they are without clothing and without food; that to-day they are fed with food which poisons and which does not nourish. This is the evil with which we have to do; and how will you deal with it? That is the question which the Senate is to determine.

The propositions are various. The Senator from Massachusetts [Mr. SUMNER] proposes to pass a resolution, a joint resolution of the two Houses of Congress, calling it naughty—"barbarous," I think, is his language—and to stop there. The Senator from Massachusetts [Mr. WILSON] proposes negotiation with the men who perpetrate these enormities. The resolution before us proposes a different remedy. It proposes to say to the authors of these iniquities, to those who continue them to-day, "Put our exposed soldiers under cover, or the men who have fought your battles shall be turned out to the storm." It proposes to say to them, "Give our starving men food and drink, or we will take from the lips of the men who have fought your battles food and drink; do what humanity demands at your hands, or we will do to yours what will compel you to be human." This is all there is of it. There is not a word that is retrospective. There is not an idea that is punitive. It lets the past alone; it deals only with the future.

Now, sir, what is the objection to saying this? The Senator from Maryland who has just taken his seat has argued that it is inhuman to say these things, to propose these measures; and why? Because the enormities practiced upon our soldiery are so great, the cruelties are so monstrous, that it would shock ourselves, it would shock civilization, for us to assume to retaliate. He paints the horrors which all admit are every day witnessed in these pens and open fields where our soldiers are confined. He holds them up to shock us. He anticipates our Government practicing like enormities toward prisoners in our hands, and he demands to know what the world would say of such conduct in us; nay, he asks what would any man say who held the powers of the world. Well, Mr. President, I should like to know. The

Senator did not himself tell us what the world would say, nor what a man would say under such circumstances. I wish he were here now to tell us himself.

But what is the fact? If this resolution be passed, we do not mete out rations to these prisoners. Why? Because our prisoners in their hands are starving. We say to them, "Give our prisoners meat and give them bread, and here is meat and here is bread for your men; we do not mete out these rations because our men in your hands are not fed." What will the world say? Will the civilized world tell us under those circumstances, "No matter what the rebels do, feed the men in your hands; no matter that your men are dying daily of starvation, deliver your rations regularly to the prisoners in your hands?" Will the civilized world say that to us?

First, I do not believe it, and secondly, if they did say it, it is a proposition upon which I would fight the civilized world as quick as any proposition I ever heard stated. Tell us to turn indifferently from the fact that starvation and death from every form of exposure is the daily event among our men—command us to that measure of indifference! No, sir, I could not be commanded that far, and I rescue civilization from the suspicion that such would be its decision. They would say to these brutes, as they were forcibly called by the Senator from Maryland, these brutes in human form, "Cease to be brutes, which your form does not permit, and begin to be men, which your form demands at your hands; stop these cruelties which have been your practice for years; feed the men in your hands, and then the men you care for will be fed; be human yourself, and inhumanity ceases." That I think would be the decree of the civilized world, and I am sure that any human being who held in himself the powers of the world would pronounce such a judgment.

I did not mean to occupy any time in elaborating this matter, and I shall not now. It seems to me plain and simple. It is urged, not as an inhuman measure, but it is urged in the name of humanity.

One other remedy is suggested for this evil, and that is that exchanges should be made of the prisoners in our hands for the prisoners in the hands of the enemy. Unquestionably, Mr. President, exchanges should be made as fast as they can be made; but exchanges cannot be made without the consent of the enemy, and when the enemy consents, exchanges cannot be made in a moment; and if to-day all the prisoners who now languish in dens were returned to us, while the war lasts the enemy is liable to take prisoners. Throughout this debate those who have insisted upon the necessity of making exchanges have held up the present Administration as the cause why exchanges have not been made. I do not hold them guilty of that, Mr. President, and it was more for the purpose of calling the attention of the Senate to a few facts in reference to the question of exchanges that I consented to speak at all on this occasion.

It is now assumed, not merely that the Administration is the party which refuses to make exchanges, but that it refuses to make exchanges for no other reason than that the rebel authorities will not consent to the surrender of the colored soldiers in their hands. In answer to that, I say that up to the 27th of December, 1863, exchanges were being made with considerable regularity; that on that day the agent of exchanges, as I believe he is styled, on the part of the confederate States addressed this letter to Major John E. Mulford, the assistant agent of exchange on the part of the United States:

CONFEDERATE STATES OF AMERICA,  
WAR DEPARTMENT, RICHMOND, VIRGINIA,  
December 27, 1863.

SIR: I have received your letter announcing your arrival with confederate prisoners. I have this day forwarded to you an equal or greater number of Federal prisoners.

I received with your letter several communications from Major General Butler. In no one of them is it stated that the United States Government is willing to resume the cartel and deliver all of our prisoners now in captivity, the excess on either side to be on parole. I have more than once expressed the entire willingness of the confederate government to deliver the Federal prisoners now in our hands, provided the United States authorities will deliver the confederate prisoners in their hands. This is the provision of the cartel, and we can accept nothing less. Unless this is the distinct understanding, no equivalent will be delivered to you for any confederate officers and sol-

diers whom you may hereafter bring to City Point. In the hope that such is the understanding, I have directed that a number greater than the total of your delivery shall be sent to you.

Respectfully, your obedient servant,

ROBERT OULD,  
Agent of Exchange.

Major JOHN E. MULFORD, Assistant Agent of Exchange.

Upon the authority of this letter, then, I say that there was no difficulty with the rebel authorities about the exchange of colored soldiers; they were willing to deliver all the prisoners they had in their hands, if we would deliver all we had in our hands. The simple difficulty was that our Government, believing that the rebel authorities had violated most grossly the paroles taken of the prisoners captured at Vicksburg, refused any longer to take the paroles of prisoners. It was upon that point that the authorities divided, and it was for that reason that exchanges stopped. "Unless you will deliver them all," said the rebel agent, "all in your hands, it will be useless for you to send more to City Point, for no equivalent will be returned for them."

Mr. DAVIS. Will my honorable friend allow me a moment to give him information?

Mr. HOWE. Certainly.

Mr. DAVIS. In my remarks yesterday I assumed that our authorities had had opportunities to exchange white prisoners for white prisoners, and that they had refused to do so because the rebel authorities declined to exchange negro prisoners and their officers. I will now read some authority on that point. The honorable Senator from Wisconsin, I suppose, holds in his hands the same document from which I am about to read, Senate Executive Document No. 17, Thirty-Eighth Congress, first session, being the correspondence between the authorities of the two Governments in relation to the matter of exchange. I find in this document an extract from a message of President Davis furnished by our own authorities in these terms:

"So far as regards the action of this government on such criminals as may attempt its execution, I confine myself to informing you that I shall, unless in your wisdom you deem some other course more expedient, deliver to the several State authorities all commissioned officers of the United States that may hereafter be captured by our forces in any of the States embraced in the proclamation that they may be dealt with in accordance with the laws of those States providing for the punishment of criminals engaged in exciting servile insurrection."

That has reference to officers who were endeavoring to recruit in the rebel States, and to induce the slaves to abandon their homes and to join the American Army. He adds this other sentence:

"The enlisted soldiers I shall continue to treat as unwilling instruments in the commission of these crimes, and shall direct their discharge and return to their homes on the proper and usual parole."

That communication of President Davis is dated January 15, 1863. I will next read an extract from a letter of Robert Ould, the agent of exchange for the rebel authorities, to Colonel William H. Ludlow, the agent on the part of our Government, dated War Department, Richmond, Virginia, July 26, 1863:

"If, at this time, you have any officers of the rank I have declared exchanged, or of any other rank, or if you have any particular organization of privates or non-commissioned officers whom you wish exchanged, you have only to state such fact and your selection will be approved."

Colonel Ludlow was superseded and General Meredith took his place, and here is a very short letter from General Meredith to General Hitchcock on the subject of exchanges:

OFFICE OF COMMISSION FOR EXCHANGE,  
FORTRESS MONROE, VIRGINIA, August 7, 1863.

GENERAL: I have the honor to inform you that by to-day's boat I have received a most earnest and pressing request from Mr. Ould to grant him a meeting as early as possible. I have not yet sought an interview with him, for the reason that Colonel Ludlow has been quite reticent in regard to matters connected with his late business; nor did I wish to see Mr. Ould until I had some specific instructions from the War Department.

From what I can gather in Colonel Ludlow's letter-books, I suppose the following are points to be insisted upon:

1. The immediate exchange of Colonel Straight and his command.
2. An agreement that Dr. Green shall be held by the United States Government as a hostage for Dr. Rucker, other surgeons to be exchanged.
3. That all officers commanding negro troops, and negro troops themselves, shall be treated as other prisoners of war, and exchanged in the same way.

I feel constrained, however, for reasons stated above, to ask for full instructions as soon as possible. You may rest assured that I shall enter into no unauthorized agreement

with Mr. Ould, nor shall I discuss with him any point on which I am not fully instructed. I have the honor also to forward you the inclosed from Mr. Ould, upon which I should like to hear your views before seeing him.

I am, general, very respectfully, your obedient servant,  
S. A. MEREDITH,  
Brigadier General and Commissioner for Exchange.  
Major General E. A. HITCHCOCK, Washington, D. C.

General Halleck, on the 12th of August, 1863, from his headquarters in Washington, directed a letter to General Meredith, in reply to the note from which I have just read, in which there is this paragraph, speaking of a demand of the rebel commissioners:

"This is certainly a most extraordinary demand, and cannot be acceded to. In order, however, to avoid any difficulty on this point, General Meredith will be authorized to agree with Mr. Ould, that all paroles given by officers and men on either side, between the 3d of May and the 3d of July, not in conformity with the stipulations of the cartel, be regarded as null and void, a declaration to that effect being published to the armies of both belligerents."

"The other three points mentioned in General Meredith's letter of the 7th instant seem to be fully understood by him. The Government of the United States will, under no circumstances, yield either of these points."

It was to this third point that General Butler's letter from which I read yesterday referred, and that point was "that all officers commanding negro troops, and negro troops themselves, shall be treated as other prisoners of war, and exchanged in the same way." The rebel authorities refused to make exchanges upon that proposition, and General Halleck, in his letter of instructions to General Meredith, says, "The other three points," including the one I last read, "mentioned in General Meredith's letter of the 7th instant seem to be fully understood by him. The Government of the United States will, under no circumstances, yield either of these points," and the point which I have just read was the great point that prevented the exchange of private soldiers on the part of the United States for private soldiers held by the rebel authorities.

Mr. HOWE. Mr. President, I do not intend to print my speech in pamphlet form, and therefore there is no great damage done by the amount that my friend from Kentucky has interjected into it. If such had been my purpose, I should certainly expect him to bear some portion of the cost of printing. [Laughter.]

Mr. DAVIS. I think I should have a reciprocal claim on the honorable Senator; for I never made a speech that he did not interrupt me repeatedly. [Laughter.]

Mr. HOWE. I do not know but that we are about even. [Laughter.] I shall certainly be willing to allow any just offset. A single word will dispose of the information the Senator from Kentucky has imparted to me. All the questions to which he has referred have been questions under discussion between our authorities and the rebel authorities. The points referred to in the letter of General Meredith are points which our Government have made, and which I am happy and proud to say they have not yet abandoned, and I have faith in them that they will never abandon them. The fact is that notwithstanding there were these difficulties and disputes about what ought to be done, between the two authorities, they did not interrupt exchanges. Exchanges went on; exchanges continued to go on; exchanges never stopped until December, 1863, months after all this correspondence took place, when the rebel agent at Richmond informed our agent, "It will be useless for you to send any more prisoners to City Point, unless you accompany them with the explicit declaration that the excess of prisoners in your hands you parole." That was the end of exchanges.

There was another point made on the same day by the same agent. Having several times received letters from Major General Butler and replied to them prior to the 27th day of December, 1863, on that day he seemed to have discovered that under a proclamation of Jefferson Davis, Benjamin F. Butler, a major general in the Army of the United States was an outlaw. Recollect it was a discovery that he did not make until the 27th of December, 1863. I do not wonder at all that he was so late in discovering it, for I have not discovered it yet, but he having thought that he made the discovery on that day he directs a letter to General Hitchcock and tells him:

"You are doubtless aware that by proclamation of the president of the Confederate States Major General B. F. Butler is under the law of outlawry."

It is a queer law to be under. It was a queer origin for a law to spring from, it was queerly discovered, at a very queer point of time, and announced by a very queer person.

"Although we do not pretend to prescribe the agents your Government shall employ in connection with the cartel" modestly says Mr. Robert Ould, "yet when one who has been proclaimed to be so obnoxious as General Butler is selected, self-respect requires that the confederate authorities should refuse to treat with him or establish such relations with him as properly pertain to an agent of exchange. The proclamation of President Davis forbids that General Butler should be admitted to the protection of the confederate government, and he cannot therefore be received under a flag of truce."

This letter, as I said before, comes from Robert Ould, dated December 27, 1863, and after he himself had been in correspondence with Major General Butler. He was late in discovering that self-respect required that he should hold General Butler under "the law of outlawry." There, as I say, was the end of exchanges as I understand the case. Upon that point stood the rebel authorities; and they never intimated a departure to my knowledge to anybody in the world until the 10th of August, 1864. On the 10th of August, 1864, this same Mr. Ould directs this letter to Major Mulford:

"SIR: You have several times proposed to me to exchange the prisoners respectively held by the two belligerents, officer for officer, and man for man."

Ould says that Major Mulford, acting for our Government, has several times proposed to exchange the prisoners respectively held by the two belligerents, officer for officer, and man for man.

"The same offer has also been made by other officials having charge of the matters connected with the exchange of prisoners. The proposal has heretofore been declined by the confederate authorities, they insisting upon the terms of the cartel which required the delivery of the excess of either side upon parole."

That is the testimony of Mr. Ould, given on the 10th of August last, as to the state of the negotiations up to that time. He then says, speaking to Major Mulford on that day, as I understand the letter, that they have concluded to assent to the terms our Government had proposed. That letter was not directed to General Butler, but to Major Mulford. When it reached General Butler I do not know. On the 20th of August, supposing that it might not have reached our authorities, Mr. Ould addressed a letter to General Hitchcock repeating the proposition. When that letter reached General Butler I do not know, but according to my recollection it was about the 5th of September that the reply to the propositions contained in these two letters was published in the New York Times, in the city of New York. That letter I have not with me. I have looked for it this morning, but have not been able to find it. As I recollect it, however, General Butler does not refuse to make exchanges upon the very terms agreed to here by Mr. Ould, does not recede from the offer that our Government had before made, but he hesitates upon the point whether he understands the proposition of Mr. Ould, and he submits to him two direct interrogatories. Do you mean—this is the substance of what he asks—to make these exchanges without setting up a claim that we shall parole the excess in our hands; and do you mean to include colored soldiers in your exchanges? He directs these two interrogatories to the rebel agent preparatory to answering the direct proposition himself. To those two interrogatories I do not know that any answer was ever made. If any ever was made I never heard of it.

I am bound to say here that I think now, as I thought at the time, and as I took occasion to say at the time, that General Butler instead of hesitating upon any such doubt as that, or taking time to submit any interrogatories to the rebel agent, ought to have taken him at his word, and gone on making exchanges, and what he actually meant by his proposition would have developed itself soon enough, and then would have been the time to divide upon it. That is what I think was the proper policy to have been pursued. He seemed to think it better to have the matter clearly understood before he assented to the proposition, to know exactly what Ould meant by his own proposition before he assented. Nevertheless, it is a part of the public history of the country

known to us all that since that time the work of exchanges has been resumed, and thousands upon thousands of prisoners have been exchanged since then, and it is still going on.

In view of this little history that I have recited here, I hold that it is unjust to say that this Administration is guilty of preventing exchanges. When I tell you that we made exchanges as long as the rebels would exchange with us; when I tell you, and tell you from the record, that exchanges only stopped when they said it was useless to send prisoners to them unless accompanied by the stipulation that we would parole the excess, and when I show this upon the testimony of their own agents, and especially in the absence of any testimony or of any assertion from any quarter that ever this Government was offered the privilege of exchanging a single human being and refused to make the exchange, I do not think it just to assert that the responsibility for withholding these exchanges rests upon the skirts of this Administration.

Since I am upon this point, I will not leave it without alluding to one other very extraordinary fact in the political history of the last year. I have shown you that on the 27th day of December, 1863, they refused to make these exchanges any longer with us. I have shown you that they never intimated a contrary purpose or disposition until the 10th day of August, 1864. I want you to mark the time.

Mr. DAVIS. Will the Senator allow me to interrupt him for a moment?

Mr. HOWE. Presently.

Mr. DAVIS. Very well.

Mr. HOWE. I will not refuse the Senator the privilege of an interruption now.

Mr. DAVIS. I avail myself of the very generous courtesy of the honorable Senator, and I ask him to answer me if the confederate authorities ever insisted upon anything except an execution of the cartel of exchange by both parties to it.

Mr. HOWE. No, sir; so far as I know they never did. I do understand that to have been a part of the cartel, and I understand that our Government refused to observe it; but I understand that they did so refuse upon the allegation that ten thousand men, rebel soldiers, captured at Vicksburg and paroled, were put back into the rebel ranks, and that our armies met them again and fought them at Chattanooga. That is a good cause or a bad one for not observing the cartel. To my own apprehension it is a remarkably good one. If my friend from Kentucky thinks otherwise, that is only one more point upon which we differ.

Mr. DAVIS. Will the honorable Senator allow me to put another question?

Mr. HOWE. Yes, sir.

Mr. DAVIS. I ask him if both parties to that cartel had not the right by its terms to declare the prisoners paroled mutually, to be exchanged; and whether the rebel authorities did not insist that they had declared exchanges to the full number of the paroled prisoners that had been taken at the capture of Vicksburg and then paroled.

Mr. HOWE. I really believe the Senator from Kentucky is right in point of fact, that they did make just such declarations. It happened, however, that our Government did not believe them, that our Government did not choose to indorse for them, knowing the contrary. If the Senator from Kentucky sees fit to indorse these rebel declarations, I cannot help that; I do not become his coindorser; and that is another point upon which we differ.

Mr. DAVIS. I have not indorsed them myself.

Mr. HOWE. I understand not, and I trust the Senator will not. I was about to say that from the 27th day of December, 1863, when we were officially notified that we need send no more prisoners to City Point, until the 10th day of August last, we never were advised of any change of purpose on the part of the rebel authorities. On the 10th of August this notice was sent to Major Mulford by letter. It was repeated on the 20th of August. I have already said that just when it came to the knowledge of General Butler I do not know. But the curious fact to which I wish to call attention is that on the 29th of August, nine days after this letter was directed to General Hitchcock from Richmond, Virginia, a convention assembled in the city of Chicago to nominate a candidate, not for the Presidency, but who would like to be President, and I was sur-

prised to find in the indictment which that distinguished convention preferred against this Administration this count:

"Resolved, That the shameful disregard of the Administration to its duty in respect to our fellow-citizens who now and long have been prisoners of war in a suffering condition, deserves the severest reprobation on the score alike of public interest and common humanity."

I say I was surprised to find that count in the indictment. Laboring under the belief as I did up to that day that it was this Government which had urged exchanges and it was the rebel authorities who refused them, I was surprised to see a deliberative body, as I understand that was which assembled in convention at Chicago—deliberative part of the time—assert that this Administration had been guilty of shameful disregard of its duty in respect to our fellow-citizens in these prisons. Recollect this emanated from that convention just nine days after that letter was addressed from Mr. Ould to General Hitchcock, in which for the first time he notified General Hitchcock of their readiness to exchange at all. I think it was not only peculiar that that convention should have considered this evidence of "shameful disregard," but that it was very peculiar, indeed, that that convention should have been so early informed of that change of purpose itself. It did look to me—I trust I am not uncharitable; it seems to me a man has no excuse for being uncharitable toward those gentlemen who assembled at Chicago—but I cannot help saying that it did seem to me as if this willingness to exchange prisoners originated in the purpose of furnishing a little capital to the very low stock with which those gentlemen assembled at Chicago, and that it was actually communicated to them before it was communicated to the Government of the United States. If I have done those gentlemen injustice in this suspicion, or in the expression of it, I shall be very glad to apologize to them if they ever get together again; and if I can be excused from making apologies until such a convention does reassemble on this continent, I shall not have to apologize for a great while.

Mr. WADE. As in the course of this debate there has been a question raised as to whether the barbarities narrated in the preamble to the resolution have been continued since the report made on that subject in May last, I desire to present to the Senate a deposition taken to-day by the committee on the conduct of the war. It is the deposition of a man who has just escaped from the dungeon at Salisbury, North Carolina; he escaped with those editors of whom we have recently read. The deposition is here, and if gentlemen would like to hear it, it can be read.

Mr. WILKINSON. I should like to hear it. The VICE PRESIDENT. If there be no objection, the paper will be read.

The Secretary read, as follows:

WASHINGTON, January 27, 1865.

Sergeant C. W. Thurston sworn, and examined by Mr. LOAN.

Question. Will you state to what company and regiment you belong?

Answer. I am a sergeant of company K, sixth New Hampshire volunteers.

Question. At what time and where were you taken prisoner by the rebels?

Answer. I was captured on the 30th of September last, at what I think is known by the name of Jones's farm. It was the time the attempt was made to cut the South Side railroad near Petersburg.

Question. To what place were you taken, and confined?

Answer. I was first taken, with others, to Petersburg, and kept over-night; then to Richmond, and put into what is called the Pemberton building, and then to Salisbury, North Carolina.

Question. How long were you kept in Richmond?

Answer. Only over one night.

Question. How long were you at Salisbury?

Answer. Until the 18th of last month, when I made my escape.

Question. What number of prisoners were at Salisbury, and how were they treated?

Answer. When I was first taken there, there were comparatively few prisoners there; but within three or four days there were upward of ten thousand. I know that when I had charge of the bakery for the prisoners I made out requisitions for more than ten thousand six hundred men.

Question. What kind of a place were you kept in?

Answer. At the time I went there there was a building that was made to hold probably two thousand men. The rest had no cover or shelter at all. The enemy had taken away from us our blankets and knapsacks and a great deal of our clothing. About the 6th of November the quartermaster gave us some tents, in the proportion of one Sibley tent and one small wall tent to each one hundred men. But not more than fifty of the one hundred could get in and lie down in the tents. The rest had no covering, and

used to dig holes in the ground with their pocket knives and plates, because they could get no shovels or picks, and they would crawl in those holes and lie down.

In regard to the rations for the men, what was called the regular ration was a pound of bread, made of corn and cobs ground together, to each man for twenty-four hours. They usually got only about twelve ounces even of that bread. Then for meat the men usually received twenty-two pounds of beef's heads, tripe, and gullets to each hundred men; but that was not received every day, only about once in four days on an average. And then there was usually given about half a pint of soup to each man a day. The soup was made of rice and water; that is, a large bucketful of rice would be put into a large kettle of water, holding, say, twenty gallons; sometimes a little salt, sometimes no salt at all. They would dip out the water, and but little of the rice, and then fill up again and again, until a thousand men had been served from the one bucketful of rice. Upon the slightest provocation the rations would be cut off entirely for a day or two. I have lost the principal diary I kept while there; but I find in a memorandum book which I have here, that on Friday, the 23d of October, the men received no rations; on Saturday they received nothing but soup; on Sunday they received bread and meat; so that there were two days when they received nothing but a little soup.

In regard to the treatment of our men in other respects, I can illustrate it by an incident I saw myself. I was standing one day by the hospital; I had been to see Mr. Davis, one of the prisoners, who had been appointed superintendent of the hospital. One of our negro soldiers, captured at the time of the explosion of the mine near Petersburg, was standing near by engaged in "skrimshing," as we prisoners call it, examining his clothes for vermin. A sentinel there, at whom I happened to be looking at the time, drew up his musket, took deliberate aim and fired, killing the negro on the spot. One of our boys asked him what he did that for, and he replied that he did it "to see the damned black son of a bitch drop." That I saw done myself.

Question. What notice was taken of that by the rebel authorities there?

Answer. None that I know. The report is that they get thirty days' furlough for shooting a Yankee; that it is encouraged. Mr. Davis, the superintendent of the hospital, assured me that he has at the present time the names of eighteen hundred of our men who died there between the 1st day of October and the 15th day of December, 1864.

Question. Who is this Mr. Davis?

Answer. He was the chief clerk of the Ohio Senate, so I understand, and a correspondent of the Cincinnati Gazette. He escaped when I did, and I understand he is now in this city.

Question. He was a prisoner at Salisbury?

Answer. Yes, sir; and Mr. Richardson, of the New York Times, and Mr. Brown, of the New York Tribune.

Question. What means had Mr. Davis to know the number of deaths?

Answer. He was the superintendent of the hospital, and Mr. Richardson was clerk of the hospital.

Question. Appointed by the rebel authorities?

Answer. Yes, sir. We made an attempt to break out of the prison one day, in which we killed four of the guards and wounded quite a number of them. They killed fifteen of our men and wounded fifty-seven. They fired upon the boys for twenty-two minutes after they had given up and gone into their tents. They fired right through the tents—they could see no one—killing them completely. And they discharged cannon several times loaded with canister, or rather with little plugs of iron punched out of boilers when they made them. We have kept account of upward of nine hundred Federal soldiers who have enlisted in the rebel service merely to avoid starvation. Generally for a day or two before they were enlisted they would be deprived of everything to eat but a little soup.

Question. What rations do the rebels furnish their own soldiers?

Answer. They told me that they got a pound of flour and a half a pound of bacon or other meat to a man. They were put on short rations there, or "half rations," as they call it.

Question. What else was furnished them?

Answer. Very little of anything else than a little tobacco; at least that is what they told me. They said they had to have provisions sent them from home, for they could not live on their rations there.

Question. What became of the beehives, the heads, and tripe which you say were given the prisoners?

Answer. I cannot tell. Sometimes we would get a little of the beef, but very seldom. We got very little beef in proportion to the heads and tripe. I had twelve men of my own regiment who enlisted in the rebel service.

Question. Did much sickness result from this diet?

Answer. The diarrhea was the prevalent sickness, caused principally by the water, I think. The boys did not have what water they wanted. They had to go a quarter of a mile to a little creek, twenty at a time, with a guard; but they did not get all they wanted. There was water in the yard, but so thick with mud that they could not drink it. The only well that had good water in it was closely guarded and kept for the hospital. The morning I escaped there were seven thousand six hundred and three prisoners there.

We never received any of the clothing or supplies of the Sanitary Commission, which we understood had been sent to us. Before our soldiers got nothing to eat for two or three days. Then an officer would come in with a guard, and when the prisoners were collected around him, he would tell them that they would not be exchanged before the end of the war; but if they would enlist in their service they would have plenty of food and clothing, and be placed on garrison duty, and not be called upon to fight. I have seen men brought up for that purpose who were so weak that they could not walk without staggering.

Question. Were any threats made as to what would be the consequences if they did not enlist?

Answer. No, sir; there was no need of threats; the boys knew they would die if they staid there. The rations kept

growing poorer and poorer all the time; God only knows what they are by this time, or how the poor fellows get along.

Question. State more fully about your being deprived of clothing, &c., when you were captured.

Answer. When we are first taken they generally take from us all our money, watches, and other valuables. When we were taken to Petersburg an officer came in within a guard where we were and took a great many of our rubber and woolen blankets. The guard kept coming in and stealing our clothing, the men resisting, but of course resistance was useless. They took our shelter tents and overcoats from us while we were in Petersburg. When we got to Richmond and put in the Pemberton building, we were formed into line on each side of the building and made to take off our knapsacks, haversacks, and canteens, and pile them up in the middle of the room, and then carried off by them. They said they were going to search us for money, and we were invited to give up what money we had voluntarily, and told that if we did so we should have a receipt for it, and it would be given back to us when we were exchanged. But we were told that if we did not do that, and any money was afterward found on us, it would be confiscated. Then they took us on to Salisbury, many of our boys having nothing but what they had on. When their clothes wore out they had to do without. When I left not one half of them had more than a blouse and pair of pantaloons, some nothing but a shirt and pantaloons, still others nothing but pantaloons and a piece of old cloth about their shoulders. Hundreds were bare-footed and without hats or caps; without clothing to keep them any way comfortable.

Question. Then they must have suffered much from the inclemency of the weather?

Answer. Yes, sir. I understood that some of them froze to death. I have no doubt that many perished in that way. I have had men come to the bakery where I was, shivering and shivering with cold as if they had the ague, and beg to be allowed to come in and warm themselves. I would let a few in at a time, and then, after a short time, make them go out and let others come in. When prisoners died, they used to strip them of their clothing, which they would sometimes give to the most needy of the living. The dead were put in a dead-horse, and then pitched into a cart any way, just as many as it would hold, and, as I understood, carried off and tumbled into a ditch and covered up. This I was told by some of our men who were detailed as grave diggers, and given double rations for that duty.

Question. You have no personal knowledge that any of the prisoners froze to death?

Answer. No, sir; I saw none when they were freezing, but I was told so; and I have no doubt of it. The men would get very weak, and would crawl into these holes, and I have no doubt they froze to death there. One man was taken out from under the hospital who had been there so long that he had begun to decay, and was all covered with vermin. We supposed he had crawled under there to get out of the cold, and there died. I was told by a rebel doctor there, I forget his name, that not one in ten of the men who died there would have died if they had had proper food and shelter.

Question. From all that you have seen, are you satisfied in your own mind that our soldiers have died there in consequence of not having proper food and clothing?

Answer. I know so, as well as I can know anything of that nature. There was a snow-storm there, which changed to a cold rain and lasted for two days, and the morning after I saw six men taken out of one hole, into which they had crawled and had there died.

Question. How long were you in effecting your escape?

Answer. We left on the 18th of December, and reached Knoxville on the 13th of January. From there I went to Chattanooga, and was ordered by General Thomas to report here in Washington, and I came right on here.

Question. You are here for the purpose of joining your regiment?

Answer. Yes, sir; I want to join it immediately.

The VICE PRESIDENT. The question is on the motion to recommit the resolution to the Committee on Military Affairs.

Mr. MORRILL. I should like to inquire whether the question before the Senate is or not on the motion of the Senator from Ohio to amend the resolution.

The VICE PRESIDENT. That will be the motion before the Senate if the motion to recommit fails. That is the pending amendment. The motion to commit takes precedence of it.

Mr. MORRILL. I should like to make one further inquiry: whether the amendment submitted by the Senator from Ohio is open to further amendment?

The VICE PRESIDENT. It is.

Mr. SUMNER. Is not the question now on the reference to the committee?

The VICE PRESIDENT. That is the question now before the Senate.

Mr. SUMNER. Then I take it that no amendment can be made and no other motion can be put until that is disposed of.

Mr. MORRILL. I did not submit a motion.

Mr. HENDRICKS. I suggest to the Senator from Maine that the motion to recommit be modified so as to send to the committee the resolution and all the amendments and proposed amendments.

The VICE PRESIDENT. That was the motion made.



Mr. HENDRICKS. Then I submit to the Presiding Officer whether that will not carry the proposed amendment of the Senator from Maine.

Mr. MORRILL. My only object in making the inquiry is to see whether the amendment of the Senator from Ohio can be so shaped as that, in my judgment, it will obviate the necessity of a recommitment, and therefore, with a view of an understanding with him on that subject, I will say that I propose for his acceptance to strike out, in the twenty-eighth line of his proposed amendment, the words "and kind," after the word "manner," and to insert instead the words "in conformity to the laws of nations;" so that it will read:

And that the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner, in conformity to the laws of nations, as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

Mr. WADE. If I understand the amendment, it does not vary the sense and efficacy of the original proposition, and I do not see that I have any objection to accepting that as a modification of my amendment.

The VICE PRESIDENT. The amendment will be so modified.

Mr. MORRILL. Then, Mr. President, as I understand the case, I do not see any occasion for a recommitment; and I say this from an attentive observation of what has passed in the Senate, both upon the amendments which are submitted and upon the general course of the argument. I do not propose at the present moment to make any further argument than will be necessary to justify this statement. I think the Senate now are all agreed, with perhaps a single exception, upon all that is substantial in the amendment submitted by the Senator from Ohio and the other proposed amendments. I shall attempt to verify and justify this statement by a reference to each of the resolutions that have been submitted to the Senate.

The resolution now before us starts out with the assumption that the rebels have treated our prisoners with gross cruelty; that they have committed excesses that are not agreeable to the principles of civilized warfare; secondly, that in the judgment of Congress it has become justifiable and necessary to adopt measures of retaliation; and thirdly, and lastly, that the executive and military authorities shall adopt measures of retaliation in such manner, conformable to the principles of public law, as shall be effective in correcting these abuses and excesses of the confederate authorities. Those are the three propositions contained in the resolution as it now stands as proposed to be amended by the Senator from Ohio. I will repeat them: first, that the rebel authorities have been guilty of gross outrages; second, that it is the judgment of Congress that measures of retaliation ought to be adopted; and, third, that the President of the United States shall adopt such measures, consistent with the principles of public law, as shall be effectual in restraining these excesses.

From my observation of the course of the argument, every Senator on this floor who has spoken on the subject, with a single exception, has affirmed and reaffirmed each of these three distinct propositions. Let me take the amendments that have been offered. I have in my hands, first, though I believe it was not first in order, that of the honorable Senator from Missouri, [Mr. HENDERSON.] He affirms that the rebels have been guilty of these outrages. He does not doubt it. I now take that of the honorable Senator from Massachusetts, [Mr. WILSON.] He does not doubt it. I now take that of the honorable Senator from New Hampshire, [Mr. CLARK,] which affirms the same thing; and last, but by no means least, because the honorable Senator gives a significance to it by what follows, that of the Senator from Massachusetts, [Mr. SUMNER.] I will read his language:

That the treatment of our officers and soldiers in rebel prisons is cruel, savage, and heart-rending beyond all precedent; that it is shocking to morals; that it is an offense against human nature itself; that it adds new guilt to the great crime of rebellion, and constitutes an example from which history will turn with sorrow and disgust.

I need say no more, then, as to the first proposition, than, in the language of the honorable Senator from Wisconsin, [Mr. HOWE,] to congratulate

the Senate that they are agreed upon one thing. We are all agreed without exception upon that. The honorable Senator from Maryland, [Mr. JOHNSON,] who, to some extent, in his argument, combats the idea of general barbarity, concedes that, as a general statement, the treatment of our prisoners by the rebels has been cruel and barbarous in the extreme. We are then all agreed on the main question.

Now as to the remedy. Each of these amendments proposes retaliation, with the exception of that to which I shall advert by and by, submitted by the honorable Senator from Massachusetts, [Mr. SUMNER.] Each looks to retaliation as a remedy; each proposes it; and what is the limitation? The limitation is in their own phrase, each one proposing some method peculiar to himself; but each and every amendment looks to retaliation as the remedy for the conceded ill. What then is the difference between us? We all agree that the evil exists; we all agree that retaliation is the remedy. What is the limitation of the Senator from Ohio? He says that it is the sense of Congress that the President shall retaliate; that it is his duty to retaliate. How? A great deal has been said about starving, cutting the ears of prisoners, &c.; a great deal has been said about the barbarities which have been inflicted upon our soldiers, and that we are to do the same thing "in kind;" but that phraseology has been stricken from the amendment of the Senator from Ohio, and it now stands that the sense of the American Congress is that the President of the United States shall retaliate for these barbarities to the end that these excesses may come to an end. But how? According to his own whim or caprice, or the whim or caprice of any man or set of men? No; but according to the principles of public law. That is the limitation.

Mr. COLLAMER. "International law" would be better.

Mr. MORRILL. I am willing to say "international law," or "the laws of nations."

Having established these first two propositions, in which we all agree, for no Senator has spoken on this floor who does not agree to them save and except only my honorable friend from Massachusetts, [Mr. SUMNER,] the logic of the thing is that we will retaliate according to the principles of civilized war. I am of course under no necessity of arguing the question of the propriety of retaliation, because on that we are all committed. If I am right in this statement, I submit that the whole discussion is concluded by the amendment which the honorable Senator from Ohio has at length adopted. Whatever may be said of the original proposition, by the amendment which he has adopted he has at length brought himself precisely within the judgment of the Senate, within sentiments uttered by every Senator in debate, with a single exception, and in harmony with all resolutions that have been offered as amendments, with the exception of different phraseology; and therefore, unless we intend to back out from the purpose of expressing to the President of the United States the judgment of the American Congress that measures of retaliation ought to be adopted, it strikes me there is no occasion for this recommitment.

I desire to say a word in regard to the amendment proposed by the honorable Senator from Massachusetts, [Mr. SUMNER,] who dissents, and his proposition is the only dissent from the general proposition contained in the resolution as proposed to be amended by the Senator from Ohio. My only object in referring to the proposition of the Senator from Massachusetts is to show that it is an absolute unqualified dissent, and is a proposition against any measure of retaliation whatever.

Mr. SUMNER. Read the first section.

Mr. MORRILL. The first section of the Senator's resolution reads as follows:

"Retaliation is harsh always, even in the simplest cases, and is permissible only"—

Mr. SUMNER. Therefore it is permissible. Mr. MORRILL.

"And is permissible only where, in the first place, it may reasonably be expected to effect its object, and where, in the second place, it is consistent with the usages of civilized society; and that, in the absence of these essential conditions, it is a useless barbarism, having no other end than vengeance, which is forbidden alike to nations and to men."

If my honorable friend concedes that retaliation

is permissible, then I shall have no occasion to make the argument I was about to submit to the Senate. If it is conceded that the facts of this case bring this statement within the conditions of the resolution of the honorable Senator from Ohio, then I have no argument to make upon that portion of the proposition.

Mr. SUMNER. The Senator, I presume, did not hear the remarks which I made in explanation of the resolution.

Mr. MORRILL. I had the misfortune not to be in the Chamber at the time.

Mr. SUMNER. If the Senator had been present, he might remember that I expressly cited authorities in regard to the law of retaliation and recognized it as a law, but insisted that it had its limitations, that it was surrounded by barriers from which we cannot escape, and those barriers are those to which I refer in the first resolution, being the usages of civilized society and the reasonable prospect that the retaliation when employed will have a practical result.

Mr. MORRILL. I had not the pleasure of listening to the argument of the honorable Senator, and therefore I was obliged to draw the deductions which I thought could fairly be drawn from the statement of the case presented in his amendment. While it appeared to me that in the first resolution the honorable Senator concedes that under certain circumstances and certain limitations retaliation is the right of a nation at war, in the third resolution he negatives the idea of retaliation in the present case.

Mr. SUMNER. If the Senator will be good enough to read the introductory words of the third resolution, he will see that it is expressly limited to this: that there can be no imitation of rebel barbarism in the treatment of prisoners. The whole argument is founded on that; it stands on that; that is, that we cannot imitate what is barbarous. There I stand.

Mr. MORRILL. Then I should like to ask the honorable Senator one question, and upon his answer will depend whether I have another word to say or not; as the question now stands on the amendment of the honorable Senator from Ohio, the retaliation proposed is to be in harmony with the principles of international law, and I ask him whether that is allowable?

Mr. SUMNER. I have no doubt that retaliation according to the principles of international law is allowed.

Mr. MORRILL. Then, Mr. President, that is precisely our position now. We have arrived at that point precisely; and there I am content to leave it. I do not combat, then, the proposition of the honorable Senator from Massachusetts. I understand that the argument contained in the third section of his amendment was addressed to the statement in the original resolution, that we were to retaliate "in kind;" we were to starve, &c. That having failed, and the resolution now standing that whatever measures are adopted are to be in harmony with the principles of public law, we are all agreed; even the honorable Senator from Massachusetts himself is agreed to what is proposed by the Senate now; first, that barbarities have been exercised by the enemy; second, that retaliation is proper; and, third, that the measure of it shall be that measure which is meted out by the principles of public law. I submit, therefore, that we are agreed upon the whole subject, and that there is no occasion to recommit this resolution.

The VICE PRESIDENT. The question is on recommitting the resolution reported by the Committee on Military Affairs, together with the amendments and proposed amendments, to the Committee on Military Affairs.

Mr. WADE. It is perfectly evident from the argument that the Senator from Maine has made on this subject that the resolution cannot be put in a form less objectionable than it is now, and therefore I shall conclude that those who vote for the recommitment of this resolution are really against the principle of retaliation in any shape whatever. It will result in that, and the country may as well know it now as at any time. If gentlemen recommit this resolution, it is because they do not intend to retaliate. That is all that I wish to say.

Mr. CLARK. I cannot agree to the proposition put by the Senator from Ohio. I am entirely in favor of retaliation, and I am now at present

opposed to the motion of the Senator from Massachusetts [Mr. WILSON] to recommit; but if after attempting to amend the resolution we do not come exactly to the proposition of the Senator from Ohio, I am not to be set down as against retaliation. I shall vote against the motion to recommit now, and am willing to vote upon the amendments. If the Senate can bring these amendments into a satisfactory shape to the Senate and we can pass the resolution when so amended, I shall be content; but if by and by we find that we cannot get it in such a shape as we think we ought to have it in, I shall be at liberty to move to commit it without being set down as against retaliation. It is only to exclude such a conclusion that I make these remarks.

Mr. HENDRICKS. I do not think the Senator from Ohio is justified, in the present condition of the business before the Senate, in what he says. What is the business of a committee? It is to prepare the business of the Senate for the consideration of the body, and to bring it before the body in proper shape. It is very evident, not only from the debate, but from the various amendments that have been proposed, that the measure as it came from the committee was not in accordance with the sentiment of any considerable portion of the body. An amendment has been proposed by the Senator from Missouri, [Mr. HENDERSON,] another by the Senator from New Hampshire, [Mr. CLARK,] and amendments have been proposed by other Senators. They are all before the body now, in some shape or other, either formally or informally; they ought to be considered; but I submit to Senators we are not in a condition in full body to consider these propositions as they can be considered by the committee. Each proposition can be taken up in the committee, a small body, and its merits understood; and then, after a consideration of all the propositions some measure can be brought before the body that will be unobjectionable.

I am not willing to stop with a mere proposition that there shall be retaliation according to the usages of war. I want to go further, and have a remedy that is adequate, complete, and I think that remedy is by an exchange of prisoners. I think it is proper for this body to express its desire that the Administration shall secure an early exchange of prisoners. It is not enough to leave them in the prisons of the South, even if they are fed in those prisons. The evidence the Senator from Ohio has brought before the body shows that many of the prisoners are sick. I submit to that Senator, is it possible, even if they are treated as well as prisoners can be, that they can be restored to health as certainly and as comfortably there as if they were brought to their homes? Let them be brought to their wives, to their mothers, to their sisters, to be nursed and restored to health. That is what I desire to see; and I think that the committee, when they consider this whole subject, will provide for an expression by the Senate, in proper terms, of its sentiment upon that question as well as upon the other.

I cannot see any objection to the reference. Why does the Senator say that that brings about a defeat of the measure? Does he say that the Committee on Military Affairs is against the measure? Does he say that that committee will not respect what now appears to be the sentiment of the body? He is not authorized in making that assumption. He must assume as a member of the body that one of the committees, highly respectable, will do its duty at an early day, and will bring this measure before the Senate in such a shape as the committee believe will meet the sentiment of the body. It is our duty to so presume that the committee will do its duty, and doing its duty, having heard this full debate, having all these propositions before it, I do believe that that committee can bring before us a proposition that will meet the almost unanimous approval of the body. Believing that, I esteem it to be my duty to send the resolution back to the committee. Very little delay need result. It is a very common practice when the body differs in opinion upon a subject to send it back for the further consideration of the committee, and why not this? Is this an exception from all other matters of legislation before us? Let that committee consider it, and without delay and at an early day bring this measure again before the body in the light of this discussion, and in the light of the numerous amendments that

have been proposed, in such a shape as will probably meet with the approval of the entire body.

Mr. HOWARD. I will thank the Chair to state the question that is before the Senate.

The VICE PRESIDENT. The question is on recommending the resolution, together with the amendments and proposed amendments, to the Committee on Military Affairs.

Mr. HOWARD. I shall vote against the recommitment of this subject to the Committee on Military Affairs, because, like my friend from Ohio, I shall deem such a result as a defeat of the measure entirely in this body. Rather than incur such a disaster, for I should regard it as a disaster, I should much prefer to vote for the resolution as amended by the amendment offered by the honorable Senator from Maine, and I shall vote for that amendment if I get an opportunity.

Mr. COLLAMER. If I understand it aright, I believe the proposition of the Senator from Maine has been accepted by the Senator from Ohio as a part of his amendment.

Mr. HOWARD. But it has not been adopted yet by the body.

Mr. COLLAMER. But it will go with the amendment of the Senator from Ohio, he having inserted it in his amendment.

Mr. HOWARD. Mr. President, I say, rather than recommit the measure, I shall vote for that amendment; but I shall do it without much hope, I confess, of good results to flow from this retaliation put in that form. I shall vote for it, hoping that something beneficial to our prisoners and our cause may result from it, although the hope is not very strong; and I will state why, if the Senate will allow me.

The amendment recommends retaliation, and stops there. Now, sir, it is to be applied to a certain state of facts, a state of facts now existing among our own prisoners in the hands of the enemy, or hereafter to exist there. We propose retaliation because we are satisfied that some wrongs are done to our prisoners in the hands of the rebels. We propose to remedy those wrongs, either to punish them, or, for the future, to prevent them. It is one of these two things which we aim at. How are we going to reach this object under this term "retaliation"? It is denied, and possibly the Executive of the United States may join in the denial, that any cruelty whatever can be inflicted upon a prisoner of war. By the laws of war and the laws of nations it is the duty of the captors to treat their prisoners with kindness and humanity, and to support them by reasonable sustenance, not indulging in any luxuries, but simply bounding their labors by the convenience and comfort of the prisoners. That is the extent of the duty of the captors. Now we are told that we cannot inflict similar distresses upon the rebel prisoners in our hands because that would be barbarous; it would be, in the language of my friend from Massachusetts, an imitation of the barbarity of the rebels.

What is there, then, to retaliate? If you cannot retaliate distress for distress, if you cannot inflict hunger for hunger, and, if you please, starvation for starvation, exposure for exposure, shooting for shooting, if that has occurred, pray tell me what ground is there left for retaliation at all? That is the point; and it would be the easiest thing in the world for the Executive of the United States, if he shall adopt the principles of my learned friend from Massachusetts, to say to our prisoners in the hands of the rebels, "The laws of war do not permit me to restrain by retaliation the cruelties which are inflicted upon you; you must submit, therefore, to the hard necessities which you are under, to the cruelties inflicted upon you, because I cannot relieve you; I cannot retaliate, returning like for like; I can do, in short, nothing." Suppose he puts this construction upon your resolution, suppose he adopts the humanitarian and sentimental doctrine of my friend from Massachusetts and Professor Lieber, the result will be that he can do nothing and will do nothing.

Sir, I did propose to go further than this in the original resolution. The country has waited month after month with the utmost anxiety and impatience for the Executive to do, or attempt to do, something to prevent these barbarities and cruelties exercised upon our prisoners. He has done nothing. He has not lifted his hand. He has not raised the voice of remonstrance even

(certainly not officially) against these barbarities, and if therefore you do not instruct him specifically as to the kind of principles which we understand to be retaliation, I beg to know what security we have that he will exercise retaliation in any form, or inflict any punishment whatever for the crimes that have been inflicted against our prisoners, or take one single step by way of prevention? He may adopt the doctrine of Plato, for aught we know, and say that punishment is inflicted not because a crime has been committed, but to prevent the commission of crime in the future. *Non quia peccatum est, sed ne peccet.* But we know not what he will do. We know, however, that if he adopts the principles of Professor Lieber and my friend from Massachusetts, he will do absolutely nothing, and this whole discussion will go for nothing, and your resolution will go for nothing. But still trusting that he will give a more sensible construction to the laws of nations and the laws of war, hoping at least that some good will come of this, I shall vote for the amendment as agreed upon by my friend from Ohio.

Mr. DOOLITTLE. I should like to inquire of the honorable Senator from Michigan before he takes his seat whether in his opinion, as the law now stands, the President is authorized to make retaliation?

Mr. HOWARD. I do not doubt it at all. I never entertained a doubt on that subject. The President of the United States is Commander-in-Chief of the Army of the United States, and as such, in the absence of all restraining legislation of Congress, has authority to execute and carry into force the entire code of war. We can restrain him and regulate him if we see fit; but we have not done so thus far. He therefore has the authority.

Mr. DOOLITTLE. For myself, sir, I have very serious doubts whether that authority is in the President unless Congress pass some law on the subject. In 1799, it seems, the Congress of that day supposed the President was not so authorized, and passed a law authorizing him to make retaliation. It seems also that in 1813 the Congress of the United States supposed that the Executive had no power to make retaliation upon British prisoners of war in our hands, and therefore they enacted a law conferring that authority upon the President.

I confess that before this debate began I was myself of the impression that beyond doubt the power of retaliation existed in the President independent of any legislation; but when I came to look into the Constitution, when I heard read the acts of 1799 and 1813, by which Congress assumed to confer that power upon the President, I had most serious doubts whether he does possess that power now without a law of Congress conferring that power upon him. The Constitution expressly gives to Congress the power to make the regulations necessary to govern the land and naval forces, in these words:

"Congress shall have power to make rules for the government and regulation of the land and naval forces."

In another provision it says:

"Congress shall have power to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."

The Constitution thus recognizes the law of nations as the existing law of the land, paramount even to the Constitution itself, and authorizes Congress to punish our citizens for the violation of the laws of nations. By the conferring of the express power upon Congress "to make rules for the government and regulation of the land and naval forces" it seems to me the power is clearly given to Congress to pass laws to govern the land and naval forces even in the treatment of the prisoners of war who are in the hands of the Army and the Navy.

I confess, sir, that my impression now is different from what it was when this debate commenced. My impression, independent of this discussion and what I have heard here, was that the President, as Commander-in-Chief, was clothed with that authority; but when I came to look into the statute of 1799, and then again into the statute of 1813, and into the Constitution itself, and even the Articles of War, which lie before me, I am rather of the opinion that Congress has a responsibility on this subject in order to confer upon the President the power of retaliation. In these

Articles of War which I have in my hand there are certain regulations deciding what shall be done with prisoners of war. I will read some of them:

"Prisoners of war will be disarmed and sent to the rear, and reported as soon as practicable to headquarters," &c.

Then a return is to be made of them.

"The private property of prisoners will be duly respected, and each shall be treated with the respect due to his rank."

Then they go on to provide that they shall obey the necessary orders given and shall receive for subsistence one ration each, without regard to rank; and the wounded are to be treated with the same care as the wounded of the Army.

"Other allowances"—

That is, independent of this one ration, and the treatment of the wounded—

"I will depend on conventions with the enemy."

"Prisoners' horses will be taken for the Army."

"Exchange of prisoners and release of officers on parole depend on the orders of the Commander-in-Chief under the instructions of the Government."

These are a part of the regulations of war which are binding, as I understand, as a law, upon the Army and its officers. Now, in order that the President should have power to treat these prisoners in any other manner than is provided by the rules and regulations of war, I am rather inclined to the opinion, I repeat, that legislation may be necessary. I confess for myself that the language of the act of 1813, or the language of the act of 1799 would be more in accordance with my judgment as to the best form of words to be used in an enactment on this subject. I think we should do by law as our fathers did in 1813: we should confer upon the President the authority, in case of any violation of the rules of civilized warfare upon our prisoners in the hands of the rebels, to make full and ample retaliation upon the prisoners that we hold in our hands.

Mr. President, I believe that retaliation may be effective, and that it is in accordance with the highest principles of humanity. I will state a case that came to my knowledge through Captain Grant, of the State of Wisconsin, who was captured near Petersburg, and as our armies were making advances into different portions of the confederacy was carried from place to place. In the course of his imprisonment I believe he was in eleven different places of confinement. He finally made his escape when they were moving him a short time ago from Charleston to Columbia, in South Carolina, coming up through western North Carolina, hiding, and being protected by the loyal refugees in the mountains there, and has but a few days since arrived here in Washington. He informs me that when confined in Charleston, a part of the time with other prisoners, he was put under the fire of our guns by the rebels. They were under fire for a considerable time. General Foster, in command of our forces, put an equal number of rebel prisoners in his hands under fire, and then our men in Charleston were released from this condition. He says another thing: that when they were first placed in custody there in the city of Charleston they were placed in an open space without cover, exposed to the weather, and had very poor rations, and were furnished with no clothing except what was upon them, and that had become very poor. General Foster did in fact give notice, I think, to General Jones, in command of the rebel forces in South Carolina, that the treatment which he accorded to our prisoners in his hands would be the measure of his (General Foster's) treatment to prisoners in his hands; and as soon as this was known in the city of Charleston, Captain Grant informs me they were at once put into good quarters and were furnished with good clothing. So it had its effect.

As a principle, therefore, within the rules of civilized warfare I am in favor of giving the authority to the President to make the retaliations which may be necessary to effect the purpose. But when it comes down to details in the exercise of the power, I might differ from some gentlemen on this floor. I do not believe I would starve prisoners to death, or scalp them, or torture them. I would prefer to resort to some other mode of retaliation, and to select, perhaps by lot, officers of the enemy, beginning with the highest in our hands, and give the enemy notice that on a given day, unless this cruelty was abandoned, a certain number should be shot to death, and

continue that mode of retaliation until the object was effected; but never would I consent to the slow system of destroying life by starvation or by cruelty in any form. The details, however, are a matter of military discretion when the authority shall be given.

Mr. HENDERSON. Permit me to ask the Senator under what authority the retaliation practiced by General Foster, of which he speaks, was adopted before Congress acted upon the subject. If Congress has entire power over the question and Congress has not directed retaliation to be exercised, how could an officer in the field undertake to say that he would retaliate in the way the Senator has stated?

Mr. DOOLITTLE. He took the responsibility of doing it; that is all I can say on the subject. I confess I had supposed that discretion was in the commanders of our armies; but now I have doubts on the subject after hearing this discussion, and seeing the laws which were passed by our fathers and our forefathers in 1813 and 1799.

Mr. HENDERSON. I can tell the Senator that the military commanders in the West have exercised the power since the beginning of the war. It has never been doubted there.

Mr. JOHNSON. I rise merely to express to the honorable member from Wisconsin the opinion that I have no doubt that Congress can, under the constitutional provision to which he has referred, legislate on the subject of the exchange of prisoners and the treatment of prisoners, and that is what Congress did by the acts of 1799 and 1813; and looking to those acts alone, not having any other information on the subject than those acts give, the inference which my friend draws would be a legitimate one, that they were enacted under the impression that retaliation could not be resorted to except under the authority of Congress. Now, I suppose nothing to be clearer than that the retaliation spoken of in the books is a retaliation to be exercised when necessary, and that therefore it is a duty of the military officer conducting the war, unless he is restrained by some paramount authority, to enforce it in proper cases. One of the modes of making the war efficient on his part is to retaliate on the prisoners he may capture what may have been done toward his men who may have been captured by the enemy.

Now, the honorable member refers to the articles Congress has adopted as rules for the government of the Army and Navy of the United States. I am sure he will say that there are many provisions in those rules and regulations that are not at all necessary. One of the rules is that prisoners when they are taken are to be disarmed. I suppose that could be done without the authority of an act of Congress. Another is that they are to obey orders. Nobody can doubt that they would be compelled to obey orders, although there was no act of Congress on the subject. There is the same right to disarm prisoners after they are captured as there is to capture them. I do not suppose any legislation by Congress is necessary to give the authority to capture them. The Army have the same authority to capture them, no greater authority than they have to carry on the war upon the battle-field and kill the enemy if they cannot capture them. No regulation by Congress is necessary to give an officer authority to fight the foe and to kill him in fight, if killing should become necessary.

The meaning of the clause referred to by the Senator from Wisconsin is that Congress may regulate the manner in which the Army shall be organized, how it shall conduct its general duties; but when once upon the field, the officer in command may do anything and everything that is the duty of military officers, unless he is prohibited by a superior authority. General Washington threatened retaliation, and to a certain extent retaliation was practiced during the war of the Revolution; but it was not necessary to give him that authority. General Jackson practiced retaliation during the war of 1812. Nobody supposed he had not the authority to retaliate; the only question was, whether he had not abused the power. It was not denied that he had the power to do what he did, provided the case was one to justify retaliation to that extent. I have supposed that power to be very clear, and on that ground I thought it was unnecessary to legislate on the sub-

ject, provided we had confidence in the President that he would perform his duty. I think it is the President's duty, if he cannot protect our men who have been captured except by retaliation on the men of the enemy who have been captured by us, to retaliate to the extent that the laws of nations authorize; and all that, I think, can be done by the President without any legislation.

Mr. SAULSBURY. I am very glad that this debate has disclosed one fact, and that is, that many members of the Senate think there is some limit to the powers of the Executive. I had supposed, from the manner in which he has acted in my State and in the State of Maryland, to say nothing of his actions elsewhere, that he supposed himself to be omnipotent. I am glad to learn today that in the opinion of some of his warmest friends there are limitations upon his power.

I shall vote for this reference; but I do not know that I shall vote for any proposition that may come from the committee recognizing or countenancing the principle of retaliation, for I am one of those who do not believe that the American people, either North or South, as a general thing are so cruel, so wicked, as willfully to treat barbarously prisoners of war. I doubt not that there are individual cases of great oppression and great hardship. I doubt not that when those who have never been used to wielding authority become dressed up in a little brief authority they do on some occasions not only play fantastic but very cruel tricks; and I doubt not that there are Federal prisoners who have suffered cruelty at the hands of some wicked, cruel southern officers; and I doubt not that there are confederate prisoners who, when they have fallen into the hands and into the charge of wicked and cruel northern officers, have been treated barbarously also. I suspect that if the account was balanced, there would not be much difference. I, for one, do not believe that people of the South or the people of the North, in the main, are such cruel wretches as that they would willfully treat prisoners of war with cruelty, and for that reason do not believe there is any necessity for passing any act or doing anything giving authority to the President to retaliate, or recognizing the principle of retaliation.

Mr. HENDRICKS. I rise to ask the unanimous consent of the Senate to offer an amendment that it may go to the committee, provided the resolution and amendments heretofore offered shall be recommitted. I will read it:

*And be it further resolved, That the President is directed to take such proper measures as may be necessary to obtain the earliest exchange of prisoners at all times during the continuance of the war.*

The VICE PRESIDENT. The proposition will be received informally, to go with the other proposed amendments if the resolution shall be recommitted.

Mr. HARLAN. I move that the Senate do now adjourn.

Mr. WADE. Let us have the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to ask the Senator from Iowa to withdraw his motion, so that I may offer a motion that when the Senate adjourns to-day it be to meet on Monday next.

Mr. HARLAN. I have no objection to that motion being received unanimously.

The VICE PRESIDENT. It cannot be received except by unanimous consent.

Mr. LANE, of Indiana. I object.

Mr. WADE. It cannot be received at all now. Let us have the question.

Mr. HENDRICKS. I care nothing about it myself. I only want to accommodate my friends.

The VICE PRESIDENT. The Secretary will call the roll on the motion to adjourn.

The Secretary proceeded to call the roll. Before the result was announced,

Mr. COLLAMER. I wish to ask one question: whether the Senator who made this motion desires to speak on this subject?

Mr. HARLAN. I expected to address the Senate for a short time; but I can go on to-night if such be the pleasure of the Senate.

Mr. SUMNER. I hope the delay proposed will be granted.

Mr. COLLAMER. I think the usual courtesy ought to be extended to the Senator from Iowa, if he desires time. I change my vote to the affirmative.



Mr. POMEROY and Mr. SPRAGUE also changed their votes from the negative to the affirmative.

Mr. WADE. If the Senator from Iowa wishes to address the Senate on this subject, I will not persist in opposing an adjournment. I change my vote to the affirmative.

Messrs. ANTHONY, CLARK, FARWELL, LANE of Indiana, NESMITH, SAULSBURY, and WILSON also changed their votes from the negative to the affirmative.

Mr. POMEROY. Before the result is announced, I ask unanimous consent to be allowed to move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. WADE and Mr. CLARK. That cannot be done.

The vote on the motion to adjourn was announced—yeas 24, nays 17; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Collamer, Cowan, Doolittle, Farwell, Foster, Harlan, Harris, Henderson, Hendricks, Johnson, Lane of Indiana, Nesmith, Pomero, Saulsbury, Sherman, Sprague, Sumner, Wade, Willey, Wilson, and Wright—24.

NAYS—Messrs. Buckalew, Chandler, Conness, Davis, Dixon, Foot, Hicks, Howard, Morgan, Morrill, Powell, Ramsey, Riddle, Ten Eyck, Trumbull, Van Winkle, and Wilkinson—17.

ABSENT—Messrs. Brown, Grimes, Hale, Harding, Howe, Lane of Kansas, McDougall, and Richardson—8.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, January 27, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### PRIVATE BILLS.

The SPEAKER. By an order of the House, this day has been set apart for the consideration exclusively of private business. The committees will be called for reports of private bills.

### HULL AND COZZENS AND OTHERS.

Mr. HALE, from the Committee on Claims, reported a bill for the relief of Hull & Cozzens, and John Naylor & Co.; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, together with the accompanying report, ordered to be printed.

### SELMAR SEIBERT.

Mr. HALE also, from the same committee, reported a joint resolution to refer the claim of Selmar Seibert back to the Court of Claims; which was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the resolution was passed be reconsidered, and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

### BENJAMIN ROACH.

Mr. HALE also, from the same committee, introduced a joint resolution for the relief of Benjamin Roach; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

### MORRIS J. WORTHEIMER.

Mr. HALE also, from the same committee, to whom were referred the memorial of Morris J. Wortheimer, asking remuneration for losses sustained by robbery in October, 1863, by the rebels at the time of Shelby's raid, reported adversely thereon, and asked that the memorial be laid on the table; which was agreed to.

### GEORGE ASHLEY, ADMINISTRATOR, ETC.

Mr. HALE also, from the same committee, reported a joint resolution to refer the claim of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, back to the Court of Claims; which was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the resolution was passed be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### DANFORD MOTT.

Mr. HALE also, from the same committee, reported a joint resolution to refer the claim of Danford Mott to the Court of Claims; which was read a first and second time.

The joint resolution was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### JURISDICTION OF THE COURT OF CLAIMS.

Mr. HALE also, from the same committee, reported a bill supplementary to the act entitled "An act to restrict the jurisdiction of the Court of Claims," &c., passed July 4, 1864; which was read a first and second time.

Mr. HALE. I desire to have this bill considered now.

The bill provides that the provisions of the act passed July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished the Army of the United States," be extended so as to embrace all claims of teamsters, laborers, and for hauling supplies to the Army on the same terms and restrictions as are contained in the bill to which this is a supplement.

Mr. STEVENS. Do I understand that this is further to restrict the jurisdiction of the Court of Claims?

Mr. HALE. No, sir. We passed a bill last session allowing the quartermaster to settle certain claims for supplies furnished for the Army. This bill proposes to allow the quartermaster to settle the claims of teamsters and laborers. It enlarges the jurisdiction of the quartermaster.

Mr. STEVENS. Well, I think that is right. The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### CHARLES A. PITCHER.

Mr. HALE also, from the same committee, reported back, with a recommendation that it do pass, bill of the Senate No. 338, for the relief of Charles A. Pitcher.

Mr. HALE. I ask that the bill be considered now.

The bill was read. It authorizes and requires the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Charles A. Pitcher the sum of \$5,000 for damages sustained by reason of an infringement of his patent in machinery for making brooms, and the use of the same in the penitentiaries of the United States.

Mr. WILSON. That bill makes an appropriation, and must have its first consideration in Committee of the Whole. I object to its consideration in the House now.

The bill was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

### SAMUEL BROWNING.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of Samuel Browning, of Memphis, Tennessee; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

### FREDERICK SHERIDAN.

Mr. BROWN, of West Virginia, also, from the same committee, reported a bill for the relief of Frederick Sheridan; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

### J. J. LINTS.

Mr. BROWN, of West Virginia, also, from the same committee, reported a bill for the relief of J. J. Lints; which was read a first and second

time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866; when the Speaker signed the same.

### CAPTAIN GARDIN CHAPIN.

Mr. HOLMAN, from the Committee of Claims, reported back, with the recommendation that it do not pass, bill of the Senate No. 107, for the relief of Captain Gardin Chapin, seventh United States infantry, for private property lost and destroyed in the evacuation of Arizona by the United States troops.

The bill, with the accompanying papers, was laid on the table.

### LIEUTENANT COLONEL JOHN L. GARDINER.

Mr. HOLMAN also, from the same committee, made an adverse report on the petition of Lieutenant Colonel John L. Gardiner, for compensation for services in the Mexican war; which was laid on the table.

### C. DUVAL.

Mr. HOLMAN also, from the same committee, made an adverse report on the petition of C. Duval, praying compensation for the occupation of his house by the military authorities; which was laid on the table.

### J. T. DANIEL.

Mr. HOLMAN also, from the same committee, made an adverse report on the petition of J. T. Daniel, asking compensation for supplies taken from his farm for the use of United States volunteers; which was laid on the table.

### ISRAEL DEMING.

Mr. HOLMAN also, from the same committee, made an adverse report on the petition of Israel Deming, praying for reimbursement for losses sustained by congressional legislation in regard to the currency; which was laid on the table.

### P. CHAMBERLAIN.

Mr. HOLMAN asked and obtained leave to have withdrawn from the files of the House, for reference to the Committee of Claims, the petitions of P. Chamberlain, and of another.

### JOHN A. STEVENS'S REPRESENTATIVES.

Mr. WEBSTER, from the Committee of Claims, reported back with an amendment in the nature of a substitute, House bill No. 626, for the relief of the widow and heirs of John A. Stevens, deceased, of Springfield, Missouri; which was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

### COMMERCE AND NAVIGATION.

Mr. ELIOT, by unanimous consent, reported back from the Committee on Commerce Senate bill No. 310, for the promotion of commerce and the improvement of navigation, and asked that the bill be printed and recommitted, and that a minority report be also received and printed. It was so ordered.

### PORT OF PHILADELPHIA.

Mr. O'NEILL, of Pennsylvania, from the Committee on Commerce, reported back, with an amendment in the nature of a substitute, a bill to enlarge the port of entry and delivery for the district of Philadelphia.

Mr. J. C. ALLEN. That is not a private bill. I object to its being reported now.

Mr. O'NEILL, of Pennsylvania. This bill should have been reported some days ago, when the Committee on Commerce was called; but through some inadvertence it was not reported. I hope the gentleman from Illinois will withdraw his objection.

Mr. J. C. ALLEN. What action does the gentleman propose to have taken with this bill?

Mr. O'NEILL, of Pennsylvania. I propose to have it considered and passed now.

Mr. J. C. ALLEN. I object.

The SPEAKER. The bill requires unanimous

consent to be reported this day, it being a public bill.

#### WASHINGTON GAS-LIGHT COMPANY.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, Senate bill No. 363, to amend the charter of the Washington Gas-Light Company.

The bill was read. It repeals so much of the acts of June 25, 1860, and July 11, 1862, as relate to the price of gas furnished by the Washington Gas-Light Company, and amends the act incorporating the Washington Gas-Light Company so as to prohibit the said company from receiving, on and after the 1st of December, 1864, for the benefit of its stockholders, a greater price for gas than forty cents per hundred cubic feet, subject to a discount of ten per cent. on all bills for gas furnished to the General Government, and of five per cent. on all bills for gas furnished to other consumers, if paid at the office of the company within seven days after the rendition thereof.

Mr. WASHBURN, of Illinois. Is that a private bill?

The SPEAKER. It is, according to the usage of the House.

Mr. WASHBURN, of Illinois. I hope it will not be passed on now.

Mr. MORRILL. I hope the gentleman from Illinois will allow the bill to pass. I am sure that if he investigated the facts, he would not object. The stock of the company has been reduced, as I understand, from above par to twenty-three per cent.; and the company is losing from five to six thousand dollars a month, and will be compelled, inevitably, to close up its business unless this bill be passed. I know of some gentlemen who have invested their savings for years in the stock of this company, and who will lose their investment if the bill be not passed. I do not think that this is an overgrown, plethoric corporation, or one that should be regarded with any vindictive feeling.

Mr. DAVIS, of New York. I desire to have the bill put upon its passage; and after submitting a few remarks, I will move the previous question on the passage of the bill.

Mr. WASHBURN, of Illinois. I hope the gentleman will not insist upon the call for the previous question.

Mr. DAVIS, of New York. I withdraw the call for the previous question, and yield to the gentleman from Illinois.

Mr. DAWES addressed the Chair.

Mr. WASHBURN, of Illinois. I yield to the gentleman from Massachusetts [Mr. DAWES] for one moment, while I examine the provisions of the bill.

Mr. DAWES. I think, Mr. Speaker, that if my friend from Illinois would examine the merits of this case he would withdraw his objection to this bill. I am sure that at the last session I was quite as much prejudiced against this measure as the gentleman appears to be; and it is only after some patient, and I believe thorough and impartial, examination of the merits of the case, that I have come to the conclusion that we did injustice to this company last year by refusing to pass this or a similar bill. I believe that any one who will fairly investigate the matter will be convinced that the present charter of this company limits the price of gas below the rate at which it is possible for them at this time to manufacture and distribute it about this city. I do think that this company are not now asking anything unreasonable in seeking legislation that will allow them to charge a remunerative price for the gas which they manufacture.

I do not know anything about the provisions of this bill in detail. I assume that the purpose of the bill is simply to remove the restriction now contained in the charter of this company upon the price of gas. Now, sir, I do not think it reasonable to make a discrimination against this company, and compel them to manufacture gas at a rate below that for which it can be manufactured elsewhere. I cannot understand why this company should not be permitted to raise the price of the article, when all the materials used in its manufacture have greatly advanced in cost. I do not see any justice in legislation which would prevent an advance in price proportionate to the increased cost of manufacture.

It is certainly proper that we should retain our control over this company, so that they may not be allowed to raise the price of gas beyond a rate which would give a fairly remunerative compensation to the stockholders. But to keep the limitation of price at the same point at which it was fixed before the war must obviously be to every candid mind manifestly unjust. There is no article of consumption in this country that has not risen in price since the war began. The price of many things has doubled, and the price of some has trebled or quadrupled. I do not understand why we should refuse to this company permission to raise the price of the gas which they furnish, in proportion to the cost of everything else.

If there should be, in the details of the bill, anything objectionable, I will cheerfully cooperate with my friend from Illinois in strictly guarding the rights of the public. But unless he can specify some objectionable feature, he should not, I submit, oppose this bill.

Mr. WASHBURN, of Illinois. Mr. Speaker, the argument made by my friend from Massachusetts [Mr. DAWES] in favor of this bill would, in its legitimate application, reach far beyond this case. If we commence on this system we may as well go through and raise our own salaries and those of all the officers of the Government. That is what the argument amounts to.

Now, sir, if this bill is to be passed, I propose to offer some amendments, in which I have no doubt the House will concur.

Mr. DAWES. I desire to ask my friend from Illinois a question: does he desire to compel this company to manufacture gas for less than its cost?

Mr. WASHBURN, of Illinois. I do not know that I have any particular desire about it one way or the other.

Mr. DAWES. I submit to my friend that he ought to have.

Mr. WASHBURN, of Illinois. This company can stop making gas at any time they please, and we can fall back on kerosene, thus encouraging the great petroleum interest of Pennsylvania.

Mr. STEVENS. We can make gas a great deal cheaper than they can.

Mr. WASHBURN, of Illinois. And not quite so good either, bad as this may be.

Now, sir, I do not understand from the gentleman from Massachusetts, [Mr. DAWES], or the gentleman from New York, [Mr. DAVIS], that, before the recent rise in the materials for the manufacture of gas, this company was not a paying institution; and I trust that if this bill be passed at all, it will be passed with the limitation which we have placed on all such bills, that at a given time hereafter the company shall go back to its present status. But in the mean time I ask the Clerk to read from the Washington Chronicle of to-day a communication which represents the feelings of the people of the city of Washington, who are paying for this gas.

Mr. DAVIS, of New York. I do not think that we should have read here against this bill an anonymous communication from an irresponsible source.

Mr. WASHBURN, of Illinois. The House can take it for what it is worth. I ask the Clerk to read it as part of my speech.

The Clerk read, as follows:

#### MORE BAD GAS.

To the Editor of the Chronicle:

For several days the miserable stuff palmed off on this city and the Government by the Washington Gas-Light Company, which they call "gas," has been of such a noxious character as will most certainly produce a pestilence unless the evil be speedily remedied. Some of our citizens were obliged, on Sunday evening, to vacate their rooms on "lighting up," and resort to kerosene and candles for light. In the city post office, where they are obliged to burn more or less gas day and night, the stench was indeed most horrible.

Had this been the first time this nuisance has been inflicted upon us, we would have taken the apology of the company, and its published promises to do better in future, as sufficient, and remained silent; but these promises have been broken time and again, and now that point has been reached "where forbearance ceases to be a virtue," and when duty as public journalists and a proper regard for the health of the people of this metropolis require us to speak out.

The company is now asking authority from Congress to increase the price of gas about fifty per cent. This reminds us of the story of the "Frenchman and the poker," and of the stanza of Burns, in his famous lyric of "Death and Dr. Hornbook," where "Death" is lamenting that his power to kill had been usurped by the doctor, who, although he dispenses such nostrums as result in sending his

patients to their "lang hame," takes good care that he is "weel paid" for his prescriptions. Death is made to say:

"That's just a swatch o' Hornbook's way;  
Thus goes he on from day to day;  
Thus does he poison, kill, an' slay,  
An's weel paid for't;  
Yet stops me o' my lawfu' prey  
Wi' his d—d dirt."

Now, we object, in the first place, to taking poison, but if compelled to swallow the dose, we enter our solemn protest against paying two prices to any individual or corporation that has the power to force down our throats the fatal prescription.

This company has a perfect monopoly of gas in this city, and manages to prevent the introduction of other gas by an organized opposition to the chartering of any other company on just and equitable principles. We are, therefore, compelled to use whatever it thinks proper to furnish, or go without light. In other cities such things would not exist a single day. Why cannot Washington be relieved from the oppression as well as if it were located further north? It remains for Congress to decide.

Mr. WASHBURN, of Illinois, moved to add the following proviso to the bill, and on that amendment demanded the previous question:

Provided, That the provisions of this bill shall not be extended beyond the 1st day of July, 1866.

Mr. DAVIS, of New York, I hope that the amendment will be voted down.

Mr. WASHBURN, of Illinois. The amendment allows the operation of the bill to the 1st day of July, 1866, one year and a half, and by that time we hope that the cost of materials will go down so that the company can go on as formerly.

Mr. KERNAN. I wish to put a question. If the amendment is adopted will not the company be entirely unrestricted as to the price of gas after the 1st of July, 1866?

Mr. WASHBURN, of Illinois. I propose to offer another amendment to cure that objection.

Mr. WILSON. I see that this bill refers back to the month of December last. Now, is it intended that we shall pay this additional price from December last, or only from the passage of this act?

Mr. DAVIS, of New York. The bills up to January have all been paid.

Mr. WILSON. Then that part of the bill ought to be stricken out.

Mr. DAVIS, of New York. I now demand the previous question on the bill and amendments.

The previous question was seconded.

The SPEAKER stated that the gentleman from New York, having reported the bill, was entitled to the floor to close the debate.

Mr. DAVIS, of New York. Mr. Speaker, the bill which is now presented before the House is entitled to the fair, candid, and just consideration of members. It is not, as alleged by the gentleman from Illinois, [Mr. WASHBURN], a monopoly that we desire to benefit; it is simply to do an act of justice, as this body with the Senate is the legislature for the District of Columbia, and to which all interests here must appeal for aid and protection.

In the year 1860, before the war broke out, by the laws of Congress the gas company, for furnishing gas to the city and the District, was authorized to charge \$3 50 per thousand feet. That was when coal was five dollars a ton, when labor was one dollar a day, and when all the materials which went toward the production of gas were far lower in price than they are to-day. They have advanced since 1860 nearly three hundred per cent. In 1861 Congress reduced the price of gas somewhat. We find that coal has been advancing, labor has been advancing, and that iron and lime and everything consumed by this company have been advancing in price, so that the compensation which this company is entitled to receive, under the laws of the United States, for gas furnished to the Government and citizens of this District, will not pay the cost of production. And this is without reference to taxes, the capital invested, and the salaries paid to those engaged in the management of the corporation.

I beg leave to call the attention of the House to the fact that in 1862 coal was selling in this city to this company at \$8 50 per ton, and to-day it costs \$16 50 per ton at the yard of the company. Labor, too, has gone up to twenty shillings per day. Iron has gone up from one and a half cent per pound to four cents per pound, and so on with reference to all the other materials which enter into the production of gas. The advance

upon coal alone is \$8 50 per ton, or one hundred per cent.

Mr. Speaker, in every city of this Union where the charters limit the price of gas, the price has been advanced one hundred per cent. since 1860. If I may be allowed I will refer to the prices now charged by some of the gas companies in various parts of the United States, and compare them with the price charged here. And I beg leave to call the attention of the House to the fact that there is scarcely a city where coal costs so much as it does here. In the city of Portland, Maine, the price of gas has been raised to \$5 15 per thousand feet, although in 1862 it was four dollars, which is the price now asked to be granted to this company. In the city of Portland coal costs six dollars or more less than it does in the city of Washington. The price of gas in Portland, as I stated, was \$5 15 a thousand feet. In the city of Syracuse, which is the place of my residence, gas was sold in 1862, according to the authority of the corporation, at three dollars per thousand, and that price has been increased from time to time since until the company now receive \$4 50 per thousand without any discount except five per cent. when paid within five days after the bills are rendered. And yet in Syracuse coal costs eleven dollars per ton, and labor costs ten shillings per day.

I might go on to enumerate a large number of other companies that have increased their charges for gas between 1863 and the present time; but I will detain the House with the reading of only two or three letters upon this subject. I ask the Clerk to read first a letter from the Burlington, Iowa, Gas-Light Company.

The letter was read, as follows:

OFFICE GAS-LIGHT COMPANY,  
BURLINGTON, IOWA, November 21, 1864.

DEAR SIR: Yours of 7th instant, inquiring about price of gas, cost of coal, &c., is received.

Our present price is \$1 50 per thousand feet, an advance of fifty cents upon former price. No further advance is contemplated at present. No discount for any cause.

Coal costs us \$6 50 at gas works, but is of inferior quality, making only from two thirds to three fourths as much gas as Youghiogheny coal.

Respectfully yours,  
R. SPENCER,  
Secretary Burlington Gas-Light Company.

J. F. BROWN, Esq., Secretary.

Mr. DAVIS, of New York. I now ask the Clerk to read a letter from the Cumberland Gas-Light Company, located in the midst of a coal region.

The Clerk read the letter, as follows:

OFFICE OF THE CUMBERLAND GAS-LIGHT COMPANY,  
CUMBERLAND, MARYLAND, November 18, 1864.

DEAR SIR: Your favor of the 7th instant is at hand. Our charge for gas has uniformly been four dollars per thousand feet, without any discount for prompt payment. We have not contemplated as yet any increase in price, although the cost of coal and other items of expense are much enhanced. We propose, at least, to add to the above price the United States tax.

Yours respectfully,  
JOSEPH SHRIVER, Secretary.

Mr. DAVIS, of New York. I have also a letter from the Manhattan Gas-Light Company, of New York.

The letter was read, as follows:

OFFICE OF THE MANHATTAN GAS-LIGHT COMPANY,  
IRVING PLACE, CORNER EAST FIFTEENTH STREET,  
NEW YORK, November 11, 1864.

DEAR SIR: Your esteemed favor of the 7th is received. Our position is precisely as it was when I saw you in Washington last winter. We get \$2 50 per thousand feet for gas sold. We expect prompt payment and make no discounts. We charge meter rent. Our charter allows us to charge meter rent, but fixes the price of gas. All gas companies, by law, may charge meter rent in this State, but some companies have bound themselves in their contracts with the local authorities not to make such a charge.

We intend to make application to the Legislature in January next for the removal of the restriction as to price. If successful, the price will be in accordance with the cost, and that cost no man can now foresee. But we are doing an unprofitable business now.

Truly yours,  
CHARLES ROOME,  
J. F. BROWN, Esq.,  
Secretary Washington Gas-Light Company.

Mr. DAVIS, of New York. That is a letter from the president of a company whose charge for gas is limited by its charter. That company is allowed to charge only \$2 50 per thousand feet, and they are now before the Legislature of New York for relief. They have been suffering from the enhanced price of labor, and have done an unprofitable business, and yet they had a vast accumulation of coal on hand, so that they were

able for two years to supply themselves with coal at a moderate price. But I desire to call the attention of the House to the fact that in the city of Philadelphia, where there is the same limitation upon the gas companies, and where they were not supplied with a stock of coal on hand, the loss of the company in a single year, was upward of eighty-four thousand dollars. I ask the clerk to read a letter from the Philadelphia Gas Works Company.

The letter was read, as follows:

OFFICE OF THE PHILADELPHIA GAS WORKS,  
November 28, 1864.

DEAR SIR: Yours of the 7th instant is received, and contents noted. I would state in reply that the works in this city were formerly private corporations; were purchased by the city; and are now managed by a trust—and as we supply the citizens at cost, after setting aside a small percentage as a sinking fund for payments of loans—the price charged by us would be no criterion for you.

We charged last year \$2 25 per thousand feet, less one ninth for payment within five days, subject to the United States tax, and sunk about eighty thousand dollars on the years' business. On the 1st of January, 1864, the price was advanced to \$2 50 per thousand feet, less five per cent., subject to the tax, and fearing that that price was not sufficient, a further advance was made September 1st to three dollars per thousand feet, less five per cent., and subject to the tax; and we have serious doubts whether that is sufficient to meet the expenses of the works.

Hoping this may be satisfactory, I remain yours, very respectfully,

THOMAS S. STEWART,  
Chief Engineer.  
Per THOMAS R. BROWN,  
Chief Clerk of Works.

J. F. BROWN, Secretary of Washington Gas-Light Company.

Mr. DAVIS, of New York. I beg the House to bear in mind one established fact connected with this question, to which I will advert in reply to an allegation contained in an anonymous communication presented to the House this morning. The location of Washington compels it to depend for its supply of coal principally upon the railroad which enters the District from western Maryland and eastern Virginia and upon the canal. Those roads and the canal have been broken up by the events of the war, and the gas company has been unable to obtain supplies of coal from the sources to which they usually look. It has been unable to obtain a supply in New York, Philadelphia, or other places, for the reason that coal was not there to be sold at any price. And from that fact has grown the complaint contained in that anonymous communication; because the company, being unable to obtain at the time coal suitable for gas purposes, were compelled to take a cargo of inferior and coarser coal, though they had to pay for it an exorbitant price.

I do not wish to consume the time of the House in reading unnecessary communications upon this subject, though I have before me letters from companies in almost all parts of the country, in which they say, with one accord, that the companies have been compelled, by reason of the enhanced cost of material, to raise the price of gas about one hundred per cent.

I desire now to submit to the House a statement made by the President of this Washington company of its operations for the last six months.

The statement was read, as follows:

WASHINGTON GAS WORKS.

Six Months' Statement, ending December 31, 1864.

Expenses.	
To coal used.....	\$129,689 15
To wages of hands.....	47,472 28
To salaries of officers.....	4,831 66
To time for purveying.....	2,892 00
To repairs.....	3,142 79
To city taxes.....	1,734 94
To interest.....	80 00
To incidental expenses.....	2,009 67
	191,772 49

Earnings.	
From gas sold.....	\$157,075 06
From coke sold.....	19,070 00
From tar sold (not yet paid for)...	4,664 90
Coke on hand.....	1,000 00
	181,809 96

Loss.....	9,962 53
To which should be added a five per cent. dividend which the stockholders should have received.....	25,000 00

Making a total loss of..... \$34,962 53

B. H. BARTOL, President.  
Cash capital paid in, \$500,000.  
No dividends have been paid for eighteen months.  
No cash dividend has ever been paid exceeding five per cent. for six months' earnings.  
No stock or scrip dividends have ever been made.  
Present debts of the Company exceed \$19,000.  
B. H. BARTOL, President.

City of Philadelphia, ss:

B. H. Bartol, being duly sworn according to law, saith that he is President of the Washington Gas Works, and that the within statement is correct and true in every particular.

B. H. BARTOL.

Sworn and subscribed before me this 10th day of January, A. D. 1865. JOHN WHITE, Alderman.

Mr. DAVIS, of New York. That expresses the condition of the company. They have been losing money for the last two years, and they have been furnishing gas under these enhanced prices of materials to the Government and to the citizens; and the question now is whether we, as the legislators of the District, are willing to be to them the ministers of injustice, compelling them to abandon the works they have constructed, or else to furnish gas to the Government and the people of Washington at a great loss.

Mr. UPSON. I would ask the gentleman whether dividends have not been privately paid by the company.

Mr. DAVIS, of New York. Not a dollar.

Mr. UPSON. I understand such is the case.

Mr. DAVIS, of New York. I deny it, and on the authority of gentlemen who have no interest to make a misstatement to this House. This company has been charged with bad faith on the floor of this House. Such charges have been made unjustly, and for the purpose, I have no doubt, of inciting prejudice against this company. Sir, I know of no corporation in this District whose affairs have been managed with greater ability and honesty than the affairs of this gas company which has been assailed. We alone can furnish them with the relief necessary for their protection; and shall we listen to these imputations of bad faith, which are made without foundation and for the purpose of depriving them of justice at the hands of the American Congress? I hope, sir, that we shall not witness such a scene as that upon this floor.

I have been surprised, I must say, that all measures of legislation affecting the District of Columbia, no matter how excellent or just they may have been, have been assailed by members upon this floor from motives which I cannot understand, and especially by the gentleman from Illinois, [Mr. WASHBURN]; but I have been less surprised at the attacks of that gentleman upon everything within this District since I have found everything without the District attacked in the same way. Sir, we are here to do justice and not wrong. We are here to protect rights and interests, and as this company can look to no other source for protection, I appeal to the members of this House to lay aside these unfounded prejudices that have been instilled into their minds, and to give them that justice which their circumstances demand.

Mr. PATTERSON addressed the Chair.

Mr. DAVIS, of New York. I decline to yield.

The SPEAKER. The previous question having been seconded, no further debate is in order.

Mr. PATTERSON. Is it in order to move to reconsider the vote by which the previous question was seconded?

The SPEAKER. It is in order.

Mr. PATTERSON. Then I make that motion. I merely wish to say a word or two.

The question was taken, and the motion to reconsider was not agreed to.

The main question was then ordered to be put.

Mr. STEVENS moved to reconsider the vote by which the main question was ordered, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question being upon the amendment proposed by Mr. WASHBURN, of Illinois,

Mr. WASHBURN, of Illinois, demanded the yeas and nays and called for tellers on the yeas and nays.

Tellers were ordered, and Messrs. DAVIS, of New York, and WASHBURN, of Illinois, were appointed.

The House divided, and the tellers reported—yeas 21, noes 69.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 103, not voting 43; as follows:

YEAS—Messrs. Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Boutwell, Cobb, Cole, Cravens, Donnelly, Eckley, Farnsworth, Frank, Harding, Holman, Hotchkiss, Ingersoll, Francis W. Kellogg, Orlando Kellogg, McBride,



Samuel F. Miller, Daniel Morris, Norton, Odell, Orth, Patterson, Perham, James S. Rollins, Sloan, Spalding, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, and Elihu B. Washburne—36.

**NAVS**—Messrs. James C. Allen, Alley, Ames, Ancona, Anderson, Baily, John D. Baldwin, Blair, Bliss, Blow, Boyd, Broomall, James S. Brown, William G. Brown, Chesler, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cresswell, Henry Winter Davis, Thomas T. Davis, Davies, Dawson, Denning, Denison, Dixon, Driggs, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Garfield, Gooch, Grider, Griswold, Charles M. Harris, Herrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Kernan, King, Knox, Law, Lazear, Le Blond, Loan, Long, Longyear, Mallory, Marvin, McClurg, McDowell, William H. Miller, Moorhead, Morrill, James R. Morris, Morrison, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Prayn, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Ross, Shannon, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stevens, Stiles, Stuart, Sweat, Thayer, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Wilson, Windom, Winfield, Fernando Wood, and Woodbridge—103.

**NOT VOTING**—Messrs. William J. Allen, Allison, Blaine, Brandegee, Brooks, Coffroth, Dumont, English, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Hubbard, Hutchins, Kasson, Knapp, Littlejohn, Marey, McAlister, McIndoe, McKinney, Middleton, Amos Myers, Perry, Pike, Pomeroy, Price, Radford, Samuel J. Randall, John H. Rice, Schenck, Scofield, Scott, Strouse, Townsend, Voorhees, Ward, Chilton A. White, Wilder, Benjamin Wood, Worthington, and Yocaman—43.

So the amendment was disagreed to.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof, the bill was passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PROPOSITION TO ADJOURN OVER.

Mr. WASHBURNE, of Illinois. I rise to a privileged motion. I move that when the House adjourns to-day it adjourn to meet on Monday.

Mr. ASHLEY. I ask the gentleman to allow me one moment.

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. ASHLEY. I want to make a proposition that the House meet to-morrow for general debate.

Mr. WASHBURNE, of Illinois. If it be desired that there shall be a session to-morrow for debate, with the understanding that no business shall be done, I withdraw my motion.

The SPEAKER. The gentleman from Ohio suggests that to-morrow be set apart for debate on the pending constitutional amendment only, and that no business shall be transacted. Is there objection?

Mr. JOHNSON, of Pennsylvania. I object.

Mr. ASHLEY. I hope not. There are a number of young members here who have prepared speeches, and who desire an opportunity to deliver them.

Mr. JOHNSON, of Pennsylvania. Well, in that case, I withdraw the objection.

Mr. KALBFLEISCH. Does the gentleman propose that debate shall be closed to-morrow?

Mr. ASHLEY. Oh no.

No further objection was made, and it was ordered accordingly.

#### BUSINESS ON SPEAKER'S TABLE.

Mr. HALE. Mr. Speaker, has the morning hour expired?

The SPEAKER. It has expired.

Mr. HALE. Then I move to proceed to the consideration of private business on the Speaker's table; so that the bills to which there shall be objection shall be referred, and that those to which there shall be no objection may be put upon their passage.

Mr. WASHBURNE, of Illinois. I suggest that the proper motion would be to proceed to the business on the Speaker's table.

The SPEAKER. On Fridays and Saturdays the motion to proceed to private business on the Speaker's table takes precedence of the other motion.

The question was taken on Mr. HALE's motion, and it was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed an act (H. R. No. 709) to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1865, with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed an act to amend an act entitled "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820, approved May 5, 1864; in which he was directed to ask the concurrence of the House.

#### MARY SCALES ACCARDI.

The first private bill on the Speaker's table was the bill (H. R. No. 394) for the relief of Mary Scales Accardi; the question being on the following amendment of the Senate:

Strike out the words "with the date of the decease of her husband," and insert "July 1, 1862;" so that it will read:

Place the name of Mary Scales Accardi, the widow of Salvador Accardi, upon the roll of widows of invalid pensioners, and that she be paid a pension, at the rate of six dollars per month, commencing with July 1, 1862.

The amendment was concurred in.

Mr. HALE moved to reconsider the vote by which the amendment was concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### METROPOLITAN RAILROAD COMPANY.

The next private bill on the Speaker's table was an act (H. R. No. 623) to amend an act entitled an act to incorporate the Metropolitan Railroad Company, in the District of Columbia, approved July 1, 1864; the question being on the Senate amendment to strike out "ten" and insert "thirty;" so that it will read "that the line from Seventeenth street to the Capitol shall be completed, equipped, and running, within thirty days from the passage of this act."

The amendment was concurred in.

#### POTOMAC FERRY RAILROAD COMPANY.

The next private bill on the Speaker's table was an act (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Railroad Company, with amendments by the Senate.

Mr. WHEELER. I move that the Senate amendments be referred to the Committee for the District of Columbia.

The motion was agreed to.

#### ISAAC R. DILLER.

The next private bill on the Speaker's table was an act (H. R. No. 94) for the relief of Isaac R. Diller; the question being on the amendments of the Senate reducing the appropriation from \$3,655 55 to \$3,000.

The amendments were concurred in.

Mr. J. C. ALLEN moved to reconsider the vote by which the amendments were concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REUBEN CLOUGH.

The next private bill on the Speaker's table was an act (H. R. No. 316) for the relief of Reuben Clough; the question being on an amendment by the Senate.

Mr. HOLMAN. I move that the amendment be referred to the Committee on Invalid Pensions. The motion was agreed to.

#### REBECCA S. HARRISON.

The next private bill on the Speaker's table was an act (S. No. 347) for the relief of Rebecca S. Harrison.

The bill was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ALEXANDER J. ATOCHA.

The next private bill on the Speaker's table was an act (S. No. 281) for the relief of Alexander J. Atocha.

The bill was read a first and second time, and referred to the Committee on Claims.

#### EDMUND S. ZEVELEY.

The next private bill on the Speaker's table

was an act (S. No. 395) for the relief of Edmund S. Zeveley.

The bill was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### SPENCER AND HUBBARD.

The next private bill on the Speaker's table was the bill (S. No. 136) for the relief of A. T. Spencer and Gurdon S. Hubbard.

The bill was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### HENRY A. BRIGHAM.

The next private bill on the Speaker's table was the bill (S. No. 212) for the relief of Henry A. Brigham.

The bill was read a first and second time. It provides that the Secretary of the Treasury be directed to pay to Henry A. Brigham \$2,000, being the amount of his check drawn in favor of the Assistant Treasurer of the United States at New York, on the 7th of November, 1862.

Mr. HOLMAN. I rise to a point of order.

The SPEAKER. This is an appropriation bill, and if any member objects, must be considered first in the Committee of the Whole on the Private Calendar.

Mr. HOLMAN. I object to its consideration now, and move that it be referred to the Committee of Claims.

The motion was agreed to.

Mr. GRISWOLD. I should like to explain the circumstances connected with this bill.

The SPEAKER. The bill is not now before the House, it having been referred to the Committee on Claims on the motion of the gentleman from Indiana, [Mr. HOLMAN.] The gentleman can make his statement by unanimous consent.

Mr. HOLMAN. The reference of the bill is simply in accordance with the usual practice. The amount proposed to be appropriated is considerable.

Mr. GRISWOLD. I am sure that the House would not hesitate to pass the bill if the circumstances were fully understood. But I will not debate the measure now, if the gentleman from Indiana desires that it shall be examined by the Committee of Claims.

#### JOHN HASTINGS.

The next private bill on the Speaker's table was the bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh.

The bill was read a first and second time. It provides that the Secretary of the Treasury be authorized and directed, in adjusting the accounts of John Hastings, as collector of the customs at the port of Pittsburgh, to give him credit for \$9,956 62, the amount of the public money of which he was robbed on the 10th of March, 1854, while acting in the aforesaid capacity.

Mr. WASHBURNE, of Illinois. I object to that.

#### MINERAL LANDS.

Mr. DRIGGS. I ask unanimous consent to take from the Speaker's table Senate amendments to a joint resolution (H. R. No. 99) "reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants." I desire that the House shall concur in the amendments, which are unimportant.

Mr. HALE. Will the matter give rise to debate?

Mr. DRIGGS. No, sir.

There was no objection; and the House proceeded to the consideration of the amendments of the Senate; which were read, as follows:

Strike out the words "present session" and insert "first session of the Thirty-Eighth Congress," and add to the resolution "unless otherwise specially provided in the act or acts making the grant;" so as to make the resolution read:

"That no act passed at the first session of the Thirty-Eighth Congress granting lands to States or corporations to aid in the construction of roads, and for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be and are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant."

Strike out in the title the words "present session" and insert "first session of the Thirty-Eighth Congress."

Mr. WASHBURNE, of Illinois. I hope the gentleman from Michigan [Mr. DRIGGS] will explain this matter.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

MONDAY, JANUARY 30, 1865.

NEW SERIES.....No. 30.

Mr. DRIGGS. I will do so. This joint resolution was reported at the last session from the Committee on Public Lands, in order to protect mineral lands from the operation of land grants. It was passed by the House, was sent to the Senate, and passed there; but, being overlooked, it was not returned to the House. The Senate has again passed it at the present session.

Mr. WASHBURN, of Illinois. I now have a full recollection of the matter. The gentleman has stated the facts correctly; and I have no doubt that the amendments of the Senate should be concurred in.

The amendments of the Senate were concurred in.

Mr. DRIGGS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## REMOVAL OF ARSENAL FROM ST. LOUIS.

Mr. BLOW. I ask unanimous consent of the House to take up Senate bill No. 402, to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and providing for selling the lands upon which the same is located."

Mr. J. C. ALLEN. I object.

## DISQUALIFICATION OF COLOR.

Mr. ALLEY. I ask unanimous consent to take up Senate bill No. 62, to remove the disqualification of color in carrying the mails, for reference to the Committee on the Post Office and Post Roads.

Mr. HARRINGTON. I object.

## POST ROAD.

Mr. SMITH, by unanimous consent, introduced a bill to establish a certain post road; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois. I ask to introduce a bill for reference.

Mr. J. C. ALLEN. Is it a private bill?

Mr. WASHBURN, of Illinois. It is not.

Mr. J. C. ALLEN. Then I object.

## SWEENEY, RITTENHOUSE, FANT AND CO.

Mr. UPSON. I ask unanimous consent to submit the following resolution:

Resolved, That the claim of Sweeney, Rittenhouse, Fant & Co., reported to this House by the Court of Claims in January, 1862, be referred back to said court.

Mr. HOLMAN. I suppose that that should be referred by a joint resolution. If it is put in that form I suppose there will be no objection to it.

Mr. UPSON. I have no objection to that.

The joint resolution was read a first and second time, and referred to the Committee of Claims.

Mr. STEVENS demanded the regular order of business.

## PAYMENTS TO ILLINOIS CENTRAL RAILROAD.

The SPEAKER laid before the House a letter from the Secretary of War, in compliance with a resolution of the House, showing the payments made to the Illinois Central Railroad Company since the passage of the resolution by the House at the last session; which, on motion of Mr. HOLMAN, was ordered to be printed, and referred to the Committee of Claims.

## NORTON'S POST-MARK STAMP.

The SPEAKER also laid before the House a letter from the Postmaster General, transmitting additional papers in regard to Norton's post-mark stamp; which was referred to the Committee on the Post Office and Post Roads.

## OBJECTION DAY.

Mr. HALL moved that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the

Committee of the Whole House on the Private Calendar, (Mr. J. C. ALLEN in the chair.)

The CHAIRMAN stated that this was objection day.

## ALEXANDER F. PRATT.

A bill (H. R. No. 574) for the relief of Alexander F. Pratt.

The bill provides that the Secretary of the Treasury be directed to pay Alexander F. Pratt \$530, for pursuing and capturing Elijah K. Janner, convicted of counterfeiting United States coin.

Mr. BROWN, of Wisconsin. As there is no report I will, by unanimous consent, make a brief statement. The bill provides for the payment of the expenses of retaking a prisoner convicted by the United States court and confined in Waukegan jail. Mr. Pratt, who was sheriff, expended that amount in the recovery of the prisoner. He presented his claim to the Legislature of Wisconsin, believing they were immediately responsible to him, and that the United States was responsible to them. They examined into the claim and addressed a memorial to Congress requesting that it should be paid. I know some of the circumstances, and have every reason to believe that the bill is a just one.

The bill was laid aside to be reported to the House.

## FRIENDLY SIOUX.

An act (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota.

The bill provides that whereas certain Indians of the Sioux nation did, during the outbreak in Minnesota in 1862, at the risk of their lives, aid in saving many white men, women, and children from being massacred, and in consequence of such action were compelled to abandon their homes and property, and are now entirely destitute of the means of support, the President of the United States be authorized and requested to cause an examination to be made in relation to all the facts pertaining to the action of the Indians, and to make such provisions for their welfare as their necessities and future protection may require; and for the purpose of carrying out the provisions of this act the sum of \$7,500 be appropriated, out of any money in the Treasury not otherwise appropriated; one third of the sum to be paid and expended for the benefit of Am-pe-tu-to-ke-cha, or John Other-day, and the remainder for the benefit of such other Indians as shall appear specially entitled thereto, for their friendly, extraordinary, and gallant services in rescuing white settlers from massacre in Minnesota; provided that not more than the sum of \$500 shall be expended for any one Indian; except the chief above mentioned; and that the Secretary of the Interior shall report to the next Congress the names of the Indians for whose benefit the same shall be expended, and the amount expended for each.

The bill was laid aside to be reported to the House.

## INDIAN RESERVATIONS.

A bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington.

The bill appropriates \$18,611 62, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, for the purpose of paying for the lands and improvements of private citizens, taken and appropriated by order of the Department of the Interior for Indian reservations and uses in the Territory of Washington; and the claims herein provided to be paid shall be allowed and paid in such manner and upon such proofs of the value of the property as shall be prescribed by the Secretary of the Interior.

Mr. McBRIDE. Mr. Chairman, with the consent of the committee I will state the facts in reference to the bill. In the years 1856-57 the Indian department instructed the superintendent of Indian affairs in Washington Territory to make

certain reservations upon which to place the Indians with whom treaties had been made, and by which treaties these Indians were to be provided with and supported upon reserves. Under these instructions the superintendent of Indian affairs made several reservations, nearly all of them including within their limits the lands of private individuals. Some of these parties had acquired titles under the donation and preemption laws, while others had not. As it became necessary to turn them out of their lands and improvements the Department ordered an investigation into their value in order to determine upon the proper restitution. In fixing the value the referees were composed of three of the best citizens, who were sworn and made up their judgment upon testimony of sworn witnesses and returned the facts to the superintendent of Indian affairs. The investigation on the part of the Department was very minute and full, and the amount fixed in the bill is exactly the sum which it recommends for the payment of these claims. These claims have the indorsement of the superintendent of Indian affairs of Washington Territory, are approved by the authorities in Washington, and after a full examination by the Committee on Indian Affairs I was ordered unanimously to report the claims to this House and ask an appropriation for their payment. As there can be no question about the justice and propriety of paying these claims I hope the bill will be suffered to pass without objection. I have only to add that in fixing the amounts I find by consulting the papers that the authorities have not recommended payment for anything but the improvements on lands, except in those cases where the parties have shown that they had completed a title to their lands themselves. I trust, sir, that the justice of this bill will insure its passage.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

## HULL AND COZZENS, AND OTHERS.

A bill (H. R. No. 713) for the relief of Hull & Cozzens, and John Naylor & Co.

The bill directs the Secretary of the Treasury to audit and settle the accounts of Hull & Cozzens under a contract with Mark W. Izzard, Governor of the Territory of Nebraska, dated the 28th of November, 1855; and the accounts of John Naylor & Co., under a similar contract, dated February 25, 1856, for furnishing materials for the capitol building at Omaha City, Nebraska Territory, and to pay to them, out of any money in the Treasury not otherwise appropriated, any balance which may be found due them on their said contracts.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

## BENJAMIN ROACH.

A bill (H. R. No. 149) for the relief of Benjamin Roach.

The bill and report were read.

Mr. WASHBURN, of Illinois. I object.

Mr. HALE. There is a letter on file from General Grant relating to this subject. He says the claim should be paid.

Mr. WASHBURN, of Illinois. I object.

## CHARLES A. FITCHER.

An act (S. No. 338) for the relief of Charles A. Fitcher. [Objected to by Mr. BOUTWELL.]

## FREDERICK SHERIDAN.

A bill (H. R. No. 716) for the relief of Frederick Sheridan. [Objected to by Mr. WASHBURN, of Illinois.]

## SAMUEL BROWNING.

A bill (H. R. No. 715) for the relief of Samuel Browning, of Memphis, Tennessee. [Objected to by Mr. WASHBURN, of Illinois.]

## J. J. LINTS.

A bill (H. R. No. 717) for the relief of J. J. Lints.

Mr. WASHBURN, of Illinois. Has this bill, with the report, been printed?

The CHAIRMAN. It has not.

Mr. WASHBURN, of Illinois. I think these bills and reports ought to be printed before being acted on. I do not know but this claim is just; but I do not think the House should act except upon printed papers; and therefore I object.

WIDOW OF JOHN A. STEVENS.

A bill (H. R. No. 626) for the relief of the widow and heirs of John A. Stevens, deceased, of Springfield, Missouri.

Mr. WASHBURN, of Illinois. This bill involves an important question which is now under consideration, and I therefore object.

The CHAIRMAN. The Calendar has been gone over once, and the Clerk will now commence the Calendar again, and five objections will be necessary, under the rules, to defeat a bill.

BENJAMIN GRATZ.

A bill (H. R. No. 385) for the relief of Benjamin Gratz. [Objected to by five members.]

HUGH LEDDY.

A bill (H. R. No. 386) for the relief of Hugh Leddy.

The bill and report were read.

Mr. HALE. I wish to say that this claim has been indorsed by the Secretary of War and by the Solicitor of the War Department.

The bill was objected to by five members.

Mr. HALE. If all bills are to be objected to, without reference to their merits, there is no use of going on.

The CHAIRMAN. Debate is not in order.

JAMES NOKES.

A bill (H. R. No. 439) for the relief of James Nokes. [Objected to by five members.]

HEIRS OF JOHN E. BOULIGNY.

A bill (H. R. No. 440) for the relief of the heirs of John E. Bouligny. [Objected to by five members.]

LOUIS ROBERTS.

An act (S. No. 234) for the relief of Louis Roberts.

The bill directs the Secretary of the Treasury to pay to Louis Roberts, out of any money in the Treasury not otherwise appropriated, \$2,740 99, that being the amount of money advanced by said Roberts, out of his own means, to replace certain Indian indemnity goods accidentally destroyed by fire in November, 1855, while being transported by him from St. Paul, Minnesota, to Redwood agency, for R. G. Murphy, United States Indian agent for the Sioux Indians in Minnesota.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

LOGAN HUNTON.

Joint resolution (H. R. No. 73) for the relief of Logan Hunton.

Mr. WILSON and four other members objected.

Mr. MALLORY. May I be allowed to appeal to the gentleman from Iowa [Mr. Wilson] to withdraw that objection? I had not supposed it would come from a distinguished lawyer like the gentleman from Iowa, who must know from his own experience the propriety of making this payment.

Mr. WILSON. I am satisfied with the compliment already paid, and must insist on my objection.

Mr. MALLORY. Then I withdraw the compliment. [Laughter.]

COLUMBIA BANK.

A bill (H. R. No. 457) for the relief of the Columbia Bank. [Objected to by five members.]

Mr. HALE. I am instructed by the Committee of Claims to offer an amendment, as an additional section to that bill, providing for the payment of the claims of other parties who suffered losses at the same time.

By unanimous consent the amendment was received and considered as pending.

BENJAMIN ROACH.

Joint resolution (H. R. No. 75) for the relief of Benjamin Roach. [Objected to by five members.]

Mr. HALE. I ask that a letter from General Grant in relation to that claim may be read.

Several MEMBERS objected.

O. B. AND O. S. LATHAM.

A bill (H. R. No. 459) for the relief of O. B. & O. S. Latham. [Objected to by five members.]

HOOPER AND WILLIAMS, AND OTHERS.

A bill (H. R. No. 462) for the relief of Hooper & Williams, Livingston, Kincaid & Company, Gilbert & Gerrish, and others. [Objected to by five members.]

Mr. STEVENS. I would inquire of my colleague if he desires to proceed any further with this business?

Mr. HALE. I think we may as well go on.

Mr. STEVENS. I want to take up an appropriation bill.

Mr. HALE. I want to see if the House intends to pass any private bills at all.

Mr. STEVENS. I think the gentleman must be almost satisfied upon that point by this time.

Mr. HALE. I think they ought to be considered at all events.

Mr. STEVENS. Very well, I will not insist.

AMBROSE MORRISON.

A bill (No. 463) for the relief of Ambrose Morrison, of Nashville, Tennessee. [Objected to by five members.]

J. D. TURNER AND W. G. RAYMOND.

A bill (H. R. No. 464) for the relief of J. D. Turner and W. G. Raymond. [Objected to by five members.]

CHARLES F. ANDERSON.

A bill (S. No. 207) for the relief of Charles F. Anderson. [Objected to by five members.]

HORACE E. DIMICK.

A bill (H. R. No. 490) for the relief of Horace E. Dimick, of St. Louis, Missouri. [Objected to by five members.]

C. J. FIELD AND C. F. CLAY.

A bill (H. R. No. 492) for the relief of C. J. Field and C. F. Clay, of Bolivar county, Mississippi. [Objected to by five members.]

HEIRS OF I. I. STEVENS.

Joint resolution (H. R. No. 84) for the relief of the heirs of the late Isaac I. Stevens. [Objected to by five members.]

AMZI L. BURNES.

A bill (H. R. No. 529) for the relief of Amzi L. Burnes. [Objected to by five members.]

Mr. HOLMAN. I hope the report will be read in that case.

The CHAIRMAN. The report is not at the Clerk's desk.

Mr. HALE. I wish to state that this is a bill for the relief of a poor man who had \$550 in United States Treasury notes. The proof is very satisfactory that they were burnt up when his house was burnt, together with all he had. If that does not give him a claim to have those notes replaced by a just Government, I do not know what would.

Mr. WASHBURN, of Illinois. If discussion is in order, I will say that there was proof equally positive that certain bonds were burnt up on the Golden Gate, and yet those bonds afterward turned up in the Department here.

Mr. HALE. These bonds never have turned up and never will. I hold in my hand some proofs in the case, if the gentleman will hear them read.

Mr. WASHBURN, of Illinois. This is not only a matter of fact, but a matter of principle. I am opposed to this Government paying for everything which is burnt.

Mr. HALE. We have never objected to paying such claims where the proof was clear that the notes had been destroyed. No honest man and no honest Government would refuse to pay a claim of this kind. The proof is clear that these notes were burnt, when this man's house was burnt, with all his property.

Mr. WASHBURN, of Illinois. Is discussion in order?

The CHAIRMAN. It is not. The bill is objected to by five members.

Mr. SPALDING. I move that the committee do now rise.

The question was taken, and no quorum voting the Chairman ordered tellers, and appointed Messrs. WASHBURN, of Illinois, and HALE.

The committee divided; and the tellers reported—ayes 28, noes 69.

So the committee refused to rise.

EGBERT A. THOMPSON.

A bill (H. R. No. 531) for the relief of Egbert A. Thompson. [Objected to by five members.]

GARRETT R. BARRY.

Joint resolution (H. R. No. 46) for the relief of Garrett R. Barry, a paymaster in the United States Navy. [Objected to by five members.]

LOUISVILLE AND BARDSTOWN TURNPIKE.

A bill (H. R. No. 544) for the relief of the Louisville and Bardstown Turnpike Company. [Objected to by five members.]

COLONEL H. C. DE AHNA.

Joint resolution (H. R. No. 105) to provide for payment of the claim of Colonel H. C. De Ahna. [Objected to by five members.]

JEAN M. LANDER.

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased.

The bill was read. It directs the Secretary of War to audit and settle the account of Brigadier General F. W. Lander, deceased, for services rendered and expenses incurred by him in making the reconnaissance of a railroad from Puget sound to the Mississippi river, in 1854; and to pay the sum found to be justly due him to Jean M. Lander, his widow, provided the same shall not exceed \$4,750, and shall be in full consideration for such services and expenses.

There being no objection, the bill was laid aside to be reported to the House.

WOODWARD AND CHORPENNING.

Joint resolution (H. R. No. 112) for the relief of Elizabeth Woodward and George Chorpenning. [Objected to by five members.]

T. T. GARRARD, AND OTHERS.

A bill (H. R. No. 563) for the relief of T. T. Garrard, and others. [Objected to by five members.]

JETHRO BONNEY.

A bill (H. R. No. 571) for the relief of Jethro Bonney.

The bill was read. It directs the Secretary of the Treasury to pay to Jethro Bonney \$400, in full for damages sustained by him by reason of the destruction of his store by the Army of the United States, at the invasion of Plattsburg, during the war of 1812.

There being no objection, the bill was laid aside, to be reported to the House.

Mr. STEVENS. I move that the committee do now rise.

Mr. HOLMAN. There are still a few other bills on the Calendar. I hope they will be first disposed of.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. J. C. ALLEN reported that the Committee of the Whole House on the Private Calendar had had the Private Calendar under consideration, and had directed him to report back several bills to the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Hickey, its Chief Clerk, informed the House that the Senate had passed a resolution for the appointment of a committee, consisting of three members, to join such committee as may be appointed by the House of Representatives to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons chosen of their election; in which he was directed to ask the concurrence of the House.

Also, that the Senate had appointed Mr. TRUMBULL, Mr. CONNESS, and Mr. WRIGHT as the said committee on the part of the Senate.

ALEXANDER F. PRATT.

A bill (H. R. No. 574) for the relief of Alexander F. Pratt, reported without amendment from the Committee of the Whole House on the Private Calendar, was engrossed, read the third time, and passed.



Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. WILSON, (at four o'clock, p. m.,) the House adjourned.

#### IN SENATE.

SATURDAY, January 28, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, transmitting, in compliance with a resolution of the Senate of June 17, 1864, a copy of the record of the proceedings and findings of a naval general court-martial in the case of C. W. Scofield, a naval contractor; which was ordered to lie on the table.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives, were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 714) supplemental to the act entitled "An act to restrict the jurisdiction of the Court of Claims," &c., passed July 4, 1864;

A joint resolution (H. R. No. 150) to refer the claim of Selmar Seibert back to the Court of Claims;

A joint resolution (H. R. No. 151) to refer the claim of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, back to the Court of Claims; and

A joint resolution (H. R. No. 152) to refer the claim of Danford Mott back to the Court of Claims.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of members of the Senate of the State of Ohio, praying that the rank and pay of the hospital stewards of the United States Army may be increased to that of brevet second lieutenant of artillery, to take rank next after the graduates of the West Point Military Academy; which was referred to the Committee on Military Affairs and the Militia.

Mr. ANTHONY presented a memorial of the officers of the seventh and fourth regiments of Rhode Island volunteer infantry, now serving before Petersburg, asking for an increase of pay corresponding with the price of all the necessities of life; which was referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE presented a petition of citizens of Rhode Island, praying that a fog signal capable of being heard two or three miles from the shore be placed at Nayatt Point; which was referred to the Committee on Commerce.

Mr. HOWE. I ask leave to present the petition of E. R. Wadsworth and sundry other citizens of Wisconsin, for the enactment of a general bankrupt law. As I understand that subject has been reported upon by the Committee on the Judiciary, I move that the petition lie upon the table.

The motion was agreed to.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for an amendment to the Constitution of the United States recognizing the Christian religion; which was referred to the select committee on slavery and the treatment of freedmen.

Mr. CONNESS. I present the petition of four hundred and twenty-five citizens of Petaluma, Sonoma county, California, praying that Congress may pass an act authorizing the city of Petaluma to enter at the proper land office all the lands within the corporate limits of that city which may be upon the lands of the United States recognizing the present official plat of that city. I also present a map to accompany the petition; and I desire also to introduce a bill in accordance with the request of the petition. I move that the petition with the map be referred to the Committee on Public Lands.

Mr. McDOUGALL. I will ask my colleague whether that same subject is not now before the Committee on Private Land Claims.

Mr. CONNESS. I have no knowledge that it is. This is a memorial of citizens of that city;

and I have no knowledge that the same question is before Congress.

Mr. McDOUGALL. I suggest whether the subject had not better all be before the same committee.

Mr. CONNESS. I prefer to have it go where similar questions are now, to the Committee on Public Lands.

The VICE PRESIDENT. It will be so referred.

#### BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 416) to grant the right of preemption to the trustees of the city of Petaluma, Sonoma county, California; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 417) for the relief of Jean M. Lander, widow of F. W. Lander, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 418) supplementary to an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

#### DELAWARE VOLUNTEERS.

The VICE PRESIDENT. If there be no further morning business, the following resolution is before the Senate:

*Resolved*, That the Secretary of War be directed to answer a resolution of the Senate, of December 22, 1864, in the following words:

"*Resolved*, That the Secretary of War be directed to inform the Senate whether volunteers for thirty days and for one hundred days were called for by order of his Department at any time preceding the last two drafts in the State of Delaware, from that State, and, if so, for what purpose, and under what authority of law; whether such volunteers were promised, as an inducement to volunteer, exemption from said drafts; whether said volunteers were exempted from said drafts when they volunteered; whether they were kept within the limits of said State; and whether they were promised, as a further inducement to volunteer, that they should not be sent without the limits of said State, or that they should not be employed in active service in the field."

Mr. SAULSBURY. I ask that that lie on the table for the present. I have not seen the report of the Secretary of War, in answer to the original resolution, yet. It was not printed yesterday.

The VICE PRESIDENT. That order will be made.

#### BENJAMIN VREELAND.

Mr. ANTHONY. If it is in order, I move that the Senate take up the bill for the relief of Surgeon Vreeland, which was laid over the other day at the suggestion of the Senator from New Hampshire, [Mr. HALE,] who was not aware of the general law on the subject, which I have since found.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 412) for the relief of Benjamin Vreeland, surgeon in the Navy of the United States.

Mr. MORRILL. It seems to me that the allowance made by this bill is the merest gratuity in the world. It is not for any service rendered, as I understand.

Mr. ANTHONY. It is for services rendered. I explained the case when the bill was up the other day, but perhaps the Senator does not remember. This officer was sent to sea, and was at sea at the time when he was entitled to be examined for his promotion, and when all the other officers of his rank and of the same date were examined. He could not be examined of course until he returned from sea. Then he was examined and passed; and on file with the papers is a certificate of the board that he would have passed at the time when he was entitled to his examination if he could have had it, but he could not have it because he was absent on service. Now he asks for the pay of the advanced grade from the time when he was entitled to his examination until the time when he passed it. A general law has since been passed covering all such cases; I will read it; it is the sixteenth section of the act of July 17, 1862:

"*And be it further enacted*, That whenever any officer of

the Navy, of a class subject by law or regulation to examination before promotion to a higher grade, shall have been absent on duty at the time when he should have been examined, and shall have been found qualified at a subsequent examination, the increased rate of pay to which he may be entitled shall be allowed to him from the date when he would have received it had he been found qualified at the time when his examination should have taken place."

The trouble is that this law is not retroactive. This case occurred before the law was passed. There have been repeated instances of this kind, and I believe the allowance has been made in every case. The justice of it is very apparent. Otherwise the officers who go abroad upon distant service would be placed under a positive disability compared with those who get leave of absence and remain at home.

Mr. MORRILL. Still I believe it is strictly what I supposed it to be, a gratuity. This officer got the pay of his rank; there is no doubt about it; but being on foreign service he could not be examined for promotion to a superior rank at a particular time, and therefore did not get the pay of that rank from that time, but only from the time he was actually examined. That was not his fault, nor the fault of the Government; it was simply the misfortune of the officer. It seems to me this bill is establishing a very bad precedent. If the absence was for a year or any number of years the same principle would apply.

Mr. ANTHONY. The rule does apply; it is a law; and the only reason why this case comes here is that the law was not made retroactive. Every other officer has this privilege, or this gratuity, as the Senator calls it. I do not think it is a gratuity, but it is a strict provision of law ever since 1862, and previous to that time these applications were constantly made by officers, and were always granted by Congress. I do not think there ought to be an exception made in the case of this man.

Mr. MORRILL. I merely call the attention of the Senate to the principle involved.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### THE MADISON PAPERS.

Mr. COLLAMER. The Committee on the Library have directed me to report a joint resolution in relation to the publication of the papers of James Madison, and I wish to have the unanimous consent of the Senate to consider the joint resolution at the present time. I will state the situation of the case. Congress passed an act directing the Committee on the Library to publish the correspondence of James Madison, and appropriated, I think, \$8,000 for the purpose. They were to publish one thousand copies, which would be four thousand volumes, as the work is to be in four volumes. The committee entered into a contract under the law. In the first place they employed Mr. Rives, of Virginia, to make the compilation, and the papers which had been purchased of Mrs. Madison some years before were put into the hands of Mr. Rives to make that compilation. He did make the compilation and returned the copy here, and was paid for his work out of that appropriation \$3,000. After the copy was furnished by Mr. Rives, a contract was entered into with Mr. Wendell to make the publication, and Mr. Fendall, of this city, was appointed to prepare the index for the work and to supervise the proof-sheets. The thing went on; but the change of circumstances, the increase of prices, &c., disturbed it, so that at last Mr. Wendell failed altogether; he could not perform the work, and he gave up the contract. We find that we cannot get the work published to the amount of one thousand copies or four thousand volumes for the money in hand; but we are of opinion that five hundred copies, two thousand volumes, will be sufficient to enable Congress to make all the distribution and exchanges that have been made of the works of Mr. Hamilton, and we can probably make a contract securing the publication of that number of copies for the money already on hand at the present rate of materials and labor. The committee are of opinion that it is advisable to finish it, and to receive the five hundred copies instead of one thousand as originally provided by law. This resolution is to carry that idea into effect by authorizing the committee to contract for five hundred copies instead of one thousand.

The joint resolution (S. R. No. 105) respecting

the publication of the papers of James Madison was read three times, and passed.

#### QUOTAS OF THE STATES.

**THE VICE PRESIDENT.** The Chair will continue calling up the resolutions on the table in their order. The next is the resolution submitted by the Senator from Delaware [Mr. RIDDLE] calling for the number of soldiers and sailors furnished by the loyal States under the proclamation of the President for five hundred thousand men, dated July 16, 1864. To this resolution the Committee on Military Affairs and the Militia reported an amendment, which will be read.

The amendment was read, as follows:

Strike out all after the word "resolved" and insert: That the Secretary of War be directed to inform the Senate what number of soldiers and sailors, stating each separately, the several States, Territories, and the District of Columbia have furnished the Army and Navy under all the calls heretofore made, setting forth the number demanded and the number furnished under each call.

**THE VICE PRESIDENT.** When the resolution was last before the Senate the Senator from Vermont [Mr. COLLAMER] proposed to amend the amendment by adding to it the words "and the time for which the same were enlisted."

The amendment to the amendment was adopted, and the amendment, as amended, was agreed to.

The resolution, as amended, was agreed to.

#### CONDUCT OF GENERAL PAINE AT PADUCAH.

**THE VICE PRESIDENT.** The next resolution is one offered by the Senator from Kentucky, [Mr. POWELL,] requesting the President of the United States to cause Brigadier General E. A. Paine to be arraigned and tried for his conduct while in command at Paducah, Kentucky.

**MR. POWELL.** I do not wish that resolution to be acted upon until we receive a response to the resolution which the Senate has passed asking for the report of the commission appointed to investigate the conduct of General Paine. I believe that the Secretary of War has not yet responded to that resolution. I move, therefore, that this resolution lie on the table for the present.

The motion was agreed to.

#### COMMITTEE ON CORRUPTIONS.

**THE VICE PRESIDENT.** The next resolution in order is a resolution offered by the Senator from Kentucky, [Mr. DAVIS,] which will be read.

The Secretary read the resolution, as follows: Resolved, That the special rule of the Senate, No. 34, be amended by adding these words: "A committee for the investigation of the corruptions of the Government in all its Departments and offices, to consist of five members."

**MR. DAVIS.** I will say but a word in relation to this resolution. If the rule which it proposes should be adopted, and the proper men should be appointed from session to session to serve on that committee, and they would faithfully and diligently discharge their duties, there is no committee organized by the Senate that, in my opinion, would render anything like the amount of service to the Government and country that such a committee would. I do not propose to say anything more but merely to ask for the yeas and nays on the question of adopting the resolution.

**MR. SHERMAN.** Is the resolution now before the Senate?

**THE VICE PRESIDENT.** It is, and the question is on its adoption.

**MR. SHERMAN.** If such a resolution was offered in the House of Representatives, upon charges made in that body against any officer of the Government, I would always vote for a special or even for a general committee of investigation; but it seems to me that it is a departure from the usage and theory and organization of the Senate to examine into any such matters. The House of Representatives are the proper custodians of the morals of the people and of the duties of public officers. They are the examining tribunal, made so by the Constitution. They impeach; we try; in that respect this is a judicial tribunal. It seems to me we ought not to enter into the investigation of matters that may lead to an impeachment. The whole theory of our Government is against the proposition of the honorable Senator from Kentucky. All accusations made against officers should be made in the House of Representatives; and when they assume due form and solemnity in the nature of charges, they may be sent to us for trial; but we ought not here to

institute preliminary examinations which may lead to an impeachment. If we do, the result of the examinations would have to go to the House of Representatives.

It seems to me, therefore, that this is not the body to organize such a committee, even if one is desirable; but I doubt very much whether one ought to be formed in either House of a permanent, standing character. When accusations are made against any of the Government officers the House is always ready to engage in the examination, and no party dare refuse, upon the proper showing, to engage in the examination of charges of fraud and corruption. I am sure that the present controlling party in this country would not dare to refuse to examine into a charge made against any officer of the Government upon sufficient showing and grounds. The House might refuse such an examination when the charge was too general and undefined; but when a distinct charge of corruption or fraud is made against any officer of the Government, the House of Representatives has always been willing, under all Administrations, to examine into that charge. It seems to me that the Senate is not the tribunal to institute these examinations, and I should be very sorry indeed to see a rule adopted which would place among our standing committees a committee to examine into frauds and corruptions, when we might be compelled judicially to sit upon those very matters when presented by the House of Representatives in a constitutional form.

**MR. HALE.** I doubt whether anything will come of this. I have known something about these investigations. I think the honorable Senator from Ohio who has just addressed the Chair could give some information on the subject of how much weight and effect are given to the results which committees of investigation come to. I think he in the House of Representatives was at the head of a committee that investigated some naval contracts, and I think they found some very gross evidences of fraud, and they got a resolution of censure through the House, and there the matter ended.

There was a committee appointed by the Senate at the last session to investigate matters connected with naval supplies. The committee attended to that duty very laboriously, and they laid some results before the Senate and before the country which I think were most conclusive as to the existence of gross fraud. Well, sir, do you know what use the thing was? One of the material witnesses in that case, one of the most respectable men in Boston, who testified, and testified very fully before that committee, pretty soon after he went home was seized, his store seized, his papers seized, his wife's papers seized, and he was sent to a military fort and ordered not to be released under a bail of \$500,000, and was ordered to Philadelphia for trial. That was a little too strong even for the city of Boston, considering that to render the thing more notorious the arrest was made on the 17th of June.

**MR. DAVIS.** I will ask the honorable Senator if the offense for which that gentleman was seized and imprisoned was merely that of giving in his testimony and his exposure of those frauds?

**MR. HALE.** That is my opinion, but it was not the assigned cause. They ordered him, as I have said, to be confined in Fort Warren, and not to be released under \$500,000 bail, and he was ordered to Philadelphia for trial. This was a little too much for the loyal city of Boston, and it created such indignation there that a delegation of citizens of Massachusetts—I think the honorable Senator on my left [Mr. SUMNER] was one of them—represented this thing to the President, and the President countermanded the order for carrying a citizen of Massachusetts from Boston to Philadelphia for trial. The parties that had directed the bail to be put at \$500,000 began to be a little alarmed, and they consented to take off \$480,000 of the sum and liberate him on a bail of \$20,000, which was done.

But that was not all. It was not the witnesses only that were to be punished. They sent a roving commission to Boston and to Portsmouth, New Hampshire, to see not only if they could find something against the witnesses, but against the unfortunate gentleman who stood at the head of that committee, and had been instrumental in exposing these frauds. I will read to you the written instructions that this commission came

to Portsmouth with, to show you who take care of these things:

"Some time in 1861 or spring of 1862 a lot of ship timber was prepared for Captain Macy; but he gave up the building of ships, and this timber was offered to the Navy Department at Portsmouth at fourteen dollars per ton, and refused, (who were the parties offering it?) and in a short time afterward the timber was put in the yard at twenty-eight dollars per ton, (who put it in?) and did JOHN P. HALE have anything to do with it directly or indirectly?"

"Who is James Tarlton? He says HALE managed the affair."

"Do you know anything where HALE has been interested?"

Those were the instructions with which the gentleman who is said to be the actual Secretary of the Navy sent a roving commission to Charleston.

**MR. JOHNSON.** I will inquire of the honorable member, did those instructions come from the Navy Department?

**MR. HALE.** I cannot say who wrote them, or in whose handwriting they are, but those were the instructions that were furnished to the commission that went to the Portsmouth navy-yard to investigate the frauds of that transaction, or such frauds as they could find.

**MR. JOHNSON.** You do not know who furnished this to the commission?

**MR. HALE.** No; but you know I am a Yankee, and I have the privilege of guessing.

**MR. DAVIS.** Whom do you guess?

**MR. HALE.** I guess it was the man who is called the actual Secretary of the Navy, and I have no doubt about it.

**MR. POWELL.** Give us the name.

**MR. HALE.** Oh, no; I prefer to be a little Fox-y on that and keep dark. [Laughter.]

Now, sir, I think before the Senate or Congress institute any more investigations into frauds, they should take some measure to vindicate their own authority and protect their own witnesses who testify before them. This, which was furnished to me in writing as one of the written instructions to this committee that came to Portsmouth, is only one of a great many similar insinuations with which they were charged to investigate the conduct of this HALE, both at Charleston and at Portsmouth; and the reason that it is not duly proved is that the authors of it could not find any witnesses so base as themselves. They could fabricate, but they could not get witnesses to sustain it; and that is the whole of it.

I think this matter of investigation has got to be a farce. If you will read the report of that committee you will see evidence of the most conclusive character of fraud, not upon the Navy Department, but in it. What did they do? What did the Administration do when they found fraud in that Department? Did they investigate it? Not at all; but they sent this commission roving over the country to see if they could not find something else.

The papers have been filled lately with revelations of tremendous frauds perpetrated at the navy-yard at Philadelphia. It is said that Philadelphia lawyers are very keen and acute, and it has been a by-word that "a man is as keen as a Philadelphia lawyer," or "it would take a Philadelphia lawyer to do that." But, sir, smart as the Philadelphia lawyers were, keen as they were, and numerous as they were, there was not one of them keen enough for the purposes of this inquiry, and they sent to New Hampshire and imported a lawyer from New Hampshire to Philadelphia, to investigate the frauds that were practiced in the Philadelphia navy-yard upon the Navy Department. I think that hereafter the keenness of the Philadelphia lawyers will be at a discount if that was an actual necessity.

**MR. PRESIDENT.** I am tired to death with these investigations. I have not failed since I have been a member of this body to denounce fraud wherever I have seen it. We had plenty of specimens of it under Democratic Administrations, and we pointed them out. There was a war made upon Paraguay. We fitted out a naval expedition and sent it there, and at the month of our cannon we forced a treaty out of Paraguay to pay our own citizens what Paraguay owed them. We got a commission. We got a citizen of the United States appointed arbitrator under that commission; and what did he find? He found that we were actually indebted to Paraguay, and not a dollar was due to us. But still, sir, the expedition did just exactly

what it was intended to do. A great naval expedition was gotten up at the public expense, and made a raid upon the Treasury, and succeeded. Then there was a war made upon Utah; and after immense sums had been spent and everything had been done, so far as preying upon the Treasury was concerned, they found that they had carried the war far enough; and I believe there was not a soldier went to Utah.

Mr. CONNESS. Oh, yes, they did.

Mr. HALE. Did they do anything?

Mr. CONNESS. No, sir.

Mr. HALE. My friend says they went as far as Utah, but they did nothing. That Administration had got to be corrupt.

When this Administration came into power I had hoped—I confess I was green enough to believe—that I was acting with a party who were now in power that were ready to put their hand upon these frauds and upon the perpetrators of them. I have pointed them out again and again; and the result is, that instead of punishing the fraudulent perpetrators of these wrongs, they have turned round and constituted themselves guardians of the Senate, and sent commissioners over the country to see if there was not something that some Senator had done that it was incumbent upon them to rectify and punish; and Senators now act here, whenever they touch any fraud, at the peril of calling upon their heads the vengeance of those who perpetrate it.

Mr. President, upon leaving the Senate, I will say to my friends, that if there is one thing to which we are pledged it is honesty, or at least an approximation to it. There is no party that can stand before the country, before history, and before posterity, that habitually disregards it. Engaged as we are in the most momentous struggle that the history of the world has ever witnessed, and with the consequences depending upon the manner in which this great problem is to be solved, it becomes us, as a nation whose confidence is in the God of justice, that we do not separate Him from the support of our cause. It is an old and true and trite observation, applicable to national as well as individual affairs, that "honesty is the best policy."

I respect the purpose of the honorable Senator from Kentucky, but do not talk to me about any more committees, either standing or special, to investigate frauds in any Department of this Government until you have begun to mark with your censure at least some of those that have already been pointed out. There is a policy which says—and I regret it, but I have met it; I have met it on this floor and I have met it elsewhere—that when delinquencies are perpetrated, especially if an election is about pending, and any of our own friends have been guilty or suspected, that we should tread cautiously and lightly and delicately upon it, lest in punishing some of the guilty perpetrators we do injury to the great cause we have at heart and with which they are connected. Mr. President, such a policy as that is an encouragement to speculators and plunderers and thieves to unite themselves with the popular party, with the majority who control the legislative and executive departments; it is an invitation to them to join that party, because they say, "If we do it we may then steal *ad libitum*, and no reckoning will be made with us, no punishment will be visited upon us, lest it may injure the party." That policy is subversive of the highest dictates of morality and the clearest demands of patriotism.

Sir, this country can never come out of this great struggle, as I trust it will, as I hope it will, as I believe it will—it can never come out of it triumphantly until we cut loose from frauds and corruptions of every kind and make ourselves clean before the nation and before God. If we hesitate, if we pause in such a work, it seems to me that we are unworthy of the position that we occupy and of the duty which the country requires of us. While you have reports upon reports made by committees of this body and of the House of Representatives, and the evidence is published and there is an end of it, do not talk to me, in Heaven's name, about any more committees of investigation, special or general, but—

Mr. JOHNSON. I rise to ask the Senator from New Hampshire what was the result of the trial of the person who testified to whom he has alluded?

Mr. HALL. It is not promulgated yet.

Mr. JOHNSON. Has he been tried?  
Mr. WILSON. He has been tried, and the verdict is in the hands of the Government, but it is not promulgated yet.

Mr. HALE. Now, Mr. President, I desire to say right here what I would not have said otherwise. I suppose it is too late at this time to undertake to correct any errors of legislation that we have committed in regard to the authority we have conferred upon these courts-martial, naval and military; but I want to call your attention to a few facts. Commodore Wilkes—

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Senator from New Hampshire will suspend his remarks. Further debate on this question at this time is arrested by the special order, the morning hour having expired, that special order being the joint resolution in respect to retaliation.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. CLINTON LLOYD, Chief Clerk, announced that the Speaker had signed the following enrolled bills and joint resolution; which thereupon received the signature of the Vice President:

A bill (S. No. 363) to amend the charter of the Washington Gas-Light Company;

A bill (H. R. No. 94) for the relief of Isaac R. Diller;

A bill (H. R. No. 394) for the relief of Mary Scales Accordi;

A bill (H. R. No. 622) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864; and

A joint resolution (H. R. No. 99) reserving mineral lands from the operation of all acts passed at the first session of the Thirty-Eighth Congress granting lands, or extending the time of former grants.

#### RETALIATION ON REBEL PRISONERS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents, the pending question being on the motion of Mr. Wilson to recommit the resolution, together with all the amendments and proposed amendments, to the Committee on Military Affairs and the Militia.

Mr. HARLAN. Mr. President, I probably would not trouble the Senate at this time with any remarks on this subject beyond those submitted by me at the beginning of the discussion, had it not been for what seemed to me to be a very strange misapprehension of my meaning. Although I do not deem what may be thought of what I have said here of much consequence, yet perhaps there is nothing amiss in my attempting to set myself right; and in doing this I propose to submit a few remarks upon the general question.

War, Mr. President, is in itself in its very nature retaliatory. No just war can commence by an organized community except for the punishment of injuries received or insults offered by another organized community or civil power. If the party assailed should submit to the infliction of this punishment there would be no war; but if resistance is made, a conflict of arms ensues and war is produced. A repetition of these attempts to punish, on the one hand, and resistance or counter assaults, protracts the war. Each belligerent act is, therefore, in a certain sense, retaliatory. This is true of individual conflicts as well as national struggles. Neither can continue unless blows are given as well as received. To avoid unnecessary suffering in civilized countries certain rules are observed by Governments as well as by gentlemen, for the protection of non-combatants and private property. Whatever injury may be inflicted by a belligerent on the person or property of the private citizens of the enemy's country, or on individual combatants, not necessary for the achievement of the object of the contest is unjustifiable cruelty, and hence is said to be in violation of the rules of civilized warfare, and should be scrupulously avoided. Such acts of wantonness should be avoided both because they are useless and cruel and on account of the demoralizing effect their toleration must produce on the nation itself which practices or permits them. But if during the existence of war either belligerent departs from the ordinary rules observed by civilized

nations, the other party has no alternative but to make a departure also so far forth as may be necessary to compel the delinquent to observe them. This is called the law of retaliation.

The honorable Senator from Kentucky [Mr. DAVIS] read some authorities to show that when this punishment is inflicted in retaliation for a departure from the rules of civilized warfare, it ought to be administered in all cases upon the very individuals that made the departure.

Mr. DAVIS. Will the honorable Senator permit me to explain?

Mr. HARLAN. Certainly.

Mr. DAVIS. I said that where the law of retaliation was inflicted so as to produce death, the two authorities which I read laid down the principle that it could only be inflicted on those who were personally guilty of the offenses to which the retaliation was to be applied. But I stated that I carried the law of retaliation further than those two authorities, and that under certain circumstances persons not personally guilty should be punished by death, but not by starvation.

Mr. HARLAN. Then I stand corrected. It seems that the honorable Senator read from authors that inculcated this doctrine, as I stated, but that he disagreed with them, I suppose. It is, however, the duty of the belligerent to seize the very individuals that perpetrate the wrong and inflict the retaliatory punishment on the identical parties perpetrating the outrages if it can obtain possession of their persons. If they cannot do so, then it is the duty of the belligerent aggrieved to bring the facts in the case to the attention of the authorities controlling the opposing forces, and demand redress, or the surrender of the culprits for punishment by the injured party. If, however, this is refused, there is no alternative but to resort to what is styled, I believe, technically the *lex talionis*; not on account of a feeling of revenge, not in wantonness of spirit, not for the purpose of inflicting punishment on innocent individuals *per se*, but for the purpose of deterring the opposing belligerent Power from a continuance of the wrongs.

This is the law of nations as well as the law of common sense, which no Senator can, as it is supposed, successfully refute either by the citation of standard authorities, or by any correct principles of reasoning. It is the right of the belligerent to correct such wrongs by the use of such punishment as may be necessary to deter the offender from continuing the wrongful practice; and just so far forth a belligerent has a right to depart from what would otherwise be the rules controlling civilized nations in carrying on a war. They have no other alternative. No other mode of redress is within their reach.

This is not only in accordance with the doctrines laid down by standard publicists on this subject, and all correct reasoning, but it is in strict accordance with the practice of civilized nations, our own nation included. It was practiced during the revolutionary struggle, during the war of 1812, and we have resorted to the infliction of retaliatory punishment again and again during the continuance of the existing struggle. Our Government has repeatedly inflicted the punishment of death on rebels, personally innocent of any offense, in retaliation for the murder of Union soldiers by the rebels. Their prisoners have also for the same reason occasionally been subjected to great peril that would otherwise have been in violation of the rules which control civilized nations in the conduct of a war. This was done at Charleston, at Richmond, at Dutch Gap, and perhaps almost every day on our lines of communication to the front. For the purpose of deterring guerrillas from firing into our trains and our transports, our authorities have been compelled to put on board eminent rebel citizens, or rebel prisoners, thus compelling them to share the danger to which our troops were cruelly exposed by these assassin-like enemies while on their way to the front. It is admitted that such acts of retaliation are justifiable and in strict conformity with the rules of war as practiced by the most civilized nations. And as practiced by our authorities this retaliation has proved effective.

This brings me to the case before the Senate.

It is said by the Committee on Military Affairs, in the preamble to the resolution now pending, that it has come to the knowledge of Congress that the rebel authorities have deliberately de-



parted from the usages of civilized nations in the treatment of prisoners of war now in their hands, not in isolated cases which might be explained to have occurred on account of the bad character of officers here and there temporarily in charge of our prisoners, but that it has been ascertained to be the rule and not an exception. The rebels seem to have deliberately adopted and persist in practicing the most shameful treatment of these victims of their barbarity from day to day and from month to month. It doubtless has been done for a purpose; as diplomatists would say, for reasons of state, to compel the Government to agree to their terms in the exchange of prisoners. This reminds me of what seemed to me to be a strange misapprehension of my opinions on the subject of the propriety of exchanges by Senators who have preceded me in this discussion. They have addressed me in this discussion as an opponent of the policy. Sir, have I ever opposed it? Have I ever thrown impediments in the way of a just rule for the mutual exchange of prisoners of war?

Why, sir, before a single prisoner had been exchanged, after the commencement of this war, and, so far as I know before any effort had been made to secure the adoption of a policy for the exchange of prisoners, I, at my desk here, drew up a paper requesting the President of the United States to adopt some just means to secure the exchange of Union troops held as prisoners of war, presented it to every Senator occupying a seat on this floor for his signature, and then submitted it to the President with such reasons as occurred to me at the time in favor of the policy. Up to that time no exchanges had been made. I do not know that this paper had any influence on the mind of the Executive in the adoption of the cartel soon afterward agreed to. I do not cite it for the purpose of making such an impression, but for my personal vindication. I was at least orthodox in practice, and in action took the lead of the very Senators who have so strangely forgotten our early relative position on this subject.

Soon after this a cartel for the exchange of prisoners was adopted, and exchanges were made from time to time, as deliveries were practical, until the rebel authorities themselves refused to observe it. A perusal of the correspondence of the commissioners of exchange, published in Senate Executive Document No. 17, will satisfy any Senator that the exchanges were suspended under this cartel by the action of the rebel authorities themselves. This suspension was not caused by any subordinate of the so-called rebel government; it was the deliberate act of their highest officials. The chief of the rebel government required it by proclamation, the congress of the so-called confederate government demanded it by a formal act of legislation. By these solemn acts of their highest officials it was provided that colored Union troops, when captured, should be sold into slavery, and that their officers should not be treated as prisoners of war, but should be delivered over to the civil authorities of the several States to be punished as felons. I think, perhaps, it will not be amiss to read a few brief extracts on this subject from this correspondence. On page 2 of the document cited, I find, in a letter from "William H. Ludlow, lieutenant colonel, and agent for exchange of prisoners," to Major General Hitchcock, the following:

"GENERAL: I have the honor to inclose you a copy of the Richmond Enquirer, containing Jeff. Davis's message. His determination, avowed in most insolent terms, to deliver to the several State authorities all commissioned officers of the United States that may hereafter be captured, will, I think, be persevered in."

Then follows the passage from the document cited in the message:

"I confine myself to informing you that I shall, unless in your wisdom you deem some other course more expedient, deliver to the several State authorities all commissioned officers of the United States that may hereafter be captured by our forces in any of the States embraced in the proclamation, that they may be dealt with in accordance with the laws of those States providing for the punishment of criminals engaged in exciting servile insurrection."

I will read now from a letter of Robert Ould, addressed to Lieutenant Colonel Ludlow, (commissioner, &c.,) in which he says:

"In your communication of the 14th instant you desire to know whether the Federal commissioned officers now prisoners will be released. I have already furnished you with an official copy of the proclamation of President Davis, dated December 23, 1862. In conformity therewith officers will not be released on parole."

But again, I read from another letter, signed "William H. Ludlow," and addressed to "Hon. Robert Ould, agent for the exchange of prisoners," dated "Fort Monroe, June 14, 1863," in which he says:

"Sections four, five, six, and seven of this act"—

The act to which I have just referred, of the confederate congress—

"propose a gross and inexcusable breach of the cartel, both in letter and spirit. Upon reference to the cartel, you will find no mention whatever of what was to be the color of prisoners of war. It was unnecessary to make any such mention, for, before the establishment of this cartel, and before one single negro or mulatto was mustered into the United States service, you had them organized in arms in Louisiana. You had Indians and half-breed negroes and Indians organized in arms under Albert Pike, in Arkansas. Subsequently negroes were captured on the battle-field at Antietam, and delivered as prisoners of war at Aiken's Landing to the confederate authorities and receipted for and counted in exchange. And more recently the confederate legislature of Tennessee have passed an act forcing into their military service (I quote literally) all male free persons of color between the ages of fifteen and fifty, or such number as may be necessary, who may be sound in body and capable of actual service; and they further enacted that in the event a sufficient number of free persons of color to meet the wants of the State shall not tender their services, then the Governor is empowered through the sheriffs of different counties to impress such persons until the required number is obtained."

"But it is needless to argue the question. You have not a foot of ground to stand upon in making the proposed discrimination among our captured officers and men. I protest against it as a violation of the cartel, of the laws and usages of war, and of your own practices under them."

Then, again, to show that they themselves were responsible for a failure to carry out the exchange of prisoners under the cartel, I will read from a letter of William H. Ludlow, lieutenant colonel, and agent for the exchange of prisoners, addressed to Robert Ould, dated July 22, 1863:

"You will recollect that since the proclamation of Hon. Jefferson Davis of December last, and more especially since the passage of the act of the confederate congress in reference to our captured officers, both of which were in violation of the cartel, and have caused in the one case a temporary and in the other a continued suspension of exchange of officers, all such exchanges have been subjects of special agreement between us."

"To avoid the complications and annoyances of these special agreements, I have again and again urged you to a return to the cartel, but, up to the present moment, in vain. On the contrary, you retain in close confinement large numbers of our officers, for whom I have made a demand and tendered equivalents."

"Until you consent to return to the terms prescribed by the cartel for exchange of officers, I shall not consent to any exchange of them except by special agreements."

But again, I read from a letter signed "Benjamin F. Butler, major general commanding, and commissioner of exchange," dated, "Fortress Monroe, Virginia, January 12, 1864," in which he says:

"This Government claims and exercises the power of appointing its own agents to represent its interests, irrespective of any supposed sanction by the confederate authorities."

"No right of declaration of outlawry by those authorities of any officer or soldier of the United States can be admitted, or for a moment regarded, by the Government of the United States, as it certainly will not be by the persons upon whom such intimidation is attempted."

"I am instructed"—

And to this I ask the attention of every Senator—

"I am instructed to renew the offer, leaving all other questions in abeyance, to exchange man for man and officer for officer of equal rank actually held in custody by either party, until all prisoners of war so held are thus exchanged. I take leave to express the hope, from humane considerations to those confined as prisoners of war on either side, that this offer will be accepted."

In the face of this official record, what foundation exists for imputing blame to the Administration for a partial failure to secure the exchange of all the prisoners of war held by the rebels, when this has not at any time been refused, and on the other hand has been constantly urged and insisted on by our authorities? Here is a standing offer to exchange man for man, and officer for officer, of equal rank according to the cartel. This offer the rebels persistently decline. This refusal rendered it necessary to resort to special exchanges. Then what becomes of the charge of inhumanity? It is inhuman, we are told, not to exchange these prisoners. Why are they not exchanged? Because the rebel authorities refuse to carry out the cartel according to its terms and spirit, which provided for the exchange of man for man and officer for officer of equal rank, and where those of the same rank could not be secured, then the exchange of equivalents, and which provides that the excess found on either side should be paroled. This is now, according to the record before us, the standing offer of this Government. Why is it not

accepted? Because the rebels persist theoretically in treating as felons officers commanding colored troops. For the purpose of coercing this Government to adopt their theories and to practically approve of their outlawry of our officers, they have, as I believe, deliberately adopted and practiced cruelty to our prisoners in their hands.

It may not be amiss to observe here that while exchanges under the cartel were in progress the rebel authorities deliberately violated their plighted faith over and over again by immediately putting into their service paroled prisoners, before their exchange; that tens of thousands of paroled prisoners captured by Grant's army at Vicksburg were again met by our troops with arms in their hands on other battle-fields, where it became necessary to recapture them, or be destroyed or be captured by them.

They also, as it is known, I suppose, to every Senator, objected to the commissioner appointed by the Federal Government. They had outlawed him. He had directed some man in New Orleans to be hung for pulling down the flag of his country after the city had surrendered. They had outlawed him and declared they would hold no further communication with this Government through him; that is, they claimed the right of dictating to this Government who should command its armies, who should be assigned to the performance of this or that military service, and then to dictate what should be the color of the skin of the men mustered into the armies of the United States. Unless we would permit them to control the composition and command of our armies they would coerce us into these measures by wanton and cruel treatment of our prisoners in their hands.

If we decline to do this, then they will put our prisoners of war on insufficient food, will expose them to the inclemency of the weather, without shelter or raiment! Here is a departure on their part from the usages of civilized nations which, it seems to me, lays a just foundation for such a departure on our part as will deter them from its continuance. They are systematically reducing our prisoners in point of physical vigor below the standard of efficiency as soldiers. It seems to me, without laying ourselves liable to the charge of cruelty, we would have the right to put their troops in our hands as prisoners of war on a like diet, and give them notice that this had been done in retaliation for the cruel treatment they are inflicting on prisoners of war held by them, and that this diet will be changed the very moment they abandon this departure from the rules of civilized warfare on their part.

But I am told that this is shocking to humanity, that it is very cruel and unchristian. If it be cruel, but necessary to compel them to observe the rules of civilized nations, is it not just; as just as shooting or exposing to the rake of shot and shell or of exposure to guerrilla bullet on railroad trains, steamers, and transports, all of which you have been practicing? Is it any more cruel to put rebels on bread and water to compel the abandonment of cruelty by them than it is to take the life of the individual for the same purpose? But if severe, the adoption of the policy will be indirectly their own act; it will be indirectly the act of the confederate authorities; its continuation, in that case, is in their hands; when they release their grasp of the throat of the victim they hold that very moment the policy will be changed in relation to the prisoners held by us and suffering retaliatory punishment.

But it is said that this would involve the right to scalp, to mutilate, to sell into slavery. I see no connection between the premises and the conclusion. The punishment inflicted may be hard, it may be severe, it may be terrible, for the object of the punishment is to terrify the belligerent party who has himself departed from the rules of civilized warfare. The *lex talionis* is never applied except to deter a belligerent from such departure. The punishment, therefore, may be severe, it may be terrible, but should be human; it should not be accompanied by any unnecessary circumstances of cruelty. If you refuse to resort to this remedy you will place your troops that may by the fortunes of war fall into the hands of the rebels at their mercy.

But it has been suggested by Senators during the progress of this discussion, that they proposed an immediate exchange of prisoners, and would thus avoid the necessity of retaliation. I have just

shown that this is impracticable, because the rebels refuse to carry out the cartel or to adopt any other just rule which could be agreed to by our Government without dishonor. If these prisoners have not been thus exchanged, it is not the fault of the Administration, but is the wrongful act of the rebel authorities. Now, how will you coerce them? They persistently retain these prisoners of yours and inflict on them inhuman punishment; they apply to them unchristian treatment. You cannot obtain possession of the persons of the identical parties who perpetrate these wrongs. You therefore have no other alternative but to permit them to waste away your armies by this cruel treatment, or resort to some effective system of retaliation. But, then, if they were to throw no impediments in the way of a fair exchange every Senator knows that it is often impossible, immediately after prisoners have been captured, to secure an exchange; they are frequently, on account of the condition of the contest, retained in custody for weeks and months. If, during this necessary delay in bringing about an exchange of prisoners, cruel and unusual treatment is applied to the prisoners of war in their hands, how will you correct the evil for the time being unless you admit, and, if necessary, resort to, retaliation?

I did state, in the outset of this discussion, that I was of the opinion that this refusal on their part to make exchanges was not disadvantageous to us in a military point of view; I still say so, because I think so. It was not disadvantageous to us, first, because we have had constantly an enormous excess of prisoners. When they have had from thirty to forty thousand of Union troops as captives of war in their hands, we have had a number ranging from eighty to ninety thousand, so that when they refuse to return to the cartel and exchange man for man as far as they have men, and then receive the excess under parole, they damage their own and not the Union cause.

But then, again, if the number of troops held as prisoners of war by each of the belligerent parties was exactly equal, I attempted to show in the brief remarks then submitted, that an exchange, man for man, in the present condition of the contest, would not be advantageous to us, because they are now fighting inside of strongly built works, where one man is equal to three or four fighting on the outside. This is too clear to require elucidation, unless some one will maintain that one is greater than four. My allusion to this condition of the contest was the occasion of the charge made by the Senator from Indiana, [Mr. HENDRICKS,] of a departure from humane and Christian sentiments, that induced him and another Senator [Mr. HENDERSON] to favor me with several quotations from the Scriptures. For this kindness they are entitled to and have my thanks. While I have great confidence in the opinions of that Senator when questions of law are involved, especially any question involving a clear understanding of the land laws of the United States, and have an equally high opinion of the legal acumen of the Senator from Kentucky, [Mr. DAVIS,] who also expresses astonishment at my opinions, and would rely on his judgment with great confidence in all legal questions involving the use of clear mental perception, patient research, and inflexible purpose, as well as ability, I say, with great respect to both of these Senators, that if I desired an orthodox exposition of the holy Scriptures, I would not apply to either of them.

It may be that I have an incorrect apprehension on this subject. I think that is possible. But I have attempted to consider this subject, as I have all others during my short career in life, according to the rules of common sense. I suppose these rules are applicable to the holy Scriptures, and necessary for a proper comprehension of them, as well as international law. I know there are such passages as those Senators recited, requiring us to love our neighbors as ourselves, to love our enemies, and to do unto others as we would that they should do unto us. But I submit with great respect for the opinions of others that those passages ought to have a common-sense interpretation; and that seems to me to have been the opinion of the Saviour of the world. I will read a brief passage to illustrate this:

"And, behold, a certain lawyer stood up, and tempted him, saying, Master, what shall I do to inherit eternal life?"  
"He said unto him, What is written in the law? how readest thou?"

"And he answering said, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbor as thyself."

"And he said unto him, Thou hast answered right: this do, and thou shalt live."

But the lawyer not to be put down, proceeded with his cross-examination, and asked, "Who is my neighbor?" This, it seems, induced the Saviour to narrate the following "little story:"

"And Jesus answering said, A certain man went down from Jerusalem to Jericho, and fell among thieves, which stripped him of his raiment, and wounded him, and departed, leaving him half dead."

"And by chance there came down a certain priest that way; and when he saw him, he passed by on the other side."

"And likewise a Levite, when he was at the place, came and looked on him, and passed by on the other side."

"But a certain Samaritan, as he journeyed, came where he was: and when he saw him, he had compassion on him."

"And went to him, and bound up his wounds, pouring in oil and wine, and set him on his own beast, and brought him to an inn, and took care of him."

"And on the morrow when he departed, he took out two pence, and gave them to the host, and said unto him, Take care of him; and whatsoever thou spendest more, when I come again I will repay thee."

"Which now of these three, thinkest thou, was neighbor unto him that fell among the thieves?"

And the lawyer answered, the Samaritan. And I ask, is not that in accordance with the teachings of common sense? And if a man would not love such a neighbor, would he not deserve the execration of mankind? Well, then, "Thou shalt love thy enemy." How much? What is to be the degree of affection you are to exercise for your enemy? Surely not that degree of affection which you would exercise for such a neighbor as the Samaritan, nor the degree of affection that one would be supposed to feel for a parent, or a child, or a friend; but you are to love him merely as a member of the human family, and avoid inflicting on him acts of cruelty or throwing in his road obstacles to reformation or advancement. In other words, you are to treat him in a common-sense mode, just as his conduct merits.

Now, I am in favor of loving rebels just in the same way, not as I love my neighbor or friend, but as I would be reasonably expected to love an enemy, a party who is using all the power that God and nature have clothed him with to ruin me and mine. I would not "set down aught in malice," and I would reform him if it were in my power. Individually, if he had his hand on my throat, I would retaliate in some humane way until he released his grasp; and so I would treat the rebels, not cruelly, not wantonly, not in a revengeful spirit, but I would inflict on them just that degree and amount of punishment necessary to compel them to observe the rules of civilized warfare. That is in accordance with my understanding of the teachings of the holy Scriptures.

But the Senator from Maryland, [Mr. JOHNSON,] as is usual with him when he intends to inflict a severe blow—I mean of course in a logical way—complimented me by stating that I had cited the law of nations correctly on this subject, that we were under no obligation according to the practice of international law to exchange prisoners, that it was optional and discretionary on our part; but that we were under the strongest obligation morally to do so, and if we failed to use all the power placed in our hands to bring about such an exchange we should commit a moral offense akin to a great crime. Well, sir, this is more plausible than sound. Let us see if that Senator, with all his legal learning and force of logic, can maintain that position, even if it were logically applicable to any position assumed by me, which I do not admit. That is as a corollary to the reasoning, international law will tolerate a nation in doing that which violates the strongest moral obligation, so strong and overwhelming that to refuse to carry it out amounts to a great crime! Then I submit, if that be true, that the international code is itself in shocking conflict with the moral law.

I know it may be said that while we would not be under obligations to other nations to treat our own subjects humanely, and we would not consequently be held responsible by foreign Powers for any such departure from the moral code, yet I submit the exchange of prisoners must be mutual, and that one belligerent cannot refuse persistently to make these exchanges and leave it possible for the opposing belligerent to secure the return of its subjects, servants, or employees. Then is it true that one belligerent during the

continuance of the war may do that in retaliation to its own subjects which is shockingly in conflict with the teachings of morals, which will at the same time render it impossible for the opposing Power to fulfill its obligations to its subjects without violating international obligation? As it seems to me, nothing could be more absurd.

But what is this law of nations that is referred to; this international code that it is said may be in conflict with the teachings of morals? Who enacted it and who enforces it? You do not find it in any statute-book, for there is no legislature on earth, and never has been, that can enact it. And there is no tribunal on earth having power to try a nation for violating it. The international code, therefore, was never enacted and never has been and never can be enforced against an independent Power. Then what is this law of nations, this international code? Nothing but the common understanding of mankind. It is a code of morals applied to communities by the common sense of mankind, just as what is called moral law prescribes the rule of conduct to individuals. No one will maintain that in this country, or any other country where justice prevails, you can enforce a merely moral obligation. You cannot enforce what is called the international code. It has no existence except in the minds of men, in the common consent of mankind. It is therefore a rule of morals as applied to organized communities.

Now, then, the Senator maintains that the code of morals as applied to communities in the organized capacity may be in shocking conflict with morals or the code of morals as applied to individuals; that is, to my comprehension, as absurd as to say that truth is in shocking conflict with truth itself; that justice is in shocking conflict with justice!

The Senator from Indiana charged me with cruelty in suggesting that if an exchange of prisoners could be secured on just terms, and could be carried into effect, man for man, that in a military point of view its wisdom might be doubtful. I attempted to illustrate it in this way: that if a thousand men were in a fort—and the rebels are now in fortified places—it would require four thousand men to capture them, if military science teaches us anything.

I will suppose, then, that the rebels have a thousand Union prisoners, able-bodied men, and we hold a thousand rebel prisoners, able-bodied men. An exchange is agreed to, and the thousand are transhipped from one party to the other. The thousand rebel prisoners sent South go into this fort, and the thousand Union prisoners sent North are added to the army that is investing the stronghold. If the contest was exactly equal in a military point of view before the exchange took place, if it required four thousand men to carry the work and capture the one thousand, if the chances of life and death were then equally balanced, and the chances were about even that the one thousand in the fort would kill the four thousand outside to the chances that the thousand inside would capture or kill the four thousand outside, and you then throw another thousand into the fort and add but one thousand to the investing force, you lack three thousand men to enable you to prosecute the campaign, and must necessarily resort to what the Senator from Indiana, at the last session, was pleased to denominate the horrors of a draft in order to raise those men. I suggested that probably, even on principles of humanity, it might be better in that stage of the contest to allow the thousand prisoners on either side to remain a little longer in captivity until the battle should be over; that probably it would not be more cruel to allow a prisoner to remain in prison a little longer than it would to expose him and three others in front of battle to the missiles of the foe, unless the other Scripture of which I will remind the Senator is not applicable to this case, which says, "It is better for one to suffer than for many."

If in this stage of the contest they refuse to return to the cartel and exchange and parole all on their side, I have a right, I submit, to console myself that this wrong on their part is a greater damage to them than it is to us, without being justly subjected to the charge of cruelty.

If, then, the retaliation proposed in this resolution which is now pending does not violate the international code, if we have a right to resort to

it, if it would in all probability be effective, I come back on these Senators and ask, how can you in good faith and clear conscience meet these suffering men now in these rebel prisons, if, as I have shown, the Government has used all honorable and honest means which justice could require, and which it had power to carry out in order to secure an exchange, and has been unable to do so, if you do not attempt to protect them by its adoption?

If those rebels, for the purpose of coercing unjust terms of exchange, treat our troops in their hands unjustly, with a shocking want of humanity; if shooting a man in retaliation for a cold-blooded murder has put a stop to murders on the part of rebels of inoffensive prisoners in their hands; if the exposure of their prisoners to the danger of shot and shell in front of our works in retaliation has corrected the evil; if placing eminent citizens of the rebel districts or prisoners of war on railroad trains, transports, and steamers, has to a very large extent put an end to the assassin-like mode of guerrilla warfare adopted by them, we may reasonably conclude that a just retaliation for the wrongful treatment of prisoners of war in their hands may be equally effective; and just so long as the probability is a reasonable one, it is the duty, as I maintain, of the American Government to bring it to bear—a duty that humanity itself demands.

We are morally bound, I will submit, to do everything which we can justly and honorably do to mitigate the sufferings of these brave men that have placed themselves and their lives between us and their and our country's foe. These men who have exposed themselves to every kind of hardship and danger incident to a long and bloody war have a right to our sympathies; and if we sympathize more strongly with the rebel prisoners in our hands than we do with our own brave troops held as prisoners of war by the rebels, and refuse to secure redress of their wrongs, we will have a fearful responsibility to meet before the tribunal of public opinion, when these men return home to repeat the tale of their wrongs.

The resolution, as amended, if the amendment of the Senator from Ohio should be adopted, only provides that such retaliatory measures shall be adopted as are consistent with the international code, consistent with the rules usually applied in similar cases by Christian nations. I can vote for this. I can vote for it conscientiously, believing that of the two evils it is better to accept the least. If one of two men must suffer, I prefer that it should be my enemy to my friend.

I am therefore opposed to the recommitment of the resolution. I am also opposed to the amendment proposed by the Senator from Massachusetts, [Mr. WILSON], for the appointment of commissioners to negotiate on this subject. Probably I would not, if I did not know personally that this has been attempted and contemptuously rejected by the rebel authorities. Knowing this, as I do, I cannot myself vote for any such proposition. Nor can I vote for the amendment suggested by my friend, the other Senator from Massachusetts, [Mr. SUMNER]; not that I object to any principle that it contains. The enunciation of morals which is there so luminously displayed I doubt not would be indorsed by every humane and Christian man on earth; but I am not willing just now to give the rebels notice that we will not retaliate, and that, I think, is the only logical inference that can be drawn from the Senator's proposed amendment. He denounces retaliation and this cruel mode of punishment, and proposes no means as a substitute for the relief of those in the hands of the rebel authorities except the vigorous prosecution of the war.

I submit to him that this is no new remedy. Is there anybody in default now? In the name of God and my country, are we not doing all that we are now able to do to put down this rebellion? If there is anybody in default let his name be handed over for the execrations of mankind. I know of no such flagrant violation of sacred duty on the part of soldiers or civilians. I believe that all the vast resources of this great country, physical, financial, and moral, are being brought to bear, as wisely as we can reasonably expect, for the attainment of this end. It is therefore a mere suggestion that must necessarily result in nothing practicable, and serve as notice to the rebels that we will not retaliate. In other words, it would remit them to the reproach of their consciences

for the violation of this code of international law, and nothing more.

Mr. SUMNER. My friend will pardon me. It is that we will not retaliate in kind, we will not imitate rebel barbarism. I say nothing further on that point.

Mr. HARLAN. I was only speaking of what I thought would be the logical effect of the adoption of the Senator's amendment. I know that the Senator believes and maintains that a nation has a right to retaliate, and, just so far forth as is necessary in order to prevent wrong by the opposing belligerent, has the right to depart from the ordinary rules that governed civilized nations in waging a war. Just so far forth as is necessary to deter him from a departure you may depart, not, of course, by resorting to cruelties, because this would have no such effect; a resort to inhuman punishment could achieve no such end. It would be the certainty of the application of the severe, but, as far as the nature of the case will admit, humane, punishment that would probably correct the evil. But nothing of this is provided in his proposed amendment.

I cannot, therefore, vote for any one of these propositions of amendment. I prefer a slight modification of the amendment proposed by the Senator from Ohio; but perhaps a resolution that I would draw might be equally objectionable to him, so far as it departed from him, as his is to me. I shall therefore content myself, when the time comes, with voting for that resolution, and leave the consequences with posterity and God.

Mr. CLARK. Mr. President, I think the pending motion is a motion to commit to the Committee on Military Affairs. If I understand the position of the business before the Senate it is this: The Committee on Military Affairs reported a resolution in favor of retaliation upon rebel prisoners in our hands for the treatment of Union prisoners in their hands. The honorable Senator from Massachusetts [Mr. SUMNER] moved to amend that resolution by a substitute, striking out the whole of the resolution. The other Senator from Massachusetts [Mr. WILSON] then moved to amend the substitute. The Senator from Ohio [Mr. WADE] moved further to amend by amending the original resolution before it should be stricken out. Then, if I understand the business in order before the Senate, the questions will be these: first, upon the motion to commit; and if that is negatived, then the pending question will be on the amendment of the Senator from Ohio to the original resolution, to perfect it before it is stricken out.

Then, Mr. President, I am opposed to the motion to commit, because it brings us directly to a test vote on the amendment submitted by the Senator from Ohio on the original resolution. Eight months ago and more the committee on the conduct of the war published to the world this very remarkable piece of testimony. I will read it in the presence of the Senate, and of the country if I can, to show the information that was given out at that time to the public. It is the testimony of a surgeon. It is appended to the report of the committee on the conduct of the war, because it had not been received by the committee at the time they made up their report; and it is in these words:

WEST'S BUILDINGS HOSPITAL,  
BALTIMORE, MARYLAND, May 24, 1864.

DEAR SIR: I have the honor to inclose the photograph of John Breinig, with the desired information written upon it. I am very sorry your committee could not have seen these cases when first received. No one from these pictures can form a true estimate of their condition then. Not one in ten was able to stand alone; some of them so covered and eaten by vermin that they nearly resembled cases of small-pox, and so emaciated that they were really living skeletons, and hardly that, as the result shows, forty out of one hundred and four having died up to this date.

If there has been anything so horrible, so fiendish, as this wholesale starvation in the history of this satanic rebellion, I have failed to note it. Better the massacres at Lawrence, Fort Pillow, and Plymouth, than to be thus starved to death by inches through long and weary months. I wish I had possessed the power to compel all the northern sympathizers with this rebellion to come in and look upon the work of the chivalrous sons of the hospitable and stately South when these skeletons were first received here. A rebel colonel, a prisoner here, who stood with sad face looking on as they were received, finally smook his head and walked away, apparently ashamed that he held any relations to men who could be guilty of such deeds.

Very respectfully, your obedient servant,

A. CHAPEL.

HON. B. F. WADE, Chairman of Committee on the Conduct of the War, Senate United States.

Now the point I want to make is here: this information was given to the country eight months ago and more, and it does not appear that the Administration or the parties having this business in charge have made the least effort to mitigate that suffering; and I make that point with this view, to show the necessity that Congress now should take hold, and by this resolution itself direct it to be done. I agree with the Senator from Iowa [Mr. HARLAN] that we cannot escape the responsibility if we do not direct it to be done. If we are satisfied that it is not being done in other quarters, and we have the power to do it, we must do it or be answerable for the consequences. No man can excuse himself by saying it belongs to somebody else. It belongs to each individual Senator here. These men are his neighbors, and his soldiers, and his friends. If he goes by, hanging his head, on the other side, the judgment of the country and of God will follow. It ought so to do.

Now, Mr. President, I want to call attention to another fact. Senators attempt to excuse this barbarity, on the ground that it is an occasional occurrence, and they say that sometimes rebel prisoners in our hands are treated inhumanly and therefore we must pardon this. I want to call the attention of the Senate and the country to the design and deliberation with which this has been done. Go down to the prisons in Virginia; go down to Richmond; and what do you find? You find our prisoners the moment they come to those prisons, or before, robbed of their coats, robbed of their jackets, robbed of their hats, robbed of their shoes, robbed of their stockings, and put into those prisons in this naked and destitute condition to endure the hardships and rigor of the season. The Chinese have an inhuman mode of punishment by which they condemn a man to die by never sleeping, and whenever he sits down wherever he is, or attempts to lie down and go to sleep, or is likely to fall asleep, they put somebody to pinch him and wake him up. Whenever he is sleepy again they pinch him again and wake him up, and so on. Now, sir, which is worse, that refined cruelty of the Chinese, or this barbarity which pinches a man with cold when he would go to sleep and when he wakes finds his limbs frozen? I have here in my hand a copy of a report of an officer who has been confined in Libby prison, just returned, a man from my own State, a man selected as the ranking officer in that command to make a distribution of some blankets just furnished to those prisoners, and he says it was distressing beyond account; so utterly prostrated were these men that the moment you gave them a blanket they would wrap it around them and sink on the floor and fall asleep like children, forgetful of everything in the world, their sufferings had been so intense.

Nay, more, sir, in these prisons at Richmond men have been so reduced by starvation in the rebel capital, under the eye of him whom your wandering commissioners go to plead with for peace, have been so starved, so emaciated, that for the purpose of getting something to eat they make shoes and brooms and do the work of the rebel scullions. And now shall we not retaliate? Not far from here we have a Mr. Pryor. I would take him and starve him until he made shoes and brooms, if they did not stop it.

Such is the treatment of these men in Richmond. Is it accidental? Go with me into the next State, North Carolina, at Salisbury, and take the deposition which was read at your table yesterday as to the treatment of our men there; how when they are starved and are dead they are piled into a cart and carried out and dumped into a ditch like so many dead cattle. Then go with me from Salisbury, North Carolina, to Columbia, South Carolina; go to the very home of the chivalry; and you find the same treatment exactly—not accidental, but devilish, fiendish, and malicious, and contrived and continued. There came to me from the prison in South Carolina not a fortnight ago a colonel from my own State, who had been in the jail there seventeen long months, five months of that time in solitary confinement; a man whose heart beat for your country; a man who went into Fort Wagner with his life in his hands; a man who was taken prisoner there; a man who has been held by these fiends ever since, until he has now gone home to see a family where there is a little boy three years old that he has never seen because of these enormities. And



that man said to me, "For the last five months, Mr. Clark, there was not a morsel of meat in any ration issued to us; we lived upon cob meal or corn meal and sorghum, except I could buy something else. Now, sir," said he, "there are men in that prison who have so suffered that they have forgotten their own names, and they sit around on the ground chattering like so many monkeys." The ration is the same as at Salisbury.

Then go down into Georgia to Andersonville, and you find the same thing, Mr. President, precisely the same thing. From the best information, no less than thirteen thousand men have found their graves from the treatment in that one solitary place, Andersonville; and yet this is an accidental thing, they would have you believe. And if you could catch the men who do it you might punish them! Sir, the rebel authorities do it, and I would visit it upon their army.

Mr. President, we owe it to the men who have gone forth to fight our battles that these things should not be so. We owe it to the friends of the men who have gone forth to fight our battles that these things should not be so. We owe it to the country that these things should not be so, if they can be prevented; and this brings me—for I shall not be long—to the question, can these enormities be prevented? I believe they can. I believe the resolution, if adopted and carried out, will be effectual. Among our rebel prisoners, we have persons from almost every section of the confederacy, and those persons are allied to almost every family in the confederacy. I would take those rebel prisoners, and I would give notice to the confederacy, "The measure that you mete out shall be measured to you, full measure, pressed down and running over; and it shall depend exactly how it shall be done upon you; there are your prisoners; how do you want them treated?" "Well," "Then treat ours well. Just as you house our prisoners, just so will we house yours; just as you clothe them, we will clothe yours; just as you feed them, we will feed yours; just as you care for them, we will care for yours. Now, how shall it be done? What do you say?" My word for it, they will not say, "Starve," if you only stand up to it, and let them know you are determined; but if you pass the resolution of the Senator from Massachusetts, and say that whatever they please to do, you will not do anything, they will continue it.

Mr. SUMNER. My resolution says no such thing.

Mr. HENDERSON. I wish to ask the Senator from New Hampshire a question. I ask, unless we have a commissary of prisoners in the rebel States, to visit those prisons and to see the treatment of our prisoners, how is it possible for us to mete out measure for measure?

Mr. CLARK. My God, sir, every returned prisoner is a commissary bringing back word!

Mr. HENDERSON. I suggest to the Senator, though, that all exchanges may be shut off. Such a thing is possible as that the exchanges may be cut off entirely, and then there will be no prisoners returning.

Mr. CLARK. All exchanges, perhaps, may be cut off, but the records will show in the end; and if you please, go further, and say to the confederacy, "Unless you let us see how these men are treated we will take it for granted that you are mistreating them," and hold your men accordingly.

Mr. HENDERSON. That is exactly what I want to do. My proposition is to send an agent, a commissary of prisoners, a thing done between two nations for a hundred years. The Senator from Ohio called them "commissioners." Not at all. They go there for the purpose of superintending and seeing the condition of our prisoners; that is just what I design to do, and in case they are refused permission to go, then I take it for granted that the treatment is as represented.

Mr. CLARK. And my objection to the Senator's proposition is not that it is not good in itself, but that it does not go far enough. It is only for a commissary. I want to go further and put into the President's hands and direct him to use every means in his power known in civilized war to do this.

Mr. HENDERSON. That is exactly my resolution.

Mr. CLARK. Then you and I can vote together.

Mr. HENDERSON. The objection is that I am not in favor of retaliation in kind; nor is the Senator. He says he would mete out to rebel prisoners the measure they mete out to ours. Now, I ask him this question: if they sell our prisoners, as they have sold some negroes, and inflict on them other cruelties, would he sell their prisoners?

Mr. CLARK. I need not discuss that question. This resolution does not propose retaliation in kind, as I understand.

Mr. HENDERSON. I understand that the Senator is urging now before the Senate that we should mete out the same measure precisely.

Mr. CLARK. I would if it became necessary.

Mr. HENDERSON. I say it is never necessary.

Mr. CLARK. Then we shall not do it.

Mr. HENDERSON. Certainly not.

Mr. CLARK. But if it becomes necessary, I would do it, and I would make the trial the test whether it is necessary or not.

Mr. HENDERSON. Does the Senator believe it would be necessary to sell their prisoners into everlasting slavery?

Mr. CLARK. I do not. Neither will it be necessary to starve them or strip them. The moment you tell these fiends that you are going to do to them what they do to you, they will desist in self-defense. That is exactly my idea about it. I want to bring them to the trial, and that is the object of this resolution, in my judgment. I want to bring them to the trial, and give them the opportunity; I would say, "There, it depends on you yourselves what you will do, and if you will visit these cruelties on yourselves, it is your own fault; but you pile them on your own head for your conduct."

Mr. President, I say that I believe it will not be necessary, and I will tell you why I believe it will not be necessary. First, because experience shows that when we have retaliated we have never had to go to an extreme. Take the case at Charleston. They thought to deter us from firing on Charleston by selecting six hundred of our officers and putting them where, if we did fire, we must fire upon them. I suppose some of these gentlemen would have stopped the cannon, plugged up its mouth, and said, "It will not do to fire;" but some person having that matter in charge selected six hundred of their officers and put them by our works under the rebel fire, and then said to the rebels, "Now, fire away." They did not fire. It brought about an exchange very quick. So when they took three men in Richmond whom they were going to hang for something we had done, our authorities just took the son of General Lee and two other men, and said, "Now, begin." They did not hang them.

It wants nerve, sir, and we ought to have had nerve when we began the war and all the way through. There is something ineffably mean in asking a soldier to go and fight for you when you have not nerve and backbone enough to stand by and protect him. You ask him to go and fight; you ask him to run the risk of being taken prisoner; and when they get him, you have not nerve enough to say, "Treat him well," and enforce it! No, sir, I want to direct that that shall be done; that he shall be treated well; and I will guaranty, Mr. President, I would almost guaranty it with my life, that when you take the men you have got in your power and put them to this treatment, your men will be treated well. It is because we have not done it that this treatment has gone on for these eight and twelve months, unrebuked almost, without an effort to prevent it.

Now I want to call the attention of the Senate and of the country to another thing. We are dealing with facts; we are dealing with the case as it is here; we are not dealing with a supposable case; we are dealing with the case as it is; and the evidence is that your men who are prisoners are taken into their hands and starved until they will enlist and fight for the rebels. I want to ask this question, Who is responsible in a great measure for that treason? "We," says the Senator from Ohio, and I agree with him. You let a man go into these rebel prisons; they starve him day after day; his intellect becomes feeble with his body; you do not clothe him, you do not visit him; the rebels come and hold out to him the idea of food and clothing and comfort if he will enlist for them. The intellect and the strength

of the man are overcome, and left in that destitute way he enlists to fight you, with tears in his eyes it may be, and with prayers that he may be delivered; but for the sake of something to eat, (and "hunger will go through a stone wall,") he turns traitor to your country because your authorities left him there to starve. Whose treason is it, I pray you? Let us not shirk this responsibility. Let us look at the thing as it is and see if we cannot deal with it; let us at least make the trial, because we owe it to ourselves, as I said, to these soldiers, and to their friends and to the country, that we should do it.

Why, Mr. President, a few days ago I received a letter from a clergyman. He said to me, "Sir, my son is in a rebel prison; he is starving. When he went to the war I and his mother gave him to the country; but the idea is dreadful that that country, when we had given that son to it, should let that boy starve. Cannot," said he, "I appeal to you, sir; cannot something be done?" And that is not a solitary case. Every father who has a son in those prisons will appeal to his Senator in the same way; he will inquire every hour, cannot something be done to ameliorate this condition of affairs? And what are you going to say when you go home? That "nothing could be done." "But, did you try?" "No, sir; we would not pass any resolution about it; we concluded to leave that to the President." "Had not Congress the power?" "Yes, undoubtedly we had the power, but we would not do it." You tell me the country will not bear this retaliation! I tell you, sir, they will not bear such an answer as that, nor any inaction at our hands; it is the other side that they will not bear. They demand at our hands that we should remedy this difficulty if we can; and for me not another eight long months—nay, sir, not another single month, not a week, nor a day—shall go past, if I can prevent it, that I do not give my vote for a measure that I think will afford relief.

Mr. SUMNER. As I have listened to this debate, and noted the various propositions which have been brought forward, especially as I have observed how the original resolution of the committee has disappeared in the process of amendment, I have been reminded of the story which is told by Byron of Henry S. Fox, the same who was afterwards British minister here, and who now lies in the Congressional Burial Ground. Mr. Fox said of himself, after an illness in Spain, that he was "so altered that his oldest London creditor would not know him." But no illness could work a change greater than has been wrought in the resolution of the committee. Its oldest supporter could not know it in the form which it now bears. The ancient legend of the ship *Argo* is revived. That famous ship, after its return with the Golden Fleece, was piously preserved in the arsenal of Athens, where its decaying timbers were renewed, until, in the lapse of time, every part of the original ship had disappeared, and nothing but the name remained. It would be difficult to say that anything more of the original resolution was now before the Senate.

The resolution in its original form, as so earnestly maintained by my friends from Ohio and Michigan, called for retaliation in kind—an eye for an eye, a tooth for tooth, death for death, starvation for starvation, freezing for freezing, cruelty for cruelty. The President was commanded to imitate rebel barbarism in all respects, point by point. It was this resolution which I felt it my duty to resist. The resolutions which I offered as a substitute were intended as a sort of "earth-work" in support of this resistance. Perhaps they have already accomplished their purpose, inasmuch as Senators have evacuated their original position.

The question is solemn enough, and yet, as I think of the original resolution, I am reminded of an incident more comic than serious which occurred at Paris while it was occupied by the Prussians in 1814. A Prussian soldier was brought before the governor charged with unmercifully beating a Frenchman, with whom he was billeted, for not supplying a bottle of *Berlin weiss bier* which the Prussian had insisted upon drinking. The general spoke of the unreasonableness of the demand, and declared that he should be obliged to inflict severe punishment, when the Prussian soldier set up the law of retaliation. "When I was a little boy," said he, "a French

dragon beat my father because he was unable to get a bottle of claret in our whole village, and I then swore that if I ever got to France I would beat a Frenchman for not getting me a bottle of *weiss bier*. Am I not right?" This was a case of retaliation in kind, and retrospective in its operation, like that of the original resolution.

But much as the original resolution has been changed, so that it no longer requires retaliation in kind, I think it might be changed still further. It is not enough on such an occasion, and especially after the avowals which have been made in this Chamber, to say that retaliation shall be according to the principles of public law. Montesquieu, in his *Spirit of Laws*, (book 1, chap. 3), has shown us the uncertainty of this language. These are his words:

"Every nation has a law of nations; even the Iroquois, who eat their prisoners. They send and receive ambassadors; they know the laws of war and peace. The evil is that their law of nations is not founded on true principles."

The resolution, therefore, for the sake of certainty, and to give double assurance that humanity shall not suffer, ought to be still further amended by limiting the retaliation to the usages of civilized society. This amendment becomes the more needful since Senators have argued that by the principles of public law the intolerable cruelties of the rebellion might be retaliated.

I desire to repeat my unalterable conviction that these cruelties cannot be retaliated in kind. And here I venture to call attention to the opinions of an illustrious citizen who was recently removed from the duties of this world. I refer to the late Edward Everett, who, in a speech at Faneuil Hall only a few days before his lamented death, thus testifies in what may be called his dying words:

"I believe that the best way in which we can retaliate upon the South for the cruel treatment of our prisoners, is for us to continue to treat their prisoners with entire humanity and all reasonable kindness; and not only so, but to seize every opportunity like the present to go beyond this."

"Indeed, it is no more than our duty to treat the prisoner well. The law of nations requires it. The Government that refuses or neglects it does not deserve the name of civilized. Even inability is no justification. If you are yourself so exhausted that you cannot supply your prisoner with a sufficient quantity of wholesome food, you are bound, with or without exchange, to set him free. You have no more right to starve than to poison him. It will, however, be borne in mind that while the hard fare of our prisoners is defended by the southern leaders, on the ground that it is as good as that of their own soldiers, at the same time they maintain that their harvests are abundant and their armies well fed. There is no merit in treating a prisoner with common humanity; it is simply infamous and wicked to treat him otherwise."

You will observe, if you please, how positively the opinion is expressed on the limits of retaliation. And here it is proper to remark that Mr. Everett was not only a patriot, who, in the later trials of the Republic, had devoted himself ably, purely, and successfully to the vindication and advancement of the national cause; but he was a publicist who had studied profoundly the law of nations. Few persons in our history have understood it better. His last labors were devoted to this important subject. At the time of his death he was preparing a course of lectures upon it. Therefore, when, in the name of the law of nations, he speaks against any imitation of rebel barbarism, it is with the voice of authority—an authority now, alas! echoed from the tomb.

From one eminent publicist I pass to another. On a former occasion I took the liberty of introducing a familiar letter on this question from Professor Lieber, once of South Carolina, now of New York. The Senator from Michigan, not content with attempting an answer to the learned professor, proceeded to use language with regard to him which I am sure his careful judgment cannot approve. Professor Lieber can need no praise from me as a practical writer and thinker on questions of international law. It was on account of his acknowledged fitness as a master of this science that he was selected as the commissioner to prepare the instructions for the armies of the United States, constituting a most important chapter of international law. Those instructions are the evidence of his ability and judgment. So long as they are followed by our Government, it will be difficult for the Senator, learned as he unquestionably is, to impeach their distinguished author. There is no Senator, not excepting the Senator from Michigan, who might not be proud to point to such a monument of fame. But he is no mere theorist. It was on the field of battle, where

as a youthful soldier he was left for dead, that he began his practical acquaintance with these laws of war which he has done so much to expound.

And now let me read a commentary on the law of retaliation by this authority. I quote from an article which has already appeared in the *New York Times*:

"No mawkish sentimentality has induced the writer to express his views. He has had dear friends in those southern pens, which have become the very symbols of revolting barbarity, but he desires, for this very reason, that the subject be weighed without passion, which never counsels well; especially without the passion of mere vengeance. Let us bring down this general call for retaliation to practical and detailed measures. It is supposed, then, that retaliation is resolved upon; what next? The order is given to harass, starve, expose, and torture, say twenty thousand prisoners in our hands until their bones pierce the skin, and they die idiots in their filth. Why should things be demanded which every one knows the northern man is incapable of doing?"

"If, however, by retaliation be meant that captured rebels in our hands should be cut off from the pleasant comforts of life which northerners subservient to the South love to extend to them, then, indeed, we fully agree. This treasonable over-kindness ought never to have been permitted. It has had the worst effect on the arrogance of our enemy, but prohibiting it is not and cannot be called retaliation."

"Let us not be driven from the position of manly calmness and moral dignity; and let us, on the other hand, be stern, so stern that our severity shall impress the prisoners that they are such. But let us not follow rebel examples. It is too sickening, too vile."

Such is the testimony of Francis Lieber in entire but unconscious harmony with the testimony of Edward Everett. As authority nothing further can be desired. And yet the question is still debated, and grave Senators take counsel of their feelings rather than of the law.

The earnestness which has characterized this discussion attests the interest of the question, and the interest here is only a reflection of the interest throughout the country. When you speak of our brave officers and soldiers suffering, languishing, pining, dying in rebel prisons, you touch a chord which vibrates in every patriot bosom. He must be cold, sluggish, and inhuman, who is not moved to every possible effort for their redemption.

I am happy to see that the Secretary of War has not been insensible to this commanding duty. Here is an extract from a communication which he sent to the House of Representatives under date of January 21:

"On the 15th of October the subject of exchanges was placed under the direction of Lieutenant General Grant, with full authority to take any steps he might deem proper to effect the release and exchange of our soldiers and of loyal persons held as prisoners by the rebel authorities. He was instructed that it was the desire of the President that no efforts consistent with national honor should be spared to effect the prompt release of all soldiers and loyal persons in captivity to the rebels as prisoners of war, or on any other grounds, and the subject was committed to him with full authority to act in the premises as he should deem right and proper. Under this authority the subject of exchange has from that time continued in his charge, and such efforts have been made as he deemed proper to obtain the release of our prisoners. An arrangement was made for the supply of our prisoners, the articles to be distributed under the direction of our own officers, paroled for that purpose, and the corresponding privilege was extended to the rebel authorities. In order to afford every facility for relief, special exchanges have been offered whenever desired on behalf of our prisoners. Such exchanges have in a few instances been permitted by the rebel authorities, but in many others they have been denied. A large number of exchanges, including all the sick, has been effected within a recent period. The commissary general of prisoners has been directed to make a detailed report of all the exchanges that have been accomplished since the general exchange ceased. He will furnish it to the House of Representatives as soon as completed. The last communication of General Grant gives reason to believe that a full and complete exchange of all prisoners will speedily be made. It also appears from his statement that weekly supplies are furnished to our prisoners and distributed by officers of our own selection."

Let these instructions be followed, and it is difficult to see what remains to be done. Exchange, retaliation, and every other agency "right and proper," are fully authorized in the discretion of the commanding general. There is nothing in the arsenal of war which he may not employ. What more is needed? But this brings me again to the proposition before the Senate.

The committee, not content with what has been done—distrustful, perhaps, of the commanding general—have proposed that Congress shall instruct the President to enter upon a system of retaliation, where we shall imitate as precisely as possible rebel barbarism, and make our prisons the same scenes of torment which we denounce. Why, sir, to state the case is to answer it. The Senator from Michigan who advocates so eloquently this unprecedented retaliation attempted a description of the torments of the rebel prisons;

but language failed him. After speaking of their "immeasurable criminality" and "the horrors of these scenes," which he said were "absolutely indescribable," he proceeded to ask that we should do these same things; that we should take the lives of prisoners, even by freezing and starvation, or turn them into living skeletons—by act of Congress.

Sir, the law of retaliation, which he invokes, has its limits, and these are found in the laws of civilized society. Admit the law of retaliation; but you cannot escape from its circumscription. As well undertake to escape from the planet on which we live. What civilization forbids cannot be done. Your enemy may be barbarous and cruel, but you cannot be barbarous and cruel. The rule is clear and unquestionable. Perhaps the true principle of law on this precise question was never better expressed than by one of our masters, Shakspeare, jurist as well as poet, when he makes Macbeth exclaim—

"I dare do all that may become a man;  
Who dares do more is none."

So with us now. We are permitted to do all that may become a man; but nothing more.

But surely nobody will argue that the "barbarities of Andersonville" and all those torments which we deplore can become a man. As well might we undertake, by way of retaliation, to revive the boot and thumb-screw of the Inquisition, the fires of Smithfield, "Luke's iron crown and Damien's bed of steel," or to repeat that execrable crime which is pictured by Dante in one of his most admired passages, where Ugolino and his children were shut up in a tower, without food or water, and left to die slowly, cruelly, wickedly, by starvation:

"Thou modern Thebes! what though, as fame hath said  
Count Ugolino did thy forts betray—  
His sons deserved not punishment so dread."

Thanks to the immortal poet who has blasted forever this sickening enormity, and rendered its imitation impossible. Thanks to that mighty voice which has given new sanction to the mandate of public law. And yet in this terrible case there was retaliation, and the famished victim is revealed as gnawing the skull of his tyrant. But this was not on earth.

It is when we consider precisely the conduct of the rebels, as it has been represented; when we read the stories of their atrocities; when we call to mind the sufferings of our men in their hands; when we gaze on the pictures introduced into this discussion, where art has sought to represent the living skeletons; when the whole scene in all its horror is before us, and our souls are filled with unutterable anguish, that we confess how difficult, how absolutely impossible, it is for us to follow this savage example. And just in proportion as the treatment of our prisoners transcends the usages of civilized society, must the example be rejected. Such is the law which you cannot disobey.

Do not, I pray you, consider me indifferent to the condition of those unhappy prisoners. I do not yield to the committee or to any Senator in ardor or anxiety for their protection. Whatever can be done I am ready to do. But, as American citizens, they have an interest that we should do nothing by which our country shall forfeit that great place which belongs to it in the vanguard of the nations. It cannot be best for them that our country should do an unworthy thing. It cannot be best for them that our national destiny should be thus darkened. Duties are in proportion to destinies, and from the very heights of our example I argue again that we cannot allow ourselves, under any passing passion or resentment, to stoop to a policy which history must condemn. There is not a patriot soldier who would not say, "Let me suffer, but save my country."

Mr. President, it is with pain that I differ from valued friends on this occasion, whose friendship is among the treasures of my life. But I cannot help it. I cannot do otherwise. It is long since I first raised my voice in this Chamber against the "barbarism of slavery," and I have never ceased to denounce it in season and out of season. But the rebellion is nothing but that very barbarism armed for battle. Plainly it is our duty to overcome it; not to imitate it. And here I stand.

Mr. HALE. Mr. President, I was pleased and instructed by the reference which the honorable Senator from Massachusetts, who has just

taken his seat, made to the incident he related of Mr. Fox, who said he had got so altered that his oldest creditors would not know him. I think something like that has occurred to this resolution; but notwithstanding the fact that it has been so altered, and that about everything which was exceptionable in it has been stricken out, still the Senator from Massachusetts cannot see it except as it was before any alteration was made; and the beautiful philippic that he has delivered against "retaliation in kind" is delivered against a kind of resolution that has got nothing of the kind in it, [laughter,] because all that has been stricken out by the motion of the honorable Senator from Ohio.

That is enough on that part of the case; but there is one branch of this subject which has been alluded to by two Senators who have addressed the Senate, one the honorable Senator from Kentucky, [Mr. DAVIS,] in very bold and explicit terms, as he always does—whatever he does say he says plainly and boldly—and the other the honorable Senator from Maryland, [Mr. JOHNSON,] who, if I understood him, though I have not his remarks before me, was not quite so explicit, but I think he had the same sentiments, to which I desire to refer for a few moments.

I would have been glad if the honorable Senator from Kentucky could have discussed this subject of the barbarity of the rebels to our prisoners without going out of the way to make his philippic equally severe against his own Government; for all the thunders which he denounces against the rebellion and against the rebels he says should be visited with equal force upon our own Government. Perhaps it was too much to expect the Senator from Kentucky at this time of life and of his senatorial experience to begin to make a speech which did not have that essential ingredient of denunciation of the President in it. The Senator has said, and well said, that the laws of war and the laws of retaliation have been very much ameliorated. That is true; but I think in the speech he made he gave evidence that the laws of forensic debate in this body have been exceedingly ameliorated, more so than the laws in relation to war, or in relation to retaliation. When I heard the Senator from Kentucky larding and illustrating his speech with high-wrought eulogium on the Senator from Massachusetts, [Mr. SUMNER,] I said "There is a change here also not less remarkable than the change in regard to war and in regard to retaliation." [Laughter.]

But, sir, I will return to the point upon which I rose to address a few words to the Senate, and that was a remark made by the Senators from Kentucky and Maryland; and if I do them injustice I am willing to be corrected. The Senator from Kentucky, if I understood him, I will not undertake to give his words, but the idea, said, in substance, that if the only obstruction to the exchange of prisoners grows out of a refusal on the part of the rebels to exchange colored prisoners, the exchange ought to go on nevertheless, and the colored prisoners left in prison or in confinement; and I understood the Senator from Maryland to make substantially the same averment: that if the treatment of our colored prisoners was the only obstacle in the way of these exchanges, they ought to be left in prison. Against that sentiment I wish—

Mr. DAVIS. Will the honorable Senator allow me to explain my position?

Mr. HALE. I think I have stated the Senator's position in substance.

Mr. DAVIS. Oh, no; that was not my position.

Mr. HALE. I will hear the Senator.

Mr. DAVIS. The honorable Senator did not state me exactly right. My position was this: that if any class of Union prisoners, without regard to color, could be exchanged by our Government, it was the duty of our Government to make the exchange, and not to permit the fact that another class of prisoners cannot be exchanged to be an obstacle to the exchange of those who can be exchanged, and that without regard to color.

Mr. HALE. That is a modified statement of the position, but the sentiment is the same. That sentiment, that opinion, and that position I deny utterly. If this Government, having called to its defense this most defenseless class, a class who are without rights, without the right to protect themselves or the right to seek protection under a

Government of law—if this Government, in this gigantic struggle for its existence, has called upon that defenseless portion of its people to come into the ranks and fight its battles, if there is one duty on earth binding above all other duties upon this Government, it is to see that every protection consistent with the state of war and the laws of war and the rights of war are extended to that defenseless portion of our soldiery. Sir, look at them. What are they? The highest judicial tribunal of the land has said they were a class with no rights that white men were bound to respect; they were the outcasts and the down-trodden of earth; the common rights of humanity denied to them; holden, instead of being considered as men, like beasts of burden, and sold like them on the auction block. This country, in its hour of necessity and emergency, has called upon these men, and they have come forward; and the testimony of all your officers is that they have fought with a courage, a heroism, a bravery, and a devotion unsurpassed by any of your soldiers. The proposition that if they be captured and held by the rebels as prisoners they may be neglected and overlooked in any contingency is to my mind monstrous, and would stamp this Government before all posterity and all time as guilty of the most infamous position they could take. When you called a black man into your Army, when you gave him your uniform and made him a soldier, he became a soldier to all intents and purposes; and if there is one class more than another that has a right in the hour of its distress to appeal to the Government for protection, it is that most helpless and most defenseless class that you have put into your Army. I say that if the Government, in its negotiations for exchanges, consents to the shadow of a shade of difference that shall operate to the disadvantage of the colored soldier, they are treacherous to the highest trusts that have been confided to them, and false and recreant to the first principles of duty which the position of these men imposes upon the Government.

I desire to make these remarks in order that this sentiment might not go out unchallenged before the country. I repeat again that in proportion to their defenseless position they have the higher claim upon the Government. What is the history of it? We began this war without their help. We were disposed to ignore them. We treated them in the manner in which the public policy of the General Government had treated them. But, sir, the God of nations and the God of justice taught us a terrible lesson. We were slow to learn it, but we learned it at last. We learned that in this gigantic strife it was necessary to our final success, to secure the blessing of the God of nations, that we should use for our defense in this struggle this very class of our population. We have called on them; we have called them into our service by hundreds and thousands, and by our legislation we are inviting them there again, and our armies in a great measure are filled up with them. What will be the effect, what will be the consequence, if it be proclaimed to-day that the Government of the United States have adopted a policy which looks to the exchange of their white prisoners, leaving the black prisoners to their fate?

Mr. HOWARD. If my respected friend from New Hampshire will permit me, I will put him one question connected with this matter. It has been often remarked in this body that the rebel authorities will never consent to the exchange of the Union black prisoners in their own hands for their own prisoners taken by us. Suppose the rebel Government should absolutely refuse to recognize the right of the black prisoner to be treated as a prisoner of war, and therefore to be exchanged; suppose they persistently refuse to include the black man in the cartel of exchange in any form whatever, and insist upon holding him in perpetual captivity both as a prisoner of war and as a slave, as they intend to do according to our best information; I ask my friend from New Hampshire now in what way he will enforce that rule of war by which a captor is bound to surrender up his captive at the end of the war. How are we to get possession of these Union prisoners who have a black skin unless it be by a direct retaliation in kind upon rebel prisoners in our hands? How are we to recover them except by retaining in captivity the rebels who are in our hands as prisoners of war? What other way is there to get them

except by retaliation in kind or by a generous ransom to be paid in money or cotton, or some other mode? That brings us back at once to the consideration of the question of the propriety of resorting to retaliatory measures in kind.

Mr. HALE. I do not see that that question is exactly pertinent to the train of argument I was pursuing. I have always thought much of the wisdom of the answer that used to be given by a magistrate whom I used to practice before when I practiced law in my early days. If there was any fine-spun question raised which he did not see had a pertinent bearing to the issue, he would say, "Stop a moment; I am not going to spend my judgment on that now." [Laughter.]

Mr. HOWARD. It is one you have got to meet, and that soon.

Mr. HALE. Well, sir, I will put a parallel case: if the rebels refuse to treat captive colored men as prisoners, and the Government knows it, and yet the Government invites colored persons to enlist in the Army and go out and fight its battles, and puts them in a position where they are liable to be taken prisoners; I say, if this Government abandons them to their fate, without putting forth every energy at its command for their salvation as its first duty, the Government is infamous before the nations.

Mr. HOWARD. I say amen to that.

Mr. HALE. Then we agree upon that. That is what I say; that is the point upon which I stand; it is the only thing upon which I rose to say anything. I repeat, by taking these men into our ranks, clothing them with our uniform, making them soldiers, putting them in a condition where they are liable to be taken prisoners, we are bound by every consideration of honor and of humanity to stand by them, not to leave them for a moment, but to put forth all the energy and power we can possibly do to save them. It was for the purpose of saying this I rose, and having said it, I leave the subject.

Mr. JOHNSON. The honorable member from New Hampshire, I am sure, has no purpose to misrepresent me in anything I have said on this or any other occasion, but although he may have no purpose to misrepresent me, if he will see that he has misunderstood me he will be satisfied that he has practically misrepresented me.

What I said was that it was our duty to effect an exchange to every extent to which we could accomplish it; that if one of the difficulties of making that exchange coextensive with the necessity of the entire case, so as to embrace all the prisoners that the rebels may have in their hands, was their refusal to exchange that portion of such prisoners as belonged to the African race, it was incumbent upon the Government to exchange so many of their prisoners for so many of ours as could be accomplished, retaining in our hands as many of their prisoners, man for man, as would equal in number those of the black prisoners of ours in their hands, not to abandon them to the mercies of the rebels, but not to make that difficulty such an impediment that we will abandon our obligation to our white soldiers.

I put it to the Senator from New Hampshire whether, if this state of things shall exist, he would be willing that there should be no exchanges. We have of their prisoners, say thirty thousand; they have of ours thirty thousand; and of that thirty thousand ten thousand are colored soldiers. They are willing to exchange the twenty thousand that they have of white soldiers for the twenty thousand that we have of their white soldiers; but the United States say, No; we will do no such thing; we will leave in rebel imprisonment, subject to all the cruelties to which they are subjected, the entire white soldiery of the United States, because we are unable to get back more than a portion of our soldiers, the rebels having decided, or being supposed to have determined, that they would not release any of their black prisoners. Does the honorable member say that would be right? He feels for the black soldier not more strongly than I do. I have said before, upon this floor, at the last session, and, I believe, at the present session, that I would go as far as any Senator in protecting any black man who might be enlisted into the service of the United States, and shouldered his musket to protect the rights of the United States; but while I feel all the sympathy and all the obligation consequent upon the extent of that proper sympathy to the black pris-



oner, I cannot forget that there is sympathy due to the white soldier, and an obligation growing out of that sentiment.

Let me suppose the case to be now as it was at one time as proved by the testimony before us: starvation is going on; cruelty of every description is going on; our white men are dying in consequence of that treatment; they are dying by the scores; and those who have not been relieved from suffering are sustaining a punishment a great deal worse than death; an appeal is now made to the honorable member from Ohio, who has tens of thousands of white soldiers from New Hampshire in those prisons thus being tortured, and he is told, "You can get them out if you will give in exchange for them ten thousand white men; but we have ten thousand black men whom we will not exchange; we think they are not entitled to the privileges due to a state of war, to prisoners; they are not prisoners according to our view; they are slaves; and we will not extend to them the doctrine of exchange;" would he suffer his ten thousand New Hampshire white men to lie in prison until they died because he could not get a proportion of blacks? Would he not say, "I am willing to exchange, my object being to get an entire exchange, but failing in that I am willing to exchange man for man; I say that the black soldier is as much a soldier as the white man, and I will hold on to the prisoners that I have in my hands sufficient to meet the number of black soldiers that you may have in your hands?" But if they are willing to exchange the rest would he refuse it? Could he face his own people and refuse it upon the ground that those poor black men are more defenseless than the white men? In that situation the white man is as defenseless as the black; they have alike fallen into the hands of the barbarians; they are subjected to all the tortures known only to a savage nature. You can relieve a part, but you refuse it upon the ground that you cannot relieve all. I submit—and I am perfectly willing that the judgment of the country shall be pronounced upon that; I am perfectly willing that the judgment of the white soldiers and the black soldiers shall be pronounced upon that—I submit to the honorable member from New Hampshire whether the duty is not an imperative one to rescue from the thrall-dom in which the white soldier is, as many of them as it is possible to rescue, keeping in our hands as many as can be made to answer for the refusal to exchange the black soldiers.

Wedded as the honorable member is (and I am far from blaming him) in attachment to the black, in a disposition to place him in all respects on the same footing with the white, perhaps socially for aught I know, but, politically, in the eye of the law to give him all the rights to which the white man is entitled, I suppose he has not gone to the extent of saying that he is entitled to more rights; that he will punish the white without necessity in order to prevent the black from being punished. Let me reverse it, and what would be his answer? If I understand him he wants the black man out. Suppose the rebels say, "We will let him out, but we will not exchange the white man; our antipathy to the white race of the North is so great that him I will hold, him I will starve, but you may have the black soldier," would the honorable member be for taking the black soldier out and leaving the white man to suffer? I presume he would. I think his heart would tell him that he should. If he would pursue that course in a case of that description, why is it that he will not obtain the release of the white man because the rebels refuse to exchange the black man? The obligation in each case is precisely alike, as I submit to the honorable member.

Mr. DAVIS. The honorable Senator from Maryland has stated very distinctly the position which I have always occupied in relation to this question. I frankly admit that if negro captives and white captives belonging to the Army of the United States are in rebel prisons I feel a deeper and stronger sympathy for the white prisoners than I do for the negroes, because I feel more affinity and more interest to and for the white race than I do for the black. It is my race. I make this avowal: that if there were ten thousand negro soldiers and ten thousand white captive soldiers in the rebel prisons, and I had the option to save one prisoner, he should be a white prisoner; if I had the power to save half of the whole twenty

thousand, none of the white prisoners should perish. I would endeavor to save the negro prisoners also, but not until the deliverance of the whites was accomplished. Whenever and wherever either the white or negro races are to be destroyed, and I can save either one and not the other, all my instincts would impel me to rescue the white. Other men might make a different election.

But upon this question of negro prisoners I have always distinctly avowed, even as long ago as December, 1863, the position that, when a negro is admitted by the United States Government into its armies, it is the duty of that Government to do everything it can for the protection and preservation of the negro soldier, whether he be at the time serving in the ranks of our armies, or languishing in the prisons of our enemies; and I make the same declaration now. But here was the point which I endeavored to make yesterday and the day before, and which I made distinctly in the Senate in December, 1863. The Secretary of War, in his annual report of that year, portrayed the condition of things in Libby prison, and he then brought to the attention of Congress and to the nation the very condition, to some very considerable extent, of our prisoners that has been portrayed in the report read by the honorable Senator from Michigan; that our prisoners there were in want, that they were insufficiently fed; that they were not sufficiently clothed or housed; that from the scarcity of food and disease consequent upon it, and the want of medical attention, and exposure, they were perishing; and that report, which I now have before me, admits in effect that our Government was not prosecuting this work of exchanging prisoners, and the reason was, as I understand the statement of the Secretary, because the rebels had refused to exchange colored troops and their officers for white rebel soldiers who were prisoners. My position was that if the authorities of the United States had the overture, the option, the opportunity to exchange white Union soldiers who are in rebel prisons suffering such tortures, and dying rapidly from day to day, and refused to make the exchange because the rebel authorities would not exchange the negro prisoners they held for them, our Government, in that respect, was delinquent, and it was little less delinquent and horribly delinquent than the rebel authorities who thus doomed our unfortunate and brave soldiers to such a dreadful fate as death by starvation. I maintain that position now. I have maintained it ever. It is the dictate of my reason and of my heart, and I boldly advocate it here and now, as I did fourteen months since.

Now, Mr. President, what was and is my complaint? I called the attention of the Senate to it by a resolution offered in December, 1863, asking the War Office for all the correspondence between the two Governments and their authorities on the subject of the exchange of prisoners; and that correspondence was in a few weeks after the adoption of the resolution sent to the Senate. I propose to read some extracts from it. But, sir, that was the apt time for the interposition of Congress, for the operation of deep and humane and stirring sympathies, for the eloquent denunciation of rebel cruelty with which this Chamber has responded for the last three or four days. Why was not the Executive and the Secretary of War and the nation then invoked to come to the contemplation of this subject, and to act upon it as duty, justice, and humanity demanded—to take action that would avert the continuance of the inhuman wrongs that were being done to our gallant but unfortunate soldiers in rebel prisons?

The honorable Senator from Wisconsin [Mr. Howe] and myself differ upon one point. I maintained that the authorities of the United States had opportunities, had overtures, had offers to them by the rebel authorities to exchange the white prisoners who were privates, man for man, for their soldiers captured and held by the United States. My honorable friend controverts that position. I am here with a little authority contained in this report of the War Office to sustain, yea, to maintain it. I here avow that my sentiment and judgment in relation to this matter is this, and I will state it in terms so distinct that gentlemen cannot misunderstand me—I stated it as distinctly in December, 1863—that, if the authorities of the United States had or could make the opportunity of having all the negro soldiers

exchanged, and the rebels refused to exchange the white soldiers belonging to the United States Army who were in rebel prisons, it was the duty of our authorities to agree to such exchange, limited as it would be to our negro soldiers.

I also made the converse proposition, that if our authorities had or could make the opportunity to exchange white Union soldiers held in rebel prisons, to the whole or to any extent whatever, it was their duty, not to the rebel government, but to the Union patriots who were languishing and dying in such horrible prisons, to make exchanges to the whole or any extent of their numbers, even though the rebel authorities refused absolutely to give in exchange negro soldiers and their officers, and would give only white men who had never had negro commands.

I will state the proposition in another form. Suppose that in all the rebel prisons there were thirty thousand soldiers in captivity; that one tenth of them were officers, and the other nine tenths private soldiers, and from any motive whatever the rebel authorities offered that they would exchange the private soldiers, but not the officers; I submit to gentlemen this question: after reasonable efforts made by our Government to induce the rebel authorities to exchange for officers as well as private soldiers, and after all these efforts had failed, if the option was still left to them to exchange for the private soldiers, nine tenths of our countrymen who were perishing from starvation and exposed to the wintry elements, would it not be the imperative duty of our authorities to exchange for these nine tenths? Or should they be left to the horrible fate of the other tenth because the rebels would not exchange for them? What claim of justice or humanity would such course satisfy? What alleviation of the horrid sufferings of the inevitably doomed one tenth would it be for their common Government to refuse to rescue nine times as many of their comrades from such a dreary death, because it could not force a cruel and inexorable foe to deliver up from it the other tenth? Misery is said to love company; but believe me, the noble and brave American soldier, if left himself to decide the point, would never invite his comrades to be company to such a havoc of death.

Now, I make a proposition another step in advance: that if a few hundred, or a few thousand, or any number of negro soldiers were in rebel prisons, and their officers also, if you please, and the rebel authorities were unwilling, upon some principle of right or policy, or from any cause whatever, to exchange those negro soldiers and their officers, but were willing and were to offer to exchange their other white prisoners, the authorities of the United States, after having exhausted all reasonable effort to obtain a full exchange, comprehending each class and the whole, when such an effort as that had failed, and the only choice left was to exchange for the white private soldiers and officers who had not commanded negroes or permit them all to remain and all to perish by starvation and exposure, it would be the duty, however painful, of our authorities to accept the proposition in the form in which the rebels had made it.

Now, Mr. President, let me read a little from the report of this correspondence between the United States and the confederacy, to show some of the propositions that were made and rejected by the parties in relation to the exchange of prisoners. I propose to show that the United States authorities had the option offered to them again and again to exchange for all the white private soldiers belonging to our Army held by the rebels in captivity, and that our authorities refused to accede to it. As long ago as January, 1863, what did Jefferson Davis, the president of the confederacy, say in his proclamation from which this difficulty about exchanging negroes first originated?

"The enlisted soldiers I shall continue to treat as unwilling instruments in the commission of these crimes, and shall direct their discharge and return to their homes on the proper and usual parole."

He did not even require an exchange for the common soldier, but whenever there were white men prisoners in the confederacy he here declares his purpose to treat them, even when they were stirring up slaves in the confederate States to uniting against their masters, and the government of their masters, as they contended as unwilling instruments, and to liberate them upon their proper

and usual parole, that they might return to their homes.

I will next read from a communication of Mr. Ould, dated War Department, Richmond, Virginia, July 26, 1863, to our commissioner for exchanges in which he, as the rebel commissioner, says:

"If, at this time, you have any officers of the rank I have declared exchanged, or of any other rank, or if you have any particular organization of privates or non-commissioned officers whom you wish exchanged, you have only to state such fact and your selection will be approved. If you hold the paroles of our officers of any rank, as you state, you have only to present them, and whatever is in our hands, whether on parole or in captivity, will be freely given in exchange for them."

Now, sir, here is the full, explicit, unreserved, unconditional promise of this commissioner of exchange that the authorities of the United States might make their own selection among all the private soldiers and officers held in captivity by the rebel armies or who were on their parole, that did not come within the particular interdiction of Jeff. Davis's proclamation; and that the whole of them should be exchanged for rebel soldiers who were held by the Union armies as captives. This proposition was not accepted by our authorities, but was treated by them with cold neglect.

Colonel Ludlow was relieved as United States agent for the exchange of prisoners, and that excellent gentleman, that intelligent citizen and soldier, that loyal and true man, General Meredith, of Indiana, whose acquaintance I have the pleasure and honor to enjoy, was appointed his successor. He went down to Fortress Monroe to enter upon this business, the exchange of prisoners. He says, in a communication to General Halleck, that his predecessor was reticent on the subject; I believe that is the phrase, "reticent;" I should have said "reserved," in my old-fashioned lingo. At any rate, he was not communicative, and General Meredith undertook the examination of his books, and he gathered from those books, which he says had been badly kept, what were the obstacles in the way of a free and full exchange, and in this letter to the General-in-Chief he stated them thus:

"From what I can gather in Colonel Ludlow's letter books, I suppose the following are points to be insisted upon:

"1. The immediate exchange of Colonel Streight and his command.

"2. An agreement that Dr. Green shall be held by the United States Government as a hostage for Dr. Rucker; other surgeons to be exchanged.

"3. That all officers commanding negro troops, and negro troops themselves, shall be treated as other prisoners of war, and exchanged in the same way."

There is the chief difficulty, stated in the most precise language. It was that the negro soldiers and their officers should be treated as other prisoners, and exchanged in the same way; and that it should be insisted upon by him as it had been by his predecessor.

This communication of General Meredith was dated August 7, 1863, and on the 12th of the same month General Halleck replied to it, and from his reply I read:

"In order, however, to avoid any difficulty on this point, General Meredith will be authorized to agree with Mr. Ould that all paroles given by officers and men on either side, between the 23d of May and the 3d of July, not in conformity with the stipulations of the cartel be regarded as null and void, a declaration to that effect being published to the armies of both belligerents.

"The other three points mentioned in General Meredith's letter of the 7th instant seem to be fully understood by him. The Government of the United States will, under no circumstances, yield to either of these points."

General Meredith was thus instructed by the General-in-Chief that he fully understood the three points, and that they formed an ultimatum, "that all officers of negro troops and negro troops themselves shall be treated as prisoners of war, and exchanged in the same way."

But that is not all on this point. Here is an extract from another letter from General Meredith to the War Department, dated Fortress Monroe, September 23, 1863:

"Mr. Ould made the following proposition: 'That all officers and men on both sides be released, unless there be actual charges against them. If officers or men are held on charges which their Government consider unjust, let one or more hostages be held for such. If there be charges against officers and men, and they are not tried on the same within a reasonable time, (to be agreed upon,) they are to be discharged.'

Now, sir, as to the great mass of white prisoners from our Army held in rebel prisons, here was a proposition for their immediate and uncon-

ditional release by exchange or upon parole, to be reciprocal between the parties. If this proposition had been accepted, more than nine tenths of our soldiers in captivity would then have gone free. But how was this proposition received by our authorities? General Hitchcock, who was the chief in control of the exchange of prisoners, in this city, wrote, in reply to that proposition of Mr. Ould, through General Meredith, as follows, on the 26th September, 1863:

"The proposition submitted as from Mr. Ould, in your letter of 23d instant, 'that all officers and men on both sides be released, unless there be actual charges against them,' &c., is not accepted. The effort to make a distinction between officers serving with different species of troops can receive no countenance whatever."

The proposition of the rebel commissioner was for the release of all officers and men on both sides against whom there were no charges. It was objected to by General Hitchcock for the single cause that it was an "effort to make a distinction between officers serving with different species of troops," and for that cause would receive no countenance whatever. The fair inference is that as to the men there was no objection, otherwise it would have been stated. Why, then, was it not agreed, or proposed by our authorities that the men should be mutually released? Because it was their settled purpose, *a sine qua non*, that men and officers should be exchanged together; that if the rebel authorities would detain the officers, the men too should stay and perish with them.

The rebel proposition was, "We will release all your officers and men against whom we have no charges of the commission of crime on condition that you will release ours against whom you have no charges held by you." This proposition was rejected by our authorities, and the torture of nine tenths of our brave and patriotic men, whom they might have delivered, they thus permitted to proceed to its dread consummation. In my judgment this was not only a mistake, not only injustice, but a shocking crime committed by our authorities.

Sir, we have heard in debate and we have seen from documents read here, that it was objected to exchanging these brave unfortunate men that already a great many of them were nearly starved to death; and if they were exchanged, healthy, vigorous rebels, ready to take up arms and do efficient service in the rebel cause, would be given for dying, starving Union patriots, many of whose terms of service were about to expire. Sir, such a consideration, instead of being a reason for denying the exchange, for delaying it, for protracting it, is among the strongest reasons that could address themselves to my mind and to my heart why we should have accepted the exchange with all the speed possible. If any portion of those men had apparently but a day to live, if they were physically capable of enduring their tortures but a single day, and that day could have been saved to the soldier, and given to his proper nursing and treatment to snatch him from a grave that was already apparently opening for him, haste should have been made to seize the opportunity lest it should be lost forever. Not only humanity, but patriotism and justice demanded this as the last hope to save the starving, dying patriot soldier, and to restore him to his home and his family.

Mr. HALE. I beg to interrupt the Senator to inquire if he would not rather have a whole day. If so I will move an adjournment.

Mr. DAVIS. The Senator is one of the most liberal gentlemen I know; but I believe I will give him the next day, or rather I think he and I can occupy the next day by advocating a committee to investigate the enormous and gigantic frauds and corruptions that have been perpetrated on this Government, and which he so eloquently portrayed this morning. Sir, I have come nearly to a conclusion. Here is what General Meredith said again in a letter to the War Department:

"In reply to my demand for the release of Colonel Streight and his command, I was informed that they were in Richmond held as other prisoners of war, and will be exchanged when exchanges of officers are resumed. In relation to Dr. Rucker, Mr. Ould referred me to his letter of August 16, which I have the honor to forward herewith."

"To my demand 'that all officers commanding negro troops, and negro troops themselves, should be treated as other prisoners of war, and be exchanged as such,' Mr. Ould declined acceding, remarking that they (the rebels) would 'die in the last ditch' before giving up the right to send slaves back to slavery as property recaptured, but that they were willing to make exceptions in the case of free blacks."

Thus it appears they were willing to yield for exchange all the white private soldiers, all free negro soldiers, but they would die in the last ditch before they would give in exchange negroes who by the constitution and laws of their States were the property of their own people. They insisted, as they ought with their views to have insisted, upon their right and obligation to the people of their own States, and of their own confederacy, whenever negro property came into the hands of their military authorities that belonged to their citizens by the constitution and laws of Virginia, and the other confederate States, that it was their duty to return that property back to its owners.

"He could not exactly tell me how his authorities intended to distinguish between the two, (free and slave,) but presumed that evidence as to the fact of freedom would be taken into consideration. As their laws put slave and free upon the same footing, no comment is necessary."

Furthermore:

"An informal proposition was made to the following effect: 'To exchange officer for officer of the same grade, except such as are in command of negro troops,' which was declined."

The rebel authorities there made a proposition with three branches. First, that all the white private soldiers on both sides should be exchanged; second, that all the free negroes who were free at the time they entered the Army, and whose freedom would be subject of proof, should be exchanged; and then the further proposition to exchange officer for officer of the same grade, except such as were in command of negro troops; and this proposition was declined, inflexibly and unconditionally declined, by our authorities. That reduced the whole matter to this point: they retained the negroes who were the property of people living in the confederate States to surrender them to their owners. They were induced to do that because the constitution and laws of those States gave to those owners a right to that property, and their own men in authority had that property in possession, and therefore it was their duty to yield it up to its owners. They then made a proposition to exchange officer for officer, retaining only those who commanded negro troops, and a further proposition that those officers should be tried—I do not know whether by a military court or not, but I hope not. God deliver the civilian from a military court. If I was the monarch of this land a little while, there is not a man who has ordered a civilian to be tried by a military court, and there is not a military man who has acted as judge advocate of such court, or has been a member of such a court, and has pronounced judgment in violation of the plain letter of the Constitution, and of the liberty it guarantees to the citizen, that I would not bring to instant and condign punishment by hanging him as high as Haman.

Mr. HOWARD. Without trial?

Mr. DAVIS. No, sir; I would try him by the civil courts, I would try him by a jury of his peers. He should not be condemned and executed unless he was condemned according to the course of the common law recognized by our Constitution and fought for by our fathers throughout the revolutionary war. Never, sir, should any man, except one in the naval or military service of the United States, be tried or punished in any other way than by a fair trial by a jury of his peers according to the course of the common law.

Mr. HOWARD. If the Senator will allow me—

Mr. DAVIS. I shall be done in a minute, and then you shall have all the time after me.

Several SENATORS. Let us adjourn.

Mr. HOWARD. I do not rise for the purpose of moving an adjournment, but I am not perfectly sure that I understand the Senator from Kentucky.

Mr. DAVIS. Well, sir.

Mr. HOWARD. The Senator has plunged in *medias res*. I am extremely anxious to comprehend him.

Mr. DAVIS. I will endeavor to make myself comprehensible.

Mr. HOWARD. If the Senator from Kentucky will pardon me, I should like to be enlightened on this point: whether, if he was the omnipotent magistrate that he speaks of, he would permit his officers who had been in the command of negro troops, and who had fallen into the hands of the enemy as prisoners of war, to be tried by

their captors for the crime of having commanded his black troops? This is the question upon which I wish his opinion. He rather shied the main point.

Mr. DAVIS. I will give you a categorical answer if you will just allow me the opportunity.

Mr. HOWARD. That is what I want, a categorical answer.

Mr. DAVIS. I would not.

Mr. HOWARD. I thought not.

Mr. DAVIS. I would not; but I would say this, that if my effort to defeat such a trial as that could not prevail, I would never consent that the failure of my effort to defeat such a trial should prevent me from agreeing to the exchange of every private soldier held in rebel captivity. And I say that an officer or a Government or an authority that would make the failure of the attempt to defeat such a trial the reason for holding thirty thousand Union patriots in starving rebel prisons and bringing them to an inevitable, lingering, horrible death, would deserve the same fate as the unfortunate soldiery that were thus suffering, and I wish I could make this exchange; I wish I could send those men who prevented our gallant soldiers from deliverance from such a dungeon to all the horrors and to the inevitable fate of that dungeon.

"Mr. Ould expresses a willingness to release all chaplains. I have given, I believe, the substance of all that took place. According to your instructions, I avoid much discussion. No agreement was made."

That is what General Meredith announced. To all these liberal propositions, if I may use the term, and I do—they would not be liberal in relation to a Christian and humane nation, but they were liberal when compared with the course of the rebels—there was one cold, inexorable, absolute denial, when if this assent had been given, one of the greatest jubilees that was ever seen upon earth, at least in this quarter of the globe, would have been exhibited by thirty thousand starving, emaciated, wasting, doomed prisoners marching forth from their horrible dungeons and exchanging them for all the comforts and blessings of home.

I do not want any man given up, yielded, to such a fate, and I say that it was the duty of our Government to contend for the exchange of the negro soldier, and it was the duty of our Government to contend for the exchange of Colonel Streight, and it was the duty of our Government to contend, and to contend persistently and resolutely, for the exchange of every man who has rendered service in our armies. My position is simply that when such an effort has been made and has failed, it is the duty of the Government then to suspend the fate and the question in relation to the disputed cases, and to give exchange and freedom to all that the rebel authorities are willing to exchange.

It was not only the duty of the Government to have accepted the overture but to have offered the proposition. I make the case stronger, and say that when our military authorities saw that the negro soldiers and the officers of negro soldiers were in the way of the exchange and liberty of thirty thousand other soldiers who did not come within that category, it was the duty of our Government to have said to the rebel authorities, "Let us hold up and suspend the question and the fate of the negro soldiers and their officers; let their fate no longer interfere with, let it not defeat or defer the liberties of those against whom no such objection exists; but we exhort you, we demand of you in the cause of humanity, by the sacred rights of all manhood, to consent to the exchange of every private soldier and every free negro and every single man who does not come within the reason of your difficulty."

I say, sir, that it was the duty of our Government not only to have accepted the opportunity, but to have made the opportunity, to have urged it, to have offered the proposition, and by every force of reason and appeal to heart, to soul, and to humanity, and by every other proper force that can operate upon human nature, to have enforced such an offer; not only to have availed itself of this action of the other side, but to have offered it; and it is for that reason that I condemned fourteen months ago, that I condemn now, and expect to condemn to the day of my death, a barbarous, inhuman, cold, calculating, politician-like policy of our Government, the men whom these brave martyrs had put in power.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The question is on recommending the joint resolution and all pending and proposed amendments to the Committee on Military Affairs.

Mr. WILKINSON. I move that the Senate do now adjourn.

Mr. WADE. I hope not.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, January 28, 1865.

The House met at twelve o'clock, m. Prayer by Rev. J. ALLEN MAXWELL, of South Orange, New Jersey.

The Journal of yesterday was read and approved. The SPEAKER. By the order of the House yesterday this day was set apart by unanimous consent for debate on the constitutional amendment, and no other business can be transacted. The Chair, however, does not suppose that that order was meant to preclude the receiving of reports from the Committee on Enrolled Bills, as it is necessary for the bills to be sent to the Senate.

### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 94) for the relief of Isaac R. Diller;

An act (H. R. No. 394) for the relief of Mary Scales Accardi.

An act (H. R. No. 622) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company, in the District of Columbia," approved July 1, 1864;

Joint resolution (H. R. No. 99) reserving mineral lands from the operation of all acts passed at the first session of the Thirty-Eighth Congress granting lands or extending the time of former grants; and

An act (S. No. 363) to amend the charter of the Washington Gas-Light Company.

### SERVICE ON COMMITTEE.

Mr. BROWN, of Wisconsin. I rise to a privileged question. Some days ago I was appointed on a committee of investigation. I have delayed asking to be excused, because I really hoped that I should be able to attend to the duty. But I have so many things accumulating on my hands in consequence of sickness for two weeks during this session, that I find it impossible to act on that committee, at any rate to act properly. I therefore ask to be excused.

The SPEAKER. The Chair thinks that question must be reserved until after the morning hour on Monday next, as it requires a vote of the House. If the gentleman will call the attention of the Chair to it after the morning hour on Monday next, his request will be submitted to the House.

### ABOLITION OF SLAVERY.

The House then proceeded to the consideration of the motion to reconsider the vote by which the House, at its last session, rejected the joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States so as to prohibit slavery in the several States; upon which Mr. Brown, of Wisconsin, was entitled to the floor.

Mr. BROWN, of Wisconsin. When I obtained the floor upon the close of the debate when this subject was last under consideration, it was with the expectation of opening the discussion on Tuesday next, to which day this subject had been postponed. I desire to ask unanimous consent that I be allowed to follow the speaker who may close the discussion to-day, and be entitled to the floor when the consideration of this subject shall be resumed on Tuesday next.

The SPEAKER. The gentleman from Wisconsin [Mr. Brown] asks permission to waive his right to the floor to-day, and that he shall be considered entitled to it on Tuesday next. Is there any objection?

Mr. ASHLEY. How long will the gentleman desire on Tuesday?

Mr. BROWN. Probably not more than fifteen or twenty minutes.

Mr. ASHLEY. I have no objection to the gentleman having twenty or twenty-five minutes on Tuesday, instead of addressing the House to-day.

Mr. BROWN, of Wisconsin. I shall not occupy more time than that.

Mr. STILES. I would ask the gentleman from Ohio, [Mr. ASHLEY,] if he proposes to press the question to a vote on Tuesday next.

Mr. ASHLEY. That is my present intention.

Mr. HIGBY. I had supposed that I should immediately follow the gentleman from Wisconsin [Mr. Brown] in this debate. That was one reason why, on the day that he obtained the floor, I moved the adjournment; in order that he might have a full opportunity to be heard when the question should come up again, and that I might immediately follow him. But he has obtained leave, by unanimous consent, to speak on Tuesday next, the day when the question is to come up again.

Mr. STEVENS. When was that unanimous consent granted?

Mr. HIGBY. Just a few moments ago.

Mr. STEVENS. I was not present when that was done, or I should have objected. I would ask if that unanimous consent could properly be given to-day, or if anything can be done to-day but speaking.

The SPEAKER. The Chair would have doubted that the arrangement could properly be made, had any gentleman objected. But it was a mere question as to the time when the gentleman should speak, he being already entitled to the floor. Still the arrangement required unanimous consent.

Mr. STEVENS. I had supposed that the vote was to be taken on Tuesday next. I must object to any speaking that will carry the subject beyond that day.

Mr. ASHLEY. I do not think we should disregard the agreement of the House that the gentleman from Wisconsin [Mr. Brown] shall be allowed to occupy twenty minutes on next Tuesday. I understand that is all the time he desires.

The SPEAKER. Although no entry will be made on the Journal, the Chair will feel bound to recognize the gentleman from Wisconsin [Mr. Brown] as entitled to the floor, if he claims it on Tuesday next, after the one who shall have obtained it at the time of the adjournment to-day shall have concluded his remarks.

Mr. HIGBY. Mr. Speaker, amid the long debate that has occurred upon this question, not only at the last session but also at this session, three classes of objections principally have been raised upon the other side of the House. One of them is that the Constitution of the United States contains no provision by which we can make an amendment of the character proposed in the resolution now before the House; another, joined with the objection I have just named, is that it is inexpedient at this time to make this amendment; and the third objection is, that slavery is the true condition of the African race.

Mr. Speaker, objections of this kind are the only ones which at this time men could possibly raise to the passage of this resolution. The first of these statements savors of the argument which has been used for scores of years, that the States were complete sovereignties when they organized the General Government. The proposition is very simple, very direct. It is a matter of fact in history that the States never were separate and independent. As dependent colonies, they united together for the purpose of gaining their independence and securing a separation from the mother country. They were dependent colonies at that time, but through their union and their united action independence was obtained. And having obtained their independence, the very first action on their part was to establish a constitution for a General Government over all.

They established a Government under the Articles of Confederation, which, for the sake of distinction from the present Constitution, I will designate as the former Constitution. When they had established that Government, there was no State government that could exist for any time except by virtue of the Confederation. When they had continued under that form of government until they found that it would not accomplish its ends and objects, they established the present Con-



stitution; and it was established for the purpose of common defense, for the purpose of giving to the States under that General Government such local powers as the General Government saw fit to give; and they could not exist as separate and independent States except by virtue of the General Government which the people established. Under that Government, the States could have no separate, independent sovereignty.

Now, sir, two of the Articles of Confederation explain the object of the establishment of that form of government. The third article contains virtually the preamble; it declares the objects and the purposes of establishing that Constitution. It reads thus:

"The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them or any of them, on account of religion, sovereignty, trade, or any other pretense whatever."

In this article is embraced a declaration of the objects and purposes for which this Government was established; and it was under this as the Government of the United States that each State had whatever local government it could possess secured to it.

But, sir, in order to understand the full object and intent of that form of government, it is necessary to read the last or thirteenth article:

"Every State shall abide by the determination of the United States in Congress assembled on all questions which by this Confederation is submitted to them; and the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the Legislatures of every State."

It will be observed, Mr. Speaker, that this article corresponds with one portion of what we find in the preamble of the present Constitution:

"The Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual."

Now, sir, the third article which I have read and this last one embrace all the objects and purposes for which this first Constitution was established, "for their common defense, the security of their liberties," and to make a Union that should be perpetual.

This instrument was used for a few years as the one through which the General Government was operated. But, sir, it was found to be weak and imbecile; it was found that there was not power enough at the center, and that the vitality at the extremities was so great that the danger was the breaking up of the Union and the defeat of the objects for which the Government was organized. A convention was called, delegates being sent from various States of the Union; and the result of the work of that convention was to give us the present Constitution under which we are operating our Government. Now, sir, let us see how long the rule which was prescribed for the amendment of the Articles of Confederation was regarded by the men who established that form of government when it had been found that it did not secure the great objects for which it was created, and how long a constitution was allowed to stand in the way of preserving the Union and securing the liberties of the people.

The result of that convention was the Constitution which we now have, with the exception of the twelve articles which have since been added as amendments. What is very singular, is that the last article of the present Constitution reads thus:

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

That article of the Constitution is in complete violation of the last article of the first Constitution, which required that any amendment should be sanctioned by every State in the Union before it became a part of the Constitution; but under this article of the present Constitution, when nine States had ratified it, it should be established as the Government of those nine States.

What was the object of establishing this new Constitution? Now, sir, there is something a little singular, something marked, something that is worthy of attention, that had reference to the Articles of Confederation. The States united in making them, while the preamble to the present Constitution declares that—

"We, the people of the United States, in order to form

a more perfect union, &c., do ordain and establish this Constitution for the United States of America."

The Articles of Confederation declared that the Union should be perpetual, but when they who established it found that it would not answer, they framed another Constitution, and announced their purpose in the preamble. The preamble declared that "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." It was to establish a more perfect union than the original one. The Articles of Confederation could not stand in the way of the accomplishment of these declared purposes. The old frame of government was swept away, and another was substituted in its place. That was in entire violation of the original instrument. The liberties of the people made it necessary, and the matter could not be referred to the people except by pursuing such a course.

It is said, sir, in this House that the Constitution cannot be amended in the manner proposed in this resolution and in regard to the subject-matter embraced, notwithstanding the Constitution provides the mode and method by which it may be amended. There is but one method provided for amendment. It is the mode attempted by this joint resolution. The Constitution provides that a two-thirds vote of both branches of Congress shall be required to pass a proposition for amendment; and it is further provided that it must be ratified by the Legislatures of three-fourths of the States before it shall become a part of the Constitution of the United States. It is the method now adopted in the proposed amendment.

I lay down this proposition, sir, that when the States ratified the Constitution they yielded and subscribed to all the provisions of that instrument, among which provisions is the method by which the Constitution could be amended. What does a State subscribe to when it ratifies the Constitution? It subscribes to the objects and purposes declared in the preamble. It subscribes to what is contained in the first article. It subscribes to every article in that instrument, and among others it subscribes to the one which provides for an amendment to the Constitution. There is no exception. I say that whenever the States finally ratified the Constitution they subscribed to the provision by which that Constitution could be amended.

But, sir, the objection is raised that certain articles of the Constitution prescribe the powers that are granted to the General Government and the rights reserved to the States, and which are not granted to the General Government. I ask the gentlemen who raise this objection where in the Constitution they find it. They do not find it anywhere in the first seven articles of the Constitution adopted by the Convention and ratified by the States. They do not find it there, but they say that we will find it among the amendments. I turn to them and find certain rights are reserved—articles nine and ten are the ones they refer to.

Article nine provides that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people;" and article ten provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Here is where they find ground for their argument. Mr. Speaker, until these amendments were added to the Constitution there were no rights reserved to the States. I do not think that will be disputed.

Now, sir, where did these amendments originate? If they have not come to the Constitution by virtue of this power of amendment they do not belong to it. If any rights have been reserved to the States they have been reserved by these express words of the Constitution, and these express words are given to the Constitution by a two-thirds vote of the House and Senate, and by the ratification of the Legislatures of three-fourths of the States, and these are simple amendments of the Constitution by the method which the Constitution proposes, and by pursuing precisely the same process we are trying to pursue in order to make this amendment.

Again, sir, is it pretended that anywhere in the Constitution it has been expressed that it requires the assent of every State to an amendment, or that we are required to pursue any other course than the one that is prescribed and expressed? These amendments have been made by this same process; and in those amendments it is not declared that to take away any one of these rights will require the assent of every State of the Union. These amendments have not attempted to amend that portion of the Constitution which instructs us how amendments shall be made, but simply express and declare the reservation of those rights to the States or peoples of the States not enumerated in the powers granted; and, sir, whatever a two-thirds vote in Congress has proposed, and the ratification of the Legislatures of three-fourths of the States have added to the Constitution, a two-thirds vote of Congress and a ratification of three-fourths of the States can take away. And will it be pretended that there is not the same power, and by precisely the same process, to remove from the Constitution articles nine and ten?

And if that be true it is in the power of Congress and of these States, by precisely the same process, indirectly to reach any question which might be the annihilation of any portion of the Constitution, under the same process. I will, Mr. Speaker, suppose for a moment, for the sake of argument, that we have no power under the Constitution to propose in this body, to be ratified by three-fourths of the States, an amendment taking from the States any one of the rights reserved. I suppose that for the sake of the argument, and for the purpose of presenting another point, and under that supposition I will submit to members this question: what are rights reserved? The preamble of the Constitution declares certain purposes for which the Government is established. The States and the people of the States have given in their adhesion to that instrument, and they have united together for that purpose. Now, sir, what are rights reserved? Are they rights to establish institutions or to do anything by their local governments that should destroy the force and effect of the powers granted? Or are the rights reserved those only which would aid to carry out the objects and purposes of the General Government itself? Why, sir, the commander of an army who divides his forces and sends a portion of them against the enemy does not keep his reserves back to war against those he has sent in advance. They all go to the aid and support of the portion sent in advance provided the enemy is too much for those in front, and when the commander, with practiced eye, observes that it is necessary for the reserves to go forward, they go forward to the same kind of work that those are engaged in advance. Those in advance and the reserve both cower and do battle together for one common object, the conquest of their common enemy.

Rights reserved! Why, just look at these amendments which have already been made, and you will find that they were all for the purpose of securing liberties to the people, and not for the purpose of giving to them power of oppression and despotism. Rights were reserved, fearing that the General Government might be too strong or too weak; if too strong, that it might trample under foot the liberties of the people, might establish despotism; rights were reserved, if it proved too weak, for the purpose of keeping vitality in the General Government, that it should be administered for the purpose of securing liberties to the people, insuring domestic tranquillity, providing for the common defense, and promoting the general welfare. Reserved rights! Were any rights reserved that any State should nourish within itself institutions of any character which should create turmoil, tumult, war, and bloodshed throughout the whole land? Why, sir, one of the very objects for which this Constitution was established is being violated by an institution cherished by State governments. It has been the sole cause of the four years' rebellion and war, and we are told that we have no power to amend the Constitution, to aid in getting rid of the evil.

If such was the case we might as well surrender and say that we have no Government at all, because this institution which we are taking steps according to the Constitution to remove is the very one which lies at the foundation of the whole struggle, bloodshed, distress, and desolation,

which have prevailed all over the land for the last four years. We have a practical illustration. When the Constitution is turned to for the purpose of showing a limitation of time within which certain subjects should not be interfered with, we find that up to 1808 it was claimed that the States could employ themselves in the slave trade; but after that time Congress could legislate, without any amendment of the Constitution, and prohibit it. I have no doubt, Mr. Speaker, that it was believed by the framers of the Constitution that when Congress could reach the question it would put an effectual stop to the slave trade, and that that would be the end of the institution itself.

The slave trade was a constant feeder of the institution until that time. It was supposed that it must have this great source of supply or it would become exhausted and wear itself out; and no doubt such was the logic that influenced the minds of the men who framed the Constitution, that when Congress could reach it by its power after the year 1808, it would deal an effectual blow to slavery, and that it would finally become extinct. But with the great experience that they had, there has been the experience of years since, and such an experience as shows that instead of its wasting away, even with the checks that this Government could put upon that trade, slavery has been increasing with great rapidity, and slaves have increased in number faster in proportion than the white population of the country. That, therefore, would destroy the proposition they advocated and the conclusion to which they came. I have no doubt if they could only have looked into the future and seen the results as time has developed them, they would have made a provision in that instrument by which Congress could have exercised control over the institution of slavery for its ultimate extinction.

To my mind there is no question, not the least, in relation to our power. We have the power. This cannot be a right reserved to the States. When we see the evil which it generates, when we see its effect upon the welfare of the country, when we see how much of internal commotion and turmoil it has occasioned, we must see at once that it is a disturbing, a destructive element everywhere; not only in the States where it exists, but in the States where it does not exist. It affects the general interests of the entire country and the nation. There is no domestic tranquillity now, and there never will be while this institution remains in the land.

This question of expediency it seems to me is but a mountain of frost which an hour's sun will entirely annihilate. There never was a time when the expediency was so great. Expediency or in-expediency does not enter into this question for a moment. Now is the time, this session of Congress, as speedily as we can act, for us to pass this measure, and then State after State will take it up and act upon and ratify it.

And in conclusion, for I do not propose to occupy the time of the House much longer, I will venture the assertion that if this resolution passes this body by a two-thirds vote, some State that either now has, or within the last four years had, this institution of slavery within its borders, will be one of the first and the swiftest to ratify this amendment to the Constitution, and if their Legislatures can meet we will find State after State doing the same, and if those in rebellion should lay down their arms, and ask to be allowed to come back into the Union, they will come with constitutions remodeled, and with this amendment ratified along with their constitutions. And we would get more than a three-fourths vote, even in the fifteen slave States. The revolution in public sentiment is going forward, and as those States come, one after another, and knock at the door of Congress and ask that their Representatives be again admitted upon this floor, they will come with free constitutions, and will accept this proposition as it goes from Congress, and will cheerfully ratify it. They will accept the terms joyfully, as contributing to their domestic happiness and prosperity, as well as to the national welfare.

We find the most strenuous opposition to this measure coming from free States. The Representatives from free States are the most urgent and vehement in their opposition to this proposition. What a sad picture is thus presented. While the great mass of those who come here from the slave States are asking that this great

boon be given them, and that they may be enabled to get rid of an institution which presses upon them directly, and indirectly upon every State in the Union, the gentleman from New York [Mr. FERNANDO WOOD] is taking still stronger ground, and in advance of others who oppose this proposition. His position, among others, is that the true condition of the African race is slavery. He is one of the Representatives of a State that has over four million inhabitants.

Now, let us see what his State has to say against the proposition that he lays down here. I read from the constitution of the State of New York—mark the language. Section one of article two of that constitution is as follows:

"Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county where he may offer to vote, shall be entitled to vote at such election, in the election district of which he shall at that time be a resident, and not elsewhere, for all officers that now are, or hereafter may be elective by the people; but such citizen shall have been for thirty days next preceding the election a resident of the district from which the officer is to be chosen for whom he offers to vote. But no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of \$250, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election, and no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid."

Now, if the true condition of the African race is slavery, the great population of New York, in its sentiment and in its action, in the establishment of its organic law, must have been insane, for they provided by their constitution that the colored man of the age of twenty-one, and possessed of a freehold estate of the value of \$250 over and above all indebtedness, and who should have been a resident of the State for three years, shall be entitled to a vote.

Will that gentleman or any other say that a slave ought to go to the polls and vote? Will he pretend to say that the true condition of that man who does go to the polls and vote is slavery? If he does, he stands alone in his declaration; and all I can admire in the man is his boldness and firmness in supporting a proposition that so palpably outrages humanity.

Mr. Speaker, but one wish possesses me in regard to this subject: it is that this resolution may pass. I hope that the obstacles which have been raised by members upon the other side of the House will in their own minds melt away, and that they will realize the true condition of the country and see that the only way to restore the peace that the country needs is to pass this resolution and submit it to the action of the Legislatures of the several States. I have no doubt as to the conclusion at which the States will arrive. I feel confident that we shall have the ratification of at least three-fourths, if not more, and thus settle forever a question that has caused so much painful anxiety to every lover of his country.

Mr. CRAVENS. Mr. Speaker, I have been requested by my colleague, Mr. VOORHEES, to say that he is still detained from his seat by the sickness of his wife, who has been dangerously ill.

Mr. COX. I desire to announce that my colleague, Mr. McKINNEY, is detained at home by a death in his family.

Mr. FINCK. Mr. Speaker, the resolution under consideration has been discussed so fully that I shall content myself with stating very briefly some of the reasons why I shall vote against its passage. I do not propose, Mr. Speaker, to enter into any discussion with regard to the power of Congress to pass this resolution, or of three-fourths of the States to ratify it as an amendment to the Constitution. Sir, there are considerations outside of the mere question of power which will control my action. It seems to me that gentlemen have mistaken the true issue involved when they argue that opposition to this resolution is to favor slavery. Sir, I know that for myself I am not the friend or advocate of slavery. I know that the Democratic party of the North is not now and has never been a pro-slavery party. In a speech which I delivered on this floor at the last session, I took occasion to say that "I do not defend slavery. I am not its advocate or friend. I have no interest whatever in the institution. If it must die, as the legitimate result of the organiza-

tion of the rebellion, let it perish." I repeat that to-day.

This is not a question whether slavery is right or wrong. It is not a question whether slavery ought to be continued or abolished; but it involves the question whether we are willing to surrender to the Federal Government the power to interfere with and regulate the domestic affairs of the States. I will not consent to aggregate new powers in the hands of the Federal Government at the sacrifice of the States. This proposition rises to such importance, that in my judgment, if in a time of profound peace it was adopted, and attempted to be enforced by three-fourths of the States against the protest of the remaining one-fourth, it would produce war; and if this be true, how unwise is it now, when we are engaged in this most unfortunate war growing out of sectional rivalries and prejudices, to add this new element of discord to the strife.

Sir, the commotions always attendant on civil war and revolution are not adapted to that calm and deliberate thought and investigation so necessary in making changes in the fundamental laws of a nation. In times like these, unfortunately, men are more apt to take counsel of their passions than of the true glory and welfare of the Republic. I believe the adoption of this amendment will postpone peace, and obstruct the return of the States to the Union. It will intensify the strife, and add new troubles to the adjustment of questions, which sooner or later must be committed to the hands of peaceful negotiation.

There was no question discussed in the Convention which framed the Constitution more carefully considered than that of the division of powers between the States and the Federal Government. It was upon this great question that parties in the Convention were organized, and the plans proposed in that Convention, giving to the General Government the power to supervise and control the legislation of the States, were rejected by a large majority. The Convention was firmly opposed to a strong national Government, and in favor of a Government with limited and well-defined, specific powers, with a reservation to the States and people of all the powers not delegated. And an examination of the proceedings of the several conventions of the States called to ratify the Constitution, will show how anxious the people were to guard the reserved powers of the States from any invasion by the Federal Government, and that they insisted on an amendment which declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Gentlemen in this discussion have seen proper to denounce what is denominated "State rights." I do not precisely understand what they mean by this course of argument. If it is meant that the States have no right to secede and destroy the Union, I will agree with them in that, because I deny the existence of any such right. But if it is meant that the States do not possess certain well-defined and understood reserved powers, which are sovereign in their character, and which cannot be invaded or subordinated by the Federal Government, then I take issue with them. The United States, under the powers delegated to it by the Constitution, is supreme in the exercise of all powers thus delegated. The Constitution is the life of the Federal Government; it cannot exist without it, and outside of that instrument enjoys no powers. Within the powers delegated to it by the Constitution it is supreme; but the States are also supreme in all their reserved powers. Both the Federal and State Governments are supreme each in their own respective and constitutional sphere. Does any gentleman controvert this proposition? Even Alexander Hamilton, the ablest and strongest advocate of centralized power, admits this much. In a speech which he delivered in the New York convention he said:

"The laws of the United States are supreme as to all their proper constitutional objects. The laws of the States are supreme in the same way. Suppose both Governments lay a tax of a penny on an article; had not each an uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this—two powers cannot be supreme over each other."

And, speaking further on the same subject, he says:

"I maintain that the word *supreme* imports no more than this, that the Constitution, and laws made in pursuance

# THE CONGRESSIONAL GLOBE.

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thereof, cannot be controlled or defeated by any other law. The acts of the United States, therefore, will be absolutely obligatory as to all proper objects and powers of the General Government. The States, as well as individuals, are bound by these laws; but the laws of Congress are restricted to a certain sphere; and when they depart from this sphere they are no longer supreme or binding. In the same manner the States have certain independent powers in which their laws are supreme. For example, in the making and executing laws concerning the punishment of certain crimes, such as murder, theft, &c., the States cannot be controlled. With respect to certain other objects, the powers of the two Governments are concurrent and yet supreme."

I understood my colleague [Mr. GARFIELD] to say, in his speech on this subject, that the sovereignty of the American people came down in regular succession from the British Crown, and he gave its "genealogy" thus:

"First the Crown and Parliament of Great Britain; second the revolutionary Congress; third the Articles of Confederation; and fourth and now, the Constitution of the United States."

I have been taught a different doctrine. I have been taught that sovereignty in the temporal order is derived through and ascends from the people.

Mr. GARFIELD. Will my friend allow me to interrupt him?

Mr. FINCK. Certainly, with great pleasure.

Mr. GARFIELD. I think I understood my friend to charge me with having traced sovereignty down from the Crown to the people. I said that the people withdrew their sovereignty from the Crown to themselves, and then lodged it in the revolutionary Congress. I maintained all the while, in my argument, that the people were the source of power.

Mr. FINCK. I am very glad to know that my friend and colleague has explained this matter. I understood from his speech that he assumed a different position. I am glad that he concurs with me in the principle that sovereignty inheres in the people.

Our fathers believed the division of powers which they provided between the States and the Federal Government to be essential to our free system of government. I concur in that opinion, and am therefore unwilling to invest the Federal Government with an additional power, to enable it to control the internal and domestic concerns of the States. I am opposed, sir, to the centralization of power in the hands of the Federal Government. This is one of the dangers which now threatens to disturb, if not overthrow, our system of government. I would not make this invasion either to establish or abolish slavery. These are questions peculiarly and exclusively belonging to the States, and we may rest assured that they will dispose of them to suit themselves. Maryland has already done so; Missouri has done the same thing, and Kentucky is about to organize a plan for the accomplishment of the same object. But, sir, as a citizen of Ohio, and a Representative from that State on this floor, I have no desire to interfere with the action of the people of Kentucky in disposing of the question of slavery to suit themselves. All candid men must admit that State action will be the most satisfactory plan of settling the question, and cannot disturb the amicable relations which should exist between the several States, while the effect of adding the proposed amendment to the Constitution, will tend to disturb the harmony of the States, and embitter and further prolong this unfortunate war.

Is it possible that this amendment can aid in subduing the rebellion and restoring the Union? I cannot agree with gentlemen who have argued that it will. Gentlemen, instead of adhering to the original declarations made at the commencement of this war, have entirely changed their purposes, and now propose plans of reconstruction and readmission of States, on such terms and conditions as can only result in protracting the struggle. Sir, I am glad to know that one of the ablest generals of the age, one who has so recently added new luster to our arms in his victorious and triumphant march through Georgia, and in the capture of Savannah, has enunciated to the people of that State some views which seem to me eminently proper and patriotic. In a letter written by General Sherman on the 8th instant, he says:

"Georgia is not out of the Union, and therefore the talk of reconstruction appears to me inappropriate. Some of the people have been and still are in a state of revolution, and as long as they remain armed and organized, the United States must pursue them with armies and deal with them according to military law. But as soon as they break up their armed organizations and return to their homes, I take it they will be dealt with by the civil courts. Some of the rebels in Georgia, in my judgment, deserve death, because they have committed murder and other crimes which are punished with death by all civilized Governments on earth." \* \* \* "Whenever the people of Georgia quit rebelling against their Government and elect members of Congress and Senators, and these go and take their seats, then the State of Georgia will have resumed her functions in the Union."

Sir, if this Administration had borne high in the face of heaven and the American people the broad banner of the Constitution, inscribed upon it, "The Constitution and the Union, these must be preserved at all hazards; these are our terms of peace; we ask no other;" this war, in my humble judgment, would have long since terminated. But other principles and another policy have prevailed, and still prevail, which add new obstacles to the suppression of the rebellion, and tend to prolong the war. We started out on the theory of compelling those who had combined to break up the Union to obey the constitutional authority of the United States. We had the right to do that, and our strength was in adhering to that single purpose, to require obedience to the Constitution by the people of every section of the country.

In this hour, when our arms have been victorious in Georgia, in Tennessee, and in North Carolina; when the victory of General Sherman is followed up by him by such prudent conduct as to arouse and strengthen the Union sentiment of the people of Georgia, it becomes us to adopt a wise and patriotic policy, and endeavor by honorable conciliation to aid our armies in convincing the people of the insurgent States that only under the old Constitution, which was the work of their fathers as well as ours, can they be secure, and that such security cannot be had under Jefferson Davis. It seems to me that in this period of our history, at this very time, we need the highest order of statesmanship—a statesmanship that shall not be controlled by the mad passions of the hour, but one which shall employ every power consistent with the true honor and interests of the country, to stay the further effusion of blood, and restore peace to our beloved land.

Mr. Speaker, in my judgment the policy of this Administration has failed very much in coming up to the true requirements of the times. It seems unfortunate for the interests of the country that the Republican party is so organized—and I do not wish to say this in any partisan or unkind feeling—that it is not adapted to the administration of a great Government like ours. Instead of endeavoring to conform and harmonize itself and its doctrines to the Constitution of the country, it seems only capable of working out its destiny by making the Constitution conform to its sectional and unwise policy. It has shown itself utterly incapable of administering a Government like this, composed of States with different local institutions, and therefore, in order to perpetuate its own existence, it has determined to obtain the power to regulate the domestic concerns of the States, and to mold them to suit its own purposes. I beseech gentlemen not to be controlled by mere sentiment, but looking back over the history of the great and good men who framed our Government, and remembering the happy adjustment of powers which they provided, to unite with us in preserving this Constitution as it came to us from the hands of the fathers.

I do not think it would be inappropriate here to refer to the opinions of a statesman who has been honored by the American people; who was formerly a member of this House, and then of the Senate; who held distinguished positions in this country and abroad in Europe. I refer to Edward Everett, whose death the country has

been called on so recently to deplore. Speaking on the subject of amending the Constitution, he has uttered words which seem to me words of wisdom. I trust that both sides of the House will give attention while I read a few extracts from his speech made in the House of Representatives in March, 1826. He says:

"In my judgment the very worst possible remedy for any evil not positively intolerable in this country is an amendment to the Constitution. It is an acknowledged maxim of political prudence that frequent changes of the laws, even in matters of ordinary legislation, are pernicious. It is the opinion of every sound statesman that it is far better to bear with any evil that is not absolutely intolerable than to render the great interests of the country insecure by indecisive and fluctuating legislation."

Further on, in speaking of the Constitution, he says:

"Sir, I do not think it perfect; but it is good enough for me. I have lived under other political institutions; nearly a third of my life since I came to years of discretion has been passed under other forms of government, and I have learned enough of the state of foreign societies, and enough of the political condition of the great majority of this race of man, to be well contented with what Providence has given us in the Constitution of the United States. I am contented to live by it, contented when I die to leave my children in its safeguard, and I would sooner lay down this right hand to be cut off than I would hold it up to vote for any essential change in this form of government."

It has been said during this debate that slavery will perish as one of the results of this war, and that it would do so without congressional action. I do not propose to controvert this proposition; but, sir, to hasten its destruction I am unwilling to aggregate new powers in the hand of the Federal Government.

There is one thing which should not be forgotten, and which is beyond controversy. It is that the framers of the Constitution would not confer on Congress, the power to regulate the internal and domestic policy of the States.

Another significant fact should also be remembered—that all the amendments which have been made to the Constitution are amendments which further limit the powers of the Federal Government, or more clearly define them. No amendment has, in the whole history of the Constitution, been made which increased the powers of the Federal Government, in derogation of the rights of the States; and I trust we shall not be the first to depart from this wise policy.

Mr. Speaker, let the questions of amendment be postponed until the rebellion is suppressed and the Union restored; and then, when peace shall once more bless the American people, if it shall be found necessary to make amendments, it will be time to propose and consider them; but, for the present, let your propositions of amendment and schemes of reconstruction be delayed.

I therefore, Mr. Speaker, oppose this resolution, because it will not tend to suppress the rebellion and restore the Union, but will protract the war. I oppose it because it is in conflict with the settled policy of our system of government, and the uninterrupted and uniform sanction of the American people, which has recognized the right of each State to regulate its own internal and domestic policy; and because I am unwilling to disturb the wise division of powers which our fathers adjusted between the States and the Federal Government.

Mr. WASHBURN, of Illinois. I do not propose, Mr. Speaker, to make any speech upon the subject before the House. I have no occasion to define my position on that question or questions kindred to it. But in connection with the remarks which have just fallen from the gentleman from Ohio [Mr. FINCK] in opposition to the passage of this constitutional amendment, I desire to say that he differs radically from distinguished gentlemen of my State of his own party. The Legislature of Illinois is now in session, and resolutions have just been before it instructing our Senators and requesting our members of Congress to vote for the passage of this constitutional amendment. In the Senate there was a very able and elaborate discussion upon the subject, and out of eleven of the Democratic members of that body only five voted against the resolutions of instruction.



Three of these Democratic Senators made speeches in favor of the resolutions of instruction. Hon. Murray McConnell, of the Morgan district, one of the oldest and ablest Democrats in the State, and known as the "war-horse of Democracy of Illinois," made a bold and able speech in favor of the resolutions—a speech which will be considered as the crowning act of a long and eventful life, nearly all of which has been spent in Illinois, for I believe he has resided in the State ever since it became a State; and he has ever been one of the firmest and strictest Democrats we ever had in the State. The other Democrats who made speeches for the resolutions of instruction were Messrs. Scofield, of Hancock county, a brother of the distinguished member of our House of that name, but different politics, and Mr. Lindsey, of Peoria county, in the congressional district of my colleague, Mr. INGERSOLL. A tribute of respect is due to all these Democratic gentlemen in our Legislature who declared by speech or vote their determination to permit the people of the United States to amend the Constitution, to wipe out the institution of slavery, so wicked and infernal in itself, and which has brought such untold horrors upon the nation.

Mr. COLE, of California. Mr. Speaker, the dominion of force is giving way to reason. The rightful relations of men to each other are being understood and acknowledged. Mutual reliance is a law of civil society, and there is no such thing as absolute independence among men. Whatever is beneficial to a portion, says the political philosopher, is beneficial to the whole community; and whatever is injurious to a portion is injurious to the whole. Every individual is therefore interested in the welfare of every other individual, and this without limitation or qualification. The obligation to render justice is as wide as the universe, and neither nation nor individual can override it with impunity. This rule has been recognized by the more enlightened Governments in their action upon the subject of slavery. Much has been done within the last century to destroy this acknowledged evil, and the United States has not lagged behind in the work. She was the first to discard distinctions of blood, which all history proves to have been fruitful of oppression. She was the first to proclaim to the world the inalienable character of the right to liberty, and this in the face of powerful opposing interests. She was the first, also, to pronounce the trade in slaves upon the high seas to be piracy. Boldly taking the lead of older nations, and while yet in her infancy, like Hercules, she strangled white slavery in the Barbary States. She planted colonies on the coast of Africa in the very paths of slavery and the slave trade. The example she has presented of popular government has shaken the foundation of every throne in existence. She has done far more than other nations to undermine oppression everywhere, and is doing more to-day than all of them combined. She had greater obstacles to overcome in the performance of this high duty, but she hesitated not to grapple with tyranny in all its Protean shapes; and, by the favor of God, single-handed and alone, if need be, she will utterly destroy it from the face of the earth. Whatever other nations may have done against slavery has been done under the constraint of the example set them by the United States of America. The grand old monarchies of Europe have followed, not led, in this matter. Their course in our present, and it is to be hoped final, struggle shows that their sympathies are with the oppressor. But justice will triumph, freedom prevail, and liberty, exalted in this proud capital, will exert its proper sway over the whole world and for all time.

Other views of this question have been fully and ably discussed already. I only wished to vindicate our national reputation in this regard against the too often repeated aspersions of foreigners. I am done.

Mr. STARR. Mr. Speaker, after the lengthy and thorough discussion of the question before the House by the many able gentlemen who have preceded me, an humble individual like myself cannot hope to say much with reference thereto that will be new, neither can I expect to influence the opinions of any gentleman upon the floor of this House upon this important subject. It is therefore with neither of these expectations that I shall occupy the time of the House, but rather

that I may, in as brief a manner as possible, set forth some of the reasons that influence me in the vote I shall cast when the question is put to the members of this House for their decision.

In the first place, Mr. Speaker, I desire to say that I shall not attempt to discuss the constitutionality of the proposed measure of amending the Constitution. That, in my judgment, has been most ably and thoroughly discussed already, and it would indeed be a great presumption for me to attempt it. I am, however, quite willing to say, that if the people of the United States have the power to amend the Constitution as proposed, then we are proceeding in the proper manner to enable them to exercise that power if they choose to do so; that they should have the opportunity to determine for themselves whether or not they desire such amendment, and that I envy not the man who, professing to represent a free people, is at the same time unwilling to accept their judgment upon the institutions of the Government.

And just here, Mr. Speaker, allow me to say, that in my judgment it is not a question of vital importance, in considering the adoption of these resolutions, whether or not the people have the right to amend the Constitution as proposed. That is a question to be settled by the Supreme Court of the United States—rather let us, therefore, submit the proposed amendments to the people for their action, and then the friends of slavery can have that issue tried before the only tribunal that can authoritatively determine it. And there also can they try that other point upon which my colleague [Mr. ROGERS] seemed to lay so much stress when he said—

"You must remember that it is proposed by this amendment that the States in which slavery exists shall have no vote, because they are not in a position to exercise the right to vote upon this question. But it is proposed that three fourths of the States—States wherein slavery does not exist; States which have no interest in that species of property—shall get together, and by the action of three fourths of them deprive of their property the citizens of the loyal border States."

Now, sir, by this statement of the intention of the movers of these proposed amendments, which, though not entirely correct, yet is perhaps as near so as he could make it; and by his objections thereto, I understand my colleague to assert that the power to amend requires the concurrence, not only of three fourths of the States represented in the Government at the present time, but three fourths of the entire number of States which composed this Government at the time of the breaking out of the rebellion. This issue can also be tried at the same time by the Supreme Court and a decision rendered upon both. And yet, Mr. Speaker, I am at a loss to discover any disadvantage in this particular respect my colleague, or rather those rebellious States for whose rights and interests he displays so much anxiety, will experience by their "not being in a condition to exercise their right to vote," as he calls it, but which really means being in rebellion; even though it should be decided by the Supreme Court that they must be included in estimating the number required for approval of amendments, inasmuch as their participation in the vote upon the amendments could make no difference in the result, unless some of them voted in favor thereof, and consequently aided in doing that thing my colleague deprecates so much, "depriving the citizens of the loyal border States of their property"—property in slaves—an act which, by the way, these loyal border State men themselves seem very intent upon doing, and thus anticipating our action in reference thereto. Perhaps they do this out of regard for the feelings of my colleague; perhaps the fear that, owing to the opposition to the measure in this House, we shall not be able to secure the abolition of slavery throughout the nation may have induced these loyal border State men to abolish the institution in their States for themselves. I am, however, inclined to believe that they did it because they had realized the evil as well as the wrong of slavery; and that they determined to get rid of the institution and its inseparable evils at the earliest practicable moment.

But, sir, it is not necessary for me to attempt to explain why they have done this; it is done, and in nothing more than in this is exposed the false philanthropy of these northern conservators of slavery. These Pietists who, claiming that slavery is a divine institution protected by the Constitution, and best suited to the temporal and spir-

itual interests of both races, are told by these experienced men of the border States that it is a curse alike to whites and negroes, and that they will have it no more.

But, Mr. Speaker, there is one point in my colleague's remarks with which I can agree, and that is the patriotism of the loyal men of the border States; and in my judgment it shines out the brightest and best in this great tribute they have just paid to the cause of human liberty; for we see them, while suffering from the devastating effects of the war upon the soil of their States, setting us an example of sacrifice and duty that will be recorded in history with undying honor.

There is, however, another point in the remarks of my colleague, in which, if I understand him aright, we can never agree, and that is, that the States in rebellion, while in rebellion, must be included in estimating the number of States required for approval of amendments to the Constitution; that those States that have rebelled, separated themselves from, and attempted to destroy this Government, do nevertheless still hold within this Government, under the Constitution thereof, a controlling power with reference to making amendments thereto; that they, taking up the sword and bidding defiance to the Government and its military forces, do at the same time hold such rights under and within the Government they are seeking to destroy as to prevent the people of the United States, during the willful and determined absence of these rebels, and without their consent making any change in the Constitution itself. This, sir, is so gross a perversion of reason that I can never agree to it, and I therefore desire to submit it to the judgment of the people of the United States, and their courts, in order that right here, at this time, when this monstrous claim of the right of rebels to control, through the provisions of the Constitution, the legislation and courts of the Government they are seeking to destroy, may be met at once and settled forever.

And now, Mr. Speaker, I wish to make a brief reference to the speech made by the gentleman from New York city, [Mr. FERNANDO WOOD].

In his defense of the institution of slavery he cited the cruelties of the negro race in their native wilds as a justification for enslaving, or rather continuing the enslavement, of that portion of the same race who are living under the influences of Christianity and civilization. Now, I do not propose to discuss that proposition, it is too absurd for serious discussion, but I refer to it to commend to his enlightened wisdom and philanthropy the consideration of the disposition to be made of that people who so recently, in a locality with which he is so familiar, a locality claiming and possessing a high degree of Christianity and civilization, enacted scenes of cruelty and barbarism upon a civilized Christian people that rivaled anything he can find in stories of African travel.

Mr. PATTERSON. Mr. Speaker, while I yield my convictions to the more experienced judgment of other gentlemen upon this floor with great deference upon most questions, I must be permitted still to entertain the opinion that debate upon the resolution before the House was, in the outset, injudicious. For it necessarily kindled party prejudices and feelings by fanning the embers of old issues destined soon to be buried beneath the ashes of civil war. But while I think it would have been better to have "given our thoughts no tongue," but simply a vote, yet, "being in," we must so conduct the discussion that our acts may not shame our words. If our Government were purely national, a majority of the people could amend the Constitution; if purely federal, it would require a concurrence of each State of the Union; but being a combination of both, a majority of the votes of the Legislatures or conventions of three fourths of the States was fixed upon by the framers of the Government as a compromise method of amendment. Here, I apprehend, is the cause of our divergence upon this overshadowing question. We take the one side or the other according as our reading and habits of thought have led us to give prominence to the federal or national element.

The bold and impressive speech of the gentleman from Ohio, [Mr. PENLETON], made a little time since, filled my mind with mingled regret and admiration. His treatment of the subject evinced not only unusual discipline and acquisi-

tions, but extraordinary logical power. Clearly, sir, he has sat at the feet of the great South Carolinian till he has himself become a master, prepared not only to teach but to originate new refinements and to enlarge the body of subtle sophisms in that torrid and pestilent school of political philosophy. Admit the gentleman's premises, and you will reject his conclusions with difficulty. If our Union is simply a confederation of independent and sovereign States, and not a Government *de facto*; if it is only the agent of State governments, exercising for their convenience and advantage certain powers delegated by themselves, for specified ends, then clearly no change in the instrument into which such powers are framed can constitutionally be made as will enlarge or limit the legitimate scope and functions of the General Government by encroachments upon the reserved powers of the States. The high contracting parties would never have consented to conditions by which their agent might gradually absorb all their reserved rights and transform the confederacy into a centralized unity of Government. They would authorize amendments to the Constitution looking to the realization of the original purposes of the Government, but would not authorize any power to trench upon the reserved rights of an independent State. If the Union is wholly a compact, the gentleman is right, for the creature cannot claim of the creator or wrest from his grasp new powers by virtue of the limited powers which have been bestowed upon it; for if this were possible, it might by gradual encroachments, through factious combinations, ultimately absorb all power into itself and annihilate the very sources of its being.

Assuming that the States had an independent existence and an unlimited sovereignty previous to the foundation of the General Government, and that the General Government rests upon certain powers voluntarily surrendered for the purpose of securing the objects specified in the preamble to the Constitution, it will follow as an unavoidable sequence that neither three fourths nor any number of States can constitutionally take from a State any part of the independence and sovereignty not voluntarily surrendered up.

If, on this theory, the right to amend the Constitution given to three fourths of the States covers that reserve of powers, then it follows that three fourths of the States have the right to establish slavery, an autocracy, or idolatry in New Hampshire, against the will and the moral convictions of every citizen of the State, and in violation of her sovereignty.

If the gentleman's theory is correct, there can be no treason of individuals against the General Government, for States only and not individuals owe allegiance to that Government; and as States cannot be imprisoned or executed, not only does the language of the Constitution become meaningless and absurd, but the fatal crime itself shirks the retribution which the voice of humanity and outraged justice demand.

Davis and Lee, *et omne genus*, are not traitors, but patriots, fulfilling the highest and most sacred duty of loyalty to the only government to which, as citizens, their allegiance is due, and we are constrained to pay them, not only a meed of praise, but a tribute of heartfelt respect, for the dangers they have encountered and the sacrifices they have made in the terrible struggle through which they are passing for the defense of the rights of sovereign States. In a word, sir, in the masterly sectional debates which for a quarter of a century rang out from these halls of national council, in the great political struggles of the past and in the present bloody arbitrament of arms, the South have been right and the North wrong. If the Government is a league of sovereignties, subordinate to the States, and holding in trust at their will a few delegated powers, secession is a right, and the Union but a gilded bow upon the political atmosphere, without substance or reality, and ready to perish in our gaze on the slightest movement of insensible forces; and we who sit here are clothed with none of the attributes of nationality, but represent independent Governments, whose interests are liable to fall into an irreconcilable antagonism, with no regnant head to harmonize the discordant elements.

Sir, I commend the gentleman's logic. I admire his fearless advocacy of his principles. I am touched by the pathos and classic beauty of

his eloquence, but I utterly repudiate his political creed as destitute of any historic basis, and destructive of good government and civil liberty.

Our national Government was revolutionary in its origin, and drew its powers, not from the States, but from the people, the original source, under God, of all political power. The States were never supreme and unlimited in their sovereignty, never possessed as political organizations, and therefore could never delegate, the privileges which belong to the national Government. On the contrary, they received their existence as States independent of the British Government by an act of the national Congress of 1776. The people created and exercised the functions of a national Government before they severed the dependent colonial governments from their allegiance to the Crown, and made them independent in their internal and local affairs. The sovereignty of the people is the fountain of political prerogatives, and the right to make war and peace, to make treaties, and to emit bills of credit, to raise armies and regulate trade, and other kindred powers, were never in the possession of the colonies or the States to delegate to another. But the habits of thought and the political predilections springing from their antecedent colonial condition, and the apprehended danger of suffering the revolutionary government to exercise undefined and discretionary powers for a period of years amid the hazards and temptations of war, led to the establishment of the Confederacy. That, in its practical operation, if not in theory, was a pure political agency shorn of all the attributes and powers of a national Government, by being made dependent in its legislative, judicial, and executive action upon the opinion and will of the States, jealous of each other and of their independent sovereignty. Legislation was not allowed to lay its authority upon individuals, but terminated with the States, and could only be executed by military force. And here, too, it was powerless; for it could raise neither men nor money, except at the discretion of the States, which, by combination, could defy its authority. Any attempt to enforce its acts against a recalcitrant State would have been a perilous revolution.

Why, sir, the fatal policy had hardly been planted ere its legitimate harvest of ruin had been garnered in the very spring-time of our national existence.

The earnest remonstrances and solemn warnings of Washington were constantly interposed to sustain the courage and harmonize the efforts of the people in their unequal struggle, yet the system which some gentlemen still cling to with the devotion and blindness of an eastern devotee engendered such confusion of counsel and inefficiency of administration that the national energies were paralyzed, and union and liberty rescued from an impending catastrophe only by the help of foreign troops and foreign money.

The political anarchy and utter prostration of every material interest that followed the peace of 1783 have been drawn with such matchless power by him whose comprehensive and philosophic genius has rendered his name peerless on the roll of statesmen who adorned that splendid era, that for us to linger upon it would be vain as an effort to add darkness to night or luster to the sun. Now, sir, it was while the nation lay powerless in that Serboman bog, that the Convention of 1787 met "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity." Would they attempt this, sir, by repeating the folly of a league of States, the essential defects of which they had learned by a bitter experience, and the inevitable results of which Madison, one of their own number, has depicted with surpassing skill and illustrated by familiar examples stretching along the path of history from the Amphictyonic Council to the confederacy of the United Netherlands? They did no such thing. They were engaged in reconstructing their political institutions for the express purpose of establishing a Government which should not be obliged to act through State interposition, and the Constitution which they framed, when adopted became the paramount expression of the popular will.

The old Government, as Curtis has said, was "destitute of the essence of political sovereignty,"

but the new possesses the essence, and exercises the functions, of a sovereignty. To it has been given the right, through its Supreme Court, to define and limit its own powers, and it is made, by virtue of its being the direct legislation of the people in their original and united capacity, the supreme law of the land, the whole land, State laws of every description, and however enacted, to the contrary notwithstanding. "If a number of political societies," says Story, "enter into a larger political society, the laws which the latter may enact pursuant to the powers entrusted to it by its constitution must necessarily be supreme over those societies and the individuals of whom they are composed." No evidence can be more conclusive upon this point than the records of the Convention. It will be recollected that three leading systems of government were propounded—a federal system, by Patterson, of New Jersey; a mixed system, by Randolph, of Virginia, and a purely national system, by Hamilton, of New York. That finally adopted was a mixed system, in which the national element largely predominated. "Can we, as representatives of independent States," says Patterson, "annihilate the essential powers of independence?" After arguing the question, he continues:

"It therefore follows that a national government, upon the present plan, is unjust, and destructive of the common principles of reciprocity."

How different from this is the language of Hamilton:

"I have well considered the subject, and am convinced that no amendment of the Confederation can answer the purpose of a good government so long as the State sovereignties do, in any shape, exist."

He even doubted the efficiency of the Virginia system. But it was finally adopted by a decided majority, and Mr. Randolph spoke, as follows:

"The resolutions from Virginia must have been adopted on the supposition that a federal government was impracticable, and it is said that power is wanting to institute such a government; but when our all is at stake I will consent to any mode that will preserve us."

In view of such evidence can there be a doubt that the Convention that framed and the conventions that adopted the Constitution regarded it as the charter of a government mainly national in its character? Where, then, does this vagrant, transcendental sovereignty of which gentlemen speak with bated breath and trembling reverence reside? By what authority does it utter its dicta against the supremacy of the people, which underlies the entire framework of government? Does not the same right that authorized the people to legislate the organic law into existence reside with them still to amend or abrogate that law by such methods as they themselves have designated?

Sir, there is but one conclusion which can be logically reached on this question. If our Government were purely confederate, the consent of each party to the contract would be necessary to an amendment of the Constitution. If it were purely national, a major vote of the whole people would make it binding upon all, though the unanimous vote of entire sections were against it, for the organic law is their legislation. But being a mixture of both, the people have made it the law that the major votes of three fourths of the States, however given to any amendment, shall be binding upon all. That is the Constitution, and New Hampshire, and Kentucky, and every other State must be bound by an amendment so ratified, though the unanimous votes of the State should be cast against it. And the right of Congress to recommend amendments by prescribed methods is as broad as the right of amendment itself. I do not deny that a State, under these circumstances, may repudiate the plighted faith of the fathers, and elect a revolution rather than submission. But, sir, when any one of the old sisterhood of thirteen, or any daughter since born into the family of States and reared into a vigorous and prosperous maturity by the fostering care of the Government, shall thus prove recreant to the original bond, let her not complain if she is forced to drink the cup of blood and desolation to its very dregs, and let the unhallowed footsteps of no man desecrate these Halls consecrated to liberty who would justify or palliate "the deep damnation of her taking off."

And now, sir, are there any limitations except those specified in the Constitution to the right of amendment? One gentleman asserts that limitations are "to be found in its intent, and its spirit,

and its foundation idea." Another tells us we are to look for limitations in the preamble to the Constitution. But as the preamble is only a general expression of the intent, and spirit, and underlying idea of the instrument itself, the difference between the honorable gentlemen is one of definitions, and not of ideas. Justice, tranquility, defense, the general welfare, and liberty are the ends of government; but the English definition of justice and liberty in the twelfth century is not the definition of the nineteenth. Our interpretation of these terms in the future of our history will vary with education and local prejudices. The means which we should feel authorized to employ for the public defense and general welfare might have been deemed extravagant, and possibly revolutionary in the piping days of peace.

To say that this power is limited by the idea of the Constitution, however or wherever expressed or implied, is as indefinite as to say that extension is limited by space. Who, sir, is to determine the intent of the organic law, and the proper means by which its objects are to be secured, but the people themselves? And will not their ideas advance and change with the progress of civilization? That there are moral limitations to legislation and to popular sovereignty, I should be the last to deny. This constitutes the higher law, which when violated either by legislative assemblies or by popular majorities, justifies, nay sanctifies the exercise of the right of revolution. But our fathers were not guilty of the extreme folly of attempting the impossible task of enumerating all possible applications of the divine law of limitations.

The gentleman from Ohio [Mr. PENDLETON] says in the course of his remarks:

"I am discussing the question which is put forth so ostentatiously by the other side of the House, that under the Constitution, not by the right of revolution, under its clauses and provisions, there exists the power to make this amendment."

Now, sir, if I understand the implication of this sentence, it is a denial of a right to the people to make any amendment to the Constitution which shall enlarge the powers of the Government by trenching upon the reserved powers of the States, even though for the public welfare. Is not that an assumption? Or if it rests upon any reasoning, would not the same logic deny to a State the right to modify its constitution so as to interfere with the rights of the inhabitants of a town, even when public health and public morals demanded it? State constitutions are adopted by as many separate votes as there are towns in a State, but the State does not thereby become a compact and lose the right to amend its fundamental law, except by a majority vote in every town.

The right to change the limitation of State powers must reside in the constitutional majority to whom, by a vote of the people of all the States, the paramount interests of the nation were confided at the first. There probably never was a more delicate and difficult task confided to the judgment of statesmen than the division and proper adjustment of powers between the General and State Governments by the Constitutional Convention. All the past of our colonial and revolutionary life centered there. All the great interests of our moral, social, and political future hung upon it. The proper balancing of these governmental forces could only be hoped for through the teachings of experience. The Convention understood perfectly well the difficult nature of the work devolved upon it. Would it not, therefore, be a reflection either upon the wisdom of the fathers or our own sanity to suppose they did not make provision in the Constitution for such a readjustment of powers or elimination of adverse elements as the future should prove to be necessary to harmonize the action or perpetuate the existence of free institutions?

"I trust the friends of the proposed Constitution," says Hamilton, "will never concur with its enemies in questioning that fundamental principle of republican government which admits the right of the people to alter or abolish the established Constitution whenever they find it inconsistent with their happiness."

I go still further, sir, and claim that the right of gradual and peaceful revolution was purposely framed into the groundwork and superstructure of our institutions so as to obviate forever the necessity for violent and bloody revolutions. The

most terrific struggles which history records have been between old forms of civilization, entrenched in the unyielding framework of government, and the resistless energies of a more advanced intellectual and moral life striving to realize itself in better institutions. Marathon and Runnymede were efforts to throw off an effete absolutism which hung as a clog upon the progress of ideas. The history of the common law, and of the English Government, is a record of revolutions by which the people have advanced through successive stages to their present condition of freedom and enlightenment.

The past was not lost upon the men who framed our Government. The right of amendment and the system of representation, by which men familiar with public opinion and the wants and prejudices of the masses are brought to the work of legislation, enables us to mold and adapt our Government and laws by peaceful methods to the progressive changes of society. This was not accident, but a wise provision of political sagacity. Again it is claimed that the passage of this resolution would interfere with the rights of property, and is therefore unconstitutional. I might reply that the municipal act upon which the right to property in man is predicated is in contravention to the law of natural justice, and cannot establish a claim which "white men are bound to respect." Theft and robbery, though sanctioned by legislative authority, cannot absolve man from his allegiance to that law which is supreme and infallible. The enactment which reduces an accountable being, however humble and degraded, to the condition of a chattel, that subjects him to unrequited toil and hopeless ignorance, that multiplies men for the market, oblivious of domestic ties, and presses the cup of mixed and measureless woe to the lips of helpless women and innocent children without pity and without remorse, has no force as law. I diffidently, but fearlessly, deny, upon this floor, that any assembly of human law-makers ever possessed the power to create a right of property in man which we, as men, or citizens of the Republic, are bound to respect. Why, sir, the humblest daughter of sorrow that ever crouched beneath the lash of the task-master, lifting her fervent prayer to that Judge "that no king can corrupt," appeals to a tribunal before which the trembling slave stands the peer of her proud master, whose pleasure is the price of her shame, and who eats bread in the sweat of her brow.

But, sir, allowing this claim of property in black men, will it not be pertinent to the argument to call to the remembrance of this House the direct interference of the framers of the Government with this prescriptive right, by laying a constitutional prohibition upon the commerce in men? Will it not be germane to the question to remind gentlemen that the eloquent Henry, in the convention of Virginia, opposed the adoption of the Constitution on the plea that, if made the fundamental law by the adoption of the people, it would give, not to the nation through the right of amendment, but to Congress directly, the power to abolish slavery. Patrick Henry did not stand alone in that interpretation. Similar views were entertained in the conventions of other States. Now, I claim that the fears of those gentlemen of what they supposed had been done were an admission of what might be done. I have yet to learn that the statesmen of that day argued the incompetency of the people, directly by a constitutional provision or indirectly by an act of Congress based on a grant of power in the Constitution, to abolish what all admitted to be a moral wrong and a political evil. Their opposition was based on the plea of political policy and social necessity, both of which have been reversed in this grander revolution of our time. The memorable words of Randolph in reply to Henry, "I hope that there is none here who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia; that at the moment they are securing the rights of their citizens, an objection is started that there is a spark of hope that these unfortunate men now held in bondage may, by the operation of the General Government be made free," are worthy to be inscribed in imperishable characters upon the dome of the Capitol, and God grant that their spirit may inspire us in the discharge of our solemn duties in this hour of regeneration to the

Republic. It cannot, sir, have faded from the recollection of the students of political history that violent and sectional opposition to the Constitution was overcome and all the States brought to its adoption by pressing home upon the recalcitrants in the conventions the assurance that the instrument would be open to subsequent amendment on all the vital interests of the State.

And now shall we, whose industry is sustaining a financial burden that would stagger an Atlas, and whose eyes are riveted upon the grassless trenches where hundreds of thousands of our brave and glorified children sleep in their blood-stained coats of war, in this hour of our great peril forego this essential privilege through a morbid pity and a suspicious regard for the constitutional rights of men who have forsworn the Constitution, forfeited every right under the Government, and who can claim nothing at the hand of justice but the penalty of treason? Sir, it would be a shame and a reproach.

In seeking to purge our institutions of the mortal taint of slavery, in seeking to rescue our liberties by an organic change from the fatal *imperium in imperio*, it is not necessary to fix the ethnological position of the African or to prove his equality with the white races. Remembering that the descendants of the sons of Israel are now a by-word and a hissing among the Gentiles; that the barbarian whom the proud old Greek despised has become his master in all the arts and virtues of a Christian civilization; that the offspring of the half-civilized and bloody men whom the Roman historian located in the forests of Germany and Britain are now giving literature and science, liberty and law, to the nations, let us deferentially leave to the African, who since the building of the monuments of Egypt has borne the burdens of the world, to solve the vexed problem, and, under Providence, to determine for himself his appointed place in the social scale. If the poets and orators of the sable race, whose light has fallen upon our horizon, are the morning stars of a brighter day that is to dawn upon that benighted family of men, let not us who have grown rich upon their docile labor and long-suffering, be found fighting against the counsels of Him who should "work within us both to will and to do of His own good pleasure."

Nor need we be frightened with the horrors of miscegenation which have been drawn with such artistic skill by my learned friend from Ohio. This deadly Upas is only the product of a night, which has grown without roots and lost its promise of political fruits in the rhetoric of flowers. The African, sir, has been driven North by the force of slavery. Let him be free, and he gravitates to the tropics as naturally and as certainly as the winged people of the air migrate at the approach of winter. The laws of nature will not accommodate themselves to the policy of party politics.

Some gentlemen, too, seem to fear a fair competition between free white and black labor. Now, if the black man belongs to a more intellectual and vigorous race than we, then he ought to triumph in the conflict, and will. But if the white man has a larger brain, stronger and more enduring muscles, and a more active temperament than the black, then he will conquer in this legitimate conflict, and will gradually push the weaker race from the continent, leaving this heritage of liberties to our children after us to the latest generation. Can any man doubt the result? Why, sir, the present servile condition of four millions of this people is a prophecy of the future. Let the negro be free, and if he had no Africa to flee to as a refuge from the restless and insatiable Saxon, he would repeat the sad history of the proud but fading people that once played upon these waters and ruled with a native majesty of power where we now sit in council and sway the destinies of a great empire. I doubt not, sir, they will wander to other shores; but like *Æneas* and his companions they will carry with them the elements of a civilization in which other lands and future ages will rejoice. Emancipation, like mercy, will bless him that gives and him that receives.

Why is it that the mineral treasures of the South sleep in her mountains and valleys as at the dawn of creation? Why have not the primitive oaks upon her sunny plains been transformed into masts, and her hemp manufactured into sails by her own population? Why have not the fleets of



a rich and civilizing commerce filled the safe harbors which the creative hand hollowed out upon her extended coast? It is because her own brave people have foregone their privileges and given over their fair and rich inheritance to the ignorant and thriftless labor of bondmen. And can they, sir, who have thus spurned the hand of Providence complain if the Master gives to another that which they have neglected to improve for a century? When this thriftless system shall have been supplanted by an educated and enterprising population of free laborers, the measureless wealth of her mines and soil will pass into productive capital or be transformed into the material comforts and moral forces of an advancing civilization. Let peace once more return to our land, bearing in her hands the broken chains of a disinherited people as the emblems of victory, and the industrial energies of an intelligent population, regenerated by the spirit of liberty in its last bloody struggle with the fiend of slavery, will sweep debt from the land and cover every acre of it with the glad tokens of plenty, prosperity, and power.

The amendment of the Constitution by the people, to which the passage of this resolution looks, will effect an immediate good. It will give an easy and ready solution to the difficult questions arising under the proclamation of emancipation and bills of reconstruction.

Sir, we can afford to exercise the largest charity and a magnanimous generosity in restoring the disaffected States and bringing back a disloyal people to their allegiance, but this institution of slavery, which has sown dragons' teeth in our legislation, embittered the intercourse of social life, and at last forced upon us the horrors of civil war, must now perish. A land

"With all the gifts that heaven and earth impart,  
The smiles of nature and the charms of art,  
While proud oppression in her valleys reigns,  
And tyranny usurps her happy plains,"

is not a worthy exemplar of the work of civil liberty. The Constitution was not designed to defeat itself by limiting action when the public security and social progress demand it. That instrument is itself the result of amendments to the Articles of Confederation, sufficiently radical and extensive to change the nature of government, and was adopted by a method not justified by those Articles, and therefore revolutionary. This was the work of men whose names are to be spoken without reproach, and justified on the plea of public necessity in a time of profound peace. And shall we hesitate to do what the national salvation demands in a time of war and public calamity on account of imaginary obstacles? Posterity will comprehend the import and grandeur of this great struggle between the antagonistic forces of freedom and slavery as we cannot, and will be amazed and humbled as they read the record of our higgling and flimsy pretenses for delay over this great question. The voices of our murdered heroes sleeping on a thousand victorious battle-fields in rebellious States, and still other voices from the dim but glorious hereafter of our history, call upon us for immediate and decisive action. We must meet our responsibilities like men, for we are not engaged in a holiday pageant. This is revolution—solemn, earnest, terrible revolution.

"Salus populi suprema est lex,"

must be the shibboleth of the friends of the Republic.

Mr. MORRIS, of New York. Mr. Speaker, I do not propose to make a political speech on this occasion, but only to discuss the question of the power of "the Congress" over amendments to the Constitution of the United States. Whatever power "the Congress" may have in this behalf is derived from article five, section one, of the Constitution, which provides—

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intent and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses of the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

If this language is to receive ordinary interpre-

tation I cannot well see how legal minds can differ in its construction. It expressly provides for an amendment of this instrument, and it clearly defines the mode of procedure.

There are but three restrictions upon the action of Congress in the letter of this instrument, one of which relates to the migration of persons prior to the year 1808, and the others to taxation and equal suffrage in the Senate. As far, then, as the question under consideration is concerned, it is precisely the same as if there were no limitations whatever in the Constitution. "The Congress," thus empowered, as defined by the Constitution, "shall consist of a Senate and House of Representatives." This body is now in session, and it proposes to exercise one of its supposed powers.

But it is claimed by one who is recognized as a leader of the other side of this House [Mr. PENDLETON] that "three fourths of the States do not possess constitutional power to pass this amendment." Others admit this power exists, but they deny the expediency of its exercise.

I shall speak of these propositions in their order.

The framers of the Constitution, as I claim, clothed "the Congress" with power to propose and three fourths of the several States with power to ratify amendments thereto. The language of this instrument is so explicit that in my judgment it will not admit of two interpretations. That the framers of this instrument so understood it is evident from their contemporaneous sayings and writings. At page 402 of the *Federalist* we find the following:

"It appears to me susceptible of complete demonstration, that it will be far more easy to obtain subsequent than previous amendments to the Constitution. The moment an alteration is made in the present plan, it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each State. To its complete establishment throughout the Union it will therefore require the concurrence of thirteen States. If, on the contrary, the Constitution should be ratified by all the States as it stands, alterations may at any time be effected by nine States. In this view alone the chances are as thirteen to nine (it should be ten) in favor of subsequent amendments, rather than of original adoption of an entire system."

Thus one who participated in the duties of framing this instrument clearly recognizes this power, and he urges the adoption of the Constitution as it was then written, even if it were imperfect, insisting that such imperfections could be more readily removed by subsequent amendments than by original action. This subject was publicly discussed, and then the Constitution was adopted by the suffrages of those who well understood the force of its provisions. That no one doubted the power of Congress and of the States over this subject at that time is evident from the fact that Congress, at a session thereof held in the city of New York in the year 1789, proposed twelve amendments to the Constitution, then but recently adopted, and submitted the same to the several States, ten of which amendments were adopted, and they are now as valid as any portion of the original instrument. "The Congress" of 1789 derived its power in this behalf from the same article by virtue of which "the Congress" of 1865 proposes to act. The powers and the restrictions, as far forth as this question is concerned, were the same then as now. This was a practical interpretation of this instrument by its founders. Here I might rest this case; but inasmuch as there is a conflict of views upon this subject among the honorable members of this House, I am constrained to devote a few moments to the arguments of the opponents of this measure.

The honorable gentleman from New Jersey [Mr. ROGERS] says:

"The Democratic party, the old Whig party, and the Republican party, until lately, always claimed and held that this institution of slavery was peculiarly under the province of the individual States, and when the States entered into this confederated Government, the powers that they did not delegate to the Government were expressly reserved to the States; that no power not delegated to the General Government could by the force of any amendment of the Constitution be taken away from the States, because they had only confederated themselves together for the purposes laid down in the organic act, and because it would be an act of the CREATOR not given by its CREATOR."

Here is a strange mixture of truth and error. The great political parties of which the honorable gentleman speaks only mooted the rights of the respective States, in reference to enactments appertaining to their own internal matters; the question before this House is, what power has

"the Congress" over amendments to this organic act? The propositions are unlike.

Again, the honorable gentleman says: "The States entered into this confederated Government." I much fear the gentleman's reading, as well as his rendering of the Constitution, is at fault. He must have confounded the old obsolete Articles of Confederation and the present Constitution. The former was a confederation of States, as appears from its preamble:

"Article of confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia."

This confederacy was dissolved in the year 1787, and it gave place to a confederacy of the people. This new Confederacy, as evidence of its intention, adopted a preamble to its Constitution which is remarkably expressive. It reads:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution of the United States of America."

Here are no political divisions, no geographical boundaries. This is a Union of an entire people. States and State lines are entirely ignored. Therefore, when the gentleman speaks of the present, he should use language suited to the age in which we live. Such a confederacy as he describes once existed, but it has passed away. I do not mean by this that there are no corporate States with certain independent and sovereign powers, but I do mean that through and by virtue of this Constitution, ordained by the people of the United States, it subordinated each State, so far as the letter and spirit of this instrument are concerned. This was not an act of the separate States, as such, but it was the act of the sovereign power in this Government. Indeed, no Government can exist without sovereignty. Sovereignty is its life and its motive power. This sovereignty in the Government of the United States rests not in corporate States, but in the people. From this source all municipal power is derived.

The honorable gentleman, in his remarks, mistakes the issue. The question is not one of slavery, but of the power of Congress over another subject. It is purely a legal, not a political proposition. The question is the same as though slavery were unknown. We are to shut out every consideration except the power of Congress over amendments, without reference to the subjects of them. The power of Congress is one thing, and the expediency of the exercise of this power is another. It is important to distinguish between them.

One word more, and I have done with the argument of the honorable gentleman from New Jersey. He says:

"No power not delegated to the General Government could, by the force of any amendment of the Constitution, be taken from the States."

The States have delegated nothing to the General Government. The General Government is not the creature of the States, but of an entire people. The people established a Constitution, and provided therein for amendments thereto. The people delegated nothing. They clothed "the Congress" with the power to initiate, and reserved the right of final decision. The creator of this Government and its organic law (the people) clothed its creature ("the Congress") with certain express powers, but it never delegated any power to change any portion of this organic act.

I repeat, the question under consideration is not one of a domestic, or any other, institution, excepting incidentally. If any system, no matter what, shall be found in any State which conflicts with the foundation purposes of the General Government, as expressed in the letter or in the spirit of the Constitution, it furnishes a reason for the exercise of the power with which "the Congress" is clothed by its creator.

This is in no sense an interference with such system; on the contrary, such system, by reason of its own acts, renders an otherwise dormant power operative, and hence it compels this action.

We erect penitentiaries, but except men transgress they are tenantless. We grant powers to legislative bodies, but their exercise depends upon the circumstances of each case. A given act, or the practical working of a system, domestic or

otherwise, may be the occasion of legislation, and yet by no means the object of it. So in the case in hand: slavery, of its own act, constrains the exercise of a power in "the Congress" which otherwise might have remained dormant for ages. As well may the felon complain of the enactments in a criminal statute, as slavery to complain in the case in hand. But it does not follow that the existence of this power authorizes its possessors to exercise it at will.

The honorable gentleman from Ohio [Mr. Cox] claims in substance that three fourths of the several States may abolish this Government, and that it may then "elect the king of Dahomey to be their autocrat." If the honorable gentleman means that three fourths of the States have the physical power to do this as a man has the muscular power to commit murder, he may be right. But if he means that three fourths of the several States may do this by virtue of the Constitution of the United States, I beg leave to differ with him. Such an act would be no amendment, but an actual and wanton subversion of the Constitution. It would be an unhallowed revolution. I discriminate between physical force and constitutional power. There is a substratum to the Constitution. There is a foundation power to this instrument. It is the law of nature. It existed before the world was; and before the adoption of this instrument its authors announced certain fundamental truths which were borrowed from this law, and they antedate all human Governments. Among these truths are the following: all men are endowed with certain inalienable rights; that to secure these Governments are instituted, and such Governments derive their powers from the consent of the governed.

It was in view of these truths, and for the purpose of enjoying their advantages, that our fathers ordained and established the Constitution now sought to be amended. This law, which antedates human Governments, is what I denominate the "higher law." It is a law recognized by all elementary writers, and is engraven upon the hearts of all men. It is the doctrine which teaches that any human law that conflicts with the laws of God should be pronounced of no binding force by our courts. This law, among other things, declares, "Thou shalt not steal." Who will insist that any enactment which should command the commission of larceny could be enforced in any of our courts? Yet our Constitution is silent upon this subject; therefore I say to the honorable gentleman, three fourths of the States of this Union may do nothing which infracts or tends to defeat the objects for which our national charter was established.

I am happy to say in letter (but I fear not in spirit) I am sustained in this view by the honorable gentleman from Ohio, who was recently a candidate for a high office, [Mr. PENDLETON.] He says:

"I assert that there is another limitation [to amendments of the Constitution] stronger than the letter of the Constitution, and that is found in its intent, and its spirit, and its foundation idea."

This "intent" and "foundation idea" is embodied in the expressive preamble of our Constitution. I commend it to the gentleman and invoke of him a careful perusal. From it, we shall learn that one of the primary objects of this Constitution was to "establish justice." If this object has failed, whence is it, and why? Is it in consequence of any system within any portion of our Government? Is slavery unjust in all of its workings? Is it at war with the "foundation idea" of our Constitution? If it is, then is this system the occasion, not the object of the amendment.

Another purpose of this instrument was to "insure domestic tranquillity." Has slavery contributed to this object, or has it engendered discord and finally embroiled the nation in a civil war? Who will answer? If the answer is affirmative, then has this system defeated the purpose of the Constitution.

A further purpose of this Constitution was to "promote the general welfare." How strangely has slavery aided in this work. Look at our new-made graves, our maimed citizens, our impoverished Treasury, and our widows and orphans, as evidence of its doings. Humanity weeps over its deeds of horror and of crime. Should it have perpetuity?

But above all, this Constitution was framed to secure the blessings of "liberty" to those who ordained it, and also to their "posterity." Has it accomplished this? What hindered it? Let the trembling victims in our slave pens and the bondmen and bondwomen at the auction-stand be heard. Consult the pages of the recording angel, and then compute the sorrows of the millions who have been deprived of "liberty" under a Constitution ordained expressly to secure these blessings to its subjects. Yet the honorable gentleman says "the States have no power to amend this organic act." This amendment does not propose to infract the letter, the spirit, nor the intent of this instrument; it only proposes to conform it in letter to the explicitly avowed objects for which it was ordained and established. Is it wicked to do this? Is it unconstitutional to provide absolutely for the establishment of justice, domestic tranquillity, the promotion of the general welfare, and the blessings of liberty? This is what is sought for.

I have supposed that a nation, as an individual, always had the right to reform. The converse would perpetuate error and give permanence even to a despotism. This doctrine practically carried out would bar all improvement and forever crush the hopes of the oppressed in every land. To the proper exercise of this reformatory power minorities must submit. This is not oppression, but one of the highest types of constitutional freedom. Constitutions are framed for the general interests of their subjects. They are checks upon majorities; to minorities they are safeguards. They are binding upon each, and each should respect and obey their commands. Disobedience upon the part of either is alike ruinous and unjustifiable.

The intent of the Constitution is particularly manifest from its expressive preamble; and being manifest, what is the duty of "the Congress?" Clearly to heed its utterances as absolutely as though it were so written in the body of the instrument. Hence I hold "the Congress" has the power, and it is its duty to submit, and the several States have power to ratify, any amendment which comes within the averments of this preamble. This is not because it is so written therein, but it results from the high consideration that this preamble announces the true objects of government, proclaims primeval truth, and being in consonance with the divine will as read in nature and in revelation, human laws may not infract or abrogate any of its provisions; but on the contrary they should conform the letter of the Constitution to its requirements. This is a doctrine which has "its home in the human heart." These last words are the language of the honorable gentleman from Ohio, [Mr. PENDLETON,] used in vindication of the right of revolution. I use them in vindication of the eternal principles which, unobstructed, would render revolutions unnecessary.

The same honorable gentleman, warming with his subject, exclaims, "Can three fourths of the States make an amendment to the Constitution of the United States which shall prohibit the State of Ohio from having two Houses in its Legislative Assembly?" He adds, "It is not forbidden in the Constitution, the letter of the Constitution is not against it. Why is it," continues he, "this change cannot be made? I will tell why," he concludes; "it is because republicanism lies at the very foundation of our system of government." Is this the true reason? I submit in this illustration the honorable gentleman does equal injustice to his reading as also to his logic. He ought to know that no one claims the power to make wanton or useless amendments to this instrument. Indeed, the clause authorizing amendments to the Constitution expressly limits "the Congress" to amendments which it shall deem necessary. Necessary for what? Clearly for the general good. He also knows that no law ever enacted can be justified upon any other pretense; that the organization of society is a necessity, and that the simplest law and the mildest form of government are infractions of natural liberty, and are permitted only from the necessities of man. Hence all statesmen agree that the fewer laws, the least restraint upon personal rights in carrying on Government compatible with executive force and perpetuity, the nearer such Government approaches perfection. The justice and the necessity of the case is the true test under all circumstances, whether

a law or a provision in a constitution is essential. By this rule I would try each case.

Hence I apprehend it does not follow that because "three fourths of the States" may not do an unnecessary and foolish thing, that therefore they may not do a necessary and wise act. I would reply to the honorable gentleman's illustration, the reason why three fourths of the States may not so amend the Constitution as to prohibit the Legislature of Ohio from having two Houses is because it is unnecessary for the promotion of any general good. Suppose it could be demonstrated that the existence of two separate Houses in the Legislature of Ohio, in its practical and legitimate working, proved destructive of the rights, liberties, tranquillity, and prosperity of the honorable gentleman's constituents, and subversive of the foundations of the General Government, what would the honorable gentleman then say? Then the cases were parallel. No one pretends that it is enough to warrant an amendment to the Constitution that it does not conflict with its express letter. There must be some great necessity for it. The other illustrations given by the honorable gentleman upon this point are equally irrelevant and frivolous. Were the matter in court, upon proper application, they would be stricken out as such.

I conclude, therefore, that "the Congress" has the power under the Constitution to propose amendments thereto when two thirds thereof shall deem it necessary, and that three fourths of the several States may approve of or reject such propositions at will. This being so, the necessity or expediency of the measure remains.

A few words upon these points and I have done. Were it not for certain erroneous adjudications of our State and Federal courts, I apprehend the proposed amendment were wholly unnecessary. I am firm in the faith that the Constitution of the United States, properly interpreted, would tolerate no slave within its jurisdiction. Slavery and our cumulated woes have grown out of an erroneous construction of the provisions of this instrument. There is no law by virtue of which man can be held as property. Were such laws enacted, being in direct conflict with the "foundation idea" of our Constitution, they would be void. In this I am sustained by the honorable gentleman from Ohio, [Mr. PENDLETON,] who says, "Congress can no more make a slave than it can make a king." His object, however, was to show, if Congress cannot make a slave, therefore it cannot unmake one. But if Congress "cannot make a slave," pray how can a State? Has Congress as much legislative power as has a State Legislature? Nay; the honorable gentleman is right in his assertion; and I will affirm that no legislative power under the jurisdiction of our Constitution can make a slave. If this is true, the necessity of this amendment arises from the erroneous adjudications of our courts. They, notwithstanding the great doctrines of the Constitution, have recognized property in man. Hence the necessity of a provision positively inhibiting slavery in any of the United States. Sir, it is sometimes alleged that the framers of the Constitution entered into a compromise upon the subject of slavery prior to its adoption. This I deny. This compromise was not between freedom and slavery, but it was a compromise solely between the majority and the minority of the people of the United States. Had there been a compromise between freedom and slavery, the representatives of the latter would have demanded the insertion of a clause in the Constitution similar to the amendment proposed by Mr. Crittenden, of Kentucky, in 1851, which the honorable gentleman from Ohio [Mr. PENDLETON] voted for. It reads as follows:

"No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere within any State with the domestic institution thereof, including that of persons held to labor or service by the laws of said State."

The majority agreed never to insert any new provision into the organic act unless two thirds of the Congress should deem it necessary, and then three fourths of the States should approve of it before it should be valid. Thus guarded the minority undertook and provided that they would yield obedience to all and any changes thus inaugurated and approved; provided always they did not conflict with the letter or the spirit of this organic act.

In view, therefore, of the erroneous adjudications of our courts, to which I have alluded, and in consequence of a perverted public sentiment induced therefrom, prudence dictates that our safety in the present as well as in the future requires the insertion of an express clause in the Constitution forever prohibiting slavery in any State of the Union. I say the present and the future safety of our country requires this, for under our Constitution as it is now written man has been held as property, his civil rights have been wantonly trampled under foot, God's law openly violated, and our country has been brought to the verge of ruin.

One question remains. Is this amendment expedient? I will not insult this House or the country with an argument upon this point. I should as soon expect a hearing in the demonstration of a self-evident proposition; for if it is expedient to do right, if slavery is wrong, if "righteousness exalteth a nation," if "sin is a reproach to any people," if obedience to the commands of God is a duty, if national prosperity and the unity and the perpetuity of our Government are desired, then is this measure expedient. Its adoption involves all of these, and its rejection imperils all. There is nothing partisan in this measure; it will serve all interests. Hence, why honorable gentlemen will oppose it, and thus invoke the judgments of God, and defy the will of the people as recently expressed, and dig for themselves ignominious graves, is beyond my comprehension.

The honorable gentleman from Indiana [Mr. HOLMAN] says "the Democratic party were always opposed to slavery." I will not, I have no inclination, to controvert this at a time when such mighty interests are involved. But I will say, that true Democracy never had and never can have any sympathy with human bondage; and if the Democratic party is now opposed to slavery, as the honorable gentleman avers, the country may take heart, for all parties now harmonize upon this question, which has heretofore divided and distracted the councils of the nation. I cannot see why any one who believes slavery to be wrong can wish to perpetuate it. May we not do in fact what the universal judgment of all men approves? The honorable gentleman from Indiana [Mr. VOORHEES] says "slavery is dead." So said my colleague from New York, [Mr. BROOKS.] If this is true, and who will dispute their veracity, can any one complain if we clinch the nails that hold the lid of its coffin?

Therefore I hope to see the Democrats unite with the Union men in this act, which will forever prohibit an institution which all deplore and condemn. The fruits of this act are not partisan but they are national.

Mr. Speaker, I apprehend there are very few of those who are actively participating in the great national drama now being acted who realize the importance of the part they are severally performing. There are times when "words are things." The events as well as the utterances of the last four years shall have a future. They will be scrutinized by those who shall come after us, and their influence will affect the destinies of the Governments of the world. The United States, the respective corporate members thereof, and the several citizens of each, are making history. A record will be kept for future reference, and "woe betide" the man who neglects to improve the present. The legislator who only contemplates the present moment is strangely remiss. He who provides solely for the necessities of the immediate now is criminally negligent. Such a man would hesitate to plant a tree lest he might not gather of its fruit, or to build a house fearing he might not enjoy its continuous shelter. The sordidly selfish live not in the future. The benedictions of posterity never greet their ears or gladden their hearts. They are conservatives extreme.

Had Genoa's navigator acted upon this principle we were without a western continent, and civil liberty without a soil in which to germinate and mature. Had the Pilgrims only considered their own privations and perils, Plymouth Rock were without its immortality, and our representative Government without a place among the nations. Our ancestors had learned that Christianity was more than a ceremonial, and their descendants have demonstrated that democracy

(I mean democracy in its generic sense) is more than a name. They are principles, handmaids, coworkers, integral and essential parts of a free Government. They are known by their works. From the hour the morning stars first hymned their song of praise they have harmonized in plan and in purpose; and when they shall finally triumph, as triumph they will, then may we expect the blessings for which my colleague [Mr. BROOKS] so devoutly and earnestly prays, "Peace on earth and good will to men." Till then he need not hope. And allow me to assure him that a democracy that does not harmonize with true Christianity and freedom is essentially false. Had the patriots of 1776 considered the sacrifices only which would follow their acts, we were yet dependents and vassals of the British Crown. Had their descendants in 1861 looked only to their personal case, we were now a permanently despised and a degraded nation.

I cite these instances, not to lecture, but to admonish those who are actors in the present drama. The past has its lessons, the present, its duties, and the future its application of the teachings of history and experience. There is a tide in the affairs of nations as well as in men, which, when taken at its flood, leads to prosperity. Be it ours to watch its ebbing. The Puritan as he stood on the bleak shores of New England, saw a wilderness give place to cultivated fields, rude dwellings to comfortable mansions and populous cities, and savage life to civilized joys and culture. They saw the outlines of a Government which, when matured, "like the dews of heaven," would shower its blessings alike upon all. They saw the stone cut out of the mountain of freedom increase till it filled the entire earth. The vision inspired their hearts and nerved them to sacrifice and suffering. Shall we who enjoy the fruit of their privations and toil do less? I believe before God the hour has come in which, if we would avert the judgments of Heaven and save our nation from ruin, we must render our organic law explicitly affirmative on the great question of human slavery. This being done, we may hope for that peace for which the friends on the other side of this House so agonize and pray.

Mr. PIKE. Mr. Speaker, I did not expect to take part in this discussion. A question so thoroughly argued before the country for a generation, and one on which political parties have pivoted so long, did not seem to me to need further elucidation. And I do not rise now, sir, so much to discuss and argue as to express my gratification at the prospect of the early and final settlement of all questions pertaining to slavery by the entire destruction of the system.

When, something more than a quarter of a century ago, just commencing active life, I made myself conspicuous in a limited sphere by attacking slavery, I had no expectation of taking part here and now in the grand consummation of its utter demolition.

I had no idea then, sir, that it would live so long. As it could be demonstrated to be wrong, contrary to natural right, and tending always to the practice of cruelties and barbarisms of revolting character, I thought it would die and the country be rid of it speedily.

But I was mistaken. Argument and demonstration had apparently but little effect upon it. Allying itself to the political parties of the country, it grew strong and rich and flourished vigorously in the face of opposition. It dictated terms of adjustment of political differences, and everywhere was felt as the most powerful element of government in the country.

Starting out with friends who apologized for its existence as one of the necessary evils of society, something to be tolerated for a time only, it soon came to assume the bolder position of right. It left off accusing the English of fastening the system upon their colonies at a time when they could not resist, and thus placing the descendants of involuntary slaveholders in the condition Mr. Jefferson described as having the wolf by the ears and able neither to hold him or let him go.

The pro-slavery men threw away supplication. They asked no consideration on account of their history. They no longer deprecated the existence of slavery. Mr. Hilliard, of Alabama, and other frank and intelligent advocates, stated distinctly that their grounds of supporting the system had changed. They now advocated it because

they believed it to be right. For the same reason they wished it more widely diffused. It was a proper relation between the two races, and where ever there were white men and black men there should be slavery.

But the extension of the system required the consent of the General Legislature. The establishment of new territorial governments and the admission of new States must be done by Congress.

Should this consent be given?

Upon this question parties were arrayed. The discussion became general. Political conventions declared themselves on the one side and the other. Few side issues were tolerated. The main question involved interests, social, religious, pecuniary, political, greater than were ever submitted to a popular election before.

It was decided against slavery. But the decision was simply that it was not such a blessing as should be extended. Very mild, surely! The organization which prevailed took great care to say that it would not object to the retention of existing slavery. It knew the extreme sensitiveness of the friends of the system, and would do nothing and say nothing that indicated a purpose to interfere with local authorities. Mr. Lincoln, as its organ, declared this with great emphasis in his inaugural address.

But this would not answer. The decision of the popular election, however softened in terms, was against the new pretensions of slavery. The people of the country had said, in accordance with the proper forms of law, that slavery was not one of the institutions to be cultivated, cherished, and boasted of.

And slavery accepted the decision as final. The discussion had gone on for a generation with great activity and been attended with much acrimony. The effort at repressing it with violence had failed. Opposing argument had failed. What, then, the use of another trial? No new evidence could be adduced in its favor. No law of God or man could be cited that was not already familiar. No new threat could be held high in menace over the action of the people in their primitive assemblages, or of the Representatives in their official character.

Slavery had failed in argument, failed in menace, failed in the popular vote.

But it would not yield. It did not believe in popular majorities. It had been contending against them for years. When it saw the coming decision it proclaimed long in advance that it deemed it invalid.

The only other resort left was that of violence. The *ultima ratio* of kings must be tried. It would establish itself as a Government, and would depend upon war to vindicate its right to be recognized among the Governments of men.

We all know the result. It had an infernal strength greater than any of us supposed. It has destroyed hundreds of thousands of the best and noblest of our youth. It has rendered desolate homes in every village and hamlet in the land. It has loaded our labor with burdens that it shall carry so long as the Government has an existence. It has subjected us to insult from abroad that we have been unable to repel. It has encouraged foreign nations to prey upon our commerce, and we have been unable to prevent the wrong or retaliate in kind. Stunned, blinded by the blows that it received in the contest, it thought, like Samson, if it must die, it would lay hold of the pillars of our temple of liberty, and mustering all its gigantic strength, it would perish in the common ruin.

But, thank God, we come out of the fierce contest victors. Bruised, bleeding, carrying wounds which shall be visible for centuries on the body-politic, as they now are in our streets on the persons of thousands and tens of thousands of noble men who had the patriotism and devotion to country which impelled them to the contest where the fight raged fiercest, still gloriously victorious, we may say with Isaiah, "The terrible one is brought to naught, and the scorner is consumed!"

And now, what shall be done with the demon that, after a career of lust and wrong unexampled in Christian countries, has added to the crimes growing out of its nature the wide-spread desolation which has been experienced everywhere in all the States of this Union?

Does any one hesitate to say let it die? Has it not deserved death and damnation for its crimes?



But it is said that the organic law intervenes and prevents the infliction of that just punishment; that somehow we have made a bargain that, come what will, we will not be allowed to rid the Government of slavery. If this be so, it is a gross defect in our organization. It makes slavery the "unpardonable sin" which no repentance can avail to rid ourselves of.

But how is this? Slavery is eminently a creature of law. No jurist maintains that it exists *ex proprio vigore*. No advocate of the system would rest it in anything short of well-defined law. Without the aid of positive enactments it dies. I know that nowhere in this country has it been established in terms. No statute in any State has said that hereafter slavery shall exist here; but it has done what is equivalent. It has gone into the detail of management, sale, conveyance, and descent of property in slaves. It has made a body of laws which have been dependent upon slavery as the central fact. Abolish them, and you abolish slavery. I say, then, slavery is everywhere the creature of positive law.

How is it, then, that the supreme law cannot reach so important a detail in local law?

The States gave certain rights to the General Government, and upon this the General Government started as a stock in trade. They stipulated in the original instrument that whenever, upon proper preliminary proceedings, three fourths of their number should agree to a further grant of power, then the General Government should have that power.

But it is said there are limits. Of course there are. But what? Are any to be found in the instrument itself? None.

It is suggested that they are to be found in the preamble. But can anybody examine the preamble and say that practically it has any limits?

It says:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

But what Government known among Christian nations might not adopt the same preamble, and, with show of reason, from its standpoint, adopt the same declaration?

It is so general as not even to specify the form of government which it intended to be established. Should the people of England, Ireland, and Scotland choose to reduce their constitution to writing, what would prevent the adoption of this preamble?

But the understanding, it is said, among the original contractors should govern. Can this rule prevail against positive enactment? I will not attempt to go into the history of the formation of this instrument. That has already been well done by able gentlemen who have preceded me. But I invoke the well-known rule of construction in ordinary contracts, that when the written agreement is not dubious, all previous debate is merged in it, and must be excluded from consideration in forming a judgment upon it.

Is the provision for amendment at all doubtful in its import? No one pretends that it is. The language speaks as plainly as language can, that any amendment which shall be made in accordance with its provisions shall become part of the instrument. Here is the provision:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by three fourths of the Legislatures of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Except, then, the cases excepted in the provision I have read, and the power of amendment is unlimited in its terms.

And still there is a limit. What is it? It is the limit of all human law. All publicists agree that there is a limit to human law, no matter what may be the form of government. The nations' religion must necessarily control its written law. The best English writers upon law say this, and we need not their authority or anybody's authority

to establish the proposition. Every man's religion is his sense of ultimate right. With us the thing goes up in regular gradation. The town is subordinate to the State. The State acknowledges the General Government to be superior. The General Government is inferior in law, as in everything else, to the great Ruler of events.

Higher-law doctrine, I know; but who does not acknowledge it? What man takes the other position, that his highest notions of morality are in the statutes? Would not honest men do well to play shy of such a man? Whoever knew a man who acted in accordance with the rule that he would deal with others no better than the law obliges him to do and did not pronounce him a scoundrel? Have we not all seen such men, and do they not oppress their neighbors by "getting the law of them" as they call it?

Nor is this the fault of the law. Every human law is necessarily imperfect. It cannot provide for all imaginable cases. And ingenious scoundrels will find opportunity to inflict wrong while acting within its provisions.

The gentleman from Ohio [Mr. PENDLETON] who argued this question the other day put specified cases where it was manifest the General Government ought not to interfere with the States. But logically the force of those illustrations was derived from this higher law. In the instances put the General Government should not act, because it would be *unjust*. Neither he nor any other gentleman has put a case, within the proper limit of human law, which the power of an amended Constitution may not reach.

Men of science recognize the same rule of higher law. Some years since the corps of the Coast Survey came into my county in pursuance of its duties along our coast. They made a base line. The object was to find two points exactly six miles apart. To do this was the work of months. The most elaborate instruments were obtained. The expansion and contraction of metals was thoroughly considered. And after all the preparation, that experience and science could suggest was exhausted, ample time was taken in the measurement. All this being done, the most exact result possible was obtained. And the line got was just six miles long, no more and no less. Thousands of dollars expended and months of time had produced this precise thing. From this sprang triangulation along the coast, and measurements by instruments the most perfect known to man. One would think these intelligent gentlemen would have rested satisfied with this. But no; all this was fallible like every other human effort. They appealed to the higher law for correction.

Their work was submitted to the law that governs the stars. The heavens were explored, and ultimate accuracy was only obtained when it was ascertained that the work done on the face of the earth agreed with the deductions to be drawn from the coursing of the stars in the heavens; for these wise men well knew that the celestial orbs moved with unerring accuracy, knowing no variableness since the Creator of all threw them into space with the mandate:

"Roll on in your beauty, ye youthful spheres,  
And weave the dance that measures the years."

Adopting this rule, certainly there can be no objection to the proposed amendment to the Constitution. The higher law not only sanctions, it demands in thunder tones that the system shall be eradicated without delay, and no vestige be left to annoy God or curse man.

Let it then be done, and let slavery be destroyed. And hereafter the only contest upon the subject will be who did the most to bring about this consummation so devoutly wished for by all good men. The earlier anti-slavery men shall have their full meed of praise. They did well. They brought the wrongs inherent in the institution to the attention of the people of the country. They would not be put down at the bidding of the imperious advocates of the system. But the system flourished under their attacks. It grew rich and strong. It waxed fat. How long it would have lived God only knows, if it had not injured itself. But it was not content. It destroyed itself. Our Davids were not powerful enough to inflict a mortal blow upon this modern Goliath, and Heaven would have it that the giant wrong of the age should commit suicide.

And when the genius of history shall write its

epitaph on the walls of the great Hereafter, specifying the date of its death, short stay will it make in describing its virtues; but after cataloguing a portion of the great crimes it has committed against mankind, it will add, "Dead, dead not of Lloyd Garrison and Wendell Phillips, but dead of Jefferson Davis and the Montgomery constitution."

God speed the day of its burial, for with it as the creator ends this war of its creation, and liberty and peace shall come hand in hand and bless the continent with their presence.

Mr. ASHLEY obtained the floor.

And then, on motion of Mr. THAYER, (at three o'clock, p. m.,) the House adjourned.

## IN SENATE.

MONDAY, January 30, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of Saturday was read and approved.

## EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior communicating, in answer to a resolution of the Senate of the 17th instant, information in relation to the expenses of maintaining the jail in the District of Columbia for the years 1863 and 1864; which was referred to the Committee on the District of Columbia.

He also laid before the Senate a report of the Secretary of War communicating, in answer to a resolution of the Senate of the 10th instant, a complete list of all the major and brigadier generals in the volunteer forces of the United States, showing where and how they were employed on the 1st day of January, 1865; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War communicating, in answer to a resolution of the Senate of the 23d instant, information in relation to the report and evidence taken by a military commission, of which General Speed S. Fry was president, appointed to investigate the conduct of General Faine in and about Paducah, Kentucky; which was ordered to lie on the table, and be printed.

## PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of female employes in the Treasury Department, praying for an increase of salary; which was referred to the Committee on Finance.

Mr. POMEROY presented resolutions of the Legislature of Kansas, requesting that a sufficient military force be placed in the hands of Major General Curtis, commanding that department, to enable him to give sufficient and ample protection to the frontier of that State and the overland and Santa Fe routes against Indian depredations; which were referred to the Committee on Indian Affairs.

Mr. POWELL presented resolutions of the Legislature of Kentucky, protesting against taxing leaf tobacco; which were referred to the Committee on Finance.

Mr. HOWARD presented a petition of citizens of Michigan, praying for a grant of land to aid in the construction of a ship canal from Portage Lake to Lake Superior; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Michigan in favor of a grant of land to aid in the construction of a ship canal from Portage Lake to Lake Superior; which were referred to the Committee on Public Lands.

Mr. SUMNER presented the petition of John P. Brown, secretary and dragoman of the legation of the United States of America at Constantinople, praying compensation for services rendered the United States in the capacity of chargé d'affaires, *ad interim*; which was referred to the Committee on Foreign Relations.

Mr. WILSON presented a petition of officers of the seventh Army corps, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented a petition of officers of the volunteer army of the United States praying for an increase of their pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. FARWELL presented a petition of shipmasters, merchants, and ship-owners on the coast

of Maine, praying that steam whistles be placed upon Cape Elizabeth, Matinicus Rock, and Quoddy Head, for the purpose of conveying information to vessels approaching these points in thick and foggy weather; which was referred to the Committee on Commerce.

Mr. SAULSBURY. I present the memorial of William Cornell Jewett, communicating to the Senate of the United States certain facts of which he professes to have knowledge. Of course I have no knowledge of these facts and express no opinion as to the propriety or impropriety of the prayer contained in the memorial. Regarding the right to petition as a sacred one, a right to which every citizen is entitled under the Constitution of the United States, I present the paper as I would any other petition or memorial handed to me which was respectful in its terms. I ask that it be read and lie on the table.

The VICE PRESIDENT. The Senator from Delaware asks that this paper be read. Is there any objection? The Chair hears none.

The Secretary proceeded to read the memorial, as follows:

*To the honorable the Senate and House of Representatives of the United States:*

Your memorialist begs leave to present to your honorable body for consideration the fact that the Singleton and Blair missions have signally failed, and there is therefore no hope of peace through negotiation; that it has now become apparent that France, Austria, Spain, and the Pope intend recognizing the confederacy after the reinauguration of President Lincoln; that to that end France and Austria have entered upon a division of the Mexican States with a view to a speedy acquisition of California, and the regulation of power upon this continent, under the policy that has controlled in Europe for the last century; that the issue now between the North and South is independence or extermination, under which banners the people must divide and rally; that it is folly to take any other view of our national position, and likewise folly to talk of the South as now being crushed, from alone "her spirit even more formidable than her arms," from her ability to purchase independence through slavery, and cooperation in extending European rule upon the American continent, and from a late declaration made by General Sherman, "that instead of the South being conquered the war had hardly commenced."

Your memorialist therefore prays that immediate steps be taken for the recognition of the independence of the confederacy, and with a view to securing those great commercial relations so highly important, and which will inure to the benefit of European Powers unless friendly relations of commerce, and an alliance offensive and defensive is entered into and secured for the benefit of the United States, before such advantages shall have been acquired by European Powers.

To provide against a misconstruction of motive, your memorialist hereby declares before God and man, that he sincerely believes such action indispensable to prevent a war with Europe and to successfully defend, preserve, and perpetuate the American Republic.

Mr. SHERMAN. Is it usual to read petitions at length?

The VICE PRESIDENT. It is not, but the Senator from Delaware asked that this memorial should be read, and the Chair said it would be read if there was no objection; the Chair put the question, and no objection was made.

Mr. JOHNSON. Whose petition is it?

The VICE PRESIDENT. The Chair does not know. It is one which was presented by the Senator from Delaware.

Mr. SHERMAN. It is not usual to read such papers at length; and I object to its reading.

The VICE PRESIDENT. The Chair is informed that it is signed by a man named William Cornell Jewett.

Mr. SAULSBURY. I care nothing about having the paper read.

The VICE PRESIDENT. If there be objection to its reading, it will be for the Senate to determine.

Mr. CONNESS. I object.

Mr. SHERMAN. I object, not because I know what it contains, but if we get in the habit of reading petitions, the whole morning hour will be consumed in that way.

The VICE PRESIDENT put the question, and the Senate refused to allow the paper to be read. The memorial was laid on the table.

#### LEAVE OF ABSENCE TO A SENATOR.

Mr. NESMITH. I desire to ask the unanimous consent of the Senate to give my colleague [Mr. HARDING] leave of absence for the remainder of the session.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was re-

ferred the bill (S. No. 408) in addition to several acts for enrolling and calling out the national forces, and for other purposes, reported it with an amendment.

Mr. FOOT, from the Committee on Public Buildings and Grounds, to whom was referred the letter of the Secretary of the Interior transmitting a copy of the supplemental report from the chief engineer of the Washington aqueduct showing the condition of the work and the present state of the appropriations authorized and provided for by the act of July 4, 1864, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, used for books and newspapers exclusively, reported it with an amendment.

Mr. FOOT, from the Committee on Public Buildings and Grounds, to whom was referred the petition of William Hughes praying payment for an improvement of the grounds surrounding Army square hospital, asked to be discharged from its further consideration; which was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes, reported it with amendments.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 419) for the better organization of the pay department of the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LYDD, Chief Clerk, announced that the House had passed a bill (H. R. No. 574) for the relief of Alexander F. Pratt, in which the concurrence of the Senate was requested.

#### CONGRESSIONAL DIRECTORY.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of ordering a Congressional Directory to be compiled and furnished to Congress in the early part of each session.

#### PAPERS WITHDRAWN.

On motion of Mr. BUCKALEW, it was

*Ordered*, That the Committee on Pensions be discharged from the further consideration of the petition of Mrs. Harriet O. Read, and that the petitioner have leave to withdraw her petition and papers.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LYDD, Chief Clerk, announced that the House had concurred in the resolution of the Senate in relation to the appointment of a committee to ascertain and report a mode of examining the votes for President and Vice President of the United States, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. E. B. WASHBURN of Illinois, Mr. ROBERT MALLORY of Kentucky, Mr. HENRY WINTER DAVIS of Maryland, and Mr. S. S. Cox of Ohio, the committee on the part of the House.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 574) for the relief of Alexander F. Pratt was read twice by its title, and referred to the Committee on Claims.

#### COMMITTEE ON CORRUPTIONS.

Mr. WADE. As there seems to be nothing else on hand, I move that the Senate now proceed to the consideration of the unfinished business of Saturday.

Mr. DAVIS. I will ask what is the regular order of business before the Senate?

The VICE PRESIDENT. After the morning business is disposed of, the regular order will be the unfinished business of the morning hour of Saturday, that being the following resolution offered by the Senator himself:

*Resolved*, That the special rule of the Senate, No. 31,

be amended by adding these words: "A committee for the investigation of the corruptions of the Government in all its departments and offices, to consist of five members."

Mr. DAVIS. I ask leave to offer an amendment to that resolution, which I desire to have read.

The VICE PRESIDENT. If there are no other resolutions to be offered, the next business in order will be the subject which the Chair has just stated; and to that the Senator from Kentucky submits an amendment, which will be read.

The Secretary read the amendment; which was to add to the resolution these words:

Which committee shall be appointed by the Presiding Officer of the Senate. Whenever there is a party political Opposition to the executive administration of the Government in the Chamber, the chairman and majority of the committee shall be selected from the Senators in such Opposition. And said committee shall have power to continue its investigations during the recess of the Senate, to send for persons and papers, and to adjourn from time to time and from day to day.

The VICE PRESIDENT. Upon this resolution the Chair is under the impression that the Senator from New Hampshire [Mr. HALE] is entitled to the floor.

Mr. HALE. This subject came before the Senate unexpectedly, and I, having some suggestions to make upon it, was brought into the debate very unexpectedly; but as I have commenced, I will proceed with what I have to say.

I have said that I was utterly opposed to the creation of any more committees on frauds until we had dealt with some of those which had been presented to the consideration of the Senate. I hold in my hand the report of the select committee of the Senate that sat last year, and I will read to you the conclusions to which that committee came:

"An examination of the evidence has satisfied your committee that the Government has suffered as much by purloinings made directly by the chiefs of bureaus as in any other way. This fact is illustrated by the case of the purchase of a crank for the steamer Cambridge, an account of which may be found in the correspondence of Admiral Smith with the Navy agent at Charlestown, where nearly or quite twice as much was demanded by Lazelle, Perkins & Co. for the article furnished as it could have been procured for by the Navy agent in the regular course of business as regulated by law.

"At a time like the present, when taxes are so high, and the burden of the war falls so heavily on the people, they have a right to expect and demand from those intrusted with the disbursement of the public money fidelity, vigilance, and economy.

"In conclusion, your committee submit the following as the result of the examination they have made:

"1. In the matter of contracts for naval supplies last year the Government has been grossly defrauded.

"2. These frauds could not have been perpetrated without aid from those in the employment of Government in the bureaus.

"3. These remarks apply to the Bureau of Steam Engineering, the Bureau of Construction, &c., and the Bureau of Yards and Docks."

Not to be tedious, let me call the attention of the Senate to a single one of these cases, the case of the contracts for oil; and if the Senate will give me their attention for a moment, I think they will see that we have something to do before we raise any more committees to investigate frauds in that Department:

"One of the most remarkable features of these very remarkable transactions is the contracts for sperm oil, under the advertisement of February 13, 1863, at the several navy-yards, all made with H. D. Stover, of New York. At the Kittery navy-yard there was no contract; at Charlestown the price was \$1 65 per gallon. Burnet Forbes was the next lowest bidder, at \$1 70 per gallon. At New York the contract was awarded to Stover, at \$1 68 per gallon; the next lowest bidder was Burnet Forbes, at \$1 70. At Philadelphia it was awarded to Stover, at \$2 35. The next lowest bidder was Seefeldt, at \$2 40 per gallon. At Washington the contract was awarded to Stover, at \$2 41 per gallon; the next lowest bidder was W. A. Wheeler, at \$2 46.

Thus Mr. Stover took the contract for sperm oil at all the navy-yards at this letting, at prices ranging from \$1 65 per gallon to \$2 44 per gallon; and in no case does the price of oil as awarded in the contract with Stover fall more than five cents below the next bidder, and in two of the cases but two cents below, although the prices range from \$1 65 to \$2 44 per gallon; and what renders this coincidence the more remarkable is, that while several alterations in the prices are made, the one most significant is in the price of sperm oil delivered at New York, the price of which was originally put in at \$1 40 per gallon, and subsequently altered to \$1 68 per gallon, just two cents below the next bidder. Now, the committee with confidence suggest that it is hardly to be believed that it falls within the range of human sagacity for any man to be able so to gauge his bids for articles to be delivered at different places, differing so widely in amounts as these do, as to fall in two instances two cents, and in two others five cents, below the next bidder; and credulity on this subject is still further taxed when it is known that one of these bids, originally \$1 40, has been raised to \$1 66, still keeping the bid the lowest by two cents.

"It is worthy of remark that this alteration of the bid in this price of oil, from \$1 40 a gallon to \$1 68 a gallon, is very adroitly made by a careful erasure of 40, and 68 written over the place, evidently intended to mislead the observer, and done to induce the belief that \$1 68 was the original bid; and the same, substantially, is true of very many of the other alterations before mentioned, though some of them appear to have been openly and boldly made. It is difficult to perceive why, if these alterations were honestly made, in good faith, when the bidder had a clear right to make them, there should have been such a manifest intention to mislead or deceive."

These alterations were pointed out by Mr. Smith, of Boston, who has had to suffer for it, I was going to say more than the Government: but they have been both pretty severe sufferers. The pamphlet of Mr. Smith pointing out these gross frauds was furnished to the Secretary of the Navy, and by the Secretary submitted to the several heads of bureaus, and they were asked for an explanation. They took a very substantial way of explanation: they denied the whole thing. Mr. John Lenthall, chief of the Bureau of Construction, said:

"The bids have been examined, as well as the schedule made at the opening, and, to the best of my judgment, there have been no alterations made further than in some cases to change the incorrect amounts from the rectifications made on the margins of the bids; and I do not believe they have been in any way tampered with."

Now, sir, I will give you the testimony of Mr. Lenthall's chief clerk:

"In reply to this opinion of Mr. Lenthall, that there had been no tampering with the bids, it may be remarked that Mr. Farwell, the chief clerk of Mr. Lenthall's bureau, at his examination before the committee in reference to a number of Scofield's bids, and of Lockwood & Collins's, which appeared to the committee on examination to contain so many alterations and erasures in the writing and in the figures as not to be worthy of credit, in that immediate connection testified as follows, namely: 'I desire to state, in this connection, that I recommended, at the time these bids were opened, that they should be rejected as being defaced and as being uncertain, it being doubtful what the figures meant; but these bids were all referred to the Department, and such of them as were awarded were ordered to be awarded by the Department. Collins's bids are of the same general nature all the way through.' Your committee are inclined to agree in opinion with the clerk rather than the chief; and so far as the appearance of those bids is considered, if they do not exhibit unmistakable evidence of fraudulent tampering, it is difficult to conceive what evidence would establish that fact. Indeed, it may be said generally of these bids exhibited to the committee by this witness that a worse exhibition of papers, for which any credit was claimed, never was made to any tribunal."

That is only one of a hundred cases. What was the result of this investigation? What was the result of laying these facts before the Senate? The witness through whose instrumentality they were made known, as I mentioned on Saturday, was immediately seized by order of the Navy Department, his store taken possession of, his private papers seized, his wife's desk and private papers taken, and he was sent down to Fort Warren and held there, and denied intercourse with his friends, under a bail of \$500,000; and he was to be kept there until he could procure bail for that sum. Indignation beginning to be excited about it, the man guilty of this outrage consented, as I before remarked, to take \$480,000 off the bail, and he was let out for \$20,000.

I was asked, I think, by the Senator from Kentucky [Mr. DAVIS] if Mr. Smith was arrested for giving this information. Sir, it is impossible for me to scan the motives of men; it is enough for me to deal with my own; but, standing here under all the responsibilities which attach to me, fond as any man of what little reputation belongs to me, careful of my word, I think, as most men, I aver before the Senate, before the country, and before God, that I have not a shadow of doubt that the sole offense for which Mr. Smith was arrested was the evidence that he gave upon this occasion. And in that connection I have a remarkable statement to make in regard to these tribunals. The man who ordered this outrageous arrest, the man who perpetrated this outrage in Boston, compared to which the proceedings of Turkey are civilized and the Inquisition is a tender mercy, being remonstrated with on another occasion against sending these cases to naval and military courts-martial, and being asked why he did not take the ordinary courts, made this remarkable avowal: "Your civil courts are organized to acquit; we organize courts to convict." If there was some friend of the individual referred to here to deny it, without stirring out of my tracks I would prove, by evidence that would flash conviction on every mind that heard it, that it is true as Holy Writ that this declaration was

made, and not only made but acted upon. I will tell you how it is done, for, as I am upon this thing, I want to expose it.

You know that by the retiring law which we have passed—a law which I always voted against, I am very glad to say; and I am sorry that I did not succeed in defeating it, for it is nothing on earth but a system of favoritism—the Secretary of the Navy is enabled to employ any old men that get to be eighty or ninety years of age, so long as they live, provided they are agreeable and do such service as he requires of them, and to exclude everybody else that does not bask in the sunshine of his favor. These retired officers who have no employment except at the will of the Secretary, are put upon these courts-martial. The members of the court-martial that tried Smith were Captain William K. Latimer, Captain Charles Boardman, Captain John S. Chauncey, Captain Andrew K. Long, Commander Edward W. Carpenter, Commander T. Darrah Shaw, and Commander Thomas M. Brasher. I am not certain, but I believe that every one of them is a retired officer; certainly a large majority of them are on the retired list. These gentlemen, like other retired officers, are anxious for pay, for employment, and if they make themselves acceptable to the Secretary of the Navy they can get it; if they do not, they cannot. The court being thus organized, the Secretary of the Navy appears as prosecutor where the man is prosecuted; and it being known that the Department wants a conviction, there is nothing else for them to do but to convict.

In regard to this case, I want to read a statement for which the honorable Senators from Massachusetts and the whole delegation from that State in the House of Representatives are responsible, for they have signed their names to it:

"The proceedings have seemed to be harsh, vindictive, and unnecessary:

"1. In the character of the arrest of the Messrs. Smith, which was attended by circumstances of severity utterly unjustifiable.

"2. In requiring bonds to so large an amount as \$500,000."

I think it was an outrage which deserves the severest condemnation of this Government and of the civilized world. When Aaron Burr was arraigned before Chief Justice Marshall, and the question of bail was raised in some of the preliminary proceedings which finally terminated in an indictment for treason, the bail fixed by the Chief Justice was \$10,000. There may have been cases where larger bail has been demanded, but I am not now aware of any. In this case \$500,000 bail was demanded.

Now, let me ask if the Chief Justice of the Supreme Court of the United States had ordered any man to be incarcerated until he gave bail of \$500,000, is there a Senator here who would fail to record a vote for the impeachment of the officer who should order such bail? There may be, but I trust not.

Let me read a little further from this statement. They say these proceedings were still further unjustifiable in these respects:

"3. In the seizure of their books and papers, which are still detained, although regarded by their eminent counsel as important to their defense.

"4. In turning into a military offense what is more proper for a civil tribunal, and dragging these defendants before a court-martial.

"5. In transferring the proceedings from Boston, where the parties reside and the transactions in question occurred, to Philadelphia, thus increasing greatly the difficulties and the expense of the defense. This will be appreciated when it is understood that the witnesses are very numerous, and chiefly engaged in mercantile business, so that they cannot leave Boston without the neglect of their private interests.

"The undersigned, on reviewing these circumstances, which are so inconsistent with the administration of justice in its ordinary forms, have been at a loss to account for the spirit which has been manifested in the prosecution. If they look at the trivial character of most of the specifications against the defendants, they are still more at a loss. It is difficult to account for such elaborate and persistent harshness without yielding to the prevailing belief that other motives than the vindication of justice have entered into this case.

"The undersigned are not strangers to the fact that one of these defendants, in the discharge of what he believed to be his duty as a good citizen, has, by correspondence and by testimony before committees of Congress, been brought into collision with officers of the Navy Department; and there is too much reason to believe that some of these officers have allowed themselves to be governed by personal feelings throughout these strange proceedings."

I think so too. This man brought all the machinery of the Government to bear to crush this witness for the testimony he had given. Read

the evidence, read the charges upon which he was tried, and I have no doubt convicted, so far as the finding of the court is concerned, because they were organized to convict, and I tell you, sir, you will be satisfied, and any Senator with an unbiased mind will be satisfied, that there is not a mercantile house in Boston, in New York, in Philadelphia, or in Baltimore, or anywhere else, doing a large business, that might not be convicted, if tried, upon precisely the character of transactions which are alleged here as fraudulent, and the evidence by which they are sustained.

But, sir, the thing does not stop here; they were not content with that; but, as I said when up before, a roving commission was sent out to Charlestown and Portsmouth to see if something could not be hunted up against the committee that laid these facts before the country. I think before the Senate institute any more committees or commissions to investigate fraud, they should at least vindicate their own body and see to it that those who are unkenneled and whose frauds are exposed shall not with impunity turn upon the Senate and see if they cannot find out something by which to attack them, thus constituting themselves a tribunal over and above the Senate. Sir, you may have as many committees as you choose, but can you expect to have a fair and honest investigation, if, the moment a witness testifies against one of these Departments, he is liable to have his private papers seized, his store shut up, his house taken, himself torn from society and from everything that society is bound to protect, incarcerated in a cell in one of your forts, and there held under a bond, the very enormity of which is calculated to paralyze the public mind, and to deprive him of the benefit which ought to be secured to every citizen, however humble?

But there is another fact in this remarkable case. This evidence has been taken, and what is called the "argument of the judges advocate," which I now hold in my hand, has been published and furnished to every member of Congress at the public expense undoubtedly, and I am told largely elsewhere, by this man. In this matter, which is put here for an argument—

Mr. DAVIS. Who was the judge advocate?

Mr. HALE. There were a couple of them. The humble individual who now addresses the Senate came under cognizance before this honorable court. My friend from Pennsylvania [Mr. BUCKALEW] is lit a small dab, because in the report on this subject he expressed the hope that the arrest of the accused, upon these charges,

"Following close upon his examination before the committee, will be fully justified upon due investigation and fair trial, and that the proceeding will be relieved from all appearance of persecution or vengeance."

So much for the honorable Senator from Pennsylvania. Then comes in another:

"And in this connection we feel bound to notice the extraordinary conduct of another member of that committee, who, with the evident design of prejudicing the community against the Department, and of influencing your decision in this case, was so imprudent as to make it the subject of a violent attack upon the Department, in a speech made by him at a public political meeting in this city, in which he indulged in terms of severe censure on account of this prosecution, which, under the circumstances, were in the highest degree improper, and altogether unworthy the public position he held."

I am greatly obliged to these gentlemen for their kindness.

"If he had been the retained advocate of the accused he could not have endeavored more earnestly and zealously to defeat the ends of justice by his attempt to prevent a fair and impartial trial of this case upon its merits. He knew that the accused was then on his trial before this tribunal upon the charge of defrauding the Government, for he was here under summons of this court to testify as a witness."

I do not want to characterize that statement any more than to say that it is absolutely untrue; there is not a word of truth in it. I never was before the court as a witness in my life. They did send me a subpoena, but before the time fixed for attending I received a telegraphic dispatch from the court saying I need not attend; and they forgot to pay the expense of sending the message, and I had to pay it myself.

"It was, in fact, a contempt of this court, which he knew was sworn to try the accused according to the evidence, and to administer justice according to law."

If that court should ever come together again and should be inclined to pursue this matter of contempt, I will save them all the trouble of evidence. I will avow here that I entertain the most profound contempt, mingled, I trust, with a right-



cous indignation, against the court for the part which they were playing. Mr. President, this is one of the indications of the times of evil import. On the 17th of June, what was to Franklin W. Smith all the bloody history of Massachusetts? What were all the glorious principles that she had contended for? What were all the bloody sacrifices she had made in the preceding centuries of her history? What was Bunker Hill, on that day, in whose shadow he was arrested, but a monument of the patriotism of our fathers and the degradation of their sons, if such an outrage as that could be permitted? But it was permitted, and it has been persisted in with a pertinacity, an obstinacy, and a vindictiveness which I trust will not be repeated.

The proceedings against Mr. Smith in this case are in singular contrast with the finding of another court-martial in the case of Colonel North. If the same view was taken in that case in organizing the court as in organizing this court, and that is that it was done to convict, I think they must have received an intimation afterward that those who had organized the court had altered their minds.

Mr. President, it is painful to me to have to notice these things; it is painful to me to feel the necessity of it; but I do feel it, and God helping me, I will not shrink from it. I know it is imprudent, but I am an imprudent man. I do not want to be prudent. I will stand, and I will go out of the Senate as I came into it, the uncompromising foe of wrong and robbery and oppression. I shall have the thieves on my back. I have had them there a long time themselves and by proxy. They have hunted me. Let them hunt; and whatever they find let them bring forth. I invite the scrutiny of friends, and I defy the malice of enemies. I scorn them.

Now, sir, there are a great many other things that I have to say not exactly in this immediate connection. I will go on and say a few of them now, and I may take some other occasion to allude to the others. It is useless for me to deny, what is apparent to everybody, that for three years I have been the chairman of the Committee on Naval Affairs and this year I am not. There is a reason for it. The reason that has been assigned to me, and it is a satisfactory one, is that I am not "in accord with the Department." Sir, I wish that fact to be recorded. I wish that it may stand where every individual, however high or however low who has the least interest in the reputation of so humble an individual as myself, might know it. I am "not in accord" with them; and I will tell you one of the first things upon which I differed with them. It was in the beginning of this war, when the country was in a condition which we all remember, and which it is useless for me to undertake to delineate at the present time. When I saw the Secretary of the Navy employing his own brother-in-law to purchase ships, paying him a greater compensation than was paid to the President, Vice President, and all the members of the Cabinet combined; when I saw the Secretary of the Navy, without law and against law, putting his hands up to the elbows in the public Treasury and pouring it out without stint upon his brother-in-law, and paying him in a time of dire distress a compensation exceeding that of the President, Vice President, and all the members of the Cabinet combined, I was "not in accord" with him. I said some severe things—no, not severe; not half as severe as I ought to have done; God forgive me for my timidity on that occasion—but I said some things which several gentlemen have done me the honor to repeat once or twice every year since—the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] the honorable Senator from Oregon, [Mr. NEWMAN,] and others. I do not want to repeat them again, but if it were necessary I would repeat them. I have never repented of what I then did. I am glad that I did it.

There are one or two other things in regard to which I am "not in accord" with the Department. Every officer of the Navy up to within a short period who has distinguished himself, who has rendered gallant service to his country, who has illustrated the national fame on the deck of his vessel, has immediately fallen under the ban and displeasure of this administration of the Navy Department. There was Stringham at Hatteras, who let in the first rays of glory in this great

struggle; who first caused our hearts to exult; and what was the result? He was snubbed by the Assistant Secretary, and soon laid upon the shelf.

Then there was Admiral Du Pont who at Hilton Head won the gratitude and admiration of the country, whatever it may have done of the Department; and what was the result to him? Read the correspondence; and if Admiral Du Pont had been found to be a felon, preying upon the public Treasury, he could not have been abused, in the official correspondence had with him, more than he was. What was that for?

Why, Mr. President, we have a remarkable genius at the head of the Navy Department; I do not mean the head; but I mean the man who allows his friends here to call him "the head," "the actual Secretary." I do not want to say anything about him or his history until he comes upon the stage of the Navy Department. I believe he had been in the Navy before, and had attained to the honorable position of a passed midshipman. He did not go any further. He was subsequently engaged in other employments. But about the time of the siege of Fort Sumter his genius beamed upon the world in one of the most absurd and ridiculous theories for relieving that fort I believe that was ever broached. It was thought at once that a man who had the brains to conceive such an absurd idea must of course be a genius, and we find him next practically first lord of the admiralty dispensing its honors and its favors.

Pretty soon after he came here it became necessary—I have not the documents before me, but I am speaking of history—in the opinion of the Secretary to build some twenty iron-clads of a certain description. In the Committee on Naval Affairs, of which I was then a member, the subject of the Morgan purchase was brought up; and let me here say once for all, though I do not wish to shirk the responsibility and I am willing to take all that belongs to me, it was not introduced by me, nor was the attention of the committee called to it by me, nor was the action which the committee took suggested by me; but still being so unfortunate as to be the chairman of the committee, it was hurled at me and I was willing to take it for I concurred in it entirely. We recommended by way of simple rebuke for this gross breach of public trust in the use of the funds of the Department, that the building of these iron-clads should be vested in the President of the United States instead of the Secretary of the Navy. You know the result, sir. We had several glorification speeches here, and we were asked, when Du Pont had covered the land with glory and Stringham had done so many great things, and our gallant sailors were winning such laurels, if that was a time to censure the Secretary of the Navy; and we let it go.

The twenty iron-clads were ordered to be built, and we waited some two years for the building of them. I introduced a resolution at the last session calling the attention of the committee on the conduct of the war to the character of these iron-clads; and what was their history? This new genius that we had got into the Department, contemning the wisdom of the chief of the Bureau of Construction, (and I think he was right in that,) undertook to build something upon the suggestions of his own genius; and I understand, though I do not know, but it is in the resolution of inquiry, that neither the Secretary, nor the head of the Bureau of Construction would assume any responsibility for the mode and manner and fashion in which these iron-clads were constructed. The subject was referred to the committee on the conduct of the war; and I should be glad if that committee would report upon it; but if they will not, let me tell you the result. The iron-clads were beautiful things. I think if they had had a fair chance they would have made more than nine knots an hour, but it would have been nine knots an hour toward the bottom of the sea. [Laughter.] They would not float; they were not worth the iron they were made of.

Well, sir, what then? The resources of genius are astonishing. It was then discovered that iron wash-tubs like these, taking off the turrets and the guns so that they would float, were just exactly the kind of vessels that Dahlgren wanted to take Charleston with; and so they went to work remodeling and remodeling. What is the history

of that I do not know, but I apprehend I state it highly favorable to the genius who constructed them if I say that they are worth nearly as much as the old iron would be.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Saturday.

Mr. HALE. Very well, sir; I will take another opportunity to-morrow to continue my remarks.

Mr. DAVIS. I will ask the consent of the Senate to amend the original proposition by substituting the term "transactions" for "corruptions," "transactions" being a rather more parliamentary term.

The VICE PRESIDENT. The Senator can so modify his resolution.

#### RETALIATION ON REBEL PRISONERS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners, the pending question being on the motion of Mr. Wilson to recommit the resolution, together with all the amendments and proposed amendments, to the Committee on Military Affairs and the Militia.

Mr. WADE. Before we proceed further, I should like to have read some depositions that I have taken this morning on the subject of rebel barbarities. I hope to put that question beyond any doubt.

The Secretary read, as follows:

WASHINGTON, January 30, 1865.

Mr. Albert D. Richardson sworn and examined.

By the CHAIRMAN:

Question. I understand that you are one of the newspaper correspondents who lately escaped from Salisbury, North Carolina. Will you give to the committee a statement of such matters as you may deem important in relation to your experience as a prisoner, and what you have observed in reference to the treatment of our prisoners by the rebel authorities?

Answer. I am a Tribune correspondent, and was captured by the rebels May 3, 1863, at midnight, on a hay boat in the Mississippi river, opposite Vicksburg. After confinement in six different prisons, I was sent to Salisbury, North Carolina, February 3, 1864, and kept there until December 18, when I escaped.

For several months Salisbury was the most endurable rebel prison I had seen. The six hundred inmates exercised in the open air, were comparatively well fed, and kindly treated. But early in October ten thousand regular prisoners of war arrived there, and it immediately changed into a scene of cruelty and horrors. It was densely crowded; rations were cut down and issued very irregularly; friends outside could not even send in a plate of food. The prisoners suffered constantly and often intensely for want of water, bread, and shelter.

The rebel authorities placed all the prison hospitals under charge of my two journalistic comrades (Messrs. Brown and Davis) and myself. Our positions enabled us to obtain exact and minute information. Those who had to live or die on the prison ration always suffered from hunger. Very frequently one or more divisions of a thousand men would receive no rations for twenty-four hours; sometimes they were without a morsel of food for forty-eight hours. The few who had money would pay from five to twenty dollars, rebel currency, for a little loaf of bread. Most prisoners traded the buttons from their blouses for food. Many, though the weather was very inclement and snows frequent, sold coats from their backs and shoes from their feet, yet I was assured, on authority entirely trustworthy, that the great commissary warehouse near the prison was filled with provisions; that the commissary found it difficult to obtain storage for his flour and meat; that, when a subordinate asked the post commandant, Major John H. Gee, "Shall I give the prisoners full rations?" he replied, "No, God damn them! I give them quarter rations." I know, from personal observation, that corn and pork are very abundant in the region about Salisbury.

For several weeks the prisoners had no shelter whatever. They were all thinly clad; thousands were barefooted; not one in twenty had either overcoat or blanket; many hundreds were without shirts, and hundreds were without blouses. At last, one Sibley tent and one "A" tent were furnished to each squad of one hundred. With the closest crowding these sheltered about one-half the prisoners. The rest burrowed in the ground, crept under buildings, or shivered through the nights in the open air, upon the frozen, muddy, or snowy soil. If the rebels, at the time of their capture, had not stolen their shelter tents, blankets, clothing, and money, they would have suffered little from cold. If the prison authorities had permitted a few hundred of them, either upon parole or under guard, to cut logs within two miles of the garrison, the prisoners would gladly have built comfortable and ample barracks in one week. But the commandant would never, in a densely wooded region, with the cars which brought it passing by the wall of the prison, even furnish half the fuel which was needed.

The hospitals were in a horrible condition. By crowding the patients thick as they could lie upon the floor they would contain six hundred inmates. They were always full to overflowing, with thousands seeking admission in vain. In the two largest wards, containing jointly about two hundred and fifty patients, there was no fire whatever; the others had small fire places, but were always cold. One ward, which held forty patients, was comparatively well furnished. In the other eight the sick and dying men lay upon the cold and usually naked floor, for the scanty straw

furnished us soon became too filthy and full of vermin for use. The authorities never supplied a single blanket, or quilt, or pillow, or bed for those eight wards. We could not procure even brooms to keep them clean, or cold water to wash the faces of the inmates. Pneumonia, catarrh, and diarrhea were the prevailing diseases, but they were directly the result of hunger and exposure. More than half who entered the hospitals died in a very few days. The deceased, always without coffins, were loaded in a dead-cart, piled upon each other like logs of wood, and so driven out to be thrown into a trench and covered with earth.

The rebel surgeons were generally humane and attentive; they endeavored to improve the shocking condition of the hospitals, but the Salisbury and Richmond authorities both disregarded their complaints and protests.

On November 25 many of the prisoners had been without food for forty-eight hours. Desperate from hunger, without any matured plan, a few of them said, "We may as well die in one way as another; let us break out of this horrible place." Some of them wrested the guns from a relief of fifteen rebel soldiers just entering the yard, killing two who resisted and wounding five or six. Others attempted to open the fence, but they had neither adequate tools nor concert of action. Before they could effect a breach every gun in the garrison was turned upon them; two field-pieces opened with grape and canister, and they dispersed to their quarters. Five minutes from the beginning, the attempt was quelled, and hardly a prisoner was to be seen in the yard. My own quarters were a hundred and fifty yards from the scene of the insurrection; in our vicinity there had been no participation at all in it, and yet for twenty minutes after it was ended the guards upon the fence on each side of us with deliberate aim fired into the tents upon helpless and innocent men. They killed in all fifteen and wounded about sixty, not one tenth of whom had taken part in the attempt, many of whom were ignorant of it until they heard the guns.

Deliberate, cold-blooded murders of peaceable men, where there was no pretense that they were breaking any prison regulation, were very frequent. On October 16, Lieutenant Davis, of the one hundred and fifty-fifth New York Infantry, was thus shot dead by a guard who, the day before, had been openly swearing that he would "kill some damned Yankee yet." November 6, Luther Conrad, of the forty-fifth Pennsylvania Infantry, a delicious patient from one of the hospitals, was similarly murdered. November 30, a chimney in one of the hospitals fell down, crushing several men under it. Orders were immediately given to the guard to let no one approach the building, on the pretext that there might be another insurrection. Two patients from that hospital had not heard the order, and were returning to their quarters, when I saw a sentinel on the fence, within twenty feet of them, without challenging them, raise his piece and fire, killing one and wounding the other. Major Gee, at the time, was standing immediately beside the sentinel, who must have acted under his direct orders. December 16, Moses Smith, of the seventh Maryland (colored) Infantry, while standing beside my quarters, searching for scraps of food from the sweepings of the cook house, was shot through the head. There were very many similar murders. I never knew any pretense ever made of investigation, or punishing them. Our lines were never safe for one moment. Any sentinel, at any hour of the day or night, could deliberately shoot down any prisoner, or into any group of prisoners, black or white, and he would not even be taken off his post for it.

Nearly every week an officer came into the prison to recruit for the rebel army. Sometimes he offered bounties; always he promised good clothing and abundant food. Between twelve and eighteen hundred of our men enlisted in two months. I was repeatedly asked by prisoners, sometimes with tears in their eyes, "What shall I do? I don't want to starve to death; I am growing weaker daily; if I stay here I shall follow my comrades to the hospital and death-house; if I enlist, I may live until I can escape."

I had charge of the clothing left by the dead, and reissued it to the living. I distributed articles of clothing to more than two thousand prisoners; but when I escaped there were fully five hundred without a shoe or a stocking, and more yet with no garment above the waist, except one blouse or one shirt. Men came to me frequently, upon whom the rebels when they captured them had left nothing whatever except a light cotton shirt and a pair of light ragged cotton pantaloons.

The books of all the hospitals were kept and the daily consolidated reports made up under my supervision. During the two months between October 18 and December 18, the average number of prisoners was about seven thousand five hundred. The deaths for that period were fully fifteen hundred, or twenty per cent. of the whole. I brought away the names of more than twelve hundred of the dead; some of the remainder were never reported; the others I could not procure on the day of my escape without exciting suspicion. As the men grew more and more debilitated, the percentage of deaths increased. I left about six thousand five hundred remaining in the garrison, December 18, and they were dying then at the average rate of twenty-eight a day, or thirteen per cent. a month.

The simple truth is that the rebel authorities are murdering our soldiers at Salisbury by cold and hunger, while they might easily supply them with ample food and fuel. They are doing this systematically, and I believe intentionally, for the purpose of either forcing our Government to an exchange or forcing our prisoners into the rebel army.

I will also, with the consent of the committee, lay before them a sworn affidavit I obtained in Louisville, Kentucky, from one of the prisoners at Salisbury, North Carolina, who escaped at the time I did. It is as follows:

I am a man by profession, and reside at Mystic River, Connecticut; was master of the bark Texana, captured and burned by the rebels near the mouth of the Mississippi river June 10, 1863; was confined in Richmond, Virginia, until the 20th of July, 1864, when I was sent to the military prison at Salisbury, North Carolina, and kept there until my escape on the 18th of December last. After the transfer of prisoners of war to Salisbury in October last I mingled with them constantly, and was familiar with their treatment in all respects. For a month before my escape

I was ward master of one of the largest hospitals in the prison. The prisoners were in a most pitiable condition. They all, without exception, and at all times, suffered greatly for want of food, the most of them for want of clothing, and a large portion of them for want of shelter. Very few out of the whole number were in good health, and the deaths were very numerous. Mine was called a ward for convalescents. It usually contained from a hundred to a hundred and twenty inmates. The deaths averaged fully six per day, and sometimes reached ten and twelve. The sickness and mortality were directly traceable to hunger, exposure, and cold. I can give no just idea in this brief statement of the horrors of the prison and hospitals and the general treatment of the prisoners. It is barbarous beyond anything I ever before saw or heard of. I believe it is the deliberate intention of the rebel authorities to leave the prisoners no alternative between freezing and starvation or enlistment in the rebel army.

THOMAS E. WOLFE.

Subscribed and sworn to before me, this 17th day of January, 1865.

J. H. CLEMENT,

Justice of the Peace, Jefferson County.

WASHINGTON, January 30, 1865.

Mr. Junius Henri Browne sworn and examined.

By the CHAIRMAN:

Question. I understand that you were a prisoner at Salisbury, North Carolina, and escaped at the same time Mr. Richardson, who has just testified, made his escape. You have heard his testimony. Will you state whether you concur with him in what he has stated, and also give such additional statements as you may deem necessary?

Answer. I concur with Mr. Richardson in all his statements, so far as the facts to which they relate came to my knowledge. In addition to what he has said, I would further state that I am a journalist by profession; have been since the breaking out of the war an Army correspondent of the New York Tribune; was captured in that capacity in the middle of the Mississippi river while running the batteries of Vicksburg on the night of May 3, 1863, our expedition having been destroyed by the rebel siege guns. I was held prisoner some twenty months, having, in that time, been an occupant of seven southern prisons, the last being the Salisbury, North Carolina, penitentiary, where I was kept with my collaborer, Albert D. Richardson, for almost eleven months, making my escape therefrom in his company on the night of December 18, 1864.

The treatment of our prisoners was had enough everywhere; but it was so barbarous and inhuman at Salisbury for two months previous to my escape that I regard the exposure thereof a duty I owe to the thousands who still remain there. Early in October, from nine to ten thousand of our enlisted men were sent to Salisbury from Richmond and other points; and as they had been robbed of their clothing and blankets, and received very little food or shelter, the mortality among them became almost immediately wide-spread and alarming.

Every tenement within the prison limits was converted into a hospital, and I offered my services as medical dispenser and assistant to the rebel surgeons. I soon made daily visits to the sick, who could not obtain admission to the overcrowded hospitals, lying in tents on the ground without covering, and with very scant raiment, and living in holes they had dug in the earth, or under buildings where they had crept for protection from the cold rains, the snow, and the biting winds, and performed such poor service as lay in my limited power. Their condition was distressing in the extreme. They had no means of keeping warm except by fires of very green wood that filled the rude shelters with bitter smoke, and which, added to the carbonic acidized atmosphere from so many breaths, and the emanations from unwholesome and unwashed bodies, packed together like fish, entirely poisoned the air, and destroyed the health of almost all who inhaled it.

The sickness and mortality in those outside quarters, as well as elsewhere, continually increased, and the marvel was that any one survived. Starved and freezing, with hardly water enough to drink, much less to wash their persons or the scant clothes they wore, the poor fellows naturally and necessarily despaired, and not a few of them were anxious to die to escape from the slow torture of their situation.

I had the best means of knowing; and it is my firmest belief that out of eight or nine thousand prisoners at Salisbury there were not at any time five hundred of them in sound health—an opinion in which all the rebel surgeons to whom I expressed it fully coincided.

The deaths during the last two months I passed at Salisbury ranged from twenty-five to forty-five per day, diarrhea, dysentery, catarrh, pneumonia, and typhoid fever—all engendered by scarcity of food, shelter, and raiment—being the principal diseases. I have no doubt if the prisoners had been properly treated—as prisoners of war in the North are to the best of my knowledge and information treated—the mortality in Salisbury would not have been more than one eighth of what it was, a view in which the rebel surgeons with whom I talked fully concurred.

The capacity of the so-called hospitals, nine in number, which were without any of the comforts or concomitants of those institutions, was not to the fullest over five or six hundred patients; and the number of prisoners who ought to have been inmates thereof was at least as many thousand. The hospitals merely afforded some protection from the cold and rain, and furnished rather better rations than were given to the men who were supposed by a transparent fiction to be in good health. Hardly any one would go to the hospitals so long as he could help himself, or induce any one to help him, the daily spectacle of ghastly and hideous corpses going therefrom to the dead-house filling all beholders with horror, and inducing the soldiers to believe that all who entered those filthy and pestiferous tenements were doomed.

The prison limits at Salisbury revealed a scene of wretchedness, squalor, despair, and suffering such as I—accustomed as I am to Army life and the horrors of military hospitals and battle-fields—had never before witnessed. The prison authorities—especially after the massacre attending

the attempted outbreak of November 25—appeared not only indifferent to the miserable condition of the men, but to be actuated by a brutality and malignity toward them that I could not reconcile with my ideas of human nature. They permitted the guards to shoot prisoners whenever they pleased, without the least pretext or explanation; and no man's life was safe for a day or an hour. The air was full of pain and pestilence, and all the horrors of imagined hells seemed realized in that most wretched place, of which I shall never think without a shudder and an augmented faith in the naturally abhorrent doctrine of total depravity.

Mr. HARLAN. In this connection I ask to have read at the desk an official paper signed by V. Bossieux, lieutenant and acting adjutant in the rebel service, addressed to Sergeant John Wilkin, sergeant in charge of a confederate States military hospital at Belle Isle, Richmond. It is a very brief document. It was handed to me this morning by Colonel Boyd, who is serving on General Schofield's staff, and was handed to him by Lieutenant Robinson, of the thirty-fourth Illinois volunteers, serving on Colonel Mitchell's staff, commanding a brigade in the fourteenth Army corps.

Both of these officers have been a long time prisoners at Richmond, on this island. One of them was appointed by the rebel authorities as superintendent for the distribution of company stores; the other, Lieutenant Robinson, was appointed a clerk at headquarters, and assigned to the duty of filing papers that came in to the superintending sergeant. Of course he was compelled to read the papers in order to make proper indorsements on filing them. Among them he read this one, and deeming it important that something official should come to the notice of the Government here of the spirit that prompted those officers, he sewed it up in the inner lining of his blouse, and in this way preserved it when he made his escape.

The VICE PRESIDENT. If there be no objection, the paper will be read.

Mr. FOSTER. Is it in the handwriting of the man?

Mr. HARLAN. Colonel Boyd knows it to be in the handwriting of the officer who purports to have signed it; there is a memorandum showing it to be such.

The Secretary read, as follows:

BELL ISLAND Nov 15 63

Sir I am happy to inform you that we have sent Moal Hunting 61 Yankees, three shot and one Drowned. Those shot and Drowned I dont think Dr Ingraham can take any Credit for, and think they should be Credit to me, the rest Can be Credit to the Dr.

Wee only Planted one from 20 June to 1st Sepr I think wee have been Making up for Lost time

Very Respectfully Your Obt Servt V BOSSIEUX

to Sergt JOHN WILKIN Sergt in charge C. S. Mil. Hos.

Mr. WILKINSON. Mr. President, I have no desire to prolong this debate, or to occupy the time of the Senate in further discussing the merits of this resolution. Much time has already been expended in the argument of the question; and the whole subject of adopting retaliatory measures in order to enforce more humane treatment of our Union soldiers who are held by the rebels as prisoners of war has been so ably treated on both sides that it is idle for me to attempt further to discuss it. If any argument were necessary, the papers which have been read here this morning are enough to satisfy any one of the correctness and the propriety of adopting this proposition. But as I intend to support this resolution, and as it has been assailed with great power and earnestness by many upon this floor for whom I entertain the most profound respect, and with whom I have generally acted on all great measures pertaining to this war, I deem it proper that I should state the reasons which will govern me in the vote I am about to give.

If I understand correctly the argument of those who oppose this measure, it is this: the rebel authorities, they tell us, have treated and are still treating our soldiers held by them as prisoners of war in the most inhuman manner. They have deprived them of sufficient food and clothing to protect them from death; and in consequence of their cruel and inhuman treatment of these brave men more than thirty thousand have already gone to their graves. Then they tell us that this action of the rebels exhibits a refinement of tyranny and barbarism which this great nation cannot adopt or emulate; we are warned against it; we are told that we cannot take a step so directly at variance with every principle of Christianity,

and of international law. But, sir, it appears to me that this whole argument is based upon the assumption that if the Government of the United States act upon the suggestions contained in this resolution we shall be obliged to take thirty thousand of their men out of our prisons and starve them to death, because they have starved thirty thousand of our men to death. If this be so, I can see the force of the argument of honorable Senators against this proposition; but I do not so understand it. I do not understand that this proposition would require the Government of the United States to punish innocent men because wicked men have punished our soldiers, for the mere purpose of retaliation alone; but I suppose this measure of retaliation is adopted, like all other measures of the kind, in order to force these barbarians in the future to treat our men with more kindness and humanity than they have done in the past. I do not suppose that when the Government took Colonel Lee, if you please, and another man, and then informed Jefferson Davis that if he shot the two captains who had been drawn by lot in Richmond, they would be shot, that measure was adopted in any spirit of revenge toward those two perhaps gallant and generous and respectable officers; but it was done for the purpose of preventing a great crime and barbarity on the part of the rebel government, and for that alone; and it had the desired effect. There was no inhumanity in it.

Now, sir, if we adopt this measure we adopt it as an act of self-defense alone, as a great necessity in order to prevent the further barbarity of the rebel government and authorities against our soldiers. Why, sir, the horrid nature of their treatment of our prisoners has been detailed in the testimony read to-day, and if we stand here as we have stood for the last eighteen months while this murder has been going on, while this starvation has been going on, and while our men have been going down to their graves at the rate, in some instances, of four or five thousand a month, in my judgment we are recreant to every duty that we owe to our country and to its brave defenders. At Andersonville alone, in the months of July and August, out of thirty-five thousand prisoners, eight thousand died from starvation and from exposure.

Now, I can say to the Senator from Massachusetts [Mr. SUMNER] that I do not vote for this resolution for the purpose of starving eight thousand men as a punishment for the starvation of those eight thousand who died in July and August, but I would select out their officers from the rebel prisoners, and I would notify the rebel government thus: "It is for you to determine the question; if you starve our men, remember that you starve your own; and if our men must go down to their graves under this terrible torture, so your men must follow likewise." We do not wish to see these things transpire in our country. The advocates of this proposition urge it in no spirit of vengeance toward these men, but simply for the protection of our own friends, our own soldiers. I think I can see a marked distinction between the case that is presented by the honorable Senator from Massachusetts and other gentlemen on the other side, a marked distinction between punishing men out of a spirit of revenge and adopting a policy such as this resolution contemplates, of selecting a certain number of men and leaving it for the rebel authorities to determine what shall be the fate of their men as well as of ours. We put them upon the same footing that our men are placed, and we leave the whole question of life or death, the whole question of civilization or barbarity, the whole question of suffering and of death, with the rebel authorities themselves. We propose to say to them: "If you wish to carry out this barbarous and inhuman treatment to our soldiers held by you, we regret it; we have begged of you not to do it; we have tried for a year and a half to induce you to permit us to feed our prisoners; you have refused to do it, and now this issue is left with you."

As I said before, I regard this as a great necessity; and, sir, there are times in the affairs of men when the necessity of the case requires them to resort to measures which, under other circumstances, would have seemed abhorrent to them. What will an individual not do in such an extremity as this? What would not one of these starved prisoners do to relieve himself from this

suffering? There is no act so terrible that he would not be justified in committing in order to relieve himself from this terrible punishment. And if it is justifiable in an individual to relieve himself from such a condition of things, I ask whether it is not right for a great Government, when thirty thousand of its men have already gone down to their graves under the influences of this cruel and inhuman treatment, to act according to the necessity of the case.

Mr. President, as was said the other day on this floor, the people of the United States owe everything to these men. They are the defenders of this Government. They are the men who have left pleasant homes and sacrificed all the endearments of life in order to defend and uphold this Government. For eighteen months they have been subjected to this terrible brutality of the enemy. They have looked to Congress; they have looked in vain to the executive department of the Government, and their families at home have been looking to the Government for the protection which this resolution contemplates. They know very well that there is power in the Government to release them by force from these prison-houses. They know very well that we are holding seventy-eight thousand rebel prisoners in our hands who are living in comparative luxury at the North. All this they know, and they think it strange indeed that Congress and the Executive Government will sit by and see these men receiving daily many articles which may be classed among the delicacies of life, while they themselves are in a suffering and starving condition in southern prison-houses. Our prisoners know this; and do you suppose that they will be indifferent while we remain quiet here, and open not our mouths for fear of violating some principle of international law or some refined principle of the Christian religion—not a very common-sense idea of the Christian religion, as the Senator from Iowa [Mr. HARLAN] said the other day; but if from some refined notion of that religion we are to sit here and do nothing while our men starve by the thousand and go down daily to their graves from cruelty and neglect, shall we not be held answerable?

Sir, I do not suppose there is a man here who entertains an unkind feeling toward any of the rebel prisoners in our hands. I do not suppose there is a Christian gentleman in the United States who wishes, for the mere purpose of punishment alone, to inflict this barbarity upon any rebel soldier. I certainly do not; but I say that it is better sometimes that men should be sacrificed than that a great wrong should be permitted, such as is exhibited by the conduct of the rebel authorities toward our prisoners in their hands. As I said before, I support this resolution as a measure of self-defense, as a great measure of necessity; and where necessity exists it overrides all other laws.

Who can read these affidavits, who can read that rebel paper which was handed in by the Senator from Iowa, and not think that this necessity is such as to require any act and every act on the part of this Government which may be resorted to in order to stop this cruelty? If I understand correctly the purport of this resolution and its whole intent and meaning, it is, that we shall inform the rebel authorities that from this time onward, henceforth, as long as they treat our men in this way, we will treat their own men in the same way. The issue is with them and not with us. We leave it for them to say whether this wholesale starvation and suffering shall go on, or whether it shall terminate at once.

For this reason, Mr. President, I support the resolution.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the motion of the Senator from Massachusetts [Mr. WILSON] to recommit the joint resolution, with the various amendments proposed, to the Committee on Military Affairs and the Militia.

Mr. HENDRICKS. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. RICHARDSON. I have felt very unwilling to participate in this debate. Gentlemen of great experience and learning have debated the question so fully that it would seem to be unnecessary for me to say anything, but I desire to assign as briefly as I can the reasons for the course

which I shall deem it my duty to take in reference to this question.

That we may avoid all controversy on some points, I state at once that I think the rebels have treated our soldiers who have been prisoners in their hands with great barbarity. That point I do not propose to discuss. Starting from that point, however, I think this is a question over which the military authorities have ample and sufficient power. On turning to the legislation of Congress, I apprehend you will find but a single precedent of retaliation by legislation.

Mr. WADE. Two.

Mr. RICHARDSON. When the act of 1799 was passed, we were not at war; armies were not in the field as belligerents, though it is true war was threatened and was impending, but it did not occur. In that case, probably, the action of Congress was necessary. But in this case, what power does this action of Congress propose to confer upon the military authorities? None. They have ample power to retaliate wherever the laws of war justify it. General Grant did not hesitate to notify the rebel commander that he would place their prisoners in the front of battle when our prisoners were so placed by them. I apprehend that if you will turn to the precedents you will find that our generals in the field have exercised the power in every instance where they deemed it necessary.

Now, Mr. President, I am one of those who do not believe that it becomes this nation to resort to all the means that may be resorted to by the Power with which we may be at war. We have recently had an Indian war. Indians burn at the stake the prisoners whom they capture. Would this Congress or this country be justified in subjecting prisoners captured from them to the same treatment? Do we not tarnish our reputation and our fame when we resort to the same barbarities that those with whom we are at war practice?

Why not leave this question with our commanders in the field and with the President of the United States? Do Senators say that Congress must necessarily act in this case as it did in 1813? I suppose the pretext under which the action of 1813 was had was that Mr. Madison was opposed to adding to the cruelties of war. While this resolution can confer no additional power on the executive authorities, because all the power that is necessary for the purpose is now in the hands of your commanding generals and your President, the Congress of the United States is called upon to adopt what? Measures that may place us in a situation subjecting our conduct to the criticism, and the just criticism, of the entire civilized world.

I can see no reason why we should pass this resolution. I know of no good reason that has been assigned. I repeat, the issue is not upon the fact of barbarities having been committed by the rebels; that is out of the question; the fact is too clearly established to be discussed. The question is simply and purely whether we, in this age of the world, will place ourselves upon the ground that we mean to resort to the same barbarities which may be practiced by any people with whom we are at war. While such a resolution can accomplish no good, it may do infinite mischief. It may do great harm and it can have no good result. I apprehend that our commanders in the field and the President of the United States who is Commander-in-Chief, will look into this matter and attend to it better than Congress can.

I am anxious to do anything that may tend to the amelioration of the condition of our prisoners in the hands of the enemy. I cannot tell why it is that prisoners are not exchanged when, as I understand, we have some seventy thousand prisoners in our hands while the enemy has only about thirty thousand of ours. It would be better to give the enemy two to one in the way of exchange. It certainly would be better to urge upon those who have the control of this matter to exchange all men as rapidly as possible, rather than to pass a resolution or an act of Congress that confers no additional power and can do no good. The condition of prisoners of war at all times and under all circumstances is hard. If the enemy does for our soldiers the best that he can do, their fate is a hard one while they are prisoners. The mode of life in the South is different from ours. The soldiers in our service are better fed and cared for than any other soldiers upon the



face of the earth; your ration is larger; your clothing is better and more ample for the purposes of the soldier; and I am glad to see that the military authorities are taking the matter actively in hand and seeing to it that the men who bear the flag of the country aloft in the storm of battle are not cheated in anything that contractors have to furnish. I rejoice that it is so. If this measure tended to benefit our prisoners in the hands of rebels in the slightest particular in my opinion, I would go for it; but I do not see how you advance their interests, how you help their condition by passing the resolution. The main argument which has been made is that our prisoners have been treated with great inhumanity. That is true. But what is it proposed to do? You propose merely to express your opinion, not to confer any authority which is not now possessed by those who have control of military affairs.

Senators upon the other side have referred to precedents. They have referred to the precedent of the First Consul of France, and to other instances. Sir, there is no doubt about the power of the Commander-in-Chief to retaliate. That power is ample, and I believe it has been exercised in several instances already during the progress of this war. The authorities which have been quoted, so far from sustaining the side upon which they have been produced, are directly contrary to that view which was intended to be sustained by the Senators quoting them. When they quote the precedent of General Grant and other generals in our service notifying the rebels that we would treat their prisoners as they treated ours, they quote that authority in favor of the position which I assume, that it is an executive and not a legislative matter.

Now, sir, without being inquisitive, I should like to ask some Senators, what is the necessity for the passage of the resolution? Do you by it confer any power or give any authority not now possessed? If you do not, what does it amount to? Why the necessity for its passage? If you turn back to English history you will find resolutions and acts of Parliament passed during periods of civil strife and commotion, the only result of which was to tarnish the Parliaments that passed them without doing any good. It is that which I would avoid. I would leave no reproach upon the fair fame of this nation. You cannot plant this country upon the ground that you will act toward any and every people with whom you may be at war as they act toward you. If you do so you will descend from the high position and the high standard which this country has heretofore occupied; you will descend to a very low position, indeed. In my judgment, Mr. President, we are bound to maintain our position as a great civilized and Christian people in our legislation and all our acts.

Mr. WADE. I do not intend, sir, at this stage of the proceedings to make an argument on this subject; but as the Senator from Illinois has challenged the movers in this measure to show what good it will do, I feel bound to state what I expect from it.

Mr. RICHARDSON. The Senator will pardon me; I did not challenge any one.

Mr. WADE. You required some one who had moved in this matter to say what was expected from it, or something like that. It is a little too late in the day to charge those who are the advocates of this retaliatory principle with being barbarians or the advocates of barbarism. This proceeding is just like almost every other criminal proceeding. If a man commits murder, why do you condemn him and take his life before the whole world? Is it purely vindictive? Is it merely because he has taken the life of another man, and therefore you want to commit two offenses for one? Is it done for mere vengeance and nothing else? The Senator from Maryland [Mr. Johnson] argued at considerable length to show that this principle differed partially from that of ordinary criminal proceedings, if I understood him, because he asked, why do you do this; what evidence have you that they will ever repeat this crime; what evidence have you now that they yet continue in this practice? Well, sir, I hope we have succeeded in convincing even him that that which was commenced in barbarism has continued in barbarism to the present time, that they have not relaxed their inhuman practices. The burden of his argument was that we had no evidence be-

fore us that if they had been barbarians at one time they had not already repented. That idea of his was not in accordance with the well-known principle of law which declares that whenever you find a particular state of things existing, it is presumed so to exist until the contrary shall be shown. But the Senator from Maryland was very much troubled for fear they had altogether reformed, and that we should be found punishing by retaliation when there was nothing to retaliate. The answer would be at once, this resolution contemplates no retaliation if there is no offense on the other side. That is an entire answer to the whole declamation in which that Senator indulged.

But then, he said, it differs from ordinary criminal proceedings, because you have not the evidence to show that it is continued, or that this will be a remedy. When he hangs a man, when he takes his life for murder, what evidence has he that that really will have the effect of deterring others from committing a like offense? Can any man say that it will have that effect? It is the general understanding of mankind that it will; and that redeems the law from the accusation of barbarity and murder. It is the common sense of mankind that it will have that effect, and therefore it is part and parcel of the common law of all nations. So when there is barbarity among civilized nations at the present time, on one side the international law declares that retaliation by the other party is a remedy; that its effect will be to deter the first party from continuing the barbarity. It is on that reason that the law itself is founded. Why undertake at this period to argue against this common law, for the international law is part and parcel of the common law, and is so ancient that the memory of man runneth not to the contrary? That has always been the law of the land.

If a man has no sympathy for these barbarians, why are his nerves more affected by the proposition to subject them to the same treatment that they inflict upon us? Why is it that gentlemen's sympathies are all that way? You know from the evidence that these outrages are committed; you cannot deny it. The Senator from Illinois does not deny it. He is too candid to do so. He says there is no doubt about the fact. We all know that our soldiers to-day are subjected to all that barbarity can inflict upon them. We know that this day in southern prisons there are thousands of our brave soldiers dying by inches by reason of the barbarity of their captors and keepers. Gentlemen here know it, and yet they bear the misfortunes of their friends with great philosophy and great coolness. It is not the first time that men have been known to bear the misfortunes of their friends very coolly and calmly. But when you turn to the rebel, the accursed traitor who has already forfeited his life by reason of his crime, and propose to inflict upon him the same meed of punishment, not as vengeance, not for revenge, but to deter him from persisting in the barbarity that has already murdered more than fifty thousand of our brave soldiers, gentlemen's nerves are unstrung. They cannot stand that for a moment; but they can see with coolness a continuance of a system which is to-day reducing to the grave thousands of our men. They think that the honor of the country consists in our folding our arms under this state of things and turning to the brave soldier who is in the hands of the enemy and saying to him, "We are powerless, we have no remedy to apply for your relief." Sir, this is an imbecility which I never expected from the Senator from Illinois.

Mr. RICHARDSON. I desire to set the Senator from Ohio right. I said distinctly, and made an argument to show, that if the President of the United States and our commanding officers saw proper, they could at any moment give notice of retaliation or retaliate. They can now do either; they have the power. The point which I made upon this proposition is exactly and precisely that by it you do nothing. I object to it, not because I am not disposed to relieve our brave soldiers; I distinctly said that if I could do anything for them by my action here, I would do it; but I say you do not do it by this proposition.

Mr. WADE. Well, Mr. President, I desire to ask the Senator, for I know his magnanimity, his feeling for the soldier—he has been in the field himself—if he thinks it is proper for this great nation to desert the men whom it has forced into the field and who have gone into these southern

prisons? Has he any remedy for it? Would he not grant them any remedy?

Mr. RICHARDSON. Certainly I would not desert them. The President of the United States and our generals have the power to retaliate tomorrow; you have not the power to do it; you do not propose to do it; that is the point that I make in the case. If the Senator will show me how this proposition will accomplish anything, I will go with him; but until he does show me that, I do not want him to say that I am not ready to do anything for the soldiers. On the other hand, I will go hand and heart with him in relieving them.

Mr. WADE. I knew that it would turn out so, from the Senator's generous disposition. I knew he would be the last man in this body to desert the soldier in the hands of the enemy, or to hold the doctrine that this great nation must turn its back cowardly on him and abandon him in the hands of the barbarians. He would not do that, and I would not. Nay, he would go further, and, for a remedy, he would exterminate every rebel in the southern States unless they let our men go, if that would have the effect. I have no doubt of that. He is not one of those Senators who have no blood in them and no feeling on this subject. He is a man; show him the remedy and he will apply it, for he sympathizes with the soldier, I doubt not. But he thinks we have not the power and the President of the United States and the officers of the Army have. Is that it?

Mr. RICHARDSON nodded assent.

Mr. WADE. I entirely disagree with the Senator in his constitutional argument. I hold that while the President has the power, we have the power to require him to do it if he does not do it. We have waited long for him to act. Men have been sacrificed until more than thirty thousand of our brave soldiers have gone down to the grave by reason of these barbarities unheard of in civilized communities. We have waited for him to act, as we had reason to expect that he would act. Does the Senator deny that, if he does not act, Congress has the power to require that he shall act? Have we not a right to pass a law saying to the President, "We require and demand of you that you shall put in operation this great remedy of nations, and that you shall interpose in behalf of our soldiers?"

Mr. RICHARDSON. If I understand the resolution, it does not propose what the Senator says we may require.

Mr. WADE. Yes it does.

Mr. RICHARDSON. I think not.

Mr. WADE. It does direct the President to do it. I have not got the resolution before me, but the word used is "direct." The President is directed to do it; he is left no discretion about it. He has failed in his duty hitherto; he has left these poor men without a shadow of remedy; he has made no attempt to remedy the wrong. By the express consent of every lawyer in this body, except one, Congress has full power and discretion over the subject. Now, will you leave your President delinquent in his duty in this respect, and turn away again from your soldier and leave him in his jeopardy without any attempt to relieve him?—If you find that the Executive does not exercise his authority, and you have the discretionary power to compel him to do so, will you not do it?

The Senator from Illinois says that the officers of the Army in the field ought to do it. So far as I know, they are doing it to the extent that it falls under their cognizance, and I honor them for doing it. General Sherman but two or three days ago issued a mandate that if any one harmed the hair of the head of a loyal man in the State Georgia, or inflicted any injury on his army, he would take five lives for one. Nobody doubted, nobody denied, his authority to issue that order. Nobody has risen here to censure General Sherman because he made this great mandate. How is it that your nerves are not shocked over the barbarity of him who not only retaliates in kind, but demands five lives for one? General Burbridge did the same thing in Kentucky, thank God! and I honor him for it. By resorting to this great remedy he has put down guerrilla warfare almost entirely in that State—turbulent, outrageous, damnable as it did exist there for awhile. His stern measures of retaliation have had the effect to put down the accursed proceeding.

You have already been told how it happened at Charleston. When they placed our officers under the fire of our guns, we took a like number of theirs and put them under the fire of their guns. The rebel commander was no sooner apprised of it than he withdrew our officers from that peril, and when he did it we withdrew theirs. Was not that a perfect remedy? Was there any barbarity in it? Or would it have been better to leave our brave and patriotic officers exposed to the shot and shell of our own batteries, to be wounded and killed by our own men, without any attempt to relieve them? Some gentlemen here, no doubt, would not have done that. They would have thought that it would be horrible to shoot a rebel, but not very bad that a rebel should shoot us! Well, sir, it had its effect.

Again, in General Butler's department the rebels took our colored troops who had been made prisoners and put them to hard labor, which is not permitted for prisoners of war by civilized nations; they made them work on their intrenchments. General Butler no sooner heard of it than he selected a like number of rebel officers who were prisoners in his hands and he said to them, not "I am going to do this," but "I am doing it." He gave them no notice that he was going to do it; but he said to them, "I have selected thirteen of your officers and I have put them to work upon the trenches at manual labor, and there they will continue until you release our prisoners of war." It was done. They were put to the same work that their forces put our colored troops to. We know very well that colored troops are very objectionable to the prejudices of the rebels. If there is anything that a southern traitor abhors, it is to do anything for the benefit of a colored soldier. It was said that this was impossible, that the southern chivalry would never yield that their valorous officers of a high grade should be put upon a like footing with negro soldiers. But Benjamin F. Butler, God be thanked, had the nerve, the courage, and the sagacity to see the proper remedy at once, and he immediately selected a like number of rebel officers, put them in the trenches, at the wheelbarrow, with shovels, and said, "Work there;" and he immediately sent notice to the rebel authorities, "I have done this, and your officers will be continued on this work just as long as you treat prisoners of war in like manner," and the very next morning they released our colored troops, and we released their officers.

Then does it not have any effect? Sir, it is a remedy. The sense of mankind has known it to be a remedy, and so it has passed into the law of nations. It is the only remedy for such a case, and wherever it has been tried it has been found effectual. Thank God our officers in the field who know the malignity of these devils incarnate, who come in contact with them every day, have none of your squeamish ideas, none of your mawkish humanitarian ideas by which gentlemen here are actuated. They retaliate in kind. An eye for an eye and a tooth for a tooth, is their doctrine; and so far as comes within the range of their duties they carry it out.

The Senator from Illinois asks, why not leave this matter to them to attend to? The answer is, because they know nothing about it; it does not come within the range of their observation and duty. The moment a prisoner of war passes out of their hands they know nothing about him; they have nothing further to do with his treatment; they know nothing about the treatment he receives. That is the reason they do not retaliate for this treatment of our men. If it was in the line of their jurisdiction, if it came under their observation, no doubt they would do it as quick as I or anybody else. But here is the place where we direct exchanges to be made; where we inquire into the condition of our prisoners of war; here it is known; from this Capitol the remedy must proceed in the case of prisoners of war. It is not so in regard to those who are misused in the very sight of our commanders in the field. In such cases, to the honor of our officers be it said, they have promptly interposed a remedy, and never without effect. My answer to the suggestion of the Senator from Illinois is that the officers in the field cannot provide for this case, because they know nothing about it; it has not happened within the sphere of their observation.

We have taken the depositions which have been read to the Senate to show the infamous barbarity that has actuated the rebels in their heartless treatment of those prisoners of ours who have been placed in their power. Our generals in the field know nothing about it. It was not for them to know; it was for the Executive and for Congress to inquire; and we know what is the treatment which our prisoners receive. No man can plead ignorance of it. The Senator from Illinois has too much honor and magnanimity not to agree that the utmost barbarity and inhumanity have been inflicted, and are inflicted constantly; but he cannot see the remedy. The President has not nerve enough to come up to the mark, and say, "The soldiers whom I have called into the field shall be treated like men and prisoners of war when they are captives." I wish to God he had more courage; but I must confess that he has been perfectly reckless of his duty for a long time, and I am sorry that we have not been quite as quick to perform ours as we ought to have been; but it is better late than never.

Sir, with my consent, no soldier of the glorious Union Army anywhere shall be treated otherwise than as a man and an honorable prisoner of war without the minions of the confederacy being reduced to like condition. If it is so that they want to prosecute this war with barbarism, we can retaliate two or three to one; but if we show them that we intend to retaliate they will not attempt it. Retaliation has been a remedy wherever it has been applied; there is no doubt of it.

Sir, sympathy for the rebellion cannot stop it. Fellowship with the leaders, old acquaintance with them, high standing with them, raising them up as the idols of your idolatry, cannot save them. We are bent on retaliation for the protection of our own prisoners of war in their hands. It will come. You die hard, but die you must, and the soldier shall be released, and the Government shall protect him.

Talk not to me about the honor of the country. I tell you, sir, if any reproach and ignominy could be thrown on this great nation, it would be that we knew how inhumanly the brave men whom we have sent into the field have been treated by this contemptible foe, and have not raised our voice to prevent it. There is the dishonor. Foreign nations may be able to say to us, "You had not the spirit of a civilized nation, you would not apply the remedy which international law has provided; you turned away with heartlessness from your brave soldiers, and offered them no remedy, or you cruelly looked upon their torments and did not care for them." I thank God, sir, that I see at last that this great remedy is to be applied; and whenever the Executive Government, under our direction by this law, shall select from among the rebel officers in our hands as many prisoners as there are soldiers of ours in the hands of the rebels, and when Mr. Lincoln shall say to the rebel authorities by proclamation, "I have taken of your officers such a number as we suppose you have of our men, and have placed them apart to be fed, clothed, and kept precisely as you feed, clothe, and keep ours," relief will soon be obtained. Twenty-four hours after they know that will not transpire before every soldier of ours in their hands will be treated as a man and a soldier. No doubt of it. In every instance yet it has been effectual; and it will be effectual now.

I know something about these southern people. Habituated to slavery, with their hearts entirely hardened to the misfortunes and hardships of man in the person of the poor slave, they have forgotten that he is human and that they owe him any respect; and this hardening process did not stop with the slave, but the poor white man in the South is treated even at a greater distance and regarded as occupying a lower position of degradation than the negro. They do not care anything about the private soldiers. They would as lief we starved their private soldiers to death as not, unless they wanted them returned to fill up their armies. They place them side by side with the negro whose fate they care nothing for. It is not the poor private soldier that I want to see subjected to these punishments, because he is not responsible for this treatment, and because these accursed, hardened aristocrats look with as much

composure on his fate as some here look on the fate of our soldiers in their barbarous hands. They care nothing for him; they have lost all feelings of humanity for those whom they consider the mere plebeian trash, whether black or white. But when you touch the chivalry, of whom their officers are composed, when you subject them to ignominious labor in the trenches, or put them on the same treatment which they deal out to our soldiers, my word for it their hearts will be reached and a remedy will soon be attained.

I have said all that I wish to say on this subject except to express the hope that the resolution will not be recommitted. It has been debated long enough. Every Senator has made up his mind exactly what he intends to do in regard to it. It cannot be said that a committee will mold the resolution into a shape more acceptable to the body than it is now. Nobody pretends that; and I know that those who vote for its recommitment intend thereby to postpone the time for the redemption of these soldiers, or do not intend that it shall ever come; they intend to prolong it forever. Let us be prompt; let us act at once. Every day is short to us, but it is an age to our poor starving men in southern prisons. Let us act at once, and not by long speeches and by capacious action delay the interposition of a great remedy in favor of our suffering fellow-men, the brave soldiers of our Army.

I hope the Senator from Massachusetts has already got tired of his amendment to send commissioners to treat with Jeff. Davis.

Mr. SUMNER. That is not my amendment.

Mr. WADE. No, sir, but the amendment of the other Senator from Massachusetts, [Mr. Wilson,] and it is worse than yours, because you do not propose any remedy at all, [laughter,] and he proposes one that is not only no remedy but is absolutely disgraceful to us. I do not hesitate to say so. We have heard of our emissary going down there to beg for peace at the footstool of those scoundrels! As I said when I was up before, you have heard from him; he went to Mr. Davis and gave him his hand and told him that he had lost no confidence in him! That is the way we read it in the papers. He had lost no confidence in Mr. Davis, and Davis returned the compliment. "Hale fellows well met." [Laughter.] Is there nothing that will degrade a man? May he not steep himself in crime so deep that it is damnation and contamination to communicate with him? If so, is not Jeff. Davis that man? Before Almighty God, if war has brought suffering, dishonor, and death upon our people, Davis and his associates are responsible for it; and if a common murderer ought to die once for the crime of murder, Jeff. Davis's death ought to be multiplied a hundred thousand fold. Not only that, but think of the meanness that attaches to his crime. I was here when Jeff. Davis and company walked up to your desk, sir, and raised their hands to God, and swore to maintain the Constitution of the United States, and I was here when that oath was forgotten and they raised their accursed arm against this Republic, and, with all the power that they had acquired from it, turned about to destroy that very Constitution which they had before sworn to maintain. Is perjury no disgrace? And does not an honest, just man lose confidence in his fellow-man when he finds him steeped in perjury? It seems it did not affect Mr. Blair in the least; he had not lost any confidence in Mr. Davis. Sir, his touch was contamination, and communication with him was dishonor. He had perjured his soul before God, and his arm was tainted and reeking with the blood of the bravest and best of the population of the United States.

Mr. JOHNSON. How came he to go there?

Mr. WADE. How came Blair to go there? God only knows. I would like to know; yea, sir, I intend to know. If there is power in the Senate of the United States to be informed on that subject I intend to know why it was that any man was permitted to go with impunity through our lines and confer with the arch-traitor of the confederacy and come back here, and go again.

Mr. JOHNSON. He went in a Government vessel the last time.

Mr. WADE. Yes, I understand he went in a Government vessel. He had no more right to be on board that vessel on a mission to hold commu-

nication with this arch-traitor and devil than he had to be on his road to the lower regions in a vehicle furnished by the Government.

Now, Mr. President, will the Senator from Massachusetts still persist in sending commissioners to kneel down at the throne of Mr. Davis and beg his pardon? Does he still persist in referring these resolutions to a committee that they may adjust a plan of communication with this accursed traitor? I say to you, sir, that the Government which authorizes anybody to treat with Jeff. Davis dishonors itself and dishonors the great nation it represents. What, sir, deal with this traitor? Did you not at Baltimore tell Mr. Lincoln that if he was reelected he was not to treat with traitors; he was not to make compromises with them; he was to trample them under foot, and treat only with the people who have been misguided? Sir, it is dishonor; it is futile to beg of Davis and company for compromise or peace. I know these men. They are high-spirited men, as the devil I suppose is high-spirited. After he went into rebellion I suppose he would not go back into heaven if they offered to reconstruct with him. [Laughter.] His pride would forbid it. He would say, "I took up arms against heaven, and it is my purpose to persist eternally, for if I reconstruct and go into heaven again I enter as an arch-traitor and perjurer before my God, and should be treated accordingly ever afterward." So it would be with Mr. Davis if he came back into this Union on any principle of construction that the President or Mr. Davis or Mr. Blair could get up. Let him come back here and what would be his condition? Would you associate with him? Would the Senator from Maryland take him by the hand, I should like to know? He says he would not now. Well, sir, can this man repent of such a crime as that which he has committed? If there is in politics and statesmanship a sin unto death as there is in theology, I say he has committed the sin unto death, and you cannot communicate with him without contamination and dishonor. He cannot repent of it. The blood of too many brave men is upon his soul for any honest man to take him by the hand.

Why does our President allow communication with him? No, I will not say that; but if he does allow it, why is it? I do not know that he does, and I hope to God he has not sanctioned any such thing, and that he never will sanction it. Send commissioners to Mr. Davis and the confederate authorities at Richmond! I say again, we cannot reach them. They hold their places there by usurpation. They do not sit there in council by the voice even of the misguided people of the South. Jeff. Davis sits there enthroned, because he has seized a military organization and compelled the poor men of that country to sustain him in this accursed rebellion to the ruin of all. They did not voluntarily go into it. Look at old Virginia, once the proud State of this nation, now trampled under foot and rendered almost a desert. She was not put in her present position by the will of her people. I have some feeling for that people, for in that convention which declared her disloyalty to this Union, and sought to break out of it, old Virginia's voice was suppressed. She voted against secession, in the first instance, near two to one; she was bullied by these scoundrels into it; her men were compelled into it. I have no doubt that whenever you break up this nest of vipers at Richmond, the people will flock back to the old standard with joy, that they may again possess that meed of peace and prosperity which they ever received under the flag of the nation; but you must first break up these devils; you must not disgrace our nation by treating with them; for it would be disgrace, dishonor, contamination in the eyes of our own people and in the eyes of the civilized world. I appeal, therefore, to the Senator from Massachusetts, for God's sake do not be the first to introduce a proceeding into Congress which shall propose to treat with these scoundrels. I know that Senator is as averse to it as I am. He has not well considered the effect of his amendment. He has not reflected that it will be a recognition of the confederacy when it is done. He did not think of the amazing depth of dishonor involved in proposing such a thing as sending commissioners to go down, stoop before Jeff. Davis, and beg of him to do better than he

has been doing to these poor men, the victims of his barbarity. The Senator surely will not persist in it; but he will vote for the resolution proposed by us, which will apply the remedy recognized by the law of nations for the offense which has been committed.

I wish to Heaven the resolution was stronger than it is; but such as it is, it will be sufficient to require the President and demand of him that he take immediate action by way of retaliation, and persist in it until it shall be effectual to do away with this accursed barbarity. The Senate may do as they please, but I will never rest content in this body while there is a man deliberately by the confederacy subjected to this barbarity and cruelty. Until they desist, I will persist in my efforts to bring this nation up to the point where it will insist that the honors of a belligerent shall be conferred on us, and that the confederacy shall observe the principles of civilized warfare. If to accomplish this purpose it shall be necessary to exterminate every accursed traitor in the southern States, I am in for that, and I avow it boldly. I take the stand that a remedy must be applied; our soldiers can and must and shall be rescued from this jeopardy. Their services to the country demand it; our relations to them demand it; the honor of the nation demands it; and if my voice and my vote can prevail, this meed of justice shall be promptly awarded to them.

Mr. CHANDLER. Mr. President, I did not intend to speak on this question; I intended simply to ask for the yeas and nays, and there leave it for each Senator to settle the question with his constituents whether he would protect our suffering citizens now in southern prisons, or whether he would leave them to the tender mercies of the rebels. I am daily receiving numerous letters from all portions of the State which I have the honor in part to represent. They are mostly of this tenor:

"I write to let you know the feelings of those who have lost friends in this accursed rebellion. There is nothing that grieves us so much as the starving of our soldiers who are in their hands as prisoners. Now, Mr. CHANDLER, a Government that will not protect its soldiers that have left good comfortable homes to go to war—a Congress or a Senate that will not protect them, are not worthy of the seats they occupy. I have lost two nephews in this war. They were starved to death."

This is written by a man who can hardly spell a word correctly, but he knows whereof he affirms; and the feeling is more deep and more intense than is appreciated by Senators on this floor. The people universally look to Congress for protection to these helpless prisoners now suffering the pangs of starvation; and, as I said before, I intend to call for the yeas and nays, and if Senators upon this floor see fit to permit a sickly sentimentality to induce them to abandon their suffering prisoners, let them settle it with those prisoners when they return, or with their friends who are here sympathizing with them in their sufferings.

Mr. President, when this war broke out we did not permit ourselves to believe that the rebels could be guilty of the barbarities which they have perpetrated; when the war broke out we adopted a conciliatory policy in its prosecution; we continued that conciliatory policy for years. Wherever our armies went at that time we not only protected rebels in their lives, but we protected them in their property. Wherever our armies went they fed the suffering rebels; they fed the families of those suffering rebels; and when we captured prisoners we administered the oath of allegiance and let them go. We continued that policy for years; and what credit did we receive from the rebels for this kind treatment of their prisoners when captured? They said that we dared not retaliate upon them, and that we dared not punish them. They credited everything to our fears and nothing to our generosity. That has been their view from that day up to this.

I saw the other day a captain who has just returned from a seventeen months' imprisonment in a southern prison, a gentleman from Michigan, and he told me that he was informed by the superintendent of their prison that it was their policy, their fixed policy, that no prisoner who remained three months in a rebel prison should ever be fit to enter the United States Army after his exchange and return home. If this was the barbarism of a single individual who happened to have a number of our prisoners in his charge, per-

haps it would not be proper for us to adopt retaliation as a policy; but it has been proved over and over again that this is the policy of the rebels in the conduct of the war, their settled policy, their policy everywhere, in every State, with every prisoner.

The committee on the conduct of the war has been laboring for years to induce the Administration to adopt the system of retaliation; but the labor has been fruitless. A year ago, when that committee was directed to investigate the condition of the returned prisoners then arriving at Annapolis, we found that language failed to convey to the mind a correct idea of the condition of those men, and we were compelled, in order to give even an approximate idea of the treatment our prisoners had received, to have photographs of them taken, and to spread out the photographs of those skeletons before the people of the United States that they might realize the barbarities that had been perpetrated upon them. We then hoped and believed that the Administration would adopt, and adopt immediately, a system of retaliation that would prove efficacious. In that hope we were disappointed.

Sir, if I had my way in this matter I would tomorrow place every rebel officer in our hands upon the same diet and upon the same care and the same treatment that our soldiers are and have been receiving since the commencement of this war at the hands of the rebels. I would notify Jeff. Davis and the rebel government to-morrow morning that the rations of every officer of theirs in our hands would be one pound of corn meal ground in the cob, and one quarter of a pound of bacon, and that the bill of fare should be changed the moment they proved to us that the bill of fare for our prisoners had been changed; and my word for it it would not be forty-eight hours after that notification was served and after these rebel officers were placed on that diet, before the bill of fare would be changed for every Union soldier in their hands.

Sir, the Senator from Massachusetts [Mr. SUMNER] has brought in a sublimated specimen of humanitarianism that does not apply to these accursed rebels at this time. They do not appreciate that kind of humanitarianism. I expected those men who desire that the rebellion should succeed to oppose retaliation, and to oppose it to the bitter end; but I did not expect the Senator from Massachusetts to come in here and say that it was inexpedient to protect our suffering prisoners.

Mr. SUMNER. I have not said so.

Mr. CHANDLER. The Senator has not said it in so many words, but I will read what he does say. He says that retaliation "would be immoral, inasmuch as it proceeded from vengeance alone."

Mr. SUMNER. Read the first three lines of that resolution in my amendment.

Mr. CHANDLER. Certainly.

And he is further resolved, That any attempted imitation of rebel barbarism—

Mr. SUMNER. That is it; "rebel barbarism."

Mr. CHANDLER. Very well; I will read the whole of it:

That any attempted imitation of rebel barbarism in the treatment of prisoners would be plainly impracticable, on account of its inconsistency with the prevailing sentiments of humanity among us; that it would be injurious at home, for it would barbarize the whole community; that it would be utterly useless, for it could not affect the cruel authors of the revolting conduct which we seek to overcome; that it would be immoral, inasmuch as it proceeded from vengeance alone; that it could have no other result than to degrade the national character and the national name, and to bring down upon our country the reprobation of history.

That is what the Senator says. He says it would be immoral and wrong to adopt the only system that will release our prisoners from those sufferings and that cruel death to which they are daily subjected. While I did not give his exact language, I used his sentiments, in my judgment. On the other hand, I hold that it would be not only moral but highly praiseworthy to place these rebel officers under the same treatment and on the same regimen that is given to our soldiers; and our experience from the commencement of the war has been that wherever we have adopted a rigid system of retaliation it has proved efficacious in every single instance.

When they took two of our officers in Rich-



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mond, and undertook to condemn them to death, we selected the son of General Lee and another officer and said, "Commence hanging whenever you please, and we will hang this son of your commander-in-chief." Was any hanging done? No, sir. When they took colored soldiers and placed them under fire from our fortifications, and we retaliated by putting an equal number of their white soldiers in the Dutch Gap canal under their fire, were not the colored soldiers instantly released? When they took fifty of our officers and placed them under fire at Charleston, and we took an equal number of their officers, and placed them under fire on James Island, how long did it take them to decide whether it was good policy to continue that barbarism to our prisoners? So it has been in every instance, and so it will be.

Now, sir, I do not sympathize with the Senator from Massachusetts in these humanitarian views of his. I believe it is in accordance with justice and with national honor thus to retaliate and to retaliate at once; and I believe the civilized world will hold us to a rigid accountability for not retaliating. They say already, "You have not dared to retaliate; you have permitted fifty thousand of your soldiers to be sacrificed because you dared not thus retaliate." Sir, I believe the country will hold the man to a rigid accountability who does not meet this issue, and meet it upon its merits, and meet it fairly.

But, sir, the Senator from Massachusetts goes further, and says:

*And be it further resolved, That the United States, filled with grief and deepest sympathy for cherished citizens who, as officers and soldiers, have become the victims of Heaven-defying outrage, hereby declare their solemn determination to put an end to this great iniquity by putting an end to the rebellion of which it is the natural fruit.*

Well, sir, I am in favor of putting an end to the rebellion at the earliest possible moment. I am in favor of using every implement that God or nature has put in our hands for terminating it at once; but meanwhile, until it shall be terminated, I am not in favor of allowing our helpless prisoners in rebel hands to perish by thousands because we dare not meet the responsibilities of the occasion. And again, he says:

*That to secure this humane and righteous consummation, they pledge anew their best energies and all the resources of the whole people, and they call upon all to bear witness that in this necessary warfare with barbarism they renounce all vengeance and every evil example, and plant themselves firmly on the sacred landmarks of civilization.*

Mr. President, vengeance has nothing to do with this just measure of retaliation. There is not a sentiment of vengeance in my heart. It is justice and simple justice to our suffering prisoners that induces me to cast my vote for this resolution. If I did not believe this retaliation would lead to a change of policy on the part of the rebels I would not vote for it; but in every instance where we have adopted retaliation hitherto it has proved efficacious, and I believe it will prove efficacious upon the end.

Mr. President, I had hoped this resolution would be passed unanimously by this body. I had hoped that this body would present to the country and to the rebels the spectacle of perfect unanimity in this just measure, and as I said before, I did not intend to open my lips in its discussion, nor have I done so until the present moment. If this measure shall not be passed, if it shall be defeated in the Senate, those who defeat it take upon themselves a fearful responsibility before the country. I say to the Senators from Massachusetts, if you take the responsibility of defeating this just measure of retaliation, upon your heads rests the blood of every single man who is murdered by these barbarities—not upon the heads of the rebels, but upon yours; and the country will hold you to that responsibility, and you cannot avoid it, because it is known to the country as it is known to this body that if we adopt this retaliation these barbarities will cease.

Now, sir, when this vote shall be taken I mean to call for the yeas and nays, and if Senators are prepared to go before their constituents and to justify themselves in saying that we owe no protection to the soldiers who have fought so nobly

for years, but will abandon them to their cruel fate, I shall leave them to meet that issue and to explain it to their constituents as best they may. I shall take no such responsibility. I shall vote for this measure of retaliation, and for any measure of retaliation that promises to be effective. Ay, sir, I will carry it to the point of starvation. A Senator the other day put the question, would you carry it to the stake? Yes sir, I will carry it to the stake, and I will carry it to any extent that is necessary to preserve the lives of those suffering and helpless prisoners now dying by thousands in the hands of these accursed, hellish rebels.

Mr. McDougall. Mr. President, I am not disposed to enter into this argument. It cannot be made an exact argument. It belongs rather to the power of recognizing instinctive truths than to the fields of intellectual argumentation. In and about a question I cannot well argue, I will state. If through my statements may run a thread of argument, I may rather beg than boast as to all that belongs to what may seem advanced as argument.

Mr. President, it has been within the limits of my opportunity to have read something of that intense and terrible revolutionary movement, centering in Paris, and radiating throughout continental Europe, and popularly known as the French Revolution; to have read of Paris, France, agitated into madness; the fired caldron bringing like slag to the surface all the evil passions of mankind.

At the worst agitated period of that terrible episode in history there appeared a man, brought from out the cellars of Paris, a man marked in history, known then and now by the name of Marat. Marat *et id* represented the anarchy of their period. Marat first. Marat left this world before I remember to have seen the light. I have not seen him depicted by any artist. I have only in my mind's eye conceived the Marat. He is not remembered in poetry or song; he has been sufficient to add a black page to history. I never expected, I never wished, to realize Marat in human form. At first, listening to the fierce, savage, and terrible demands made by the Senator in charge of this measure [Mr. WADE] I could not but feel the presence of Marat, name him as you will, in this Senate Hall.

Mr. President, I will not attempt to reason or argue this question. Those who can make it a matter of discussion, abandon the base of true argument. They abandon their own consciousness of justice, the truth, the right.

The historian who shall write the record of this discussion, for it is an important one, in characterizing the qualities of this revolutionary period, in discussing the moral character of the American people, the North American people, if you please, their relation to humanity and to high civilization, will investigate the debate which goes into the records of the nation, and read what has been said by men calling themselves leaders of opinion, Christian men, waging war in favor of humanity, and reading this record, he will pronounce this judgment: "The great Republic of North America, calling itself the very representative of the highest civilization of the age, on this particular occasion was on the very verge of barbarism, and in council hall, in Senate chamber, proposed to realize the wild scenes that were spasmodic in the French Revolution, but otherwise have not been realized since the terrible wars of the middle ages." I speak not so much of the resolution as of the sentiments of Senators, which have more to do with the subject-matter, when I say that rules have been pronounced here which have been repudiated by all just, wise, true-thinking men for centuries—great men who have tried to elevate our imperfect humanity up out of barbarism into true civilization. It is to me—and I am not a sensitive man, but profess to be a Christian man—somewhat terrible to hear proclaimed such sentiments, opinions, and judgments as have been proclaimed here on this floor, particularly by the gentleman who has charge of this proposition.

In the name of liberty, in the name of humanity, and, through the clergy, even in the name of the Prince of Peace, we are invited to retaliate, upon whom? The one who has done the wrong? No, but upon any person whom we may obtain as a victim. In ancient times victims that were sacrificed were either fair animals, or else they were the outcasts of the land. Ever since the beginning of the Christian era this idea of victims has been ignored by teaching, by word of mouth, but not by acts and deeds, at least not by acts and deeds on the part of a great portion of those who profess the religion of the Prince of Peace. You take twenty or fifty or one hundred prisoners who in their own conscience think they are maintaining their just rights, and because wrong has been done to others of an adversary party, they are to go through privations such as were practiced in the dungeons of Venice, such as were known in Spain under Ferdinand and Isabella and Torquemada.

Mr. President, I have been taught to think that revenge is one of the qualities that pertains to Erebus and black night, and that revenge is one of the crimes that compels the ghosts of men to wander long upon the Stygian shore; but, sir, the Senator from Ohio wants vengeance. Had he not better remit that vengeance to Him whose vengeance is

*"Not like human ire,  
Blown in an instant to a scorching fire;  
But fixed and certain, though it long may lie  
Wrapped in the vast concealments of the sky?"*

The world has pronounced judgment upon the wrongs of past ages. The Council of Ten lies in the teeth of our period. Their wrongs were worked in the name of liberty and religion. We shall fall below those periods and justify a more emphatic condemnation if we, forgetting the lessons of the Christian faith, ignoring the lessons taught by Him, the highest, upon the Mount, call for multitudinous crucifixions.

There is a *lex talionis*; it belongs to the accidents and necessities of war. It is called for by the immediate occasion, and must be administered by the commander in the field, and he is understood to understand both the laws of war and of nations; were it otherwise he would not be equal to command. This power belongs to the Administration, to the Executive, and consequently to the war power.

Permit me to ask how you are to furnish a rule of retaliation to govern armies in the field? Can we here in our seats in the Senate Chamber furnish it? No. Can the President furnish it? No. The present occasion furnishes it, as it may seem a military necessity as between belligerents in the field.

The Chief Executive is Commander-in-Chief of the Army and Navy. We direct him to do an act belonging to administration and the exercise of his military authority.

Mr. President, I have not been pleased with some of the impingements of the executive upon the legislative department of Government. It is my more particular duty to aid in preventing the department of legislation interfering with the proper offices of administration.

Mr. President, I did not rise to argue; I did not rise to say anything that might be characterized as a speech, but that I love and am proud of my country; therefore I could not sit silent and withhold my oral protest against sentiments which, if they should obtain by the voice of this Senate, would entail a disgrace upon our period in the history of this nation.

Mr. RICHARDSON. I desire to submit a very few remarks in reply to a portion of the remarks of the Senator from Ohio. He has, I have no doubt, assigned the true reason, if there is any, for the passage of this resolution. During the presidential canvass last fall I said that the present President of the United States should not be reelected for the reason that he had failed to take care of our prisoners. I charged it upon the stump. They said I was a copperhead. I did not charge it as fiercely as the Senator from Ohio

has done. If he were out in my country, and should make the accusation against the President which he has made this morning they would denigrate him the worst copperhead in the world. However, I do not propose to interfere in this fight. It is a beautiful sight to see brethren agreeing just exactly as they do here now. I have only to say in reference to this fight that I believe both sides are right, and I want to see the quarrel going on.

Aside from that, I desire to call the attention of the Senate to a portion of the remarks of the Senator from Ohio, and to illustrate, if I can, by the very point that he called up, the correctness of the position that I assumed. The Senator says that where an individual has committed murder he has forfeited his life, and men take his life in vindication of the law by the law. Let me ask the Senator from Ohio, if a man poisons another and that man is convicted of the poisoning, do they in any civilized country poison the man who has been convicted?

Mr. WADE. Does the Senator want an answer?

Mr. RICHARDSON. Certainly, I will yield for an answer.

Mr. WADE. I find no fault with the law that attaches to murder, by any means, either by poisoning or in any other way; but I said, and still say, that the object and justification of the punishment is not to be found in vengeance or vindictiveness against the prisoner, but, according to all the writers, because it is supposed to have the effect of preventing such crimes in the future. That is the justification; and it is just so with retaliation.

Mr. RICHARDSON. Civilized nations execute the man convicted of murder; some in one mode, and some in another; but none of them metes out the punishment just exactly as the act was performed.

But, sir, the Senator says that Butler, and Sherman, and Grant, have given the notice and exercised the power. That is all that I claim.

Mr. WADE. They exercised the power and then gave the notice.

Mr. RICHARDSON. The argument that I made was, that Congress had not the power, and that the officers in the field and the President of the United States had. They have exercised it. They have the power to-day. You confer no additional power upon them by the passage of this or any resolution. I ask the Senator if he believes that the passage of this resolution will make the President of the United States act any faster than he has done?

Mr. WADE. I hope and expect it will. I have no doubt it will.

Mr. RICHARDSON. Then does the Senator propose in every measure where the President does not go forward fast enough in the discharge of his duty to urge him by Congress? Is not this one of the powers conferred upon the President and the generals in the field, and restrained from Congress because it is conferred upon them? Have you the power to direct how the President shall exercise power conferred upon him? You have the right to pass laws. This is not a law; it is a mere resolution. You invite the President to interfere with your authority by interfering with his rights and powers.

My objection to the resolution is not to retaliation; but because it is a power belonging to another department of the Government, and not to us. Senators cannot escape from the point by saying that the rebels have committed great enormities in the treatment of our prisoners in their hands. I agree to that; but I assert that the power to retaliate is lodged in the Executive and in the generals in the field. If they fail to perform their duty, with what grace can the Senator from Michigan say that Senators will be held responsible for every prisoner of ours that dies in the hands of the enemy? If the President has the power and neglects to exercise it, and in consequence of that the responsibility devolves upon him, let the Senator from Ohio and the Senator from Michigan, who elected him over my exertions and my efforts, turn their batteries upon him; and not upon me and other Senators here; let them not say that we shall be responsible to the country and to our prisoners for not discharging our duty. Those who have preceded us have not imposed the duty upon us; it does not belong to us; it be-

longs to the President of the United States and the officers in the field. Those officers have exercised it. The complaint here is that the President will not exercise it.

Mr. President, it would be, in my judgment, highly improper to pass this resolution after the remark made by the Senator from Michigan. The construction given to acts and resolutions by their advocates goes into history. The Senator from Michigan declares that he would starve man for man. This nation should not place upon its records an act which, according to the construction given to it by its friends, would place us on the same footing with a barbarous and savage foe with whom we are dealing. In my judgment it would be highly improper to pass such a measure as this; and I am therefore opposed to it.

The power of retaliation, ample and complete, exists in the President, and can be exercised. Why, then, does the Senator say that we are responsible? For one, during the thirty years of my political life I have endeavored to discharge my duty, and let the consequences take care of themselves; and with the period so near at hand when I shall pass forever from public view, I am unwilling now by any threats of responsibility to be driven from a position that I believe to be right.

The Executive has his duties to perform and Congress theirs. That this is a duty devolving upon the Executive is a fact well established, and it has been often exercised. I do not believe, if you pass the resolution, that it will help a single prisoner in a single instance. I believe that the resolution proposes to exercise a power belonging exclusively to the Executive, and I am therefore opposed to it.

Mr. DOOLITTLE. Mr. President, I regret that when the motion was first made by the Senator from Massachusetts to recommit all these propositions to the Committee on Military Affairs it was not at once done. I think the committee would have returned a resolution to the Senate that might perhaps have received almost the unanimous support of the body; for, although there has been much discussion here, so far as I understand the temper of the Senate and of those who have engaged in the discussion, all would agree substantially upon the passage of a resolution which shall conform to the precedents set by Congress heretofore, the Congress of 1799 and the Congress of 1813. If we look back into the precedent which was set us in 1813 we shall find that this question then arose mainly from the fact that the English, who were at war with us, took every means in their power to enlist the savages as allies in their cause, practicing all the savage barbarities which grow out of Indian warfare upon our inhabitants. President Madison called the attention of Congress to the subject in his message of December, 1813. He used this language:

"The systematic perseverance of the enemy in courting the aid of the savages in all quarters had the natural effect of kindling their ordinary propensity to war into a passion, which, even among those best disposed toward the United States, was ready, if not employed on our side, to be turned against us. A departure from our protracted forbearance to accept the services tendered by them has thus been forced upon us; but in yielding to it the retaliation has been intensified as much as possible, both in its extent and its character."

The whole subject of the conduct of the British in that war with us was brought up in Congress, and an act was passed containing two sections on this subject of retaliation. The words of the act are as follows:

"An act vesting in the President of the United States the power of retaliation.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all and every case wherein, during the present war between the United States of America and the United Kingdom of Great Britain and Ireland, any violations of the laws and usages of war among civilized nations shall be or have been done and perpetrated by those acting under authority of the British Government on any of the citizens of the United States, or persons in the land or naval service of the United States, the President of the United States is hereby authorized to cause full and ample retaliation to be made, according to the laws and usages of war among civilized nations, for all and every such violation as aforesaid."

The second section provides—

"That in all cases where any outrage or act of cruelty or barbarity shall be or has been practiced by any Indian or Indians in alliance with the British Government, or in connection with those acting under the authority of the said

Government, on citizens of the United States or those under its protection, the President of the United States is hereby authorized to cause full and ample retaliation to be done and executed on such British subjects, soldiers, seamen, or marines, or Indians in alliance or connection with Great Britain, being prisoners of war, as if the same outrage or act of cruelty or barbarity had been done under the authority of the British Government."

These two sections were passed by the Congress of 1813, and I presume, notwithstanding all the discussion we have had here for two or three days on this subject, that if when the Senator from Massachusetts moved, after the first day's discussion; that all these various propositions should be recommitted to that committee, it had been agreed to, they could have, as he intimated when he made the motion, agreed, and agreed unanimously, upon a proposition which would have received almost the unanimous support of the Senate. But, sir, the debate has gone on, and some portions of the debate, and the spirit in which it has gone on, I, for one, deeply regret. I will say to my friend from Ohio that I regret that he should undertake to say that every man here who votes for the motion of the Senator from Massachusetts has no sympathy with our soldiers in rebel prisons, or that we have sympathy with the rebellion, or that we are not in favor of taking every means which the laws of civilized war will allow, to prevent—

Mr. WADE. I do not think I argued in that way. I argued it on the ground that they had lost self-respect more than any sympathy.

Mr. DOOLITTLE. I do not know that what the honorable Senator now says makes his position any better. It is not for that Senator to dictate to me or other Senators on this floor the measure of his own self-respect. I say to that Senator that while my sympathies for our soldiers who are in prison are, I believe, as quick and as warm as his, while I am prepared to do all that the laws of civilized warfare will permit to rescue them from the prisons of their confinement, I do not yield to the dictates of frenzied passion in its declamations here, that would override the laws of civilized warfare, because it is avowed by Senators that if I do not agree with them and follow their lead I sympathize with the rebellion, and have no sympathy with the prisoners of the United States in the hands of the rebels. When gentlemen disagree with me in the course they pursue on this floor, I never impute to them an unpatriotic motive. I have no right to do so. I am bound to respect them upon this floor as my equals, and that they act from motives as conscientious, as pure, and as patriotic as my own; but while I do not assume to dictate to others, I, for one, am not willing that there shall be this assumed authority here to dictate to me.

Now, Mr. President, a single word in relation to the proposition of the Senator from Massachusetts, [Mr. WILSON.] The Senator from Ohio denounces the proposition that commissaries should be sent to look after our prisoners in rebel hands as an unheard-of thing.

Mr. WADE. Commissioners, not commissaries.

Mr. DOOLITTLE. If the word "commissar" is used in the resolution, it is evidently a mistake for the word "commissary," for commissaries are the parties that are always sent to look after prisoners, and not commissioners. The law of nations on that subject is perfectly clear. By the modern usage of nations, and so far as the law of belligerency is concerned, it would apply, and has applied, to the rebel prisoners as well as our own prisoners in rebel hands. We have already appointed commissioners or commissaries of exchange.

Mr. WADE. I have no objection to that.

Mr. DOOLITTLE. The honorable Senator says he has no objection to that. Then why does he denounce the proposition of the Senator from Massachusetts, which intends that and nothing more, stating in the resolution itself the purpose for which these persons are to be appointed, to go and look after our prisoners. The language of the resolution contains in substance that proposition. I will read from an authority on this subject:

"By the modern usage of nations, commissaries are permitted to reside in the respective belligerent countries for the purpose of negotiating and carrying into effect the necessary arrangements for the support as well as the release and exchange of prisoners of war."

Again:

"On this subject of the feeding of prisoners in the hands of the enemy, Vattel places the duty of a State to support its subjects while prisoners in the hands of an enemy upon the same grounds as its duty to provide for their ransom and release. Indeed, a neglect or a refusal to do so would seem to be even more criminal than a neglect or refusal to provide for their exchange; for the exigencies of the war may make it the temporary policy of the State to decline to exchange, but nothing can excuse it in leaving its subjects to suffer in an enemy's country, without any fault of their own, when the State has the means of relieving them from the misfortune in which they are involved by going into its service and by supporting its cause. It follows, therefore, that although a State may properly, under certain circumstances, refuse to exchange its prisoners, it cannot, without a violation of moral duty, neglect to make the proper and necessary arrangements for their support while they are thus retained by a captor who is willing to exchange them.

"It is stated by English writers that in the wars of Napoleon the British authorities regularly remitted the whole cost of the support of English prisoners in France to the French Government, but that the latter failed to make any provision whatever for the support of its subjects in the hands of the English, leaving them to starvation or to the charity of their enemies. If this be true, it is a blot upon the character of the French Government."

The appointment of commissaries, which I suppose to be what was intended by that resolution, is not subject to the denunciation of the Senator from Ohio. I do not know that I care whether a commissary be appointed. It may be unnecessary, as I understand some commissaries are already in existence, and perhaps they could perform all that is necessary; but what I complain of is that the Senator from Ohio assumes here to denounce every man who makes a proposition different from his own as if it were unworthy of him, unworthy of the Senate, unworthy of his position; as if it was an outrage upon the Government of the United States that he should propose such a thing as to have commissaries to look after our prisoners.

I have no disposition to protract this discussion. I do not care particularly whether this subject is referred to a committee, or whether we vote directly on these propositions. I understand the Senate, or the principal portion of those around me, to be agreed that a resolution shall pass which shall confer this authority of retaliation, or authorize retaliation within the rules which are practiced by civilized nations; but if the Senator asks for anything more than that, I certainly cannot vote for it. I tell the honorable Senator, when he is talking about the nerve of other men, that I have nerve enough to meet the frenzied passion declaiming here in favor of all the barbarisms of Indian warfare, that is ready to scalp prisoners and burn them at the stake; I have nerve enough to denounce it in the name of civilization as unworthy of the age in which we live, and I will never give it my sanction. But, sir, when restricted within the rules of civilized warfare, I am willing to confer the power, and that I believe is all that the Senate are prepared to do; what our fathers did in 1813, what they did in 1793, and what is proper for us to do now.

Mr. WILSON. Mr. President, as I listened to-day to the Senator from Ohio, [Mr. WADE,] and then again to the Senator from Michigan, [Mr. CHANDLER,] I thought the old slave-masters had come back again. I thought I witnessed all their insolence, and something more than their coarseness.

The Senator from Michigan threatened my colleague and myself with the yeas and nays. I tell the Senator from Michigan we were accustomed to face the yeas and nays before he was a member of the Senate of the United States. The yeas and nays had no terrors for me in those days, nor have they any for me now. I am ready to face them whenever they are called, and on whatever question they may be called. And I must say to the Senator from Michigan that I do not recognize his right to rise on the floor of this body and threaten me or my colleague with the vengeance of the people we represent for our votes here. We are responsible to them; we are responsible to the country; and above all and over all, we are responsible to ourselves for our own action.

Sir, I see no occasion for this excited debate, nor for the harsh words that have been uttered here to-day and the domineering manner that has been manifested. I regret it. It will have no effect over me, and I do not think it will have any over others. We were accustomed to meet such treatment here in other days. I think we had better keep it out now.

The Senator from Ohio takes occasion to denounce the simple proposition I made to send commissioners to make arrangements with the rebel authorities for the better treatment of our prisoners. The Senator undertakes to tell us that if we do anything of that kind we recognize Jeff. Davis's confederacy. No such thing. Why, sir, it is a simple proposition to consult with their authorities to devise a practical plan for the better treatment of our prisoners of war; a mere matter pertaining to prisoners, and has nothing whatever to do with the recognition of their government, any more than what has already been done in appointing a commissioner or a commissary, and I think we called him a commissioner, to deal with a commissioner on the other side, for the exchange of prisoners.

The Senator says I did not reflect properly on that subject. I tell the Senator from Ohio that I did reflect upon it. I tell him further that it has been with me a matter of reflection for months, and that the suggestion is not original with me, but came from the fertile brain of one of our own generals, through whose hands thirteen thousand of our own prisoners have been exchanged. That general proposed to this Government six months ago to take eight hundred or one thousand rebel officers to Hatteras, or Point Lookout, or some other good place, holding them there as prisoners, and notify the confederate government that the same bill of fare they had for our prisoners in their hands would be dealt out to their officers, and that plan was refused, I understand, by the advice of General Halleck. That same general officer suggested to me long ago that the condition of our prisoners in the hands of the rebels could be relieved by an arrangement; and his experience, I think, is this: in the first place, the rebels have not always all the means to make our prisoners as comfortable as we can and do make theirs. So far as that is concerned, it is their misfortune and not their fault. In the next place, the difficulty of transportation in their country, of carrying material from one place to another, has been largely enhanced within the last few months by the action of our armies, and that has counted against our prisoners. In the next place, he believes, and we all believe, and it has been proved here—the Senator from Ohio has been active in ferreting it out, for which he has always had my thanks—that they have not done all they could do; and further than that, in many cases they have intended to abuse our prisoners. I believe it.

Now, what was the simple proposition that I submitted? It was a proposition to send two commissioners, or commissaries, if you choose to call them so, to consult with the rebel authorities with a view to the better treatment of our prisoners, and to devise a practicable system for that purpose. That such a commission could do it, costing us, I admit, some money to carry it out, I do not entertain a doubt. In fact, a few weeks ago a partial arrangement was made with the rebel authorities by which they sent cotton to New York, sold that cotton, and took the proceeds and invested it for the relief and benefit of their own prisoners in our hands. General Beale, of Arkansas, a prisoner in Boston harbor, is engaged to-day in carrying out that arrangement on their part. General Hays, of Boston, a prisoner captured on the Weldon railroad, and a prisoner now, is engaged, I understand, on our part in doing something for the relief of our prisoners. This partial relief already secured has done more to alleviate the sufferings of our prisoners than all the talk and all the speeches that have been made in the Senate and the country; and I believe that if we addressed ourselves to that matter of humanity as we should, we could do a great deal to relieve the sufferings of our brave soldiers in rebel hands.

There is nothing inconsistent with that proposition in passing the Senator's resolution for retaliation. I do not oppose that resolution if the words "in kind" were stricken out of it. The resolution originally reported from the Committee on Military Affairs by the Senator from Michigan I could not vote for. That resolution, in its preamble, arraigns the rebels for barbarism and cruelty that would disgrace the devils in the bottomless pit, and then asks us to treat their men "in kind." I could not do it; I could not vote for it. I have not the nerve, and I thank God I have not

the nerve, to carry that out upon any being that breathes God's air or walks His earth.

When this resolution came up, my colleague moved a series of resolutions by way of amendment. I moved this simple proposition in addition, which, I believed, if adopted, would do a great deal to relieve the sufferings of our prisoners in rebel hands, and I still believe it. But, sir, the Senator from Ohio moves an amendment to the original resolution—

Mr. WADE. Not the original resolution, but the committee's resolution.

Mr. WILSON. To the resolution reported by the Senator from Michigan—

Mr. HOWARD. By the Committee on Military Affairs.

Mr. WILSON. Certainly; reported from the committee by the Senator from Michigan.

Mr. HOWARD. With your consent.

Mr. WILSON. Now, sir, the Senator from Ohio, on the suggestion of the Senator from Maine, [Mr. MORRILL,] consents to strike out the words "in kind," and to adopt the words "according to the law of nations." That changes the whole character of the resolution, and I say to him I have no objection to voting for it, and I see nothing in that resolution, as amended, inconsistent with the proposition that I have made.

I send to the Chair, and desire to have read, an amendment which I intend to move to the amendment; and I will say further, that I came here this morning with the intention of withdrawing the proposition to recommit these various propositions to the committee, for it seemed to me that we were reaching a point when we could agree here, in the face of the country, on what particular proposition we would vote. I think I said so to the Senator from Ohio himself.

Mr. WADE. Not at all. You did not say a word to me about it.

Mr. WILSON. However, be that as it may, I desire the Secretary to read the proposition that I propose to offer as an amendment to the resolution of my colleague; and I intend, with the leave of the Senate, the yeas and nays having been ordered while I was for a moment absent, to withdraw the motion to recommit these various propositions; and I do so in the conviction that we are reaching a point where we can vote upon that subject.

Mr. HENDRICKS. I object.

Mr. WILSON. I should like to have my amendment read.

The VICE PRESIDENT. The proposed amendment of the Senator from Massachusetts will be read, if there be no objection. Is there any objection?

Mr. HENDRICKS. I object to the withdrawal of the motion to recommit unless the Senator has a right to do so.

The VICE PRESIDENT. That is not the question now before the Senate. The question is on reading the proposed amendment. The Chair hears no objection.

The Secretary read, as follows:

Whereas it has come to the knowledge of Congress that great numbers of our soldiers who have fallen as prisoners of war into the hands of the insurgents have been subjected to treatment unexampled for cruelty in the history of civilized war, which has resulted in the death of multitudes by the slow process of starvation, and by mortal diseases occasioned by insufficient and unhealthy food, and by wanton exposure of their persons to the inclemency of the weather: Therefore,

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and required to cause such full and ample retaliation to be made, according to the laws and usages of war among civilized nations, as shall be effective in deterring the rebel authorities from the perpetration in future of cruel and barbarous treatment of our soldiers.

And be it further resolved, That the President of the United States be, and he is hereby, authorized and required, as soon as may be after the passage of this resolution, to appoint two commissaries of prisoners with the rebel authorities, with the view of devising some practicable plan for the relief and better treatment of our prisoners of war.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to withdraw his motion to refer the resolution before the Senate with all the amendments that have been proposed to the Committee on Military Affairs.

Mr. HENDRICKS. I object.

The VICE PRESIDENT. Objection being made, the motion cannot be withdrawn.

Mr. SHERMAN. It is necessary that we



should have a short executive session, and, as it is now a late hour, I move that the Senate proceed to the consideration of executive business. I will state to my colleague that I shall have no objection at all, if a majority of the Senate shall desire it, to resume the consideration of legislative business after the executive session, but it is necessary to have a short executive session now.

Mr. WADE. We shall not be able to resume this subject if we go into executive session now.

Mr. SHERMAN. I do not think this matter can be closed to-night, and I must insist on my motion.

Mr. WADE. If there is anything absolutely necessary to be done I will not resist it.

#### EXECUTIVE SESSION.

The motion of Mr. SHERMAN was agreed to; and, after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, January 30, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Dr. V. M. HULBERT, of Youkers, New York.

The Journal of Saturday was read and approved.

#### ORDER OF BUSINESS.

The SPEAKER. The first business during the morning hour to-day is the consideration and reference of bills and joint resolutions on leave to their appropriate committees, not to be brought back by motions to reconsider.

The committees were then called for that purpose.

#### COLUMBIA INSTITUTION FOR THE DEAF, ETC.

Mr. PATTERSON introduced a bill to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the deaf, the dumb, and the blind, approved February 16, 1857," which was read a first and second time, and referred to the Committee on the District of Columbia.

#### REVOLUTIONARY PENSIONS.

Mr. RICE, of Maine, introduced a joint resolution relative to revolutionary pensions; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

#### COMPENSATION OF MEMBERS AND OTHERS.

Mr. JOHNSON, of Pennsylvania, introduced a joint resolution relative to the compensation of members of Congress and the officers of the Government employed in the District of Columbia.

Mr. HOLMAN. Is that resolution entitled to be referred, under the rule, anyhow?

The SPEAKER. The rule is positive that all bills and joint resolutions are to be referred without debate, not to be brought back by motion to reconsider.

The resolution was read a first and second time, and referred to the Committee of Ways and Means.

#### HARBOR OF MICHIGAN CITY.

Mr. WILSON having taken the chair as Speaker *pro tempore*,

The SPEAKER introduced a bill to constitute the harbor of Michigan City, Indiana, a port of entry, and to release the claim of the General Government to the tonnage duties of said harbor to the Michigan City Harbor Company to aid in its improvement; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### RELIEF FOR FORFEITED PROPERTY.

Mr. JULIAN introduced a bill for the relief of loyal and innocent part-owners of personal property forfeited on account of the criminal acts of other part-owners of it; which was read a first and second time, and referred to the Committee on the Judiciary.

#### CLAIM OF COLE COUNTY, MISSOURI.

Mr. McCLURG introduced a joint resolution relative to the claim of Cole county, Missouri; which was read a first and second time, and referred to the Committee on Claims.

#### SWAMP LANDS IN CALIFORNIA.

Mr. COLE, of California, introduced a bill to confirm to the State of California the swamp and

overflowed lands within that State; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### LAND-GRANT RAILROADS IN MINNESOTA.

Mr. WINDOM introduced a bill extending the time for the completion of certain land-grant railroads in Minnesota, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

#### GEOLOGICAL SURVEY OF DAKOTA.

Mr. TODD introduced a bill making an appropriation for a geological survey of the Territory of Dakota; which was read a first and second time, and referred to the Committee on Public Lands.

#### ADJUSTMENT OF PRIVATE LAND CLAIMS.

Mr. POSTON introduced a bill for the adjustment of private land claims in the Territories of Arizona and New Mexico; which was read a first and second time, and referred to the Committee on Public Lands.

#### NORTHERN PACIFIC RAILROAD.

Mr. SWEAT introduced a bill to authorize the extension of the Northern Pacific railroad eastward to Ontonagon, State of Michigan, and provide for its connection eastward with the Ohio, Indiana, Michigan, and Canadian systems of railroads at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton; which was read a first and second time, and referred to the select committee on the Pacific railroad.

The call of States and Territories for resolutions having been completed, the Speaker proceeded to call the States and Territories for resolutions, commencing with the State of Illinois, where the call was last suspended.

#### HARBOR AT ONTONAGON RIVER.

Mr. BEAMAN presented joint resolutions of the Legislature of Michigan asking the United States Government for a grant of lands in aid of the construction of a harbor at the mouth of the Ontonagon river, on the southern shore of Lake Superior; which were referred to the Committee on Public Lands, and ordered to be printed.

#### SHIP CANAL.

Mr. BEAMAN also presented joint resolutions of the Legislature of Michigan, asking the Government of the United States for a grant of lands in aid of the construction of a ship canal from Portage Lake to Lake Superior; which was referred to the Committee on Public Lands, and ordered to be printed.

#### RAILROAD TRANSPORTATION.

Mr. WILSON offered the following resolution; upon which he demanded the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to inquire what legislation is necessary to prevent payments for the transportation of property, troops, &c., of the United States by railway companies which have agreed, in consideration of land grants to them by the United States, to supply such transportation free of toll or other charge, and report by bill or otherwise.

Mr. HOLMAN. That resolution is manifestly very proper, but I want to suggest to the gentleman from Iowa that this subject has heretofore been before the Committee of Claims. A communication from the Secretary of War upon this very subject was referred to that Committee on Friday last, and I submit that this resolution had better go to that committee.

Mr. WILSON. It involves the construction of the several acts making land grants to railroad corporations. That subject was before the Committee on the Judiciary during the Thirty-Seventh Congress, and was reported on by Mr. Porter, of Indiana, a member of the Judiciary Committee at that time. I therefore desire to have the subject referred to the Judiciary Committee.

Mr. HOLMAN. The same subject is now pending before the Committee of Claims, but I presume the reference to the Judiciary Committee would be correct, and I will not object.

The previous question was seconded, and the main question ordered, and under the operation thereof the resolution was agreed to.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BUREAU OF AGRICULTURAL STATISTICS.

Mr. ALLISON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means are hereby instructed to inquire into the expediency of establishing in the Treasury Department a bureau to be called the Bureau of Statistics, for the collection and publication annually of the statistics of external and internal commerce, also agricultural, mineral, and manufactured productions; with leave to report by bill or otherwise.

Mr. ALLISON moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TREATMENT OF FREEDMEN.

Mr. GRINNELL submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the committee on the conduct of the war be directed to inquire into the treatment of the men, women, and children of African descent, made free by the President's proclamation, by the fourteenth Army corps, commanded by Major General Jefferson C. Davis, of General Sherman's army, in its recent march from Atlanta to Savannah, and report thereon at their earliest convenience.

Mr. HOLMAN. I desire to inquire what is the object of this resolution? General Jeff. C. Davis, of Indiana, is a very gallant and patriotic soldier, and this resolution seems to imply a censure upon his conduct in some way. I trust it will be explained.

Mr. GRINNELL. I will say to the gentleman from Indiana—

Mr. J. C. ALLEN. Is debate in order?

The SPEAKER. It is not.

Mr. J. C. ALLEN. Then I object to debate.

Mr. HOLMAN. I move to lay the resolution on the table.

The question was put; and the House refused to lay the resolution on the table—ayes 38, noes 65.

Mr. MALLORY. I desire to suggest to the gentleman—

The SPEAKER. The gentleman from Illinois [Mr. J. C. ALLEN] objects to debate, and it is not in order pending the demand for the previous question.

Mr. GRINNELL. I will be glad to answer any question or suggestion, if I can have an opportunity.

Several MEMBERS. I object.

Mr. MALLORY. I simply wish to say to the gentleman that if he will modify his resolution so as to say "General Sherman and his army," instead of "Jeff. Davis and his army," I will vote for it.

The SPEAKER. Debate is objected to. The question is on seconding the demand for the previous question.

The question being taken, there were, on a division—ayes 63, noes 19; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. GRINNELL and HOLMAN.

The House divided, and the tellers reported—ayes 73, noes 21.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the resolution was agreed to.

Mr. GRINNELL moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMENDMENT OF CONSCRIPTION ACT.

Mr. HUBBARD, of Iowa. I offer the following resolution, on which I demand the previous question:

*Resolved*, That the Committee on Military Affairs be hereby instructed to inquire into the expediency of so amending the act to regulate and provide for enrolling and calling out the national forces as to give enrolling officers the power to administer oaths to all who they may believe fail or refuse to tell the truth as to their ages, &c.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INCREASED PAY OF GOVERNMENT EMPLOYÉS.

Mr. COBB. I offer the following resolution, on which I demand the previous question:

*Resolved*, That in view of the enormous expenses of the Government rendered necessary for the maintenance of

the Army and Navy employed for the defense of the Government against the existing rebellion, and the onerous taxes imposed upon the people for the purpose of meeting such expenses, it is the sense of this House that no law ought to be enacted whereby the salary or compensation of any class of employees of the Government shall be raised or increased.

Mr. IOLMAN. I suggest to the gentleman that he should modify his resolution by inserting after the words "employees of the Government" the words "except the soldiers."

The SPEAKER. The gentleman from Wisconsin demands the previous question.

Mr. STEVENS. I thought that all these resolutions went to some appropriate committee.

The SPEAKER. That part of the morning business embracing bills on leave and joint resolutions has been gone through with. This is the call of States for resolutions, under which the gentleman has the right to demand the previous question in the same manner as was done last Monday on the paper-duty bill.

Mr. STEVENS. Unless the gentleman will consent to have the resolution referred to some committee, I move that it be laid on the table.

Mr. COBB. On that motion I demand the yeas and nays; and call for tellers on ordering the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion of Mr. STEVENS was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was laid on the table, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAXATION OF STEAM AND SAIL VESSELS.

Mr. BROWN, of Wisconsin. I offer the following resolution, on which I demand the previous question:

*Resolved*, That the Committee of Ways and Means are hereby instructed to inquire into the expediency of so amending the laws taxing earnings of steam and sail vessels as to levy a tax on the net instead of gross earnings.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

#### POLITICAL PRISONERS.

Mr. ELDRIDGE submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the President of the United States be respectfully requested, and the Secretary of State and Secretary of War be directed, to report and furnish to this House the names of the persons, if any there are, who have been arrested and are now held in imprisonment or confinement in any prison, fort, or other place whatsoever, for political offenses or any other alleged offense against the command or authority of the United States by the order, command, consent, or knowledge of any of them, or either of them respectively, and who have not been charged, tried, or convicted before any civil or criminal (not military) court of the land, together with the charge against such person, or cause for such arrest and imprisonment, excepting only such persons as may at the time of their arrest have been in the military or naval service of the United States, together with the name of the person, fort, or place where they are severally kept or confined; also whether any person or persons, for any alleged like offense, have been banished or sent from the United States, or those not in rebellion to the rebellious States, the names, times, alleged offenses, and causes thereof; and whether with or without trial; and if tried, before what court.

The SPEAKER. This being a call on the executive departments for information, must, if objected to, lie over one day.

Mr. SLOAN. I object.

#### INCREASE OF INTERNAL REVENUE.

Mr. SLOAN submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the Committee of Ways and Means be, and hereby are, instructed to report a bill amending the act to provide internal revenue, &c., so that the revenue produced by said act shall be increased at least thirty-three and a third per cent.

The previous question was seconded, and the main question ordered.

Mr. FARNSWORTH. The resolution is an absolute instruction of the Committee of Ways and Means.

Mr. MORRILL. I ask the gentleman from Wisconsin to modify his resolution so that it will direct the committee to inquire into the expediency of increasing the internal revenue, &c.

Mr. SLOAN. I decline to modify the resolution.

Mr. ELDRIDGE moved that the resolution be laid on the table.

The House divided; and there were—ayes 73, noes 19.

So the resolution was laid on the table.

Mr. ELDRIDGE moved to reconsider the vote by which the resolution was laid on the table, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by his Private Secretary, Mr. NICOLAY, notifying the House that he had approved and signed on 28th January, instant, bills of the following titles:

An act (H. R. No. 659) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1866; and

An act (H. R. No. 677) to amend an act entitled "An act to provide ways and means for the support of the Government, and for other purposes, approved June 30, 1864."

#### TOBACCO AND MEDICINES FOR SOLDIERS.

Mr. McINDOE submitted the following resolution; which was read, considered, and agreed to:

Whereas many of our soldiers in the field are so situated that they can obtain many of the necessities of life only by mail from their friends at home, and as many complaints are made in regard to the exorbitant rates of postage they are compelled to pay upon many articles, imposing upon them a burden to which their limited pay is unfit: Therefore,

*Be it resolved*, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of so amending existing postage laws that soldiers in the field may be enabled to receive the following enumerated articles at the rate at which they receive packages of clothing, to wit: tobacco and medicines.

#### DISTRICT OF OREGON.

Mr. McBRIDE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of so amending the act organizing the district of customs known as the District of Oregon as to include the city of Portland within the limits of said district, and to report by bill or otherwise.

#### BRANCH MINT AT DALLES, OREGON.

Mr. COLE, of Washington Territory, presented the memorial of the Legislative Assembly of Washington Territory, in relation to the branch mint at Dalles, Oregon; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### REMOVAL OF CUSTOM-HOUSE.

Mr. COLE, of Washington Territory, also presented a memorial of the Legislative Assembly of Washington Territory, praying Congress to remove the custom-house from Port Angeles to Port Townsend; which was referred to the Committee on Commerce, and ordered to be printed.

#### CONTRABAND MANUFACTURE OF LIQUORS.

Mr. INGERSOLL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be hereby instructed to inquire whether any further legislation is necessary to prevent the contraband manufacture of domestic liquors; and further to inquire into the practicability of establishing a uniform system or mode of gauging and inspecting domestic liquors throughout the United States, which shall be the basis of all sales, except by special agreement to the contrary.

#### THANKS FOR GENERAL BUTLER'S REMOVAL.

Mr. ROSS submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That the thanks of Congress and of the country are due, and are hereby tendered, to his Excellency Abraham Lincoln, President of the United States, for relieving from service Major General Benjamin F. Butler.

Mr. GRINNELL moved that the resolution be laid on the table.

Mr. WASHBURN, of Illinois. Is discussion in order?

The SPEAKER. It is not.

Mr. WASHBURN, of Illinois. I desire to discuss the resolution, and I hope the previous question will not be seconded.

The question was put, and it was decided in the negative—ayes 37, noes 70.

So the previous question was not seconded.

Mr. WASHBURN, of Illinois. I rise to debate the resolution.

The SPEAKER. Then the resolution goes over under the rule.

Mr. MALLORY. Did not the gentleman from Iowa [Mr. GRINNELL] move to lay the resolution on the table?

The SPEAKER. The Chair did not hear it, and did not entertain the motion.

Mr. GRINNELL. I made the motion.

Mr. MALLORY. I heard the gentleman make the motion.

The SPEAKER. Then the Chair will consider the motion as pending.

Mr. MALLORY. On the motion to lay the resolution on the table I demand the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I understand the Chair did not hear the motion, and did not entertain it. I demanded the previous question, and that motion was put.

The SPEAKER. The gentleman is mistaken. His colleague demanded the previous question, but the gentleman from Illinois hoped it would not be seconded.

Mr. WASHBURN, of Illinois. Did the gentleman from Iowa rise in his seat and make the motion?

Mr. GRINNELL. I did.

The SPEAKER. The Chair entertains the motion, as he has uniformly done, on the assertion of the gentleman from Iowa that he submitted it.

Mr. WASHBURN, of Illinois. Is not the gentleman at liberty to withdraw it?

The SPEAKER. He is; but the gentleman persists in the motion.

The question was put, and it was decided in the affirmative—yeas 97, nays 43, not voting 42; as follows:

YEAS—Messrs. Atley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Benham, Blaine, Blair, Blow, Boutwell, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Edgell, Edgerton, Elliot, Farnsworth, Fluck, Garfield, Gooch, Grinnell, Higby, Hooper, Hutchins, Asahel W. Hubbard, John H. Hubbard, Hulbert, Ingersoll, Jenckes, William Johnson, Julian, Kalbfleisch, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Law, Littlejohn, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perlman, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Schenck, Scofield, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Fernando Wood, and Worthington—37.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Boyd, James S. Brown, Clay, Coffroth, Cox, Dawson, Denison, Eldridge, Frank, Ganson, Glider, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Kernan, King, Le Blond, Loman, Long, Mallory, McDowell, William H. Miller, Nelson, Noble, John O'Neill, Ross, Scott, John B. Steele, William G. Steele, Stiles, Stuart, Wadsworth, Chilton A. White, Joseph W. White, Winfield, and Benjamin Wood—43.

NOT VOTING—Messrs. William J. Allen, Anderson, Brandegee, Brooks, Chandler, Cole, Creswell, Deming, Dumont, English, Griswold, Hale, Hall, Benjamin G. Harris, Philip Johnson, Kasson, Knapp, Lazer, Morris, McAlister, McKinney, Middleton, James R. Morton, Norton, Pendleton, Perry, Pomeroy, Preyn, Radford, Samuel J. Randall, Rogers, James S. Rollins, Shannon, Strouse, Sweat, Thomas, Townsend, Voorhees, Ward, Webster, Woodbridge, and Yeaman—42.

So the resolution was laid on the table.

Mr. GRINNELL moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War transmitting a statement from the Adjutant General as to the publication of the Army Register; which was laid on the table, and ordered to be printed.

#### RECRUITS TO FILL UP OLD REGIMENTS.

The SPEAKER also laid before the House a communication from the Secretary of War in reply to a resolution of the House respecting recruits enlisted to fill up old regiments.

The communication was read, as follows:

WAR DEPARTMENT.  
WASHINGTON CITY, January 28, 1865.

SIR: In answer to the resolution of the House, dated December 15, 1864, making inquiries concerning certain alleged letters and orders respecting recruits enlisted to fill

an old regiment, I have the honor to submit the annexed report of the Adjutant General.

To the resolution of the House of Representatives of the 7th of January, relating to the same subject, and inquiring why the information called for by the previous resolution had not been furnished, I have the honor to state that the delay in answering was occasioned by the pressure of business upon this Department, and the necessity of examining orders, correspondence, and muster-rolls embracing a period of more than two years, and relating to the enlistment of many thousand soldiers.

The exigencies of the service in the field, and absence occasioned by sickness, or on public business, have much reduced the experienced force in this Department. This, and the transaction of daily business during the sessions of Congress, unavoidably protract answers to calls by committee and Congress for information that requires examination of the voluminous correspondence and rolls of the Department.

Your obedient servant, EDWIN M. STANTON,  
Secretary of War.  
Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., January 28, 1865.

SIR: I have the honor to acknowledge the receipt on the 15th ultimo of your reference of the following resolution of the House of Representatives:

December 15, 1864.

On motion of Mr. HOLMAN,  
Resolved, That the Secretary of War be directed to furnish to the House copies of the order issued from his Department on the 21st day of December, 1863, in regard to recruits enlisted with conditions that they should be discharged when their regiments were mustered out of service; also, copy of order or letter, dated the 22d day of December, 1863, and addressed to the Governor of the State of Massachusetts, in regard to recruits to fill up old regiments, and that he inform the House whether the principles announced in the order above mentioned have been applied to all soldiers mustered into the service to fill up the old regiments.

Attest: EDWARD McPHERSON,  
Clerk.

In reply, I respectfully report as follows:

1. No order of December 21, 1863, such as appears contemplated by the aforesaid resolution, was issued by this Department.

2. No "order or letter" of December 22, 1863, was "addressed to the Governor of the State of Massachusetts in regard to recruits to fill up old regiments."

A copy of a telegram of July 21, 1863, believed to be the one contemplated by the resolution, and referring to that subject, is submitted herewith.

In accordance with the intent of that telegram, the recruits enlisted under its special authority in the year 1863, were mustered out with their regiments, but it was held inapplicable to subsequent enlistments in 1863. By a letter to Governor Andrew, on the 28th of December, 1863, which may be the same alluded to in the resolution, a copy whereof is annexed, he was informed of the view taken by the Department, and that while those enlisted specially for the unexpired term under the telegram of July 21 would be mustered out in accordance with it, that rule was not then in force.

3. The principles announced in the telegram of July 21, 1863, have not been "applied to all soldiers mustered into the service to fill up the old regiments." The principle applied to soldiers mustered into the service to fill up old regiments, has been to hold them for the term of service for which they were mustered in, taking the muster-roll as conclusive evidence of the enlistment contract with the Government, where it was not modified by express authority of the War Department.

It is believed, also, that in all but these excepted cases, where bounties were paid, the bounty received by the soldier corresponds with the muster-roll.

I have the honor to be, very respectfully, your obedient servant,  
E. D. TOWNSEND,  
Assistant Adjutant General.

Hon. E. M. STANTON, Secretary of War.

WASHINGTON, July 21, 1863, 4.15 p. m.

Governor ANDREW, Boston:

You are authorized to say that new recruits for old regiments will be mustered with the regiment.

EDWIN M. STANTON,  
Secretary of War.

The foregoing telegram is given as it was written and transmitted, but Governor Andrew claimed, and no doubt correctly, that the word "out" was designed to follow the word "mustered," but had been inadvertently omitted, and that he had so understood and acted upon it. This view had been assented to by the Department, so that it should read as follows:

WASHINGTON, July 21, 1863, 4.15 p. m.

Governor ANDREW, Boston:

You are authorized to say that new recruits for old regiments will be mustered out with the regiment.

EDWIN M. STANTON,  
Secretary of War.

ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., December 28, 1863.

SIR: The Secretary of War directs me to inform you that all men enlisted in volunteer organizations from Massachusetts for the unexpired term of service of regiments, pursuant to his telegram of July 21, 1863, will be mustered out of service and discharged with the regiments to which they belong. It is of course unnecessary to add that this rule is not now in force.

I am, sir, very respectfully, your obedient servant,  
SAMUEL BRECK,  
Assistant Adjutant General.

His Excellency JOHN A. ANDREWS,  
Governor of Massachusetts, Boston.

The papers were referred to the Committee on Military Affairs, and ordered to be printed.

The SPEAKER. The Chair, in the same connection, desires to lay before the House a memorial of the General Assembly of the State of Indiana upon the same question, which was sent directly to the Chair to be laid before the House.

The memorial was received, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. HOLMAN. I ask that the memorial may be printed in the Globe.

There being no objection, it was so ordered.

The memorial is as follows:

To the Senate and  
House of Representatives in Congress assembled:

The General Assembly of the State of Indiana respectfully beg leave to memorialize your honorable body upon matters herein set forth, and which your memorialists deem of great importance to many citizens of the State, and to which your immediate attention is earnestly requested.

Prior to the 1st of January, 1863, the ranks of the old regiments then in the field had become so greatly decimated by hard service and frequent engagements with the enemy that it became necessary, in order to preserve such organizations, and a general anxiety was felt, both by the people and the authorities, that they should be speedily filled up with recruits.

This anxiety greatly stimulated enlistments, and the prospect of serving in companies with experienced comrades encouraged volunteering.

The men thus recruited in the State of Indiana had the full understanding that they were enlisted for the unexpired time of the old organizations into which they were mustered, and that they would be mustered out of the service at the expiration of the original term of service of such old organizations.

In this understanding the volunteer, the recruiting officer, the State authorities, and the people, fully participated, and in the absence of any order from the War Department affecting the subject, and for reasons following, this view of the matter was not unreasonable.

1. At the time these enlistments were made the impression prevailed generally in the Army, and among the people, that the war would end and the soldiers be discharged even before the expiration of the original term of service of the organizations into which such recruits were mustered.

2. The recruiting was carried on for particular regiments, and not for the service generally, there being no general system of recruiting for the Army established, thus naturally producing a belief that no service outside of or beyond the term of these regiments would be exacted.

3. The advantages of maintaining old organizations, and placing recruits among old, experienced associates, under the command of tried officers, was apparent to all, and it was equally apparent that no recruits could be induced to enlist in any organization that would terminate prior to the expiration of the term for which said recruits were to be mustered, thereby separating such recruits from their former comrades and officers, and without their consent attaching them to organizations in which they would be total strangers.

4. Whole regiments had been enlisted and accepted into the service for terms no greater, thus inducing the belief that soldiers were desired without particular reference to the term of service.

5. The impending draft of that year was for a term of nine months, which induced the belief that volunteering for a much longer period, as was the case with such recruits, would be a judicious arrangement for the Government.

6. At the time these enlistments were made no system of recruiting had been devised or talked of, and of course there could be no intimation that any regiment would be continued beyond the time of its original enlistment.

With these views recruiting officers invariably informed such recruits that they were to be discharged at the expiration of the term of service of the old organizations into which they consented to be mustered, and this was agreed to and concurred in by the mustering officers then on duty. Recruiting and mustering officers were strengthened in this view of the case from the general tenor of certain orders of the War Department, providing for and regulating recruiting for old regiments, which orders when critically considered were not as explicit as might have been desired, but nevertheless were apparently on the hypothesis that the recruiting was for the old regiments, and not for the general service, and that they would be discharged at the expiration of the term of such old regiments. One of the orders reads as follows:

[General Orders, No. 108.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, — 28, 1863.

1. Whenever volunteer troops are mustered out of service, the entire regiment or other organization will be considered as mustered out at one time and place, except prisoners of war, who will be considered as in service until their arrival in a loyal State, with an allowance of time necessary for them to return to their respective places of enrollment.

By order of the Secretary of War:

E. D. TOWNSEND,  
Assistant Adjutant General.

Nor was this understanding, as your memorialists are advised, confined to the people of the State of Indiana, but that it prevailed extensively in other States. And this general prevalence of such views tended to strengthen the same with the people of Indiana. The following official document was extensively published in the public journals,

and greatly tended to increase the probability of the correctness of the views generally entertained by the people.

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, September 28, 1862.

SIR: In reply to yours of the 21st instant stating the number of regiments raised and to be raised in your State, and also making suggestions in reference to filling old regiments, I am directed to say that recruits for old regiments of volunteers for three years or during the war will be discharged at the expiration of the term for which the regiment was originally enlisted.

By order of the Secretary of War:

C. P. BUCKINGHAM,

Brigadier General and A. A. General.

His Excellency Governor KIRKLAND, of Iowa.

The foregoing facts your memorialists believe to be sufficient to establish the fact that recruits enlisted in old organizations at the time referred to were fully under the impression that they were only to serve for the unexpired time of the organization into which they were mustered, and that their retention in the service after such time would be a great hardship upon them, and is greatly calculated to discourage and dishearten them. Your memorialists are fully aware that the muster rolls which said recruits signed described an enlistment for three years or during the war, but at the same time are informed, and believe, that such averments in said rolls were explained to them as being mere technical forms, and would in no wise interfere with the understanding upon which they were enlisted, and thus did not disturb the conviction in their minds that they would be discharged with the regiments they were assigned to; but on the contrary that the Government would, in good faith to her soldiers, execute fully the agreement made with them by the recruiting officers.

Your memorialists are further informed that this matter has by his Excellency Governor Morton been fully laid before the War Department, and its action urged in reference to the same, and that said Department has decided that it can take no action in the matter, as from the form of the muster rolls these recruits would be held for a term of three years, without reference to the expiration of the term of the organizations to which they belong. But at the same time your memorialists are confidently of the opinion that it is clearly within the power of Congress to grant the proper remedy to these worthymen, and your attention is respectfully but earnestly called to the matter, as alike demanded by justice, good faith, and sound policy.

One case your memorialists desire to call your especial attention to, as somewhat differing from all others.

The company of Captain Charles W. Patton, in the forty-fifth regiment (or third cavalry) of Indiana volunteers, were enlisted entire under the full understanding above set forth, and in all respects are entitled to the benefits in the foregoing memorial mentioned, as they were recruits mustered into an old organization. But their case presents another merit not enjoyed by any others. So confident were all parties that the recruits were simply to serve for the unexpired term of the old organizations, that the muster rolls of this company show that fact. By reference to such rolls on file in the office of the adjutant general, your memorialists find that the certificate of the mustering officer attached to the muster-in-rolls of said company reads as follows:

I certify on honor that I have carefully examined the men whose names are borne on this roll, their horses and equipments, and have accepted them into the service of the United States for the unexpired term of three years, for the forty-fifth Indiana cavalry, unless sooner discharged, from this 11th day of December, 1862.

JOHN B. MILLER,  
Captain Thirtieth United States Infantry,  
Mustering Officer.

Date, December 11, 1862.

Station, Indianapolis, Indiana.

The forty-fifth regiment, into which this company was thus mustered, has served the full term of three years, and has been mustered out of the service of the United States, except such recruits to the same as above mentioned, which said recruits (composing the company of the said Captain Patton) are still held and retained in service, notwithstanding the express understanding above referred to, and the official certificate of the mustering officer, as above recited. Wherefore your memorialists respectfully submit the foregoing memorial, and confidently expect that your honorable body may speedily adopt such measures as the merits of the case, and justice to the patriotic defenders of our common country, require.

JOHN U. PETTIT,  
Speaker of the House of Representatives.

CONRAD BAKER,

President of the Senate,

CYRUS T. NIXON,

Principal Clerk of House,

A. T. WHITTELEY,

Principal Secretary Senate.

Attest: REBEL RAID ON LAKE ERIE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House calling for the report of General Dix in relation to the rebel raid on Lake Erie; which was laid on the table, and ordered to be printed.

CONTINGENT EXPENSES OF THE HOUSE.

The SPEAKER also, by unanimous consent laid before the House a report from the Clerk of the House of the annual contingent expenses of the House; which was laid on the table, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. FARNSWORTH. Has the morning hour expired?



The SPEAKER. It has.

Mr. FARNSWORTH. I ask unanimous consent to make a personal explanation.

Leave was granted.

Mr. FARNSWORTH. It will be recollected by the House that a week ago to-day my colleague [Mr. WASHBURN] introduced a joint resolution reducing the duty upon imported paper from twenty per cent., the present duty, to three per cent. Upon it he called the previous question, and it was passed by the House without debate.

I now send to the Clerk's desk an article in the Chicago Tribune, a letter which I understand was written by an employé of this House. I ask the Clerk to read it.

The Clerk read, as follows:

"Mr. WASHBURN's motion to-day, springing the question of repealing the paper duty, took the House by surprise. KASSON, BLOW, PENDELTON, and MALLORY had been at work in the Ways and Means Committee trying to secure a report in favor of a repeal, or at least the reduction of duty, but WASHBURN determined to cut the knot off delay by bringing in an independent resolution and bringing the members squarely up to the question. The paper monopolists died very hard, and after they saw that the House was two to one against them, they still persisted in filibustering, under the lead of Judge SPALDING of Ohio, FARNSWORTH of Illinois, and BROOMALL of Pennsylvania, who, together with RICE of Massachusetts, were the conspicuous advocates of this tax on knowledge and defenders of the paper monopoly. Several members voted against the repeal on the principle of opposing any important legislation forced through under the previous question. The vote does not, therefore, show the full strength of the House in favor of the repeal. Paper makers are here in force, and are exceedingly active in lobbying. They will now concentrate their full force in the Senate, where friends of the repeal will also need to bestow special attention. The following are the yeas and nays on the final vote on the passage of the repeal in the House."

Mr. FARNSWORTH. Mr. Speaker, I presume that it has not passed out of the recollection of members of the House what the proceedings were upon that occasion. It is true that a large minority of this House opposed the passage of that resolution, expressing at the time their dissent to that sort of legislation, under the gag rule, which settles an important question of tariff without discussion and without investigation.

But I rose for the purpose of calling the attention of the House to this article, and of making an explanation of the position which I occupy with reference to that resolution. I am not in the habit of noticing newspaper articles. I am not either in the habit of looking upon newspapers with contempt. I have great respect for newspapers and for newspaper men. This is the first time that I have ever occupied the attention of the House in noticing any article from a newspaper; but it seemed to me that this attack upon a large minority of the House, and that, too, by an employé of the House—for I understand this article was written by the librarian of the House—is so gross and false and scandalous that it ought not to pass unnoticed and unrebuked.

When my colleague [Mr. WASHBURN] introduced that resolution, I stated to the House that I hoped it would not pass without discussion, and when the previous question was pressed, I moved to lay the resolution on the table, and then when that motion failed I voted against the passage of the joint resolution. That was the extent of my action upon that occasion.

This scribbler, however, apologizes for a portion of the members who voted with the minority upon that occasion. He does not wish his editor to understand that every member who voted with SPALDING and FARNSWORTH and BROOMALL and RICE of Massachusetts, was equally culpable with them, for some of them voted against the resolution upon the ground that they did not like to settle an important question of legislation under the previous question. But he charges upon us four, and upon some other members who are not named, that we are paper monopolists, and that we are the creatures of lobbyists for this "tax upon knowledge," as he represents it.

Now, let me say that I have not seen in this House, nor in the city of Washington during the present session of Congress, nor have I heard of there being here, a paper manufacturer or a lobbyist for a paper manufacturer. And yet who does not know that we have been constantly lobbied by newspaper men who are in favor of this reduction of the tariff?

Mr. CRAVENS. I rise to a question of order. I hardly think this is a privileged question.

The SPEAKER. It is not; but the House has

granted unanimous consent to the gentleman from Illinois to make a personal explanation.

Mr. JOHNSON, of Pennsylvania. This is certainly not a personal explanation. The gentleman is discussing a resolution which passed the House.

The SPEAKER. The Chair thinks that up to this point the remarks of the gentleman from Illinois have been in the nature of a personal explanation.

Mr. JOHNSON, of Pennsylvania. It may be personal to other members, but not to himself.

The SPEAKER. When the House gives unanimous consent to a gentleman to make a personal explanation, it opens a very wide range of debate.

Mr. FARNSWORTH. Mr. Speaker, the very writer of this article himself, it seems, is a lobbyist for the newspaper men on this question; and not only does he lobby members of the House here, but he writes letters to newspapers that are to come back to members for their perusal, to influence their mind and action in this House. It is said that this is "a tax upon knowledge!" If we repeal the duty on paper, had we not better repeal the taxes that are now levied on articles that are of prime necessity to the poor man, and with which he cannot dispense? Had we not better repeal the tax upon shoe-leather, on tea, coffee, sugar, and all other articles that the poor man cannot dispense with, that are articles of prime necessity, as much so, certainly, as knowledge?

It seems to me, Mr. Speaker, that if my colleague [Mr. WASHBURN] had taxed his knowledge a little more he never would have introduced his resolution. A tax upon knowledge! These are the cant phrases, the clap-trap expressions, used by men who seek to repeal this duty; yet we tax those things which are necessary to sustain life itself. The shoemakers might with as much propriety cry out against the duties upon leather as a tax upon understanding! The House will recollect that while the newspapers can speak weekly and daily to the members of this House and to the country, the paper manufacturers, the men representing that growing interest of the country, cannot speak through any such agency. A tax upon knowledge! You cannot take up a circular or a petition or a newspaper article on the subject in which you do not find this phrase constantly repeated. But I would ask any member of the House whether he has received petitions from his constituents, from those who pay this "tax upon knowledge" to vote for a repeal of the duty on paper? I have a large constituency, a reading constituency. There are many newspapers published in my district besides the city newspapers that circulate there. I have not received a letter or petition from any of them asking me to vote for a reduction or repeal of the tariff on imported paper. And yet they are the men who are taxed, as it is said; they are the men who take newspapers and read them and pay for them. If this be a tax on knowledge, it is a tax that is brought to their doors and not to the doors of the newspapers.

Mr. MORRIS, of New York. The gentleman from Illinois has inquired whether any member has received a petition from his constituents in favor of the repeal of this duty. It may be pertinent for me to say here that two of the local newspapers in my district have taken ground against the repeal of this duty on paper.

Mr. FARNSWORTH. Then they are very sound papers, and soundly edited. And I am satisfied that, on the examination of this question, every reasonable editor throughout the country will find that he is standing very much in his own light, and acting against his own interest as well as against the interest of his country, in striking this blow at the large paper-manufacturing interest of the country.

When this subject was first broached to me some time ago, as it was by newspaper men in the State of Illinois, I was inclined, without much reflection, to coincide in their sentiments. I was inclined to the opinion that the duty should be repealed. So much was said to me that I commenced an investigation of the subject, and the more I examined it, the more I investigated it, and the more I thought of it, the more I became convinced that the true policy, not only for the country, but for the newspapers also, was to let the duty on paper remain

as it is, thus fostering and protecting, if need be, the manufacture of paper, as we now do all other manufactures, and allow it to regulate itself by proper competition. The manufacture of paper is steadily increasing in the West. Paper can be manufactured there cheaper than perhaps anywhere else in the United States.

Mr. MILLER, of Pennsylvania. I rise to a question of order. I do not think that every member of this House has a right, under the guise of a question of privilege, to consume an hour in answering every newspaper paragraph that may come under his notice. This subject is not a question before the House, but has been already passed upon.

The SPEAKER. The House has decided that the gentleman from Illinois should have unanimous consent to speak for one hour in personal explanation. That is the decision of the House, and not of the Chair.

Mr. FARNSWORTH. I know that it has been said, and is said by the advocates of the repeal of this duty upon paper, or rather by the advocates of the reduction of the duty to three per cent., that the Government being a consumer of paper to some extent, is now a loser by imposing the present tariff of twenty per cent., which amounts to prohibition, and that, by reducing that tariff to three per cent., which is the amount of the excise tax upon manufactured paper, the Government could derive the same amount of revenue that it now receives from the manufacture of paper. I want to say a word or two on that subject.

Now, sir, if the three per cent. excise tax were all that the Government derived from the manufacture of paper, still the reduction of the duty upon the foreign article to three per cent. would not bring into the Treasury as much as does the three per cent. excise tax, because the three per cent. excise tax—

Mr. MALLORY. I rise to a question of order. My point of order is that the gentleman from Illinois is not making a personal explanation, but is arguing deliberately and *in extenso* a measure of public policy. The time will arise when the gentleman can say all that he wishes to say.

Mr. FARNSWORTH. I am explaining the reason for my action, which has been criticised in this paper.

Mr. MALLORY. Anything which involves an attack on a member individually, which goes to impugn his motives, may authorize him, perhaps, under the privilege of making a personal explanation, to make statements to show that these charges are false; but I deny that, under permission to make a personal explanation, a member can legitimately go into an argument of a question of tariff, revenue, or any other such subject as is being discussed by the gentleman. I submit that such a course is an abuse of the privilege extended to him by the House.

The SPEAKER. The Chair, in deciding this point of order, would state that, if the gentleman from Illinois had submitted this matter as a question of privilege, the Chair would have ruled that this debate was not in order, as the gentleman, in proceeding in this line of remarks, would be debating a proposition which the House had determined, by sustaining the previous question, should not be debated. It has always been held that, when the House grants unanimous consent to a gentleman to make a personal explanation, the largest latitude of debate is given. The Chair, therefore, cannot attempt to control the line of the gentleman's remarks so long as he confines himself to the point upon which he has been criticised, and in regard to which he has asked consent to make a personal explanation. The House having, by unanimous consent, granted him that privilege, the Chair cannot arrest the gentleman's remarks.

Mr. FARNSWORTH. I do not intend to occupy much time, nor to abuse the courtesy extended to me by the House. But I deem it proper to explain the grounds of my action in reference to this question, as it has been criticised by this newspaper.

I was about to say that the three per cent. excise tax now paid upon the manufacture of paper is paid upon the value of the paper manufactured here, while the tariff which it is proposed to reduce to three per cent. is paid upon the value of the imported article in the foreign country. Now,

paper abroad is worth eight cents per pound. Your three per cent. tariff would be collected upon that. Paper manufactured here is worth at the present time about twenty-two cents per pound. The excise tax is three per cent. upon that, making a very great difference, as the House will see.

But that is not all that we lose. We lose the entire tariff and excise taxes which are imposed upon all the articles which enter into the manufacture of paper. If we repeal this duty upon paper, or reduce it to three per cent., which amounts to about the same thing, leaving the tariff upon those materials which enter largely into the manufacture of paper in this country, we close up the paper-mills of our own country, and offer a premium to the paper manufacturers of foreign countries to supply our own market with their paper. Nothing, it seems to me, is more clear.

Why, sir, shall we say to foreign countries that the very paper upon which we print our laws cannot be manufactured in our own country, but shall be imported from abroad? It is true that the Government pays a larger amount for paper which it consumes than it would if paper cost less. There is that difference. How much it amounts to, I am unable to say; it is not a very great sum, however.

I have made a calculation of the difference to the revenue between the law as it now stands, with excise duties and tariff upon materials, and as it will be in case the resolution of my colleague [Mr. WASHBURN] shall become the law. I find, and in this I have been aided by some tables which, on examination, I find to be remarkably accurate, that the tariff and excise duties upon the materials used in the manufacture of one ton of paper, in currency, amount to \$22 63. Now you add the excise tax of three per cent. upon the paper, calling paper twenty-two cents per pound, would make \$13 50 more per ton, making \$36 13 which the Government derives from the manufacture of paper in our own country, upon every ton of it.

Now for the foreign article. A duty of three per cent. upon the article, calling paper worth eight cents per pound, which I believe is the present price of it in Belgium, and converting that three per cent. into currency, calling gold 225, and the Government derives from a ton of paper so imported only \$10 80, making a difference in favor of the present law of \$25 33 on a ton of paper. There are seven or eight hundred paper mills in the country manufacturing upon an average a ton of paper a day each. There is a difference of \$25 33 upon every ton of paper. You have, then, in round numbers, a difference annually of \$7,000,000 to the revenue of the Government, as between the law as it now stands and the proposed change of my colleague. This is a matter, Mr. Speaker, which it seems to me ought to be taken into consideration.

It will be observed that in this estimate I have not added into the account the income tax, war tax, nor excise tax upon freights, iron for repairs, machinery, or coal when used as a power. Then consider that there are fifty thousand men employed in working these mills in the United States who will be discharged from employment if the mills stop.

There is another fact which may be considered in connection with what I said before. The newspapers of the country have increased their price. They are charging more for their papers and more for advertising than they did before. They have brought up their price in proportion to the enhanced price of everything else. Must not the manufacturer of paper do the same thing? Why, sir, look at the difference in the State of Illinois between the prices before the war and now. In my own town, before the war, labor could be obtained at seventy-five cents per day by the year, and it now costs \$1 50 by the year. Coal could be purchased in Chicago at \$5 50 per ton, and it now costs twelve to fifteen dollars. Lime cost fifty-five cents per barrel, now it costs \$1 25. Lard oil seventy-five cents per gallon, now it costs two dollars. Chloride of lime then cost three and a half cents per pound, now it costs seven. Soda-ash cost two and a half cents, now it costs six. Boarding laborers then cost twelve to fourteen shillings per week, now it costs five dollars per week. Upon examination it will be found that everything else used in the manufacture of paper has gone up in like or greater proportion. Ma-

chinery, iron used in repairs, rags and straw, wood and coal, felting, wire, band leather, &c. So it is with the cost of transportation. Indeed, every article used in the manufacture of paper has at least doubled in value, and some have much more than doubled. Notwithstanding this, and notwithstanding the income taxes, excise taxes, war taxes, &c., paper can be bought to-day for a little more than double what it could then. It is now I think twenty-two cents, and then it was I think about ten and a half cents.

Another thing I wish to call the attention of the House to is the difference in the profit derived from the manufacture of paper and the profit derived from these city newspapers. I find, sir, that the proprietors of that very newspaper, the Chicago Tribune, are paying an income tax upon \$120,000 a year.

Mr. WASHBURN, of Illinois. When was this?

Mr. FARNSWORTH. For the year 1863.

Mr. WASHBURN, of Illinois. Before this tax was put on?

Mr. FARNSWORTH. Why, sir, the tariff was higher in 1863 than now. Does not my colleague know that fact?

Mr. STEVENS. It was thirty-five per cent., and we reduced it.

Mr. WASHBURN, of Illinois. I speak of the tax imposed upon the public by the combination of the paper makers. This profit was made before this combination existed.

Mr. FARNSWORTH. The gentleman says that was before the combination of the paper makers. I know of no such combination; but I do know, as well as I can know anything of which I am not personally cognizant, that there was no combination among the paper makers of the West.

I was contrasting the incomes derived from the manufacture of paper, and those from the publication of newspapers. I find that the proprietors of the Chicago Tribune, for the year 1863, gave in the following incomes over and above the \$600 exempt to each of the proprietors: William Bross, \$25,957; Alfred Cowles, \$27,073; Joseph Medill, \$26,790; Charles H. Ray, \$12,529; J. S. Scripps, \$23,856; and the editor of the Chicago Journal's income was \$25,554.

There you see the profits for one year derived from the publication of a newspaper in the city of Chicago, which has taken the lead in this crusade against the paper manufacturers of the West.

Mr. Speaker, we have many paper mills in the West, but not so many as I wish, and as I expect to see, if we cease tampering with tariffs, and stop this futile legislation. It is a growing interest there, and with the facilities and materials which we possess, water power, straw, flax, and rags in abundance, I expect to see a paper mill every three miles along the Rock and Fox rivers in my State. I know of no good reason why they should be singled out from all other manufacturers and compelled to close their mills for the benefit of the foreigner, and to gratify the mistaken policy of a few already wealthy newspaper proprietors. For my part, I am glad to see newspapers thrive, and their proprietors prosperous and happy. I do not find fault with that.

Here is a table showing the tariffs at different periods upon printing paper, and upon materials used in its manufacture:

	1846.	1857.	1861.	1862.	1863.
	Perc.	Perc.	Perc.	Perc.	Perc.
Paper.....	30	24	30	35	20
Soda ash.....	10	4	50 cts. per 100 lbs.		
Bleaching powder.....	10	4	30		
Alum.....	20	15	60		
Oil vitriol.....	20	4	1 ct. per lb.		
Woolen feltings.....	30	24	20 cts. per lb. and		
			35 per ct. ad val.		

Mr. SPALDING. Will the gentleman from Illinois yield to me to make a remark or two?

Mr. FARNSWORTH. I will.

Mr. WASHBURN, of Illinois. I desire to answer my colleague, and I hope he will give way to a motion to postpone the subject. The gentleman has had an opportunity to argue his side of the subject, and I wish to argue my side.

The SPEAKER. The Chair will state to the gentleman from Illinois that permission to make a personal explanation is not a transferable right, as is a transfer of the floor under the hour rule for general debate.

Mr. WASHBURN, of Illinois. I shall ob-

ject to his yielding the floor, unless I can have an opportunity to reply to my colleague.

Mr. MALLORY. I object to this debate going on in this informal manner. I object to any further personal explanations this morning.

Mr. FARNSWORTH. As the gentleman from Ohio [Mr. SPALDING] is involved in this gross attack, I hope the House will extend to him the same courtesy that has been extended to me.

I have said all I desired to say at the present time, and I give way to the gentleman from Ohio.

Mr. WASHBURN, of Illinois. I object, unless I can have an hour.

Mr. SPALDING. I have no argument to make, but simply a statement.

The SPEAKER. How long a time does the gentleman desire?

Mr. SPALDING. Five minutes.

Mr. JOHNSON, of Pennsylvania. I object.

Mr. WASHBURN, of Illinois. I shall object also, unless I can have the privilege of answering my colleague.

The SPEAKER. Objection being made, no further debate is in order.

VOTES FOR PRESIDENT AND VICE PRESIDENT.

Mr. STEVENS. There is on the Speaker's table a message from the Senate requesting the House to appoint a committee to meet a committee of the Senate to make arrangements for counting the electoral vote. I think we should respond to it, and I ask that it may be taken up.

No objection being made, the resolution of the Senate was taken from the table and reported, as follows:

Resolved, That a committee consisting of three members be appointed by the President of the Senate, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons chosen of their election.

Mr. STEVENS. I move that the House accede to the request of the Senate, and that a committee of five be appointed upon the part of the House.

The motion was agreed to.

The SPEAKER subsequently appointed as such committee Messrs. STEVENS, WASHBURN of Illinois, MALLORY, DAVIS of Maryland, and Cox.

COMMITTEE ON VENTILATION.

The SPEAKER. The Chair will state that there has been a resolution from the Senate on the Speaker's table since the 12th of January, which has never been called up. The Chair will submit it to the House, and then ask if there be any objection to its consideration.

The resolution of the Senate was read, as follows:

Resolved by the Senate, (the House of Representatives concurring,) 1. That the joint committee on ventilation and improvement of the Halls of Congress be authorized to examine witnesses and employ a reporter.

2. That the members of the Committees of the two Houses upon Public Buildings and Grounds be added to the said joint committee upon ventilation, &c., for the purpose of deciding upon any plan or proposition of improvement which may be before said committee for consideration.

Mr. WASHBURN, of Illinois. I have objected to that once before, and I object to taking it up now.

Mr. PIKE. I move to suspend the rules for the purpose of considering it.

The House refused to suspend the rules, and the resolution was not considered.

NIAGARA SHIP CANAL.

Mr. STEVENS. I desire to go into the Committee of the Whole on the state of the Union, unless gentlemen insist that the special order shall be taken up. I hope they will allow us to go on and pass one or two appropriation bills, that the Senate may have something to do.

The SPEAKER. The special order after the morning hour to-day is the consideration of the Niagara ship-canal bill.

Mr. STEVENS. I ask gentlemen to postpone it until to-morrow, and let us go on with appropriation bills.

Mr. ARNOLD. I will consent to have it postponed until Wednesday next.

Mr. STEVENS. I then move that it be postponed until Wednesday morning.

Mr. WASHBURN, of Illinois. With the understanding that it shall come up at that hour. We do not want it to lose its place.

Mr. FERNANDO WOOD. Is there not a special order for Wednesday already?

The SPEAKER. There is, after the morning hour. But this would come up immediately after the reading of the Journal and before the reconstruction bill.

Mr. WASHBURNE, of Illinois. Before the motion is put I desire to inquire whether any other measure which has been postponed would come in before this.

The SPEAKER. The Chair will state that this being a special order, if postponed until Wednesday, it will come up the very first thing after the reading of the Journal, unless the constitutional amendment should come over from Tuesday. If the House should be still engaged upon that at the adjournment on Tuesday, it will come up as the unfinished business immediately after the reading of the Journal on Wednesday.

Mr. DAWES. I hope it will not be postponed as a special order.

The SPEAKER. It is a special order now, and must be postponed as such.

Mr. DAWES. Then I trust it will be postponed until some other day. There is business of importance to come in after the constitutional amendment shall be disposed of, which the House should pass upon at an early day.

The motion to postpone was agreed to.

#### COUNTING OF ELECTORAL VOTES.

Mr. WILSON. I ask the unanimous consent of the House to report back from the Committee on the Judiciary joint resolution of the House No. 126, declaring certain States not entitled to representation in the Electoral College. It is important that it should be acted upon at once.

Mr. LE BLOND. I object.

Mr. WILSON. I move to suspend the rules, for the purpose of having the joint resolution considered now.

The question was put; and two thirds voting in favor thereof, the rules were suspended.

Mr. WILSON. I now report the joint resolution, and I ask the previous question upon it.

The preamble to the joint resolution recites that the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and have continued in a state of armed rebellion for more than three years, and were in a state of armed rebellion on the 8th of November, 1864.

The joint resolution provides that the States mentioned in the preamble are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th of March, 1865, and that no electoral votes shall be received or counted from those States concerning the choice of President and Vice President for that term.

Mr. MALLORY. I hope the gentleman from Iowa will hear me for one moment.

Mr. WILSON. I withdraw the previous question for that purpose.

Mr. MALLORY. I would suggest to the gentleman from Iowa that the case provided for by the joint resolution which he reports ought to be met by the two Houses of Congress when they meet in joint session to receive and count the votes of the various States for President and Vice President. I do not see why we should prejudice the matter now. We are competent to settle it when we come to count the votes.

I would say further to the gentleman from Iowa that I have been instructed by the Committee on Rules of this House to introduce an amendment to the rules concerning the very case contemplated by this joint resolution, and directing the mode in which any contest as to the right of any State to cast its vote shall be settled by the two Houses of Congress in their joint session. If the gentleman will allow me, I will send to the Clerk and ask him to read the report which I have been instructed to make by the Committee on Rules.

Mr. WILSON. I have no objection to its being read.

The Clerk read, as follows:

*Resolved*, (the Senate concurring,) That the following be added to the joint rules of the two Houses:

23. The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock, p. m., on the second Wednesday in February next succeeding

the meeting of the Electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; one teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same, having been stated by the Presiding Officer, shall be submitted, first by the President of the Senate to that body, and then by the Speaker to the House of Representatives, and no question shall be decided affirmatively, and no vote objected to shall be counted except by the concurrent votes of the two Houses, said votes of the two Houses to be reported to and declared by the Presiding Officer; and upon any such question there shall be no debate; and any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner. At such joint meeting of the two Houses, seats shall be provided, as follows: for the President of the Senate the Speaker's chair; for the Speaker, a chair immediately upon his left; for the Senators, in the body of the Hall upon the right of the Presiding Officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform.

Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken, unless a question shall have arisen in regard to counting any of such votes, in which case it shall be competent for either House, upon motion made and submitted by its own Presiding Officer, to direct a recess not beyond the next day at the hour of one o'clock, p. m.

Mr. WILSON. I think there is a majority of the House in favor of the passage of the joint resolution which I have reported, but I think it very doubtful whether a majority of the House would be in favor of the adoption of the rule which the gentleman from Kentucky [Mr. MALLORY] has had read at the Clerk's desk. And as it is very important that this question shall be determined at once, inasmuch as the opening and counting of the electoral votes is to take place next Wednesday week, I think we had better act on the joint resolution now, leaving the proposed amendment of the rules to be reported and discussed at the proper time. I therefore move the previous question.

Mr. MALLORY. If the gentleman will allow me, I will offer the rule as a substitute for the joint resolution, and let the sense of the House be taken on it.

Mr. WILSON. No, sir, I cannot do that. That would create a good deal of discussion, I am satisfied, from the provision made there for the determination of the question by the two Houses sitting in the same Hall. I therefore move the previous question on the joint resolution.

Mr. MALLORY. I hope the House will vote it down, and let the Senate have something to do with the settlement of the question.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was engrossed and read the third time.

Mr. WILSON moved the previous question on the preamble.

The previous question was seconded, and the main question ordered; and under its operation the preamble was engrossed and read the third time.

Mr. WILSON moved the previous question on the passage of the preamble and joint resolution.

The previous question was seconded, and the main question ordered; and under its operation the preamble and joint resolution were passed.

Mr. WILSON moved to reconsider the vote by which the preamble and joint resolution were passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NAVAL MARINE ENGINES.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. RICE, of Massachusetts. Will the gen-

tleman from Pennsylvania permit me first to submit a report from the Committee on Naval Affairs on the subject of naval marine engines?

Mr. STEVENS. I will, if the report is not to be acted on now.

Mr. RICE, of Massachusetts. It is not. I am instructed to ask that the report be laid on the table, and be printed with the accompanying documents and testimony.

Mr. WASHBURNE, of Illinois. I would like to know how much testimony is to be printed, and what amount of documents. I am told that the printing will cost nearly one thousand dollars. Is it all to be printed?

Mr. RICE, of Massachusetts. It is.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to have this report laid on the table, and ordered to be printed with the testimony and accompanying papers. Is there objection?

Mr. WASHBURNE, of Illinois. I do not object so far as the making of the report is concerned; but I do object to ordering the printing of the testimony and documents till I know more about it.

Mr. RICE, of Massachusetts. The gentleman cannot object to the report being made; as the Committee on Naval Affairs has leave to report at any time.

Mr. WASHBURNE, of Illinois. I move to strike out that part of the motion which provides for printing the "accompanying papers," so that the report alone shall be printed.

Mr. RICE, of Massachusetts. I desire to state that a large number of documents have been received and a large amount of testimony taken by the committee in this case. The report embodies, as far as is practicable, and, as I believe, truly and justly, the contents of the testimony and of the documents. Still, the subject is one of very considerable importance, and I think that the testimony and documents will prove of great importance, and should be printed. However, I am willing to submit to the House the question of printing.

Mr. WASHBURNE, of Illinois. I understand from my friend from Ohio [Mr. SPALDING] who sits behind me, and who is a member of the Committee on Naval Affairs, that it was determined in that committee that the question of the expediency of printing these documents should be left to the decision of the House.

Mr. RICE, of Massachusetts. I have no objection to the House disposing of the question with regard to printing this testimony and the accompanying documents.

Mr. SPALDING. It was the understanding of the committee that the question of printing should be left to the House.

The amendment of Mr. WASHBURNE, of Illinois, was agreed to.

The motion of Mr. RICE, of Massachusetts, as amended, was adopted.

#### MARY E. BOULIGNY.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is still entitled to the floor.

Mr. THAYER. I ask my colleague to yield for a moment, that I may obtain consent to withdraw certain papers.

Mr. STEVENS. I yield for that purpose.

Mr. THAYER. I ask leave, on behalf of Mrs. Mary E. Bouigny, to withdraw from the files of the House certain papers relating to her claim, which has been before the Committee on Private Land Claims. This claim is now before a similar committee of the Senate, and the papers are wanted for use there.

There being no objection, leave was granted.

Mr. GARFIELD. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me for a moment.

Mr. STEVENS. I yield for positively the last time.

Mr. GARFIELD. I ask unanimous consent to introduce a bill for reference to the Committee on Military Affairs.

Objection was made.

Mr. GARFIELD. I move to suspend the rules.

The SPEAKER. The gentleman cannot make that motion unless the gentleman from Pennsylvania yields for that purpose.



## NAVAL APPROPRIATION BILL.

Mr. STEVENS. I decline to yield. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the special order, the naval appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866.

Mr. STEVENS. I move that the first reading of the bill be dispensed with, and that the bill be read by clauses for amendments.

The motion was agreed to.

The Clerk proceeded to read the bill by clauses for amendment.

Mr. RICE, of Massachusetts. The Clerk has just read the following item:

For the construction and repair of vessels of the Navy, \$21,570,000.

I move to amend by striking out "\$21,570,000," and inserting in lieu thereof "\$24,530,000."

As I understand, Mr. Chairman, among the estimates which were submitted by the Department for the expenses of the ensuing year, no estimates were made for any new constructions either of machinery or of vessels. The estimate which came from the Navy Department for the item of construction and repair of vessels was \$24,530,000. The Committee of Ways and Means have stricken off from that item \$2,960,000, reducing the appropriation to a sum which is believed by the Navy Department to be inadequate to meet the necessary demands for that purpose during the year. I went over the items for this bureau, and came to the conclusion that some reduction could be made in that item; but since that time I have received a letter from the Secretary of the Navy, calling attention to some of the wants of the Department which were necessarily embraced under that item, and which require that the sum estimated for shall be appropriated. I will state that among those is a sum rendered necessary to carry out the act of Congress in relation to finishing the Puritan and the Dictator, and also \$150,000, which the Committee on Naval Affairs recommended the House to authorize as an advance to Paul S. Forbes on his contract for completing the sloop-of-war Idaho—not an addition to his contract price, but simply an advance of that amount before the completion of the vessel, the vessel being abundantly worth more than the amount which will have been advanced, including this.

I send to the Clerk's desk a letter, and ask that it may be read.

The Clerk read, as follows:

NAVY DEPARTMENT, WASHINGTON,  
January 23, 1865.

SIR: The estimate submitted by this Department for the ensuing fiscal year for the construction and repair of vessels is \$24,530,000. This amount has been reduced \$2,960,000 by the Committee of Ways and Means, leaving the proposed appropriation \$21,570,000. This sum, in the opinion of the Department, will not be sufficient for the necessities of the service. The action of the last Congress increased the expense of completing some of the new work in progress, and to enable the Department to carry out the wishes of Congress and to provide for the necessary wants of the Navy, I respectfully ask that an effort be made to have the full amount asked for appropriated.

Very respectfully,  
GIDEON WELLES,  
Secretary of the Navy.

Hon. A. H. RICE,  
Chairman Naval Committee House of Representatives.

Mr. STEVENS. Mr. Chairman, the Committee of Ways and Means, desirous to reduce these appropriations as much as they could without injury to the public service, did reduce the estimates of the sum mentioned by the gentleman from Massachusetts, I believe, some three million dollars, and we hoped that the Department would acquiesce in it. But it appears from the letter of the Secretary of the Navy, which has been read, that he desires and deems it necessary that these estimates should be restored. If I understood the amendment, it simply provides for restoring the estimates of the Department. Now, I am not very desirous that the Navy Department shall be hampered, nor do I pretend, nor does the Committee of Ways and Means, to know enough to overrule the amendment, al-

though we did believe the Department could get along with \$21,000,000. But it is for the House to determine whether the estimates shall be restored.

The amendment was agreed to.

Mr. PIKE. I move to strike out of the clause "for the construction and repair of vessels of the Navy, \$24,530,000," the words "construction and." That will carry out, as I understand, the view expressed by the chairman of the Committee on Naval Affairs.

Mr. RICE, of Massachusetts. I have no objection to the amendment.

Mr. WILSON. I do not think that the gentleman from Maine accomplishes his purpose by the amendment. He ought to insert the words "completion and," so that it will read "for the completion and repair," &c.

Mr. PIKE. I accept that as a modification of my amendment.

Mr. STEVENS. I doubt whether the amendment will answer the purpose. Last year we authorized the construction of certain vessels. I understand that several are under way and others are contracted for. I doubt whether they have commenced the construction of some of them, but I do not know how that is.

Mr. PIKE. I will say to the gentleman from Pennsylvania that they are now upon the stocks in a greater or less stage of construction. There are some fifty or sixty vessels of all kinds and when completed they will swell our Navy to nearly seven hundred vessels, abundantly sufficient for all present purposes.

Mr. STEVENS. If the Committee on Naval Affairs are of the opinion that the amendment is right, I, of course, do not object.

The amendment, as modified, was agreed to.

The Clerk read, as follows:

For fuel for the Navy, and for the transportation and expenses thereof, \$7,680,000.

Mr. RICE, of Massachusetts. I move to add: For bounties to seamen, &c., \$1,000,000.

I ask the Clerk to read the letter which I send up.

The Clerk read, as follows:

NAVY DEPARTMENT, January 26, 1865.

SIR: The Chief of the Bureau of Equipment and Recruiting informs me that after the estimates of that bureau had been submitted to Congress for the next fiscal year, the President, on the 20th December, 1864, issued a call for three hundred thousand more men. This call was not anticipated by the bureau, and consequently there will be an additional appropriation required to pay bounties to persons enlisting in the naval service under it. He asks an appropriation of \$1,000,000 to meet this demand, and I recommend that the request be granted.

Very respectfully, &c.,

GIDEON WELLES,  
Secretary of the Navy.

Hon. THADDEUS STEVENS, Chairman Committee of Ways and Means, House of Representatives.

The amendment was adopted.

Mr. STEVENS moved to add the following: For the purchase of land adjoining the Boston navy-yard, \$130,000.

I send to the Clerk to be read the communications upon which that amendment is based.

The Clerk read, as follows:

NAVY DEPARTMENT, January 20, 1865.

SIR: I have the honor to inclose herewith a copy of a communication, dated the 18th instant, addressed to me by the chief of the Bureau of Yards and Docks, relative to the importance of purchasing certain property with the view of acquiring more water front for the Brooklyn and Boston navy-yards.

These matters have been brought to the attention of Congress heretofore, and on this occasion I consider it simply necessary to ask the committee, as Rear Admiral Smith suggests, to report the respective amounts named in the estimates of the bureau for the proposed purchases.

Very respectfully, &c.,  
GIDEON WELLES,  
Secretary of the Navy.

Hon. THADDEUS STEVENS, Chairman Committee Ways and Means, House of Representatives.

No. 4.] NAVY DEPARTMENT,  
BUREAU OF YARDS AND DOCKS, January 18, 1865.

SIR: I beg leave to ask that you request the Committee of Ways and Means to report the amount estimated for the purchase of the Ruggles property adjoining the navy-yard, Brooklyn, as recommended in your letter of 15th December last to Hon. SCHUYLER COLFAX, Speaker of House of Representatives.

This property will be a most valuable acquisition to the yard, as, in consequence of the very limited wharf accommodations, we are almost constantly paying demurrage on vessels having cargoes to land and ship at this great depot of stores. The number of vessels visiting the yard for this purpose is very large, while most of the wharf room is occupied by the vessels of the Navy under repairs or fitting for sea; consequently, these private vessels are obliged to

wait their turn to unload, thereby causing great expense to the Government, and delay in the delivery of stores.

This Ruggles wharf property will afford good landings, and has long been much needed; the owner is dead, and the executor offers the property at my estimate of its value. It will be worth more to the United States than double the cost at the price stated, for, in addition to the gain of territory and wharf accommodation, the removal of the old stores, which have long been a nuisance, will be effected.

The property embraced within the lines of the navy-yard wall, United States street, Little street, and the river, does not all belong to the Ruggles estate; there are four lots belonging to other parties, as seen on the sketch forwarded with your letter to Congress, and it is very desirable that the purchase should include these lots, so that Government property may bound on United States and Little streets.

The whole cost, as near as I can ascertain, will be \$102,000. I would also request that the Committee report \$135,000 for the purchase of the water front near the navy-yard at Boston, an appropriation for which was rejected at the last session of Congress under the plea that Congress would pass an act to authorize Government to seize any property needed for public use. I am, however, unable to find that any such act has been consummated.

I have the honor to be, your obedient servant,  
JOSEPH SMITH,  
Chief of Bureau.

Hon. GIDEON WELLES, Secretary of the Navy.

Mr. HOLMAN. I make the point of order that the amendment is not in accordance with any provision of law. It is not for the continuation of any work, not authorized by law, and therefore not in order. It is not an amendment for the support of the Government, but simply for the purchase of land.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

Mr. RICE, of Massachusetts. I offer the following amendment:

Insert under the heading of "Boston navy-yard" the following:

For completion of joiners' building, \$25,000.

The amendment was agreed to.

Mr. STEVENS. I offer the following amendment. I suppose that it will be ruled out of order, but it is my duty to submit it.

For the purchase of the ground adjoining Brooklyn navy-yard, \$102,000.

Mr. HOLMAN. I raise the same point of order upon that amendment as I did on the other.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURN, of Illinois, (Mr. DAWES having taken the chair,) moved to amend by inserting after line two hundred and seventy-four the following:

That hereafter no appointment shall be made to the naval school except the appointments at large now authorized to be made by the President, unless it be upon the recommendation of a member of the House of Representatives, and from the district represented by such member; provided that if there shall be any vacancies in said naval school from States or districts not having a representation in Congress, such vacancies shall be equitably apportioned by the Secretary of the Navy among the Representatives in Congress from the States and districts which are represented.

Mr. WASHBURN, of Illinois. If I can have the attention of the committee while I explain this amendment, I apprehend there will be no objection to it by a single member.

Mr. KINNEY. I suggest to the gentleman from Illinois that he has left out the Delegates from the Territories.

Mr. WASHBURN, of Illinois. I will yield to an amendment of that kind.

By the law approved July 16, 1862, it was provided as follows:

"And it shall be the duty of the Secretary of the Navy, so soon after the 5th of March as possible, to notify in writing each member and delegate of any vacancy which may exist in his district, and if said member or delegate neglects to recommend a candidate by the 1st of July in that year, it shall be the duty of the Secretary of the Navy to fill the vacancy."

I know I watch these things as closely as I can when they are passed by the House. I certainly did not understand the effect of this law; and I do not believe a single member of the House, except the one who drafted it, did understand it. By looking at it one would suppose that it was fair enough; and it would be, if construed differently. For instance, if the gentleman from Pennsylvania [Mr. STEVENS] or the gentleman from Iowa behind me [Mr. WILSON] had neglected, when an appointment was due them, and after being notified, to fill a vacancy, it would be proper enough to say that the Secretary of the Navy should have the power of filling such vacancy. But, sir, the construction which I understand has been given to the law has operated in this way: that every district in the rebellious States which has not been represented by a member in Con-

gress has been construed as being a vacancy, and the Secretary of the Navy entitled to fill all those vacancies. That has taken from us the power which the representatives of the people have guarded, perhaps more strictly and more justly than any other—the power of retaining these appointments in their hands.

Mr. MALLORY. I would inquire of the gentleman whether the Secretary of the Navy has complied with another requisition of the act—that is, that the appointee shall come from the Congressional district.

Mr. WASHBURN, of Illinois. That I cannot answer.

Mr. MALLORY. I do not see how he could comply with the law in that respect.

Mr. WASHBURN, of Illinois. I know that if the Secretary of the Navy has filled all these vacancies, he has taken away that right which, as I before stated, we have guarded more vigilantly than any other. Every part of the country should be represented equally in the military and naval schools. The amendment I have offered repeals the existing law to the extent I have indicated; and where there are vacancies from rebel districts, the Secretary of the Navy is obliged, under my amendment, to apportion the midshipmen equitably among the members of Congress.

Mr. HOLMAN. I desire to ask the gentleman from Illinois whether it is true that the Secretary of the Navy has filled, by appointment to the Naval School, all the vacancies which have occurred within the limits of the seceded States.

Mr. WASHBURN, of Illinois. I understand that such is the case.

Mr. HOLMAN. As he is required under the law to appoint from the vacant districts, I would inquire whether he has appointed midshipmen residing in those vacant districts?

Mr. WASHBURN, of Illinois. The provision I have read does not require the Secretary to fill the vacancy from the districts, and it is a matter of the greatest complaint that the Secretary of the Navy has gone into particular localities and made those appointments in large numbers. I understand that from one little town in New Jersey no less than six appointments have been appointed to the Naval Academy.

Mr. STEVENS. It is very clear that by the law to which the gentleman from Illinois has referred we never contemplated filling the vacancies from the rebel States. It is very clear that we contemplated appointments from the States which were represented here, and they were to be appointed by the members here; and by what authority the Secretary of the Navy has gone outside of the States represented in this Hall, and filled vacancies from other quarters, I do not know. Why, sir, if he were to carry out that law according to his construction of it he must give notice to Mr. Crawford of Georgia, to Mr. Marshall of Kentucky, to Mr. Bocoek of Virginia, and other men down in the rebel States, who were members here once, to come and fill the vacancies from their districts; and then, under the old law which required that the vacancies must be filled from those districts, he must appoint from those districts, and there would be representatives at West Point and at Newport from every one of the rebel States.

I am astonished that any Secretary could construe the law so as to suppose that he or anybody else could be permitted to appoint midshipmen from rebel districts. Before making the appointments he must first give notice. To whom? To the members from those districts; and as there is no member from any one of them, how absurd it would be for him to attempt to fill any one of those vacancies. The law contemplates that the member shall fill the vacancy, unless, after notice, the member fails to do so. I do not precisely remember what the amendment of the gentleman from Illinois is, but I hope that some law will be passed to remedy this evil. I would be willing to increase the number of midshipmen, in so many words, by one from each district, and give the appointment to the member from that district; but the idea that appointments are to be made from rebel districts seems to me an absurdity. If the gentleman will move that each district represented in Congress shall have two or three or more additional midshipmen, so as to negative the idea that the rebel States are entitled to any, I will vote for it.

Mr. MALLORY. Mr. Chairman, I am inclined to think that under the law which has been read by the gentleman from Illinois, [Mr. WASHBURN,] the Secretary of the Navy has not been guilty of so flagrant an outrage as the gentleman from Pennsylvania [Mr. STEVENS] would impute to him. When a vacancy exists in the Naval Academy from any congressional district in the United States, according to that law it becomes the duty of the Secretary to notify the Representative in Congress of that fact. Well, now, if there happens to be no Representative from one of the congressional districts of the United States, is it not impossible for the Secretary to execute the duty thus imposed upon him? And if that be so, the object of the law being to secure a pupil in the Naval Academy from that district, is it not evidently his duty, under the intention of the law, to go on and make the appointment? It would be impossible for him to give the notice from the fact that there is no Representative from the district.

Now, I contend that these States of which the gentleman from Pennsylvania speaks are all in the Union, that there are congressional districts in those States, and that the people of those States have the right, whenever they choose to do so, to elect Representatives to this Congress, and the men so elected, if the House believes, on their application for seats, that they have been legally elected, have the right to take their seats in this House.

It is the duty of the Secretary of the Navy to give notice to the member of Congress that there is a vacancy from his district. Suppose there were no Representative from the district of the gentleman from Pennsylvania, the Secretary could give no notice; it would be impossible for him to do so. Does the gentleman contend that he would have no right in that case to go on and make the appointment as though he had given the notice? Believing, as I do, that these States are in the Union, that these districts are congressional districts and have a right at any time to send Representatives here, I contend that the Secretary of the Navy, in the exercise of the power mentioned by the gentleman from Pennsylvania and the gentleman from Illinois, did not transcend the law at all. But, at the same time, I wish to see the amendment of the gentleman from Illinois adopted, because I think that this is a power which ought not to be given to the Secretary of the Navy. I want the power taken away from him and conferred upon members of Congress, and these appointments distributed among them *pro rata*. I therefore favor the amendment.

Mr. RICE, of Massachusetts. Mr. Chairman, I surely am not an advocate for any irregular appointment to the Naval Academy or to the Military Academy, or to any other Government institution, or for any transaction by any Department of the Government without authority of law. If I remember right, this subject is not now brought into the House for the first time. It was brought to the attention of the House a year or two ago, and again last year. And according to my recollection of the circumstances, they were something like this: after certain States went into rebellion, and after the cadets at the Naval Academy from those States had retired from that institution, a large number of vacancies were left to be filled. There was no law governing or regulating the appointments under such circumstances, and the President of the United States took upon himself the authority of filling the vacancies in the Naval Academy according to the rule which governs him in the appointment of cadets at large. Gentlemen will see that when we were about commencing a great war, the last thing that should be left unattended to was the proper education of officers for the naval service. And I understand that the President did, at that time, fill up the Academy with cadets to supply the places of those who had retired from the institution. Gentlemen will remember that Congress subsequently passed an act legalizing the acts of the President done under such circumstances.

Now, Mr. Chairman, I wish to call the attention of my friend from Illinois to an act of Congress approved May 21, 1864. If I remember correctly, the following provision of that act emanated from my friend from Illinois:

"For expenses of professors, watchmen, and others, and contingencies for the United States Naval Academy,

\$101,831 55: *Provided*, That no money appropriated for the support of the Naval Academy shall be applied to the support of any midshipman hereafter appointed not in strict conformance with the provisions of law for appointing midshipmen to the Naval Academy."

Now, if the gentleman from Illinois has cognizance of any appointments made without authority of law, or in nonconformity to the law, since May 21, 1864, then I say that the remarks which he makes are quite pertinent. But otherwise it seems to me that he must have forgotten the action of Congress a year ago.

Mr. CHANLER addressed the Chair.

Mr. WASHBURN, of Illinois. In reply to the gentleman from Massachusetts, I will say that it is a question of the construction of that law.

The CHAIRMAN. The gentleman from New York has the floor.

Mr. CHANLER. Will the gentleman from Illinois allow me to suggest an amendment which will not militate against the object of his amendment? It is that, in case of redistricting congressional districts under the law fixing the census of the United States, no congressional district shall be left without at least one vacancy in the Naval and Military Academies of the United States, such vacancy to be filled by the Representative in Congress of that district. My reason for offering this amendment is, that under the redistricting of congressional districts throughout the Union there have been many congressional districts left without any vacancy in the Military Academy, and I think in the Naval Academy also. I therefore propose to offer this amendment in order to check what was asserted by the heads of Departments to be a difficulty which there was no law to provide against. I offer that as an amendment to the amendment.

Mr. WASHBURN, of Illinois. I do not see how Congress can cure the evil to which the gentleman refers. Each State is alike under the law. Two midshipmen are to be appointed from each congressional district; but if there have been changes made in these congressional districts, it is necessary for the Department to assign and apportion the appointments according to equity and justice.

Mr. CHANLER. I would remark to the gentleman from Illinois that the difficulty arises from the mixing of counties. The heads of Departments, in making these appointments from the counties, have left districts without a representative in the Naval or Military Academy. And I propose that, instead of redistricting by counties as heretofore, it shall be done by the district itself.

Mr. WASHBURN, of Illinois. I do not see how it is possible for the gentleman's amendment to cure the evil which he suggests. These things must be left to the Department. Under the law, each member has a right to make an appointment whenever there may be a vacancy; and when these districts are reapportioned, it is, as I have said, a matter for reassignment by the Navy Department. I do not see how we can make any law which will meet the exigencies of every case.

Mr. DAVIS, of Maryland. Mr. Chairman, the amendment of the gentleman from Illinois contains one phrase which I suggest to him the propriety of changing. He uses, I believe, the phrase "shall be apportioned among the Representatives of districts," &c. My impression is that there is some misapprehension of the mode in which the members of the House of Representatives have hitherto participated actually, but not by law, in the designation of cadets. There is no law on the statute-book giving any Representative any authority to make any nomination except the proviso of the last session; and any such law has always been studiously avoided by previous Congresses, because it would be a plain infraction of the Constitution, which confers upon the President the power of appointment. The way in which we came to have anything to do with the appointment of cadets, either to West Point or to the Naval Academy, was this: in order to stop the perpetual attacks upon those institutions, and as a sort of sop to the Cerberus that were howling at them, the Administration—I do not know how long ago, twenty years perhaps—made a rule for their own guidance, that they would call upon the member of the district and invite from him a suggestion or a recommendation of a person to be appointed, which recommendation has, on the President or the head of the Department, exactly the same effect as, and no other effect than, a

recommendation as to the appointment of any other officer whose appointment is intrusted to the President. It can have no more effect than that.

Now, the amendment of the gentleman from Illinois goes, I think, beyond what is necessary to accomplish a very proper purpose, by using that phrase "apportioned among the Representatives." If he will use the words, "apportioned among the congressional districts," he will have it exactly as the law now requires it to be, and will remedy the evils which he wishes to remedy. If the gentleman will not accept this suggestion and modify the phraseology of his amendment, I shall move to amend by striking out the words "Representatives of districts," and inserting "congressional districts."

Mr. KASSON. I wish to call the attention of the mover of the amendment to what will probably be a practical difficulty in the administration of the law under that amendment. The gentleman proposes that these appointments shall be equitably apportioned among the different congressional districts or Representatives, which, practically, will be one and the same thing. There are more congressional districts within the limits of the States represented here than in those which have no Representatives upon this floor. It is necessary, it seems to me, that there should be given in the amendment some indication of the preference in those cases to be given to different districts; and I call the gentleman's attention to the propriety of a further amendment which shall specify that that preference is to be given to districts that have heretofore received the fewest appointments to the Academy. I shall therefore now, if it be admissible, and, if not, at the proper time, propose to add this proviso:

*Provided, That in such equitable apportionment he shall give the preference to districts which have heretofore received the fewest appointments to the Naval School.*

Mr. WASHBURN, of Illinois. The Secretary of the Navy can do that under the provisions of my amendment.

The CHAIRMAN. Does the gentleman from Illinois accept the modification proposed by the gentleman from Iowa?

Mr. WASHBURN, of Illinois. I should like to hear it again.

The Clerk read the proviso proposed by Mr. KASSON.

Mr. CRESWELL. Is it proposed by that amendment to give the appointments to the new States to the exclusion of the old States?

Mr. KASSON. The effect of that proposition will be that, if there are one or two appointments to be made on account of the unrepresented districts, the Secretary of the Navy or the President, as the case may be, will first take the nominations from those districts that have heretofore had the fewest appointments. I insist that, in the nominations to be made on account of the unrepresented districts, the benefit of the apportionment should first be given to those districts that have had the fewest appointments heretofore.

Mr. CRESWELL. Then I am right, and the gentleman's design is to give to the new States to the exclusion of the old ones.

Mr. KASSON. Not exactly to the exclusion of the old districts. If the old district is represented and the new district is not, then I say that the exclusion shall apply to the old district.

Mr. STEVENS. Does the gentleman from Iowa mean to say that where the President of the United States has appointed half a dozen young men from a district, they shall be counted in the apportionment of that district?

Mr. KASSON. I think that the gentleman will see that that precise difficulty is avoided by the adoption of this amendment.

Mr. STEVENS. Then they are all alike, for the law provides that each district shall have two. Under that there can be no inequality.

Mr. KASSON. The gentleman will see that this amendment only applies to the representation of rebellious States; there are not as many of them as there are loyal districts; and when we say that the President or Secretary shall apportion them equitably we leave a portion of the districts which will not receive one. The question therefore is, what districts shall be preferred?

Mr. STEVENS. There can be no difference between the districts, for the law says that each shall have the same number. Therefore that por-

tion of the gentleman's amendment cannot mean anything unless that where the President shall select half a dozen from one district they shall be counted to that district.

Mr. THAYER. Will the gentleman from Iowa allow me?

Mr. KASSON. As soon as I have answered the objection of the gentleman's colleague. If six be appointed from any one district, I propose in the equitable apportionment, under my amendment, that the district which has had six shall be passed until the others, who have had none, shall be satisfied. That is the effect of my amendment.

Mr. THAYER. I ask the gentleman whether in his opinion there is any equity in allowing States which have been recently admitted into the Union to go back and make up the number of appointments which the old States have had before the new States were formed? In order to make myself a little more clear: for instance, Massachusetts and New York have appointed to the Naval Academy some fifty or sixty cadets, while the State of Nevada, which has just been admitted, has not had one appointment. Now, shall Nevada appoint fifty or sixty cadets before New York or Massachusetts shall be allowed to appoint any more cadets? That is the effect of the amendment. It is to allow the new States for the time that they had no existence.

The CHAIRMAN. The amendment of the gentleman from Iowa is not in order at this time.

Mr. KASSON. Let me answer the gentleman from Pennsylvania. In making these appointments several have been made from a single district.

Mr. GANSON. What district?

Mr. KASSON. Excuse me; the gentlemen about me seem to be familiar with it.

Mr. PIKE. Six were appointed upon the recommendation of a single gentleman from Iowa.

A MEMBER. Senator GRIMES.

Mr. KASSON. I do not propose to call any gentleman's conduct in question. If he can get that number, so much the better for him; but let us take care for the future that no such inequitable apportionment shall take place.

Mr. WILSON. Mr. Chairman, I desire to ask my colleague to yield to me for a moment.

Mr. KASSON. Certainly.

Mr. WILSON. At the time these appointments were made to which my colleague directly referred, the State of Iowa was divided into two districts, and represented by only two members. It may have been after the redistricting the State into six districts. Now I do not propose to have those appointments charged to me, or to the district I have the honor to represent. The Secretary of the Navy telegraphed to one of the Senators from Iowa, requesting him to forward the names of six boys for a class then about to be formed in the Naval School. In response to this the names were forwarded and the appointments made. It does not appear that they were all located in one district in the State. Two or three were from the district I now represent, and a like number from the second district. I presume that the object of my colleague is to declare that the Representatives of the first and second districts of Iowa shall not be entitled to appoint any more until the other districts shall have the same number, thus brought about by the Secretary of the Navy. I only state these facts that it may not be supposed that through the recommendation of myself, or Mr. Vandever, my colleague then, these appointments were made.

Mr. KASSON. The point of my amendment does not apply to the district of Iowa any more than it does to any other district. It was offered irrespective of the apportionment of Iowa, and I have no objection to modifying it so that it shall read "on the recommendation of the Representative." My object is to specify an equitable rule which shall govern these apportionments irrespective of locality. And I say to the gentleman from New York who proposed the amendment, when it was found in the reapportionment of Iowa that the actual Representatives from the districts of that State was not from one of the new districts under that new apportionment, the Secretary of the Navy immediately allowed a Representative to such new district; and hence his amendment is unnecessary, unless the rule has been changed. I have often thought that in these reapportionments we should give the preference in the appointments to those

districts which have not had an equal representation in the Naval Academy. If gentlemen do not agree to that, what would they think of the converse proposition, that these appointments, there not being enough to satisfy all the districts, should be made from the district which have heretofore had the most? Would gentlemen think that just? If not, let them take the other rule, and say that the preference shall be given to those districts that heretofore have had the fewest appointments.

Mr. GANSON. I would inquire if the effect of the amendment would not be to exclude the districts of the old States until the new States had had an equal number.

Mr. KASSON. The effect probably would be, so far as the remaining thirty or forty are concerned, to give preference to the newer States over the older ones.

As I said before, I am willing to modify my proposition, if that will suit gentlemen any better, by saying, "from districts not heretofore represented, upon the nomination of the member of the districts."

Mr. WASHBURN, of Illinois. What is the question now before the committee?

The CHAIRMAN. It is upon the amendment proposed by the gentleman from Iowa to the amendment.

Mr. GRISWOLD. Mr. Chairman, I will send to the desk an amendment to be read; and will ask the gentleman from Iowa to accept it as a substitute for his amendment.

The amendment was read, as follows:

*Provided, That each congressional district of the loyal States shall be entitled to three midshipmen in the Naval Academy, instead of two, as now provided by law.*

Mr. KASSON. I cannot accept that.

Mr. STEVENS. I hope the amendment will be voted down, and then I will offer a substitute.

It seems to me we ought to legislate with some consistency. We have this morning passed a joint resolution, reported from the Committee on the Judiciary, declaring that the rebel States shall not be represented in the electoral college. Now by what principle is it that they are to be represented in the Military and Naval Academies? By what principle is it that any district in a rebel State is to be entitled to send a cadet either to West Point, or to the Naval Academy until they again are loyal States, and represented in this House?

But the proposition of the gentleman from Iowa [Mr. KASSON] and all the amendments go upon the ground that they are entitled to representation, and if they do not avail themselves of that right, then the appointments shall be distributed among the other States.

Mr. KASSON. My amendment is proposed in consequence of the amendments which propose to give the representation to members of Congress instead of the Secretary of the Navy or the President, as the case may be. If the amendment of the gentleman from Pennsylvania [Mr. STEVENS] goes to the exclusion of all that class of appointments, that will be another proposition, and I have not expressed myself upon that at all.

Mr. STEVENS. It seems to me we had better vote down both propositions, and I will propose that, in addition to those now allowed by law, one midshipman shall be appointed for each congressional district, to be appointed on the nomination of the member of Congress from such district; and that no midshipman shall be appointed for any district not represented in Congress.

The amendment to the amendment was not agreed to.

Mr. STEVENS. I now offer the following amendment:

One midshipman, in addition to those now allowed by law, shall be appointed for each congressional district and Territory, to be appointed on the nomination of the present members of Congress and delegate from said districts and Territories respectively; but no midshipman shall be appointed for any district not represented in Congress.

Mr. RICE, of Massachusetts. I would inquire of the gentleman from Pennsylvania whether he intends by his amendment to increase the number of midshipmen in the Naval Academy fifty per cent.

Mr. STEVENS. Just exactly that.

Mr. WASHBURN, of Illinois. I accept the amendment of the gentleman from Pennsylvania as a substitute for mine.



Mr. BOUTWELL. I move to amend the amendment by adding thereto the following:

And each member of Congress shall appoint a board of three competent persons, who shall examine all candidates for admission, and the candidate approved by said examiners shall be nominated by the member of Congress.

Mr. SPALDING. I think the gentleman had better put this provision in a separate joint resolution.

Mr. WASHBURN, of Illinois. I prefer to have it in this bill.

Mr. BOUTWELL. Mr. Chairman, I do not wish to detain the committee by discussing my amendment. I think the country is entitled to the services in the Army and Navy of the most promising young men who can be brought into these branches of the public service. I dare say that every member of this Congress would exercise a sound discretion in the selection of cadets for the Naval Academy, but possibly as much cannot be assumed for our successors. I am, therefore, in favor of a board of examination in each district who shall select a competent person. If I may be allowed to refer to Massachusetts we have there for many years had in our colleges forty-eight open scholarships. Our board of education from year to year examine all candidates for admission without reference to anything but moral and intellectual qualifications. The results have been that we have not only educated a class of competent persons for the highest domestic and public duties of the country, but we are also elevating the colleges themselves by introducing into them a set of aspiring and competent, and moral young men.

Now, I believe the fact would be somewhat the same if we were to admit to the Academy at West Point and to the Naval Academy only those young men who, upon examination, appear to be best qualified for the places, and I submit that no member of Congress representing the people ought to exercise this high trust for his individual or political benefit. It is a trust which he should exercise in the service of the country for the benefit of the country, and the best way of exercising that trust is through an examination by competent men, and then let the place be given to the young man who appears to be best qualified.

Mr. STEVENS. I am opposed to the amendment of the gentleman from Massachusetts. If the law gives me the authority to make these nominations I propose to exercise it myself, and not leave it to anybody else. Moreover, there is one of the strictest boards ever constituted anywhere which examines the candidates for admission to this Naval Academy.

Mr. GANSON. I was about to remark that these young men are now subjected to a rigid examination. I dare say the gentleman from Massachusetts has had some candidates rejected whom he had recommended, because the examination was so severe.

The amendment to the amendment was disagreed to.

Mr. WASHBURN's amendment was then agreed to.

Mr. PIKE. I move to amend the clause in relation to the Naval Observatory by striking out the words:

And there is hereby authorized to be appointed in said office one additional aid, at an annual salary of \$1,333 33, and said amount is hereby appropriated therefor.

Last year there were four aids in the Naval Observatory receiving salaries of \$1,000 each. It was said then that they could do the business with three aids, and they proposed to divide the \$4,000 between the three aids, and we assented to that proposition.

Now, it appears from this provision that it is proposed to increase the salaries of these gentlemen. I think it is a kind of indirect way of raising salaries that should not be encouraged, and for that reason I make the motion to strike out.

Mr. STEVENS. This provision is one which comes recommended by the Naval Department. I am not a very good astronomer myself; perhaps the gentleman from Maine is more capable of judging of such matters as this than I am; but still I prefer to trust the Department, who know more about this whole subject than either of us.

Mr. PIKE. I will say in reply that I do not act upon my own knowledge at all, for I should defer to the superior knowledge of the gentleman from Pennsylvania or the conductors of this Naval Observatory. I merely repeat the statement

which they made last year that they could do the business with three aids.

The question was taken, and the amendment was agreed to.

Mr. HOLMAN. I raise a point of order on the following clauses of the bill:

For pay of clerks in the Ordnance department at the several navy-yards, in lieu of the present per diem pay, viz: For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,200.

For salary of one clerk at \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.

For salary of one clerk at \$1,200 per annum, and one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

For salary of one clerk at the Philadelphia navy-yard, \$1,200.

For salary of one clerk at \$1,400, one clerk at \$1,000, one draughtsman at \$1,600, one analytical chemist at \$2,500, one assistant pyrotechnist at \$1,400, and one keeper of magazine at \$480 per annum, at the Washington navy-yard, \$15,180.

It seems to me that they are changes of law, rather than appropriations to carry out law.

The CHAIRMAN. (Mr. WASHBURN, of Illinois, in the chair.) The Chair sustains the point of order, and holds that it is independent legislation in an appropriation bill.

Mr. STEVENS. I do not know that these clauses increase the pay of the employees referred to. They merely fix their pay and make their positions permanent instead of being temporary.

Mr. WILSON. I would like to ask the chairman of the Committee of Ways and Means what the per diem of temporary clerks is now?

Mr. STEVENS. My impression is that it is \$3 50.

Mr. WILSON. If this be for giving them the same pay only, I presume it is better to let it remain as it is, instead of making these clerkships permanent clerkships at fixed salaries.

The CHAIRMAN. The point of order is sustained.

Mr. STEVENS. As that completes the bill I move that the committee rise and report the bill to the House.

Mr. DAVIS, of Maryland. Before that motion is put I offer the following amendment, to come in as additional sections at the end of the bill:

SEC. 2. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

SEC. 3. *And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

SEC. 4. *And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

SEC. 5. *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

SEC. 6. *And be it further enacted*, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mr. WILSON. I make the point of order that this is independent legislation, and is not in order as an amendment to an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DAVIS, of Maryland. Then I move it

as a proviso to the bill—as a limitation on the appropriations granted. I take it that, in that point of view, it is perfectly in order.

Mr. WILSON. I make the same point of order.

The CHAIRMAN. The Chair sustains the point of order. The Chair does not think that the amendment proposed is, properly speaking, a limitation on the appropriations made in the bill.

Mr. DAVIS, of Maryland. Then I move the following as an express limitation:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist, &c.

Mr. SPALDING. Mr. Chairman, if that amendment is considered in order, I wish, before the committee proceed to act upon it, to say a word. A bill similar in substance to that amendment was introduced into the House and referred to the Committee on Naval Affairs, and is now undergoing investigation before that committee. I hope the House will not act upon the subject until that committee shall have made its report.

Mr. WILSON. I make the point of order that the amendment proposes independent legislation and is not in order.

The CHAIRMAN. The Chair sustains the point of order. The Chair does not think that this can be regarded, under the rules, as a proviso limiting the appropriations.

Mr. DAVIS, of Maryland. I appeal from the decision of the Chair. Is the appeal debatable?

The CHAIRMAN. It is not. The gentleman from Maryland offers an amendment to the bill. The Chair decides that the amendment is not in order, as being independent legislation in an appropriation bill. From that decision the gentleman from Maryland appeals. The question: Shall the decision of the Chair stand as the judgment of the committee?

The CHAIRMAN ordered tellers; and appointed Mr. DAVIS of Maryland, and Mr. STEELE of New York.

The committee divided; and the tellers reported—ayes 45, noes 41; no quorum voting.

The CHAIRMAN. No quorum voting, the Clerk will call the roll.

Mr. STEVENS. I ask that there be a recount. There being no objection, the tellers resumed their places.

The committee again divided; and the tellers reported—ayes 45, noes 50.

So the decision of the Chair was overruled, and the amendment decided to be in order.

Mr. DAVIS, of Maryland. I desire, Mr. Chairman, to make some remarks explanatory of the amendment which I have offered. If the committee have patience to hear me at this hour in the evening, I am ready to go on. But it is impossible that a measure of this importance can be passed over without due consideration when I am charged with it.

Mr. BLAINE. Will the gentleman from Maryland allow me to make a suggestion? It is now four o'clock; and the gentleman is not to-day in a favorable physical condition for speaking. Therefore, out of courtesy to him, and for the convenience of all of us, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration as a special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, and had come to no resolution thereon.

#### RAILROAD TO NEW YORK.

Mr. GARFIELD, by unanimous consent, introduced a bill to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and postal route of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

#### NAVAL PAINTING BY W. H. POWELL.

Mr. SCHENCK. I ask unanimous consent to introduce a joint resolution authorizing a contract with William H. Powell for a picture for the Capitol.

The SPEAKER. The resolution will be reported at length, after which the Chair will ask for objections, if any.

The Clerk read the joint resolution, as follows:

*Be it resolved, &c.* That the Joint Committee on the Library be, and they are hereby, directed to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory, the particular subject of the painting to be agreed on by the committee and the artist: *Provided*, That the entire expense of said picture shall not exceed \$25,000; and \$2,000 shall be paid to said William H. Powell in advance, to enable him to prepare for the work, the remainder of said sum in installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

Mr. PRUYN. I suggest to the gentleman from Ohio to modify his resolution by striking out "directed" and inserting "authorized."

Mr. SCHENCK. I have no objection to that. I modify the resolution in that way.

The SPEAKER. Is there any objection to the introduction of the joint resolution?

Several MEMBERS objected.

Mr. SCHENCK. I move to suspend the rules in order to introduce the joint resolution.

The question being taken on the motion, there were, on a division—ayes thirty-two, noes not counted.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs. SCHENCK and ANCONA were appointed.

The House divided, and the tellers reported—ayes 31, noes 54; no quorum voting.

Mr. STEVENS moved that the House adjourn.

The motion was agreed to; and (at ten minutes past four o'clock, p. m.) the House adjourned.

## IN SENATE.

TUESDAY, January 31, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

## UNEMPLOYED GENERALS.

Mr. WADE. I notice, Mr. President, that the Secretary of War, in his return to a resolution of the Senate asking for information concerning the employment of our generals, has made a mistake in one particular that I wish to have rectified. He says, among other things, that "Generals Banks and Lee are before the committee on the conduct of the war." That is a mistake, and a mistake which I wish to have rectified, because it seems to be a standing mistake, and I do not know but that it may interfere with the disposition that the Executive wishes to make of those generals. Now, to set the matter right, I will read our communication with General Banks on the subject:

COMMITTEE-ROOM CONDUCT OF THE WAR,  
WASHINGTON, D. C., December 13, 1864.

SIR: I am instructed by the committee on the conduct of the war to inform you that they will meet you to-morrow at ten o'clock, a. m., for the purpose of taking your testimony in relation to the Red river expedition, provided you are to remain in the city and are not otherwise occupied. We do not wish to detain you, or to have our request complied with, if it conflicts at all with your instructions from the President or Secretary of War.

I remain, &c., B. F. WADE, Chairman.  
Major General N. P. BANKS, U. S. A.

On the 14th of December, according to this request, General Banks came in and he gave his deposition, which probably took him two hours. Then he was dismissed by us; we did not want him any longer, and had nothing to do with detaining him beyond that. We dismissed him as we do all other witnesses who have given their testimony; but having taken other testimony, about a month after, finding that he was still in the city, we sent for him on the 13th of January to make a little explanation, and he came in and I think it took him about ten minutes. We have not detained him at all except when we took his deposition, and that, as I have said, probably lasted two hours. He seems to have been here from the 13th of December until yesterday, when the War Department reported that we were detaining him here. It is no such thing. We have detained him no more than we have any other witness who has given testimony.

As for General Lee, he appeared before the committee on the 11th of January and gave his testimony, which I suppose took him two hours,

and he was discharged by us and I have not seen him since. I wish it to be understood that neither General Banks nor General Lee nor any other general is detained by us a moment after he comes and testifies.

## PETITIONS AND MEMORIALS.

Mr. WADE presented resolutions of the Legislature of Ohio in favor of the removal of the duty on imported printing paper; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Ohio, remonstrating against the passage of any bankrupt law; which were ordered to lie on the table, and be printed.

Mr. CLARK presented the memorial of Frank Pugsley, praying compensation for services rendered the United States as a private soldier from October 17, 1861, to October 24, 1862, being the time which elapsed from the date of his discharge until he had notice of the same; which was referred to the Committee on Claims.

Mr. HARLAN presented a petition of citizens of Washington city, District of Columbia, praying the repeal of all laws making it unlawful for county constables to arrest parties charged with crime against the United States; which was referred to the Committee on the District of Columbia.

Mr. HARRIS presented a petition of ministers of the gospel and pastors of the churches at Belvidere, New Jersey, praying that ministers of the gospel may be exempt from military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. COLLAMER presented the petition of Lemuel Abbott, praying payment of bounty claimed to be due his son, John J. Abbott, drummer of company I, sixteenth regiment Vermont volunteers; which was referred to the Committee on Military Affairs and the Militia.

## EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Treasurer of the United States, transmitting his adjusted accounts of receipts and expenditures for the service of the Post Office Department for the fiscal year ending June 30, 1864; which was ordered to lie on the table.

## REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the memorial of B. A. Froiseth, praying for further legislation to encourage foreign immigration, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the message from the President of the United States transmitting a copy of two treaties between the United States and the King of the Belgians, in relation to the Scheldt dues, reported a bill (S. No. 420) to carry into execution a convention between the United States and Belgium for the extinction of the Scheldt dues; which was read, and passed to a second reading.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Mrs. Aria M. Roblas y Robaldo, widow of F. Robaldo, asking to be paid for certain property destroyed by American troops in Mexico, by order of their commanding officer, in the late war with Mexico, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," reported it with amendments.

## CONGRESSIONAL DIRECTORY.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution of the Senate directing the committee to inquire into the expediency of ordering a Congressional Directory to be compiled and furnished to Congress at the commencement of each session, have directed me to report a joint resolution on the subject, and to ask for its present consideration.

There being no objection, the joint resolution

(S. R. No. 106) providing for the compilation of a Congressional Directory at each session, was read twice by its title, and considered as in Committee of the Whole. It provides for the compilation of a Congressional Directory, under the direction of the Joint Committee on Public Printing, to be published by the Superintendent of Public Printing, the first edition for each session to be ready for distribution within one week after the commencement thereof.

Mr. ANTHONY. I will state that the Congressional Directory is now compiled by the Postmaster of the House of Representatives, whose traditional perquisite it is. It has been sold to the Senate at fifty cents a copy; I believe now at seventy-five cents. It only reached us last week, full of errors. Another edition is to be printed, which I suppose we shall have in about a week, at the close of the session, when it will be of no use to us. According to the estimate of the Superintendent of Public Printing, it will cost, if printed at the Government Printing Office, about twenty-five cents a copy for the first thousand, and ten cents a copy for each subsequent thousand. At the short session of 1862 the amount paid for the Congressional Directory out of the contingent fund of the two Houses was \$1,132. At the present price of the Directory, which I understand is fifty per cent. higher, that would be \$1,698. The Superintendent of Public Printing estimates that it will cost \$400 if printed by him, and would doubtless be accurate; and he says he can lay the first edition before us in the first week of the session. The committee did not propose this resolution on economical grounds, although they are certainly worth considering, but with a view to have a Directory, which is absolutely indispensable for the transaction of business here, that should be accurate and be presented to Congress within a reasonable time. It appears also that it can be done at one fourth the cost we now pay for it.

Mr. COLLAMER. Permit me to ask the gentleman out of what fund it is now paid for? Is it out of the contingent fund?

Mr. ANTHONY. Yes, sir, out of the contingent fund of the two Houses. The Government pays for it now. If this resolution should be passed, the Government hereafter will pay about one fourth of the present price.

Mr. COLLAMER. I will remark that the particular value of it for our use is the location of the members, where they are staying in Washington; but they do not get their places of settlement, especially those who have families, until after the holidays, in January.

Mr. ANTHONY. The idea of the Superintendent of Public Printing is, that in the first week of the session he will furnish a Directory with the temporary residence of Senators and Representatives, and, as soon as they establish permanent residences, another edition containing their permanent residences; but as many members of both Houses take their permanent residence in the beginning of the session, they can be marked as permanent, and the others as temporary. At all events, we shall get the Directory in a reasonable time and at a reasonable price. I may be wrong in stating that the present price is seventy-five cents; I have heard so; it was fifty cents before, I know.

Mr. MORRILL. I should like to inquire of the Senator whether the order applies to the present session.

Mr. ANTHONY. No, sir, not to the present session. It is prospective.

Mr. MORRILL. I was going to state the fact, which I have occasion to know, that an application has been made for payment for the present session.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## BILLS INTRODUCED.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 421) to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the deaf, and the dumb, and the blind," approved February 16, 1857; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ANTHONY asked, and by unanimous

consent obtained, leave to introduce a bill (S. No. 422) relating to the mail service between New York and the Pacific coast; which was read twice by its title.

Mr. ANTHONY. I desire to state that I introduce this bill by request. I know nothing of the prices that ought to be paid; but I presume the Committee on Post Offices and Post Roads does. I move its reference to that committee.

The motion was agreed to.

#### PEACE MISSIONS TO RICHMOND.

Mr. SUMNER. I offer the following resolution; and I ask for its immediate consideration:

*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interests, to furnish to the Senate any information in his power concerning any recent personal communications with the rebel Jefferson Davis, said to have been under executive sanction; and also copies of any correspondence relating thereto.

Mr. CONNESS. I suggest whether it would not be better to so shape the verbiage of the resolution as to refer to the mission of Mr. Blair.

Mr. SUMNER. I beg the Senator's pardon; I prefer it in its general form.

Mr. JOHNSON. Mr. President—

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution? That is the first question.

Mr. JOHNSON. None on my part. I send to the Chair a resolution on the same subject, which, perhaps, the Senator may think more comprehensive.

The VICE PRESIDENT. The resolution will be read for the information of the body.

The Secretary read, as follows:

*Resolved*, That the President of the United States be requested, if he shall not deem it inconsistent with the public interest, to inform the Senate if any person, and if any, what person, has, with his authority or assent, been in Richmond to negotiate with the president of the so-called confederate States, or with any other person or persons in authority under such States, in relation to a termination of the present war, or with a view to ascertain from such president or persons in authority on what terms or conditions, if any, he or they would be willing to have the said war terminated; and if so, also to inform the Senate what information he has obtained from such agent or person; and he is also requested to inform the Senate, if such person was in Richmond as aforesaid, whether he was authorized or permitted by the President to represent to the confederate authorities on what terms or conditions the President was willing to negotiate in relation to peace, and if so, what such terms and conditions were.

Mr. SUMNER. The resolution which I offer, as the Senate will observe, is much briefer and simpler than that of the Senator from Maryland. In that respect I think that my own is preferable. There are some words employed by the Senator that I should not like to see the Senate adopt in a resolution. The resolution of the Senate speaks of the "confederate authorities;" to my mind they are always the "rebel authorities." In my resolution I characterize the head of the rebellion as "the rebel Jefferson Davis;" and I call upon the President for information relating to any personal communications with "the rebel Jefferson Davis said to have been had recently by executive sanction." It strikes me that the resolution introduced by me covers the whole case, and I doubt the expediency of going into details. I should like to have my resolution read again.

The VICE PRESIDENT. It will be read, if there be no objection.

The Secretary read the resolution.

Mr. JOHNSON. I have no objection to the resolution proposed by the Senator from Massachusetts, except, perhaps, that I am not sure that it would accomplish his purpose and my purpose and what I supposed to be the purpose of the Senate. It is very desirable that the information asked for by either resolution should be given to the public at the earliest day possible. The report which has gone all over the country that such a negotiation in some form or other has been going on, has caused a good deal of solicitude and a good deal of speculation. If there is no foundation for it, the sooner we know it the better; if there is, the sooner we know it the better. The only objection I have to the resolution offered by my friend from Massachusetts, is that I doubt very much whether he will by it get the information. I do not know that there is any "correspondence" upon the subject; I doubt very much whether there is any "correspondence" on the subject; and if you call only for "correspondence"—

Mr. SUMNER. I call for information.

Mr. JOHNSON. Information as to what? I want to know, in the order of time, first, whether there has been a messenger sent there by the Government or going there with the permission of the Government, to hold any communication with the president of the confederate States, or with any person in authority under such States, in order to ascertain upon what terms they are willing to make peace; and if it is so, whether those terms have been stated to the agent and have been since made known to the President, and that he tell us what those terms are. But I want also to know, and perhaps my friend from Massachusetts will not get that by his call—if that agent has been authorized to state upon what conditions the President of the United States is willing to enter into a negotiation for the termination of the war.

Now, as to the criticism of my friend from Massachusetts upon what the Senator from California calls the "verbiage" of my resolution, that I call the authorities at Richmond "the confederate authorities," I have not the slightest objection to call them "rebel authorities." They have been called "the confederate authorities" over and over again.

Mr. CONNESS. "So-called confederate authorities."

Mr. JOHNSON. Yes "so called;" but I will strike that out, and say "the rebel authorities," for, speaking on the floor of the Senate, I have called them nothing but rebels, and shall continue to call them so until they prove themselves able to establish their independence.

The VICE PRESIDENT. Does the Senator from Maryland submit his proposition as an amendment to the resolution of the Senator from Massachusetts?

Mr. JOHNSON. I would rather have it as I offered it, as an amendment for that reason.

The VICE PRESIDENT. The question then is on amending the resolution by striking out the words of the original resolution and substituting the words contained in the resolution of the Senator from Maryland.

Mr. DOOLITTLE. This may be an important matter, and it may be important in what form the resolution should be adopted. For myself, I prefer that the resolution and amendment should be printed, and come up to-morrow morning.

Mr. JOHNSON. I have no objection to that.

Mr. DOOLITTLE. Then we can see them both.

Mr. SUMNER. Is it advisable to let the resolutions go over until to-morrow morning?

Mr. DOOLITTLE. I think so, and let them be printed.

Mr. SUMNER. But I want the information at once. I should like to have the information to-morrow morning.

Mr. DOOLITTLE. We may not be able to get it by to-morrow morning.

Mr. SUMNER. If Senators desire that the matter shall be postponed until to-morrow morning I shall not press it now.

The VICE PRESIDENT. Is there any motion submitted?

Mr. HALE. I move to postpone the further consideration of the resolution until to-morrow, and that in the mean time the resolutions and the amendment be printed.

The motion was agreed to.

#### CONDUCT OF THE NAVY DEPARTMENT.

Mr. HALE. I have a resolution which I wish to present to the Senate:

*Resolved*, That the Secretary of the Navy be instructed to inform the Senate whether the argument of the judges advocate on the trial of Franklin W. Smith has been printed by order of the Navy Department, or any officer of that branch of the service, and whether the same has been done at the expense of the Treasury of the United States; how large an addition of the same has been published, and what use has been made of the copies thus published. Also, whether any commissioners, agents, or detectives have been employed by the said Navy Department, or any officer thereof, since July 1, 1864; if so, how many, what sum or sums have been paid them, what instructions were given to them verbally or in writing, either by the Secretary of the Navy or the Assistant Secretary; and especially whether any instructions were given to said detectives or agents, or either of them, by said Secretary or Assistant Secretary, or by any one else for them, or with the knowledge, advice, or consent of either of them, to inquire into the conduct of business transactions of any member of either House of Congress; and also, how much expense has been incurred by such examination, the particulars thereof, the fund from which they have been paid, and the law authorizing the same.

I ask that it be considered now.

Mr. CONNESS. I think that resolution should lie over until the chairman of the Committee on Naval Affairs is present.

The VICE PRESIDENT. If objected to, it must lie over until to-morrow.

Mr. HALE. I move, then, that it be printed.

The motion to print was agreed to.

#### BARRACKS FOR CLERKS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to furnish the Senate with such information as he may possess relative to the barracks proposed to be erected in Washington for the accommodation of the clerks on detached service, an estimate of the probable cost of the same, and such other statements and suggestions as he may deem proper.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed the following bills:

A bill (S. No. 384) to amend an act entitled "An act to amend and extend the charter of the Franklin Fire Insurance Company," approved the 2d of March, 1838; and

A bill (S. No. 363) to amend the charter of the Washington Gas-Light Company.

#### COMMITTEE SERVICE.

At the suggestion of Mr. HARLAN, by unanimous consent, the Vice President was authorized to appoint a member of the Committee on Public Lands in the absence of Mr. HARDING.

#### COMMITTEE ON CORRUPTIONS.

Mr. POWELL. I move to suspend all prior orders for the purpose of taking up the bill (S. No. 392) supplementary to the act approved July 14, 1862, entitled "An act to establish certain post roads." The object of the bill is to authorize the construction of a railway bridge over the Ohio river at the head of the falls.

Mr. HALE. I hope that will not be taken up. I hope the Senator from Kentucky will not press it now. When the morning hour expired yesterday, the Senate had under consideration a resolution introduced by his colleague, [Mr. DAVIS,] upon which I had the floor, and I was addressing the Senate and was interrupted by the expiration of the morning hour. It is my desire to proceed with the consideration of that resolution at this time.

Mr. DOOLITTLE. I suggest to the Senator from New Hampshire, as he has entered into a discussion that may probably call for some remarks from other Senators, that it would be better to fix that question for some time besides the morning hour. We have only fifteen minutes of the morning hour now left, and he cannot finish in that time, certainly. I would propose that that subject be fixed for some particular day.

Mr. HALE. I will take the time that is left this morning, if I can.

Mr. POWELL. I do not wish to prevent the Senator from New Hampshire from finishing his remarks; but the bill to which I have called attention is one of great importance, and it is important that it should be acted upon quickly. If the Senate will now take it up, I shall propose to make it the special order for some early day. The Senator from Pennsylvania [Mr. COWAN] desires some little postponement of it; and I propose to make it the special order for some day in the latter part of the week, if the Senate will take it up.

The VICE PRESIDENT. The question is on the motion of the Senator from Kentucky to take up the bill indicated by him.

The motion was not agreed to.

Mr. HALE. I now move that the Senate take up the resolution of the Senator from Kentucky, [Mr. DAVIS.]

The motion was agreed to; and the Senate resumed the consideration of the resolution, which had been modified to read as follows:

*Resolved*, That the special rule of the Senate No. 34 be amended by adding thereto these words:

A committee for the investigation of the transactions of the Government in all its departments and offices, to consist of five members, which committee shall be appointed by the Presiding Officer of the Senate. Whenever there is a party political opposition to the executive administration of the Government in the Senate, the chairman and a majority of the committee shall be selected from the Sen-



ators in such opposition. And said committee shall have power to continue its investigations during the recess of the Senate, and to send for persons and papers, and to adjourn from time to time and day to day.

Mr. HALE. My honorable friend from Kentucky wants to have a committee of frauds generally, a standing committee. I am opposed to it, as I stated before, and I stated one of the reasons why I was opposed to it. It was that I thought a few of the frauds which had been discovered and brought to light ought to be dealt with before we went hunting for any more. I hold in my hand a report made to the House of Representatives a few years ago by a very distinguished gentleman, then a member of the House, John Sherman, of Ohio. I do not violate any rule, sir, in mentioning his name, because I am not speaking of a member of the Senate, but of a man who was a member of the House of Representatives some years ago. [Laughter.] That gentleman discharged his duties upon that committee with great fidelity, and submitted, as the result of his investigation, certain resolutions to the House which I will read. It should be remembered that that House in 1859 was about evenly divided; it was difficult to say what party had a majority; it was not more than one or two either way; but the House, by a very decided vote, passed these resolutions, a vote of nearly two thirds. I will read them:

"In conclusion, the undersigned recommend the adoption of the following resolutions:

"Resolved, That the Secretary of the Navy,"—

That was not this Secretary of the Navy; it was another Connecticut man—

"with the sanction of the President,"—

I believe that President was Mr. Buchanan—

"abused his discretionary power in the selection of a coal agent and in the purchase of fuel for the Government.

"Resolved, That the contract made by the Secretary of the Navy, under date of September 23, 1858, with Mr. W. C. N. Swift, for the delivery of live-oak timber, was made in violation of law, and in a manner unusual, improper, and injurious to the public service.

"Resolved, That the distribution by the Secretary of the Navy of the patronage in the navy-yards among members of Congress was destructive of discipline, corrupting in its influence, and highly injurious to the public service.

"Resolved, That the President and the Secretary of the Navy, by receiving and considering the party relations of bidders for contracts with the United States, and the effect of awarding contracts upon pending elections, have set an example dangerous to the public safety, and deserving the reproof of this House.

"Resolved, That the appointment by the Secretary of the Navy of Daniel B. Martin, chief engineer, as a member of a board of engineers to report upon proposals for constructing machinery for the United States (the said Martin at the time being peculiarly interested in some of said proposals) is hereby censured by this House."

Those resolutions were passed in the House of Representatives, as I said, by a majority of two thirds, some of them falling a fraction short of two thirds, and some of them going over that. One of the contracts that was thus censured was of a very gross, outrageous character, to wit, the contract for live oak made by John Lenthall; and the excuse that Mr. Lenthall, on oath, gave for this violation of duty for which the House censured the Secretary, was that he was commanded to do it by the Secretary; and he had the advantage of that excuse. When the Senate committee of last session sat, they did not censure the Secretary, but they took the individual men who had committed the frauds and put their hands upon them. It seems, however, that it cannot be done either way; the right person cannot be hit. Lenthall excused himself under oath in his examination in 1859 by saying that he was ordered by the Secretary to do what he did, and he did it; and in the language of the House of Representatives, "the contract made by the Secretary of the Navy, under date of September 23, 1858, with Mr. W. C. N. Swift, for the delivery of live-oak timber, was made in violation of law and in a manner unusual, improper, and injurious to the public service." How was Lenthall ever dealt with for that gross violation of law? I will tell you. The first opportunity that presented he was promoted and made chief of the Bureau of Construction. The odium that was thrown upon his official character by this report, and by the action of the House of Representatives upon it, was such that he was not confirmed at the first session that his name was sent in, and the nomination was laid over; but still it was insisted upon, and he was renominated as chief of this new bureau that was created, and the nomination was finally con-

firmed by the Senate. The perpetrator of that fraud, thus exposed through the vigilance and faithfulness of the committee of the House of Representatives, and brought to light, instead of being punished, was rewarded, and promoted, and put into a place where he might do, and as I contend has done, the same thing over again substantially.

Mr. DAVIS. By what Secretary was he promoted?

Mr. HALE. The official records of the Government will show it. While that is the case, while this volume of I do not know how many pages, showing the gross frauds of the Navy Department, which were censured by a vote of two thirds in the House of Representatives, has had no effect on earth except to promote those guilty of the frauds which were censured, in Heaven's name, what does the Senator from Kentucky want of any more committees? I tell you, sir, that if ever I vote for a committee on frauds in the Navy Department, they shall be instructed to cover them up, instead of exposing them; because if we expose them and do not punish the perpetrators, we only disgrace the nation. If we do not mean to punish, let us cover them up, and let us have a committee whose duty it shall be to whitewash and cover up these frauds and defalcations.

I mention that circumstance to show the folly of having any more committees of investigation to hunt after frauds. Now, sir, I am going to give you some more. When the committee of the Senate examined some of the bids in the several bureaus—for Lenthall is not alone; there is no one bureau that we examined which can claim any exemption over another—they took up a very extraordinary bid made in the Bureau of Yards and Docks. I will read what it was:

"The attention of the committee was also called to a bid in the Bureau of Yards and Docks, which is of so extraordinary a character that it seems to demand a passing notice. This is for class seven, ship-chandlery, at the New York navy-yard. It was awarded to a Mr. Bingham, at \$17,778 23. C. W. Scofield was a bidder at \$13,053 90. The original footing of Scofield's bid was \$12,053 90: an error of \$1,000 was discovered in the bureau after the bid was handed in, so that it should have footed \$13,053 90, after the correction of this error. Without the correction of this error this bid would have been \$5,724 33 below the next bid, Mr. Bingham's. Such being the state of these two bids as they were originally made, Mr. Scofield's bid is raised by the sum of \$5,000 in one single article, and your committee do not find there was any other alteration made. This alteration of Scofield's bid, by which the aggregate was so largely increased, was effected by putting a unit to the left of the figures 65, which was the sum bid for hickory butts each, and there being five thousand of them wanted, the addition of a dollar apiece for them would make the amount of \$5,000, and Scofield's bid would still have been the lowest, and he would have got the contract after this amount was thus added, had not an error been discovered in his original computation, which, being subsequently corrected, and the \$5,000 being added, made his bid higher than Mr. Bingham's, and he thus failed of realizing anything by this fraud."

Rear Admiral Smith, the head of that bureau, had his attention called to these bids, and was asked if there was any fraud in them, and he replied generally, as the rest of them did, that there was none. I will read what he said:

"Mr. Smith, chief of the Bureau of Yards and Docks, makes no general declaration of the kind made by Mr. Lenthall and Mr. Isherwood, but confines himself, while speaking of an erroneous computation discovered by Mr. Smith and brought to public notice in his pamphlet, to the assertion that he 'is confident that no collusion or erroneous exhibit was intended by the clerks. I have the utmost confidence in the honesty and fidelity of those gentlemen.'"

This was so gross, so glaring—a 1 inserted on the left hand of 65 in that bid for five thousand articles, so that the bid was raised \$5,000 in amount by this single alteration—that I addressed a note to Mr. Smith, not willing to let him stand on the record as this paper put him, and called his attention to this particular case, and he wrote to the committee as follows:

"I have examined the testimony of Mr. Bronaugh, and the original bids for class T—ship-chandlery for ordnance department at the New York navy-yard. It is evident to me that the original price charged in Scofield's bid for the hickory butts was sixty-five cents, and the aggregate was carried out accordingly; that the figure 1 in the column of dollars was added subsequently, but the aggregate was not altered. It is also evident to me that the alteration in price, the aggregate of the class as written in words, and Scofield's signature, were all written by the same hand and with the same ink, and I am perfectly satisfied that this was all done before the bid came to this office."

Of course he was satisfied. Before his attention was called to it he was satisfied that there was no alteration at all; he had perfect confidence

in his clerks. When his attention is called to it, and this enormous and glaring fraud is pointed out, by which \$5,000 might have been taken out of the Treasury in a single article, he then admits that it is so, that it was fraudulently done, but still it does not shake his confidence in his clerks! Now, sir, it is worth while to look at this. This alteration, as I contend and as the committee believed, was made after Scofield knew the state of the bids. Remember, this bid then stood with an erroneous footing by which it was \$1,000 less than it ought to have been; but after he saw the next highest bid he could raise his bid \$5,000 and still be the lowest bidder. The alteration was made, and then the error of the erroneous computation to the extent of \$1,000 was discovered, and by the discovery of that mistake this fraud was prevented from being successful.

If Senators had read this report, if the keen appetite of the Senator from Kentucky had permitted him to give half an hour before breakfast to reading the report, he would have found that the history of these bureaus was full, full to overflowing, of just exactly such cases; and that where ever there was but one bidder, his bid was increased before the opening to the extent of one or two hundred per cent., and exactly in the same way that this was done. Let me call attention to one case of that kind particularly, because I do not speak without the book upon this matter:

"This bid, which was rejected under advertisement of February 13, 1863, was class thirty-three, for hardware for Brooklyn yard, and was at least one hundred per cent. above the market price.

"This bid came to the bureau, as is alleged, with an aggregate footing of the prices of \$15,797, the correct footing of which was \$22,585 40."

That is a very successful dodge of fraudulent contractors, because they think the bureau will just look at the footings; so they make an erroneous footing.

"This was the bid of Joseph L. Savage, and he was the only bidder for this class at the Brooklyn yard at this letting. As this bid is one characteristic of a large class, your committee propose to call attention to some things about it which to them, to say the least, appear exceedingly strange and unaccountable by any theory consistent with the integrity of those acting for the Government in this matter.

"The aggregate of this bid as originally made out and written down at length, was \$6,725 40. That was the state of that bid when it was completed, and by subsequent alterations and erasures and additions it was increased to \$22,585 40, thus, by this means, increasing the aggregate of the bid more than two hundred per cent. The chief clerk of the bureau, who appeared before the committee and was examined by them, swears that the bid as it now is is just as it was when it was opened. This evidence should be weighed and considered along with the other evidence in the case in determining how the fact is. In the first place, the clerk does not appear to have, nor does he mean that he has, any particular recollection of the precise facts of this identical bid, but swears from a general belief that such was or should have been the fact in all cases. Against this statement there is presented this question, arising on the face of the paper, namely: Does it appear credible or even possible that the honest correction of mistakes or erroneous estimates of prices by a merchant in a bid deliberately made should carry prices from \$6,725 40, to \$22,585 40—more than two hundred per cent.?

"This question appears the more significant when we look at the mode by which this result has been reached.

"In one article of brass screws, of which there were to be purchased 1,000 gross, originally bid for at \$3 a gross, and carried out correctly, \$3,000, the 3 was subsequently altered to 9, making the amount \$9,000, instead of \$3,000, as it originally was, and by this single operation raising the price \$6,000.

"Another item of 75 yards iron jack-chain, originally bid for at 41 cents, and carried out correctly \$30 75, has a figure 1 inserted before 41, thus making the bid 141, instead of 41, and making another item by which the bid is increased \$75. It appears strange to your committee that the honest correction of a mistake should require the addition of a dollar to a bid which must be supposed to have been underratingly made at 41 cents originally.

"Another correction of this kind is found of 50 dozen scutechons, thread brass, assorted, originally bid for at 30 cents, subsequently changed to \$1 30, the original carrying out of the price being \$15, which is correct, and the addition of \$1 making an increase of the price to the amount of \$50, and the aggregate \$65 instead of \$15. These alterations appear to have been made with different ink from that originally used in making the bid.

"Another correction of a similar character is where 100 pairs brass butt hinges, originally bid for at 75 cents a pair, had a figure 1 subsequently inserted before the 75, making the bid \$1 75 a pair instead of 75 cents a pair, as originally bid.

"Another instance of the similar correction of a mistake in this extraordinary bid is where 400 pairs of brass butt hinges, originally bid for at 30 cents a pair, and carried out in the aggregate correctly at \$120, has by the same process had a figure 1 inserted before the 30, making the bid \$1 30 a pair, instead of 30 cents, as it originally was, and the aggregate \$520; making a difference against the Government in this article alone of \$400.

"Your committee forbear to pursue this particular branch of inquiry in regard to this bid any further, satisfied that from

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the cases referred to enough is shown to enable any one disposed to pursue the inquiry honestly, and to give to established and unquestionable facts their just consideration, to come to a fair solution of any question which the facts raise.

"In the first place, were these alterations, thus exhibited, honestly made, and the fair correction of errors in prices at first inadvertently made, and upon subsequent reflection honestly corrected? To that question, in the minds of your committee, there is and can be but one answer, and that a decided negative."

**The VICE PRESIDENT.** The morning hour has expired.

**Mr. HALE.** I bow to that, of course; but I would suggest that it is rather inconvenient to be making these speeches at such little short hitches, and I would be glad if the suggestion of the Senator from Wisconsin [Mr. DOOLITTLE] should be complied with, and that if we intend to look this up, (for I am interested about this committee question,) we assign some day for its consideration.

**Mr. WILSON.** Say the day after to-morrow.  
**Mr. HALE.** I move that the resolution be postponed until the day after to-morrow, (Thursday,) and made the special order for one o'clock of that day.

The motion was agreed to by a two-thirds vote.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College.

## ORDER OF BUSINESS.

**The VICE PRESIDENT.** The special order assigned for this day is a bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States; but that is superseded by the unfinished business of yesterday (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents.

**Mr. HENDERSON.** I desire to state to the Senate that the bill which was made the special order for to-day is a bill of very great importance to my State, and unless it is passed promptly in this body, I fear that there will not be sufficient time left to secure for it the consideration of the House of Representatives, and I desire very much to have it passed by Congress at this session. It has been postponed to enable Senators to examine the report made in the case by the Military Committee, unanimously, as I understand. I desire that it shall be taken up to-day, and not lose its place. I therefore move that all prior orders be postponed, and that the bill be now considered. I think it will take but a few moments.

The motion was agreed to; and the Secretary commenced to read the bill.

**Mr. WADE.** Before that is read, I move to proceed to the order of the day; I see no reason for superseding that order.

**The VICE PRESIDENT.** The order of the day is before the Senate.

**Mr. WADE.** I know it is before the Senate, but I move to supersede it by taking up the unfinished business of yesterday.

**The VICE PRESIDENT.** The measure to which the Senator from Ohio refers was before the Senate a few moments since, and the Senate has just postponed it.

**Mr. WADE.** That is so; but I suppose it is in order at this time to move to lay this bill aside and take up that. I was deceived in what was up, or I should have resisted that motion. I was told that what was proposed was what I wanted, or I should certainly have opposed it, for I would not consent to quit the regular order and take up other business at this time.

**The VICE PRESIDENT.** The Senator from Ohio moves to postpone the pending order for the purpose of proceeding with the consideration of Senate joint resolution No. 97.

**Mr. HENDERSON.** I sincerely hope the Senator from Ohio will not insist upon that motion. This bill was called up some ten days ago, and was postponed to and made the special order for

to-day. It was supposed then that this would be the last day we could possibly have, in order to allow time for the proper consideration of the bills in the House of Representatives. It is a bill of very deep importance to my State. I do not desire to antagonize it with the measure of which the Senator from Ohio has charge; but it was made the special order for to-day at one o'clock, and I want action on it. I do not ask to have it taken up so as to get rid of the Senator's resolution, but so that it may be disposed of at once. There is a lengthy report accompanying the bill, a full report of all the circumstances attending this claim on the part of the State, and Senators have no doubt thoroughly examined it. I hope the Senator from Ohio will postpone for a little while his desire to have his resolution considered this morning, and let me have this bill disposed of. If it provokes any discussion, I shall be willing to let it be postponed and made the special order for to-morrow, or the next day, or some other very early day. I do not desire to conflict with the consideration of the question that he is now urging; but in view of the very great importance of this bill to my State and the possibility of the results which may follow its defeat, I must beg the Senate to indulge me by early disposing of the bill.

Probably Senators will remember that at the close of the last session I undertook to get a bill of this character passed, and then stated to the Senate that unless it was done our State would be overrun by Price and his men. Since then that very thing has occurred. I desire now to state to the Senate that, in my opinion, unless something of this sort is done, we shall be subjected to the very same treatment that we have been subjected to there for the last three or four years. By failing to act here last year, the people of Missouri lost twenty millions of property in consequence of that raid of Price.

It is a matter of very great importance to my State. Financially it is overthrown, and without something to sustain and uphold the finances of the State, we have no ability to oppose ourselves to these frequent inroads. We have to-day fifty-nine thousand men down in the army of the Tennessee. They have been doing duty there. Our men are sent out of the State just so soon as they enter the service, and we are left to defend ourselves by our enrolled militia. The military commanders of the United States, being also major generals of the enrolled militia, have called it out year after year, and the State of Missouri has been compelled to pay them; if the State does not pay, nobody pays. The Senate will remember the condition of my State; it is not in a condition to meet these demands upon its treasury. I sincerely hope, inasmuch as this bill was ten days ago made the special order for to-day, that the Senate will agree to have it now considered.

**Mr. WADE.** I will not consent that the regular order of the day shall be superseded by any pecuniary interest whatever. In my judgment it is a measure that ought not to be delayed an hour; and when the gentleman seeks to antagonize with it a bill which he says is of deep pecuniary interest to his State, involving a large sum of money, I suppose, I know enough of the Senate to know that it will be debated perhaps for a long time; and I cannot consent to allow this great measure, which the Senate have had so long under consideration, to be superseded by any other measure that Senators can get up. Of course, if the Senate see fit to pass it by, they will do so, but never with my consent. I hope the Senate will proceed with the regular order of the day, and finish it to-day.

**The VICE PRESIDENT.** The question is on the motion of the Senator from Ohio.

**Mr. WADE** called for the yeas and nays; and they were ordered.

**Mr. HENDRICKS.** I understand the proposition is to postpone the consideration of the bill that the Senator from Missouri has called up, in order to go on with the resolution of the Senator from Ohio.

**The VICE PRESIDENT.** That is the question.

**Mr. HENDERSON.** Now I desire merely to state to the Senate, before the vote is taken, that this bill was ten days ago made the special order for to-day at one o'clock.

The Secretary proceeded to call the roll, and **Mr. ANTHONY** responded to his name.

**Mr. HENDERSON.** Senators seem not to understand the question—

**The VICE PRESIDENT.** The question is not open to debate, the call of the roll having commenced and one Senator having answered to his name.

**Mr. HENDERSON.** Senators seem not to understand the question, and I desire at least to have it stated again.

**The VICE PRESIDENT.** The Chair will state the question again, if there be no objection. Senate joint resolution No. 97, relating to retaliation, was before the Senate as the unfinished business of yesterday. The Senator from Missouri moved to postpone that for the purpose of taking up the bill which was made the special order for to-day. That motion was put and declared to be agreed to. The Secretary was proceeding to read that bill, when the Senator from Ohio moved to postpone it for the purpose of taking up the unfinished business of yesterday; and that is the question now before the Senate.

**Mr. JOHNSON.** The question is on postponing the Missouri bill?

**The VICE PRESIDENT.** Yes, for the purpose of taking up the unfinished business of yesterday.

**Mr. HARLAN.** I desire to state that my colleague [Mr. GRIMES] has been detained for several days from his seat on account of sickness, and is still detained for the same reason.

The calling of the roll having been concluded, the result was announced—yeas 20, nays 18; as follows:

**YEAS**—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Farwell, Foot, Foster, Hartan, Howart, Howe, Lane of Indiana, Morrill, Ramsey, Teas Eyck, Wade, Wilkinson, and Wilson—20.

**NAYS**—Messrs. Buckalew, Carlile, Davis, Hale, Henderson, Hendricks, Johnson, Lane of Kansas, Morgan, Nesmith, Powell, Richardson, Salsbury, Sprague, Sumner, Van Winkle, Wiley, and Wright—18.

**ABSENT**—Messrs. Brown, Cowan, Grimes, Harding, Harris, Hicks, McDougall, Pomeroy, Riddle, Sherman, and Trumbull—11.

So the motion was agreed to.

## RETALIATION ON REBEL PRISONERS.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the joint resolution (S. R. No. 97) advising retaliation for the cruel treatment of prisoners by the insurgents.

**The VICE PRESIDENT.** The pending question is on the motion of the Senator from Massachusetts [Mr. WILSON] to recommit the resolution with all the amendments and proposed amendments to the Committee on Military Affairs and the Militia.

**Mr. WADE.** That was withdrawn.

**The VICE PRESIDENT.** Upon that question the yeas and nays were ordered, and it could not be withdrawn without unanimous consent, which was refused.

**Mr. HENDRICKS.** Mr. President, I did not expect to say another word upon this subject, and would not now except for some of the arguments made yesterday by the Senator from Ohio [Mr. WADE] and the Senator from Michigan [Mr. CHANDLER], and more particularly because of an editorial which I find in the Republican organ of the State of Indiana, which I received this morning, and parts of which I will read:

"In a recent discussion in the United States Senate on the subject of retaliation upon the rebels for their inhuman treatment of our prisoners of war, the telegraph reports Mr. Hendricks as having said 'that he was in favor of no retaliation.' That was not a principle of Christianity. He stated upon the authority of Captain Flinn, a released prisoner from Indiana, that the prisoners at Andersonville were treated as well as the rebel guards." On being questioned by Mr. HOWARD in reference to his position, Mr. HENDRICKS replied 'that he did not know only what he had stated upon the authority of a returned prisoner.'

"Captain Flinn, the prisoner to whom Senator H. refers, being incidentally on a visit to our city, has called at our office and given a denial to the statements of Mr. Hendricks, so far as he (Flinn) is concerned. The captain says that he never talked with the honorable Senator on this subject. Furthermore, that he never was in Andersonville, and so knows nothing experimentally, or by observation, of the treatment of our prisoners there. He is diametrically opposed to the views of Mr. Hendricks in this matter, and he has good reason to be.

"It will be recalled by most of our readers that in July, 1863, Captain Flinn, in connection with Captain Sawyer, was chosen by lot from the officers confined in Libby prison to be hung in retaliation for two spies who were executed by General Burnside. They were thrown into a dungeon, and there, for six weeks, experienced untold barbarities at the hands of the rebels. Their release was only secured by the positive and expressed determination of the Federal Government to execute Fitz Hugh Lee and General Winder's son in case Flinn and Sawyer should be shot or hung."

I do not know that I have a right to find fault with an editor who ventures to base a criticism upon any information he gets from Congress by the telegraphic dispatches, especially those coming through the Associated Press, they are so unreliable when they reach the distant portions of the country; but perhaps it is due to myself, as this is published in my State and will be generally circulated, that I should correct almost every statement made in the article.

In the first place, the dispatch, according to the editor's article, seems to make me say that I am opposed to retaliation in any case. Senators who did me the honor to listen to what I submitted the other day know very well that I took the very opposite ground; and, that I may not be misunderstood now upon the subject, I will read what I said upon it. During the course of my remarks, the Senator from Michigan [Mr. HOWARD] asked this question:

"I ask the Senator whether he is in favor of any retaliation with a view to compel the rebels to treat our prisoners with more kindness and humanity."

To which I made this reply:

"I am in favor of carrying on this war upon our part as a civilized and Christian people. I am in favor of compelling the southern people to carry on the war upon their part as a Christian and civilized people; and if they refuse to do it, I am in favor of retaliating for the protection of our people and soldiers just so far as the usages of civilized nations will justify, and just so far, as a civilized and Christian people, we ought to go, and no further."

It is very difficult to understand how the author of this telegraphic dispatch could have reported me as having said that I was opposed to any retaliation. I read from a very distinguished author of our own country to show that retaliation was right, but also to show the limitation that the laws and usages of nations impose upon the right of retaliation, and held, as I have just read, that we were restrained by the usages of civilized and Christian nations. For two or three days I have had upon my table an amendment, which at the proper time I intended to propose, which expressed my view upon this whole subject, and which I will read as a part of my remarks:

*Be it resolved, by the Senate and House of Representatives of the United States in Congress assembled, That, in the judgment of Congress, such proper measures ought to be taken by the President of the United States as may be necessary to obtain the earliest exchange of prisoners at all times during the continuance of the war.*

*And be it further resolved, That the executive and military authorities of the United States are hereby directed to treat prisoners of the enemy in such manner, in accordance with the usages of civilized nations, as shall be effective in deterring the enemy from the perpetration in future of cruel and barbarous treatment of our soldiers held as prisoners of war.*

These two resolutions present my views upon this whole subject: first, that, as a remedy for the evils of which we complain, we demand of the Administration the adoption of all proper measures which will secure an early and immediate exchange of prisoners during the continuance of the war. This is a remedy which I can appreciate, and, in my judgment, is a remedy which the country will appreciate. As I had an opportunity the other day to give the Senate the reasons why I was in favor of the remedy by exchange, I need not now repeat them. They were in substance these: that if we leave our soldiers in southern prisons, in an unhealthy climate, exposed, as of necessity they must be, to hardships, they will encounter diseases, and that to restore them to health we desire to bring them to their homes, that they may enjoy the advantages which home alone can give.

But, sir, I do not care to continue the discussion upon that particular point further. If it is

the judgment of the Senate that a policy ought not to be adopted which will secure an exchange of prisoners, I must be content; but I hope that before this subject passes from the consideration of the Senate a very decided expression will be given in favor of the adoption of such measures as will secure an immediate exchange of prisoners during the continuance of the war.

The other resolution which I propose to submit as a substitute for the proposition now before the Senate is restricted as I understand the laws of nations require us to restrict it. That we have a right to retaliate is not to be questioned; but to what extent, to what point? As far as the usages of civilized nations allow us to go. Is this Senate prepared to go further? The Senator from Pennsylvania, [Mr. COWAN], in a very able argument the other day showed that Congress could not modify or amend the laws of nations. We can enact a municipal law which will have force upon our own citizens, which will have force upon our own soldiers; but so far as we as a nation, a member of the family of civilized nations, are concerned, we cannot modify the laws of nations. That system of laws has been adopted by the usage of nations; it is the common law of nations, and can only be modified by a contrary usage of nations.

I desire also to correct the statement of this editor in respect to Captain Flinn, for whom, as I said the other day, I have a personal regard and friendship. Captain Flinn, the editor says, does not agree with the statement which I made to the Senate; and what statement does Captain Flinn not agree to? I was represented as saying that he had reported to his neighbors that at Andersonville there were no cruelties perpetrated upon our prisoners. The Senate very well know that I made no such statement; and it is very reasonable that Captain Flinn should be surprised to see by the telegraphic dispatch that I had made such a statement. Captain Flinn, I believe, was never at Andersonville. He was a prisoner at Libby; and what I said in respect to Captain Flinn was in reply to the evidence the Senator from Michigan [Mr. HOWARD] adduced in respect to the treatment of prisoners in Libby, and was expressly so restricted.

The editor goes on further to say that Captain Flinn says he had no conversation with me on the subject. I believe that is true. I do not recollect to have met Captain Flinn but once, and I think that was upon the streets of Indianapolis, but for a few minutes since his release from Libby. I did not profess in the course of the debate to speak upon my own knowledge of what Captain Flinn had said. I had then no doubt, and I have now no doubt, that what I said was correct. I will read from what I said, showing that I spoke from information:

"I have given the statement of an honest man who was a prisoner there for months, a part of the time in a dungeon, selected by lot to be shot. When he came home he made this statement to his neighbors. I have no doubt that there have been cruelties inflicted on the Union prisoners in southern prisons; and that is one reason why I want them brought home; but I do not believe that it has gone to the extent reported in the country."

I stated to the Senate what I knew was what he had stated to his neighbors; but further in the debate I made it more explicit that my information was derived from his neighbors. In the course of the argument made by the Senator from Connecticut, [Mr. FOSTER], I corrected a misunderstanding on the part of that Senator, and repeated what I had said on this subject, and continued:

"This I was informed by his neighbors with whom he conversed immediately on his return. Of course, that is confined to Libby prison. I suppose Captain Flinn knew nothing about any other."

I undertook to state to the Senate what Captain Flinn had said to his neighbors, as they informed me. Nor does Captain Flinn undertake to correct that statement; but he undertakes to correct the statement that he had been at Andersonville and that there were no cruelties perpetrated at Andersonville; a thing that I never thought of. He was not there, and of course could know nothing about the treatment of prisoners at Andersonville. I concede that if he saw what was reported in the telegraphic dispatch, he would be surprised that I should have said that he had reported that there were no cruelties at Andersonville.

Again, the editor undertakes, as I think, to make the impression that Captain Flinn was not released

through any efforts which I made in his behalf. I am not going to discuss that question. Captain Flinn's letter was received by me, and that very same morning I took it to the President of the United States, and he was kind enough to make the proper indorsement upon the letter; and I presume that that letter, with the President's indorsement, is now in the proper office in the War Department to speak for itself. Captain Flinn knows by whose efforts he obtained his discharge from prison.

I believe, sir, this is all the explanation I desire to make in respect to this editorial.

I have now but a very few remarks to make in continuation of this debate. I am in favor of the recommitment of this whole subject to the Committee on Military Affairs. The Senator from Ohio [Mr. WADE] said yesterday that any Senator who voted for the reference was necessarily in favor of the postponement and final defeat of the measure. I say that the Senator according to the usages of the body is not justified in making that statement. Is not this business in a proper condition to be sent back to the committee? When the memorial on this subject was presented by my colleague some time ago, and when a resolution was presented by the Senator from Ohio some days since, both were referred to the committee; and why? That that committee might digest a proposition which would probably meet with the approval of the Senate. When the resolution came back, it appeared early in the debate that no side of the Chamber would sustain the proposition as it came from the committee. The debate has gone on from day to day; numerous amendments have been presented; and I now claim that the committee, if this subject be sent back to them, with the light of this debate and of the amendments proposed, can return to the body a proposition which will meet the approval of a large majority of the Senate. Then I say it is proper, it is according to the usages of the Senate, and it will facilitate the business of the body.

But, sir, the Senator from Ohio has no right as an equal in this body to tell us that by adopting the course that we think is right we are opposed to a just measure. We who are in favor of this reference desire to have the measure considered by a committee and properly presented to the body, in order that a large vote may be received in the Senate. That can be done; we have a right to it; and it is not for the Senator to threaten Senators with the displeasure of the country if they do not agree with him. He has the benefit of incorporating in this resolution the very words that he desires to be used. Other Senators desire that their propositions shall go before a committee and shall be properly considered. As the measure now stands, we are cut off from amendment. The Senator, no doubt, is content with the amendment which he has now before the body. He has the advantage of incorporating in this resolution just such words as he desires to use; and if any other Senator prefers other language, and desires that to go to the committee for their consideration, the Senator ought to treat with indulgence this fair desire on our part. I hope the whole subject will be referred; it is according to the usages of the body, and I think will secure the early consideration of a measure with which we shall all be content.

The Senator from Ohio [Mr. WADE] and the Senator from Michigan [Mr. CHANDLER] yesterday used language that I thought remarkable in this body; but as the Senator from Massachusetts [Mr. WILSON] has replied in part, it is not necessary for me to refer to their arguments at any length. The Senator from Ohio said:

"If a man has no sympathy for these barbarians, why are his nerves more affected by the proposition to subject them to the same treatment that they inflict upon us? Why is it that gentlemen's sympathies are all that way? You know from the evidence that these outrages are committed; you cannot deny it. The Senator from Illinois does not deny it. He is too candid to do so. He says there is no doubt about the fact. We all know that our soldiers to-day are subjected to all that barbarity can inflict upon them. We know that this day in southern prisons there are thousands of our brave soldiers dying by inches by reason of the barbarity of their captors and keepers."

Again, the Senator says:

"Sir, sympathy for the rebellion cannot stop it. Fellowship with the leaders, old acquaintance with them, high standing with them, raising them up as the idols of your idolatry, cannot save them."

It is difficult to tell to whom the Senator re-



ferred. The most earnest denunciation of the measure was from the Senator from Massachusetts, [Mr. SUMNER.] I had not known that the Senator from Massachusetts had ever very intimate fellowship with the leaders of the rebellion. I had not known that he was in high standing with the leaders of the rebellion. I think that anything but very intimate relations existed between that Senator and the leaders of the rebellion; and I cannot conceive why the Senator from Ohio should attribute to the Senator from Massachusetts relations of that sort or sympathy with the rebellion. Does he refer to other Senators? In the course of this debate there has been nothing said which justifies the charge of sympathy with the rebellion. So far as I am concerned I disclaim all sympathy with the rebels. Politically, I have more cause of complaint against the leaders of the rebellion than the Senator. They never were his friends politically. Many of them once belonged to the Democratic party, and in my judgment they were in honor bound to stand by the doctrines of that party as enunciated in the Cincinnati convention in 1856; and when they abandoned the Union they abandoned their obligations to the party to which I belong; they cut themselves off from the sympathy to which they were entitled while they stood faithfully to the Union and the Constitution.

Mr. WADE. If the Senator will allow me, I think he is mistaken in one thing. He says that the leaders of the rebellion belonged to the Democratic party. I think the Democratic party belonged to them. I think he is wrong in that.

Mr. HENDRICKS. I do not intend in the course of this debate to bandy words. I am answering the insinuations of the Senator. I should have liked it better if he had made a direct charge against some Senator that he held sympathy with the rebellion, rather than by insinuation to make the charge. The Senator spoke earnestly yesterday of courage. I think, sir, it is evidence of courage where a man makes a charge squarely and directly, rather than by insinuation. So far as I am concerned, I throw the insinuation back to the Senator from Ohio. I have never done an act, I have never said a word, that evidenced a sympathy with the rebellion. This far I have gone; this far I go now: I hope to see the day when they will be back among us, friends again, obedient to the law, honoring and respecting the Constitution and the flag of my country, so that we shall once more be the united, prosperous, and happy people that we were before these difficulties came upon us. Is that sympathy with the rebellion? That, sir, in my judgment, is sympathy with my country, my whole country.

This is not the first time in the history of legislation that fear has been held up to control the action of legislators. The Senator from Michigan [Mr. CHANDLER] makes threats of our constituency, particularly "the constituency of the Senators from Massachusetts. Is the Senator not aware that the language of threat can only be answered by that of defiance? Who constituted the Senator from Michigan a pedagogue in our body to hold the ferule over shivering children? I expect to vote according to the dictates of my judgment and conscience, and intimations of "sympathy with the rebellion" will not control me. My conscience being right on this subject, I shall vote according to that conscience. As I referred to the French Revolution the other day by way of illustration, I will refer to it again, and will read one passage from Abbott's French Revolution. Speaking of the horrible butcheries daily perpetrated in Paris, the author says:

"And yet there was a cowardly spirit impelling these massacres. No one dared speak a word in behalf of mercy lest he should be deemed in sympathy with aristocrats. He alone was safe from suspicion who was merciless in denunciation of the suspected. It is, however, remarkable that nearly all the actors in these scenes of blood, even in the hour of death, protested their conscientiousness and their integrity."

In the midst of those horrible scenes the most extreme men excited suspicion against those who were in favor of a wiser and a more humane policy. I have here a list of the executions during those horrible times, but I will not detain the Senate by reading it. But, sir, he in Paris in those days who was not in favor of wholesale butchery was a suspected person; and why? Because the leaders chose to use that suspicion as a power to control the votes of members of the Convention. Why, sir, did you ever observe the charge upon which

Danton was tried and executed? When the massacres had gone to such an extent as to shock even Danton, he was put upon his trial, and this is the charge:

"A secret meeting of the Committee of Public Safety was convened by night, and Danton was accused of the 'treason of clemency.'" "As Danton entered the gloomy portals of the prison he said, 'At length I perceive that, in revolution, the supreme power ultimately rests with the most abandoned.'"

I have said, Mr. President, that I am in favor of that policy which will secure the return of our brothers and friends now in southern prisons to their homes. I have said that I am in favor of such retaliation as will secure to them treatment according to the usages of civilized nations. Does any Senator object to that proposition? This is clemency, they say, and this justifies Senators in intimating that there is a sympathy with the rebellion. My sympathy is not with the rebellion, but with my country. I say we cannot do what is proposed and stand as a civilized people among the nations of the earth. I wish I could command at the present moment the language of one of the greatest orators of our country. The sentiment he expressed I can give. He was speaking of the conduct of Russia toward the exiles from Hungary. He said the earthquake has its power, the lightning has its power, the tornado has its power, but there is a power greater than all, and that is the judgment of the civilized world. When the Senator from Ohio speaks of courage, I claim to have the courage which I accord to him; but I say, as a Senator representing one of the proud States of this Union, I do defer to the judgment of the civilized world.

What record does the Senator propose that we shall make? The South say that they have treated our prisoners as well as they could. It is not believed here; it is not believed by myself; but that is their defense; that is what they say to the nations of the world. "We have treated these prisoners as well as our means would allow; we have not wantonly and willfully inflicted cruelty and barbarity upon them." That is the message they send out to the world. What message do we send? We say to the nations of the world, in the language of the Senator from Michigan, [Mr. CHANDLER:]

"I shall vote for this measure of retaliation, and for any measure of retaliation that promises to be effective. Ay, sir, I will carry it to the point of starvation. A Senator the other day put the question, would you carry it to the stake? Yes, sir, I will carry it to the stake, and I will carry it to any extent that is necessary to preserve the lives of those suffering and helpless prisoners now dying by thousands in the hands of these accursed, hellish rebels."

Nobody can charge the Senator with any sympathy for rebels after the use of such powerful language. If thoughts become powerful as the language is very strong, the Senator from Ohio and the Senator from Michigan certainly command most potent arguments. "Hellish rebels!" As I said, I hope to see the day when they will be American citizens again, obedient to the laws and the Constitution, and when that time comes, I think the Senator from Michigan will look back to this little record of his with some regret. When we come to be one people again, as he and I alike hope for, when the social relations are restored, when we visit them and they visit us, when the railroads shall be reconstructed that bind us to them, when our trade shall be renewed, and the men of his State and of my State shall again carry the products of our rich lands down the rivers to sell to them, and buy from them and bring back the means of increasing prosperity to our respective States, then the Senator will wish he had used such terms in this debate that all could look back to it without a regret.

Mr. President, I cannot support the proposition of the Senator from Ohio, though it is hard to tell what his proposition is. He argued yesterday for starvation; but his resolution is not for starvation. He has yielded that. His proposition before the body upon retaliation, conceding the power to the President, directs him to exercise that power only according to the laws and usages of nations. Then if he wished this debate to come to a close and that we should have a vote on the measure, why was it necessary to go back and discuss a proposition which he had himself abandoned? My objection to it is this: after he had abandoned his original resolution by his modification, he then makes this speech with the expectation, I suppose, that the President will read the resolution in

the light of the speech. I do not consent to that. His proposition of starvation, and the proposition of the Senator from Michigan, of the stake, I think would find but little support in this body. I do not go for it, and we cannot go for it. Senators say it shall be, but I say it will not be. It cannot be, for God and His religion forbid it; it cannot be, for civilized humanity forbid it; it cannot be, for the genius of our country presiding over its destiny forbids it. Let the resolution, then, be modified by the committee so as to reflect the sentiments of the body as shown in the debate, and the many amendments that have been offered, and there will be no difficulty in passing the measure.

Mr. TEN EYCK. Mr. President, I listened the other day to the statement of the Senator from Indiana as he understood it to have been made by Captain Flinn to his neighbors at home in relation to the manner in which our prisoners had been treated in Libby prison, or at Richmond. That statement did not exactly accord with the statement I myself had received from an authoritative source; but I did not feel myself called upon to arrest the Senator in the progress of the debate for the purpose of making a counter statement, nor did I consider it necessary at that time to interfere with the discussion for the purpose of counteracting the influence of that statement, supposing it was not materially to be relied upon, or that a point would not be made of it in relation to the mode in which our prisoners were treated at Richmond. But since that matter has been referred to over and over again, and reiterated during the course of this discussion some three or four times, I think it is my duty, in justice to the true history of the mode of treating prisoners there, and in justice to a gallant Union soldier and sufferer, that I should make a simple statement of the evidence in my possession.

Captain Henry Sawyer, who was taken at the same time with Captain Flinn, and who was held by the rebels for retaliation on account of two of their officers who had been executed under General Burnside's command, came to the city of Washington the very day after he landed at Annapolis, fresh from the Libby prison. He was from my State; and I am proud of the man who has by his gallantry, although acting in an inferior capacity, shed luster and honor upon her soldiery. Captain Sawyer came tottering into my house in the presence of my wife and children, and he detailed the sufferings of our Union soldiers in the Libby prison. He stated, if I remember his declarations aright, and they made a deep impression upon me at the time, that they suffered almost everything but death. He stated that they were nearly starved; that they had not sufficient clothing and protection from the weather; and so far as regarded himself and Captain Flinn, they were cast into a dungeon, and one had to sit up and watch while the other slept to prevent them from being gnawed by the rats. The story made such an impression upon me that I have thought of it since in my dreams. Whether the report made by Captain Flinn's neighbors of the treatment of prisoners in Libby is correct, or whether the report made by my friend Captain Sawyer is correct, I am unable to say; but the effect of that treatment upon Captain Sawyer was such that as soon as he was able to resume the saddle he went, in accordance with the indignation of his feelings, declaring in the presence of my family that he would retaliate upon these rebels with his saber; and he has done it since to our credit and to his credit.

I make this statement in justice to him, and for the purpose of putting his testimony before the country in relation to the mode in which our Union prisoners are treated at Richmond as well as at Andersonville.

Mr. SPRAGUE. Mr. President, I desire to occupy the attention of the Senate for but a moment or two only upon this question. It has been discussed so fully and freely and frankly that I feel in reference to my position upon the question very much as a patriotic lady from Philadelphia felt yesterday. After listening to the debate on this subject for a day or two she said, "My grandson shall be a Senator of the United States." You can imagine the mother's feeling in reference to a relation so intimate as that of grandchild; and, sir, if it is in my power to be of any service on this floor in my capacity as a Senator, I shall yet be inspired with a feeling to do and to dare for

that country whenever her service may seem to require it.

It may not be improper for me to state something in relation to the early progress of this question in committee and out of committee. It was my privilege early in this war to know something of the barbarities of the enemy toward our soldiers. It has since been my privilege to know something of the progress of this question of retaliation in committee and out of committee. It was early agitated there. One of its distinguished members was called upon to make a report upon the subject long before it was agitated in the Senate. When he was about ready to make that report, the subject was agitated in the Senate by the Senator from Indiana [Mr. LANE] and the Senator from Ohio, [Mr. WADE,] who suggested a course of action upon it, and their propositions were referred to that committee. The Senator from Ohio has informed you that when this resolution was first presented to the Senate they were unanimous, or he thought they were, in reference to this subject. The Senator was mistaken.

Mr. WADE. I do not think I said the Senate were unanimous.

Mr. SPRAGUE. I mean the committee.

Mr. WADE. I supposed so.

Mr. SPRAGUE. I did not think it then necessary to interrupt the Senator, as I believed that in the progress of the debate that fact would become known to the Senate. But, sir, the Senate, in the modifications of the resolution before them, have arrived very much at the same conclusion to which their committee had arrived. The resolution which came from the Committee on Military Affairs was presented not so much as a proposition expressing the views and opinions of that committee as with a view to place the subject before the Senate, that they might act upon it as they thought proper under the circumstances. That proposition has been presented to the Senate; it has received modifications; it has been curtailed, and almost entirely separated from its objectionable features. I do not know that I should refuse to vote for it in its present shape. There are, however, some objections to it; and it does seem to me that a proposition so important, a proposition which affects so much the interest, the feeling, and the policy of the country, should be recommended to that committee, and that that committee, with the benefit of the remarks that have been made and the propositions which have been suggested, should present to the Senate and the country something upon which Senators can act so that hereafter no one will ever regret the act or the vote which he gave upon it.

Sir, the recommendations which have come from eminent Senators from New England, and from the Senator from Ohio, advising barbarous treatment to rebel prisoners on account of barbarities practiced toward ours can find no sympathy in the people they represent. I believe if there was established in either of those States a camp for rebel prisoners, and it was duly guarded by persons who would treat rebel prisoners with the barbarities suggested in the beginning of this debate, that the men who practiced them upon defenseless prisoners would have no place in those States.

Early in the history of this war it was my privilege to have intimate and near friends connected with the Army. It was my good fortune to be with them upon the battle-field. I saw many of them wounded, others struck down. The patriotic people of my State demanded of me that their remains should be returned to the State; that the ground of that State should be hallowed by their bones and remains; that their history should be a part of that of the State. In obedience to that demand I traveled with a proper escort to endeavor to secure their bodies; and what did I find? I found that the friends whom I had left wounded upon the battle-field had been murdered after we had left. I found the dead that we were obliged to leave upon the battle-field with their faces downward as a mark of indignity. I found the heads of the bravest and best of my companions severed from their bodies to be used as drinking cups by southern rebels. Of the remains of some of the best, most intelligent, and bravest officers that ever served any cause, I found but the portion left from a bonfire.

The proposition now would be that the American troops and American generals should retali-

ate practices of that character upon rebel soldiers either upon the battle-field or in the prison camp. I could not, in the beginning, agree to that proposition. I asked of the men who represented those dead heroes that, instead of imitating the example of the enemy, they should prove themselves better and braver soldiers upon the battle-field; they should show by their courage and their endurance that they were better and higher in the glorious cause in which they were engaged; that they would perform with that motive before them ten thousand times more of service to the country than they could with their hands covered with deeds so black as those which it was proposed to avenge.

Sir, the cause of this treatment of our men by the rebels has not been so thoroughly understood as it might have been. The Senator from Iowa [Mr. HARLAN] has suggested to you the good effects that have been produced by our retaining the rebel prisoners in our hands. I agree heartily with the suggestion that he made early in this debate. I know something of the disposition of our people early in this war to let their blows strike lightly upon the head of this rebellion. I know that the disposition of our soldiers was not to form their lines as steadily as they should, and to do the real, hard service that was demanded of them. This treatment has been practiced by the rebels upon Union soldiers to bring about the very result that has been brought about, and that is, an exchange of prisoners. It was known that the exchange proposed between this Government and the authorities of rebellion was unfair; it was known that they captured private citizens and endeavored to offset them with our soldiers. We refused to agree to it; and these retaliatory measures on their part have been the means of producing the results which have come to us in the newspapers and otherwise.

I do not mean to apologize in any way for these barbarities, but this much I will say: that the refusal of this Government to exchange has wrought up the soldiers of our armies and the people to the prosecution of this war with an energy unknown to any other people; and the victories of Nashville, the campaign of Atlanta, the splendid success of Savannah, consummated by the capture of Fort Fisher, may be as much owing to the sacrifices and sufferings of our brave men in rebel prisons as to any other cause. While I will not for a moment upon this floor apologize in the least for the barbarities of this cruel foe, I yet see something in the course they have pursued to the advantage of this country, and a greater reason not to imitate their example. Sir, there will be no individuals or families who will receive from the people of this country more real respect and adoration than will go forth from the whole people to these suffering heroes. I believe it has been their fortune, suffering as they have, to do more real service to their country in this, its greatest emergency, than ten thousand times the efforts of any other of our citizens. I believe that if you had put upon our advancing armies the strength that we have withheld in our prison camps, if you had put the thirty or forty thousand rebel troops whom we held as prisoners again in arms against this Government and against our soldiers, the result of their efforts would have put back the success of this contest for years, and would have produced more suffering and more disastrous effects than the suffering that has been brought on our heroes and martyrs in southern prisons.

It was my province on Sunday evening to listen to the addresses before the Christian Commission—a commission which is part and parcel of the country's cause and of the country's heroes. We there heard an address from the person whose testimony was presented to the Senate yesterday morning. What was his advice? Not that which is recommended by the Senator from Ohio. He suggested no such thing, although cognizant of all the brutalities that have been spoken of for the last twenty-two months. "But," said he, "will you place over rebel prisoners men who have suffered, men who have been brutalized, men who for twenty-two months have been so impaired in their intellectual and physical capacity as to be not men, but brutes? Would you place such men over defenseless prisoners? I advise retaliation thus far, to prevent these barbarities; but my instincts, and the instincts of every patriotic officer in the service, and of every true man,

are against it. Arrange a system, perfect it, bring it to the proper authorities, bring it to the President of the United States, to all men who have an opportunity to act in the matter, and to act quickly; but do not brutalize your acts, do not become savages, because savages are around you; but institute some measures of retaliation." That, sir, is the evidence which comes to us, and which we are advised to receive as the testimony of a man who has witnessed these sufferings.

Sir, I shall occupy the attention of the Senate no longer. I desire that this resolution, with all the amendments which have been proposed to it, shall be recommended to the Committee on Military Affairs, from whence it originated. I believe that such a reference is eminently proper. I believe that no hasty resolutions should come from any individual or from any set of individuals in this Senate upon a question so important as this, until some committee or some organized body shall have the matter before them and suggest something proper in the case. Let the committee suggest what is proper to the Senate, and let us then act upon it.

Mr. SUMNER. I desire to express my thanks to the Senator from Rhode Island, not only for the practical humanity but for the practical wisdom of his remarks. He is right on the question of humanity, soldier and Senator as he is. He is right, also, on the question of the reference. A matter of so much importance, debated so many days, with regard to which there have been so many conflicting opinions, so many different propositions, differing from each other more or less, ought not to be acted upon without the intervention of a committee of this body. It is for just such a case as this that we have committees, who, as we are told by parliamentary authors, in familiar words, are the eyes and ears of the body. Never, sir, was there an occasion when eyes and ears were more wanted than on a proposition which has been the subject of such a conflicting discussion. If there was a general harmony in the statements on this subject, if these differences had not been developed day by day in the discussion, then I should say, let us act directly on the proposition; but, under the circumstances of the case, I say that it is according to parliamentary usage and according to common sense that this question should go to a committee.

Mr. HOWE. Mr. President, I do not hold myself responsible for the fate of this resolution. It is under the care of the Senator from Ohio, [Mr. WADE,] and he knows how to take care of it. It is not his habit to put any of his children to a charity school. And if only the fate of this resolution were at stake I should not trouble the Senate with another word during this debate. But I have sat here, Mr. President, four or five days, and heard for the first time in my life myself arraigned and prosecuted for a want of humanity. I have said that I did not hold myself responsible for the fate of the resolution, but I hold myself responsible for the support I give it; and, if I may be allowed to make use of an expression which is not so much in vogue in this Senate Chamber as it used to be, I wish to say that I hold myself "personally responsible" for it. Sir, I did not come to the Senate of the United States to be taught what was or was not humane, and I am not likely to learn it here, I fear. If I know anything about it now, or if I ever shall, I learned it before I came here; and I did not learn it from the jurists, nor from the publicists, nor from the poets. What little sentiment of humanity I have I acquired before I was put to the schools; I acquired it when I was put to my mother's breast; and I beg leave to tell the Senate that so many of them as have not drawn their notions of humanity from the same great fountain had better not parade their humanity here too freely, for it is not reliable.

Day after day, during this debate, every one of those who have asked you in the name of facts which make the nation shudder to do something to put an end to these enormities have been held up as criminals against the holiest dictates of humanity, as offenders against the religion of the land, as criminals in the judgment of civilized mankind; and Senators read us authorities here to prove it. When the Senator from Massachusetts [Mr. SUMNER] harangued the Senate on Saturday last against barbarity, I enjoyed the occasion as much as any man who listened to him.

I like to see great faculties put face to face with great infamy, and I do not enjoy the spectacle any the less because the infamy is imaginary and not real; I think I enjoy it the better for that very reason. I think I would better like to see John C. Heenansparring with a dummy than with Tom Sayers, because you can see the play of the muscle and the spring of the sinew just as well, and the beauty of the spectacle is not marred by hearing any groans or seeing any bruised and lacerated flesh. So I say I enjoyed the occasion the other day all the better because there was not any real barbarity here for the Senator from Massachusetts to hit. I liked to see him strike out at it all the better because of that fact; and he admitted that it was not here. He said that the proposition before the Senate had been so changed that there was nothing left of it but the name retaliation. Against the specific proposition before the Senate he had not a word to say in behalf of humanity, of Christianity, of civilization, of poetry, or of philosophy; but he could not forbear the opportunity to impress upon the Senate and the world the notion that some of us here had been, at some previous time, defending a measure which was full of barbarity, which was but an imitation of that of which we complain.

Sir, was that fair and just toward those who have differed from him here on the floor of the Senate? Was it just and fair toward that Senator who has brought forward this proposition, and consented to its being put into this form, [Mr. WADE,] in order to convince the Senate and to convince the world that he did not intend and did not attempt any of those measures which have been ascribed to him? He sees and consents to his own resolution being remodeled and remodeled, until now they who carp at it most and criticize it most bitterly can point to no ugly feature in it. But was it fair to say to him that he had ever been the advocate of anything that was monstrous or barbarous? What he intended, if it were not proved by the language of the resolution which he originally introduced, is abundantly proved by his consenting to its being put into language against which the Senator from Massachusetts can file no protest whatever.

Mr. SUMNER. I made my protest in my remarks.

Mr. HOWE. Against this resolution?

Mr. SUMNER. Yes.

Mr. HOWE. Then I misunderstood the Senator's remarks, and have misread them. I say, Mr. President, that authorities have been brought forward here to convict us who support this resolution of barbarity and of inhumanity. They are not witnesses to the point; they are not fairly treated, and we are not fairly treated by their being produced here.

The Senator from Massachusetts read to us an extract from a recent speech of the lamented Everett. It is to be noticed that the Senator—and that was fair in him; it is entirely allowable by the rules of debate—look pains to eulogize every witness whom he introduced here. I do not complain of that; but if you will consent to look aside from the character of the witnesses and just listen to what they state, I shall not feel at all incalculated by the testimony they give. Mr. Everett says—speaking, if I do not mistake the occasion, before a public meeting called to concert measures for furnishing relief, not to starving prisoners, but to a hungry population in Savannah—

"I believe that the best way in which we can retaliate upon the South for the cruel treatment of our prisoners is for us to continue to treat their prisoners with entire humanity and all reasonable kindness, and not only so, but to seize every opportunity like the present to go beyond this."

He was not talking to the resolution which the Senator from Ohio has been defending, or to any modification of that resolution before the Senate; he was talking to a public meeting in behalf of a public charity, appealing purely to the benevolence of those who heard him, and appealing to that benevolence for a specific purpose. He was not talking to a legislature having to grapple with a monstrous crime; he was not attempting to instruct us upon the doctrines of international law.

Mr. SUMNER. The Senator will bear in mind that he lays down the rule of international law there. It was for that that I quoted the passage, not for the sentiment, not for the eloquence.

Mr. HOWE. The Senator reminds me that the witness laid down the rule of international law.

Let us see in what terms and from what standpoint he did it:

"Indeed, it is no more than our duty to treat the prisoner well. The law of nations requires it."

Unquestionably it requires it.

"The Government that refuses or neglects it does not deserve the name of civilized."

Does any man doubt that when Mr. Everett struck that point in his remarks and made that observation, he had in his mind, not the conduct of our Government, but the conduct of those authorities against which we remonstrate and protest to-day? From that point onward he commenced to arraign, not our Government nor anything we had done, nor anything we proposed to do, but he commenced to arraign the rebel authorities for their violations of the law of nations:

"The Government that refuses or neglects it does not deserve the name of civilized. Even inability is no justification. If you are yourself so exhausted that you cannot supply your prisoner with a sufficient quantity of wholesome food, you are bound, with or without exchange, to set him free."

Speaking manifestly with direct reference to the action and to the excuses, not of our own Government, but of the rebel authorities. But he lays down the law correctly. Who disputes it? It is the duty of a nation to treat its prisoners well. That is the law. The exception to the law is just such a case as is presented here, when we are not to prescribe treatment as a mere end, but when we are to prescribe treatment as a means to an end.

I am asked by the Senator from Massachusetts to read the last sentence. I will:

"You have no more right to starve than to poison him. It will, however, be borne in mind that while the hard fare of our prisoners is defended by the southern leaders on the ground that it is as good as that of their own soldiers, at the same time they maintain that their harvests are abundant and their armies well fed."

"You have no more right to starve than to poison him," says the witness, speaking still not to our Government but to the rebel authorities who alone have starved; speaking evidently to them, because he goes on to say that the justification which the rebel authorities make for that starvation is utterly untenable:

"It will, however, be borne in mind that, while the hard fare of our prisoners is defended by the southern leaders on the ground that it is as good as that of their own soldiers, at the same time they maintain that their harvests are abundant and their armies well fed."

The next witness—

Mr. SUMNER. Finish that passage from Mr. Everett, if you please.

Mr. HOWE. I will.

"There is no merit treating a prisoner with common humanity; it is simply infamous and wicked to treat him otherwise."

Mr. SUMNER. That is the point: that is the law of nations.

Mr. HOWE. The law of nations! We are not disputing about what the law of nations is. The simple question is, upon whom was Mr. Everett enforcing the laws of nations? Upon the Senate of the United States or upon the rebel authorities? If the Senator insists that he was instructing the Senate of the United States in reference to our action upon this resolution, I differ from him altogether. The evidence to the contrary is patent upon the face of the extract.

Again, Professor Francis Lieber is placed upon the stand; a competent witness, says the Senator, upon a question of international law. Undoubtedly competent; and if it had been his purpose or his aim to instruct us in international law I should have listened to what he said with as much respect as the Senator from Massachusetts or anybody else. Professor Lieber says:

"No mawkish sentimentality has induced the writer to express his views. He has had dear friends in those southern pens, which have become the very symbols of revolting barbarity, but he desires, for this very reason, that the subject be weighed without passion, which never counsels well; especially without the passion of mere vengeance. Let us bring down this general call for retaliation to practical and detailed measures. It is supposed, then, that retaliation is resolved upon; what next?"

Now, admitting that Professor Lieber is abundantly competent to testify upon a rule of international law, yet if he is asked to testify whether a given measure is within or without the rules of international law, it would be necessary for him to show not merely that he understands what international law commands and what it prohibits, but also that he understands what the specific measure is. I would, therefore, before I gave

implicit credit to the testimony of Professor Lieber on this point, want to examine him on his *voir dire*; I should want to know whether he understood the measure upon which the Senate is deliberating as well as that he understands the code about which he undertakes to instruct us. He shows manifestly in this instance that he does not understand the measure which is before the Senate; for he says, bringing it down to practice:

"It is supposed, then, that retaliation is resolved upon; what next? The order is given to harass, starve, expose, and torture, say twenty thousand prisoners in our hands until their bones pierce the skin, and they die idiots in their filth."

Professor Lieber, well as he understands international law, does not at all understand the measure before the Senate. No such command (as has been repeatedly pointed out) could issue upon the enactment of this resolution in any form in which it has been proposed. It has no retrospective action whatever; it looks steadily to the future. It does not propose to starve any man in the world; it proposes simply to put an end, a final and speedy end, to starvation. The command would not go to take twenty thousand men or one man and starve him until his bones pierced through the skin and he died in his own filth. The command would simply go to the men who have been practicing these enormities, who have been engaged in the wholesale work of starvation, to stop it. To stop it at what peril? At the peril that if they do not commence to feed our prisoners in their hands, we will withdraw the rations which we are daily meting out to their prisoners in our hands. And the command does not go to our agents; it goes to the agents of that rebel organization.

Mr. President, Senators, steadily shutting their eyes and ears to what this resolution says, and what it means, have contrived to give it a bad name. Nay, I do not find any fault with the name; the name is well enough. They call it not merely retaliation, which it is, but retaliation in kind. I do not complain so much of the name they give it as the manner in which they treat that name. If the Senator from Massachusetts, in the tragic mood in which he spoke the other day, had seen fit to call it the balm of a thousand roses, it would have sounded bad to almost all listeners. No matter what name you call a thing by, if you cram your countenance chock full of horror, and throw a sepulchral tone into your voice, it will sound bad, no doubt. But it is after all only retaliation. There is nothing bad about retaliation. All say that. It is strictly in accordance with the laws of nations. All acknowledge that.

Well, let us admit that what we propose here is retaliation in kind; is there anything bad about retaliation in kind, like for like? What is retaliation in kind? If they assassinate a man, retaliation in that case would be to execute a man. If they take a tooth, retaliation in that case would be to take another. If they tear your jacket, retaliation in that case would be to tear another jacket. Necessarily, retaliation in kind is not awful, is it? In reference to the particular evil with which we have to deal, I beg leave to say that retaliation in kind not only is not the terrible enormity it is held to be, but it is the mildest species of retaliation that you can apply.

Sensors all tell us that retaliation is right; retaliation is entirely in accord with the law of nations; retaliation is abundantly indorsed by civilization, by Christianity, by Professor Lieber, and by the Senator from Massachusetts. Retaliation is all right, but you must mark the limitations, says the Senator from Massachusetts. And what are they? That you must not be inhuman? No; but you may be humane, I take it. You must not starve a prisoner. We do not want to starve any one. We are trying to subserve a humane purpose. We do not mean to be driven from it. But what sort of retaliation, I put it to the common sense of the Senate, can possibly be applied to the evil which we mean to prevent, but retaliation in kind?

Sir, what do we want to do? There is no vengeance hinted at in anything which is proposed to the Senate. We simply wish to put an end to an enormity. We are about to enact a law, not to command citizens within the reach of our process, but to command a people beyond the reach of our process. We want them to give food and



shelter to the men to whom they are bound to render it by the laws of war, by the laws of civilization, and by the laws of Christianity. How shall we compel them to do it? Retaliation is the only instrumentality offered to you. But what kind of retaliation? Not "in kind," says the Senator from Massachusetts. What then? We are compelled to tell these authorities, "If you do not feed our men we will do something, not to you, because you are not within our reach, but to these men of yours who are in our reach." Now, what do we do? Take out a given number of them and shoot them, in order to compel them to feed our men to-morrow? No; that would not be retaliation in kind. It would be retaliation; not retaliation in kind, but it would be barbarous, infinitely more barbarous than to tell them, "If you do not feed our prisoners to-morrow we will not feed your prisoners to-morrow." That is retaliation in kind; but it is the mildest, the most legitimate form of retaliation that my mind can conceive of, and I have heard nothing else pointed out. You have no means in the world of coercing these authorities to do what duty requires of them, excepting the power you have over these prisoners in your hands. How will you apply that power? If you want shelter for your prisoners, withhold shelter from theirs. You may withhold food, you may withhold clothing, withhold anything else. You cannot apply any physical punishment to them, because that is more inhuman.

Sir, instead of this proposition being so monstrous and barbarous as it has been constantly denounced, if you will take it right before your eyes and look at it, it is nothing in the world more than equitable process, of sequestration to enforce the specific performance of a duty, a most equitable, and a most Christian duty. I have said, therefore, that I do not feel condemned under the testimony of Mr. Edward Everett, nor under the testimony of Professor Lieber. I have shown you abundantly that Mr. Everett was not testifying for our instruction, and I have shown you abundantly that Professor Lieber did not understand the measure which we have before the Senate. But the Senator from Massachusetts was not content with arraying these witnesses against us, he put Mr. Shakespeare on the stand—Shakespeare, who was "both jurist and poet," we are told. I cannot deny that he was a poet of very respectable pretensions. He might have been a lawyer. However that may have been, I did not profess to be as well read in Mr. Shakespeare as the Senator from Massachusetts undoubtedly is, but according to my understanding of him, I have read the tragedy of Macbeth, and I never supposed that really it was the intention of the great dramatist to produce Mr. Macbeth in the character of an illustrator and delineator of humanity or of an expounder of international law. [Laughter.]

Sir, there are two or three other questions about this whole matter. You all agree that there is a crime in daily perpetration here on this continent and within our jurisdiction, a crime the magnitude of which blanches all of you, and you all agree that that crime ought to be stopped. Now tell me how you would do it. Seeing the numbers of our men and the sufferings of our men there, I proposed a year ago, as I could not get our men exchanged, to make a levy *en masse* of the American people to go down there and take them out of custody. That was considered a radical measure, and it was dismissed. There they are still.

Gentlemen tell us, "Exchange for them." We are trying to exchange, and have been trying, but we cannot exchange, because it takes two parties to make an exchange, and, as I showed you the other day, the other party will not agree to it. As fast as they do agree we do exchange.

The Senator from Massachusetts who sits at my left [Mr. Wilson] says "Negotiate." Without this resolution you send commissioners to the rebel authorities, and what in the world can they say? "Release our prisoners." "No, we cannot do it." "Feed our prisoners." "No, we will not do it." What else can they ask? Negotiate? What have they got to offer? Will these commissioners say, "If you will feed and clothe our prisoners, if you will shelter them, we will shelter and feed and clothe your prisoners." They say, "You do that now, and you dare not do the contrary from that; your Senate forbids it;

your Legislature forbids it." What will you do? What can the commissioners say? But pass this resolution and then you can negotiate with effect; then your agents of exchange will know what to say. Then that brave, that gallant, that heroic, and that Christian man, as I understand him to be, John E. Mulford, can say to these authorities, "I am told by the Government of the American people to tell you, in the name and by the authority of those millions, that if you do not cease your barbarities, if you do not feed these men that you are now starving, and shelter them, the command has gone forth that your men in our hands shall not be fed, and shall not be sheltered." That is inhuman, is it? Well, the only theory upon which any sort of inhumanity can be made out is that the rebels will not consent to this, that they will not consent for the sake of having their prisoners fed to feed ours.

Senators have told you over and over again that they deny this conclusion; that it is not the fact; that it is not the legitimate inference; that if humanity does not compel them to do their duty toward our prisoners, policy will compel when they see that it is necessary to the feeding of their own. I believe it; but I am willing to follow this process of sequestration to the end of it, and I will speak, for a moment, upon the assumption that they will refuse, as Senators assume they will.

Suppose when your agent of exchange goes down there and tells them, "This is the law; you must give bread to our prisoners or bread is taken from yours;" and they tell you, "Take your bread from our prisoners; we care not for that; we will not give bread to yours;" what then? You must violate the resolution or you must withhold these supplies; but you say it is cruel and inhuman to withhold supplies. There is no other course for you to take. Go back to those estranged, rebellious citizens of yours and say to them, "Guilty of treason as you are, you have been in our hands for months and we have sheltered you; we have fed you; rebels to our authority, traitors as you are, we have furnished you the treatment which belongs to humanity; we are willing to do it; but men who resist your treason have been taken prisoners by those authorities that have commanded you; they are not sheltered; they are not fed; we have visited those authorities, and we have told them that they must administer this comfort, that if they did not we would visit you with like treatment, and they absolutely refuse; they say, 'We do not care what treatment you bestow upon our men in your hands, we will not feed or shelter the Federal soldiery.'"

Now, sir, you will say to these prisoners, "Are you willing to be longer instruments in the hands of authorities who practice such barbarities not only toward their enemies but toward their own soldiery; are you willing to be longer the agents and instruments of an authority that will turn you out to be treated as they treat our prisoners?" What will they say? I think they would say, "No; we have followed the standards of rebellion long enough; we have followed the flag of barbarism as far as we can afford to go, and henceforth we will follow the flag of humanity, the flag of loyalty, the flag of the Union."

But suppose they would not say that; suppose we are utterly mistaken both as to what the rebel authorities would do, and what the rebel prisoners would do; and suppose they should say, "We are still loyal to this barbarity which has raised its shocking and monstrous head down there; we know they mete out starvation to your prisoners daily; we are glad that they do it; we stand by the authority which decrees that, and we will fight their battles when we can get out of your prisons; we are ready to do it, notwithstanding its utter want of humanity." What will you say to them, then? I am following the lessons of this resolution, as I understand it; following them clear to the end. What will you say to them, then? There they are, avowing their advocacy of this great monstrosity, taking part in it, committing themselves to it, and to all the cruelty and savagery there is in it. What will you say to them? I do not know what you will say, I am sure; I have some doubt about that; but I have not the slightest doubt as to what I should say myself. I should say to them that they had incumbered the face of the earth too long. I should say to them that if I was more embarrassed in my movements, I

would still allow them space to linger on and air to breathe; but inasmuch as it took bread and meat to feed them, and inasmuch as it took loyal force to guard them, and inasmuch as I wanted this loyal force to attack the rebel masses which stand around our prisoners in their dens and starve them daily, I would say to them, "We cannot furnish you these guards any more, and you shall not incur the earth any longer."

To make myself perfectly intelligible, I have supposed an extremity of barbarity in two classes of men which I know cannot be found; but when you find that extremity of barbarity, what will you do but obey God and end it? If you find any milder means of accomplishing this end, very well. We tell you over and over again that we want to attain but a single end, not the punishment of anybody for anything that has been done, but the relief of human beings from suffering which is inhuman. Show us any means milder than this for attaining that end and we will take them and follow them most gladly, but we say that if we can accomplish it the end must be and shall be attained, and until you stop merely denouncing barbarism, and turn your attention to some practical way of ending the barbarism, we must follow the track, or rather, for I speak only for myself, I must follow the only path which I see open to that end.

Mr. LANE, of Indiana. If the Senate will pardon me for a very few moments, I will endeavor to direct the attention of the body to precisely the present position of the question. Some thirty days ago or more the Senator from Minnesota [Mr. WILKINSON] introduced a resolution on the subject of rebel barbarities perpetrated against our prisoners, which resolution was referred to the Committee on Military Affairs. Some two or three weeks since I had the honor to present a memorial from a portion of the people of Indiana upon the same subject, asking for retaliation, and asking further that discharged Union soldiers from rebel prisons should be placed in the command of rebel prisoners in the North. At that point the Senator from Ohio [Mr. WADE] introduced these resolutions which have been debated for the last two weeks. The memorial and the resolutions were referred to the Military Committee, and they reported after mature deliberation and after an investigation upon the whole subject. When that report was made, various modifications and amendments were proposed, and after a lengthy discussion one of the distinguished Senators from Massachusetts [Mr. SUMNER] proposed an amendment by way of substitute for the whole report of the committee, which recited these rebel barbarities and atrocities, and wound up with a general declaration that it would outrage Christian public sentiment and Christian civilization to do anything. That is precisely the tenor and scope of the amendment of the Senator from Massachusetts. Recognizing the great evil inflicted upon our prisoners, and reciting in the most eloquent terms their barbarities, it wound up with a lame conclusion that our hands were tied, we could do nothing without outraging civilization, Christianity, and our common humanity. That is precisely as I understand the tenor and effect of the resolutions of the Senator from Massachusetts.

The Senator from Missouri [Mr. HENDERSON] then introduced his proposition for the appointment of commissaries of prisoners or commissioners of prisons to visit the rebel States and make arrangements in reference to ameliorating the condition of our prisoners, and to facilitate exchanges. That proposition is substantially repeated by the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Now, how do we stand? The resolution as reported by the committee was retaliation in kind until these rebel barbarities shall cease. I prefer that, to-day, to any other mode of redress. Why do we retaliate at all? Because it is necessary to protect our own prisoners. Where, then, is the limit to retaliation? Simply the relief of our prisoners; and if we stop short of that we are playing a mere child's play, idle and nonsensical. We have no right to retaliate except to accomplish a good end, and that end is to relieve our prisoners. If we stop short of that, the whole thing is a mockery, a delusion, and a humbug, and I will not stop short of that point to whatsoever extreme it shall carry me. I am for retaliation earnestly

and honestly, and no sham; and I am for retaliation until the object shall be accomplished.

I have, Mr. President, but one brother, whom I love as I love myself; if he were a rebel in arms to-day against this Government, I would take him in my arms, as Abraham did Isaac, and offer him upon the altar of the country, and ask Almighty God to bless the sacrifice. I have none of this squeamishness, none of this sympathy for these rebel prisoners; I would retaliate up to the point of achieving the object we have in view.

I set out not to argue this resolution but to show you now that there is nothing to refer to the Military Committee. My distinguished colleague from Indiana [Mr. HENDRICKS] says it is highly appropriate and proper that all such questions should go to a committee. The distinguished Senator from Massachusetts [Mr. SUMNER] says that these committees of the House are eyes and ears to the House. Is this measure suddenly thrust upon the attention of the Senate? It has already been before a committee for more than one month, and it comes here upon the report of a committee. That report has been modified by the Senator from Ohio [Mr. WADE] until it meets the approbation, I venture to say, of every single Senator upon this floor; and yet we are asked to refer it and to delay further. Is there a Senator upon this floor who does not believe in the right of retaliation? Is there a Senator upon this floor who doubts the rebel barbarities against our prisoners? Then if you believe in retaliation at all, you say the limit is the usages of civilized nations and the laws of war. That is precisely the language of the present resolution, that the President shall be directed to retaliate upon these rebel prisoners according to the laws of nations and the usages of war. That is precisely the resolution as it now stands. Then what do you gain by a reference to a committee? Different phraseology! If you intend to do anything, if you believe in the right of retaliation at all, how else can you retaliate? You say you would not retaliate in kind. I would. But suppose you would not; the resolution is now so modified as to use precisely the words that you wish to have incorporated in it, that we shall retaliate according to the laws of nations and the usages of civilized warfare. That is the resolution as now modified. Then what are you debating? Has it come to this, that there is a grave debate in the Senate as to whether we have a right to say that we will retaliate according to the laws of nations and the usages of civilized warfare? That is the whole of it. Are you ready to vote upon that? Your prisoners are dying by thousands daily in southern prisons, without shelter, without food, without clothing, lying upon the bare ground with the inhospitable sky above them, and with their dying fingers are digging their own graves, hundreds becoming insane, so reduced that they are joining the enemy, taking the oath of allegiance to the rebel government, rather than undergo the pangs of starvation; and we are here debating whether we have a right to retaliate according to the laws of civilized warfare, and that is the whole of it; and who doubts that? If there is a man who doubts it, while I might respect his motives, I should certainly not sympathize with his action.

I am ready to retaliate. I believe the people require it. I believe the soldiers in the field require it. But gentlemen say to retaliate is barbarous and would shock the civilized world—a high-sounding phrase, meaning less than nothing in this great argument. Suppose you present the other side of it. We do not propose to retaliate as a matter of revenge or of vengeance for past wrongs, but to prevent these very atrocities that all admit. Suppose it should be flashed over the wires, suppose it should be carried over the ocean, that this great people having called a million men into the field, when they were starving and suffering in southern prisons, refused to defend and protect their own soldiers by the only means possible by which they can be protected, you would be a by-word and a reproach forever in the history of civilization. We do not do this from any purpose of vengeance, but to protect our own soldiers from these rebel barbarities. Yet gentlemen say the civilized world is to be shocked. What is the civilized world? What is the Christian public sentiment of Christendom to-day? Do

they sympathize with you now? Let England and France tell the story. With the exception of the German States and Russia, there is no Christian public sentiment that sympathizes with us. Would England be shocked at such a course as this of retaliation? If so, read the bloody history of the Irish rebellion, or the bloody history of the Sepoy rebellion in India, where fifty Sepoy prisoners were tied at the mouths of British cannon and blown to destruction; yet they are to be shocked because we resort to this system of retaliation! The truth is, the laws of nations have nothing to do with our punishment of these traitorous, insurgent, rebel citizens. It is for us and us alone to measure out the meed of their punishment, past, present, or to come. We are sovereign of all Powers upon earth as to them, and we are to adopt our own punishment; and even if it should be unheard of and terrible for this terrible and unheard-of iniquity, no other nation could object.

Then why refer this resolution? The committee had it two months, and we have debated it two weeks. We have come now to a common conclusion; for I venture to say that when the vote is taken by yeas and nays upon the resolution as now modified not one member of this Senate will record his vote against it.

Mr. CHANDLER. The Senator from Massachusetts [Mr. SUMNER] says that committees of this body are the eyes and the ears of the body; and therefore, after passing a high eulogium upon eyes and ears, he hopes this resolution, with the amendments, will be recommitted. Well, sir, eyes and ears are very important members of the human body. I admit they are important; but when men are dying by thousands and tens of thousands, dying of starvation, and demanding at our hands a measure of redress, what is required of us is heads and hearts and hands to act immediately, and not eyes and ears.

Mr. President, immediate action is what is demanded from us. I see no object in referring this matter to any committee. I believe there is not a member of this body whose mind is not made up as to whether he will protect these helpless prisoners now suffering and dying by thousands, or whether he will not.

Yesterday the other Senator from Massachusetts, not now in his seat, [Mr. WILSON,] called me to account for a remark which I then made. He said that I had threatened him. Sir, I did no such thing. I stated a fact which he and every other member of this body will find to be a fact, and that was that this account was not to be settled here upon this floor with his colleagues, but with his constituents at home. I uttered no threat, I made a simple statement of a fact. Every man here must meet this question at home. He must meet these returned soldiers and he must meet the friends of those who have died of these rebel barbarities. But again the Senator said:

"As I listened to-day to the Senator from Ohio, [Mr. WADE,] and then again to the Senator from Michigan [Mr. CHANDLER] I thought the old slave-masters had come back again. I thought I witnessed all their insolence and something more than their coarseness."

That is a mere matter of taste. It is a matter which I do not propose to discuss, much less to discuss it with the distinguished Senator from Massachusetts, a gentleman who is as much a master of deportment, as we all know, as Mr. Turveydrop; a man who, in matters of taste, beauty of expression, finish of argument, refinement of language, cannot be approached. He is unapproachable. Therefore, sir, I pass that by as a mere matter of taste with which I have nothing to do.

But, sir, the Senator from Indiana [Mr. HENDRICKS] has called me to task for pretty much the same thing. I can only repeat, with regard to the alleged threat, that it was no threat, but a simple statement of fact. The Senator from Indiana objects to another statement that I made, which was that these rebels were "hellish," or something to that effect. On reflection I think I have done an injustice, and no man is more ready to apologize for an injustice done than I am; but when I apologize for that remark it will not be to the rebels, but to the inhabitants of hell. I do not believe that any barbarities equal to theirs have ever been perpetrated by any people on earth, nor do I believe that the inhabitants of any region

that we read of in sacred or profane history could be found to be guilty of the barbarities that have been perpetrated by these rebels.

The Senator says the time will come when I shall regret that I have used this strong language relative to these rebels. Sir, when those men who have instigated these barbarities come back and associate with us, meet us in the social circle and in the halls of legislation, meet us on friendly terms of intercourse, then the Senator says that I shall regret that I have used this strong language. Sir, when the originators of these barbarities come back upon this floor and associate with us upon terms of equality, that Senator may take them to his bosom, but he will not find any loyal man who will greet them as living men. These men are to be punished for their crimes; they are to be punished for their barbarities; they are to be punished as traitors and murderers, and not welcomed back into the social circle or legislative halls by any loyal man who now stands by this Government, in my estimation. I certainly shall never regret that I have done them justice at this or at any other time.

Mr. SAULSBURY. Mr. President, it is not my intention to enter into this discussion; it has not been my intention at any time since its commencement to do so, and I do not propose to detain the Senate for more than a moment. I understand, however, that upon the motion to refer to the Military Committee the yeas and nays have been ordered, and we have been notified that in case that motion fails the yeas and nays are to be called upon the final passage of the joint resolution. I have not engaged in the discussion, because I have no taste for its sickening details. If one half is true that is alleged by the Federal authorities against the confederate authorities in reference to their cruelties to prisoners, or if half is true of what is alleged by the confederate authorities against the Federal authorities, as we read in extracts from their newspapers, then it is vain either for them or for us to boast of Christianity or freedom from barbarism. If these statements be true, then since the dawn of civilization there has never existed upon the face of the earth a people more barbarous and unchristian than the people of America, both North and South.

I admit that it is in the power of this Government or any other Government, any belligerent Power whatever, to resort to retaliation. The question with me, however, is whether this measure as proposed, advising the President of the United States to resort to it now, would lead to any practical good. I doubt it.

The question has been discussed in every possible form in which it could be presented except one; every suggestion possible to be made but one for the relief of the suffering Federal prisoners has been made. That one I propose to make; and whether it be popular or unpopular, whether it shall be heralded by the papers as patriotic or unpatriotic, is a matter of indifference to me. That measure is peace. If these acts of cruelty which are alleged to have been perpetrated have been perpetrated, it is only additional proof that this war ought never to have been begun; but having been begun, that it ought instantly to stop. If these allegations be true, these enormities disgrace man and reduce him to the level of the brute; ay, sir, reduce him to the level of the fiends.

I am not ashamed to raise my humble voice in the Senate of the United States in behalf of peace. Peace descends from heaven; war springs from hell; and when hell's agency is at work, you cannot expect the blessings of Heaven. It is seldom, sir, that I can approve of any act of the President of the United States; but if the rumor be true which is current to-day that commissioners are on their way from the South to this capital to treat for peace, and that that is the result of an informal message from the President of the United States, I will take occasion here, while approving but little that he has done before, to approve his action in that respect. Sooner than resort to the bloody scenes which may result from a system of retaliation, if it be true that commissioners are to meet to discuss the terms of peace, instead of invoking starvation and death upon any set of men, any set of prisoners, either Federal or confederate, I would, if it were in my power, cause the thunderbolts of the Almighty to roll and the lightnings of heaven to flash one

continued flame between the contending armies, until these commissioners meet to consult in reference to the great boon of peace.

It is peace, sir, that this country wants. Give us peace, and no Federal soldiers will ever again rot in confederate bastilles or prisons, or starve in confederate pens. Give us peace, and the mother whose aching heart and streaming eyes you now witness will bless you for your deed. Give us peace, and instead of these acts of barbarism of which we hear, your land shall again bloom and blossom as the rose. Sir, in the place of retaliatory measures, in the stead of resorting to acts of cruelty to meet acts of cruelty, and to prevent them in the future, I propose that your commissioners meet, and I invoke you, if this be the honest aim of the President of the United States, lend him your willing and cordial aid; and then, sir, you will have no need for retaliation; then, sir, your soldiers no longer will be starved or murdered or ill treated; but they shall return to their homes long left, to cheer their families, to rejoice again that peace blesses the land, and that their country does not require any further sacrifice of life or blood upon their part.

I have said, Mr. President, more than I intended to say. I suggest, instead of all such measures as this, a cordial coöperation by the Congress of the United States with the Executive, if indeed he is engaged in that work, in restoring peace to a distracted land.

Mr. SHERMAN. I do not intend to venture an opinion upon this resolution. It has been presented in almost every aspect of which the subject is at all capable. I desire, however, to urge upon the Senate to dispose of this question to-night. I think there is no view of it but what has been already presented. There are one or two bills that I desire to have acted upon to-morrow. I hope, therefore, we may have a vote upon the pending propositions without a word being said. I shall express my opinion by my vote.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts [Mr. WILSON] to recommit the resolution with all the amendments and proposed amendments to the Committee on Military Affairs.

The question being taken by yeas and nays, resulted—yeas 10, nays 26; as follows:

YEAS—Messrs. Carlile, Davis, Hendricks, Powell, Richardson, Riddle, Salsbury, Sumner, Van Winkle, and Wright—10.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Foster, Hale, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Pomeroy, Ramsay, Sherman, Ten Eyck, Wade, Wilkinson, and Willey—26.

ABSENT—Messrs. Brown, Buckalew, Doolittle, Farwell, Foot, Grimes, Harding, Hicks, Lane of Kansas, McDougall, Sprague, Trumbull, and Wilson—13.

So the motion was not agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment proposed by the Senator from Ohio, [Mr. WADE.]

Mr. SUMNER. To that amendment I have a further amendment.

Mr. SHERMAN. I should like, with the consent of the Senator from Massachusetts, to have it read as it now stands. I do not know that I understand it in its present form.

Mr. SUMNER. I was going to read it myself. The proposition as moved by the Senator from Ohio, by way of amendment to the resolution of the committee, is to insert as follows:

And that the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner and kind as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

At the suggestion of the Senator from Maine [Mr. MORRILL] the words "and kind" were struck out, and instead thereof were inserted the words "in conformity with the laws of nations;" and the proposition of the Senator from Ohio now stands in that form. It no longer requires retaliation in kind; but it does require retaliation in conformity with the laws of nations. When I had the honor of addressing the Senate on Saturday, I took the liberty of making a comment on that language. I characterized it as inadequate. It does not go far enough; it is dry; it is not sufficiently specific. Still further, sir, it is not in conformity with the precedents of our history. I then stated that if no other person made the motion, I should feel it my duty, before final

action on this measure, to move a modification of this proposition so as to bring it in harmony with the precedents of our history, and also to make it, as I think, duly effective and applicable on this occasion. If you refer to the past precedent of our history, I mean the act of March 3, 1813, entitled "An act vesting in the President of the United States the power of retaliation," you will see that this is the language employed:

"The President of the United States is hereby authorized to cause full and ample retaliation to be made, according to the laws and usages of war among civilized nations."

And if Senators remember the eloquent remarks to which they listened only a few moments ago from the Senator from Indiana [Mr. LANE] they cannot have forgotten how forcibly, more than once, he insisted that our resolution now required a retaliation in conformity with the laws of civilized nations. Now, sir, I propose to bring the resolution in harmony with the Senator's speech; in harmony with the precedents of our history; in harmony also with humanity. I move, therefore, to insert in the resolution, as it now stands, after the word "laws," in the twenty-eighth line, the phrase, "and usages of war among civilized," and then the sentence goes on, "nations;" so that it will read: "in conformity with the laws and usages of war among civilized nations."

Mr. LANE, of Indiana. I have not the slightest objection to that, and I hope it will be adopted.

Mr. JOHNSON. How will it read then?

Mr. WADE. Let us hear how it will read as proposed to be amended.

The VICE PRESIDENT. It will be read.

The Secretary read, as follows:

And that the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner, in conformity with the laws and usages of war among civilized nations, as shall be effective in deterring him from the perpetration in future of cruel and barbarous treatment of our soldiers.

Mr. HOWARD. I do not understand, sir, upon what ground it is that the Senator from Massachusetts insists that that particular phraseology is supported by historical precedent in the United States. As used in the statute which he assumes to quote, it had a certain significance, because that statute directing retaliation was aimed, as the Senator perfectly well knows, if he knows anything of the history of the war of 1812, at the barbarities committed by the British, not only by the British military authorities, as a civilized military force, but at barbarities committed by their Indian allies who were employed to assist the British arms in prosecuting that war. Hence Congress, when they enacted this statute of 1813, desiring to punish by some fitting retaliation these Indian barbarities committed upon American soldiers, enacted that the retaliation should be in accordance with the laws of civilized nations, in contradistinction undoubtedly from the laws and usages of savage nations, which prevailed among those tribes which were in league with the British. That, and that only, is the reason for the incorporation in that statute of the phrase "civilized nations."

There is no occasion for its introduction in the present resolution at all. We do not deny that the rebel confederacy are a civilized community. It is not denied here that they are a Christianized community. They are educated in the same moral and religious principles as ourselves. They have ever heretofore been regarded as a part of the civilized world, and are still regarded as such. Why then does the Senator from Massachusetts seek to characterize them as being savages, and not a part and parcel of the civilized world? It seems to me that this is carrying the poetic justice a little beyond the line of truth.

But, sir, as to historical precedents, I refer again, as I did the other day, to the precedent set by the Congress of 1799, at the time that General Washington was President of the United States. The language in that statute is this:

"That it shall be lawful for the President of the United States, and he is hereby empowered and required, to cause the most rigorous retaliation to be exercised on any such citizens of the French Republic as have been, or hereafter may be, captured in pursuance of any of the laws of the United States."

There, sir, was General Washington's retaliation; there was the kind of retaliation which was enacted by the Congress of 1799; and in that we hear nothing said about the usages of civilized nations. Congress then took it for granted that

the French people, against whom this retaliation was launched were a civilized, Christianized people, and they did not assume to treat them as mere savages, as the Senator from Massachusetts now assumes to treat the rebels in arms against the United States.

I hope, sir, that this amendment of the Senator from Massachusetts, which has no object or aim aside from the mere attempt to stigmatize the rebels as savages, and nothing but savages, a fact which is not true except in the fancy of the Senator from Massachusetts, will not be adopted. There is no necessity for it. It is as much out of the line of American precedents, because it has but one precedent to stand upon, as is the resolution as offered now by the Senator from Ohio. Let us stick to the resolution as now agreed to by the Senator from Ohio and reject all these useless and trivial amendments.

Mr. VAN WINKLE. I voted for the recommendation of this resolution in the hope that, if recommended, the language of it might be somewhat amended. As it stands now, it appears to contradict itself. It proceeds to say that it has become justifiable that the President should retaliate, and then goes on and directs the executive and military authorities to retaliate, and then concludes by saying that it is not intended to limit or restrict the President. It appears to me that the words, "the President," should be used in all cases instead of "the executive and military authorities."

I am in favor of the amendment just offered by the Senator from Massachusetts; but I will call his attention, and I will call the attention of the Senator from Maine [Mr. MORRILL] to the fact that, with his amendment in it, a further amendment is needed in the latter part of the resolution. The amendment of the Senator from Maine is, that this retaliation shall be in conformity with the laws of nations. The Senator from Massachusetts extends that a little further, and says it shall be in conformity to the laws and usages of civilized nations. Then the resolution goes on to say, to defeat both, that it is not intended by this resolution "to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned." I understand that as distinctly affirming that it is not intended by this resolution to restrict the President to the modes and usages of civilized nations in the principles of retaliation. It was for these reasons that I voted to recommit this resolution to the Committee on Military Affairs.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Ohio.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I am not sure that I understand the amendment and its effect upon the resolution as it was originally before us at the time the amendment was offered.

The VICE PRESIDENT. Does the Senator request that it be again read?

Mr. JOHNSON. I ask for the reading of the resolution as it will stand if amended.

The VICE PRESIDENT. The Secretary will read the amendment of the Senator from Ohio as it will stand if the amendment of the Senator from Massachusetts should be adopted.

The Secretary read, as follows:

And that the executive and military authorities of the United States are hereby directed to retaliate upon the prisoners of the enemy in such manner, in conformity with the laws and usages of war among civilized nations, as shall be effective in deterring him from the perpetration, in future, of cruel and barbarous treatment of our soldiers.

Mr. JOHNSON. What is the rest? Is that the end of the resolution?

The VICE PRESIDENT. That is the amendment pending.

Mr. JOHNSON. I know it is, but I want to hear what follows.

The VICE PRESIDENT. The Secretary will read on.

The Secretary read, as follows:

Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise and require a resort to them as demanded by the occasion.

Mr. HOWARD. It is quite obvious, if this



amendment is carried, that that latter clause will have to be stricken out, as being inapplicable to the resolution, and I shall make that motion.

**THE VICE PRESIDENT.** The Senator from Maryland is entitled to the floor.

**MR. JOHNSON.** I was about to say that the criticism of the honorable Senator from West Virginia is perfectly correct, provided we are authorizing any retaliation which the laws of nations or the usages of war among civilized nations do not forbid, because we go on to say that although our advice to him is that he should only resort to such retaliation as the laws of nations and the usages of war do not forbid, yet he is to understand we do not mean to limit him in that way; he may be as savage and as barbarous as he thinks proper. I shall move at the proper time, therefore, to strike out that latter clause.

**THE VICE PRESIDENT.** The question now is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from Ohio, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 27, nays 13; as follows:

**YEAS**—Messrs. Carlisle, Cowan, Davis, Doolittle, Foot, Foster, Harlan, Harris, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Morgan, Nesmith, Pomeroy, Powell, Richardson, Riddle, Salisbury, Sherman, Sumner, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—27.

**NAYS**—Messrs. Chandler, Clark, Collamer, Conness, Dixon, Farwell, Hale, Howard, Howe, Ramsey, Trumbull, Wade, and Wilkinson—13.

**ABSENT**—Messrs. Anthony, Brown, Buckalew, Grimes, Harding, Hicks, Lane of Kansas, Morrill, and Sprague—8.

So the amendment to the amendment was agreed to.

**MR. JOHNSON.** I move further to amend the resolution, in lines thirty-one, thirty-two, and thirty-three, by striking out the words, "to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but" so that it will read, "Congress do, however, intend by this resolution only to advise a resort to them as demanded by the occasion."

**MR. WADE.** I hope that amendment will not be adopted. It will destroy the whole resolution. I hope we shall not take any further counsel of our enemies.

**MR. HOWARD.** I hope so, too.

**MR. JOHNSON.** The honorable member is very quick in favor of his own proposition. How does he know I am opposed to that? I have told him four or five times on the floor, and said to himself, that I was not, as it now stands. I have not offered this amendment with any view to impair its efficiency.

**THE VICE PRESIDENT.** If the Senator will pardon the Chair for a moment, his amendment is not now in order. The question before the Senate now is on the amendment of the Senator from Ohio, [Mr. WADE.] When that shall be disposed of, it will be in order to entertain the amendment of the Senator.

**MR. JOHNSON.** Very well.

**THE VICE PRESIDENT.** The question now is on agreeing to the amendment of the Senator from Ohio, as amended.

**MR. VAN WINKLE.** Is it not competent to amend that amendment?

**THE VICE PRESIDENT.** It is; but the words in the latter part of the resolution are not a part of the pending amendment.

**MR. VAN WINKLE.** I understand that. I move to amend the amendment by striking out all after the word "and" in the twenty-sixth line down to the word "hereby" in the twenty-seventh line, in the following words, "that the executive and military authorities of the United States are," and to insert the words "he is," so that it will read "and he is hereby directed to retaliate," &c. The effect will be to get rid of the word "that," which has no business there anyhow, and to direct the President to retaliate instead of "executive and military authorities of the United States."

The amendment to the amendment was agreed to, there being, on a division—ayes twenty-three, noes not counted.

**THE VICE PRESIDENT.** The question now is on agreeing to the amendment of the Senator from Ohio, as amended.

**MR. SUMNER.** I will simply suggest a verbal amendment to the substitute, instead of the words "in conformity with" the phrase "ac-

cording to," that being the phrase employed in the statute of 1813. It reads better, and it is in conformity with the precedent. I merely suggest it. There is no difference in the effect.

**MR. WADE.** The Senator is not acting according to the precedent he quotes. That law directed the President to make "full and ample retaliation." Those words are two strong for the Senator's nerves altogether, and he has skipped them over.

**MR. SUMNER.** I propose to substitute "according to" for "in conformity with" merely to bring the language into conformity with the precedent, and to make it read a little smoother.

**MR. HALE.** I should like to hear some philologist give us the difference in meaning between the resolution if amended as the Senator proposes, and as it now stands. I am not in favor of making amendments unless there is something to be effected by them. If it is a mere matter of rhetoric, I think it sounds as well now as it will if you alter it.

**THE VICE PRESIDENT.** The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

**THE VICE PRESIDENT.** The question now is on agreeing to the amendment of the Senator from Ohio as amended.

**MR. DOOLITTLE.** I desire to inquire for information whether the last sentence, beginning with the word "Congress," in the thirtieth line, is now in the resolution?

**THE VICE PRESIDENT.** It is not in the amendment. When the amendment shall have been disposed of that clause will be open to amendment.

The amendment, as amended, was agreed to.

**MR. SUMNER.** I now move what I suppose the Senator from Maryland had intended to move, but his motion was not in order when he made it, and indeed I think it would require that he should go a little further than he proposed to go in order to carry out his own idea. I had intended to move it originally, but it was not in order when I made the other motion. It is to strike out all after the word "soldiers" in the thirtieth line on the 3d page, in these words:

Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, but only to advise resort to them as demanded by the occasion.

**THE VICE PRESIDENT.** The Chair desires to state that there is another amendment pending before the amendment of the Senator from Massachusetts or the amendment proposed by the Senator from Maryland will be in order. It is the amendment of the Senator from Ohio, [Mr. WADE,] to add the words "and require" in line thirty-three, after the word "advise." That is the amendment now pending.

**MR. LANE, of Kansas.** Is it in order to move that the Senate do now adjourn?

**THE VICE PRESIDENT.** It is.

**MR. LANE, of Kansas.** I make that motion. Several Senators. Oh, no; let us dispose of this subject.

The motion was not agreed to.

**THE VICE PRESIDENT.** The question is on the amendment of the Senator from Ohio, to insert the words "and require" after the word "advise," in the thirty-third line.

The amendment was agreed to.

**THE VICE PRESIDENT.** The amendment proposed by the Senator from Massachusetts is now in order.

**MR. SUMNER.** It is simply to strike out the last passage, beginning with the word "Congress:"

Congress do not, however, intend by this resolution to limit or restrict the power of the President to the modes or principles of retaliation herein mentioned, &c.

**MR. SHERMAN.** Before that motion is put, I desire to submit a motion, if it is in order, which I think will better attain the object desired. I think that last clause ought to be retained, with the exception of the words "to the modes or principles of retaliation herein mentioned." Those words ought to be struck out, being inconsistent, and then it would read:

Congress do not intend, however, by this resolution to limit or restrict the power of the President, but only to ad-

vise and require a resort to retaliation as demanded by the occasion.

**MR. SUMNER.** That is right; I accept that in lieu of the amendment I proposed.

**MR. HOWARD.** There is no objection to that.

**THE VICE PRESIDENT.** The Senator from Ohio proposes to amend the resolution by striking out, in line thirty-two, after the word "President," the words "to the modes or principles of retaliation herein mentioned;" and in line thirty-four, to strike out the word "them," and insert the word "retaliation;" so that, as amended, the clause will read:

Congress do not intend, however, by this resolution to limit or restrict the power of the President, but only to advise and require a resort to retaliation as demanded by the occasion.

**MR. WADE.** I do not know how far that amendment might change the principle of the resolution. It uses the words "to limit or restrict the power of the President," but it does not say to what modes. It does not restrict him at all. I do not know that it hurts it, however, and I shall not object to it.

The amendment was agreed to.

**MR. HENDRICKS.** I desire to offer the following amendment as an additional section:

And be it further resolved, That in the judgment of Congress such measures ought to be taken as may be necessary to secure the earliest exchange of prisoners at all times during the continuance of the war.

**MR. HOWARD.** It seems to me there is a very plain distinction between the two things, the mere treatment of our prisoners in the hands of the enemy, and the exchange of them in the regular pursuance of a cartel. I see, therefore, no necessity for burdening this simple resolution of retaliation with any recommendation whatever upon the subject of exchange. Believing as I do that the Executive of the United States and the military authorities have been diligent and faithful in their endeavors to bring about an exchange of prisoners, I do not feel authorized upon this occasion to insert in this resolution a censure of the President and the military authorities by implication such as it seems to me would arise from the use of such language. I therefore am opposed to the amendment offered by the Senator from Indiana. If it shall appear hereafter that the Government is derelict in regard to the exchange of prisoners, that it is inattentive to our interests or the interests of the prisoners, I will with pleasure join the honorable Senator in resorting to measures which shall be effective; but I do not see the propriety of incorporating this clause in this resolution, and therefore oppose it.

**MR. HENDRICKS.** I intended to offer, as I said to the Senate a while ago, a substitute for the entire resolution, this being a part of it; but as the resolution introduced by the Senator from Michigan has been so amended as that I have no objection to it, I offer this as an additional section. It presents this simple question, whether Senators are in favor of an exchange of our prisoners. I am not going into a discussion now as to whether the Administration has done its duty on this subject. This is no criticism upon the Administration. The first resolution as now adopted by the Senate is mandatory. This is but an expression of the judgment of Congress that that policy ought to be adopted which will secure an early exchange of prisoners during the continuance of the war.

For myself, I am not satisfied that justice has been done to the soldiers on this subject of exchange. As I said the other day, a distinguished member of the House of Representatives, of the Senator's own political party, brought it as a grave charge against the War Department that these exchanges might have been made months ago, but that thousands of our soldiers had been left to die because that duty was not done by the War Department. The Senator from Ohio, at the head of the committee on the conduct of the war, who is presumed to be well informed on the subject, in the debate the other day, said that he could not understand why exchanges were not made. I do not desire to say in this resolution that the Administration is in fault; but upon so grave and important a question as this, one affecting so seriously the comfort of the soldiers and the happiness of their friends at home, is it not proper for Congress to express an opinion? I

dare say that opinion will be respected by the Administration after it is expressed. The simple question is, whether Congress is in favor of an early exchange of prisoners. It mitigates the sufferings and the barbarities of war; it is a proper thing; and it is a subject upon which it is proper for Congress to express an opinion; and it cannot be said to be a criticism upon the Administration.

The amendment was agreed to.

Mr. HENDERSON. As the resolution has now been amended, it covers all the points covered by the amendment that I offered in the early part of this discussion except one, and that is, that the President be requested to procure an amendment of the existing cartel by which commissaries of prisoners may be authorized to visit our prisoners in the hands of the rebels, to promote their comfort, examine into their condition, and make such suggestions to him as may be deemed necessary to enforce humane treatment by the insurgents.

The VICE PRESIDENT. Does the Senator offer that as a separate resolution?

Mr. HENDERSON. Yes, sir; I move to amend the resolution by adding the following as an additional section:

And he it further resolved, That the President be requested to procure an amendment to the existing cartel by which commissaries of prisoners may be authorized to visit our prisoners in the hands of the rebels, to promote their comfort, examine into their condition, and to make such suggestions to him as may be deemed necessary to enforce humane treatment by the insurgents.

Mr. WADE. I hope that will not be adopted. There is no necessity whatever for it.

Mr. HENDERSON. I cannot for my life see what objection there can be to a proposition of this sort. We are here instructing the President to retaliate under certain circumstances. As I stated the other day—and I read from the books to establish the position—it has been common for the last two hundred years to have these commissaries of prisoners in the enemy's country. During the war between us and Great Britain, in 1812, 1813, and 1814, we had a commissary of prisoners at Halifax looking after the condition of our prisoners and making suggestions in regard to their comfort.

Our object, as I understand it, is to make the rebels treat our prisoners properly. Suppose they insist that they will not exchange, I want to know what their treatment is in order that the President may be advised in regard to this matter. How is it possible for the President to know how to retaliate unless he has men to look into the condition of the prisoners and report the facts to him? There can be no objection in the world to a proposition of this sort. It is not treating with the rebels. I will not disagree with the Senator from Ohio on that point. I do not want to treat with Jefferson Davis. This is not treating for peace. The proposition is to procure an amendment to the existing cartel. If this requires treating with the rebels, we have treated with them, because we have a cartel on the subject of the exchange of prisoners. Why not in the name of sense provide in some way that men may go there and look after our prisoners?

Mr. WADE. I wish to know if we have not just such a thing now. Are not our commissaries there now under the cartel as it exists, carrying provisions and clothing to our prisoners? They do not always get them, as the proof shows; but have we not men there?

Mr. HENDERSON. If that be the case, why is it that the President the other day released some men in order to act as commissaries for their prisoners, and why is it that they released some of our men to act as commissaries for our prisoners? It strikes me as being the most remarkable thing on the face of the earth that there should be any objection to this proposition of mine. I do not want you to treat with rebels; I am not asking for anything of that sort. I am not asking now that we treat with them about terms of peace. This is an entirely different thing. Humanity requires that we look to the condition of our soldiers in the hands of the rebels; all the principles of civilized society demand that we should do something to ameliorate the condition of our prisoners in their hands. There is a vast number of them there. Some difficulty has taken place in relation to the exchange. In the name of sense is there anything objectionable in hav-

ing men to go there to look into the condition of our prisoners, not to get upon their knees and beg of Jefferson Davis, but to demand as a right in the name of civilization, that our prisoners shall be properly treated. We have a right to demand it. The laws of nations guaranty it to civilized people. I hope, therefore, the amendment will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SHERMAN. Is there any difficulty in that matter now? May not the President send such commissioners now? I think we ought not to belittle so grave a resolution as one in favor of retaliation—always a grave measure—by coupling with it any subordinate matter of this kind. It can be done by the President under the existing laws.

Mr. McDUGALL. The remark of the Senator from Ohio will apply to the whole proposition as now amended on the motion of his colleague, because the resolution as amended recognizes the whole matter as being within the province of the Executive, and is merely advisory to the Executive as to how he shall discharge his particular office, and this again is a matter of advice. That being conceded, we have been for a week talking about a thing that does not belong to the province of the Senate or House of Representatives, but belongs to the province of the Executive, and undertaking to give advice to the President of the United States, who has charge of this business, and whose particular duty it is to see that he understands it, and that he executes his office in a proper manner. I think we have exhausted all these days uselessly and fruitlessly and out of our own province. I think gentlemen have sought this as an opportunity to say things that may be put in print, and that may be read on the stump some day hereafter when they may have occasion again to seek the force of popular opinion.

Mr. HENDERSON. I do honestly believe today that if we adopt this amendment we shall have no more rebel atrocities on our prisoners. Whenever they find out that we have officers there to look after the condition of our prisoners and to report the facts to the country and to the civilized world, we shall have no more of this barbarous conduct toward our prisoners.

The question being taken by yeas and nays, resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Carlile, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Pomeroy, Powell, Riddle, Sumner, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—24.

NAYS—Messrs. Chandler, Clark, Conness, Dixon, Farwell, Hale, Harlan, Howard, Howe, Lane of Indiana, Morrill, Ramsey, Sherman, Trumbull, Wade, and Wilkinson—16.

ABSENT—Messrs. Anthony, Brown, Buckalew, Grimes, Harding, Hicks, Richardson, Saulsbury, and Sprague—9.

So the amendment was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment submitted by the Senator from Massachusetts [Mr. Wilson] to the amendment of his colleague, [Mr. SUMNER.]

Mr. SUMNER. With the permission of my colleague, I propose to withdraw my amendment, and in withdrawing it I wish to state that I do so because the resolution on which the Senate is now acting has undergone such modification as to be in substantial harmony with the proposition which I originally introduced.

The VICE PRESIDENT. The amendment is withdrawn.

Mr. SUMNER. There is a verbal amendment which, if I can have the attention of my friend from Ohio, I wish to suggest, and that is, to strike out the word "insurgents" in the sixth line and substitute "rebels." In speaking of them here on this floor, we do not speak of them as insurgents; we speak of them as rebels, and I wish so to speak of them in this resolution. I hope my friend from Ohio will accept the amendment.

Mr. HOWARD. I hope that amendment will not be adopted.

Mr. SUMNER. If the Senator is against it, I shall not press it.

Mr. HOWARD. I am against it most decidedly.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. McDUGALL. I wish to say a word before the final vote is taken, that I may be well understood. There is nothing in the substance of this resolution now that I deem at all exceptiona-

ble as far as the matter itself is concerned, and I should not object to it if we were called upon to counsel the executive department of the Government, but I vote against this proposition upon the ground that it has no business either in this Hall or in the other Hall of Congress, but belongs to a department of the Government which has full authority over it, and which has not sought our advice in regard to it, and is not likely to accept that advice unless it pleases. We have spent one full week in fruitless conversation.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HALE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, January 31, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### MAINTENANCE OF THE UNION.

Mr. FERNANDO WOOD. I ask unanimous consent to introduce the following resolution:

Resolved, That it is the duty of the President to maintain, in every constitutional and legal manner, the integrity of the American Union as formed by the fathers of the Republic, and in no event, and under no circumstances, to proffer or accept negotiations which shall admit by the remotest implication the existence of any other Federal or Confederate Government within the territory of the United States.

Mr. FARNSWORTH. I object.

Mr. FERNANDO WOOD. I desire to know whether it is in order to move a suspension of the rules in order to offer this resolution.

The SPEAKER. It is not. That motion can only be made on Monday after the morning hour.

Mr. FERNANDO WOOD. Then I give notice that at the earliest opportunity, on next Monday, I shall move to suspend the rules for the purpose of offering this resolution.

#### RAILROAD TO NEW YORK.

Mr. WEBSTER. I rise to a privileged motion. I move to reconsider the vote by which the bill to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and postal route of the United States, was referred to the Committee on Military Affairs.

The motion was entered.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that the President had this day approved and signed a joint resolution and bills of the following titles:

An act (H. R. No. 94) for the relief of Isaac R. Diller;

An act (H. R. No. 344) for the relief of Mary Scales Accardi;

An act (H. R. No. 622) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July 1, 1864; and

Joint resolution (H. R. No. 99) relieving mineral lands from the operation of all acts passed at the first session of the Thirty-Eighth Congress granting lands or extending the term of former grants.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate had passed a joint resolution (S. R. No. 106) providing for the compilation of a congressional Directory at each session; in which the concurrence of the House was requested.

#### ABOLITION OF SLAVERY.

Mr. RICE, of Maine, by unanimous consent, introduced joint resolutions of the Legislature of Maine, in favor of the amendment to the Constitution of the United States prohibiting slavery;

which were laid on the table, and ordered to be printed.

#### TAX ON SALES.

Mr. F. CLARKE. I ask unanimous consent to offer the following resolution:

*Resolved*, That in order that the Government may have, and the people understand, its fixed and determined policy in reference to restoring the currency of the country to its normal value, the Committee on Ways and Means are hereby instructed to inquire into the expediency of imposing a special tax of one per cent. on all sales of the country for the period of one year, and a tax of three fourths of one per cent. for one year thereafter, and a tax of one half of one per cent. thereafter, until the whole sum collected equals in amount the United States notes now issued by the Government; and that the proceeds of the tax, as it may from time to time be collected, be especially appropriated to the redemption of said notes until all are redeemed and canceled. And also that the Secretary of the Treasury be authorized, at any time after the close of the war, to issue bonds not having less than five nor more than forty years to run, to an amount equal to all of the Treasury interest-bearing legal-tender notes that have been or may hereafter be issued, and dispose of the same from time to time as may be required to pay said notes as they mature from and after the close and termination of the rebellion, and report by bill or otherwise.

Mr. STEVENS. I object, and call for the regular order of business.

Mr. ANCONA. I ask my colleague to give way until I introduce a resolution for reference.

Mr. STEVENS. I call for the regular order of business, and will yield for no purpose.

#### ABOLITION OF SLAVERY.

The SPEAKER stated the question in order to be the consideration of the motion to reconsider the vote by which the House, on the 14th of last June, rejected Senate joint resolution No. 16, submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; and that the gentleman from Ohio [Mr. ASHLEY] was entitled to the floor.

Mr. ASHLEY. I yield to the gentleman from Pennsylvania [Mr. McALLISTER] to have read a brief statement.

Mr. McALLISTER sent to the Clerk's desk and had read the following:

When this subject was before this House on a former occasion I voted against the measure. I have been in favor of exhausting all means of conciliation to restore the Union as our fathers made it. I am for the whole Union, and utterly opposed to secession or dissolution in any shape. The result of all the peace missions, and especially that of Mr. Blair, has satisfied me that nothing short of the recognition of their independence will satisfy the southern confederacy. It must therefore be destroyed; and in voting for the present measure I cast my vote against the corner-stone of the southern confederacy, and declare eternal war against the enemies of my country.

[Applause from the Republican side of the House.]

Mr. ASHLEY. I now yield to the gentleman from Pennsylvania, [Mr. COFFROTH.]

Mr. COFFROTH. Mr. Speaker, I speak not to-day for or against slavery. I am content that this much-agitated question shall be adjudicated at the proper time by the people. It is my purpose to state in all candor the reasons which prompt me to give the vote I shall soon record.

The amending of our Constitution is fraught with so much importance to the American people that before it is accomplished the amendments proposed should be scrutinized with the strictest criticism. No frivolous, vague, or uncertain experiment should be for a moment tolerated. The life and existence of this nation is centered in the observance and faithful execution of the powers conferred by the Constitution upon the servants of the people.

The joint resolution before us proposes:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

ART. XIII, SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

The first inquiry is, has Congress this power? I turn to the Constitution, and find article fifth provides—

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the

several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

It is not claimed that Congress itself can engraft this amendment into the Constitution without being ratified by three fourths of the States. Then, sir, under the Constitution, Congress has no power beyond discriminating what shall or ought to be submitted to the people. The members of this House assume no responsibility, they enact no amendment, but as faithful Representatives they submit to the people, the source from whence their power comes, the proposed amendment. "Governments are instituted among men, deriving their just power from the consent of the governed." All political power is invested in the people. At their will constitutions can be remodeled and laws repealed.

The amending of our Constitution is no new experiment. Already at three different times amendments have been submitted to the Legislatures, and by them adopted. The first amendment was ratified in 1791, the second in 1798, and the third in 1804. It never was intended by the wise men who adopted the Constitution that it should remain unchanged. The growth of the nation, its progress and its advancement, will, as time passes, demand new articles and additional provisions. The people are the guardians of the Constitution, and I am not convinced that any danger is to be anticipated, as presented in the following illustrations of the gentleman from Ohio, [Mr. PENDLETON,] put with such admirable compactness and scholastic force:

1. "I assert that there is another limitation, stronger even than the letter of the Constitution, and that is to be found in its intent and spirit and its foundation idea. I put the question which has been put before in this debate, can three fourths of the States constitutionally change this Government, and make it an autocracy? It is not prohibited by the Constitution."

2. "Can three fourths of the States make an amendment to the Constitution of the United States which shall prohibit the State of Ohio from having two Houses in its Legislative Assembly? It is not prohibited in the Constitution."

3. "Sir, can three fourths of the States provide an amendment to the Constitution by which one fourth should bear all the taxes of this Government? It is not prohibited."

4. "Can three fourths of the States, by an amendment to the Constitution, subvert the State governments of one fourth and divide their territory among the rest? It is not forbidden."

5. "Can three fourths of the States so amend the Constitution of the States as to make the northern States of this Union slaveholding States?"

I do not think there is any power in the Constitution which would permit three fourths of the States to change the form of government. The Constitution provides for a republican form of government, and to establish an autocracy would not be amending the Constitution, but utterly destroying it, and establishing upon its ruins a new form of government of self-derived power.

I would not give one of the new copper two-cent pieces for the insertion into the Constitution of explicit prohibitions against every other supposition brought forward by the gentleman from Ohio, [Mr. PENDLETON:]

"Long before three fourths of the States can become so debauched and demoralized that they would practice such monstrous injustice, they must have lost the sense of honor that would be bound by a compact, and the fear of God that would keep an oath. When these virtues have died out, no matter what safeguards a written constitution might contain, they would be of no more value than so much waste paper. There are certain things which can never be attempted so long as there is public virtue enough not to evade, explain away, or openly violate the Constitution. It is for this reason so little limitation was put upon the amending power.

"The actual limitations on that power operated against natural equity, and hence the necessity for their insertion. One of them restrained Congress from putting an end to the slave trade prior to 1808, and the practical effect of the other is to give New England, which has a smaller population than New York and only a fraction more than Pennsylvania, twelve Senators, while New York and Pennsylvania have each only two. The Constitution presumes that the majority of the people in three fourths of the States cannot be corrupted; or that, if they should, they would not afterward respect paper restraints on their passions. A constitution is no stronger than the sense of the moral obligation of the parties bound by it. It is futile to take men's engagements against crimes more heinous than breaking an engagement. You might as well swear a man not to commit highway robbery. If he has conscience enough to respect an oath, it would be needless, and if he has not, an idle precaution."

Again, it is argued that this amendment is unconstitutional; that the Congress of the United States has no legal authority to propose this amendment, nor have the States in ratifying it the

constitutional power to destroy or interfere with the right of property. Learned gentlemen of this House differ on this subject. The Constitution itself provides the remedy by which all these differences of opinion can be legally adjudicated. Section two of article three provides:

"The judicial power shall extend to all cases in law and equity arising under this Constitution."

In my opinion, if any person is injured by this amendment, he has a judicial remedy before the highest court of the country.

If the States of the South desire to retain slavery, they can do so by refusing to ratify this amendment. There are thirty-five States. In order to adopt this amendment twenty-seven States must ratify it. Eleven States have seceded from the Union. This is more than is required to defeat the amendment. Certainly no one will pretend to argue that this amendment can be adopted without being submitted to the eleven seceded States. If it was, these States would not be considered a part of the Union. In fact it would be, to all intent and purpose, recognizing them as independent States, and not being under the control of the Federal Constitution.

If this view is taken, then this amendment can do no harm to the people of the States in the Union. In June last my objection to this amendment was that it was taking away the property of the people of the States that remained true to the Union; that the Constitution was made the means to oppress rather than protect the people. Since that time Missouri and Maryland have abolished slavery by their own action, and the Governor of Kentucky in his message recommends to the Legislature of that State gradual emancipation. The same objection which was then urged against this amendment cannot now be urged.

It is argued that new State governments will be formed in the seceded States under the control of military governors, and this amendment ratified by them. Whether this amendment would be binding upon the people of the seceded States thus ratified will depend entirely upon the result of this war. If after a long struggle, and each of the contending armies or Powers will conclude to adopt the wise and humane policy of a peaceful solution of the difficulties now existing, all of the acts of the State governments formed by military power will be invalid, and the old organization of these States recognized. In this event the ratifications by the new-made State governments will not be worth the paper upon which they are written. If the South achieve her independence, then this amendment will only apply to that which does not exist. If the people of the South are subjugated and their State lines obliterated, and they are ever admitted into this Union under new constitutions, each and every one of the constitutions will have to come free from slavery before the State will be admitted.

The South would not remain in the Union under the Constitution as it now is; they demanded stronger guarantees for their institution of slavery. Can any intelligent person believe that after fighting as they have for nearly four years they will accept that which they rejected before the war? If they will not come back under the Constitution, why not abolish slavery; strike from our statute-books every enactment which protects it; make our Constitution and our laws free from the subject of slavery? And then, when this unfortunate, inhuman, barbarous, and bloody war has been prolonged until every heart shall turn sick with its carnage and the reports of its wrongs and outrages, and the people demand a cessation of hostilities until it be ascertained if glorious peace cannot be accomplished by compromise and concession, there will be no obstacles in the Constitution to defeat the accomplishing of a much desired result. We will be free to give new guarantees or new amendments to protect the rights and property of every person who shelters himself under the American Constitution.

Again, I have voted for every peace resolution offered in this House. My heart yearns for peace. The gentlemen on the other side of this Chamber refused to appoint peace commissioners, but they tell us this amendment will do more to secure peace than any resolution proposed in this House. Although they would not try the remedy we presented, I am willing to try the one they present; and if by my vote this amendment



is submitted to the States, and it brings this war to a close, I will ever rejoice at the vote I have given; but if I am mistaken, I will remember it is not the first time.

Mr. Speaker, I desire above all things that the Democratic party be again placed in power. The condition of the country needs the wise counsel of the Democracy. The peace and prosperity of this once powerful and happy nation require it to be placed under Democratic rule. The history of the past demonstrates this. The question of slavery has been a fruitful theme for the opponents of the Democracy. It has breathed into existence fanaticism, and feeds it with such meat as to make it ponderous in growth. It must soon be strangled or the nation is lost. I propose to do this by removing from the political arena that which has given it life and strength. As soon as this is done fanaticism

"Writhes with pain,  
And dies among its worshippers."

Then the rays of truth will be unshaded, and once more our people will rejoice in the salvation of their country, and of the reinstating in power that party which made this country great, and which has done so much to secure to man civil and religious liberty.

Many of the honorable gentlemen of this House with whom I am politically associated may condemn me for my action to-day. I assure them I do that only which my conscience sanctions and my sense of duty to my country demands. I have been a Democrat all the days of my life. I learned my Democracy from that being who gave me birth; it was pure; it came from one who never told me an untruth. All my political life has been spent in defending and supporting the measures which I thought were for the good of the party and the country. My energy, my means, and my time were all given for the success of the Democratic cause. I am no Democrat by mere profession, but I have always been a working one. If by my action to-day I dig my political grave, I will descend into it without a murmur, knowing that I am justified in my action by a conscientious belief I am doing what will ultimately prove to be a service to my country, and knowing there is one dear, devoted, and loved being in this wide world who will not bring tears of bitterness to that grave, but will strew it with beautiful flowers, for it returns me to that domestic circle from whence I have been taken for the greater part of the last two years.

Knowing my duty I intend to perform it, relying upon the intelligence and honesty of the people I represent to do me justice. If this action shall be condemned by my people I will go back with pleasure to the enjoyment of private life, free from the exciting political arena; but no power on earth will prevent me from quietly depositing my ballot in behalf of the candidates of the Democratic party. I hope I will be granted the pleasure of reading the eloquent speeches made by my Democratic associates, and admire their rise and onward march to distinction. This boon I pray you not to take from me.

If, on the other hand, the course of the Democrats who will vote for this amendment will meet the approbation of the people, and we are greeted with the plaudit of "Well done, good and faithful servants," it will be the desire of our hearts to open our arms for your reception and shelter you as the hen shelters her brood, satisfied you were honest in your belief but mistaken in your opinions.

Mr. ASHLEY. I now yield the remainder of my time to the gentleman from New York, [Mr. HERRICK.]

Mr. HARDING. I ask the gentleman to yield to me for a moment.

Mr. JOHNSON, of Pennsylvania. Mr. Speaker, this is rather an arbitrary proceeding. One gentleman occupies the floor and farms it out to whoever he pleases. We have a Presiding Officer, and I prefer he shall assign the floor.

The SPEAKER. The Clerk will read the rule on the subject.

The Clerk read, as follows:

"While a member is occupying the floor he may yield it to another, or explanation of the pending measure as well as for personal explanation."

Mr. JOHNSON, of Pennsylvania. Can these be called explanations relative to members?

The SPEAKER. The Chair thinks that these are explanations of the pending measure.

Mr. ASHLEY. I yield to the gentleman from New York.

Mr. MILLER, of Pennsylvania. I ask for five minutes of the time of the gentleman from New York.

Mr. HERRICK. I have no objection to give the gentleman five minutes of my time.

Mr. MILLER, of Pennsylvania. Mr. Speaker, I had hoped that I would be permitted to close my short career upon this floor without claiming any of the time or attention of the House; but I feel that I owe it to more than two hundred and sixty thousand lovers of the country, friends of the "Constitution as it is," in the State of Pennsylvania, to repudiate the sentiments and position of gentlemen, [Messrs. McALLISTER and COFFROTH,] my colleagues here, who have been heard this morning.

I came here, sir, with no ambition save to do what I conceived to be my duty in the service of my constituents and the preservation of a pure and consistent record.

But I prefer to go back to my home, I choose to meet those who sent me here, and say that I have tried to do that, at least, which was exacted of me when I took the oath entitling me to a seat upon this floor, that I would, to the extent of my ability, preserve inviolate the Constitution of the United States, in word and letter, as those who made it gave it to us. I feel that I have not been derelict in the discharge of duty; that I have not forgotten what was due to myself and what was due to them. I have no argument to make in regard to what I conceive to be the merits of the question before us. That ground has been fully and ably covered by those who have preceded me. I stand here to-day to indorse the sentiments and arguments of my friend from Ohio, [Mr. PENDLETON.] I stand with him as to the power of this House to pass this measure. His able and eloquent arguments have not been answered—nor, in my judgment, can they be—by the ablest of those on the other side of the House.

Now, sir, it strikes me that much as this matter has been discussed, no member has yet satisfactorily met the great question at the bottom of this proposition. Abolish slavery, and no man among them has pretended to show what we are to do with the freedmen, except that, as good Christians, it will become our duty to feed and clothe them. The true philanthropists and tax payers of the country are equally interested in knowing what is to be done with the elephant when we get him. We should not pull down the old house until we have built the new one. I say to my friends on the other side of the House that for them to discuss the constitutionality of a proposed amendment is a broad farce. They propose to amend that, the body of which, in every essential, vital feature they have consistently violated in the action of the President of the United States, this House, and every subordinate department and employé known to this Administration. It would have been more creditable to the fairness of the dominant party if they had proposed to blot out the sovereignty of the States, and declared that there are no reserved rights in the Constitution which Congress and the President cannot ignore with impunity.

If, Mr. Speaker, I could be induced to vote for any amendatory proposition to the organic law of this land I would not do it at a time like this, when all is chaos.

The SPEAKER. The five minutes allotted to the gentleman have expired.

Mr. MILLER, of Pennsylvania. I rose simply for the purpose of repudiating the sentiments and the positions assumed upon this floor by two of my colleagues from Pennsylvania, and have only to request my colleague [Mr. COFFROTH] to make his acknowledgments to my other venerable colleague [Mr. BAILY] to whose Quaker knocks he is doubtless indebted for his wonderful conversion.

Mr. HERRICK. Mr. Speaker, the joint resolution now before the House submitting to the Legislatures of the several States an amendment to the Constitution of the United States, comes before us under circumstances widely different from those existing when at the last session of Congress the same resolution failed to receive the requisite two-thirds vote of this body.

The eventful year which has elapsed has

wrought great changes in the situation of the country affecting this important question, and I approach its discussion at this time with quite altered views, as to its expediency, from those which governed me when I last addressed the House upon the same subject. The brilliant successes that have rewarded the gallant efforts of the military and naval forces of the nation, and the result of the presidential election, which has since transpired, have necessarily exercised an important influence over the public mind in both the loyal and the insurgent States; and this question has assumed a very different aspect from that which it bore at the last session of Congress. The rejection by the people at the polls of the proclaimed policy of the Democratic party has closed many avenues to reconciliation which then remained open, and the waning strength of the rebellion has brought its leaders to the verge of desperation. Perils which then seemed imminent have faded away, and others of quite different tenor menace us in the future.

In such a period of transition, when tremendous events succeed one another with almost inconceivable rapidity, it is impossible for the legislator to remain unaffected by the mighty changes that meet him on every side. It is weak, Mr. Speaker, it is criminal for him, from a false pride in preserving an imaginary consistency, to remain stationary when all the rest of the world is moving forward, and to regulate his words and actions by what he has said or done in the past. Change is the universal law of nature, pervading the world of mind as well as the world of matter. Ordinarily it effects its operation by almost imperceptible gradations, and their results only become visible at long intervals. But every generation sees further and more clearly than its predecessor that the radicalism of one century becomes the conservatism of the next, while steadily through the ages the eternal march of human advancement sweeps on. In such a period, however, as that in which our lot is cast, and in such a crisis as that now resting upon the country, when the whole fabric of society is convulsed by the fierce struggle between contending opinions, upon the issue of which depends the continued existence of the American Republic, if not, indeed, the fate of constitutional liberty throughout the world, this progress goes on with marvelous celerity, and the changes of a century are sometimes condensed into a single year.

Mr. Speaker, at the last session of Congress I voted against this resolution from a solemn conviction of duty. And as I shall now vote for it from a similar conviction, it becomes me to explain to the House and the country what considerations prompt me to assume a new attitude upon the question before us. Events which will now govern my action have superseded the arguments which influenced the vote I recorded last year. The considerations which then rendered the amendment proposed impolitic, in my view, have ceased to operate, and reasons of great force, which were not then in existence, have arisen to make it now expedient, and to warrant me in reversing my former action.

In my humble judgment the rejection of this measure at that time was demanded by the best interests of the country, which now, on the contrary, seem to call for its adoption. Mr. Speaker, circumstances have changed, and I shall now vote for the resolution, as I formerly voted against it, because I think such action on my part is best calculated to assist in the maintenance of the Government, the preservation of the Union, and the perpetuation of the free institutions which we inherited from our fathers. These are the great objects for which the loyal people of this country have struggled during the last four years with a courage and self-devotion to which history affords no parallel, and poured forth their blood and treasure with an unhesitating patriotism that has astonished the world. So long as a Representative seeks these objects, regardless of partisan or political prejudices, he cannot be rightfully charged with inconsistency, no matter how widely the means he may find it necessary to employ at one time or another, to adapt himself to ever-varying circumstances, may differ. I believe this is the only consistency that is truly desirable. It is certainly the only one to which I make any pretensions.

I have no doubt of the power to make this

amendment to the Constitution in the manner proposed. It is altogether immaterial, for the purposes of this discussion, whether the power of three fourths of the States to alter the organic law is altogether unlimited, except by the reservation in the amending clause of the Constitution. It may well be doubted whether the people do not possess certain inalienable rights, of which a minority, however small, cannot be divested by a majority, however large. But the States formed the Federal Government by a grant to it of their sovereignty over certain specified subjects, and it must seem to follow that they can also confer upon it any other rights or powers which they themselves possess, in the manner prescribed by the Constitution itself. By the adoption of that Constitution the States transferred to three fourths of their number their entire sovereignty, which can be at any time exerted to augment or diminish the functions of the General Government, save in the two particulars excepted by special limitation. Three fourths of the States can, by an amendment of the Constitution, exercise throughout the United States any power that a State individually can exercise within its own limits.

The institution of slavery is purely a creation of law, and completely under the control of the State in which it may exist, at whose pleasure it may be modified or abolished. What the State may do, the higher power to which by the adoption of the Constitution the State voluntarily ceded its whole sovereignty, except in two particulars, is certainly competent to do, whenever it chooses to assert its authority. In amending the Constitution, three fourths of the States actually represent the whole; and the agent is invested with all the powers that belong to his principal.

That this was the view entertained by the founders of our Government is conclusively established by the fact that a proviso, declaring that "no State shall, without its consent, be affected in its internal policy," was defeated in the Convention which framed the Constitution by a decisive majority. The power thus acknowledged was never disputed from that day until the abolition of slavery by a constitutional amendment became a practical question in the politics of the country. I have never entertained a doubt of the existence of this power, and I am now convinced that the time has arrived when it is expedient to exercise it in consummating the amendment proposed in the resolution now under consideration.

Mr. Speaker, I never had any love for the institution of slavery. I always regarded it as a moral, social, and political evil, and a fruitful curse to any community in which it might exist. In this sentiment I believe that I fairly represent the views of the great bulk of the Democratic party of the northern States. That party has never been either pro-slavery or anti-slavery; but it has ever been devoted to the Union and the Constitution, and always consistent in the position that the Federal Government had no right to interfere either for or against the institution, except to fulfill the duty in regard to the return of fugitive slaves imposed upon it by the Constitution. Democrats of the school in which I was educated believed, and believe now, that under the Constitution as it exists, every State has the exclusive control of the subject within its limits, and that the Federal power can neither abolish it in a State nor prohibit it in a Territory. The contrary doctrine we regard as repugnant to the very theory of the Government and inimical to its peace and safety; and Democratic statesmen clearly foresaw and predicted that the ascendancy of an anti-slavery party in the North and in the Government would provoke an armed collision between the northern and southern States of the Union. The Democracy cared nothing for slavery. Its preservation or destruction was with them a subordinate consideration in comparison with the stability of the Government, the supremacy of the Constitution, and the integrity of the Union; and they accordingly exerted their utmost power to keep the irritating subject out of party politics, and thus to avoid the terrible catastrophe which its agitation has brought upon the country. As a party they did all they could to prevent the war in which we are now engaged, and no portion of the responsibility for it rests upon the shoulders of the northern Democracy. They warmly supported the "Crittenden compromise," and were perfectly willing to give to

the South any additional constitutional guarantees that might be requisite for the future security of their "peculiar institution."

For the sake of the Union the Democratic party of the North would have cheerfully acquiesced in amendments to the Constitution explicitly acknowledging the right of citizens of the slaveholding States to carry their slaves into the Territories and hold them there until the new States, upon their admission to the Union, should declare for themselves whether they would have the institution or not. For the sake of peace and the Union they would gladly have voted for the then proposed amendment providing that the Constitution should never be changed so as to destroy or weaken slavery in the States where it then existed. Had their views prevailed, and governed the action of the Administration, all the blood that has been shed and all the money that has been expended, North and South, during the last four years, would have been saved, and the country would have gone on uninterruptedly in her marvelous career of prosperity and power. But the voice of Democratic wisdom was disregarded; men of extreme opinions controlled both sections, and a civil war ensued, of which the end is not yet—the South fighting for secession, and consequently the perpetuation of slavery, and the North for the Union, and incidentally for the abolition of slavery.

The Democratic party, while sustaining the Government, believed that the interests of the country, of humanity, and of the cause of liberty would be best consulted in a peace, in which both parties must give up something for the sake of agreement. They believed that there was no impassable gulf between the North and the South which should prevent them from coming together again under the same Government, and that the issue of slavery might be of the greatest importance in any negotiation which might be undertaken to restore peace and reestablish a perfect Union. They thought that both of the combatants, weary of the carnage and devastation that were desolating the land, and taught by dearly-bought experience to respect the bravery and determination of each other, would gladly consent to a peace upon the basis of mutual concession—the South surrendering its project of a separate nationality and the North its hostility to the institution of negro slavery.

These were the views which prevailed in the Democratic party a year ago, and made it then practically a unit in opposition to the measure now before the House proposing the abolition of slavery by an amendment of the Constitution, in accordance with its own provisions. As a lifelong member of that time-honored political organization, whose history is the history of the Government in its proudest days, and whose policy, carried out by a long line of wise and patriotic statesmen, made this country what it was four years ago, I raised my voice and recorded my vote as a member of this House against the joint resolution now under consideration.

The tone of the public mind at that time seemed to me, as it no doubt seemed to all who agreed in opinion with me, to foreshadow a change of Administration and the accession to power of the Democratic party, which we believed would be able to check the red tide of war and induce the South to return to the Union, by showing a conciliatory spirit and giving it the fullest assurance that all its rights and privileges under the Constitution, as it exists, should be preserved, and their continued enjoyment of them for the future guaranteed by such constitutional changes as might be requisite to effect that object. The two parties into which the people were divided prepared for the presidential election with a distinctly understood issue. The party of the Administration incorporated this amendment in the platform of principles upon which they entered the canvass. The Opposition boldly declared for a cessation of hostilities and a national convention to redress all grievances, settle all difficulties, and make an honorable and lasting peace by a satisfactory compromise. It was well understood that the principal business of this contemplated national convention, should it ever assemble, would be to put at rest, at once and forever, by the agency of amendments to the Constitution, the vexed question of slavery, which has disturbed the harmony of the country ever since its agitation was commenced,

when Missouri applied for admission into the Union. There was therefore no conflict of opinion between the two parties as to the power to amend the Constitution in regard to the institution of slavery. Stripped of all side issues the main question presented to the people for their decision was whether slavery should be abolished and the seceded States coerced into allegiance to the Constitution, as it is now proposed to amend it, or whether the war should be speedily terminated and the agis of the Constitution thrown around the social system of the South. The people by a large majority sustained the first proposition and fully indorsed the policy of the Administration on the slavery issue, and I am now disposed to bow in submission to that popular decree.

I have no doubt, however, that if the popular verdict upon this momentous question had been different from what it was, we should now be in sight of the blessed haven of peace, for I am fully persuaded that the olive-branch held out in the election of the distinguished and patriotic citizen and soldier who was nominated at Chicago, and the indorsement by the northern people of the principles enunciated by the Democratic party, would have been hailed with joy by our fellow-countrymen of the South as the harbinger of an honorable and a lasting peace. The ablest men of the whole country would have come together in a spirit of mutual concession and compromise and resettled the foundations of the Government so firmly that the superstructure might defy the wind and the storm for ages yet unborn.

But this was not to be. The anti-slavery sentiment proved predominant. The candidates of the Democratic party for President and Vice President were defeated, and a Congress elected which is certain to adopt the resolution now under consideration unless we anticipate their action. The question is settled by a popular verdict, which I am not disposed to further resist. So far as the national Government is concerned, slavery is no longer a political issue. We cannot influence its fate, which now depends upon the action of the States in their individual capacity. And released from all party ties which formerly bound them to it, but which now belong to a past state of things, the Representatives of the Democratic party in this House are left free to act upon the question pending as in their estimation, individually, will best promote the restoration of the Union, and preserve our free Government. For my part, I shall vote for the resolution, because, under existing circumstances, I think its immediate adoption will in a great degree tend to secure those objects nearer than all others to every patriotic heart.

Now, and for the next two years at least, the Democratic party is, and must be, powerless in the nation. It may embarrass, but it cannot change, the policy of the Administration. For good or for evil, the Administration now in power will wield the functions and control the destinies of the Government. It may end the war and restore the Union. At all events its opponents cannot. Such being the case, I am unable to reconcile it to my ideas of duty to stand between it and the people. The Administration desires now to submit this amendment to the States, and, in my judgment, a Democrat may consent to this submission simply from a desire to allow its policy a fair opportunity with the people, while holding himself at perfect liberty to advocate or oppose the amendment in his own State, as circumstances may seem to require. Sir, if this were an absolute enactment to abolish slavery by legislation, in defiance of the constitutional provision that the States shall have exclusive control of their local institutions, a widely different question would be presented from that which is involved in the measure now pending. As, however, it is but a preliminary measure to enable the people to practically reach and legally pass judgment upon an important issue which has agitated the country ever since the formation of the Union, I am unable to discover any violation of the great principles of the political party with which I have been identified through all my past life, in recording my vote in favor of its passage. I am willing to accord to my constituents the privilege I enjoy, as their Representative, of personally passing upon this measure. It may be, sir, that the adoption of this resolution, at this particular time, will be productive of beneficial results to the national cause, while it can certainly do no harm, since, in the event of its failure in this Con-

gress, it is sure to be passed by our successors in these seats, who are already elected by the people, with a full understanding that they are to consummate this movement, and thus provide for the complete extermination of slavery in the Union.

Now, Mr. Speaker, let me ask my Democratic colleagues upon this floor, of what possible advantage will the defeat of this measure be to our party at this time, in full view of the fact that our political opponents have the power to pass it immediately upon our adjournment in spite of us, and boldly proclaim their intention to do so at an extra session of the Thirty-Ninth Congress, to be convened immediately after the 4th of March?

Looking at the subject as a party man, from a party point of view, as one who hopes soon to see the Democratic party again in power, this proposition seems to present a desirable opportunity for the Democracy to rid itself at once and forever of the incubus of slavery, and to banish its perplexing issues beyond the pale of party politics, no longer to distract our counsels and disturb the harmony of our movements. It has been our seeming adherence to slavery, in maintaining the principle of State rights, that has, year by year, depleted our party ranks until our once powerful organization has trailed its standard in the dust and sunk into a hopeless minority in nearly every State of the Union; and every year and every day we are growing weaker and weaker in popular favor, while our opponents are strengthening, because we will not venture to cut loose from the dead carcass of negro slavery. The institution of slavery was cruelly murdered in the house of its friends when they raised the standard of rebellion against the constitutional Government which had ever protected it from the popular disfavor that always attached to it in the North. When the Representatives of the slaveholding States, with base ingratitude, deserted the Democracy, which had always sustained their rights, and left their seats in Congress, while, with our coöperation, they had ample power to protect slavery even from such a measure as that now before the House, they not only gave a death-stab to the institution, but forever absolved the Democratic party, which had always protected it, from any further obligations to breast the storm of popular sentiment which will continue to rage against it in all the northern States until its prohibition, as contemplated in the resolution now before the House, shall have been incorporated into the Constitution. It is plain enough to my mind that if the Democratic party would regain its supremacy in the Government of the nation it must now let slavery "slide."

Why, Mr. Speaker, when the chosen Representatives of the border States upon this floor stand up and advocate this measure in the eloquent and persuasive tones which we have heard from the gentlemen from Delaware, Maryland, Kentucky, and Missouri, who have spoken in this debate; why, I ask, should the Representatives of the Democracy of the free States any longer contend against an inevitable result, especially when no advantage from such contention is to accrue to either our party or the country? Two gentlemen from Missouri, a State whose people have voluntarily abolished slavery since this House adjourned last July, [Messrs. ROLLINS and KING,] who, at the last session voted with me against this resolution, both of them being slaveholders, have spoken at this session in favor of it. They, who are far better qualified than I am to judge of the justice and propriety of this measure, have become convinced by the events of last year that the best interests of the country will be promoted by the passage of this resolution by the present Congress. I agree with them, Mr. Speaker, and I have become likewise convinced that the best good of the old Democratic party will be enhanced by its adoption. Upon the consummation of this measure a new organization of parties will be inevitable, and the slavery question being forever disposed of, other issues connected with the future interests and policy of the Government will divide the people; and it needs no prophet to foretell the speedy triumph of the true Democracy with the great principles inscribed upon its banner by Jefferson, Jackson, and other patriots and sages who have borne it aloft through the great political struggles of the past.

Suppose, Mr. Speaker, this House should fail to respond to the popular sentiment in passing

this resolution, and the President should call an extra session of the next Congress, at which it should pass, as it undoubtedly will, so as to become an issue in our State elections next fall. In the light of past experience I would ask my friends on this side of the House if we could reasonably expect to successfully meet the prominent question that would be forced upon our party. All candidates for the Legislature would be confronted with this measure, and all our elections would necessarily be conducted with special reference to it. In the State of New York, if this negro question should be put out of our politics by the adoption of this resolution in season for the Legislature now in session to pass upon it, the Democracy, I doubt not, will elect a majority of both Houses of the next Legislature and reclaim full possession of the government of the Empire State upon the expiration of Governor Fenton's term. But if this question remains in issue I do not hesitate to express my opinion that outside of the cities of New York and Brooklyn scarcely a Senator or Assemblyman could be elected next November in the State. If my Democratic colleagues from the noble State of New York desire to see it redeemed from the Republican misrule which now prevails at Albany, I am confident that the most direct way of approaching that result will be found in the adoption of the resolution now before the House. It will dispose of the inevitable negro question and open an easy path to victory and the triumph of our party, in the popular vindication of the great principles which underlie its foundation. The passage of this resolution by Congress, in season to be finally disposed of by the present Legislature at Albany, will be more disastrous to our opponents in the State of New York than was the capture of Fort Fisher to the rebels. It will explode their chief magazine and spike their heaviest ordnance. The way will then be clear, and union and harmony being restored to our ranks, the political power of the State must inevitably come into our hands.

Then again, Mr. Speaker, in a national point of view, it is barely possible that the misguided people of the insurgent States, hopeless of establishing their independence, and nearly exhausted by the unequal struggle they have so long maintained, may be willing to return to their allegiance, even under the present Administration, for the sake of preserving the remains of slavery that still exist. The adoption of this resolution will open a way for the restoration of the southern States without subjecting them to what they would doubtless consider the humiliation of making any terms with the present Administration in regard to their peculiar institution. After they shall have laid down their arms, Mr. Speaker, under a general amnesty, and again taken their places as equal and sovereign States in the Union, they could vote upon this amendment, and the other States would come to the consideration of the subject with far different and more friendly feelings than those which may actuate them now. Perhaps, sir, in this way the South may, through the generosity of the loyal States, happy to welcome their "wayward sisters" back to the family of the Union, yet save slavery from the doom which certainly awaits it in any other contingency.

I have, however, little hope of such a result. All indications go now to show that the rebel leaders, undaunted by the disasters and undeterred by the sufferings of the people whom they rule with despotic power, are stubbornly determined to fight on to the bitter end. They appear, since the presidential election, to have thrown aside all ideas of reconciliation which they may have before entertained—for I believe that a reconciliation could have been effected had that election resulted differently—and will now accept no alternative but recognition or subjugation. Making every other consideration subordinate to their hatred of the Union, and satisfied that slavery must die, they have no doubt resolved to sacrifice to that passion even the institution for the protection of which they first raised their parabolic hands against the Government. No rational man can doubt that they are now ready to abolish slavery by their own action, if that will secure their recognition abroad, or the intervention of foreign Powers in their behalf. And it is not at all impossible that if they gained the former the latter would soon follow. I, for one, think there is imminent danger of such recognition and such intervention, be-

cause I feel convinced that the monarchies of Europe, and especially the Governments of France and England, regard it for their interest that a permanent separation between the North and the South shall take place, and a balance of power be established on this continent. The division of the United States into two distinct and unfriendly nations, both obliged to support large military and naval forces, weighed down with immense debts, and subject to all the burdens which depress the communities of Europe, would at once rob republicanism of many of the attractions with which our example has hitherto clothed it, protect the colonies of England on the north, and the nominally Mexican but really French empire on the south, from the "manifest destiny" with which the reintegration of the Union threatens them, and give to England and France, through the exclusive control of the cotton trade and the command of the transit routes in Mexico and Central America, the commercial supremacy of the world.

Fully satisfied that these consequences would flow from the success of the rebellion and the admission of the southern confederacy into the family of nations, I have always believed that France and England would never allow the restoration of the union of these States if it was possible for them to prevent it. Their interference was not to be feared when the rebellion was vigorous and defiant, but the danger increases in proportion as the rebellion shows signs of weakness and yielding. One great obstacle, Mr. Speaker, has always stood in the way of foreign intervention: the invincible hostility of the people of England and France to the institution of slavery. That obstacle the insurgent leaders are ready to remove, in order to claim the sympathies of the world as a people fighting only for the right of self-government, and abolishing slavery in order to secure their own liberty. We, in this country, know how utterly false such representations are. We know that they began the war for the protection of slavery, that they have carried on the war for four years for the preservation of slavery, and that they only consent now to abolish it because they know its abolition is inevitable. We know all these things, Mr. Speaker, but the people of France and England do not know them, and there is really great danger that the diplomacy of the rebels may excite a popular sentiment in those countries that will give their Governments the moral support without which they dare not venture to recognize the southern confederacy, or actively intervene in its behalf. I deem it of the utmost importance that our Government should checkmate these designs of the southern traitors. To enable it to do this, the adoption by us of the resolution now under consideration is indispensable. So it seems to me. By such action we will show the world that the South has abolished slavery only because it could not save it, and that we are not clinging to an *effete* institution after those whom it most concerns have given it up. We shall appear in our true light, as a resolute and patriotic people, contending for the life of the nation against traitors who rose in rebellion for the sake of slavery, and now seek to destroy the Government in revenge for the destruction of slavery. With the perfect apprehension of these facts which the adoption of this resolution will give to the people of foreign countries, I do not believe that their rulers will dare to lend either moral or material aid to our domestic foes; and this, Mr. Speaker, has been a consideration of great weight with me in arriving at a determination to vote for the resolution under consideration.

Such, Mr. Speaker, are the views and opinions, somewhat incongruous, I confess, which have brought me at last, after long deliberation, to a conclusion, the stronger in that it has not been lightly or carelessly formed. I feel it to be my duty now to vote for this resolution, and I shall do so whatever may be the consequences to me, politically or otherwise. I may incur the censure of some of my party friends on this floor, and perhaps displease some of my respected constituents; but to me the country of my birth and the Government under whose benign protection I have enjoyed all the blessings of liberty, and under which, restored to more than all its original splendor, and strengthened and purified by the trials through which it has passed, I expect my children and my children's children to enjoy the



same blessings, long after my mortal frame shall have moldered into dust, is dearer to me than friends or party or political position. Firm in the consciousness of right, I know that posterity will do me justice, and feel that no descendant of mine will ever blush at the sight of the page on which my vote is recorded in favor of country, Government, liberty, and progress.

Mr. BROWN, of Wisconsin. It is not my intention to discuss the measure now pending before the House, but simply to give a résumé of the reasons which must determine my own course. This, upon a matter of so great importance and involving differences of opinion so wide, is due both to myself and to my constituents.

The amendment of the Constitution abolishing slavery can be made effective in the rebellious States only by arms. But the President has already by proclamation declared those slaves free, and asserted his intention to use our armies to enforce it. The President has four years in which to try this experiment, with the unlimited control of the resources of the nation during that period; the amendment could not hasten military operations or take from the power of his master a single slave. It is therefore, for the purpose of abolishing slavery, without practical effect unless the President should recede from his declared intention of enforcing his proclamation.

It is mischievous in so far as it would tie the hands of the President in so regulating the mode of abolishing slavery as not to precipitate upon the country three million ignorant and debased negroes, without the slightest preparation for liberty, or power on the part of Government, by a system of apprenticeship or otherwise, to require them to labor.

It removes all inducement on the part of southerners to resist in the last instance the proposition of Davis to free and arm the southern slaves and turn them against our northern armies and people.

With that proposition slavery is a weapon in our hands and for our benefit. The slaveholders, between the hostile action of the two opposing parties, will be glad to save any portion of their rights; they will, when Davis undertakes to enforce his desperate policy, be only too willing to assent to an abolition as rapid as the interests either of the country at large or of the negroes themselves will permit.

It reserves no power, in case experience should demonstrate great evils in the intermixture of large masses of the black and white races, to guard by colonization against such evils.

It utterly ignores the greatest evil of slavery; extends through generations its effect in completely debasing the subject of it and making him unfit either to be a good citizen or a good man.

It violates that good faith which all civilized Governments have hitherto observed, by destroying valuable rights hitherto acknowledged as property, and yet refusing compensation.

England, in emancipating the slaves on her islands, not only established a system of apprenticeship, but compensated those who lost. It is no answer that slavery is immoral; individuals, upon the faith of laws which recognized rights in negro labor, have invested their property in such rights. When the Government sees fit to change its policy and destroy the rights, it owes compensation. Of course compensation is due only to loyal owners.

It is a dangerous abuse of the power of amendment conferred by the Constitution.

I agree with neither of the gentlemen who have argued the constitutional effect of such an amendment. I draw a distinction between the right to make such an amendment and the power to make it. The right affects the consciences of those authorized to act, the power the consequences of the act when complete. In most of our States, by constitutional enactment, no person can twice be put in jeopardy for the same offense; the verdict of a jury, therefore, acquitting a criminal is not susceptible of a review; no matter how corrupt or how much in violation of law, it is final and conclusive. They have, therefore, power to disregard the instructions of the judge on points of law and acquit an acknowledged criminal, but they have no such right, and it would be a violation of conscience and of their highest duty. Amendments proposed by two thirds of Congress and ratified by three fourths of the States become

part of the Constitution. The power of determining what is or is not an amendment rests with Congress and three fourths of the States; they, on their consciences and oaths, say that any provision is an amendment, and nowhere is there a power, except by revolution, which can hold that determination wrong. The Supreme Court cannot, because the very existence of that court is, beyond question, within the power of amendment. Congress and the three fourths of the States are therefore the final judges as well of what is an amendment, or the removal of a defect, as of the propriety of making it a part of the Constitution. The gentleman from Ohio [Mr. Cox] is therefore right in saying that the power of amendment extends even to creating a king. But this is only because our decision, supported by three fourths of the States, is final, and if we are false to our oaths there is no review. But I hold that if, upon a desert island where there is no civil government, one man kills another, he is not the less a murderer because there is no power to punish. And in our case, the fact that we are to act as judges as well as legislators only increases the responsibility of observing strictly the spirit and object of the Constitution.

The Supreme Court of the United States, in sustaining the validity of the United States Bank, put their decision on the ground that the decision of Congress in declaring it necessary as a fiscal agent of Government could not be reviewed. It was true, as a part of the current history of the period, that its fiscal agency had little influence upon its creation, and that its general financial power and the regulation of exchanges were the chief objects it accomplished; but Congress decided otherwise, and an institution at war with the real spirit of our Government was preserved. Our present banking law, if (as I do not believe) it should finally be sustained by the highest tribunals, must be sustained on the ground of the decision of Congress that it was the fiscal agent of Government, or necessary as a part of its financial system, although the majority of us, and doubtless the courts themselves, believe that it was a scheme to enable overgrown moneyed capitalists to increase their gains from the necessities of the country, and to escape from their share of State taxation, (necessary to sustain the war,) and throw the whole burden upon the poorer classes, real estate owners, laboring and business men. It is therefore as judges that we are to say that the proposition before the House is an amendment within the spirit of the Constitution.

An amendment implies the removal of a defect or an improvement upon the Constitution; it is necessarily consistent with and not destructive of the Constitution in its true spirit. It is to the fabric of government very nearly what "repair" is to a building. There is probably no lawyer in this House who has not been employed in cases involving the distinction between a new erection and repairs. It is almost impossible to give any general definition by which, in every case, the distinction between the two can be determined; but almost every one in ordinary cases can feel that distinction. The power given is to amend, and an amendment must be consistent with the fabric, improving portions of it. Here again I must illustrate, by reference to ordinary life, another distinction.

I have said that the word amendment in the fabric of the Constitution answers very nearly to "repair" as applied to buildings, but addition is very different from either repair or amendment. The owner of a house is discontented with its extent; he adds a library-room, a dining-room, or a kitchen; this is no repair; nor would any addition in substance to the powers of the General Government or any destruction of the powers of the State be an amendment. Still I concede that amendment has a somewhat more extensive significance than repair, and that it would not be always safe to resort to the analogy.

The Constitution in its true spirit delegated certain powers of general interest in every State to the General Government; in no instance did it seek to interfere with the merely local interests or institutions of any State. Indeed, any such interference would be entirely inconsistent with the declaration of the Constitution itself as to its objects. I do not believe that any one State voting for the Constitution would have done so had any such exercise of the power of amendment been

deemed possible. We are therefore on our oaths to declare that interference with an institution local in its character is not merely an addition to the powers of the General Government as a destruction of the local powers of the States, but is a matter necessary to the general weal of all parts of the country. I cannot so hold, and am less inclined so to hold because there is no tribunal to review our decision. I am not now and never have been an apologist for slavery. I have never believed that it could be a permanent institution; the seeds of death were in its nature. Had I lived in Maryland I should have voted to abolish slavery; I should so have voted in Missouri; I would so vote in Kentucky. Their material interests will undoubtedly be advanced by such abolition; but it is still a question reserved under the Constitution for their own people.

This is, however, not even a question of the practical abolition of slavery. There are causes at work, which in any event will destroy it; the progress of our armies is wasting it; even a recognition of the confederacy would not save it from its final doom. The rebels have themselves challenged for their favorite institution the attention and hostility of the world; they have placed it in the front rank, where every blow dealt by our soldiers at rebellion strikes it with destructive force.

Thousands of the most intelligent have already escaped; new ideas as to liberty (a word hitherto unknown to them) have through intermingling with our soldiers been scattered among them; the patient drudge of former times (who then scarce knew that he had a soul) will soon inquire into the reason why his bone and sinews are the property of another; the wealth of the southerner in slavery, if it cannot take to itself wings, will at least take to itself legs and disappear.

Nor am I altogether indifferent to the effects upon national character of such an amendment. It is a declaration upon our part that slavery is not merely a local institution, but a national sin, sustained and upheld by the Constitution. Our fathers carefully avoided the possibility of this charge; nowhere have they used in the Constitution the word *slave*. In providing for their surrender it uses the words "persons held to service or labor;" in depriving the South of full representation for slaves, it requires an enumeration of free persons, &c., and three fourths of all others. So careful were they to avoid a recognition in any way of slavery! We might fairly change these two provisions; but to ingraft upon the Constitution a provision abolishing slavery, is to declare upon our oaths that slavery was connected with the purposes and object of the Constitution, and belonged to the North as well as to the South.

But while for the reasons stated I cannot vote for the amendment, I have been extremely doubtful whether I ought to vote against it. I recognize the absolute fealty due from a member of Congress to the interests of his country and his constituents. Not only is it his duty, as a matter of conscience, not to vote for a bad measure, but he is bound, when he cannot defeat bad legislation, not to increase the evil by useless opposition. We all know that in the next Congress there is a majority of extreme men. They will, without regard to the effect of this measure upon the country, pass it. And whatever may be the personal wishes of the President, he is so committed to the radicals on this question that he must call a special session of Congress. A session of Congress unsettles all the business interests of the country. No man seeking legitimate profits can know what course to pursue. Some new freak of legislation may tax him into bankruptcy, or so depreciate the currency as to effect the same result. Better a pestilence than a session of Congress, so far as business is concerned. If a session is pernicious to the business interests, it is ten times more so to our armies. Each day politicians throw stumbling-blocks in their path. It was only yesterday that this House passed a resolution impliedly censuring the most successful general of the war—a complete soldier in his plans, a hero in the field, a statesman in council. I mean General Sherman.

If, then, there is no hope of great advantage by the mere delay of this measure, it is the duty of those opposed to it not to vote.

But is it not of the greatest consequence to relieve our armies, even for a short time, of this bur-

den, which we are attempting to put upon their shoulders? Grant, Thomas, and Sherman, in despite of both rebels and radicals, may, if we delay this blow at them, succeed in a few months in overthrowing the rebellion. I have stated that, so far as slavery is concerned, I consider this question as one involving simply the difference between a healthful process of emancipation and one injurious alike to the negro and the country. But that is certainly a mere matter of opinion, and gentlemen honestly believing in emancipation may well ask for a security. I have, to avoid this doubt, drawn a substitute for the amendment, which obviates the greater part of the practical objections which I have raised; it leaving only the question of abuse of power. I ask that it may be read, as at the proper time I intend to offer it.

The amendment was read, as follows:

SEC. 1. Hereafter every sale, transfer, or assignment of the right of one person to the service or labor of another, shall be void; and by the mere fact of the consent of the owner to such sale, assignment, or transfer, the person owing service or labor shall be released from all such obligation and become free.

SEC. 2. All females, such as are usually termed slaves, owing service or labor to others, are hereby released from such obligation, and are and shall be wholly free.

SEC. 3. From and after the 1st day of January, A. D. 1880, slavery, and all involuntary service, except that arising from the relations of parent and child, master and apprentice, guardian and ward, or that imposed as a punishment for crime, are and shall be abolished.

SEC. 4. Congress shall by law provide compensation for the actual and direct damage or loss sustained through the operation of this law, by loyal citizens of the United States.

Mr. BROWN, of Wisconsin. It will be perceived that it immediately obviates the worst objections to negro slavery, and yet presents inducements for the rebels to return to their allegiance. It is much better for them than Davis's proposition to free and arm the slaves, and therefore may defeat that measure.

It prevents an industrial revolution which, destroying the South, will utterly forbid the idea of aid from that quarter in paying the interest on our public debt.

If this substitute is accepted, while I cannot directly vote for it, as being an abuse of power, I shall not vote against it, and I am well assured that there are others on the Democratic side who will either directly or indirectly support it; so that the measure will pass the House. It is for gentlemen on the other side to say whether they urged this in good faith, or as politicians; if in the first view, they will accept the substitute; if in the last, reject it.

Mr. HARDING addressed the House. [His remarks will be published in the Appendix.]

Mr. KALBFLEISCH. Mr. Speaker, the argument upon the question now before the House has been so ably conducted and so long continued that it is with more of less reluctance I venture to delay the public business by stating even briefly the reasons which induce me to dissent from a majority of my fellow-members, and to cast my vote, as I propose to do, to maintain the Constitution as it is and as it was when our country, governed under it, was marching with proud and stately step to empire and to greatness. I am not sure, sir, that I would trespass at all upon the House at this stage of its proceedings upon this question if it were not for the fact that my immediate associate, speaking for a constituency closely connected with that which I have the honor to represent, sees the line of his duty in a different direction from that which I propose to take. Though what I have to say may not influence the vote of any member who hears me, still, sir, I believe the people of the great city in whose behalf I have the honor in part to speak on this floor would not be fairly represented in the national councils if I did not in the name, and I believe with the approval, of a large majority of them state here that their faith in the Constitution as it is and as it was when they required of me the promise to faithfully maintain it, is not impaired by anything which has since transpired, but that, on the contrary, they cling to it still as their fathers did before them as to the sheet-anchor of their safety.

Mr. Speaker, I have watched the course of events to little purpose if the troubles which now surround us are in any degree due to imperfections in the Constitution; on the contrary, sir, I am mistaken if these troubles might not have

been averted had we rendered a more cheerful, a more implicit obedience to that instrument. Instead of squaring the Constitution to suit our notions, we would do better to make our opinions conform to the Constitution. All our misfortunes are, to my mind, clearly traceable to a disregard of its provisions. I can understand those who have never loved the Constitution in the past eager to tinker it now, and if you show me a man who has been noted in the past for disloyalty to the Constitution, and for his disregard for the Union which it made possible, I will show you a man in favor of this amendment. The party to which I belong have looked ever to the Constitution as the guide of their policy. It was the chart by which they directed the course of the ship of State in the better days when the vessel was under their guidance. The chart has been discarded by others; the ship is among the breakers; storms, dark and menacing, shut out the sky. In such an hour, instead of trying to amend the chart, I am for following it, and I doubt not, if we do, but that there is still a pleasant voyage before us, and a haven of safety at the end of it, in which the old ship may lie in security and at peace.

I am told, Mr. Speaker, that if I desire to save the Democratic party I will help to amend the Constitution so as to abolish slavery; I must try to cut it loose, so it is said, from dead issues. Singularly enough, sir, this advice comes from men who have spent their lives in misrepresenting the Democratic party and in vilifying its leaders. These men have become very suddenly solicitous for the welfare of the Democracy. They tell us, sir, there is a great future in store for us, if we Democrats only follow their advice. I am suspicious of this new-born zeal for the interest of the Democratic party coming from such a source. I for one have not learned Democracy from its most inveterate foes, and I will not place myself under their instruction now. I cannot but believe that my immediate colleague has been giving too much importance to this new school of Democratic advisers. I am afraid, sir, he is repeating second-hand the charge that the Democratic party had been always subservient to the South, and found its subservience followed by increased exactions in the interest of slavery. I owe it to my own self-respect as a Democrat, I owe it to my party, to say that this charge is entirely unfounded. When the South asked what the Constitution gave her we cheerfully yielded that; we as Democrats could not do less, and we never did more. My colleague again says that he has an especial enmity against the South as a Democrat, because the South abandoned the Democratic party. Well, sir, here the South committed for herself and for all of us a very sad mistake, as all who purpose to follow the bad example will; but I cannot believe that the spirit of revenge and recrimination which such remarks as these indicate is that which should be indulged in by those who are intrusted with the grave responsibility which devolves on the members of this body. Not only the South, but a majority of the people of the North, have abandoned, temporarily, the Democratic party; and sir, the majority of both sections have traveled further, and I believe have fared worse.

Mr. Speaker, since I entered this House I have endeavored to shape my conduct to the end that no word or act of mine would stand in the way of the restoration of peace and Union to these States. I believe the legislation of the country should be shaped in the spirit by which, I believe, I have been actuated. In my opinion the amendment you now propose to provide for may stand in the way of both peace and Union. Even while this measure is under discussion messengers are passing between Washington and Richmond, and if these men are successful, and if the negotiations they propose to inaugurate result in anything, the very question we now propose to commit ourselves upon will form the chief obstacle in the way of a settlement of our difficulties. Suppose, sir, that the South should be willing, as the basis of peace, to consent to gradual emancipation? Should we place ourselves in a position that would prevent the acceptance of such terms? The amendment you now propose to make will then stand as the only obstacle in the way of peace. If there be men here willing to risk the life of the nation on the hazard of battle, and willing to see rivers

of human blood shed for immediate as against gradual emancipation, among such men I do not desire to be numbered.

It is not many months since the President of the United States, above his own signature, publicly stated that if he could save the Union he would do so, irrespective of slavery. I am for leaving open to him the opportunity of redeeming the pledge thus given to the country. Since that time the President, in his famous note addressed "to all whom it may concern," insisted upon the abolition of slavery as a preliminary to peace. The position taken in that document was so generally condemned that even the editor of the New York Tribune was disgusted by the folly of the man who wrote it. We now propose to commit the country to a policy which everybody condemned but a few months ago. Sir, I, for one, cannot give my vote to do it. The proclamation of emancipation was all but universally condemned by the true friends of the Union. I believed it to be at once impolitic and illegal, and yet I am asked to give my assent now to legalize a policy which I cannot approve of, either in the President or in Congress.

Mr. Speaker, I desire to save the party in power from itself, and I tell its leaders here that they had better never have been born than live to see the day when their experiments in legislation, of which this amendment is one, may be the chief obstacle in the way of the realization of that most dear to the truly loyal American heart—the restoration of the Union.

While I have argued, sir, against this measure as if it were in truth an "amendment" to the Constitution, I regard it as subversive of the entire spirit of that instrument. We have been warned by the "Father of his country" to discountenance irregular opposition to the Constitution, "and at the same time to resist with care the spirit of innovation upon its principles, however specious the pretexts." One method of assault, he tells us, sir, "may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown." These, sir, are words of prophetic warning. Under "SPECIOUS PRETEXTS" of amending the Constitution, you desire to make it the instrument of depriving men of vested rights, and to leave behind you a precedent which, if followed, will leave every right, civil or religious, which the minority possesses at the will of the majority. When the Constitution went into operation there were twelve slave States and but one free State. It was within the power of the twelve slave States to force slavery on Massachusetts, in the same way that you propose to force abolition on the South. Would Massachusetts, think you, have submitted to so gross a perversion of the compact she had just entered into? Did she fight against England for seven years for the right to manage her own affairs only to transfer that right to another authority against which she had no legal safeguard? Sir, Massachusetts might have been left a wilderness, but this right could not have been wrested from her people. Do you propose to force from South Carolina, men of Massachusetts, what you would have yielded yourselves only with your lives?

We are told, sir, and the fact seems to be conceded by a vast majority of those in favor of this measure, that slavery is dead. The progress of the war and the incidents connected with it, we are told, have destroyed the institution in this country, and placed it beyond the hope of resurrection. Why then do we find gentlemen, and especially those most clamorous in insisting that slavery is dead, so urgent and pertinacious in seeking to lay sacrilegious hands upon that venerated and almost sacred instrument, our glorious Constitution, under the pretense that alteration of it is necessary for the abolition of slavery? Has not its abolition been proclaimed by the President? Nay, further, does not the President demand as a condition precedent to the restoration of peace, and in fact as the only terms upon which he will consent to a restoration of the Union, that the States in rebellion shall themselves abolish slavery? In the face of all this, how can his political supporters now deny that the destruction of slavery is demanded at our hands? Taking these gentlemen at their words, Mr. Speaker, and there is no necessity for any change in the Constitution to secure the abolition of slavery. What,

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then, is their object in demanding this change? Let us beware that under a false plea other and more nefarious objects are not really sought to be obtained, and which it is feared openly to avow; such as the establishment of freedmen's bureaus with numerous hordes of political leeches, confiscation of property, to be divided among favored victors, and kindred and equally objectionable schemes which have found advocates upon this floor. Above all this, in the absence of any valid reason for bringing this proposition again before the present Congress, let us make ourselves sure that it is not in reality a covert attempt to ascertain to what extent the American people are willing to consent that the sovereignty of the States shall be curtailed and their form of government converted into a strong, centralized, imperial Power. It is not the first time in our history that such an attempt has been made. Nay, sir, it was resistance to such an attempt that gave existence to the Democratic party itself. There are some of us who can remember the administration of the elder Adams, who remember his odious alien and sedition laws, and other measures of his administration destructive alike of the rights of the States and the liberty of individuals.

I contend, Mr. Speaker, even admitting, which I do not, that the Constitution needs amendment in reference to the question of slavery, that this is not the proper time to agitate, much less to act upon, so grave and important a question. Let us wait until the nation shall calmly repose in peace, and all feelings of enmity toward our erring brethren of the South shall have subsided, and good-will and harmony again prevail over all sections of the country. Now, in the midst of war, when passion and prejudice are inflamed to their highest pitch, is not the time to essay the amendment of our fundamental law; and the more especially when it is admitted by the advocates themselves of the proposition to amend that the object they seek to attain, namely, the abolition of slavery, has already been accomplished. Let us not, impelled by the mere excitement of the hour, engage in acts which may cause us to repent for all future time. We have, Mr. Speaker, in the history of one of our churches an apt illustration proving how in our over-zeal to accomplish an apparent right we may perpetrate the most palpable wrong. The Methodist church in this country was originally, and for many years after its establishment, a prosperous and a united body. Some years ago abolitionism made its appearance in the church, and in the over-anxiety of some of the members for the welfare of the negro, it came very near being the instrument, in bad hands, of working grievous wrong upon a portion of their white brethren. It was first insisted upon that slaveholders should be disqualified from holding the office of bishop in the church. This disqualification was next extended to the ministry, and afterward urged by some to the extent of applying it to laymen by excluding them from membership. A disruption of the church was the natural consequence, and the sequel was the establishment of two distinct and separate bodies, the Methodist church North and the Methodist church South. After the separation, the church South insisted upon having their *pro rata* share of the property owned in common by the disrupted body, and also a proportionate share of the fund raised for the support and maintenance of aged and indigent preachers, (to which they had contributed,) but the radical abolition wing of the church North denied their application. The injustice of their proceeding must be clearly manifest to every unprejudiced mind, and I refer to it only as an illustration of the extent to which men impelled by an ultra spirit of fanaticism may become blinded to the most palpable considerations of even-handed justice. Of course the church South could not submit to be deprived of their rights and their property upon the simple plea that they were slaveholders, and not to be recognized for that reason as part of the church community, and they applied to the Supreme Court of the United States

for redress. The result was a verdict in their favor.

Does not this history, Mr. Speaker, afford us a lesson and warning which we should heed? It is not many years since the occurrence of these events, and many who were participants therein are yet on the stage of action. I have no doubt that they are now satisfied that they were then in error, and will agree with me that they should not too hastily act where it is possible that hurried action may cause injustice and wrong.

Let us then, in our action in reference to this question of constitutional amendment, heed this lesson, and be careful not to encroach upon the rights or enslave the white man, under the mistaken idea that we are thereby benefiting the negro. A blind spirit of fanaticism, under the excited passions of the moment, if suffered to sway our action, can bring harm only to both races and to the country.

There is, Mr. Speaker, another reason which should induce us to approach the consideration of this question with great caution. Adopt this amendment to the Constitution, force it upon the States now in rebellion, and let the result be then restoration to the Union, and who can predict what stumbling-blocks may be thrown in the way of the execution of the Federal laws on the subject? The abolition of slavery forced upon them without their consent and against their will, it is but natural to suppose that the people of those States will not feel particularly anxious to aid in carrying the measure into practical effect. Every one remembers the trouble experienced in the execution of the Federal law known as the fugitive slave law in some of the States which now claim to be filled to overflowing with what in modern parlance is called "loyalty to the Federal Government," but which, in my humble opinion, oftener partakes of the nature of party fealty than of that of true patriotism. In opposition to that law, some of the States adopted enactments going to the extent of disfranchising officials or citizens attempting or aiding to enforce it. Is there not, at least, danger to be apprehended that other States, following this example, may in like manner attempt to thwart and interfere with the execution of laws carrying into effect the abolition of slavery? Would it not be better to wait until the people of these States themselves, by their own action, provide for the practical abolition of slavery, or rather for the removal of the corpse from which, we are told, the life has long since departed. All the free States at the North have done so, and Delaware, Maryland, West Virginia, Missouri, Louisiana, and Tennessee are said to have followed suit already. Why not leave the causes which operated upon these States to work out the same effects upon their sister slave States?

Mr. Speaker, the platform upon which I was elected was "the Constitution as it is and the Union as it was." The Constitution was framed by far better and wiser men than ourselves. They are all gone, but they have left a record of purity and patriotism that in my opinion casts far in the shade the blatant claims of the most loud-mouthed and loyal of all the "loyal leaguers" in the land. For myself, Mr. Speaker, I shall prefer to be guided in my action by the landmarks laid down by the fathers of the Republic, and which, adhered to three quarters of a century, bore the ship of State safely and prosperously upon a glorious career, and the disregard of which has thrown the noble craft among the rocks which now threaten her destruction.

I shall strive to preserve inviolate the pledges I have made to support and defend the Constitution. I have lived under it for half a century, and I but do justice to my constituency and reflect their views when I say that they have not only been happy and contented under the rule of the Constitution, but will never consent to its amendment until at least the necessity for it shall be so manifest that the question shall not be fairly open to controversy.

The abstract question of our right to amend

the Constitution has been discussed at length and with great ability by members on both sides of the House, but the debate has elicited little really new. Conceding, even, that Congress has the right to amend the Constitution in reference to slavery as a domestic institution (which I do not) my position is that this is not the proper time for this power to be exercised. The pretense assigned by some that Congress should abolish slavery for the purpose of benefiting the slaveholders themselves is to my mind simply absurd. Are they incompetent to judge as to what is best for their own interests, and Congress alone competent so to do? That is the argument; and what an argument it is to be seriously urged in a representative republican Government like ours! It is the old British theory that "King and Parliament are omnipotent," and which our fathers repudiated when they framed our Constitution. Those who favor this theory are at least consistent in advocating an amendment of this instrument.

It is claimed by some that the result of the recent presidential election affords conclusive evidence of the fact that the people are in favor of amending the Constitution of the United States so that it shall abolish and prohibit slavery. This I deny. Whatever may have been the hopes and wishes of ultra abolitionists, I insist that this was not the issue made up and presented to the people. In my own State, at least, I know that this was not the case. What is the record in connection with this question? At the last session of Congress this same resolution was submitted and it failed to pass. The people had every reason to suppose that would be the end of it.

There may be some who will claim that the fact that Reuben E. Fenton received a majority of the votes of New York State for Governor is to be received as an indorsement of his act in voting in favor of this proposition at the last session of Congress. This claim, I imagine, will not bear the test of the slightest scrutiny. There were other causes which produced that result. The people, in my opinion, were in many cases led astray by brawling, hireling demagogues, who lived and thrived upon the spoils of office; who misrepresented the position of the Democratic party by charging its leaders as being in favor of a dishonorable peace at the sacrifice of the Union. In addition there was brought to bear in favor of Mr. Fenton and his party the immense patronage of the General Government; the army of custom-house, post office, and internal revenue officials; the employes in the navy-yard; Army and Navy contractors, and others. Yet with all this aid the party supporting Mr. Fenton would have failed (as I think even my colleague will concede) had the thousands who were unable to deposit their votes in New York and Brooklyn in consequence of inadequate provision for their reception, have been able to express their preferences at the ballot-box, and the Democratic soldiers now serving their country in the field been at home to vote untrammelled. I feel assured no reasonable man could have doubted but that the State would have given a handsome majority. Even as it was, sir, Mr. Fenton's majority was less than the number of Government employes in the single city of Brooklyn. I say, then, it is preposterous to claim that the people of the State of New York voted in favor of this constitutional amendment. So far from the question being submitted to them, it was carefully kept out of view during the campaign.

The platform upon which those of us from New York representing Democratic constituencies stood when we were elected was, "the Constitution as it is and the Union as it was." My colleague, I believe, stood there with me then; for myself, I am content to stand there now. The phrase, "the Constitution as it is," admits of no misunderstanding; it is plain, direct, and unequivocal, and cannot be tortured to mean the Constitution as a party majority see fit to make it. "The Union as it was," I construe to mean



the Union of former days, when constitutional guarantees were regarded as sacred by all sections of the country, and the integrity of that Union, with or without slavery, it will be my humble effort ever to preserve inviolate.

Mr. Speaker, there are those, and my colleague is among them, who plead as an excuse for voting for this proposition that after all it amounts merely to a reference of the question to the people of the States, and they are finally to decide the question. This argument would, I confess, have some force with me if it was a correct one, but so far as New York is concerned it is not. The present Legislature of the State will be in session long after this Congress has ceased to exist, and it is to that Legislature, who have already given utterance to their sentiments upon the subject, that this resolution, if it passes, will be referred. But, sir, as a Representative in this House I cannot fulfill the duty intrusted to me by shirking a responsibility which I am called upon to bear. My constituents do not desire this measure. I fulfill their wishes and perform my own duty in voting against it.

The Legislature now in session was not chosen with reference to the opinion of its members or their probable action upon the proposed constitutional amendment. No one will claim it, and yet it is proposed by my colleague that they shall act for the people of the State on the subject. Divided up as are the counties the Republican party, with a bare majority of the popular vote of the State, has nearly two thirds of the Legislature, and judging from the acts of their Representatives here it is easy to predict what would have been their action. The people of New York will never be permitted to give a direct vote upon the question. For one I will never consent that the voice of my constituents shall thus be suppressed and overridden.

Mr. Speaker, I am no advocate of slavery. Years ago I was opposed to its extension, so far as I could legally and constitutionally do so, beyond the limits within which it then existed. I believed slavery to be an evil then, and I believe it to be an evil now. I have been charged with inconsistency by some of my Democratic friends, who, when the institution had powerful friends, favored its extension, but who now, when its power has departed, are over-zealous in efforts to exterminate it. Nay, they are not satisfied with its acknowledged death, but are clamorous to be allowed to act as grave diggers at its burial. It is, perhaps, the zeal which we are told ever inspires new converts. For myself I have only to say that I have endeavored to be thoroughly consistent. My opposition to slavery does not permit me to aid in perpetrating gross wrong. I hope that slavery may be abolished, and have ever hoped so, but not through the impulses of a wild fanaticism, surging on reckless of the rights and interests alike of the slave and the slaveholder; not by the exercise of doubtful powers under the excitement of passion and prejudice, but by calm, careful, and considerate action. Let us convince the States interested in its abolition of its propriety, and let them abolish it, as under the Constitution they may do, and as some of them are doing. It is purely a local question, and Congress might with as much propriety interfere with the system of labor in the large manufacturing establishments in the East, as with slavery in the South, because evils are incidental to both. These have ever been my views, and they are my views now, and I cannot see wherein they are inconsistent.

Among other reasons adduced by my colleague for favoring the proposed amendment, is the alleged effect slavery produces in retarding the growth and prosperity of the States where it exists as compared with those where it does not. This is, in my judgment, jumping at conclusions. Why, let me ask my friend, does New York show a greater growth and a greater degree of prosperity than New Hampshire or Vermont? Is it because the latter are slave States? Why, let me ask again, does the city of Providence show a greater degree of prosperity and advancement than the city of Warren, both in Rhode Island, and both free? He will look in vain to find in slavery a solution of these questions. There are other causes which produce the effects ascribed by him solely to the institution of slavery, and my friend

cannot but admit this if he compares the statistics of Louisiana or Georgia with those of New Hampshire or Vermont, or those of New Orleans with those of Newburyport or Bennington.

My colleague further says:

"When labor shall be free at the South, then will it command and have the respect which is its just due. Then will millions of the white men of the North participate and share in the blessings thus secured. The masses of our native and foreign-born laborers, now toiling in the severer climate of the North, will be invited to enter upon these newly opened fields for their industry and occupation. The now hidden resources of the States south will be developed by the brain and muscle of the northern laborer."

I, sir, was of the class he alludes to. My Caucasian blood revolts at the idea advanced by my friend, that were the negroes freed by abolishing slavery the South would at once become the El Dorado of the native and foreign-born white laborer of the North by allowing him the privilege of laboring side by side with the African freedman of the South. We may as well expect the most opposite things in nature to be reconciled, the most incongruous to harmonize, as that such a thing can happen. He needs but to take one step further to advocate amalgamation.

I hope, sir, that this hitherto glorious and happy country, the home and asylum of millions of white men, will not be doomed to become the land of a race of hybrids, and thus by degrees be blotted out of existence in accordance with the immutable laws of nature.

Another question, Mr. Speaker, although of great importance, appears to be silently passed over by those favoring the amendment. How, sir, are the expenses of this war to be paid? Are they to be borne and made a burden upon the white labor of the North solely? Abolish slavery, and you destroy the ability on the part of the South to contribute a portion of what they should in justice be held to pay. Adopt the plan of gradual emancipation, as proposed, and it is reasonable to suppose they would be unable to bear their share. The South have been largely instrumental in creating this liability, and should not be permitted to evade payment by affording them an excuse for it. This cannot but be the case, unless abolition at the South produces results totally different from those experienced elsewhere, and the natural habits of the negro have become entirely changed. Indirect confiscation of the lands, if they should under the circumstances be of sufficient or any value, will have to be resorted to to get from the States now in rebellion what under a more humane and politic system might have been more easily obtained. Conciliatory action on our part, combined with proper vigilance, is more likely to produce good results than any system of violence and severity, which only produces irritation and discontent, and which is almost sure to result in real injury to the white man, while of doubtful benefit to the freedmen of African descent.

I have briefly stated my reasons, Mr. Speaker, for being opposed to the passage of any resolution having for its object a change in the fundamental law of the land, and shall vote against it. In so doing I shall act not only as my own convictions prompt me, but I am satisfied in direct conformity with the wishes of those whom I represent.

In conclusion, Mr. Speaker, permit me to add that I have been for thirty years a Democrat. The experience of a long and not uneventful life only lead me to place fuller and firmer faith in the principles of my party. I have seen these principles one by one stricken down, but in their fall I have seen no advantage to my country. I see in this amendment to the Constitution but the consummation of a policy which has led to the bloodiest war in history, and which has placed the fate of the Republic more than once on the hazard of battle. Upon you, gentlemen, upon the other side, the responsibility for this measure must rest. I, for one, cannot and will not aid you. You will soon have full power; exercise it. Take all the credit the act will bring, and assume all the danger it involves. The Democratic party will stand by its old and well tried policy, guided by its old land-marks, under its old banner, and keeping step to the music of the Union. I cannot wish my country better, sir, than that the party opposed to that to which I belong rival the success of the Democracy, and shall emulate its glory.

But I am constrained to say the past history of the party in power excites in my breast but little hope for the future. I am weary of the experimental legislation, ending no man can tell in what unforeseen disaster. Of such legislation the proposed amendment is a bad specimen, and I shall vote against it.

Mr. ASHLEY. I call the previous question upon the pending motion to reconsider the vote by which the House on the 15th of last June rejected a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. STILES. I move to lay the motion to reconsider on the table; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 57, nays 111, not voting 14; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Brooks, James S. Brown, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Long, Mallory, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Priyn, Samuel J. Randall, Robinson, Ross, Scott, William G. Steele, Stiles, Strouse, Stuart, Sweet, Townsend, Wadsworth, Ward, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—57.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Seafeld, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Wheeler, Williams, Wilder, Wilson, Wisdom, Woodbridge, Worthington, and Yeaman—111.

NOT VOTING—Messrs. English, Hutchins, Lazear, Le Blond, Marcy, McDowell, McKinney, Middleton, Nelson, Radford, Rogers, John B. Steele, Voorhees, and Whaley—14.

So the motion to reconsider was not laid on the table.

During the call of the roll,

Mr. ROLLINS, of Missouri, stated that Mr. ROGERS, of New Jersey, had been confined to his room several days by indisposition.

Mr. CRAVENS stated that Mr. VOORHEES was still detained at his home in Indiana in consequence of severe sickness in his family.

The previous question was then seconded, and the main question ordered.

The question being on the motion of Mr. ASHLEY, to reconsider,

Mr. ANCONA called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 112, nays 57, not voting 13; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, English, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Seafeld, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Wheeler, Williams, Wilder, Wilson, Wisdom, Woodbridge, Worthington, and Yeaman—112.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Brooks, James S. Brown, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Long, Mallory, William H. Miller, James R. Morris, Morri-

son, Noble, John O'Neill, Pendleton, Perry, Pruyn, Samuel J. Randall, Robinson, Ross, Scott, William G. Steele, Stiles, Strouse, Stuart, Sweet, Townsend, Wadsworth, Ward, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—57.

NOT VOTING—Messrs. Augustus C. Baldwin, Hutchins, Lazear, Le Blond, Marcy, McDowell, McKinney, Middleton, Nelson, Radford, Rogers, John B. Steele, and Voorhees—13.

So the motion to reconsider was agreed to.

The question recurred on the passage of the joint resolution.

Mr. ASHLEY. I demand the previous question.

Mr. MALLORY. I rise to a question of order. My point of order is that a vote to reconsider the vote by which the subject now before the House was disposed of in June last requires two thirds of this body. That two-thirds vote has not been obtained.

The SPEAKER. The Chair overrules the point of order. The rules of the House authorize every bill and joint resolution to pass by a majority vote. The Constitution of the United States, however, declares that no constitutional amendment shall pass except by a two-thirds vote. On the question of the passage of the joint resolution the constitutional provision will operate, and not till that time. All other questions are governed by the rules of the House.

The Chair will state that this has been the uniform usage of the House in regard to bills vetoed by the President. In such cases all votes up to the time of taking the question on the passage of the bill over the President's veto are decided by a majority vote; but on the final vote a two-thirds vote is necessary.

Mr. MALLORY. My action upon this question of order will depend a good deal on the response to a proposition which I am about to make to the gentleman from Ohio, [Mr. ASHLEY.] There are gentlemen belonging to this side of the House who can be here to-morrow, but who are not here to-day, who are anxious to vote upon this question. If the gentleman from Ohio will agree that the vote shall be taken at a fixed hour to-morrow, all action upon this side of the House for delay will cease.

Mr. ASHLEY. It has been the universal understanding that we were to have a vote to-day. Gentlemen upon the other side of the House will bear me witness that I have prolonged this debate against the protest of gentlemen upon this side of the House and of leading friends of the measure in the country; and I think it does not come with a very good grace from the gentleman from Kentucky, in view of the time which has been extended to his friends on that side of the House, that he should demand now, when notice was given again and again that a vote would be taken to-day, that it shall be postponed until to-morrow. It seems to me that if gentlemen choose to absent themselves from the House their action ought not to operate either to keep us in session here or justify members in resorting to the usual parliamentary rules to procrastinate and put off the vote.

Mr. MALLORY. I was not aware that any understanding had been arrived at as to a vote on this question to-day. It was postponed till to-day, but at that time there was certainly no understanding that there should be a vote to-day.

Mr. ASHLEY. In reply to a question by the gentleman from Pennsylvania, [Mr. STILES,] I gave notice last week that the vote would be taken to-day; and at the beginning of the discussion this morning I fixed three o'clock as the time the vote would be taken, instead of which we have procrastinated it almost an hour to accommodate gentlemen upon the other side of the House.

Mr. MALLORY. Did that understanding exist upon this side of the House? If it did and if gentlemen will say so, I shall take no action in this matter.

Several MEMBERS. It was so understood.

Mr. ASHLEY. I cannot yield any further. I desired this morning to be heard on this question, and came into the House intending to close the debate, as under the rules I had a right to do. The time, the subject, and the occasion, all united to make it desirable; but I yielded the time to gentlemen on the other side, until it is now nearly four o'clock, and members on all sides of the House demand a vote. I therefore decline to take up the time of the House, and demand that the main question shall now be put.

Mr. BROWN, of Wisconsin. I ask the gentleman from Ohio to yield to me to offer a substitute for the joint resolution.

Mr. ASHLEY. I cannot yield for that purpose. I have a substitute myself, which I should much prefer to the original joint resolution, but I do not offer it.

The SPEAKER. No motion to amend would be in order at this stage. The joint resolution has passed its third reading, and is now on its passage.

Mr. ELDRIDGE. Mr. Speaker, the gentleman from Ohio says that he has a substitute which he himself prefers to this joint resolution. If so, why does he not offer it to the House? There certainly will be no objection on this side.

Mr. ASHLEY. I do not offer it, because I would not procrastinate this discussion or hazard the passage of the measure.

Mr. ELDRIDGE. It seems to me that if the gentleman has a better substitute, he should propose it. [Calls to order.]

The previous question was seconded, and the main question ordered; which was on the passage of the joint resolution.

Mr. DAWSON called for the yeas and nays. The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 119, nays 56, not voting 8; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Colfax, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knox, Littlejohn, Loan, Longyear, Mallory, Marvin, McAllister, McBride, McClurg, Melndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Pendleton, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Smithers, Spalding, Starr, Stevens, Strouse, Stuart, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Ward, Eltha B. Washburne, William B. Washburn, Winley, Wheeler, Williams, Wilder, Wilson, Windom, Winfield, Benjamin Wood, and Woodbridge—121.

NAYS—Messrs. James C. Allen, William J. Allen, Coffroth, Denison, Eden, Edgerton, Eldridge, Grider, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, Kalbfleisch, Knapp, Law, Long, Morrison, Noble, Radford, Samuel J. Randall, Ross, Stiles, Townsend, and Joseph W. White—24.

NOT VOTING—Messrs. Bliss, Brooks, James S. Brown, Clay, Cravens, Dumont, Finck, Ganson, Hall, Harding, Hooper, Philip Johnson, William Johnson, Lazear, Le Blond, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, John O'Neill, Orth, Perry, Pruyn, Robinson, Rogers, Smith, John B. Steele, William G. Steele, Sweet, Voorhees, Webster, Chilton A. White, Fernando Wood, Worthington, and Yeaman—37.

The House thereupon (at twenty minutes past four o'clock, p. m.) adjourned.

## IN SENATE.

WEDNESDAY, February 1, 1865.

Prayer by Rev. B. H. NADAL, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal was dispensed with.

## PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a memorial of the Legislature of the State of Minnesota, for an additional grant of lands to aid in the completion of the several lines of railroad and branches in that State mentioned in the act of Congress approved March 3, 1857, and for an extension of the time limited therein for the completion of the railroads; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. DIXON presented the petition of Hillard Gladding, praying for an amendment of the Constitution of the United States forever prohibiting slavery; which was ordered to lie on the table.

Mr. CHANDLER presented resolutions of the Legislature of the State of Michigan, in favor of a grant of land in aid of the construction of a harbor at the mouth of Ontonagon river, on the south shore of Lake Superior; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of the State of Michigan, in favor of a grant of land in aid of the construction of a ship-canal from Portage Lake to Lake Superior; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. SUMNER presented the petition of William Crosswell, formerly in the naval service, for a pension; which was referred to the Committee on Pensions.

Mr. MORGAN presented a resolution of the Chamber of Commerce of the State of New York, concurring in the resolutions of the Philadelphia Board of Trade, recommending an amendment to the Constitution of the United States imposing

duties on exports; which was referred to the Committee on the Judiciary.

He also presented the petition of officers of the forty-fifth regiment United States colored troops, praying for the passage of a law authorizing the appointment of a brevet second lieutenant, with the pay of the grade, for each company of colored troops; which was referred to the Committee on Military Affairs and the Militia.

Mr. NESMITH presented a memorial of the Legislature of the State of Oregon in favor of the establishment of a branch mint at Portland in that State; which was referred to the Committee on Finance.

Mr. HALE presented the memorial of Janes, Fowler, Kirtland & Co., of New York city, contractors to furnish material for the new dome of the Capitol, praying for additional compensation on their contract; which was referred to the Committee on Claims.

Mr. SHERMAN presented a memorial of senators and representatives of the Legislature of the State of Ohio, for an increase of the salaries of the judges of the district courts of the United States; which was referred to the Committee on the Judiciary.

Mr. SPRAGUE presented a memorial of S. W. Macy, collector of customs at Newport, Rhode Island, praying that a steam whistle be placed on Castle Hill; which was referred to the Committee on Commerce.

Mr. ANTHONY. I present the memorial of Edward Harris and others, citizens of Rhode Island, deprecating the enactment of a bankrupt law by Congress other than one purely prospective in its character. The memorialists set forth that while they have no objection to one that is prospective, they judge that a retrospective act, especially at this time, during the pendency of the war, would be injurious to the interests of the country. As the bill has been reported I move that the memorial lie on the table.

The motion was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States communicating, in compliance with a resolution of the Senate of December 20, 1864, information in relation to the arrest of Colonel Richard T. Jacobs, Lieutenant Governor of the State of Kentucky, and Colonel Frank Wolford, one of the presidential electors of that State; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War communicating, in answer to a resolution of the Senate of the 10th of January, 1865, a list of officers of the regular Army, with a statement how they were employed on the 1st of January, 1865; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War, transmitting, in answer to a resolution of the Senate of the 6th of January, 1865, communications from Major General McDowell, commanding the department of the Pacific, in relation to a recent attempt to send arms and munitions of war out of that department to Mexico; which was ordered to lie on the table, and be printed.

#### REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 418) supplementary to an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (H. R. No. 705) for the relief of collectors and surveyors of customs in certain cases, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was recommitted the bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes, reported it without amendment.

He also, from the same committee, to whom

was referred the joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatamie Indians, residing in Michigan, the sum of \$192,850, reported it with amendments, and submitted a report, which was ordered to be printed.

Mr. MORRILL, from the Committee on Claims, to whom was referred a petition of Janes, Fowler, Kirtland & Co., of New York, contractors to furnish the material and labor for the construction of the dome of the Capitol, praying for additional compensation on their contract, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 640) providing for a district and circuit court of the United States for the district of Nevada, reported it with an amendment.

Mr. FOSTER. The same committee, to whom was referred a bill (H. R. No. 601) supplementary to an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States," and the bill (S. No. 374) supplementary to the same act, have instructed me to report them back and recommend that they be indefinitely postponed, their provisions being comprised in House bill No. 640, which I have just reported favorably.

The report was concurred in.

Mr. CLARK, from the Committee on Claims, to whom was referred the report of the Court of Claims in favor of the claim of John Robb, submitted an adverse report; which was ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the report of the Comptroller of the Currency, reported a bill (S. No. 423) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" which was read, and passed to a second reading.

#### THANKS TO GENERAL SHERIDAN.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia to report back the joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command, and recommend its passage, and I ask for its present consideration.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to tender the thanks of Congress to Major General Philip H. Sheridan and to the officers and men under his command for the gallantry, military skill, and courage displayed in the brilliant series of victories achieved by them in the valley of the Shenandoah, and especially for their services at Cedar Run, on the 19th of October, 1864, which retrieved the fortunes of the day and thus averted a great disaster.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### ABOLITION OF SLAVERY.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the joint resolution (S. R. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States. A subsequent message announced that the resolution had been enrolled, and that the enrolled resolution had received the signature of the Speaker of the House. It was then signed by the Vice President, and transmitted to the President of the United States, who, by his Secretary, Mr. Nicolay, soon announced that it had been approved and signed by him.

#### RETURN OF ARKANSAS TO THE UNION.

Mr. POMEROY. I move to take up the joint resolution (S. R. No. 104) for the return of Arkansas to the Union, which I laid upon the table a few days ago, for the purpose of having it referred to the Committee on the Judiciary.

The motion to take up the joint resolution was agreed to.

Mr. POMEROY. In moving the reference of

the joint resolution to the Committee on the Judiciary, I want to make a single statement. I am encouraged to send it to that committee from what I find in the report which they made at the last session on the question of admitting the gentlemen who then presented themselves as Senators from Arkansas. I did not at that time oppose that report, because I thought that it was premature to agitate the question; the subject was presented to us suddenly, and it was about the close of the session. There were various circumstances combined at that time why I thought Arkansas could not be received; but I am encouraged now to send this resolution to the committee, because in their report then, speaking of the fact that a majority of the voters did not participate in the election, they stated:

"This, however, would not be fatal to the reorganization, if all who were loyal to the Union had an opportunity to participate, and the State was free from military control. Such, however, is understood not to have been the case. The President had not then, nor has he up to this time, recalled his proclamation which declared the inhabitants of Arkansas in a state of insurrection against the United States."

I have drawn this resolution to meet that case, by authorizing the President to rescind that portion of his proclamation. The committee further state:

"When the rebellion in Arkansas shall have been so far suppressed that the loyal inhabitants thereof shall be free to reestablish their State government upon a republican foundation, or to recognize the one already set up, and by the aid and not in subordination to the military to maintain the same, they will then, and not before, in the opinion of your committee, be entitled to a representation in Congress, and to participate in the administration of the Federal Government."

All I desire to say is, that I think that state of things has now arrived. I have before me some evidence of that fact; which I propose to send to the committee. The best evidence that I can think of is the report of the military commander of that department. I know there are conflicting opinions in regard to the fact, but I think we are bound to take the best testimony. I have before me a communication from the commander of that department, and also from the late Provost Marshal General upon this very point, in relation to which I think the Senate, and perhaps the country, have labored under a misapprehension. The Provost Marshal General, in a letter to the President of the United States, says, speaking of the condition of Arkansas:

"At no time has it been so free from hostile trend, and it can be truly said that no portion of the territory in dispute is so thoroughly regained. I have to-day received my honorable discharge from the service, and I feel at liberty to make some statements to you which I could not so properly have done while in office, that bear directly on this point.

"I have filled the office of Provost Marshal General since the occupation of Little Rock until to-day, and have organized a very thorough system of secret service. The result of the information which has of late been obtained establishes conclusively the fact, that since the disastrous failure of General Price's raid the enemy had resolved on the abandonment of the State of Arkansas, and fixing their line of defense on Red river."

He goes on to state that at no time was the State so completely in the hands of the Union men and so completely recovered as at present.

I wish to call the attention of the Senate for one moment to the necessity of some action of this character. It is known to the Senate that under a law passed at the last session, and approved July 4, 1864, quartermasters, in procuring supplies in the States declared to be in insurrection, were not required to give vouchers. The Union man whose property is taken for the support of our Army cannot get pay for it in any of the districts that have been declared by the President to be in insurrection.

Let me say to the Senate, in this connection, that if we expect to cultivate a Union sentiment anywhere, especially in the districts that have been overrun by the rebellion, we must encourage the loyal men there; if we take their property we must pay for it; and we cannot pay for it under the law until that restriction is removed which declares this State, as well as others, in a state of insurrection. I have here a letter from Governor Murphy, in which he says that the citizens of Arkansas are preparing to go on their farms, raise crops, and make large improvements, but they are discouraged from doing so because everything they raise is liable to be taken to support the army at Fort Smith. We have always had a military post there; there is nothing new about that; but



when their property is thus taken, under the restriction upon trade which was put into the act of July 4, 1864, they are not paid for it. I shall not occupy the time of the Senate by reading these communications, but I desire to have them referred, with the joint resolution, to the Committee on the Judiciary.

Mr. President, in my opinion the case of the State of Arkansas now commends itself to the Senate and to the country in a manner that it has never heretofore done. The Union men of Arkansas have suffered untold deprivations, and while we have extended the most cordial cooperation to the Union men of Missouri and Kansas, and the anti-slavery men all through the West and Southwest, we have left Arkansas alone. We have not even smiled upon her. We have hardly bidden her welcome when she has been struggling and making efforts to return to the Union and restore her government.

I want to say one thing more. This restored government of Arkansas ought not to be prejudiced on account of any convictions individuals may have in regard to the amnesty proclamation. I know that a portion of the Senate, as well as of the country, conceive the idea that every State ought to come back under some general law, and that we ought not to take back one State at a time. My conviction is that the government in each State should be restored and should stand upon its own merits, and that we cannot make any general law for the return of these States any more than we can make a general law for the admission of new Territories.

It is nothing new to have a State government protected by the military authority. When this subject comes up properly before the Senate I shall undertake to prove that the military authorities did not establish this State government, and consequently it was not established under the proclamation of the President of the 8th of December, 1863. It was a movement of the people. They commenced this movement on the 30th of October, and the President's proclamation was not issued until the 8th of December. There was a contest about it. When the President did issue his proclamation, he set the 28th of January as the day of election; but after he found the people were moving he submitted the whole matter to them. I will read a letter which the President himself wrote, in January, 1864, addressed to Hon. William M. Fishback. He says:

"When I fixed a plan for an election in Arkansas, I did it in ignorance that your convention was at the same work. Since I learned the latter fact I have been constantly trying to yield my plan to theirs. I have sent two letters to General Steele, and three or four dispatches to you and others, saying that he (General Steele) must be master, but that it will probably be best for him to keep the convention on its own plan."

So the President himself yielded the point in his proclamation, and allowed the election to be held and the convention to be organized according to the plan marked out by the people, and it was so organized. I have all the documents in the case, and I ask to have them referred to the Committee on the Judiciary, with the hope that this joint resolution will be favorably considered, and an early report made upon it.

The VICE PRESIDENT. The order to refer will be made.

#### REPRESENTATION IN ELECTORAL COLLEGE.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, have instructed me to report the resolution back to the Senate with a recommendation that the resolution pass, and with an amendment to the preamble. I will ask for the consideration of the resolution at this time as the electoral votes are to be counted a week from to-day, and it may avoid difficulty in the canvass of the votes if the two Houses take action in regard to this matter prior to that time. No change is made in the House resolution; it is in print on Senators' tables, and they can see at once what it is.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which was read, as follows:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and have continued in a state of armed

rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office.

The amendment of the Committee on the Judiciary was to strike out of the preamble the following words:

And have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864.

And to insert the following in lieu thereof:

And were in such state of rebellion on the 8th day of November, 1864, that no valid election for President and Vice President of the United States according to the Constitution and laws thereof was held therein on said day.

Mr. TEN EYCK. Is this a proper time to move an amendment to that amendment as reported by the committee?

The VICE PRESIDENT. It is.

Mr. TEN EYCK. Then I move to strike out the word "Louisiana" in the preamble.

The VICE PRESIDENT. That is not part of the amendment of the committee. The question is on the amendment reported by the committee.

The amendment was agreed to.

The VICE PRESIDENT. The Senator's amendment would now be in order.

Mr. TEN EYCK. I move to strike out of the preamble the word "Louisiana." I will simply state that it is a matter of history that the State of Louisiana has reorganized, or at least attempted to do so, and in the opinion of many, and perhaps most, of the loyal citizens of that State, has reorganized as a State. It is a matter of history that they have elected State officers and a State Legislature; that they have elected members to a constitutional convention and framed a new constitution for that State; that that Legislature passed a law authorizing the election of electors for President and Vice President of the United States in the last presidential election, and that such electors have met and cast their votes. Under these circumstances I think there is a striking distinction between the State of Virginia and the State of Louisiana. My object in moving this amendment is, under this state of facts, that some opportunity may be afforded to a loyal people who have suffered all the horrors of the rebellion, who have got the better of it, and put it under foot, of coming back and resuming their place in the councils of the nation.

#### SENATORS FROM NEVADA.

Mr. CONNESS. With the consent of the Senate, I wish to present the credentials of Hon. James W. Nye and Hon. William M. Stewart, Senators-elect from the State of Nevada. I ask that they be read and placed on file, and that the oath of office be administered to the Senators.

The VICE PRESIDENT. There is a question pending.

Mr. CONNESS. I ask the unanimous consent of the Senate to allow this to be done.

Mr. SUMNER. It is a privileged question.

The VICE PRESIDENT. In the opinion of the Chair it is a question of privilege.

Mr. DAVIS. I desire this subject to lie over until to-morrow. I promise the Senator from California that I will not ask any further postponement than to-morrow.

The VICE PRESIDENT. Does the Senator submit any motion?

Mr. TRUMBULL. These being Senators from a new State, it will be necessary to classify them and that they draw lots for the terms which they are to serve. I merely wish to inquire whether the arrangements have been made for that classification?

Mr. McDougall. I suppose that will be in order after the Senators have taken the oath of office. They will then be classified as Senators.

The VICE PRESIDENT. The Chair will inform the Senator from Illinois and the Senate that the necessary preparations have been made, and the classification can be made whenever the oath of office shall be administered. The credentials will be read.

The Secretary read the credentials.

Mr. DAVIS. I regret that I had not known yesterday that the credentials of these gentlemen were to be presented to-day. If I had, I should have interposed no objection to the matter being acted upon at this time, and I will merely state my reason for making a request now for postponement.

I think, sir, it is a correct principle that no State, or no Territory assuming the forms of a State, can elect members to the Senate until such State be admitted into the Union; that no State can be admitted into the Union by any other authority than by the act of Congress; that it takes the action of Congress to admit a new State into the Union, and no other power or authority under the Government can do that act.

This State has not yet been admitted into the Union by an act of Congress. Until Congress has performed that act in due form I hold that it is not competent for the Legislature of Nevada to elect members to the Senate. That being the position which I believe to be the true constitutional principle, I was anxious, desirous, at least, to have had an opportunity to examine the precedents.

I merely state the reason, Mr. President, why I should prefer that the qualification of these gentlemen, if they are to be qualified as Senators, should be postponed until to-morrow. I will not ask a postponement for a longer time. By that time I promise to be ready with such precedents as I think pertinent.

The VICE PRESIDENT. Does the Senator submit a motion?

Mr. DAVIS. I submit a motion to postpone the further consideration of the subject until to-morrow.

Mr. TRUMBULL. In regard to the election of Senators by a State before it has been formally admitted by Congress, the precedents have settled that question. Senators have been admitted uniformly from States which have organized their State governments and elected their Senators before the State was formally admitted.

Mr. CONNESS. Under an enabling act.

Mr. TRUMBULL. Yes, under an enabling act. It has been done in numerous cases. The question has been up once since I have been in the Senate. However upon original principles it might have been decided, where the Legislature of a newly-formed State has elected Senators, although the election has taken place before the State was formally admitted, the Senators have always been admitted to their seats, and the Senator from Kentucky will find that to be the case when he looks into the precedents. It has been uniformly so. I am not aware, however, whether the Senators in the present case were elected before the State was formally in the Union or not, nor is it material.

Mr. CONNESS. Will the Senator permit me to explain?

Mr. JOHNSON. It was after the State was admitted by the President's proclamation.

Mr. CONNESS. It was after the State was admitted by the proclamation of the President, under the enabling act preceding the organization.

Mr. TRUMBULL. It would be immaterial, according to the uniform practice of the Senate, whether it was so or not; but it seems in point of fact the Senators in this instance were elected after the State was formally admitted. The enabling act authorized the President to make proclamation declaring when this State was admitted. Nevada is a State admitted into the Union under the authority of Congress.

Mr. CONNESS. That proclamation, I will state, was issued by the President on the 31st of October.

Mr. TRUMBULL. I am aware that that proclamation has been issued, and by looking at the law authorizing Nevada to form a State constitution and be admitted into the Union it will be found that on complying with the provisions of the law it is made the duty of the President "to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress." There is the law; there is the act of Congress declaring what the people of Nevada should do in order to entitle themselves to become a State of the Union, declaring that when these acts were performed it should be the duty of the President of the United

States to issue his proclamation making known the facts, and thereupon the State should be admitted into the Union on an equal footing with the original States without any further action whatever on the part of Congress.

This has been done before. This is not the first State that has been admitted into the Union in pursuance of an act of Congress on the proclamation of the President where the facts had transpired which the act required. There can be no question, I apprehend, that these Senators are entitled to be sworn as members of the Senate, there being no objection to their credentials; I trust, therefore, the Senator from Kentucky will not persist in his motion to postpone the swearing in of the gentlemen who have presented themselves; and if he does persist in it, I think the Senate ought not to allow the motion to prevail. It is a question of privilege; the Senators come here strictly in pursuance of law, and are entitled to be sworn.

Mr. DAVIS. It is a matter of the utmost indifference to me what disposition the Senate makes of my objection. Still I make the objection, and I adhere to it. I was aware of the law which authorized the President to announce by his proclamation that Nevada was in the Union. I believe that that portion of the act of Congress and that proclamation of the President had no legitimate effect whatever. The admission of a new State into the Union is a congressional act, and there is no power that can perform that act but Congress. Congress, according to my principle of the Constitution, cannot delegate to the President of the United States the power to admit a new State into the Union. It would be as competent and as regular, in my judgment, for Congress to delegate to the President the power to legislate upon an ordinary subject as by its act to delegate to the President power to admit a State into the Union.

I know, sir, that this objection will avail nothing; I do not expect it to avail anything; but I make it merely that it may be upon the record.

I assume this further position, that where there is a plain, constitutional principle, no precedents can abolish that constitutional principle; I do not care if they were counted by thousands instead of by twos and threes. Where the Constitution prescribes by its express language that new States shall be admitted into the Union by Congress, I hold that it is utterly incompetent for Congress to delegate the power to the President to admit a State into the Union by his proclamation; that the State does not and cannot come legitimately into the Union until and after Congress has passed a law to that effect.

Now, sir, in relation to enabling acts and the admissions of States that have elected members of the two Houses under enabling acts before Congress admitted those States into the Union, I hold that all such precedents are utterly void and inoperative. The Government of the United States is not a Government of development; it is not a Government of precedent in relation to the functions of Congress where those functions are expressly and by letter declared. When the Constitution provides that Congress shall admit new States into the Union, whatever precedents there may be to prove that other modes of admitting States into the Union than by the legislation of Congress had been adopted and had been sanctioned by the action of Congress, those precedents cannot repeal nor abolish the express provision of the Constitution, and cannot overrule one of its principles by force of precedent. I have nothing more to say in relation to this matter.

Mr. JOHNSON. Mr. President, if this were an original question, I should feel compelled to differ with the Senator from Kentucky; but it is not an original question; it has been more than once decided by the Senate and by the other branch of Congress. The Constitution provides, as we all know, that States may be admitted into the Union with the assent of Congress; and Congress has heretofore done what was done in this case, provided that when a constitution shall have been formed by the people of a Territory it shall be in the power of the President by proclamation to state that all the conditions of the enabling act have been complied with, and that the State itself is at once a State in the Union. And it has been the received opinion, I think, of most of the members of the profession—there are always differ-

ences of opinion among us; nobody knows that better than the honorable member from Kentucky—it has been the received opinion that that is a mode by which Congress can legitimately assent to a State's introduction into the Union. What she can do by herself directly she can do almost as directly by making the admission of the State to depend upon the happening of a contingency, and providing that the President shall by proclamation state that the contingency has occurred.

Mr. FOOT. It was done in the case of Missouri.

Mr. JOHNSON. It was done in the case of Missouri. We are all acquainted with the history of her admission, and how finally a joint resolution was passed by Congress, March 2, 1821, which provided for her admission upon a certain condition to be performed by the people of the State; and on the 10th of August, 1821, the President issued the proclamation declaring the admission of Missouri to be complete according to law.

So in the case of Michigan; although the act for the admission of Michigan was not passed by Congress and approved by the President until January 26, 1837, her first Senators commenced their term of service by an election on the 10th of November, 1835, as will be found by reference to the table of senatorial terms appended to Hickley's Constitution. So in the case of California; the State was not admitted until September, 1850; and immediately upon her admission Senators were received who had been elected nearly a year before in anticipation of the admission of the State. In the case of Oregon, and in that of Minnesota, both recent instances, the Senators were admitted to their seats on elections which took place before the act was passed which admitted the State.

There are these instances, and perhaps others, where Senators have been elected in advance of the admission of the State into the Union, either by Congress directly or by the President's proclamation issued in pursuance of authority invested in him by Congress. They have always been received without any objection, the admission of the State by Congress afterward bringing the State in as a State of the Union from the time the constitution was adopted by the people; and as the election of Senators and of Representatives by the people of those States was of course subsequent to the actual formation of the constitution, they have been considered as necessarily included in the action which Congress thereafter took admitting the States into the Union.

It seems to me therefore very clear, both upon the point of principle, considering it as an original question, and upon the ground of authority, that the honorable members from Nevada are entitled to admission at once. It is true that my friend from Kentucky is right in saying that this is a Government constituted by the organic law itself and is not a Government of precedents; but it is equally true in relation to the Constitution as to any law which may be passed, that what the proper authorities of the nation have from time to time decided is the meaning of the Constitution is to be received in after times as the meaning, or we shall never know what the Constitution is. The principle applies equally to proceedings by Congress itself as it does to cases which may occur in the courts of the United States or in the State courts. What is decided to be the meaning of the Constitution by the competent authority, and especially if it has been done by a series of decisions, is ever to be considered as the true meaning of the Constitution.

The motion to postpone was not agreed to.

The VICE PRESIDENT. The Senators proposing to qualify will please step forward.

The Senators-elect were conducted to the Vice President's chair by Mr. CONNESS, and the oaths prescribed by law having been administered to Mr. NYE and Mr. STEWART, they took their seats in the Senate.

Mr. FOOT. I offer the usual resolution providing for the classification of the two Senators just admitted to their seats:

*Resolved*, That the Senate proceed to ascertain the classes in which the Senators from the State of Nevada shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

The resolution was agreed to.

On motion of Mr. FOOT, it was

*Ordered*, That the Secretary put into the ballot-box two

papers of equal size, one of which shall be numbered one, and the other shall be numbered three; each of the Senators from the State of Nevada shall draw out one paper; and the Senator who shall draw out the paper numbered one shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1869; and the Senator who shall draw out the paper numbered three shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1867.

Two papers were accordingly put into the ballot-box; the Senators from Nevada advanced to the Secretary's desk, and each drew one paper. Mr. STEWART drew the paper numbered one, and was placed in the class of Senators whose terms will expire March 3, 1869. Mr. NYE drew the paper numbered three, and was placed in the class of Senators whose terms will expire March 3, 1867.

#### REPRESENTATION IN ELECTORAL COLLEGE.

Mr. HALE. I move now to take up the resolution of inquiry which I submitted yesterday.

Mr. SUMNER. I should like to have the resolution I offered yesterday taken up.

The VICE PRESIDENT. There is a question now before the Senate, and it is extremely unpleasant to the Chair and not promotive of the dispatch of business to be continually doing business out of order. The joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, is before the Senate as in Committee of the Whole, and the pending question is on an amendment offered by the Senator from New Jersey, [Mr. TEN EYCK,] and that Senator was upon the floor when interrupted by the proceeding which has just taken place.

Mr. TEN EYCK. I had said all that I intended to say at this time.

Mr. TRUMBULL. I think we had best dispose of the question under consideration before passing to any other. It is important to settle at an early day the mode of counting the votes for President and Vice President, which, under the Constitution and laws, are to be opened and canvassed a week from to-day in joint session of the two Houses. It is known probably to every member of the Senate that no rules have ever been adopted for action in that joint convention. I recollect that in 1856, when Mr. Buchanan was elected, there was a question in regard to the electoral vote of the State of Wisconsin. The law requires that the electors shall meet at the capitals of their respective States and cast their votes for President and Vice President on a particular day. The electors of the State of Wisconsin were prevented by a severe snow storm in that State from reaching the capital on the day fixed by law to cast their votes for President and Vice President. They, however, reached it on the subsequent day, and cast the vote. When the vote of the State of Wisconsin was opened in joint session of the two Houses, the question was immediately raised, was the vote of that State entitled to be counted, it not having been cast on the day prescribed by law? and there was no mode of settling it. Some insisted that that was a question to be decided by the joint convention then in session voting *per capita*, each Senator counting as one Representative. Others insisted that the Senate must withdraw, and that no question which should arise in regard to the counting of a vote could be settled in any other way than by the concurrent action of the two Houses, each acting separately. The matter was finally disposed of, without deciding that question, by declaring that if the vote of the State of Wisconsin was counted the total vote would stand thus and so; and if it was not counted it would stand thus and so; but that in either event James Buchanan and John C. Breckinridge, whether you counted the vote of Wisconsin or not, had received a majority of all the electoral votes, and were therefore declared elected President and Vice President of the United States.

Now, sir, we are likely to have similar questions arise when the votes cast at the recent presidential election shall be counted a week from to-day. It is known as a matter of public notoriety in the country that several of the States included in the President's proclamation of 1861, I think Arkansas, Tennessee, and Louisiana, have cast electoral votes. There is a question as to the authority of these States to vote for President and Vice President, in consequence of the insurrection which prevailed there on the 8th of November last, when the election took place, and the House of Representatives has passed this joint resolu-

tion declaring that the votes of certain States, naming them, shall not be counted. This resolution is accompanied with a preamble which the Committee on the Judiciary have moved to amend, and now the Senator from New Jersey moves further to amend the preamble by striking out the word "Louisiana," thereby deciding that the vote of Louisiana shall be counted.

It is a matter of notoriety to the whole country, and is certainly known to every member of the Senate, that it will not affect the result one way or the other whether the vote from Louisiana be counted or not; but if we decide to receive the vote from Louisiana it will be a decision by the Congress of the United States that the State of Louisiana was in such a condition as to vote for President and Vice President on the 8th of November last.

The Committee on the Judiciary by the amendment they have reported propose to alter the preamble somewhat. The object of this alteration is to avoid as far as possible any commitment upon the subject which the amendment of the Senator from New Jersey brings up. The object of the amendment of the committee is simply to put the preamble in such form that if it is adopted and the resolution passed, Congress will not have decided whether Louisiana is in the Union or out of the Union, whether she is a State or not a State. It will be time enough to decide that question when it is presented to us. If our amendment is adopted, we place the resolution upon the ground that the condition of things on the 8th day of November last, the day of the presidential election, was such in all these States that no election was held according to the Constitution and laws of the United States. The preamble, if amended as we propose, will read:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such state of rebellion on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States according to the Constitution and laws thereof was held therein on said day.

And therefore it is declared that the States mentioned in the preamble are not entitled to representation in the Electoral College. That will be the form of the preamble if the Senate shall concur in the amendment recommended by the Committee on the Judiciary.

Mr. HOWE. Allow me to inquire of the Senator if there is any report from the Committee on the Judiciary accompanying this joint resolution.

Mr. TRUMBULL. There is not.

Mr. HOWE. No statement of facts?

Mr. TRUMBULL. No statement of facts. This is a House resolution, and I am not aware that there was any report accompanying it from the House committee. There certainly was none before the committee of this body, and we made no written report on the subject.

Now, sir, in regard to the State of Louisiana, whatever may be the view of Senators as to the organization which we understand has been gotten up in that State, and although Congress may perhaps hereafter think proper to recognize that organization as legitimate, it does not necessarily follow that the condition of things in the State of Louisiana on the 8th of November last was such as to authorize us to count the vote cast there for President and Vice President; and why? It is a matter of public notoriety known to every child in the land, that a large portion of the State of Louisiana on the 8th of November last was in the possession of a hostile enemy. There was no opportunity to vote for President and Vice President in a very considerable portion of that State; and it might be a very serious question whether when the half of a State or the third of a State was overrun by an enemy, an election held under such circumstances and under the auspices of our own guns, would be an election which would authorize the Congress of the United States when in joint convention it comes to canvass the votes for President and Vice President, to count votes cast under such circumstances.

In our action on this question I do not mean to commit the Senate one way or the other in regard to the organization which has been gotten up in the State of Louisiana; and it was with that very view that the committee moved to amend the preamble. I trust that the State of Louisiana will

not be stricken out. I think if we strike that out and decide to receive the electoral vote cast in that State on the 8th of November last, we do decide directly that there was a State government there, and that there was an election for electors for President and Vice President in accordance with the Constitution and laws of the United States. Now, I do not believe that. I think such was not the fact. There could be no election according to the laws and Constitution of the United States in the State of Louisiana when a very considerable portion of that State was overrun by the enemy, and the legal voters had no opportunity to vote one way or the other. I am not advised how many votes were cast at the election on the 8th of November. No evidence has been submitted showing how many were cast.

Again, sir, the President of the United States, in pursuance of an act of Congress declared the inhabitants of the State of Louisiana to be in a state of insurrection against the Government of the United States. We passed a law authorizing him to issue the proclamation declaring that fact. In pursuance of the law the proclamation was issued. That proclamation has never been recalled. According to the law of the land, according to the proclamation of the President, the inhabitants of the State of Louisiana are to-day in a state of insurrection against the Government of the United States. Can you receive a vote cast by the inhabitants of a State for Chief Magistrate of the Union, when your own laws declare and your executive proclamation declares that they are in a state of insurrection against the Government of the United States? Sir, until there shall be some action by Congress recognizing the organization which has been set up in Louisiana, we ought not in my judgment to count electoral votes from that State. Whether we shall recognize that organization or not, I will not undertake to say. We have not done so yet; and until we do it we ought not to count the electoral vote. I trust, therefore, that the amendment of the Senator from New Jersey will not prevail.

Mr. TEN EYCK. I am aware, sir, that this is a very delicate and important question, and it was with a great deal of diffidence that I undertook to propose an amendment to the resolution. I know that questions of such grave importance as the one now before the Senate ought to be considered calmly and coolly, and upon a great deal of reflection, and perhaps the wisest course in general would be to remain quiet, rather than to throw before the Senate for its hasty consideration a matter of such vital importance. But, sir, I hold to the doctrine that none of these States can be out of the Union; that having taken up their lot and part with their sister States at the time they were admitted into the Union, they are not now legally out of the Union; their governments have been in abeyance; they have been overrun by the feet of hostile armies, and many of their citizens have by usurpation and in violation of their duty to their fellow-men and to their God attempted to carry these States out of the Union.

That being my opinion, whenever the testimony is furnished to my mind that these States thus in the Union have, by the aid of the General Government, or by the efforts of their own people, or by the act of both combined, reestablished themselves, so to speak, or set their State governments in action anew and have commenced again to revolve in their old orbits, I shall feel it to be my duty, so far as I am concerned, to extend to them all the privileges and all the rights which the loyal people of a loyal State are entitled to at the hands of their sister States, whether upon this floor or anywhere else. It was simply in that view and aspect of the case that I made the motion to amend the preamble of this joint resolution, for the purpose of excluding from the operation and effect of the resolution the State of Louisiana, judging and believing from the testimony which is notorious throughout the country, and which has come to the knowledge, I apprehend, of the Senate through various channels, that the present condition of the State of Louisiana is such as I have just stated. I can well see that there is a propriety in passing some such joint resolution as this in relation to States that are manifestly in the condition alluded to in its preamble; States that are in rebellion or such a condition of rebellion as that no election could be held or was held

for the purposes that are requisite to establish them as a State; States that are not in the exercise of the ordinary constitutional powers of a State.

The chairman of the Committee on the Judiciary states that it was the desire of a majority of the committee to avoid a commitment on this subject. It would not perhaps be amiss to insist that a commitment shall not be had against the interest of the State any more than in its favor. The Senator says that the adoption of the amendment proposed by myself will be a declaration by Congress that the State of Louisiana was in a condition to perform all the functions of a State government and to appoint State officers and Senators and members of the national House of Representatives. I admit that that question is involved in this amendment; but the same question is involved in the resolution, and it will be determined against the State if this joint resolution passes as it stands, for you will then decide that this State is now, this day, in a state of rebellion such as to deprive it of all the powers, rights, and privileges of the State of Louisiana. I am not prepared to go to that extent.

Now, sir, what is the present condition of that State, so far as it regards the question of its being in a state of rebellion? According to the best information that can be derived from various sources, from the action of the State itself, from various memorials, papers, and documents that have come into the possession of the Senate and have been published by its order, it appears that nearly a year ago, or perhaps quite a year ago, an election was held in Louisiana for State officers, and a very large number of votes were cast at that election, about two thirds or approximating to two thirds of the largest number of votes that had been cast at any former election for State officers in the State.

Mr. TRUMBULL. The Senator is certainly under a misapprehension with reference to the statements we received in committee. No such vote as that has been cast. There may have been perhaps two thirds of the former votes of those localities that voted, but not two thirds of the vote of the State.

Mr. TEN EYCK. There were eleven thousand four hundred and fourteen votes cast at that election.

Mr. TRUMBULL. There have been upward of fifty thousand votes cast in the State.

Mr. TEN EYCK. It was stated that a large number of the former voters had gone into rebellion or the rebel army, and a great many had been killed. I may be in error in relation to the statement as to the number of votes cast in the whole State. This election of which I now speak, together with the election for members of a constitutional convention, and all the other elections in the State, were free and uninterrupted, without the interference of any military control whatever. Indeed, it has been stated by a person who was upon the ground and whose attention was called to it, that "no effort whatever was made on the part of the military authorities to influence the citizens of the State, either in the selection of candidates or in the election of officers, and that the direct influence of the Government of the United States was less in Louisiana than in the elections probably of any State of the Union; that the officers representing the Government, both civil and military, were divided, so far as they entertained or expressed opinions, on the question of candidates and upon the policy pursued in the organization of the Government."

It seems that here was an election held by the people of that State, and there have been since several elections held by those people for several purposes, and if any military influence was exerted it was merely in aid of them, and that the civil authority was not at all in subordination to the military.

Under these circumstances, and in view of the invitation that has been held out by the Government to all the loyal people of these States to come back and endeavor to organize themselves anew, when the loyal people who have come through the fire and blood of this contest, and gained sufficient strength to present themselves civilly and quietly at the ballot to choose their own State officers and to choose delegates to form a new State constitution, and when they claim the rights of other States, are they to be met by the



plea that upon certain out-bounds of the State there still may be the tread of rebel feet? Why, sir, it appears by all the testimony that the population and business and property of the State of Louisiana are confined to the cities and districts of country immediately bordering upon the river, and that the residue of the State is very sparsely settled indeed, with very few inhabitants, such portion of the country as is not submerged by water being used for planting purposes, and that the property and population are condensed within very small spaces which are within the control of the United States and the loyal people of that State whose anxiety and desire is to return to the United States Government and to support it and its authority.

Sir, I could have desired that the people of this State should have a much more able and earnest advocate than I am; but under the circumstances I have felt it my duty to raise the question.

Mr. POWELL. If the Senator will allow me, I desire to ask him a question.

Mr. TEN EYCK. I shall conclude presently, and then I shall be happy to answer your questions if it be in my power. The chairman of the Committee on the Judiciary has stated that there was no evidence as to how many votes were cast at the election for electors of President and Vice President of the United States. Why, sir, the electors of President and Vice President were chosen by the members of the Legislature in accordance with a law passed by themselves for that purpose, fixing a day for that election by a prior vote. In consequence of the authority contained in that law the election was held. I believe it is not illegal on account of its having been held in that way, although that course has not been usual for many years.

Another objection is made on the ground that the President of the United States has declared this State to be in a condition of insurrection and rebellion, and therefore all its acts tending toward a return to the Union are to be disregarded until the President shall withdraw his proclamation. If that be the test and criterion, all that the Executive has to do, or if we had been so unfortunate as to fail in the reelection of the present incumbent of the presidential chair, and his antagonist had been elected, and he should see fit to refuse to withdraw the proclamation declaring a State to be in insurrection, he could keep a State thus circumstanced and thus situated for all time, or at least during the whole period of his administration, from returning to the Union, although every individual soul within its limits might be desirous and anxious to return to their ancient loyalty.

Sir, I do not mean to continue this discussion; it is most important in its consequences; but it appeared to me that we were in danger of committing ourselves to a policy that will be more injurious to us by excluding the vote of the State of Louisiana, as is proposed, than by admitting it. Having said thus much, I submit the amendment to the better judgment and discretion of the Senate without intending to prolong the debate.

Mr. HOWE. As I propose to vote for the amendment moved by the Senator from New Jersey, and as the reasons which will control my vote are widely different from those which he has stated as controlling his own, perhaps the Senate will pardon me a very few minutes in stating what my own views are.

I shall vote to strike out the State of Louisiana from this preamble and resolution, and in doing so I am not controlled at all by the consideration of how many citizens of Louisiana participated in that election in the choice of electors. I am governed by the single fact that a statute of your own, existing at the time of that election, declared that the people of that State had the right to choose electors, and that certain of them did participate in making that choice. The Senator from Illinois says but a small portion of the people of the State participated in that choice. Your statute said that all might. Does the refusal of a large portion or a small portion of the people of a State to participate in an election deprive the minority, if you please, no matter how small, of their right under your statute? If the refusal of any portion or the inability of any portion of the people to participate in an election deprives the remainder of the right they have under existing laws, tell me what is the number whose disability or whose

neglect or whose refusal imposes this disfranchisement on the residue? Is it a majority? Is it the people of half the State? Is it the people of ten counties? Is it the people of a single county? My own idea about it is, that when the existing law gives to the people of a particular locality a right, that right is to be exercised, in the absence of local restrictions, by just so many of the people as see fit to participate in it.

There is one fact, Mr. President, which existed in the State of Louisiana, which exists in the State of Virginia, and in South Carolina, and each one of the seceded States, which, in my judgment, has authorized the Congress of the United States to repeal that act which gave those people the right to participate in the choice of a President, and to participate in the legislation of the United States. It authorized the Congress of the United States to repeal that law, and authorized nobody else. That fact, which I think conferred that authority upon us, is the fact of a rebellion, which (although we are told over and over again that it did not take the State of Louisiana, or any of those States out of the Union) did destroy every semblance of an American State. I know it did not take the territory out of the Union, out of the rightful jurisdiction of the United States, but that rebellion was just as fatal to any such thing as an American State, as Louisiana had been, as a bullet through the heart would be fatal to the man. There is the form of a man, but the life of the man is not there; it is a carcass. To have an American State you must have a community not only with governors and legislators and local courts, but you must have a community interlaced, as it were, with national tribunals and organization; you must have a community in which Federal courts and Federal organs, collectors, and postmasters, and the like, exist, and are allowed to act; and when these Federal organs are destroyed, that State, as an American State, within the definition of the Constitution, is ended. I do not care whether you call it out of the Union or in, an American State is not there; and when that happens, inasmuch as it is obligatory on you who wield national authority to furnish government of some kind for all your people, I think the event has happened (and I have said so once in reference to the State of Arkansas) which not only authorizes you, but in some sort demands of you that you step in and furnish a government, and a civil government, for the community so placed. Hitherto we have refused to do that, and the law, as it stood on your statute-book in November last, authorized these people to participate in the choice of a President. Some of them, I do not care whether a dozen or fifty, did participate, and I think it is too late to disfranchise them.

I shall vote for the amendment proposed by the Senator from New Jersey, because I understand that Louisiana did make choice of electors. I understand that two other States have also chosen electors. I should vote for an amendment to strike them out of the resolution. It is no time, and I have no disposition to argue the question; I simply wished to occupy the time of the Senate long enough to state, so far as there was a difference between the views which governed my action and those which have been laid down by the Senator from New Jersey, that difference.

Mr. TRUMBULL. The Senator from New Jersey seems to suppose that a refusal to count the electoral vote from Louisiana settles the question just as much against the present State organization in Louisiana as the counting of the vote would settle the question in favor of that State organization. Cannot the Senator from New Jersey conceive of a case where a State might be perfect in all its State organization and yet its electoral vote be rejected? Then it does not decide it so completely. Here was a case from Wisconsin. Nobody supposed that the State of Wisconsin had not a right to vote for President; but there were many who supposed that her vote, not being in accordance with law, not being cast at the proper time, ought not to be counted. I will not undertake to say who was right in reference to it; but, if we had refused to count that vote, we should not thereby have decided that there was no such State as Wisconsin.

Mr. TEN EYCK. That might be a perfect answer to what I suggested on this subject, if the reason were not assigned in the preamble why these electoral votes should not be counted. The

reason assigned in the preamble, as I understand it, is that the State is in such a condition of rebellion that no election could be had. I said that passing this resolution with that preamble would establish, so far as Congress could establish that fact, the status of Louisiana before the country and before the civilized world.

Mr. TRUMBULL. I think it would establish no such principle. A civil commotion or insurrection might exist among the people of a State, so that no election could be held; and yet the State organization might not be questioned by anybody. The State organization might be loyal and true to the Union, notwithstanding a foreign enemy had come into Louisiana; and I will put that case as a complete answer to the Senator's suggestion. Suppose this had been a foreign war, and a foreign enemy had taken possession of the State of Louisiana, and held such possession that no election could be held throughout the State. I want to know if the Senator from New Jersey would count the electoral vote from that State when not twenty men could have assembled in the State and voted for President and Vice President? If we so decided, would that say that the organization of the State of Louisiana was not to be recognized, and was repudiated?

The preamble to the resolution states (and that was the object of amending it) first the fact that the inhabitants and local authorities of certain States were in a State of insurrection. Does the Senator from New Jersey doubt that? Does he propose to count the vote from South Carolina? Why not? Because it is in a state of insurrection, I suppose. That was once the condition of Louisiana. Then what other fact is stated? That such a state of things existed on the 8th day of November, 1864, that no valid election according to the laws and Constitution of the United States could be held in the State. We do not decide that the State organization which has been inaugurated there may not be a valid one. We meet that question, and will have to meet it when we come to investigate the right to seats of the gentlemen who have presented themselves here as Senators from the State of Louisiana. We may admit those gentlemen to seats, and yet such a state of things may have existed in Louisiana on the day of the election in November last as would not authorize us to count the electoral vote of that State. I think, therefore, the Senator is mistaken in supposing that we decide as much by excluding the vote as we do by receiving it. If we receive the electoral vote of Louisiana, we do decide that she was in a condition to cast her electoral vote at that time, that she had her State government, and that an election was held there in pursuance to the laws and Constitution of the United States.

Now let me say a word in reply to what was said by the Senator from Wisconsin, [Mr. Howe,] who I am sorry is not in his seat. He says he is for receiving the vote of the State of Louisiana because your statute said the people should have the right to vote. I would like to see the statute that said the people of Louisiana had a right to vote at the last presidential election. I can show the Senator the statute of the Congress of the United States that says that the President should have authority to declare, in an existing state of facts, the inhabitants of certain States in insurrection against the Government of the United States; and if there is any statute authorizing the people of a State to vote for President of the United States, this act, so far as it is inconsistent with it, repeals it; it is the last law on the subject; and in pursuance of this act of Congress the President has issued his proclamation and has said that the inhabitants of the State of Louisiana were in a state of insurrection against the Government of the United States.

But, says the Senator from New Jersey, has Congress, then, put it out of its power ever to reinstate these States in their proper position toward the Federal Government, and does it depend upon the recalling by the President of the United States of his proclamation? By no means. Congress may repeal the law under which the President issued his proclamation, and then what becomes of the proclamation based upon the law? Suppose some person were elected President who desired unjustly to keep these States from representation in the Congress of the United States, or from voting at a presidential election, and refused to recall

his proclamation when the insurrection was suppressed and the rebellion put down; Congress has only to repeal the law by virtue of which the President issued his proclamation, and the proclamation falls. There is nothing in that position.

The Senator from Wisconsin asks, is the refusal of a portion of the people to vote to be a reason for not receiving the vote of a State? Not at all; but I will tell you what is a reason for refusing the vote of a State: when the people of that State have had no opportunity to vote. That is the question. Have the people of Louisiana—and is there a Senator who believes they have—had an opportunity to vote, unrestrained by military authority, unawed by hostile armies, for President and Vice President of the United States? Does the Senator from New Jersey believe it? If a large portion of the inhabitants of any State of this Union have had no opportunity to vote, I want to know if the vote of a township or a county shall be taken as a vote of a State for President? The refusal to vote when they had an opportunity would be no reason for excluding the vote of a State; but the want of opportunity to vote and to exercise the franchise to which the inhabitants of a State are entitled would be a reason for not receiving the vote of the balance.

I am not furnished with the facts in regard to the number of votes cast in Louisiana at the presidential election; but I know, generally, that a large portion of the State of Louisiana in territorial extent, I think I may say three fourths of the State, on the 8th of November last, was in the possession of the enemies of the United States, and no person could have cast a vote within that jurisdiction. The largest vote ever cast there under any of these organizations was some eleven or twelve thousand, while the vote of the State, when all her legal voters had the privilege of going to the polls, was more than sixty thousand.

Mr. TEN EYCK. Fifty-one thousand, I can state to the Senator, was the highest vote ever cast, and the average vote of the State was thirty-four thousand.

Mr. TRUMBULL. I thought it was sixty thousand.

Mr. TEN EYCK. No, sir; the highest vote ever cast was fifty-one thousand, and the average was thirty-four thousand.

Mr. TRUMBULL. It may be so; I have not the figures before me; but eleven or twelve thousand is but a small part of fifty-one thousand. But, sir, I do not place it upon that ground. I should agree entirely with the Senator from Wisconsin if his facts were right; if the voters of Louisiana had the opportunity to vote, the refusal of a portion to vote constitutes no reason why the vote of the State should not be received.

But, sir, I do not desire to prolong the debate. I do not, at this stage, want to go into a discussion of the question, and we are not yet prepared to act upon the question as to the organization in the State of Louisiana. There are many facts connected with the settlement of that question, and we are not fully advised as to the facts. The Committee on the Judiciary has been considering it, and has bestowed much attention upon it. But here is a question that is pressed upon us at once, that must be decided within the week. However the question of the State organization of Louisiana may ultimately be decided, (which I do not wish to prejudge; about which at this time I wish to express no opinion,) the Committee on the Judiciary thought it was proper to concur in the resolution of the House of Representatives, and not count the electoral vote from the State of Louisiana. I trust the Senate will concur in the resolution and settle this question, and avoid any difficulty in canvassing the vote, without committing ourselves one way or the other as to the ultimate decision in regard to the organization which has been inaugurated in the State of Louisiana.

Mr. HARRIS. I think it is to be very much regretted, Mr. President, that this question, which affects the admission of the members of Congress from Louisiana to both Houses, should be thus incidentally brought before the Senate. I would much prefer to have the same course adopted by Congress in counting these votes which it is said was adopted in the case of Wisconsin at a previous election. We all know that whether the votes of these States, Louisiana, Arkansas, and Tennessee, are counted or not, it will not affect

the result. It was so in the case of Wisconsin. It seems to me it would be far better to say in this case, as was said then, "If we count the votes of these States the number of votes for Mr. Lincoln and Mr. Johnson will be so many; if we reject these votes the number of votes will be so many; and in either case these candidates are elected;" and thus pass over this question.

Sir, the more I reflect upon it the more difficulty I see in the way of adopting any such resolution as this. It was not discussed in the committee; but my reflection has led me to think there is great importance in the question; that it is a very grave question. I ask the chairman of the Committee on the Judiciary, what right has Congress to say by a resolution passed by a majority of each House that the State of New York shall not be represented in counting these votes? Why may you not include in the preamble to this resolution, and in the resolution itself, the State of New York as well as these other States? I ask the chairman of the committee to tell me how he can distinguish between them. If Congress has the power to declare that Louisiana shall not vote, why has it not the power to declare that New York shall not vote? It seems to me that is a very serious question. There is no need of settling such a question here. We can pass over it without any difficulty in the case.

But, sir, I did not rise to discuss that question. I am opposed to the preamble to this resolution. I do not like it. In my judgment, it is not true. I admit that the rebel States have been declared to be in a state of insurrection, and the first clause of the preamble is true; the inhabitants and the local authorities of those States have been in a state of insurrection; but are the local authorities in Louisiana and Tennessee and Arkansas now in insurrection? I deny it. Who are the local authorities of Louisiana? I insist that they are those authorities that have been put in power by the proceedings under the Federal Government. I understand that Michael Hahn is the Governor of that State, and that they have a Legislature elected by the loyal people of that State; and if that be so, then it is not true that on the 8th of November last the local authorities of that State were in a state of armed rebellion.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Senator from New York will suspend his remarks. The hour of two o'clock having arrived, that being the hour fixed for the consideration of a special order, in pursuance of that special order the galleries will be cleared, and the Senate will proceed to the consideration of executive business.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 1, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Treasurer of the United States, transmitting an adjusted account of the Treasurer of the United States for service in the Post Office Department for the fiscal year ending June 30, 1864; which was laid on the table, and ordered to be printed.

#### ENROLLED BILLS.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; when the Speaker signed the same.

#### AGRICULTURAL REPORT.

Mr. CLAY, by unanimous consent, introduced the following resolution:

Resolved, That the Public Printer be, and he is hereby, instructed to print fifteen thousand extra copies of the Agricultural Report for the year 1863, for the benefit and use of the Agricultural Department.

Mr. CLAY. I ask that that resolution be referred to the Committee on Printing.

Mr. HOLMAN. I would like to ask what number has already been printed for the use of that Department.

Mr. CLAY. I am not positive; but ten thousand, I suppose.

No objection being made, the resolution was received, and referred to the Committee on Printing.

#### NIAGARA SHIP-CANAL.

Mr. SPALDING called for the regular order of business.

The SPEAKER. The first business in order is the consideration of the bill (H. R. No. 126) to construct a ship-canal around the falls of Niagara, which was postponed, and made the special order of the day for to-day, after the reading of the Journal, and from day to day until disposed of. To this bill the gentleman from New York [Mr. LITTLEJOHN] has submitted an amendment, in the nature of a substitute. The gentleman from Illinois [Mr. ARNOLD] has moved to amend the amendment by adding various sections in relation to the Illinois ship-canal. The question is upon the amendment to the amendment. The gentleman from Ohio [Mr. SPALDING] is entitled to the floor.

Mr. SPALDING. Mr. Speaker, the war of the "great rebellion" has continued so long, and has taxed so heavily all our sympathies, as well as our national resources, that we seem to have acquired a morbid appetite for "feats of arms," and to have lost our relish for the achievements of the civic arts, forgetting that—

"Peace hath her victories  
No less renowned than war."

Sir, there is no one thing that has impressed my mind with such sublime conceptions of the dignity and power of the United States, and of the ultimate ability of the Government to vanquish all its enemies, as the great fact that "the chisel of the sculptor" has not ceased to resound in the porticos of the Capitol, notwithstanding thousands upon thousands of armed foes have fought and fallen in their repeated assaults upon the majestic unity of the Republic.

On the present occasion I invoke the attention of the House while we consider a question which, while it lacks the thrilling interest that attaches to the maintenance and support of armies and navies, their successes and reverses, still is destined to have for all time a most distinguished influence upon our growth and prosperity as a people, by the grace of God, and the wisdom and valor of our sons, "FREE AND INDEPENDENT."

Mr. Speaker, on the 13th day of January of last year I had the honor, in obedience to the request of my constituents, to introduce in this House a bill to construct a ship-canal around the falls of Niagara. That bill has, by sundry continuances, been brought to the present time as the special order of the day, in connection with the substitute proposed by the gentleman from New York, [Mr. LITTLEJOHN], and the amendment to the substitute proposed by the gentleman from Illinois, [Mr. ARNOLD.] I desire to speak mainly of the importance of making a navigable ship-canal around the falls of Niagara, reserving to myself the privilege of voting for the substitute or the amendment, one or both, as I may feel inclined at the close of this discussion.

The construction of a canal around the falls of Niagara is no new question for our consideration, or for the consideration of the country. As early as the year 1784, the very next year after the acknowledgment by Great Britain of our independence, a survey for a canal around the falls of Niagara was made under the auspices of a company organized in the State of New York for the purpose of forming a link in the chain of inland communication from the Hudson river to Lake Erie. Since then repeated surveys have been made, and repeated estimates taken, some under the patronage of the General Government, all tending to show the entire practicability, as well as the imperative necessity, of removing this natural obstruction in the way of commerce and trade between the West and the East.

The last, and I do not know but the most reliable, survey which has been made, was made by the distinguished engineer, Mr. Charles B. Stuart, of the State of New York, at the request of President Lincoln some time during the autumn of the year 1863. Mr. Stuart, in his able report,

which has probably found its way to the desk of every member of this House, or if not, it should be there, and should be carefully read and maturely considered—Mr. Stuart gives the shortest route for a ship-canal around the falls of Niagara as being between the points of Schlosser and Lewiston, a distance of six miles and three thousand and seventy feet. He makes his calculations for a canal with a prism of one hundred and five feet on the surface of water, and with a depth of twelve feet; with locks two hundred and seventy-five feet in length, and forty-five feet in width, each averaging sixteen feet lift. The estimated cost of this canal with single locks is \$6,007,011; with double locks, \$7,680,555.

Mr. LITTLEJOHN, (in his seat.) With gold at one hundred and twenty-five per cent. premium.

Mr. SPALDING. Yes, sir, with gold at one hundred and twenty-five per cent. premium, for the estimate was made when gold was at that rate. The members of the House will perceive, in the progress of this examination, that it is proposed to have the Government extend its aid to this great enterprise in the shape of a loan of its bonds to the extent of \$6,000,000. So that it is fair to inquire into the question whether the Government ought at this time to invest \$6,000,000 of its credit in this great national work.

Now, sir, I claim, in the first place, that no sectional interests ought to be regarded as being particularly interested in this work; for I hold that its construction would benefit the nation at large, by swelling its resources to magnificent proportions, and by increasing its capabilities of defense against the inroads of any foreign Power. It is particularly interesting to the citizens of the great West who raise mainly the breadstuffs of the nation, and not only of the nation but of a great portion of the civilized world. And it is interesting to the great class of consumers in the East, in New England and New York. It is interesting to my constituents, and perhaps I may say with propriety, to nine or ten millions of the population of our country in its military aspect. For I say to this House, most distinctly, that while the Congress of the United States has, with a liberal hand, provided for the defenses of our cities and towns upon the sea-coast, it has contributed but sparingly, not to say grudgingly, to the defenses of the people living in the Northwest. Why, sir, it should be borne in mind that, when ten million people are asking for aid to the extent of only \$6,000,000, in removing or overcoming the natural obstructions at the falls of Niagara, \$150,000,000 have been appropriated for the defenses upon the Atlantic coast, saying nothing about the Navy and naval defenses. With a population of ten million people interested in the commerce of the northwestern lakes—Superior, Michigan, Huron, St. Clair, and Erie—and with two thousand ships of every description bearing the teeming productions of the West upon the bosom of those lakes continually toward an eastern market, we have now, in all the Northwest, but a single ship calculated for warlike purposes, and that ship less than one hundred tons burden, and having but one gun. We have not even lived up to the terms of the treaty of 1817, in providing for the defenses of the lakes, so far as the rights reserved to us are concerned. But, sir, during the last half century Great Britain, one of the parties of that treaty, keeping her one-gun war vessels upon the lakes, according to the stipulations of the treaty, has been continually preparing her military canals and her naval depots for any contingency that might arise wherein and whereby the United States Government might put itself into a hostile attitude toward them.

It is not necessary to call the attention of this House to the fact which was brought prominently before members during the discussion upon the abrogation of the reciprocity treaty, that Great Britain has constructed the Rideau canal from Montreal to Kingston on Lake Ontario; that she has also constructed the St. Lawrence canal around the rapids of the river St. Lawrence; that she has constructed the Welland canal, connecting, on the British side, Ontario with Lake Erie; and they now make their boast that in twenty-four hours they could throw their vessels of war from Montreal to Oswego, and in twenty-four hours more might throw their shells into the cities of Buffalo and Cleveland on Lake Erie.

Now, I ask, is it not the sublimest folly for the American people to rest in this quiescent condition when the expenditure of so little money might put them completely beyond the power of the United Kingdom of Great Britain and Ireland, coupled with all the forces of the provinces?

The bill proposes to construct a canal of sufficient dimensions, with sufficient locks and sufficient depth of water, to pass gunboats from Lake Ontario into Lake Erie, or from Lake Erie into Lake Ontario. And the question at once comes back to us, *cui bono?* for what good would you make a canal to connect Lake Erie and Lake Ontario, unless the project be extended still further? For how will you get gunboats upon either of those lakes unless you connect with the eastern metropolis by means of an enlargement of the New York canal?

Mr. Speaker, the major part of the commercial marine upon Lakes Erie, Huron, Michigan, and Superior belongs to citizens of the United States. In this commercial marine we have fleets of steam propellers strongly built and suitable for gunboats with a little expense in giving to them an armament. Not so with Ontario. On Lake Ontario, the commercial marine belongs mainly to the Canadas; and in the event of war we have no vessels there suitable to be converted into vessels of war. We have the material on Lake Erie. We could, with very little trouble and expense, convert our freight propellers into gunboats, and those gunboats could be transported through the Niagara canal to the aid of the population residing upon Lake Ontario and the St. Lawrence, if need be, without further ship-canal toward the East.

But, Mr. Speaker, it is mainly in a commercial point of view that I should like to call the attention of the House to this great subject. It is commonly thought that the young West has grown up and attained the dimensions of manhood; that it has arrived at a point beyond which it will not speedily go, and that the canals and railroads now constructed through the State of New York will take off the superabundant produce of that country with all manner of ease.

I want the members of the House who are not immediately conversant with the growth and greatness of our northwestern States to understand that they, at this time, grow five hundred million bushels of wheat and corn. I wish them to understand that one hundred million bushels are annually transmitted, already, through the canals and railroads of New York to New England and New York, in a great measure to be consumed there, but in part, and that not inconsiderable, for export to foreign countries.

I want the House to understand further, that although the northwestern States, at this time, yield this immense amount of wheat and corn, their production is increasing at the rate of twenty per cent. a year, and already the thoroughfares of transportation from the West to the East are crowded to suffocation, so that unless we have additional means of transportation afforded us from some other quarter, the necessary result must be that our people in the West must cease producing, or they must suffer their surplus produce to perish in their storehouses. We now have a ship navigation for our agricultural produce from Chicago to Buffalo, near the foot of Lake Erie. We have a further navigable ship communication toward the tide-water through the permission of Great Britain, by the way of the Welland canal, for three hundred miles more to Ogdensburg, on the St. Lawrence.

Now, I wish it remarked that the opponents of the abrogation of the reciprocity treaty threw it into our teeth more than once that our trade between the West and East through the Welland canal would be interrupted if we provoked Great Britain to unfriendly feeling. Sir, I have too much pride, as an American citizen, to be subjected to the caprice of Great Britain or any other nation. Great Britain has made her canal around the falls of Niagara, and the United States have the same opportunity to make a canal around the cataract upon her own territory, through which she could transmit her produce and merchandise, without saying to Great Britain at any time, "By your favor."

But what will be the effect of this increase in the navigable ship communication between the producing States of the West and the consuming States of the East? It is an admitted fact, I be-

lieve, that it costs just twice as much to transmit a ton of produce over a canal as it does on ship-board over the waters of the wide lakes, exclusive of tolls. It costs much less than that, in proportion to the price of freight, over the railroads. And now, although I do not profess to be well versed in matters of trade, my best information tells me that every farmer in the northwestern States who produces a bushel of wheat would be directly interested in the making of this canal around the falls of Niagara, as it would save at least five cents a bushel in getting his wheat to market. If that is the result, why should we hesitate? It is well known that many of our farmers in the West absorb most of the consideration which they obtain for their hard industry in paying the expense of getting their products to market.

It must, then, be a matter of prime necessity to attend to everything which shall reduce that expense of transportation. I say, then, and I state it as a fact ascertained by that eminent engineer of New York, Mr. Stuart—whose personal interest, if he has any, would be against this proposed improvement—there would be a saving of from three to five cents a bushel in passing the cereals of the West to an eastern market by way of the Niagara canal, instead of sending them as we now do through the canals and railroads of New York; and, taking the amount of produce which has been sent forward during the last four years as a criterion, the whole expense of making this Niagara ship-canal would be reimbursed to the people in four years by this saving. In one short term of four years the people of the Northwest, who grow this grain, would save enough to pay the whole expense of constructing this canal.

I regard that proposition as impregnable; and if so, why will the American Congress hesitate to adopt a measure of such high State necessity, and why should they hesitate to make the needed appropriation for the purpose?

And here, Mr. Speaker, I meet the only serious argument of the opposition which can be urged against this measure. I take it for granted that no man in this House will doubt the practicability of making this work, or doubt the more convenient outlet it will afford to the products of the West. But gentlemen question the policy, at this time, when the nation is engaged in a war with a portion of its own citizens, of encroaching upon the credit of the country so much as to appropriate its bonds to the extent asked for in the bill—\$6,000,000. As the gentleman from New York [Mr. DAVIS] reminds me, I did not intend to be understood that we were asking for an appropriation of \$6,000,000 in money at all. It is but an appropriation of the credit of the country in bonds, payable perhaps in twenty years, for the benefit of those who may construct this canal, it being stipulated that the whole money shall be reimbursed by taking ten per cent. of the tolls annually of the canal, and permitting all property owned by the United States—ships, materials of war, and everything of that kind—to pass toll free.

Now, Mr. Speaker, I am one of the last of the members of this House who would consent in any way to embarrass the Treasury of the United States. I think I have already sufficiently evinced my opposition to the increase of salaries or anything of that kind which shall undermine the credit of our Government, so necessary to be held up at this critical period in our affairs. But, sir, I am not prepared to admit, I never was, that our national Government is not able to meet all the cost of this war of rebellion. Far from it. I insist that with our national resources we might treble the national debt, and the people of this great empire would walk off under that load without apparently feeling its weight. Why, sir, there is no country in Christendom possessed of such material means as belong to the United States, and no country is more able to bear such a burden as is devolved upon us by this grievous war. Our population in 1860 was 31,445,000 souls. The increase in every decade since 1790 has been nearly thirty-five per cent. It is estimated that in 1870 our population will be 42,318,432. We are continually receiving large additions from immigration. The official valuation of property in the country, not including slaves, was, in 1860, \$14,223,618,068. As the increase of property in the last decade was one hundred and thirty per cent., it is fair to pre-



sume that the aggregate now must exceed twenty thousand million dollars. Our territorial area is 2,936,166 square miles, or 1,879,146,240 acres, of which, in May, 1863, there remained undisposed of 946,901,625 acres of arable lands, and 2,000,000 of gold and silver-bearing lands. The Government lands altogether are supposed to be worth \$2,000,000,000, so that here we have a fund to fall back upon, if need be, when we attempt to exonerate ourselves from the pressure of this national debt.

In the year 1860 the cereal productions of eight States (Ohio, Indiana, Illinois, Missouri, Iowa, Minnesota, Wisconsin, and Michigan) reached 588,160,323 bushels, exceeding the whole annual produce of England, and about equal to that of France. Their cattle numbered 7,204,810; their swine, 11,039,352.

Our mineral productions are of inestimable value, and exhaustless in quantity. Our resources in the shape of coal are immense, according to the authority of Sir William Armstrong, who presented an Armstrong gun cased in mahogany to Jeff. Davis, which was captured by our gallant soldiers at Fort Fisher the other day.

And by the way, in passing, I might say that if we are at a loss to see the necessity of being prepared for any contingency that may arise of an unfriendly character as between the United States and Great Britain; and I believe the advice given to us by the Father of his country was, "If you wish to preserve peace, be prepared for war;" I say that if we are to look for the feeling that animates the English bosom, where should we go for more convincing proof than to Fort Fisher, where we find a masterpiece of artillery presented by the English inventor himself to Jeff. Davis, the prince of rebellion, to enable him to beat down the fair fabric of our Government? I say that we have warnings coming to us from every quarter to be on our guard, and it would be the part of extreme folly for the American people to pass on heedless of those manifold admonitions.

Our coal is said by Sir William Armstrong to be thirty-two times as great in quantity as that of the United Kingdom of Great Britain and Ireland. And our iron bears the same proportion. The copper mines of Lake Superior and the lead and iron mines of Missouri are sources of wealth of incalculable extent. Our coast and shore line is in all 122,784 miles, and no coast on the globe has such facilities for cheap water communication. In the year 1860 our tonnage was 53,058,808 tons, and our commercial fleet on the oceans, lakes, and rivers numbered nearly 30,000 vessels. In the same year our manufactured articles amounted to \$1,500,000,000; and I have but just commenced to touch upon the astonishing resources of the American people.

I say, then, that in addition to the burdens of this war, which we all hope and pray may be speedily brought to a successful, honorable, and righteous conclusion; in addition to these burdens, the American people can well afford to increase their responsibilities by loaning the credit of the United States for this great national enterprise.

Mr. Speaker, I have about concluded the few remarks which I designed to submit. I will only say that within a few days I have received a resolution adopted by the Board of Trade of the city where I live, Cleveland, Ohio, urging upon me by every sense of duty to endeavor to promote the success of this great object. The resolution is as follows:

CLEVELAND, January 17, 1865.

*Resolved*, By the Board of Trade of the city of Cleveland, that we, the members of this Board of Trade, are impressed more deeply than ever before with the vital importance, for the welfare and safety of the whole country, of a national ship canal around the falls of Niagara; that we earnestly invite the attention of Congress to its absolute necessity; that we cordially approve of the course of our able and patriotic Representative in relation thereto, and request him to persevere in urging the subject upon the attention of Congress and the Government.

S. F. LESTER,

President Cleveland Board of Trade.

ARTHUR H. QUINN,

Secretary.

And I have petitions without number from our people on the same subject. And if I have acquitted myself of the obligations which I owe to that honored constituency, I shall be content to leave the result to the good sense of the members of this House.

#### PERSONAL EXPLANATION.

Mr. LE BLOND. I ask unanimous consent of the House to make a statement personal to myself, which will occupy but a few moments.

No objection being made, the consent was given.

Mr. LE BLOND. Mr. Speaker, I was aware that the question in reference to making a change in the Constitution would be taken up on yesterday. I was also aware that several gentlemen had entered their names for the purpose of debating the proposition, and therefore I did not suppose that the vote would be taken upon that measure on yesterday, but supposed that it would be taken at a later period in the week.

Several gentlemen from my district having arrived here the night before, and being desirous of visiting the ninety-ninth and the one hundred and eighteenth Ohio regiments, which were raised in my congressional district, many of their members coming from my own county and town, I went with those gentlemen yesterday, supposing that the vote would not be taken at least until to-day. Had I been here I should have voted against that proposition. And I now ask that this House will permit my vote to be so recorded.

Mr. WILSON. I object.

Mr. STEVENS. I have too much regard for the gentleman from Ohio [Mr. LE BLOND] not to object.

#### SERVICE ON COMMITTEE.

Mr. BROWN, of Wisconsin. I rise to a privileged question. I ask to be excused from serving on the select committee to investigate charges against a member of this House, [Mr. ANDERSON,] on which I was appointed the other day.

The SPEAKER. The Chair forgot to bring this request to the attention of the House. The gentleman from Wisconsin [Mr. BROWN] made this request upon Saturday last, when, by an order of this House, no business could be considered. If no objection is made the gentleman will be excused.

Mr. BROWN, of Wisconsin, was accordingly excused from service on said select committee.

#### COMPENSATION FOR ENLISTED SLAVES.

Mr. CRESWELL asked unanimous consent to introduce the following resolution:

*Resolved*, That the Secretary of War be, and he is hereby, directed to report to this House what compensation, if any, has been awarded in each of the several slave States represented in Congress to loyal persons to whom colored volunteers, at the time of their enlistment, owed service or labor; and if no compensation, or only partial compensation, has been made, that he further report the reasons or reasons why the act approved February 24, 1864, so far as it relates to compensation for such colored volunteers, has not been executed.

Mr. MORRIS, of Ohio, objected.

#### NIAGARA SHIP CANAL—AGAIN.

Mr. ARNOLD. Mr. Speaker, it is not my purpose to enter into a general discussion of the amendment which I have had the honor to offer to the substitute proposed by the gentleman from New York [Mr. LITTLEJOHN] to this bill. For several years past the project of uniting the waters of the Mississippi and the lakes has been before Congress. That project received the sanction of the Committee on Military Affairs of the Thirty-Seventh Congress, and of other standing committees of this House. It came within two votes of passing this House in the Thirty-Seventh Congress, if I am not mistaken.

At the last session, owing to the condition of the finances of the country; owing to the fact that at this time we were unable promptly to pay our soldiers in the field; owing to the severe drain upon the Treasury, I was compelled, reluctantly and against my own judgment, by the representations of those gentlemen on this floor whom I regard as the true friends of this measure, to consent to its postponement.

Time has shown, Mr. Speaker, that if this measure had passed two years ago we should to-day have had a ship-canal through which the productions of the West might have passed from the waters of the Mississippi into the lakes. The work contemplated by the bill providing for the enlargement of the Illinois and Michigan canal it was supposed could be constructed in two years, and if the bill had been passed during the Thirty-Seventh Congress there would have been to-day a ship-canal through which steamers might have gone from the cities of New Orleans and St. Louis

and various points along the Mississippi to Chicago. Owing to the condition of the Treasury and the pressure for money, the friends of the Illinois and Michigan canal have consented to modify materially the character of the bill which was before Congress at the last session; and to that modification I ask for a moment the attention of the House, because I believe that if members understand the necessity of this work and the small amount which is asked by the friends of the measure, and will reflect for a moment upon the immense advantages in a military, commercial, and political point of view which are to result from its construction, I shall have the support of a majority of this House in favor of the measure now pending.

Mr. Speaker, the bill, as originally presented to the consideration of the House, provided that this work should be built exclusively by the United States. The estimated cost of that work was, in round numbers, \$13,500,000. My own judgment is that that great work ought to be constructed by the Government. My own judgment is that that great thoroughfare between the Mississippi and its branches and the great inland seas of the continent, through which will pass a commerce larger in tonnage and greater in value than the entire foreign commerce of the country, ought to be made as free as the Mississippi or the St. Lawrence. But owing to the condition of the finances, we have thought it inexpedient at the present time to ask that the Federal Government shall of itself construct this work; and we only ask that the General Government shall aid the State of Illinois to the extent of only \$5,000,000, and that on the condition that the State of Illinois will herself undertake to complete this work of dimensions such as will enable the Mississippi squadron, the gunboats, to pass if occasion requires from the river into the lakes; and I ask the attention of the House for a moment to the military importance of this work.

I hold in my hand the annual report of the Secretary of the Navy, stating that to-day there are upon the Mississippi and its tributaries one hundred vessels-of-war, carrying nearly five hundred guns and manned by fifty-five hundred sailors. These vessels have cost this Government nearly fifty million dollars. The Secretary of the Navy states to the American Congress that the enlargement of the Illinois and Michigan canal will enable those one hundred vessels-of-war to pass from the Mississippi to the lakes. I ask the attention of intelligent gentlemen of the House to the question whether this is not the cheapest way to defend the northern frontier. You have to-day \$50,000,000 of capital invested in the war steamers upon the Mississippi; and by an expenditure of \$5,000,000 you will make that capital of \$50,000,000 available for the defense of the northern frontier. You have there afloat five hundred guns, which can be transported from the great waters of the West into the lakes by an expenditure of \$5,000,000.

The Secretary of the Navy goes on to say that many of these vessels are iron-clads; that in fresh water they will endure for many years. We know that they are unsuitable for ocean service; that if they should go into salt water they would last but a comparatively short time. In view, then, of the fact that you have those vessels-of-war already constructed; in view of the fact that they are unavailable for ocean service; in view of the fact that they will shortly become unnecessary for the Mississippi and its tributaries, I ask gentlemen of this House, what are you going to do with that \$50,000,000 invested in vessels-of-war there on the Mississippi? Why, sir, it seems to me as clear as the noon-day sun that by no possible means can you invest \$5,000,000 in a manner more judiciously than by expending it in the enlargement of the Illinois and Michigan canal. Under the provisions of this bill there is no danger that the expenditure will not produce the result mentioned. It provides for a contract between the State of Illinois and the Federal Government by which the State of Illinois undertakes, on her part, that she will herself enlarge the canal to a size and capacity adequate to float these vessels into the lakes upon the condition that she shall receive this sum of \$5,000,000 to aid her in that work; and that sum not all to be advanced at once. Five hundred thousand dollars are to be expended by the State for every \$500,000 advanced

by the Federal Government, and so on in installments of \$500,000 for every \$500,000 expended by the State, until the \$5,000,000 is expended.

I am aware that the construction of the Niagara ship-canal is pressed upon the consideration of this House as a military measure, and, in my judgment, there is great merit in it both as a military and commercial measure. But it will not escape the intelligent attention of the members of the House that such a canal will connect only two lakes—Lake Ontario and Lake Erie; while the Illinois and Michigan canal will connect twenty thousand miles of the navigable waters of the Mississippi and its tributaries with all the great inland seas which lie in the center of our continent. And it will also not escape the attention of members of the House that when the Niagara ship-canal shall have been constructed there is no way of taking vessels-of-war into Lake Ontario unless you construct a canal from Lake Ontario to the Hudson river. It is not to be supposed that a vessel-of-war will be permitted to come from the Gulf of St. Lawrence and pass up the St. Lawrence under the guns of the forts of Quebec and through the Lachine canals into Lake Ontario. The Illinois and Michigan canal will furnish a means by which these naval vessels already in existence may be transported into all the lakes, and used, if occasion shall require, along the whole line of northern frontier.

Sir, there are two ways of defending that northern frontier: one by the construction of these canals, and the introduction into the lakes of these naval vessels; or, otherwise, the construction of shore defenses. Committees of Congress are already considering the propriety of appropriating \$10,000,000 for constructing land fortifications upon the frontier. A resolution has been adopted requiring a committee of the Senate to inquire and report whether it is expedient for the Government to appropriate \$10,000,000 for the purpose of commencing and carrying forward the shore defenses of the frontier. When you remember that the frontier is three thousand miles long; when you remember the lakes and rivers along which it passes; when you see that that line of frontier is greater than the whole Atlantic coast; when you remember that \$150,000,000 have been expended upon the defenses of the Atlantic shore in the construction of forts and fortifications, and the work still in progress, I ask gentlemen how far an appropriation of \$10,000,000 will go in the erection of shore defenses for the protection of the northern frontier.

It appears to me perfectly clear that the true and most economical way of defending the northern frontier is to open these ship-canals, by which the naval forces of the country can be taken from the Mississippi into the lakes. It will not only give us the Mississippi squadron, but we have, among the six hundred vessels afloat in the salt water, upon the Atlantic coast, many vessels built to run along the coast, to enter the bays and inlets, which in case of need could be taken up the Mississippi and through the canal into the lakes.

This canal is already advanced far toward completion as a ship-canal. The Federal Government at an early day aided in its construction by a grant of land. Those lands have been sold and the proceeds appropriated toward the construction of that work. In addition to that, the State of Illinois herself has expended between five and six million dollars on the work, and the excavation has been for much of the distance carried to the requisite depth and width to make it a ship-canal. It is now only necessary that the work shall be completed which has already advanced far toward completion. It only requires now the carrying out of the original design, which was that of a ship-canal from the lakes to the Mississippi.

Looking at the matter in the light of economy, the Government of the United States will obtain, for an expenditure of \$5,000,000, a canal which will have cost when it is completed more than twenty-five million dollars. This great work, so necessary as a military work, so economical as a means of defense to the northern frontier, costing \$25,000,000, will be secured to the nation at an expenditure of \$5,000,000.

These, Mr. Speaker, are briefly some of the reasons why I present this measure for the consideration of the House, and ask for it a favorable consideration, as a military measure simply, as a measure necessary for the defense of the coun-

try; and, in that aspect, I trust, it will address itself to the minds of members on that side of the House who are not willing to embark in any general scheme of internal improvement. In the first place, our northern frontier must be defended. We have arrived at that period in our history when ten million people living along the shores of the lakes and on the frontier must be heard. They have a right to be heard and protected. You have expended \$150,000,000 on the Atlantic coast; you have erected fortifications along the sea-board to that amount; you have expended your hundreds of millions in the construction of a vast Navy, a Navy superior to that of any nation on the earth. I ask gentlemen now to turn their attention to the northern frontier. You will see that the whole line of coast from the Gulf of St. Lawrence to Lake Superior is utterly and completely defenseless. There is nothing there in the way of defense. I know that an American Congress will no longer permit this condition of things to exist. Congress must either commence the construction of a fleet for the lakes, and to that end make an appropriation of at least \$10,000,000, or it must (and this I think would be far wiser and better) open this canal through which your vessels can be taken into the lakes.

In this connection, Mr. Speaker, I will send to the desk, and ask to have read, an extract from the report of the Committee on Military Affairs made to the House, showing the reasons why that committee recommended the construction of this work.

The Clerk read, as follows:

"The first advantage of these canals to the United States would be, then, the avoidance of those otherwise unavoidable evils. A second advantage would be found in our ability to make one fleet answer for two. A third advantage would be that we could build on the Ohio, Mississippi, Missouri, Illinois, Hudson, and along the lines of the canals, free from all danger of attacks, and where labor and materials would be abundant and cheap. A fourth advantage would be equally decided: instead of being useless to the United States except on the lakes where built, the digging of canals would enable our vessels on the lakes, in ten days after the receipt of orders, to make their appearance at New Orleans or Mobile for naval movements in the West Indies, or at New York, to operate in the North Atlantic, two thousand miles further to the northeast. The possession of a power to transfer a blockaded fleet by a safer inland route from New York to New Orleans or from New Orleans to New York, is of itself an incalculable advantage in times of war with a strong maritime power. A fifth advantage might arise in this wise: should the British fleet winter at the naval depot, under the protection of the fortress, as its safety and convenience would dictate, our fleet, long after the British fleet was ice-bound, could pass down the Mississippi, and aid our forces in the Gulf of Mexico and Caribbean sea a third of the year, and yet be back to its station before the enemy could sail from its ice-bound harbor.

"The last advantage which your committee will name at this time is the facilities the canals would afford in times of peace to agriculture, commerce, manufactures, and the mechanic arts. Practically the navigable channel of the Hudson is extended to the Mississippi. The steamship loaded at St. Paul, Omaha, St. Louis, Louisville, Memphis, or Chicago, would transport its thousand, fifteen hundred, or two thousand tons of produce to New York, Boston, or Philadelphia, or any other port on the entire coast, at the pleasure of its owners, and exchange it for every fabric known to the merchant and artisan. This would infuse new vigor into all industrial pursuits, and benefit all portions of this great country. It is believed that if eighty-two horse boats can afford to pay tolls high enough to support shallow canals, two thousand-ton steamboats, being subjected to less expense per ton, can afford to pay enough higher to support deeper canals of greater cost, especially considered in connection with the far larger amount of business the deep canal could transact. They ought within a reasonable time to reimburse their first cost. Hence no reason is perceived from the money point of view why these exceedingly important military channels should not be dug."

Mr. ARNOLD. Now, Mr. Speaker, I desire to ask whether, in the present condition of the country, it is not the duty of every statesman to provide for the defense of the northern frontier, and whether the time for doing so has not arrived. If it be so, I ask whether, when we have this fleet in the Mississippi, when the State of Illinois offers to construct this work with the aid of \$5,000,000, and to give the General Government the use of it for the purposes of defense forever, we ought not to give to this measure our support, and whether it ought not to become at once a law.

I do not propose, Mr. Speaker, to discuss at length the commercial importance of this canal. I will only say that it will connect more than twenty thousand miles of the navigable waters of the Mississippi and its tributaries with the great inland seas of North America. There is not a loaf of bread, nor a bushel of corn, nor a barrel of pork or of beef, consumed in New England

or New York, that will not be cheapened by the opening of this canal. There is not a manufactured article of the East the price of which will not be lessened to the consumers in the valley of the Mississippi by the opening of this canal. There is not an acre of land lying between the western shore of Lake Michigan and the Rocky mountains that will not be very largely enhanced in value by this canal. And all these benefits can be realized, independently of its military advantages, for an expenditure of some \$5,000,000. Your generals in the field suggest to the Secretary of War a military expedition, and it is considered a very small affair if it costs no more than that sum. Here, then, is a proposition to secure military advantages so important to the defense of the country, and which will not be temporary in their character, but as permanent as the existence of the Republic, for which you are called upon for an expenditure of only \$5,000,000.

I desire to call the attention of members of the House from the sea-board to a fact which they sometimes overlook, it seems to me; and that is, that the nations against which they fortify their coasts are at a distance of three thousand miles across the ocean from them. Three thousand miles of ocean lie between them and any possible foe. And yet they tell us that, from the coast of Maine to Florida, they must have these expensive coast defenses. Not only that, but they ask us, year after year, to expend money by fifties and hundreds of millions in the construction and maintenance of a Navy to defend them against an enemy three thousand miles off. The northern frontier is within rifle and cannon-shot distance of a foreign nation; and yet, all along that frontier the people, absorbed in their material progress and advancement, have not, up to the present time, asked or received the consideration of Congress in the way of preparing for its defense. And now, when George Saunders and his rebel associates in Canada have succeeded in disturbing, to some extent, the relations between the British provinces and the United States, when rebel emissaries have gone into Canada and organized these raids against frontier towns, it is time that these questions should receive the grave and careful consideration of Congress. This House changed, the other day, its previous action in regard to the reciprocity treaty. At the last session of Congress this House voted against giving the notice to terminate that treaty. This session it voted to give the notice. This change in the judgment of the House is, no doubt, attributable to the action of rebel emissaries in Canada. Whatever may be the differences of opinion in reference to the expediency of terminating that treaty, all admit that in view of the preparations on the other side of the frontier the period has arrived when it becomes us also to be prepared for all contingencies. Not that I believe we shall have difficulties with Great Britain, but the way to preserve peace is to be prepared for war.

My friend from the Cleveland district of Ohio [Mr. SPALDING] has presented statistics showing the growth of the West. His argument was addressed mainly to the construction of the Niagara ship-canal. I regard the canal from the Mississippi to the lakes and the Niagara ship-canal as parts of one great system. But it will be obvious to every gentleman from the valley of the Mississippi that the Niagara ship-canal is comparatively valueless to all that region unless a ship-canal be also opened from the Mississippi to the lakes. To Minnesota, to Iowa, to western Wisconsin and western Illinois, to Missouri, and to those new States that are rising up westward, the Niagara ship-canal cannot be of any possible use without a connection between the great father of waters and the lakes. I hope that no action will be taken by the friends of the Niagara ship-canal which may be regarded as antagonistic to the great measure of enlarging the Illinois and Michigan canal. I believe, as I said, that both works are part of one great system. I believe that they ought both to be constructed. I believe that, as a military measure and as a commercial measure, they ought to be constructed. But if the condition of our finances is such that we can begin only one of them now, then I submit that by the construction of the Niagara ship-canal none of our war vessels can be taken into the lakes, as they can be by the enlargement of the Illinois and Michigan canal. By this latter work hundreds of our

vessels-of-war can be transferred from the Mississippi and its tributaries to the lakes. It is a work of immediate military necessity. I trust, therefore, that the friends of the Niagara ship-canal will take no step nor indicate any action that will place them in antagonism to the enlargement of the Illinois and Michigan canal.

In regard, Mr. Speaker, to the importance of this canal, so far as regards the commercial aspects of the question, I appeal to the State of New York, I appeal to New England, and I ask the Representatives of that section, whether they are not willing that the Treasury shall pay to the extent of \$5,000,000 to enable the products of the great West to be poured in upon New York and New England. I ask the Representatives of New England whether, when they can cheapen the price of every loaf of bread consumed in their manufacturing, they will refrain from voting this sum of \$5,000,000, for the benefit of their own section and of all sections of the country. I ask the votes of members from the Northwest; from Iowa, and Missouri, and Minnesota. These two great sections will be bound together forever by this canal. I ask members to give us these great commercial advantages, and thus bind the East and West together forever.

I will ask the Clerk to read an extract from a letter of Edward Everett on the subject of this canal, showing how that distinguished statesman regarded it.

The Clerk read, as follows:

"I know of no public work, within the limits of the United States at all comparable in importance with a communication like that proposed between the Atlantic and the Mississippi. The resources of the West are boundless and still in the infancy of their development; nature has formed the two great sections of the country, East and West, for the most intimate and mutually beneficial relations with each other. Much has already been done to open those pathways, to which the hand of the Almighty Engineer has pointed the way, and nothing is wanted to complete the work but an appropriation of the resources of the country, which, with reference to the importance of the objects to be promoted, ought not, however considerable in itself, to occasion a moment's hesitation."

Mr. ARNOLD. As the Speaker of this House is engaged in the duties of the Chair, and as I have in my hand an argument from him in favor of this work, I will ask the Clerk to read it, so that the Speaker may not find it necessary to leave his position in the chair and repeat his argument here on the floor of the House.

The Clerk read, as follows:

"The great enlarged canals, creating another Mississippi from West to East, will strengthen the bond between the sea-board and the frontier, and give to that fervid patriotism which declares that the whole Union must remain intact forever the potential aids of commercial policy and industrial interest."

"The nation also will reap a rich pecuniary reward from the completion of this great enterprise; but I can glance hurriedly at but one of two points. When the shipment of produce, by the sale of which the farmer lives, from the frontier to the ocean costs one third to one half, and even three fourths, of the whole amount realized for it when it reaches the wharf, the producers must necessarily be poor customers for all these goods by the duties on which our Treasury is in a large degree replenished; but with the cost of transit reduced, as it will be by the broad artificial river to the sea which you contemplate, the prosperity among our agriculturists which will follow will be felt in that result on the Treasury receipts which can be predicted with such unerring certainty again."

"When the United States tax assessor computes the invoice of the farmer, and values the corn at ten or twenty cents per bushel, he can find but few that will be required to aid the Treasury tax on their surplus profits."

"But with the West, by decreased cost of transportation, brought in prices so much nearer the East, the increased taxes on the increased wealth resulting from your improvement will indicate its wisdom even as a pecuniary investment."

Mr. ARNOLD. Mr. Speaker, a moment's reflection on the results to be realized by the expenditure of this money, the military, commercial, and political results, will remove every objection which could remain in the mind of any member to this proposition.

Why, sir, when this work shall have been enlarged you will have from the city of St. Louis to the city of Chicago a river greater in capacity for commercial purposes than the Mississippi from St. Louis to New Orleans. When it is remembered what an amount of treasure and of life has been sacrificed—no, not sacrificed, but expended, necessarily expended, in reopening the Mississippi—and when it is seen that a great river for commerce, equal in importance, can be obtained by the expenditure of this small sum of money, I trust that no gentleman will hesitate to give this measure his support.

It may be said that the present railways are adequate to carry off the surplus products of the Northwest. This is entirely a mistake. The Northwest pays to the New York railways and canals and to the Pennsylvania railways more than \$30,000,000 per annum for the transportation of her products to the sea-board; but all of those railways and canals are entirely inadequate to carry off the surplus products of the West.

Now we of the West know, and this House knows, that it is no unusual thing for the corn grown there to be used for fuel because of the expense of transporting that corn to the sea-board. We know that for months in the year the present means of transportation are utterly inadequate to carry forward our teeming products to market.

Upon this subject I will ask the Clerk to read a statement made by an intelligent gentleman of my State, showing the need of this work as a means of transportation.

The Clerk read, as follows:

"Nine tenths of the products of Illinois grown near the lines of railways constructed within the last fifteen years, and upon which over three fourths of the population of the State reside, have hitherto been forwarded to eastern markets. If the southern trade was resumed at once it would, doubtless, be found at the close of navigation next year that as large a supply of food will be left in the country solely from the want of means during the periods of navigation of the lakes and canal to take forward the surplus."

"This food-producing district should have closer connection with the commercial interests of the East and of Europe by a national canal. Every fiber of the national wealth and prosperity will be strengthened thereby. The harvests from our prairies will double our foreign exports when this grain is poured out as rapidly as it can be furnished even by our present population."

"Within five years after the construction of a ship-canal from the Erie to the Hudson, a necessary outlet from the lakes to the sea, the exports of grain from Chicago alone may safely be estimated at two hundred million bushels."

"For two or three years past we have had a surplus equal to ten times our canal or railroads to take away. The cost and delays of transportation are so great that the farmers reap no fitting reward for their industry. Their crops are wasted, and, living in this abundance, which is wanted everywhere else, they are poor, and need the comforts and luxuries of life. Single-handed they cannot remedy this evil. For aid they must look to the national resources. The work is of national importance, and must add immensely to the national wealth."

Mr. ARNOLD. I do not propose to continue this discussion. I merely desire to call the attention of the House to a few additional facts indicating the rapid growth of the West, then I will yield the floor to others.

The following statement was prepared by a member of the Board of Trade of Chicago, and I believe is correct:

Statement of the grain, provision, lumber, salt, lead, hides, wool, &c., of the city of Chicago for the year ending April 1, 1864.

	Value.
Flour.....	1,647,187 barrels \$8,233,935
Wheat.....	12,461,554 bushels 12,461,554
Corn.....	25,160,516 " 18,890,447
Oats.....	11,005,743 " 6,623,447
Rye.....	747,295 " 77,295
Barley.....	1,244,584 " 1,493,501
Seeds.....	9,885,208 " 19,770,416
	63,202,595

Reduce the flour to bushels, makes 68,740,835 bushels of cereals.

	Value.
Received.....	1,677,757
Packed in Chicago.....	904,659
Value of the pork product.....	33,555,140

	Value.
Cattle received.....	300,632 head
Packed in Chicago.....	70,986 "
Value of cattle product.....	10,523,000

	Value.
Boards.....	413,301,818 feet
Lath.....	41,678,000 "
Shingles.....	172,364,878 "
Value of the lumber received at Chicago.....	6,971,000
Lead.....	16,412,302 pounds
Wool.....	3,435,967 "
Hides.....	23,781,979 "
Coal.....	284,193 tons
Salt, not including 7,019 tons used by packers.....	775,361 barrels
Lake fish.....	56,729 packages
High wines, not made in Chicago.....	137,947 barrels
The values of high wines, flour, malt, &c., manufactured in Chicago are not included in the foregoing statement.	
Aggregate value of foregoing products.....	134,456,449
Estimated value of engines, machinery, agricultural implements, &c.....	13,000,000
	\$147,456,449

The gentleman who has furnished the above

figures; and who is an intelligent member of the Board of Trade, states that, taking the months of February and March to be the same as last year, the year ending April, 1865, will be as follows:

Flour and grain.....	75,000,000
Cattle in beefs.....	400,000
Packed in Chicago.....	80,000
Hogs.....	1,600,000
Packed in Chicago.....	720,000

It is now demonstrated that Chicago is the largest grain, beef, pork, and lumber market in the world.

Illinois has paid to the Commissioner of Internal Revenue, as taken from his returns, the twelve months ending June 30, 1864.....\$11,814,154

Six of her sister States have paid as follows:	
Indiana.....	\$4,246,110
Michigan.....	1,642,672
Wisconsin.....	1,384,893
Iowa.....	879,519
Minnesota.....	143,412
Kansas.....	103,782

8,400,088

\$3,414,066

Illinois has given to the Government the past year nearly twelve million dollars, and \$3,414,066 more than six of her sister States in the West.

The beautiful quarries of what is called the Athens marble are situated on the line of and are quarried out of the bed of the canal, and lie along its banks within thirty miles of Chicago.

The valley of the Illinois alone, when all put under cultivation, can easily produce more corn than is now raised in the whole State. The crop of corn of 1864 will not fall far short of two hundred million bushels.

Now, when military advantages so important as those which have been stated, and when commercial results so vast, can be obtained by an expenditure of less than half of the amount which Illinois alone contributes to the public Treasury in one year, I trust this House will not hesitate to vote for the amendment which I have offered. That amendment, I think, contains every possible safeguard that the nation will secure the advantages of the ship-canal by this expenditure; or if any gentleman is not satisfied of that fact, I shall be glad to so modify my amendment as to provide sufficient security that this expenditure of \$5,000,000 will be so used as will secure the construction of the canal of the dimensions and capacity proposed.

Mr. J. C. ALLEN. Mr. Speaker, I propose to occupy the attention of the House for a few minutes while I present a few considerations which will induce me to support this amendment. The importance of the work proposed in the original bill is one which has impressed itself upon the country for years. So far back as 1836 an engineer was appointed by the Government to make surveys and estimates for this work. But for divers reasons the Congress of the United States passed over what I conceive to be, and to have been at all times, a work of national importance in a military as well as in a commercial point of view. From 1836 to the present time its importance has been magnified every year. In a commercial point of view its importance has been increasing with fearful rapidity, until to-day it presses home upon every member of this House who has a constituency that either produces or consumes the products of the great Northwest.

I shall not detain the House by speaking of the rapid development of that portion of our country. The statistics and the history of the country are full of facts which ought to have great weight in determining this question. We are improving what a few years ago was a wilderness. We are not only supplying our own wants; we are not only raising a surplus of provisions to supply the wants of the manufacturing and non-producing States of this Union, but we are raising a surplus to feed the starving millions of the world, if we only had lines of transportation opened by means of which we might reach those markets. What we need, and what we must and will have, in one way or another, is certain as well as reasonable transportation for our products. I repeat, what the Northwest needs, and what the Northwest must and will have, is a certain as well as reasonable means of transporting her products to the markets of the world.

The House has already been shown by statistics that every year there are left over mil-



lions of bushels of our grain that fails to reach markets for want of transportation, and those who have taken the trouble to look into the charges and tariffs and inflictions and exorbitant exactions that are made upon the producers of the West by what few lines of transportation exist by means of which we are to reach the Atlantic coast, cannot fail to be impressed with the importance of a reformation in this regard, by opening up another channel that will not only give us a certainty of reaching the markets, but give us the power of reaching them at reasonable charges.

I have taken some pains to look into the tariff of charges imposed by the various transportation companies from the East to the West, and it does seem to me that if members of this House would devote a half hour of their valuable time to investigating this question they could not fail to feel the force of the reasons that I propose to urge for opening up another great thoroughfare between the East and the West. From the city of Chicago to the city of New York we are charged the enormous tax of thirty-six dollars upon every ton of freight that passes over the present lines. Upon every bushel of wheat that passes over those lines, according to their present rates, we have to pay a tax of ninety-eight cents to get it to an eastern market. Upon every bushel of corn, one of the great staples of the Northwest, the charges amount to \$1 20; upon every bushel of rye the charges are \$1 00; upon every bushel of oats \$1 15; upon every barrel of flour \$3 65; and upon every barrel of pork \$4 40. When you add to these charges the commissions which we have to pay, it is wonderful that they do not amount to an entire blockade; and it would, were it not the fact that the men who deal in those articles in the East are compelled to purchase for their own support.

Until a recent period we in the Northwest, in the absence of ordinary fuel, have burned our corn in our grates and our stoves, finding that cheaper fuel than the products of the mine and the spoils of the forest. The cost of transporting those products was so great that we found it cheaper to burn the product of our fields. What we want are facilities for reaching the markets of the world; some line of communication that will enable us to reach the Atlantic coast with the products of the West, without paying those enormous exactions of the railroad and canal companies. I am aware that I will be met with the answer from some gentlemen here that it is the true policy of the Government to allow States and individuals to control these matters. But that is an objection which does not apply to the measure under consideration, for the reason that there is no hope of any one of the States of this Union building this great line of communication between the lakes and the St. Lawrence, because the State of New York, which has done much in that respect, will not make the exertion. She will very certainly not build a canal which will carry our products away from her great metropolis in their transit to the Atlantic. She prefers to hold us at her mercy, and compel us to transport our products over her railroads and through her canals. Hence I repeat that we can have no reasonable hope or expectation that the State of New York will engage in this work, though I know that the liberality of her citizens—at any rate, of a portion of her Representatives—will aid us in enabling the General Government to accomplish this great work.

Mr. Speaker, within the last two or three years we have not only been taxed enormously to get our surplus products to market, but we have had no certainty as to the time of getting them to market. What gives value to produce, what gives remuneration to those who till the soil, who produce the breadstuffs, is a certainty, not only as to the price to be received, but as to the time of reaching market. We have not had this. Those who have traveled over the lines of communication between the Northwest and the city of New York, and whose attention has been called to the subject, have observed at the important depots and way stations along the line immense quantities of produce thrown out of the cars on its transit from the West to the East to await the convenience of the railroad companies to carry it on to its destination in the city of New York. Now, Mr. Speaker, these delays, this uncertainty as to the time at which our products will reach the market,

depreciate them in value, and injure to a large extent the great commercial and agricultural interests of the Northwest, the producing section of this country. Why is it that Europe will not purchase her breadstuffs from this country? Why is it that she looks to the Baltic for her wheat or her flour? It is not because she can purchase more cheaply there than we can furnish her; it is simply because the merchant of Liverpool or London knows that when he makes his purchase at the Baltic he can calculate with a reasonable degree of certainty as to the time at which the produce purchased will reach Liverpool. Do you say that he could calculate with the same degree of certainty if he would purchase produce in New York? I admit that he could; but when he engages with a New York merchant to furnish him a cargo of flour, that New York merchant must look to the West for the cargo, and he is unable to inform his British correspondent as to the time at which the cargo will be ready to leave the port of New York, owing to the difficulties of transportation between the West and the East. The British merchant could buy his produce in New York as cheaply as he could buy it at the Baltic, if it were there, or if he had a reasonable certainty that it would be there upon a particular day.

I repeat, that it is only by the want of reasonable certainty in the transportation from the West to the East that we lose a valuable market in Europe for our breadstuffs. Why, sir, it is a fact that flour can be shipped more cheaply from San Francisco to Europe by water than it can be from the city of Chicago. Why? Simply because our lines of communication are not sufficient to meet the wants of commerce.

But it may be said that it would be a wasteful expenditure of money to engage in this work now; that Canada is opening up lines of communication, which, in addition to those on our own soil, we can use in reaching the European markets. Mr. Speaker, how long those Canadian lines of communication will be open to us none of us know. The Congress of the United States, in the exercise of their judgment, have seen fit to terminate the commercial treaty between the United States and Great Britain; and how long we shall be permitted to use the Canadian roads or canals on reasonable terms no man can tell. It is not to be supposed that, with our former relations disturbed, the Canadians will be any more lenient to us in affording us facilities for transportation than will be the transporting companies upon our own soil. What, then, do we need? What, then, must we have? I repeat, a sufficient as well as a certain outlet for the products of the West to the markets of the world.

It is sometimes argued against the expenditure of money for the purpose of this canal, that so soon as this war closes the Mississippi will be again opened to the agricultural products of the Northwest; and that the rates of transportation will be cheapened between the East and the West as soon as that is done. I admit that there is some force in that argument. The probability is that if the navigation of the Mississippi was opened to us we would be able to reach some of the markets of the world with some portion of our products at a cheaper rate than we now do. But in my judgment the surplus products of the Northwest are too great ever to find a remunerative market through the channel of the Mississippi; that we are compelled to look for a market to the East and to Europe; that our lines of transportation must be from the West to the East either through the St. Lawrence to tide-water, or else through the canals and over the railroads of the State of New York.

It is true that when we had but a few surplus bushels of grain in the great Northwest, and the Mississippi was unobstructed, we could find a market along the coast and at New Orleans for that small surplus. But the products of the great Northwest have so rapidly increased that, were we at peace to-day and the Mississippi river open, that river would not afford a tithe of the markets necessary to consume our surplus.

It may be argued that in times like these the Government ought not to involve itself in the expenditure of the money necessary for the completion of this work. Why, sir, it is for the interest of the Government to make liberal expenditures, if by making such expenditures it places a great section of the country in a condition to enable

her to aid in carrying through this war and meet the Government engagements. It has already been shown by the gentleman from Ohio [Mr. SPALDING] that the opening of this line of communication would be worth to every farmer in the West, who raises a bushel of grain for sale, the sum of five cents per bushel—enough in the course of a very short period to indemnify the country for the expense of the construction of this work.

Now, sir, I have not within my reach statistical information sufficient to approximate anything like an accurate statement of the amount of the immense surplus of the Northwest; but I have a statement of the Board of Trade of the city of Chicago, embracing the period from 1860 to 1864, showing the amount of shipments of western grain from that port alone. It will be found upon examination that for those four years Chicago alone shipped of western grain, including flour, 2,904,125 bushels. If that one port ships that quantity, what must have been the amount sent out from other cities along the lake shore, as well as those towns and cities in the interior which have been furnishing through other routes of transportation their surplus grain?

In addition to this, in the year 1864 the city of Chicago received and shipped from her port 701,854 head of hogs, and 179,525 head of bees. This does not include nearly 1,000,000 hogs and bees which were slaughtered and packed in the city of Chicago, and which must ultimately find a market on the sea-board over our present limited lines of transportation from the West to the East.

In view of these considerations, I ask if Congress can more wisely invest or loan its credit to the extent of ten or fifteen million dollars, than in opening a line of ship communications with the lakes of the Northwest and the Atlantic coast, for the purpose of opening up to these immense granaries of the West a line of communication cheap and certain, by which their surplus products may reach the markets of the world?

What I have said with reference to the importance of this work as a line of cheap and certain communication of the products which go from the West to the East applies with equal force to that which we have to receive in return for our substance. And on this point I can speak with more confidence, for I have in some small degree been made to feel for the last three or four years the necessity of a certain as well as a cheap communication between the West and the East. Sir, our western people look to New York and New England for the fabrics and merchandise which they need; and they and the business men of the West are made to feel with great force and power the necessity of some more certain as well as cheap communication between the East and the West.

Sir, a western merchant, when he makes his purchases in New York, cannot calculate with any degree of certainty upon receiving at the West a cargo of goods purchased in New York in less than thirty days. Well, time in these business transactions is money, and the customers of the merchant have to pay for the loss of time. It is no uncommon thing for a bale of merchandise, between New York and Illinois, to be detained on the way for sixty or ninety days, and when we inquire the reason we are told by the transportation companies that they are so crowded that it is impossible for them to get the goods through in less time.

Some two or three years ago the merchants of the West induced men who were able to do so to organize a merchants' express, with a view to the speedier and more certain transportation of merchandise from the East to the West than is possible over the ordinary lines of transportation. But that merchants' express has found in its way the same difficulties that lie in the way of the canals and railways between the two sections of the country; and to-day we have no more certainty that we can receive a bale of goods in Illinois from New York in less than sixty or ninety days than we had over the ordinary lines of transportation.

I repeat, that just as you open more facilities for reaching the markets of the world, just as you increase the number of lines of transportation, you cheapen the cost of the transportation of our grain from the West to the East, and of the merchandise that we of the West need from the East to the West.

In making these remarks, I have left out of view entirely the military aspects of this question. I leave them to those who are better able to discuss them, and who have devoted more time to the subject than I have been able to do. In a commercial point of view alone it is a subject which commends itself to the consideration of the House with great force, and in my view, with such force that no man who desires the prosperity of both the East and West can fail to give his support to it, offering to us, as it does, the only certain and speedy line of communication between the agricultural regions of the great Northwest and the Atlantic ocean.

I have already occupied more of the time of the House than I designed doing when I rose, and I will now yield the floor to others who may see fit to participate in this discussion.

Mr. STROUSE. Mr. Speaker, as a member of the committee which reported this bill, I was at first disposed to oppose it, but I have changed my views upon the subject, and am entirely convinced that it will be a public improvement of the greatest benefit and advantage to our country, to the commercial and agricultural interests of the East and of the West.

As a Representative from the State of Pennsylvania, I was at first inclined to oppose this measure, believing that it might, to some extent, interfere with the public improvements already in existence. Upon an examination, however, of its route, its location, and the connecting links, I find that not only are the States of the West and New York and New England to be benefited and advantaged by it, but also the great Keystone State. By means of our network of railways and canals we shall be brought into communication with this work, and the products of the West can be brought to tide-water, not only at the city of New York but also to the port of Philadelphia, by means of our great network of railways and canals which will place us directly in communication with this great national work.

I look upon this matter, Mr. Speaker, from a double stand-point: first, as a question of commerce and business, and second, as a military work, in case of necessity. In both those aspects, I think, the measure must commend itself to every one who will examine the question, and who will ascertain the necessity of having a ship outlet at that point.

I make these remarks, Mr. Speaker, because I believe that every Representative here is interested in the extension of our public works of internal improvement. We ought to foster and sustain every improvement of this kind. The amount asked for in this bill is small. I believe it is only \$6,000,000. The Government is not even asked for a direct appropriation of this amount, but for a loan of its credit, with the most perfect indemnity for its certain repayment. And even if it were never to be repaid, I believe that the public treasure of the United States belongs to the people at large, and that we, as their Representatives, have a right to say that so much money shall be expended, or so much credit given, for the benefit of the whole country. I trust that members will take a national view of this matter, and divest themselves of all narrow ideas and of all local prejudices, and that they will vote for a bill which will be, undoubtedly, of the greatest advantage to every part of our Union.

Mr. FERNANDO WOOD. Mr. Speaker, the proposition before the House appears to be to make a canal around the falls of Niagara, and also to widen certain existing canals in the State of Illinois. The arguments advanced this morning that the House should vote an appropriation of the credit of the United States in aid of those enterprises appear to be addressed to us altogether on commercial grounds. The several gentlemen who have advocated this bill (and no one has yet spoken against it) place their arguments, as I understand, altogether on the necessity of improving those means of inter-communication so as to cheapen the transit of merchandise and to facilitate commerce. Now, if I supposed that that was the object, and the exclusive object, of these measures, I could not give them my vote. I know, sir, that the time has passed when the Congress of the United States troubled itself about the powers of Government. I know that a legislator is looked upon almost as an antiquarian, who doubts the power of Congress on the subject of internal improvements,

because, in these times, we not only have latitudinarian constructions of the Constitution, but we have open and palpable disregard of its plain provisions and principles.

Therefore, Mr. Speaker, if, as gentlemen have stated, the object of this bill were simply to facilitate commerce, to cheapen the transit of merchandise, to open communication from one section of the country to another, for the advantage of either or both, I, with my ideas of the restriction which the Constitution places on the powers of Congress, would be obliged to give my vote in the negative. But, in my opinion, there are other reasons why we should vote, not only for the Niagara ship-canal, but why we should also vote in favor of the proposition of the gentleman from Illinois, [Mr. ARNOLD,] to make a like appropriation for the enlargement of the canals of that State. There can be no question but that the foreign relations of this country are in a condition where we are warranted in doing all that we can to protect ourselves. There can be no doubt of the fact that the foreign relations of the Government of the United States, with one or two, if not more, of the nations of Europe, are certainly threatening, to use no stronger language. They warrant the Government of the United States in doing everything that it can to put itself in a position of defense so that it can maintain the honor of the country and protect its interests.

It has been stated this morning that, as we now stand, if there were any international difficulty on the borders of our country there are no means in our power to send a fleet of war vessels from Lake Erie to Lake Ontario. We have already given the notice to England to terminate the reciprocity treaty. Therefore, in case of hostilities with England or with Canada, we would be cut off from any advantage by the Welland canal, and from any advantage on the Canadian side of the lakes. In my judgment it is important, ay, sir, it is indispensable, that we should have the physical means to take our vessels from one lake to another. We might, for instance, as the matter now stands, have a large fleet of gunboats upon Lake Erie, but we could have no means of transporting those boats from Lake Erie to Lake Ontario; and however large our marine armament might be upon one of those lakes, it would be of no service upon the other lake or to our coasts on the borders of those lakes. It therefore does seem to me, from this consideration alone, that the House should pass not only the appropriation in reference to the Niagara ship-canal, but also the one for the improvement of the Illinois ship-canal.

Mr. Speaker, before the final vote is taken upon this bill I would suggest to the honorable gentleman, my colleague [Mr. LITTLEJOHN] who has charge of this bill, the propriety of so modifying or amending it in the appointment of engineers, without naming them, as to give one to the Government, one to the corporation proposed to be created, and one to the State of New York. I suggest to him that that amendment would better secure the object he has in view, and would probably facilitate the progress of the work.

Mr. INGERSOLL. Mr. Speaker, section one, article eight, of the Constitution provides that Congress shall have the power to provide for the general welfare of the United States. From that article alone, independent of any military exigencies, or military powers of the Government or of Congress, I deem that Congress has full power to make this appropriation; not only for the building of the ship-canal around the falls of Niagara, but for enlarging the Illinois canal so that gunboats or other Government transports can be transferred from the Mississippi river to Lake Michigan, and from thence by the lakes and through the proposed canal around the falls of Niagara into Lake Ontario; and that, under the same provision of the Constitution, Congress has the further power to improve the rapids of the Mississippi river in which my friends from Iowa are so much interested.

I am in favor of no niggardly, picayune policy. I am against squandering the public money; but I am in favor of developing this great country, whether that country is embraced within the limits of the State of New York or the limits of the State of Illinois, or the limits of the State of Iowa, or anywhere within the limits of what is known as the great Northwest. I hope I have as few

local prejudices as any one. I am in favor of the development of the whole country, and I am in favor of the strong arm of the Government lending itself to the heroism and the patriotism and the energy of the people to develop the whole country and provide for the general welfare of the people thereof.

No man in his senses can doubt that this is a proposition looking to the improvement of the condition of the country; and this proposition to construct a canal around the falls of Niagara, and to enlarge the Illinois ship-canal, is calculated materially to improve the whole country, and especially New England, New York, and Pennsylvania, as well as Ohio, Michigan, Illinois, Iowa, and the other States composing the grand Northwest. And how will it improve the condition of the people of New England? I insist that the people of New England are as deeply interested as the people of Illinois and the entire Northwest in the enlargement of this Illinois canal. They are not exclusively but essentially a manufacturing people. They have grown rich; I do not envy them their riches. They occupy a grand and glorious position in this country, and I rejoice in that position. Let them go on with their manufacturing; let them supply the country with cloths; let them supply our Army and the people with shoes; let them supply us with guns and with ordnance of every kind. Let them go on and make their needles and pins, their sewing machines and steam engines. Let them go on in this prosperous career of industry; and let us of the North-west be the great producers, and furnish them with corn, wheat, flour, and pork. Let us give them these products of the soil; and, at the same time they are gaining wealth by their manufactures, let us also be permitted to reap the benefits of our own industry and our own energy in furnishing them food at a cheap, or, at least, a reasonable cost of transportation.

It has been said, but I will not refer particularly to the statistics, that the great Northwest produces to-day tenfold the amount of surplus products that can find an outlet to the sea-board by the present means of transportation. Yet we are to-day but in our infancy. Illinois alone can produce corn and wheat enough to feed the entire population of the United States, and then have a surplus for Great Britain.

We have, sir, an area of fifty-seven thousand square miles, and almost every square mile is susceptible of cultivation. But, sir, it is useless for us to go on and fill our granaries with uncounted millions, unless we can find an outlet for that grain. We can find this outlet; we can supply the great demand that will come to us from Europe and from New England, if we can but have this channel of commerce opened, that we may send our surplus products to those who need them and demand them. But now we are absolutely robbed by these systems of railroads running from the West to the East. They place upon our products their own tariff, compelling us to pay whatever amount of freight they may determine, and we are powerless to resist it. There is so much more to be transported than they all can possibly transport that there is no competition between the lines of communication from Chicago, from St. Louis, from Cincinnati, or any of the other great depots of the West, and the Atlantic sea-board. They can put on their own tariff, and we must submit.

Sir, it is time that this condition of things should be changed. It is time that the manufacturing interest of New York and New England, it is time that the people, should demand that Congress shall make an appropriation which, in addition to the appropriations to be made by States or corporations, will give us a water communication from the Mississippi to the Atlantic ocean. It is time that this demand should be made, and time that it should be responded to by Congress. Sir, Illinois demands it; the great Northwest, that is now paying its millions of dollars annually into the Treasury of the United States, demands it; the great middle States demand it; New York demands it. This demand should be heeded by Congress. No petty jealousy that can be engendered by one section against another should be allowed to sway the better judgment of any man upon this floor. It is time that we should be acknowledged as one nation, having a common interest: the promotion of the general welfare of the whole people. We should come here not to legislate for New Eng-

land, for Pennsylvania, for New York, or any other State exclusively; but we should stand here ready to appropriate money for Nevada, for California, for Oregon, or any other portion of the United States where an appropriation may be demanded by the best interests of the whole people.

Sir, take in my own district the product of one single article, which is recognized, at any rate, by this Government as legitimate, if it is not by those who are very great sticklers for moral reform, the production of high wines. The production of high wines alone consumes in the city of Peoria from three to five million bushels of grain annually; and but for the fact that that manufacture is carried on there, this corn might rot in the granaries of the farmer. We reduce the bulk of the corn by putting it into high wines, and in that manner we can, to some extent, reduce the cost of transportation between Peoria and New York. From the manufacture of that article alone, the United States Treasury has already since the internal revenue act has gone into operation, reaped a revenue of about five million dollars; and whenever the present stock on hand, which has worried my friend from Illinois [Mr. WASHBURN] so much, shall be consumed, the establishments in Peoria alone will produce sufficient high wines to pay, at the rate of two dollars per gallon, a tax of \$10,000,000 annually into the Treasury of this Government. That is for only one district, and only one article. And is it to be said that this Congress will vote down the amendment of the gentleman from the Chicago district, [Mr. ARNOLD,] when it is shown that \$5,000,000, one half the amount that is paid into the Treasury annually by the single city of Peoria, will build you a canal; and improve the navigation of the Illinois river from the Mississippi to Lake Michigan, where you can pass your gunboats, your transports, and your munitions of war, forever free? Why, sir, this is, upon the part of the State of Illinois, a grand offer to the Government. This, sir, is but a paltry and niggardly sum in view of the enormous benefits that are to result from the appropriation.

Now, sir, I have said this much with regard to this proposed improvement merely in a commercial point of view, a point of view which looks to the promotion of the pecuniary welfare of the people. In a military point of view it is, perhaps, of equal importance; and I know it is of equal importance if we should become involved in a war with Great Britain. I have seen it stated that the British Government has already ordered thirty gunboats to be built, in view of the troubles which are about to arise, or which, at least, are threatening in the horizon between this country and Canada. It may not be true; but after the abrogation of our treaty with them in reference to the amount of naval force to be maintained on the lakes by either party, Great Britain could and probably would put upon every lake a powerful fleet.

Now, build the Niagara ship-canal, and where are the gunboats to come from? You have got to build them unless you give us the Illinois improvements. Give us that canal, and the gunboats are ready to be transferred from the Mississippi to any of the lakes anywhere on that line of communication. What are you going to do with the gunboats already floating upon the waters of the Mississippi, and which have achieved so much toward crushing out this rebellion? Are you going to suffer them to rot? But those gunboats will be of no earthly service upon the western waters. What is to be done with them? Are they going to lie like lifeless hulks at the levee and rot in the sun; or are you going to act with foresight, and wisdom, and make these appropriations not only for the Niagara ship-canal, but also for the Illinois and Michigan canal, so that these gunboats may be used not only on the Mississippi but upon the waters of the great lakes?

Mr. MOORHEAD. I desire to ask the gentleman from Illinois whether he thinks that those gunboats on the Mississippi river would answer for the navigation of the lakes; whether they would stand a storm there, and, indeed, whether they could be used there at all.

Mr. INGERSOLL. I think they could be used there, and I will tell the gentlemen how. I have no idea that there would be a raging storm on the canal, and therefore I believe they could go as far as Chicago, at least. The gentleman will probably agree with me in that. And Chi-

cago is the western metropolis and is to-day vying with the metropolis on the Atlantic coast. Chicago is a metropolis worth defending. At that place is stored at all times millions of grain, the product of the western States. That place is worth being defended; and these very gunboats and other gunboats upon the Atlantic coast can be transferred to Chicago, Cleveland, Toledo, and other places on the lakes which are of sufficient importance to demand defense. I believe that most of the gunboats built on the Mississippi river might be used to advantage on the lakes.

Mr. ARNOLD. For all purposes of harbor defenses on the lakes those boats would be perfectly suitable. Many of them are suitable for the navigation of the lakes at any time, as those familiar with them are well advised. I would ask the gentleman from Missouri, [Mr. BLOW,] who is conversant with the subject, if I am not correct.

Mr. BLOW. I would remind the gentleman from the Pittsburg district, [Mr. MOORHEAD,] that two of the finest vessels now floating were built on the Mississippi, and are now off Mobile; and that to one of them that great naval victory achieved under Admiral Farragut is to be attributed. It was the Chickasaw, a two-turreted monitor, which threw the shell which disabled the Tennessee. Those two vessels went down the Mississippi, passed around into the Gulf, anchored in front of the fort, ran past the fort, and attacked the Tennessee, which surrendered to the flag of our country. I would also state further that they were built six miles below the city of St. Louis, that they are sea-going vessels, and of course adequate to the navigation of the lakes, and, as I believe, to the defense and protection of the ports upon the lakes.

Mr. ARNOLD. The Secretary of the Navy states that all these vessels can be transported to the lakes by the enlargement of the Illinois and Michigan canal.

Mr. MOORHEAD. One word more. I do not desire to embarrass this bill, but the members of the House who were here when this matter was discussed a year ago will recollect very well that we had the testimony of Commodore Foot, and other gentlemen who knew all about this subject, stating explicitly that these river boats could not live through a storm on the lakes; that they were not intended for lake navigation, and could not be used there. At that time I took the liberty of denouncing this scheme as useless if it was meant as a military necessity to take gunboats from the river and put them on the lakes. I admit that this is a great commercial project, and I have no desire to oppose it; but I do not want it to be voted for here under false pretenses. There is no object in having a canal for the purpose of bringing gunboats from the Mississippi river that could not live on the lakes and could not be used there.

Mr. ARNOLD. In reply to the gentleman from Pennsylvania, I will read the statement of the Secretary of the Navy on this subject. He says:

"The United States have at this time one hundred naval vessels on the Mississippi and its tributaries. Steamers of iron will endure for years in fresh water, and the naval vessels which the Government may place on these rivers will be preserved. Should the projected water communication connecting the northern lakes with the Mississippi by an enlarged ship-canal be carried into effect, the Mississippi squadron could be made available for the defense of our northern frontier when circumstances require it. This squadron carries four hundred and sixty-two guns and five thousand five hundred men."

That is the statement of the Secretary of the Navy upon this identical question and about these identical vessels.

Mr. INGERSOLL. Mr. Speaker, I had not looked for any objection from Pennsylvania. Pennsylvania can afford to be even prodigal just now. I understand they have "struck it" [Laughter.] From that one source alone Pennsylvania has been enriched nearly sixty-five or seventy million dollars, and has a source of wealth that appears to be inexhaustible.

Mr. STEVENS. I would say to the gentleman that we lost more than that by the taking off of the duty on railroad iron last year.

Mr. INGERSOLL. Will the gentleman from Pennsylvania [Mr. STEVENS] inform the House what the profit of Pennsylvania was upon her iron trade before the duty was taken off?

I do not envy the prosperity of Pennsylvania, but I believe it is true that Pennsylvania, from her

iron, her coal, and her oil, has made herself one of the richest States in this Union.

Mr. RANDALL, of Pennsylvania. Except, if the gentleman will allow me, for her canals, which have swamped her with \$40,000,000 of debt.

Mr. INGERSOLL. Well, she is able to pay it. If she is not I will help her to do it. [Laughter.]

Mr. RANDALL, of Pennsylvania. She is, and I am glad of it, by reason of her iron, her coal, and her oil.

Mr. INGERSOLL. What would Pennsylvania be to-day without the railroads and canals which she now has? Without these her mines of wealth would lie hidden in her bosom.

Mr. RANDALL, of Pennsylvania. Does the gentleman make the inquiry of me what she would be?

Mr. INGERSOLL. I mean in an agricultural point of view.

Mr. RANDALL, of Pennsylvania. I shall have to call for a division of the question. The experience of Pennsylvania has shown her that canals never can compete with railways.

Mr. INGERSOLL. That is not the experience of New York. Nor is it the experience of Illinois.

Mr. RANDALL, of Pennsylvania. The gentleman will allow me to state further that we had to give away part of our canals to somebody who would build the balance.

Mr. INGERSOLL. I am not surprised at that. Pennsylvania is not essentially an agricultural State, and they have not much to transport except iron and coal and petroleum.

Mr. RANDALL, of Pennsylvania. That rather contradicts the compliment which the gentleman has paid to the wealth of my State.

Mr. INGERSOLL. Not at all. I make the exception in favor of your oil, of your iron, and of your coal; and I only hope that the source of your oil may never fail, that your mines of iron will never be exhausted, and that you will go on prospering and to prosper until Pennsylvania has more money than the national debt amounts to to-day; and I hope, in addition, that Pennsylvania may ever be like the widow's cruse, never failing to furnish the oil. [Laughter.]

Mr. JOHNSON, of Pennsylvania. I would like to inquire of the gentleman from Illinois whether or not he is acquainted with the widow, or whether he knows anything about her oil jug? [Laughter.]

Mr. COX. I rise to a point of order. The gentleman from Illinois is not bound to criminate himself. [Laughter.]

Mr. INGERSOLL. I am obliged to my friend from Ohio, and I will avail myself of his point of order. If there is anything that is detestable and worthy of condemnation, it is the miserable State prejudices that have been cultivated in this country under the idea of State rights and State sovereignty; an idea which has led to this terrible rebellion. I want no more of it. I want to recognize every member on this floor as a Representative of the people of the United States. I do not care whether he comes from the coal mines of Pennsylvania or the factories of Lowell. I regard him only as a Representative of the whole people of the United States, having at heart their interests and their advancement. That is why I say here to-day that I am for New England. I want to take New England by the hand when she says to Illinois "Stand by us," and we will stand by her; and all the powers this side of Pandemonium cannot make us consent to leave her "out in the cold." We will stand by the whole country, as the Army and Navy have stood by the whole country.

Mr. DAWES. I wish to inquire of my friend from Illinois in what manner he proposes to manifest his attachment for the interests of New England.

Mr. INGERSOLL. I propose to manifest my attachment to the interests of New England by defending her whenever she is unjustly assailed. I propose to defend the interests of New England as I would defend those of Illinois: by imposing no burden on Massachusetts which I would not impose on Illinois.

Mr. DAWES. I would like to inquire of my friend whether he proposes to stand by New England by surrendering all her industrial interests to the competition of the Old World.

Mr. INGERSOLL. No, sir; I do not.



# THE CONGRESSIONAL GLOBE.

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Mr. DAWES. Then I trust my friend will reform his votes. [Laughter.]

Mr. INGERSOLL. What one, sir?

Mr. DAWES. On the paper question. [Laughter.]

Mr. INGERSOLL. I will say to my friend from Massachusetts that in voting for the reduction of the duty on paper I have stood by the people of Massachusetts and against her incorporations. I have voted, perhaps, against the interests of the gentleman, as I believe he is a manufacturer of paper, [laughter] or interested in it; but I have voted for the interests of his constituents, and I propose to do so all the time.

Mr. DAWES. If my friend does not understand the interests of New England any better than his last remarks indicate, I hope that he will spare us any further defense of the interests of New England. [Laughter.] We can get along better without his defense.

Mr. INGERSOLL. So far as my friend from Massachusetts constitutes the people of New England, I will accept his suggestion; but so far as the people are concerned, I will not accept it. They are also my people.

Mr. DAWES. I want to say to my friend that my constituents understand their interest a great deal better than he does.

Mr. INGERSOLL. I thought the gentleman was going to say "a great deal better than their Representative in Congress." [Laughter.]

Mr. STROUSE. I admire the gentleman's patriotism and his being opposed to having any portion of our Union left out in the cold. He says that New England shall never be left out in the cold. Sir, I am a friend of the industry of New England. I admire her industry, her energy, and her prosperity, and she shall not be left out in the cold as long as I represent the tenth district of Pennsylvania, for we have coal enough in that district to warm her and to heat her for years to come.

Mr. INGERSOLL. Well, I am very glad to hear it, [laughter], and I hope my friend from Pennsylvania [Mr. STROUSE] will unite with us—the friends of progress and the friends of the people—against the monopolists of the country, and provide the means of cheap transportation for his coal to my friend from Massachusetts [Mr. DAWES] and his people.

Mr. Speaker, yesterday was the grandest day that ever dawned upon the American continent—that is to say, the grandest for the people and for those Representatives who stood by the people. And to-day may be made another grand day in the history of our country, by aiding our national prosperity, in aiding the people against the monopolists of the country in giving them a cheap means of communication between the western States and the Atlantic seaboard; by voting this miserable little appropriation, in order that we may have a canal around the falls of Niagara, and be independent of Canada and Great Britain. Let us be independent of all your reciprocity treaties. We have got the wealth, at least the gentlemen who oppose us on some questions in this House will admit that if we have not got the wealth we have the greenbacks. Let us make this appropriation to build this ship-canal around the falls of Niagara, and show by works and deeds something of the American character, by maintaining American independence. Let us weld the East and the West together by means of this Illinois canal, by these mutual acts of assistance which benefit alike all sections. Let us do this and the people will thank us. Railroad corporations will howl, I know, because they must come in competition with canal-boats between Chicago and New York; but let them howl, and while the railroad corporations and the railroad monopolists howl, the teeming millions that enrich this country, the teeming millions east and west, the industrial men of all sections of the country will rejoice, because the sun of their prosperity is rising above the horizon, and approaching the zenith, and that, too, by the aid of their own Representatives in Congress.

I believe that the people of this country are in favor of this appropriation. The constituents of every member here, those who are high-minded and honorable, will say, "Vote for both of these appropriations for the good of the country; we have to support and maintain this Government; give us every means of doing so." The people must pay the taxes, and must maintain the honor and credit of the country. How are they to do that? They must do it by having increased stimulus, by having additional means of transportation from the great producing West to the consumers of the Atlantic States and the consumers of the Old World. Do this; do it to-day, and the country will again be proud of you, and of us, as I hope they may ever have occasion to be.

Mr. LITTLEJOHN addressed the House. [His remarks will be published in the Appendix.]

Mr. RANDALL, of Pennsylvania, obtained the floor.

Mr. LITTLEJOHN. It was my desire, unless the gentleman from Illinois [Mr. ARNOLD] desired to reply to me briefly, to move the previous question on the amendment and let this question be determined. There are but thirty days of the session left.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor.

Mr. RANDALL, of Pennsylvania. I do not design to enter into a general discussion of the question of internal improvements, nor do I design to consider whether it is proper for this Government to make an expenditure of this amount of money for this purpose. I come to what I consider the real point, and which has not been referred to here, and that is, whether we are able to expend this money now. I have at my home letters telling me that officers of the Army have failed to receive any pay since the 31st of August last, and yet gentlemen come here and ask us to advance the money for the construction of this work at a time when we are unable to fulfill our obligations and carry out our contracts. I am surprised at it.

Sir, as my own State has been referred to here, I may be permitted to allude to our experience in this matter. I can tell gentlemen that we have been swept into overwhelming debt by just such propositions as this. Sir, you cannot make water run up a hill, and you cannot spend more money than you have without running into debt, and I want to guard against that.

I admire the gentleman from Illinois [Mr. ARNOLD] for his special devotion to the interests of his constituency, and I admire the gentleman from New York [Mr. LITTLEJOHN] for not forgetting Oswego, but my action must be governed by the experience of the past. I must act, not as a Pennsylvanian, but as one having an eye to the financial condition of the country. What is proposed here? While the original bill only asks for \$6,000,000, we have here a rider to it calling for \$5,000,000 more. I should be disposed to vote for the rider in the hope of killing the bill; but in order to be consistent, I prefer to vote against both as improvident expenditures.

Mr. JENCKES. The gentleman from New York, [Mr. LITTLEJOHN], who recently had the floor, stated that there were some here who, although in favor of all these propositions, would yet be obliged to vote against the amendment of the gentleman from Illinois, [Mr. ARNOLD.] I am one of those, although I am in favor of all these propositions. If it were a time of profound peace, whether the Treasury was full or empty, I should vote to loan the credit of this Government to improve all our great natural highways for the purpose of accommodating traffic and commerce.

But it seems to me that in the debate on this question the point on which the amendment of the gentleman from New York rests has been departed from. We are not now legislating for internal improvements. We are not legislating, in the spirit of this bill, for the purpose of promoting commerce, but for the purpose of national defense. And the question which must arise at the outset is this: why is it that, in this time of

war, when our expenditures are so enormous, any private company actually formed or that may be formed in the future, or why any friends of such a company should come to Congress and ask for a loan of the credit of the Government to build its works, whether railroad or canal?

My reason for supporting the amendment of the gentleman from New York [Mr. LITTLEJOHN] is that the work which it proposes is a measure of defense, and, so far as this Congress is concerned, of defense alone. We find ourselves with one formidable war on hand, and we have been threatened with war from another quarter. Its signs have not yet disappeared. They are renewed almost with every steamer that crosses the Atlantic. If war should break out, we find a coast of three thousand miles in extent entirely undefended. We must build and maintain a fleet on the lakes. The Mississippi fleet is not adapted to the navigation of the lakes, even if it could be transported thither. A sea-going fleet is not adapted to the navigation of the lakes. We must have on the lakes a fleet ample for the defense of the cities on their margin, and of their commerce. That fleet must be a lake fleet. As the gentleman from New York has well said, build this canal or aid private enterprise in building it, and the lakes are one sea. You have but an expenditure for one fleet on them where otherwise—the falls of Niagara intervening—you must have two fleets.

But, Mr. Speaker, there is no necessity, in the present exigency of this war or of our foreign relations, for this Government to pledge its credit for the construction of canals between Lake Michigan and the Mississippi, or for the improvement of the navigation of the Mississippi or any other river. These things must be done by private enterprise; or, in due time, the Government may come to the aid of private enterprise. So far as I am concerned, I would be willing at all times to concede that. But, with this Niagara ship-canal we will have ample means of defense in case of a rupture of our peaceful relations with Great Britain. We have in the mean time a navigable highway, ample for the purposes of commerce, between Buffalo and Chicago and all the cities on the lakes. The Niagara ship-canal may never be used for the purposes of war. God grant that it may not be. But in the mean time the people of the West will have what they ask for, an ample highway for the purposes of traffic and commerce, and for the improvement and prosperity of the great West.

Mr. LITTLEJOHN. I move the previous question on my amendment.

Mr. ARNOLD. I ask the gentleman from New York to withdraw the previous question.

Mr. LITTLEJOHN. I will if the gentleman will renew it.

Mr. ARNOLD. I will renew it. I propose to occupy only a few minutes.

Mr. LITTLEJOHN. Then I withdraw it.

Mr. ARNOLD. I desire to say in reply to the gentleman from New York that every argument which he has presented in favor of a canal round the falls of Niagara operates with still greater force in behalf of the connection between Lake Michigan and the Mississippi. These works are not rivals. They are of the same character. They complete a great chain of water communication between the Mississippi and the lakes. So far as its military importance is concerned, the Niagara ship-canal will not enable a single gunboat to be placed on the lakes, whereas the Illinois and Michigan canal would open the lakes to a hundred gunboats. As a military measure, the Niagara ship-canal is therefore insignificant compared with the other. The one interests two of the smaller lakes, while the other interests all the lakes and the Mississippi itself. I will not detain the House any further, but will renew the demand for the previous question.

Mr. PRUYN. Mr. Speaker, what is the condition of the question?

The SPEAKER. At the last session of Congress House bill No. 126 was pending in the Com-

mittee of the Whole on the state of the Union. That committee was discharged from its further consideration, and the bill came before the House. The gentleman from New York [Mr. LITTLEJOHN] moved an amendment in the nature of a substitute to the entire bill, pending which the gentleman from Illinois [Mr. ARNOLD] moved to add to the substitute. The pending question is on the amendment of the substitute, on which the previous question has been demanded.

The previous question was seconded, and the main question ordered.

Mr. FERNANDO WOOD. I would ask if that cuts off any further amendment?

The SPEAKER. It does not; the previous question is now confined exclusively to the amendment of the gentleman from Illinois, [Mr. ARNOLD], and if the previous question is not again ordered, the substitute, as well as the original bill, will still be open to amendment.

The question recurred upon agreeing to the amendment of Mr. ARNOLD to the substitute proposed by Mr. LITTLEJOHN.

The amendment of Mr. ARNOLD was to add to the substitute the following:

Sec. 16. *And be it further enacted*, That as a military work, and to facilitate the defense of the northern frontier, and to enable gunboats and vessels-of-war to pass from the Mississippi to Lake Michigan, and to promote the commerce between the different States and the United States and foreign nations, the President of the United States be, and he is hereby, fully authorized and empowered to deepen and enlarge the Illinois and Michigan canal, supplying the same with water from Lake Michigan, and to improve the navigation of the Illinois and Des Plaines river in such manner as to insure a safe and uninterrupted navigation between Lake Michigan and the Mississippi river, at all times during the season of navigation, for gunboats, steamboats, naval and war vessels of the United States not drawing over six feet of water, the plan of which shall be submitted to and approved by the President of the United States. The President may, and he is hereby authorized to, contract with the State of Illinois, or with any company incorporated for that purpose, to construct said works.

Sec. 17. *And be it further enacted*, That to aid the State of Illinois, or such company as may be incorporated for that purpose, in the construction of said works, the sum of \$5,000,000, in bonds of the United States, payable twenty years from their date, bearing interest at the rate of six per cent. per annum, to be made and issued in the usual manner, the interest and principal of which said bonds to be payable out of any moneys to be hereafter appropriated by Congress, shall be delivered by the Treasurer of the United States to the State of Illinois, upon the following conditions, to be assented to by the Legislature of the State of Illinois, and which shall be embraced in a contract between the United States and said State of Illinois, before the delivery of any of said bonds, to wit: First, that the said canal and rivers, when improved, shall be and remain forever free from toll or charge by the vessels, gunboats, transports, troops, material of war, and other property of the United States. Second, the State of Illinois shall, by its Legislature, undertake and contract that that State, either by itself or through some company incorporated for that purpose, proceed without delay to commence, and, within a reasonable time, complete, the said canal and river improvements in such a way as to insure such navigation as hereinbefore mentioned between Lake Michigan and the Mississippi river. On compliance with which conditions, and in execution of such contract between the United States and the State of Illinois, the Secretary of the Treasury is directed to issue and deliver said bonds in manner following, to wit: The amount of \$500,000 in bonds shall be delivered upon the concluding of said contract with the State of Illinois; and whenever there shall have been expended upon said works the sum of \$1,000,000, and the same shall be certified and sworn to by the chief engineer of said works, an additional sum of \$500,000 in bonds, as aforesaid, shall be delivered to said State; and so on for every million dollars expended upon said works and certified and verified to the Secretary of the Treasury, as aforesaid, the sum of \$500,000 in bonds shall be issued and delivered until the whole amount of said \$5,000,000 shall have been delivered for the purposes of aiding in constructing said works as aforesaid.

Mr. WASHBURN, of Illinois, called for the yeas and nays upon agreeing to the amendment to the amendment.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 43, nays 99, not voting 34; as follows:

YEAS—Messrs. James C. Allen, Allison, Anderson, Arnold, Bailey, Baxter, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Coffroth, Henry Winter Davis, Donnelly, Eden, Farnsworth, Grinnell, Hale, Hall, Charles H. Harris, Higby, Asahel W. Hubbard, Ingersoll, Julian, Francis W. Kellogg, Knapp, Loan, McBride, McClurg, Morrison, Norton, Price, William H. Randall, John H. Rice, Robinson, James S. Rollins, Ross, Scofield, Shannon, Smith, Strouse, Stuart, Elihu B. Washburne, Wilder, Wilson, Windom, Benjamin Wood, Fernando Wood, and Woodbridge—49.

NAYS—Messrs. Alley, Ames, Ancona, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cobb, Cole, Cox, Cravens, Creswell, Thomas T. Davis, Dawes, Dawson, Denison, Dixon, Driggs, Eckley, Edgerton, Eldridge, Eliot, English, Finck, Frank Ganson, Garfield, Gooch, Grider, Harding, Harrington, Benjamin G. Harris, Holman, John H. Hubbard, Hulburd, Jenckes, Philip Johnson, Kal-

felsch, Kasson, Kelley, Orlando Kellogg, Kernan, King, Knox, Lazear, Le Blond, Littlejohn, Long, Longyear, Marvin, McIndoe, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Noble, Odell, Charles O'Neill, John O'Neill, Patterson, Pendleton, Pomeroy, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Edward H. Rollins, Schenck, Scott, Sloan, Smithers, Spalding, John B. Steele, William G. Steele, Stevens, Stiles, Sweat, Thomas, Townsend, Tracy, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Webster, Wheeler, Joseph W. White, Williams, Winfield, and Worthington—99.

NOT VOTING—Messrs. William J. Allen, Blair, Bliss, Brooks, Freeman Clarke, Deming, Dumont, Griswold, Herck, Hooper, Hotchkiss, Hutchins, William Johnson, Law, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, James K. Morris, Leonard Myers, Nelson, Orth, Perham, Perry, Pike, Rogers, Starr, Thayer, Voorhees, Whaley, Chilton A. White, and Yeaman—34.

So the amendment to the amendment was disagreed to.

The question recurred upon agreeing to the substitute proposed by Mr. LITTLEJOHN.

Mr. LITTLEJOHN. I ask unanimous consent of the House to amend the second section by striking out the words "Charles B. Stuart, of the State of New York, civil engineer, and in case of the death, or any disability, or refusal to act of said Stuart, then such other civil engineer as the President shall deem it expedient to appoint," and inserting in lieu thereof the words "two civil engineers;" so that the section will read:

Sec. 2. *And be it further enacted*, That the President shall appoint a topographical engineer, to be associated with two civil engineers, to make such preliminary examinations and surveys, and from them shall determine and locate the route of said canal; and the said engineers shall make and file in the office of the Secretary of War a survey, map, and profile of said canal when thus located, and before the work thereon shall be commenced.

I do this at the request of several members. It is due to Mr. Stuart to say that his name was placed in the bill without his knowledge, or consent, or desire.

Mr. RANDALL, of Pennsylvania. Would it be in order to move to insert "League Island?" [Laughter.]

The SPEAKER. Not at this stage.

Mr. RANDALL, of Pennsylvania. Then I must object to any amendment.

Mr. LITTLEJOHN. Then I will move the amendment and have a vote of the House upon it. And I now call the previous question upon the bill and the pending amendments.

Mr. ELDRIDGE. I rise to a privileged question. I move to reconsider the vote by which the amendment of the gentleman from Illinois [Mr. ARNOLD] was rejected; and I move to lay that motion on the table.

Mr. FARNSWORTH called for the yeas and nays on the motion to lay the motion to reconsider on the table.

The yeas and nays were not ordered.

The question was then taken upon laying the motion to reconsider on the table; and it was agreed to.

Mr. WASHBURN, of Illinois. I move to lay the whole subject on the table.

Mr. PRUYN. I hope the gentleman from Illinois [Mr. WASHBURN] and the gentleman from New York [Mr. LITTLEJOHN] will waive their motions and let this subject go over.

Mr. LITTLEJOHN. I cannot consent to that.

The question recurred upon agreeing to the motion to lay the whole subject on the table.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

Mr. GRINNELL. I move that the House do now adjourn.

Mr. BROOKS. I would inquire what effect an adjournment would have on this bill.

The SPEAKER. It will come up to-morrow morning, immediately after reading the Journal.

Mr. LITTLEJOHN. Is there no privileged subject that will have precedence?

The SPEAKER. A report of a committee on conference is the only matter that will take precedence.

Mr. LITTLEJOHN. I understand that there is a conference report to be made in the morning. I trust the friends of this measure will dispose of it now.

The question was then taken on the motion to adjourn; and upon a division—yeas 40, nays 80—it was not agreed to.

The question recurred on the motion of Mr. WASHBURN, of Illinois, to lay the whole subject on the table.

The question was taken; and it was decided in

the negative—yeas 51, nays 95, not voting 36; as follows:

YEAS—Messrs. Ancona, Blow, James S. Brown, William G. Brown, Cox, Cravens, Creswell, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Holman, Philip Johnson, Kelley, Knapp, Lazear, Le Blond, Loan, Long, William H. Miller, James K. Morris, Morrison, Amos Myers, Noble, Charles O'Neill, John O'Neill, Pendleton, Pike, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Scofield, Scott, William G. Steele, Stiles, Thomas, Tracy, Wadsworth, Elihu B. Washburne, Webster, Joseph W. White, Williams, and Benjamin Wood—51.

NAYS—Messrs. James C. Allen, Alley, Allison, Ames, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Brooks, Broomall, Chanler, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, English, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Charles H. Harris, Herck, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kalbfelsch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Norton, Odell, Patterson, Pomeroy, Price, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stevens, Strouse, Stuart, Sweat, Townsend, Upson, Van Valkenburgh, Ward, William B. Washburn, Wheeler, Wilder, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Worthington—95.

NOT VOTING—Messrs. William J. Allen, Anderson, Blair, Bliss, Freeman Clarke, Clay, Coffroth, Henry Winter Davis, Deming, Dumont, Hotchkiss, Hutchins, William Johnson, King, Law, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, Moorhead, Leonard Myers, Nelson, Orth, Perham, Perry, Rogers, James S. Rollins, Smith, Starr, Thayer, Voorhees, Whaley, Chilton A. White, and Yeaman—36.

So the motion to lay on the table was not agreed to.

Mr. HOLMAN moved that the House adjourn.

The motion was not agreed to.

The question then recurred on seconding the demand for the previous question.

The previous question was seconded.

The main question was ordered, there being on a division—yeas eighty-eight, nays not counted.

The question then recurred on the amendment of Mr. LITTLEJOHN to the substitute.

The amendment was agreed to.

The substitute as amended was agreed to.

The bill as amended and the preamble were ordered to be engrossed for a third reading; and being engrossed, were accordingly read the third time.

Mr. LITTLEJOHN demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 51, not voting 36; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Brooks, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, English, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Charles H. Harris, Herck, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kalbfelsch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Norton, Charles O'Neill, Patterson, Pomeroy, Price, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stevens, Strouse, Stuart, Sweat, Townsend, Upson, Van Valkenburgh, Ward, William B. Washburn, Whaley, Wheeler, Wilder, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Worthington—95.

NAYS—Messrs. Ancona, James S. Brown, William G. Brown, Chanler, Coffroth, Cravens, Creswell, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Holman, Philip Johnson, Knapp, Lazear, Le Blond, Loan, Long, William H. Miller, James K. Morris, Morrison, Amos Myers, Noble, Odell, John O'Neill, Pendleton, Pike, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Scofield, Scott, William G. Steele, Stiles, Thomas, Tracy, Wadsworth, Elihu B. Washburne, Webster, Joseph W. White, Williams, and Benjamin Wood—51.

NOT VOTING—Messrs. William J. Allen, Anderson, Blair, Bliss, Blow, Freeman Clarke, Clay, Cox, Henry Winter Davis, Deming, Dumont, Hotchkiss, Hutchins, William Johnson, King, Law, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, Moorhead, Leonard Myers, Nelson, Orth, Perham, Perry, Rogers, James S. Rollins, Smith, Starr, Thayer, Voorhees, Chilton A. White, and Yeaman—36.

So the bill was passed.

Mr. LITTLEJOHN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ILLINOIS SHIP-CANAL.

The SPEAKER. The next bill in order is the bill (H. R. No. 322) for the construction of the Illinois ship-canal, which was postponed till to-day immediately after the reading of the Journal.

Mr. ARNOLD. I move the following as a substitute, on which I demand the previous question:

That as a military work, and to facilitate the defense of the northern frontier, and to enable gunboats and vessels-of-war to pass from the Mississippi to Lake Michigan, and to promote the commerce between the different States and the United States and foreign nations, the President of the United States be, and he is hereby, fully authorized and empowered to deepen and enlarge the Illinois and Michigan canal, supplying the same with water from Lake Michigan, and to improve the navigation of the Illinois and Des Plaines rivers in such manner as to insure a safe and uninterrupted navigation between Lake Michigan and the Mississippi river at all times during the season of navigation, for gunboats, steamboats, naval and war vessels of the United States not drawing over six feet of water, the plan of which shall be submitted to and approved by the President of the United States. The President may, and he is hereby authorized to, contract with the State of Illinois, or with any company incorporated for that purpose, to construct said works.

Sec. 2. And he it further enacted, That to aid the State of Illinois, or such company as may be incorporated for that purpose, in the construction of said works, the sum of \$5,000,000 in bonds of the United States, payable twenty years from their date, bearing interest at the rate of six per cent. per annum, to be made and issued in the usual manner, the interest and principal of which said bonds to be payable out of any moneys to be hereafter appropriated by Congress, shall be delivered by the Treasurer of the United States to the State of Illinois upon the following conditions, to be assented to by the Legislature of the State of Illinois, and which shall be embraced in a contract between the United States and said State of Illinois before the delivery of any of said bonds, to wit: First, that the said canal and rivers when improved shall be and remain forever free from toll or charge upon the vessels, gunboats, transports, troops, material of war, and other property of the United States. Second, the State of Illinois shall, by its Legislature, undertake and contract that that State, either by itself or through some company incorporated for that purpose, shall proceed without delay to commence, and within a reasonable time complete, the said canal and river improvements in such a way as to insure such navigation as heretofore mentioned between Lake Michigan and the Mississippi river. On compliance with which conditions, and on the execution of such contract between the United States and the State of Illinois, the Secretary of the Treasury is directed to issue and deliver said bonds in manner following, to wit: the amount of \$500,000 in bonds shall be delivered upon the concluding of said contract with the State of Illinois; and whenever there shall have been expended upon said works the sum of \$1,000,000, and the same shall be certified and sworn to by the chief engineer of said works, an additional sum of \$500,000 in bonds, as aforesaid, shall be delivered to said State; and so on for every \$1,000,000 expended upon said works and certified and verified to the Secretary of the Treasury as aforesaid, the sum of \$500,000 in bonds shall be issued and delivered until the whole amount of said \$5,000,000 shall have been delivered for the purposes of aiding in constructing said works as aforesaid.

Pending the reading of the substitute, Mr. WASHBURN, of Illinois, moved that the House adjourn.

The motion was agreed to; and the House (at ten minutes before five o'clock p. m.) adjourned.

## IN SENATE.

THURSDAY, February 2, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs suggesting that an appropriation be made to enable his office to provide for the usual distribution of medals to leading and influential Indian chiefs; which was referred to the Committee on Indian Affairs.

The VICE PRESIDENT also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs representing the necessity that exists for an appropriation to pay for supplies of goods purchased for certain Indians by him, the purchase having been made to meet the exigencies of the tribes occasioned by the destruction of previous invoices of supplies on board the steamer *Welcome* at St. Louis on the 15th of July last; which was referred to the Committee on Indian Affairs.

## CREDENTIALS PRESENTED.

Mr. NESMITH presented the credentials of Hon. GEORGE H. WILLIAMS, chosen by the Legislature of the State of Oregon a Senator from

that State for the term of six years from March 4, 1865; which were read, and ordered to be filed.

## PETITIONS AND MEMORIALS.

Mr. HOWARD presented five petitions of citizens of Michigan, praying for a grant of land to aid in the construction of a railroad from Fort Wayne, Indiana, to Jonesville, Michigan, and that the time for building the Amboy, Lansing, and Traverse Bay railroad may be extended; which were referred to the Committee on Public Lands.

Mr. LANE, of Kansas, presented the petition of the chiefs and counselors of the Wyandott tribe of Indians, praying to be relieved from the payment of taxes assessed on their lands by the authorities of Kansas for the two years between the date of the patents and the organization of a State government over the Territory where they reside; which was referred to the Committee on Indian Affairs.

## BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 424) to facilitate the collection of certain debts due the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 425) to revive for a certain time the provisions of the act of 1846 relative to suspended entries of public lands; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

## SMITHSONIAN INSTITUTION FIRE.

Mr. FOOT. I offer a concurrent resolution, and, presuming that there will be no objection from any quarter, I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Public Buildings and Grounds of the Senate, conjointly with the Committee on Public Buildings and Grounds of the House, be, and they are hereby, directed to inquire into the origin of the fire by which the Smithsonian Institution building and the valuable deposits therein were, on Tuesday, the 24th day of January, in whole or in part destroyed; the approximate loss to the Government and to private persons; the means necessary to preserve the remaining portions of said building and its contents from further injury; and such other facts in connection therewith as may be of public interest, and to report by bill or otherwise.

## QUOTA OF RHODE ISLAND.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the Senate copies of any correspondence that may have passed between officers of the Department and the authorities of Rhode Island relative to the quota of that State under the "Act for enrolling and calling out the national forces," and the acts in amendment thereto; also any reports and other papers in the Department relating to the subject.

## TRIAL OF COLONEL NORTH.

Mr. WILSON. I submit the following resolution:

Resolved, That the Secretary of War be directed to communicate to the Senate the record of the proceedings of the court before whom Colonel North, a commissioner from the State of New York in relation to the taking the votes of the soldiers from that State, was tried on charges of irregularity and improper conduct in reference thereto.

Mr. HALE. I do not interpose any objection to the consideration of the resolution, but I think we ought to have some policy in regard to these matters. Years ago the Senate used to refuse invariably to order these records before it. Subsequently to that, in some cases, it has ordered them to be sent here. If you order one, I do not well see how you can refuse to order others. There are some proceedings of courts-martial which, to my mind, are outrageous and enormous; but I had not thought of this mode of reaching them. I shall not oppose this resolution, but I simply want the Senate to understand what it is. We are to constitute ourselves into a sort of court for the correction of errors in the proceedings of courts-martial which are in constant session all over the United States. I have no doubt there is occasion for it; but it is contrary to the usual practice of the Government heretofore; and if we go into it the Senate will, perhaps, be precluded from attending to other duties.

Mr. WILSON. If there is any objection to the resolution, let it lie over.

Mr. HALE. I do not object.

Mr. WILSON. Let it go over, anyhow.

The VICE PRESIDENT. The resolution will be laid over.

## THE INDIAN TERRITORY.

Mr. LANE, of Kansas. I submit this resolution, and ask for its present consideration:

Resolved, That the Committee on Territories be instructed to inquire as to the policy of organizing a territorial government for the country lying between Kansas and Texas, known as the Indian country, and to report by bill or otherwise.

Mr. DOOLITTLE. I think that resolution had better lie over.

The VICE PRESIDENT. The resolution will go over under the rules.

## REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a bill (S. No. 403) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes, reported it with amendments.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (H. R. No. 161) for the relief of Josiah O. Armes, reported it without amendment, and submitted a report, which was ordered to be printed.

Mr. POMEROY, from the Committee on Claims, to whom was referred a bill (S. No. 70) to enable the accounting officers of the Treasury to settle the claim of the State of Kansas, reported it without amendment, and submitted a report, which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 355) to amend an act to regulate the admeasurement of tonnage of ships and vessels of the United States, passed May 6, 1864, asked to be discharged from its further consideration; which was agreed to.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 295) making additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State, reported it with amendments.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to issue certain bonds to the Secretary of the Interior, for feeding the refugee Indians, reported it with amendments.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 126) to construct a ship-canal around the falls of Niagara.

## ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command; and it was thereupon signed by the Vice President.

## ORDER OF BUSINESS.

Mr. SUMNER. I ask the Senate to take up the resolution calling on the President for information about peace commissioners which I offered the day before yesterday, and to which the Senator from Maryland [Mr. JOHNSON] proposed an amendment. I wish to have it acted on now. We ought to have the information at once.

Mr. TRUMBULL. The unfinished business of yesterday was a joint resolution from the House of Representatives relating to the canvassing of the votes for President and Vice President, and I suppose that, as unfinished business, it would be first in order; it came up in the morning yesterday, and I should object to having it displaced.

The VICE PRESIDENT. It would be the first business in order to-day, unless the Senate continues its usual practice of being disorderly in its business.

Mr. TRUMBULL. It would come up after



the morning business, unless superseded by some other measure?

The VICE PRESIDENT. It would.

Mr. TRUMBULL. I hope the Senator from Massachusetts will not ask to take up anything which will interfere with that matter. It ought to be settled, and settled at once.

Mr. SUMNER. I do not think this resolution of mine will take five minutes.

Mr. TRUMBULL. If it is a resolution of inquiry, and nobody objects to it, and nothing is to be said about it, of course I would have no objection to its being taken up.

Mr. SUMNER. It is simply a question between the Senator from Maryland and myself as to the form of the proposition.

Mr. TRUMBULL. Let me ask the Senator from Massachusetts if he does not intend to discuss it.

Mr. SUMNER. I do not.

Mr. SHERMAN. I am inclined to think that that resolution will give rise to discussion, because there is an amendment proposed by the Senator from Maryland, which will probably lead to debate.

Mr. SUMNER. The question between the Senator from Maryland and myself is simply one of form, and my statement on that I can make in less than a minute. I will not transcend a minute, and will allow the Senator from Maryland five times that.

Mr. SHERMAN. All I desire is that I may be enabled at one o'clock to get the attention of the Senate to one or two bills from the Committee on Finance.

Mr. TRUMBULL. I must insist on the order of business.

Mr. DOOLITTLE. If the Senator from Illinois will allow me to say a single word, there are other Senators who feel as much interest in the subject alluded to as the Senator from Massachusetts or the Senator from Maryland, and desire to say something upon it. I propose to say something myself.

Mr. TRUMBULL. Then it is manifest it will lead to debate, and the Senator from Massachusetts will not persist in it, I suppose.

The VICE PRESIDENT. If there be no further morning business, the unfinished business of the morning hour of yesterday will now be taken up, being the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, the pending question being on the amendment proposed by the Senator from New Jersey, [Mr. TEN EYCK,] to strike out the word "Louisiana" in the preamble.

Mr. DOOLITTLE. Upon that question the honorable Senator from New York, [Mr. HARRIS,] whom I do not now see in his seat, was upon the floor when the Senate went into executive session yesterday.

The VICE PRESIDENT. That has no reference to the order of business.

#### BRIDGE ACROSS THE OHIO RIVER.

Mr. POWELL. I move to postpone the pending and all prior orders for the purpose of taking up Senate bill No. 332, to provide for building a railway bridge across the Ohio. My object is not to urge its present consideration, but to make it the special order for to-morrow. It is a bill of very great importance to the public generally.

The VICE PRESIDENT. The Senator from Kentucky moves to postpone all prior orders with a view of taking up the bill indicated by him.

Mr. TRUMBULL. I hope that will not be done. The Senator from Kentucky surely knows the importance of this resolution that we have reported from the Committee on the Judiciary. Let us dispose of that. It relates to a matter that is immediately upon us.

Mr. POWELL. I only ask to take it up for the purpose of making it the special order for some future day. I do not wish to press its consideration now.

Mr. TRUMBULL. I have no objection to that. The motion to take up the bill was agreed to.

Mr. POWELL. I now move that it be postponed to and made the special order of the day for to-morrow at one o'clock.

Mr. SHERMAN. Before that motion is put I desire to say that there are one or two appropriation bills that I feel it my duty to press on the attention of the Senate, so that they may not

incumber us at the last of the session. I do not think this bill in regard to a bridge across the Ohio ought to be made a special order. It will give rise to debate. The Senator from Kentucky can call it up at any time without making it a special order. I hope, therefore, that the Senate will not make this bill a special order; as it may interfere with important public measures.

Mr. POWELL. If it interferes with the Senator's appropriation bills I shall not urge it on that day. I know the necessity of passing the appropriation bills, and I do not wish to antagonize this measure with them.

Mr. SHERMAN. Put it off to some day next week.

Mr. POWELL. Then I will move that it be postponed to and made the special order of the day for Monday next, at one o'clock, if that will suit the Senator.

The motion was not agreed to.

#### REPRESENTATION IN ELECTORAL COLLEGE.

Mr. TRUMBULL. I now insist on proceeding with the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, the pending question being on the amendment of Mr. TEN EYCK to strike out the word "Louisiana" in the third line of the preamble to the resolution.

Mr. HARRIS. It is proper, perhaps, Mr. President, that I should say that the question as to the power of Congress to legislate in relation to the counting of votes for President and Vice President was not considered by the Committee on the Judiciary. The question there was as to the form of the resolution and as to the recitals in its preamble. Since the discussion of this question in the committee, I have been led to doubt exceedingly whether it is competent for Congress to legislate at all in reference to the counting of the votes. The Constitution authorizes Congress to fix the time for choosing electors. It also empowers Congress to specify the time when those electors shall perform the functions of their office, when they shall vote; and, so far as I can find in perusing the Constitution, that is the extent of the power of Congress over the subject. It fixes the time when the votes shall be counted, and it declares that, in the presence of both Houses of Congress, the Vice President shall open all the certificates returned—it is careful to specify that he shall open them all—and the votes shall be counted.

I cannot find in the provisions of the Constitution any authority for Congress to pass a law (for this amounts to that) excluding any votes that shall have been returned to the Vice President. I do not see how it is possible. I am not prepared to say that in case the rebel States had sent votes here which would be controlling in the election, that in such an extreme emergency as that Congress would not be called upon to do something—what, I am not prepared to say; but in this case I am clearly of opinion that even though Congress may possibly have the power, it is inexpedient for us by legislation to declare that these votes shall not be counted. I doubt the power very much; but of the inexpediency of exercising any such power, if it exists, I am very clear.

I hope, therefore, that this resolution will not be adopted. I believe there is no necessity for it; and until an extreme necessity arises I am not in favor of exercising any such power. Whether these votes are counted or not, it is conceded the result will be the same. Why should we exercise such an extreme power as this, one so doubtful, as it must be conceded to be, to declare in an act of the national Legislature that the votes of a certain number of States shall not be counted? The power is not to be found in the Constitution, I am sure.

But, sir, if the Senate shall be of opinion that such a law as this is called for, then I am opposed to the recitals in the preamble to this resolution. It seems to me that these recitals are not strictly true. At any rate, I am not prepared to assert that they are true. It is true that the States specified did rebel; the first part of the recital is true; but that the inhabitants of those States and the local authorities of all of those States were in a

state of armed rebellion on the 8th day of November, the day of the presidential election, I am not prepared to assert. On the contrary, I choose to leave that question open. I think it ought to be left open until the question as to whether or not the Senators who are now applying for admission here from the State of Louisiana shall be admitted shall be brought before the Senate. I do not like to have that question prejudged by a recital in the preamble of this resolution. I am therefore opposed to the resolution on both grounds. I think it inexpedient to pass any such resolution, and I am not prepared to assert the truth of the recitals in the preamble.

Mr. DOOLITTLE. Mr. President, I can see very clearly that there is a great distinction between Congress exercising the power of legislation by providing in advance in what manner the electoral votes of President and Vice President shall be given, and a law of Congress which, after the votes are said to have been given under existing laws, by its retroactive effect declares that certain votes are null and void. The distinction is as wide as the world; it is as wide as the east is from the west. I concede that Congress could pass a law, and I believe such a proposition was pending at the last session of Congress, providing that certain States or certain people in a State of insurrection should not have the legal power to cast electoral votes for President or for Vice President; but no such law was enacted. The laws as they existed were permitted to stand; and now, after it is said votes have been given, for Congress to assume to declare that those votes are null and void, and shall not be counted, is altogether a different thing; and the point which was taken by my colleague when this question was up yesterday I think is fatal in that view of the case.

But, sir, I have very serious doubts whether Congress is clothed with any power over the subject of the counting of these electoral votes. The Constitution prescribes what powers Congress shall have:

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

In pursuance of that provision of the Constitution, Congress have passed an act on the subject, in the following words—

Mr. JOHNSON. What is the date of the act?

Mr. DOOLITTLE. January 23, 1845:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the electors of President and Vice President shall be appointed in each State on the Tuesday next after the first Monday in the month of November of the year in which they are to be appointed: *Provided*, That each State may by law provide for the filling of any vacancy or vacancies which may occur in its College of Electors when such college meets to give its electoral vote: *And provided also*, When any State shall have held an election for the purpose of choosing electors, and shall fail to make a choice on the day aforesaid, then the electors may be appointed on a subsequent day in such manner as the State shall by law provide."

Here by this act of January 23, 1845, Congress did exercise the power with which it is clothed under the Constitution of determining the time of choosing the electors and the day on which they shall give their votes, which day, by the Constitution, must be the same throughout the whole United States.

What is the provision of the Constitution on this subject? The provision as it now stands is contained in the twelfth article of the Amendments to the Constitution, and is in these words:

"The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves: they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate."

The Constitution provides for all that, for the giving of the votes, for the counting of the votes, the sealing up of the votes, and the transmission of the votes into the hands of the President of the Senate. Then what is to be done with them? It does not say that Congress shall have anything to do with them, that Congress shall say what votes the President of the Senate shall count or shall not count, that Congress shall have any power to annul any one of these votes that are sealed up and sent

to the President of the Senate. Congress is clothed with no authority whatever over the subject. They come to the President of the Senate. Certainly it will not be said that the House of Representatives have any control over the President of the Senate, but the House of Representatives are essential to constitute a Congress. Possibly you might argue that because they are sent to the President of the Senate, the President of the Senate presiding over the Senate, he might in some measure, by appeal or otherwise, be subjected to the decision of the Senate; but certainly the House of Representatives has no control over it. But then the Constitution provides:

"The President of the Senate shall, in presence of the Senate and House of Representatives"—

The Senate and House of Representatives meet together in joint convention, the President of the Senate presiding over the convention, and the Constitution then says what shall be done with the votes:

"The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates"—

Not open such as Congress tell him to open, but the President of the Senate shall "open all the certificates" which are sent to him—

"and the votes shall then be counted."

Here arises, Mr. President, under our Constitution, one of the most grave questions which, under certain circumstances, could possibly arise; and that is, whether the President of the Senate presiding over this joint convention of the House of Representatives and the Senate, is, by the Constitution, made the sole judge as to what votes shall be counted or not; or whether, being the President of the joint convention, he is in some measure, by some kind of parliamentary law not expressed in the Constitution itself, to be subjected to the control of that joint convention. Practically the question arose in 1856 on the vote of the State of Wisconsin. The law provided that the vote should be given on a certain day. In consequence of an extraordinary storm in that State, it was impossible to cast the vote on the day prescribed; the votes were not given on that day. The question arose whether the votes of the State of Wisconsin should be counted. Who was to decide that question? Who, in the first instance, was to decide whether the votes of Wisconsin were void or were good? Was it the Congress? Was the Committee on the Judiciary of the Senate to report upon it and Congress to pass a law about it, to decide that the votes of Wisconsin were valid or invalid? Not at all. The Constitution says the President of the Senate shall open the votes and count them; and upon the President, in the first instance, is the responsibility. He, and he alone, is to decide. But then arises the other question, whether from his decision there is an appeal to the body over which he presides? That question arose in 1857. It was a grave question, and as it was not necessary that it should then be decided in order to dispose of the result of that election, the question was neither decided by the President nor by the joint convention over which he presided. The question was waived just as everybody and every judge and every tribunal who acts wisely will always waive a question when it is unnecessary to be decided. If, in the decision of the Dred Scott case, the court had only decided the questions which were necessary to be decided, we never should have heard of such an opinion as that which has convulsed the country from one end to the other by the dogmas that are contained in it and the unnecessary opinions that were given.

In 1857, whether the votes of Wisconsin were to be regarded as valid or invalid did not affect the result, and therefore the President of the convention declared that if the votes of Wisconsin were counted Mr. Buchanan was elected; if they were rejected Mr. Buchanan was still elected; and hence it was not necessary to decide the question whether they should be counted or not. So, too, in this very case, which is to come off in the next joint convention, we all know that whether the votes of certain States, Louisiana and Tennessee, are counted or not counted, does not affect the result; and it is not necessary for Congress now to assert a doctrine which in some future time may be the very destruction of the Government, namely, that a political majority in Congress can decide

that certain votes of certain States shall be canceled and others shall be received. It will never do to set that precedent. We had better follow the Constitution as it is written. Let the votes that are sent to the President of the Senate be opened by the President of the Senate, who presides over the joint convention of the two Houses; and then, if it be not necessary to decide this question, it is better that it should not be decided any more now than it was in 1857. It will be time enough to raise the question in the joint convention; and whether that joint convention has, from the fact that the President of the Senate is to preside over it, a power of appeal from his decision, with a power to reverse his decision according to parliamentary law, or whether the members of both Houses are called there simply as witnesses to the fact, without the power of appeal from his decision, is a very grave question under the Constitution itself, upon which I do not propose to express an opinion.

Mr. President, as I said in the beginning, even if Congress had some power under the Constitution to regulate the manner in which these votes should be given, they have no power under the Constitution in this mode to annul votes or declare void votes that have been given. But, sir, it is not my purpose to take up the time of the Senate; I have simply expressed in brief words my opinion.

Mr. HALE. Mr. President, it is refreshing at the present time to hear anybody urge any special measure in a contrary direction to the provisions of the Federal Constitution. It seems to me that upon this question, if upon no other—a question upon which depends the continuance of the Government—it is necessary to adhere to the Constitution, and to look for it and see if we have any guide or direction in that instrument. I foresaw this evil, and I introduced at the last session of Congress a joint resolution directing in advance what should be done; but, for some reason or other, (owing to the press of other business, probably, certainly not more important business,) that resolution was not acted upon. It struck me at that time—and I have not lost any of the strength of that conviction now—that it was one of the most important measures that could possibly be presented to the consideration of Congress, and it was not then without the range of possibility or probability that on that question might depend the very continuance of this Government. No one could have known to the contrary of that at the last session; for let me suppose that the result of the presidential election might have been determined by the votes of these States who have now proposed to offer them. I think there are three of them, Tennessee, Louisiana, and Arkansas; let me suppose that, in November, the votes of these three States had decided which way the majority was, would the party against whom they voted have submitted? I tell you nay, sir. If the counting of these votes had determined the result of the presidential election it would have deluged this land in blood, and another civil war would have followed, just as certain as that we have one now on hand. My friend from Michigan [Mr. HOWARD] shakes his head. Why, sir, what caused the present rebellion? Nothing at all in comparison with this.

My friend from Wisconsin [Mr. DOOLITTLE] says that Congress has no power over this subject. It would be one of the strangest things that ever occurred on earth if it had not the power. The provision of the Federal Constitution is that no member of Congress or any person holding an office of profit or trust under the Federal Government shall be an elector. Suppose when the two Houses meet in convention to count the votes it is palpable to them that the electoral votes of some States were given by members of Congress, has Congress no power to say that they shall not be counted?

But, sir, the Constitution is not so silent on this subject as my friend from Wisconsin seems to imagine; for the election of President and the mode of counting the votes is one of the means and measures by which the national life is to be preserved. If this is not followed, carried out, and executed, there is an end to the Government; there is no President elected, and the whole fabric falls to chaos. Now, is it within the range of possibility or probability that the framers of the Constitution were so derelict, so blind, as not to

have provided that there should be some mode of conducting, and conducting legally, the machinery of this great measure which is essential to the very life of the nation? No, sir. The Constitution would have been one of the most imperfect things that was ever created without some provision of this sort, and accordingly I find that the framers of the Constitution made the most ample provision for exactly this case. I find in the Constitution a clause declaring that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States." Is not the power to choose a President one that is vested in the Government of the United States? It is the most essential power that there is; without it all the other powers are nothing; and the Constitution says that for carrying into execution this power thus granted Congress may make all laws which shall be necessary. It seems to me that it would be impossible to frame in broader or more comprehensive terms a provision which shall give Congress exclusive jurisdiction over this matter than that which I have just read, and it is found on the 10th page of Hickey's Constitution.

Well, sir, what would be the common sense, and what the reason of the thing? What does Congress meet for when the votes are counted? Is it to see as a matter of curiosity how the thing is done? Is it to go there to see the Constitution trampled upon and not have the power to remedy it? Is it when they see that there is danger of the Constitution being violated, that they shall not provide by law against it? It seems to me that to say that Congress has no power, is to say that the Constitution itself is a dead letter, inoperative, and of no force.

I remember very well, Mr. President, and you probably remember it, although at this moment I do not recollect whether you were present or not, the occurrence that took place in 1857 on the counting of the votes. I remember that I was then utterly astonished at the announcement made by some of the Senators, who are not now members of the body. I may name Mr. Mason of Virginia, and I think others concurred with him, who expressed themselves utterly indignant that there should be any attempt to settle anything in that joint meeting. "State rights" reared up its hydra head, and was shocked at the idea of State sovereignty being trampled under foot by the doctrine of the supremacy of a majority, and so nothing was done; the thing passed over.

Now, I contend that it is the part of wisdom before the emergency comes to settle this question. There never was a more favorable time for its settlement than the election of 1856 presented, and there will be none more favorable than this election presents. It is the part of sagacity, of wisdom, and of patriotism, when we see that such a contingency as this may be fraught with the consequences of revolution to provide beforehand against it. There never was a time when you could do it, when you would be less liable to the charge of any sinister influence, because it cannot change the result, it cannot determine anything except to settle the principle; and then when an occasion occurs that evil consequences may follow from settling it one way or the other, here will be a precedent showing that Congress at a time when there was no inducement to anything but an honest and a straightforward decision of the case maturely settled it, and settled it in such a manner that the influence of the decision will be morally binding upon our successors, and will be preserved.

Mr. President, suppose that some of our Territories had organized a State government and were not yet recognized by the Congress of the United States; suppose that the young State of Nevada, which has lately done herself so much honor and the Senate so much benefit by sending to it the illustrious men that she has sent—suppose that Nevada, impatient of the colonial condition, had undertaken to cast her vote for presidential electors before she had gone through the forms of the Constitution requisite to constitute her one of the States of the Union, would it not be competent for Congress in that case to say that the vote of Nevada should not be counted? If not, there is no limit, no control, no jurisdiction anywhere to exclude the votes of any persons that may take

it into their heads that they have a right to vote at the presidential election.

I was not much struck by the suggestions made by the honorable Senator from New York [Mr. HARRIS] that it would not be competent for Congress to exclude the vote of the State of New York. I have, I think, as high a regard and respect for New York as anybody in the world has, not excepting even the Senator himself; but that very thing has been done heretofore even in regard to that State. If the Senator will take the trouble to look at the table of electoral votes for President and Vice President, cast since the adoption of the Federal Constitution, he will find that at the first election, when George Washington was elected President of the United States, the vote of the State of New York was not counted; she had no voice in that election. The precise manner in which that was done does not appear; but I have before me the table of electoral votes for President and Vice President of the United States for the term commencing March 4, 1789 and terminating March 3, 1793, and I find that the States which voted were, New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, and Georgia. North Carolina and Rhode Island did not vote, because they had not then adopted the Constitution; but eleven States had adopted it, and New York was among the number; and yet for some reason which does not appear on the face of the table, the tremendous occurrence which the Senator from New York holds up to-day as such a bugbear actually occurred, and in counting the votes on that occasion there were no votes counted from the State of New York.

It is the dictate of the plainest common sense, independent of the constitutional provision, that there must of necessity be a power residing somewhere to preside over, rectify, and govern this whole transaction; and although it would have been wise in my humble judgment for Congress to have passed this resolution preceding the presidential election, it by no means follows that it may not do it now. This law is not subject to the reproach of being a retrospective or retroactive act. Congress does not propose to say that any State shall not express its opinion. All that Congress proposes to say now is that these States being in a condition where no valid, no constitutional election was held, their votes shall not be counted; and if we cannot do that, it seems to me that we are powerless to do anything.

Mr. TRUMBULL obtained the floor.

Mr. DOOLITTLE. I desire to say a word in reply to the Senator from Hampshire.

Mr. TRUMBULL. If the Senator prefers speaking now, I will yield the floor for anything personal.

Mr. DOOLITTLE. The Senator from New Hampshire stated me rather strongly as having expressed the opinion that Congress had no power over this subject. I did aver that Congress had power over it, for the Constitution gives them certain powers over the question of choosing electors, but it limits that power. The Constitution says that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." Now I ask the Senator from New Hampshire if he believes Congress has power to appoint or to direct the manner of the appointment of the electors when the Constitution says that they shall be appointed as the Legislature of the State may direct?

Mr. HALE. Certainly not.

Mr. DOOLITTLE. "Certainly not." The Senator agrees with me, then; there are certain powers that Congress have not got over this subject; but the Constitution goes on to say what power Congress shall have. "Congress may determine the time of choosing the electors, and the day on which they shall give their votes" after they are chosen, "which day shall be the same throughout the United States." It does say in substance that Congress shall not do some things, because it provides that the States shall direct the manner of the appointment of electors, whether they shall be chosen by the people at large, or appointed by the Legislature, or chosen in sepa-

rate districts, or in whatever way the State may direct. There is merely the power in Congress to determine the day on which they shall be chosen and the day on which they shall give their votes. When Congress has done that it has passed laws to carry into effect this power under the Constitution, and all the rest belongs to the States.

My honorable friend seems to condemn this doctrine for which I contend as if it was a part and parcel of that State rights doctrine which has involved the country in this civil war. I believe just as much in the rights of the States as they are secured under the Constitution as I do in the rights of the Federal Government as they are also secured by the Constitution. I believe in the rights both of the States and of the Union; and the party in this country that shall undertake to aver that the States have not rights secured to them under the Constitution will go against the whole history of this Government from the beginning. Such a party has had but a short history in the past, and will have a shorter history in the future, for when this war is over and the necessity for the exercise of tremendous powers by the Government to defend its existence in this conflict is past, I tell you that the doctrine in favor of reserving to the States all the powers which are secured to them under the Constitution will be the popular doctrine and the necessary doctrine to save the liberties of this people and of this country.

Mr. President, I am for giving this Government all the power which is conferred upon it by the Constitution, and not for giving it more. This country is too large, it covers too many and too varied interests, to endure the establishment of the doctrine that this is one consolidated empire, and that this Congress and this Government can exercise unlimited power of legislation over all the interests of this great people. But, Mr. President, while I say this and assert it, I am just as much opposed to the State rights doctrine run mad to Calhounism, and all the consequences that have followed from it, as the Senator from New Hampshire is or can be. Under the Constitution as it is I am for maintaining the rights of the States as they are secured by it, with just as much tenacity as I am for maintaining the rights of this Government against States or individuals when they undertake to rebel against it.

Now, Mr. President, what I maintain under this provision of the Constitution is that, after the votes have been given, there is no power in Congress as a legislative body to declare certain votes valid or invalid. Congress is not the tribunal to which the question is referred; but the tribunal to which it is referred is the President of the Senate of the United States presiding over the joint convention of both Houses. I admit that the President of the Senate has in his hands the power in the first instance to count or not to count the votes. He is to decide whether he is to receive the votes; in the first instance to decide whether they are votes coming up from States or from Territories.

The Senator put the question, suppose one of the Territories should send up votes, what would you do? I will take the case that he supposes and presume that the Territory of Montana should send up, sealed under the seal of the Territory of Montana, three votes for President and Vice President. The President of the Senate is to open the votes and count them in the presence of the Convention; but the votes which he is to count are the votes which come from States; and as he opens the votes coming from Montana he says, "These are not votes of a State; this is a Territory claiming to be a State; I do not count these votes;" and then arises another question. Suppose some other person should insist in the Convention that Montana instead of being a Territory was a State, perhaps he could raise the question then on an appeal from the decision of the President to the joint body in Convention assembled, the Senate and House of Representatives. There is the tribunal. There the President of the Senate alone counts the votes, or it is the body over which he presides, having a power over his decision by appeal in the final resort, to decide the question. That is what I have contended for.

Mr. TRUMBULL. I did not suppose when the Senator from Wisconsin insisted upon taking the floor, that he designed making a speech on the question generally, but I thought it was merely

to reply to some remarks of the Senator from New Hampshire.

Mr. DOOLITTLE. I will say to my honorable friend that I had spoken on this question and the Senator from New Hampshire went into a long speech in reply to me, and I replied to him taking up some of the points that he discussed. I did not intend, of course, to trespass on my friend from Illinois.

Mr. TRUMBULL. I am sorry, Mr. President, to see any manifestation of feeling on the part of any member of the Senate in reference to this question; it is not one to excite any.

Mr. DOOLITTLE. My honorable friend does not understand that I manifest any personal feeling toward anybody on this question certainly. That I feel an interest in the question, as a grave question, I do not deny. I take an interest in all these questions, and generally have feeling.

Mr. TRUMBULL. If the Senator from Wisconsin will allow me to go on, I shall say nothing unkind of him, I am sure, and I did not suppose that he had any personal feeling in regard to any one. I thought he manifested a great deal of zeal, and I admit I was a little afraid that his zeal might run away with his better judgment.

Now, sir, this is a question that no one, I apprehend, can have any other desire than to have settled properly and rightly. I am a little surprised at the course taken by my friend from New York, [Mr. HARRIS.] He is a member of the Committee on the Judiciary, and I certainly understand him to agree to this resolution as reported by that committee. However, he has a right to change his views, I suppose; but the matter was pretty thoroughly discussed in the committee, and I certainly did understand that he was in favor of the resolution, though I was aware he did not like the words of the preamble. That, however, we have amended.

Mr. TEN EYCK. In the absence of the Senator from New York, I beg leave to state that I did not understand him as agreeing to the preamble to the resolution.

Mr. TRUMBULL. The Senator from New Jersey misunderstands me. I said the Senator from New York agreed to the resolution distinctly in committee. He objected to the preamble. Does the Senator from New Jersey mean to controvert that?

Mr. TEN EYCK. I do not.

The VICE PRESIDENT. It is not in order to refer in debate in the Senate to the proceedings of committees.

Mr. TRUMBULL. I intended to state the matter as it was. I was taken a little by surprise at the opposition manifested by the Senator from New York.

But, sir, both the Senator from New York and the Senator from Wisconsin doubt the power of Congress to pass this resolution, and they place themselves upon the Constitution. The Senator from Wisconsin insists, as also does the Senator from New York, that the Vice President, or the Presiding Officer of the Senate, is to determine this question in the first instance. The Constitution does not say that the Presiding Officer of the Senate shall count the votes even, and in the practice of the Government since the days of Washington till this moment the Vice President never has counted the vote. The Constitution says, "The President of the Senate shall, in presence of the Senate and House of Representatives," do what? "Open all the certificates." That is what he shall do. Then what follows? "And the votes shall then be counted." By whom? Another clause in the Constitution already referred to declares that Congress shall have authority to pass all laws necessary and proper to carry into effect every one of the granted powers. The power to count the votes is given by the Constitution; the mode of doing it is not prescribed by the Constitution; but another clause of the Constitution says that Congress shall have power to provide by law for carrying into effect every provision of this instrument; and here is a provision of this instrument that these votes shall be counted; the manner of doing it is now determined by the Constitution, and it is clearly constitutional and proper for Congress, in the exercise of its authority to carry into effect the granted powers of the Constitution, to pass the necessary laws to count the votes, and Congress has done it from the beginning of the Government. If it were not so,



we should have revolution at every presidential election.

Why, sir, is the ground to be assumed here that South Carolina in a state of rebellion against this Government, her people at war with us, and it being declared by acts of Congress a felony for any man to deal with those people, they being forbidden to come within our lines or our people to go within theirs, has a right to elect a President for us; and that we have no right to declare the mode of counting the votes so as to exclude her vote? Let me ask the Senators from New York and Wisconsin is the State of Louisiana to-day in any different position legally from the State of South Carolina, or are the inhabitants of Louisiana in any different position?

I have before me the statute of 1861, which provides that the President in a certain contingency shall be authorized to declare the inhabitants of a State in insurrection against the United States, and what then? "And thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue," and all goods going into that State shall be forfeited. And yet, forsooth, when the inhabitants of Louisiana have been declared to be in this state of insurrection, when goods taken there unless under a particular license are forfeited by the laws of the land, and when an individual trading there is taken up and tried as a felon, we are told that we cannot determine by act of Congress that they cannot elect a President for us!

Now, sir, it is said that the votes of these States will not affect the result. That may be so; but we may know outside that it probably is so; but this war may last four years more. I trust in God it will not; I do not believe it will; but suppose it shall run four years longer, and the doctrine contended for here is to obtain, how do you know but that at the next presidential election your President may be selected by these very States in rebellion? Sir, I say to you here what I believe; that if the result of the presidential election depended upon the vote of Louisiana, I care not which way it was cast, if the pretended electoral votes of Louisiana were to choose the next President of the United States, after the 4th of March, decided either way, it would produce a revolution in this country unless you had some provision to settle it by law in advance.

Mr. DOOLITTLE. That is what I complained of, that the law was not passed in advance. This is retroactive, operating on votes already cast. If you want to provide by a general law for the future, and declare generally that States in insurrection shall be incapable of voting, that is another thing.

Mr. TRUMBULL. If the Senator admits that we can do that he gives up the power; that abandons the chief argument of the Senator from Wisconsin. If you could provide for it in that way, you can provide, when the vote is offered, for counting it or not counting it, and that is the proper time to decide it. Suppose some other question should arise in reference to the vote from the State of Wisconsin when the votes are opened by the Presiding Officer of the Senate on Wednesday next in the presence of the two Houses, how is that question to be settled? Does the Senator mean to say that it is to be settled by a vote in joint convention by appeal from the decision of the Chair? I understand him to say so. Why, sir, there is no such thing known to the Constitution of the United States as an act of a joint convention of the two Houses. They meet together, it is true; but the only mode to carry into execution the powers of the Constitution is by laws of Congress. They are not enacted in joint convention of the two Houses; they are enacted by the different branches, each acting within its own sphere and concurring in the passage of an act; and the only way that any question could be settled in joint convention would be, if a question arose, for the bodies to separate, and at last you would have to settle it by law or by the action of the two Houses in passing a concurring resolution.

But the Senator from New York thinks it inexpedient to settle this question. It is because of the expediency and the necessity of having it settled in advance, that I am urging it upon the consideration of the Senate at this time. How

will you settle it when you get in joint convention? The Senator from New York proposes to count the votes. The House of Representatives have sent us a resolution in which they say the vote shall not be counted. Now, what is your position when the vote is opened from the State of Louisiana? You have a disagreement at once, and can you ever count the vote? I propose that we have concurrent action in some shape before the vote is opened; and I hold that it is entirely competent and proper to settle the question in advance; and it is not retroactive, it does not relate to the manner of casting the vote; and in this case I will state for the information of the Senate that the people of Louisiana have not voted for electors of President and Vice President. There has been no election of the people there voting for electors; but a body of men in Louisiana assuming to be the Legislature of the State of Louisiana have appointed these electors—a Legislature that was elected by less than nine thousand votes. About eight thousand of the voters of Louisiana, out of more than fifty thousand, chose what they call a Legislature, and that Legislature has elected certain electors of President and Vice President. There has been no vote of the people.

Mr. HENDRICKS. I wish to ask the Senator, for information, whether the Legislature of Louisiana was authorized by the constitution recently adopted there to select electors in that mode?

Mr. TRUMBULL. I do not remember whether the constitution made a provision on that subject or not, and I do not know that it would be material.

Mr. HENDRICKS. It seems to me to be an important question.

Mr. TRUMBULL. I am unable to answer the Senator as to that question. I do not remember whether there is any provision in the constitution adopted for Louisiana authorizing the Legislature to choose the electors.

Mr. JOHNSON. I do not think such a provision is to be found in the constitution of any of the States; it is regulated by the Constitution of the United States.

Mr. TRUMBULL. The fact would be immaterial. I do not think there is any importance in the suggestion whether the constitution of the State of Louisiana provided for it or not. In fact I do not think the constitution of a State could provide for that. The electors in each State are to be chosen, according to my recollection of the Constitution, in the manner prescribed by the Legislature of the State, and therefore the State constitution could not regulate it. In reference to that constitution in Louisiana and its validity, and the recognition of that Legislature in Louisiana, the whole question is an unsettled one, upon which at this time I do not propose to express an opinion. We have pending before us, as is known to the Senate, the application of two gentlemen for seats in this body, claiming to have been elected Senators by the same Legislature of Louisiana which elected the electors. That question is yet undisposed of, and the view which the Committee on the Judiciary took in reference to this question was to report a concurrence in the joint resolution from the House of Representatives, changing the preamble slightly so as not to declare that these people were in a state of armed insurrection on the 8th day of November last. I was not exactly satisfied with the preamble, even as it now stands. I would have preferred it in a little different form; but a majority of the committee insisted upon it in the form in which it has been amended. I am not particular about it now, but prefer for myself that the preamble should be entirely stricken out. I do not care anything about any preamble. What I wish to get at is to dispose of the question as to what is to be done with these votes brought up from the States of Louisiana and Tennessee, for I understand Tennessee has sent a vote here as well as Louisiana. Whether the other rebellious States, or the inhabitants of those States declared to be in insurrection, have attempted to send up votes, I am not advised. The object which I have in view, the object which the committee had, was to settle this question and avoid difficulty when we come to act in joint convention in opening the votes; and so far as the preamble is concerned, for one I would quite as soon it was stricken out; but it came to us from the House of Representatives, and

the committee thought proper to amend it, and the amendment has been made, and I am willing to take it the way it is, although I believe I should be better satisfied if there were no preamble at all.

Mr. COLLAMER. Mr. President, it is no doubt true that we are often wedded to particular forms of expression, which we have premeditated, attaching importance even to the forms, because we believe those forms are material to the substance which they contain and represent. Now, sir, in relation to the general principle of the power of Congress over this subject of voting for President and Vice President, I do not know any difference between the provisions of the Constitution in regard to it and its provisions on any other subject. I understand that Congress is clothed with power to make all needful laws to carry into effect the powers granted by the Constitution to this Government; and when the Constitution provides a mode of electing President and Vice President, I take it Congress have a right to make laws to carry those provisions into effect. I do not mean laws to contradict them; I do not mean laws inconsistent with them; I mean to make laws honestly and fairly to carry into effect the declared purpose of the Constitution. If a law was presented which was at war with the provisions of the Constitution, under pretense of carrying them into effect, there would be ground of objection; but I take it that any law not inconsistent with the provisions of the Constitution and which really intends to carry them into effect, is entirely constitutional. The subject has been legislated upon, and necessity may show that further legislation is required.

With these general remarks I come to the consideration of this resolution. I have objections to the form in which it is. I have great objection to all particular legislation. I object entirely to legislating of and concerning any State whatever by name. I want all laws to be general in their operation, general in their application. I want them so made that every State shall become subject to their operation in a like contingency. Make your laws general for the United States, and provide that in such and such contingencies a State which falls within those contingencies shall be subject to the operation of the law now and forever.

There is one other general principle which should be borne in mind. It very much becomes us, for consistency's sake as well as our own general character as legislators, that we should legislate in view of the laws we have passed. We should shape our laws with a view to what we have already passed into law, not forgetting that, not overlooking it.

Now in relation to this resolution: its preamble declares that certain States, naming them, or the inhabitants of those States, were in a condition of armed rebellion, and have continued in that condition for a certain time, and then the resolution legislates of and concerning those States. I think that is all wrong, all uncalled for. Let it be remembered that in 1861 Congress passed an act making a large body of provisions for the collection of things which had then arisen. It is an act entitled "An act further to provide for the collection of duties on imports, and for other purposes," which was approved July 13, 1861. In the fifth section of that act, drawn, as I know, with a great deal of thought and care, it was provided:

"That whenever the President, in pursuance of the provisions of the second section of the act entitled 'An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for that purpose,' approved February 28, 1875, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to and from such State or section, be forfeited to the United States."

In short, a state of war was declared to exist in that event. It will be observed that that state did not make any law for the States which had attempted to secede and were in arms. It named no State whatever. It was a general law that when the people of a State are in insurrection and claim to act under the authority of the State, and the State authorities do not repudiate it and do not stop it, then the President may declare them to be in insurrection, and thereupon a state of war exists; and the Supreme Court of the United States, differing about the blockade question before that, all decided that after that act was passed the state of war was complete.

Now, Mr. President, in order to conform our legislative acts to that law which we have already passed and that condition of things which exists, I propose to offer a substitute for this resolution, which I shall presently send to the desk. The President's proclamation declaring certain States to be in a state of rebellion and insurrection, was duly issued under the law of 1861, which I have just read. That is all matter of public record. We know what the proclamation is. We know that it was issued according to law. It declared a state of war. The proclamation is before me, but I need not read it. It declares under the act which I have read, that certain States are in a condition of war and insurrection. Has that ever been changed? Have any States declared by that law and proclamation to be in this condition, ever altered their condition? The state of war certainly still continues.

In view of the statement which I have made, I propose in place of the resolution, which seems to me obnoxious to the objections I have made, to strike it all out, and also the preamble, and to insert simply this:

That the people of no State, the inhabitants whereof have been declared in a state of insurrection by virtue of the fifth section of the act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, shall be regarded as empowered to elect electors of President and Vice President of the United States until said condition of insurrection shall cease and be so declared by virtue of a law of the United States.

This is not a resolution declaring any State to be in this condition and legislating for any State by name, or making any distinction between particular States. It is simply a law in pursuance of the act of 1861, declaring what shall be the effect which shall follow a certain condition of things into which any State may fall. For the reasons I have stated, I desire that this substitute shall be adopted in lieu of the resolution. If put in this shape, it will be a statute declaratory of the existing law, declaring that States in such a condition have no power to vote for electors.

Mr. JOHNSON. The Committee on the Judiciary, I suppose from what I collected of their views, would have no objection to any change of phraseology of the resolution which will accomplish the object that the committee had in view and that the other branch of Congress had in view in adopting the resolution as it stands. The object of the committee in the report is to prohibit the counting of the votes that have been cast in the States there named, the committee assuming that the States there named are States in rebellion, and being States in rebellion are not authorized to vote for President and Vice President of the United States.

The honorable member from Vermont prefers his mode of accomplishing that end; but virtually it is the same, provided his amendment covers the case now existing; but I rather think the form of his amendment will be found to provide only for subsequent cases, and not for an existing case. It seems to me to be prospective in its provisions, and not retrospective. The case to be provided for is one which has already occurred. Nor do I see any material difference, or any difference in point of fact, between the preamble as it stands and the amendment proposed by the honorable member from Vermont. He objects—and in the general the objection is certainly well founded—that it is unadvisable to legislate for particular cases; but I am at a loss to see how in substance the particular case will not be provided for by his amendment. He refers to the act of July 13, 1861, under the authority of which the President was authorized to declare certain States to be in a condition of insurrection or rebellion, and he tells us, what we all know, that in pursuance of the au-

thority so conferred, the President has declared certain States to be in rebellion, and those States are the very States mentioned in the preamble to this resolution; so that the only difference between the resolution as it stands, in this particular, and the resolution as proposed to be amended by the honorable member from Vermont, is, that the States are mentioned in the resolution before the Senate, and will be found mentioned in the proclamation to which the amendment and the Senator from Vermont refers.

But as I said in the beginning, as far as I am individually concerned I have no objection to such a change of the phraseology of the resolution as will accomplish the purpose, that purpose being to declare that votes cast by the States which are named in the preamble are not to be counted. Whether that is to be accomplished by naming the States, or is to be accomplished by referring to the act of 1861 and what has been done under that act, is to me perfectly immaterial, and, I think, makes no difference as to the effect of the resolution. But even if the amendment proposed by the honorable member from Vermont should be preferred by the Senate, I submit to him and to the Senate that it will be necessary to change its phraseology so as to make it very clear that it will cover the existing case.

The question, then, Mr. President, is whether Congress have any authority to legislate at all on this subject. I agree with the chairman of the Judiciary Committee and my friend from Vermont that the authority exists; and I was somewhat surprised to find that it was disputed by gentlemen of such distinction every way, and particularly in their profession, as the honorable member from Wisconsin and the honorable member from New York. The Constitution of the United States does not provide in any way a mode by which a contested election growing out of an alleged informality in voting, or an alleged illegality upon the part of those who voted, or an alleged incapacity on the part of those voted for, is to be decided. The honorable member from Illinois is right in saying that if we are governed by the mere letter of the Constitution in this particular, there is no power existing by which anything more can be done than to have the votes counted. He is right in saying that looking to the mere letter of the provision there is no authority given to the President of the Senate to count the votes. He is right, also, in saying that there is no provision in the Constitution which decides who shall declare the result of the voting after the votes shall have been counted. In relation to all these points the Constitution is silent; but the Constitution provides that certain persons shall not be voted for as President of the United States. No one who is not a native-born citizen of the United States, or who was not a citizen at the time of the adoption of the Constitution, can be voted for. Members of Congress and officers under the Government cannot be selected as electors. The States are only authorized to appoint through their Legislatures a number of electors equal to their number of Senators and Representatives. Now, if a person not a native citizen of the United States, or not a citizen in 1789, when the Constitution was adopted, is voted for as President, or if a member of Congress or either branch or an officer of the United States is voted for as an elector, or if more than the number of votes to which a State is entitled is cast, there is no clause in the Constitution which provides a mode by which these objections may be obviated. If the Vice President is to count the vote, and he is to decide the result, and is merely to decide the result, according to the words of the instrument alone, then he may declare that A B is elected President of the United States, although the whole country knows that A B was not a native citizen of the United States. So he may count all the votes of any one State, (for his function it is supposed is only to count;) he may count all the votes cast by the State of New York when, in point of fact, New York has cast more votes than she is authorized to cast under the Constitution.

How are these questions to be decided? As it is very clear that in the instances to which I have referred—and there are others—there is the absence of any authority given to the Vice President or to the two Houses when meeting in convention to decide them if they should arise, one would suppose—unless we are to remain without

a President, or to have placed in the presidential office a man who is not eligible, or to have one placed there by votes which there was no constitutional right to cast—that there must be some mode by which those difficulties are to be obviated.

If there is under the Constitution no authority conferred upon the Vice President, or upon either House acting separately, or upon the two Houses when meeting in convention, and there must be an authority to settle these questions, or otherwise you visit upon the men who framed the Constitution the imputation of having been entirely unable to accomplish that work, there must be somebody, some department of the Government, vested with authority to provide for the exigency; and when you go to the legislative department of the Government you find that all legislative power is vested in the Congress of the United States, and you come to the conclusion that the Vice President has no power to cover the particular case when the votes are being counted, nor the House of Representatives, nor both Houses meeting in convention. Unless the work of the members of the Federal Convention has been very imperfectly accomplished, the power must be vested in the legislative department of the Government.

I never heard before—I speak it with entire respect to my learned brothers—that it was doubted that it was within the province of Congress to provide for cases of this description. The doubt was, and perhaps that doubt was well founded, whether votes could be excluded by either branch of Congress or by the two when they met in convention. Nobody supposed that the Vice President could exclude them. But I was about to say that I never heard it doubted before that such a contingency, as might well happen because of the manner in which the constitutional provision was framed, could not be provided for by legislation. Chancellor Kent, in the first volume of his Commentaries, says:

"The President of the Senate on the second Wednesday in February succeeding every meeting of the electors, in the presence of both Houses of Congress opens all the certificates, and the votes are then to be counted. The Constitution does not expressly declare by whom the votes are to be counted and the result declared. In the case of questionable votes and a closely contested election, this power may be all-important, and I presume, in the absence of all legislative provision on the subject, that the President of the Senate counts the votes and determines the result."

He admits that it is in the power of Congress to legislate, and doubts only, whether in the absence of legislation there exists any department of the Government, or any officer of the Government, vested with power to count the votes and declare the result, and in relation to that he is only able to bring himself to state by way of opinion that he presumes the President of the Senate is to count the votes and declare the result. But he presumes that only in the absence of legislation. Legislation on the subject, therefore, according to the high authority of this distinguished jurist, is admissible, and of course within the power of Congress.

Now, Mr. President, the honorable member from New York—I do not understand my friend from Wisconsin as going to the extent of that objection—says that he denies to Congress the power to declare that the votes of any State are not to be counted. Does he mean to say that the votes of the States in rebellion are to be counted? I do not speak of Louisiana, because he may perhaps be able to except Louisiana out of the category of rebel States; but assuming now that there are rebel States, and assuming that Louisiana is one of the rebel States, does my friend from New York say that the votes of those States are to be counted? I presume not; and yet if we do not legislate upon the subject, where is the power to exclude them? The Vice President of the United States may think it his duty to count them; he may think it his duty, counting them, to declare the result of the election consequent upon that count; and it makes no difference that we know outside of the balloting that the result will be the same whether those votes are counted or excluded, the principle is the same. We are not to know, we do not officially know, what the result of the election has been. Who can know (officially, I mean,) how the electors have voted? There may be, for aught that we know, a contested election by the ballots, and the result of that contest

may depend upon the counting or declining to count the votes from the rebel States. Everybody will admit, I am sure nobody more cheerfully than the honorable member from New York, that if in such a contest one citizen is elected by the votes of the loyal States excluding the votes of the disloyal States, and another is elected only by including the votes of the disloyal States, the first although receiving a smaller number of votes numerically, is to be declared elected. If we all think that, are we willing (not because we feel in doubt as to what would be the result in the particular case, but we are establishing a principle) are we willing to leave it to the Vice President of the United States to announce as elected President and Vice President two gentlemen who may be elected only by the votes of those rebel States? Everybody will say no. Well, if we are not willing to leave the power to him, and there must be such a power somewhere, unless the Constitution of the United States vests in him the power, and exclusively vests in him the power, why should we not at once by legislation guard against the possible mischief of such a state of things?

It is true that my honorable friends from New York and from Wisconsin, and that is my opinion as I am at present advised, think that the efforts of those rebellious citizens to take those several States out of the Union are legally imperfect; that is to say, in the contemplation of the Constitution they are still subject to the powers of the Constitution, and the war is being carried on for the purpose of making them yield obedience to the Constitution upon the hypothesis that they are responsible to all the obligations of allegiance. That is all true; but it is equally true that they are in a state of rebellion. The Supreme Court of the United States has decided unanimously that since the passage of the act to which my friend from Vermont has referred, the act of July 13, 1861, all the States named in the preamble to this resolution are now at war with the United States, and that the United States have not only the right but it is their duty to prosecute that war to a success by bringing them back, they being (not in a constitutional sense but practically) out of the Union. Now, is it possible that the inhabitants of a State thus at war with the United States have a right to vote in any Presidential election for President of the United States?

In the war of 1812 a portion of the State of Maine was taken possession of by England, and held from the month of September, or June, or August, I forget which, until the declaration of peace made by the treaty of Ghent, and it was decided by the Supreme Court of the United States, in consequence of being so held, to be a foreign country for the time. Would my honorable friend from New York have said, if the whole State of Maine had been taken possession of by the enemy and held, that Maine, at a presidential election occurring during the time of that possession, could elect electors of President and Vice President of the United States, and that Congress was divested of all authority to exclude them? I am sure he would not; and what difference is there between a possession of that description held by force of arms by a public enemy in an international war, and a possession held by the rebels who have raised their arms against the United States, and taken possession of certain States, and held that possession by force of arms, claiming to be independent of the authority of the United States?

Mr. COWAN. I should like to hear the honorable Senator from Maryland speak to this question, which is involved in the last clause of the amendment offered by the Senator from Vermont: suppose the rebellion to be entirely suppressed, is it necessary then, in order to restore them to their rights in the Union, that we should enact a law that it was suppressed?

Mr. JOHNSON. I have not said that. That is stated in the amendment suggested by the honorable member from Vermont. I have not expressed any such opinion, and I am not prepared to say that I shall hereafter, when I come to examine the question thoroughly, come to the same result. My own opinion has been throughout that the States are not out in one sense; and if all the inhabitants of those States were now to throw down their arms, admit their allegiance to the United States, and elect their members to the Senate, &c., hereafter, after the rebellion was entirely terminated, perhaps they would be entitled to

their seats; but I am not prepared to say whether I shall hold that opinion upon examination or not. All that I mean to say now is, that it is incumbent upon us to provide by law for a contingency which has now happened, although it may never happen again, so far as the particular effects are concerned; and it is now, above all, the best time to provide for it, because, although we do not know officially that it will have the slightest effect upon the result, we do know that there is involved in an exigency of that description very great peril.

We have now, thank God, as I think—I speak it with due respect to others who differ with me, and particularly my friend from Kentucky—got rid of the disturbing element of slavery as far as we can get rid of it, and that ended, and protection provided in the future against the peril consequent upon this particular clause in the Constitution looking to the organization of the Executive, I look forward to a perpetuity of the Union, and, certainly as long as it exists, the increase of its prosperity and power.

Mr. COLLAMER. I desire to add to the amendment that I have offered these words:

Nor shall any vote cast by any such electors elected by the votes of the inhabitants of any such State, or the Legislature thereof, be received or counted.

According to my view, when a state of war has been declared to exist, declared according to law, we cannot recognize a state of peace and reconciliation in any other way but by declaring it by law, or authorizing the President to declare it by law.

Mr. HOWARD. Mr. President, I am unwilling to give a final vote upon this very important measure without expressing my views upon it. I certainly regard it as a measure of very great importance, especially as a precedent for the future, and as indicating the opinion of Congress on the subject, to use a familiar term, of "reconstruction," or rather the rights of the States in rebellion. I do not doubt the power of Congress to legislate upon the subject of the counting of the votes in the convention which is required by the twelfth amendment of the Constitution. That provision declares that after the two Houses of Congress shall have assembled together, of course in joint convention—

"The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

There is no doubt about the duty of the President of the Senate on this occasion. It is simple and plain. The act which he is required to perform is the opening of the certificates. That is an especial duty intrusted to his individual care and charge, and one with which the two Houses, thus assembled, have nothing to do. I confess I do not doubt the power of Congress, should they see fit, to authorize the President of the Senate to count the votes after he has opened the certificates; but in the absence of such a statutory provision I certainly could not concur in the "presumption" of Chancellor Kent, that the President of the Senate would have the right to count the votes and declare the result. It is impossible for me to concur in this intimation of that very distinguished authority. I should, on the contrary, hold, in the absence of an act of Congress, that the duty of counting the votes devolved upon the two Houses of Congress thus assembled.

Why are they thus assembled? It is a maxim that the law never requires a nugatory act; it never requires the performance of an act which is in itself immaterial, useless, or trifling; and whatever it commands to be done is supposed to have attached to it importance and interest. Let me ask, why are the two Houses of Congress thus required to assemble in the same hall, sitting together, and composing, of course, one body? Is it for the mere purpose of acting as spectators of the process to be performed by the President of the Senate of opening the votes? Is that all?

Mr. HARRIS. I suggest to the Senator from Michigan that if he will read the very next sentence in the Constitution he will find an answer to his question. They are to proceed, in case there is no election, immediately to choose a President.

Mr. HOWARD. I shall come to that in a moment. I am speaking now of the ceremony of counting the votes. Are the two Houses thus assembled to act as the mere spectators and wit-

nesses of the ceremony of opening the certificates by the President of the Senate? Is that the sole and only office which they are required to perform on that occasion?

Mr. CLARK. I suggest to the Senator that it is only the House of Representatives that is to elect the President in a certain contingency named; it is not the convention.

Mr. HOWARD. I know that. I am coming to that clause. It seems to me, on the other hand, that the intention of the Convention which framed the Constitution was that the two Houses thus assembled should sit together as one joint body for a much higher purpose than merely looking upon the ceremony of breaking the seals of the certificates, and that they are really required to perform the office of counting the votes. This was the early construction given to the Constitution by the Second Congress of the United States, which passed the act of 1792.

Mr. CLARK. I hope the Senator will permit me to interrupt him, because I desire to hear him upon one point right here. I agree with him that the convention should count the votes; but I want to hear him on this point: if the convention is to count votes, how can the two Houses, sitting by themselves, restrict or enlarge that count by saying they shall count so and so, or only so and so? The Senator will get my point.

Mr. HOWARD. Yes, sir.

Mr. CONNESS. Suppose there be an objection made in the convention.

Mr. HOWARD. I may best answer that question by putting another. Suppose that votes were found to be embraced in this certificate which were in reality void for fraud or deception; suppose they were a mere imposition upon the Vice President, and that the persons casting them were not really in existence, or that the certificate itself was a forgery. Is there no way to prevent the counting of such forged and fraudulent votes? And if there be any such mode, is not that question, *ex vi termini*, by the terms of the Constitution referred to this convention thus assembled together?

Mr. CLARK. I see the Senator has not got my point. I agree with him that there would be power to prevent the counting of such votes, and it would be in the convention; but not in the two Houses of Congress separately.

Mr. HOWARD. I am speaking of them sitting together in one and the same body.

Mr. CLARK. The point I made was this: if it belongs to the convention, the two Houses sitting together, to determine this question, how can it be limited or enlarged by the two Houses sitting separately?

Mr. HOWARD. Of course it cannot be limited or enlarged.

Mr. CLARK. That is the point.

Mr. HOWARD. I consider that the power of counting the votes and of rejecting votes which are void for fraud or illegality, is, under the Constitution, in the joint convention thus assembled. I have not any doubt about that, because I believe that the two Houses thus assembled are assembled for a great and protective purpose, that they are exercising the tutelary authority of the people in protecting the nation from the imposition of false and fraudulent ballots and certificates. The article proceeds:

"The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President."

Did my honorable friend from New York forget that the Constitution in this clause only referred to the matter of the election in the House of Representatives? He seems to be of opinion that it was the duty of these two Houses thus assembled together, in case there was no election of President, to proceed at once to the election of a President. That would be a very strange proceeding indeed; the Senate manifestly would have no business to intermeddle with it. It belongs exclusively to the House of Representatives sitting, not in convention with the Senate, but in their own Hall as a distinct legislative body.

Mr. President, I regret very much that the Committee on the Judiciary saw fit to strike out the last clause of the preamble; and with the indulgence of the Senate I will state briefly



what my views are upon this subject. I do not wish to consume their time unnecessarily, and will not; but the question is in my judgment one of the most important imaginable. The preamble to the resolution as it comes to us from the House of Representatives is as follows:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864: Therefore, &c.

It affords me a little gratification, I confess, that my learned friend from Maryland has at length found himself compelled to adopt the sentiment which I long since expressed upon this floor, that the United States, in the prosecution of this war against the rebellion, have the same power and authority over the conquered States, over the communities once States in this Union but now conquered and subjected by our arms as the nation itself would possess over foreign territory conquered in the same way. The only difference between the two cases is this: that in the case of a conquest of a rebel State by the arms of the United States the Government hold the territory thus subdued in trust for a specific purpose, and that purpose is to restore it ultimately and in its own discretion to its original position in the Union, to the enjoyment of all the privileges, and to the performance of all the functions pertaining to or required of a State of the United States under the Constitution.

By the act of 1861, and the President's proclamation under that act, the eleven States embraced in this preamble were declared to be in rebellion against the Government of the United States, to be in insurrection. Upon the principles of the laws of nations and the laws of war, principles which have been repeatedly recognized by our own Supreme Court, all the people embraced in these rebellious States, thus declared to be in insurrection, are enemies of the Government of the United States and enemies of the remaining loyal States and people. They are our enemies in every sense in which a foreign foe would be our enemy. Have such people any political rights under the Government of the United States? Have public enemies any right to enjoy the privileges of loyalty under the Government of the United States? Have they, in other words, the right of being the enemy and at the same time the friends of the United States? Can they have their cake and eat their cake at the same time? Can South Carolina rightfully, if her people were so disposed, proceed to elect electors of President and Vice President of the United States and forward to this Government a certificate of the election? Why, sir, the very fact that they are public enemies shows the utter impossibility and absurdity of such a supposition. The same principle covers not only South Carolina, but every foot and every inch of every one of these eleven rebellious States thus declared to be in insurrection; and that state of hostility will continue against the Government of the United States until our arms have completely triumphed, and until, in the language of my respected friend from Vermont, [Mr. TILAMER,] peace is restored by an act of Congress revoking and annulling the proclamation issued under the act of 1861. These communities have no right at all to enjoy the benefits of the Government of the United States further than we see fit to extend to them those benefits; and those benefits are conferred upon them and preserved to them, while the war shall last, by the points of our bayonets.

I look upon this measure as necessary, as one form in which the sense of Congress ought to be expressed against any hasty attempt to readmit these rebellious States into the Union. For one, I am prepared to say, and I take this occasion to say it, that I shall never consciously give my vote for the readmission, directly or indirectly, of one of these rebellious States back into the Union, either by way of admitting her Senators here or in any other form, until I am perfectly satisfied, upon due evidence, that the decided majority of the voting population of such State has become loyal to the Government of the United States, is friendly to that Government, and willing and anxious to proceed in the discharge of the functions of a State of the Union, honestly and fairly,

as required by the Constitution of the United States.

The theory of our Government is different from that of almost every other Government on earth. It is that the will of the majority shall govern; in common phrase, the majority of the people, but practically the majority of the voting population. That is the basis, and the sole basis, upon which our republican system is based; and that is a principle too often recognized by our public writers and public speakers, too often recognized by our judicial tribunals, to need any discussion here. The moment we abandon the fundamental idea that a majority shall govern, that moment we place the government of a State in the hands of a minority, and so far as the principle is concerned, it is immaterial whether this minority consists of one tenth of the population or the one thousandth part of the population, or even of one out of the whole population. We may not discard the principle that republican government, as understood on this continent, rests upon the willing assent of a majority of the people of the particular community; a willing obedience to the laws of the United States, and a disposition for the future to proceed in the regular discharge of their duty as citizens of the State. If we abandon this great principle, that a majority not only shall, but must govern, we have thrown the leading principle upon which all our governments, State and Federal, are organized to the winds; we have given up the great experiment of republican government.

Mr. President, I repeat (for I do not intend to consume the time of the Senate) that I look upon it as the bounden duty of Congress, in every case, to keep out of the Union every one of these eleven seceded States until, in pursuance of our laws, passed or to be passed, it has become perfectly evident to us that there is in such State a clear, absolute majority of its voting population friendly to the Government of the United States, and willing to proceed in the discharge of their functions as a State; and, until that is done, you may be perfectly sure, so long as I hold a seat in this body, my vote will be given against any such proposal. I never will consent to admit into this Union a State, a majority of whose people are hostile and unfriendly to the Government of my country. I prefer to hold them in tutelage (for that is really the word) one year, five years, ten years, even twenty years, rather than run the risk of a repetition of this rebellion, which has cost us so much blood and treasure.

I hope, therefore, Mr. President, that this resolution will pass; and I hope it will pass precisely as it is sent us by the House of Representatives. I hope that we shall continue the language in this preamble, the recital that on the 8th day of November, 1864, each of these eleven States was in armed rebellion against the United States, which was the legal fact of the case. Why flinch from it? Why shun the declaration? Were they not our enemies?

Mr. SUMNER. Allow me to remind the Senator that that language has been struck out on the report of the committee.

Mr. HOWARD. It is not struck out yet by the Senate. I believe it was stricken out in Committee of the Whole. I shall call the yeas and nays upon that question in the Senate.

Each of these States, sir, on that particular day was, as a political community, an enemy of the United States, and all their men, women, and children were enemies of the United States by the laws of war and the laws of nations.

This is all I have to say on the subject at present.

Mr. TEN EYCK. I am not in favor of the adoption of the substitute proposed by the Senator from Vermont, although it is always with the greatest diffidence in the world that I venture to differ from him in any well-considered proposition that he submits to the Senate. I understand his substitute to be based upon the idea that under the act of Congress and the President's declaration, we are now in an actual state of war with these eleven southern States, and that it will require an act of Congress to enable them to resume their position again in the Federal Union. That presupposes, in the first place, that they are out of the Union, a fact which I am not willing to admit and can never assent to; but I do not propose to insist upon that. The main direction of

the argument is, that inasmuch as the President has declared these States to be in a condition of insurrection under an act of Congress passed in 1861, therefore it will require an act of Congress to enable them to resume their legitimate or ordinary State functions; or, in other words, it will require an act of Congress to authorize them to elect electors for President and Vice President, and, as a necessary consequence, to elect Senators to this body, or Representatives to the House of Representatives.

I do not mean to weary the Senate by reading at large the statute of 1861, but I may be permitted perhaps to refer to it for the purpose of showing the object, intent, and scope of that enactment. It is entitled, not "An act to declare war against the States of South Carolina, Virginia, and others," but "An act further to provide for the collection of duties on imports, and for other purposes." The fifth section authorizes the President in certain cases to declare the inhabitants of certain States to be in a state of insurrection by virtue of the power conferred upon him by the act of February 28, 1795. It goes on to declare that it shall be lawful for the President, whenever he shall call forth the militia, in pursuance of the act to which I have referred,

"To suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then, and in such case, it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists?"

Not a state of actual war—

"are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof, and the citizens of the rest of the United States, shall cease, and be unlawful so long as such condition of hostility shall continue."

This is the object of the act. When these people, in the opinion of the President of the United States, are in the condition specified in this act, he shall issue his proclamation declaring that fact; "and thereupon all commercial intercourse by and between the same and the citizens thereof, and the citizens of the rest of the United States, shall cease, and be unlawful so long as such condition of hostility shall continue."

In pursuance of that act of Congress the President issued his proclamation, and I shall refer to a portion of it. The proclamation bears the date of August 16, 1861. It recites the act of 1861 to which I have just referred; it also recites the act of 1795, under which he derives the authority, and then proceeds to declare:

"Now, therefore, I, Abraham Lincoln, President of the United States, in pursuance of an act of Congress approved July 13, 1861, do hereby declare that the inhabitants of the said States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida, (except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and of such other parts of that State and the other States hereinbefore named as may maintain a loyal adhesion to the Union and the Constitution, or may be, from time to time, occupied and controlled by forces of the United States engaged in the dispersion of said insurgents,) are in a state of insurrection against the United States, and that all commercial intercourse between the same and the inhabitants thereof, with the exceptions aforesaid, and the citizens of other States and other parts of the United States, is unlawful, and will remain unlawful until such insurrection shall cease or has been suppressed."

The object, design, and intent of the act was to prohibit trade with these insurgents, to prevent persons in the loyal part of the Union from carrying on commercial intercourse with them, and from furnishing them with provisions and munitions of war with which they might continue to prosecute this rebellion; and then there was an exception from the scope and effect of the act in favor of the State of West Virginia and such other States or parts of States as maintained a loyal adhesion to the Union and the Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of the insurgents.

Now, if it comes to the knowledge of the joint convention to be assembled on Wednesday of next week that in either of these States this insurrection has been suppressed, and that the people of either one of those States have assumed the

suspended functions of their State government, have reorganized a State constitution, have elected State officers, and have put their civil government into full execution and operation, and that fact comes before us attested and undisputed. I inquire whether, under the provisions of this law and the proclamation of the President, it is necessary that there should be an act of Congress passed in order to establish the fact that these people have reorganized and reassumed their ancient loyal functions? I am as much opposed as any other Senator can be to the admission of Senators from the State of South Carolina, if such a thing could occur, or to the electoral vote of the State of South Carolina being counted in the Electoral College; but, sir, if the fact appeared that that State, contrary to all its predispositions toward rebellion, had resumed its loyal functions under the ancient Union, and that there were a large body of loyal people there, sufficient for the purpose of performing all their duties under the State government and under the Government of the United States, even South Carolina, polluted and covered over as she is and has been with treason, might yet by possibility be permitted to resume her position upon this floor and have her electoral vote also counted in the joint convention of both Houses. Why, sir, I thought that this whole war, the expenditure of thousands of millions of dollars and of oceans of blood, was for the very purpose of restoring this Union and bringing back these shooting stars to their ancient orbits.

I differ with the Senator from Michigan, who would make the return of these States to the Union attendant with the utmost difficulty. Whenever I was satisfied that there was a true, genuine, loyal feeling among the inhabitants of any of these States to repudiate their heresies and return to their allegiance, and that there was a sufficient body of them to justify the proceeding, and to carry on all the essential, necessary operations of State governments, and to perform their duties within the limits of the Union, I should be disposed to extend the hand of encouragement to the loyal people, always saving and reserving not only terms of indignation for the leaders, but the privilege and firm determination of punishing in the most condign manner the guilty authors and leaders and instigators of the rebellion. I do not believe that there is any necessity for any such act of Congress as has been referred to. I do not believe that it is, at this time, under the existing state of things, prudent, advisable, or proper to throw these impediments in the way, to make the return of these erring States dependent solely upon the wish and will of Congress.

Inducements have been held out to them by the Executive of the United States. I know that that course of conduct on the part of the Executive has been criticised; yet, at the same time, these people, who have been like drowning men struggling in the midst of a storm, contending against their neighbors and their efforts to keep them in rebellion, have seized hold of this offer or inducement held out to them by the Executive of this nation, and have proceeded in the common, legitimate, lawful, and ordinary mode, in the mode in accordance with their ancient traditions, in accordance generally with their constitutions and the laws they had enacted in times past, to perform all the duties which good, loyal, and true citizens should perform, to manifest their devotion to the ancient Union, and to return to the ancient ark. Several of them have attempted this thing. Tennessee has made some effort toward it. Arkansas has made an effort toward it. I, however, having some familiarity with the case of Louisiana, saw fit to select that in my motion of amendment yesterday from the operation of this joint resolution, considering it, from the knowledge I had of the situation of these several States, as the strongest case that could be brought to the consideration of the Senate. It may not be so, but I so regard it.

I understood the Senator from Illinois to-day to take exception to the course pursued by the people of Louisiana. He wished to know if it were possible that some eight thousand votes cast in an election for the purpose of returning again to their ancient allegiance could be sufficient where the State had been in the habit of casting some fifty thousand votes in other elections. I do not understand the facts exactly as the Senator from Illinois understands them. I will read from a

paper furnished by a gentleman who is familiar with these facts, and who has had something to do in attempting to set this new State government in operation. He states, in regard to the State election:

"It was fixed for the 22d day of February. Three candidates were presented, and the canvass was general and spirited, each party sustaining its candidates by public meetings, precisely in the same manner as in a State unaffected by the revolution.

"Eleven thousand four hundred and fourteen votes were polled at this election.

"The average vote for ten years previous to the rebellion in these parishes was fifteen to sixteen thousand."

Surely if the average vote in the parishes that voted at this State election in 1864 for the period of ten years past did not exceed fifteen or sixteen thousand, we may say that a full vote was cast by the people of these parishes in February, 1864, when they cast eleven thousand four hundred and fourteen votes, taking into consideration the wasting effect of war upon that people, and the fact that a large number of them had actually gone into the rebel army.

"The highest vote ever given [in these parishes] was in 1860, when the subject of the rebellion was considered, and the people were represented by four presidential candidates. The vote in that year was twenty-one thousand."

So that the votes cast in the State election of 1864 in these parishes amounted to more than one half the whole number of votes cast in the presidential election immediately preceding when there were four candidates running, and when the question of rebellion was being considered, and when it is fair to presume that every voter who could be brought to the polls was brought and his ticket deposited.

I desire now to give the statistics of the vote of the State generally for the purpose of putting the facts right before the Senate:

"The highest average vote of the State of Louisiana in ten years past was thirty-four thousand.

"The highest vote ever given was about fifty-one thousand.

"In ten years past the vote is even as low sometimes as twenty-two thousand."

"The ordinary vote of the city of New Orleans was six or seven thousand previous to the revolution.

"The highest vote ever given in the city was ten thousand.

"In these elections, therefore, the vote actually polled was more than one third of the average vote for ten years past."

I was anxious to save the State of Louisiana from the effect of this joint resolution. I feel as anxious to save the State of Tennessee from the effect of the resolution, because I cannot conceal the fact that the Vice President-elect of the United States is a citizen of that State. If that State be not a State in the Union, then he is an alien, and I do not see clearly how an alien can take his seat to preside over this body as the Vice President of the United States. Still, I did not see fit to start that question or to discuss it, because I had not fully looked into it and considered it, so as to justify me in attempting to detain the Senate in any remarks which I might make on the subject.

There was another view that I entertained of this case, and that was a motive which induced me to confine my amendment to the State of Louisiana. It was to avoid a commitment on the subject, and to save the Senate from declaring its opinion beforehand with respect to the eligibility of the Senators chosen by that State to occupy seats upon this floor. The Senator from Illinois differs with me. He thinks that by the passage of the resolution that question will be avoided, that we shall not be committed upon it. I do not think so. I do not say that that is a sufficient reason to regulate and rule the transactions of this body; and yet I think we ought not in advance to commit ourselves on this subject. Why shall we commit ourselves on the question? If we pass this resolution declaring that the State of Louisiana was in such a state of rebellion during the year 1864 that no legal election could be held there, and even as late as the 8th of November of that year, then we declare that the Legislature of that State, elected in February of the same year, was illegally elected. Then if we refuse by this joint resolution to allow the electoral vote to be counted in the Electoral College on Wednesday next, on the ground that this Legislature was illegally elected, we preclude the question in relation to the election of these Senators, because they were elected by the same Legislature, in pur-

suance of a law enacted by themselves, under the power conferred upon them by the Constitution to enact a law providing for the election of electors for President and Vice President of the United States. So far from avoiding a decision on this question, we, by our vote, if we pass this joint resolution, prejudice and predetermine the question in relation to the admission of the Senators from that State upon this floor, as well as the admission of the members elected to the House of Representatives.

I wish to avoid settling that question. It can make no difference as to the result. The choice of the people so clearly manifested during the last election will be acknowledged, and ratified, and carried out whether the votes of these States are cast in the Electoral College or not. I should much rather prefer leaving this question to be settled and determined, if it should arise, in the Electoral College, having faith in the good sense and honesty of purpose of the representatives of the people in both Houses, than to undertake to venture upon a doubtful power, claiming that the Congress, and the Congress alone, have the power to determine this question, and at the same time settle in advance other questions which we shall be called upon to settle hereafter, and which Senators on this floor declare it is their wish to avoid.

I will not detain the Senate by any further remarks.

Mr. POMEROY. I am not opposed to the object of this joint resolution, but rather to the form in which it is presented. I do not suppose that States that are not represented in either House of Congress should have a representation in the Electoral College. There seems to be an impropriety and an inconsistency in admitting their votes and counting them; but this resolution as it is presented to us goes on to state certain things about some of these States which are so far from being true that they become almost offensive. In the preamble of this resolution, it is said, of Arkansas, for instance, among other States, "the inhabitants and local authorities have continued to be in armed rebellion for three years, and were so during the last election on the 8th day of November."

Mr. TRUMBULL. If the Senator from Kansas will allow me, those words to which he refers have been stricken out. The amendment reported by the committee, striking out all after the words "United States" in the preamble, and substituting other words in lieu of them, has been adopted.

Mr. POMEROY. Let me inquire if the words substituted in lieu of them make any reference to Arkansas?

Mr. TRUMBULL. Arkansas is left in in the first part of the preamble, to which, I presume, the Senator from Kansas has no objection. It now reads, whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Arkansas, and others, rebelled against the Government of the United States. The Senator does not deny that.

Mr. POMEROY. No, sir.

Mr. TRUMBULL. The rest of the preamble is stricken out, and a substitute has been adopted, the very object of which was to avoid this statement upon which the Senator is commenting.

Mr. POMEROY. I am very glad to learn that. I was not in my seat at the time that amendment was adopted. So far from the local authorities of the State of Arkansas having been in armed rebellion for three years, the authorities who did rebel have not been inside the State for a year. The rebel governor and legislature were driven out long ago, and have not been back, and cannot come back; some of them are dead, and never will come back. I thought, with such a state of facts as that, the statement in the preamble to this resolution, that the State had continued in rebellion up to the 8th of last November, was very inconsistent.

But I want to say again that the State of Arkansas has not voted at all in the presidential election. There are no votes from that State. Under the instructions and impressions that the members from Arkansas received here last session, they distinctly understood that States not represented in either branch of Congress would have no right to vote at the presidential election. They returned to Arkansas and so reported, and they never had any election; there are no votes here from that State. They have been in suspense

awaiting the action of Congress, and while that state of things lasted, of course they held no election. So far as this resolution is concerned, it does not affect that State one way or the other; there are no votes to count from that State.

Mr. COWAN. I have but a word or two to say on this question. I suppose as a general proposition all States have a right to be represented in this election of our President; but it appears that there is a difficulty in regard to some of the States named here. I am not sure that I know exactly the condition of this preamble. I understand that Arkansas is stricken out.

Mr. TRUMBULL. No, sir.

Mr. COWAN. Do they all remain as they are here?

Mr. TRUMBULL. Yes, sir.

Mr. COWAN. And the question is on the motion of the Senator from New Jersey to strike out the word "Louisiana?"

Mr. TRUMBULL. Yes, sir.

Mr. COWAN. The preamble states the fact of the rebellion prevailing in these States, and the resolution declares that because of this fact stated in the preamble these States ought not to vote. That is the proposition from the committee. The amendment of the honorable Senator from Vermont, on the other hand, proposes to take the question in blank, and to declare that all the States which were proclaimed to be in a state of insurrection by the President ought not to vote until that insurrection has been declared by law to be suppressed. I am opposed to that amendment for divers reasons, and I think if we come to examine this question fairly we shall see that any action of ours intended to prevent Louisiana, for instance, and Arkansas from voting will be perhaps a breach of faith on the part of this Government, and a violation of that courtesy which is due from one department of it to another.

Sir, what are the facts? It is said that by the act of July 13, 1861, these States are cut out from the Union and debarred from all their privileges as States, political as well as others. I do not so read the act of July 13, 1861; nor do I conceive that that was its purpose, because in endeavoring to get at a fair construction of a law, it is always necessary to ascertain what was the purpose of the lawgiver. I apprehend, so far from its being the purpose of that law to put these States out of the Union, it was its intention to keep them in; that is it was intended to be a means to keep them in, although for the purpose of better achieving that end all commercial intercourse was cut off with them, but not political intercourse. They were not deprived of any of their rights as States, or from exercising any of the functions of States, provided they were able to do so in due time.

In pursuance of that act of Congress, the President, by his proclamation of August 16, 1861, declared Louisiana in a state of insurrection. By the proclamation of January 1, 1863, he exempted thirteen parishes of the State from the operation of the emancipation proclamation. Why? Because he says in that proclamation that the rebellion does not exist in those thirteen parishes; that that condition of things upon which he was allowed before that time to issue his proclamation did not exist in those parishes, and therefore he exempted them. We recognized the validity of that proclamation I believe; at least we have always treated it with that respect which is due to the act of another department of this Government when it is not grossly in violation of law or of the Constitution. By the proclamation, however, of the 8th of December, 1863, the President invited the people of Louisiana and of all the other States to resume their State rights and State functions, provided one tenth of them would agree to make the proper organization.

Now, as I understand the question here, it is simply this: in pursuance of that invitation extended by the President, and upon the footing of his proclamation declaring that those rights should be restored to them, and that they would be protected in the exercise of them, the people of Louisiana, in numbers sufficient to bring them within his terms, have organized a State government, and have it now actually in operation in the State of Louisiana. The question simply is, whether we will carry out that arrangement of the President in good faith, or whether we will violate it; and that is the question which presents itself distinctly upon the propositions now before this body.

The President has invited a number of the people of these States which have been oppressed with the rebellion to go to work to reorganize their State governments, and has promised that he will extend, and this Government will extend, to them the protection guarantied by the Constitution; and he goes so far as to state that phrase of the Constitution *in hæc verba*. Will we stand by it? That is the question. Will we carry it out in good faith? If we are willing to do so, then there is no difficulty; and this one tenth of the people, or whatever the number may be, will become for this occasion the State of Louisiana, and the State of Arkansas, or any other State that sees fit to accept those conditions.

I may here remark, Mr. President, that no member of the Senate has yet undertaken to determine what number of people in a State shall be in rebellion in order to deprive the residue of the population of their rights. It is perfectly clear, I take it, the State being a corporation, that if the officers of the corporation refuse to do their duty, refuse to carry out the laws of the franchise, that that does not destroy the corporation. The corporation still remains, and a court would appoint trustees for the purpose of sustaining it, and for the purpose of carrying out the original intent with which it was created. If a portion of the people of a State, say ten thousand, were to drive away the State officers, or even if the State officers were to leave themselves, and for the time being suspend the functions of the State government, it is perfectly clear that that would not affect the rights of anybody else who had not been engaged in the original enterprise, however much they might have obeyed those who obtained the control of that government, and which exercised its authority over them. Then if ten thousand cannot do it, can twenty thousand, can thirty thousand, or can any number of people in a State, being rebellious and disloyal, deprive the loyal of the privileges granted to them under the Constitution?

Those are questions which have not been settled. Those are questions upon which I have not heard an opinion. Can the majority of the people of a State destroy that State? They may derange and disorder its functions as such, but the moment they are suppressed and put down, and the usurpation removed, I would like to know whether the rights do not all remit themselves to the loyal people and those who have not been engaged in the enterprise?

I am not prepared to say that these rights have all come back to these people in Louisiana. I am not prepared by any means to determine that question, simply because the President has better means of ascertaining and determining it; and I think the question remains with him. It was his business as the agent, the Executive in fact of the United States Government, to put down this rebellion, to relieve the people from its oppression, and to restore them precisely to where they were when the rebellion found them. If that is done, in ten days after his proclamation, *eo instanti*, the people resume their rights and functions; and in this case I understand they are not only in possession of the right, but are actually in the enjoyment of it, having a regularly-organized government with all the machinery necessary and proper to a government. Whether it is a government of so many people as will be enabled to maintain its supremacy over the whole State is a question, but it is a question which the Executive is to decide, because he is to sustain it there and make it able to be supreme within the limits of that State; and if I understand it that is just exactly why we are now giving him men and money, armies and navies. It is in order that he may bring about that desired result.

Mr. President, this involves a direct conflict between the legislative and executive bodies of this Government, and at this time I am of opinion that we cannot afford to enter into that conflict. We cannot afford to quarrel now, because the game would not pay for the candle. There is no practical value in the question that is raised here at any rate, because it will not alter the result of the presidential election a hair's breadth whether the electoral votes of Louisiana and Arkansas are counted or are not counted; and it is admitted to be a very grave question, and one upon which our people will be likely to divide. Then why should we raise it when it is not necessary? By not raising it we are left free to decide it when it

shall be a material question before us really. By raising it now upon an issue in which it is not wholly involved or wholly eliminated, we may be precluded hereafter from deciding it as we would desire to decide in such a case.

Therefore I think, for my own part, that it would have been better not to moot the question now, seeing that it can have no practical result, that the only possible consequence which can follow it is to divide and distract the various departments of this Government. I am unwilling to do that. I am willing at the present time to submit to anything that is not materially fatal. I am unwilling to raise any question which does not cross our path distinctly and in front of us while this war is pending, because—I have my own notions about that—it is war, and I would devote the whole energies of the nation to the successful conduct of that war, such a conduct of it as will enable us when it is brought to a successful conclusion to meet and adjust these questions in freedom, and without having impending over us the prospect that all the questions may be futile even if they are decided.

Mr. DAVIS. I believe the honorable Senator from Pennsylvania is about through, and with his permission I will occupy the floor for a few minutes. [Laughter.]

Mr. COWAN. Very well.

Mr. POMEROY. I desire—

Mr. COWAN. Oh, I hope the Senator from Kentucky will be allowed to make a speech. I shall be exceedingly sorry to see him prevented from enjoying that rare privilege. [Laughter.]

Mr. POMEROY. I merely wish to make a single correction, if I may be allowed to do so. I want to say to the Senator from Illinois, the chairman of the Committee on the Judiciary, that the modification which has been made is not such as I understood him to say it was.

Mr. DAVIS. I do not yield the floor.

The VICEPRESIDENT. The Senator from Pennsylvania having yielded the floor to the Senator from Kentucky, the latter is entitled to it and will proceed.

Mr. DAVIS. It seems to me that a good many questions have been brought into this debate that are foreign to the point in issue. The presidential election has taken place; it remains now to count the vote. The question is how the vote is to be counted, and by whom the vote is to be counted. Preliminary to the count of the vote the Presiding Officer of the Senate has by the Constitution one office to perform, and what is it? Simply to open the votes. He is to perform no other function or act than to open the votes. When the votes are opened they are still to be counted, and who is to count them? The two Houses in convention are to count them. I have no doubt of that fact. And the question now under consideration is, have the two Houses of Congress in their legislative capacity the power to lay down certain rules by which this office of counting the vote may be performed? I think that they have. The clause in the Constitution read first by the Senator from New Hampshire and subsequently by other Senators, seems to me to confer full and plenary power in relation to the manner of counting the votes upon Congress; and Congress may declare by its legislative action certain rules to regulate the count of the presidential vote. This may be declared by an act of Congress or by a joint resolution passed previously for the purpose of convenience and to prevent disorder in the matter of counting the vote. The vote is to be counted in the presence of the two Houses, and would it not be competent for Congress to pass a law directing that as the certificates are opened by the Presiding Officer of the Senate they should be counted in the presence of the two Houses by the Secretary of the Senate and the Clerk of the House of Representatives jointly?

Mr. COWAN. Will the Senator allow me to ask him how the question can possibly be raised, until after we get into joint convention, whether the vote of a State shall be counted or not?

Mr. DAVIS. Just as any other question could be.

Mr. COWAN. I ask the Senator whether today Congress could pass a law that the vote of Pennsylvania should not be counted for any reason whatever?

Mr. DAVIS. It could if it pleased.



Mr. COWAN. Would the law be valid?

Mr. DAVIS. It is only the vote that is counted that rules the presidential election. Whatever vote is counted in that election decides the question of the election to the Presidency. Who is to perform that office of counting the vote? I maintain that it is to be done by the two Houses or in the presence of and under the supervision of the two Houses. The question now is whether the two Houses in their legislative capacity may lay down certain principles and regulations to prevent disorder and confusion in the act of counting the presidential votes? I think they may.

Where the Constitution directs an act to be done it invests all needful power to enable that act to be conveniently done. As I understand the Constitution, the power to count the votes is vested in the two Houses of Congress. That is a power to be executed under the Constitution. A general provision of the Constitution provides that Congress may pass all laws necessary and proper to carry into execution any power vested by the Constitution in the Government of the United States or in any of the departments or officers thereof. This power to count the presidential votes is certainly vested by the Constitution somewhere. It is vested in the two Houses. The manner in which the count shall be made is not prescribed by the Constitution. Then comes in the general power given to Congress to pass all laws necessary and proper to execute any of the powers vested by the Constitution in the Government or in any department or officer thereof.

I understand that that incidental power is simply proposed to be executed by this joint resolution in declaring certain principles and forms by which the count shall be made. This count is to be made in subordination to the Constitution. The Constitution declares that no man shall be eligible to the office of President unless he be a native-born citizen or a citizen of the United States at the adoption of the Constitution. Suppose the State of Louisiana had voted for a man who did not come up to that qualification, who was not a native citizen of the United States, or who had not resided in the United States at the time of the adoption of the Constitution, would it not be the duty of the two Houses, in counting the vote, to decline to count the vote of Louisiana that had been cast for a person for President in direct conflict with the spirit and the letter of the Constitution? It certainly would. The vote must be counted. How can it be counted until it is ascertained? The vote must be identified. It must be identified and ascertained in obedience to certain principles of the Constitution. One of those principles is that the candidate voted for must be thirty-five years of age; another is that he must have been a citizen of the United States at the time the Constitution was adopted, or he must be a native-born citizen. Any vote cast in opposition to these plain and palpable provisions of the Constitution would be null and void; it would not be a vote for President in conformity to the Constitution, and therefore it would be void. To ascertain whether this vote is so cast or not, the two Houses of Congress, acting in the count of the vote, must decide whether any State has voted for a man under thirty-five years of age, or voted for an alien, against the provisions of the Constitution. They are to ascertain whether such votes have been given or not, before they can make a constitutional count of the votes.

Now, sir, as I understand the effect of this joint resolution, it is simply in a form to do that duty; that is, to ascertain whether the vote of certain States has been cast in conformity to the Constitution or not, and deciding that they have not been cast in conformity to the Constitution, to exclude them from the count. Some gentlemen here think the election in Louisiana was illegal for one class of reasons; I think it was illegal for another class of reasons; but as we both come to the same conclusion, it is immaterial upon what ground. The vote of that State is illegal. If I assume that it is illegal on one reason, and the Senator from Michigan [Mr. HOWARD] assumes that it is illegal upon another reason, I shall not dispute with him about the grounds that brought him to the conclusion to exclude the vote of Louisiana, but I will agree that he shall vote to exclude it upon his reason and I will vote to exclude it upon mine.

But, sir, the position I intended to state and

upon which I rely, is simply this: that Congress, for the convenience of the two bodies when they are in convention, and to prevent disorder and confusion at the time and place of counting the presidential votes, may previously by joint resolution declare certain principles upon which that count shall take place; that the resolution now under consideration simply does that, and therefore it comes legitimately and properly within the exercise of an incidental power of Congress to pass such laws as shall be necessary and proper to enable any expressly granted power in the instrument to be executed; and it is simply for that purpose that this resolution was offered, and it ought to pass.

Mr. POWELL. I am opposed to the amendment of the honorable Senator from New Jersey to strike out "Louisiana" from the preamble, and I am also opposed to the substitute offered by the honorable Senator from Vermont to the resolution reported by the Committee on the Judiciary. The Senator from New Jersey yesterday, speaking of Louisiana, referred to a statement made by General Banks before the Judiciary Committee, in which he declared that the recent elections in that State were conducted without any interference from the military; and he read this clause in the statement of General Banks:

"I desire to state in the most unqualified terms, that no effort whatever was made on the part of the military authorities to influence the citizens of the State either in the selection of candidates or in the election of officers, and that the direct influence of the Government of the United States was less in Louisiana than in the election probably of any other State of the Union."

I do not concur with General Banks in that statement, and the paper in which it is contained entirely overthrows the position taken by General Banks about the non-interference of the military authorities with the election in the State of Louisiana. General Banks in this paper tells you that the military authorities prescribed the qualifications of voters in that State; that they allowed persons to vote who were disqualified from voting by the constitution and laws of the State of Louisiana. Under the constitution and laws of Louisiana persons in the Army and Navy are not legal voters. General Banks tells you that he modified that provision and allowed those persons to vote. He tells you further that the voters were required to take and did take every one of them the oath prescribed in the President's amnesty proclamation of December 8, 1863; and that the military authorities not only prescribed the qualifications of voters and the oath they should take, but fixed the rule for the eligibility of candidates to office.

The amnesty proclamation of the President of December 8, 1863, it will be borne in mind requires each person to swear, not only that he will support all the laws of Congress passed on the subject of slavery, but all the proclamations issued by the President on that subject or that he may hereafter issue. That was a condition precedent to anybody being qualified as a voter at these elections in Louisiana. Although these facts all appear in this very statement of General Banks he comes here and tells you in another part of the statement that the interference of the Government in the elections in Louisiana was probably less than in any State of the Union! Did General Banks think for a moment that the members of this body were so grossly ignorant of public affairs as not to know that his statement was incorrect?

I ask you, sir, what greater interference there could be by the governmental authorities with the elections of a State than to prescribe qualifications of voters different from those prescribed in the constitution and laws of the State? Will General Banks tell me that in any State of the Union (except in some parts of Kentucky, where the military authorities did pretend to prescribe the qualification of voters), the authorities of this Government have the power to prescribe those qualifications? Has it been done in any of the adhering States save in some localities in the border States? Has the Government of the United States, by any or all of its departments, presumed to prescribe the qualifications of a voter in the State of New Jersey, or the State of New York, or the State of Ohio? No, sir. And yet General Banks tells you in this paper, which is relied upon by the Senator from New Jersey, that there was no governmental interference with the elections in Louisiana, or, at least, less probably than in

any State of the Union. General Banks is greatly mistaken when he asserts that, and the very paper that he submits clearly and palpably stamps the statement as erroneous.

I am opposed to admitting on this floor persons who are elected under the bayonet influence in any way whatever. I very well know that there was no free expression of the people of Louisiana in these elections. I know that they but obeyed the behests of the military, whatever commanders may say about it. General Banks tells you in this very statement that the military authorities there undertook to alter the constitution and laws of the State of Louisiana, and by military proclamations and orders to prescribe the qualifications of voters. Does any man tell me that an election held under such circumstances is a free election? No, sir. My friend from Ohio [Mr. WADE] says it is a farce, and but for its tragical results upon republican liberty it would be the greatest of farces. Its effect upon the liberty of the people, and upon every principle of self-government and every principle of republican government, is most tragic and disastrous. While I hold a seat here or have a voice anywhere, never with my consent shall any man take position in the councils of thenation who was elected by force of military power. The military must stand aloof from elections. Let them fight the armed enemies of the country, and let the people in their civil capacity go forward, and, uninfluenced by anything else than their own good judgments, vote as they please. Let the constituted authorities of the States prescribe, as they have a right to do, the qualifications of their voters and of their candidates for office. Whenever you depart from that principle, you stab in the most vital part our system of government, you overthrow the representative republican system, and you establish on its ruins a military despotism. I will not consent to it in any form or in any manner. So much for the elections in Louisiana.

I am opposed to the substitute offered by the distinguished Senator from Vermont to the resolution before the Senate. There is in his amendment a power given to the President of the United States which would enable him, if he had almost any strength, to reelect himself. That amendment declares that the vote of any State which may have been declared to be in rebellion by the proclamation of the President made in pursuance of the act of July 13, 1861, shall not be counted. Now suppose—I will merely suppose the case for illustration—that at the next presidential election Mr. Lincoln should be again a candidate; and suppose on a general survey of the political field he should find that it was necessary that the votes of New York and Ohio, for instance, should be excluded in order to secure his reelection; and then suppose that in order to prevent their votes from being counted, which if counted would certainly defeat his election, he should manage to have a little row kicked up there, and then declare Ohio and New York in a state of rebellion: what would be the result? According to the amendment, their votes could not be counted, and that would insure his reelection. It is a power which I will never by any vote of mine clothe the Executive with.

For the reasons which I have thus briefly stated, I cannot support either the amendment offered by the Senator from New Jersey, or that offered by the Senator from Vermont, but prefer to adhere to the resolution as it came from the Committee on the Judiciary.

I believe that the States in revolt are still States of the Union. I believe they are not out of the Union. I believe, furthermore, that when they choose to lay down their arms, and to elect officers of their State governments who acknowledge this Government, and to send members to the House of Representatives, and Senators to this Chamber, they have the right to do so, and I believe that they ought to be permitted to do so. While I say that, I know of course that each House is the judge of the qualifications of its members, and each House is to judge for itself whether the resistance to the Government in any State has sufficiently ceased to entitle it to representation here, and hence it is that each case must stand upon its own merits as it is presented here. For myself, I would vote to-morrow to receive Senators in this Hall from every State that is in revolt, provided I believed that a majority of the

people of those States, unawed by the military power, uninfluenced by any outward force, of their own good will, in the exercise of their own volition, had in good faith elected those men in the way prescribed by their constitution and laws. I think, whenever they manifest such disposition to return, a majority of the people will indicate that it is our duty to allow them to return. We, of course, and the other House, must be the judges of that matter to a great extent; we must sit in judgment upon each case; and we must decide whether or not a majority of the people of the State have ceased their resistance to the authority of the United States, and whether or not the parties who present themselves were elected by the free suffrages of those people, unawed by the military or any other power.

Mr. COWAN. Allow me to ask the honorable Senator what he would do if a majority of the people of a State were to establish a monarchy?

Mr. POWELL. The Constitution guarantees a republican form of government.

Mr. COWAN. The remedy is to be found in the Constitution, to make war upon it and overturn it. But suppose they persist in it continuously, would the Senator hold them by conquest, or would he help the minority to preserve a republican form of government and control the monarchical majority?

Mr. POWELL. I think it is the duty of the United States, under the Constitution, to see that every State has a republican form of government, and I would always do my duty as I understood it. But, sir, the question which the Senator puts is not one that has anything to do with the subject which I am discussing. I am speaking of facts as they are. I say, believing that these States are States in the Union, that they are not out of the Union, whenever a majority of the people in either one of these States shall of their own free will cease to resist the authorities and Government of the United States, and shall elect of their own free will Senators and Representatives to Congress, I will only inquire as to the fact whether they have ceased their resistance and whether a majority of the people have determined to be loyal to the Constitution and Government of the United States; and that fact being established so as to leave no doubt upon my mind, I would then be ready to admit their Representatives as our equals here. That is my notion of the matter, and I believe the proposition presented from the Judiciary Committee is about the best we can pass under the circumstances. It does not preclude us hereafter from deciding upon any of the questions which have been incidentally alluded to in debate. I supported the resolution in committee and I shall vote for it here.

Mr. COWAN. The inquiry which I put to the Senator from Kentucky I think is one which reaches to the very marrow of this question. The people of a State are divided; about half of them desire to preserve their connection with the Union, to give it their allegiance; but the other portion, say a majority, refuse, and insist upon secession. We are bound by the Constitution to preserve the Union and to preserve the rights of the people under the Union; not merely the rights of a majority, but the rights of the people, of all the people, and of any number of the people however small. What are we to do? A minority of the people come forward and say, "If you aid us for a while we can preserve this State and keep her in the Union." "But no," according to the doctrine advanced here, "there must be a majority of you before we can recognize you as in the Union." Suppose they answer you, "The majority, by persisting in abandoning the Union, can destroy forever the State and deprive us of our rights which were guaranteed to us as a portion of the people of the State."

A portion of the people of Louisiana come here and say, "We are loyal, we owe you allegiance, we have a State government organized and in operation, and if you will aid and assist us we will keep it in organization and operation, and we will control and dominate after a time the rebels and secessionists." What is it proposed to answer to them? "You cannot come back; there are not enough of you." That will be very poor encouragement for the loyal men of the rebel States to try and bring back their people to reason, and it presumes another thing that never was true, that

the people, the masses of a country under circumstances like those which surround us, ever were in rebellion. The masses of the people even in the southern States never were in rebellion against the Government of the United States. They never could have been. The masses never go into rebellion unless they have wrongs to redress and injuries to avenge. That was not the case in this rebellion. It is a rebellion of leaders, and the masses are deluded away by falsehoods industriously circulated everywhere, and inflammatory speeches made. It is impossible for them to get back unless we create some such scaffolding in the rebel States as these governments of Arkansas and Louisiana will furnish. We ought to cultivate them. We ought not, I think, to stop and inquire whether they constitute a tenth or a twentieth of the inhabitants; we ought to make the most of them. They are all we have there; and if we repulse them and take away their authority, what is left in those States, what have we there? Will not those loyal men say, "What is the bounty to loyalty that you propose? Why, that we wait without any State government, that we submit to this military rule and dictation, which is so much deprecated, until we can convert more than a majority of the people to establish a State government."

Mr. President, I have one more word to say, and I was about to say it when I yielded the floor to the venerable Senator from Kentucky, [Mr. Davis.] This question, I take it, is here prematurely. It ought not to be here at this present time. It is not legitimately raised now. It can only be raised, I take it, in the joint convention which will meet on next Wednesday for the purpose of counting these votes. The Constitution provides that the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted, not by the Vice President, for that does not follow, but shall be counted by that body there assembled in joint convention. Are we to undertake to decide beforehand what shall be done, without knowing what votes are to be presented there? We cannot tell what votes you have now in your drawer, Mr. President, to be presented to that convention. We cannot tell whether the Governors have returned them. We cannot tell whether you have received them by mail or received them by the hands of the Governors, or whether you have received them from the district judges, who are to hold them as a last resort, so that you may get them. We cannot tell anything about that. Then why raise the question?

Mr. SHERMAN. I should like to trespass on the good nature of my friend from Pennsylvania to ask him a question. As I saw an experiment of this kind once tried, I should like to ask him if this power of ours can only be exercised after we have formed a joint convention, what rules would regulate the conduct of that joint convention? I will tell him a little circumstance which occurred eight years ago, when a somewhat distinguished individual of his own State was elected President of the United States. I was then a member of the House of Representatives. The Senate came into the Hall of the House with great form and ceremony, two and two, Mr. Mason, of Virginia, the arch-traitor, at their head. He took his seat as President of the Senate by the side of Mr. Speaker Banks. A question arose as to the vote of the State of Wisconsin. On account of a heavy snow storm, the electors of that State could not meet on the day fixed by law, and consequently the vote was not cast on the day prescribed by law. When that fact appeared on reaching the vote of that State, a row, as we called it in the House, commenced. Mr. Humphrey Marshall wanted to make a speech and addressed "Mr. President." Mr. Mason refused to recognize him, but Mr. Banks recognized him; they were both sitting side by side. Then some Senators wanted to say something, and in five minutes we were in such complete confusion that Mr. Mason left his place at the Speaker's desk, went out, some of the Senators following him and some remaining behind amid the general jeers of the whole convention. That was the condition of affairs then, and it will be the condition of affairs perhaps next week if we leave this question open. As I happened to be present at that scene and saw it, I want to guard against its recurrence.

Can the Senator tell me by what rules the joint convention is to be governed; how they shall vote, whether *per capita* or by States; who shall preside; who shall put questions; whether the rules of the Senate as to debate shall prevail or the rules of the House of Representatives; because if the rules of the Senate prevail in the joint convention, we never could get through until a second President was elected? Surely that would be so in a convention of two hundred men, when we find it very difficult here in a body of forty or fifty to get to the end of any controverted matter. The votes would not be counted that day if the rules of the Senate prevailed as to debate, and the law prescribes that they shall be counted on that day. Who would put an end to the discussion? The question came up in the instance I put, when Mr. Humphrey Marshall proposed to speak and the President of the Senate would not recognize him, and would not recognize a Senator, and the Speaker of the House did recognize Mr. Humphrey Marshall; and the consequence was we got into disorder and confusion, and the joint convention broke up. It was one of the most ridiculous spectacles I have ever seen in a legislative body, and I hope never to see another such.

Mr. COWAN. I am only to take the Constitution as I find it written; and it is no argument to me that a general law has not been made by which to regulate the proceedings of this joint convention, if such a one is necessary. Perhaps the legislative department in this case has not deemed it necessary that there should be a general law to regulate the action of that convention when it was in session. Yet they are perfectly competent to make it. Perhaps they could not foresee that it would behave in such an extraordinary and ridiculous manner as has just been represented by the Senator from Ohio. What I mean to say is, that whether it has any law made beforehand to govern its action or not, it is unquestionably clothed with the power of receiving there and counting the votes.

I have no objection to the passage of a law by Congress that the Vice President of the United States shall preside in that convention, or that the Speaker of the House shall preside in it, and that the rules of the Senate, or the rules of the House of Representatives shall be adopted for its governance. If the disorder spoken of did occur, why did it occur? It did not occur because it was improper to clothe that body with that power, but it occurred because it was *casus omissus*, no provision had been made for the governance of the body in joint convention; but that it has the power and that it is the only tribunal which can count these votes and can settle the question as to what votes shall be counted, I take to be indisputable from this provision of the Constitution. If there is the mischief attendant upon it that has just been described, as I have stated before that mischief should be cured by law. It is not to be cured by our usurping the functions of that convention while we are separate and distinct bodies. It is not for us to provide by a law for this particular case, and to decide before we go there what votes shall be counted or shall not be counted, because if the convention cannot decide that question what is it there for?

Some honorable Senators have said that the members of the two Houses are there present only as witnesses, idle spectators of a scene in which they can take no part, and over which they have no authority. If that be the case, then there is one instance in this Constitution, magnificent monument of human wisdom as it is, which is utter, sheer absurdity. Are the two Houses there, as the jockeys say, merely for the purpose of "seeing fair," or are they there in some capacity in which they have power and authority to determine such questions as may arise while the counting is going on? I take it they have the authority, and that if they did not adopt rules for their governance, if they did not appoint a President, if they only went there loosely as a mob, a herd of men without organization, they could not expect to adjourn in anything less than the row which resulted upon that occasion.

I have only to repeat that I think this question is premature, that it is here improperly, and that nothing but mischief will come of it if we entertain it in this shape; that no matter what we do with it, it will have no practical bearing upon the great end for which the whole of this machinery

was created, that is, the election of a President and a Vice President. That election will not be influenced a hair's breadth one way or the other by our determination, no matter what we may do, and as to the mischief of this thing, the mischief is just as much on one side as the other. If the President may fabricate fictitious States in order to give him votes, so if we have the authority to declare who shall and who shall not vote, we may destroy actual and loyal States in order to carry out our party purposes. I hope neither of these propositions will pass.

Mr. WADE. Mr. President, about a year ago Congress, anticipating that such questions as this might arise, in my judgment very wisely framed a law and passed it through both branches with the hope of settling this matter in advance. That law was made upon great deliberation in both bodies of Congress; it received a very large vote in each House. It was very proper in my judgment that Congress should fix the matter then, because everybody could anticipate that a question of the most serious danger to the Republic might arise in the then approaching presidential election which might endanger the stability of our Union, and which might under certain circumstances precipitate these northern States into a civil war. Apprehending that such a question might arise, Congress wisely, in my judgment, provided against it, but the President did not agree with them, and he vetoed their bill, leaving the question open with all its dangers, which, thank God, have not arisen.

What would be our condition now, if in the presidential election which has just passed the vote had been so balanced that in order to carry the election for one or the other of the candidates it was necessary to resort to some of the States that are now sought to be recognized as part and parcel of the present Government? Could we ever have settled the question? I fear that we could not, and I was the more apprehensive of it because I was present on the occasion to which my colleague has alluded. I saw even there, when we were in joint convention and there was an irregularity as to the vote of a single State, a mere technicality and nothing more, it created a sensation in that body which threatened the stability of the Government. There was not a right-minded man present there who did not fear that even then that technicality, which would not affect the result whichever way it was decided, might lead to the setting up of pretensions which were dangerous to the stability of the Government.

Now, sir, it is time that we should settle the question by some legislation that will reach the whole subject. In my judgment the proposition of the Senator from Vermont is the wisest, the most far-reaching, and the best adapted to settle the controversy for the present occasion and for all time to come. I do not like to have such questions unsettled so long. I suppose the bill to which I have referred was vetoed by the President because—

Mr. JOHNSON, and others. It was not vetoed.

Mr. WADE. I speak of it as having been vetoed, because I do not care much about the form of the thing. It amounted to a veto. He put the bill in his pocket.

Mr. JOHNSON. If he had vetoed it, it might have been passed over his head.

Mr. WADE. We might or might not have passed it over the veto. The President prevented our making it a law, and he did so constitutionally. He did not transcend, in that respect, the powers which the Constitution vested in him. We passed the bill less than ten days before the session expired, and therefore he had a perfect right to withhold his assent from it, and give us no reasons for so doing. He chose to do that, and, as I suppose, he did it in defense of the proclamation which he had put forth, declaring that whenever a tenth part of the people of a State would come back, he would recognize them as the State and as part and parcel of this Government—a proposition which, with all my respect for the Chief Magistrate, I am bound to say is the most absurd and impracticable that ever haunted the imagination of a statesman. A man imbued with republican principles must know that the foundation of all free government depends upon the elective franchise. The ingenuity of man has failed to devise any other way whereby people can gov-

ern themselves except submission for the time being to the will of the majority constitutionally and legally expressed. If you cut loose from that principle you have nothing else to regulate your conduct. So far as human sagacity in the way of government has yet gone, I say if you cut loose from that great principle there is nothing left, and all before you is open sea, all anarchy, all confusion; and I must say of that proclamation of the President that it was the most contentious, the most anarchical, the most dangerous proposition that was ever put forth for the government of a free people.

What, sir, one tenth part of the people of a State govern the rest? The thing is impossible, impracticable; it cannot be done. Take away your military power from those States, withdraw your Army, and leave the one tenth to govern the remaining nine tenths in the State, and where would they be? The result would be to sacrifice every Union man in the southern States. When the General Government abandons them, when it leaves the one tenth in the hands and under the dominion of the nine tenths, what will be their condition? I had a conversation with the now Vice President-elect of the United States on that subject, and with other gentlemen on the Union side in the southern States, and I do not know of one of them who was not filled with the deepest apprehension that if this principle should prevail they would be annihilated by the nine tenths.

Can any portion of the territory of a State attempt to govern the whole? Suppose you have got one loyal county in a State, can it control the destinies of all the rest of that State? If you have by military authority within the lines of your encampment a great city or a portion of a State where there is a population, is it very difficult for the President or for the commanding officers there to get up all the paraphernalia of a State upon a ten-acre piece of land? When you have done that, and under the shadows of your armies attempt to elect all the magistrates and all the officers necessary to perfect the machinery of your government and put it in operation, can you be so blind as to suppose that when you have by military power, for it is nothing else, clothed these men with authority to govern, it is a republican government? Sir, it is just as much a military government as it was before you went through the farce of selecting those officers. There is your military governor; has he ever been withdrawn from Louisiana; or if another governor has been substituted, by whom was he substituted? By the Commander-in-Chief of all the armies of the United States. When the mandate went forth from the President to Mr. Hahn, "Be Governor of that State," he did not consult the Senate, he did not consult anybody in particular; but the mandate issued from the President of the United States unaided, unknown, uncounseled by anybody, "Mr. Hahn, be Governor of that State, call a convention, declare what your status shall be in the Republic, elect your Representatives, organize in form the shadow of a State government, and you shall be a State government." They could make out the semblance, but it lacks all the reality of a government, because it does not represent the will of the people, or at least we have no evidence that it is the will of the people of the State.

There is no alternative. If you have a rebellious people who are determined that they will not submit to the laws and authority of the General Government, if a majority of a State are thus inclined, a free government in that State is impossible. You need not talk to me about your one tenth. The Senator from Pennsylvania wants to know if it takes a majority to govern a State. I wish he was here, because I want to put the question to him, how do you understand it; "how readest thou?" is there any principle of free government that has decided that anything less than a majority of the people of a State, or of the voters of a State, can govern its destinies? I mean upon republican democratic principles. I speak not of the farce of a civil government overshadowed by a military governor, a wheel within a wheel, a military government dominating your whole political community, and inside of that and under it and subordinate to it, a civil government pretending to be a free government! I say it is a farce; it is unworthy of the American Senate to give it a moment's consideration.

Let us look the fact right straight in the face. You can have no peace, you can have no free government, you can have nothing but the shadow and semblance of one, until the majority of the people of a State are loyal. Why make this false pretense? It is a government upon false pretenses. Withdraw your Army from Louisiana to-day, and what would be its condition? Have you any evidence as to what that people would do to-morrow if you withdrew all your military force from there? Have they voted, have they given any evidence to show that they are loyal to the Government of the United States? Not a lisp of it, not a word of it. More than four fifths of the territory of that State now is trampled down beneath the feet of military power, just where it ought to be for its rebellion, and you dare not withdraw your armies from there; and yet you talk of free republican State government there! Sir, you cannot have it.

Mr. DOOLITTLE. If the Senator will allow me, I should like to ask him a question on that point. He seems to think the presence of an army is opposed to all free government. Where would the Senate and House of Representatives be if you withdrew the army of the Potomac? Where would they have been any time these last three years? Is there no army here?

Mr. WADE. We have not, thank God, been captured yet. This capital has not been overrun yet by the enemy. If it had been, and Mr. Davis's army were predominating in this capital, I think our legislation would be a mere sham. Does the gentleman suppose that our legislation would be endured, provided the armies of Mr. Davis predominated in the capital? That would be like Louisiana now beneath the feet of the Federal Government. They cannot act freely. That is what I contend for. Neither could we if we were in like condition, and if we pretended to be a free people it would be the merest mockery and farce. These armies somehow must be got rid of before legislation can take place. Where armies are the law is silent.

But I do not wish to argue this question; I have argued it; the Senate and House of Representatives have argued it, and we have sent forth our will on this subject. I am astonished to find now any considerable difference of opinion in a body that so unanimously passed the bill to which I have referred, less than a year ago. Has anything occurred since to change our opinions? It is true that there has been an effort in Louisiana to get up a delegation, and they have come here. How much of the State do they claim to represent? How much of it was able to hold a free election? Can you really claim that that portion of it was free even where your army was? The Senator from Kentucky [Mr. POWELL] has already told you that you did not govern according to the laws of that State; you did not even found the basis of your government upon the laws of the State, but your military authorities regulated the elective franchise there. Is there any freedom in that? No, sir.

I make these observations because I am exceedingly jealous of military power, and I never will consent that a people predominated over by a hostile military power shall found an American republican State. They cannot do it. To do it, they must be free as the air, and until they are in that condition it is impossible to have a free Government there; and until some evidence shall be presented to us that such is the condition of a majority, you may talk about your State government until doomsday; but every man imbued with American principles of democracy knows it is a falsehood, a mere semblance, and not a fact.

We are asked if the loyal men in a State ought not to govern it, whatever their numbers may be. I know it is very unfortunate for a man to locate himself in a community of law-breakers, whether they commit one kind of crime or another. If a great majority of them are traitors to the best Government on God's earth it is his misfortune that he has fallen into such a den of thieves. Statesmen proceeding upon general law and regulating great communities cannot take into consideration the fact of the individual hardship of this man or the other. He is surrounded by a great number of men who outvoted him, who declare that the Government under which he has lived is all wrong. They have declared war against the old Government. He may not concur with them,



but if they outvote him and outfight him, and establish another Government, what remedy have you but that of force? You cannot select him out and protect him. If he cannot live there, he must make his way as best he can out of the community, and you cannot make laws to reach his individual case when there is a majority of his neighbors against him. How can you prosecute a man for treason there?

How can a man who is injured in that State because he is a loyal man, a man who is trespassed upon, whose person is violated by those who are in flagrant war with the United States, obtain redress? Are their courts open to him for the redress of his wrongs? Can he have redress? You know he cannot. What a farce, then, to contend that because there are a few Union men scattered through these communities a statesman can undertake to protect each one in his individual rights! The thing is impossible; the statesman that conceives it is blind.

If a majority of the people where I live and from which I come—provided the supposition can be entertained for a moment—or a controlling number of them, should turn violent traitors to the Government under which we live, what rights should I have, claiming to be a Union man? I might endeavor to maintain the laws of my country; but in that case they would have declared that to be a crime punishable by imprisonment or death, and I, standing by the old Constitution, should be amenable to this vile law of theirs. Could you rescue me? Could you say that there was a good Government there? Could I appeal to the courts administered by traitors and get my rights there as a Union man? The thing is impossible. Why do you struggle to maintain impossibilities?

Sir, these States must remain under military dominion, but I hope with all the equities that can be extended to a people thus unfortunate, until such time as they manifest to the people of the United States that they are able to govern themselves properly and subject to the laws of the General Government. There is no middle course. The bill which we passed last year provided for that. We knew that nothing less than a majority at least of the loyal men could maintain a loyal State government, because we knew of no rule except that of proceeding by majorities, and therefore we provided in the bill that whenever the provisional governor believed there was such a majority, it should be his duty to appoint commissioners to take a census of the State and ascertain the number of the people; and if there was a majority who were willing and anxious to submit to the General Government, a convention should be called and should be invested with immediate power to frame a government upon democratic principles, in their own way. That is the just and equitable bill which the President vetoed in order to vindicate his anarchical principle of ten per cent. of loyalty.

This resolution, if amended as proposed by the Senator from Vermont, meets my approbation more fully than any proposition which has been offered, and therefore I shall vote for it. Gentlemen have spoken of South Carolina, and said they cannot recognize her now, and they would not count her votes. I think the Senator from Pennsylvania said he would not count the votes of South Carolina if she sent them here. Why not? What is the difference between this case and that of South Carolina? Can anybody tell me? There is territory enough under the flag of the United States in South Carolina to get up a State Legislature just as good as that of Louisiana. We have nearly as much of South Carolina under the dominion of our flag as there is of Louisiana. Why then reject the one and admit the other? They both stand upon like principles. If you only measure by acres what dominion we have, what difference is there?

In my judgment, the only sensible plan is to leave these communities until in some way we can have at least reasonable evidence to show that a majority of them are loyal, and in a condition to maintain a free republican government of their own. Then I shall be the first man to reinvest them with the power. Let them have it so. Nobody regrets more than I do that any State of this Union has placed herself in a condition where we cannot trust her with the power to govern herself. I wish to God we could. Whenever

it can be done I shall be the very first man to claim, as I have always claimed, that the people shall govern themselves wherever they can do it; nor will I yield to military despotism or to outside domination and pressure, getting up the semblance of a Legislature and calling it a fact. It is not a fact, and your legislative action cannot make it so. I thank God that in the last presidential election we were strong enough to carry our principles through, so as not to involve us in this question which might have launched us in civil war at the North. Let us keep clear of all such questions. Let us settle now and forever the principle that the President of the United States cannot in times of civil war, wherever he happens to have an army in a State, improvise by military force a Legislature, and call it the power of a State in such sort as to count that semblance in his favor as a fact. If it were attempted I know for one that I would not put up with it. I ask any Union man on this floor, suppose the States which now claim to be represented here had chosen electors in favor of General McClellan, and given him their votes, and those votes would have elected him President, would we submit to it? I do not believe there is a man on this floor who would. There is not one here who would not spill the last drop of his blood before yielding to such a thing. We would have said at once, "These communities were improvised; these powers were conferred on them by the military power of the United States; they do not represent the people, and therefore they shall not be represented on this floor or in the Electoral College."

Mr. JOHNSON. It would be the same thing, I suppose, if those votes would have elected Mr. Lincoln. There would be the same opposition.

Mr. WADE. Just the same; and I intend to say that although I was strongly against Mr. McClellan and in favor of Abraham Lincoln, yet if it had taken these semblances, these counterfeits, to make out his title to the Presidency, before God I would not have consented to receive them. If the man whom I opposed had received the votes of the nation, he should have had the position, and that would be the feeling of every Senator here I have no doubt. There is not a man here now who will rise in his place and say that if these votes could have been so changed as to elect our opponent we would have yielded to such state of things. Would any one have done it? I want to hear the Senator who will rise and tell me that he would have permitted these counterfeits, these disloyal States, these States which have declared war upon the General Government, to select a President for us. I say they have declared war against the General Government and they have never revoked that declaration of war, for I believe there is no one of these States which has yet revoked its act of secession and declaration of war. It is important to know how that fact is. Have the people that claim to be represented in this body as a State, by any vote repealed their act of secession and war? Are gentlemen here contending that men in flagrant war against the United States shall send a delegation here to represent them? Is that so? If nobody can answer my question I will apply to the case a well-known principle of law. The last we heard from them was that they had declared themselves out of the Union, and in flagrant war with the Union, and if nobody can show the contrary, that state of things exists to-day, for whoever contends that a state of things once proved to exist has been changed must submit to the fact that it exists now, unless he produces proof to the contrary.

Mr. HENDERSON. I will state, with the Senator's leave, that my understanding is that Louisiana, Arkansas, and Tennessee, all three, by their conventions, have passed an ordinance repealing the ordinance of secession. By stating that fact I am not attempting to confute the argument of the Senator, but I merely state the facts as a fact.

My recollection is that all three of them have done so.

Mr. WADE. I do not know whether it is so or not, but it is a mere sham if they have done so. They might as well have done that as any other part of this business, because all that was done was done by such voters as your military power prescribed, and they would have voted precisely

as they were wanted to vote, whether to repeal the ordinance of secession, or to elect members to come here and claim seats. It is all of a piece. The great argument against it all is that these men do not represent the people of the State. The Senators who claim seats here from Louisiana cannot assert that they are here by the assent of a majority of that people fairly expressed. They represent nothing but the military power of the United States, and God knows that if I can prevent it they shall not sit here upon equal terms with me, who claim to be here by the voice of a majority of the State to which I belong. I will have no such company if I can help it, nor shall they ever be recognized by me. Sir, this great question should be settled now and forever before we meet in joint convention.

Mr. DOOLITTLE and Mr. WRIGHT sought the floor.

The VICE PRESIDENT. The Chair will award the floor to the Senator from New Jersey, both he and the Senator from Wisconsin rising at the same time, and the Senator from Wisconsin having already spoken upon the question.

Mr. WRIGHT. I move that the Senate do now adjourn.

Mr. TRUMBULL. I ask the Senator from New Jersey to withdraw his motion for a moment to allow me to say one word.

Mr. WRIGHT. Certainly.

Mr. TRUMBULL. I trust that we shall not now adjourn. This question ought to be settled. Let us sit here and dispose of it. If gentlemen wish to make remarks let us go on until we can get a vote. I think we had better hold on. I hope the Senator will not persist in his motion.

Mr. WRIGHT. I renew the motion to adjourn.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 25; as follows:

YEAS—Messrs. Anthony, Chandler, Dixon, Doolittle, Grimes, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Nesmith, Pomeroy, Ramsey, Sumner, and Wright—16.

NAYS—Messrs. Buckalew, Clark, Collamer, Conness, Cowan, Davis, Farwell, Foster, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Powell, Sherman, Sprague, Stewart, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—25.

ABSENT—Messrs. Brown, Carlile, Foot, Hale, Harding, Hicks, McDougall, Richardson, Riddle, and Saulsbury—10.

So the Senate refused to adjourn.

Mr. COWAN. The honorable Senator from Ohio is mistaken when he supposes that I said I would not count the vote of South Carolina in the coming convention.

Mr. WADE. Some gentlemen on that side of the question said so; I thought it was the Senator from Pennsylvania.

Mr. COWAN. It is not very material; I merely wished the correction to be made. I have only to say that if South Carolina was in the condition of Louisiana and Arkansas, if her capital, as I hope it will be shortly, was in the possession of our armies, if there was no rebel government within her borders, if there was one tenth of her people willing, anxious, to establish, organize, get up, and sustain a State government, I would receive her vote; I would acquiesce under the proclamation of the President, although perhaps if I had been making that proclamation in the first place I would not have couched it in his phrase, I would not have subjected it to his terms; but as he has done it, as he has invited these people to enter upon the work on that basis, I am willing in good faith to carry out the stipulations that he has made with them. I would recognize them, and I would do as I believe he would do if he were a member of this body—he would submit to that vote. I do not see why he should not do so, and I have no doubt he would.

That is all that I desire to say except this: that these governments having been formed, a nucleus around which the loyal men are to gather, and clothed with the authority which is so potent among men, and which is so well calculated to bring them to any coöperation, I think they ought to be encouraged, and encouraged by all means.

Mr. WADE. Will the Senator permit me to ask him a question?

Mr. COWAN. Certainly.

Mr. WADE. The Senator says he would permit one tenth of the people to govern the State. Now I want to know of the Senator what pro-

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2D SESSION.

SATURDAY, FEBRUARY 4, 1865.

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tection that one tenth will have when you withdraw all external power from them, and leave them to themselves? What chance will they have with the nine tenths opposed to them?

Mr. COWAN. That is the very question that we must now meet. It is the question now whether we will maintain State governments there in connection with the Union or whether we will treat these people as a conquered people, as conquered provinces; whether we will assume the task of governing them entirely or whether we will do that which the President is endeavoring to do now. I am very free to say that I am in favor of his plan; I very much prefer it; and I have no doubt that the one tenth of the people of a State organized with the reins of State government in their hands, the means of enforcing its authority, aided by the General Government, will finally bring back all these States to obedience, allegiance. I have no doubt about it. But repulse this one tenth, repulse the loyal people of the States who are endeavoring to bring them back, drive them away into rebellion, what then? If you have not the one tenth, you have nothing. If you have not these people who are your friends in Louisiana and Arkansas and the other States, whom have you? Are you determined to drive them all into utter and inextinguishable rebellion, or are you willing that the repentant, as well as those who have always been loyal, shall come back and endeavor to establish themselves in such form that the Union may be restored? To state the question, in my judgment, is to answer it.

It is said that the tenth of the people do not represent the whole people. They may not represent the whole people, loyal and disloyal, but they represent the loyal people, and it is the loyal people of these States for whom we have made this tremendous struggle. Is there a Senator on this floor who would have embarked on this war if it were not to rescue the loyal people of these States from the usurpation which oppressed them? Certainly not. What right should we have had to do so? If the whole of this people had gone away into secession, what right should we have had to restrain and control them?

We began with the belief that this was a conspiracy on the part of a few to lead away the masses, and that the masses, so far as they had an opportunity of expressing their preferences and giving their opinions by their votes, were loyal, and it was a contrivance and conspiracy that led them away into rebellion; and now, when that is broken up, when they are willing to come back, I am willing to receive them as they come, and I am not disposed to cavil upon the ninth part of a hairs as to whether they constitute a majority or not. It is enough for me to know that they are loyal people, and that they desire the restoration of the Union; they desire to be reunited to the great body-politic as members, part and parcel of it, and if they represent the loyal people, it is enough.

Mr. SHERMAN. I am afraid we shall not get through with this matter to-night, and there are two bills which I am anxious to have taken up and acted on, and I therefore ask the indulgence of the Senate to allow the bill fixing the duty on printing paper and the legislative, executive, and judicial appropriation bill to be now taken up and made the special order for to-morrow at one o'clock.

Mr. WILSON. Let us vote on this question.

Mr. SHERMAN. My impression is that this is going to lead to a general debate, and I do not think it ought to stand in the way of ordinary legislative business. I am willing to have it go over and occupy the morning hour to-morrow, but I want an arrangement made by which the bills that I have referred to may be considered.

Mr. TRUMBULL. I cannot consent to the proposition of the Senator from Ohio that this resolution shall go over and occupy the morning hour to-morrow. Every person who has spoken on the subject regards it as necessary that we should do something to settle this question. I

will state to the Senate that a committee has been appointed to devise the mode of canvassing the votes for President and Vice President on Wednesday next, the time fixed by law for that canvass. That committee cannot act very well while this proposition is pending; and if they do act they will have to report some way to canvass the votes, and then this difficulty will be upon us again. We ought to settle it, and we ought to settle it now. It is important that we should settle it at once. We have but a few days to make the necessary reports and get them adopted, to canvass the vote in the usual way; and if we cannot sit the resolution out to-night, which I should prefer, I shall insist, so far as I am concerned—of course the Senate will control it—that we go on with it to-morrow to the exclusion of all other business until we dispose of it. I think no other business should interfere with this question.

Mr. SHERMAN. I certainly have not taken any time in the discussion of this matter. I had hoped it might be voted on to-day, but it has occupied two days, and from our recent experience on a resolution on the passage of which not even the yeas and nays were called for, but which was debated here for ten days, my impression is that this resolution will be pending on next Wednesday, when we are ready to form in procession to march to the House of Representatives to count this vote.

Mr. JOHNSON. Hardly.

Mr. SHERMAN. It looks very much like it; and therefore I think we had better proceed with other business.

The VICE PRESIDENT. The Senator from Ohio asks the unanimous consent of the Senate to proceed to the consideration of the bill named by him for the purpose of making it a special order.

Mr. TRUMBULL. I object.

The VICE PRESIDENT. Objection being made, the bill cannot now be taken up.

Mr. SHERMAN. Can I make a motion at this time to postpone all other orders for the purpose of proceeding to the consideration of that bill? If I can, I make that motion.

The VICE PRESIDENT. The Senator from Ohio moves to postpone the further consideration of the pending bill for the purpose of proceeding to the consideration of the joint resolution relating to the duty on paper, and that is the question now before the Senate.

Mr. TRUMBULL. I hope the Senate will not agree to that motion.

Mr. CONNESS. I feel a great interest in the settlement of the question now proposed to be called up by the honorable Senator from Ohio, the chairman of the Committee on Finance, but it appears to me that his own suggestion in regard to this measure is the greatest reason why we should continue and resolve to come to a vote upon it. It is certainly a question of no secondary importance, but on the contrary a question of the first consequence, and I cannot vote as I usually do with the honorable Senator to take up measures from the Committee on Finance.

I desire, with the leave of the Senate, for a reason that will be apparent, to ask leave to be excused before I take my seat from serving further upon the select committee on slavery and freedmen. There are other Senators that have arrived here who have not a place on committees, and I do it with that view. I hope the place will be filled by motion from some Senators. I ask to be excused from serving on that committee.

The VICE PRESIDENT. Is there any objection to receiving that motion? The Chair hears none.

The motion to excuse the Senator from California was agreed to.

Mr. SUMNER. I move that the Chair be authorized to fill the vacancy.

The motion was agreed to by unanimous consent, and the Vice President appointed Mr. NYE to fill the vacancy on the committee on slavery and freedmen; he also appointed Mr. STEWART to fill the vacancy on the Committee on Public Lands

occasioned by the absence of Mr. HARDING, who in consequence of the state of his health has received leave of absence for the residue of the session.

Mr. FARWELL. I suggest to the Senate that a recess for one hour be taken. ["Oh, no!"]

The VICE PRESIDENT. The question before the Senate is on postponing the pending joint resolution for the purpose of proceeding to the consideration of the bill relative to the duty on paper.

Mr. SHERMAN. I simply want to promote the business of the Senate; and as I see some of the members of the Committee on Finance will not vote to take up the bill I referred to, I withdraw the motion in the hope that by to-morrow at one o'clock we may get a vote on this question.

Mr. LANE, of Indiana. I desire to make a motion, and preliminary to that to state in a very few words my position. I am opposed to any legislation whatever upon this subject at this time. The right of the people of a State to vote for President is a constitutional right, and cannot be restricted or modified by any joint resolution of Congress. The right to count the vote in joint convention is devolved on that joint convention, and not upon this Congress. I do not believe that Congress has the constitutional power to say in advance what States shall be counted and what not. I will trust the convention when the certificates are presented of the votes from the several States. I do not believe we have the power here as an act of legislation to control the counting of the votes in joint convention. I therefore move the indefinite postponement of the resolution and pending amendments.

Mr. HENDERSON. I move that the Senate adjourn.

Mr. TRUMBULL. If the Senator will withdraw his motion and let us take a vote on the indefinite postponement of the question we may settle it.

Mr. HENDERSON. I am perfectly well satisfied we cannot get through with this question to-night. There are several Senators who desire to speak.

Mr. CONNESS. Let us try.

The VICE PRESIDENT. The question is on the adjournment, and it is not a matter of debate.

Mr. HENDERSON. I insist on my motion to adjourn.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 21; as follows:

YEAS—Messrs. Anthony, Collamer, Cowan, Dixon, Doolittle, Farwell, Harlan, Harris, Henderson, Howard, Howe, Powell, Sprague, Sumner, and Wilkinson—15.

NAYS—Messrs. Buckalew, Clark, Conness, Davis, Foster, Hale, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Sherman, Stewart, Ten Eyck, Trumbull, Van Winkle, Wade, Wiley, and Wilson—21.

ABSENT—Messrs. Brown, Carlile, Chandler, Font, Grimes, Harding, Hendricks, Hicks, McDougall, Pomeroy, Ramsey, Richardson, Riddle, Saulsbury, and Wright—15.

So the Senate refused to adjourn.

The VICE PRESIDENT. The question now is on the motion of the Senator from Indiana to postpone the joint resolution indefinitely.

Mr. LANE, of Indiana, called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. HARLAN (when Mr. GRIMES's name was called) said: As this is in the nature of a test vote, I am authorized to state that my colleague is paired with the Senator from Kansas, Mr. POMEROY, and that if my colleague were here he would vote for a resolution similar to the amendment proposed by the Senator from Vermont.

Mr. LANE, of Kansas, (when Mr. POMEROY's name was called,) said: My colleague is absent, having been paired off with Mr. GRIMES.

The result was announced—yeas 11, nays 26; as follows:

YEAS—Messrs. Cowan, Doolittle, Farwell, Harlan, Harris, Howe, Lane of Indiana, Nesmith, Ten Eyck, Van Winkle, and Wiley—11.

NAYS—Messrs. Anthony, Buckalew, Clark, Collamer, Conness, Davis, Dixon, Foster, Hale, Henderson, Howard,

Johnson, Lane of Kansas, Morgan, Morrill, Nye, Powell, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Wilkinson, Wilson and Wright—23.

ABSENT—Messrs. Brown, Carlile, Chandler, Foot, Grimes, Harding, Hendricks, Hicks, McDougall, Pomeroy, Ramsey, Richardson, Riddle, and Saut-bury—14.

So the motion was not agreed to.

Mr. WILKINSON. I move that the Senate adjourn.

The motion was agreed to, there being, on a division—ayes 20, noes 16; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 2, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### ORDER OF BUSINESS.

Mr. LAW. Mr. Speaker—

Mr. WASHBURN, of Illinois. I call for the regular order of business.

Mr. HOLMAN. I trust that the gentleman from Illinois will yield to me that I may have a bill referred.

The SPEAKER. The regular order is the consideration of the bill (H. R. No. 322) for the construction of the Illinois ship-canal. The gentleman from Illinois [Mr. ARNOLD] moved last evening an amendment, which the Clerk was about to report when the House adjourned.

Mr. STEVENS. I desire to ask unanimous consent that a bill may be postponed.

The SPEAKER. That cannot be done unless the gentleman from Illinois withdraws the call for the regular order.

Mr. BROWN, of Wisconsin. I rise to a question of order. When the Illinois ship-canal bill was before the House at the last session, it was postponed to a day certain, which was the same day to which the Niagara ship-canal bill was postponed, so that one was immediately to follow the other. When the Niagara ship-canal bill came up it was further postponed. I listened most attentively and heard no order made with regard to this bill. I therefore insist that it is not now entitled to take precedence of other business.

The SPEAKER. The gentleman from Indiana, last evening, and the gentleman from Wisconsin, this morning, have raised a question of fact with the Chair in reference to the business, and the Chair will have the Journal of last Monday read.

The Clerk read, as follows:

"On motion of Mr. STEVENS,

"Ordered, That the consideration of the bills of this House No. 126 and 322, heretofore made a special order for this day and from day to day until disposed of, be postponed until Wednesday next, the 1st day of February, immediately after the Journal is read."

The SPEAKER. The Chair will now ask the gentleman from Pennsylvania, [Mr. STEVENS,] so that the question may be settled, whether he did or not move to postpone the special order.

Mr. STEVENS. I did move to postpone both special orders.

Mr. BROWN, of Wisconsin. I did not know that the attention of the House had been called to the matter before. I was not present at the time. I listened to the motion but I did not understand that this was included.

Mr. WASHBURN, of Illinois. The gentleman from Indiana desires me to withdraw my call for the regular order of business, and the gentleman from Pennsylvania also wants it withdrawn. I withdraw it for both gentlemen.

Mr. HOLMAN. I also want to present a matter.

Mr. WASHBURN, of Illinois. I will withdraw it for the gentleman.

### SURVIVING REVOLUTIONARY SOLDIERS.

Mr. LAW. Mr. Speaker, I ask the unanimous consent of the House to report from the Committee on Revolutionary Pensions a bill in favor of the surviving revolutionary soldiers.

Mr. STEVENS. I did not understand that the gentleman from Illinois yielded for any such purpose.

Mr. LAW. When I state the object of the proposition I am sure that the House will adopt it unanimously, as it is reported unanimously from the Committee on Revolutionary Pensions.

Mr. Speaker, it will be recollected that at the last session of Congress we adopted a measure

giving to the survivors of the revolutionary army a donation each of \$100 in addition to what they had before. Since then, out of those twelve gallant and patriotic men, seven have gone to their long homes. We have then only five survivors of the army of Washington during the revolutionary war. In consequence of the payments being made on the 1st of January and 1st of July, five out of the seven who have died have only received fifty dollars. They have gone to their graves before they had received \$100.

I ask that the bill I now report be put on its passage, and I will say, in reference to it, that its effect will be not only great upon the Army where each individual mentioned in this bill has grandchildren and great-grandchildren, not only in the Army of the United States, but throughout the country.

I have in my hand a book from which I will read a short passage, to show you the patriotism of these men. Every man here ought to have a copy of the book, which is called "The Last Men of the Revolution." It ought to be in the hands of every member of Congress and every friend of the Union. I will read a few lines in reference to one of these survivors:

"His mind is still vigorous, though his body is feeble. His memory is good, retaining dates especially, so that he is the referee in the family in matters of history. He is deeply interested in the present conflict, his whole soul being enlisted in the cause of his country. Speaking of General Grant and his prospects of success in his campaign against Richmond, he concluded by saying, 'Well, I know two old folks up here in Maine who are praying for him.' He has lost four or five grandchildren in the war."

Now, sir, this bill proposes to give the surviving soldiers of the Revolution—these five, and some of them may not now be living—the small gratuity of \$300 a year during their natural lives. It is to make their pathway in life, which must now be short, as pleasant as possible; and it is not more than a just tribute on the part of the Congress of the United States. We give them this small gratuity for the intelligence and bravery employed by them in bringing about our independence.

I send the bill to the Clerk's desk to be read.

The bill, which was read, directs that there shall be paid to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension rolls, \$300 as a gratuity, in addition to the pension now paid them.

No objection being made, the bill was reported, read a first and second time by its title, and ordered to be engrossed and read the third time.

Mr. JOHNSON, of Pennsylvania. I wish to suggest an amendment, which I think will meet the approbation of the House.

Mr. LAW. What is it?

Mr. JOHNSON, of Pennsylvania. I suggest that the payment of \$300 be in gold. It will be more grateful to the old soldiers, reminding them of former times.

Mr. LAW. I think we had better pass the bill as it is. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill, being engrossed, was read the third time, and passed unanimously.

Mr. LAW moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### LAND-GRANT RAILROADS.

Mr. HOLMAN, by unanimous consent, introduced a joint resolution in relation to certain railroads; which was read a first and second time, and referred to the Committee on Claims.

Mr. HOLMAN. I ask that the resolution may be printed.

Mr. ANCONA. I object.

Mr. HOLMAN. I hope it will be printed. I make that motion.

The SPEAKER. The resolution having been read and referred, that motion is in order.

The motion was agreed to.

### CABINET MINISTERS IN CONGRESS.

Mr. STEVENS. I ask unanimous consent that the bill introduced by the gentleman from Ohio [Mr. PENDLETON] in reference to Cabinet ministers having seats on the floor of the two Houses, and which was made a special order for to-morrow, may be postponed for one week.

Mr. PENDLETON. If that will subserve the

convenience of the Committee of Ways and Means I will not object to that arrangement. I am not disposed to thrust that matter in the way of the important business of that committee.

No objection being made, the consideration of the bill was postponed for one week from to-morrow.

### GUNBOAT FOR LIBERIA.

On motion of Mr. COX, and by unanimous consent, Senate bill No. 356, authorizing the President of the United States to transfer a gunboat to the Government of the republic of Liberia, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Foreign Affairs.

### PAY OF CERTAIN OFFICERS OF THE ARMY.

On motion of Mr. WILSON, and by unanimous consent, the bill of the House (H. R. No. 583) to amend the twenty-first section of the act entitled "An act to define the pay and emolument of certain officers of the Army, and for other purposes," approved July 17, 1862, together with the amendments of the Senate thereto, was taken from the Speaker's table, and referred to the Committee on the Judiciary.

### APPRAISEMENT OF IMPORTED MERCHANDISE.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill to amend the acts relating to officers employed in the examination and appraisal of imported merchandise in the district of New York; which was read a first and second time, referred to the Committee on Commerce, and, with the accompanying papers, ordered to be printed.

### NATIONAL ACADEMY PAPERS.

Mr. PATTERSON, by unanimous consent, introduced a joint resolution authorizing the National Academy to publish certain papers; which was read a first and second time, and referred to the Committee on Printing.

### REPORT ON WASHINGTON AQUEDUCT.

Mr. A. W. CLARK, by unanimous consent, introduced the following resolution; which was referred, under the rules, to the Committee on Printing:

Resolved, That five hundred copies of the communication from the Secretary of the Interior, inclosing a supplemental report from the chief engineer of the Washington aqueduct, be printed, together with said report, for the use of the aqueduct department.

### MINERAL LANDS.

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, introduced a bill to provide for the subdivision of the gold and silver lands of the United States, and others containing valuable minerals, for the coining of the products of such lands, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Public Lands.

### CLAIMS OF LOYAL CITIZENS.

Mr. YEAMAN, by unanimous consent, introduced a bill concerning the claims of loyal citizens of loyal States, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

### ARREARAGES OF PAY AND BOUNTY.

Mr. ANCONA, by unanimous consent, introduced a bill amendatory of the acts providing for the payment of arrearages of pay and bounty due heirs of deceased soldiers; which was read a first and second time, and referred to the Committee on the Militia.

### LAND CLAIMS—WISCONSIN.

Mr. BROWN, of Wisconsin, by unanimous consent, introduced a bill to quiet the titles to certain public lands granted to the State of Wisconsin to aid in the construction of certain railroads; which was read a first and second time, and referred to the Committee on Public Lands.

### CAROLINE L. WRIGHT.

Mr. TRACY, by unanimous consent, introduced a bill for the relief of Caroline L. Wright; which was read a first and second time, and referred to the Committee on Pensions.

### FREEDMEN'S BUREAU.

Mr. ELIOT, from the committee of conference on the disagreeing votes of the two Houses upon



the Senate amendments to the bill of the House (No. 51) to create a Bureau of Freedmen's Affairs, made a report; which was read.

The report was as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference, have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An Act to establish a Department of Freedmen and Abandoned Lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby established at the seat of Government of the United States, a Department of Freedmen and Abandoned Lands, whose object shall be the good of the freedmen and the administration of lands and other property falling to the national Government in the rebel States not heretofore appropriated to other uses. And this department shall be under the care of a Commissioner, who shall be appointed by the President, and by and with the advice and consent of the Senate, with an annual salary of \$4,000.

Sec. 2. *And be it further enacted,* That the Commissioner of Freedmen and Abandoned Lands shall appoint a chief clerk, with an annual salary of \$2,000, who shall act also as disbursing officer, and who in all cases during the necessary absence of the Commissioner, or when the principal office shall become vacant, shall perform the duties of Commissioner; and also such number of clerks, not exceeding two of each class, as shall be necessary. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of \$100,000 and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with sureties to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

Sec. 3. *And be it further enacted,* That the Commissioner shall, under the direction of the President, create districts of freedmen and abandoned lands within the rebel States, not to exceed two in each State, so far as the same may be brought under the military power of the United States; and each district shall be under the supervision of an assistant commissioner, with an annual salary of \$2,500, under bond as required for the chief clerk, to be appointed by the President of the United States, with the advice and consent of the Senate, and with authority to appoint local superintendents and clerks, so far as the same may be needed, not, however, more than four in each district, each of whom shall have an annual compensation not exceeding \$1,500.

Sec. 4. *And be it further enacted,* That the Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations from time to time, and cause the same to be enforced for their needful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty. And every such freedman shall be treated in all respects as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Sec. 5. *And be it further enacted,* That the assistant commissioners, under the direction of the Commissioner and within their respective districts, shall take possession of all abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses, and all property found on and belonging to such estate, and shall rent or lease such real estate or any portions thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree; and if the lands with the property aforesaid shall not be required for the freedmen, then they shall rent or lease the same to other persons on such terms and under such regulations as shall be mutually agreed upon, and no freedman shall be employed on any estate above mentioned otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent: *Provided,* That no lease, permission to occupy, or contract, shall be for a longer period than one year, and all papers required or authorized by this act shall remain valid and effectual although no revenue stamp is attached thereto. But nothing herein contained shall be construed to prevent the due execution of process against the real estate or property above named issued in due course of law from any court of competent jurisdiction; but the possession of such real estate or property by any purchaser thereof at a judicial sale shall be postponed until the termination of any outstanding contract duly made and executed under the provisions of this act.

Sec. 6. *And be it further enacted,* That the assistant commissioners and local superintendents shall, as advisory guardians, aid the freedmen in the adjustment of their wages, or in the application of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; that they shall do what they can as arbitrators to reconcile and settle any differences in which freedmen may be involved with each other or with other persons; and, in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all

such proceedings there shall be no disability or exclusion on account of color.

Sec. 7. *And be it further enacted,* That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order, three hundred and thirty-one, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; but such lease shall not continue beyond the period of one year from its date; and immediately upon the organization of any district of freedmen and abandoned lands such agents shall cease to execute their functions within such district, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any district prior to its organization under this act, shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

Sec. 8. *And be it further enacted,* That the Commissioner shall apply the proceeds accruing under this act to defray the expenses of this department, so that the same may become at an early day self-supporting; and any proceeds over and above such expenses shall be paid into the Treasury of the United States.

Sec. 9. *And be it further enacted,* That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall so far as practicable make provision for them with humane and suitable persons, at a just compensation for their services.

Sec. 10. *And be it further enacted,* That the President of the United States is charged with furnishing the military and other support needful to carry this act into effect, and any military officer may be appointed under this act without increase of salary.

Sec. 11. *And be it further enacted,* That the Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required. And it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen not mustered into or regularly engaged in the military service, to make return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

Sec. 12. *And be it further enacted,* That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony; for any act of embezzlement or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

Sec. 13. *And be it further enacted,* That the last clause of a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Sec. 14. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

THOMAS D. ELIOT,  
WILLIAM D. KELLEY,  
*Managers on the part of the House.*  
CHARLES SUMNER,  
J. M. HOWARD,  
*Managers on the part of the Senate.*

Mr. ELIOT. Mr. Speaker, I will endeavor to state, so that it may be understood by the House what are the differences between the bill reported by the committee of conference and the bill which was passed by the House at the last session.

Mr. WILSON. I desire to ask the gentleman from Massachusetts [Mr. Eliot] whether he proposes to ask for the adoption of this report this morning. I think it is too important and too voluminous for the House to pass upon without seeing it. I think we ought to have it printed before we are called upon to act upon it. I therefore ask the gentleman to consent to have it postponed to some certain day, in order that we may act upon it understandingly.

Mr. ELIOT. I will reply to my friend from Iowa [Mr. Wilson] by stating that after I shall have concluded the statement I desire to make, if it shall be the judgment of the House that there shall be a postponement before final action, I do not know that I shall make any objection. But I now propose to state distinctly how the question stands, in order that gentlemen may judge how to act.

It will be remembered that the bill which was passed by the House at the last session attached the Bureau of Freedmen's Affairs to the War Department; that the bill which was subsequently passed by the Senate as an amendment to the House bill attached that bureau to the Treasury Department. The first question which the managers upon the part of the two Houses had to discuss and to determine was the Department to which the bureau should be attached properly. I believed, and the House, in maintaining the committee that reported the bill concurred in that belief, that it was better, under the circumstances in which we were placed, that the bureau should be connected with the War Department; because we were in a condition of war, because it seemed that the inspiration of that Department would be required to make the bill effective; and because, with the knowledge that we had of the interest taken in that subject by the distinguished head of that Department, we might feel assured that no opportunity would be omitted to enforce properly the provisions of the bill for the benefit of the persons for whom we were legislating.

But there was this great difficulty which had to be encountered and removed. During the last two or three years there has been no little legislation upon the subject of abandoned lands and confiscated property and abandoned personal estate. And from the earliest legislation on the subject down to the present time the care, the charge, the custody, and the disposition of that property has been by various laws placed in the Treasury Department. And it was said that, in order to make the proposed legislation useful, it would be necessary to repeal in part or wholly previous legislation; and that it would occasion greater inconvenience than any benefit which we expected from its connection with the War Department would balance. Besides, it was urged that if the bureau be connected with the War Department it would be needful to make a division of the lands, leaving so much as would not be wanted for freedmen's use in the care of the Treasury Department, and giving to the care of the War Department so much as would be wanted for the purposes of this bureau. And it was contended that if that were done there would be collision continually arising concerning the lands between the officers or agents of the two Departments which would very greatly embarrass the operations of the law.

It did not appear to the managers on the part of the House that these objections were sufficient to balance those which existed against placing this bureau in the Treasury Department. But on this point no agreement could be arrived at, and it became necessary to determine whether a satisfactory bill could be prepared not connecting the bureau with either executive Department. The great importance of some efficient legislation was recognized, and no other course could be adopted. It was more important that some immediate effective plan of action should be agreed upon than that any particular mode should be adopted, and it was believed that a department might be established, communicating directly with the President, not an executive Department, of course, but one similar to the Department of Agriculture as it was at first created. There are some strong reasons why such a department, self-acting, not dependent immediately upon the War or the Treasury, would be more useful than it could be if otherwise constituted. Such a department would more probably enable the Government to secure the services of some Commissioner of great ability, and of experience and character. The amount of compensation fixed by the bill has not been increased, but the very fact that the Commissioner would communicate directly with the President, and with Congress, would give to the department a more desirable character than any bureau could have. The jurisdiction of the department would be large, and its duties important and varied, and we believed that the work needful to be done would justify us in placing it upon an independent foundation. Indeed, it had been, I ought to say, the subject of examination before the committee on the part of the House, as I learned it had also been in the Senate committee, before the bill had been acted upon originally by the House, it being believed then that there were strong reasons why it should be rather a department connected with the

President than a bureau connected with either executive Department.

I may also say that those members of our conference committed who could not so fully agree to the provisions of the bill as to sign the report of the committee were of the belief that any bill would be more probably effective and useful if disconnected from the Treasury or the War Department.

The bill, as it is reported, received very critical and careful examination. Every section and every provision was discussed. I believe that it is carefully guarded, and calculated to effect the wishes of those who desired action and who believe that we are called upon to legislate in behalf of those whose recently bestowed freedom finds them unused to self-reliance and dependent for a season somewhat upon our sympathy and aid.

Now, sir, this bill presents to the House no new proposition. Substantially, every provision contained there will be found, I believe, either in the provisions of the House bill or in the provisions of the Senate bill. Many of them are combinations of features of both bills; and if gentlemen will give me their attention, I will explain what are the differences.

The first section of the bill creates a department of freedmen and abandoned lands, and the formal part of this bill and of the other sections of the bill are similar to those contained in the law creating the Department of Agriculture. That act was drawn with a great deal of care, and upon an examination of it it was found that, so far as its provisions could be made applicable here, it was desirable to adopt them. The precedent seemed to be a good one, and the language of the act commended itself to the committee.

The department is established at the seat of Government; and the first section of the bill puts under the care of the department the lands and other property falling to the national Government in the rebel States, and not heretofore appropriated to other uses. The Commissioner is to be appointed by the President. The salary is to be \$4,000, the same as was assigned to that office before; and I will say here that under this bill no greater expense is to be incurred than was contemplated in the bill which the House passed at the last session.

The Commissioner, in the second section of the bill, is authorized to appoint his subordinate officers. The first of these is the chief clerk, with a salary of \$2,000, who shall be a disbursing officer, as was provided in the bill which was passed by the House. In the absence of the Commissioner, he is called up to discharge the duties of the Commissioner, as is provided in the act establishing the Department of Agriculture. The clerks to be appointed are of the same class and the same number as were provided by the bill passed by the House. The Commissioner and the other officers are required to take the oath of allegiance prescribed by the act of Congress. The Commissioner is to give bond in the sum of \$100,000; and the chief clerk and the assistant commissioners afterward provided for are required to give bond in the sum of \$10,000. I think it will be seen that this is an improvement upon either of the bills before presented, securing a high order of ability and excluding applications for these higher offices by some who might think themselves qualified to discharge the duties.

The third section of the bill is a modification of the fourth section of the bill which was passed by the House, and is substantially the second section of the bill as it passed the Senate. It provides that the Commissioner, under the care of the President, shall create districts of freedmen, not exceeding two in each State so far as they may be brought under the military power of the United States. That each district shall be under the supervision of an assistant commissioner, his salary being fixed at the same amount as in the bill passed by the House last year. These assistant commissioners are required to give bonds. They have power to appoint local superintendents as may be needed, not however exceeding four in each district, which is the limitation on the number as contained in the bill passed by the Senate, at a compensation not exceeding \$1,500 each.

The fourth section of the bill will be found in the third section of the House bill and the fourth section of the Senate bill. It is a combination of them both. Gentlemen have had them on their

tables in print for months. It provides that the Commissioner shall have general supervision of the freedmen throughout the several districts, watching over the execution of the laws, proclamations, and military orders concerning them, making regulations from time to time, and causing them to be enforced for their needful and judicious treatment, and protecting them in the enjoyment of their rights.

The fifth section is a material modification of the fifth section of the Senate bill, and contains some of the provisions of the fourth section of the House bill. It provides that the assistant commissioners shall, within their departments or districts, take possession of abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which they have possession, and which have not been heretofore appropriated to Government uses.

Mr. GANSON. I ask the gentleman from Massachusetts whether, under that clause of his bill, this bureau would not have authority to take possession and lease all the mineral lands of the Government? I would like to have that clause of the bill read.

Mr. ELIOT. The gentleman will find it in print. I will read it from the substitute:

That the assistant commissioners, under the direction of the Commissioner, and within their respective districts, shall take possession of all abandoned real estate belonging to all disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses, and all property found on and belonging to such estate; and shall rent or lease such real estate or any portions thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree.

Mr. GANSON. I do not find in that clause anything restricting the jurisdiction of this department.

Mr. ELIOT. It is confined to lands in the rebel States.

Mr. GANSON. That clause seems to draw a distinction between lands properly belonging to disloyal people and lands the title to which are invested in the United States. It seems to include all such lands.

Mr. ELIOT. I think that the gentleman is mistaken, and will find that his criticism is not well founded. The property taken possession of is rented or leased according to the terms of the bill heretofore passed. The contracts are provided for and limited to one year. No contract is to be for more than twelve months. There is a provision contained in this section which, as I recollect the history of the case, was introduced as an amendment by an honorable Senator from Pennsylvania, which will not be objected to by gentlemen on the other side. It is as follows:

But nothing herein contained shall be construed to prevent the due execution of process against the real estate or property above named issued in due course of law from any court of competent jurisdiction, but the possession of such real estate or property by any purchaser thereof at a judicial sale shall be postponed until the termination of any outstanding contract duly made and executed under the provisions of this act.

The sixth section of the bill is substantially the sixth section of the Senate bill as found upon the files of the House. It is an enlargement of some of the provisions of the fourth section of the House bill. It provides that the assistant commissioners and superintendents shall act as advisory guardians to aid the freedmen in the adjustment of their wages, to take care that the freedmen shall not suffer from ill-treatment or failure to perform contracts, to act as arbitrators, and, so far as practicable, to reconcile and settle controversies arising among the freedmen, or between freedmen and other persons.

The seventh section is substantially the same that was introduced in a bill in the House by the honorable gentleman from Missouri, [Mr. Blow.] It was referred by him to the committee on the rebellious States. Whether reported by them or not I do not remember. It is, however, the same section which will be found in the Senate bill as section seven; and it provides simply that certain leases which were made under the direction of the Treasury Department, and under authority of Order No. 331 from the War Department, dated October 9, 1863, in accordance with the regulation of the Treasury Department, shall have the same effect as if those leases had been made by the assistant commissioners under this act. But

it provides that the leases shall not continue beyond one year; and it will operate now upon very few. It was deemed advisable to report this section, in the first place, because it was right to do it. It had been the subject of examination last winter, and there seemed to be no objection to adopting it from the Senate bill. It contains no other legislation than that, but it requires that when this department goes into operation all the agents who have charge of those affairs in the Treasury Department shall transfer their papers and property to this department.

The eighth section of the bill provides, as the fourth section of the House bill and as the eighth section of the Senate bill do, for the application of the proceeds. It declares that the Commissioner shall apply the proceeds accruing under this act to defraying the expenses of this department, so that it shall, as soon as possible, be self-sustaining; and it provides that any proceeds above those expenses shall be paid into the Treasury of the United States.

The ninth section is one which was originally offered during the debate upon this bill in the Senate, and provides simply that whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his charge, he shall, so far as he may, make provision for them with humane and suitable persons at a fair and reasonable compensation. It was offered originally, I believe, by the honorable Senator from West Virginia.

The tenth section in its present form is new, because of the fact that the department is not connected with the War Department. It provides that the President of the United States shall furnish the military and other support needful to carry this act into effect, and any military officer may be appointed under the provisions of this act without increasing his salary. That section was prepared with care. There are gentlemen who, I have no doubt, will still think that this bureau had better be a bureau of the War Department; but it is believed that under the provision of this section it will be entirely practicable to make the department effective and operative, and to provide for it all the needful and military aid, and to give to it all the support which will be needed at this time, and which the Government can supply.

The eleventh section of the bill is drawn from the second and fourth sections of the House bill, and is a combination of the ninth and tenth sections of the Senate bill—all the provisions, however, being found in those two bills. It provides that the Commissioner, before the commencement of each session of Congress, shall make a report of his proceedings, with exhibits showing the state of his accounts, to the President of the United States, who will communicate them to Congress, and that the assistant commissioners shall make quarterly returns to the Commissioner, and more frequent reports if the Commissioner shall desire. And it is made the duty of the officers, military and civil, charged with the execution of any law, or proclamation, or order concerning freedmen, to make returns to the Commissioner of their doings. Those provisions have all been acted upon by the House heretofore.

The twelfth section of the bill is a section which was offered in the Senate, and which is intended to prevent the commission of crime and to provide for its punishment. It provides that the assistant commissioners and superintendents and clerks under this bill shall be deemed to be in the military service of the United States, so as to be liable to trial by courts-martial to be ordered by the commanding general of the military department. The section goes on to provide that for all offenses amounting to felony, for acts of embezzlement, for the willful misappropriation of property, either public or private, for willful acts of oppression of freedmen or loyal inhabitants, for the act of taking or receiving money or things of value, for acts done or omitted to be done officially, or being interested in the purchase of coffee, sugar, or tobacco, or any other article produced upon the lands within the charge of this department, or any other willful violation of official duty, there shall be punishment by imprisonment and by fine.

I will say here that upon careful deliberation our committee were persuaded that for the protection of all parties it was desirable to adopt this provision as contained in the Senate bill; and with

the name of the distinguished Senator from Michigan, [Mr. HOWARD,] one of the ablest and soundest lawyers in the Senate, attached to this report, I think no gentleman need be apprehensive that any constitutional provision is violated by this section.

The thirteenth section of the bill is a section repealing the last clause of the joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862. It simply provides for the repeal of that clause of the joint resolution.

Mr. KERNAN. I desire to make some suggestions upon this question at some time or other, and if the gentleman from Massachusetts will allow me, I can do it now by way of inquiry.

Mr. ELIOT. I will say to the gentleman from New York that I propose in the discharge of my duty, when I have finished making the statement that I desire to make, to call for the previous question. If the House shall second the previous question it will give me pleasure to allow to the gentleman from New York such time as I understand from him he would desire to explain his views in reference to this section or to other sections of the bill. If the House shall decline to second the previous question I shall have done my duty, and the whole matter will then be within the control of the House.

Mr. WILSON. I merely desire to state, in order that the gentleman from New York and others may hear it, that after the gentleman from Massachusetts shall have concluded his explanation of the bill, I intend to move to postpone this subject for one week from to-day, so that the bill may be printed, in order that we may all examine it.

Mr. KERNAN. If the gentleman from Massachusetts would allow me to occupy a few minutes of his time at the conclusion of his remarks, I should be much obliged to him.

Mr. ELIOT. I will say frankly to the gentleman from New York that if the House are disposed to have this bill acted on now he shall have a portion of the time to which I shall be entitled after the previous question is sustained; but if the House prefers, under the circumstances, to have this matter postponed in order that the bill may be printed, then I submit that his remarks had better be postponed also.

Mr. KERNAN. It may be that I shall not be here at the time to which the bill will be postponed, and I should therefore like to call the attention of the House to the subject now. I ask the gentleman, for this reason, to allow me a few minutes when he has finished his statement.

Mr. ELIOT. How many minutes?

Mr. KERNAN. Ten or fifteen.

Mr. ELIOT. That is a kind of request that I am unwilling to say no to.

Mr. CHANLER. I suggest to the gentleman from Massachusetts that he allow this bill to be referred to the Committee on the Judiciary.

Mr. ELIOT. Well, sir, I cannot agree to that.

Mr. CHANLER. If the gentleman will allow me, at the proper time I think I can suggest sufficient reasons for pursuing that course.

Mr. KERNAN. Will the gentleman from Massachusetts allow me a few moments now? I will be very brief.

Mr. ELIOT. I am not quite through yet.

Mr. SCHENCK. I will state to the gentleman from Massachusetts that a resolution was passed by the House on the 5th of January last, referring the matter of refugees to the Committee on Military Affairs. After deliberating upon the subject, the committee reported House bill No. 698 "for the relief of refugees and freedmen," which was recommitted, and I have had it ready for some time in my drawer to report back to the House with two proposed amendments.

Now, I desire to be heard upon this subject in connection with the report made by the committee of conference, but if we are to have the previous question put upon us, and are not to be permitted to see this bill in print, which is a long one, of many sections, and neither the House bill nor the Senate bill, but a new bill made in the committee of conference, before the previous question is sustained I should like to interject a few remarks, as a gentleman from Illinois said the other day. I shall vote, however, for the motion

of which the gentleman from Iowa [Mr. WILSON] has given notice, if he shall have an opportunity of making it, to postpone the bill for one week, and have it printed, so that we may know what it is that we are considering. I ask the gentleman from Massachusetts, if that does not take place, if he will permit me also to have a few moments of his time?

Mr. ELIOT. I will with a great deal of pleasure.

Mr. SMITH. I desire to ask the gentleman if the previous question, which he proposes to call, will cut off all amendments or any substitute that might be offered?

Mr. ELIOT. I will say to the gentleman that under the rules of the House there can be no amendment offered, for it is the report of a committee of conference, and must be adopted as it is or rejected as it is. There can be no alteration made in it.

Mr. SMITH. Then no substitute can be offered for it?

Mr. ELIOT. No, sir. I am not disposed to say a word upon this thirteenth section which repeals the last clause of the confiscation resolution. The House has more than once expressed its judgment on the subject, and I am content to let it remain where it stands without comment.

The fourteenth section is simply a repealing section of inconsistent acts.

Now, it will be seen that the effect of this bill will be to take away from the Treasury Department and from the Treasury agents and employes the lands and property which have been heretofore placed under their charge, and the whole will be confided to the Commissioner and the officers appointed under him in this department. I want to say that there has been a very loud call from all portions of the country that some legislation should be had upon this subject. There has recently been a convention in this city, attended by delegates from all sections of the North, the Northwest, and the East, and they have united in calling upon us to delay no longer our action in behalf of these freedmen. Whether it goes to the War Department or to the Treasury, their prayer is, give us some bill under the provisions of which the Government may act. The time has come when it is necessary that this action should be had. I cannot but feel that we have done wrong in not having long before now extended to these people a hand of welcome and of support. They have well deserved it. They have been faithful to us in fort and camp and field. Many lives have been lost and much suffering endured while we have delayed action. Now, sir, whether it is done to-day or next week is not a matter of importance, excepting so far as that every day's delay makes the suffering greater on the part of these freedmen, and it is because I have felt that, and because of the instructions I have from the committee, that I shall ask the House to pass now upon the report. But if they think that it had better be postponed, we shall have no other objection to it than the one which I have named. And now, sir, for the purpose of having the House determine whether this matter shall be passed upon now or delayed, I call the previous question.

Mr. KERNAN. Will the gentleman from Massachusetts [Mr. ELIOT] withdraw that motion for a few moments?

Mr. ELIOT. I will withdraw the motion for the previous question, and yield the remainder of my time to the gentleman from New York [Mr. KERNAN] if he will renew the motion when he has concluded his remarks.

Mr. KERNAN. I will do so.

Mr. SCHENCK. What becomes of my share of the time by this arrangement?

Mr. ELIOT. I will yield the remainder of my time to the gentleman from New York [Mr. KERNAN] with the understanding that he gives a portion of it to the gentleman from Ohio [Mr. SCHENCK].

The SPEAKER. The Chair understands the motion for the previous question operates at the end of the hour.

Mr. ELIOT. That is my motion; I yield the remainder of the hour to the gentleman from New York [Mr. KERNAN] and the gentleman from Ohio [Mr. SCHENCK].

Mr. KERNAN. Even if I had the time I would not enter into any extended discussion of

the details of this bill. I appreciate the benevolent efforts of the gentleman from Massachusetts [Mr. ELIOT] to alleviate in some way the sufferings of this class of persons and promote their welfare. From all the accounts we have, they are suffering wherever they have come within the lines of our armies. But in my judgment experience shows that the policy proposed to be inaugurated by this bill will not accomplish the benevolent intentions of its promoters toward these people. They are a very numerous class of persons; and the policy of this bill seems to be to regulate, control, and govern this large class of persons by a code of laws, under the name of regulations, which regulations are to be made and administered by an appointee of the President and the Senate called a Commissioner. Lands are to be assigned and leased to them. There are to be superintendents to regulate their employment and wages, decide their controversies, and pay the surplus of their earnings, over and above expenses, into the Treasury of the United States. In my judgment this policy will not work out satisfactorily any such social problem as that presented by the colored population of the southern States. You will not be able to really benefit this class of persons by placing them by the hundred thousand under the guardianship and subject to the control of a Commissioner who is to make regulations for their government, and by his agents manage and control them. Some other mode of dealing with this question must be devised, if there is to be any effectual, benevolent, or economical action in reference to this class of persons.

Again, where and to what consequences will this policy lead? According to this bill the Government, by a bureau like that of Agriculture, is to take charge of people by the hundred thousand in States of this Union, and become their guardians, and regulate them by special provisions and regulations to be made by an appointee of the President. Does any man believe that we will succeed in benefiting this really suffering class by any such measure as this?

But I particularly desire to call the attention of the House to the twelfth section of the bill, which, if this bill is to pass, I trust will be stricken out. I earnestly hope there will be no further legislation by Congress to subject civilians to trial and punishment by military commissions.

This twelfth section provides that the superintendents, clerks, and all others connected with this proposed bureau shall be tried for all sorts of alleged offenses by military commissions. Where do we get the power to pass any such law? The Constitution declares that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; that no person shall be deprived of life, liberty, or property, without due process of law; and that in all criminal prosecutions the accused shall enjoy the right of a trial by an impartial jury. Does any one believe that we can constitutionally subject a class of civilians to the jurisdiction of these military tribunals by declaring, as this twelfth section does, that they shall be deemed to belong to the Army or Navy of the United States, or engaged in its military or naval service? As well might we take the right of trial by jury from any other class of citizens as from the class subjected to trial and punishment by military tribunals under this twelfth section. They can in no sense be correctly said to belong to the Army or Navy. They are civilians, employed in purely civil affairs. If we can do this, we can take away the right of any class of civilians by saying that they shall be deemed to be in the military service of the United States, when we know that all their duties are duties of civilians.

Sir, I submit that the experience of the last few years must have made it apparent to every gentleman here that these military commissions are characterized by a want of certainty as to the conviction of the guilty and the certainty of frequently convicting the innocent. Acts of Congress have been passed declaring that certain contractors and other parties should be deemed to be in the military service and subject to trial by these commissions; and you have had military commissions sitting in this city and elsewhere in the loyal States, trying men who never were of the class mentioned in the acts of Congress, and there seems to be no power



to take them from under the control of these military tribunals or to get any review of their decisions. Now, I trust that we shall take no further steps in the direction of subjecting civilians, I care not of what class, to this unconstitutional mode of trial. We should be warned by the history of these courts, not only in this country, but in other countries. The Court of High Commission in England, under the influence of those who desired that arbitrary power should prevail, carried its oppressive proceedings to such an extent as to bring on a collision, as such assumptions of power must do in any country where liberty is to be preserved. There is no good reason why these men, for felony, or embezzlement, or any other offense, shall not be tried under the guarantees of the Constitution and in accordance with the forms and by the tribunals which it prescribes. We should do something to put a stop to and guard against the wrongs which innocent men have suffered by being deprived of trial by jury and by being subjected to military commissions. I refer gentlemen to a statement made a few days ago in the other end of the Capitol by a distinguished Senator, that a military commission is sometimes efficient for the conviction of those who have become obnoxious to parties by exposing frauds upon the Government.

Again, the thirteenth section of this bill proposes to do, what? To repeal the joint resolution made a part of the act of Congress as to confiscation, passed in July, 1862, by which confiscation was limited to the life estate in land of the traitor. This subject, the repeal of this joint resolution, has been fully discussed in this House. A bill to effect this was passed at the last session, and went to the Senate. The Judiciary Committee of that body reported, as I understand, unanimously, that that bill ought not to pass. That bill died. Yet now there is an attempt to effect the same object by passing this bill, which comes from a conference committee of the two Houses, and has never been subjected to the scrutiny of any regular committee of either House. I trust that we shall not pass a bill repealing that joint resolution until there has at least been some discussion or scrutiny of the matter. I ask the Clerk to read an extract from the message of the President of the United States, approving of the confiscation act, and the joint resolution as a part of it, now proposed to be repealed; and I ask members on the other side of the House whether they are prepared to enact a law on the subject of confiscation, which President Lincoln declared he could not sign because it was in violation of the Constitution, without discussion or examination by any appropriate committee. This is the effect of passing the bill now before us.

The Clerk read, as follows:

"That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever.

"For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained. True, there is to be no formal attainder in this case; still, I think the greater punishment cannot be constitutionally inflicted in a different form for the same offense.

"With great respect, I am constrained to say I think this feature of the act is unconstitutional."

"Again, this act, *in rem*, forfeits property for the ingredients of treason without a conviction of the supposed criminal or a personal hearing given him in any proceeding. That we may not touch property lying within our reach because we cannot give personal notice to an owner who is absent endeavoring to destroy the Government, is certainly satisfactory. Still, the owner may not be thus engaged; and I think a reasonable time should be provided for such parties to appear and have personal hearings. Similar provisions are not uncommon in connection with proceedings *in rem*."

Mr. KERNAN. Mr. Speaker, this was the language of the President of the United States in reference to the act of 1862, when submitted to him for his approval without the joint resolution explaining and limiting it. It is now proposed to repeal the joint resolution which induced him to approve the act, and to leave the latter in force as a law in the form in which the President declared he could not sign it because it was unconstitutional. In this message he says that unless Congress had passed this joint resolution he could not have approved the act, and that he approves the act and joint resolution as one law, the reso-

lution limiting the forfeiture under the act to the life estate. Are you now going to vote for a bill repealing this joint resolution? Will you do so, without discussion or examination, on the report of a conference committee appointed upon a bill relative to a very different subject than confiscation? I appeal to the other side whether they will treat the President of the United States or this question in this way. Now, Mr. Speaker, I trust that the House at least, if it is seriously contemplated to pass this bill, will postpone its further consideration and have it printed, so as to allow gentlemen to examine and discuss it.

I thank the gentleman from Massachusetts [Mr. ELIOT] for yielding me the floor long enough to make these suggestions.

Mr. ELIOT. I have been making an inquiry among the friends of the bill, and I find that they have a desire to have the bill more carefully considered than can now be done. I ask what will be the effect, under the rules, of a postponement of the report for one week, so that the bill may be printed and examined?

The SPEAKER. It will retain the privileged character of a conference report. When the time arrives to which it is postponed it will come up as if just presented by the conference committee.

Mr. ELIOT. Then I consent. I move that the further consideration of the conference report be postponed to this day week, and that the substitute be ordered to be printed. I believe that will suit the convenience of the friends of the measure. I now demand the previous question.

Mr. ELDRIDGE moved that the whole subject be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 83, not voting 32; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Bailly, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, William Johnson, Kalbfleisch, Kernan, King, Law, Lazarus, Le Blond, Long, Mallory, McAllister, McDowell, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, Smith, William G. Steele, Stiles, Strouse, Stuart, Thomas, Townsend, Wadsworth, Whaley, Wheeler, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—67.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Freeman Clarke, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingels, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Starr, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—83.

NOT VOTING—Messrs. Ancona, Brandegee, Ambrose W. Clark, Cobb, Cravens, Creswell, Denison, Griswold, Harrington, Hotchkiss, Hutchins, Philip Johnson, Knapp, Loan, Marcy, McBride, McIndoe, McKinney, Middleton, Moorhead, Nelson, Alexander H. Rice, Rogers, Scott, Shannou, John B. Steele, Sweat, Thayer, Voorhees, Ward, Webster, Chilton A. White, and Winfield—32.

So the subject was not laid on the table.

During the vote,

Mr. WEBSTER stated that he was paired with Mr. A. W. CLARK; and that he was opposed to the measure, while Mr. CLARK was in favor of it. The vote was then announced as above recorded.

The question recurring on the demand for the previous question on the motion to postpone and print, the previous question was seconded, and the main question ordered to be put; and under the operation thereof the motion was agreed to.

Mr. ELIOT moved that the vote by which the report was postponed and ordered to be printed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman from Illinois [Mr. ARNOLD] is upon the floor, being taken from it by the conference report.

#### RELIEF TO REFUGEES.

Mr. SCHENCK. Will the gentleman yield to me a moment?

Mr. ARNOLD. I will.

Mr. SCHENCK. On the 5th of January the House, by a resolution, referred to the Committee on Military Affairs the subject of relief to refugees. The committee prepared a bill, reported it to the House, and had it recommitted; and now the committee have instructed me to report that bill again to the House with two amendments. I therefore ask unanimous consent to report to the House the bill (H. R. No. 698) to establish in the War Department a Bureau for the Relief of Freedmen and Refugees, including white and black, and that, with the amendments, it may be printed and made a special order immediately after the report of the conference committee, which has just been postponed, is disposed of. If that is done, if the action on the report of the conference disposes of the whole subject, this matter can easily be disposed of; otherwise it will be in a position to be put upon its passage.

The SPEAKER. The Chair will state that if this bill is made the special order at that time, in all probability it would not be reached then. The conference report being a privileged matter would come up at that time; but there being already several special orders set down before that time, they will take precedence of this matter.

Mr. MORRILL. I must object to any more special orders until we have acted upon the tax bill.

Mr. SCHENCK. I shall not insist upon making it a special order, for I think myself it is impolitic to make special orders. I will ask unanimous consent to report the bill and have it printed.

Mr. W. J. ALLEN. I object.

The SPEAKER. The gentleman desires to have it printed and recommitted.

Mr. W. J. ALLEN. I object.

Mr. SCHENCK. I ask that a memorial of the American Union Commission in relation to the condition of refugees within the Union lines of the United States, and praying the action of the Government in their behalf, may be printed and committed to the Committee on Military Affairs.

Mr. W. J. ALLEN. I object.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, a joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command; when the Speaker signed the same.

#### OFFICERS IN SUBSISTENCE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department transmitting a list of officers in the subsistence department; which was laid on the table, and ordered to be printed.

#### MEDALS FOR INDIAN CHIEFS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, asking an appropriation of \$5,000 for medals for certain Indian chiefs, which was ordered to be printed, and referred to the Committee of Ways and Means.

#### INDIAN GOODS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior asking an appropriation to pay for supplies of goods purchased for Indians in place of certain goods destroyed; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### ILLINOIS SHIP-CANAL.

Mr. ARNOLD. I now call up the unfinished business which was pending when the House adjourned yesterday, being the consideration of the Illinois ship-canal bill.

The SPEAKER. The pending question is upon the substitute for the bill offered by the gentleman from Illinois, [Mr. ARNOLD.] As the reading of the substitute was called for last evening, the Clerk will proceed to read it now.

Mr. HOLMAN. I called for the reading for the purpose of raising a point of order, but I now withdraw it.

Mr. ALLISON. I ask the gentleman from Illinois to yield to me a few moments.

Mr. ARNOLD. Not at present. I desire that

the House shall be brought to a direct vote at as early a period as possible upon the bill for the construction of the Illinois and Michigan ship-canal. It has been discussed repeatedly in this House; it has been the subject of various reports of committees; the bill has been printed and laid upon members' desks for a long period of time, and therefore I do not propose, on behalf of the bill, to occupy the time of the House.

Before demanding the previous question I will yield to the gentleman from Iowa, who desires to offer an amendment.

Mr. ALLISON. I move to amend the substitute by adding thereto what I send to the Clerk's desk.

The amendment was read, as follows:

Sec. 3. *And be it further enacted*, That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, three commissioners to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river.

Sec. 4. *And be it further enacted*, That the said commissioners shall forthwith make a careful examination of said Upper and Lower rapids of said river, and determine upon a suitable plan for the improvement aforementioned, which plan shall provide for the construction of a canal around each of said rapids to a width of not less than one hundred feet, with locks of not less than two hundred and seventy-five feet in length, and not less than seventy feet in width. Which improvements shall be made so as to insure a safe and uninterrupted water navigation, at all times during the season of navigation, of steamboats and other vessels drawing four feet of water. Which plan shall be submitted to the President of the United States for approval.

Sec. 5. *And be it further enacted*, That upon the approval by the President of the United States of the plan of said improvement aforesaid, the said commissioners are hereby authorized to construct said canals according to said plan, under the direction of the Secretary of the Treasury, and to prosecute the same to completion with such dispatch as the nature of the work and the funds appropriated by Congress for that purpose shall permit. And the said commissioners shall make a report annually to the Secretary of the Treasury on the progress of said work.

Sec. 6. *And be it further enacted*, That the Secretary of the Treasury shall have the exclusive control and management of said canal, and shall have power to establish all needful rules and regulations concerning the use and navigation thereof, and to fix, alter, and modify the rates of toll upon said canals, and shall employ such surveyors, collectors, and agents as may be necessary to collect said tolls.

Sec. 7. *And be it further enacted*, That said commissioners shall have power to employ such surveyors, agents, and other persons as they may judge necessary to perform the work hereby committed to them, with full power to enter upon, appropriate, use, and condemn any lands, waters, streams, and materials of any description necessary for the prosecution of the improvement contemplated by this bill: *Provided*, That when private property shall be taken for such purpose, the same shall be condemned and compensation made therefor in the manner provided by the laws of the State of Iowa, or of the State of Illinois, as the case may be. And it shall be the duty of said commissioners to cause all the work done upon said canals to be let to the lowest responsible bidder, at public lettings, of which sufficient public notice by advertisement in the public newspapers shall be given.

Sec. 8. *And be it further enacted*, That the revenues derived from said canal, over and above the expenses of management and of repairs, shall be paid into the Treasury of the United States, and a separate account shall be kept of such receipts.

Sec. 9. *And be it further enacted*, That the Government of the United States shall issue the sum of \$2,000,000 in bonds of the United States, to be issued by the Secretary of the Treasury, redeemable twenty years from date, bearing interest at the rate of six per cent. per annum, payable semi-annually, for the purpose of constructing said canals; the said interest to be payable, and the said bonds to be redeemable, out of moneys to be hereafter appropriated by Congress; and the said principal and interest to be reimbursed to the Treasury of the United States from the tolls and revenues of said canals.

Sec. 10. *And be it further enacted*, That the said bonds shall be issued, in the discretion of the Secretary of the Treasury, in such sums as may be required from time to time in the prosecution of said work. And said commissioners shall furnish vouchers and proofs in duplicate of the work done and materials furnished, at such times, under such regulations, as the said Secretary may prescribe.

Sec. 11. *And be it further enacted*, That said commissioners shall each receive such salary, not exceeding \$2,500, as the Secretary of the Treasury shall, with respect to their respective duties and services, determine. And said commissioners shall respectively give bonds for the faithful performance of their duties, in such amounts and upon such conditions as the Secretary of the Treasury may prescribe. Their duties shall cease upon the completion of said canal.

Mr. ALLISON. I now demand, in accordance with my understanding with the gentleman from Illinois, the previous question upon the bill and pending amendments.

#### DEFICIENCY BILL.

Mr. STEVENS. I ask the gentleman to allow me to take from the Speaker's table the deficiency bill, returned from the Senate with an amendment, in order to non-concur, and ask a committee of conference.

Mr. ARNOLD. I will yield for that purpose, if it leads to no debate.

Mr. STEVENS. If any objection is made to it I will withdraw my application.

The SPEAKER. Is there any objection to taking up the bill? The Chair hears no objection.

Mr. HOLMAN. I suppose it is in order to move to concur in the Senate amendment?

The SPEAKER. If the gentleman makes that motion the Chair will entertain it.

Mr. HOLMAN. I desire to make that motion.

Mr. STEVENS. Then I shall have to withdraw my motion. We have voted already upon this question three or four times. I think the bill had better go to a committee of conference and we can get through with it.

Mr. HOLMAN. I object unless I can make the motion that the House concur.

#### PENSIONS.

On motion of Mr. WASHBURN, of Massachusetts, by unanimous consent, bill of the Senate No. 365, an act in relation to pensions, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

#### ILLINOIS SHIP-CANAL.

Mr. BROWN, of Wisconsin. I rise to a point of order. At the time when this bill was postponed at the former session of Congress it was postponed under an understanding that there was to be a discussion on the merits of the bill. I know that my own name was down on the Speaker's list as one of those who were to speak on this subject. When the gentleman from Illinois, [Mr. ARNOLD,] pending the Niagara canal bill, offered his amendment, it was understood that I should not speak on the subject then unless that amendment was actually accepted, and then I was to speak upon the merits of the bill. I insist that this bill, having been set down for a particular time, with the understanding to which I allude, it cannot now be taken up and passed under the previous question, thus refusing to those who are opposed to it all chance of pointing out the gross corruptions that exist in its provisions.

The SPEAKER. The Chair can scarcely regard that as a point of order upon which he can rule. It may be an argument to the majority of the House not to second the previous question. But the motion for the previous question is a legitimate motion, and unless there be unanimous consent reserving to some gentleman the right to speak, the Chair cannot refuse to entertain the motion.

Mr. ARNOLD. I will say to the gentleman from Wisconsin that after the previous question has been sustained I will yield him the floor to speak at least half an hour, and I presume that I shall not desire to make any reply.

Mr. BROWN, of Wisconsin. That half hour is certainly better than nothing; but this is a measure involving an appropriation of unnumbered millions of dollars, as I propose to show.

The SPEAKER. Debate is not in order, the previous question having been demanded.

Mr. WASHBURN, of Illinois. I demand the regular order of business.

Tellers were ordered on seconding the demand for the previous question; and Messrs. ARNOLD, and BROWN of Wisconsin, were appointed.

The House divided, and the tellers reported—ayes 60, noes 41.

So the previous question was seconded.

Mr. BROWN, of Wisconsin, demanded the yeas and nays on ordering the main question.

The yeas and nays were not ordered.

The main question was ordered to be now put.

The SPEAKER. The Chair understands that the gentleman from Illinois, [Mr. ARNOLD,] who is entitled to one hour, under the rules, to close the debate, proposes to yield half of that time to the gentleman from Wisconsin.

Mr. ARNOLD. I yield to the gentleman for half an hour.

Mr. BROWN, of Wisconsin. Mr. Speaker, Mark Tapley, according to Dickens, upon a certain occasion stated that he had lost the power of being astonished; and I must confess that since I have been in this House I have seen so many odd things happen, that so far as any measure

which recklessly plunges us into debt is concerned, I too have lost the power of being astonished at the action of the House.

We have heard gentlemen upon the other side of the House urging taxation. We have seen the call echoed and reechoed from partisan newspaper to partisan newspaper, "tax, tax." We have been told that our people, whose shoulders are bowing under the weight of taxation, must bend still further, because the very life of the nation is in danger, and that the money which they earn by their toil and labor and sweat is needed to sustain us in this war in which our existence as a nation is at stake. And now these gentlemen, who in the way of taxation are turning the screws upon the people, these gentlemen (who, even after we have overburdened labor until it can scarcely stand up under the weight, are clamoring still further for taxation) ask us to enter into a scheme of internal improvements, whose results, whether they be beneficial or no, can never be realized for the next five years; they ask us to enter into such a system, and to squander the credit of the Government and the money of the people in favor of local interests.

But during the entire session I have seen nothing that more completely illustrates the strange temper of the times than does the proposition now before the House. In the very magnitude of the sums which we are daily voting, in the enormous extent of expenditure demanded by our exhausting civil war, the minds of our citizens seem to have been mazed, and the ordinary power of arithmetical calculation to be lost.

Gentlemen seem not to remember that we have a national indebtedness already ascertained of over \$1,700,000,000; that our bonds payable in gold are at a discount in the market, as compared with gold, of over fifty per cent.; that our legal-tender notes, which we force citizens to take in lieu of money, are at a like discount; that to an untold extent we have State, county, and municipal indebtedness created to aid enlistments; and that an annual expenditure of over \$700,000,000 is required to carry on the war. Yawning before us is that abyss of national bankruptcy, from whose depths, when once precipitated there, no nation ever escapes. Wise men are pondering over the means of avoiding such catastrophe, patriots are contributing of their substance, women are giving the labor of their hands, and children are presenting their offerings, in aid of the struggling country.

Mr. Speaker, from the explanations which I have heard here, I do not think that gentlemen of this House fully understand what is proposed by this bill. In the first place, it provides that the President shall or may construct this canal drawing six feet of water. It then provides that we appropriate \$5,000,000, which the President may give for the purposes of this canal if the State of Illinois shall assume, at her own expense, to complete the canal so that gunboats drawing six feet can pass through its entire length.

Now, the first difficulty that meets us is this: that in the constitution of the State of Illinois there is a provision by which she cannot contract a debt beyond \$50,000, and consequently that portion of this bill amounts to nothing. It is a bill to appropriate \$5,000,000 to this canal for the purpose of enabling gunboats, which could not live for a single hour on Lake Michigan, to pass over it. The first part of the bill is the only part of it upon which gentlemen who sustain it can rely. That part of the bill pledges the credit of this country to an unlimited extent for the completion of an enterprise which I shall endeavor to show is utterly impossible and impracticable through the obstacles which nature has placed in its way.

By the bill the President has the power to proceed at once and let contracts to complete this work, no matter what it costs, five, ten, fifty, a hundred millions, or even an amount greater than the debt which is now weighing upon the country. I propose to show that no five or ten or twenty or forty or even sixty million dollars will be sufficient to complete this work. And I propose to prove that from a work which was drawn up for the purpose of showing how the city of Chicago could be benefited by the completion of a portion only of the canal. I hold in my hand the report of the sewerage commission of Chicago. For the purpose of ascertaining how cheaply the city might by this means have drainage, they com-

missioned the chief engineer to ascertain and make an estimate of the cost. Now, sir, the object which they wished to accomplish was simply the enlarging and deepening of the canal from Chicago to Peru, the easiest, the slightest, the most unimportant portion of the work, so far as the public is concerned. For the purpose, then, of showing the cost of this work, according to the estimate of their own engineer, I will ask the Clerk to read the portion of that report which I have marked.

The Clerk read, as follows:

"Two other projects have been talked of for enlarging the canal, so as to make it navigable for steamboats; one with a channel two hundred feet wide and six feet deep, and the other with a channel of the same width, but twelve and a half feet deep.

"The probable cost of constructing the former of these has been estimated by Mr. Gooding at \$10,000,000, and of the latter at \$20,000,000; but of course he does not consider those sums as anything more than a rude approximation, and they are not intended to include the probable cost of locks and other necessary works at and below Lockport.

"There does not appear to be reasonable probability of an enlarged canal, either six or twelve and a half feet deep, being undertaken at present or very soon; but the demands of the city and State for greater facilities of transporting the grain, lumber, and other products of this region a generation hence, if the future development of our country is to be at all in proportion to the past, must eventually cause such a work to be commenced."

Mr. BROWN, of Wisconsin. From this, Mr. Speaker, the House will perceive that the estimate for this small portion of the work was \$10,000,000, provided the canal should be only six feet deep; which for all purposes of commercial enterprise, which, as the gentleman claims, gives this scheme its value, is utterly worthless. And it was \$20,000,000 if the canal should be made twelve feet deep, deep enough to allow the passage of boats that can ride the waters of Lake Michigan. Such is the estimate of their own engineer of that unimportant portion of this work.

And we find further that in the year 1860 the sewerage commission of Chicago, anxious for this work, and desiring to rid that city of the nuisances, attendant upon inefficient drainage, pronounced this to be an enterprise not now to be contemplated, but which might perhaps be called for in another generation. Alas! the flight of four years has almost created another generation. Where is now that respect for constitutional laws; the desire to limit the expenditure of the money of the people; the desire to relieve the producing classes of the enormous public burdens? Gentlemen now present to this House a proposition which five years ago, ay, a little over four years ago, in 1860, would have aroused the country from one end to the other; and now, as a part of the current expenditures of the Government, during a time when we need every dollar of the treasure of the United States, they propose to throw away this amount of money.

What will it cost to carry out this scheme? The distance of the work on the Illinois and Des Plaines rivers is, I think, more than one hundred and fifty, if not two hundred miles. If I am wrong in my recollection, gentlemen will correct me. That entire distance is to be rendered navigable at all seasons of the year. Even if the permanent improvement of the Illinois river as proposed is a possible thing, (and I shall give my reasons for thinking it extremely difficult,) the excess of cost may be many times greater than \$10,000,000. The construction of the canal from Chicago to the Illinois river is an expensive undertaking, but can doubtless be accomplished; and any experienced engineer, making allowance for the increased cost of materials and labor, and ascertaining the value of land to be taken, can give an approximate estimate of the cost. But the chief difficulty arises with the Illinois river. Running almost the entire length of the State, it drains nearly all the prairies of Illinois; the depth of its waters, therefore, vary from a few inches in dry seasons to from ten to twenty feet in wet, rainy seasons; the banks are low and almost entirely alluvial, except for the few miles near the Mississippi river; and with the last exception, in high stages of water it overflows its banks and widens almost to a lake. The bars impeding navigation in one sense, but, damming up the water and preventing its rapid flow, aiding navigation in another sense, are naturally shifting; each new torrent that swells the river changes them. If the river were always to remain at its lowest stage, the task of removing bars and constructing enor-

mous locks not less than three hundred and fifty feet in length would be an expensive but still a simple operation. These, however, would be swept out of existence in the higher stages of water. In the East, with your rocky river bottoms and banks, presenting a solid mass against and on which dams and other water obstructions may be constructed, the science of water-courses is a simple one; give your works strength enough and it will stand.

But this is not true on the alluvial and gravel bottoms of the West. Even in the simple operation of constructing dams for milling purposes the greatest difficulty is experienced. The water works under the dam, it carries away the bank on which the dam abuts, and in many ways not common in streams with a rocky foundation it destroys and removes the impediment to its course. Dams constructed of the trees and underbrush have been found the most effective; but even on ordinary streams they are not altogether safe. Nearly every river of the West shows in its course that slight obstructions have been sufficient altogether to change its channel and induce it to break through its feeble barrier of light earth confining it and seek a new route. Now let us suppose that you have removed old sand-bars and constructed locks at various points along the line of the river; this will be well enough until the flood comes. But when the torrent gathers from all parts of Illinois, rushes along the course of the river, covering with its waters, not the river banks only, but the locks which you have made, what will become of your slight creations? Lock after lock will give way, and the temporary obstacles will only enable the flood to bear additional ruin and disaster in its course. Then the damage must be paid for, new sand-bars must be removed, and new locks built to share the same fate at the next season.

And here I would call the attention of the House to the enormous damage that must be done from the causes described to the property along the banks of the river; and for this damage the United States would be liable to pay. The honorable gentleman from Illinois has not proposed to indemnify the Government against this. Any one of ordinary practical knowledge will at once appreciate the force of the facts alluded to. And the advocates of this bill are precluded from denying the conclusions, because, had they not themselves so believed, their first step would have been to have asked a preliminary survey by Government engineers, whose standing would be too high to admit the idea of their being influenced to make a false report. No State government, no private corporation, no other Government of any kind on the face of the earth—as I believe—even when having money to squander, ever entered upon an enterprise of this kind without a preliminary survey by engineers responsible to the party which must advance the money. If in his private business any man should so act, he would be deprived of all power over his property by a commission for lunacy or imbecility; yet here honorable members would vote away the heritage of the nation, having no excuse save politics and contracts.

But as the thirty minutes allowed to me are not sufficient for full description, I must hasten on to another point. By the original bill it is proposed that the Government should give \$13,000,000 to this work, and be reimbursed by toll. The idea embraced in this bill, and urged upon the House, is, that if the Government constructs this work, it shall be repaid for its outlay by the tolls collected. I see some Representatives from Illinois, some Democrats, who in olden times paid some little respect to constitutional law, and who now propose to support this measure.

Mr. W. J. ALLEN. I desire to ask the gentleman whether he maintains that there is no constitutional power to pass this bill.

Mr. BROWN, of Wisconsin. I was coming to that point. I believe that there can be no greater abuse on the part of the Government of its power to expend the money of the people than to devote the money wrong from the people of one portion of the country to the local benefit of another portion.

Mr. W. J. ALLEN. Is that a question of constitutional power?

Mr. BROWN, of Wisconsin. If the gentleman had waited a moment, he would not have

found it necessary to question me on this point. The gentleman has heard of such an instrument as the Ordinance of 1787 by which that whole northwestern territory was organized. He has heard of the provision of that ordinance under which all the highways leading into the Mississippi and the St. Lawrence were to be free; and, as if anticipating that at some future time some legislative body might attempt such legislation as this, the framers of that act have in section four of that ordinance (Illinois Revised Statutes of 1858, page 24) provided that—

"The navigable waters leading into the Mississippi and St. Lawrence shall be common highways and forever free as well to the inhabitants of the United States as those of the territory and of the several States to be thereafter admitted, without tax, impost, or duty."

This ordinance, as a form of government, was superseded by the State constitutions, (as the Supreme Court correctly decided;) but all rights acquired under the ordinance remain intact. And from abundance of caution this principle was confirmed by the act of Congress providing for the admission of Illinois into the Union, (same, page 1, section 4, of act of 1818,) and by express reference to the Ordinance of 1787 in the preamble to the constitution of that State; and, again, by the resolution of Congress of December 3, 1818, admitting Illinois into the Union. Similar precautions have been taken in regard to all, or nearly all, the States formed from the north west territory. As no compact can be changed without the consent of all parties to it, in order to be enabled to levy tolls upon the Illinois river, you must not only have an act of Congress, but must change the constitution of Illinois, and have the consent as well of each purchaser of lands on the banks of the river as of the various other States formed from that territory; this compact was between the United States and each of the northwest States, as it was admitted, and extended to all the waters of the territory. The United States cannot, therefore, collect tolls on that river either from the construction or maintenance of locks. So far from that, each person actually impeded in the navigation of the river by locks, could remove them, and claim compensation for loss and detention.

Mr. INGERSOLL. Will the gentleman allow me to say a word? If I understood him correctly, he stated that the first obstacle to the execution of this enterprise is a provision in the constitution of the State of Illinois which provides that the Legislature of that State shall not make any appropriation or contract any debt for a sum exceeding \$50,000. I think the gentleman is incorrect in that statement, and I ask him to have read the thirty-seventh section of the third article of the constitution of Illinois, if that is the section to which he refers.

Mr. BROWN, of Wisconsin. I have it here. I looked over it a moment ago; and the very next section provides that the State of Illinois shall not lend its credit to any individual, association, or corporation. The two sections go together.

Mr. INGERSOLL. Will the gentleman allow those two sections to be read for the information of the House?

Mr. BROWN, of Wisconsin. If the time consumed in reading is not to come out of my time, I consent.

Several MEMBERS. It shall not.

The Clerk read, as follows:

"SEC. 37. Each General Assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two thirds of each House, nor exceed the amount of revenue authorized by law to be raised in such time: *Provided*, The State may, to meet casual deficits or failures in revenues, contract debts never to exceed in the aggregate \$50,000; and the moneys thus borrowed shall be applied to the purpose for which they were obtained, or to repay the debt thus made, and to no other purpose; and no other debt except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war, (for payment of which the faith of the State shall be pledged,) shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for members of the General Assembly at such election. The General Assembly shall provide for the publication of said law for three months at least before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrevocable until such debt be paid: *And provided further*, That the law levying the tax



shall be submitted to the people with the law authorizing the debt to be contracted.

"Sec. 38. The credit of the State shall not, in any manner, be given to, or in aid of, any individual, association, or corporation."

Mr. BROWN, of Wisconsin. Mr. Speaker, if I understand the gentleman's point in answer to me, it is that they may draft a law and submit it to the people, by which the people may assume that debt, providing in the law for the payment of the interest and principal. If the gentleman had been contented to accept that provision, and that alone, they might perhaps have had some reason in saying that they assume this risk of such action by the people. But the difficulty is that they commence with authorizing the President at any cost to make the proposed improvement. We all know that the people of Illinois could never consent to tax themselves to an amount which is necessary in order to complete this improvement, so that gentlemen use that only to attract the attention of the House, relying in fact upon the first provision.

Mr. INGERSOLL rose.

Mr. BROWN, of Wisconsin. If the gentleman will allow me, as my time is brief, I will go on without further interruption. If it does not come out of my thirty minutes I shall be happy to be interrupted as often as gentlemen please.

Mr. INGERSOLL. I want to correct the gentleman, and I presume that he does not desire to be in error. There is a provision in the bill under consideration that this act shall not take effect, even with the vote of the House and the Senate and the approval of the President of the United States, until Illinois has complied with the condition of the contract on its part.

Mr. BROWN, of Wisconsin. Then I say that if there is such a provision, I think that we ought to reject the bill, because it is not drawn in a manner to express ideas. If the State of Illinois is to do the work, and that alone is what you seek, why do you put it in the power of the President of the United States to do it? Why do you require him to go on and contract? The limitation the gentleman speaks of is a limitation to Illinois of \$5,000,000, and not a limitation of the power of the President of the United States.

Mr. INGERSOLL rose.

Mr. BROWN, of Wisconsin. I cannot be interrupted any further. When the gentleman interrupted me before I was not touching a kindred subject; I was showing that we could get in no shape any remuneration from that long canal, because the Ordinance of the Northwest, ratified between the Government and every State of the Northwest, made these highways free from imposition or toll.

Mr. INGERSOLL. If the gentleman will allow me. The gentleman has no objection to the President to construct this improvement without an appropriation of five or six million dollars. On that point I think he will have no objection to the bill. I think the issue is whether we will pass the bill or not.

Mr. BROWN, of Wisconsin. It may appear to the gentleman that there is no objection to authorizing the President to make a contract involving millions and millions. Does he think that the country will hold back from the contractors the reward of their labor? I say that when we authorize the President to construct that work we give him every power necessary. If I authorize my agent to build a house he has the power to bind me to every extent necessary to accomplish that object. So with the President. And this may cost, as I believe it will, hundreds of millions of dollars. If after Congress pass this bill it should refuse to appropriate the money, it would be a breach of faith, which I hope no man here will be guilty of.

Now for the commercial advantages. I have shown that a small portion of the cost of this canal, twelve feet deep, was to be \$20,000,000. If we take it six feet deep, which, I believe, is the provision of this bill, then it will be \$10,000,000. What is a canal six feet deep worth for the purposes of intercourse between the Mississippi and Lake Michigan? I do not know how many members of the House have ever been on Lake Michigan, but I can speak from experience as having been on that lake and on the ocean and on the Mississippi. The ordinary navigation of the Mississippi river is with light-draught boats, drawing

often not more than ten, twelve, or fifteen inches, though sometimes as high as two feet. I know what Lake Michigan is, and I tell gentlemen who have not been there that you want stronger and better sea-going boats for that lake than you do for the navigation of the ocean; and I will give the reason for it. Upon the ocean, where you have sea-room, you give way to the storm, and the effect of not opposing it diminishes the danger. But on Lake Michigan, where you have narrow sea-room, you must turn and tack from point to point, and resist the force of the waves, and on that account the strain is greater upon the vessel, and therefore stronger vessels are needed than upon the Atlantic ocean. Let me ask gentlemen if they would intrust themselves upon the Atlantic ocean in a vessel drawing only six feet of water?

But more than that: suppose you have a canal of the depth of twelve feet, to obviate these difficulties; your vessel from Lake Michigan, which is to pass over this canal, will draw six, seven, eight, or nine feet, and though it might get through the canal, it could not navigate the Mississippi. I presume that many of you, and I know that the gentleman from Illinois, [Mr. WASHBURNE,] who is an advocate of this measure, has gone up the Mississippi in boats drawing but a few inches, and has been compelled to lie hours and days upon bars in the river. What, then, is the use of getting into the Mississippi river with boats of six and eight feet draught, when you cannot use them when you get them there?

[Here the hammer fell.]

Mr. ARNOLD. I shall not occupy the time of the House in reply to the remarks of the gentleman from Wisconsin. I will simply say that he resides in the town of Milwaukee, formerly the rival of Chicago.

Mr. COX. Will not the gentleman from Illinois allow my friend from Wisconsin ten minutes further time?

Mr. ARNOLD. I think I have been very liberal, as I have allowed the gentleman more than half my time.

Mr. BROWN, of Wisconsin. Let me appeal to the gentleman for a moment. He will recollect—

Mr. ARNOLD. Gentlemen upon this side of the House desire to speak, otherwise I should be glad to hear the eloquent gentleman further. I listened to the gentleman's appeal, and granted him more than half my time.

Mr. BROWN, of Wisconsin. The gentleman certainly is not afraid that I shall move him against his own reason. I ask him to recollect that when this amendment was before the House, attached to another bill, by an understanding with him I did not speak against that amendment, and there was an understanding that I should have a chance to speak here.

Mr. ARNOLD. I think I have discharged my agreement. I yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. It is not my purpose to make any remarks upon the original proposition before the House, but only to present a few reasons to the House why I believe the amendment I had the honor to present a few moments ago should be adopted. The proposition contained in that amendment is simply to improve what are called the Upper and Lower rapids of the Mississippi—the Lower one at Keokuk, Iowa, two hundred miles above St. Louis; and the Upper rapids two hundred miles further up the river.

The substance of my amendment has received the sanction of the Committee on Roads and Canals, the proposition having been before the committee during the last session of the present Congress. The amendment proposes the issuing of \$2,000,000 in bonds for the purpose of completing these two canals around these rapids. According to the careful estimates of competent engineers, I think that sum will be very nearly if not quite sufficient to complete both of those works and place them in such a position that vessels that can navigate the Mississippi during that season of the year can pass also around those rapids. It is not the purpose of this proposition to take any money out of the Treasury of the United States, nor will the effect of the proposition be such, if it is adopted.

We only propose to use the credit of the Government for the purpose of building these canals,

and the tolls that are to be received by the Government itself will be amply sufficient, as I believe, to pay the interest upon that loan, and also pay the principal at maturity.

We have an example in the Ohio river which is sufficient to give us very reliable data as to what the effect of the improvement of the Mississippi river would be. The Louisville and Portland canal, which is in the district of the distinguished gentleman from Kentucky, [Mr. MALLOY,] has proved to be a paying investment to that company. That canal company was organized by the Legislature of Kentucky as early as 1826, and the canal was completed in 1831. During the period of twelve years, from 1831 to 1842, that canal paid dividends to the stockholders (the Government being a large stockholder in the canal) varying from six to ten per cent. per annum. The profits of the company were so large that the Legislature of the State of Kentucky at that time passed a bill amending the charter of the company, and authorizing the individual stockholders to sell their stock at \$150 for every \$100 subscribed, and within twelve years from the time that that bill was passed by the Legislature of Kentucky and was accepted by the company, every dollar of the stock, excepting that owned by the Government of the United States and a few shares to preserve the organization, was redeemed at one dollar and fifty cents for every dollar. The tolls received by the company were then reduced to twenty-five cents per ton, and since that time the net tolls on that canal have been about one hundred thousand dollars per annum. They are now enlarging it, and for that purpose have obtained a loan for \$1,600,000, and I hold in my hand a letter from Hon. James Guthrie, of Louisville, in which he says that they expect that the tolls on the canal, at the rate of twenty-five cents per ton, will pay, within a period of twenty years, that entire loan, and also pay for the repairs necessary to keep up the canal. We had requested him to furnish us information with reference to the Louisville and Portland canal, and in this same letter he states that he believes canals built around the Lower and Upper rapids of the Mississippi river would prove not only profitable to the Government, but to any company that might organize for the purpose of constructing them.

Now, the object of these two canals around those rapids of the Mississippi is, first, to enable us to reach the canal passing through the State of Illinois from Alton and St. Louis to Chicago. I can say to the gentleman from Illinois who has presented this question to the House that his proposition will be of no value whatever to the Northwest unless he accompanies it with a project to improve the rapids of the Mississippi. The great States of Iowa, Wisconsin, Minnesota, and a portion of Illinois, will virtually be deprived of any benefit from this canal unless you also enable them to reach the canal at St. Louis by improving the rapids, which cannot now be navigated by vessels of any class for four months of the season of navigation. Not only that, but an improvement of the rapids of the Mississippi will enable vessels to leave Pittsburg and pass around to the city of St. Paul, nine hundred miles above St. Louis, without changing bulk. They cannot do it now, because during five months of the eight months of the season of navigation the navigation of the river above Keokuk is almost useless.

Now, I ask gentlemen who represent the great eastern States to aid us in reaching the great railroads which lead to the East by means of these water communications extending from St. Paul to St. Louis, and thence by Cairo and the Ohio river to Pittsburg. By so doing the people of the States of Minnesota, and Iowa, and Wisconsin, and of a large portion of Illinois, may receive some advantages from the main proposition now before the House should it become a law. But without that the Illinois canal will be of no practical benefit whatever to the people of those great northwestern States.

I will not, during the ten minutes allotted to me by the courtesy of the honorable member from Illinois, [Mr. ARNOLD,] undertake to argue the necessity of the adoption of this amendment to the uninterrupted navigation of this great national highway from St. Paul to the Gulf of Mexico when trade with the southern States is resumed,

and when western produce will again seek a southern market.

I have no desire to detain the House further. I trust my amendment will be adopted and made a part of the bill.

Mr. ARNOLD. Mr. Speaker, I have but a word to say on the proposition now before the House. First, in regard to the ability of the proposed canal to take through to the lakes the vessels of war constructed for the Mississippi—the best vessels owned by the Government, and which did such essential service in taking the fortifications at Mobile. I have the authority of the gentleman who constructed those vessels that they can be taken through the canal as proposed.

In reply to the objection made by the gentleman from Wisconsin, [Mr. Brown,] that there is no security that this appropriation will result in the completion of the canal, I have this to say: that, by the provisions of the bill, before the bonds are delivered to the State of Illinois, that State, in a legal and constitutional way, is to undertake and contract with the General Government that, for this \$5,000,000, the work shall be completed in the manner provided for by law. That is to be a solemn contract between the State of Illinois and the Federal Government.

I will not detain the House longer, and will ask that the vote be taken on the bill and amendments.

Mr. HOLMAN. I move that the whole subject be laid on the table.

The SPEAKER ordered tellers, and appointed Messrs. ALLISON and DAWSON.

The House divided; and the tellers reported—ayes 40, noes 73.

So the House refused to lay the whole subject on the table.

The question was first taken on Mr. ALLISON's amendment to the amendment, and it was adopted.

The question was next taken on Mr. ARNOLD's amendment as amended, and it was adopted.

The bill was then engrossed and read the third time.

Mr. ARNOLD moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 68, not voting 37; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Anderson, Arnold, Ashley, Bailly, Augustus C. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Eldridge, Elliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Francis W. Kellogg, Knapp, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Daniel Morris, Morrison, Norton, Patterson, Pomeroy, Price, William H. Randall, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Shannon, Smith, Spaulding, Srouse, Stuart, Townsend, Upson, Elihu B. Washburne, Whaley, Wilder, Wilson, Windom, Woodbridge, and Worthington—77.

NAYS—Messrs. Ames, Ancona, John D. Baldwin, Blair, Bliss, Broomall, James S. Brown, William G. Brown, Chandler, Clay, Cobb, Cravens, Dawson, Edgerton, English, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hubbard, Hutchins, Philip Johnson, Kaibfeisch, Kelley, Orlando Kellogg, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, McDowell, McKinney, Samuel F. Miller, William H. Miller, Morrill, James R. Morris, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Perry, Pike, Pruyn, Radford, Samuel J. Randall, Scofield, Sloan, Smithers, Stevens, Stiles, Thomas, Wadsworth, Wheeler, Joseph W. White, Williams, Winfield, Benjamin Wood, and Fernando Wood—68.

NOT VOTING—Messrs. Brooks, Ambrose W. Clark, Freeman Clarke, Coffroth, Cox, Creswell, Henry Winter Davis, Denison, Griswold, Hale, Hall, Hooper, Hotchkiss, William Johnson, Kasson, Marcy, McAllister, Melndoe, Middleton, Moorhead, Nelson, Patterson, Alexander H. Rice, Rogers, Starr, John B. Steele, William G. Steele, Sweat, Thayer, Tracy, Van Valkenburgh, Voorhees, Ward, William B. Washburne, Webster, Chilton A. White, and Yeaman—37.

So the bill was passed.

During the roll-call, Mr. ROLLINS, of Missouri, stated that Mr. Rogers was absent on account of illness.

Mr. ARNOLD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

Mr. ELDRIDGE demanded the yeas and nays on the latter motion; and called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE and ALLISON were appointed.

The House divided; and the tellers reported—ayes 40, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 63, not voting 42; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Anderson, Arnold, Bailly, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Elliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Francis W. Kellogg, King, Knox, Loan, Longyear, Marvin, McBride, McClurg, Daniel Morris, James R. Morris, Morrison, Norton, Patterson, Perham, Pomeroy, Price, William H. Randall, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Shannon, Smith, Spaulding, Stuart, Townsend, Upson, Elihu B. Washburne, William B. Washburne, Whaley, Wilder, Wilson, Windom, Woodbridge, and Worthington—77.

NAYS—Messrs. Ames, Ancona, John D. Baldwin, Blair, Broomall, James S. Brown, William G. Brown, Chandler, Clay, Cobb, Cravens, Dawson, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hubbard, Hutchins, Philip Johnson, Kaibfeisch, Kelley, Orlando Kellogg, Kernan, Law, Le Blond, Long, Mallory, McDowell, McKinney, Samuel F. Miller, William H. Miller, Morrill, Amos Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Scofield, Sloan, Smithers, Stevens, Stiles, Thomas, Wadsworth, Wheeler, Joseph W. White, Williams, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—63.

NOT VOTING—Messrs. Ashley, Augustus C. Baldwin, Bliss, Brooks, Freeman Clarke, Coffroth, Cox, Creswell, Henry Winter Davis, Denison, Griswold, Hale, Hall, Hooper, Hotchkiss, William Johnson, Knapp, Lazear, Littlejohn, Marcy, McAllister, Melndoe, Middleton, Moorhead, Leonard Myers, Nelson, Odell, Pike, Alexander H. Rice, Rogers, Starr, John B. Steele, William G. Steele, Srouse, Sweat, Thayer, Tracy, Van Valkenburgh, Voorhees, Ward, Webster, and Chilton A. White—42.

So the motion to reconsider was laid on the table.

During the roll-call, Mr. ODELL stated that he was paired off with his colleague, Mr. WARD.

Mr. PIKE, not being within the bar when his name was called, asked leave to vote.

Mr. ALLISON objected.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed a concurrent resolution directing the House Committee on Public Buildings and Grounds and the Senate Committee on Public Buildings and Grounds to inquire into the origin of the fire in the Smithsonian Institution, in which he was directed to ask the concurrence of the House.

#### DEFICIENCY BILL.

Mr. STEVENS. I hope the House will allow me to take from the table the deficiency bill for the purpose of moving a non-concurrence in the amendment of the Senate and asking for a committee of conference.

Mr. HOLMAN. I must object unless I am permitted to move that the House concur in that amendment of the Senate.

Mr. STEVENS. I suppose that there will be no objection to the gentleman making that motion. But I desire to move that the House non-concur in the amendment, and ask for a committee of conference.

The SPEAKER. The first question will be upon the motion to concur in the amendment of the Senate.

Mr. STEVENS. I now move the previous question.

The demand for the previous question was seconded, and the main question was ordered.

Mr. HOLMAN. I call for the reading of the amendment in full.

The amendment was read, as follows:

Strike out the second section of said bill.

The section was read, as follows:

Be it further enacted, That \$38,000 be, and the same is hereby, appropriated to be added to the contingent fund of the House, to enable the House of Representatives to fulfill the pledge and obligation heretofore made, and the same shall be audited and settled on such vouchers as shall be produced by the Clerk of the House.

Mr. RANDALL, of Pennsylvania. In case the motion of the gentleman from Indiana [Mr. HOLMAN] is voted down, will it then be in order to move that the House adhere?

The SPEAKER. It will not be in order. If

the motion that the House concur is voted down, the next question will be upon the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] that the House insist upon its disagreement, and ask the appointment of a committee of conference.

Mr. SCHENCK. I ask unanimous consent to ask an explanation from the chairman of the Committee of Ways and Means [Mr. STEVENS] of some things connected with our appropriations.

No objection was made.

Mr. SCHENCK. My attention has been directed to this deficiency bill, which seems to stand now upon a question of public virtue and economy between the Senate and the House, and I have been struck with some two or three items in the legislative, executive, and judicial appropriation bill which passed this House on the 19th of last month. I find that while there are fifty-two Senators, and one hundred and eighty-nine members and Delegates in this House, there has been appropriated for the compensation and mileage of those fifty-two Senators the sum of \$247,430; for the mileage and compensation of the one hundred and eighty-nine members and Delegates the sum of \$300,000. Now, by law the compensation and mileage of a member of this House are the same as for a Senator. Now, I do not understand this matter, and would like to have it explained.

Again, looking to the incidental expenses, I find that the allowance made to the Senate for newspapers is \$3,000, while the allowance to the House is \$1,000; being three times as much for fifty-two Senators as it is for one hundred and eighty-nine members and Delegates.

Again, I observe that the Senate stationery is set down at \$17,000, while the stationery for the House is set down at \$12,000. This may be accounted for by the fact that they have no limitation in the Senate upon the amount of stationery to be taken. However that may be, it seems that fifty-two men in the Senate are supposed to consume \$17,000 worth of stationery in their correspondence, while one hundred and eighty-nine members and Delegates in this House consume only \$12,000. Then for the Congressional Globe the Senate is allowed \$35,000; the House is allowed \$29,400, while one hundred copies of the Globe for the House are for the library of the House.

These are some of the discrepancies which are apparent, arising out of the question of relative economy between the two Houses. And as long as we have the question before us I would like to have these discrepancies explained.

Mr. STEVENS. The first discrepancy, in regard to the appropriations for the compensation and mileage of Congress, can be accounted for in part by the fact that there was an excess from last year's appropriation for the House. In regard to the other discrepancies, in relation to incidental expenses for the two Houses, I would state that the matter in regard to stationery and newspapers is to be accounted for only in this way: when the clerks and the Secretary of the Senate make up their accounts for the stationery, &c., of the Senate, the Committee on Finance do not presume to scrutinize them, but take those accounts as correct. But in the case of the House, when our clerks make up their accounts as they have done, the Senate become furious and say that we shall not have them allowed. Members of the Senate maintain that that body has never since 1858 authorized any such expenditure as this out of its contingent fund. Now, sir, as controverting this position, I desire to state that in the act of March 3, 1863, to provide for sundry civil expenses, the following section, having originated in the Senate, was agreed to by the House:

"Sec. 15. That the Secretary of the Senate be directed to pay out of the contingent fund for such extra messengers, pages, laborers, and services for the Senate during the present session as the Committee to Audit and Control the Contingent Expenses of the Senate may approve and direct."

I hope the vote will now be taken, and that we shall insist on our disagreement.

Mr. WASHBURN, of Illinois. I ask the gentleman's attention to one fact. I understand from the Secretary of War that at the present time not a single dollar can be expended from his Department for the sick and wounded soldiers in our hospitals because of the delay in the passage of this bill.

Mr. STEVENS. So far as that subject is concerned, I look upon the action of the Senate as an

atrocities. If the sick and wounded soldiers are not provided for the blame should justly rest with the Senate. But I take it for granted that this House, after what has been done, will never consent to abandon its determination to adhere to the item which the Senate now proposes to strike out.

Mr. HOLMAN demanded the yeas and nays on the motion to concur in the amendment of the Senate.

Mr. WASHBURN, of Illinois, demanded tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and PENDLETON, were appointed.

The House divided; and the tellers reported—ayes 25, noes 84.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 83, not voting 52; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Brounall, Ambrose W. Clark, Cobb, Cole, Grinnell, Harding, Harrington, Higby, Holman, Asahel W. Hubbard, Hulburt, Julian, Orlando Kellogg, Kernan, King, Lonn, Samuel F. Miller, Morrill, Daniel Morris, Norton, Perham, Pike, Price, Edward H. Rollins, Scofield, Sloan, Smith, Spalding, Upson, Elihu B. Washburne, William B. Washburn, Wheeler, Wilson, Windom, Woodbridge, and Worthington—47.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Ashley, Blow, Boyd, James S. Brown, Clay, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Deining, Dixon, Driggs, Dumont, Eckley, Edgerton, Eldridge, Elliot, Farnsworth, Finck, Ganson, Garfield, Grider, Griswold, Hall, Benjamin G. Harris, Charles M. Harris, Herrick, John H. Hubbard, Ingersoll, Jeneckes, Philip Johnson, Kasson, Kelley, Francis W. Kellogg, Knapp, Knox, Law, Le Blond, Long, Longyear, Marvin, McBride, McClurg, McDowell, McKinney, William H. Miller, James R. Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Pomroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Robinson, Ross, Schenck, Scott, Shannon, Smithers, Stevens, Stiles, Strouse, Townsend, Van Valkenburgh, Whaley, Joseph W. White, Williams, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—83.

NOT VOTING—Messrs. Arnold, Blair, Bliss, Brooks, William G. Brown, Chanler, Freeman Clarke, Coffroth, Creswell, Thomas T. Davis, Denison, Donnelly, Eden, English, Frank, Gouch, Hale, Hooper, Hotchkiss, Hutchins, William Johnson, Kalbfleisch, Lazear, Littlejohn, Mulory, Marcy, McAllister, McIndoe, Middleton, Moorhead, Morrison, Nelson, Noble, Patterson, Perry, Alexander H. Rice, John H. Rice, Rogers, James S. Rollins, Starr, John B. Steele, William G. Steele, Stuart, Sweet, Thayer, Thomas, Tracy, Voorhees, Wadsworth, Ward, Webster, and Chilton A. White—52.

So the House refused to concur in the amendment of the Senate.

The question recurring on the motion that the House insist on its disagreement and ask a committee of conference, it was agreed to.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I had intended to ask that the House resolve itself into the Committee of the Whole on the state of the Union on the naval appropriation bill, but the hour is late. I therefore make a motion, to which I suppose there will be no objection, that we proceed to the consideration of the business on the Speaker's table.

The motion was agreed to.

#### VENTILATING HALLS OF CONGRESS.

The concurrent resolution of the Senate relative to the ventilation and improvement of the Halls of Congress was taken from the Speaker's table, and, on motion of Mr. WASHBURN, of Illinois, referred to the Committee on Public Buildings and Grounds.

#### FIRE AT SMITHSONIAN INSTITUTION.

The SPEAKER also laid before the House the following message from the Senate:

IN SENATE UNITED STATES, February 2, 1865.

Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Public Buildings and Grounds of the Senate, conjointly with the Committee on Public Buildings and Grounds of the House, be, and they are hereby, directed to inquire into the origin of the fire by which the Smithsonian Institution building and the valuable deposits therein were, on Tuesday, the 24th day of January, in whole or in part destroyed; the approximate loss to the Government and to private persons; the means necessary to preserve the remaining portions of said building and its contents from further injury; and such other facts in connection therewith as may be of public interest, and to report by bill or otherwise.

The concurrent resolution was passed.

#### ASYLUM FOR INSANE.

The SPEAKER also laid before the House the amendment of the Senate to House bill No. 644, to extend to certain persons in the employ of the Government the benefits of the Asylum for Insane in the District of Columbia, as follows:

Insert: "During the continuance of the rebellion."

The amendment was concurred in.

#### ACTING ASSISTANT TREASURERS.

The SPEAKER also laid before the House the amendments of the Senate to House bill No. 689, to provide for Acting Assistant Treasurers or depositaries of the United States in certain cases.

Mr. STEVENS moved that they be referred to the Committee of Ways and Means.

The motion was agreed to.

#### MILITARY ACADEMY APPROPRIATION BILL.

The SPEAKER also laid before the House an amendment of the Senate to House bill No. 621, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866.

Mr. BLAINE. Mr. Speaker, I will make a statement and then make a motion. The House made an amendment to the West Point appropriation bill, as it came from the Committee of Ways and Means, repealing the law of the last year, which took away from the President and Secretary of War the power to send back a cadet who was dismissed from West Point under any circumstances unless the cadet could have the recommendation of the academic board. The House repealed that provision in the West Point Academy appropriation bill, leaving it where it has been ever since the foundation of West Point. The Senate disagree to that repeal. I move to insist on the amendment, and ask for a committee of conference.

Mr. McBRIDE moved to concur.

Mr. WASHBURN, of Illinois, demanded the previous question.

The previous question was seconded, and the main question ordered.

The motion to concur was disagreed to.

Mr. BLAINE's motion was then agreed to.

Mr. BLAINE moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DISQUALIFICATION OF COLOR.

The SPEAKER also laid before the House Senate bill No. 62, to remove all disqualification of color in carrying the mail; which was read a first and second time.

Mr. ALLEY moved that the bill be put on its passage.

Mr. ROSS moved that the House do now adjourn.

The motion was disagreed to.

The bill, which was read, provides that hereafter no person by reason of color shall be disqualified from employment in carrying the mails, and that all acts and parts of acts establishing such disqualification, especially the seventh section of the act of March 3, 1825, shall be repealed.

Mr. ALLEY. Mr. Speaker, I will merely state that this is the repeal of an old law for which repeal petitions have been sent from all parts of the country. It has passed the Senate almost unanimously, and was considered by the Committee on the Post Office and Post Roads informally, and agreed to, and I was directed, as its chairman, to move that it be put on its passage when it was reached.

Mr. FINCK. I want to state, as one member of the Committee on the Post Office and Post Roads, that the bill did not receive my concurrence.

Mr. ALLEY. I did not say that it had received the unanimous concurrence of the Committee on the Post Office and Post Roads. I now demand the previous question.

The House divided; and there were—ayes 60, noes 15; no quorum voting.

Mr. STILES. I move that the House do now adjourn.

There being, on a division on the question—ayes 46, noes 49.

Mr. ANCONA called for tellers.

Tellers were ordered; and Mr. ANCONA and Mr. ALLEY were appointed.

The House divided; and the tellers reported—ayes 57, noes 46.

So the motion was agreed to.

And thereupon (at four o'clock and twenty minutes, p. m.) the House adjourned.

#### IN SENATE.

FRIDAY, February 3, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of yesterday was read and approved.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 728) to pay to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension rolls, \$300 annually as a gratuity, in addition to the pension now paid them; and

A bill (H. R. No. 322) to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

The message also announced that the House had passed without amendment the bill (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota, and a bill (S. No. 234) for the relief of Louis Roberts.

The message further announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia; and in the resolution of the Senate for a joint inquiry by the Committee on Public Buildings and Grounds of the two Houses into the origin of the fire at the Smithsonian Institution on the 24th of January.

The message also announced that the House non-concurred in the amendments of the Senate to the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, insisted on its non-concurrence, and asked for a conference on the disagreeing votes of the two Houses, and appointed Messrs. J. G. BLAINE of Maine, R. MALLORY of Kentucky, and G. S. ORTH of Indiana, managers on its part.

The message also announced that the House non-concurred in the amendment of the Senate to the bill (H. R. No. 709) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, insisted on its non-concurrence, and asked for a conference on the disagreeing votes of the two Houses, and had appointed Messrs. T. STEVENS of Pennsylvania, G. H. PENDLETON of Ohio, and J. S. MORRILL of Vermont, managers at the conference on its part.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War transmitting, in compliance with a resolution of the Senate of January 12, 1865, a statement of the amounts paid by that Department for attorney and counsel fees during the fiscal year ending June 30, 1864, and from that period to January 1, 1865.

Mr. TRUMBULL. I believe there are now responses from all the Secretaries to that resolution, but I am not quite sure.

Mr. GRIMES. Is there one from the Attorney General?

Mr. TRUMBULL. I am not certain whether there is or not. I desire to move to print all these communications as soon as there are responses from all the heads of Departments.

Mr. GRIMES. Was the Attorney General included in the resolution?

Mr. TRUMBULL. He was included in the resolution. If they are not all in, I move that this communication lie on the table.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 728) to pay to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension rolls, \$300 annually as a gratuity, in addition to the pension now allowed them, was read twice by its title, and referred to the Committee on Pensions.



# NIAGARA FALLS CANAL.

The bill (H. R. No. 126) to construct a ship-canal around the falls of Niagara, was read twice by its title.

The VICE PRESIDENT. The bill will be referred to the Committee on Military Affairs.

Mr. MORRILL. I suggest that the bill should go to the Committee on Commerce.

The VICE PRESIDENT. It is subject to any motion.

Mr. MORRILL. I make the motion that the bill be referred to the Committee on Commerce.

Mr. TRUMBULL. Such measures have heretofore gone to the Committee on Military Affairs. They have always had charge of the subject, and I think this bill had better take the usual course.

Mr. MORRILL. Is it a military measure?

Mr. TRUMBULL. Yes, sir; it is a military measure, for the purpose of military protection.

Mr. GRIMES. If it should go to any committee other than the Committee on Commerce, it ought to be the Committee on Naval Affairs, I submit, for the bill is to construct a canal, and if it is for military purposes it is for the transportation of vessels from one lake to another through a canal.

Mr. MORRILL. The title of the bill is to construct a ship-canal.

Mr. GRIMES. I have no doubt it ought to go to the Committee on Commerce.

The VICE PRESIDENT. The question is on the motion of the Senator from Maine to refer the bill to the Committee on Commerce.

Mr. TRUMBULL. I am not particular as to the direction the bill shall take. It is not, however, a new question in the Senate. Our Committee on Military Affairs have had it under consideration and I think have a bill now pending before them on this very subject, and they have once made a report upon the question. A part of this subject is there now, not this precise bill, but a bill very similar to it; and that being the case, I thought the whole subject had best go to that committee together. If the Committee on Commerce desires to take jurisdiction on it, it would be better to discharge the Committee on Military Affairs from the consideration of the bill which they already have, and upon which they have taken action.

Mr. MORRILL. It strikes me that the measure should stand on much higher grounds than that. If this was a matter of defense growing out of the necessity of the war, I could understand why it should go to the Committee on Military Affairs, but upon no other grounds whatever. If it is a matter affecting the commerce of the country, it should go to the Committee on Commerce. Unless it is a question where an obvious military necessity of the country requires that the measure should be entered upon at this time, I submit that it is not a question for the Committee on Military Affairs.

Mr. TRUMBULL. The measure undoubtedly partakes of both characters. It is of the highest commercial importance that these canals should be constructed, but I do not think the measure stands entirely upon commercial grounds. It is also of very great importance in a military point of view for the defense of the northern frontier. I am not sure what committee reported it in the other House; perhaps they had a special committee on the subject; but in this body, heretofore, it has always been taken charge of by the Committee on Military Affairs, at least for two sessions to my knowledge, and a report was once made by that committee. It seems to me that the committee which has been investigating the subject and has it under consideration at this time is the proper committee to take charge of the whole subject, and that is the reason why I think this bill should go to the Military Committee. Although the measure partakes of a commercial character, and it might be very proper to give it in charge to the Committee on Commerce, it also partakes of a military character, and is put on both grounds.

Mr. MORRILL. I make no allusion to the bill whatever with any positive purpose. I have no opinion as to the character of the bill. I simply make the suggestion. I now withdraw my motion.

The VICE PRESIDENT. The bill will be referred to the Committee on Military Affairs and the Militia.

# MISSISSIPPI RIVER AND LAKE MICHIGAN CANAL.

The bill (H. R. No. 322) to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs.

## MILITARY ACADEMY BILL.

On motion of Mr. SHERMAN, the Senate insisted on its amendments to the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, and agreed to the conference asked for by the House of Representatives on the disagreeing votes of the two Houses.

The VICE PRESIDENT was authorized to appoint the conferees on the part of the Senate; and he appointed Messrs. HOWE, HARRIS, and HENDRICKS.

## DEFICIENCY BILL.

On motion of Mr. SHERMAN, the Senate insisted on its amendment to the bill (H. R. No. 709) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, and agreed to the conference asked for by the House of Representatives on the disagreeing votes of the two Houses.

The VICE PRESIDENT was authorized to appoint the conferees on the part of the Senate; and he appointed Messrs. CLARK, GRIMES, and RIDDLE.

## PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of J. W. Arnold and several other per diem clerks employed in the Washington navy-yard, who pray that they may be by law created permanent clerks. I believe that such petitions have hitherto been referred to the Committee on Finance at this session, and I therefore move that this petition be referred to that committee.

The motion was agreed to.

Mr. MORGAN presented the memorial of Edward McDonald Reynolds, praying that investigation may be made into the causes of his dismissal from the service as captain in the Marine corps; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented the petition of military officers in the military service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL presented the petition of citizens of Washington city, residents on Maryland avenue, east of the Capitol, praying for the improvement of said avenue between the Capitol and Camp Barry; which was referred to the Committee on the District of Columbia.

## ORDER OF BUSINESS.

Mr. WILSON. I desire to take up a few moments of the time of the Senate in the consideration of Senate bill No. 408.

Mr. COLLAMER. I hope we shall be allowed to make reports from committees.

Mr. WILSON. I have waited for four days to take up this bill, which must be passed in ten days if we are to act upon it at all. It is the bill to amend the enrollment act.

The VICE PRESIDENT. Reports from committees are in order.

## REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred the petition of the citizens of Youngstown, Ohio, praying that the railroad from Youngstown, Ohio, to Sharon, Pennsylvania, may be declared a mail route, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 413) to establish a certain post road, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China, reported it with amendments.

Mr. POMEROY, from the Committee on Claims, to whom was referred the petition of William Harding, praying for compensation for services as a soldier in the war of 1812, asked to be discharged from its further consideration; which was agreed to.

# BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 426) to amend an act entitled "An act to amend section nine of the act approved July 17, 1862, entitled 'An act to define the pay and emoluments of certain officers of the Army, and for other purposes;'" approved April 9, 1864; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I now renew the motion to take up Senate bill No. 408. I think we can dispose of it in a few moments.

Mr. TRUMBULL. Would that displace the resolution which was under consideration yesterday?

The VICE PRESIDENT. It would.

Mr. TRUMBULL. I cannot consent to anything which will displace that measure. I am willing that this bill shall be taken up if it does not displace that, and it can be done by unanimous consent.

Mr. WILSON. I should like to take up this bill now. I think we can dispose of it before one o'clock. It will take probably but a few moments, and it is of great importance, if it is ever to be acted upon, that it should be acted on at once.

Mr. TRUMBULL. What is it?

Mr. WILSON. It is Senate bill No. 408, in addition to the several acts for enrolling and calling out the national forces, and for other purposes. One or two provisions of it are of very great importance; and as the draft is to take place in the middle of this month, I consider it of much more importance than the question concerning the counting of the Presidential votes. In my opinion, it is of more consequence now to get soldiers than to do anything else, for I understand that what is going on at the present time has stopped enlistments all over the country, and it may be to our disadvantage. I think we had better put ourselves right.

Mr. TRUMBULL. If the order of the day can be informally laid aside for the purpose of taking up this bill I will not object.

Mr. WILSON. I agree to that.

The VICE PRESIDENT. What is the suggestion?

Mr. TRUMBULL. If the order of the day can be informally laid aside so as not to lose its place I will not object to a temporary interference with it.

Mr. WILSON. I make that motion, that the order of the day be laid aside informally with a view to take up this bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes.

Mr. WILSON. The Committee on Military Affairs have reported the bill with an amendment in the form of a substitute, and therefore I do not think it necessary to read the original bill; and I suggest, unless its reading be called for by some Senator, that the substitute only be read.

The VICE PRESIDENT. The reading of the original bill will be dispensed with if there be no objection, and the amendment only be read. The Chair hears no objection.

The Secretary read the amendment, which was to strike out all of the original bill after the enacting clause and to insert the following in lieu thereof:

That from and after the passage of this act, any person enrolled and liable to be drafted, may be accepted as a substitute for a drafted person, and such drafted person shall be exempt from service for such time as the substitute shall be held to service under the terms of his enlistment.

SEC. 2. *And be it further enacted,* That no person owing military service shall be exempt from liability to perform the same on account of furnishing a substitute for the Navy, unless the substitute is presented in person to the board of enrollment by which the principal is enrolled, and is accepted by said board of enrollment.

SEC. 3. *And be it further enacted,* That any recruiting agent, substitute broker, or other person, who shall enlist, or cause to be enlisted, as a volunteer or substitute, any insane person or person in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such, or who shall defraud or deprive any volunteer or substitute of any portion of the State, local, or United States bounty to which he may be entitled, shall, upon conviction by any court-martial or military commission, be fined not exceeding \$1,000, or imprisoned not exceeding two years, or both, at the discretion of such court-martial or military commission.

SEC. 4. *And be it further enacted*, That any officer who shall muster into the military or naval service of the United States any deserter from said service, or insane person, or person in a condition of intoxication, knowing him to be such, shall, upon conviction by any court martial or military commission, be dishonorably dismissed the service of the United States.

SEC. 5. *And be it further enacted*, That all State and local bounties hereafter to be paid to any volunteer or substitute upon entry into the military or naval service of the United States shall be paid in installments, as follows: one third at the time of the muster into service of such volunteer or substitute; one third at the expiration of half the term of service; and one third at the expiration of the term of such service, unless sooner discharged by reason of wounds received in battle. And in case of his death while in service, the residue of his bounty unpaid shall be paid to his widow, if he shall have left a widow; if not, to his children, or, if there be none, to his mother, if she be a widow.

SEC. 6. *And be it further enacted*, That the remainder of the term of service of any person who shall hereafter enter the military or naval service as a volunteer or drafted man, and shall desert therefrom, or be discharged by reason of physical disability, existing prior to such entry into service, shall be added to the amount of service due from the district to which such volunteer or drafted man shall have been credited, and the same shall be filled up from such district by enlistment or draft.

SEC. 7. *And be it further enacted*, That, in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the passage of this act, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship, and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any of the rights of citizens thereof, and all persons who shall hereafter desert the military or naval service shall be liable to the penalties of this section.

SEC. 8. *And be it further enacted*, That the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of the preceding section.

Mr. HENDRICKS. I will appeal to the Senator from Massachusetts to allow this bill to be made the special order of the day for to-morrow at this hour. It will not delay it much. I do not know how it is with other Senators, but the pendency of this measure had escaped my observation, and it is a subject in which the country feels a very sensitive interest.

Mr. WILSON. I have called it up this morning by the consent of the Senator from Illinois, with the understanding that it should not displace his measure; and I am willing, having called the attention of the Senate to the bill, to let it go over until to-morrow, in the hope that we shall then take it up and act upon it and finish it.

Mr. HENDRICKS. I am much obliged to the Senator.

Mr. WILSON. I make that motion.

The motion was agreed to.

#### BRIDGE ACROSS THE OHIO RIVER.

Mr. POWELL. I move to postpone all pending and prior orders for the purpose of taking up Senate bill No. 392, supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads." The object of the bill is to authorize the construction of a railway bridge across the Ohio river at the falls. My object in desiring to take up the bill now is to make it the special order for Monday next at one o'clock. I do not wish to press its consideration to-day.

The motion to take up the bill was agreed to.

Mr. POWELL. I now move that its further consideration be postponed to and made the special order of the day for Monday next at one o'clock.

The motion was agreed to by a two-thirds vote.

Mr. COLLAMER. I desire to make another bill for another bridge across the Ohio river the special order of the day at the same time with the one mentioned by the Senator from Kentucky.

The VICE PRESIDENT. Will the Senator indicate the bill?

Mr. COLLAMER. It is Senate bill No. 413, which I reported this morning, to establish a certain post road, to authorize the construction of the Covington and Cincinnati bridge. I move to take up that bill with a view of making it the special order for Monday also.

The motion was agreed to.

Mr. COLLAMER. I now move that its further consideration be postponed to and made the special order of the day for Monday next at one o'clock.

The motion was agreed to.

#### METROPOLITAN RAILROAD.

Mr. DIXON. I move that the Senate proceed to the consideration of Senate bill No. 411, to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia." I think it will take but a few moments to consider it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the act to incorporate the Metropolitan Railroad Company in the District of Columbia, approved July 1, 1864, in the first section by striking out all after the words "along H street north to Seventeenth street west, intersecting the double-track road," and inserting:

Also a double or single-track railway, commencing at the intersection of D street north and Four-and-a-half street west, along Four-and-a-half street west to the gate of the arsenal; also double or single-track branch railway, commencing at the intersection of Ninth street west and the Washington canal, along Ninth street west to M street north, along M street north to Twentieth street west, and along Twelfth street west to the Washington canal and Maryland avenue to the Potomac river; also a double or single-track branch railway, commencing at the intersection of Massachusetts avenue and H street north, along Massachusetts avenue to K street north, along K street north to the Circle, with the privilege of extending the said branch road at any time along K street north to Rock creek, across the bridge over Rock creek to Water street, Georgetown, along Water street in Georgetown to Montgomery street, along Montgomery street to Gay street, and along Gay street and First street to Fayette street, Georgetown, with the privilege of extending at any time the road now in operation from Seventeenth street west to the Capitol, from the present terminus of said road on A street north, along A street north to First street east, along First street east to East Capitol street, along East Capitol street to Ninth street east, along Ninth street east to L street south, with the right to run public carriages thereon, drawn by horse power, receiving therefor a rate of fare not exceeding eight cents per passenger, for any distance between the termini of either of the said main railways, or between the termini of said branch railways, or between either terminus of said main railway and the termini of either of said branch railways: *Provided*, That the use and maintenance of the said road shall be subject to the municipal regulations of the city of Washington within its corporate limits.

The second section proposes to amend section eight of the act of incorporation, by striking out the words "five hundred thousand dollars."

The third section proposes to amend section seventeen of the act of incorporation so as to allow the corporation three years from the date of the approval of this bill in which to complete the railways herein described and those described in the act to which it is an amendment.

The fourth section proposes to amend the twenty-second section of the act of incorporation by striking out the words "at the rate of twenty-five for one dollar."

The first amendment of the Committee on the District of Columbia was in line twenty-five of section one to strike out "Montgomery street" in each place where it occurs, and insert "Green street."

The amendment was agreed to.

The next amendment was in lines three and four of section two, to insert "\$1,000,000" as the capital stock of the company.

The amendment was agreed to.

The next amendment was to add the following proviso to section two:

*Provided*, That the directors of said Metropolitan Railroad Company shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time, in such manner, and in such installments as they may deem proper; and if any stockholders shall refuse or neglect to pay any installments, as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may forfeit said stock and all previous payments thereon for the use of said corporation, under such general regulations as may be adopted in the by laws of said corporation, or may sue for and collect the same in any court of competent jurisdiction.

Mr. FARWELL. I do not know that I understand that proposition entirely, but it seems to me to be rather a harsh measure. If I understand it aright, a man may pay in three fourths of the amount of his stock, and if he fails to pay the balance it is all lost. I suggest to the chairman of the committee that there should be a provision that it might be sold.

Mr. DIXON. This provision is one that has been customary in other acts of incorporation, but it happened to be omitted in this charter, I suppose by accident.

Mr. CONNESS. Let the amendment be read again.

The Secretary read the amendment.

Mr. CONNESS. This is an extraordinary

provision. The management of the corporation, with a provision of that kind could, to use a common phrase, squeeze out whom they pleased. I never saw such a provision in any charter. It may be contained in some laws providing for the organization of companies, but the general and more common and equitable rule is that delinquent stockholders shall be subject to have their stock sold; that upon public notice of the delinquency to the stockholders, and a time fixed within which they shall be required to pay, if then the assessments shall remain unpaid, as many shares of the stock shall be sold as will pay the assessment due, not the entire stock sacrificed.

The provision is objectionable and obnoxious in another sense, that you deprive a man of his property without giving him his day in court, without giving him an opportunity to appear. I have no amendment prepared to meet the case, but it is clear that the provision as it is should not pass. It is investing the management of the corporation with the power to induce parties to take stock, and then confiscate it almost at their pleasure.

Mr. DIXON. I have no objection to any amendment which shall carry out the views of the Senator from California, providing for the sale of the stock. It will amount in fact to the same thing. This is not such a great wrong as the Senator supposes. A man subscribes for stock; he declines to pay for it; he declines to pay his installments. It is not very uncommon to say in such cases that the stock shall be forfeited. If it is not valuable enough for the owner to pay the installments on it, of course it cannot be worth a great deal. In such a case, all he has to do is to pay his installments and redeem his stock. But at the same time I am perfectly satisfied with an amendment which the Senator may propose, providing for a sale of the stock on public notice. Suppose we make the clause read thus:

If any stockholder shall refuse or neglect to pay any installment as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell said stock at public auction after giving due notice.

Would that satisfy the Senator?

Mr. CONNESS. Even that would not be enough. It is impossible to improvise here an amendment providing the necessary conditions. The stock should not only be required to be sold at auction, but no greater part of the delinquent stock should be sold than was necessary to pay the assessment due.

Mr. DIXON. Of course that would follow.

Mr. CONNESS. That would not follow unless it was provided for. It is the business of the committee to report these conditions, and not of Senators to improvise important amendments like this at their desks; indeed it cannot be done. I would suggest, as has been suggested by a Senator on my right, that a stockholder may have paid his assessments to the extent of two thirds of the amount required for full payment of the stock, and then he may die, and it will be in the power of the company to confiscate that stock and destroy the property of his heirs and his successors in it. In the State where I live these provisions are always contained in and required by the general corporation laws of the State.

Mr. DIXON. The Senator will see that notice is already required. The provision is that after refusal to pay the installments as required by the board of directors, after reasonable notice of the same, the board may forfeit the stock. If the Senator will consent that the other amendments shall be proceeded with, I think that I can in a moment draw an amendment which will suit him on this point. Let this amendment be passed over informally for that purpose.

The VICE PRESIDENT. The amendment will be passed over for the present.

The next amendment was to add to the fifth section the words "at the rate of sixteen for the dollar," so as to make the section read:

That the twenty-second section be, and hereby is, amended by striking out the words "at the rate of twenty-five for one dollar," and inserting the words "at the rate of sixteen for the dollar."

The amendment was agreed to.

Mr. DIXON. Now let the bill be laid aside informally that I may prepare the amendment to which I referred.

The VICE PRESIDENT. That will be done.

## CONDUCT OF THE NAVY DEPARTMENT.

Mr. HALE. While the Senator from Connecticut is perfecting his bill, I wish to ask the Senate to take up a resolution of inquiry addressed to the Secretary of the Navy, which I submitted a few days ago.

The resolution was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Navy be instructed to inform the Senate whether the argument of the judges advocate on the trial of Franklin W. Smith has been printed by order of the Navy Department, or any officer of that branch of the service, and whether the same has been done at the expense of the Treasury of the United States, how large an edition of the same has been published, and what use has been made of the copies thus published. Also, whether any commissioners, agents, or detectives have been employed by the said Navy Department, or any officer thereof, since January 1, 1864; if so, how many; what sum or sums have been paid them; what instructions were given to them verbally or in writing, either by the Secretary of the Navy or the Assistant Secretary, and especially whether any instructions were given to said detectives or agents, or either of them, by said Secretary or Assistant Secretary, or by any one else for them, or with the knowledge, advice, or consent of either of them, to inquire into the conduct or business transactions of any member of either House of Congress; and also how much expense has been incurred by such examinations, the particulars thereof, the fund from which they have been paid, and the law authorizing the same.

## AGRICULTURAL PART OF CENSUS REPORT.

Mr. HARLAN submitted the following resolution; which was referred to the Committee on Agriculture:

*Resolved*, That two thousand copies of the agricultural part of the Census Report for 1860 be printed for the use of the Commissioner of Agriculture.

## ORDER OF BUSINESS.

Mr. HENDERSON. I move to take up for consideration Senate bill No. 359.

Mr. TRUMBULL. I wish to inquire what the bill is.

Mr. HENDERSON. In answer to the inquiry of the Senator from Illinois, I will say that it is a bill which I attempted the other day to get before the Senate. It is a bill to reimburse the State of Missouri for moneys expended for the United States, which was made the special order for last Tuesday.

Mr. TRUMBULL. I cannot consent to that; and as there is to be a wrangle about business, I must insist—

Mr. DIXON. I hope the Senator will allow my bill, which was laid aside informally, to be taken up.

Mr. TRUMBULL. I should have no objection to that, but the Senator sees what is being done.

Mr. DIXON. The bill to which I alluded was laid aside informally, with the understanding that it should come up again in five minutes. It will not take long to pass it.

Mr. HENDERSON. I am exceedingly sorry that the Senator from Illinois will not consent—

Mr. DIXON. I suggest to the Chair that there was a matter already before the Senate which was merely informally laid aside.

The VICE PRESIDENT. Precisely; and the Senator from Missouri moves to postpone it; that is the question pending.

Mr. DIXON. I hope it will not be postponed.

Mr. HENDERSON. I desire that the bill to which I called attention shall be taken up. My colleague who has been absent for the last week is now present. The Senate will recollect the unsuccessful effort that I made a few mornings ago to get it up. If the Senate intend to consider the bill, I want it considered now. The Senator from Illinois says it will produce a wrangle. I apprehend not. The Military Committee have reported it unanimously, and I hope that it will be taken up and acted on. I cannot see any objection to it. It provides for the appointment of commissioners to ascertain the accounts between the State of Missouri and the United States for troops called out by Federal officers, and not by the State authorities. I do not ask a dollar for troops called out by the State. Our people have been under arms very frequently under State authority, and for that I do not ask a dollar; but they have been called out by Federal officers, and I desire that payment shall be made.

The Senator from Illinois says that he cannot consent to the bill being taken up, and says it very warmly and decidedly. I am sorry that the Senator from Illinois, who seems to take entire

charge of the Senate this morning, cannot consent. I will go over to see if I can procure his consent; and, if I can succeed in doing so, it really seems I may stand some chance of getting the bill before the Senate. I do not see the use of speaking in that kind of style. I do not trouble the Senate often.

Mr. TRUMBULL. I think that the remarks of the Senator from Missouri are entirely uncalled for, and entirely out of place. The Senator from Missouri knows as well as I know that a subject was under consideration yesterday. He knows as well as I do that it is the order of the day to-day, and that several Senators have risen and asked to have it laid aside informally, and, as I had charge of the measure, appealed to me to consent to it. He knows very well that it is an every-day practice, when a member of the Senate is charged with a bill and some small matter is interposed, to ask that Senator to give his consent to let that matter come in informally. It has been done this morning. When I said I could not consent to it, I meant that having charge of the joint resolution which is the order of the day, I considered it my duty to press it to a vote. And for the Senator to undertake to create an impression in the Senate or anywhere else that I was assuming to control the Senate or to dictate as to its business is not warranted by anything that has occurred. It is unjust to me, and unjust to himself, if he will reflect.

Mr. HENDERSON. The Senator knows just as well as I do that I would not do any injustice to him. If nothing had been said, in all probability we could have passed the bill during the morning hour; but a discussion has come up. Of course the Senator's resolution will not be in order until one o'clock, at the expiration of the morning hour.

Mr. TRUMBULL. The Senator is entirely mistaken; it is in order all the time; it was taken up in the morning hour and is in order during that hour. The Chair has so decided.

Mr. HENDERSON. I presume that as a member of the Senate I have a right to call up the bill to which I have referred. I desire that it shall be acted upon by the Senate. If the Senate are disposed to defeat the bill, they can do so. I now move to postpone all prior orders and take it up.

The VICE PRESIDENT. That is the pending motion.

Mr. HENDERSON. It is a bill in which my State is deeply interested, and I hope the Senate will take it up and act upon it.

Mr. DIXON. I hope the bill which I called up will be proceeded with. It will not take time.

Mr. BROWN. I ask leave to say a word or two before the vote is taken on the motion of my colleague. I should like to agree with the Senate to take up this measure at this time and pass it. It is a question in which we are deeply interested, in regard to which time is of more value to us than it is with reference to any other measure now pending before the Senate. I do not see why objection should be maintained against taking it up here and now, when the bill with which it is brought into antagonism is likely to be debated for four or five days, and can certainly go over without any prejudice. This bill, it will be remembered, was made the special order for three days ago; when the time for the special order arrived, it was passed over informally in some way, and, although the Senate voted to take it up, it was not done by some accident. I would request, so far as I can have any influence with the Senate, that if they are desirous of passing this measure, which is a measure of great interest to the State, they will take it up and do so now, so as to give us an opportunity of having action in the House of Representatives. Unless we can get it acted upon here at an early stage of the session, it will be impossible to obtain action there. I ask for a division on the question of taking it up.

Mr. DIXON. I will say to the Senator from Missouri that I think he makes a mistake in attempting to interpose to prevent the passage of the bill which was called up by me. It seems to me it is unreasonable to delay the passage of that bill. It was called up and partially acted upon and then laid aside informally. In my judgment it will not take five minutes to dispose of it. I think it would have been passed long ago if the Senator from Missouri had allowed us to go on with it. I trust, therefore, the Senate will not

adopt the motion of the Senator from Missouri, but will proceed with the bill.

Mr. GRIMES. I wish to inquire whether the resolution of which the Senator from Illinois has charge will not come up of its own force at one o'clock.

The VICE PRESIDENT. It will.

Mr. GRIMES. I desire to say to the Senator from Missouri that there is no bill that I would more readily vote to proceed to the consideration of than that which he desires the Senate to consider this morning, except the measure that the Senator from Illinois has in charge. I believe nearly everybody agrees that something should be done in regard to that subject between now and next Wednesday.

Mr. BROWN. I will state that I was not present yesterday, and did not know what was the pending matter before the Senate. I supposed it was the local bill which has been before us this morning.

Mr. GRIMES. I would vote most freely with the Senator from Missouri to take up his bill in preference to any local bill.

Mr. BROWN. If my colleague will consent, I am willing to withdraw the motion for the time.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased;

A bill (H. R. No. 571) for the relief of Jethro Bonney;

A bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington; and

A bill (H. R. No. 713) for the relief of Hull & Cozzens, and John Naylor & Co.

## REPRESENTATION IN ELECTORAL COLLEGE.

The VICE PRESIDENT. The hour of one o'clock having arrived, the unfinished business of yesterday now comes up. The joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from New Jersey [Mr. TEN Eyck] to strike out the word "Louisiana" from the preamble.

Mr. DOOLITTLE. Mr. President, the question pending before the Senate will have no practical effect whatever in disposing of the result of the presidential canvass. Whether the votes of the States named in the preamble to this resolution are counted in or counted out or not counted at all, the result is not to be changed. So far, therefore, as that question is concerned, this whole discussion is perfectly immaterial. The action of the Senate one way or the other has nothing to do with the result.

But the honorable Senator from Maryland [Mr. JOHNSON] says that now is the time to fix the law which shall perhaps have effect on some future presidential canvass. Why the necessity of acting upon it now any more than at any time within the next four years? There cannot be another presidential canvass until four years from last fall. Why this haste, and why the necessity now of acting upon a matter which has no practical reference to the present canvass and can have no reference to any other canvass for at least four years to come. At any day of any session of Congress from this time forward for four years, we can just as well act on the question as we can act on it now.

My honorable friend from Ohio [Mr. SHERMAN] says that for the good order of the convention when the Senate and House of Representatives meet together to canvass these votes, he thinks some legislation is necessary, for he says that in 1857 when the Senate of the United States under the presidency of Mason, of Virginia, went into the House of Representatives, some proceedings occurred there that were discreditable and ridiculous, and that Mason, for some supposed offense or other, undertook to take the Senate out of the joint convention and marched out at the



head of some Senators, they following him two and two, presenting a ridiculous aspect to the country and the civilized world. They went out amid the jeers of all who were present, my friend says.

But 1857 was an exceptional case. We have had eighteen joint conventions of the Senate and House of Representatives: did my friend from Ohio ever hear of any discreditable proceedings on any other occasion than in 1857? Never. Have we no confidence in ourselves; have we no confidence in the Senate of the United States and the House of Representatives, that they can sit in joint convention and yet not be guilty of any breaches of decorum or gentlemanly conduct? Are we to suppose that now the Senate of the United States has Mason of Virginia to preside over it? We know who is the Presiding Officer of the Senate, and we know the Senate; we know the House; and we have as much confidence in them as was felt in any House, or in any Senate, or in any Presiding Officers of either of the two bodies from the beginning of the Government. I have as much confidence in the present Presiding Officers to keep order and decorum in these proceedings as I have in any of the Presiding Officers of these two Houses from the beginning of the Government to the present time.

Mr. President, I said yesterday that in my opinion Congress has no power in its legislative capacity, acting as we are now acting, to declare in relation to votes that have already been given, that those votes are null and void. Sir, the question is not before us; the votes are not before us; and we cannot act on those votes to ratify or to annul them. The votes were given by the electors of the several States, sealed up under the provisions of the Constitution, and sent to the President of the Senate, the seals unbroken, and there is no power that has the right to break them until he meets the joint convention of the two Houses, and then, under the constitutional provision, they are to be opened in their presence, and I say that it is usurpation on the part of Congress to undertake to act upon those votes which are sealed up from them, and which they have no power to look at, either to affirm their validity or to declare them null.

I maintain, too, sir, that it is a most dangerous precedent for Congress to undertake to speak of votes that have already been given declaring them to be null and void. It is possible, as I said before, that by some legislation in advance of the giving of those votes Congress might make provision by law on this subject. I have some doubts, however, in relation to that; but upon that question I shall not occupy the attention of the Senate. I said yesterday all I desired to say in regard to it. But, sir, I shall come now to the immediate question, the one pending, the question of Louisiana, which the Senator from New Jersey moves as an exception to the other States that are mentioned in this resolution.

And first of all, the interest which I feel in this question is because, in my judgment, the resolution of the Senate upon this incidental question expresses its opinion upon the validity or the invalidity of the constitution adopted by the people of Louisiana. Believing, as I do, that that is a most important question; believing, as I do, that it is wholly unnecessary for us now in this incidental way to enter upon the discussion and decision of that question, I think it is unwise to press this resolution at the present moment. But, sir, the question seems to be raised, and gentlemen express their opinion upon it; and I propose to call the attention of the Senate to some points involved in it, and to some of the facts bearing on the validity of this present constitution of Louisiana. And what are the facts? The Senator from Kentucky [Mr. POWELL] declares that this election of the people of Louisiana was carried by military power, by military authority, and is the result of military dictation and military despotism over the people of Louisiana. The Senator from Ohio [Mr. WADE] responds to this with all his heart. He says it is a mere military dictation, a military election, and, more than all, he says it is a miserable farce.

Mr. President, we look upon a strange spectacle here when the two extremes in this body come together in this way. One would suppose that Pilate and Herod had joined hands both to attack the Administration in its policy on this subject, and to see if they could crucify the free

State of Louisiana. Sir, let us look at the facts of this case, strip off a little of this passionate declamation, and come down to the naked truth.

On the 22d day of February a year ago an election was held at which there were cast eleven thousand four hundred and fourteen votes for this constitution of Louisiana. But the Senator from Kentucky and the Senator from Ohio say it was the military authorities that controlled this election in Louisiana. Sir, I take issue with them upon the fact. It is not true that the military authorities controlled the election. The election was fixed for the 22d day of February, says General Banks.

Mr. WADE. Will the Senator tell me who authorized the election for a convention; who initiated it?

Mr. DOOLITTLE. General Banks issued his order notifying the people of the State of Louisiana to hold an election. I am speaking of that election.

Mr. WADE. Let me inquire if the request of a military commander in such a case is not just about equal to a command. Is there any real difference?

Mr. DOOLITTLE. I shall have occasion before I finish my remarks to discuss this question in the aspect of what my friend calls a military despotism over the people of Louisiana, and I think I shall be able to satisfy him even, although it is a great undertaking to do it, that the only possible mode in which a military government can be surrendered to the civil administration of the people of a State must be that the initiative shall be taken in the first instance by the governor in military command inviting the people in their civil capacity to enter upon the election.

Mr. POWELL. If the Senator will allow me, I would like to ask him a question.

Mr. DOOLITTLE. If it is a question bearing on this subject I have no objection; but I propose to submit some observations on the subject and the Senator can reply when I get through.

Mr. POWELL. The Senator has indicated that the Senator from Ohio and the Senator from Kentucky were incorrect in saying that there was military interference. I ask the Senator whether the military authorities did not prescribe the qualification of voters. Did they not assume by military orders to alter the constitution of Louisiana and prescribe different qualifications for voters from those fixed by that instrument?

Mr. DOOLITTLE. On that point the constitution of Louisiana was adopted as the rule prescribing the qualifications of voters, with this exception, that the citizens of Louisiana who had enlisted into the armies of the United States were permitted to vote. The only change, the only alteration was, not that citizens of other States were permitted to vote, but that citizens of Louisiana who had enlisted into the Army and were then serving in Louisiana, shall be entitled to vote.

Mr. POWELL. I call the Senator's attention to the fact that General Banks states in this paper that they were required to take the oath prescribed in the President's amnesty proclamation of December 8, 1863, and that of itself was prescribing a qualification of voters different from the prescription made by the constitution and laws of Louisiana.

Mr. DOOLITTLE. I will read what General Banks says:

"The order relating to the election is herewith inclosed. It was fixed for the 22d day of February. Three candidates were presented, and the canvass was general and spirited, each party sustaining its candidates by public meetings, precisely in the same manner as in a State unaffected by the revolution.

"Eleven thousand four hundred and fourteen votes were polled at this election.

"The average vote for ten years previous to the rebellion in these parishes was fifteen to sixteen thousand."

Eleven thousand four hundred and fourteen voting now where there were but fifteen or sixteen thousand before the rebellion began.

"In this election no person voted who was not by the constitution and laws of Louisiana a voter, except one class of persons. These were the soldiers who, as citizens of Louisiana, had enlisted in the armies of the United States.

"A provision of the constitution prohibited men enlisted in the Army or Navy from voting. It was understood to be the intention of this provision of the constitution that soldiers or sailors should not become voters under a mere residence in the State while under orders as soldiers or sailors.

"While it would be perfectly just that a citizen of another State sent into Louisiana under military orders should not be permitted to gain a residence while acting under these orders, it was not thought to be just that a citizen who en-

listed in the Army of the United States for the defense of his own State should be deprived by such enlistment of the right of suffrage. It was thought that any Legislature of the State would change that provision, and the order of election directed the change upon this principle."

That was the only change that was made by military authority, a change authorizing citizens of Louisiana who had enlisted in the Army of the United States in Louisiana to vote. We have done the same thing in Wisconsin, in Ohio, in Pennsylvania, in New York, all growing out of exigencies which have occurred since this rebellion began, passing laws authorizing men, although in the Army of the United States, still to take part in the elections, providing that they should not be deprived of their rights of citizenship because they had enlisted in the Army to bear all the sacrifices which are necessary to defend their country in this struggle. And, sir, I maintain that there was nothing wrong in this. But even if it were wrong, it did not affect the result in the slightest degree, for there were only eight hundred and eight of all the soldiers who voted. Out of eleven thousand four hundred and fourteen voters, I say to the Senator from Ohio but eight hundred and eight soldiers voted; and do you complain of this as a military election and held under military dictation? Was the election carried by soldiers' votes or by military power and military authority? These soldiers who voted did not all vote one way; a part of the soldiers voted on one side and a part voted on the other. They voted with perfect freedom, without any restraint or constraint whatever. There are nearly ten thousand persons enlisted in the Army of the United States from Louisiana, including both whites and blacks. General Banks says:

"Of these, in the election of the 22d of February, eight hundred and eight soldiers and sailors voted at the different military posts."

"A separate registry is made of their votes, a copy of which is with the Committee of Elections of the House of Representatives."

He says further:

"I do not believe that five hundred persons voted in this election of the 22d of February who were not citizens of the State previous to the rebellion, and every candidate for office was either a native of the State or had been identified with its public affairs for fifteen or twenty years."

It was no imported election into the State of Louisiana. It was no election by soldiers or sailors who were under the authority of any military commander imported into the State of Louisiana. It was only the people of Louisiana and the soldiers of Louisiana who were voting upon the adoption of a constitution for themselves. All these charges of military usurpation and military dictation, and that it was a mere farce, fall to the ground together. They are not true.

Nor was it an election controlled by Federal office-holders. What General Banks says is true, that the Federal office-holders of Louisiana, civil or military, did not assume to exercise so much influence upon the result of the election in Louisiana as they do in New York, Massachusetts, and every other State in the Union where Federal officers are appointed. Allow me to read from his statement again on that subject:

"Neither of these elections were controlled by the officers of the Government, civil or military. On the contrary, the influence of the officers of the Government, both civil and military, was indifferent, if not hostile, to the organization."

We all know that the officers who were appointed in Louisiana under the control of one of the Departments of this Government, taking a certain ground, as they did, in the affairs of Louisiana, looked rather with hostility than with friendship upon the effort at the reorganization of that State and the construction of its free constitution, and accordingly we find that—

"The registrar of voters states that of one hundred and twenty persons employed in one department of the Treasury offices only twenty-five voted for or against the abolition of slavery in the election of the 5th of September."

How much interest did the office-holders in the State of Louisiana take in attempting to get up this State organization, which the Senator from Ohio denounces as a miserable farce, and which the Senator from Kentucky says was a military usurpation? They did nothing at all. General Banks says again:

"And in each of the general elections the soldiers who voted followed their own inclinations, as shown by the record, voting for or against the different candidates and constitution as they chose."

Does this show that there was a command of some military officer requiring a certain constitu-

tion to be adopted or a certain course to be carried, when, of the very soldiers under his command, some were voting for and some against it, voting indifferently, following their own inclinations, without the slightest intimation of an opinion or wish to control the action of those men in that State?

"At one post the entire vote in the election of February would be in favor of one candidate, while at another military post the larger majority or entire military vote would be in favor of another."

This shows that there was no concert among the military commanders of Louisiana coming from the commander-in-chief of the department requiring votes to be given or a certain constitution to be adopted. There was no concert, no conspiracy, no domination. It is all a false assumption, from beginning to end. I believe there is no man who knows General Banks that questions his word for truth and veracity, and his honor is as unimpeached and unimpeachable as that of any gentleman who sits on this floor. General Banks says:

"I desire to state, in the most unqualified terms, that no effort whatever was made on the part of the military authorities to influence the citizens of the State, either in the selection of candidates or in the election of officers, and that the direct influence of the Government of the United States was less in Louisiana than in the election probably of any other State of the Union, and that the officers representing the Government, both civil and military, were divided so far as they entertained or expressed opinions upon the question of candidates and upon the policy pursued in the organization of the government."

Here is his unqualified declaration of a fact which he himself, the commander-in-chief of the department, is the only living man who certainly knows; and upon his word of honor as a man and as commander-in-chief of that department, he avers that there was no influence undertaken to be exercised by the military authorities to control or to influence the determination of these elections. And yet my friend from Ohio [Mr. WADE] says it is a farce; and the Senator from Kentucky [Mr. POWELL] joins with him, and says it is a military dictation and a military usurpation! Sir, am I too strong in my language when I say the extremes join hands together here in their war on the Administration and in their determination to crucify the free State of Louisiana asking for her representation on this floor and the floor of the other House?

Now, Mr. President, let us go a little further into these figures. I do not propose to be blinded, nor led off the track by this kind of passionate denunciation and declamation that we have heard on this subject. What are the facts? When you come down to the figures you find that the average vote in the State of Louisiana, for ten years, has been thirty-four thousand. The highest vote that was given in ten years has been only fifty-one thousand. Where are those voters now? Forty thousand have enlisted in the rebel armies. The voting population and the fighting population of a State run along together, almost *pari passu*. I refer now to the white population of that State. We know that our voting population in the free States and our fighting population are very nearly the same. Fifty-one thousand was the highest voting population of Louisiana in any election in ten years, and forty thousand have enlisted in the rebel armies. Undoubtedly three fourths of those are in their graves, and those that live are still in the rebel armies, for the conscription of the rebels, wherever they have had the opportunity to do it, has been almost universal, taking every able-bodied man in whole counties and townships and parishes into the army of the rebellion. If you deduct from fifty-one thousand, the highest vote which Louisiana has ever given in ten years, the forty thousand who have gone into the rebel armies, how many remain? Eleven thousand would remain, if their voting and fighting population were equal in numbers; and the vote shows that eleven thousand four hundred and fourteen freely gave their votes at the election which occurred on the 23d day of February, 1864. Does the Senator from Ohio stand up here denouncing this as a miserable sham, when a vote has been given equal to the difference between the rebel population enlisting into the rebel armies and the whole voting population of Louisiana during the last ten years? Sir, this kind of declamation will not bear the test of examination when you come down to the truth and look into the facts and figures in this case.

Mr. HENDRICKS. If the Senator will permit me—

Mr. DOOLITTLE. I hope the Senator will allow me to finish my remarks. I do not desire to take up a great deal of time, and I prefer to go through with what I have to say; and then I will answer any question the Senate desires.

Mr. President, I do not assume that in all cases the voting population and the fighting population are the same, but they run along nearly the same, and it is but fair to count the one as about equal to the other. But suppose there is a considerable difference. In my opinion, the vote of eleven thousand four hundred and fourteen which was given for this constitution, is two thirds, if not three fourths, of all the loyal men of Louisiana now alive and living within Louisiana. Gentlemen fail to consider the vast difference in the condition of these States where this war has been going on, as it has in Louisiana. We captured and took possession at an early day of about one third, I suppose, of the real territorial extent of the State of Louisiana; we captured and took possession of the rivers; and from the very conformation of Louisiana, it is upon the banks of the rivers that her good lands all lie, and when you go back from the rivers, you go into those interminable morasses and swamps where men can hardly live at all; so that, although we do not cover the whole of the State of Louisiana by our military lines, we do cover and do hold by far the greater portion in value and the greater portion which is capable of being cultivated and inhabited as a State.

Mr. President, I was observing that men seem to forget the terrible destruction of the population in these States, both black and white, caused by the war. I have no doubt that if you could at this day take the census of both the living and the dead, it would be found that one half of the whole population of Louisiana, white and black, is beneath the sod, growing out of the terrible convulsions which this war has produced and the terrible sacrifices and sufferings and deaths that have followed in its train. General Banks estimates it at very nearly the same figure. He says the whole population of Louisiana now existing does not exceed four hundred and fifty thousand, although in the beginning of this contest it was between seven and eight hundred thousand. Not only have the white men who were the voters in Louisiana enlisted in the rebel armies to the amount of thirty thousand, but multitudes of those who were subject to do so have fled from Louisiana and have gone abroad to Europe; they have left the State; they are not there; they perhaps will never be there again. But of the loyal people now living two thirds, three fourths, I believe, took part in the election on the adoption of this constitution.

The Senator from Ohio, in the course of his remarks, undertook to denounce in very strong terms the policy adopted or suggested by the President of the United States in his message as the policy upon which he would attempt the reorganization of civil government and civil institutions in the States where the insurrection had prevailed. There has been so much said about it, and so much misrepresentation also, that I desire for a few brief moments to call the attention of the Senate to that proposition.

Every person knows that there must be some form of government in these States. If, with our armies, we enter into a State or country, and take possession of it by military power, some form of government must be established—military, of course, in the first instance. The civil government is displaced, so to speak, by military power. In the midst of arms the laws are silent, is the old expression of the Romans, *inter arma silent leges*. When the people of a district become so far obedient to their obligations of loyalty to the Government which thus assumes, by military power, to put down an insurrection, an attempt may be made to surrender the military power and establish a civil administration by the people themselves. For a time the form of government may be, to a certain extent, a mixed form, both of civil and military power, each leaning upon the other. As the thing progresses and grows still further, the military power may be more and more withdrawn, and still greater power and authority given to the civil administration and the civil officers of the Government.

Now, sir, what is the actual state of the case in relation to Louisiana? When we first captured New Orleans, and by our forces took possession of the rivers and the lands adjoining, there could be no government but that of a military character. But after an experience of one, two, or three years, the people there became so well satisfied of the great mistake of going into rebellion against the Government of the United States and of the necessity of submitting to its authority and its jurisdiction, that they began to come back to their allegiance to this Government, and were willing to join in the organization of the civil government of the State, and resume their relations to the Government of the United States. Accordingly we find that when asked to do so eleven thousand four hundred and fourteen of the loyal citizens of that State joined in the organization of a new constitution, which was submitted to the people, adopted by them, and a Legislature and other officers chosen by virtue of it, and the whole machinery of civil government put into full operation in that State. By virtue of the authority of that constitution, they now have their own government, their own Legislature, they are making municipal laws and regulations for themselves. Their courts are sitting every day in judgment upon the rights of individuals. Under the authority of this new constitution all the relations of life are now being regulated. Under the authority of this new constitution, I tell my friend from Ohio that nearly ninety thousand slaves, who were not reached by the emancipation proclamation, have had their fetters knocked from their limbs and freedom given to them. Yes, sir, freedom has been given to ninety thousand slaves by this very constitution which he would undertake to trample under his feet as a military usurpation and as a miserable farce. Can he stand up in the face of this country, when Louisiana presents herself in this attitude as a free State, knocking off the chains from ninety thousand of her slaves whom the emancipation proclamation did not reach, (for they were excepted,) and deny to free Louisiana her rights of representation here, and her right to be heard as one of the free States of this Union in voting upon the very constitutional amendment which we have submitted to the States for their ratification?

Mr. WADE. Does the Senator—

Mr. DOOLITTLE. I shall soon be through, and I will then hear the gentleman from Ohio at length.

Mr. WADE. No, you will not.

Mr. DOOLITTLE. Well, I will hear him, then, very briefly.

Mr. WADE. You will not hear him at all. [Laughter.]

Mr. DOOLITTLE. That perhaps will be better yet.

Mr. President, I can very well understand why the Senator from Kentucky [Mr. POWELL] is opposed to recognizing this free constitution of Louisiana, which sets free almost ninety thousand slaves; but I did not expect that the Senator from Ohio would object to it for that reason, among others. I expected that the Senator from Ohio, and the friends of freedom on this floor, would take the free States by the hand, one after another, as they presented themselves here, and welcome them into the family of free States. I did not expect opposition from the Senator from Ohio as I did from the Senator from Kentucky. He could consistently oppose it; for he is opposed to emancipation, opposed to the adoption of the free constitution of Louisiana, opposed to allowing Louisiana to vote on the constitutional amendment which we have just submitted to the States, and whose vote may be necessary to its ratification. It requires, as I am informed, twenty-seven votes, or the votes of twenty-seven Legislatures of the different States, in order to ratify the constitutional amendment; and by no ciphering of mine can I see how they are to be obtained unless you allow the Legislature of the free State of Louisiana to express her voice on the subject. Is the Senator from Ohio prepared to prevent that? Go tell it to the free people of this country that upon the floor of the Senate the Senator from Ohio, who has been looked upon as the champion of freedom, is now taking position side by side with the Senator from Kentucky to denounce as a military usurpation and as a miserable farce the adoption of a free constitution by the people of Louisiana.

# THE CONGRESSIONAL GLOBE.

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But, sir, to return once more to this much-denounced policy of the President. It is denounced as a military usurpation. It is directly the reverse of that. It is an attempt on the part of the President to lay down the military power, to put it into the hands of the civilians; to take it from the Army and to give it to the people. What does he say? He says this in substance: "Whenever one tenth or a portion of the population equal to one tenth of the whole voting population of the district or the State before the rebellion began are willing voluntarily to undertake the business of administering civil government, I, as President of the United States and Commander-in-Chief of the Army, pledge to them my good faith that I will stand by them and try and enable them to do it." That is all there is of it. So far from being a military usurpation, it is an attempt on the part of the President to lay down his military power; and under that provision of the Constitution which compels this Government to guarantee a republican form of government to every State in the Union, the President is endeavoring in good faith to do it.

Sir, how else can it be done? These gentlemen who are denouncing with so much glibness the policy of the President had better point out some better policy. How can you lay down your military power without building up a civil power to take possession of the government? How can you do it unless you make a beginning? If you cannot begin with the whole of the people of a State, you must begin with what loyal people there are in the State; and if you can get as many as one tenth of those who are there, or a number equal to one tenth of the voters of the State who are willing to join in the attempt, is it not the duty, and the bounden duty, of the Executive to make the trial, or shall he continue to hold them as mere military conquests governed by military officers and military law? Shall there be no attempt at civil administration? We all know what martial law is. There is no people under the canopy of heaven who do not desire to get rid of martial law as fast as they can. I join with them in the desire to get rid of military law and military administration; and if you can get one tenth of the population in a State like Louisiana, where three fourths have joined the rebellion and enlisted in the rebel army, who are willing to take hold and aid in the administration of the government, it is enough to begin with. I do not say that where they amount to but one tenth their Representatives ought to be admitted to seats in Congress. The President does not recommend anything like that. But this case of Louisiana does not go upon the basis of one tenth. I have demonstrated to the Senate, and I defy the Senator from Ohio or any other Senator to show to the contrary, that at least two thirds of all the loyal people of Louisiana, and more than two thirds of the difference between the number of rebels who have joined the rebel armies and the highest vote Louisiana has given in ten years, have joined in adopting this constitution for the free State of Louisiana.

But, Mr. President, in relation to that recommendation made by the Executive, he made it as a suggestion. He did not commit himself to it as if that was the policy to be pursued and he would not pursue any other. He is willing to join hands with anybody who will propose any better policy for the reorganization of these States; but he is willing to begin even with one tenth to attempt to build up something like civil government in these States. That does not apply, however, to Louisiana; for, as I have shown you, more than two thirds, if not three fourths, of all the loyal men that now live in that State joined in electing the delegates to this convention, and in adopting this constitution. Does my friend from Ohio propose to allow the rebels of Louisiana to take part in the government of that State? Have we not already provided by law that they cannot vote unless they take the oath of allegiance, and swear to support the Constitution of the United States, and renounce all allegiance to any other

or pretended government? It is the loyal people of a State alone that have a right to vote.

Sir, I believe that each department of this Government takes part in the recognition of the authorities of the several States. The Supreme Court takes its part in that recognition. For instance, there is a tribunal now erected in Louisiana purporting to be a court of the State of Louisiana. A case arises, of ejectment, if you please, deciding the title to a township of land. An appeal is brought from the decision of that court to the Supreme Court here. Some lawyer rises up in the Supreme Court of the United States, and adopting the view of the Senator from Ohio, says, "May it please the court, that court is a humbug; the constitution of Louisiana is a farce; it was adopted by military usurpation; you must not hear an appeal from that court; I move that it be dismissed." The Supreme Court look into the question, pass on the case, and they decide that the court is a regular court of Louisiana, or is not. They therefore, in that decision, perform a high office as the supreme judicial power of this Government in recognizing the judicial power of the State of Louisiana.

So, too, the Executive has his office to perform in recognizing the power of the States of the Union. When you look into the Constitution, you find that one of the greatest powers conferred upon the Executive of the United States is this very power of recognizing the authority of the State governments of the States of the Union. How does it arise? It arises just in this precise case. An insurrection breaks out in one of the States. There are two parties, and you may say they are nearly equally balanced, one for one government, one for another. Each chooses its governor; each chooses its legislature; each chooses their various officers of administration; and they commence a conflict, and there is an insurrection. Then comes an appeal to the Executive to put down an insurrection, just the case that arose in Rhode Island in the time of Dorr's rebellion, as it is called. The appeal is made to the Executive; and then is cast upon the Executive the most important question that the Executive is ever called to pronounce upon, and that is, which party is the rebellion and which party is the true government of the State where the rebellion exists. The President decides that question, and from his decision there is no appeal. That was precisely the case in Rhode Island. Dorr's rebellion arose against the existing government. They had their two legislatures and their two executives, and were ready to enter into a conflict of arms and the shedding of blood. An appeal was made to the President of the United States to put down the insurrection, and the President of the United States decided that Dorr's party were the party in rebellion and must be put down; and that ended the controversy; for in the little State of Rhode Island they would not undertake to contend when the whole power of the Government was thrown in upon one side.

Here is a power of the Executive in recognizing the existing power of a State, whether it be the true State government or the insurrectionary State government, that belongs to no other department of this Government. It does not belong to Congress. The appeal is not made to Congress to put down the insurrection in a State. It is made to the President, and the President alone can decide that question. The Supreme Court, in that case from Rhode Island, expressly decided that it was a political question over which the court had no control, nor Congress either, but which belonged to the Executive, and the Executive alone; and the Executive having decided which party constituted the rebellion and which party constituted the true government of Rhode Island, the court were bound to acquiesce in the decision of the Executive, and did so acquiesce, and sustained the old government of Rhode Island against the Dorr government.

But, Mr. President, I do not deny that Congress also has a power of recognition of these States, but it is Congress acting separately in the two Houses of Congress, and in no other way.

How do we act? Two gentlemen present themselves for admission to this floor as Senators from Louisiana. The question is at once raised. One gentleman says there is no State of Louisiana; it is a mere Territory; it is a mere farce to call it a State.

Mr. WADE. Do you say that I said that? Mr. DOOLITTLE. You did not say that; but you said it was a mere farce to call it a State; that the election was a farce.

Mr. WADE. Yes, that is it.

Mr. DOOLITTLE. The question is raised, first, is there any State of Louisiana? Secondly, was there a Legislature chosen in Louisiana who could elect Senators? And thirdly, do these men possess the requisite qualifications to become Senators of the United States? Those questions are raised here, discussed here, and the Senate act upon those questions and decide them, and from our decision there is no appeal.

Mr. CONNESS. Will the Senator permit me to ask him a question?

Mr. DOOLITTLE. Is it on this point?

Mr. CONNESS. Yes, sir; it would not be pertinent otherwise, I apprehend.

Mr. DOOLITTLE. I will hear the Senator.

Mr. CONNESS. With the Senator's consent, I ask him if he holds that the right of Congress to act upon the question of the organization or admission of the States now in rebellion can only occur and take place when Senators present themselves from those States here, or if the Senator denies to Congress a right to participate in the question of their reorganization as States? I desire the information, because it is important.

Mr. DOOLITTLE. My opinion is very clear that we act upon the question when it is presented to us, and the Senators appear here and ask admission, first, whether there is a State to represent; secondly, whether a Legislature has been chosen which can send representatives; and, thirdly, whether the men who appear here have the constitutional qualifications; and on this subject our decision is final. The President has nothing to do with it; the House of Representatives has nothing to do with it; we have the sole and conclusive jurisdiction.

Mr. CONNESS. Will the Senator again permit me to ask him a question? I do not wish to do so if it is the slightest interruption to the Senator.

Mr. DOOLITTLE. The question raised by the Senator is not one that I have discussed in this argument. It is a very distinct and different question from the one I am now discussing, and I do not intend to go into a discussion of it now. Possibly on some other occasion it may come up, and I may discuss that question; but I understand it is a very different one from that I am now arguing.

Mr. CONNESS. I so understand it; and I understand the Senator; but I understood him to say that upon the question of the admission of Senators from those States only could our right to act on the question occur or come up; and therefore I asked the Senator if he held the opinion that Congress has no right and no power to act upon the question of whether those States should be reorganized or not; because, although the Senator may not believe that the latter question is involved in the proposition now before the Senate, I differ with him, and believe that it is involved in it. Therefore I asked the Senator the question.

Mr. DOOLITTLE. I do not intend to go into the discussion of that question, which leads into a much broader field of inquiry, and there are certain other provisions of the Constitution that would have to be discussed that I do not intend to take up now. I prefer to go on with my train of argument, and finish what I have to say on the point directly under consideration.

I was saying, Mr. President, that our decision on that question of the admission of Senators is without any appeal, and whatever law might be passed by Congress would not in any way whatever abridge our supreme jurisdiction over the question of the admission or rejection of Senators



in this body. The House and the Senate act entirely independent of each other on that question. Take the case of Virginia. We have Virginia represented on this floor. The House of Representatives refused Virginia any representation in that body. We act upon our own responsibility, each for itself. We determine whether men shall come in here and sit as the representatives of States. The House determine whether they shall go into that body as the Representatives of the districts of the several States.

There is another question, it seems to me, that may be involved in this decision. If we assume to say, as is contended, for by the Senator from Michigan [Mr. HOWARD] I believe, that these several States which have been declared to be in insurrection have ceased to be States of the United States, and are to be regarded as mere subjugated provinces or Territories, as if acquired from some foreign Power; if that doctrine is to prevail—a doctrine which finds support in some circles and places—this other consequence will follow—

Mr. HOWARD. I am quite sure the honorable Senator from Wisconsin does not intend to misstate what I said, and in order that he may understand me more clearly, I hope he will allow me to make the correction here.

Mr. DOOLITTLE. I have no objection.

Mr. HOWARD. What I stated, or intended to state, was this: that the power of the United States over a conquered State which has been in rebellion is the ordinary power of the conqueror over conquered territory; but that in this particular case there is superadded to the rights and duties of the conqueror a trust, growing out of the Constitution of the United States, which is to be performed by the United States in its discretion and in due time, in the shape of a restoration of the conquered State to the Union. Congress may take its own time to bring about this restoration. There are no limitations in the Constitution in regard to the mode or time in which it is to be done. The territory, however, having been once a State, must be restored to its condition of a State by the action of Congress at some time, and according to the discretion of Congress, carrying out honestly and fairly the obligation of the Constitution; but in the mean time, understand me, I hold that while in this conquered state it is subject to be governed by military authority, by a provisional government, or by any other means which Congress may see fit to adopt; and I hold it to be the duty of Congress at an early day, as early as is reasonable and practicable, to pass an act which shall apply to all such cases, and not to leave it to the unlimited discretion of the Commander-in-Chief of the armies of the United States.

Mr. DOOLITTLE. The point that I understood the Senator to make the other day, and I am not quite clear now whether I understand him to controvert it, was, that these States once declared in insurrection cease to be States of the Union. If I was mistaken in that I am glad to be corrected.

Mr. HOWARD. If the Senator will allow me a moment—

Mr. DOOLITTLE. Certainly; I do not wish to misunderstand the Senator.

Mr. HOWARD. If they are States in insurrection, as they have been pronounced to be by the constituted authorities of the United States, then as States, as political communities, they are enemies of the United States. Can a community which is an enemy of the United States be treated as one of the United States? It is only necessary to ask the question to answer it. *De facto* these States are out of the Union, and all the gentleman's argument and all he may imagine cannot, *de facto*, constitute them States until our arms have triumphed.

Mr. DOOLITTLE. I of course did not wish to misunderstand or misrepresent the Senator from Michigan. I understand him now to say that they are out of the Union.

Mr. HOWARD. *De facto*.

Mr. DOOLITTLE. *De facto* out of the Union.

Mr. HOWARD. Undoubtedly.

Mr. DOOLITTLE. *De facto* out of the Union; they are no longer States of the Union. I do not wish to charge upon that Senator doctrines that he does not entertain. I know that it has been advocated in certain other quarters that those States, by virtue of their insurrection, have ceased

to exist as States, are no longer States of the Union; that they are not only out of the Union, but have ceased to be States at all. I do not understand precisely whether the Senator believes in that or not. He perhaps raises a distinction between States *de facto* and States *de jure*. Perhaps he admits that *de jure* they are States in the Union, but *de facto* they are States out of the Union. But I do not wish to go into an argument with him as to his views on that subject. I simply wish not to misunderstand him.

Now, I understand the Senator from Michigan to say that he regards them as States *de facto* out of the Union, and as States hostile to the United States, as public enemies. There is another provision of our Constitution that ought not to be forgotten; and that is, that when we elect a President and Vice President they must both be residents of some State of the Union. We have elected Mr. Lincoln from Illinois. Undoubtedly that is a State in the Union. We have also elected Andrew Johnson from the State of Tennessee as Vice President of the United States. Is he a public enemy? Does he live in a State of this Union, or does he live in some subjugated territory?

Sir, whatever fine-spun theories gentlemen may give loose to in their imaginations, I tell you that the doctrine that any one of these States is out of the Union is the very doctrine which we have been fighting against from the beginning. The very ground on which we stand is, that they are not out of the Union, that they have no power to go out of the Union; and it is to maintain that doctrine that we have poured out our treasure and our blood like water upon every battle-field. In my opinion the doctrine—I do not say that the Senator contends for it, for I do not precisely understand his position—but the doctrine that says these States are no longer States of the United States is one huge, infernal, constitutional lie, that would stamp all our conduct from the beginning as murder and cover us all over with blood. When it comes to be discussed, it is the most abhorrent doctrine that can be presented to the American people. And I tell you that whatever fine-spun theories politicians may adopt here at Washington or elsewhere, when the convention came to meet at Baltimore freshly representing the people of the United States, they trampled the miserable humbug under their feet by nominating Andrew Johnson, of Tennessee, as Vice President of the United States—Tennessee still a State of the United States, although its people have been driven into insurrection and rebellion.

Mr. SUMNER. Will my friend allow me to interrupt him right there?

Mr. DOOLITTLE. I am nearly through.

Mr. SUMNER. I understood the Senator a few moments ago to say that the Constitution required that the President and Vice President should come from two different States.

Mr. DOOLITTLE. Not be residents of the same State.

Mr. SUMNER. I think the Senator has not quoted it correctly. I have it before me. It is as follows:

"The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves."

All that is required is that the candidate shall be a citizen of the United States; and I presume nobody ever questioned that Andrew Johnson was a great and loyal citizen of the United States.

Mr. DOOLITTLE. The Constitution also provides that—

"No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President."

And there is another provision in the Constitution requiring their residence in the States of the Union.

Mr. President, I insist that on this incidental question as to how the joint convention of the two Houses shall be conducted, which has been conducted heretofore during eighteen different sessions with no difficulty whatever, except in the single case of 1857, when some indecorous conduct under the lead of James M. Mason, of Virginia, occurred, there is no necessity that we should enter upon the discussion and the agitation of the questions which have been debated here and urged as the foundation for the adoption of this resolution. There is no necessity for the

friends of this Administration, in the midst of this gigantic war still pending, to keep up one continued attempt to attack its own Administration, and to destroy its influence and its power with the people of the country. There is no necessity to make this onslaught upon the free constitution of Louisiana—a free constitution which gives liberty to ninety thousand slaves that the emancipation proclamation did not reach. I undertake to say that it is unnecessary, unfounded, and unjust. I do not say that all the Senators who support this resolution maintain the doctrines contended for by the Senator from Ohio, or the Senator from Kentucky. I understand the Senator from Illinois, who introduces the resolution, to express the wish to avoid the question of the validity of the constitution of Louisiana. In what I have said I do not refer by any means to all Senators here, but I have directed my attention more particularly to the objections taken by the Senator from Kentucky, and the Senator from Ohio, where the two extremes are meeting in one common purpose to attack the Administration and to crucify the free State of Louisiana.

Mr. SHERMAN. Mr. President, I shall detain the Senate but a few moments, and only to state my own position on this question.

I regret that debate has occurred as to the existence of the State of Louisiana. I have no doubt that Louisiana is just as much a State in the Union as the State of Ohio. I do not agree with the sentiment of other gentlemen who think that Louisiana by its attempted secession has gone out of the Union, or is out of the pale of the law of the United States; but that is not the question now before the Senate.

The question is, what votes shall be counted at the meeting of the joint convention next Wednesday? What rules shall govern the convention when it meets? Shall the whole thing be postponed until the two Houses get together without any rules or organization, so that confusion will probably occur the very moment the question arises? Upon that question I have very clear convictions, and my convictions upon that point will control my vote.

I alluded incidentally yesterday to the scene that occurred in the joint convention eight years ago. If we do not determine this question now, we know that any member of either House may present it to us in the joint convention. We know that the Senator from Wisconsin, or any other Senator who believes that the vote of Louisiana ought to be counted, may demand that that vote shall be counted. Suppose the Vice President should decide that Louisiana, having been declared in a state of insurrection, cannot vote in the Electoral College: what then? Is his decision final? Is it so that under our system the Vice President may throw out the vote of any one or more States, and his decision be final? Is there no appeal? If there is an appeal, how can it be taken? Suppose the Vice President should reject the vote of the State of Ohio, and I, a representative from that State, should demand that his decision should be reversed: how can it be done? How can any question be taken there?

These difficulties must be met beforehand; and to say that we cannot by law prescribe the mode and manner in which these questions shall be decided before the meeting of the joint convention, is to declare the framers of the Constitution fools. So it seems to me; because if the Vice President should decide in the case I have named that Louisiana is not entitled to vote, the Senator from Wisconsin may demand an appeal from that decision. Who shall decide that appeal? Shall Senators and Representatives vote *per capita*? Shall they vote by concurrent resolution? If so, then the right of debate grows up. Shall Senators debate? If so, must they debate in the presence of the House of Representatives? How can they vote? All these difficult questions are to be decided.

The honorable Senator from Wisconsin says he has great confidence in the present Vice President; that he is not Mr. Mason. So have I, just as much confidence as he has; but that is not the point. The difficulties are insuperable; and any man, whatever may be his political tenets, may raise the question of difficulty in the presence of the convention, and that convention will be utterly powerless, and will be the laughing-stock of the gallery. In the case I mentioned eight years ago, when there was a totally immaterial question

raised in that convention, when the State of Wisconsin was prevented from voting by an unforeseen event, the happening of a great snow storm in the Northwest, and when objection was made to counting the vote of the State of Wisconsin, a debate sprang up, members of the House addressed themselves to "Mr. Speaker," members of the Senate addressed themselves to "Mr. President," the one gentleman recognized one person, and the other gentleman another, without any preliminary understanding as to the form of putting the question, without any preliminary understanding as to who should preside over the joint convention, without any rules for its government.

I say, these same questions of difficulty will present themselves again, and they will be presented by the counting of the vote of the State of Louisiana. Suppose in the joint convention the Vice President shall take up a piece of paper in his hand, a thing that will inevitably occur, and say, "I have here what purports to be the certificate of the State of Louisiana," suppose he should say that the State of Louisiana is in rebellion against the Government; that by the proclamation of the President it is declared to be in a state of insurrection, and that that condition of affairs has been recognized by both Houses of Congress; "I therefore will not allow the vote of Louisiana to be counted in the electoral vote." Suppose he should so decide. The Senator from Wisconsin would object at once.

Mr. DOOLITTLE. Not at all. He may decide just as he likes; it does not make a bit of difference to me. He may rule it in, or rule it out, and he shall find me making no objection.

Mr. SHERMAN. Probably my friend from Wisconsin would make no objection, but any member from the House of Representatives or any member of the Senate who is of opinion that the vote of Louisiana ought to be counted, will at once enter his protest, and say that Louisiana has a right to vote. How shall that question be decided? Shall the Vice President decide it, and shall his decision be final? I say not. There must be—

Mr. COLLAMER. Some member of the convention would object to the counting of an illegal vote, because they do not know, officially, what the other votes are.

Mr. SHERMAN. Certainly not. They cannot tell that until the votes are counted. Suppose the Vice President were to take it into his head to reject the vote of the State of New York; and in a possible case he might reject enough votes to elect General McClellan, a scarcely possible event. We are now prescribing rules and making precedents for history. We cannot expect to travel through many presidential elections in the history of our country with so unanimous a result as at the last, and we are now making a precedent—

Mr. FARWELL. If the Senator will allow me—

Mr. SHERMAN. I would prefer to go on and finish what I have to say.

Mr. FARWELL. I was going to ask a single question. Suppose the Vice President does undertake to reject the vote of New York will this resolution settle it, or has that got to be settled in the joint convention?

Mr. SHERMAN. I do not suppose this resolution will settle all the questions that may arise. Suppose, on the other hand, the Vice President should believe that Louisiana is a State in the Union, and should decide in favor of the view of the honorable Senator from Wisconsin, my colleague would object. I know he would.

Mr. WADE. Mighty quick.

Mr. SHERMAN. I know the Senator from Massachusetts [Mr. SUMNER] would say that Louisiana is not in the Union, and therefore the vote must not be counted. If they would not, there are members in the House that would; and how is the question to be decided? Then the joint convention assembled under the Constitution to do the highest act of perpetuating the Government of the United States may find itself in a wrangle; and it is in just such scenes as these that revolutions are born. It was in such scenes as these that Poland witnessed all the struggles which finally led to the destruction of her nationality. In my judgment, therefore, every question that will affect the organization of the joint convention ought to be settled beforehand by

some decisive vote; and therefore it is that I am in favor of having this matter decided now.

But I have said that I believed Louisiana was a State in the Union. I have no doubt of it. My views upon that point concur with those of the honorable Senator from Wisconsin; but the question is not whether Louisiana is a State in the Union, but whether Louisiana can now vote in the Electoral College. What is the record? By the proclamation of the President, Louisiana is declared to be in a state of insurrection; by the votes of both Houses of Congress that condition is recognized; all the loyal, legal authority of Louisiana is overthrown, and we have now a provisional governor; we have had military governors in the State of Louisiana, and have now. That is the case presented to us by the record.

But the honorable Senator says that there have been movements made in Louisiana to reorganize the State of Louisiana; that there is a local government now there representing the loyal people of Louisiana. Suppose I admit that fact. Can I tell from the reading of the papers he has read here to-day that that is so? What tribunal has decided that question? He says the President; but I cannot agree with him that the President must decide that question. By the Constitution, each House must decide upon the qualifications of its own members; and I say that no vote can be cast for Louisiana in the Electoral College until she can vote in Congress; and she cannot vote in Congress until the Senate and House of Representatives concur in her voting here. The idea that Louisiana shall vote in the Electoral College and make a President for us when no man can speak for her here, and no man can speak for her in the House of Representatives, is, in my judgment, an absurdity. The very moment that the loyal people of Louisiana shall form a government which is recognized by both branches of Congress and by the President, that moment she will have a right to vote in the Electoral College; and the idea that she should attempt to vote before her condition is fixed by Congress, it seems to me, is wrong.

I do not wish to criticize the action of our friends in Louisiana. I recognize the loyal people who have formed this new movement in Louisiana as loyal and true men. I recognize Louisiana as a State in the Union; but until their action, whatever it is, is approved and sanctioned by Congress with deliberation and premeditation, she ought not to appear here to claim her vote in the Electoral College. That is my judgment; and in saying this I do not assail the President. I think my friend from Wisconsin stated the point too strongly when he said that in voting for this joint resolution we sought to cast censure upon the President.

Mr. DOOLITTLE. That is not what I said or intended to say. I said that the Senator from Ohio [Mr. WADE] in the doctrines he advanced, and the Senator from Kentucky [Mr. POWELL] by responding to him, may join hands together to attack the Administration. I did not say that the resolution was intended for that at all. I was dealing with the doctrines of the Senator's colleague.

Mr. SHERMAN. Then I misunderstood the Senator. I have no doubt that the President of the United States may recognize the local tribunals there, and may seek to blend the loyal people of Louisiana into the form of a State government, and I will aid him in doing it; but I must be satisfied that such portion of the people of Louisiana are in a condition to conduct a free government, to found and reorganize or reestablish the State government overthrown by the insurrection. The very moment that is done, I am willing to give their Senators their seats upon this floor; I am willing to give their members seats in the House of Representatives; but until then, their condition is fixed by the proclamation of the President, sanctioned by Congress; and that is, that Louisiana is in a state of insurrection, and until that insurrection is so far overcome as to enable a portion of her people to establish a form of government and the right of suffrage may be protected, she has not a right to representation here, nor to a vote in the Electoral College.

Nor will I now pass judgment upon the question whether her Senators are entitled to seats here. I will hear what they have to say. That question has not yet come up before us. If I am

satisfied of some of the facts stated by the honorable Senator from Wisconsin, that a majority of the people of Louisiana have taken part in this organization, that they have had an opportunity to vote, and have voted, I will recognize the right of the loyal people of Louisiana to representation here.

I do not, therefore, commit myself upon the question of the right of these Senators to take their seats by my vote on this resolution; but I know, as the case now stands, with the record before us, that Louisiana is declared by law to be in a state of insurrection, and that we have no official decision that she has resumed her place in the Union. We have evidence read from a pamphlet; but we have no decision that she is in the Union and entitled to vote in the Electoral College. I thought, therefore, that the resolution of the House of Representatives—which, I believe, passed there without much objection—when it came here, and was reported from the Committee on the Judiciary, was a wise measure to avoid contention and strife, to avoid raising prematurely a question of great difficulty, which ought to be settled so far as the action of the convention was concerned by the deliberate vote of Congress. All the questions that may grow out of the admission of Louisiana I am prepared to decide when the case is fairly argued and discussed before us; but at present I am perfectly clear that the vote of Louisiana, no matter by whom cast, ought not to be counted in the Electoral College, and that we ought now to settle that question, so that it will not trouble the Vice President of the United States when he comes to count this vote. If this resolution is passed, the Vice President, when he comes to these papers, as he must present them to the body, will say, that by the concurrent action of Congress, or of both Houses, which must pass upon the condition of Louisiana, the State of Louisiana is in insurrection and cannot vote in the Electoral College; and that is the end of the matter. I think we ought to assume that responsibility rather than to throw it upon the Vice President.

Mr. HARRIS. I do not rise to protract this discussion. My belief is that the Senate are quite weary of it now, and that it may be brought to a close as well now as any other time. But, sir, I have embodied in a preamble and resolution the views that I have heretofore expressed in relation to this subject, which I desire to submit to the Senate. The recitals in this preamble are what is conceded to be the truth by every Senator; and although it is not in order now, yet my friend from New Jersey shall be satisfied to adopt this amendment, it will be in order if he should withdraw his proposition to strike out the State of Louisiana. I will read the proposition, which I intend to submit at the proper time:

Whereas in pursuance of an act of Congress, approved on the 13th of July, 1861, the President did, on the 15th of August, 1861, declare the inhabitants of certain States, and among others the State of Tennessee and Louisiana, to be in a state of insurrection against the United States; and whereas, with a view to encourage the inhabitants of such States to resume their allegiance to the United States and to reinaugurate loyal State governments, the President did, on the 8th of December, 1863, issue his proclamation whereby it was declared, among other things, that in case a State government should be reestablished in any of said States in the manner therein specified, such government should be recognized as the true government of the State; and whereas the loyal inhabitants of the States of Tennessee and Louisiana, invited so to do by the said last-mentioned proclamation, have in good faith established said State governments loyal to the United States, or attempted so to do; and whereas such loyal inhabitants at the recent presidential election have chosen electors for President and Vice President, who have, in pursuance of the requirements of the Constitution, cast their votes for President and Vice President; and whereas doubts exist as to the validity of such election of presidential electors in the States of Tennessee and Louisiana; and whereas it is well understood that the result of the presidential election could in no way be affected by the votes of said States, whether the same shall be counted or not: Therefore,

Be it resolved, &c., That it is inexpedient to determine the question as to the validity of the election of electors in the said States of Tennessee and Louisiana, and that in counting the votes for President and Vice President, the result should be declared as it would stand if the votes of said States were counted, and also as it would stand if the votes of said States were excluded, such result being the same in either case.

It seems to me that this covers the whole ground; it recites the whole truth in relation to it; it is what no Senator will deny; and it seems to me that for us to go on to vote for anything beyond what is contained in this proposition, is to vote for the merest abstraction in the world. It is to anticipate a ques-

tion which may possibly arise but which will probably never arise in the history of this country. I hope to have an opportunity to present this proposition, and I shall ask the vote of the Senate upon it.

Mr. POWELL. Mr. President, the Senator from Wisconsin [Mr. DOOLITTLE] seemed to think that he had made a most happy and striking comparison. He commenced his speech by comparing the Senator from Ohio and myself to Herod and Pontius Pilate, and about the center of his speech he repeated the comparison, and at the very close he announced it for the third time. Hence I come to the conclusion that he thinks it a very powerful statement. I think I understand the Senator's tactics perfectly well when he tries to amaze the Senate by the statement that extremes have met; that the honorable Senator from Ohio [Mr. WADE] and myself agree on this measure. The Senator from Wisconsin but resorts to one of the artful dodges that are sometimes resorted to by some speakers who have been not inaptly called demagogues—I do not apply that term to the honorable Senator, however—when they wish to excite the prejudices of the crowd. I do not think the honorable Senator can, by that kind of dodge, affect the vote of any Senator on either side of the Chamber. I am sure no Senator on this side of the Chamber—and when I use that term I mean the Democrats and Conservatives that are here—can be driven from what he conceives to be his duty because he has the assistance of the Senator from Ohio; and I am certain that there is no Senator on the other side whose intelligence is so low, whose mind could be so governed by his prejudices, that he will be driven from his position because some members on this side advocate a proposition of which he is in favor.

I do not know whether the honorable Senator intended to liken me to Herod or to Pilate; but he said that the two Senators, the one from Kentucky and the other from Ohio, like Herod and Pilate, desired to crucify this young free State of Louisiana. I was not aware before that Herod had much to do with the crucifixion. I knew that Pontius Pilate judged on that occasion, and his judgments have been decreed infamous. However, I shall make no defense of the Senator from Ohio; he is in the Senate, and is fully able to defend himself. But, sir, if the comparison should be applied to anybody, the Senator from Wisconsin ought to apply it to the Executive and to General Banks. It is they, if anybody—and I will not charge that they desire to crucify the free State of Louisiana.

Herod and Pontius Pilate were wicked and cruel aggressors upon the civil and divine rights of the people. I, sir, resist the aggressions of usurping officials; the Senator is their advocate. Had I lived in Judea in the day of Herod, I would have denounced the cruel and bloody decrees of that wicked king as I do here arraign the President for his usurpations, his violations of the Constitution, and his assaults upon the civil liberties of the people. I would have denounced in the harshest language the infamous judgments of Pontius Pilate, the governor, as I do the unlawful, wicked, and unconstitutional military orders of General Banks. Judging from the Senator's course here, had he lived in the day of Herod and Pontius Pilate, they would have found in him an able and zealous advocate.

Perhaps my views of a free State are a little more expansive than those of the honorable Senator from Wisconsin. I regard a State free that is governed by the laws made by the sovereign people of that State without the dictation of presidents or major generals. I regard that State as a free State which is governed by law, knowing that there is no freedom save in the supremacy of the law. The honorable Senator from Wisconsin in his contracted view seems to suppose a State is free, provided no African is held in slavery. May not white men in Louisiana be kept in chains as well as black men? I confess I have more sympathy for the white than I have for the black race. Not so with the honorable Senator. He is willing that the decrees of the Executive and the orders of General Banks shall go forth to alter the constitution of the people of Louisiana, and prescribe the qualifications of their electors and of candidates for office, and to hold the white men of Louisiana in slavish submission to those decrees; and he calls a State so formed and so conducted a free State, merely because its consti-

tution indicates that involuntary servitude shall not exist there. Away, sir, with such a free State! It is the veriest slavery, slavery of your own race, slavery of your own kin, slavery of your own kin. It is a striking down of every principle of republican liberty for the purpose of elevating a few miserable Africans.

The Senator from Ohio and myself are in accord on this matter. He desires to vindicate the right of the people of Louisiana, in the exercise of their own sovereign power, to decree their own form of government, unbiased, uninfluenced by outside dictation; whether from the Executive Mansion or from the headquarters of a major general. The Senator from Wisconsin takes the very converse of that position. He is amazed that the Senator from Ohio should advocate these propositions, but he is not at all astonished at the course of the Senator from Kentucky, because the Senator from Ohio is for freedom, and the Senator from Kentucky is opposed to emancipation. I do not know what right he has to say that I am opposed to emancipation by those who have the power to decree emancipation. I am not opposed to the people of the State of Louisiana or Georgia or any other State of this Union declaring, if in their sovereign capacity they choose in a legal and formal manner to decree, that they will have no slavery existing there. Nor should I be opposed to the people of the State of Wisconsin, if they choose so to decree in the exercise of their sovereign power, declaring that slavery should exist there. These are matters that are left by our fundamental law to the people of each State; and, when they exercise the power in the manner prescribed by their constitution and laws, it is a matter of their own concernment, and will receive no opposition from me.

If, however, the Senator means that I am opposed to the amendment of the Constitution of the United States on that subject, he is right. I was opposed to that amendment of the Constitution when it was pending in this body. I spoke against it and I voted against it; and I think the day will come when the Senator himself will regret that faithless act. What is that act? It decrees that millions upon millions of property held under the constitutions and laws of the States by virtue of the Constitution of the United States shall be taken from the owners without compensation. I regard that as nothing else than bad faith and legislative robbery. The Senator may regard it as he pleases. Regarding it as I do, I am opposed to it. I hold that by that amendment you overturn the whole system of our Federal Government, because if there is one characteristic feature of this form of government it is that the States are at liberty to form and regulate their domestic institutions in their own way, and you have as much right to amend the Constitution so as to regulate the condition of master and slave as you have to amend it in regard to the regulation of the relation of husband and wife, guardian and ward, parent and child, and no more. If you have a right to pass that constitutional amendment, you have a right to decree that this shall be an empire or a kingly form of government. It is destructive of the system, in my judgment. I think it is in bad faith. I think it overthrows and disregards vested property rights. I fear that the day will come when, in view of our vast and accumulating debt, some demagogues will desire to repudiate it. I never expect to be of that number, but when that is done, and you rich men of the North shall talk about property rights and the faith of the Government pledged to pay its debt, they can be told that by legislative enactment, by constitutional amendment this vast amount of property was destroyed in the slave States without compensation to the owners, and their mouths will be stopped.

But, Mr. President, enough of such matters. I will say to the Senator, that if the people of any State in the Union choose to abrogate slavery in their own way, it is their matter, not mine. I have a right to speak on that subject in no State of this Union but one, and that is the Commonwealth of Kentucky, and there I have been opposed to emancipation.

But, sir, the Senator tells us that General Banks's statements are all true, and that the statement of the Senator from Ohio and myself, that there was military interference with the election, has no foundation in truth. Let us bring the hon-

orable Senator to the facts on that point, and see who is in error. Who has the right to prescribe the qualifications of voters in a State of this Union? There is not a Senator in this Chamber who will not answer, the people of that State. That is the very foundation of your republican representative form of government. What power has the President, what power has Major General Banks, to prescribe the qualifications of a voter in Louisiana? Tell me not, sir, that there has been no military interference with the elections in that State, when the Executive and the military commander of that department have prescribed the qualifications of voters. Make me a major general, and clothe me with the power to prescribe the qualification of voters, and if I had a hundred followers in the State of New York, I could carry that Empire State by prescribing such qualifications as would exclude all but those on my side. The Senator sees that; he knows it; he cannot deny it, and yet he says there was no military interference. I was astonished that a Senator, usually so candid and fair in his statements to the Senate, should allow his judgment to be so warped by his zeal as to maintain for a moment that there had been no military interference with the elections in Louisiana.

Mr. DOOLITTLE. With the Senator's permission, I will say that I stated precisely wherein and to what extent I understood the order of General Banks to have affected the elective franchise, by directing, what the constitution of Louisiana did not direct, that the soldiers who were citizens of Louisiana enlisted in the Army might be permitted to vote; and that of the whole number of those citizens in the Army there were only eight hundred and eight who voted, while the total number of votes cast was eleven thousand four hundred and fourteen.

Mr. POWELL. So far as the principle is concerned it does not matter if there was but one; it was an infamous usurpation; and I speak of it as infamous because it violates the Constitution of the country.

Mr. DOOLITTLE. I have no objection to the Senator drawing his own inferences; but he seems to express the idea that I had maintained that there was nothing done under the military authority. I stated expressly, as I mean always to state, the facts as I understood them.

Mr. POWELL. Here is the constitutional provision on the subject of the qualification of electors: "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." That is the only clause of the Constitution on the subject. Was that constitutional test applied to the electors in Louisiana? It certainly was not in more instances than that admitted by the honorable Senator.

In the statement of General Banks, which I hold in my hand, he admits that he altered the constitution of Louisiana concerning the qualifications of voters so far as to permit soldiers and sailors in the public service to vote. What right had Nathaniel P. Banks, major general of the United States Army, to lay his hand upon the constitution of the State of Louisiana? When he did it he committed a usurpation and violated the law, and so far from being lauded he should be censured in the harshest possible terms.

But that is not all. General Banks says, in this paper, that everybody who was registered and voted in Louisiana took the oath prescribed in the President's amnesty proclamation of December 8, 1863. Now, let us see what was the oath contained in that amnesty proclamation:

"I, ———, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court. So help me God."

After having prescribed the oath, that proclamation goes on to declare:

"And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas,



Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall re-establish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that "the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence."

The President in his proclamation says that if one tenth of the voters shall take the amnesty oath, they may form a State government, and those taking the oath shall be qualified voters, and that they alone shall be voters who were qualified voters under the constitution and laws of Louisiana as they existed before the rebellion. General Banks in his order has violated the proclamation of the President. The President's proclamation says that the government may be formed by persons "each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others."

Does General Banks exclude all others? Does he not allow soldiers and sailors to vote? He does. He extends and adds to the President's proclamation prescribing the oath; he enlarges it. All the President requires is that this oath be taken; and that makes a man a qualified voter, provided he was otherwise a qualified voter under the laws of Louisiana. I admit that the requisition of this oath was usurpation; but General Banks enlarges even upon that. The President says that this oath shall be sufficient; but General Banks goes further and says that the soldiers and sailors may vote. Under the President's proclamation they could not vote, being prohibited by the constitution of Louisiana, but General Banks allowed them to vote.

Is it compatible with the Senator's notions of a free State that one tenth of the qualified voters, provided they take a humiliating oath which would degrade them in many respects, shall legislate for the nine tenths? The one tenth fixed by the President is one tenth of the qualified voters, as they were by the State constitution and laws before the rebellion; that is, one tenth of the white people over twenty-one years of age entitled to vote under the constitution of the State, excluding Sambo. The population of the State of Louisiana is about equally divided between whites and blacks, and the Senator advocates the proposition that one tenth of the voters of the white race, and a bare majority of that one tenth, shall form a government for all the other people of the State; and because the Senator from Ohio and myself choose to resist that most anti-republican feature, to resist this tyrannical encroachment on the rights of the people, we are to be likened to Herod and Pontius Pilate crucifying a free State. Was there ever such a monstrous utterance?

I suppose that if the Senator from Ohio and I were to oppose the admission or recognition of a State formed by one twentieth of the legal voters the Senator from Wisconsin would think we were trying to crucify a free State. Why, sir, if there ever were sentiments uttered that crucified free States and free republican governments, they are to be found in the speech of the Senator from Wisconsin in defense of the usurpations of the President and of General Banks. These are the sentiments of crucifixion complete; there is nothing left for the Senator from Ohio and myself to crucify. The Senator from Wisconsin has crucified and utterly destroyed the great principles that underlie civil liberty; he has killed every principle of civil liberty; he has become the advocate of the tyrannies and usurpations of the Executive and Major General Banks. He supports the act of the President in prescribing the qualifications of voters in the States, and declaring that if one tenth of them take the oath he prescribes they shall have power to establish a government to rule over the nine tenths. The Senator is the advocate of those who commit these usurpations, and he denounces those who oppose them as Pilates and Herods.

In my judgment the decree of Pontius Pilate was a great wrong, that of Herod was cruel. The latter was that all the children of Bethlehem under two years of age should be destroyed; but infamous as the decree of Herod was, it is not half so infamous as the principles advocated by the Senator from Wisconsin, for that affected but individuals; it took the lives of tender infants, who, if they died, under his Christian code the Senator would believe went directly to heaven; but the Senator crucifies free States, and puts under his iron heel every principle that underlies a free Commonwealth; and after murdering those principles he denounces those of us who in our humble way resist, as Pilates and Herods. He, in my judgment—I say it with great deference—has out-Heroded Herod. If anybody should be called Herod or Pontius Pilate, I think it is those who govern affairs as they are governed in Louisiana. The Senator tells us that one half of the whole population of Louisiana at the time the war began, whites and blacks, have gone under the sod—are dead. The population of the State of Louisiana in 1860 was about seven hundred thousand souls. Under the policy of these rulers you have killed about four hundred thousand of those people. One half of all the negroes there, the Senator says, are dead. Instead of attending to Sambo, such has been your policy that you have put about two hundred thousand of the sable people of that State under the sod. The decree of Herod was not half so cruel as that, because it only took the children under two years of age; and here you take not only them, but you take blooming virgins and the young men in stalwart youth, and the aged, decrepit, and infirm, and you sweep them all away with one remorseless blow.

Now, sir, I think I have disposed of King Herod, and I come to look at the Pontius Pilate part of the proceeding. I do not know whether the Senator from Wisconsin intended to liken me to Herod or to Pilate. I told the Senator from Ohio that he might take either; if he thought he was likened to Pilate, he might defend Pilate, and if he thought I was likened to Herod, I would stand on that. He stated he did not care a toss of the copper which. [Laughter.] How is it that the Senator from Ohio and myself have been likened to Pontius Pilate sitting in judgment upon this matter? We have not judged at all; we are now in the council chamber; but I will tell the Senator who did sit in judgment upon that free State. It was the President and Major General Banks. It was they who violated the fundamental principle of constitutional and civil liberty. It was they who put the knife to the throat of that free State. When I speak of a free State here I speak of the initiatory measure to form a government for the State to come back into the Union, although I believe she never was out.

The first bulletin that was issued from the executive chamber on the subject, declared that if one tenth of the qualified voters would take the prescribed oath which I have recited, they might form a State government. What was that oath? Not alone that they should be true and faithful to the Constitution and laws of the Union, but that they would support all the laws and resolves passed by Congress, and all the proclamations that had been issued by the President on the subject of slavery since the beginning of the rebellion, and not only that, but that they would support all proclamations on that subject which the President might hereafter issue. I ask the Senator from Wisconsin, would he so lower his manhood, would he so far debase himself as to go and crouch at the footstool of executive power and take that oath before being admitted to the rights of a free-born citizen? Would he take the oath to support proclamations which might afterward be issued? That would be swearing in the dark, as they say out West, and no honest man would do it; yet that was the requirement of the President. That was the first ukase which was issued to murder the great principles of civil and republican liberty in Louisiana. That was received there, and then General Banks issued his ukase and he set aside a clause of the constitution of Louisiana which the President in his proclamation allowed to stand and be in full force concerning voters, and that was, that soldiers and sailors in the service should vote, when it was declared in the constitution of Louisiana that they should not vote. Banks found that the President had not carried the thing far

enough, and he, too, must not only carry out the unconstitutional edicts of the White House, but he must make an unconstitutional edict of his own, which he did, by proclaiming that soldiers and sailors, who were not qualified voters by the constitution of Louisiana, should be qualified voters.

That is the attitude in which General Banks and the President stand, and the Senator from Wisconsin is their advocate. He denounces the Senator from Ohio and myself because we resist this usurpation. I am willing for myself to receive the fulminations of the Senator from now until doomsday. While I am so intrenched in the right I fear not the assaults of the Senator, no matter how strong his armor, how keen his cimeter, for the blows will fall harmless at my feet; the truth will be my protection; the advocacy of just and correct principles my shield.

But, sir, General Banks did more. I did not intend to criticize that learned statesman and, as I have no doubt the honorable Senator from Wisconsin would say, able general. He issued a proclamation concerning this subject. I regret that I have not that proclamation here; but I have an extract from it, which I will read to the Senate:

"Opinion is free, and candidates are numerous. Open hostilities cannot be permitted. Indifference will be treated as a crime, and faction as treason."

That is the proclamation of this most worthy Solon, General Banks—indifference will be treated as a crime and punished with an iron hand. If a man, after submitting himself to these humiliating conditions and having taken this oath, refuses to vote, General Banks says he will treat that as a crime. Was there ever a more atrocious sentiment uttered in a free Government? The reason why General Banks put that clause in his proclamation is obvious. He knew that not even one tenth of the voters of Louisiana, if left unbiased, would come up to vote at his election the way he wished them to vote; and hence he said, All that have taken the oath and are thus qualified shall vote, and if you do not vote, your indifference will be treated as a crime. A more atrocious sentiment was never uttered, and yet the Senator from Wisconsin says that is a free election where the major general commanding says who shall be entitled to suffrage, and further says that all entitled to suffrage who do not vote shall be treated as criminals and punished. He put the iron heel on them.

Is that what the Senator calls freedom of election? There was not a scintilla of freedom in the whole matter; and when General Banks announces, in the statement which has been read, that there was less interference by Government authority in that election than perhaps in the election in any State in the Union, he never made a more erroneous statement. He must have known that it was not true. Suppose that the major general in command of the military forces in the Senator's State should undertake to prescribe the qualifications of voters in Wisconsin, and the qualifications so established by him were different from those prescribed by the constitution and laws of the State, and, in addition to that, he should issue a decree that those who did not vote, that all who exhibited indifference, should be treated as criminals and punished with an iron hand, would the Senator think there was much freedom of election there?

General Banks thought he would make a great reputation by bringing back Louisiana into the Union, and giving his friend, the Senator from Wisconsin, a chance to make assaults on others for their attempts to crucify the young, free State of Louisiana. The general had made several efforts, in a military point of view, without winning many laurels. I believe that if General Banks had devoted himself as assiduously to his military duties, and to fighting armed rebels, as he did to controlling elections, and issuing ukases on that subject, he would not have met with the disaster which he encountered on Red river. I hope I am mistaken in this opinion; but I think that if he had had more love for the glory of great achievements in arms, and less for political trickery, and less hankering after cotton, he would not have been so disastrously and disgracefully defeated as he was on the Red river. His vocation, it seems, was twofold. Being a politician of some success, he thought he could run the political machine best; and he did run it, and he ran it with

a vengeance. He ran it over, and destroyed every principle of republican liberty.

Let me tell the Senator that we are not to be driven from our advocacy of the right by being likened to Pontius Pilate or to Herod. We will do what we believe is right. We will meet him in the argument on every point. Let him prove to the Senate that the President or General Banks had any power under the Constitution, under our system of government, to prescribe the qualifications of voters and of candidates for office in the States. Unless he can do that they must stand confessed, in his own judgment, as usurpers. I use the word usurpers to indicate those who administer the functions of their offices in violation of law. It was a maxim of the Athenians, the wisest of the ancient commonwealths, that all who administered the functions of their office in violation of law were usurpers. It is in that sense that I use the term. However good their intentions may have been, I say that in their exercise of power in Louisiana they overthrew the Constitution and laws of their country which they had sworn to support; and hence, in my judgment, they are technically usurpers.

While we are not to be driven from our position, I think nobody is going to be dismayed or deterred from doing their duty by the Senator announcing here that extremes have met. I would to God that we could have more frequent meetings of the extremes. The Senator from Ohio and myself are regarded as on the extreme verge of opposite opinions here. I am willing, whenever the Senator from Ohio draws his sword and makes a charge on those who are overthrowing the dearest rights of the people, and destroying the constitutional liberty of the citizen, to fight under his banner; and, sir, he is a sturdy old leader.

I was gratified when the Senator from Ohio made his manly speech on this subject. I am willing to fight under his banner, and I will follow him to the fight when the Senator from Wisconsin and the Executive and major generals make crusades against the civil liberties of the people. I differ from the Senator from Ohio upon many subjects; but there is a blunt honesty and manhood and candor about him which I admire. He is unlike the Senator from Wisconsin in one thing. While his philanthropy and his love of freedom are most expansive, I believe more so than my own, for I do not think the negroes are going to be near as well off free as they are in slavery, while he wants them free, and goes even as far as the Senator from Wisconsin on that point, he has a just appreciation of the constitutional and civil liberties of the white man. He is willing to fight for the liberties of the white man. Just at that point, however, the Senator from Wisconsin falls off, and goes off with a sickly sentimentality for the woolly-headed negro, and cares nothing for "the poor white trash" of Louisiana. The Senator from Ohio stands manfully in the breach when their rights are assailed. When he defends the poor downtrodden white man of Louisiana, he defends the people of the whole land. It is their common defense against those who assail the great principles of constitutional and civil liberty. We will stand to our guns on that point, notwithstanding the denunciations of the Senator from Wisconsin, and we will fight the battle out and will not surrender. As I have enlisted under the Senator from Ohio in this fight, I am not for yielding, and I do not think he is for yielding, and we both, I believe, are animated by honest convictions to defend the white people of the country against those who seek to overthrow their constitutional and civil liberties, and I believe we will do battle to the very end; and I trust and hope we may conquer and overthrow all the enemies of constitutional and civil liberty. So long as the Senator from Ohio is engaged defending the constitutional and civil liberties of the white man, he will find me a faithful ally.

Mr. TRUMBULL. Mr. President, I am not going to prolong this debate by attempting a reply to the position assumed by the Senator from Wisconsin in his excited remarks this morning. We have had everything brought into the debate. The Administration has been defeated when nobody has assailed it. Pontius Pilate and Herod have been assailed and defended. We have had a general discussion about reconstruction, and an

excited debate upon a question which it seems to me should have called for no excitement; and all I have to say to the Senate now is to appeal to its members that, however much they may be disposed to crucify over again Pilate or Herod or the free State of Louisiana, they will not crucify us here by bringing in all these extraneous circumstances and prolonging this debate. I think every Senator understands the question. All we wish to settle is to determine whether, on Wednesday next, when the canvass of the votes for President and Vice President takes place, the votes from the States unrepresented in Congress, in a condition of rebellion against the Government, into which goods are not permitted to go, with whom we have no friendly intercourse, shall be counted as votes cast for President and Vice President of the United States. We neither determine that those States are in the Union or out of the Union.

That is the question; and I appeal to Senators to let us vote upon it. Business is pressing; the chairman of the Committee on Finance is urgent with his bills. I think every Senator understands this question. Although I have no doubt every Senator could reply to all that has been said inconsistent with the views he himself entertains, if all will forego the making of those replies, we may have the vote, and settle the question. I trust that course will be adopted.

The VICE PRESIDENT. The question is on the amendment of the Senator from New Jersey, to strike out "Louisiana" from the preamble.

Mr. TEN EYCK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I beg leave to say that my colleague [Mr. Hicks] is confined to his room by sickness, and has been for the last two or three days.

The question being taken by yeas and nays, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Cowan, Dixon, Doolittle, Farwell, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Ramsey, Ten Eyck, Van Winkle, and Wiley—15.

NAYS—Messrs. Brown, Buckalew, Clark, Collamer, Conness, Davis, Foster, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Powell, Saulsbury, Sherman, Sprague, Sumner, Trumbull, Wade, Wilkinson, and Wright—22.

ABSENT—Messrs. Anthony, Carlile, Chandler, Foot, Grimes, Hale, Harding, Hicks, McDougall, Nye, Richardson, Riddle, Stewart, and Wilson—14.

So the amendment was rejected.

Mr. LANE, of Kansas. Is it in order to move to strike out the preamble?

The VICE PRESIDENT. It is.

Mr. LANE, of Kansas. I make that motion, and I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. TRUMBULL. The Senator from Kansas will observe that if the preamble is stricken out the resolution will be unmeaning, and we shall then have to put into the resolution the names of the States. To strike out the preamble and do no more would leave the resolution unmeaning.

Mr. LANE, of Kansas. I should like to have the preamble and resolution read.

Mr. POMEROY. If the Senator from Illinois will modify the preamble by using the words "in such a condition," instead of "in a state of rebellion," the preamble will not be objectionable to me.

Mr. TRUMBULL. I have no objection to that if the Senator makes the motion; but I have no authority to make the modification.

Mr. POMEROY. As it is in order to modify the preamble before the question is taken on striking it out, I move to amend it by substituting the words "such a condition" instead of "state of rebellion."

Mr. TRUMBULL. That is in the part of the preamble which was amended on the report of the Judiciary Committee.

Mr. SUMNER. As I understand it, the amendment of the Senator from Kansas is not now in order; he proposes to amend words which have been voted into the preamble on the motion of the Committee on the Judiciary.

The VICE PRESIDENT. If that be the case the amendment is not in order.

Mr. SUMNER. The Senator may make his motion at another stage.

Mr. LANE, of Kansas. I asked the Chair if my motion was not in order, and he announced that it was.

The VICE PRESIDENT. The motion of the Senator was to strike out the preamble to the resolution, upon which the Senate had not voted; but an amendment to alter words which the Senate have already inserted is not in order.

Mr. LANE, of Kansas. I suppose I can make my motion at a future time.

The VICE PRESIDENT. The Senator's motion is in order. It is the amendment of his colleague which is out of order.

Mr. TRUMBULL. Is it in order to strike out a preamble which, if stricken out, will leave an unmeaning resolution? By looking at the resolution you will find that it refers to the preamble, and if you strike out the preamble the resolution will have no meaning.

The VICE PRESIDENT. The motion to strike out is clearly in order.

Mr. TRUMBULL. I have no objection to the preamble being stricken out, but I will not vote to strike out the preamble, if it is to leave an unmeaning resolution. If the Senator from Kansas prefers that the preamble be stricken out and will at the same time propose to alter the resolution so that it will read, "that the States of Virginia, North Carolina," &c., instead of the words "the States mentioned in the preamble," I shall have no objection to his motion; but I cannot consent to strike out the preamble and leave an unmeaning resolution. I presume he himself would not desire that.

Mr. LANE, of Kansas. "Sufficient unto the day is the evil thereof." I propose, if the preamble be stricken out, to offer then to amend the resolution to meet my own views on the subject.

Mr. TRUMBULL. I hope then it will not be stricken out.

Mr. SUMNER. I will simply observe that the motion of the Senator from Kansas, if it prevailed, would make nonsense of the resolution. I think, therefore, we had better vote against it.

Mr. LANE, of Kansas. Will not the resolution be in the hands of the Senate for amendment, if the preamble be stricken out? My object is to have the resolution amended to suit my own views.

The question being taken on the motion of Mr. LANE of Kansas, by yeas and nays, resulted—yeas 12, nays 30; as follows:

YEAS—Messrs. Cowan, Doolittle, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Ten Eyck, Van Winkle, and Wiley—12.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Conness, Davis, Dixon, Farwell, Foster, Grimes, Hale, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Nye, Powell, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Wilkinson, Wilson, and Wright—30.

ABSENT—Messrs. Anthony, Carlile, Collamer, Foot, Harding, Hicks, McDougall, Richardson, and Riddle—9.

So the Senate refused to strike out the preamble.

Mr. COLLAMER. I now offer my amendment to strike out the preamble and the whole of the resolution except the resolving clause, and to insert:

That the people of no State, the inhabitants whereof have been declared in a state of insurrection by virtue of the fifth section of the act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, shall be regarded as empowered to elect electors of President and Vice President of the United States until said condition of insurrection shall cease, and be so declared by virtue of the law of the United States; nor shall any vote cast by any such electors elected by the votes of the inhabitants of any such State, or the Legislature thereof, be received or counted.

Mr. HARRIS. I propose to amend that amendment by substituting what I sent to the Chair.

Mr. COLLAMER. Before the amendment of the Senator from New York is read, I desire to modify my amendment, at the suggestion of the Senator from Ohio, [Mr. SHERMAN,] by inserting the words "or until they shall be represented in both Houses of Congress," after the clause relative to the condition of insurrection having ceased and been so declared by virtue of a law of the United States.

The VICE PRESIDENT. The Senator's amendment will be so modified. The question now is on amending the amendment of the Senator from Vermont, by striking it all out and inserting the substitute proposed by the Senator from New York, which will be read.

The words proposed to be inserted by Mr. HARRIS were read, as follows:

Whereas in pursuance of an act of Congress approved on the 13th day of July, 1861, the President did, on the 16th day of August, 1861, declare the inhabitants of certain States, and among others the States of Tennessee and Louisiana, to be in a state of insurrection against the United States; and whereas, with a view to encourage the inhabitants of such States to resume their allegiance to the United States and to reinaugurate loyal State governments, the President, on the 8th day of December, 1863, issued his proclamation, whereby it was declared, among other things, that in case a State government should be reestablished in any of said States, in a manner therein specified, such government should be recognized as the true government of the State; and whereas the loyal inhabitants of the States of Tennessee and Louisiana, invited so to do by the said last-mentioned proclamation, have in good faith established State governments loyal to the United States, or attempted so to do; and whereas such loyal inhabitants at the recent presidential election have chosen electors of President and Vice President, who have, in pursuance of the requirement of the Constitution, cast their votes for the President and Vice President; and whereas doubts exist as to the validity of such election of presidential electors in the said States of Tennessee and Louisiana; and whereas it is well understood that the result of the presidential election could in no way be affected by the votes of the said States, whether the same be counted or not: Therefore,

*Be it resolved, &c.,* That it is inexpedient to determine the question as to the validity of the election of electors in the said States of Tennessee and Louisiana; and that in counting the votes for President and Vice President the result be declared as it would stand if the votes of the said States were counted, and also as it would stand if the votes of the said States were excluded, such result being the same in either case.

Mr. WILSON. There is a statement of fact in that proposition which I think is not a fact, and that is, that the State of Tennessee has established a loyal State government. There has been no State government established there, though I am told one will go into operation on the 4th of March.

Mr. TRUMBULL. We all understand the question. Let her vote.

Mr. HARRIS. I ask for the yeas and nays on my amendment to the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 31; as follows:

YEAS—Messrs. Cowan, Donnell, Farwell, Harris, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Ten Eyck, Van Winkle, and Wiley—12.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Collamer, Conness, Davis, Dixon, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Nye, Powell, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Wilkinson, Wilson, and Wright—31.

ABSENT—Messrs. Anthony, Carlile, Foot, Harding, Hicks, McDougall, Richardson, and Riddle—8.

So the amendment to the amendment was rejected.

Mr. TRUMBULL. The practical effect of the amendment offered by the Senator from Vermont is the same as that of the resolution which has passed the House of Representatives. Under the operation of the amendment the electoral votes from the States named in the House resolution will be excluded, so that practically there is no difference between them as to the effect in canvassing the votes on Wednesday next. The Senator's amendment, however, goes a little further; it has the advantage of being a general proposition, as the Senator thinks; but when you come to scan it, it has no advantage in that respect, because you have to look to the proclamation to construe the Senator's amendment to find what States are declared in insurrection, and then the States are named; they are named in the proclamation just as they are named in the preamble of the House resolution, so that you come right around to the same place. The practical effect is precisely the same. There is this difference, however, between the propositions: the Senator's proposition is not limited to the case now in hand; if the rebellion should continue four years longer and until another presidential election is held, it would be in the power of the President of the United States, by a proclamation, to declare any State in the Union to be in a state of insurrection, and to prevent its voting at a presidential election. He could issue his proclamation and declare the State of New York, or any other State, to be in a state of insurrection; and under the amendment her vote could not be counted. I do not think it well to go further than the occasion requires. That is one suggestion that I make in reference to it.

Another is this: the House of Representatives have originated and passed this resolution; and unless something is to be gained by a change of

its language it is not desirable to change it. The Committee on the Judiciary had this resolution before them, and although perhaps they would have preferred some change in it, they made none. The committee considered it carefully and recommended the Senate to adopt the resolution as it came from the House. They did propose a change in the preamble because they thought it would commit the Senate to a fact which some members of the committee desired not to be committed to. As it passed the House of Representatives, the preamble stated that these States, naming them, continued in a state of armed rebellion for three years, and were in such condition of rebellion on the 8th of November last. There was some dispute as to that among the members of the committee; and to avoid that, that portion of the preamble was recommended to be stricken out, but the resolution itself was not interfered with.

Now, sir, inasmuch as the House has sent us the resolution in this form, inasmuch as the practical effect of the amendment offered by the Senator from Vermont will be precisely the same as that of the resolution the House have sent us, I think we had better adhere to the House resolution and the report of the Committee on the Judiciary. If the House had sent the proposition to us in this form, instead of the form in which they have sent it, I do not know but that I should have preferred to take that. As the question is now before us, and there is one objection that may properly lie against the substitute, I think we had best adhere to the report of the committee on the House resolution.

Mr. JOHNSON. I have an objection to the amendment proposed by the honorable member from Vermont, and I do not think I could vote for it if the proposition had come in that form from the House of Representatives. The act of July, 1861, does not state that there are any particular States in rebellion; it names no State at all. It only provides that when the President shall think that a state of insurrection exists he may proceed under the act of 1795 and declare that State to be in a state of rebellion.

Mr. COLLAMER. That is not it.

Mr. JOHNSON. I think that is it substantially. I do not think I can be mistaken about it; but if I am mistaken as to that, I am certainly right in saying that that act does not name any particular State in rebellion. [Mr. COLLAMER nodded assent.] So far, the honorable member admits that I am correct in my recollection. Then they have been placed in the condition which the honorable member supposes would deprive them of the right of electing electors, by virtue of the President's proclamation issued under the authority of that act. We have left it to him, therefore, to say what States are to be considered as States in rebellion; and the proposition of the honorable member is that any States which he may have declared to be in a state of rebellion are to be considered, with reference to the power of electing electors, as remaining in rebellion until Congress by act shall declare otherwise, or until the members elected from such States as Senators and Representatives shall have been admitted by both branches. That I understand.

Now, as I think—and I believe that is the opinion of the honorable member himself—these States have never been, in a constitutional sense, out of the Union; and they are to be considered, therefore, with reference to our power over them, as States in the Union. My idea is that if the President, by his proclamation issued in pursuance of the act of 1861, can deprive them of the right of electing electors, it is only because they are to be considered as in a state of rebellion; and if he can place them in a state of rebellion, why can he not say that that rebellion is terminated? Suppose the President had, by a proclamation issued before the 8th of November, announced to the country that the war, as against Tennessee, for example, was not to be carried on because the rebellion in Tennessee was put an end to; she was to be considered as in the Union. If my friend's amendment is the proper course to be pursued, she would not have been authorized to elect electors. According to that view, her authority to elect at any time afterwards would depend upon the happening of one or two facts; either that Congress should have passed a law admitting Tennessee into the Union, or declaring that the rebellion in Tennessee was terminated,

or upon the fact that, in the absence of such act of Congress, Tennessee had elected Representatives and Senators, and each branch had received the members elected to that branch.

Now, Mr. President, suppose the President of the United States had declared that the rebellion in Tennessee was at an end, or, to put it stronger, suppose he had issued a proclamation before the 8th of November stating, and the fact was so, that the war had ceased in each one of those States who were declared by his proclamation issued under the authority of the act of 1861 to be in a state of rebellion; suppose we all knew that; suppose every Senator here was satisfied that the President's proclamation was true in point of fact, that the war had terminated, that the authority of the United States in these States was restored; and just as effectually as it existed before the rebellion was inaugurated, and Senators from those States had come here properly appointed by the Legislatures of the States; are we prepared to say that we would not receive them unless the other House should have received the members, or would the other House be willing to exclude members elected under such circumstances until the Senate should have declared that it would receive the Senators elected under the same circumstances? My idea is that all that is necessary in order to entitle those States to be represented; either in the Electoral College or in Congress, is the fact that at the time the members are elected to one House or Senators are appointed to the other, the rebellion should have then terminated; and that peace should have been restored; the authority of the Constitution reinstated.

If I am not right as to that, it is because the opinion which I stated just now (and in which I believe the Senator from Vermont concurs, to a certain extent at any rate) is erroneous. Are the States out of the Union? I say they are not. If the States are still in the Union, just as much a part of the United States as they ever were—a position demonstrated by the fact that we are carrying on the war in order to force them to yield upon the hypothesis that they are in the Union—if that proposition is right, that the States are in the Union, it must be true, as I think, that they have a right to elect Representatives and Senators the moment the contingency has happened that puts an end to the obstacle which, as long as it continued, deprived them of the authority to elect; that is to say, on the termination of the rebellion. If my friend is right Tennessee may have yielded, every man in it may have yielded long before the 8th of November; all the courts of the United States may have been again organized; the whole authority may have been reinstated; and yet she would not be entitled to appoint Senators or to elect Representatives until Congress should declare that the rebellion was ended as to her, or until both Houses should agree to receive Senators and Representatives. Now, I submit to my friend from Vermont that if he concurs with me in thinking that these States are now in the Union, a proposition like that is notoriously in conflict with that opinion; and I hope, therefore, with due deference to the better judgment of the honorable member who moves the amendment, that it may not be adopted, but that on the contrary we shall adopt the proposition as it came from the House of Representatives and as it stands amended by the report of the Judiciary Committee of the Senate.

Mr. COLLAMER. Mr. President, I understand that this resolution, as passed by the House of Representatives, has already been amended in the Senate on the recommendation of the Committee on the Judiciary. Then it must go back to the House of Representatives for action. Having already been amended by the Senate, it will have to receive action again in the other House, and the amendment which I propose, if adopted, will not alter that condition. There is, therefore, no objection to my amendment on that ground.

In the act of 1861 Congress did not attempt to declare any particular State to be in a condition of war or insurrection. That act was drawn with care, and was intended to be so. It states a condition of things, and declares that when that condition of things arises in any State, in that contingency the President may issue his proclamation declaring the inhabitants of that State to be in a condition of insurrection, and thereupon the consequences are to ensue which are stated in



the act, the consequences of a state of war. Congress alone under our Constitution has the power to declare war, and therefore Congress alone is to define what shall be a condition of war with any of our own States. In fact, there may be a war of our own States against the Government, as we have experienced sadly, and of course, therefore, there may be a war of the Government against them. I say Congress is to declare when that condition of circumstances exists; and Congress did it in the act of 1861.

I dislike the proposition contained in this House resolution, because by it Congress undertakes to exercise the power of declaring now, and in relation to a pending election, that the votes of particular States, by name, shall not be counted, because those States are in a condition of insurrection. I dislike to undertake to legislate for a State by name particularly, as I have before stated to the Senate. I want a general law on the subject. The act of 1861 was a general law by which all States were subjected to its operation in the same contingency. It seems to me that Congress, who defined in the act of 1861 what should be a condition of things which would put the inhabitants of a State in a state of insurrection against the Government, can alone define and decide upon that condition of things which shall restore a State to its allegiance. The decision must be by the same body, the same power. I know in relation to foreign nations that if we have a war with them declared by Congress, the President, with the concurrence of two thirds of the Senate, may make a treaty of peace; but even in that case, there is the intervention and the exercise of power by one branch of Congress, the legislative department. But it seems that some gentlemen imagine that when we have made a law declaring the circumstances and contingencies which shall create a condition of insurrection and war on the part of States against the General Government, that condition may cease by the decision of the Executive, without any intervention of the power which created it. That does not seem to me to be so. A treaty of peace cannot be made with the insurrectionary States. The President cannot negotiate a treaty of peace with Mr. Davis or anybody in the South. No such treaty can ever come before the Senate. If you treat with them, you acknowledge their power as a nation; you acknowledge them as an independent power. No such treaty ever can be made. The declaration made by the act of 1861, which the Supreme Court of the United States has decided amounted to a declaration of war, was an act of the Legislature; and inasmuch as the treaty-making power cannot make a treaty of peace in this case, I think the legislative power should be exercised in declaring the restoration of the condition of peace, in declaring when, in the judgment of Congress, we have reached a cessation of the condition of insurrection. Congress has power to put an end to the old condition, or both Houses by receiving members from those States decide in effect that the condition of war has ceased; but, in the mean time, until that does take place, I think the people in such a State should not be exercising the powers of the inhabitants of an independent State of the Union.

I propose to do this thing by the exercise of the same power which created the existing condition of affairs in the act of 1861. I wish by the law to state the condition, and to let Congress decide upon the condition of things which will restore the States to their former relations. That should be done by the two branches of Congress, either by the passage of a law or the admission of members. That seems to me to be untying the knot in the manner in which it was tied.

For these reasons, and because I want the law to be a general law like other laws for all States in the same contingencies, I prefer the amendment which I have presented. The suggestion of the honorable Senator from Illinois, that the President might declare a State to be in a condition of insurrection in order to prevent her voting for President, is to me too distant, too improbable, too extravagant a supposition for anybody to present it as an argument.

Mr. LANE, of Kansas. I desire to ask the Senator from Vermont a question, and before doing so I will make a statement. It is my purpose to recognize the State government of Tennessee, Louisiana, and Arkansas, and to vote for

the reception of the Senators from those States whenever they present themselves. Suppose we adopt the amendment of the Senator from Vermont to-day, and Senators from those three States present themselves to-morrow for reception here, and the members of the other House present themselves to that House, is there anything in this amendment to preclude such action? Will the reception of those Senators and Representatives re-instate those States in the Union as they were before they rebelled?

Mr. COLLAMER. The gentleman has put this question very candidly and he is entitled to as much of an answer as I am prepared to make. The adoption of my amendment would in no way in my estimation embarrass the question which the gentleman puts, or any action which Congress might take upon it. To be sure it would do what it says, shut out the electoral votes which have been cast in any of these States heretofore in the interim; that is all.

I will say, further, that in deciding upon receiving Senators from any State which has been in a condition of insurrection, I do not think it is necessary that there should be a law like that which is ordinarily passed, called an "enabling act," to enable a Territory to form a State government. I do not think it needs any new law of Congress to enable the people of any one of the States which are in insurrection to lay down their arms, go home, and submit to the operations of the General Government, reorganize their State government, and present their Representatives for admission here. I say it requires no previous law of Congress to enable them to do that. Indeed we have decided repeatedly in Congress that it needs no enabling act to enable a Territory to form a State government. If they do meet in convention, and do form a State constitution, republican in its form, and actually elect their members and Senators under it, Congress has recognized such States and received those Senators and members elected before any act was passed on the subject by Congress. No doubt in my mind the same thing may be done here. If we are satisfied that the reorganization is substantial and abiding, that it has been fairly made, and that it will answer the ends of reorganization, undoubtedly we may admit, by our act here, the Senators, and the other House may admit the Representatives, without any previous action of Congress about it. I think the gentleman has my whole answer.

Mr. POWELL. Allow me to ask the Senator a question. If the Senate were to admit the Senators from those States, and the other House should admit their Representatives, then would the electoral votes be counted in elections held hereafter unless Congress should pass a law preventing it?

Mr. COLLAMER. Certainly. And I have put in my amendment the very words that they shall not cast electoral votes until either their condition of rebellion has been declared to cease by virtue of a law of Congress, or their members are admitted to seats in both branches of Congress.

Mr. POWELL. I was not aware that the latter provision was in the amendment.

Mr. COLLAMER. I have made that modification.

Mr. POWELL. Was it proposed to-day?

Mr. COLLAMER. Yes, sir.

Mr. POWELL. I was not aware of it.

Mr. COLLAMER. I am free to acknowledge that I prefer the proposition in this form so that this law, when passed, shall stand consistently with the laws we have heretofore enacted. And I wish it to stand in a shape requiring that the members shall have been admitted in both Houses. I do not want a quarrel and controversy got up by a possible supposition of the two Houses differing on the question.

Mr. POMEROY. I do not yet understand the Senator from Vermont to have answered the question whether he would receive members from States declared to be in insurrection, and admit them here unless there was a previous act of Congress or proclamation of the President removing the restriction. Would he receive Senators while there was non-intercourse between the States they represented and the other States?

Mr. COLLAMER. I thought I had answered that, and I think if I had been listened to attentively it would be found that I had answered.

Mr. POMEROY. I listened attentively.

Mr. COLLAMER. I resembled the case, for it is the nearest parallel I can make, to the case of a Territory which organized a State government and sent representatives here.

Mr. POMEROY. There is no non-intercourse proclaimed with Territories.

Mr. COLLAMER. That makes no difference as to this point. Here we have prevented commercial intercourse because of the existence of a state of war. Though the people of a Territory had no right to elect a Senator when they did elect him in the case I have mentioned, and though they had no right at that time to elect members to Congress, yet if they did make a constitution and did make those elections, and Congress afterward by law ratify what they have done, it is all well enough. Just so here; though these States have not by any previous legislation of Congress been declared to be out of the condition of insurrection, yet if they are so in point of fact, and it turns out that they have regularly reorganized a loyal State government under the United States and made elections accordingly, and Congress on examination become satisfied of that, find that to be true, and that the government they have formed will answer all the purposes of a State government and can be perpetuated, and Congress then admits their representatives, that is the end of it. My amendment is that when their representatives are admitted by the two Houses their electoral votes shall be received.

Mr. COWAN. I should like to know, after we authorize the President by proclamation to cut off all commercial intercourse with the rebellious States, whether the President himself, without any further act of Congress, cannot restore that commercial intercourse; whether, as fast as the rebellion disappears before the advance of our armies, this intercourse is not restored in the same proportion? I think the honorable Senator's view of it involves a *non sequitur*. Because we have authorized the President to cut off intercourse with these States, it does not follow that it will require another law to restore it. It restores itself, of itself, the moment the rebellion has been put down. It comes back of itself; it is the natural condition which was disturbed and deranged by this abnormal state of affairs which the rebellion introduced; it is not necessary that there should be any further legislation in order to bring it back to the healthful and ordinary condition.

Mr. JOHNSON. When I was up before I had not the act of July, 1861, before me, to which my friend from Vermont has referred. I have it now, and I think it will be found entirely inconsistent with the proposition which his amendment includes. I understand his amendment to be that no votes, either cast now or cast hereafter for electors of President and Vice President, are to be counted until either Congress shall by law declare that the States are to be considered as States in the Union, or until both branches of Congress shall have received the representatives who may have been elected by the inhabitants of such States. The proclamation to which my friend refers is the proclamation which the President was authorized to issue under the authority of the fifth section of the act of July 13, 1861.

A majority of the Supreme Court decided that war existed between the United States and the rebellious States just as efficiently before the act of July 13, 1861, was passed, as afterward. The only difference between the judges was whether it was to be considered as existing until the act of July 13 was passed; but the court decided that it would have been perfectly immaterial whether the act of July 13 had been passed at all; and the majority who held that opinion said that after the act of 13th of July was passed there could be no doubt of the question, because that act recognized a state of war. The minority of the court was of opinion that until the act of July 13 was passed, it was to be considered merely as an insurrection, not affecting at all the political relation existing between the States in rebellion and the rest of the States. The act of July 13, in the section which alone applies to the case, merely says:

"That whenever the President, in pursuance of the provisions of the second section of the act entitled 'An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions, and to repeal the act now in force for that purpose,' approved February 28, 1795, shall have called forth the militia to suppress combinations against the laws of the United States,

and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in said State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then, and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful."

How long? Until Congress shall declare that the condition of hostility no longer exists, or until the President shall declare that it no longer exists? No, but

"Shall cease and be unlawful so long as such condition of hostility shall continue."

So that, looking to the mere words of the act, and looking to the constitutional authority of Congress, and consequently the duty of Congress, the moment the insurrection ends, or, to use the language of the act, the moment the hostility ceases, then the commercial intercourse begins again, and that beginning, the State is back in the Union for all purposes. Now, therefore, the only question is, (as that act does not provide that the state of hostilities is to continue until Congress shall, by some act thereafter, declare that such hostilities have terminated,) whether the act itself, with reference to the provisions contained in the fifth section, does not expire upon the happening of the contingency of the cessation of hostilities. How would that be in a certain state of things that can well be imagined?

That act was passed on the 13th of July. The President, sometime in August, issued a proclamation stating that these States were in a state of insurrection. Suppose soon after that, Congress having adjourned and not being in session, every man in each one of these States so declared to be in hostility to the United States had laid down his arms, ceased to carry on any hostile proceeding against the United States, would they not be entitled to the benefit of the Constitution of the United States until Congress should meet in the following month of December and by act of Congress declare hostilities to have terminated, or until the two branches should have received the members?

I submit—of course with due deference, because my friend from Vermont entertains a different opinion—that the moment that in point of fact hostilities have ended, the rebellion is at an end; and the moment the rebellion is at an end the States are back. My friend tells us, and tells us very properly, that in the case of an international war once properly commenced, it cannot be terminated by any treaty which does not receive the sanction of the Senate of the United States. This is all true enough, but the war may terminate long before any treaty is made.

Suppose that during the last war with England she had withdrawn all her armies, had pronounced her determination through her Parliament that as far as she was concerned she wished to be considered at peace with the United States, would not the war in point of fact have terminated, although there was no treaty of peace? The Constitution provides that Congress shall declare war. Suppose they do not declare war, may not war exist in the absence of a declaration? Certainly it may. That the courts have decided over and over again. And if war can commence by the happening of hostilities in point of fact, and be accepted by the President in defending the nation under his authority to see that the constitution and laws are faithfully executed, why cannot the war be terminated in point of fact, even an international war? But in relation to a war of this description, as I stated just now, there can be no doubt on that point. Congress has no constitutional right to carry on a war against States. If my friend will look at the decision in the prize cases he will find that the majority and minority both admitted that there is not in Congress or in any department of the Government any power to declare war as against a State. It is not provided for in the Constitution. The whole authority that Congress have on the subject, is under the power to suppress insurrection. Whether in suppressing insurrection the insurrection may culminate to such a point as to amount to war in

the meaning of the prize law, is another question; but so far as the declaration of war is concerned, there is no authority at all in Congress, or in any other department of the Government, legislative or executive, to declare war against a State.

Then what is the authority, the sole authority? To call out the militia and the forces of the United States to put down insurrection. How long does that last? Only so long as that insurrection continues. That must be very clear. How was it with what is called the whisky insurrection? It did not go to the extent that the courts or the President would have been authorized to say that a state of war existed between Pennsylvania and the United States. Congress did not declare that the insurrection was at an end; nothing like it. The President declared it. It ended itself. The insurrectionists laid down their arms, expressed willingness to yield obedience to the authority of the United States, and that ended the insurrection and disbanded our forces, and that happening, the State of Pennsylvania, every part of it, stood exactly in the relation, for all purposes, in which the State and every part of it stood before the insurrection was commenced. There is in the Constitution no power to declare war against the State of Tennessee, (to take a single case,) and nobody, I suppose, will say that there is. The Constitution never contemplated such a contingency. It was proposed in the Convention, but it was objected to upon the ground that a provision of that description would place the United States in their relation to the State against which war was declared as a foreign nation for all purposes, and carry the State out of the Union. The answer was that all that was necessary to have accomplished what could be accomplished by giving to Congress the authority to declare war against a State, was to make each citizen of the United States amenable to the Constitution and laws of the United States, and to empower the Government to put down insurrection.

That being my view, I maintain, I repeat it again, (with great respect for the opposite opinion entertained by the honorable member from Vermont,) that if these men were to throw down their arms to-morrow they would be in the Union, and we have no authority to keep them out. The authority to keep them out now is because of the insurrection, and because of our authority by force of arms to put down that insurrection; but, the insurrection terminating, they stand as they stood before.

Mr. CLARK. I suppose the Senator would not insist that this vote should be counted even if they did throw down their arms.

Mr. JOHNSON. Not at all; by no manner of means.

Now, Mr. President, a singular state of things is existing at the very moment I am speaking. The President of the United States, under the authority of the act of 1861, has declared these States in a state of insurrection, and we have hundreds of thousands of men upon the field of battle. What is said to be the case? Officially or unofficially he sends or authorizes to go to Richmond a very respectable gentleman, as it is supposed to ascertain upon what terms this war can terminate, or, to state it in different words, on what terms or conditions this insurrection can terminate. He goes. He is said to have returned. While there he had an interview with these rebel authorities. He returns. He goes back again in a Government vessel. Did he, after his return and before he went back to Richmond, have an interview with the President of the United States? If so, what was the result of that interview? We do not know, but we may have our speculations about it. Suppose that in that interview, acting under an express authority from the confederate authorities, he informed the President of the United States that they are willing to lay down their arms now, and come back into the Union at once; that they are willing to admit that slavery is either actually abolished by force of his proclamation, or that it has been abolished to the extent that your armies have gone and you have got actual physical possession of the negro; and that they are willing to leave the question of the effect of the proclamation over such portion of the slaves as have not come within the possession of the military authorities of the United States to be passed upon by the courts. The President, it is said, is

willing to do that. He has said that more than once.

Suppose, further, that they are willing—I am dealing in speculation; but I believe to a certain extent it is right—suppose they are willing to say, "We assent in coming back to the Union to be governed by any constitutional amendment which may be now in progress, or which may be started hereafter, abolishing slavery throughout the United States;" and the President says, (for no treaty is necessary,) "I agree; I am warring against you now exclusively under the authority of the act of the 13th of July, 1861. I agree to that; if you will throw down your arms and express a willingness to abide by the decision of the courts on all questions of doubt in relation to the continuance of slavery, if you will not claim the right to have restored to slavery those who have enjoyed even for a moment the blessings of freedom, and you are willing to stand by any constitutional amendment upon that subject which may be adopted by the required number of States, come back, come back, for I have no right to carry on the war further; the war ends of itself." It would be, in my view, upon the part of the President murder if he authorized a single man to be shot upon the field of battle or otherwise after such a state of things as that should arise.

Suppose—and no doubt that will be a condition if we are to have peace, and I pray to God we may have it—these gentlemen should say further that there is one condition which must be understood between us. Suppose they should say (and I believe it is true of some of them) they have honestly believed that the right of secession exists. Gentlemen are not to forget that upon that question some of the best minds in the country, North and South, have held different opinions. Many of them have entertained that opinion. I think it is a terrible heresy, as the result has proved, a most pestilent heresy, a destructive heresy, but it was earnestly entertained. The President of the United States himself, when he was in Congress in 1845 or 1846, if he meant what his words stated, entertained it. Some of the leading presses of the country at the North have entertained it. I mention it not for the purpose of giving it any little support that it might possibly derive from any opinion of my own upon it, or weakening it by the expression of an adverse opinion, an opinion which I have sincerely entertained from the time I was capable of thinking; but I cannot be blind to the fact that some of the best men of the South, patriotic men, were of that opinion; and the inhabitants of the South to a great extent, and particularly the young and ardent who thought they were the salt of the earth, because of the existence of the institution of slavery, and that there could be no civilization without it, have been made to believe that the doctrine was a sound one. They have seen their error. God knows they ought to have seen it. They see it now in its recognition in their own constitution. They are threatened now with destruction, with dissolution, because they have incorporated that doctrine in their constitution. They see—and God be praised that they have been made to see it—that the resolution of the country is so perfect, and the devotion to the Union is so absolute, that, happen what will, we of the loyal States mean to prosecute the war to the end until the insurrection is put down, which has no other foundation in point of law than the assumed right of secession.

Now, suppose that these commissioners who are said to be with the President—Stephens, who denounced secession, and predicted almost in words what the South has suffered; Hunter, who never was a party to it; Campbell, of the Supreme Court, who, I know, whatever his opinions may have been when he was at the bar of Alabama, after he came to be a member of the Supreme Court, and it was his duty to study the decisions of that tribunal to make himself fit to discharge its eminent duties, and after he became eminently capable, thought it was the vilest heresy that ever entered into the imagination of man, but was carried away by circumstances surrounding him—suppose they come and say to the President, and say to us, "We know that the whole thing has been wrong; we see the horrors which have resulted from it. To say nothing of the consequences to the North, which are comparatively

trifling, we cannot look upon our own fields, our own States, and our own homes, without feeling that we have committed the error of our lives, and sinned against the God of justice, whose judgment it has been to visit us with these horrors. We see it all; we know that we have been led astray by a few master-spirits; but we feel in honor bound to stand by them. We ask, therefore, a general amnesty; pardon all." Suppose the President says, and he has a right to say it under the authority with which he is clothed, the pardoning power—these men being offenders against their duties as citizens, and having committed treason, he has the power to pardon them—suppose he says, "I pardon all." He issues the amnesty proclamation to-morrow, announces that the rebellion is ended, the insurrection terminated, and upon terms honorable to the United States. The plea upon which it rested for its justification constitutionally is withdrawn. They confess it has no foundation. They are back. Can you say that he has not the authority to do so? We have not the authority; it belongs to him; and it is for him to decide when he will exercise it. He turns to the act of 13th July, 1861, and he finds that the termination of his power to use the Navy and Army of the United States and the militia of the United States to put down the insurrection is the termination of the insurrection, and he comes back to the seat of Government and announces to the constituted authorities of Congress and the country that the war is over. What are we to say? It is not necessary to consult us; I mean in point of law. The manner of doing this is quite another thing. I have my own opinion about that. I do not choose to express it here.

But suppose he comes back and issues a proclamation such as I have indicated—and God grant that he may, provided the terms be honorable and fair—and communicates the facts to Congress, what are you going to do? Why, Senators, what happened the other day? It was shown that notwithstanding the arts of the traitor and the demagogue, no length of time will be sufficient to exclude from the bosom of Americans the affection which they hold toward each other and toward their country. These commissioners it was known had left Richmond on their way here upon some mission of peace. They first went through the lines of their troops. How did they go through? Amidst the huzzas and gladdened shouts of the thousands and thousands of men who are there in battle array against the opposite foe. They passed their lines; and we are told by the Richmond press that the moment the news reached the Army of the United States, the soldiers cheered universally until each man grew hoarse. Cheered for what on either side? Cheered because they saw, as they thought, that the war which had made them enemies was about to terminate; that the ancient brotherhood was to be restored; that they should no more meet each other in battle-array, or in the grasp of death, to do all they could to murder each other; but that the time was approaching when they could embrace each other as brethren and as American citizens.

Mr. CONNESS. Will the Senator permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. CONNESS. How does the Senator know but that the southern army, so called, cheered because they believed that those commissioners were going to arrange the terms for their independence, as they term it? And how does the Senator know but that our Army cheered because they believed the commissioners were going to acknowledge the power of the Union and the supremacy of our flag?

Mr. JOHNSON. I do not know. I think I have already stated that I do not know anything about it. But how does the honorable member know that they did not? If both sides cheered, the probability is that they were cheering for the same purpose. But let me answer the honorable member. The southern soldiers, and particularly the officers, are not so besotted as to believe that this war is to terminate by the recognition of their independence, particularly at this time. The armies of the Union and the navies of the Union are triumphant everywhere. Victory perches upon our standard in every battle-field and upon every naval encounter, and these men know that.

Jefferson Davis, or those in authority, never would have authorized commissioners except under an authority to yield their asserted independence and to recognize the continuing integrity of the Union.

Mr. HOWARD. If the Senator will permit me—

Mr. JOHNSON. I would rather not be interrupted now.

Mr. HOWARD. Very well; I merely rose to ask the Senator a question for information.

Mr. JOHNSON. I have only a word or two more to say.

Mr. CONNESS. I ask the Senator's pardon for having interrupted him.

Mr. JOHNSON. Not at all. I am perfectly willing that either of the gentlemen should rise and put any question to me, and I only objected to the honorable member from Michigan because I was about to close. I will not postpone any question put to me for any length of time.

But suppose we do not know for what they were cheering. Have we any right to suppose that the fact is not as I have stated? Is it so improbable that no sane man could suppose they were cheering for such a thing?

Mr. COLLAMER. Perhaps they were cheering at the idea that they would be able to go home in peace.

Mr. JOHNSON. I have no doubt about that. I refer to this, Mr. President, simply for the purpose of showing that no matter what has happened in the past, no matter how bitterly we have felt toward the South, if we have felt bitterly toward the South, and no matter how bitterly they have felt toward us, as certainly they have, all the indications are that they have seen the error of their ways; and if, having come to that conclusion, they throw down their arms, and the President declares by his proclamation of amnesty that they are all pardoned, and announces to the country that the war is at an end, you may pass as many acts of Congress to raise troops to carry on the war as you please, and you will not get a man. The hearts of the people would rebel at carrying on an unnecessary conflict with those who have stood shoulder to shoulder with us in some of the most trying periods of our history, carrying with us the standard of the Union upon every battle-field contributing to our glory, and sharing with us in that glory. They never will consent, and God forbid that they should, to carry on the war a moment after, in point of fact, obedience has been yielded by these men, criminal or mistaken, and the authority of the Union restored everywhere throughout the country, and the flag floating upon every place on which the flag could properly float.

I have been led into this discussion by my desire to meet the authority of the honorable member from Vermont, and nobody yields to it with more pleasure than I do, who seems to contend that this war must go on until the insurrection is declared to be terminated by Congress, or until Senators and Representatives have been received in the Senate and House of Representatives under the act of July 13, 1861, because, by my interpretation of that act, the President has no power to carry on the war an hour after he is satisfied that the hostility which authorized him to employ the Army and Navy has terminated. Once terminated, for all the consequences he is responsible to the country.

Mr. COLLAMER. Mr. President—

Mr. HENDRICKS. Would you rather speak to-morrow?

Mr. SHERMAN. Let us take a recess.

Mr. COLLAMER. I do not want to come back here to-night.

Mr. HENDRICKS. Well, we will adjourn until to-morrow.

Mr. COLLAMER. If any gentleman wishes to move an adjournment I will give way.

Mr. COWAN. I move that the Senate do now adjourn.

Mr. TRUMBULL. I hope not. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Brown, Chandler, Collamer, Cowan, Davis, Dixon, Doolittle, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Nesmith, Pomeroy, Ramsey, Sprague, Sumner, Van Winkle, Wilkinson, and Wright—22.

NAYS—Messrs. Anthony, Buckalew, Clark, Conness, Farwell, Foster, Grimes, Hale, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Powell, Sherman, Stewart, Ten Eyck, Trumbull, Wade, Willey, and Wilson—21.

ABSENT—Messrs. Carlile, Foot, Harding, Hicks, McDougal, Richardson, Riddle, and Saulsbury—8.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 3, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

## MARRIAGES IN THE DISTRICT OF COLUMBIA.

Mr. PRICE, by unanimous consent, introduced a bill in relation to marriages in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate insist upon its amendments to the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending 30th June, 1866, and agree to the conference asked by the House upon the disagreeing votes of the two Houses thereon, and appoint Messrs. HOWE, HARRIS, and HENDRICKS as the committee on the part of the Senate.

Also, that the Senate insist upon its amendment to the bill (H. R. No. 709) to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1865, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and have appointed Messrs. CLARK, GRIMES, and RIDDLE, as the committee on the part of the Senate.

## COMMITTEES OF CONFERENCE.

The SPEAKER appointed Messrs. STEVENS, PENDLETON, and MORRILL, members of the committee of conference on the disagreeing votes of the two Houses on the deficiency bill.

The SPEAKER also appointed Mr. BLAINE, Mr. MALLORY, and Mr. ORTH, members of the committee of conference on the disagreeing votes of the two Houses on the Military Academy bill.

## PRIVATE BILLS.

The SPEAKER. This being private bill day, the first business is the consideration of the bills reported from the Committee of the Whole on Friday last.

Mr. HALE. I demand the previous question upon all the bills reported from the Committee of the Whole.

Mr. HOLMAN. I trust my friend from Pennsylvania will confine his demand to each bill as it comes up.

The SPEAKER. The gentleman from Indiana may demand a separate vote upon each bill, or he may insist that the demand for the previous question shall be confined to each bill.

Mr. HOLMAN. I insist upon that.

The House then proceeded to act upon the bills reported from the Committee of the Whole on Friday last, as follows:

## RELIEF OF CERTAIN FRIENDLY INDIANS.

An act (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota.

Mr. HALE. Upon that bill I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PAYMENT FOR INDIAN RESERVATIONS.

A bill (H. R. No. 62) to provide for the payment of the value of certain lands and improvements of private citizens, appropriated by the United States for Indian reservations in the Territory of Washington.



Mr. HALE. Upon that I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HULL AND COZZENS, AND OTHERS.

A bill (H. R. No. 713) for the relief of Hull & Cozzens, and John Naylor & Company.

Mr. HALE. I demand the previous question upon that bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOUIS ROBERTS.

An act (S. No. 234) for the relief of Louis Roberts.

Mr. HALE. I demand the previous question upon that bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JEAN M. LANDER.

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased.

Mr. HALE. I demand the previous question upon that bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JETHRO BONNEY.

A bill (H. R. No. 571) for the relief of Jethro Bonney.

Mr. HALE. I move the previous question on that bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARIZONA.

Mr. POSTON, by unanimous consent, introduced a bill for the organization of the Territory of Arizona into a land district; which was read a first and second time, and referred to the Committee on Public Lands.

#### NAVAL APPROPRIATIONS.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole upon the special order.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. WASHBURN, of Illinois, in the chair), and resumed the consideration of the special order, being "A bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866."

The pending question was upon the amendment submitted by Mr. Davis, of Maryland, being to add the following to the bill:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to

say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

SEC. — *And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

SEC. — *And be it further enacted*, That no vessel of war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

SEC. — *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

SEC. — *And be it further enacted*, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

The CHAIRMAN. Upon this question the gentleman from Maryland [Mr. Davis] is entitled to the floor.

Mr. DAVIS, of Maryland, and Mr. RICE, of Massachusetts, addressed the House for nearly two hours each. [Their remarks will be published in the Appendix.]

Mr. FERNANDO WOOD obtained the floor.

Mr. COX. If the gentleman will yield for a moment, I move that the committee rise.

The motion was agreed to; there being, on a division—ayes 51, nays 28.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union, having had under consideration the special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had come to no resolution thereon.

Mr. STEVENS. I move that when the House again resolves itself into Committee of the Whole on the state of the Union on this bill, all general debate terminate in one hour.

Pending the motion,

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 234) for the relief of Louis Roberts;

An act (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota; and

An act (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia.

#### PROPOSITION TO ADJOURN OVER.

Mr. COX. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. STEVENS. I hope that that motion will not be adopted. It is important to get through with our appropriation bills, which are kept back by these lengthy debates.

Mr. COX. I withdraw the motion.

#### MINERAL LANDS.

Mr. JULIAN. I move to reconsider the vote by which the House yesterday referred to the Committee on Public Lands the bill (H. R. No. 730) to provide for the subdivision of the gold

and silver lands of the United States, and others containing valuable minerals, for the coining of the products of such lands, and for other purposes.

The SPEAKER. The motion will be entered. And then, on motion of Mr. ELDRIDGE, the House (at ten minutes before four o'clock, p. m.) adjourned.

#### IN SENATE.

SATURDAY, February 4, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of yesterday was read and approved.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives; by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

A bill (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota;

A bill (S. No. 234) for the relief of Louis Roberts; and

A bill (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 31st ultimo, information relative to the barracks proposed to be erected in Washington for the accommodation of clerks on detached service; which was referred to the Committee on Military Affairs and the Militia.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 571) for the relief of Jethro Bonney—to the Committee on Claims.

A bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington—to the Committee on Indian Affairs.

A bill (H. R. No. 713) for the relief of Hull & Cozzens and John Naylor & Company—to the Committee on Claims.

#### PETITIONS AND MEMORIALS.

Mr. NESMITH presented a petition of citizens of Oregon, praying for the establishment of a mail route from Auburn to Umatilla City in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY presented the petition of James G. Clarke, praying compensation for services rendered as acting chargé d'affaires in Belgium from June 11, 1857, to September 3, 1858; which was referred to the Committee on Foreign Relations.

Mr. JOHNSON presented the petition of Joseph O'Neal, praying compensation for damage sustained by reason of the occupancy of his farm by United States troops during and after the battle of Falling Waters, and for his crop taken and used by the troops; which was referred to the Committee on Claims.

Mr. POMEROY. I ask leave to present a petition which I do not know exactly the nature of, and which I have not read at length, but it is very respectful in its language, and I suppose it is proper to present it. It is a petition from Mr. E. Bloodgood Beebe of the city of New York, in favor of an offensive and defensive alliance with the confederate States of America for the acquisition of Mexico, Canada, and Cuba, and also in favor of a treaty establishing free commercial and social intercourse between the two confederacies with a view to ultimate reunion. The petition has been sent to me. It is very respectful in its language and elegant in its appearance. I do not know the nature of it, but I was requested to present it, and I ask that it lie on the table.

Mr. TRUMBULL. I submit that it is a very bad practice for Senators to present petitions they

do not know the nature of. It may be a very improper petition to come here. I think the Senator ought certainly to look into it, for the rule requires that the Senator presenting a petition shall state briefly what the petition is. I know nothing about this petition; but when a Senator rises in his place and states that he presents a petition that he does not know the nature of, I think the Senate ought not to receive it.

Mr. FOSTER. Especially, if the honorable Senator will allow me, when he says it is a petition for an alliance, offensive and defensive, with the confederate States.

Mr. TRUMBULL. I raise the question of its reception, and object to its reception until the Senator shall be able to state what this petition is.

The VICE PRESIDENT. The Senator from Illinois objects to the reception of this petition, and the question will be on its reception.

Mr. POMEROY. I desire to say that I did not know the bearing of the petition on the great question which agitates the country. I have read portions of the petition, enough to see what it is about. I did not mean to tell the Senate that I had not read it. I have looked it over.

Mr. WILSON. Who is it from?

Mr. POMEROY. From Mr. E. Bloodgood Beebe, of New York city. At the suggestion of the Senator from Illinois, I will ask leave to withdraw the petition until to-morrow, and in the mean time I will read it over and judge of its propriety.

The VICE PRESIDENT. If there be no objection that course will be taken.

PAUL S. FORBES.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 94) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war, to report the same back without amendment, and recommend its passage. I move that the Senate proceed to its consideration now.

Mr. TRUMBULL. I desire to offer a resolution this morning which involves a question of instruction to the Secretary, and I hope the Senator will allow me to do that before taking up the bill.

Mr. GRIMES. I do not think this resolution will take a moment, and I would not ask for its present consideration if it had not been lying in my desk for ten days.

Mr. TRUMBULL. I am sure the Senator will not object to my resolution.

The VICE PRESIDENT. Is there any objection to the consideration of the joint resolution reported by the Senator from Iowa at this time?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which authorizes the Secretary of the Navy to pay to Paul S. Forbes, of the city of New York, the sum of \$250,000 in addition to the sums heretofore paid, to apply on his account of the date of May 22, 1863, for building a steam screw sloop-of-war, the same being an advance payment on the contract to aid in the completion of the vessel; but no part of this sum is to be paid without the assent, in writing, of the sureties of Mr. Forbes, and nothing in this resolution is to be so construed as in any manner to affect or vary the contract except as to the time of making the payment.

Mr. HALE. Is there any report accompanying that resolution?

The VICE PRESIDENT. The Chair is not aware that there is.

Mr. GRIMES. There is not.

Mr. HALE. I should like to know the reason why there is to be a departure from the contract in this case. The Senate refused by a decided vote at the last session to make any change in the contracts for several vessels, and especially in the case of the Puritan and Dictator. There must be some very particular circumstance about this one, I presume.

Mr. GRIMES. It will be remembered that two or three years ago there was a great deal of clamor because of the lack of speed, as it was said, in our naval vessels. Among other persons who believed that there ought to be greater speed attained by the vessels purchased or built by the United States was a gentleman of the name of

Dickerson, of the city of New York. Mr. Dickerson is known by reputation to some members of this body. He induced Mr. Paul S. Forbes, or at any rate Mr. Paul S. Forbes entered into a contract with the Government by which he agreed to build the steamer Idaho for the sum of \$600,000, Mr. Dickerson being engineer, and putting in his kind of boilers, and his kind of cut-off, and his kind of engines. Mr. Forbes agreed by that contract to build a certain description of vessel, and that she should attain a speed of fifteen knots an hour. Since the time of his entering into that contract the expense of material and labor, and so on, have greatly increased. He has come before Congress and asked Congress to absolve him from his contract, and pay him several hundred thousand dollars more than he agreed to build the vessel for, and to absolve him also from his obligation to attain the speed of fifteen knots an hour.

The Committee on Naval Affairs refused to do this, but they have agreed that, whereas under his contract for \$600,000 he can only receive up to this time \$300,000, which he has received, there shall be advanced to him, with the assent of his sureties, the sum of \$200,000 to enable him to go on and complete the vessel.

The committee are perfectly well advised that if the vessel is completed, even if she should turn out to be a failure, the hull and the engines as old iron will be worth as much as the amount that has already been advanced and the amount proposed by this resolution to be advanced; and if she attains the speed that Mr. Forbes and Mr. Dickerson imagine she may still attain, though they wish to be absolved from their obligation to give her that amount of speed, she will be worth a large amount more of money.

The sole purpose of the resolution is to save Mr. Forbes from the necessity of being compelled to sacrifice a large amount of his own individual money in order to make an advance to go on to complete the ship; and under no possible circumstance, as the Committee on Naval Affairs are satisfied, and as the Department is satisfied, can anybody be injured. It is a mere advance of a portion of the expense of building, which according to the terms of the contract cannot be paid until the vessel is delivered to the Government and attains the speed of fifteen knots an hour.

I think there is no analogy between this case and the cases that were under consideration at the last session of Congress. It stipulates that this money shall not be received except with the assent in writing of the sureties of Mr. Forbes, and that in no particular shall the receipt of this money or the passage of this resolution be considered as interfering with that contract except so far as relates to this advance payment.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### CONSTITUTIONAL AMENDMENTS.

Mr. TRUMBULL. I offer the following resolution of instruction to the Secretary, which ought to be acted upon at once:

*Resolved*, That the article of amendment proposed by Congress to be added to the Constitution of the United States respecting the extinction of slavery therein, having been inadvertently presented to the President for his approval, it is hereby declared that such approval was unnecessary to give effect to the action of Congress in proposing said amendment, inconsistent with the former practice in reference to all amendments to the Constitution heretofore adopted, and being inadvertently done, should not constitute a precedent for the future; and the Secretary is hereby instructed not to communicate the notice of the approval of said proposed amendment by the President to the House of Representatives.

If the Senate will allow me to make a statement of the practice, if there shall then be any objection to the consideration of the resolution, it may go over.

The VICE PRESIDENT. Is there any objection to the consideration of this resolution at the present time?

Mr. SHERMAN. I think it had better go over until to-morrow.

Mr. TRUMBULL. Had not the Senator better let a statement from the record be made as to the practice, and then it may go over if he desires.

Mr. SHERMAN. I have no objection to that being done.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution?

Mr. DIXON. I think it had better go over to another day.

Mr. TRUMBULL. Does the Senator from Connecticut object to my statement being made?

Mr. DIXON. The resolution must be received to allow the statement to be made.

Mr. TRUMBULL. I have already stated that I will consent that it shall go over after the statement is made.

Mr. DIXON. If that can be done without the resolution being received, I have no objection; otherwise I have objection.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution?

Mr. DIXON. I think the resolution will give rise to debate, and it had better go over.

The VICE PRESIDENT. Objection being made, it must necessarily go over under the rules.

#### THREE-FOURTHS' VOTE OF RATIFICATION.

Mr. SUMNER. I send to the Chair resolutions which I ask to have read and printed. I shall call them up at a future day.

The resolutions were read, as follows:

Concurrent resolutions declaring the rule in ascertaining the three-fourths of the several States required in the ratification of a constitutional amendment:

Whereas Congress, by a vote of two-thirds of both Houses, has proposed an amendment to the Constitution prohibiting slavery throughout the United States, which, according to the existing requirement of the Constitution, will be valid, to all intents and purposes, as part of the Constitution when ratified by the Legislatures of three-fourths of the several States; and whereas in the present condition of the country, with certain States in arms against the national Government, it becomes necessary to determine what number of States constitutes the three-fourths required by the Constitution: Therefore,

*Resolved by the Senate*, (the House of Representatives concurring,) That the rule followed in ascertaining the two-thirds of both Houses proposing the amendment to the Constitution should be followed in ascertaining the three-fourths of the several States ratifying the amendment; that, as in the first case, the two-thirds are founded on the simple fact of representation in the two Houses, so in the second case the three-fourths must be founded on the simple fact of representation in the Government of the country and the support thereof; and that any other rule establishes one basis for the proposition of the amendment and another for its ratification, placing one on a simple fact and the other on a claim of right, while it also recognizes the power of rebels in arms to interpose a veto upon the national Government in one of its highest functions.

*Resolved*, That all acts, executive and legislative, in pursuance of the Constitution, and all treaties made under the authority of the United States, are valid to all intents and purposes throughout the United States, although certain rebel States fail to participate therein, and that the same rule is equally applicable to an amendment of the Constitution.

*Resolved*, That the amendment of the Constitution, prohibiting slavery throughout the United States will be valid to all intents and purposes as part of the Constitution, whenever ratified by three-fourths of the States, *de facto*, exercising the powers and prerogatives of the United States under the Constitution thereof.

*Resolved*, That any other rule requiring the participation of the rebel States, while illogical and unreasonable, is dangerous in its consequences, inasmuch as all recent presidential proclamations, including that of emancipation, also all the recent acts of Congress, including those creating the national debt and establishing a national currency, and also all recent treaties, including the treaty with Great Britain for the extinction of the slave trade, have been made, enacted, or ratified, respectively, without any participation of the rebel States.

*Resolved*, That any other rule must tend to postpone the great day when the prohibition of slavery will be valid to all intents and purposes as part of the Constitution of the United States; but the rule herewith declared will assure the immediate ratification of the prohibition, and the consummation of the national desires.

The resolutions were ordered to be printed.

Mr. DOOLITTLE. I move that the resolutions be referred to the Committee on the Judiciary.

Mr. SUMNER. I ask that they now lie on the table. I propose to call them up and make a motion in regard to them at a future day.

Mr. DOOLITTLE. They ought to go to the committee.

Mr. SUMNER. I ask that they now lie on the table.

The VICE PRESIDENT. The motion to lay on the table takes precedence of that to commit.

The resolutions were ordered to lie on the table.

#### ORDER OF BUSINESS.

Mr. SHERMAN. I desire, during the morning hour, to pass a bill of general importance, to which I think there will be no objection when it is read. It is Senate bill No. 403, to amend the act for the encouragement of immigration. I move to postpone all prior orders, with a view to take up that bill.

Mr. WILSON. I hope it will not be done.

Mr. SUMNER. Let us go through with the morning business.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio.

Mr. HALE. Are not reports in order?

The VICE PRESIDENT. Reports will be in order if the motion shall not prevail.

Mr. HALE. The Chair has sometimes decided that they were in order, notwithstanding such a motion was made.

The VICE PRESIDENT. Never. The Senator is mistaken. A motion to postpone all prior orders is a motion which has never been known to be out of order in this body within the knowledge of the Chair. The question is on the motion of the Senator from Ohio.

The motion was not agreed to.

#### REPORTS OF COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred a resolution of the Legislature of Iowa in favor of the construction of a military and wagon road from some point on the west side of the Missouri river at or near the mouth of the Niobrara river in Nebraska Territory, to Gallatin, in Idaho Territory, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

Mr. MORRILL, from the Committee on Claims, to whom was referred the memorial of James J. Johnson, praying compensation for services rendered as veterinary surgeon of the fourth Iowa cavalry, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred papers relating to the claim of W. H. and C. S. Duncan, for supplies furnished to a company of Kansas militia, mustered into service in 1856, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of James F. Simmons, praying compensation for the illegal seizure of a vessel and cargo by Commander Wooden, of the Stars and Stripes, and the subsequent wreck and loss of the same on Long Island, asked to be discharged from its further consideration, the petitioner being dead; which was agreed to.

Mr. HALE. The Committee on Territories, to which was referred a petition of natives of Louisiana, citizens of the United States of African descent, praying that all the citizens of Louisiana of African descent born free before the rebellion may be admitted to the rights and privileges of electors; and also a petition of colored citizens of the United States, praying that the elective franchise be granted to the colored people of the United States; and also a petition of citizens of African descent, praying that the right of suffrage may be granted to all the natives of Louisiana of African descent; and also a memorial of the National Clubs of the city of New York and vicinity, praying that freed slaves may be permitted to take part in the reconstruction of the rebellious States, and that the right of suffrage be not confined exclusively to white persons, have had them under consideration, and have instructed me to ask that the committee be discharged from their further consideration. In explanation of this motion I am instructed by the committee to say that these memorials were all with one exception referred, as we think very appropriately, to the select committee on slavery and freedmen; but as that committee had them under consideration, and asked to be discharged on the ground that they did not come within their jurisdiction, the Committee on Territories are at a loss to know what committee they do come under, and I therefore move that the Committee on Territories be discharged from the further consideration of these memorials, and that they lie on the table.

The motion was agreed to.

Mr. HALE. The Committee on Territories, to whom were referred sundry petitions of loyal citizens of the State of Virginia, praying that Congress may give Virginia a territorial government, and also some remonstrances against the prayer of these petitions, have had the same under consideration, and instructed me to move that the committee be discharged from their further consideration, and that they be indefinitely postponed.

The motion was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the memorial of S. D. Carpenter, praying an examination of his invention of a new method of defensive armor in the construction of war vessels, with a view to its adoption by the Government, reported adversely thereon.

He also, from the same committee, to whom was referred a resolution to print extra copies of the Correspondence on Mexican Affairs, reported it with an amendment.

The amendment was agreed to, and the resolution as amended adopted, as follows:

*Resolved*, That five hundred additional copies of the Correspondence on Mexican Affairs be printed for the use of the Senate, and that two hundred copies be printed for the use of the Department of State.

#### INDIAN TERRITORY.

On motion of Mr. LANE, of Kansas, the following resolution, submitted by him on the 2d instant, was considered and agreed to:

*Resolved*, That the Committee on Territories be instructed to inquire as to the policy of organizing a territorial government for the country lying between Kansas and Texas, known as the Indian country, and to report by bill or otherwise.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 427) for the protection of passengers; which was read twice by its title, and ordered to lie on the table, and be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 428) to prevent the sale of notes, scrip, bonds, or other evidence of debt issued by rebel authorities; which was read twice by its title, and ordered to lie on the table, and be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 107) providing for the further decoration of the Capitol; which was read twice by its title.

Mr. COLLAMER. I should like to know the purport of that resolution. What sort of decoration does it provide for?

Mr. FOOT. Let the resolution be read at length.

Mr. GRIMES. I desire to say, in justice to myself, that I have not drawn up this joint resolution with malice prepense. It is a joint resolution which has been introduced into the House of Representatives by a distinguished member of that House, and at his instance I have offered it here.

Mr. COLLAMER. It is a resolution for a painting, is it not?

Mr. GRIMES. Yes.

Mr. FOOT. Let it be read, so that we can understand it.

The Secretary read the resolution. It proposes to direct the Joint Committee on the Library to enter into a contract with William H. Powell to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory, at a price not to exceed \$25,000.

Mr. COLLAMER. I move that the resolution be referred to the Committee on the Library.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the joint resolution (H. R. No. 91) in relation to the treaty of 1817.

The message further announced that the House had passed a bill (H. R. No. 641) to provide for another term of the circuit court of the United States for the district of Arkansas, and for other purposes.

#### METROPOLITAN RAILROAD.

On motion of Mr. DIXON the Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," the pending question being on the amendment reported by the Committee on the District of Columbia to add to the second section the following proviso:

*Provided*, That the directors of said Metropolitan Railroad Company shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time, in such manner, and in such install-

ments as they may deem proper; and if any stockholders shall refuse or neglect to pay any installments, as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may forfeit said stock and all previous payments thereon for the use of said corporation, under such general regulations as may be adopted in the by-laws of said corporation, or may sue for and collect the same in any court of competent jurisdiction.

Mr. DIXON. I propose to amend the amendment by striking out the words "forfeit said stock and all previous payments thereon to the use of said corporation," and inserting these words in lieu of them:

Sell at public auction to the highest bidder so many shares of said stock as shall pay said installments; and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

Mr. SUMNER. I offer this amendment as a new section to come in at the end of the bill:

*And be it further enacted*, That the provision prohibiting any exclusion from any car on account of color, already applicable to the Metropolitan railroad, is hereby extended to every other railroad in the District of Columbia.

The object of that simply is to equalize the railroads.

Mr. DIXON. I suggest to the Senator that he had better offer it on some other bill. To incur this charter with provisions that apply to other roads, it seems to me, is improper. The thing itself, as it respects this railroad, is provided for in the charter of this company.

Mr. SUMNER. The object of the proposition that I have made is to equalize the condition of the railroads in this city. The Metropolitan railroad, with regard to which we are now legislating, already is put under this condition, and the friends of that railroad very justly complain that it is not fair that the other railroads should not be under the same provision. The object of my amendment is to subject all the other railroads that are in business competition, of course, with the Metropolitan railroad to the same condition which Congress has imposed upon that road. The proposition, therefore, is just with regard to the different roads between themselves, besides its great intrinsic justice.

Mr. HALE. I entirely agree with the principle of the amendment; but it strikes me that it is anomalous legislation in a private act, which is a charter of a private company, which will be printed and published with the private laws, to incorporate a provision of public law. I think it is incongruous and out of place in this bill, with great deference to my friend. I will vote with him to put it in any public law to which he will move it, but I think it is not fair to put it on a private bill. It is putting a public law applicable to all companies into the private charter of one company.

Mr. CONNESS. I would suggest to the Senator from Massachusetts that a bill introduced by his colleague this morning provides for it; it covers that point exactly.

Mr. SUMNER. How so?

Mr. CONNESS. It is a bill to compel all carriers of passengers in the United States to give access to all persons on any ship, or railroad, or steamboat, as the case may be, or at the table or elsewhere.

Mr. DAVIS. And state-rooms?

Mr. CONNESS. I suppose in state-rooms too, to establish the rule of "first come first served." It is a bill of wider application than the amendment proposed by the Senator now, and I too am opposed to his loading this bill with his proposition. The bill offered this morning by the Senator's colleague, [Mr. WILSON,] the chairman of the Committee on Military Affairs, is decidedly the widest in its scope on this subject, the most humanitarian and general, that has ever yet been proposed; and the honorable Senator now offering this amendment can make no improvement upon it.

Mr. SUMNER. I have a rule a little different, I see, from that of my honorable friend from California. I am in favor of getting what I can as soon as I can, and not postponing it to an indefinite future. My honorable friend reminds me that my colleague has introduced a bill of a much larger scope; can he give the country any assurance that the bill of my colleague will become a law of the land?

Mr. CONNESS. I cannot.



Mr. SUMNER. Very well; then I presume my friend is not in earnest in his position. Now I come to my other friend, the Senator from New Hampshire, [Mr. HALE,] who objects to this proposition on the ground, if I understood him, that it is introducing a general provision into what he chooses to call a private bill. How is it a private bill? I do not understand it so. It is a bill chartering a railroad company in the District of Columbia; and Congress does that in the exercise of those special powers that are given to it by the Constitution; and the provision becomes important, as I have already said, in two respects: first, for the sake of the Metropolitan Railroad Company itself, which has been brought into disfavor in comparison with other railroads, because Congress have put the condition requiring that there shall be no exclusion of color in its charter; I say, therefore, the proposition is favorable to that road. And in the second place it is entirely germane to the question. In legislating on a railroad, what is more germane than that the Senate should ingraft upon the charter any proposition, special or general, which should concern the subject matter? I say, therefore, that the suggestions of both my honorable friends fall to the ground; they cannot prevail if Senators are in earnest on this subject.

Mr. SAULSBURY. I say nothing in reference to this proposed amendment, but I wish to record my name against all such legislation. I ask for the yeas and nays.

Mr. SUMNER. I ask for them too.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Farwell, Foot, Harlin, Harris, Henderson, Howard, Howe, Lane of Kansas, Morgan, Nye, Pomeroy, Ramsey, Stewart, Sumner, and Wilson—19.

NAYS—Messrs. Buckalew, Conness, Cowan, Davis, Dixon, Doolittle, Hale, Hendricks, Johnson, Lane of Indiana, Morrill, Nesmith, Powell, Richardson, Saulsbury, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wright—20.

ABSENT—Messrs. Cardie, Chandler, Foster, Grimes, Harding, Hicks, McDougal, Riddle, Sherman, Sprague, Wade, and Wilkinson—12.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SUMNER. I now renew my amendment in the Senate.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. WILSON. I move to postpone the further consideration of that measure in order to finish this.

Mr. TRUMBULL. I hope not.

The VICE PRESIDENT. If there be no objection—

Mr. TRUMBULL. I shall object.

The VICE PRESIDENT. Being objected to, the morning hour having expired, the unfinished business of yesterday is before the Senate.

Mr. WILSON. I suppose it is in order to move to postpone that and take up another bill.

The VICE PRESIDENT. It is.

Mr. WILSON. Then I move to postpone the pending and all prior orders for the purpose of proceeding to the consideration of the bill which the Senate had before it in the morning hour yesterday—Senate bill No. 408, in addition to the several acts for enrolling and calling out the national forces, and for other purposes. I wish to state that that bill was up yesterday, and was postponed until this morning. I supposed yesterday that we should finish the matter we were then debating; but afterward I came to the conclusion that there was no disposition to finish it, and I do not believe there is any to-day. This bill to amend the enrollment acts ought to be acted on at once.

Mr. COLLAMER. These votes will have to be counted on Wednesday next.

Mr. TRUMBULL. I hope the Senator will allow us to dispose of that matter and not interpose his bill.

Mr. WILSON. I must say that I have been crowded out for four days by this mere gabble and talk on this subject. I withdraw my motion, but unless the Senator from Illinois gets through with this measure in two hours, I shall renew it, and have a fight over it.

The VICE PRESIDENT. The motion is withdrawn, and the unfinished business of yesterday is now before the Senate.

#### REPRESENTATION IN ELECTORAL COLLEGE.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College.

The VICE PRESIDENT. The pending question is on the amendment proposed by the Senator from Vermont, [Mr. COLLAMER,] and upon that question the Senator from Vermont is entitled to the floor.

Mr. LANE, of Kansas. Before the Senator from Vermont proceeds, I desire to ask for the yeas and nays upon his amendment.

The yeas and nays were ordered.

Mr. COLLAMER. Mr. President, I think any man must be exceedingly dull who would not have understood from the hints and remarks made this morning in relation to this topic that the Senate are very impatient for a vote. I do not blame them for being impatient. But, rising as I do to reply to the speech of the honorable Senator from Maryland, [Mr. JOHNSON,] delivered yesterday, I will not promise that I shall be able to gratify them with even my usual brevity. I will endeavor to be as brief as I can in justice to the subject.

In the first place, Mr. President, there perhaps is due from me to that honorable Senator some little notice that I am not entirely insensible to what he has on this and other occasions permitted himself to indulge in in his remarks with respect to my professional ability and discernment. I have never made any reply to them, but at the same time I wish it to be understood that I am not entirely ungrateful or insensible to such remarks. I will merely say that the opportunities I have had to inform myself in relation to the honorable Senator's high acquirements in his profession, his legal acumen, and the perspicuity of his logic have given me a very high appreciation thereof. If I were to say merely that I reciprocate the sentiments he has expressed, and entertain a sincere respect for his professional superiority as high as he entertains of mine, he might consider it at least but a questionable compliment; but I will add to it that I have as high an estimation, and even higher, of him than he has thought proper to express in relation to me. I think that ought to be satisfactory.

But, sir, after all, I could not but observe that the honorable Senator, when speaking in that manner, very courteously and very kindly, always accompanied it with an argument of great weight, coming from him, to show that the positions I took were wholly untenable. How much, therefore, the respect that is paid to my opinions is worth when accompanied by such sort of argument, he and other gentlemen can answer for themselves.

Mr. President, the amendment which I have proposed has in it one very important feature, to which the gentleman has addressed himself; and that is, that the States which have been declared in a state of insurrection are incapable of exercising their privileges or their duties within this Government as integral parts of this Union while they continue in that situation, and that their restoration shall be either by an act of Congress or by the reception of their representatives by the two Houses. That involves this point: whether Congress have anything to do in the matter in relation to the reorganization and reestablishment of these States. The Senator seems to think not; and he goes on to make some remarks which I will not attempt to repeat, but the substance of them is that they are States in the Union—I agree to that—and, being in the Union, if the hostilities cease there is an end of all action about it; they are remitted to all their rights, and may exercise all their functions as integral parts of this Government without the consent of this Government one way or the other. There I dissent.

The gentleman says that a war may exist without any declaration of war. I agree to that. He says that if Great Britain should wage a war upon us, and were in the exercise of that war, it would be a war though we had not declared it, nor they either. I grant it. He then says that if they should upon the whole surcease that war, withdraw their military force, and Parliament should declare that they were no longer in a state of hostility with the United States, that that would be an end of that war. There is exactly the point where we differ. That is exactly

the point where we separate. I know that one party between two or more nations may make a war, but I say that both parties are required to make peace. If Great Britain were to actually levy war upon this country, besiege our cities, lay waste our coasts, capture our vessels, and then, when we had undertaken to defend ourselves with some success, they should withdraw from it, and declare to the world that there is peace between us, that would not be peace, nor would that war be ended. I insist that both parties must agree to the peace, and that the surcease of hostilities by one side does not end the war. Every nation undoubtedly has the right in a state of war, when negotiating for peace, to insist upon indemnity for the past and security for the future. If one party can make a war and make a peace when they please, without the consent of the other party, then neither of these rights of insisting upon indemnity for the past or security for the future can any longer exist. I say that if Great Britain had made such a war upon us, we would not be obliged to surcease our hostilities in defense of ourselves and the capture of their vessels because they ceased, until we had made a treaty which gives us indemnity for their having made that unjustifiable war upon us. There is the exact point where we separate; and it is in the application of that same point to this war and its analogies that we differ again.

But the Senator says you cannot make war upon a State; they are now States in the Union, and if they surcease hostilities you cannot prosecute the war. I am not insisting that if these people lay down their arms and return peaceably to their habitations, the President can carry the war into their houses. That is not what I am talking about. I am talking about when and how the political status of these States is to be restored, and with whose consent it is to be restored. Is it true that the right to make war in this country consists in the right of the States to make war upon the General Government, but the United States cannot make war upon them? Is it their peculiar privilege and exclusive right to make war upon the General Government? Cannot we do anything about it? Cannot we prosecute war against them? Is it their privilege to make war on the United States as long as they have a mind to do so, and when they become satisfied they are not getting along very well, they have nothing to do but to stop and begin it again when they please, renew it when they have a mind to do so, and it is all an *ex parte* proceeding, and the Government of the United States has nothing to do with it? I cannot agree to any doctrine of that kind.

But I desire to make a few remarks on this subject of making war upon a State. I have heard a great deal about that first and last. I do not know but I was to blame, when I first heard that doctrine brought forward by Mr. Jefferson Davis in the Senate, for not correcting him. He quoted from the remarks of Mr. Sherman, Mr. Madison, and several other members of the Convention that formed the Constitution who stated that. They did state it; and Mr. Davis used to quote from them. I understood how that was then. It is true I did not at that time explain it. I did not suppose that other people would be misled by it; nor did I suppose that my explanation would ever reach the community, and perhaps never reach the Senate. The remarks I am now making not only will never be read and understood by the community, but will never be read and understood by half the Senate. But still I feel it my duty at this time, as that doctrine is repeated and those quotations are again alluded to, to make some explanation on that point.

Mr. President, you will observe, and any gentleman who chooses to examine into it will find, that Mr. Buchanan put into his last message that same doctrine, and alluded to the very quotations made by Mr. Davis. If you will read that message it will be perfectly apparent that that portion of it which says you cannot make war upon the States was interpolated into the message after it was drawn up. I do not mean clandestinely; I mean interpolated by the President. It is obvious from its connection that it is so. I know that while that message must have been in a period of preparation Mr. Davis returned from his excursion to Maine, where he had spent that

summer; and that was the very ground and those were the very quotations which Mr. Davis had used in the Senate; and after his return here, as I think, it was put into that message at his suggestion.

Now, sir, it will be recollected that the Articles of Confederation were never adopted by the people. They never were a constitution; they were a league; and it was declared in them that the States should retain and continue their sovereignty; that it was a league for the mutual defense of the States against foreign Powers. The States were represented in the Congress under the Confederation by their Legislatures appointing the delegates, and withdrawing them when they pleased; and that body had no power of making laws except on the single subject relating to piracy on the high seas. They merely made requisitions on the States that they wanted so much money and so many men; and the States agreed to furnish them, or did not furnish them, as they saw fit. It will be observed that each State had but one vote in the Congress of the Confederation; each had the same weight. When they came to get together in a Convention to form a new Constitution, the small States were very desirous of preserving the Articles of Confederation; of having a mere league; a mere treaty. They were unwilling to give up the weight which they had under the Articles of Confederation; and they therefore proposed that they should be amended so as to oblige the States to furnish their quotas. The question whether they should mend up the old Articles of Confederation, or form a Government with all the functions of Government, executive, legislative, and judicial, was the first great question before that Convention. Even the State of New York, then counted a small State, was very persistent in favor of having the Articles of Confederation amended merely; and when it was finally resolved to abandon that project and form a Government, two out of three of those delegates from New York, Mr. Lansing and Mr. Yates, went home and never returned again.

It was when the Convention were debating that question that these remarks by Mr. Sherman, Mr. Madison, and others, which have been so often quoted, were made about making war upon the States. They said, "You cannot coerce these States to furnish their quota. Why? Because it is war; you can only do it by force. These Articles of Confederation are a treaty, a league, between these States. It is the settled law of nations that a war between the members of one treaty always puts an end to all the treaty stipulations existing; and, therefore, if you make war upon one of these States under the Articles of Confederation to coerce them, that moment you end your Confederation, because it is war, and the war ends it." It is perfectly palpable and plain to me that with articles merely of association in the nature of a treaty between the States, that was strictly and literally true; it could not be done. All the remarks then made by those gentlemen, which are now quoted, were made as applicable to the condition of a league; and yet they are now quoted upon us as being applicable to the condition of a nation as it is now formed, of a national Government.

If we follow out the doctrines of these southern gentlemen who have seceded, they are not inconsistent, because they hold that we are nothing but a league now, and therefore the making of a war would end that league. They therefore are not inconsistent in it; but no man who views this as a Government, with all the functions of government attached to it, and not a league, can quote with propriety those expressions as applicable to our condition. So much for that.

Now, Mr. President, there commenced an insurrection in this country. It never arose, perhaps, to the dignity of a war until the act of 1861 was passed. I know a majority of the Supreme Court decided that in relation to laying a blockade and the making of prizes, &c., that a war existed before that act of 1861 was passed; but all agree that after the act of 1861 was passed it took the character of war. What shape was it that it took? It was this: Congress declared that where there was an insurrection existing in a State claiming to act under the authority of the State, and the authorities of the State did not disclaim it and did not suppress it, in that case the President might declare the inhabitants of that State in a state of insurrection, and all intercourse between the inhabitants of that State and the inhabitants of the

rest of the United States should cease. Observe, sir, they did not declare that the war was to be against men who were insurgents. It included all the people of a State whose authorities sustained the insurgency, whether they were loyal or disloyal people. That is the condition of things in a state of war in every country. It may be the misfortune of the minority; but that is their unavoidable condition in time of war. This was declared to be a war with the whole inhabitants of that State. Then it was that it took, in relation to our inhabitants, its true character and condition of a war, and a war between those States, made by them through their functionaries and the body of their people, against the General Government.

Such being the state of war, the question presents itself, When and how is that war to cease, and when and how is the formal political status of the States which are engaged in it, or the inhabitants of those States, to be restored, and who is to declare it? The gentleman from Maryland has argued at much length to show that under the act of 1864, if the hostilities on the part of the enemy stop, the President is compelled to stop hostilities on his part. I do not wish to make controversy about that. What if he does? I know that the President can withdraw all our forces from the southern States to-morrow, if he pleases; he can withdraw all our ships from off the coast and order them to the harbor of New York or Boston. I know that military operations may cease altogether by his act. I know he may pardon all crimes committed against the United States, including treason. That is his power. But, sir, does that alter the condition of the political status of those States in their relationships to this General Government? Suppose the hostilities entirely cease; suppose the rebels throw down their arms and go home to their several habitations; there are in those States the functionaries of their government, their governors, their legislatures, all organized in this revolutionary operation and carrying it on; and is it true that they then have the right to send members to the Senate and House of Representatives, and if they have a right to send them, to demand their admission here, and we have nothing to say about it? Is it true that they may make war upon the General Government, carry it along as far as they please, then stop it, and we are obliged to receive them, until they have had time to revive their powers or resolution and start again, and we cannot help ourselves?

Sir, are there not two sides and two parties to this war? It is the strangest war men ever heard of if it has but one side to it. I take it there are two parties to this war: the several States who have made it, on the one side, and the national Government against whom they have made it, on the other; and I suppose the two parties must participate in the restoration of peace and quietness, and their restoration to their former condition, or a condition where they can perform their functions within the Government as integral parts of the Union. It is for Congress to say when that state of things exists. Congress is not bound to receive their members, or to treat them as being regular, loyal, integral members of this Union because they have succeeded fighting and succeeded military operations, until we have seen a return to loyalty and an obedience to their allegiance and the performance of their fealty, a true restoration of themselves to their former condition of loyalty and obedience; and that must be for Congress to decide. That is the main and essential sentiment of the amendment I have presented.

Sir, when will, and when ought, Congress to admit these States as being in their normal condition? When they see that they furnish evidence of it. It is not enough that they stop their hostility and are repentant. They should present fruits meet for repentance. They should furnish to us by their actions some evidence that the condition of loyalty and obedience is their true condition again, and Congress must pass upon it; otherwise we have no securities. It is not enough that they lay down their arms. Our courts should be established, our taxes should be gathered, our duties should be collected in those States; and before they come here to perform their duties or privileges again as members of this Union, they should place themselves in an attitude showing to us that they have truly taken that position, and

we should pass upon it; and I insist that the President, making peace with them, if you please, by succeeding military operations, does not alter their status until Congress passes upon it.

The great and essential thing now to insist upon, in my judgment, is that Congress shall do nothing which can in any way create a doubt about our power over the subject. Indeed it is right to assert at the proper time that we have that power; and how, and when, and in what manner we shall execute that power, is in the discretion of Congress. I do not mean to occupy very much time with that; but one thing I have to say: I believe that when reestablishing the condition of peace with that people, Congress, representing the United States, has power in ending this war as any other war, to get some security for the future. It would be a strange thing if it were not true that this nation, in ending a civil as well as a foreign war, could close it and make peace by securing, if not indemnity for the past, at least some security for future peace. I do not believe that Congress is stripped of that power in relation to this or any other war; and here I do not wish to be understood as undertaking to assert the existence of such a power without some warrant in the Constitution.

The Constitution has in it what is well known as the guarantee section, by which this Government guarantees to every State in the Union a republican form of government. Now, what is implied in that? Several things which are quite obvious. In the first place, that guarantee can only be kept and redeemed by preserving the States within the Union. We cannot carry out a guarantee to States on any other ground than by having and keeping them within the Union. That is necessarily implied.

In the next place that guarantee is to the States as States. It is a guarantee to the State of North Carolina, for instance, that North Carolina, as a State, shall have a republican form of government within this Union; not to be taken and split up and made into different States, but it is a guarantee to that State as a whole State.

Another thing is implied. That is a guarantee to the minority in a State. No man who will read Mr. Madison's remarks upon the subject can be mistaken in that. The very nature of the thing implies that. The majority in a State can shape their form of government as they please without any help from Congress; but the provision was inserted from a fear that the minority might be overborne, especially, said Mr. Madison, in a slaveholding State. The guarantee was therefore inserted for the security of the minority in a State, though there may be but one man there to redeem Sodom.

Again, it is a guarantee from which the States can never discharge the United States. You may say that when they make war on us they discharge us from our obligation in the matter; but that is impossible. That guarantee is not merely for the people of that State; it is a guarantee made for the security of all the States of the Union. I have a right as a representative from the State of Vermont to say that the State of Vermont insists that you shall keep North Carolina in the Union; we formed it with her in it; we had that guarantee, that she should be kept in with a republican form of government, and we have a right to insist on the redemption of that guarantee. Therefore I say no one State can discharge the United States from it.

Such being not only the clearly-expressed guarantee but the plighted national public faith which we are bound to keep, let me put a case. Suppose in all candor that Congress had by experience become convinced that they could not sustain a State within the Union with a republican form of government, holding slaves; suppose we had tried it over and over, and we had beaten them and made peace with them, allowing them to keep their slaves, and they had repeated their rebellion over and over until every man became convinced that it was utterly impracticable and impossible to have a republican form of government under such an aristocracy as that engendered and sustained; and suppose Congress in all candor and seriousness became convinced that we could not keep this guarantee in relation to those States that hold slaves, and they, being at war with us, choose to lay down their arms or we beat them, disperse their forces, and a question arises about

fixing the status of those States again, their political condition in relation to this Government, that is, making peace; I say that Congress has a right, if so convinced in all candor, to say that in order to preserve our plighted public faith contained in that guarantee we will destroy and abolish that institution; for we cannot keep our guarantee without doing it. Cannot Congress under the general provision of the Constitution make all laws proper and necessary to carry into effect the powers granted in the Constitution? Clearly. If that is so, then Congress may, in fixing the status of these States, if they are convinced of the proposition I have just stated, make it one of the conditions of their again exercising their franchise as integral members of this Union, that they shall be placed in a position which will enable the Union to continue and exist.

Such being my view, it remains for me to say a few words about what the Senator said yesterday in regard to the present probability of peace. I know nothing about that. I have no admissions to the White House, and no knowledge of proceedings there; but I guess, after all, I have about as much as some members of the Cabinet, [laughter,] and you know a Yankee is allowed to "guess." I have but little expectation of any present cessation of hostilities, even. I have before remarked that I do not think the mere cessation of military operations is necessarily a peace, nor do I think the political status of these States is thereby reestablished. I think it requires two parties to make a peace. I know not what the President may do. I grant that the President may, if he sees fit, pardon all treason. He has that power. Whether he can really dispense with the operations of what is called the confiscation act, I do not know. I had but very little to do with that act, but I believe it provides for making confiscations by proceeding *in rem*, and trying a man without notice to him. I do not understand much about such proceedings, nor exactly know how far they may go. But it seems to me that, before the President can reestablish these States in the Union, performing the functions of loyal States within this Government and integral parts of it, somehow or other the action of Congress will be needed. That is the very point we have now in discussion, the very point I am after.

I think it does need the action of Congress. How will he get rid of that confiscation law by any action of his own? I surely do not know. Then a law has been passed with his approval declaring that persons who have been engaged in this rebellion are ineligible to appointments to office in this Government. I do not know but that perhaps he may get them in without having that law repealed by Congress, but I cannot tell how. So in whatever aspect you look at the case it is evident that no reestablishment of the former condition of things can take place without the action of Congress. There are many other acts of similar character which stand directly in the way of doing what the Senator from Maryland thinks can be done by the President. Put an end to the hostilities, and there, he says, is the end; the States are in, and we have nothing to do with it; and he cannot support a resolution which declares that we have to do with it! I say we have to do with it; we are the other party in the war, and I think we must participate in the reestablishment of peaceful relations.

The power existing in Congress in the reestablishment of peaceful relations to annex such conditions as are necessary to our preservation and life, another question arises, when and how and in what manner you will exercise the power. Will you ever exercise it at all? Will you ever annex any such conditions? We are told by the papers, which seem to be very hungry for peace, and to be crying "Peace, peace, when there is no peace," that there is no need of saying anything more about the condition to which I have adverted, because the Senate and House of Representatives have passed a constitutional amendment, and that will accomplish the purpose. If I were entirely convinced that we could not sustain a republican government in these States and keep them within this Union in any other way than by having the institution of slavery abolished, and I was inquired of whether I would insist upon that as a prerequisite and condition precedent to their reestablishment, I would say this: if I was perfectly convinced, fully satisfied in my

own mind, that the constitutional amendment referred to would be adopted by the constitutional number of States, that would remove the occasion for the exercise of any such power on the part of Congress, but I do not know how that will be. That is a matter which lies in the future. Neither I nor any other man can tell when and how and in what manner it will take place, or whether it will ever take place at all. While things remain suspended in this condition I reserve to myself the right of exercising this power which I think in the extreme Congress constitutionally possesses. In what manner I shall exercise it will depend upon the occasion as it shall present itself. It will depend upon their desire to restore their former condition, how far they have returned to loyalty and allegiance, how far they have so shaped their institutions as to furnish security for the future that the peace would be kept. All these matters would have to be examined into in each case as it presented itself.

Mr. DAVIS. I move to amend the amendment by striking out all after the word "that," where it first occurs, and inserting:

The States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, are not entitled to representation in the Electoral College for the choice of President and Vice President for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for the said term of office.

The simple effect of my amendment to the amendment is to strike out the preamble and to leave the resolution just as the Committee on the Judiciary reported it. It seems to me that three fourths of the debate that has taken place upon the subject has originated out of the preamble. I think that there is a clear, indicated majority of the Senate in favor of the resolution, and that the Senate are ready to vote simply on the resolution. I do not intend to prolong the debate. I merely rise to announce what will be the effect of the amendment. As I believe that the preamble has given rise to the great body of the debate that has already occurred, I propose to cut off further discussion on the preamble by moving to strike it out, and bring the Senate to act directly and simply upon the resolution.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The Chair will inquire of the Senator from Kentucky whether his amendment is a substitute for the original resolution and preamble.

Mr. DAVIS. My amendment is an amendment to the amendment of the Senator from Vermont.

Mr. TRUMBULL. I hope the Senator from Kentucky will not persist in his motion. We had a distinct vote yesterday on striking out the preamble. He and I desire to accomplish the same object. I think the debate is pretty much over, and if we can get to a vote we shall soon settle this matter, and it seems to me we had better adhere to the resolution as the Committee on the Judiciary have reported it back. There seems to be a disposition in the Senate to pass a resolution of some character, and we shall soonest accomplish our object by just voting for the proposition as it is. Perhaps it is not in the very best form. As an original proposition I cared nothing about the preamble, nor do I now, but still I think we shall the soonest get through by not offering amendments. I believe the Senate is about ready to vote; and the object to be accomplished seems to be acquiesced in, and that is, to prevent the counting of the votes of certain States.

Mr. DAVIS. If the Senate will come to a vote without any further debate I will not press the amendment to the amendment.

Mr. TRUMBULL. Let us try.

Mr. DAVIS. Well, sir, I withdraw it, in the hope that we may come to a vote.

Mr. SAULSBURY. I hope the honorable Senator from Kentucky will not withdraw it, but will accept a modification by inserting after "1865" the words "for the reason that there has been no valid election or appointment of electors of President and Vice President in any of those States."

Mr. TRUMBULL. The Senator from Delaware will allow me to suggest that that is the very preamble now. Those very words that he proposes to put in are in the amendment reported by the Judiciary Committee.

Mr. SAULSBURY. If that is so, very well. I was not aware of it.

Mr. TRUMBULL. If the Senator will have the preamble read as it was concurred in in Committee of the Whole, I think it will satisfy him.

Mr. JOHNSON. I am not about to continue the debate, but only to refer to a sentence or two in two of the books I have on my table. My friend from Vermont seems to suppose that what was said in the Convention that framed the Constitution in relation to the use of force against States had reference alone to the States as they existed under the Articles of Confederation. He will find that Mr. Madison—I read from his Debates—in that Convention, in speaking to what was proposed as a clause to be inserted in the Constitution, authorizing an exertion of the force of the whole against a delinquent State, spoke in this way:

"He observed that the more he reflected on the use of force the more he doubted the practicability, the justice, and the efficacy of it when applied to people collectively, and not individually. A union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts to which it ought to be bound."

Then he is speaking in reference to a proposed power in the Constitution of the Union, as we have it, to authorize the use of force against a State as such.

Mr. COLLAMER. That was a proposition to carry into effect the Confederation.

Mr. JOHNSON. No; it was in the Convention to adopt the Constitution. But I will not fatigue the Senate by going further into that subject. I stated yesterday that both the majority and the minority of the judges of the Supreme Court by whom the prize cases were decided, expressly negated the idea of any authority to carry on a war or declare a war against any State of the Union. That will be seen first in the opinion of the majority on page 668, 2 Black's Reports, in which, speaking for the court, Mr. Justice Grier, who delivered the opinion, says:

"By the Constitution Congress alone has the power to declare a national or foreign war. It cannot declare war against a State, or any number of States, by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed. He is Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States. He has no power to initiate or declare war against a foreign nation or a domestic State. But by the acts of Congress of February 28, 1795, and 3d of March, 1807, he is authorized to call out the militia and use the military and naval forces of the United States in case of invasion by foreign nations and to suppress insurrection against the Government of a State or of the United States."

And at page 693, Mr. Justice Nelson, who gave the opinion of the minority, says:

"The acts of 1795 and 1807 did not, and could not, under the Constitution, confer on the President the power of declaring war against a State of this Union, or of deciding that war existed."

And Congress has not undertaken to do it by the two acts referred to by the court or by the act of July 13, 1861. Those acts all profess to act exclusively under the clause of the Constitution which authorizes the employment of force to suppress an insurrection.

The subject has been fully discussed in Congress; on the questions in issue between my friend from Vermont he has said all that can be said on his side, and I have endeavored to say what I could on the other. I shall not, therefore, detain the Senate by any further discussion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. COLLAMER.]

The amendment was read, as follows:

Strike out the preamble and resolution and insert the following:

Resolved, &c., That the people of no State, the inhabitants whereof have been declared in a state of insurrection by virtue of the fifth section of the act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, shall be regarded as empowered to elect electors of President and Vice President of the United States until said condition of insurrection shall cease, and be so declared by virtue of the law of the United States, or until they shall be represented in both Houses of Congress; nor shall any vote cast by any such electors elected by the votes of the inhabitants of any such State, or the Legislature thereof, be received or counted.



# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2D SESSION.

TUESDAY, FEBRUARY 7, 1865.

NEW SERIES....No. 38.

The question being taken by the yeas and nays, resulted—yeas 13, nays 27, as follows:

**YEAS**—Messrs. Anthony, Brown, Clark, Collamer, Dixon, Farwell, Foot, Harlan, Howard, Lane of Kansas, Ramsay, Sumner, and Wilson—13.

**NAYS**—Messrs. Buckalew, Chandler, Conness, Cowan, Davis, Doolittle, Foster, Hale, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Powell, Sautsbury, Sherman, Stewart, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wright—27.

**ABSENT**—Messrs. Carlile, Grimes, Harding, Hicks, McDougall, Nesmith, Richardson, Riddle, Sprague, Wade, and Wilkinson—11.

So the amendment was rejected.

The joint resolution was reported to the Senate as amended.

The **PRESIDING OFFICER**. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. **HOWARD**. I understand that is an amendment by which a part of the preamble was stricken out. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. **HOWARD**. I hope the amendment will be read.

The Secretary read the amendment, which was to strike out from the preamble the words "and have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864;" and in lieu of them to insert, "and were in such state of rebellion on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States according to the Constitution and laws thereof was held therein on said day;" so as to make the preamble read as follows:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such state of rebellion on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day.

Mr. **POMEROY**. I suppose it is in order to perfect the preamble before the question is taken on striking out?

The **PRESIDING OFFICER**. It is in order to amend the amendment. The question is not on striking out the whole preamble.

Mr. **POMEROY**. I propose to offer an amendment to which I think the chairman of the committee will not object; and that is, instead of saying that these States continued up to the 8th day of last November in such a state of armed rebellion that a valid election could not be held, to say simply that they were in such a condition that a valid election could not be held. My amendment is to strike out the words "state of rebellion" and insert "condition." These States were not all in rebellion then; but I will admit that they were in such a condition that they could not vote.

Mr. **HOWARD**. I had supposed that the amendment suggested by the Committee on the Judiciary, on which we are now again to vote, was simply to strike out a portion of the preamble and not to substitute anything in its place. I perceive that in that respect I was mistaken, and that there is a substitution of other words which satisfy me. I shall therefore vote for the amendment of the committee.

Mr. **TRUMBULL**. I have no right to accept the amendment of the Senator from Kansas, which is only to insert the word "condition" in place of the words "state of rebellion," so as to declare that these States were in such a condition that no valid election could be held. I had no objection to that individually, and as it seems to be more satisfactory to some members of the Senate and does not alter the meaning of the resolution or preamble, I shall not object to it. The preamble, if thus amended, will then read that certain States rebelled against the Government and were in such a condition on the 8th of November last that no valid election could be held. I am satisfied with that as an individual.

Mr. **COLLAMER**. I do not see the propriety

of this change. It says they rebelled at such a time and were in a bad condition on the 8th of November. What the condition was it does not state. Was it a bad condition of health?

Mr. **HALE**. I think the history of the Senate affords a precedent for the phraseology that is to be used here. It was once stated in a certain case on the floor of the Senate that certain members did not belong to a healthy political organization. [Laughter.]

Mr. **POMEROY**. The object which I desire to accomplish is a simple one. I do not like to state in the preamble what is not true. That the local authorities of these States did rebel against the Government four years ago I have no doubt; but that all of them continued that rebellion up to the 8th day of November last is not true, and there is no use in saying that it is. For instance, in the State of Arkansas—and the same may be true of Louisiana—the local authorities that rebelled have not been inside of the State within a year. Then how could they have been in rebellion in that State on the 8th day of November last? The progress of our armies has been such that they were not there; and for us to say in this preamble that they continued in a state of rebellion up to that time is not true. I am willing to say that the disorganized condition of these States, and the fact that they had not been recognized by the General Government, left them in such a condition that it was not expedient to hold an election. I am willing to say that, because I think that it is true. The other statement is not true, and that is the reason I do not wish to make it.

The **PRESIDING OFFICER**. The question is on the amendment of the Senator from Kansas to the amendment made as in Committee of the Whole.

Mr. **JOHNSON**. With due deference to the Senator from Kansas, I beg to say that it by no means follows because the authorities of the State of Arkansas were driven out of Arkansas, that they are not in a state of rebellion. You might have driven all the inhabitants of Arkansas and all the authorities out, and they still be waging war against the United States. In fact I suppose, as far as the authorities are concerned, that is true—I mean the authorities existing under the Government of Arkansas at the time the rebellion commenced.

Mr. **POMEROY**. They abandoned the State. The local authority is confined to the State.

Mr. **JOHNSON**. They abandoned the State because they were driven out of it.

Mr. **POMEROY**. They were not driven out as local authorities, but as individuals.

Mr. **JOHNSON**. They could not have been driven out otherwise. Still in point of fact when they were driven out, they were local authorities.

Mr. **POMEROY**. Yes.

Mr. **JOHNSON**. And in point of fact they were on the 8th of November in a state of rebellion; that is to say, they were warring against the United States, either collectively or individually. It is not strictly true to the letter that all the inhabitants and all the local authorities of any one of these States were in a state of rebellion on the 8th of November. There were a great many loyal citizens in each one of the States, and there may have been among the local authorities some loyal citizens who were driven by force to take part in the insurrection. But in point of law, as we have already said in the act of July 13th, 1861, and as the President has said in his proclamation issued in pursuance of that act, so far as our power to put down insurrection by force of arms is concerned, they were in a state of insurrection; and then the question comes back whether a State whose inhabitants are collectively for the most part in a state of insurrection (that is to say, are opposing the laws of the United States, and who are supported in that opposition by the local authorities, such as they are,) can elect electors.

Mr. **POMEROY**. The local authorities to which I referred were the rebel authorities. They never had but one election in the State that I alluded to since the rebellion, and their governor has

been killed and the whole thing destroyed. It is not true that these rebel local authorities were in a condition to make war even outside of the State on the 8th day of last November. The real local authorities were loyal Union men; and for us to say that the real local authorities of that State were in rebellion on the 8th day of last November will be saying what is not true. In the first place, the term of office of the old local authorities had expired by limitation; and in the second place, the chief men in that government were not alive to exert any influence if they were disposed to do so. To say that they made war on the Government on the 8th day of last November, or were in a condition to do so, is saying what cannot be true; and that our local authorities made war on the Government is equally untrue. I am willing to say that these parties not having been recognized or countenanced by the Government, were in such a condition that they could not hold an election, and with that amendment I propose to sustain the resolution. I ask for the yeas and nays on my amendment to the amendment.

The yeas and nays were ordered.

Mr. **DOOLITTLE**. I suggest to the Senator from Kansas, and to Senators around me, to avoid any trouble about the recitals in the preamble, that we strike out the preamble and just put the names of the States we intend to exclude from the Electoral College into the enactment and let it go at that.

Mr. **TRUMBULL**. We have had a direct vote on that, and now we are having a controversy about a matter which I am sure if the resolution was printed and laid before Senators there would be no controversy in regard to. The question now pending is simply whether the word "condition" shall be used in place of the words "state of rebellion." The Senator from Vermont thinks it very objectionable because he supposes it may refer to the health of the States in some way. The word "condition" is to be understood in the connection in which it is used; and the previous language of the preamble explains it. It seems to me nobody can misunderstand it who does not want to misunderstand it, with the resolution before him. The preamble now recites that the States of Arkansas, Tennessee, and others, rebelled against the Government of the United States, and were in such state of rebellion that no valid election was held in November last. The Senator from Kansas objects to that because he thinks all those States were not in a state of rebellion on the 8th of November; but he admits that the condition of things was such that no valid election could be held, and he wants to change the words "state of rebellion" to the word "condition." Does that alter the effect of the resolution, or does it alter the effect of the preamble? If it would satisfy the Senator from Kansas, I was quite willing that it should be adopted. I can see no possible objection to adopting his amendment, and then we shall be done with the controversy.

The question being taken by yeas and nays resulted—yeas 26, nays 13; as follows:

**YEAS**—Messrs. Anthony, Brown, Buckalew, Chanler, Clark, Conness, Davis, Dixon, Doolittle, Farwell, Foot, Harlan, Harris, Henderson, Hendricks, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Sautsbury, Sherman, Trumbull, Van Winkle, Wiley, and Wilson—26.

**NAYS**—Messrs. Collamer, Cowan, Foster, Grimes, Hale, Howard, Johnson, Morrill, Nye, Stewart, Ten Eyck, Wade, and Wright—13.

**ABSENT**—Messrs. Carlile, Harding, Hicks, Howe, Lane of Indiana, McDougall, Nesmith, Richardson, Riddle, Sprague, Sumner, and Wilkinson—12.

So the amendment to the amendment was agreed to.

Mr. **LANE**, of Kansas. I desire to move to strike out the preamble, and insert after the word "States," in the resolution, the names of the States recited in the preamble.

The **PRESIDING OFFICER**. The first question is on concurring in the amendment made as in Committee of the Whole as it has been amended.

Mr. **DOOLITTLE**. It is true that yesterday the Senator from Kansas made a motion to strike out the names of those States from the preamble;

but he did not move to substitute for the whole resolution and preamble the resolution as it would read with the names of the States in. Merely striking out the names from the preamble, as the Senator from Illinois remarked, left the resolution with no meaning, and therefore some Senators voted against it. But the present proposition of the Senator from Kansas is simply to indicate what is desired, that these States shall not be counted in the College, leaving out the preamble; for there seems to be some difficulty about the recitals in the preamble. This presents the question in a different point of view from that in which it was presented yesterday.

Mr. TRUMBULL. I do not see what is to be gained by striking it out. It is proposed to take the names of the States out of the preamble and put them into the resolution. Will it be any better then? It is just taking up time. I hope the Senate will adhere to the resolution as it is, and vote down all amendments which are proposed.

Mr. COLLAMER. Without this preamble I do not understand that the resolution states the condition of that country at all.

Mr. JOHNSON. It does not.

Mr. LANE, of Kansas. I am satisfied that a majority of the Senate, as well as of the other branch of Congress, will vote in a few days, and be compelled to vote, for the reception of Arkansas, Louisiana, and Tennessee, and that there is or will be a clear majority in this body in favor of that proposition. It is not true, as stated in this preamble, that the local authorities of the States of Arkansas and Louisiana were not in a situation to cast their votes for President and Vice President either by being in rebellion or by being in "such condition," as my colleague says. They were prepared to vote, and so far as Louisiana is concerned, did vote, for President and Vice President. I want to get rid of the preamble because I do not want to be compelled to take the back track on my own action. By inserting the names of the States in the resolution, as I have suggested, we reach the object desired by the Senator from Illinois, and relieve ourselves from the embarrassment that will be upon us in the contingency I have stated.

The PRESIDING OFFICER. The first question is on concurring in the amendment made as in Committee of the Whole to the preamble as that amendment has been amended.

The question being taken by yeas and nays resulted—yeas 32, nays 6; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Collamer, Conness, Davis, Dixon, Doolittle, Farwell, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hendricks, Howard, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Trumbull, Wade, Wilson, and Wright—32.

NAYS—Messrs. Cowan, Foot, Johnson, Ten Eyck, Van Winkle, and Wiley—6.

ABSENT—Messrs. Carlile, Chandler, Harding, Hicks, Howe, Lane of Indiana, McDougall, Powell, Richardson, Kiddle, Saulsbury, Sprague, and Wilkinson—13.

So the amendment as amended was concurred in.

Mr. LANE, of Kansas. I now move to strike out the preamble, and to strike out after the word "States," in the third line of the resolution, the words "mentioned in the preamble," and to insert in lieu of them "Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee;" and on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. As far as the mere object is concerned, which is to exclude the votes of these States, whether the resolution pass in its present form or in the form now proposed makes no difference; but it seems to me singular legislation to resolve that the votes of certain States shall not be counted, without assigning any reason why they shall not be counted. How is the President to know why they should not be counted? How is the House of Representatives to know why they should not be counted? How is the public to know why they are not counted? You have just as much right to say that the vote of any other State in the Union shall not be counted, looking to the face of the resolution alone, if it embraced any other State than those named. It appeared to me individually, and I think it appeared to the members of the committee, as evidently as it appeared to the other House, that when we are excluding certain States from voting

we ought to state why we exclude them. For that reason I shall vote against this amendment.

Mr. COWAN. The objection of the honorable Senator from Maryland, I think, is fatal to this kind of legislation. This is not really a law, at any rate; it is simply a decision. Being a decision, it is insisted that the opinion of the Judge shall contain the reasons on which the law is based. It strikes me this ought to be sufficient to show us the fallacy of this mode of legislation. That which we are now deciding ought to be decided next Wednesday in the joint convention. We have got now just to that point when it is evident that this, instead of being a law, is simply a decision legislative in its character.

Mr. LANE, of Kansas. We have spent several days here trying to satisfy ourselves that a rule should be adopted for the control of the joint convention that is to meet next Wednesday. Now, I should like to learn from the Senator from Maryland if it is usual to give a reason for a rule to govern legislative action, in this or any other legislative body. We desire to say that certain States shall not be entitled to have their electoral votes counted on next Wednesday, and we desire to say so now, in order to prevent confusion and disorder on that occasion. We have heard from several distinguished Senators that the object is to prevent the recurrence of a disorder that occurred eight years ago in joint convention. Now, sir, I want to save the loyal people of Arkansas and Louisiana and Tennessee from having their feelings further wounded. So far as one of those States is concerned, we drove their Senators from our doors last session. I am one of the men who believe that a State organization is indispensable to the protection of the Union men in those States. I am one of those who believe that the bringing back of any of the seceded States into the Union does more to demoralize our opponents and to close out this rebellion than any other act that we can accomplish. It is worth more than all the victories which can be gained in the field. I want these States brought back; I want to encourage the Union men in all the seceded States when they evince that there is any Union feeling within their borders.

Mr. JOHNSON. The honorable member is mistaken in supposing that this is a mere rule. A rule may be determined perhaps by the convention, or certainly by the concurrent action of the two bodies that constitute the convention. What we propose to do now is to pass a law, to which the President's assent is necessary before it becomes operative, declaring what electoral votes shall be counted legally. If we have the authority to pass such a law—and I do not propose to discuss that question now; I think very clearly we have the authority—when it is passed by both bodies and approved by the President, it is binding on the members of the convention when they meet together. It is therefore no rule; nor is it a decision, as the honorable member from Pennsylvania supposes. A decision of what? It is a declaration which is itself a law that those votes are not legitimate votes. Those who think it has no operation will vote against it in any form; but if it operates at all, it operates as a law. Then the only question with me is whether it is proper in Congress, having authority in certain cases, as I think, to exclude votes of electors, to declare that the votes of any particular State are to be excluded without stating why they are excluded.

Mr. LANE, of Kansas. I should like to ask the Senator from Maryland if a concurrent resolution, that does not require the signature of the President, would not be just as potent on this subject as a joint resolution?

Mr. JOHNSON. A concurrent resolution requires the approval of the President.

Mr. LANE, of Kansas. A resolution of each branch separately composing the joint convention would be as potent as this law for this purpose.

Mr. DOOLITTLE. This preamble contains a recital which meets the views of some gentlemen and is opposed to the views of others, and there are some gentlemen on this floor who have avowed their determination to vote in favor of the proposition to exclude Louisiana upon this other ground, that Louisiana has no representation in Congress, and not having any representation in Congress should not be represented in the Electoral College. The learned Senator from Ohio [Mr. SHERMAN]

based his argument entirely on that ground. It seems to me it would be better, without a recital that these States continue in rebellion or that they continue in any condition, to declare simply, for reasons satisfactory to each one voting for the proposition, that the votes of these States shall not be counted in the Electoral College; and then the preamble would have no embarrassing effect or any entanglement connected with it upon the free action of any member of either House in relation to any other question that may arise whether the members from Louisiana or Arkansas shall be admitted or not. It seems to me that it is wise to strike out the preamble and leave the proposition itself, and then each one who votes for it can satisfy himself with his own reason.

Mr. TEN EYCK. I have persistently voted "nay" on all the various propositions submitted to-day for the amendment of the preamble, although some of them, I believe, are improvements upon the preamble as originally reported. Being opposed to the preamble and to the resolution itself, so far as it affects certain of the States mentioned, it might perhaps, according to the ordinary method of parliamentary proceedings, have been esteemed excusable or proper in me to have voted "yea" on several of these propositions looking toward an amelioration of the charge made in the preamble as to the condition of all these States; but as I am persistently opposed to the whole measure, so far as it applies to at least one of these States, if not more, I think it more consistent to vote "nay" in relation to all these amendments.

Now, sir, if I were not prepared to say that the State of Louisiana or Tennessee was in such a state of rebellion on the 8th day of November last as that there could be no legal election held there, how could I be prepared to say that in consequence of this rebellion, on the 8th day of November last they were in such a condition that they could not vote? I would much rather meet the question fairly and squarely and say that they were in a state of rebellion, than simply to evade the question, and say that they were in some sort of condition that I do not undertake to decide in this high place. I would not strip a State of her rights in this Union without having the boldness to assign a cause.

That consideration regulates and controls my action in my vote on the amendment now proposed by the Senator from Kansas. I am not prepared to vote barely and squarely that these States shall not be counted in the Electoral College, without assigning any reason under heaven for my action. I think it is due to the people there, if there be a corporal's guard of loyal men, that we should assign here the reason why we will not allow them to have an electoral vote cast, after they have endeavored to do all that they could do to resume their position in the Union. I am opposed to the whole proposition from beginning to end, and have voted, and I shall vote, consistently I think, "nay" throughout.

Mr. HOWE. Mr. President, I have not taken much part in this discussion, and do not propose to take much; but I intended to say two or three words before the final vote should be taken on the passage of this resolution, and I believe I may as well say those few words now as at any time.

It strikes me as a most peculiar feature of this debate that we have spent four days, I think, in discussing, not whether we shall pass the resolution or not, but what reason we shall assign for passing it. Ordinarily when you are agreed as to what law you will enact, you are in the habit of putting that in the bill, and looking there for the law and looking into the Congressional Globe for the reasons to be given for it. But to me this whole debate seems very significant that the Senate were conscious that they were about to do an extraordinary thing, and therefore they felt it incumbent on them to assign the reasons upon which they acted with a great deal of care and accuracy, and hence you have been debating for four days as to the question what reason you shall assign for enacting this law. I do not think you have occupied any more time than was absolutely necessary in order to assign a good reason for it.

Mr. President, here is the Constitution of the United States, so it is denominated, declaring that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators

and Representatives to which the State may be entitled in Congress." That the Constitution declares. When I came here you required me to step to your desk and take an oath to support it; and now you ask me to vote for a resolution which declares that eleven States shall not vote, shall not appoint electors of President and Vice President. I do not want to do it. I have sworn that I will not do it; or if I have not sworn that exactly before, I swear it now.

Mr. President, that the people living in South Carolina, Georgia, and Tennessee, and those other States, had no right in fact, had no equitable right, to choose electors in November last, I believe; but I believe it because there were no American States there. But you ask me to vote for a resolution which says that they are States, and yet which says that they shall not vote for President. Wherever there is a State in fact, there is the right, and there is the evidence of it, to give a number of votes for President and Vice President equal to the number of Representatives in Congress in both Houses to which that State is entitled. That is my judgment. During the last session of Congress I had occasion to call attention to this very subject, and to say then that it seemed to me the fitting time to fix the relations of these communities before the election was held, before we knew what would be the significance of their action. That was declined. Your law still said those are States; three of them actually did vote, we are told, did choose electors; and now you ask me to vote for a resolution which says that they are States and yet which says that their votes shall not be counted.

And now, Mr. President, look one moment at the reasons which have been assigned. The committee assign for a reason that there was no valid choice of electors in those States in November last. The committee say so; they ask me to say so; they ask the Senate to say so, that there was no valid choice of electors. Sir, is the law-making power of the United States made the judge of what is a valid election of presidential electors? "Each State shall appoint, in such manner as the Legislature thereof may direct." The Legislature is made the judge of the manner of choosing electors. It seems to me that the State itself is the final judge as to what is a valid election. There cannot be any other. The right is given in full to the State itself. Therefore I cannot agree to say that there was no valid election in these States. I think it belongs to these States respectively to determine that question.

But if there was no valid election, there was some reason for it. What was the reason? The committee say because the people of those States were in a state of rebellion on that day. That may be, if true, a good reason why a valid election could not be held; but yet, right here in the Senate Chamber, while you are debating this resolution, there is an issue of fact formed as to whether it is true or not. The Senator from Kansas, who has opportunities for knowing the fact as well as any one, and who is competent to testify, tells you that there was no such state of rebellion as prevented the people from making a valid election. That is his testimony upon the question of fact as to which we are at issue. Now, is it not dangerous legislation when you concede that the law you are about to pass depends for its validity on the reasons you assign for it, when in assigning reasons you differ not only upon the law as to what is a good reason, but differ upon the fact as to what reasons exist?

I wish now to call attention to one more remarkable debate we have had. The committee recite these facts as the ground upon which you shall proceed to disfranchise eleven States. They recite them as facts, present them as reasons why you should do it. The amendment which has created more debate than any other was the amendment moved by the Senator from Vermont, the effect of which was mainly to present as a reason for enacting this law, not anything that we affirmed to be a fact, but something that the President has affirmed to be a fact. The committee say, disfranchise those States because their people were in November in a state of rebellion; the amendment moved by the Senator from Vermont asked us to disfranchise the people of those States because the President said they were in rebellion; and that was really the breadth of that issue, as I understood it. If you have a right to disfran-

chise the people of a State, does it matter whether you and I agree upon the fact for which we do it, or whether we act upon something that the President or some other agent of the Government has said?

It all looks to me as if we were about to pass a most extraordinary law. I shall not vote for it myself, and I shall be extremely sorry to see the Senate pass it, for there it stands side by side with your Constitution, a law declaring in terms that the people of eleven States that you call States shall not vote. I think you might just as well declare that they should not marry. I think you can declare it just as well of the people of one State as another, if you insist upon it that they are States. I know you say that those people have rebelled. Some of them have; but when a man commits murder, can you pass an act of Congress to hang the man that you think has committed the murder? Would you not think that very extraordinary? But is it half so extraordinary as to pass an act of Congress disfranchising the people of a whole State because part of them have committed treason or engaged in rebellion?

But you do not rely upon that; the fact of rebellion you do not insist upon as a sufficient reason for passing this law, and therefore you put in another one. The rebellion is not a ground for disfranchising the people of a State, but the rebellion was the circumstance which prevented a valid election from being held. Why do you want to assign the reason why a valid election was not held? If you are made the judges of what is and what is not a valid election, why do you not say there was no valid election in those States, and let it stand there? It is because you are not made the judges of a valid election that you think it incumbent on you to bolster up your judgment by some very extraordinary reason. This is the way it looks to me. I distrust this whole method of legislating. If you will take hold of the question of the political relations of these communities, and if you will tell what is the truth, and has been the truth since 1861, that there are no State organizations there, no State governments, I am with you. When you establish that, you know what they may and what they may not do.

The question being taken by yeas and nays resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Cowan, Doolittle, Harris, Lane of Kansas, Nesmith, Van Winkle, and Wiley—7.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Collamer, Conness, Davis, Dixon, Farwell, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Nye, Powell, Ramsey, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, and Wright—30.

ABSENT—Messrs. Carlile, Foot, Harding, Hicks, Howe, Lane of Indiana, McDougall, Pomeroy, Richardson, Riddle, Sprague, Stewart, Wilkinson, and Wilson—14.

So the amendment was rejected.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time.

Mr. WADE. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Collamer, Conness, Davis, Dixon, Farwell, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Nye, Powell, Ramsey, Sherman, Stewart, Sumner, Trumbull, Wade, and Wright—29.

NAYS—Messrs. Cowan, Doolittle, Harris, Howe, Lane of Kansas, Nesmith, Saulsbury, Ten Eyck, Van Winkle, and Wiley—10.

ABSENT—Messrs. Carlile, Foot, Harding, Hicks, Lane of Indiana, McDougall, Pomeroy, Richardson, Riddle, Sprague, Wilkinson, and Wilson—12.

So the joint resolution was passed.

#### ORDER OF BUSINESS.

Mr. SHERMAN. I now move to take up the joint resolution fixing the duty on paper, and I desire to make this statement to the Senate: there are four bills of a general character from the Committee on Finance which I do not think will excite much discussion; the one I now call up will probably excite the most. I hope the Senate will indulge me in getting these bills passed out of the way, so that they may not clog the business of the session at this late period. One of them is a general appropriation bill.

The motion was agreed to; and the Senate proceeded to consider the joint resolution (H. R. No. 141) reducing the duty on printing paper,

unsized, used for books and newspapers exclusively.

Mr. SHERMAN. I now move that its further consideration be postponed to and made the special order of the day for Monday next at one o'clock.

The motion was agreed to by a two-thirds vote.

Mr. SHERMAN. I desire now to make the same order in regard to the legislative, executive, and judicial appropriation bill and the immigration bill. I do not believe these bills will excite discussion, and I want to get them out of the road.

Mr. TRUMBULL. I have no sort of objection to the order, but the Senator from Ohio must know that he can always get his appropriation bills up by a vote of the Senate.

Mr. SHERMAN. I have been trying for three weeks to get up bills reported from the Committee on Finance, and I have failed until this moment.

Mr. TRUMBULL. It is only because of the Senator's good nature he has given way. If he will press a vote on an appropriation bill, I never knew it to fail.

Mr. SHERMAN. I insist on my motion to take up the bill to amend the act in regard to immigration.

Mr. POWELL. I hope that bill will not be made a special order for Monday. I have already a special order fixed for Monday at one o'clock. I do not wish to antagonize it with the Senator's appropriation bills, but I am utterly unwilling that it should be put out of the way by this bill about immigration.

Mr. SHERMAN. We can take it up in the morning.

Mr. POWELL. I hope it will not be made a special order for Monday. I would vote with the Senator to fix its consideration for any other day.

Mr. JOHNSON. I should like to know what the rule is on the subject of special orders. I suppose the rule is that the one first made is the one to be first taken up.

The PRESIDING OFFICER. The question now is on taking up the bill, not on making it a special order.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I hope the Senator will allow this bill to be taken up informally before that motion is put.

Mr. GRIMES. I insist on my motion.

Mr. DIXON. I appeal to the Senator from Iowa to withdraw that motion for a moment for the purpose of permitting me to call up a bill of very great importance to the city of Georgetown, which ought to be passed, and which, I think, will not probably occupy the Senate five minutes; at any rate but a very short time. It is the bill authorizing the city of Georgetown to lay a tax for the purpose of paying their direct tax. With the consent of the Senator from Iowa I will move to take up that bill.

Mr. TRUMBULL. I desire to make a motion which I believe supersedes all others. It is evident that we are going to do no business to-night. The Senator from Ohio has got one of his bills made a special order, and we all know he can get up the others at any time. It is Saturday afternoon—past three o'clock. I therefore move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, February 4, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and agreed to.

#### UNIFORM WEIGHTS AND MEASURES.

Mr. PATTERSON. I ask unanimous consent to offer the following resolution:

Resolved, That the National Academy of Sciences be requested to consider and prepare a plan for a uniform international system of weights and measures, and to report thereon on or before the 31st day of January, 1866.

Mr. HOLMAN. I object.

#### CIRCUIT COURT IN ARKANSAS.

Mr. WILSON, by unanimous consent, reported back from the Committee on the Judiciary, with an amendment, a bill (H. R. No. 641) to provide for another term of the circuit court of the



United States for the district of Arkansas, and for other purposes, and moved that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill was read. The first section provides that a term of the circuit court of the United States shall be holden at Little Rock, in the eastern district of Arkansas, on the second Monday in October in each year.

The second section provides that the judge of the district court of the United States for the district of Arkansas may, whenever in his opinion the public interest requires it, hold a term of said court at Helena, at such time as said judge shall appoint by a notice to be published for four consecutive weeks in some weekly newspaper printed at Little Rock, and also in a newspaper published at Helena, if one be published there.

The third section provides that the clerk of the district court of the United States for the eastern district of Arkansas may appoint a deputy, who may exercise the same official powers as his principal; and where the clerk of said district court shall be clerk also of the circuit court for said district, his deputy may act as deputy clerk for both courts. The deputy clerk shall take the oath of office prescribed for his principal, which, together with his appointment, shall be entered at large on the records of the court, and the sureties on his official bond shall be liable for the acts of such deputy. The clerk or judge may revoke the appointment of any deputy at pleasure.

The fourth section provides that in lieu of the salary now paid to the judge of the district court of the United States for the district of Arkansas, there shall be allowed and paid quarterly to said judge, out of the Treasury of the United States, the sum of \$3,500 per year.

The amendment proposed by the Committee on the Judiciary, which was to strike out the fourth section, was agreed to.

Mr. STEVENS. I hope that the gentleman from Iowa [Mr. WILSON] will consent to strike out the provision with regard to the holding of a circuit court at Little Rock. The gentleman must see the inconsistency in which he is involving us.

Mr. WILSON. I do not see any inconsistency. This bill proposes to do for Arkansas what has been done for several other States heretofore declared to be in rebellion. At the last session a similar provision was made in reference to Tennessee; and at this session legislation has been had in relation to the circuit court for the district of Virginia. Various acts have been passed at the Thirty-Seventh as well as at the Thirty-Eighth Congress in reference to these States. The judges are there and have been holding courts. They are holding them in Tennessee, and perhaps they are holding them in Arkansas. This is for the convenience of the courts, and for the convenience of suitors. I demand the previous question.

Mr. STEVENS. I had hoped that we would have some logic in our action.

Mr. WILSON. The logic is that of consistency. I insist on the demand for the previous question.

The House divided; and there were—ayes 30, noes 11; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. WILSON and ENGLISH.

The House again divided; and the tellers reported—ayes forty-five, noes not counted.

So the previous question was seconded, and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INCREASE OF SALARY.

Mr. DUMONT, by unanimous consent, introduced a bill to increase the salary of the judge of the United States district court for the district of Indiana; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ENROLLMENT OF VESSELS, ETC.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill relating to the enrollment and license of certain vessels; which was read a first and second time, and referred to the Committee on Commerce.

#### FEES OF CUSTOM-HOUSE OFFICERS.

Mr. WASHBURN, of Illinois, by unanimous consent, also introduced a bill to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURN, of Illinois, moved that the bill and accompanying letters be ordered to be printed.

The motion was agreed to.

#### TREATMENT OF SICK AND WOUNDED SOLDIERS.

Mr. BALDWIN, of Michigan, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas an article appeared in the New York city papers of the 3d instant alleging that "on Thursday of last week a transport filled with sick and wounded soldiers discharged them at the wharf near Fort Schuyler, that they were taken out of their berths on board, carried out upon the wharf and laid there in rows without bed or coverings, exposed to all the bleakness of the January winds, from four o'clock in the evening till midnight; that ten of them died during this time, and that of those who were removed twenty-five died on account of the prostration by exposure before morning;" Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire into the facts of this charge and report to this House as soon as possible.

#### ARMAMENT ON THE LAKES.

Mr. DAVIS, of Maryland. Mr. Speaker, I ask the unanimous consent of the House to move concurrence in the amendment of the Senate to House joint resolution No. 91, passed at the last session, giving notice for the termination of the convention of 1817 relative to the armament upon the lakes. The Senate have modified the House resolution so as to make it conform to the existing facts, and adopting the notice given by the President; and the Committee on Foreign Affairs recommend that the House concur in the amendment of the Senate.

The amendment was concurred in.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PEACE.

Mr. INGERSOLL. I ask unanimous consent to introduce the following resolution:

Whereas it is alleged that informal negotiations are now pending between the United States and the so-called Confederate States with a view to a restoration of peace: Therefore,

Be it resolved, That it is the deliberate and emphatic opinion of this House that no enduring peace can or should be made which shall ever recognize the traitorous leaders of this rebellion as citizens of the United States, entitled to equal rights, privileges, and immunities with the loyal people thereof under the Constitution of the United States.

Mr. LE BLOND. I object.

Mr. STEVENS. I understand that the negotiations are no longer pending, that the parties have separated, as nothing admissible was allowed. Such is my information this morning.

#### CONSTITUTIONAL AMENDMENT.

Mr. BENNET. I ask unanimous consent to spread the following paper upon the Journal of the House:

HOUSE OF REPRESENTATIVES,  
WASHINGTON, February 1, 1865.

Representing Territories which must soon become States, as Delegates deprived of the inestimable privilege of voting in this House, feeling a deep interest in the proposition to amend the Federal Constitution forever prohibiting slavery within the jurisdiction of the United States, demanded alike by the exigencies of the times, the voice of the loyal people, and by our efforts in the field to suppress a rebellion inaugurated and sustained for the purpose of perpetuating slavery, we cannot do less than state that the measure meets our unqualified approval.

H. P. BENNET, Colorado.

J. F. KINNEY, Utah.

S. G. DAILY, Nebraska.

CHARLES D. POSTON, Arizona.

J. B. S. TODD, Dakota.

W. H. WALLACE, Idaho.

FRANCISCO PEREA, New Mexico.

Mr. ELDRIDGE. I object.

#### SUPREMACY OF THE CONSTITUTION.

Mr. WILSON, by unanimous consent, introduced a bill to reestablish the supremacy of the Constitution in the insurrectionary States; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SALE OF INDIAN LANDS IN MINNESOTA.

On motion of Mr. WINDOM, and by unanimous consent, the joint resolution (S. R. No. 92) to postpone and prevent the sale for less than their appraised value of certain Indian lands in Minnesota was taken from the Speaker's table, read a first and second time, and referred to the Committee on Indian Affairs.

Mr. BROOKS moved that the vote by which the resolution was referred be reconsidered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DUTY ON IMPORTED PAPER.

Mr. SCHENCK, by unanimous consent, presented a joint resolution of the Legislature of Ohio, instructing their Senators and requesting their Representatives in Congress to use their influence for the removal or diminution of the duty on imported paper; which was laid on the table, and ordered to be printed.

#### BANKRUPT LAW.

Mr. SCHENCK, also, by unanimous consent, presented a joint resolution of the Legislature of the State of Ohio, instructing their Senators and requesting their Representatives in Congress to oppose the passage of any bankrupt law; which was laid on the table, and ordered to be printed.

#### NAVAL APPROPRIATIONS.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The SPEAKER. Pending that motion the question arises on the motion made yesterday that all debate be terminated in one hour after the committee resumes the consideration of the bill.

Mr. PIKE. It was understood yesterday that this was to be a free debate.

Mr. STEVENS. But I did not understand that it was to be an eternal debate. If the gentleman wishes the time enlarged half an hour longer I will not object.

Mr. PIKE. I suppose the gentleman from New York [Mr. FERNANDO WOOD] wants an hour himself.

Mr. STEVENS. He only wants half an hour. Mr. FERNANDO WOOD. I shall probably occupy only fifteen or twenty minutes.

Mr. STEVENS. I modify my amendment, and make the time one hour and a half.

Mr. HOLMAN. This will terminate only the general debate?

The SPEAKER. That is all.

Mr. PIKE. I ask the gentleman to make the time two hours.

Mr. STEVENS. I will do so; though I am anxious to get at the appropriation bills.

The motion, as modified, was agreed to.

The motion to go into committee was then agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the special order, being a bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866.

The pending question was upon the amendment submitted by Mr. DAVIS, of Maryland, being to add the following to the bill:

Provided, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

Sec. — And be it further enacted, That the board shall deliberate in common and advise the Secretary on all matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establish-

ments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

Sec. —. *And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

Sec. —. *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

Sec. —. *And be it further enacted*, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

The CHAIRMAN. Upon this question the gentleman from New York [Mr. FERNANDO WOOD] is entitled to the floor.

Mr. FERNANDO WOOD and Mr. PIKE then addressed the committee. [Their speeches will be published in the Appendix.]

Mr. GRISWOLD. I do not propose to prolong this discussion by considering the amendment which is proposed by the gentleman from Maryland, [Mr. DAVIS;] but I feel it due to myself, as a member of the Committee on Naval Affairs, and also as one possessing some knowledge which I am sure the gentleman from Maryland would be glad to be possessed of, to say a word or two upon the question under discussion.

So far as the gentleman's very able remarks were concerned, I, for one, failed to discover that they were really advocating the amendment which he has offered. It seemed to me, so far as his argument was applicable, that it was aimed directly and exclusively, not at the system, but at the men who administer the affairs of the Navy Department. He proposes, by way of rectifying the difficulties which he alleges to exist there, not to remove inefficient or incompetent persons, but, as I understand it, to embarrass and incumber the Department by still greater and still more intricate and minute machinery. Now, it seems to me that if there is any argument at all, the gentleman should have confined himself, not to the theory, but to the manner in which it should be carried out in practice.

The gentleman from Maryland charges upon the Naval Committee, among other things, that it has frittered away its time, and that the bill which he introduced has had no consideration by that committee, partly because the committee has been traveling about the country with reference to locating sites of naval depots. As a member of that committee I beg to have a resolution read by the Clerk, to indicate in some degree how the time of the Committee on Naval Affairs has been occupied during the past and present sessions of Congress.

The Clerk read, as follows:

THIRTY-EIGHTH CONGRESS, FIRST SESSION,  
HOUSE OF REPRESENTATIVES, January 7, 1865.

On motion of Mr. H. W. DAVIS,

*Resolved*, That the Committee on Naval Affairs do investigate, without delay, and report to this House, the facts in relation to the plans and structure of the marine engines constructed and now in course of construction for the Navy; and in what essential particular they differ from the marine engines heretofore used in the Navy and now used in the commercial steamers and the navies of France and England; whether their inadequate power and speed are caused by such differences, and by whose authority and on what experiment, and under whose supervision such changes were introduced; and whether any unfair practices were resorted to by any person in or under the authority of the Navy Department, in the mode of manning or handling the engine of the Pensacola, with a view to break it down and bring it and the plan on which it was constructed into disrepute; and whether any person connected with the Navy Department has received any fees or commission or compensation of any kind from any contractor for engines for the Navy, or compelled any payment of fees for patented improvements to persons not entitled to them, by persons contracting for engines or parts thereof; and that the committee be authorized to require the opinion of the Academy of Sciences on any scientific question involved in their investigations and necessary to be solved in order to arrive

at a satisfactory result; and that they have power to send for persons and papers, and leave to report at any time.

Attest: EDWARD McPHERSON,  
Clerk.

Mr. GRISWOLD. Mr. Chairman, in carrying out the instructions of that resolution it is proper for me to say that the Committee on Naval Affairs occupied seventy days in the consideration of the questions alluded to in it; took twenty-two hundred pages of evidence—foolscap paper—and examined in detail and at length no less than forty-two witnesses. Now, I submit to the honorable gentleman from Maryland that this work alone is no inconsiderable item in occupying the time of the Naval Committee, and that this consideration, if no other, should have induced him to withhold anything like censure on the proceedings of the Naval Committee.

Passing over that, Mr. Chairman, and not to dwell on the character of the amendment which the gentleman proposes, I desire to say, for one, that instead of dividing the responsibility, as the head of the Navy Department would be able to do by the creation of the board as provided in the amendment, I believe, looking at it from a practical stand-point, that there is far greater security in holding the Secretary of the Navy and the heads of the various bureaus of the Navy Department to a direct accountability, than in dividing their responsibility.

But I pass over that. In listening to the gentleman's two-hour speech, able and eloquent and ingenious as that gentleman always is, I confess I felt grieved that a member of this Congress should see fit, for the purpose of accomplishing the object which he had in view, to hold up the American Navy, at this critical period of our national history, as being entirely inefficient and powerless; to advertise to the nations of the world that they need have no hesitation as to any interference that they may deem advisable in our affairs, and no fear of any aggression from the Navy of the United States. I regretted to hear it from the distinguished gentleman from Maryland; but, of course, it is not for me to question either the good taste or judgment of that distinguished gentleman.

I should be glad, Mr. Chairman, to go over in detail, and to have read professional and unprofessional statements in regard to the various facts alleged by the gentleman from Maryland; but the shortness of the time allowed to me, and the fact that other gentlemen desire to occupy a portion of that limited time, compel me to refrain from it. I pass over the commentary which the gentleman made on the attack at Charleston, but should be glad to have an opportunity of showing that what he asserted as true, namely, that in that brief encounter half of that little iron fleet was incapacitated for action, was entirely unfounded and destitute of truth. It will be recollected, Mr. Chairman, that the whole iron-clad fleet to which the gentleman alludes as having attacked Charleston on the occasion referred to, consisted only of eight little monitors. They were created entirely, from stem to stern, and completed and put in action, in the brief period of about six or seven months. The whole fleet cost only about as much as any one single ship-of-war built on the old plan. It cost less than one of those iron-clad ships of England, to which the gentleman points with such admiration. The entire number of men employed upon them was one half what is requisite for an ordinary ship-of-war. Instead of that attack exhibiting their incapacity, it is a memorable fact that, though two thousand shot struck that little fleet, yet, instead of being disabled, they were ready to go into action the following day.

But I pass over all these things, Mr. Chairman, and will confine myself more especially to certain representations which were made in regard to the Dictator; and I am sure that the gentleman from Maryland will be glad to be disabused of the errors under which he is resting. I am sure that he will be glad to know that so important an arm of our national defense is not the entire failure which he alleges. I beg to say to him and to this House, in connection with what he has said with reference to the Dictator, that he is entirely at fault. If I remember correctly, the gentleman alleged that the Dictator was built for a sea-going vessel; that she cost an untold amount; that she is incapable of taking coal across the ocean; that her speed is not over five knots an hour; that she is entirely unworthy to be considered a sea-going

boat; that in her first passage from New York to Fortress Monroe she broke down; and that she lies to-day a helpless hulk. Now, as I said, the gentleman will be glad to know that upon all these points he is entirely mistaken. So far as the cost of the vessel is concerned, it will perhaps be some satisfaction to him to know that, although she was furnished to the Government at an enormous loss to the builder, the amount which the Government paid for the ship was less than it would now be obliged to pay for her engines alone; that the Government could not to-day duplicate the vessel or build one of anything like her power or capacity for less than \$1,000,000 additional to the amount they have paid for her; and that the loss has come out of the pockets of individuals, and not out of the Treasury of the Government.

Now, sir, so far as her capacity for coal is concerned, she is capable of storing seven hundred and fifty tons, (to attain seven knots per hour she requires three thousand pounds of coal, or thirty-two tons in twenty-four hours,) a supply for twenty-five days, and adequate to a distance of forty-two hundred miles. I speak now of the actual running of the vessel, and make no assertion that cannot be vindicated by the record. Thus much for her capacity for fuel.

As to her sea-going properties, I desire to read a very brief extract from a letter received from Superintending Engineer W. Cosgrove, dated "On board the Dictator, Hampton Roads, Virginia, January 8, 1865." In concluding his report, he says:

"It blew a gale of wind yesterday, with a heavy sea on, and we went through like a pilot boat, part of the time in company with a good-sized steamer that seemed to be laboring heavily, while we were not heeding either wind or tide. It is really a magnificent sight to see the Dictator in a sea-way."

In regard to her speed, the passage from New York to Fortress Monroe was made under positive instructions not to exceed eight knots per hour—a very proper prudential restriction to be placed on the running of new and very heavy machinery. She went from New York to Fortress Monroe without a consort, and encountered very rough weather; yet in that first passage she attained an average speed of nearly eight knots an hour. Instead of her machinery breaking down, and the vessel lying now a helpless hulk, the whole difficulty arose from the fact that in the main shaft a defect was discovered: one of those defects in forging which no human skill or foresight can guard against, and which can be detected only by the test to which the machinery was subjected.

The defective shaft has been replaced, and the vessel is now, or will in a very short time, be ready for any service that she may be called upon to perform. Allegations have been made as to the steering qualities of the vessel. Upon this point it is sufficient to say that, while this has been regarded as an unavoidable defect in all the iron-clads of England and France, no vessel afloat, iron-clad or other, responds to the rudder more promptly and with less power than the vessel in question.

The London Times of December 24 publishes an account of a recent experimental trip of the new British iron-clad Achilles. Under a full pressure of steam this vessel required twenty-one men at the rudder, while the Dictator requires but two. The Achilles requires for her turning a circle of three thousand feet; the Dictator seven hundred feet, or about twice her length; an achievement that will be regarded as a marvel by the naval architects of the world.

In short, Mr. Chairman, I allege without the fear of contradiction that the indications tend to prove that the Dictator is as perfect a sea-going vessel as has yet been built for the American or the navy of any other country, and that there is not a single particular in which she fails to realize the utmost expectations of those who were most sanguine in regard to her. With the indications of speed which she has already exhibited, her utter impregnability to all ordnance yet devised, and with the capacity of carrying a fifteen or twenty-inch gun, and hurling against her adversary a solid shot of four hundred and fifty to six hundred pounds, she may well defy any—I had almost said all—of the ships-of-war that can be brought against her.

This, sir, is the vessel which the gentleman from Maryland would consign with so much nonchalance to the obscurity of a failure. We are told that with a board such as is proposed by the

bill under consideration, instead of constructing vessels of this class we shall have copied the models that have been furnished by our transatlantic friends across the ocean; this, too, in face of public acknowledgments, after the memorable conflict at Hampton Roads, by the chief constructor of the British navy and by members of the British Parliament, that the navy of England was a failure, and that the fact had been demonstrated in America that the power of a navy consisted not in the number of guns, but in their size.

Before the conflict of iron-clads alluded to, the highest authority of England pronounced with a tone of entire confidence that it was impossible to construct a ship-of-war impregnable to modern ordnance. Well, sir, we have had no Boards of Admiralty to discuss and decide as to the plans of ships-of-war, but have appealed to the unlimited and unfettered genius of our country. I require no stronger proof of the correctness of our policy, and of the objections to the plans proposed by the bill under consideration, than the fact that we have stepped out of the beaten channel, broken loose from the trammels which have tied down the inventive genius of other lands, and by one bold step placed this nation far in advance of every other in a position either for offense or defense in naval warfare that secures us against all interference from foreign Powers.

Mr. Chairman, I have occupied more time than I intended, and now yield to the gentleman who desires to occupy the residue of the time assigned to this debate.

Mr. BLAINE. How much time is left for debate, Mr. Chairman?

The CHAIRMAN. Three minutes and a half. Mr. BLAINE. I had desired and intended, Mr. Chairman, to speak ten or fifteen minutes on this amendment, but the members of the Naval Committee have consumed the time to such a degree that I am deprived of the privilege. Of the five hours and a half allowed for debate, that committee has occupied more than four; and since the gentleman from Maryland [Mr. Davis] concluded his remarks, four gentlemen have been heard in succession on the same side of the question, a mode of proceeding quite unprecedented in this House, as I am well assured.

The discussion, sir, has been somewhat at cross-purposes as between the gentleman who opened the discussion and the four gentlemen who have in succession replied to him. A specific proposition to establish a Board of Admiralty was introduced by the gentleman from Maryland as the effective remedy for evils in the administration of the Navy Department, which evils he proceeded to expose in a caustic, scathing, truthful, and deserved criticism, spending his hour thus, and devoting little time to the practical merits and fitness of his proposed remedy. The gentlemen of the Naval Committee, finding it easier to oppose a Board of Admiralty with objections borrowed from English experience than to answer the charges of short-coming and blundering in the Navy Department, so forcibly put by the gentleman from Maryland, have dexterously expended much of their time in exposing the inefficiency of the proposed remedy, and have thus skillfully avoided an answer to the great essential points made by the gentleman who moved the amendment. For myself, sir, I confess that I care very little for the particular measure pending. I support it because it proposes a change, and a change must be a reform. To adopt it is to declare that Congress is not satisfied with the mode in which the Navy Department has been administered; and to reject it is in effect to assert that the House of Representatives, so far as it has cognizance and control of the matter, will advise the President that this Department shall be conducted in the future as it has been in the past, and that the officers of the Department may again spend \$10,000,000 in the construction of twenty iron-clad vessels that will not stay on top of the water!

Mr. PIKE. The assertion is wholly incorrect.

Mr. BLAINE. It may be denied, but it has been proved. It is indeed a matter of public, general, and undisputed notoriety that twenty of these iron vessels, built under the supervision of the Navy Department, will not float, at least those that have been tried will not, and the model is the same for the whole number.

[Here the hammer fell.]

Mr. DAVIS, of Maryland. I ask unanimous

consent that the gentleman from Maine may be permitted to proceed.

The CHAIRMAN. The Chair cannot entertain that proposition, as the debate in Committee of the Whole was closed by order of the House, and it is not competent for the committee to extend it.

Mr. BLAINE. I move to amend the amendment by striking out the first line; that will entitle me to the floor a few minutes longer.

Mr. SPALDING. I call for the reading of the amendment.

The amendment, which was read, was to strike out the following words:

That the President, by and with the advice and consent of the Senate.

Mr. BLAINE. I have stated a fact in regard to those twenty iron-clads which cannot be controverted, and—

Mr. PIKE. I say the gentleman is entirely mistaken in reference to the building of those twenty monitors.

Mr. BLAINE. They are not sea-going.

Mr. PIKE. They were never intended to be sea-going.

Mr. BLAINE. I say they will not float. What is meant by floating? Is not the phrase simple enough and plain enough?

Mr. STEVENS. I will say that an engineer told me the other day that not one of them would float until \$120,000 more had been expended upon each of them.

Mr. PIKE. The first of them, launched in Boston harbor, floated three inches out of water on a level, though she was intended to float twelve inches. Others floated high enough, and when altered make useful vessels.

Mr. BLAINE. Then the first lost nine inches.

Mr. PIKE. She did.

Mr. BLAINE. That is, she lost seventy-five per cent. of that portion of her which was designed to be above water. And this, I presume, is the best of the whole twenty! Well, sir, that is conceding the whole case. Only three inches above water! Why, the chances are that she could not be towed a mile in smooth water without sinking to the bottom!

One or two other facts I must notice hurriedly, as I shall be compelled to yield the floor in a moment. Much has been said by the members of the Naval Committee about the speed of the vessels built for what is termed the new Navy. One official fact is a better answer to these allegations than anything I can say. It is this: that out of ninety British steamers caught within a given period in attempting to run the blockade, only twelve were caught by vessels built by the present administration of the Navy Department, while seventy-eight were caught either by purchased vessels or vessels inherited from the old Navy. I submit, sir, that this fact bears with crushing force on the practical question of the speed and efficiency of vessels of the new Navy. It is a fact derived from official sources, and its significance can neither be denied nor evaded.

I was struck with a remark made by a member of the Naval Committee who quoted from one of those remarkable reports of Admiral Porter, written from Fort Fisher, in which the admiral, indulging in some very high blowing about the merits of a certain monitor, states, in conclusion, that she could cross the ocean, storm all the fortresses of England and France, and after laying their cities under contribution and playing havoc generally on a very large scale, could recross the ocean in perfect safety, *provided she could get coal!* A very important proviso truly—if she could only get coal, in some mysterious way entirely unknown to the authorities that ordered her construction!

Mr. PIKE. The criticism upon Admiral Porter is unfair. He meant she could carry coal enough to cross the ocean but not enough to return. Hardly any vessel can do that.

Mr. BLAINE. Oh! I presume after laying London under contribution, some of the obliging coal-heavers at Greenwich would supply her as a matter of international courtesy.

Mr. ELDRIDGE. I rise to a point of order. Is it not out of order for these loyal Republicans to quarrel among themselves? [Laughter.]

The CHAIRMAN. The Chair cannot entertain that as a question of order.

Mr. STEVENS. Their enemies are so nearly crushed that they can afford to do that.

Mr. BLAINE. A word more, sir, and I am through. My candid and conscientious belief is that this House should in some form, emphatic and unmistakable, and at the same time parliamentary and courteous, say to the country and to the President that we are not satisfied with the administration of the Navy Department. If today we follow the lead of the Naval Committee, we vote an approval of what has been done in this blundering construction of vessels that will not float, and so far as the expression of our opinion can have influence and weight we ask the continuance of the same administration of affairs for the next four years. For myself I am not willing to give any such vote. I believe there should be a change. I cast no reflections, no aspersions, on any man; but I deal simply with facts known and read of all men, facts which have gone upon the record and which cannot be denied or concealed. I am not competent to say where the precise responsibility of the costly blunders may rest, but I feel a profound assurance that the passage of this measure will enable us to find out. I shall vote, therefore, with great pleasure, for the amendment moved by the gentleman from Maryland.

The amendment to the amendment was not agreed to.

The question recurring on the amendment of Mr. DAVIS, of Maryland, tellers were ordered; and Mr. HOLMAN, and Mr. RICE of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 43, noes 55.

So the amendment was not agreed to.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURNE, of Illinois, reported that the Committee of the Whole on the state of the Union, having had under consideration the special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had instructed him to report the same to the House with sundry amendments.

Mr. STEVENS. I move to amend the bill by inserting after line one hundred and forty-nine, among the appropriations for the Boston navy-yard, the following:

For the purchase of land adjoining the Boston navy-yard, \$135,000.

Mr. WASHBURNE, of Illinois. I make the point of order that this amendment contains an appropriation, and must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. STEVENS. It was considered in Committee of the Whole on the state of the Union, and was ruled out. [Laughter.] I now offer the same thing in the House.

The SPEAKER. The Chair thinks that the amendment is in order. The 120th rule declares that—

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

It is the opinion of the Chair that the navy-yards of the United States are public works; that, when it is desired to extend them, they are public works in a state of progress; that is to say, that Congress has not determined that they are finally completed.

Mr. WASHBURNE, of Illinois. That is not the ground of the point of order. The point of order is that, under the rule, the amendment must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair rules that the amendment is in order to be presented in the House, but that it must be considered in Committee of the Whole on the state of the Union, in accordance with the rules, before it can be incorporated in the appropriation bill. Rule 112 is positive that—

"All proceedings touching appropriations of money shall be first discussed in a Committee of the Whole House."

It is the opinion of the Chair, and it will be the opinion of the House unless the decision is appealed from, that this is in order as an amendment to the bill, but that it cannot be voted upon



in the House, but must first be discussed and considered in Committee of the Whole on the state of the Union, if any member makes objection to its consideration in the House now.

Mr. HOLMAN. I make the objection.

Mr. STEVENS. I offer the following as an additional amendment:

For the purchase of ground adjoining the Brooklyn navy-yard, \$102,000.

Mr. HOLMAN. I make the same point of order upon that amendment.

The SPEAKER. The amendment must first be considered in Committee of the Whole on the state of the Union.

Mr. STEVENS. Then, for the purpose of considering these two amendments, I move to go into Committee of the Whole on the state of the Union.

Mr. WASHBURNE, of Illinois. I rise to a point of order. My point of order is, that the bill is out of the committee, that the committee has been discharged from its consideration, that it has been reported to the House with the recommendation that it do pass, and that it is not in order to go back into the committee for the purpose of considering amendments.

The SPEAKER. The Chair overrules the point of order. It is in the power of the House to recommit a bill as often as it pleases to the Committee of the Whole on the state of the Union.

Mr. WASHBURNE, of Illinois. But the gentleman's motion is not a motion to recommit the bill.

The SPEAKER. The Chair so understood it.

Mr. STEVENS. I meant that. I move now that the bill, with the pending amendments, be recommitted to the Committee of the Whole on the state of the Union.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. SPALDING and CORFORD were appointed.

The House divided; and the tellers reported—ayes 58, noes 35.

So the bill was recommitted to the Committee of the Whole on the state of the Union.

Mr. STEVENS. I now move that all general debate in Committee of the Whole on the state of the Union on the bill and amendments be closed in five minutes.

Mr. WASHBURNE, of Illinois. That is not in order. The bill has not yet been considered in the Committee of the Whole on the state of the Union.

The SPEAKER. It has been considered in Committee of the Whole on the state of the Union, and general debate has been terminated upon it. The Chair therefore thinks that the five-minutes debate only will apply in the committee, although it is a new question, which has never been raised before.

Mr. HOLMAN. Does that apply to both amendments?

The SPEAKER. It does, and to any amendments that may be offered to the bill in Committee of the Whole on the state of the Union. The bill generally having been debated, the closing of debate is a question as to which a majority of the House must decide.

Mr. WILSON. Does the closing up of debate apply to the amendments?

The SPEAKER. The five-minutes rule will apply to the amendments, and to any amendment that may be offered.

Mr. WILSON. I will suggest to the Chair that if that is to be the rule, all that the Committee of Ways and Means have to do, in order to shut off debate on appropriation bills, is to report one appropriation only in a bill, and, after that has been considered in Committee of the Whole on the state of the Union and the bill reported back to the House, have it recommitted with amendments embracing the whole body of appropriations.

Mr. STEVENS. I have no doubt about it; but I withdraw the motion to close debate.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled joint resolution (H. R. No. 91) to terminate the treaty of 1817, regulating the naval force on the lakes; when the Speaker signed the same.

#### NAVAL APPROPRIATION BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into

the Committee of the Whole on the state of the Union on the naval appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, and of the amendments offered thereto, as follows:

Insert the following:

For purchase of land adjoining the Boston navy-yard, \$135,000.

Insert the following:

For purchase of ground adjoining the Brooklyn navy-yard, \$102,000.

Mr. WASHBURNE, of Illinois. I raise the question of order that this bill, being recommitted, must be considered *de novo*. I call for the reading of the bill *in extenso*.

The CHAIRMAN. The Chair understands the position of the bill to be this: after having been considered in Committee of the Whole on the state of the Union, it was reported back to the House, and in the House two amendments were proposed, and the whole bill recommitted with the amendments. That being the case, the Chair decides that the bill must be read, and that the whole question is open as if the bill were now referred to the committee for the first time.

Mr. STEVENS. I do not rise to appeal from the decision of the Chair; but what has been already decided in Committee of the Whole on the state of the Union cannot be reconsidered in committee.

The CHAIRMAN. The Chair may be mistaken as to the point of fact; but the Chair understands from the Clerk that the bill was recommitted with the amendments. If the bill has been recommitted, the Chair is still of opinion that the bill must be read.

Mr. STEVENS. For the purpose of considering amendments, of course.

Mr. WASHBURNE, of Illinois. For the purpose of considering the whole bill.

The bill and amendments were read.

Mr. HOLMAN. Do I understand that these amendments are now pending, without the bill being read by sections for amendment?

The CHAIRMAN. The Chair decides that, the bill having been considered in Committee of the Whole on the state of the Union and reported to the House, and having been recommitted, together with amendments offered in the House, those amendments must be acted upon, and then the bill taken up clause by clause and considered.

Mr. HOLMAN. I hope this amendment as to the Boston navy-yard will not be adopted. At the last session of Congress the House passed a proposition of the same kind. The Senate struck it out of the bill, and the House afterward by a vote of 56 to 38 concurred in the action of the Senate. It did so on facts which were then exposed to the House as to the entire absence of any necessity for the purchase, and on account of the extraordinary and profligate price proposed to be paid for the land. For the purpose of getting all the facts before the committee that were before the House at last session, I ask for the reading of the affidavit of the original seller of the property to the present owners. The present owners are Messrs. Oakman & Eldredge. They purchased it of Gustavus V. Hall not more than a year ago for \$55,000, to which is to be added \$6,000 for improvements, making the cost of the property to the present holders \$61,000. They propose to realize a profit on the sale to the Government of \$74,000.

The Clerk read, as follows:

I, Gustavus V. Hall, of Charlestown, in the county of Middlesex and Commonwealth of Massachusetts, on my oath say, that late in February, A. D. 1864, I was present at an interview between Mr. Oakman, of Charlestown, and Mr. Hittinger, who sold him a wharf in said Charlestown, called Brinnall's wharf, wherein said Oakman told Mr. Hittinger that he paid a large price for the wharf, and that he would sell it back at any time within a year, if the Government did not take it, as he expected, for \$10,000 less than he gave for it.

GUSTAVUS V. HALL.

Boston, April 27, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Personally appeared Gustavus V. Hall, above named, and made oath that the foregoing affidavit, by him signed, is true.

Before me, JOHN Q. A. GRIFFIN,

Justice of the Peace for all Counties.

Mr. HOLMAN. Then I ask the Clerk to read

the following affidavit of the person who sold this property for \$55,000, to which improvements worth \$6,000 have been added, making \$74,000 profit proposed to be paid for this property:

I, Jacob Hittinger, of Belmont, in the county of Middlesex, and Commonwealth of Massachusetts, on my oath, say: that I sold the wharf known as Brinnall's wharf, at said Charlestown, the third wharf situated westerly of the original line of the navy-yard; that I sold said wharf in the month of December, A. D. 1863, to Oakman & Eldredge; that I executed the deed thereof to them in the month of February, A. D. 1864; that I received therefor the sum of \$55,000. Oakman & Eldredge had been lessees of said wharf under a lease which had expired about six months before said sale in December, and perhaps earlier; and they were occupying at the time of the sale in December under an agreement for an occupancy of one year after the expiration of said first lease. Their occupancy, I think, was to terminate, by the terms of our agreement, about May 1, A. D. 1864. Oakman & Eldredge offered to sell me all the improvements they had put upon the premises and deliver them to me, including scales and railroad and all else, for \$6,000; but I did not buy them for the reason that I thought the property not worth so much. On the day the deeds were passed, Mr. Oakman told me he would give me \$10,000 to take the property back if his proposed sale to the United States failed, or was not consummated for any reason. Before this sale, I had owned this wharf twelve or fifteen years; had done business upon it; and for some eighteen years had done business on wharf property in that immediate neighborhood. I sold this because I thought I got a good price for it, and I had no other reason for selling it. Before the sale I had frequent conversations with Oakman & Eldredge about selling it to them, and their objection to buying it was that the price asked and finally paid was too great, and that the wharf was not worth it. They also said it was of less value than Caswell's wharf adjoining, which they had bought of Messrs. Lawrence & Sawyer.

JACOB HITTINGER.

Boston, April 27, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Personally appeared, Jacob Hittinger, above named, and made oath that the foregoing affidavit by him signed is true.

Before me, JOHN Q. A. GRIFFIN,

Justice of the Peace for all Counties.

Mr. HOLMAN. It will be perceived, from these affidavits, that this property actually cost these parties \$61,000, and the profit proposed to be given them is the sum of \$74,000. Now, for the purpose of showing more completely and entirely the want of any necessity for making this purchase, I ask that the Clerk shall read the following extract from a leading Republican paper published in Charlestown:

"The affidavits of a large number of the most experienced and competent men were furnished that the portion of the wharves proposed to be sold for \$135,000 would be dear at \$30,000; that the portion retained from the two wharves by Oakman & Eldredge was worth as much or more than that they proposed to sell; so that they would keep at least one half of the value they bought for \$104,000, and sell the other half for \$135,000! This evidence came from owners of wharf property in the same neighborhood, from merchants, from wharfingers, from wharf-builders, from gentlemen who own and sell real estate, in fact from the best citizens of the town having knowledge of practical affairs. But this was not all. The proofs summoned by the mayor established that many thousand feet of unsurpassed wharf property could be constructed on the premises already owned and inclosed by the Government, at cheaply at least, if not more cheaply, than that involved in the proposed sale could be repaired or and made fit for Government use and occupancy. This testimony came from many sources, and among other deponents concerning it were certain officers in the navy-yard, of high character for integrity and good judgment and skill in their departments of the public service. The affidavits embracing these facts, and also setting forth the manner in which the sale to the United States of wharf property would affect the city of Charlestown, in withdrawing from commerce and from taxation property so greatly needed for both purposes, were by the mayor laid before the Senate, that had yet to pass upon the appropriation of \$135,000, which had gone through the House, wherein it had been advocated by Massachusetts members, and opposed only by Mr. WASHBURNE, of Illinois."

Mr. HOLMAN. I have but a single additional fact to which to call the attention of the committee, and that is this: that these same parties, Oakman & Eldredge, in 1862, since the war began, have, I believe, sold property to the Government, for the purpose of increasing the capacity of this navy-yard, to the extent of \$123,000. That is to say, within the last three years we have appropriated \$123,000 for the purpose of enlarging the navy-yard at Charlestown. It is now proposed to enlarge it by paying to the same parties the sum of \$135,000. And it will not escape the attention of the committee that the purchase of this land was made for the express purpose of selling it to the Government. It is sold to these parties and purchased by them for the express purpose of selling it to the Government; and those parties now propose to sell back to the parties from whom they purchased it this property at a loss of \$10,000, unless they are enabled to drive this bargain with the Government. These are the influences which are at work

to force this upon the Government of the United States. I do insist that there is no evidence before this House, and never has been, that there was any necessity for this purchase, or that the capacity of the navy-yard at Charlestown was insufficient; but at the same time it is really true that the attempt to sell this property is influenced, not by a desire to promote any public interest, or for any purpose of enlarging the navy-yard, but to promote the private interest of these parties, who have already realized a handsome profit from the Government by the sale made in 1862. I trust the House will not make this appropriation.

Mr. WASHBURN, of Illinois. I desire to add only a word to what has been already said by the gentleman from Indiana [Mr. HOLMAN] in regard to this subject. This whole question was up during the last session of Congress, when the proposition was introduced here. After it had passed, the patriotic and loyal citizens of the town of Charlestown, property-holders, men of the highest respectability, embracing all the city authorities, brought the subject to the attention of Congress, a committee came down here to protest against the purchase of this land, upon the ground that it was utterly unnecessary for the purposes of the navy-yard, and upon the further ground that the price was extravagant and outrageous; a piece of land which the party had bought for \$61,000, and for one half of which the Government had agreed to pay \$135,000. When the bill went to the Senate with this provision in it the Senate struck it out, and it came back to the House. I was not present during the debate, but it was fully debated here, and the House concurred with the Senate in striking out this provision by a vote of nearly two to one. I do not know what new facts have been brought forward which should justify us now in reviewing the action which we took at the last session of Congress upon a full and thorough investigation and understanding of the whole matter.

Mr. STEVENS. I do not intend to consume the time of the committee by any further discussion. I remember the discussion of last year, one party alleging that these affidavits were all from interested men, and the other that they were from disinterested men. Under those circumstances I had very little to say upon the subject, and cared very little about it. The mayor of Charlestown contended that that town would be very much injured if this purchase was made by the Government, while the Government said they must have it. I understand that he went before the people upon that question at the late election, and he was left out. This is not exactly record evidence, but I understand such to be the fact. However, the committee, after a full examination of this question, after having the chief of the bureau before it, have reported that it is absolutely necessary that the Government should make these appropriations for both these navy-yards. But all I mean to say upon this subject is to ask that the Clerk will read a communication from the bureau, so as to show that the Committee of Ways and Means acted upon proper grounds in this matter.

The Clerk read a communication from Joseph Smith, of the Bureau of Yards and Docks, of the Navy Department, recommending that the purchase be made.

Mr. STEVENS. In order that we may not consume the remainder of the day in discussion, I move that the committee rise, for the purpose of closing general debate.

Mr. WILSON. Before the gentleman makes that motion will he permit me to make a statement?

Mr. STEVENS. I withdraw the motion, and yield to the gentleman.

Mr. WILSON. Mr. Chairman, the value of this property has been stated at various sums by parties interested and those who are not interested; and I think it is very difficult for this committee to make up a judgment as to what the property is really worth. Several of the citizens of Charlestown are certainly of opinion, as is shown by affidavits and statements forwarded by them to committees of this House and to members, that the price asked is exorbitant.

Now, sir, in order to avoid difficulties of this kind in relation to all cases, I wish to state that I hold in my hands a bill, which I am authorized

to report to the House whenever I can get an opportunity so to do, extending the provisions of the act of April 19, 1864, in relation to the condemnation of private property upon Rock Island to all cases wherein the Government may desire the appropriation of private property for public use. That bill will provide simply "that the provisions of an act entitled 'An act in addition to an act for the establishment of certain arsenals, approved April 19, 1864,' be and the same are hereby extended to and shall be construed to apply to all cases wherein the Government of the United States may deem it necessary to appropriate private property, being real estate, to the use of the Government, and in relation to which the Government and the owner or owners of such property may not be able to agree upon the price to be paid for the same; provided that the board of commissioners provided for in the third section shall be appointed by the circuit court of the circuit in which the proceedings are to be had."

Now, sir, this will provide a means whereby the Government may ascertain by a jury, in a court of competent jurisdiction, the just and fair value of such property as it may deem necessary to appropriate to the public use. I hope, therefore, inasmuch as there is this difference of opinion in relation to the value of the property in this case, that this amendment may not be adopted, but that we shall abide by what may be the result of the action of Congress in relation to this system for the condemnation of private property for public use.

Mr. STEVENS. If I were sure that such a bill would pass in this House and the Senate, I would not urge the amendment. In order to provide for the possibility of such an act being passed, I propose to modify my amendment by adding to it the following:

*Provided, That if an act shall be passed at this session of Congress providing for the condemnation of private property for public use, the appropriations herein contained, providing for additions to the navy-yards at Boston and Brooklyn, shall be imperative and void.*

I now move that the committee rise, for the purpose of closing debate.

Mr. DAVIS, of Maryland. I ask the gentleman not to move that debate close immediately after the House again resolves itself into the Committee of the Whole, but that twenty minutes or half an hour be allowed for debate. The measure which I proposed has been grossly misrepresented by every gentleman who has spoken upon it, and my desire is to put it intelligibly before the House, not to repeat my previous argument or to restate facts which I have already presented, and which have not been answered.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union, having had under consideration, as a special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had come to no resolution thereon.

The SPEAKER. When the House was acting upon this bill a few moments ago, there was a point raised as to the right to close debate, which the Chair stated was doubtful. The Clerk will read from page 62 of Barclay's Digest.

The Clerk read, as follows:

"The proposition to close debate may be made at any time, taking precedence even of a motion to go into Committee of the Whole; but to be in order at all, the subject upon which it is proposed to close debate must have been previously taken up and considered by the committee."

The SPEAKER. As this subject has previously been considered by the committee, the Chair is still of the opinion formerly expressed with reference to the right to close debate.

Mr. STEVENS. I move that when the House again resolves itself into Committee of the Whole upon this bill, all debate on the pending amendment be closed in five minutes.

The motion was agreed to.

Mr. STEVENS. I move that the House again resolve itself into the Committee of the Whole on the state of the Union, and resume the consideration of the special order.

The motion was agreed to.

The House accordingly resolved itself into the

Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the special order, the naval appropriation bill.

The amendment of Mr. STEVENS, with the modification proposed to be added by him, was read.

Mr. WASHBURN, of Illinois. I make the point of order that the gentleman cannot modify his amendment so as to include an appropriation.

The CHAIRMAN. The gentleman cannot modify his amendment, but must move it as an amendment to an amendment.

Mr. STEVENS. Very well, then.

Mr. WASHBURN, of Illinois. The gentleman from Pennsylvania offered this amendment in the House. I made the point of order that it contained an appropriation which must be first considered in the Committee of the Whole on the state of the Union, and the Speaker sustained that point of order.

Mr. STEVENS. The Speaker ruled that my amendment was in order, but that as it contained an appropriation it should have its first consideration in the Committee of the Whole on the state of the Union. Then I moved to go into the Committee of the Whole on the state of the Union.

The CHAIRMAN. The Chair has now taken testimony on both sides, and as he understands the fact, when this amendment was offered in the House the Speaker decided that it was in order as germane to the bill, but that it should be referred to the Committee of the Whole on the state of the Union. The bill and pending amendments were then referred to the Committee of the Whole on the state of the Union. The question is now on the amendment as offered in the House and referred to the committee, and it cannot be modified except by an amendment to the amendment.

Mr. STEVENS. Then I move it as an amendment to the amendment.

The amendment and the amendment to the amendment were again read.

Mr. WASHBURN, of Illinois. Mr. Chairman, if this amendment is to pass, I want it to pass so that we may have a chance to see whether we cannot save something. I do think when the House has fully and deliberately considered a question of this kind and decided against it, that it ought not to stultify itself by now passing it. The gentleman spoke of the gentlemen from Charlestown who came down here. The members here who know those gentlemen say that they are of the highest character. Mr. Griffin is a distinguished lawyer, and was the competitor of one of the present members of Congress from that State. He came down here and I had a conversation with him. He said that he was influenced solely by a desire to serve the public interest, and that he could not remain silent and see the Government swindled as it was proposed to swindle it by this appropriation. He told me some other things in regard to it which are not proper for me to state here.

The amendment to the amendment was adopted. The amendment, as amended was then rejected.

The next amendment was read, as follows:

For the purchase of ground adjoining the Brooklyn navy-yard, \$102,000.

Mr. STEVENS. As the other amendment has been rejected, I will withdraw this one.

Mr. ODELL. I object to that.

The CHAIRMAN. The amendment cannot be withdrawn unless by unanimous consent.

The amendment was rejected.

The CHAIRMAN. The Chair will take this occasion to say that, by the authorities, when a bill is thus recommitted with amendments pending which have not been confirmed by the action subsequently of the House, all that has been done in the committee falls to the ground. The bill, therefore, will be taken up as originally reported from the Committee of Ways and Means and referred to the Committee of the Whole on the state of the Union.

Mr. HOLMAN. I suppose there will be no objection to considering the amendments of the Committee of the Whole on the state of the Union heretofore adopted as applying to this bill.

There was no objection, and it was ordered accordingly.

The CHAIRMAN stated that the bill was open to further amendment.

Mr. STEVENS. I move to insert the following, which was ruled out of the bill when it was in committee before:

For pay of clerks in the ordnance department at the several navy yards, in lieu of the present per diem pay, viz:  
For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,200.

For salary of one clerk \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.

For salary of one clerk at \$1,200 per annum, and one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

For salary of one clerk at the Philadelphia navy-yard, \$1,200.

For salary of one clerk at \$1,400, one clerk at \$1,000, one draughtsman at \$1,600, one analytical chemist at \$2,500 per annum, one assistant pyrotechnist at \$1,400, and one keeper of magazine at \$480 per annum, at the Washington navy-yard, \$15,180.

Mr. HOLMAN. When the bill was in committee before, the point of order was made that those paragraphs contained independent legislation and were not for carrying out the existing law, and that point of order was sustained. It is now proposed to insert the very matter that was then ruled out. I make the point of order, first, that it is not competent for the gentleman to move to insert those words already stricken out; and secondly, if it is competent to do so, it is independent legislation and not in order to an appropriation bill.

Mr. STEVENS. I offered the amendment as one necessary to carry on one of the Departments of the Government.

The CHAIRMAN. The Chair understands the gentleman from Indiana to make the point of order that that portion of the bill having been ruled out when the House was in Committee of the Whole before, that no other ruling can now be had upon that part of the bill. The Chair overrules the point of order. Whatever occurred in the Committee of the Whole before has now no validity, but falls to the ground. The Chair will have read from Barclay's Manual the ground upon which he bases his decision.

The Clerk read, as follows:

"After a bill has been committed and reported, it ought not, in an ordinary course, to be recommittees; but in cases of importance, and for special reasons, it is sometimes recommittees; and usually to the same committee. If a report be recommittees before agreed to in the House, what has passed in committee is of no validity; the whole question is again before the committee, and a new resolution must be again moved as if nothing had passed."

Mr. HOLMAN. The other point I now make is that the amendment now submitted contains independent legislation, and that it is not for the purpose of carrying out any existing law. And upon that point I desire to have a precedent read. It was decided in a Committee of the Whole upon this very point raised.

Mr. STEVENS. This comes in under the ruling of the Speaker.

The CHAIRMAN. The Chair is informed that when the House was in Committee of the Whole before, the ruling of the Chair was that that portion of the bill was not in order, as it was not for the purpose of carrying out any present object or law. As all that was done in the committee before has fallen to the ground, and there is no precedent, and this presents itself as a new question, the Chair will rule that this being a provision for carrying on one of the Departments of the Government is in order. Therefore he overrules the point of order.

Mr. WASHBURN, of Illinois. As the Chair has ruled the amendment offered by the gentleman from Pennsylvania to be in order, I desire to call the attention of the committee to what the amendment is. I did not expect my strict construction ruling, in order to save money to the Treasury, would be the law of this House; but I made it a law to myself. This amendment provides for increasing the salaries of the clerks at certain navy-yards. That brings up this whole question of the increase of salaries; and the committee has got to decide now whether it is willing, in the present state of the country, to enter upon this work of increasing salaries.

The CHAIRMAN. The Chair does not understand that any amendment has been offered by the gentleman from Pennsylvania. The clause which the gentleman from Illinois is now commenting on, being already in the bill, a motion to insert it is not requisite. It would be in order for the gentleman from Illinois to move to strike it out or to amend it.

Mr. WASHBURN, of Illinois. As I under-

stand the matter, the occupant of the Chair, when the House was last in committee, decided that what the gentleman from Pennsylvania now offers as an amendment was not in order; and it was ruled out of the bill. No appeal was taken from that decision, and hence the decision stood, and that clause is no part of the bill. Hence, as it is no part of the bill, and the gentleman from Pennsylvania desires that it shall be, he now moves to amend the bill by inserting it.

The CHAIRMAN. When the House was in committee before, it was ruled that all that latter portion of the bill was not in order, on the ground that it was not for carrying out any of the operations of the Government, or anything provided for by law. But everything that was done in that previous Committee of the Whole having fallen to the ground, the bill is now considered the same as if it never before had been in Committee of the Whole. It does not need, therefore, any motion to restore that provision to the bill. But a motion can be made to amend it, or to strike it out. The Chair decides that the clause under consideration is already a part of the bill, and is before the committee.

Mr. WASHBURN, of Illinois. As the Chair rules that the matter proposed to be inserted by the gentleman from Pennsylvania is already a part of the bill, I move to strike it out.

It changes the existing law by increasing the salaries of the clerks at the various navy-yards, how much I do not know. There is nothing in the present bill to show what their salaries are now. In terms, the clause provides for paying to the clerks in the ordnance department at the several navy-yards, in lieu of the present per diem compensation, the several sums mentioned in the clause, as follows: to one clerk at Portsmouth, New Hampshire, \$1,200; to one clerk at Boston, \$1,200, and to another \$1,000; to one clerk \$1,200 and to another clerk \$1,000, at New York; to one clerk at Philadelphia, \$1,200; and at the Washington navy-yard to one clerk, \$1,400; to another, \$1,000; to one draughtsman, \$1,600; to one analytical chemist, \$2,500; to one assistant pyrotechnist, \$1,400; and to one keeper of magazine, \$480. I would be glad to know what the present per diem allowance of these various clerks is.

Mr. HOLMAN. It was stated on a former day when this measure was before the House that the per diem was \$3 50. It was so stated by the gentleman from Pennsylvania, [Mr. STEVENS,] or by some other gentleman upon this floor.

Mr. STEVENS. Only some of them.

Mr. WASHBURN, of Illinois. I would be glad to know how many of them received a per diem, and what salaries the other clerks received. I think we are acting very much in the dark in this matter.

I think, sir, that if we are going into this business of raising salaries we should not go into it by piecemeal, but should go over the whole subject fully and fairly. I am opposed, first and last, to any increase of the salary of any person employed under the Government; but if we are going into it, let us go into it fairly and justly, and do justice to all parties systematically.

Mr. PRUYN. I wish to call attention to an error in the footing up of these appropriations. The amount is footed up fifteen thousand and odd dollars. It should be \$8,380.

Mr. STEVENS. I did not foot it up myself. It was done by the clerk. I ask that it be corrected.

The correction was made.

Mr. BROOKS. I desire to suggest that while we are increasing these salaries—and I think we must do it in order to enable these men to live—there should be some stipulation that the increase shall continue only during the suspension of specie payment, because at the end of the war and the resumption of specie payment we shall otherwise have enormous salaries imposed upon the country.

I observe that in the appropriation for the publication of the American Nautical Almanac there is an increase of salary provided for. I think that there should be some limit to the increase, and that it should continue only during the suspension of specie payment. With that proviso, I am quite willing to vote for this increase.

Mr. STEVENS. The Department have asked for this, not as an increase of salary, but as a

change from a per diem to a permanent salary in most cases, and have fixed it at the lowest rate of salary, \$1,200. The number of clerks is increased in some instances. There is one added at Philadelphia. And then they appoint one clerk at \$1,400, which is not intended as a general rule, the general rule being \$1,200; but this being a clerk of class second as clerks are classified in the Departments, they say that this is necessary to command the talent required to carry out these departments, and the Committee of Ways and Means thought it only reasonable, and so reported it.

Mr. BROOKS. In the case of the American Nautical Almanac we have increased the salary, and I have no idea that a scientific man, at the present rates of currency, could be obtained to do the work without that increase, but after the resumption of specie payment the increase of salaries ought not to continue.

Mr. STEVENS. It will be very easy to adjust the matter when that time arrives.

Mr. BROOKS. In order to test the sense of the House, I will move to add the following proviso to the clause proposed to be stricken out:

*Provided*, That the increase of salaries contained in this act shall continue only during the suspension of specie payment.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from New York that that time may be pretty far distant, and that he had better fix upon some time, say the 1st of July, 1867.

Mr. BROOKS. I would not stake my sagacity on that as the period of time for the resumption of specie payment.

Mr. WASHBURN, of Illinois. Then I move to amend the amendment of the gentleman from New York by striking out "during the suspension of specie payment" and inserting in lieu thereof "after the 1st day of July, 1867."

The CHAIRMAN. The Chair would remind the gentleman from Illinois that there are two amendments already pending, and that an amendment in the third degree is not in order.

Mr. STEVENS. I desire to have what is said by the Department on this subject read.

The Clerk read, as follows:

"The above salaried clerks are required for the proper performance of the duties of the ordnance department of the different yards. The ordnance stores and accounts were formerly kept in charge of the storekeeper, but are now entirely confided to the ordnance officer. This change of system and the vast increase in the labors of the ordnance department make it absolutely necessary that persons of ability and responsibility should be permanently attached to the ordnance office for the performance of the clerical and other duties connected therewith.

"The salaries are fixed at the very lowest amount at which it is thought possible to secure competent persons. The salary asked for the draughtsman is about the same as the pay now received by him.

"The services of a skillful analytical chemist are greatly needed in the ordnance department of the Navy. For want of such a person the department has frequently to resort to outside parties, and often suffers for want of chemical analysis and information, which, if furnished, would be of great service to the Government. Instead, therefore, of a pyrotechnist, who has been heretofore employed, the bureau ask for a skillful analytical chemist and an assistant pyrotechnist. The keeper of magazines has heretofore been estimated for by the Bureau of Yards and Docks.

"H. A. WISE, Chief of Bureau."

The question was taken on Mr. Brooks's amendment, and it was disagreed to.

The question being on Mr. WASHBURN's amendment, the Chairman ordered tellers, and appointed Messrs. WASHBURN, of Illinois, and GARFIELD.

The committee divided; and the tellers reported—ayes 57, nays 40.

So the amendment was agreed to.

Mr. DAVIS, of Maryland. I offer the following amendment, to come in at the end of the bill:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

Sec. 4. And he it further enacted, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of ves-



sels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

Sec. — *And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for new vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

Sec. — *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

Sec. — *And be it further enacted*, That the Secretary may add to the board from time to time other officers of the Navy eligible to the position of chief of bureau, not exceeding three at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

The amendment having been partially read—

Mr. WASHBURNE, of Illinois, said: Mr. Chairman, I have heard enough of that amendment read to make me quite certain that it is out of order. Although when it was first offered the committee decided it to be in order, yet I believe it to be so flagrantly out of order that I raise the question again. I desire to say that I am in favor of the proposition, and would vote for it in the House; but I object to it because it is out of order. If we establish a precedent of this kind, there is nothing under heaven that cannot be got into a general appropriation bill.

The CHAIRMAN. The point of order cannot be properly raised till the amendment is before the committee; but as the gentleman from Illinois has anticipated, the Chair will decide that so much of it as has been read is in order. The Chair overrules the point of order so far as the amendment has been read. The further reading may disclose what will render the amendment out of order. The Clerk will proceed with the reading.

Mr. DAVIS, of Maryland. I do not insist on the reading of the amendment.

The CHAIRMAN. The Chair is of opinion that it is not in order to stop the reading of an amendment.

The reading of the amendment was concluded. Mr. WASHBURNE, of Illinois. Has the Chair decided the point of order?

The CHAIRMAN. The Chair decides that the remainder of the amendment is in order. [Laughter.]

Mr. WASHBURNE, of Illinois. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Maryland [Mr. DAVIS] having offered the amendment just read, the gentleman from Illinois [Mr. WASHBURNE] raises the point of order that the amendment is not germane to the bill. The Chair overrules the point of order, and from that decision the gentleman from Illinois takes an appeal. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. DAVIS, of New York. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had come to no resolution thereon.

#### REPRESENTATION IN ELECTORAL COLLEGE.

Mr. WILSON. I ask unanimous consent to take from the Speaker's table the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, in order that the House may concur in the amendment made by the Senate.

There being no objection, the joint resolution was taken up, and the amendment was read, as follows:

Strike out of the preamble the words "and were in such

condition of armed rebellion for more than three years;" and insert in lieu thereof:

And were in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice President, according to the Constitution and laws thereof, was held therein on said day: Therefore.

Mr. YEAMAN. I desire to offer a substitute for the joint resolution.

Mr. WILSON. I desired to demand the previous question on the amendment.

Mr. YEAMAN. I object if I am not allowed to offer a substitute.

Mr. STEVENS. Then I move to go to business on the Speaker's table.

Mr. YEAMAN. I withdraw my objection and offer the following substitute for the joint resolution:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the votes of the presidential electors of any State shall be counted when presented and verified in the ordinary and legal method; and it is incompetent and immaterial for Congress to go behind such verification, and inquire whether a part of the citizens of such State may have been in rebellion; and all laws and parts of laws and joint resolutions incompatible with this are hereby repealed.

Mr. WASHBURNE, of Illinois. I raise the question of order that the amendment is not germane to the Senate amendment.

The SPEAKER. The only matter before the House is the Senate amendment; and any amendment, to be in order, must be germane to that. The amendment offered by the gentleman from Kentucky would be in order to the original bill, but is not in order to the Senate amendment.

Mr. YEAMAN. I offer it as a substitute for the matter before the House.

The SPEAKER. The joint resolution has been passed upon by both Houses, and is not susceptible of amendment, except so far as applies to the amendment of the Senate. The amendment offered by the gentleman from Kentucky is not in order.

Mr. WILSON. I demand the previous question.

The demand for the previous question was seconded.

Mr. COX moved that the House do now adjourn.

The question was taken; and the motion to adjourn was not agreed to.

The question recurred upon ordering the main question; and being taken, the main question was ordered.

The question was then taken upon concurring in the amendment of the Senate, and it was agreed to.

Mr. WILSON moved to reconsider the vote by which the House concurred in the amendment of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed a joint resolution (S. No. 94) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional, out of the sum to be paid him under his contract for building a steam screw sloop-of-war, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed the joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College, with an amendment, in which he was directed to ask the concurrence of the House.

#### MANITOWOC, WISCONSIN.

Mr. ELDRIDGE, by unanimous consent, presented a joint resolution of the Legislature of the State of Wisconsin, to the Congress of the United States, in relation to the improvement of the harbor of Manitowoc, Wisconsin; which was referred to the Committee on Commerce, and ordered to be printed.

#### MARRIAGES IN THE DISTRICT OF COLUMBIA.

The SPEAKER. The Chair would call the attention of the House to the fact that the bill in relation to marriages in the District of Columbia, introduced on yesterday by the gentleman from Iowa [Mr. PRICE] was by mistake referred to the Committee for the District of Columbia. If no objection is made the bill will be referred to the Committee on the Judiciary.

No objection was made, and the bill was referred accordingly.

#### AMENDMENT OF THE RULES.

Mr. WHALEY, by unanimous consent, introduced the following resolution:

*Resolved*, That rule 102 be amended as follows: In line one strike out "seven," and insert "eight." At the end of the rule add: "A committee on so much of the public accounts and expenditures as relate to the Department of Agriculture."

Mr. WASHBURNE, of Illinois, moved that the resolution be referred to the Committee on Rules; which was agreed to.

And then, on motion of Mr. HOLMAN, (at four o'clock and thirty minutes, p. m.) the House adjourned till Monday next.

#### IN SENATE.

MONDAY, February 6, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of Saturday was read and approved.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 641) to provide for another term of the circuit court of the United States for the district of Arkansas, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

#### CREDENTIALS PRESENTED.

Mr. POMEROY presented the credentials of Hon. JAMES H. LANE, chosen by the Legislature of the State of Kansas a Senator from that State for the term of six years, commencing March 4, 1865; which were read, and ordered to be filed.

Mr. MORRILL presented the credentials of Hon. NATHAN A. FARWELL, chosen by the Legislature of the State of Maine a Senator from that State to fill the vacancy occasioned by the resignation of Hon. William Pitt Fessenden in the term which will expire on the 3d of March, 1865. The credentials were read, and the oath to support the Constitution having been administered to Mr. FARWELL, he took his seat in the Senate.

#### PETITIONS AND MEMORIALS.

Mr. POMEROY. I now present the petition which I submitted on Saturday from Mr. E. Bloodgood Beebe. Having read the petition, I see nothing in it which should deprive him of the right of petition, although what he asks is a very foolish and unwarrantable thing. The petition being respectful and well got up, I can see no reason why it should not be presented. I think we have no appropriate committee to which to refer it, and I ask that it lie on the table.

Mr. GRIMES. What is in it?

Mr. POMEROY. The petitioner desires that the opposing armies in the United States shall combine and fight the French out of Mexico, and then take Cuba and Canada, and by that time he thinks the Union will be so consolidated that they never will fight each other any more.

The petition was ordered to lie on the table.

Mr. MORGAN. I present a memorial of the Chamber of Commerce of the State of New York, in favor of a bill establishing a uniform system of bankruptcy throughout the United States, in which, speaking of the bill now before Congress, they say:

"Though admitting of improvement in several respects, the bill in its general outline and provisions seems drawn with signal ability and with a wise regard alike for the true interests of debtor and creditor, and your committee regard its passage as eminently desirable."

As the bill has been reported from the committee and is before the Senate, I move that the memorial lie on the table.

The motion was agreed to.

Mr. MORGAN presented a memorial of merchants of the city of New York, praying the passage of the bill for the construction of a national ship-canal from Lake Erie to Lake Ontario; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the petition of Daniel J. Browne, agent to visit various parts of Europe to investigate and report on the production, manufacture, and commerce of the flax and wiles of European countries, praying that an investigation may be had in relation to the exercise of unwarrantable power of one officer over another, and that he may be compensated for detention and

loss of time, which was referred to the Committee on Patents and the Patent Office.

Mr. DIXON presented the petition of merchant tailors of Hartford, Connecticut, and those engaged in the millinery and cloak-making business, praying that a specific tax may be imposed on each of those classes of work beyond a certain exempted amount of each, and that the internal revenue law may be modified accordingly; which was referred to the Committee on Finance.

Mr. HOWARD presented two petitions of citizens of Berrien county, Michigan, praying that one or more of the southern States may be set apart as a home for colored people; which were referred to the select committee on slavery and the treatment of freedmen.

Mr. CHANDLER presented the petition of J. Owen, praying the repeal of the act entitled "An act to regulate the admeasurement of the tonnage of ships and vessels of the United States;" which was referred to the Committee on Commerce.

Mr. GRIMES presented a petition of officers of the United States Government employed in the navy-yard in Washington, District of Columbia, praying for an increase of salary; which was referred to the Committee on Naval Affairs.

Mr. HOWE presented a petition of citizens of the county of Manitowoc, Wisconsin, praying for an appropriation for the improvement of the harbor at the mouth of the Manitowoc river; which was referred to the Committee on Commerce.

He also presented the memorial of the Legislature of Wisconsin, in favor of the improvement of the harbor of Manitowoc, Wisconsin; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. LANE, of Kansas, presented the petition of Andrew J. Gray, praying for a pension; which was referred to the Committee on Pensions.

He also presented a communication from J. G. Knapp, in relation to the transmission of printed matter and seeds through the mails to the Territories; which was referred to the Committee on Agriculture.

Mr. COWAN presented the petition of military officers in the service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. NESMITH presented the petition of Albert J. Meyer, praying for an acknowledgment of his services in the invention and use of plans of signals in the military and naval service, and that he may receive the reward in rank and emoluments to which those services entitle him; which was referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant of lands to aid in the construction of a railroad from Wyandott to the southern boundary of the State, and that the title of the Cherokee Indians to certain lands in that State be extinguished; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. SUMNER presented the petition of Anselm Richard, praying for indemnification for depredations committed by the armed vessels of France on commerce owned by his father prior to the year 1801; which was ordered to lie on the table, the bill commonly called the French spoliation bill being pending.

Mr. SUMNER. I have in my hand, Mr. President, a petition most respectfully signed by citizens of Boston, in which they ask Congress to enact a law preferring for appointment to all inferior offices persons honorably discharged from the military service of the United States who shall have served for a period of three years during the present rebellion, or who shall have suffered permanent disability while in the service, or who shall have been held for one year as prisoners of war, and that the tenure of such offices be for life or during good behavior. This petition is most respectfully signed, as I have said; indeed, I have rarely offered a petition where the names were more entitled to consideration. They are among the most eminent citizens of Boston. There is no committee to which this subject can appropriately be referred, but I would state that some time during the last session I introduced a bill, which is now upon the Calendar, to revise the civil service of the country in order to secure a better class of officers. That bill has never been called up for considera-

tion, nor, as I have said, is there any committee to which the subject can be referred; but as the persons in interest are in the largest number connected with the military service of the country, I move that this petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a communication from the Commissioner of Patents, transmitting the annual report of the Patent Office for the year 1864; which was referred to the Committee on Patents and the Patent Office.

He also laid before the Senate a communication from the Secretary of War, transmitting, in answer to the resolution of the Senate of the 2d instant, a copy of the report of the Provost Marshal General, accompanied by copies of all papers in the possession of the War Department, relating to the quota of the State of Rhode Island under the act for enrolling and calling out the national forces and the acts in amendment thereto; which was laid on the table, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the resolution of the Senate of January 16, 1865, a report of the board of commissioners of the Soldiers' Home, accompanied by certain statements which, with Senate Executive Document No. 52, second session Thirty-Seventh Congress, contained the information concerning the Soldiers' Home called for in that resolution; which was laid on the table.

He also laid before the Senate a communication from the Secretary of War, communicating, in obedience to law, a statement showing the expenditures of the appropriation for the contingent expenses of the military establishment for the year 1864; which was laid on the table.

#### MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed a joint resolution (H. R. No. 161) in relation to certain railroads, in which the concurrence of the Senate was requested.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 406) for the benefit of officers of the Army in the field, reported it with amendments.

Mr. MORRILL, from the Committee on Claims, to whom was referred the memorial of the Mechanics and Traders' Bank of New Orleans, praying that the Secretary of the Treasury may be authorized to return to that bank the amount of money paid on dividends to stockholders in the city of New York by order of Major General Butler, which had been previously confiscated in the hands of the bank by agents of the rebel government, asked to be discharged from its further consideration; which was agreed to.

Mr. WADE, from the committee on the conduct of the war, who were directed to inquire into the facts and circumstances concerning the attack on Petersburg on the 30th of July, 1864, submitted a report, which, with the accompanying testimony, was ordered to be printed. A motion of Mr. ANTHONY, to print five thousand extra copies, was referred to the Committee on Printing.

#### TRADE WITH INSURRECTIONARY STATES.

Mr. COLLAMER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to inform the Senate whether, since the 2d day of July last there have been granted to any individuals other than agents of the Treasury, any orders, permits, or licenses to buy, sell, control, or in any way to deal in cotton or produce in the seceded States, and if so, what has been the nature and extent of such licenses or permits; and to whom the same have been granted, and at whose solicitation, and what orders have been granted to military authorities to aid the same; and further to inform the Senate what rule of preference has been adopted as to the persons to whom such permits or licenses, if any, have been granted, whether any and what consideration has been paid for such personal and valuable privileges, and under what law such licenses or permits, if any, have been granted.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 161) in relation to certain railroads was read twice by its

title, and referred to the Committee on Military Affairs and the Militia.

#### AGRICULTURAL CENSUS REPORT.

Mr. LANE, of Kansas. The Committee on Agriculture, to whom was referred the following resolution, have directed me to report it back to the Senate without amendment, and I ask for its present consideration:

*Resolved*, That two thousand copies of the agricultural part of the Census Report for 1860 be printed for the use of the Commissioner of Agriculture.

Mr. POMEROY. We have acted on a resolution of that character, during the absence of my colleague, offered by the Senator from Iowa, [Mr. HARLAN.]

Mr. LANE, of Kansas. This is that resolution. It was not acted upon by the Senate, but was referred to the Committee on Agriculture, and is now reported back by them.

Mr. POMEROY. I thought it was passed by the Senate.

Mr. SUMNER. Should not that resolution go to the Committee on Printing? I think so, according to our rule.

Mr. HALE. Oh, no; it is a report from a committee.

Mr. LANE, of Kansas. This resolution is reported back from the Committee on Agriculture.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution at this time? The Chair hears none, and it is now before the Senate.

Mr. LANE, of Kansas. There is a letter from the Commissioner of Agriculture on the subject, which I ask to have read.

The Secretary read the letter, as follows:

DEPARTMENT OF AGRICULTURE.

WASHINGTON, D. C., February 1, 1865.

SIR: I desire to ask the especial attention of your committee to the importance of having two thousand copies of the agricultural part of the report of the Census Bureau printed and given to the Department of Agriculture for the purpose of distribution to its chief correspondents of the condition and amount of the crops and farm stock. The necessity of this will be seen at once when your attention is drawn to the fact that the preliminary census report contained the summary of all the crops and stock for each State, but did not give the returns for each county. The correspondence of this Department consists of a chief and five assistants, the latter being farmers residing in different parts of the country. Through this organization the Department obtains information, the importance and reliability of which is now generally conceded, and the accuracy of this information is becoming greater as the correspondents become more experienced. Their zeal, too, keeps pace with that experience. For this information they receive no other compensation than a copy of my reports and some papers of seeds. Their labor is great, and they have often expressed their wish to have this report.

Apart from the fact that these persons are rendering this important service, and that this service will become more valuable with the census returns of each county before them, there are no persons who would appreciate so highly the agricultural statistics of the report asked for, or who would disseminate it around them so much. I trust, therefore, that the request of a copy for each of the chief correspondents will meet with your approbation.

With much respect, your obedient servant,

ISAAC NEWTON, Commissioner.

Hon. JAMES HARLAN.

Acting Chairman Senate Committee on Agriculture.

Mr. LANE, of Kansas. It would be well to inform the Senate that the committee have information that the type is not yet distributed; the work is still in type.

Mr. ANTHONY. Is the Senator from Kansas prepared to state the cost of the publication? Has there been an estimate?

Mr. LANE, of Kansas. No, sir.

Mr. ANTHONY. It is customary for the Committee on Printing, and, indeed, the rule requires it, to obtain, before reporting a resolution for printing a work, an estimate of the cost. I preferred that this resolution should go to the Committee on Agriculture, because I thought that that was a more proper committee to consider it, the Committee on Printing having already reported in favor of printing the number they thought proper, without taking this into consideration. I think it would be better for the Senate to know precisely what the cost will be before acting upon this matter. It could be obtained in a short time from the Superintendent of Public Printing; and, indeed, I intended to ask him myself and inform the Committee on Agriculture upon the subject, but it escaped my memory.

Mr. LANE, of Kansas. I have no objection to having the resolution referred to the Committee on Printing.

Mr. ANTHONY. I do not wish, to have it

referred to the Committee on Printing; but I think we ought to know what it is going to cost before we vote for it.

Mr. LANE, of Kansas. In order that that information may be had, I will move that the resolution be referred to the Committee on Printing.

Mr. ANTHONY. That is not necessary. If the Senate will let the resolution lie over until to-morrow, I can obtain the information.

Mr. LANE, of Kansas. Very well.

Mr. COLLAMER. I wish to make a single remark. I suggest to gentlemen, as the expense of printing this report of the Census Bureau will be very heavy at the present price of material, labor, &c., whether it would not be advisable to take some portion of the numbers already printed which have not been distributed, and give them to that Department, instead of making a new edition of two thousand copies. I desire to have the information suggested by the Senator from Rhode Island, but I think when the information is obtained we shall hesitate about incurring this very great additional expense.

Mr. LANE, of Kansas. Let the resolution lie over until to-morrow.

The VICE PRESIDENT. It will lie over.

#### BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 429) to establish additional offices for the assay of gold and silver, and for other purposes; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 430) to amend "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

#### REPRESENTATION AMONG THE STATES.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 108) to provide for submitting to the several States an amendment of the Constitution of the United States; which was read twice by its title.

Mr. SUMNER. I should like to have the resolution read at length for the information of the Senate.

The Secretary read it, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of such Legislatures, shall become a part of the Constitution, to wit:*

*Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens of age having in each State the qualifications requisite for electors of the most numerous branch of the State Legislature. The actual enumeration of such citizens shall be made by the census of the United States.*

I ask the reference of the joint resolution to the Committee on the Judiciary, and I content myself with remarking that that amendment, or something like it, seems to become necessary now since the adoption of the other constitutional amendment by which slavery is prohibited throughout the United States.

The VICE PRESIDENT. That reference will be made.

#### CONFERENCES WITH REBELS.

Mr. SUMNER. I offer the following resolution, and ask for its immediate consideration:

*Resolved, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to furnish to the Senate any information in his possession concerning recent conversations or communications with certain rebels said to have been under executive sanction, including communications with the rebel Jefferson Davis, and any correspondence relative thereto.*

Mr. SAULSBURY. I object. I want to have that information, but I wish to offer an amendment to the resolution.

The VICE PRESIDENT. Objection being made, the resolution will lie over, under the rules.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that

the Speaker of the House had signed the enrolled joint resolution (H. R. No. 97) to terminate the treaty of 1811 regulating the naval force on the lakes; which thereupon received the signature of the Vice President.

#### METROPOLITAN RAILROAD.

The VICE PRESIDENT. There being no further morning business, the unfinished business of the morning hour of Saturday is now before the Senate.

The Senate resumed the consideration of the bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," the pending question being on the amendment proposed by Mr. SUMNER to add the following as a new section:

*And be it further enacted, That the provision prohibiting any exclusion from any car on account of color, already applicable to the Metropolitan railroad, is hereby extended to every other railroad in the District of Columbia.*

Mr. SAULSBURY. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DIXON. I wish to say in regard to this amendment, that I opposed it on Saturday on the ground that it seemed to conflict with the rights of another company not now before the Senate; but since that time I have seen the managers and controllers of that company, and find that they are unwilling to contend on this subject with what they considered to be the public opinion. They therefore make no objection to it; and I shall make none.

Mr. SUMNER. Then I do not wish the yeas and nays.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. RAMSEY. I am requested to state that my colleague [Mr. WILKINSON] is confined to his room by indisposition.

The question being taken by yeas and nays, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Collamer, Conness, Dixon, Doolittle, Fairwell, Foot, Foster, Grimes, Harris, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Stewart, Sumner, Wade, Wiley, and Wilson—26.

NAYS—Messrs. Cowan, Davis, Henderson, Hendricks, Nesmith, Powell, Richardson, Saulsbury, Van Winkle, and Wright—10.

ABSENT—Messrs. Buckalew, Carlile, Clark, Hale, Harding, Harlan, Hicks, Howe, McDougall, Riddle, Sherman, Sprague, Ten Eyck, Trumbull, and Wilkinson—15.

So the amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### AMENDMENT TO ENROLLMENT ACTS.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes.

Mr. WILSON. It will be remembered that the amendment reported by the Committee on Military Affairs, in the nature of a substitute for the original bill, was read when the bill was up before.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

Mr. WILSON. I hope it will be adopted at once.

Mr. GRIMES. If that amendment be adopted, will it then be susceptible of amendment?

The VICE PRESIDENT. Not in the text. Additional sections may be added, but if the text of the amendment is amended it must be before its adoption.

Mr. JOHNSON. I ask for the reading of the amendment.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill and insert the following:

*That from and after the passage of this act, any person enrolled and liable to be drafted, may be accepted as a substitute for a drafted person, and such drafted person shall be exempt from service for such time as the substitute shall be held to service under the terms of his enlistment.*

Sec. 2. *And be it further enacted, That no person owing military service shall be exempted from liability to perform the same on account of furnishing a substitute for the Navy, unless the substitute is presented in person to the board of enrollment by which the principal is enrolled, and is accepted by said board of enrollment.*

Sec. 3. *And be it further enacted, That any recruiting agent, substitute broker, or other person, who shall enlist, or cause to be enlisted, as a volunteer or substitute, any*

insane person or person in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such, or who shall defraud or deprive any volunteer or substitute of any portion of the State, local, or United States bounty to which he may be entitled, shall, upon conviction by any court-martial or military commission, be fined not exceeding \$1,000, or imprisoned not exceeding two years, or both, at the discretion of such court-martial or military commission.

Sec. 4. *And be it further enacted, That any officer who shall muster into the military or naval service of the United States any deserter from said service, or insane person, or person in a condition of intoxication, knowing him to be such, shall, upon conviction by any court-martial or military commission, be dishonorably dismissed the service of the United States.*

Sec. 5. *And be it further enacted, That all State and local bounties hereafter to be paid to any volunteer or substitute upon entry into the military or naval service of the United States shall be paid in installments, as follows: one third at the time of the muster into service of such volunteer or substitute; one third at the expiration of half the term of service; and one third at the expiration of the term of such service, unless sooner discharged by reason of wounds received in battle. And in case of his death while in service, the residue of his bounty unpaid shall be paid to his widow, if he shall have left a widow; if not, to his children, or, if there be none, to his mother, if she be a widow.*

Sec. 6. *And be it further enacted, That the remainder of the term of service of any person who shall hereafter enter the military or naval service as a volunteer or drafted man, and shall desert therefrom, or be discharged by reason of physical disability, existing prior to such entry into service, shall be added to the amount of service due from the district to which such volunteer or drafted man shall have been credited, and the same shall be filled up from such district by enlistment or draft.*

Sec. 7. *And be it further enacted, That, in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the passage of this act, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship, and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any of the rights of citizens thereof, and all persons who shall hereafter desert the military or naval service shall be liable to the penalties of this section.*

Sec. 8. *And be it further enacted, That the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of the preceding section.*

Mr. HENDRICKS. I move to strike out the fifth section of the amendment. I am not able to see either the policy or the right of the proposition contained in that section. I do not see what the Government of the United States has to do with bounties that are paid by State, county, or other local authorities. That is a matter altogether between the local authorities and the volunteer. What right have we to prohibit a State or a county or a city from paying the entire bounty down? I do not care to discuss the matter, I merely make the motion to strike out the section.

Mr. WILSON. Before this provision was inserted in our amendment, the members of the Military Committee consulted some of the most eminent lawyers in the Senate, and they agreed that we had the power to do it. So much for that objection. Now, in regard to the provision itself, there is certainly no way to enforce it unless the Government should conclude not to muster into service any person thus enlisted. I do not object to striking out this section, and I was inclined to do so in reporting the bill from committee; but it is very evident that the local bounties are the means rather of filling quotas than of filling up the Army. The enormous bounties that have been offered by individuals and local authorities have been carried to an extent that rather induces men to desert than to go into the Army and serve. I shall not, however, oppose the striking out of this section.

The amendment to the amendment was agreed to.

Mr. WILLEY. I offer by way of amendment this additional section:

*And be it further enacted, That every soldier who shall have enlisted in any regiment or battery previously organized, under a distinct promise or assurance given by the recruiting or mustering officer, or by the Governor or adjutant general of the State where such soldier enlisted, that such enlistment should only be for the unexpired term of service of such regiment or battery, shall be entitled to his discharge at the expiration of such term, anything in the mustering-in roll of such soldier to the contrary notwithstanding; and if such regiment or battery shall have been mustered out of the service, such soldier shall be entitled to be discharged forthwith. And it shall be the duty of the Secretary of War, subject to the approval of the President of the United States, to immediately provide all proper rules for carrying this provision into effect.*

I suppose it is hardly necessary to explain the design of this amendment, for I imagine every



Senator has been besieged by applicants who have been mustered into the service, through some misapprehension of the recruiting or mustering officer, for a longer term than the soldier enlisting really supposed he was engaging to serve the country. It makes no difference, as to the justice and necessity of such legislation as is asked for by the amendment, whether the recruiting officer or the officer mustering the soldier in acted under an honest misapprehension of his duty, or whether he acted fraudulently; it is a fraud upon the soldier entering the service. Many regiments have thus been filled up, and it was desirable that they should be thus filled for the purpose of serving out the term for which the regiment was originally enlisted. The recruiting officer held out the inducement to men, that if they would enter the service for the remainder of the term for which the regiment was enlisted, they, too, should be discharged at that time; and it is operating very unjustly and very harshly on men who have thus been entrapped into a longer term of service than they supposed they were undertaking to render at the time they enlisted. It seems to me this amendment proposes no more than absolute justice. I have almost daily petitions and applications from various portions of the Army, from men who have been thus entrapped into the service, complaining of the injustice and hardship of their position, and I trust it will be the pleasure of the Senate to give them a relief so manifestly right and expedient.

Mr. BROWN. I trust the amendment which has been offered by the Senator from West Virginia will not be adopted, for I think it will have the effect of breaking up the Army altogether. It will do more to demoralize and destroy it than perhaps any other amendment that could be placed on the bill. I have received numerous applications from persons who say that they were enlisted for a shorter term, or that false representations were held out to them by persons connected with enlistment; but certainly we cannot afford to set the precedent here of permitting all the statements of all the agents, all those who have assisted in enlisting men into the service, to override the laws of Congress and the regulations of the military service. There would be no use in establishing laws, no use in providing regulations, no use in instructing officers, if the laws, regulations, and instructions are to be overthrown and destroyed at the will and option of any officer who sees fit to violate them by making a promise beyond those that he was authorized to make by the Articles of War and by the regulations of the service.

I say that if this amendment were adopted the result of it would be that it would put it in the power of any officer and any man colluding to operate to discharge that man, and it would also in nine cases out of ten go to effect the release of men who do not deserve to be released.

Mr. HENDRICKS. I think there is a joint resolution of the Legislature of Indiana on this subject upon the Secretary's table, before him. If so, I should like to have it read. If I recollect it aright, it expresses the desire of the Legislature that a proposition such as is submitted by the Senator from West Virginia should be adopted.

The VICE PRESIDENT. The Secretary informs the Chair that no such document is on his table.

Mr. HENDRICKS. I believe such a memorial or resolution from the Legislature was presented to the body through the Presiding Officer.

The VICE PRESIDENT. If so, it is on the files of the Senate.

Mr. HENDRICKS. I know that the Legislature has adopted such a memorial, and my judgment is with the proposition; because it is certainly very hard to make men serve a term of three years when they were induced by the recruiting officer to suppose that they were entering the service for the unexpired term of the regiment. It has occurred in many cases. The Secretary of War has authorized the discharge of one company where the company entering the service under like circumstances were mustered in according to the understanding. Certainly the claim of those who were mustered in contrary to their understanding, to their bargain with the Government, is as strong as the claim in the other case. I wished merely to call the attention of the Senate to the fact that the State of Indiana, which has furnished her full quota of troops at all times during the war, has expressed a desire that a propo-

sition such as is submitted by the Senator from West Virginia should be adopted.

Mr. WILLEY. I do not see the force of the objection made to this amendment by the Senator from Missouri, [Mr. BROWN.] The amendment itself provides that these discharges from service shall be made under such regulations and rules as the War Department shall prescribe, and it will be perfectly competent and within the power of the War Department to make rules and regulations that will obviate all danger of improper discharges and of fraud upon the service by procuring the discharge of men on false pretenses. Certainly it is not the desire of the amendment to lead to any such effect as that; but the object is the contrary; it is to do justice to men that through the regularly-appointed agents of the Government have been deceived into a service which they in point of fact never engaged to render; and now I say it is but justice on the part of the Government to relieve the men that have thus been entrapped into the service of the country either through ignorance or through the fraudulent agency of the officer. I do not think it will demoralize the service to do justice to men who are in the service; nor do I apprehend that the operation of this amendment will go to the extent supposed by the Senator from Missouri. That quite a number of men have thus been enlisted and mustered into the service of the United States I admit, and it is on their behalf that I speak; but that it will demoralize the Army, that it will tend to break up the service, I have no apprehensions at all. I think the tendency of it will be rather to strengthen that arm of our service, and the confidence of the country and of the men already enlisted in the service, and of those we expect to enlist in the service, if they see a readiness on the part of the Government to do justice to men who have fulfilled their actual engagements in the service of the United States and to the country.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. WILSON. I hope that will be passed over until we act on this bill. It is of great importance to pass the bill if we are going to have a draft.

Mr. SHERMAN. I have no objection to that course.

Mr. WILSON. I think we can pass this bill in a short time.

Mr. POWELL. If my bill, which was made the special order for to-day, does not lose its place, I have no objection to the suggestion of the Senator from Massachusetts.

Mr. SHERMAN. Let the special order be passed over informally.

The VICE PRESIDENT. If there be no objection, the special orders will be passed over informally, subject to be called up at any moment. The bill of the Senate (No. 408) is still before the Senate as in Committee of the Whole, the question being on the amendment of the Senator from West Virginia to the amendment reported by the Committee on Military Affairs.

Mr. WILSON. I am opposed to this amendment, and I believe it will have a most disastrous effect if adopted. In the first place, no man had a right to make any such promise as is here spoken of. If any man made such a promise he made one which he had no right to make, and made it for deceptive purposes. In the next place, the papers show that the men were mustered in for three years, and they signed the muster rolls on which that was expressed, thus agreeing to go in for three years. No man in the country was authorized to take them for any less time; but it has become a universal complaint of men who enlisted and went into old regiments that their time should expire with that of the regiment. There is no authority for it. If you put such a provision in the bill you will have a clamor all over the country to release all the men whose regiments have gone home. These men received their bounty for three years, and they are in the service. Here and there possibly a man was deceived; but not one was deceived where you will find a hundred who will claim that this promise was made to them.

I think the adoption of this amendment will have a very disastrous effect. We had better stand on the law as it is, and hold the men responsible to what they agreed, what they took bounty for, what the papers they signed stated. I dare say

that some recruiting agents deceived men in this matter, as they have in many others, and the bill before us is intended to bear heavily on the substitute brokers and others who are enlisting men all over the country, and cheating them beyond measure. Many a man has been enlisted under the promise of \$1,000 or \$1,200 or \$1,500 bounty who has received scarcely a farthing, while the substitute broker has pocketed the money. I saw a man the other day, a man of character, of standing, of family, a business man, who, while passing to New York, was drugged, and did not get over it for ten days, and when he did, found himself put in the service of the United States, with the promise of \$1,200, of which he got \$100. We have any quantity of these things going on in the country. I am opposed to the amendment, and in favor of this bill, for the reason that it is intended to correct some of these abuses.

Mr. GRIMES. The chairman of the Committee on Military Affairs is mistaken as to a statement of fact. It is true that enlistments have been made, as has been stated by the Senator from West Virginia, with the approbation and under the direction of the War Department for the purpose—

Mr. WILSON. They had no right to do it.

Mr. GRIMES. I say that it is true that under the direction of the War Department enlistments were made for the purpose of filling up the unexpired term of regiments that had been in the service for six or twelve months at the time when these recruits were obtained. The Senator says that the War Department had no right to do any such thing. Are we going to repudiate the action of our agents in a matter of this kind? Are we going to say that these men, notwithstanding the representations that were made to them by the War Department, shall be compelled to fulfill a contract which they did not make? Is it not better, more manly, more generous, and more noble for us to impose draft after draft, and let these men be discharged according to the stipulations that our agents made with them at the time they enlisted?

Why, sir, I happen to know that in the State of which I am a citizen authority was given to the Governor of the State, and the adjutant general, to make this representation in order to fill up some three-year regiments, one year of whose time had already expired, and the men who were thus recruited have been discharged by the authority of the War Department, between certain dates; but the persons who were enlisted by the same agents in Iowa, one, two, and three days before the first date named in the order of the War Department, and two, three, and four days after the last day in it, are still retained in the service, the representation made to these recruits having been made by the same authority, by the same officers, and in the same manner. There is not anything that is more manifestly unjust. It seems to me that there is not anything more calculated to demoralize the service than to keep these men in the service after the time for which they enlisted and agreed to serve, under the direction and according to the agreement entered into between them and our own agents.

Mr. BROWN. If I understand the operation of the amendment of the Senator from West Virginia, it will be simply this: that the enlistment of every soldier in the Army shall be opened up to be explained by him as to any contract, understanding, or agreement made between him and a recruiting agent or officer. I say if that door is opened, it lays your service open to be demoralized utterly. If, as the Senator from Iowa says, you are to assume that the person has been enlisted with the agreement that his term should expire when the term of the regiment expires; if that is to be carried out, and you are to discharge him, why shall you not carry it further, and say that if a soldier has been enlisted under a promise that he shall be made an officer, under a promise that he shall go into a specific branch of the service, under a promise that he shall be in the artillery, or cavalry, or any other different branch from that in which he is; why shall not he also be discharged because of the failure to carry out that promise? Is not the promise as specific in the one case as in the other? May not the inducement be as great to him to enlist in the one case as in the other? And if you are going to open up the question of enlistments to be deter-

ined and interpreted by private understandings and arrangements that have been made by officers who had no authority to do so, why will you stop at the one point and not proceed to the other? Why will you say that the one promise shall be carried out and not every promise shall be carried out?

It seems to me there is nothing in the character of the amendment to commend it to those who are anxious and solicitous to maintain the force and effect of our armies. I trust that the amendment will not be adopted.

Mr. CONNESS. There is a more serious objection in my mind to this amendment, which is, that it deprives you of the old regimental organizations. It was argued when these enlistment bills were before us on former occasions that the great gain we were to receive was from placing new troops in old organizations. Now, sir, if you have your regiments composed of veterans and more newly enlisted men, and the latter class are to be discharged when the term of service of the former shall come to its termination, simply, as suggested by the Senator from Missouri, upon the basis of private understandings, how are you going to preserve the framework of your regimental organizations? Who are to be your veterans in these regiments? How are you to educate your newly enlisted men? How are they going to become effective in the field? In fact, if you adopt the rule suggested by this amendment, it appears to me that in every respect you adopt one that could not be followed except by the destruction of your armies.

Mr. HENDRICKS. The State of Indiana seems to feel a good deal of interest in this question, and I feel it to be my duty to read very briefly from the memorial of the Legislature upon this subject. This memorial states the facts, and upon these facts I cannot see how any Senator can vote against discharging these men:

To the Senate and

House of Representatives in Congress assembled:

The General Assembly of the State of Indiana respectfully beg leave to memorialize your honorable body upon matters herein set forth, and which your memorialists deem of great importance to many citizens of the State, and to which your immediate attention is earnestly requested.

Prior to the 1st of January, 1863, the ranks of the old regiments then in the field had become so greatly decimated by hard service and frequent engagements with the enemy, that it became necessary, in order to preserve such organization, that a general anxiety was felt, both by the people and the authorities, that they should be speedily filled up with recruits.

This anxiety greatly stimulated enlistments, and the prospect of serving in companies with experienced comrades encouraged volunteering.

The men thus recruited in the State of Indiana had the full understanding that they were enlisted for the unexpired time of the old organizations into which they were mustered, and that they would be mustered out of the service at the expiration of the original term of service of such old organizations.

In this understanding the volunteer, the recruiting officer, the State authorities, and the people, fully participated, and in the absence of any order from the War Department affecting the subject, and for reasons following, this view of the matter was not unreasonable.

1. At the time these enlistments were made the impression prevailed generally in the Army and among the people that the war would end and the soldiers be discharged even before the expiration of the original term of service of the organizations into which such recruits were mustered.

2. The recruiting was carried on for particular regiments, and not for the service generally, there being no general system of recruiting for the Army established, thus naturally producing a belief that no service outside of or beyond the term of these regiments would be exacted.

3. The advantages of maintaining old organizations and placing recruits among old experienced associates under the command of tried officers, were apparent to all, and it was equally apparent that no recruits could be induced to enlist in any organization that would terminate prior to the expiration of the term for which said recruits were to be mustered, thereby separating such recruits from their former comrades and officers, and without their consent attaching them to organizations in which they would be total strangers.

4. Whole regiments had been enlisted and accepted into the service for terms no greater, thus inducing the belief that soldiers were desired without particular reference to the term of service.

5. The impending draft of that year was for a term of nine months, which induced the belief that volunteering for a much longer period, as was the case with such recruits, would be a judicious arrangement for the Government.

6. At the time these enlistments were made no system of recruiting had been devised or talked of, and of course there could be no intimation that any regiment would be continued beyond the time of its original enlistment.

With these views recruiting officers invariably informed such recruits that they were to be discharged at the expiration of the term of service of the old organizations into which they consented to be mustered, and this was agreed to and concurred in by the mustering officers then on duty.

Recruiting and mustering officers were strengthened in this view of the case from the general tenor of certain orders of the War Department, providing for and regulating recruiting for old regiments, which orders, when critically considered, were not as explicit as might have been desired, but nevertheless were apparently on the hypothesis that the recruiting was for the old regiments, and not for the general service, and that they would be discharged at the expiration of the term of such old regiments. One of the orders reads as follows:—

Now I ask the attention of the chairman to this order, when he says that the recruiting officers had no authority to receive a recruit for a term less than three years:

[General Orders, No. 108.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, — 28, 1863.

I. Whenever volunteer troops are mustered out of service, the entire regiment or other organization will be considered as mustered out at one time and place, except prisoners of war, who will be considered as in service until their arrival in a loyal State, with an allowance of time necessary for them to return to their respective places of enrollment.

By order of the Secretary of War:

E. D. TOWNSEND,  
Assistant Adjutant General.

This is not very clear, as the Legislature say in their memorial; yet it did cause the opinion to be entertained that the entire regiments, including the new recruits, would be mustered out at one time.

Nor was this understanding, as your memorialists are advised, confined to the people of the State of Indiana, but it prevailed extensively in other States, and this general prevalence of such views tended to strengthen the same with the people of Indiana.

The following official document was extensively published in the public journals, and greatly tended to increase the probability of the correctness of the views generally entertained by the people—

I suppose this is the communication referred to by the Senator from Iowa—

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, September 26, 1862.

Sir: In reply to yours of the 21st instant, stating the number of regiments raised and to be raised in your State, and also making suggestions in reference to filling old regiments, I am directed to say that recruits for old regiments of volunteers for three years, or during the war, will be discharged at the expiration of the term for which the regiment was originally enlisted.

By order of the Secretary of War:

C. P. BUCKINGHAM,  
Brigadier General and A. A. G.

His Excellency Governor Kirkwood, of Iowa.

Here is an express promise by the War Department as early as 1862 that the men who enlisted for the unexpired term of a regiment would be mustered out when the regiment was mustered out, and I cannot see that there is a question about it any longer. This is a communication to the Governor of the State of Iowa, informing him by the authority of the Secretary of War that these men would be discharged at the expiration of the term of the regiment.

Mr. COLLAMER. Will the gentleman have the goodness to read that communication again?  
Mr. HENDRICKS. Yes, sir.

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, September 26, 1862.

Sir: In reply to yours of the 21st instant, stating the number of regiments raised and to be raised in your State, and also making suggestions in reference to filling old regiments, I am directed to say that recruits for old regiments of volunteers for three years, or during the war, will be discharged at the expiration of the term for which the regiment was originally enlisted.

By order of the Secretary of War:

C. P. BUCKINGHAM,  
Brigadier General and A. A. G.

His Excellency Governor Kirkwood, of Iowa.

I cannot say that I am particularly fascinated with the composition and clearness of the communication, and yet it caused the people to believe that these recruits would be discharged at the expiration of the term of the regiment:

"The foregoing facts your memorialists believe to be sufficient to establish the fact that recruits enlisted in old organizations, at the time referred to, were fully under the impression that they were only to serve for the unexpired term of the organization into which they were mustered, and that their retention in the service after such time works a great hardship upon them, and is greatly calculated to discourage and dishearten them. Your memorialists are fully aware that the muster-rolls which said recruits signed described an enlistment for three years or during the war, but at the same time are informed, and believe, that such averments in said rolls were explained to them as being more technical forms, and would in no wise interfere with the understanding upon which they were enlisted, and thus did not disturb the conviction in their minds that they would be discharged with the regiments they were assigned

to; but, on the contrary, that the Government would, in good faith to her soldiers, execute fully the agreement made with them by the recruiting officers."

The memorial is of some length, and I will not read further. This memorial from the Legislature of the State of Indiana is certainly entitled to very much respect. It relates to a subject in which many soldiers from that State are deeply interested. I have received communications on the subject, and have applied to the War Department and succeeded in procuring the discharge of one company that was mustered in in terms according to the understanding of the men.

I do not think it is a sufficient answer to say that it would produce trouble in the Army. If the assurance was given by the War Department to these men at the time they enlisted that they would be discharged when the term of the regiment expired, it ought to be carried out. These men expected it, and I think it is but right it should be done.

Mr. BROWN. If the Senator from Indiana will permit me a moment, I will call his attention to a very wide distinction between the case which he cites and the cases covered by the amendment proposed by the Senator from West Virginia. The case which he cites was one which was authorized by the War Department itself, presumably by its head. The other case covers every one in which a recruiting officer may have made any promise to that effect; two very different things. I have no doubt that if the case which the Senator from Indiana represents is properly reported to the War Department, and is properly substantiated, it will be treated with every courtesy, and he will receive justice on that subject. It is competent now for the War Department to discharge soldiers when proper evidences are furnished. I do not think it is advisable that we shall here strip the Department of all discretion which can be governed by a sense of justice, and establish a general, sweeping law which will put it in the power of any individual acting outside of his official capacity by making promises to deplete the Army and deprive us of those we have so much trouble to enlist.

The amendment to the amendment was rejected.

Mr. BUCKALEW. I offer an amendment to come in as a new section:

*And be it further enacted, That the third section of the act entitled "An act further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes," approved July 4, 1864, be, and the same is hereby, repealed.*

I send to the desk to be read the section which I propose to repeal.

The section was read, as follows:

"SEC. 3. *And be it further enacted, That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion, except the States of Arkansas, Tennessee, and Louisiana, to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment."*

Mr. BUCKALEW and Mr. CARLILE called for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. WILSON. I should be very glad to hear the reasons why this proposition is made by the Senator from Pennsylvania. I do not know that this law has worked evil to the country in any way, and I am confident that it has given some thousands of men to the service.

Mr. SAULSBURY. As my friend from Pennsylvania does not respond, before the roll is called I wish to know from the Senator from Massachusetts whether a statement which I saw some time ago is correct. That statement was, that immediately upon the fall of Savannah, the Governor of Massachusetts had agents there to recruit so as to fill up the quota of Massachusetts, and that that was done before any permission was given by the authorities in Washington; and as the papers state, after the slaves were enlisted and were on shipboard and had started for Massachusetts, Governor Andrew made application to the President of the United States for permission to recruit in Savannah, and, as the papers state, the President graciously granted his request. Is that true? If it be true, it gives great advantages to certain States over others. In our State what is done when a draft is made? I am informed by my col-

league, who has paid more attention to this subject than I have, that our State has already furnished more than her quota, and gets no allowance for it. When our people are drafted they have to go; we have no such facilities; we have no agents in the seceded States; we want none; but our young men have to leave their homes and go to the battle-field, young white men. When the terrible calamity of war is upon us, and when the young men of the country are called to go to the battle-field, we have a right to demand that the sons of Massachusetts and of other States shall go and share its perils. I should like the Senator from Massachusetts to answer the question whether the statement to which I have referred, as it appeared in the papers, be true. If it be true, it is an argument plain and powerful why the proposition of my friend from Pennsylvania should be adopted.

Mr. WILSON. I am not able to answer the question of the Senator from Delaware, but I can say that the Governor of Massachusetts believes in enlisting men in the rebel States; he believes in taking men from the cause of the rebellion and giving them to the cause of the country. He is an earnest, prompt man, and I have no doubt took the earliest possible action in this as in every other case affecting the interests of the country; and if he did not have an agent first at Savannah to enlist colored men, I think the reason must be that his agent took a slower vessel to reach there than the agent of any other State, for I am sure he would be as soon to send him, and as soon to ask authority, as the Governor of any other State.

Mr. SAULSBURY. In support of the remarks that I have made I will read an extract from a paper called the Commonwealth published in Boston, which is understood to be the organ of a distinguished member of this body, and which I suppose always states what is exactly correct in these matters. The extract reads in this wise:

"PROMPT AS USUAL.—Immediately on the fall of Savannah, Governor Andrew dispatched agents to that city to recruit black loyalists for the national Army, to be credited to the quota of the State. He then asked permission from the Secretary of War to do so, which was cheerfully accorded, and the documents will arrive out about the time the first squad is on its way to Massachusetts."

I appeal to the American Senate, is that right, is it fair? When the young men of my State, of Pennsylvania, and of other States, are compelled under your conscription law to leave their homes and go to the battle-field, is it right that the Governor of Massachusetts, or the Governor of any other State—I make no assault upon Massachusetts—shall be allowed to send agents into the southern States, waiting, perhaps, until some city falls, that they may recruit and enlist into their service the ignorant, degraded slave, and to count him as a man against the educated young man of my State? No, sir. If this direful war is to continue; if, as judging from the indications of the time I presume we are, we are to have twenty or fifty years of bloody fratricidal war in this country, I have a right to second the demand of the honorable Senator from Pennsylvania, and ask that you send your sons and your brothers to the field, when we are compelled to send there our sons and our brothers. Do not send your agents into the southern States to pick up the poor degraded African to fill your quota, and keep your sons and your brothers and the husbands of your daughters in your own midst to enjoy all the pleasures of life while ours are drawn away from home.

Why, Mr. President, if this thing is to be continued, there are certain States in this Union whose wealth is being daily increased by the continuance of this war, that can very well smile when our households are bathed in tears. The fathers of New England will not feel as the fathers of our sons feel when they are dragged from their homes. The mothers of your sons will not go down to their graves weeping, as Rachel of old, because they are not. Why? Because in the place of your sons you send the degraded African. Our households may be filled with mourning; the habitations of woe may be witnessed in every household with us; but you can rejoice and thank God that you are growing rich on the profits of a war supported by your votes, but the afflictions of which none of you personally feel.

Mr. GRIMES. It will be recollected by the Senate that this question was before it at the last session, and by several decisive votes it was decided that the law as it now stands ought not to be

the law of the country. In other words, we refused upon several occasions to allow any State to go into any other State for the purpose of recruiting and filling up its quota. There was disagreement between this body and the House of Representatives, and the question was referred to a committee of conference, and in some way, after I left the city, this provision was adopted, contrary to the expressed opinion by a yea and nay vote several times made, of the Senate, and by very decisive votes. I trust now, sir, when we have the opportunity to do so, that we will put ourselves right on the record in this regard, and that we shall declare that if there are colored men in Savannah or in any other place to be recruited, they shall be recruited into the service of the United States and not into the service of any particular State; that we will clothe them, we will feed them, we will give them the bounties, we will furnish them with arms, we will become responsible, politically and morally, for their safe-keeping, and not allow this State or that State to assume to become the superintendent of these men, and claim them upon their quotas, and compel the other States that do not happen, perhaps, to have quite as prompt a Governor as the Senator from Massachusetts says they have, to fill up their quotas with the young white men of their States. These colored men in the rebel States are a fund that belong to all of us, and neither the State of Massachusetts, nor the State of Iowa, nor any other State, should be permitted to go and draw upon that fund so as to fill up its own quota, and thereby impose the necessity of a still greater draft upon the States which do not see fit to do this, or have not the opportunity to recruit these colored men. It is manifestly unjust, and I trust the amendment of the Senator from Pennsylvania will be adopted.

Mr. WILSON. I desire to say a word or two in answer to the Senator from Delaware, to which I desire his attention.

The United States have called upon Massachusetts for 117,624 men. Massachusetts had furnished, and was credited by the War Department up to the 22d of December last, in response to this call for 117,624 men, 125,437 three-years men, making a surplus of 7,813 more three-years men than the Government had called for. She has furnished on the call for 117,624 men, 153,486 of all kinds; but counting them as three-years men, she has furnished 125,437, being nearly 8,000 more than the quota asked for of three-years men. Massachusetts last year furnished 45,446 recruits to the Army.

Mr. SHERMAN. How many of those were credits for the naval service?

Mr. WILSON. I believe 16,625 during the war, of this number of men furnished in response to these calls, 10,672 out of 125,437 were foreign-born men. There has been a great deal said about importations of men to fill up the quota of Massachusetts. Nine hundred and seven men were imported from Germany and put into four Massachusetts regiments; of the number of black men put into service by Massachusetts, taking the whole number, those enlisted at home as well as those enlisted in all the rebel States, she has put in 4,731, and of this number about 1,200 were enlisted in the rebel States. Thus it will be seen, out of the 125,437 three-years men furnished by Massachusetts, but 15,000 of them were born outside of the United States or were colored persons.

The Governor of Massachusetts, in his last message, speaking in regard to these colored troops, says:

"If we have accepted colored volunteers who have come to Massachusetts for the purpose of becoming soldiers, and turned them over as soldiers of the United States, it is because when we began to accept them and until we had raised the equivalent of two regiments, no other opportunity for them existed in the country. We believed in colored men; others did not. We obtained permission to offer them. We assumed the hazards of the enterprise, but the country reaps the reward of its brilliant and assured success."

A great deal has been said in regard to the calls that have been made upon Massachusetts, and the troops that have been furnished by her. I venture to say here, without knowing what are the proportions furnished by the other States, that of the one hundred and fifty-three thousand men who have gone into the service from Massachusetts, quite as large a proportion were men who were born in New England, and lived in the State as can be found in any other State of the Union.

Here is the record in regard to the black troops furnished by Massachusetts. They number less than five thousand. During the last few weeks we have enlisted, perhaps, a few hundred more; for we believe in enlisting those men; we believe in using them; we are anxious to enlist them wherever we can find them; and we pay them a State bounty of \$325, and we treat them in all respects like men.

Mr. SAULSBURY. If the Senator from Massachusetts supposed that in my remarks I meant any reflection upon the State of Massachusetts, or any other State, he is very much mistaken. I never have, since I have been a member of this body, made an assault on any State. I do not think it is my province to assail Massachusetts, or any other sovereign State of this Union; and I do not think it is in the province of any other Senator to assault my State, or any other State. I had no object of that kind in view. But I had this object: to call the attention of the country to the fact that while the young white men of my State were being drawn against their will, dragged into the Army of the United States, I had, in their behalf, a right to demand that the young educated white men of other States should go to the battle-field, and that a negro from a southern plantation should not be allowed to answer to the requirements of the draft so as to be put upon an equality with the young white men from my State. If the State of Massachusetts, or any other State in this Union, is so patriotic that it wishes to fill up the armies of the United States, and will send its agents South to gather up negro recruits and put them into the Army, and not ask that those negro recruits shall stand in the place of their own sons, I have no objection. *De gustibus non est disputandum.*

Mr. SUMNER. I merely wish to make one remark on this proposition. I am not aware that any abuses or evil consequences from the existing law have been shown.

Mr. GRIMES. Does the Senator recollect the letter of the distinguished General Sherman upon that subject?

Mr. SUMNER. What was the date of the letter? Does the Senator remember?

Mr. GRIMES. I cannot remember the precise date, but I remember distinctly it was after the passage of the law which is now sought to be repealed, and after some of the States had sent their recruiting agents down into General Sherman's army for the purpose of recruiting, thus coming in collision with the United States recruiting officers who were attempting to recruit the same men to go into United States regiments.

Mr. SUMNER. I am inclined to think the letter was written before the passage of this law.

Mr. NESMITH. The letter was written after the fall of Atlanta.

Mr. SUMNER. Very well. It was a good letter. I remember very well that it was a well-written letter, rather pointed, and seemed to be written rather with the point of the sword than with the pen, I thought, as I read it at the time. But, sir, I am not aware, notwithstanding the letter to which my friend from Iowa calls the attention of the Senate, that any abuse has been shown, nor any evil consequences, nor any evil example. I therefore submit to the Senate that inasmuch as the law exists, as it is already on our statute-book, it should not be hastily removed, unless some reason can be shown for the removal. The burden, therefore, is on the Senator from Pennsylvania, who makes this motion, to show that something wrong has occurred under this law.

Mr. BUCKALEW. I explain by saying that I desire each State to raise its own troops within its own limits, establishing a principle of equality, and that no State, by favoritism of the War Department, or of the President, or of generals in the field, shall be permitted to fill up its quota from the South.

Mr. SUMNER. The Senator now brings forward another point. He speaks of favoritism, and says that no State by favoritism of the President or of the War Department should be allowed to recruit in the South. I will ask the Senator what favoritism there can be under this statute?

Mr. BUCKALEW. I refer to the paper already read in the presence of Senators.

Mr. SUMNER. I say what favoritism can



there be under the law as it exists? Is it not open to all the States alike? There is no State that may not send its agents there, precisely as it is said Massachusetts has sent hers. Let us understand each other. Do not let us vote ignorantly. The Senator says that the law as it now exists operates unequally; that it opens the way to favoritism, either from the President or from the Secretary of War. Sir, he can show no such thing. The law as it exists operates equally throughout the whole country. If one State is more active in its recruiting agents, if it rushes swiftly to that field of exertion, there is no favoritism in it. That is from the activity and the energy of the State, and not from any favoritism or indulgence here in Washington. Therefore, sir, that argument of the Senator I put aside.

I come back, then, to the question with which I began when I was interrupted by the Senator from Iowa, what abuse, what evil example has been shown? Not one. Senators, if they vote for this proposition, must vote under the influence of prejudices and not of reason. There are Senators, I know, who have prejudices against the enlistment of colored troops; but I make an appeal to the patriotic Senators on this floor; those who love their country, and who hate belligerent slavery, not to yield to any such prejudice. I can understand that the Senator on the other side who smiles, the able Senator from Indiana [Mr. HENDRICKS] might follow his friend from Pennsylvania, because the Senator from Indiana always does vote against the employment of colored troops. He, therefore, if he sustains the proposition of his friend, will act naturally and in harmony with all he has done and said on this floor. I am sorry that he feels obliged to take that course. It is not for me, however, to criticise him. But how other Senators who do not follow the lead of the Senator from Indiana and the Senator from Pennsylvania can strike at this enactment when no abuse under it has been shown, when, in point of fact, no reason has been adduced for its repeal, I am at a loss to understand.

I have said that nothing has been brought against the existing law. I may add now that something can be said in its favor. It has stimulated recruiting; it has secured to the public service certain soldiers who otherwise would not have borne arms for their country; and that alone, sir, is an all-sufficient reason for keeping it still longer on the statute-book.

Mr. DAVIS. Mr. President, I am one of those who believe that a white soldier is more efficient than a negro soldier.

Mr. TRUMBULL. With the consent of the Senator from Kentucky I will ask the unanimous consent of the Senate to make a report from the joint committee appointed to canvass the vote for President and Vice President the day after tomorrow. It is indispensably necessary that we have action upon it as soon as possible. The House will have to concur in it. If the Senate will now consent to let the report be submitted and acted upon, it will take, I apprehend, but a few minutes—I think there will be no objection to it—and the House will then concur, so that we shall be ready to take action on the subject on Wednesday next.

The VICE PRESIDENT. The Senator from Illinois asks the unanimous consent of the Senate to submit a report from the joint committee on the subject indicated. The Chair hears no objection.

#### COUNTING OF PRESIDENTIAL VOTE.

Mr. TRUMBULL. With the consent of the Senate I will read the report, as the handwriting is more legible to me than to the Clerk.

The joint committee to whom was referred the subject of ascertaining and providing a mode for canvassing and counting the votes for President and Vice President of the United States have instructed me to report the following joint rule in part in the discharge of their duty:

*Resolved by the Senate, (the House of Representatives concurring therein,) That the following be added to the joint rules of the two Houses, namely:*

The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock, p. m., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer. One teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the

President of the Senate, the certificates of the electoral votes; and said tellers having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with the list of the votes, be entered on the Journals of the two Houses.

That is the usual form, as far as I have read, of the resolutions heretofore adopted. The committee have proceeded further to provide for a contingency:

If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner state the question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurring vote of the two Houses, which being obtained, the two Houses shall immediately reassemble, and the Presiding Officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either House. And any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner.

At such joint meeting of the two Houses seats shall be provided as follows: for the President of the Senate, the Speaker's chair; for the Speaker, the chair on his left; for Senators, the body of the Hall on the right of the Presiding Officer; for Representatives, the body of the Hall not occupied by Senators; for the tellers, Secretary of the Senate and Clerk of the House of Representatives, at the Clerk's desk; for other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform.

Such joint convention shall not be dissolved until the electoral votes are all counted and the result declared, and no recess shall be taken unless a question shall have arisen in regard to the counting of any such vote, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess not beyond the next day at the hour of one o'clock, p. m.

Mr. JOHNSON. I understood the Senator from Illinois to say that the latter part of the report is not to be found in the reports heretofore made by which these conventions have heretofore been governed, and if I recollect the reading aright it provides only for a single contingency; that is to say, the contingency of votes being objected to. It appears to me it would be desirable to provide that in the event of any other question being made—

Mr. TRUMBULL. It does so provide. It provides specifically for any other question pertinent to the matter for which the two Houses are assembled.

Mr. JOHNSON. I did not understand it so.

Mr. TRUMBULL. It so reads.

Mr. COWAN. There is one difficulty I would suggest to the honorable Senator from Illinois. It is provided that when questions shall arise in the joint convention, the Houses shall separate and consider the matter separately. Now, suppose there is a question there whether the vote of Louisiana shall be counted. The Senate retires to its Chamber and decides that it shall; the House of Representatives organizes and decides that it shall not; how is the question then to be decided?

Mr. JOHNSON. It falls, of course, and would not be counted.

Mr. COWAN. I think there is a fundamental mistake at the bottom of this provision. I think it belongs to the Houses in joint convention to decide that question when it arises. It is evident that they are there with some power and authority over it. They cannot be supposed to be mere idle and indifferent spectators, because otherwise the votes might be counted separately in the separate Chambers. Therefore I think that that provision is objectionable. Any one of the Houses, then, could disfranchise a State according to the construction that is to be put upon it.

Mr. TRUMBULL. The question then has to be decided by the concurrent action of the two Houses, and I suppose committees of conference, may be resorted to to bring that about. It has to be decided somehow, and this provides a mode when the question arises by which it shall be settled. If the Senator from Pennsylvania chooses to suppose that you must take a vote *per capita*, the Constitution provides no means for any such action. The only way the two Houses of Congress can act is independently of each other. It was the unanimous opinion of the committee that it could not be done by voting *en masse*, as in a

public meeting. That question was very elaborately discussed the other day. I hope no discussion is to spring up on this report, because it is important that we have action upon it at once.

Mr. COWAN. I ask the honorable Senator whether there is any other case in which the two Houses go into joint convention except this one.

Mr. TRUMBULL. They do not go into joint convention here. They meet together simply to provide for the counting of the vote; but there is no provision for their taking action as a joint body. They go there to see the votes opened, and then Congress provides by law how they shall proceed. This is my view of it.

Mr. COWAN. That assumes the very point in dispute. The allegation of some of us is that they do go into joint convention; that the phrase which gives them power and authority to do so is a general phrase. The mode and manner in which it is to be exercised of course must be fixed by law, or must be fixed by rules to be adopted for the governance of this convention itself; and to show that it is a convention, and to show it conclusively, the resolution offered by the committee to-day provides for its organization, provides that it shall have a Presiding Officer, provides some rules at least for its governance, provides for the appointment of tellers.

Mr. TRUMBULL. Each House appoints the tellers, not the joint convention.

Mr. COWAN. Then I think the joint convention should appoint the tellers.

Mr. TRUMBULL. It never was done since the Government was formed. That part of the resolution is similar to the one we have always acted under since Washington was elected President.

Mr. COWAN. Then we encounter the mischief I suggested a moment ago. If there was a partisan majority in the Senate opposed to the counting of the votes of a particular State, all it had to do would be to stand firmly upon its resolve that they should not be counted, and that State would be disfranchised by the act of the Senate alone. The House would have the same privilege precisely. Was that ever contemplated?

Mr. TRUMBULL. If the Senator from Pennsylvania will allow me to put a question to him he will see that there is nothing in the question he asks.

Mr. COWAN. Certainly; I shall be very glad to see it.

Mr. TRUMBULL. Suppose either House obstinately refuses to go there at all. If you are to suppose that the Senate of the United States is determined to break up the Government, they will not meet at all. You might just as well suppose that as to suppose that it will obstinately refuse to perform any other duty.

Mr. COWAN. I have heard that argument repeatedly before, and it comes very badly from the mouth of one who provides for a proposition of the kind. I admit you have no right to presume it; but you have no right to provide that they may do it. You have no right to put the Senate in such a position as that it may do it. You have a right to foresee the mischief before it happens; but by the adoption of these rules it is a tacit admission that the Senate may do that thing. There is no presumption that the Senate will not go into joint convention, although I am very sorry to say that such a mode of procedure is too common now among the States, among men who think by that means they can gain an advantage from the country when they are overthrowing the very fundamental laws which underlie its institutions. I think this matter should be left with the joint convention; that in that convention all questions which arise as to the validity of votes there to be counted by that convention should be determined.

The VICE PRESIDENT. The question is on agreeing to the report of the committee.

The report was agreed to.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the enrolled joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College; which thereupon received the signature of the Vice President.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

TUESDAY, FEBRUARY 7, 1865.

NEW SERIES....No. 39.

## AMENDMENT OF ENROLLMENT ACTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes, the pending question being on the amendments of Mr. BUCKALEW, to amend the amendment reported by the Committee on Military Affairs, by adding the following as an additional section:

*Sec. — And be it further enacted, That the third section of the act entitled "An act further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes," approved July 4, 1864, be, and the same is hereby, repealed.*

Mr. DAVIS. Mr. President, I had remarked that I was one of those who believed that the white soldier was more efficient in battle and in all the service of a soldier, except probably manual labor, than the negro. The objection now made is not to the enlistment of negro soldiers, but to the substitution of negro soldiers for white soldiers. I believe that the intelligent free white men of Massachusetts, of any northern State, and of any State in the Union, are a superior order of soldiery to the negroes of Alabama and of Georgia. The sense in which I desire this repeal to take place is this: that the effect of the provision proposed to be repealed is to exclude the intelligent, superior soldiery of the northern States, and of all the States, from the Army to some extent, and to make an inefficient negro soldiery their substitutes. I object to that. If the Government or the Senate desire negro soldiers to be recruited and to be brought into the Army, be it so; but let them be brought in on account of the United States, and not of any particular State. Let them come in as soldiers of the Republic at large, and not of Massachusetts or any particular State.

Now, sir, if this measure is not repealed, what is the condition of the States relatively? There are some States too poor in their revenues and in their resources to offer large and attractive bounties. Here is the State of Massachusetts, that has so much aggregated wealth that the bounties in that State in various forms in the aggregate, as I understood at the last session, amounted to from ten to fifteen hundred dollars per man. Here then is the State of Indiana, or the State of Kentucky, that has not the means to offer such large and alluring bounties for white or negro soldiers. Massachusetts has these means. She goes down into the South, and with her large bounties is enabled to recruit negro soldiers to an extent sufficient to exonerate her whole white population from military service, or, at any rate, to exonerate to a considerable extent her white population from military service. The effect is that money can buy an inferior soldiery, and the law now proposed to be repealed allows that inferior soldiery to be substituted for the superior soldiery; in other words, the negro substitute exempts the white man upon whom the draft would otherwise devolve. Suppose the quota of Massachusetts is twenty thousand under the new draft, and she is enabled to substitute ten thousand southern negroes for that number of her white population. Would the United States make anything by the exchange? Would it or not be a bad bargain? Would it or not be the substitution of an inferior for a superior soldiery?

The argument that that measure brings the negro soldier into the field is not a good argument; it is not true in point of fact. The negro can be brought into the field without the benefit of the section which is now proposed to be repealed. In the county of Bourbon, in which I reside, over eight hundred negro soldiers have been recruited into the service, and they have not been recruited into the service by the operation of the law which the honorable Senator from Pennsylvania now proposes to repeal. I venture the opinion that if there were one hundred thousand intelligent white men, such as can be drafted or procured by volunteering in the northern States, in one army, and one hundred and fifty thousand southern negroes in an opposing army, and they were led by

officers of equal skill and ability in war, the one hundred thousand white soldiers would be an overmatch for the one hundred and fifty thousand negro soldiers. Therefore, sir, I am in favor of the repeal of this provision which was intended to operate for the benefit of Massachusetts and the other northern States that have ample funds out of which to give large bounties. It operates in their favor by allowing them to enlist, to buy—yes, sir, to enter into the slave traffic, to enter into the purchase of negroes, and to buy negro soldiers for their surplus money, and to substitute those negro inferior soldiers and exonerate their white men from service in the field.

Upon that ground I am in favor of this repeal. My objection is not that under it negroes are put into the army. I have made the objection to negro soldiers heretofore often, but it has been overruled a hundred times, and I acquiesce in the decision of the Senate and of the nation that negroes are to go into the army. That is not my objection to this measure; but my objection is that every negro thus brought into the army excludes a white man, who would make a superior soldier, from it. They are a more expensive soldiery than the white soldier. All the army reports prove that. They are more destructive upon arms, upon clothing; more wasteful in all the munitions and supplies of war than a white soldiery are; and an aggregate of one hundred thousand negro soldiers would be much more expensive to maintain than one hundred thousand white soldiers. I want the superior soldier, the more economical and less expensive soldier to be brought into the field, and that he shall not be excluded by the inferior negro soldier being bought by the money of Massachusetts or of any other State.

Mr. SHERMAN. Mr. President, I certainly would not have introduced this controverted point of the last session now, but since it is before us I feel bound to vote according to my convictions on the subject. It will be well remembered by the Senate that on several decisive votes a decided majority of the Senate were opposed to sending State agents into the southern States to enlist negro soldiers. It was the almost unanimous desire of the Senate to enlist all the negro troops possible, but it was the opinion of a large majority that those soldiers when enlisted should not be credited to a particular State, but ought to be entered into the service as United States volunteers. The objection to sending agents to the southern States was that it created an unhealthy competition and strife and contention which would probably interfere with the public service or the proper employment of negroes in the southern States. That was my conviction then; it is my conviction now. I have conversed with many officers on the subject since, and they have uniformly informed me that wherever these agents came they created embarrassment, struggle, strife, and contention. In one case a general officer told me that a few negroes who had been employed in the quartermaster's service, where their services were as valuable as they could be in any capacity, were actually taken away from Memphis, Tennessee, by the offer of large bounties, transported in Government vessels, taken to a remote State, there enlisted into the service of the United States, credited to that State, and carried back to the same place where their services were less valuable in their new capacity than they were before all this money had been expended upon them.

At the same time we have no right to complain of Massachusetts or any other State in this regard. This is not a question affecting a particular State. If the Governor of Massachusetts is more active in availing himself of the privilege conferred by the law than others, we have no right to complain of it. If Governor Andrew is always first at the feast, we have no right to complain, because the law of the last session, which was passed against the decisive vote of the Senate, and passed by the agency of a committee of conference, gave to the Governor of Massachusetts and the State of Massachusetts the legal right to enlist these negroes, and if they are more active than

other States, we have no right to complain. The fault is in the system.

Reference has been made to a letter by General Sherman, which was published. I know from him, as well as from his public communications, that these attempts to enlist negro soldiers in the army of the Mississippi created embarrassments, until finally he had to compel them to leave his lines. There was a competition between the agents of the different States offering these increased bounties, sometimes more, sometimes less, creating a strife right in his own army, so that it was necessary for him in order to preserve military discipline in his camp to exclude these State agents altogether. It was not done out of any disrespect of Congress, but simply to preserve military order.

The reason given by the honorable Senator from Massachusetts for this law at the last session does not now apply. He said then that it was desirable to get these negroes in the service of the United States, (and that I conceded;) and he said that the military authorities of the United States would not enlist them; that some of our military officers were opposed to the enlistment of negroes, and would not promote their enlistment; and it was said that in the army of the Mississippi no efforts were made to enlist negro soldiers. That is not now the case. Every general officer, from the highest to the lowest, so far as I know, is in favor of enlisting negroes in our Army. There never was any objection to it in my mind; and from the beginning of this war I believed it was the policy of the Government to employ negro laborers and negro soldiers. There is not now an officer in the service but what is willing and anxious to promote the employment of negro soldiers. I have here an order issued recently, dated "Headquarters Military Division of the Mississippi, in the field, Savannah, Georgia, January 16, 1865," in which it is made the express duty of all the military officers in that army to encourage the enlistment of negro soldiers, from which I will read an extract. In speaking of the condition of the negroes, it is declared:

"By the laws of war and orders of the President of the United States the negro is free, and must be dealt with as such. He cannot be subjected to conscription or forced military service, save by the written orders of the highest military authority of the Department, under such regulations as the President or Congress may prescribe. Domestic servants, blacksmiths, carpenters, and other mechanics, will be free to select their own work and residence; but the young and able-bodied negroes must be encouraged to enlist as soldiers in the service of the United States, to contribute their share toward maintaining their own freedom and securing their rights as citizens of the United States. Negroes so enlisted will be organized into companies, battalions, and regiments, under the orders of the United States military authorities, and will be paid, fed, and clothed, according to law. The bounties paid on enlistment may, with the consent of the recruit, go to assist his family and settlement in procuring agricultural implements, seed, tools, boots, clothing, and other articles necessary for their livelihood."

Now, Mr. President, when it is not only the law, but when it is the practice of all our general officers in the field, to enlist these soldiers in the service of the United States, why should we send the agents of the States down there to compete with our own enlisting servants? It seems to me the most ridiculous proceeding that can possibly be had. When these negroes enter our service in Georgia, they do not cost the Government anything; we pay them no bounties; they are willing to enter the service to fight for their liberty. But when you allow the agent of the State of Ohio, or any other agent, to go and enlist those negroes, the United States pay to each one of them a bounty; they are transported in Government vessels, perhaps not according to law, but they are necessarily transported from the scene of operations back to the State where they are enrolled and enlisted, and credited to the State, and finally sent back. All this enormous expense is had without any occasion and without any necessity, and probably they are sent back to perform the same duty after a three or four months' voyage northward and back again. It seems to me a very ridiculous and absurd farce.

I would not have moved to repeal this law, simply because the law fell dead; it was not practically executed in any of our military lines, because all the military officers in the whole line of our operations across the continent interfered by military orders with the operations of these State agents. They had necessarily to do so, not from any opposition to the employment of negroes, but simply to prevent the strife and contention that was inevitable from such a state of affairs. As the proposition has been made, I hope the Senate will adopt it, and repeal that provision of law, which, I think, was unwisely and unadvisedly passed at the last session.

Mr. TEN EYCK. Mr. President, it may be altogether unnecessary, but after the remarks made by the Senator from Massachusetts, [Mr. SUMNER,] if I understood him aright, I deem it necessary to say a few words in relation to this matter.

I understood that Senator either directly to declare, or it was an inference derived from the current of his remarks, that all who were in favor of the amendment as proposed by the Senator from Pennsylvania were rather disinclined or opposed to the employment of negro troops in the armies of the United States. My opinions upon that subject having been misunderstood in quarters which I deem much more interesting to me than even the Senate, I wish simply to say that I am not opposed to the employment of negro troops in the Army. So far from it, as long back as the 22d of July, 1861, (and I remember the date because it was the day following the first battle of Bull Run,) I declared myself upon this floor in favor of the employment of such troops in the Army, and cited the example of General Jackson at New Orleans in support of it. But, sir, I can see a very great difference between the employment of such troops generally and this provision which it is now proposed to repeal, the design of which was to bring them into the service solely or mainly through the agency of the different States, and thus create a controversy and contest between the States in procuring this class of persons for the public service. Entertaining that view, during the discussion of the enrollment bill at the last session of Congress I opposed that section, which subsequently became a law through the agency of a committee of conference who met upon that subject. I was then, and am now, in favor of employing, not only colored troops, but all other troops that can be procured in the rebel States, to strengthen the arm of the Federal Government and weaken the arm of the rebellion.

But my opinion is that the best way to do that is in the way pointed out by the commanders of our armies. The best way is to recruit them into the Union service generally without assigning them to any particular State, or giving any particular State the benefit of them. I shall not weary the Senate by undertaking to recapitulate the several reasons that have been assigned for this course, showing that it is more beneficial, more desirable, and freer from objections. They are apparent and manifest to every one.

With this explanation, I shall continue to vote as I voted during the last session, now to repeal, then in opposition to, this section; and in doing so I shall not array myself against the employment either of negro troops or white troops that may be procured in the States in rebellion; and at the same time avoid, as I believe, unpleasant, if not disastrous, consequences resulting from unseemly competition between the agents of these different States going down and overbidding each other, creating a sort of new auction-block, upon which these colored men may be exposed to sale and knocked down to the highest bidder, and thus become the soldier of the State whose coffers are able to pay the highest sum for that class of troops. I want them to be enlisted in the armies of the United States in the regular way. Let the Union have the general benefit of their services, and let each State have its *pro rata* benefit, as it will have just so far as the employment of these troops will lessen the amount of men to be called upon by draft, just so far as the poor men of the North who cannot raise money to relieve themselves from the draft will be benefited by this general enlistment of these troops in the old way.

Mr. POWELL. Mr. President, the only equitable way to furnish men in this war is for each State, out of its own population, to furnish its

quota. When you put the negroes who are residents of the seceded States, or the rebel States, in the Army, they must be credited to the general quota, and that would lessen the draft upon all the adhering States. That is the only equitable way in which it can be done; and that was the sentiment of the Senate at the last session on more votes than one. If you want three hundred thousand soldiers by draft, and you get fifty thousand from the negroes in the rebel States, then the draft will be only for two hundred and fifty thousand, instead of three hundred thousand, and that distributed equally and properly will tend to relieve every State in the Union from the draft.

The Senator from Massachusetts says there has been no abuse under this law. The Senator from Ohio has told you of the abuses under it. That excellent letter of General Sherman, published some time ago, told the country of the abuses under it. But I will tell the Senator some of the abuses which have fallen under my own observation. In Kentucky, all the negroes are enrolled as the white people are. The draft in that State is based upon the enrollment of both whites and blacks. Under the operation of this law, agents from the northern States have come and located themselves in Indiana and Illinois, right on the borders of Kentucky, and absolutely sent over agents and stolen and taken by force negroes from Kentucky and enlisted them. These are facts that I know. If you take away the negroes from Kentucky and Missouri in that way, do you not see that Massachusetts, or the State that gets them, gets credited for them, and we have to be drafted upon the old enrollment upon which these very negroes were all enrolled? The greatest frauds were committed in that way. When they get these negroes over the river, they make the negro say he is from Alabama or Georgia, or some State in rebellion, not excluded in the law, and that is the way the thing is worked. There is no doubt about these evils existing there; I know them myself; and yet the Senator from Massachusetts says there are no evils resulting from it. On every hand you hear of the evils of it. Why, sir, the border States that have been devastated by this war, and the new States in the West are not able to send out and pay large sums to recruiting agents all over the country to fill up their quota, they have to give their men to the conflict; and why should not the older and richer States do so? If you enlist these negroes, and they are being enlisted everywhere by the general orders of our superior officers, let them go to the general account, where they ought to go, and let each State of the Union be compelled out of its own population to give the quota that is wanted from it.

The question being taken by yeas and nays, resulted—yeas 28, nays 12; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Collamer, Cowan, Davis, Doolittle, Grimes, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Nesmith, Powell, Ramsey, Richardson, Saulsbury, Sherman, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wright—28.

NAYS—Messrs. Anthony, Clark, Conness, Dixon, Farwell, Foster, Hale, Morgan, Morrill, Nye, Sumner, and Wilson—12.

ABSENT—Messrs. Foot, Harding, Hicks, Lane of Kansas, McDougall, Pomeroy, Riddle, Sprague, Stewart, Wade, and Wilkinson—11.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question now is on the amendment of the committee as amended.

Mr. HOWARD. I move further to amend the amendment in section three, line ten, by inserting after the word "dollars" the words "nor less than \$200," and after the word "years," in the same line, by inserting the words "and not less than three months;" so that the section will read:

That any recruiting agent, substitute broker, or other person, who shall enlist, or cause to be enlisted, as a volunteer or substitute, any insane person, &c., shall, upon conviction by any court-martial or military commission, be fined not exceeding \$1,000, nor less than \$200, or imprisoned not exceeding two years and not less than three months, or both, at the discretion of such court-martial or military commission.

The object is to require some punishment to be inflicted upon conviction. As the bill now stands, it would let off the offender with a nominal conviction and nominal imprisonment. I choose to fix a minimum punishment, which will be something more than a mere formality.

Mr. JOHNSON. The amendment, as I un-

derstand it, is to take from the court that is to try these offenses the discretion as to the punishment as far as the minimum is concerned; that is to say, the party, if convicted, must be punished by a fine of not less than a certain amount, or an imprisonment not less than a certain period of time. It appears to me there may be a great variety of causes existing in cases of this description which would render it proper that the discretion should be as large as possible. Let it be a fine of any amount the commission may think proper to impose, or an imprisonment any number of days only, as they may think proper to impose; but one thing is perfectly certain; I speak, as I think from some experience, not so much professional of my own and others, as from a knowledge of the cases which have been brought before these commissions; they are always sure to fine enough, and they are always sure to imprison long enough to answer the purposes of justice.

Mr. HOWARD. I call for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HOWARD. Allow me to say one word on the subject. The third section of this bill assumes to subject to trial by court-martial or military commission—

Any recruiting agent, substitute broker, or other person, who shall enlist or cause to be enlisted as a volunteer or substitute, any insane person or persons in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such, or who shall defraud or deprive any volunteer or substitute of any portion of the State, local, or United States bounty, to which he may be entitled—

The clause, as it is reported from the Committee on Military Affairs, punishes any one of these offenses, upon conviction, with fine not exceeding \$1,000, or imprisonment not exceeding two years, or both, at the discretion of the court. My amendment is for the purpose of fixing a minimum of penalty by law below which the court shall not be at liberty to go; and its minimum fine is \$200 for any one of these offenses, and its minimum imprisonment is three months. In other words, on conviction, it requires the court absolutely to sentence the offender either to pay a fine of at least \$200 or undergo imprisonment for at least three months, or both together, as the court may see fit. It takes away from the court the discretion of imposing a mere nominal penalty, either fine or imprisonment, but requires it absolutely to impose a minimum penalty. As it stands now, on conviction, a court might allow an offender who had defrauded scores of honest soldiers of their honest bounty, and who had cheated them in the matter of recruitment and enlistment, to escape scot-free by payment of six cents fine or imprisonment for an hour. Is that just? If we impose a penalty for such offenses, we should be in earnest, and make it for the interest at least of the individual to do his duty and refrain from the violation of the law. It seems to me that the amendment commends itself to the favor of almost any man.

Mr. HALE. I confess that I differ with the honorable Senator from Michigan. There may be frequently cases where a court would find itself compelled under the evidence to find a judgment against the prisoner, but still the mitigating circumstances might be such that a mere nominal punishment would answer the purpose. I recollect the other day reading an account of a very distinguished trial in the city of New York between two great chieftains of the political world, Thurlow Weed and Mayor O'Dyke; and I understand that in that case there was a division; the jury came to no verdict, and still there was a considerable number of the jury who thought it would be well to find a verdict with damages at six cents. It is true that that was a civil action, but it is frequently the case in criminal actions that the court finds it necessary for the enforcement of the law to sentence a man, but only imposes a nominal punishment. I have seen a case where a very learned court found itself under the necessity, under the law, of punishing a man for assault and battery because he had been found guilty by a jury, but the circumstances were such that the court thought there was no real offense, and fined him a dollar, without costs. That was a court which sat in the State of the honorable Senator from Maine, and I thought at the time its action was very judicious. There may be a great many cases of that sort, and it seems to me we should



allow them to be provided for. But, sir, I do not want to take time on this subject.

Mr. HOWARD. Undoubtedly, cases might occur where it would be a hardship to inflict even the least of these penalties on an offender, but the honorable Senator knows perfectly well that in cases of such hardship it is very easy to apply for executive clemency, and it never would be withheld in a case which had merits. There are hardships in every criminal law. If the objection which is raised against this amendment is a good one, why would it not apply in the case of murder? Still, in cases of murder, I am sure there are very few States in the Union that do not fix a specific and minimum punishment for the crime; and we all know that it frequently happens, such is the fallibility of human nature, such is the infirmity of juries and courts, that a person may be convicted of that heinous crime who is absolutely innocent of it. There have been numerous cases of men who have been taken to the scaffold and executed, as innocent as you and I of a charge of murder.

But in this case it seems to me we ought to hold up to the view of the offender the certainty of punishment, the absolute certainty that if he is convicted of any one of these offenses created by the statute he will at least receive some punishment. Otherwise you but hold out to him, as it seems to me, the temptation to use the ill-gotten gains which he has in his pocket, and which he has been filching from the honest soldier, for the purpose of influencing the very court itself which is to try him, for the very purpose of bribing the tribunal before whom he may be brought. It strikes me that we ought to let him understand that he is to undergo some punishment absolutely unless he can make out such a case to the Executive as will entitle him to executive clemency.

Mr. BUCKALEW. The question is, I believe, on imposing a minimum punishment in this case wherever there may be a conviction. In the case of a great many bills that have been before the Senate at this session, a minimum punishment has been stricken out, upon the policy of allowing punishments to be exactly proportioned to the character of the offense as may be shown on the trial. Believing that to be a good policy as a general rule in our legislation, I shall vote against the amendment of the Senator from Michigan.

The question being taken by yeas and nays, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Collamer, Conness, Dixon, Farwell, Grimes, Harlan, Harris, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, and Wilson—23.

NAYS—Messrs. Anthony, Buckalew, Carlisle, Cowan, Davis, Foster, Hale, Henderson, Hendricks, Johnson, Powell, Saulsbury, Trumbull, and Wright—14.

ABSENT—Messrs. Doolittle, Foot, Harding, Hicks, McDougall, Nesmith, Richardson, Riddle, Sprague, Ten Eyck, Van Winkle, Waide, Wilkinson, and Willey—14.

So the amendment to the amendment was agreed to.

Mr. HALE. In that same section, in the second line, I move to strike out the words "or other person." The section now subjects "any recruiting agent, substitute broker, or other person," who may present an intoxicated or insane man as a substitute with the penalties of military trial by court-martial. I have suggested this amendment to the chairman of the Committee on Military Affairs, who does not see any objection to it. It leaves the military law operating on recruiting agents and substitute brokers, and subjects them to a trial by court-martial, and to the penalty presented. Now, as I hear from my friend from Michigan, in an undertone, that he is opposed to the amendment, I want to state my reasons for moving it.

One of the most difficult questions that have ever presented themselves to the judiciary of this country in all the States to settle is, what is insanity? There are so many kinds of insanity, moral insanity and insanity of various sorts, that it has been found to be one of the most embarrassing questions that have been presented to the judiciary in this country in all the States. This question, that taxes the learning of the wisest men in the States, is to be subjected by this section of the bill to the action and decision of a court-martial, and the whole people of the United States who offer substitutes are to be subjected to trial upon the question of the insanity of those substitutes before a court-martial composed of seven

members, where four may convict, the judge advocate or prosecuting officer of the Government constituting part of the court and being with them during their deliberations.

Then there is another question equally difficult to settle, when is a man intoxicated? and that is to be subjected to inquiry by a court-martial, and if an individual offers a substitute that a majority of four out of the seven members of a court-martial find was intoxicated, and he knew it, he is to go to the penitentiary for two years, for you must remember that the punishments by imprisonment following the sentences of courts-martial are executed by imprisonment in penitentiaries, and it is just the same as if the law said they should be subjected to imprisonment not exceeding two years at hard labor in any penitentiary. These are the most delicate questions, and the most difficult to be decided that could possibly be presented to any judicial tribunal.

And in addition to these very difficult questions, what is insanity and what is intoxication, there is another question which nobody short of Infinite Wisdom can pronounce certainly upon, and that is, that the individual knew that the substitute he offered was insane or was intoxicated. It seems to me that if you put this penalty upon the substitute broker, upon the recruiting agent, upon those who go into that business, you go quite far enough, without subjecting everybody that offers a substitute to such a penalty before such a tribunal. I remember not many years ago attending a trial where the question was whether a man was intoxicated or not. One set of witnesses on one side testified that he was an intemperate man and had been so for years, that they had known him, and that he had so reduced and impaired his intellect by intoxication that he was not capable to do business. That was the testimony of the witnesses on one side. Then there came up another set of witnesses on the other side who testified that they had known him equally as well as these other witnesses for a long period of time, some twenty years, and that they had never once seen him intoxicated in all their lives. What was the difficulty? They had different ideas of what intoxication was. Some persons judge a man to be intoxicated the moment he takes a single glass of alcoholic drink, and others hold that he is not intoxicated as long as he can walk a track, or very nearly a track.

I do not want to trifle about these things; but I think that this extending of the authority of military tribunals over citizens not necessarily connected with the public service, has been carried quite as far as the public service requires. But in this case a citizen desirous of doing his duty brings a substitute in good faith and offers him and he is accepted; afterward it is alleged that the substitute was intoxicated. There is no measure or standard by which that can be tried; it exists only in the judgment of men. Some men would hold that he was perfectly sober, while other men equally intelligent and equally honest might think he was very much intoxicated. That question is to be submitted to a court-martial, and if a majority, four out of seven, find that the substitute was intoxicated, the man who put him in is to be subjected to two years' imprisonment in the penitentiary or a fine of \$1,000. It is an enormous penalty that may be inflicted upon a decision of one of the nicest questions that could possibly be presented to the consideration of any tribunal, and one that, as I said before, has engaged the attention and taxed the faculties of the wisest and best men that have ever tried cases. I think such questions legitimately belong to the civil tribunals, and that it is not safe and prudent to transfer them in the case of citizens, men who come honestly to perform their duty, to the judgment of a court-martial.

Mr. HOWARD. I hope, sir, the words will not be stricken out, but will be permitted to stand. I see no danger such as that which seems to be apprehended by the honorable Senator from New Hampshire. Let us read the clause again, and then we shall understand it:

That any recruiting agent, substitute broker, or other person, who shall enlist, or cause to be enlisted as a volunteer or substitute, any insane person, or person in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such.

The whole question depends upon the knowledge of the offender. If he enlists a drunken per-

son or an insane person or a deserter, knowing him to be drunk or a deserter or insane at the time of committing the act, then he is punishable; and if he does not know him to be such at the time he enlists him or causes him to be enlisted, he is not punishable. It seems to me that there is no danger, under this language, of an innocent person being punished for doing any one of these three criminal acts. The question will be, in each case, did the party know the person enlisted to be a deserter, or know him to be drunk, or know him to be insane at the time he enlisted him? I submit that that language, "knowing him to be such," cannot be misapprehended or misconstrued by anybody. We all know what is meant by it, especially those of us who belong to the profession of the law.

Mr. HALE. The honorable Senator has not practiced before courts-martial.

Mr. HOWARD. The honorable Senator from New Hampshire remarks that I have not practiced in the military courts. That is very true; but I think I know enough of military law to know that the rules of evidence are precisely the same in a military court as in a civil court. I hope, therefore, as no harm can come of this language, that the clause will be retained and not stricken out.

Mr. COWAN. It is precisely because of the clause of the section relied on by the Senator from Michigan that I think these words should be stricken out. To find the *scienter* is one of the most difficult questions that ever come before a court, and one that a flaxseed court or an arbitration or a military commission would be just as likely to go wrong on, and perhaps more likely than another.

Mr. President, there is a broader ground on which this section is objectionable. The section relates to a "recruiting agent, substitute broker, or other person." I suppose the "recruiting agent" is not technically an officer in our service. He is a person employed by the State, perhaps, to recruit, but he is not an officer in the United States service; because I find that the fourth section provides for the punishment of an officer who musters into service these persons improperly, so that this recruiting agent is simply a private individual. Substitute brokers are private individuals, and "any other person" is unquestionably so. Now, I should like the honorable Senator from Michigan to reconcile the provisions of this section with the provisions of the Constitution I am about to read. If these persons are guilty of anything they are guilty of a crime; if the section is to operate at all, it will be to operate to deprive them of their liberty. The Constitution provides that—

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses, against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Now, Mr. President, this section of the bill is to operate or may operate on any one of us. If we are liable to be drafted, and offer a substitute, as almost all men, all citizens, some time or other during this war, who are liable to be drafted, may be obliged to do, and questions should arise as to whether that substitute was insane, whether he was intoxicated, or whether he was a deserter from the military or naval service, and we knew it at the time we offered him, that constitutes crime. If it was absolutely certain that we were guilty, I would not object to the punishment, and I would not care much who inflicted it. It is the difficulty of ascertaining the guilt which renders the precautions necessary, and which has always rendered all these precautions necessary.

If the honorable Senator from Michigan were charged with an offense of this kind, let us see what safeguards the law has thrown around him for the purpose of securing to him a fair trial. In the first place he could not be put upon his trial

until a grand jury of his own immediate neighbors decided that there was sufficient cause to put him on his trial. There is no power in this Government anywhere, there ought not to be any power, to put him upon his trial unless through the intervention of a grand jury. After the grand jury consents that he shall be tried, and after they find the form and manner in which the offense shall be stated, (and it must be stated so perfectly as to protect him from any subsequent prosecution, if he should be either convicted or acquitted, a thing which a prosecution before a court-martial would not do,) then he has the right to be tried by a petit jury; and a petit jury selected how? Selected by the War Department? Selected by his commanding officer? Not at all; that jury is to be selected according to the forms of the common law; and when it is selected he has a right during the impaneling of it to challenge for "fear, favor, and affection;" he has a right to have put upon that jury nobody but true, good, and impartial men; and then he has the right to be confronted with the witnesses; and all that in the district where he lives.

Now, Mr. President, suppose a man in one of the western counties of Pennsylvania is charged with this offense, and he is carried away to Harrisburg to be tried before a military commission, I ask what chance has he to a fair trial, even waiving the protection which the Constitution provides for him, and which he is entitled to invoke, certainly in the United States Senate if he is entitled to it anywhere; what chance has he? He has no voice in the selection of this tribunal; it is appointed by people who may desire his conviction, who may have determined upon it beforehand, and may have determined upon it for many reasons. Are they men learned in the law? Certainly there is no lawyer in the Senate who would trust the trial of a criminal case before any judge, unless he was a man learned in the law. Is there not such a thing as being imbued with the spirit of the law, feeling not only in the brain, but in the heart of the man, all those great principles which have been infused for long ages into English law, and which themselves are the guarantees of English liberty? Surely no man imbued with the spirit of that law would ever for one moment intrust the trial of a citizen charged with crime to any other than a judge learned in the law; and surely, I say, Mr. President, and I speak it in the spirit of that law, no man so imbued would ever trust the finding of a fact in such cases to any other than a jury of the vicinage. If it were certain that all people who are arrested on charges of this kind were guilty, there would be no necessity for these safeguards; but that is just what the law never presumes. The law always presumes innocence until guilt is shown, and the presumption of guilt must be such as to exclude every other hypothesis than that of guilt. How would you make a military commission understand that? You cannot. Nobody can.

Very well; now this man is dragged away from the district in which the offense is committed, he is taken away two hundred miles from home, and he is put on his trial before this extra-judicial tribunal, this tribunal which can have no legal existence under our Constitution, as it can have none in any civilized country that I know of to-day, either on this continent or in Europe. He is put upon his trial; how is he to get process to compel the attendance of witnesses? He is dependent on the mercy of the tribunal for that, because there is no law which compels them to grant it, unless this bill may provide for it here. But how is he to get his witnesses? How is he to know what witnesses are to be there against him? If he does know, he may be too poor to summon and to bring his witnesses a distance of one hundred and fifty or two hundred miles and detain them there waiting till his trial comes on, or until it pleases this military commission to award him his trial.

Mr. President, I am sorry to say that this is no fancy sketch. This is a thing which is occurring to-day all over this country, to the wonder and astonishment of the civilized world, and without the slightest necessity whatever. We enacted here a few years ago a law by which we made resisting the draft an offense, and we gave to the regularly constituted courts of the country jurisdiction over all offenders against that act.

Yet what has been done almost within the very shadow of the court-house, and almost within a stone's throw of the judge having jurisdiction? And that judge is the creature of the Administration; the marshal is its creature, and that marshal has a right to select jurors.

Gentlemen may say that some of the jurors may not be loyal. The marshal has a right to go among his own friends and select those who are truly and sincerely loyal. I say that within a stone's throw of all this machinery men have been taken up charged with these offenses, which are merely offenses at common law, and they have been carried away hundreds of miles from home, and they have been tried before military commissions. What has been the consequence? In one case, very well known to my colleague, partially known to myself, upon the testimony of a suborned witness, upon the testimony of a man who was himself a deserter, and who had himself got up all the resistance there was to the draft, the conviction was procured of a man who had actually gone to the meeting called to resist the draft to get that meeting to desist, to disperse quietly, and go to their homes, because there was no difficulty or danger. Upon the oath of that man, a deserter, a military commission two or three hundred miles away from the home of the parties, away from where the proper testimony could be gotten, innocent men were convicted; and it was only at last when the people of the neighborhood became aroused to the necessity of leaving their district and leaving the place where they had been in the habit of having justice administered to them, and going, some of them at their own expense, all the way to the State capital, that they were able to satisfy the military commission that this man was utterly unworthy of credit and that his statements were wholly false. What then? Some forty or more men had been arrested; they had been carried to Fort Mifflin; they had been shut up in a case-mate; one of them had died; another had lost his health, I believe irrevocably; another had become insane; and one or two on trial had been convicted. Then the rest were doled out and dismissed; two, three, four, half a dozen at a time, so as to get clear of them without any public demonstration.

Mr. President, I think we have had entirely too much of that already. Where is the necessity for withdrawing the trial of offenses from the courts of the United States, I would ask? I admit that there is a strong argument against submitting these cases to the State courts often, because it may be that juries would be unwilling to convict; but that reason fails entirely when you allege it against the United States courts, because, in those courts, if there is a loyal jury within the whole district, the marshal may summon it, and may have it there for the trial of offenses.

But again, the instinct of self-preservation ought to impel us to reject any such provision as this. Are we to give up all our liberties here? What for? I might be willing to suspend for a while the operation of the laws which secure mine, if it were necessary. If any man can satisfy me that it would in any way help to put down rebellion, help to strengthen our arms, help to make the country stronger, I might agree to it; but, Mr. President, it has the very contrary effect; good people know it; good people lament it, and I am sorry to say people are beginning to be astonished that we sit here, and not only permit this, but provide for it.

Take a substitute broker, and that is the very worst type of the class—I think there is not a man in the world who has less sympathy with a substitute broker than I have; take a substitute broker, if you please, the vilest of mankind, still he is a citizen, and he is entitled to a fair trial; he has a right, to use a very popular phrase now, to stand upon an equality before the law. The law presumes him innocent until his guilt is established. Take, I say a substitute broker who commits one of the offenses enumerated in this section; what objection can there be to trying him in the United States district court? If you have no confidence in a jury of the vicinity, where is your Government gone? Where does it exist? In whom will you confide? If you cannot govern this people through itself and by an appeal to its own reason and its own good sense, what despotism are you going to build up that can govern it? Do you

think you can overturn this great fabric that has been built up here at such an expense of blood and treasure for hundreds of years—that you can overturn it all, and all its safeguards, and substitute in the room and stead of it a packed military tribunal, in the choice of which you can have no voice? Mr. President, it is just like laying the ax to the very root of the tree; it is like digging away the very corner-stone on which the temple stands. Is it not enough that it is suspended within the military lines? Is it not enough that these great privileges are for the time suspended within the actual lines of the Army? The people of the loyal States, the people who have been bepraised in this Hall for their loyalty and their virtue and their liberality in the great sacrifices that they have made, have made them for what? To be tried by military tribunals, to be ridden down by despotic governments and irresponsible dictators? If the people are fighting for nothing better than that, there is an end of it. But, sir, the people are not making this tremendous struggle for that. They are making, as Burke would say, this great struggle that twelve men may be got in the jury box whenever a man's life, liberty, or property is in jeopardy; and yet here is a provision to take away the jury box from the people, because "any other person" is a phrase broad enough to cover all persons, and this penalty would necessarily, if the tribunal had any character, render the convict infamous for life. I do not know but that now it might increase the sympathies of the people for him, and perhaps render him famous; but if the tribunal had any character to give force and effect to its decrees and findings, it would render him infamous.

I am opposed to this provision. We have courts for the trial of our people constituted according to the Constitution and laws, known to the people, willingly obeyed by the people, to which the people are accustomed; but I would never, never institute a tribunal outside of them for the trial of any offense of which they could have cognizance and take jurisdiction.

Mr. HOWARD. Mr. President, the honorable Senator from Pennsylvania takes the ground that the clause of the bill which is now under discussion is violative of the Constitution of the United States, and he tells us, in that tone of earnestness which is peculiar to him, that courts-martial and military commissions are tribunals unknown to the Constitution. Upon this assumption is based the denunciatory part of his speech in which he has indulged in so much vituperation against the mode in which military justice has been administered during this war.

Is it true that this clause violates the Constitution? Is it true that all the convictions we have had before courts-martial and military commissions have been *coram non jure*, void for want of legal authority? Is it true that the Executive Administration, in carrying out their policy in the prosecution of this war, and in the punishment of offenses committed in the military service, have been and still are mere usurpers and tyrants, as they have been characterized by the Senator from Pennsylvania? Upon what principle of construction is it, let me ask the Senator from Pennsylvania, that he makes the broad assertion that courts-martial and military commissions are unknown to the Constitution, and that all their proceedings are so many wanton tyrannies and violations of the fundamental law? He tells us that the prohibition is to be found in article five and article six of the amendments, and he reads from each of these to bolster up his assertion. We need but read a very small portion of the fifth article to see plainly that what the honorable Senator has said upon this subject is the merest assumption, the merest begging of the question. Article five declares:

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

The Senator forgets the exception which is plainly embodied in this clause of the amendments. He overlooks the exception, I think very ingeniously, and instead of reading the clause with that exception in, he reads it without; and, of course, according to his style of reading the instrument, he makes this clause declare that "no person shall be held to answer for a capital or

otherwise infamous crime unless on a presentment or indictment of a grand jury," and stops there.

Now, sir, in the first place, let me say, the offenses created by the present bill are not, in the sense of the Constitution, infamous crimes. Were the fifth amendment the only provision on the subject, we might try any crime which is not infamous by a military commission and without a grand jury; we might proceed to punish all such crimes on mere information without indictment, and try the information without the intervention of a petit jury, if we saw fit—I mean to say if this amendment of the Constitution were the only clause concerned. But, sir, it is perfectly apparent from the language itself of this amendment that the Constitution has in view the trial of a certain class of offenses by tribunals other than those in which a jury intervenes. It is certain, from the language itself, that it was expected that military offenses would be tried by courts-martial and military commissions.

If this be the true construction to be given to the Constitution, all that the honorable Senator from Pennsylvania has said in denunciation of the Administration for employing such tribunals is without foundation. We may try offenses committed in the military forces of the United States, or committed in the militia when in the actual service, by courts-martial or by military commissions. We have used and employed this species of tribunals ever since the foundation of the Government, and they are just as well known and recognized in the code of American law as are courts in which juries intervene. They are just as necessary to the public service. Why, then, are we told with so much emphasis that military courts and military commissions are usurpations upon the liberties of the people?

The honorable Senator from Pennsylvania appears to regard the findings of a jury in the trial of criminals as infallible. According to his ideas it is impossible that a jury of twelve men from the vicinity in the finding of a fact can possibly err. Now, the experiences of that learned Senator, like my own, I dare say, teach him that the findings of juries in criminal cases are among the most uncertain means of ascertaining facts; and although undoubtedly the preservation of trial by jury is still regarded as a precious privilege to the American citizen, it is nevertheless true that the legal mind of the country is coming more and more to the conclusion that, after all, facts may be well ascertained by persons other than jurors.

I hold it to be competent for Congress to punish as a military offense any act which is connected with the military service of the United States, and to do this by court-martial; that contractors who enter into contracts with the Government for furnishing supplies may be thus punished; that any and every act performed by any and every person, by which the military service of the United States shall be directly or even remotely affected, presents a case arising under this amendment, and may be thus punished. Such has been the practice of the Government for years past. Such is its practice now, and has been during the war; and I believe it to be founded on the soundest principles of constitutional law. We all know very well that it will be utterly impossible to inflict adequate punishment upon the commission of military offenses if it is necessary to resort to the cumbrous machinery of juries and other instrumentalities used in civil tribunals. It would be utterly impossible to bring to justice the hundredth part of the offenders connected with the Army if it were necessary to indict and try and punish them in the counties in which the offense was committed. There must be something more summary.

The Senator from Pennsylvania reads also from the sixth article of the amendments, "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district," &c. Certainly, if there be a class of offenses, as there undoubtedly is, which may be punished by proceedings other than trial by jury, then that class of offenses is excepted from the generality of the language of the sixth amendment of the Constitution, so that this particular clause has no bearing whatever upon the argument.

Now, sir, I do not think it necessary, I will not say becoming, that Senators should go out of

their way to make attacks upon the Administration in relation to the administration of military justice, unless the case is a flagrant one. I have yet to learn of a single case of great injustice having been committed by the military tribunals that have sat during the existence of this war. There must be justice in the military service. There must be some way of bringing offenders to justice, to hold them to their criminal responsibility. The Constitution gives ample authority to Congress to enact laws upon the subject, and I think Senators would better consult the interests of the country, if, instead of carping at the military administration of the Government, they would devise some means by which military justice can be meted out better than it is at present, if its present administration be as faulty as it is represented.

For my own part, I think the present bill is a very necessary one, and especially this penal portion of it, which punishes not only recruiting agents and substitute brokers, but all other persons who shall commit any one of the crimes which are defined in section three. We all know that these impositions have been practiced daily throughout the country, not only by substitute brokers and agents for recruiting, but by other persons who have lent their aid toward their accomplishment. There is many a man and many a boy who has been entrapped into enlisting when he was in a state of downright intoxication; many a case in which a deserter has been knowingly reënlisted, and in which all the crimes mentioned in this section have been perpetrated.

I think Congress is but doing its duty in defining these crimes and affixing specific and severe penalties upon them; and I hope the words will not be stricken out.

Mr. HALE. I confess, sir, that I have been not a little surprised at the speech of the honorable Senator from Michigan. If I made myself understood in what I asked before of the Senate, I think it will need no illustration and no argument. What is proposed by this law? I am content, for the purpose of the argument to-day, that every contractor, every substitute broker, every agent for recruiting, and every man that in any capacity voluntarily connects himself with the naval or military service, should by Congress be made amenable to this law; but I am not willing to see adopted a provision like this, that covers the whole land, that subjects to its operation every man within certain ages who is liable to military duty, and who is compelled to render it; I am not willing that by virtue of this compulsion which the Government has forced upon him, you shall at the same time tear him away from the protection of the ordinary tribunals of the land, and subject him to the tender mercies of a military trial before a court-martial hundreds and hundreds of miles away from the place where he lives.

Mr. President, I protest, and I will protest here always while I have the power to do so, against the right of the Senator from Michigan or any other man on God's earth to accuse me of carping at the Administration or opposing them, because I stand here to-day to invoke for the humblest of my constituents the protection of that Constitution which was won by the bravery of their fathers ages ago.

Mr. HOWARD. I beg—

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) Does the Senator from New Hampshire yield the floor to the Senator from Michigan?

Mr. HALE. I would rather not.

Mr. HOWARD. Mr. President—

The PRESIDING OFFICER. The Senator from New Hampshire is entitled to the floor, unless he yields.

Mr. HOWARD. I wish merely to say that in my remark I had no allusion to the Senator from New Hampshire.

The PRESIDING OFFICER. The Chair understands that the Senator from New Hampshire does not yield the floor.

Mr. HALE. I cannot tell to whom it alluded. I heard the remark and I heard it with pain, and I said to myself, "Great God, it is possible in this period of the history of the world, in this Senate, in this nation, at this day, that an attempt to throw the shield and the axis of the Constitution around the humblest of the citizens who owe

it allegiance and to whom the Government owes protection, can be denounced as an attack upon the Administration!" If the Administration have the heart and the feeling and the sentiment which I think they have, they would feel that an attempt to shield them by such an appeal as that would be the grossest attack that could be made upon them.

Mr. President, when this war is over, if we shall have saved our country and lost our liberties, it will be a matter of speculation by the philosopher and the historians to settle with posterity how much was gained and lost by the result. Is there any necessity for this enactment? Take, for instance, one of the humblest citizens of the humble State that I represent, one of the hard-working, hard-fisted, tax-paying yeomanry of New Hampshire. By virtue of your draft he is compelled to do military service or to furnish a substitute. He comes in the honest discharge of a duty not voluntarily assumed, but imposed upon him by the Government, and brings a substitute. He is no substitute broker; he is no recruiting agent; he is no man who has voluntarily connected himself with the military service; but he comes forward in obedience to a duty which he cannot resist, and brings a substitute, and that substitute is accepted. By and by, in the course of time, it may be three months, six months, or a year hence, some malicious, some evil-disposed person may suggest "that young man whom that drafted soldier brought was intoxicated at the time he was enlisted." What then? Shall you send an inquiry into the vicinity, into the State, into the district? Oh no, sir; but a mere arbitrary order is issued, and he is seized in New Hampshire and hurried to Philadelphia it may be, to New York, to any other place—God only knows where—away from home, away from his neighbors, away from any of the protections to which he is entitled. He is arbitrarily hurried and put to trial before a court-martial, and if four out of the seven think upon the whole that the man was intoxicated, thereupon the citizen of New Hampshire is sentenced to two years imprisonment in the penitentiary at hard labor.

The honorable Senator says that is not an infamous offense. You make it infamous by the punishment that you annex to it. Now let us look at the provision of the Constitution. I do not know that it is in order to quote the Constitution at this period of our history. [Laughter.] I know that we got to such a stage in New Hampshire once that if you quoted the constitution of the State the judge would laugh in your face. There is a provision on this subject in the original Constitution, independent of the amendments:

"The trial of all crimes, except in cases of impeachment, shall be by jury"—

"All crimes," not infamous crimes, but the trial of all crimes, shall be by jury—

"and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

That has not been repealed by the amendments subsequently adopted. Then the fifth and sixth articles of the amendments make further provision on the subject. The fifth article provides that—

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Now let me ask if a man in the discharge of a duty imposed upon him by law (that is, to go and render military service or to offer a substitute) is, within the purview of that provision of the Constitution, in the land or naval forces or in actual service in the militia in time of war or public danger? I venture to say, with all that has been said staring me in the face, that the condition of things contemplated by this clause has never occurred in the United States of America. There has never been an extension of the liability to military courts-martial beyond that of making contractors liable; but citizens outside of that provision are not liable.

But the Senator says that everybody who has anything to do, directly or indirectly, with the land or naval service, or with raising men for the service, may by Congress be subjected to this provision. That is broad enough; that covers the whole land, because everybody is obliged to pay



taxes, and taxes are raised for the purpose of supporting your Army and Navy.

Mr. HOWARD. Allow me to interrupt the Senator.

Mr. HALE. I give way.

Mr. HOWARD. I beg to say that this comment of the honorable Senator from New Hampshire upon what I said is unfair and gratuitous, for if he had listened to what I did say he could not have drawn any such conclusion as he seems to have drawn. I did not intimate that any citizen who was so remotely connected with military affairs as to be a mere tax-payer could therefore be subjected to trial by court-martial. It is a mere chimera of the Senator's own brain.

Mr. HALE. My statement was not that the Senator did say so, but I said it would be a fair inference from the premises that he laid down. What is this furnishing a substitute? Nothing but a substitute for a duty in the nature of a tax; and if you may subject the man offered as a substitute to a military tribunal, so you may the tax-payer, by the same reasoning.

The honorable Senator has said some things that it pained me to hear. He says that trial by jury is one of the most uncertain modes of coming at the truth in criminal cases, and that the public mind is fast coming to the conviction that there may be some other modes of ascertaining the truth. Mr. President, I have heard that doctrine before; I have argued against it, talked against it, written against it, in season and out of season. And, Mr. President, let me tell my honorable friend that it is a sentiment that I did hope never to hear uttered by any man for whom I have so much respect as I have for him. I know the trial by jury is odious, odious to the oppressor and the friends of oppression the world over. It is the great safeguard of liberty; sprung up gradually, perfected through all the bloody history through which English liberty made her way, until it culminated on this continent in the enunciations of the American Constitution, fought at every step. I know, sir, that whenever despotism would strike a blow at the liberties of the world the trial by jury has been one of the great obstacles that have stood in the path against which despotism has thrown itself. It was because Charles I and his minions did not like trial by jury that they instituted the special court which they did, and which resulted not in overthrowing this great bulwark of constitutional liberty, but in bringing the author of those innovations and those oppressions to the block. That was the result there; and the infamous Jeffreys having the same opinions, and carrying them into practice in his cruel and bloody history, at length well-nigh met, at the hands of an infuriated mob, the just judgment of his infamous crime.

Mr. President, if trial by jury is overthrown in this country, take the rest. I would not lift my hand, nor open my mouth, nor counsel one of my constituents to shed a drop of blood or pay a dollar of treasure if the Constitution is to be preserved emasculated of this great safeguard of liberty. In these times, when so much is demanded and so much is at stake, with a generous confidence I would give to the Administration almost everything that they want. I would consent, and I have consented, that the *habeas corpus* may be suspended, and these extraordinary tribunals may be erected and instituted for the trial of everybody that voluntarily comes forward and connects himself with the public service. But, sir, if you are going to throw a drag-net over the land, if you are going to bring in this whole people and subject them to the penalties that may be inflicted by military tribunals and these courts-martial, then the last step in the humiliation and the degradation of the country is taken, and we shall be left fit instruments for any despotism that the bold and the lawless may see proper to establish over us.

Mr. President, where is the necessity for this provision at this time? The honorable Senator from Michigan says that he does not know of a solitary case of abuse of this sort—

Mr. HOWARD. Where great injustice has been done.

Mr. HALE. I will not say that I do know anything of that sort, because I do not want to make any issue with anybody on this subject. I do not know but that all our public men are as pure as any public men in the world. I believe

they are. I believe, as I have heretofore said on this floor and elsewhere, that our Chief Magistrate, the President of the United States, is an honest and patriotic man. But, sir, I will read an extract from a letter written by a high officer of this Government to another officer in contemplation of a naval court-martial that was about to be set on foot. It is as follows:

"I have been summoned before the select committee of the Senate for investigating frauds in naval supplies, and if the wool don't fly it will not be my fault. Norton, the Navy agent, has complained that I have interfered with his business. He and his friend are dead cocks in the pit. We have got a sure thing on them in the tin business. They that dance must pay the fiddler."

That, sir, is from a high officer of your Government, written in reference to a prosecution that he was about getting up. I will not say that any injustice was done by that court-martial; but I will say this, that I do think it is barely possible that a public protection might have been instituted with purer motives than those which are manifested by the extract that I have read to you. But it is not necessary to quote instances. The question is, is there anything that makes it necessary to go so much further than you have gone, and to subject the whole people to this tribunal and to its penalties? Mr. President, the wisdom of our fathers and the wisdom of the world has been taxed in all past ages to build up a code of laws for the protection of rights and the punishment of wrongs, denominated the common law. In my humble judgment, human wisdom has not yet gone beyond it; and I shall be slow and loth to surrender any of these privileges which are not absolutely necessary to the better welfare, to the maintenance, of the public service, to its integrity, and the vindication of its authority against any aggressor. But I do not look upon this case as one of that sort. I look upon this case as a dangerous precedent, going beyond everything that has been attempted heretofore, and as such I oppose it.

Mr. WILSON. I am very anxious to have the vote on this bill to-day. I know the Senator from Ohio [Mr. SHERMAN] is after us with his measures. I am very anxious, therefore, for action now, and I shall be very brief in what I have to say.

This measure is not asked for by the Administration. The provision of this section is demanded by humanity and justice to right the wrongs of hundreds and thousands of our countrymen. You cannot comprehend the height and depth of the iniquities that are perpetrated in this country to-day upon the people by persons engaged in putting men into our armies. The American slave trade, I think, pales before the crimes that are committed in this country upon hundreds and thousands of our people; and there are to-day hundreds and thousands of men in our armies upon whom the grossest outrages have been perpetrated in putting them there.

The heavy bounties offered by the Government for substitutes or enlisted men have stimulated the cupidity of a great many persons who are simply seeking for money and have no sense of right or justice. A large number of men, governed entirely by the hope of getting money, have entered into this brokerage business. Men are seduced from insane hospitals and put into the Army. Men are taken out of your jails charged with crime, and in fact charged with crime and put into jails in order to be taken out and put in the Army. Men are enlisted, and then induced to run away, and then enlisted again, and over and over again, for the benefit of persons engaged in filling up quotas, but not in filling our armies. Men are drugged, are intoxicated, and men in a condition unfit to decide any thing are put into our Army. More than all that, the bounties promised them are taken from them. Many a man has enlisted, and for whom has been paid a bounty of several hundred dollars, some as high as eight hundred or a thousand dollars, and he has received but one hundred and fifty or two hundred dollars of it.

The object of this measure was simply to correct these outrages of agents and substitute brokers. I do not wish to strike the mass of people. They have committed no offense. I do not wish to reach the cases of men who put substitutes in the Army for themselves properly. I do not believe that this act, if it should pass in the form in which we propose it, would ever be used to the

wrong of anybody. It is possible that it might be; and I would be willing to confine it entirely to those professional substitute brokers or recruiting agents, men who are engaged in the business; and therefore I would consent readily to strike out the words "or other person," and confine it to a class of men that have come to be mere professional men. I understand that these substitute brokers in the city of New York have a brokers' board and have regular meetings, where they consult together and decide upon this matter, in humble imitation of the brokers' board in Wall street; and I suppose they regulate the price of men very much as the brokers of Wall street regulate the price of gold and stocks.

This provision has been sanctioned by some officers who have had large experience in raising men, men who have seen these outrages, and I have brought it forward simply to protect the mass of our people, the unwary, who are misled, against a class of professional men who are stimulated to commit these outrages by these enormous bounties that have been offered for men in the service. I should be willing to strike out the words "or other person" and confine it to these professional men. They are the men I want to reach. As to taking them before the common tribunals of the country and convicting them, I have no idea that that would amount to anything. I want something or other that will reach the case and do justice, practical, substantial justice, to these men and to our people. I therefore will be willing to assent to this modification.

Mr. CONNESS. I desire to inquire what is the motion now pending.

The VICE PRESIDENT. To strike out the words "or other persons" in the second line of the third section of the amendment reported by the committee.

Mr. CONNESS. It is not subject to further amendment now, I understand?

The VICE PRESIDENT. Not at present.

Mr. CONNESS. If the words "or other person" should be stricken out you would have to prove, before you could get a conviction, that the party offending was an agent or substitute broker; you would have to fix a technical designation and employment to him; and I question very much whether that could be done in one case out of every fifty who would offend, as described by the chairman, and as is known to every person in the country who has paid attention to this class of offenses. I was going to offer an amendment, but as it is not now in order I will simply content myself by calling attention to the change I prefer, and which I think will obviate the objections made by the Senator from New Hampshire, and others. It is to insert after the word "who," in line two, the words "for pay or profit," so that the section thus amended would read:

"That any recruiting agent, substitute broker, or other person, who for pay or profit shall enlist or cause to be enlisted," &c.

Thus, if I furnished a substitute, I should be simply doing what the law gave me a right to do, not for pay or profit, but to furnish a soldier, and you would not be required in every case to establish by proof the character of a technical—what shall I say?—scoundrel, upon me before I could be convicted. If the other amendment should be withdrawn I will offer this. If not, I will offer it afterward.

Mr. HALE. I am content to withdraw my amendment, and take the one proposed by the Senator from California.

The VICE PRESIDENT. The Senator from New Hampshire withdraws his amendment, and the question is on the amendment proposed by the Senator from California, to the amendment of the committee.

Mr. HOWARD. I rise merely to inquire of my friend from California whether he thinks his amendment as now worded would cover that very sorrowful case presented to us by the eloquent Senator from New Hampshire—the case of a person who himself having been drafted should present to the proper recruiting officer a person who afterward should turn out to be drunk at the time of enlistment, or insane? Would it cover the case of a man who has been himself drafted? Let me read it:

"That any recruiting agent, substitute broker, or other person, who for pay or profit shall," &c.

Does the person who has himself been drafted

procure a substitute for his own pay or his own profit? Would it include that class of individuals?

Mr. CONNESS. I apprehend not.

Mr. HOWARD. I think it would not. I think, therefore, that the very sorrowful case presented by my honorable friend from New Hampshire is not covered by this amendment.

Mr. CONNESS. I apprehend the argument of my friend from Michigan is entirely facetious in its character; not real.

Mr. COWAN. Mr. President, I listened with a great deal of interest to the argument of the honorable Senator from Massachusetts, and I agree with him as to the enormity of the offense to be corrected. I am satisfied that he does not hold it in more detestation than I do. But that is altogether beside the argument. The argument is not as to the enormity of the offense; the argument is not as to the special penalty to be inflicted on its commission; but the argument is as to the proper mode of determining the offense and the proper court having jurisdiction of it.

Now I wish to say a word to the honorable Senator from Michigan; and I wish to say it not only to him but to some others who are in the habit of doing it. There are certain gentlemen on this floor whose retort and argument, whenever they are opposed in anything, is that the other side is opposing the Administration, or that the other side has not the interest of the country at heart, and a hundred things of that kind. Mr. President, it is true, that to answer such an argument is to give it a consideration to which it is not entitled. There is no way of treating it, perhaps, so well as that of giving it that silent contempt which it merits. Do Senators think when they make this argument that they frighten anybody? Do they think that they convince anybody? And what is most extraordinary is, that it so happens that it is very frequently made by those who themselves are almost continually throwing obstacles in the way of the Administration and quarreling with it day after day, and assailing it in its very vital measures and principles. I think the honorable Senator from Michigan is not entirely free from that charge. My record is here. I have never thrown a single obstacle in the way of the Administration. I have never drawn a single resolution of inquiry in regard to it except one. I have never assailed any of its political projects. I have resisted these attempts to innovate upon the common law of the country. I have resisted these attempts to overturn the Constitution of the country by the enactment of statutes which it does not warrant; but in doing so, I am not opposing the Administration, because I do not understand the Administration to seek this power. I have never seen any recommendation from the President, or from any of his Cabinet officers, desiring that such extraordinary power should be put in their hands as this bill would confer upon them.

But if there is anything which can astonish a man more than another, it is to hear a lawyer upon this floor assert that these cases are within the exceptions to article five of the amendments to the Constitution; or, in other words, the Senator from Michigan argues here with all the gravity imaginable, and it would be a capital joke if it was not in earnest, that these cases of the recruiting agent, the substitute broker, and any other person who offers a substitute for enlistment, are cases in the land and naval service of the country, and therefore they are not entitled to the protection which is afforded to all other people by that clause of the Constitution. I could not conceive it possible that there was a man in the country who did not know what was meant by "cases in the land or naval service of the country." We have what we call Articles of War for the governance of those cases. To whom do they apply?

"That from and after the passage of this act?"

That is, the act of April 10, 1866.

"The following shall be the rules and articles by which the Army of the United States shall be governed?"

Those rules and articles of war cover all cases which arise within the land or naval service; but no civilian can be taken from his home and subjected to the jurisdiction of tribunals created under the Articles of War. The soldier cannot be subjected to them until he first agrees to submit to them by entering into the service of the United States; and it is required, in order to subject him

to them that he must make a special agreement before he can be punished under them. I ask in all earnestness, does any man in his sober senses believe that a recruiting agent is in the land or naval service of the United States? Does he receive pay from the United States? Does he bear its commission? What connection has he with it any more than any other man has who undertakes to solicit recruits for the Army? I should be ashamed, after the description of substitute brokers which I heard from the Senator from Massachusetts, to suppose that there was a being in the land, or naval, or even the civil service of the United States of America, so terribly destitute of everything which constitutes true manhood as a substitute broker. Certainly there can be no such individual as that in the service of this Government in any of its departments; and if there is, I think the officer who has charge of him should put him out immediately.

The ground I take is, and I assert it broadly, that no man not in the land or naval service of the United States can be tried by any military commission legally; and I assert further, that any military commission that undertakes to try a citizen not in the land or naval service is responsible; and if they cause his death, whether by their sentence, or by their imprisonment, or anything of that kind, they are guilty of murder, and if the laws of the country are properly administered, and administered in the spirit of the men who made them, the men who ordered the court-martial and the men who sat upon it would be convicted; and why? For the best reasons in the world; for the protection of human liberty and its safeguard under the Constitution under which we live.

I hope Senators will pause before they adopt this section. I am perfectly willing that any penalty they may see fit to inflict upon the substitute broker shall be inflicted. I am willing to make it death, if you please. If a broker will take an insane man out of a hospital and attempt to put him into the Army as a soldier, I am willing, if you please, to make the offense death. If he will drug a minor, or a weak man, and induce him to enter into the Army by that means, make that death, if you please. But what I do object to, and what I shall always resist, is, that that offense shall be tried anywhere except in the proper constitutional courts.

Senators say you cannot convict in the proper constitutional courts. Sir, do they reflect when they say that, what a slur they cast upon the country? Do they reflect that if that be true we have never been so disgraced before? If it be that in the courts of the United States a man charged with a high offense can never in any case be convicted where his guilt is clearly proved, then, Mr. President, as I remarked in the former part of this debate, this Government is destroyed; then the very end, object, and aim for which it was created has been foregone, has passed away; because all the machinery of the Government, from the top to the bottom of it, was that there should be a fair trial in the courts instituted by the laws of the country. If it has come to that, that in these courts men guilty of crimes of this magnitude cannot be convicted, I would like to know where is the security for any one of us. Certainly that security is not to be found in military commissions; men unlearned in the laws, men who are selected without any of those precautions which surround the selection of juries, and which are thrown around the choice of judges everywhere. There is no liberty to be found there. I will remark, in addition to what was said by the Senator from New Hampshire, and I trust that with us and with our race it will always be true, that whenever an assault is made upon the trial by jury it may be treated as it was in England. There when the quarrel commenced the head of the king was thrown down by the people as the gage that they accepted it.

Mr. President, I shall not attempt to deal in any argument upon this subject. It is like attempting to make it plainer than it is to every ordinary comprehension that two and two make four. Here is the very case which was to be provided for, and here is the plain letter of the paramount law, the will of the American people; and who dare gainsay it? Not the will of a party, but the will of the whole people; the Constitution itself; not the will of the majority, because the will of no majority can convene it, or set it aside.

But if it is punishment that is asked, I am willing that this section be amended in this wise. I think it is a little awkward in the first two or three lines. The word "enlist," in the second line, should be made "offer;" and the word "enlisted," in the third line, should be stricken out, and "offered for enlistment" inserted, because I suppose it is not intended to say that these bodies can enlist men. A recruiting agent cannot enlist a man, as I understand it, nor can a substitute enlist him. He can offer him to an officer who may enlist him and muster him into the service. Then, after having made these alterations, I will at the proper time move to amend by striking out the words "court-martial or military commission," and inserting "court of the United States having competent jurisdiction." Then the offender, instead of being tried before a military commission will be brought before a court of the United States; and as these courts have now very little to do, I should think you could have all your offenders tried there, and have a much better security, and the people be much better satisfied a hundred times over than to drag them away before military commissions, in whom it is not the spirit of our people to believe.

I do not know that I understand exactly now what the amendment is that is pending. Is it the amendment of the Senator from New Hampshire, or is it the substitute of the Senator from California?

Mr. CLARK. The substitute of the Senator from California.

Mr. COWAN. Very well. I do not know that that will alter the case in the least, because I have heard men engaged in filling up the ranks of the Army say that those who procured substitutes for pay were the very men who filled up the ranks and procured the men, and it was the policy of the law to pay so much to men who would bring substitutes, in order to get the men. I suppose it is possible that a man might be honest in this business. I know a great many honest men in my country who have given their time and labor and all that kind of thing for the purpose of obtaining substitutes and filling up their quotas.

Mr. CONNESS. If the Senator will permit me, such a man would not be amenable unless he knowingly presented such a person as is described in this section.

Mr. COWAN. The trouble is always here in considering this question: you presume the individual guilty. If that was the presumption, your law would be free from all these objections; but the mischief that I allege is that the man, before he is known to be guilty, is subjected to this improper mode of trial. We must proceed in fabricating laws for the trial of offenses upon the presumption that all men are innocent until they have been shown to be guilty, and shown to be guilty upon a hypothesis which excludes every other hypothesis. That is the law; and that is the only security that the people have in the administration of criminal justice. There is another great principle which I may state here, and which is not generally considered, and that is, that by our law it is not the intent of that law that all guilty people should be punished; but it is its intent that all innocent people should be protected. I agree that no healthy, judicial machinery will punish all guilty people; but I do contend that under the common law no innocent man can possibly be convicted; and that is the object of the law.

Mr. HOWARD. I did not accuse the honorable Senator from Pennsylvania with opposing the Administration. I am not so weak as to make that matter of fault-finding or accusation. But what I said, or intended to say, was this: that I was a little surprised that a gentleman of so much legal distinction as himself should willingly lend himself to the business of censuring the administration of criminal justice by the military authorities of the United States during this present dreadful war. It seemed to me, and it seems so still, that the exercise of a little charity on the part of himself and other Senators would not be unbecoming, at least during the existence of the war. When the war is over we can settle these old scores in a friendly way, and talk them over as lawyers do in their consultations or in their closets.

The honorable Senator expresses his amazement at the construction which I gave to the first part of article five of the amendments to the Con-

stitution; but in doing this the honorable Senator failed to use constitutional language himself. There is no such phrase in the instrument as "military service" or "naval service" as connected with courts-martial or military commissions. The language is this:

"No person shall be held to answer for a capital or otherwise infamous crime, &c., except in cases arising in the land or naval forces."

Mr. COWAN. "In the service."

Mr. HOWARD. No, sir.

Mr. COWAN. Read on.

Mr. HOWARD.

"Except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

That, sir, is the language of the Constitution; and the question is, what, in the contemplation of this clause of the Constitution, is a case arising in the naval forces or in the land forces of the United States? What is the "case?" The learned Senator, with all his earnestness and all his learning, has failed to indicate to us what is to be understood by the word "case" in this clause of the Constitution. I shall not enter upon the consideration of that question. If I had time, however, I could show him very conclusively what such a case is understood to be by the Supreme Court of the United States, and that it embraces all such cases as those which I described in my previous remarks.

Mr. COWAN. If the honorable Senator will allow me I will give him—

Mr. HOWARD. On a former occasion when I wished to make an interruption of the gentleman himself in a debate in this body, he refused me the privilege. I will not imitate his example. Proceed, sir.

Mr. COWAN. I do not know that I ever refused that privilege to anybody. I think the gentleman is mistaken. The first thing that I see here in the Articles of War is "mutiny." That is an offense in the land or naval service. The second is "striking a superior officer." The third is "making false musters, signing false."

Mr. HOWARD. I understand all that. The honorable Senator from Pennsylvania (he will pardon me) seems to assume that all the offenses mentioned in the Articles of War, from which he is reading, constituted the cases and the whole of the cases embraced in this article of the Constitution. In that respect he and I differ *toto caelo*. I think the clause includes or may include a great variety of other cases besides those embraced in the articles of war.

Again, sir, in the midst of all the eulogies which have been pronounced by the Senator from Pennsylvania and the Senator from New Hampshire upon the great privilege of trial by jury, and that wonderful certainty which always arises from the finding of fact by a jury of twelve men, I beg them not to forget that, after that celebrated gage of battle was thrown before the British people—the head of Charles—and after the restoration of the House of Stuart, there occurred what is known as "the bloody assize," in which scores and scores of men were tried, convicted, sentenced, and executed for high treason, in England, who were as innocent of the offense as the gentleman or I. Who found them guilty? Was it a military commission? Was it a court-martial? No, sir; in every case it was an English jury that convicted them, and an English judge that sentenced them. Was not that an especial glory of the trial by jury that it was used in "the bloody assize," and it was presided over by that charming specimen of professional and judicial purity—Jeffreys?

Mr. GRIMES. I move that the Senate now proceed to the consideration of executive business.

Mr. POWELL. I hope the Senator will withdraw that motion for a moment.

Mr. GRIMES. What do you want to do?

Mr. POWELL. I want to move to continue a special order for to-morrow.

Mr. GRIMES. If there is no objection to that being done, I will withdraw my motion for that purpose.

Mr. POWELL. I do not want my special order to lose its place.

Mr. ANTHONY. This bill will displace it, as it is the unfinished business.

Mr. GRIMES. I insist on my motion.

#### EXECUTIVE SESSION.

The motion was agreed to, and after some time spent in the consideration of executive business, the doors were reopened, and  
The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 6, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday was read and approved. The SPEAKER proceeded, as the regular order of business, to call committees for reports to go upon the Calendar and be referred to the Committee of the Whole, not to be brought back by a motion to reconsider; when none were made.

The SPEAKER announced the next business in order to be the call of States and Territories for bills and resolutions, beginning the call in inverted order, with the Territory of Montana.

#### OVERLAND MAIL.

Mr. WILDER presented concurrent resolutions of the Legislature of Kansas, asking for protection of the overland mail to California against hostile Indians; which were ordered to be printed, and referred to the Committee on Military Affairs.

#### RAILROAD IN KANSAS.

Mr. WILDER presented concurrent resolutions of the Legislature of Kansas, asking for a grant of land to aid in the construction of a railroad from Wyandott to Fort Scott, in the State of Kansas; which were ordered to be printed, and referred to the Committee on Public Lands.

#### TELEGRAPH LINE IN MINNESOTA.

Mr. DONNELLY introduced a bill to authorize the construction of a telegraph line over the public domain from St. Cloud to Pembina, Minnesota, and there to connect with the telegraph line of the Hudson Bay Company to the Pacific ocean at or near Victoria; which was read a first and second time, and referred to the Committee on Public Lands.

#### EXEMPTION FROM MILITARY DUTY.

Mr. PRICE, by unanimous consent, introduced the following preamble and resolution:

Whereas the genius and policy of our Government is opposed to making distinctions between religious denominations, but guarantees equal protection to all and exclusive privileges to none; and whereas it is alleged that certain preachers of the gospel, belonging to some of the churches whose religious tenets do not bring them within the scope of the act of February, 1864, for enrolling, and calling out the national forces, have, since the passage of said act, been exempted from military duty after being drafted, without complying with section seventeen of said law: Therefore,

Be it resolved, That the Secretary of War be, and he is hereby, directed to inform this House whether any privileges have been granted to the preachers of any denomination of professing Christians which have been denied to others, and if so, what denomination those persons belonged to, and also their names and place of residence, with the reasons for making such distinction.

Mr. FERNANDO WOOD moved to lay the preamble and resolution on the table.

The motion to lay on the table was not agreed to.

Mr. PRICE demanded the previous question upon the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. PRICE demanded the previous question upon the adoption of the preamble.

The previous question was seconded, and the main question ordered; and under the operation thereof the preamble was adopted.

Mr. WILSON moved to reconsider the vote by which the resolution and preamble was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### AMERICAN UNION COMMISSION.

Mr. GRINNELL. I offer the following resolution, on the adoption of which I demand the previous question.

Resolved, That the use of this Hall be, and the same is hereby, given to the American Union Commission, the object of which is to provide aid for white refugees, for a meeting on Sunday evening, the 12th instant.

The previous question was seconded.

Mr. WASHBURN, of Illinois. I move that this resolution be laid on the table.

The motion was not agreed to, there being, on a division—ayes 20, noes 74.

Mr. COX. This resolution, as I understand, is for the benefit of white refugees. I congratulate the other side of the House—

The SPEAKER. Debate is not in order. The previous question has been seconded.

The main question was ordered.

On agreeing to the resolution, there were, on a division—ayes 67, noes 13; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and Messrs. GRINNELL and WADSWORTH were appointed.

The House divided, and the tellers reported—ayes 77, noes 16.

So the resolution was agreed to.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LAND DISTRICT IN MONTANA.

Mr. HUBBARD, of Iowa, introduced a bill to constitute the Territory of Montana a surveyor general's district; which was read a first and second time, and referred to the Committee on Public Lands.

#### DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. KELLOGG, of Michigan. I offer the following resolution, on the adoption of which I demand the previous question:

Resolved, That the Committee on Printing, who, by joint resolution, were instructed to divide the books now on deposit in the Interior Department, report at once why they have not complied with said resolution and made the distribution in accordance with the provisions of said resolution.

Mr. BALDWIN, of Massachusetts. Mr. Speaker, we can make that report now, if necessary. The reason that the resolution has not been complied with is that it has not yet been passed by the Senate.

Mr. KELLOGG, of Michigan. In view of the gentleman's explanation, I withdraw the resolution. I now offer the following, on which I demand the previous question:

Resolved, That the Committee on Printing be instructed to report a plan for the distribution of the books which have accumulated for years past in the folding-rooms of the House among the members of the present House of Representatives as speedily as possible.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

#### AMENDMENT OF HOMESTEAD LAW.

Mr. BEAMAN offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the homestead law that lands occupied under its provisions may be taxed for town, county, and other purposes.

#### COMPENSATION TO LOYAL SLAVE-OWNERS.

Mr. ROLLINS, of Missouri, introduced the following joint resolution; which was read a first and second time:

Whereas the Senate and House of Representatives of the Congress of the United States having passed, on the 31st day of January, 1865, a joint resolution to submit to the Legislatures of the several States an amendment to the Constitution of the United States, which joint resolution is as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

"ART. XIII, SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

And whereas by the ratification of this amendment by three fourths of the several States all persons heretofore held as slaves under the laws of certain States of the Union will be made free, and in consequence thereof a large number of citizens, (among them many widows and orphans,) their former owners, who are, have always been, or may be willing to again become faithful to the Government of the United States, and who have not been in the civil or military service of the so-called Confederate States, will be subjected to heavy pecuniary losses; and whereas this being a measure necessary to "form a more perfect Union, establish justice" to all men, "insure domestic tranquility," "promote the general welfare, and secure the blessings of liberty to ourselves" and future generations, in the attainment of which great objects the people of all the States



have a common interest and for their establishment should make mutual sacrifices:

*Be it therefore resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all persons faithful to the Constitution and obedient to the laws of the United States, residents of any State that shall ratify the amendment to the Constitution of the United States proposed to the Legislatures of the several States by the Congress of the United States on the 31st day of January, 1865, who have not been in the civil or military service of the so called Confederate States, and who have been deprived of the services of these slaves, heretofore recognized by law as property by said amendment, or by any act or ordinance of emancipation of any State of the United States, shall receive therefor a just and reasonable compensation; said compensation to be provided for by the United States Government without unreasonable delay.

Mr. ROLLINS, of Missouri, demanded the previous question.

Mr. WILSON. I move that the resolution be laid on the table.

Mr. WASHBURN, of Illinois. If the previous question be not seconded will not the resolution go over if discussion arise?

The SPEAKER. Bills and joint resolutions offered on resolution day go over, like a simple resolution, if discussion arise.

Mr. WILSON. Then I withdraw my motion to lay on the table for the present.

The previous question was not seconded.

Mr. WASHBURN, of Illinois. I propose to debate the resolution.

The SPEAKER. Then the resolution goes over under the rules.

#### ALLOWANCES TO MAIL CONTRACTORS.

Mr. DUMONT submitted the following resolution, on which he demanded the previous question:

*Resolved,* That the Committee on the Post Office and Post Road be instructed to inquire whether the Postmaster General has the power under the law now in force to make additional allowances of compensation to contractors for carrying mails where the compensation agreed upon is clearly inadequate; if not, whether he has any power to release them from such contract; and if he has neither of said powers, that said committee inquire into the expediency of clothing him by law with such powers, to be exercised in cases of great hardship when justice and equity demand it; and that it report by bill or otherwise.

The House divided; and there were—ayes 18, noes 22; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. DUMONT and LAZEAR.

The House again divided; and the tellers reported—ayes 52, noes 40.

So the previous question was seconded.

The main question was then ordered.

The question now being upon the adoption of the resolution, the House divided, and there were—ayes 46, noes 47.

So the resolution was disagreed to.

#### CONSTITUTIONAL POWERS.

Mr. EDGERTON submitted the following resolution, and demanded the previous question on its adoption:

Whereas the Daily Morning Chronicle, of this city, the reputed political organ of the President, in recent editorials upon the subject of negotiations for peace, has referred to the President of the United States as having gone "in his sovereign capacity" to treat with the commissioners from Richmond, and has further described the President as "the sovereign head of the greatest Government on earth;" and whereas the supreme court of the District of Columbia has, by a late solemn adjudication, affirmed principles as the law of the land which recognized arbitrary dictatorial powers in the President, not only as to military but as to civil offenders, which are subversive of civil liberty and of the public welfare: Therefore,

*Resolved,* (as the judgment of this House,) That the President of the United States is in no constitutional sense the sovereign thereof, but that all his governmental powers are derived from the Constitution and constitutional laws of the United States, and are limited by them; and this House sincerely deprecate all political teachings and judicial decisions having a tendency to exalt the President above the Constitution and laws, or to clothe him with attributes unknown to them, or to derogate from the powers of Congress; and they affirm that the principle that the people are sovereign, and that all departments of the Government are their agents or servants, and should be kept in strict subordination to the Constitution and laws, is essential to the permanence of republican government and to civil liberty.

Mr. BALDWIN, of Massachusetts, moved that the resolution be laid on the table.

Mr. EDGERTON demanded the yeas and nays.

Mr. BALDWIN, of Massachusetts, withdrew his motion to lay on the table.

The question being upon seconding the previous question, the House divided, and there were—ayes 33, noes 66.

So the previous question was not seconded.

Mr. BALDWIN, of Massachusetts. I desire to debate the resolution.

The SPEAKER. The resolution, then, goes over under the rules.

#### LAND-GRANT RAILROADS.

Mr. HOLMAN introduced a joint resolution in relation to certain railroads, and demanded the previous question.

The resolution was read a first and second time.

The joint resolution, which was read, provides that whereas large portions of the public lands have heretofore been granted to several of the States for the construction of railroads, on condition that the lands so granted should be subject to the disposal of the Legislatures of said States for the purpose aforesaid and no other, and that such railroads should be and remain public highways for the use of the Government of the United States, free from toll or other charge for the transportation of any troops or property of the United States, which lands have been applied and are now being applied to the purpose aforesaid; and whereas payments have heretofore been made for transportation of troops and property of the United States to companies whose roads have been constructed in whole or in part by the public lands so granted as aforesaid: therefore no payment shall hereafter be made to any railroad company which shall have obtained the benefit of any grant of the public lands on the condition that the railroad of such company should be and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States, for the transportation of any such property or troops. And it shall be the duty of the Secretary of War to cause to be refunded, by proper proceedings, to the Treasury of the United States any money which has heretofore been paid by any Department of the Government for such transportation; provided, however, that nothing herein shall be so construed as to prevent the Secretary of War from taking possession of any such road and its appurtenances, and apply the same to the use of the United States whenever in his judgment the interests of the Government may require it; and provided further, that nothing herein shall be so construed as to impair the provisions of the joint resolution relating to certain railroads in the State of Missouri, approved March 6, 1862.

Mr. GANSON. Does this embrace the canal grants passed recently?

Mr. HOLMAN. The joint resolution explains itself.

The question being upon seconding the previous question, the House divided, and there were—ayes 62, noes 30.

So the previous question was seconded.

The main question was then ordered.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. J. C. ALLEN demanded the yeas and nays on the passage of the joint resolution, and tellers on the yeas and nays.

Tellers were refused, and the yeas and nays were refused.

The joint resolution was then passed.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN W. CAMPBELL.

Mr. RANDALL, of Kentucky, introduced a bill for the benefit of John W. Campbell, late lieutenant and quartermaster of the seventh Kentucky cavalry; which was read a first and second time, and referred to the Committee of Claims.

#### RIGHTS OF NEGROES.

Mr. GARFIELD introduced the following resolution, on which he demanded the previous question:

*Resolved,* That the Committee for the District of Columbia be instructed to inquire whether there is any regulation in this District which forbids colored persons to leave the

city of Washington without a pass; and if so, that they ascertain and report to this House at as early a day as practicable by what authority such a regulation is made and enforced, and what legislation is necessary to secure equal justice to all loyal persons, without regard to color, at the national capital.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. GARFIELD moved that the vote by which the resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MAJOR GENERAL W. S. ROSECRANS.

Mr. GARFIELD, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved,* That the committee on the conduct of the war be directed to make a full investigation, and report upon the military campaigns of Major General W. S. Rosecrans, from the beginning of his services in Western Virginia to the conclusion of his recent campaign in Missouri.

Mr. GARFIELD moved that the vote by which the resolution was adopted be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NEGOTIATIONS FOR PEACE.

Mr. COX introduced the following resolution:

*Resolved,* That the President of the United States, in endeavoring to ascertain the disposition of the insurgents in arms against the authority of the Federal Government, with a view to negotiations for peace and the restoration of the Union, is entitled to the gratitude of a suffering and distracted country; and that with a similar view he be respectfully requested to omit no reasonable exertions hereafter which may lead to the desired object, to wit, peace and union.

*Resolved,* That, if not incompatible with the above object and the public interests, he be requested to communicate to this House all information leading to and connected with the recent negotiations.

Mr. BALDWIN, of Massachusetts. Does not the second resolution call for executive information?

The SPEAKER. The second resolution does; and consequently it cannot be considered to-day if objected to.

Mr. COX. Then I withdraw the second resolution, and demand the previous question upon the first resolution.

Mr. SCHENCK. Can the first resolution be separated from the second?

The SPEAKER. They can be separated.

Mr. ROSS. I move to lay the resolution on the table.

Mr. COX. Upon that I demand the yeas and nays.

Mr. WASHBURN, of Illinois. Then my colleague from Illinois [Mr. Ross] is opposed to the resolution, is he?

Mr. BALDWIN, of Massachusetts. Are there any facts before the House to show that the allegations contained in the resolution are true?

The SPEAKER. Debate is not in order.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 107, not voting 45; as follows:

YEAS—Messrs. Allison, Augustus C. Baldwin, Beaman, Brandegee, Freeman Clarke, Henry Winter Davis, Dawes, Driggs, Edgerton, Higby, John H. Hubbard, Jencks, William Johnson, Julian, Francis W. Kellogg, Knox, Loan, Long, Longyear, Marvin, McClurg, Morrill, Rogers, Sloan, Smithers, Stevens, Thomas, Upson, Wadsworth, and Windom—30.

NAYS—Messrs. James C. Allen, William J. Allen, Alvey, Ames, Ancona, Arnold, Ashtley, John D. Baldwin, Baxter, Blair, Blow, Boutwell, Boyd, Broomall, James S. Brown, William B. Brown, Chanler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Thomas J. Davis, Dawson, Deming, Dumont, Eckley, Eldridge, Eliot, Farnsworth, Finck, Frank, Ganson, Garfield, Gitch, Grinnell, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hooper, Asahel W. Hubbard, Hulburt, Hutchins, Ingersoll, Philip Johnson, Kelley, Orlando Kellogg, Law, Lazear, Le Blond, McBride, McIndoe, McKinney, Middleton, Samuel P. Miller, Daniel Morris, Morrison, Amos Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perham, Perry, Pike, Pomeroy, Price, Pruyne, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Seofield, Scott, Shannon, Spaulding, John B. Steele, Sules, Strouse, Sweat, Townsend, Tracy, Van Valkenburgh, Wade, Elisha B. Washburne, William B. Washburne, Williams, Wilder, Wilson, Winfield, Fernando Wood, Woodbridge, Worthington, and Yeaman—107.

NOT VOTING—Messrs. Anderson, Bailey, Blaine, Bliss, Brooks, Cole, Creswell, Denison, Dixon, Donnelly, Eden, English, Grider, Griswold, Hotchkiss, Kathbisch, Kasson, Kernan, King, Knapp, Littlejohn, Mallory, Marcy,

McAllister, McDowell, William H. Miller, Moorhead, James R. Morris, Leonard Myers, Nelson, Radford, Samuel J. Randall, Robinson, Smith, Starr, William G. Steele, Stuart, Thayer, Voorhees, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Benjamin Wood—45.

So the House refused to lay the resolution on the table.

During the roll-call, Mr. WADSWORTH stated that Mr. MALORY was not well enough to occupy his seat today.

Mr. RANDALL, of Kentucky, stated that his colleague, Mr. SMITH, was detained at home by sickness.

Mr. DAVIS, of Maryland, stated that Mr. CRESWELL was detained from the House by sickness.

Mr. WILLIAMS stated that Mr. MOORHEAD was absent in consequence of severe illness.

The result was then announced as above recorded.

The SPEAKER. The morning hour having expired, the resolution goes over until Monday next, with the demand for the previous question pending, on which no quorum voted.

The next business in order is the consideration of the motion made on Monday last by the gentleman from Ohio [Mr. SCHENCK] to suspend the rules to enable him to introduce a resolution in regard to a picture in the Capitol, and upon which motion no quorum voted, and the House thereupon adjourned.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (H. R. No. 126) declaring certain States not entitled to representation in the Electoral College; when the Speaker signed the same.

#### INTERNAL REVENUE.

Mr. MORRILL, by unanimous consent, from the Committee of Ways and Means, reported a bill to amend an act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864; which was read a first and second time.

Mr. MORRILL. I ask that the bill be printed and referred to the Committee of the Whole on the state of the Union, and made the special order from and after to-morrow evening until disposed of.

The SPEAKER. The House has not yet ordered any evening session.

Mr. MORRILL. I move, then, to suspend the rules.

The SPEAKER. There is one motion to suspend the rules already pending.

Mr. MORRILL. Then I ask unanimous consent that we have evening sessions.

Mr. SCHENCK. I think the proposition is to make this bill the special order from evening to evening and not from day to day. I must object to any more special orders for the day sessions. I have a bill amending the enrollment act which should have come up on Thursday last, and the draft is coming on and we cannot get the bill up.

Mr. MORRILL. I believe the House will consider this as perhaps as important business as we have on hand, and it is very important to get it through the House in order that the Senate may act upon it. I move, therefore, that the bill be made a special order from and after seven o'clock to-morrow evening, until disposed of.

Mr. BROOKS. Let me suggest to the gentleman from Vermont that this tax bill is reported on the 6th of February, and the country has at least a right to see it for three or four days through the telegraph. The interests that are to be taxed have a right to see it for three or four days before we act upon it.

Mr. MORRILL. In reply to the gentleman from New York I will say this, that a large portion of the bill, the fore part of it, is merely formal, but it will take some time to go through with that, and the important parts of the bill will not be reached for several days.

Mr. WASHBURN, of Illinois. I think the suggestion of the gentleman from New York [Mr. Brooks] is a very just one. Certainly there are provisions in the bill in which our constituents are interested. As the gentleman from Ver-

mont says, the fore part of the bill is merely formal; it will take no time to consider it—perhaps only an hour or two. We want to know what the provisions of this bill are. My friend from Massachusetts [Mr. DAWES] suggests that we want to know about the paper duty; and I certainly want to know how it is with "whisky on hand." [Laughter.]

The SPEAKER. The Chair will state to the gentleman from Vermont that he is of opinion upon reflection that the House, having granted unanimous consent to allow this bill to be reported, any motion in regard to the bill, even if it involves a suspension of the rules, is strictly in order, and therefore a motion that this bill shall be considered as a special order from and after to-morrow evening at seven o'clock would be in order; but a motion for a daily recess would not be in order.

Mr. MORRILL. I prefer to have it made a special order from and after to-morrow evening at seven o'clock; but if other gentlemen think fit to propose an amendment to that motion I will yield for the purpose.

Mr. SCHENCK. I do not understand that any attention has been paid by the Chair to the objection which I have made. I objected from the first to the bill being introduced and made a special order for to-morrow evening and from day to day. I said that if the gentleman from Vermont would make the bill a special order from evening to evening I would have no objection; but it does seem to me that some portion of the time of the House should be allowed to other committees and to other business.

The SPEAKER. The Chair will state to the gentleman from Ohio that if he objected to the introduction of this bill he did so from his seat, having yielded the floor.

Mr. SCHENCK. I objected to its introduction for the purpose of being made a special order to-morrow evening, and from day to day; but I said I would not object to its being made a special order from evening to evening. Of course my objection goes to its introduction. It was all one proposition.

The SPEAKER. The Chair holds that the objection comes too late. The Chair put the question to the House whether there was any objection to the introduction of the bill, and no objection was made, although the Chair paused longer than usual.

Mr. SCHENCK. The Chair will permit me to say that that was the very time I made my objection, and in my place, standing.

The SPEAKER. The bill having been introduced, it is now for the House to direct what shall be done with it. The gentleman from Ohio objects to its being made a special order from day to day.

Mr. SCHENCK. The Chair will bear in mind that I had the floor in regard to a matter that was before the House, and proposed to call it up. I yielded to the gentleman from Vermont, supposing that he only wanted to have his bill introduced and ordered to be printed. But he went on and proposed to have it made a special order from day to day. I objected to that.

The SPEAKER. That objection is in time; but the bill is before the House for its action.

Mr. SCHENCK. I want it understood now that I object to its being made a special order from day to day.

The SPEAKER. The gentleman is in time to make that objection.

Mr. SCHENCK. I am perfectly willing, if there be evening sessions, that the bill shall take its chance from evening to evening.

The SPEAKER. The Chair will state that this not being an appropriation bill, it will require a two-third vote to make it a special order; but it is in the power of two thirds to make it a special order in spite of objection.

Mr. MORRILL. I move that the bill be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made a special order from and after seven o'clock on Wednesday evening next, and until disposed of.

The SPEAKER ordered tellers, and appointed Messrs. MORRILL and SCHENCK.

The House divided; and the tellers reported—ayes 65, noes 31.

So, two thirds having voted in favor thereof, the motion was agreed to.

Mr. MORRILL. I am also directed by the Committee of Ways and Means to ask that some amendments to the bill, not agreed to by the Committee of Ways and Means, shall be printed with the bill.

It was so ordered.

#### HARBOR ON LAKE SUPERIOR.

Mr. DRIGGS, by unanimous consent, introduced a bill granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Kewenaw Point, Lake Superior; which was read a first and second time, and referred to the Committee on Public Lands.

#### CONTINGENT EXPENSES OF WAR DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a statement of expenditures for contingencies of the Department; which was laid on the table, and ordered to be printed.

#### PRINTING BUREAU OF TREASURY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Treasury Department in answer to a resolution of the House requiring information in reference to the Printing Bureau of the Treasury Department; which was laid on the table, and ordered to be printed.

#### PATENT OFFICE REPORT.

The SPEAKER also laid before the House a letter from the Commissioner of Patents, transmitting the annual report of that office for the year 1864; which was laid on the table, and ordered to be printed.

#### PICTURE FOR THE CAPITOL.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] moved on Monday last to suspend the rules to enable him to offer a joint resolution authorizing a contract with William H. Powell for a picture for the Capitol. The question is on the motion to suspend the rules.

The joint resolution directs the Joint Committee on the Library to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases of the Capitol, illustrative of some naval victory—the particular subject to be agreed upon between the committee and the artist, provided that the expense shall not exceed \$25,000, and that \$2,000 shall be paid to Powell in advance, to enable him to prepare for the work, the remainder of the installments to be paid at intervals not less than one year, the last installment to be retained until the picture is completed and put up.

Mr. PRUYN. I desire to ask the gentleman from Ohio whether he has changed the form of the resolution as modified the other day, and whether it is now imperative.

Mr. SCHENCK. Yes, sir. I intended to inform the gentleman that I had made that change. I suppose that the House is able to decide whether it will or will not agree to order a picture of this kind.

Mr. PRUYN. I had thought it better that the Joint Committee on the Library should be allowed to judge and determine the propriety of ordering this picture.

Mr. STEVENS. I desire to inquire of the gentleman from Ohio whether the object of this joint resolution is to purchase a painting which has already been executed.

Mr. SCHENCK. It is not. The resolution provides that the subject (which must be a naval subject) shall be agreed upon between the Joint Committee on the Library and the artist; and that when the subject shall have been agreed upon, the artist shall receive an advance of \$2,000, and a similar amount yearly, the last installment not to be paid until the picture has been completed and put in its place, and the installments not to be paid at intervals of less than one year. It will take some six or seven years at least to finish the picture.

Mr. WASHBURN, of Illinois. Do I understand that these payments are to be made directly on the order of the Joint Committee on the Library?

The SPEAKER. That is the effect of the resolution.

Mr. WASHBURN, of Illinois. Then I suppose that if the artist should insist upon it, the

whole sum would have to be paid anyhow, because a contract would have to be made.

The SPEAKER. The Chair cannot answer as to that.

Mr. SCHENCK. The resolution is similar in its form to resolutions heretofore adopted for the purchase of national paintings.

The SPEAKER. The Clerk will again report the resolution, that the inquiries of members may be answered by its language.

The Clerk again read the joint resolution.

Mr. PIKE. I would like to see the purpose of this resolution carried out; but I desire to inquire of the gentleman from Ohio whether he would not consent to an amendment to subtract this amount of \$25,000 from the appropriation of \$40,000, which I understand has heretofore been made for a picture to be placed in the eye of the dome of the Capitol. It seems to me that such a painting would be a species of high art that it would be very uncomfortable to look at. With such a proviso as I have suggested, I should be very glad to see this naval painting executed by this excellent artist.

Mr. SCHENCK. I should have no objection to a modification of that kind.

On the motion to suspend the rules, there were, on a division—ayes 59, noes 40.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs. SCHENCK and BRUNN were appointed.

The House divided; and the tellers reported—ayes 69, noes 36.

Less than two thirds voting in the affirmative, the motion to suspend the rules was not agreed to.

#### MAINTENANCE OF THE UNION.

Mr. FERNANDO WOOD. I ask unanimous consent to offer a resolution, and if it be objected to I shall move to suspend the rules. The resolution is as follows:

*Resolved*, That it is the duty of the President to maintain, in every constitutional and legal manner, the integrity of the American Union as formed by the fathers of the Republic, and in no event, and under no circumstances, to proffer or accept negotiations which shall admit by the remotest implication the existence of any other federal or confederate government within the territory of the United States.

There being no objection, the resolution was considered and agreed to.

Mr. FERNANDO WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TRADE WITH REBELLIOUS STATES.

Mr. WASHBURN, of Illinois. Mr. Speaker, I rise to make a privileged report from the Committee on Commerce, and I will state in one word the purport of the report.

The Committee on Commerce, who were charged with an investigation concerning trade with the rebellious States, have ascertained that the Committee on Commerce of the Senate are engaged in a similar examination; and for the purpose of saving expense, and having both committees pursue the same investigation, the Committee on Commerce of the House have directed me to ask the adoption of the following concurrent resolution:

*Resolved*, (the Senate concurring,) That the Committee on Commerce on the part of the Senate be joined to the Committee on Commerce on the part of the House in the investigations in which said Committee on Commerce on the part of the House are now engaged, under resolutions of the House of January 20, 1865, and January 25, 1865, in regard to trade with the States in rebellion, to constitute a joint committee for the purpose of completing said investigation, and that the said joint committee have the same powers as the Committee on Commerce of the House now has on the subject of said investigation.

The resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKLY, its Chief Clerk, notifying the House that that body had passed a concurrent resolution providing joint rules for the government of the two Houses in counting the votes for President and Vice President of the United States, in which

he was directed to ask the concurrence of the House.

#### NAVAL APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the naval appropriation bill.

Mr. CHANLER. I ask the gentleman to yield to me to submit a resolution.

Mr. STEVENS. I will when the naval appropriation bill has been passed.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, the pending question being upon the amendment submitted by Mr. DAVIS, of Maryland, being to add the following to the bill:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

*Sec. — And be it further enacted*, That the board shall deliberate in common, and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

*Sec. — And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

*Sec. — And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

*Sec. — And be it further enacted*, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

The CHAIRMAN stated that the gentleman from Maryland, [Mr. DAVIS,] was entitled to the floor.

Mr. BLOW. I ask the gentleman to yield to me.

Mr. DAVIS, of Maryland. I yield to the gentleman from Missouri.

Mr. BLOW. Mr. Chairman, the subject under discussion has been invested with extraordinary interest by the eloquence of the honorable gentleman from Maryland, whose acknowledged ability eminently fits him for the Herculean task which he has undertaken. I have listened to his statements and reflections with intense and painful interest, and with a regret far exceeding any that I have ever experienced upon this floor. I do not doubt the purity of the gentleman's intention; no one regards him more warmly or esteems him more highly than myself. But I do most emphatically condemn the taste and judgment which induced him to attack the Navy of our country, and to suggest a remedy for fancied imperfections and failures in the midst of its greatest achievements, and at a time when every consideration of justice, patriotism, and policy should have prompted the statesmen of the two Houses to present the power and progress of this strong arm of our Government, and not to indulge in arguments and criticisms calculated to degrade it and our Administration in the eyes of the world.

I hope I may be permitted, therefore, in my own way to present another view of the Navy of the

United States; not going into useless details nor classifying our vessels as he has done, to show how few are as perfect and as well suited to the age as they would have been with years to model and build them, but rapidly reviewing their main features and services, begging you to recollect that they sprung into existence with a rapidity which has never been equaled in the history of the world, and indulging only in such statements and assertions as will be supported by the evidence of the brightest and purest men in this land. I say in my own way, Mr. Chairman, for no report of the speech has been printed, and I have sought access only to those points referring especially to the monitors and the conflict with the Tennessee in Mobile bay, and my aim will be rather to place the Navy as it really is before the country than to follow the gentleman in all his disparagements of it.

The honorable gentleman who is leading this attack upon the United States Navy says—I quote his own language—

“The Monitor accidentally came into Hampton Roads as the Merrimac was trying to destroy, as it had already destroyed, some of our vessels. A collision took place. Neither party was destroyed; neither vessel was sunk; neither party was whipped, as the boy said, and the country ran wild over two guns in a cheese-box on a raft, not having done anything.”

Such is the slur attempted to be cast upon a Department which so promptly and timely completed a vessel which preserved the character of the nation, the safety of its capital, and untold millions of its property. Let us go back for a moment and examine into the circumstances which rendered this combat the most famous of the war. The Merrimac, on the 8th of March, 1862, was the most formidable iron vessel in the world; she had on that day destroyed two of our frigates, utterly unable to cope with her; before her lay millions of property, which she proposed to destroy the next day, and then the Chesapeake could be cleared out, or, if her commander chose, every vessel in the Potomac between Fortress Monroe and Alexandria could be destroyed. Ay, more! our navy-yard here, with all its value to our Government at that critical period, would have fallen a victim to her irresistible power. If not this destruction, then her course in the Chesapeake would have cut off the gentleman's own Monumental city from the world. No communication could have existed between it and the capital except by railroad, and the army of Beauregard would have turned its course toward Washington instead of evacuating its long-held position when the news came to him that the brightest day in the history of the confederacy was succeeded by one that blasted all her hopes of naval supremacy and protection.

The little cheese-box, so insignificant as hardly to be seen by the side of her immense mailed antagonist, carried within her contracted walls the honor and genius of a great nation, and her two guns, an experiment yet untried by the great naval Powers of England and France, resounded through the world and said, what? Not that America was without a navy, without skill, genius, and the spirit of progress; but that the navies of those two nations belonged to the past, and were not able to dictate to the people who were struggling for freedom what course they should pursue toward rebels enlisted in the unholy cause of slavery. The gentleman has alluded to Admiral Farragut. I have asked this greatest of naval heroes the value of the contest between the Monitor and Merrimac, and whether if all the monitors since built on the same plan had been sunk into the ocean, costing, as my friend says, \$13,000,000, the experience of that combat was not worth them all. He replied, with the comprehensiveness and patriotism that distinguish him, that such a result could not be estimated by dollars; in fact the moral weight of it was above all calculation. So much for the honorable gentleman's cheese-box. Such must have been the opinion of Secretary Chase also, for when the hour came that a great responsibility was to be taken, he did not hesitate to counsel the honorable Secretary of the Navy to persevere in creating such protection as this Monitor had proved to be.

Nor will I, Mr. Chairman, withhold from Captain Ericsson the gratitude we owe him; his genius has accomplished too much in this single instance for me to allude disparagingly to speculators and contractors. The gentleman is



unsparing; he condemns the Dictator on a rumor; damns the Puritan before she is launched, and disgraces the Dunderberg in the face of all that is claimed for her by her experienced builder, who has some character as a gentleman of honor, and a reputation as a constructor acquired by building some of the finest vessels that ever floated under any flag. My hope and belief is that the gentleman himself will one day own that he spoke rashly of this great vessel.

I will make no comments upon the statesmanship which so unjustly deals with a Department and its contractors, against which no single discreditable act can be brought, in the case, at least, of these vessels, remarking at the same moment, Mr. Chairman, that for four years all my time and all my thoughts have been devoted to protecting my Government against every man, high or low, that would take advantage of this trying time in its existence to build up a fortune for himself. I am no favorite with contractors or speculators. Congress, it is true, voted Captain Ericsson an immense sum. I had faith in the committee which recommended it. May I remind the gentleman that on that occasion he should have stood by his Government with his powerful influence?

I do not stand here, Mr. Chairman, to defend the monitor system of construction, or any other system of naval architecture. Their merits and defects have been the subject of essays from experts and officers of high standing in our Navy. Some of these I have carefully examined, and the exalted reputation of many of the writers must give great force, if it does not add conviction, to their arguments. But few of us are competent to decide this interesting question from our own knowledge of the principles underlying it, or from any experience which we ourselves have had with the vessels. We must necessarily take the testimony of those who have such knowledge, and who possess such experience. Fortunately we have this testimony, and we have it of such high character that it should carry conviction to the minds of all unprejudiced men. I beg the indulgence of the House while I introduce some of this testimony. For no other cause has the Navy Department been so much and so severely criticised as for the construction of the monitors, and believing myself that the administration of that Department has been eminently successful, I propose to show that in the construction of the monitors it acted with sound judgment, and was guided by the best lights it could obtain.

The gentleman from Maryland has severely animadverted upon the building of so many monitors immediately after the contest of the Monitor and Merrimac, without that careful investigation which was necessary to secure the Department and the country against the evils to result, and which the gentleman endeavored to show have resulted from constructing vessels of no value to us.

The plan for building the first monitor was submitted to a board of admiralty before it was adopted by the Department, and this board was composed of Admirals Smith, Davis, and Paulding. We may form some idea of the favorable opinion of the plan entertained by the board and of the prompt action of the Department by the following quotation from a letter written by her constructor (Ericsson) to the New York Herald upon the subject:

"A more prompt and spirited action is probably not on record in a similar case than that of the Navy Department as regards the Monitor. The committee of naval commanders, appointed by the Secretary to decide on the plans of gunboats laid before the Department, occupied me less than two hours in explaining my new system. In about two hours more the committee had come to a decision. After their favorable report had been to the Secretary, I was called into his office, where I was detained less than five minutes. In order not to lose any time, the Secretary ordered me to 'go ahead at once.' Consequently, while the clerks of the Department were engaged in drawing up the formal contract, the iron which now forms the keel plate of the Monitor was drawn through the rolling mill."

On the 10th of March Captain G. J. Van Brunt, commanding the frigate Minnesota, gave the following testimony to the merits of this "cheese-box," as the honorable gentleman has sneeringly called her:

"At six a. m. the enemy again appeared, coming down from Craney Island, and I beat to quarters, but they ran past my ship and were heading for Fortress Monroe, and the retreat was beaten to allow my men to get something to eat. The Merrimac ran down near to the Rip Raps, and

then turned into the channel through which I had come. Again all hands were called to quarters, and when she approached within a mile of us I opened upon her with my stern guns, and made signal to the Monitor to attack the enemy. She immediately ran down in my wake, right within range of the Merrimac, completely covering my ship as far as was possible with her diminutive dimensions, and, much to my astonishment, laid herself right alongside of the Merrimac, and the contrast was that of a pigmy to a giant. Gun after gun was fired by the Monitor, which was returned with whole broadsides from the rebels, with no more effect, apparently, than so many pebble-stones thrown by a child. After awhile they commenced maneuvering, and we could see the little battery point her bow for the rebels, with the intention, as I thought, of sending a shot through her bow port-hole, then she would shoot by her, and rake her through the stern. In the mean time the rebels were pouring in broadside after broadside, but almost all her shot flew over the little submerged propeller, and when they struck the bomb-proof tower, the shot glanced off without producing any effect, clearly establishing the fact that wooden vessels cannot contend with iron-clad ones; for never before was anything like it dreamed of by the greatest enthusiast in maritime warfare.

"The Merrimac, finding that she could make nothing of the Monitor, turned her attention once more to me. In the morning she had put an eleven-inch shot under my counter, near the water line; and now, on her second approach, I opened upon her with all my broadside guns and ten-inch pivot—a broadside which would have blown out of water any timber-built ship in the world. She returned my fire with her rifled bow gun, with a shell which passed through the chief engineer's state-room, through the engineers' mess-room, amidships, and burst in the boatswain's room, tearing four rooms all into one in its passage, and exploding two charges of powder, which set the ship on fire, but it was promptly extinguished by a party headed by my first lieutenant. Her second shell went through the boiler of the tug-boat Dragon, exploding it, and causing some consternation on board my ship for the moment, until the matter was explained. This time I had concentrated upon her an incessant fire from my gun-deck, spar-deck, and forecastle pivot guns, and was informed by my marine officer, who was stationed on the poop, that at least fifty solid shot struck her on her slanting side without producing any apparent effect. By the time she had fired her third shell the little Monitor had come down upon her, placing herself between us, and compelled her to change her position, in doing which she grounded; and again I poured into her all the guns which could be brought to bear upon her. As soon as she got off she stood down the bay, the little battery chasing her with all speed, when suddenly the Merrimac turned around and ran full speed into her antagonist. For a moment I was anxious; but instantly I saw a shot plunge into the iron roof of the Merrimac, which surely must have damaged her."

Under the same date Captain H. Y. Purviance, of the frigate St. Lawrence, states the following:

"The Monitor, whose performance more than equaled the highest expectations, contributed most powerfully to the withdrawal of the Merrimac, and her earlier arrival would have prevented the unfortunate loss of our two defenseless frigates."

In a letter dated the 9th of March, 1862, Chief Engineer Sumers says, addressing Captain Ericsson:

"After a stormy passage, which proved us to be the finest sea boat I was ever in, we fought the Merrimac for more than three hours this forenoon, and sent her back to Norfolk in a sinking condition."

Lieutenant S. D. Greene, of the United States Navy, and executive officer of the Monitor, states, under date of March 27, to the Department:

"I received to-day your communication of the 25th instant. I do not consider this steamer a sea-going vessel. During her passage from New York her roll was very easy and slow, and not at all deep. She pitched very little and with no strain whatever. She is buoyant and not very lively. The inconveniences we experienced can be easily remedied. For smooth-water operations, such as she was engaged in on the 9th instant, I think her a most desirable vessel. The opinion of experienced seamen on board is the same as my own."

The Department had therefore the action of a board of admiralty recommending a trial of the monitor plan. It had the evidence of the remarkable invulnerability of the completed vessel in this contest. It had the testimony of all these naval officers, and the oral representations of many more in praise of the vessel, and it knew the disaster that would have resulted to us if the Merrimac had not been defeated. It knew that the Merrimac was not destroyed, and had no means of knowing whether she had been seriously damaged. It knew that other iron-plated vessels were being constructed by the rebels, and it knew the responsibility which rested upon it of providing for the increasing efforts of the rebels in the same direction. It had no other armored vessel afloat upon tide-water with which to compare the merits of the Monitor. Those on the Mississippi had been eminently successful under the skillful and gallant Foote, but they were not capable of being moved from harbor to harbor on the sea-coast. The iron-clads of Europe had not given satisfaction to the Powers which constructed them. Our own Ironsides had not yet been completed, and

was not for many months afterwards. The wants of the Government were immediate, were pressing, and were of the most extraordinary character. With all this testimony in favor of the Monitor, and the absence of any better plan being submitted and successfully tested, the Department was not only justified in building as many monitors as Congress would pay for, but it would have been culpable in the highest degree not to have put them in the course of immediate construction. The wisdom of the decision of the Department to build these monitors was not only sustained by the state of facts at the time they were placed under construction, but the testimony which is borne by the highest officers of the Government in their favor since they have been completed and tried makes the action of the Department in this whole matter as invulnerable as are the vessels themselves. I propose as briefly as possible to present a small part of this testimony, but sufficient, I trust, to prove the truth of this assertion.

Rear Admiral Dahlgren, in his report on iron-clads, says:

"During the progress of the engineers toward Wagner the iron-clads played an important part, using their guns whenever an opportunity offered, as shown in the instances quoted on page 583. It may be readily conceived that, all things being equal, it was just as easy for the rebels to have worked toward our position as it was for our troops to work toward theirs. But there was a serious difference in the fact that the cannon of the iron-clads, and also of the gun-boats, completely enfiladed the entire width of the narrow island, and absolutely interdicted any operation of the kind on the part of the rebels. In addition, whenever their fire was bearing severely on our own workmen, a request from the general always drew the fire of the vessels; and I do not know that it failed to be effective in any instance."

"As a consequence the rebels were restricted to Wagner, and were powerless to hinder the progress of the trenches that were at last carried into the very ditch of the work, and decided its evacuation without assault."

"The duties of the iron-clads were not performed under idle batteries. The guns of Wagner never failed to open on them, and fired until their crews were driven, by those of our iron-clads, to take shelter in the bomb-proofs. One of these cannon, a ten-inch, left deep dents on every turret that will not easily be effaced."

"During the operations against Morris Island the nine iron-clads fired eight thousand projectiles, and received eight hundred and eighty-two hits. Including the service at Sumter in April and the Ogeechee, the total number was eleven hundred and ninety-four."

"The battering received was without precedent. The Monitor had been struck two hundred and fourteen times; the Weehawken one hundred and eighty-seven times, and almost entirely by ten-inch shot. What vessels have ever been subjected to such a test?"

"The speed of the monitors is not great, (seven knots,) but it is quite respectable with a clean bottom, and is fully equal to that of the Ironsides. Their stowage is peculiar, but when understood and rightly managed not difficult of control. They pivot with celerity, and in less space than almost any other class of vessel."

"The monitors could operate in most of the channels; could direct their fire around the whole circle, and were almost equally well defended on all sides."

"The defects in both classes of vessels are susceptible of being remedied partially or entirely. The defense of the Ironsides could be made complete, and that of the monitors equally so."

"The Ironsides is a fine, powerful ship. Her armor has stood heavy battering very well, and her broadside of seven eleven-inch guns and one eight-inch rifle has always told with signal effect when opened on the enemy. Draught of water about fifteen and a half to sixteen feet. Speed six to seven knots, and crew about four hundred and forty men."

As no other officer in the service has had so much experience with the monitors, and none are more competent to judge of their merits than this able officer, his testimony is entitled to the highest respect.

Admiral Porter's testimony of the seaworthiness and efficiency of the monitors at Fort Fisher is of such recent date and possesses such deep interest that it is doubtless fresh in the minds of the members of the House and need not be repeated.

In his letter to the Department, dated February 16, 1864, he says of the first monitor:

"I remember pronouncing that vessel 'a perfect success,' and capable of defeating anything that then floated. I was looked upon at that time as something of an enthusiast, as my opinions were widely at variance with those of some scientific gentlemen. The results have justified me in forming a high estimate of the monitor principle."

In this connection the opinion of the able chief of the Engineer corps of the Army is not without great interest. General Barnard says:

"I formed a high opinion of armored and turreted vessels built after Mr. Ericsson's designs, particularly as harbor defense vessels; in fact coming to the conclusion that his plans furnish the best solution of the problem of constructing vessels for this purpose. I also believed that in the Dictator and Puritan we should have vessels capable of

encountering the heaviest seas, if not of keeping the sea a long time, and making transatlantic voyages, and that, from their armanent and slight exposure to an enemy's shot, they would contend successfully with anything afloat."

To this testimony I might go on and add the testimony of Commodore Rodgers and other officers in the Navy; but enough has certainly been adduced to show that the Department has acted with good judgment in ordering the monitors, and to satisfy any unprejudiced mind that our iron-clads are not only not a failure, but constitute the hope, the pride, and the bulwark of the Republic. That they have faults I have no doubt, but they are better than anything our enemies have, and before they get anything to equal them the ingenuity of our constructors will have perfected the novel ideas of Captain Ericsson and others, and we will still be ahead of all competitors.

The Department has been assailed for not constructing more vessels of the Ironsides type instead of so many monitors. It is denounced for constructing monitors before their merits were fully established by other contests and trials besides that with the Merrimac. But the assailants of the Department forget that no contracts for ocean vessels have been made since the trial of the Ironsides, for the very good reason that Congress refused the necessary appropriation for the purpose. The plan of Mr. Webb for the Dunderberg and that of Mr. Whitney for the Keokuk were the only plans for ocean vessels approved by the board of officers appointed to examine and report upon them while the Ironsides was building.

The eminent success of the Monadnock not only bears evidence to the ability of the officials of the Department, but to the wisdom of ordering the construction of four of this class, all designed in the Department and constructed in our own navy-yards. They are double-turreted vessels, built of wood, and heavily plated.

The gentleman told us on last Thursday that our iron-clad navy was a failure. Constructions that have grown up like magic under the inspiring touch of American energy and American talent, and which constituted the pride of our people and the bulwark of the nation against foreign arrogance; this best bower of the ship of State, upon which our faith was resting to hold us in safety from the hidden rocks and breakers of hostile shores, is declared to be a failure. These terrible engines of naval war that bear upon their mailed coats countless marks of shot and shell, that have been so carefully studied by the ablest engineers of enlightened Europe for the last three years, which have furnished models to be copied by Denmark and Sweden and Russia, after the most mature and careful investigations, are declared to be failures. We are gravely told that this iron-clad navy has accomplished nothing; that they have never silenced forts of any kind. Shade of the immortal Foote! are the glories of Fort Henry so soon forgotten? Have the dead on the decks of the DeKalb, the Cincinnati, and their consorts at Donelson, no place in the national memory? Are the fires which lighted the island scenery of No. 10 from a hundred iron throats, as the Carondelet and Pittsburg passed them, no longer remembered? Is the desperate conflict with the rebel rams at Fort Pillow and at Memphis not written in American history? Was nothing done by the gallant Porter and the Essex, when the Arkansas was destroyed? Have the trophies of Arkansas Post no glorious reminiscences? Has the history of Vicksburg and Grand Gulf been lost in oblivion? Why did the old salamander, he of the iron heart, with the laurels of New Orleans fresh upon his brow, and the praises of a great nation for his gallant deeds still echoing over the land; why, I say, did our country's pride, the noble Farragut, deem it unsafe to attack Mobile until he had four of these iron-clads which are pronounced so worthless by the gentleman from Maryland? Did the four hundred and fifty-pounder that crashed through the side of the Tennessee effect nothing? Nor the one hundred and eighty-pounder blows of the Mississippi river iron-clads, when disabling her steering gear and closing her ports, effect nothing, when the lighter shots of the wooden vessels were falling harmless upon her? Will the gentleman from Maryland insist that the wooden vessels captured the almost impregnable Tennessee, when the published survey of the captured vessel made by Captains Jenkins and Alden, Commander Le Roy, and Chief Engineer

Wilkinson, shows exactly how the damage was inflicted that placed her at the mercy of the fleet? He sees no virtue in an iron-clad carrying hundreds of tons of armor to enable her to cope with our enemies unless she steers with all the facility of a pleasure yacht; and because one of the four iron-clads which entered Mobile bay on the 5th of August had her turrets disabled in that fierce contest, he condemns the whole as worthless.

For the information of the honorable gentleman, and to correct any false impression as to the value of the four double-turreted vessels now holding the harbor of Mobile, I will ask the Clerk to read a portion of a private letter from a brave and skillful officer in the fleet at Mobile to the gentleman who designed and constructed those vessels on the Mississippi river. This officer holds the very important position of fleet engineer of the western Gulf blockading squadron, and knowing him well, I can bear my humble testimony to his purity of character as well as the value of his testimony.

The Clerk read, as follows:

WEST GULF SQUADRON,  
ENGINEER'S DEPARTMENT, December 15, 1864.

• MY DEAR SIR: \* \* \* \* I know you have been kept posted on our monitors by your many friends attached to them in our squadron. You have no doubt been informed that with a little effort we got the other two, namely, the Milwaukee and Kickapoo. I got the admiral to change off the Manhattan (Ericsson monitor) and the rebel rani Tennessee for them, and before this gets to you we shall have them at anchor within three miles of Mobile, the only vessels upon which we depend for an entrée to that harbor when we get ready to make the start. They have grown so in favor with everybody that it almost amounts to an affection, particularly after the fight in Mobile bay.

I feel happy to think that these vessels have come up to my expectations, and that I succeeded in carrying out my views and wishes, long since expressed, namely, to get them in the Mobile fight. They did it, and I am satisfied.

Yours truly,

WILLIAM S. SHOCK, U. S. N.

To JAMES B. EADS, Esq.

Mr. BLOW. I will state that I myself have heard Admiral Farragut speak in the highest terms of these vessels. He does not hesitate to say that they are absolutely necessary now to hold Mobile bay; that the management of the iron-clad Chickasaw was splendid, and that the strength and power of the Manhattan was terrific. I agree with my friend from Maryland that Farragut can go anywhere in a wooden vessel, but that is simply because he is an iron-clad himself. But I have still other evidence from an impartial naval officer who has always been regarded with favor by our countrymen, and who differs widely with the gentleman from Maryland in regard to these costly guns inclosed in a cheese-box. It is dated Claremont, January 11, 1865, is from the Prince de Joinville, and the extracts from it read as follows:

"The glorious action of the Keersage and Alabama, and the magnificent fight of Admiral Farragut, must be studied in all their details. The mode of fighting the forts ordered by Admiral Farragut was an act of genius, and his orders were carried out in the most beautiful manner. But the Tennessee was a very serious enemy, and it required the fifteen-inch at close quarters to do it for her.

"The amount of resistance furnished by the Tennessee, and every other example of your war, show how useful iron-clads are for harbor and coast defense. English, French, Italians, Turks, and Spaniards, are building very expensive sea-going iron-clads, but with some misgivings, and I understand their misgivings. Build a gunboat of great speed, with a few lines of thickness in bed-plates in excess of those of the English and French iron-clads, and with one good big smooth-bore gun, and she will be a match for the whole fleet."

I like this letter. It shows a correct appreciation of our Navy and of the genius of our people.

The gentleman from Maryland, not recollecting the unfortunate result attending a previous controversy on the subject of improved steam machinery, has alluded in rather unhandsome terms to that designed by the Department, and now being built for our new vessels-of-war. It is well known throughout the world that we are specially skilled in the planning and manufacturing of steam engines, and the completeness of our great constructions for the merchant and naval service is universally acknowledged. I beg to refer him to the report of the Naval Committee of the House who have so ably vindicated their industry and ability on this floor, and which is thus noticed by the Army and Navy Register in its issue of last Saturday, the 4th instant:

"The Naval Committee of the House are understood to have unanimously adopted the report of their chairman, Mr. A. H. RICE, on the subject of the resolution introduced during the last session, on the condition of naval machinery built by Mr. Isherwood, the chief of the Bureau of Steam

Engineering; the causes of the failure of the machinery of the Pensacola, from the plans of Mr. E. N. Dickerson, and the administration of the engineering department of the Navy, including the charges of fraud and incapacity. The report vindicates the management of the Bureau of Steam Engineering, stating that the machinery is in accordance with the latest improvements, and that the mode adopted of using the steam, with a very moderate measure of expansion, is in accordance with the most recent scientific researches and practical experiments, and has the indorsement of all able and experienced engineers. The comparison of his machinery with that previously constructed for our Navy, and for the French and English navies, and for the merchant marine, shows an incontestable superiority and a greater speed of vessels."

Mr. Chairman, the iron-clad vessels alluded to as having achieved the great victories that so strengthened the cause of the Union in the valley of the Mississippi, were mostly constructed by a man whose genius was brought forth by this rebellion and the necessities of the country, and whose future, if we are faithful to ourselves, will be as brilliant as his past has been patriotic and useful. I allude, sir, to the only genius of the day who is now conceded by the naval men of this country to be without a superior, if he has a rival—James B. Eads, of St. Louis, who has constructed twenty-one iron-clad vessels, whose successes are the pride of the whole nation.

Sir, if the entire monitor and iron-clad fleets constructed on the sea-board had failed, and nothing had been accomplished except what has been achieved by the western iron-clad navy, this country could well afford to forgive the errors which had caused such a failure in the magnificent result we have obtained through their agency West. If the twenty light-draught monitors now constructing, about which so much has been said, are failures, a result which I hope will never be established, I still contend that, taking all that the entire Navy has done, there are no services equal to it in the history of navies and navy struggles. Let those at home who are not satisfied with results which have startled England and France from their fancied security, enlighten us as to the exact method which they would have pursued under similar circumstances and in detail, and then we can be able to judge better of the errors complained of.

And are we to be told that this great country cannot in times like these go boldly into constructions and experiments, if you please, which promise at least success? Are we to stand still when our rebel adversaries, weak in money and mechanics, are duplicating their Merrimacs, Atlantas, and Tennessees? Is our Government to be held up to the criticisms of the world, and our own people to be the means of exhibiting every little failure made in this gigantic struggle? Are the men whose integrity, patriotism, skill, and devotion have never been doubted, to be prostrated the very hour when their labors are being crowned with success? Let us indulge the hope, sir, that such a result will not occur.

There are now in the Department plans of a steamer that it is claimed can run to the city of London and back again without coaling, and destroy within the time \$500,000,000 of English property on the way and in that city, resisting all the engines of war yet devised by English skill and English gold. These plans have been submitted by one whose enterprises have ever been successful, and whose genius has been acknowledged by the highest naval authorities of our country.

My feelings and policy dictate that we should go on in the work of construction. Now, more than ever, do we need Ironsides, Monadnocks, and the Leviathan that can destroy the hopes of tyrants as well as their cities and forts. Let us not waste our time in idle disputes and unfriendly criticisms. Remember that Bull Run, Chickasaw Bluffs, Red River, and the two hundred thousand dead in Virginia, are passed over in the glorious victories and marches of Grant, Sherman, Sheridan, and Thomas; and so must our errors of construction, if they really exist, be forgotten in the brilliant achievements which have immortalized Foote, Farragut, Davis, Porter, Du Pont, Dahlgren, and a host of other naval heroes.

But I pass, Mr. Chairman, with much pleasure from the discussion of points that I deeply regret were ever pressed upon us, and beg the attention of the committee to some considerations of grave importance.

We have achieved our present supremacy on the ocean as a result incident to the suppression of the rebellion. Possessing the domination of

the seas, policy, interest, and humanity conspire to prompt its retention: When we are able to sweep the ocean and bid defiance to all whom interest or passion might otherwise prompt to attack us, we need not fear that our peace will be molested. We have the highest possible motives for maintaining this superiority; but with the enormous ability to construct ocean steamers possessed by Great Britain at this day, we cannot hope to do so without such immediate legislation as will tend to increase our facilities for the construction and repair of iron-clad vessels. The developments of the war have shown that the British navy is to-day far inferior to our own. But it is only so because of the immense additions and improvements in construction that have been made by us during the rebellion. These improvements are well known to England and France, and if they do not at once adopt them it will be only because they hope to get some that are better, not because they will trust to those of the past. In a very few years those nations, England especially, will possess a navy quite as powerful as our own, if we remain idle. "Eternal vigilance is the price of safety."

At this day England is turning out from her immense private yards on the Clyde, the Thames, the Mersey, the Tees, the Tyne, and Wear, five hundred thousand tons of iron merchant vessels per annum. She is to-day duplicating the entire tonnage of our navy annually in iron steam vessels for the ocean, and this in her private yards alone. We are not able to build in all our private establishments together more than one sixth part of this tonnage. This is a startling fact that it is well for us to remember; but it is not the only remarkable truth which has been brought to our attention by the very able and interesting report of Chief Engineer J. W. King, United States Navy, and embodied in and published with the last annual report of the Secretary of the Navy. Mr. King was sent last summer by the Department to examine the dock-yards and iron-clad establishments in England and France, and I am glad to be able to say that every facility was extended to him by the Governments of those countries in the performance of his duties.

We learn from Mr. King's report the fact that England is far ahead of us in her ability to construct ocean iron steamers in her private yards; and that in her national establishments for the construction and repair of armored war vessels she is beyond all comparison superior to us. From his report it appears that there are in England seven naval or dock-yards; one of them, that at Chatham, is being extensively enlarged specially for the construction of iron-armored vessels-of-war, while another, situated at Portsmouth, is to be enlarged with like views. The total area of the British dock-yards exceeds five hundred and fifty acres, possessing thirty-six and a quarter acres basin accommodations, 32 stone dry-docks, and 31 ship-houses; and when Chatham and Portsmouth are completed, the ground covered by them all will exceed one thousand acres, containing 44 stone dry-docks and as many ship-houses; all other preparations being proportionate and comparatively gigantic. Besides these national works for the construction of fleets, the British have vast resources in the shape of iron-ship-yards and iron-works. It is seen that on the Clyde are 33 iron-ship-building yards, the productions from which in 1863 were 170 iron vessels with an aggregate of 120,700 tons. On the river Thames during the same year 117,000 tons of iron vessels were built; on the Mersey 80,000 tons; on the Tyne 51,236; on the Wear 25,000, and on the Tees 15,000—making a total of 408,996 tons of iron vessels built in 1863; and it is estimated that during the past year, 1864, upward of 500,000 tons of iron vessels were constructed in the British dock-yards, exclusive of those built for the royal navy. Some of the private iron-ship-yards have large capitals, and are very extensive and complete in all respects. Mr. King's report informs us that the constructive capabilities of either of the great Thames yards are equal to 25,000 tons or ten heavy iron vessels in hand and progressing simultaneously. Such are the facilities possessed by the British for building and equipping iron-clads. The Admiralty there could in the event of war, in addition to their own extensive dock-yards, command the services of more than 40 private iron-ship-building yards.

Now, how are we prepared to build sea-going armored ships? With resources in iron and materials superior to those of England, the few private yards in this country are mere make-shifts compared with them. The combined capabilities of them all are not equal to one such as are to be found on the river Thames. What are our navy-yards, and how are they prepared to meet the changes taking place in ships-of-war, and to meet the demands of a Navy which has grown in proportions until it is acknowledged to be superior to any other afloat? The Chatham dock-yard when completed will have an area of three hundred and eighty-nine acres, the whole of the ground being occupied by basins, dry-docks, ship-houses, and substantial steam factories. The New York navy-yard, the most important we possess, covers an available space of about twenty-five acres, not one fifteenth part as large as the Chatham yard. It has one stone dry-dock, two ship-houses, and other limited facilities for wood ship-building only. The Philadelphia navy-yard has a total area of but nine acres. It would require forty-three such yards to make one equal to the Chatham yard in England. It has one wood floating-dock, and two ship-houses, but not a steam factory, or any preparations for either the construction or repair of steam machinery. The Boston navy-yard, of but small area, has one stone dry-dock, three ship-houses, and is comparatively well prepared for constructing and repairing vessels; while the yard at Portsmouth, New Hampshire, is but little in advance of that at Philadelphia. The Washington yard has greater facilities for building machinery than all the others, but has not a single dock. Our navy-yards on the Atlantic coast possess two stone dry-docks and two wooden floating-docks, with other proportionate facilities, while the British will soon have forty-four stone dry-docks, beside unequalled resources in private docks. On the river Mersey alone there are twenty-four dry or graving-docks!

Apart from the limited facilities of our yards, they are in no way prepared, nor is there sufficient room in them, for building iron-clads. The Secretary of the Navy has frequently called attention to the subject, and the Department is much embarrassed for want of a proper yard, and the longer action in this matter is delayed the greater will be the difficulties and embarrassments that will arise to the Department, and the more imminent the danger to the country. Shall we allow this session to pass without deciding on so important a national measure—one in which the whole nation is interested, and in which no sectional or party feelings should or ought to interfere?

When we consider the manner in which our Navy, exclusive of iron-clads, has been improvised by the purchase of vessels from the merchant marine, we can readily see the great superiority which England would possess in drawing an increase to her navy from a merchant service which is increasing at the rate of five hundred thousand tons per annum in iron vessels under the stimulus of a demand which has resulted from her unfriendly conduct in giving aid and comfort to the enemies of this Government.

The want of at least one complete navy-yard near the Atlantic sea-board, with these startling facts in full view before us, is a great national misfortune, and its immediate construction is demanded by every consideration of interest, prudence, and policy. And yet there are gentlemen on this floor ready to vote defiant resolutions embodying the Monroe doctrine, and to march our armies into Canada, but who can go quietly to their homes and tell their constituents that they have faithfully discharged the trust confided in them, when they know we do not possess one single national establishment in the whole country for the construction of iron-clads, nor even the proper facilities for docking and repairing the armored vessels which now constitute our sole dependence, notwithstanding the Secretary of the Navy has time and again urged upon us the duty of providing these great national means of preserving our present Navy and providing for the inevitable necessity of its increase.

The unfriendly spirit manifested by England during the last four years toward us, and the ambitious designs of the French emperor, so boldly developing themselves upon this continent, should admonish us to be prepared for a conflict that will

surely come when one or the other of those great Powers feel that they are safe in precipitating it. A jealous regard for the condition and effectiveness of our naval establishment is the surest way of keeping the peace and inspiring those and all other great Powers with a wholesome respect for the American Republic. I apprehend that there are few members upon this floor who do not feel satisfied that our iron-clad navy has been the only obstacle to prevent the hostile designs of France and England from assuming a form that would have compelled a declaration of war with them.

When we contemplate the enormous cost of this war, estimated by many at not less than \$4,000,000,000, we can form some idea of what the cost of a war with those nations would probably be. If we compare the cost of this war with the cost of our entire Navy, \$280,000,000, which includes its maintenance for four years, we find the latter is only one fourteenth part of this outlay. And this will enable us to form some idea of the great economy of the Navy in a struggle like the present, when we compare the results it has accomplished with the cost of similar results when achieved by the Army. Nor has this \$280,000,000 all vanished in smoke and cannon-shot, in shoddy clothing or the commissary supplies that have been consumed; but it is to-day existing in substantial ships-of-war that are defending our foreign commerce, blockading rebellious shores, or battering down the strongholds of treason and bidding defiance to unfriendly Powers. These six hundred and seventy-one vessels, at the low average of \$200,000 each, would represent a value of \$134,000,000, or nearly one half of the entire outlay. The balance, \$150,000,000 in round numbers, will represent the cost of maintaining it for four years—an average of \$37,500,000 per annum.

The Government has been and is still paying bounties to volunteers for the Army at the rate of \$300 per man, and through the past three years local bounties have been paid in addition sufficient to average at least \$300 more. These local bounties, although not paid by the Government, are nevertheless paid by those who must be required to meet the interest on the public debt and provide for its ultimate liquidation; hence the whole amount of these bounties, say \$600 per man, come from the same fountain source, the people, and it is proper to estimate their total amount as part of the expenses of the war. But these bounties alone are but a small part of the cost of maintaining the Army, and yet the total bounties alone paid to the volunteers in one year for the Army would defray the entire expense of maintaining our splendid naval establishment for ten years. This, Mr. Speaker, is a fact well worth pondering over by the ablest statesmen. When war comes it involves the vast machinery of an army with its stupendous expenditures. Is it not the part of wisdom to put the probability of a foreign war as far beyond the regions of possibility as it is in the power of the nation to do when it can be done at a cost that is insignificant when compared with the cost of such a war—a cost that is as trifling when compared with the cost of war as is the premium we pay to the insurance company when compared with the loss we desire to be protected against? Such protection we gain by maintaining a Navy commensurate with the grandeur of the nation, and capable by the power and efficiency of its construction and organization to protect the honor and advance the interests of the Republic. If our Navy be preserved by such facilities for repairs and construction as are absolutely demanded, and its development properly fostered, we need not fear but that American genius and enterprise will be amply sufficient to keep it through all time where it is to-day—in advance of all the nations of the earth. But let us be admonished by the fable of the turtle and the hare, and not believe that because we are now so superior to our competitors that we can afford to slumber and not expect to find them in advance of us when we awake. By American genius we have taught the Old World the worthlessness of many of their theories, and they will doubtless draw wisdom from our experience and the rapid development of facts that are constantly manifesting themselves in this present struggle. Twelve million dollars' worth of Armstrong breech-loaders in Great Britain were demolished when one blow of a Yankee four hundred and fifty pounder struck the rebel



iron-clad Atlanta. And it needed but one American armored ship in Hampton Roads to show England that—

"Ruined was her buckler and broken was her shield."

Her boasted rule of the waves was as empty on that day as the command of her Danish king to those same waves a thousand years ago: "Thus far shalt thou come, and no further." Of her one thousand and four war vessels, but four remained to assert Britain's ocean supremacy. And the bombardment of Fort Sumter, with the much-abused monitors, if it did nothing more, taught our transatlantic neighbors that the new system, so much criticised and ridiculed in this Hall, was too invulnerable for their intermeddling to prove advantageous to them. That bombardment, if it did not capture Charleston, was so full of instruction to France and England that it saved us from an intervention, the result of which no statesman on this floor would dare to prophesy.

In the wonderfully rapid construction of our Navy the energies of the Department have been taxed to the uttermost point through all its official ramifications; and the powers of the people, through the contract system, have been strained to their greatest capacity, and the consequence has been a wonderful development of resources and a remarkable degree of inventive talent and capacity for naval constructions. The result of all this is before the nation and the world in the form of a Navy which has dealt the rebellion some of its worst wounds and maintained the honor of the nation. It is now the most potent in the world; surpassing in all the elements of effectiveness that of France or England. It now controls more than twelve thousand miles of inland waters, giving confidence and support to our armies, which are seldom beyond the reverberation of its guns, and at the same time successfully scours the ocean in pursuit of Anglo-rebel pirates, and maintains a blockade which is the wonder of the world.

This truly gigantic work has been accomplished without ostentation, and with an economy which has even extorted praise from the hostile and mercenary press of England, and, as our investigating committees have shown, with less fraud and peculation than any other undertaken by the Government. Notwithstanding the magnitude of the results that have been accomplished, the Navy Department has been repeatedly assailed in the most unjust and unreasonable manner, and its able chief ridiculed and caricatured until one would suppose that his principal occupation had been to pass his official hours in comfortable dozing in an easy arm-chair especially provided for that purpose by himself at the Department. Friend and foe to the Union have alike been led to believe that what was so persistently asserted by his defamers must be true.

Treason, in mistaken security, ridiculed the efforts of the old man of the sea to shut up a coast equal to one seventh of the world's circumference, and made thrice difficult by the rich fringe of islands, bays, peninsulas, sounds and inlets bordering it from Cape Henry to the Rio Grande and whose endless labyrinths gave friendly shelter to smugglers and pirates; but it has now awakened amid the terrors of starvation and the hopelessness of despair to see this stupendous work accomplished.

England, self-styled mistress of the seas, folded her snowy hands to rest when she saw the drowsy lids of the old Rip Van Winkle, but his Kearsarge guns in the British Channel have roused her from her pleasant slumbers. Winslow is crashing through British oak. Her trained gunners of the Excellent are struggling in the agonies of death, and Cherbourg bears witness to the petty larceny of the pirate's English consort—Britain's neutral Deerhound.

When the history of this war is written, Mr. Chairman, no prouder record of able administrative talent and comprehensive coöperation will gild its instructive pages than that which recites the management of the Navy Department during the last four years. The utmost efforts of ridicule and defamation have been exhausted in vain endeavors to weaken the confidence of the people and the President in the ability of its Secretary. From the moment of his installation this gentleman seems to have pursued, with a fixedness of purpose rarely witnessed, a policy having for its object the throttling of treason and the domination of the ocean. Calling at once to his council

the ablest talent in the service, and confidently trusting his reputation to the keeping of the loyal people of the land; turning neither to the right hand nor the left to defend himself from the scurrility and misrepresentation which has assailed him, he has devoted his talents and energies to the consummation of this grand object with the modesty which attends true merit. Measured by the criterion of success, the only touchstone which a nation involved in a mighty struggle will trust in, the honorable Secretary has naught to fear. The stupendous work accomplished by the Navy, the soul-thrilling victories it has achieved, and the remarkable good fortune which has attended its undertakings during this rebellion; bear incontrovertible testimony to the statesmanship which has directed its operations, and stamp the administration of that Department as eminently successful.

In conclusion, Mr. Chairman, I should like to record my profound admiration of the splendid gallantry and devoted patriotism that have been displayed by the naval heroes who have defended the honor of the national flag with a devotion and bravery which has won for them the admiration of the world. I have on several occasions, by my votes in this Hall, manifested my gratitude to these gallant officers and men who have done so much to defend our land from the curse of treason, and would now, if I felt that my humble powers were equal to so grand a theme, delight to dwell upon the glories with which they have enriched the story of these perilous times. But, Mr. Chairman,

"What skillful limner e'er would choose  
To paint the rainbow's varying hues,  
Unless to mortal it were given  
To dip his brush in dews of heaven?"

The brilliancy of those achievements will make history more attractive than romance. Poetry will draw from its absorbing record immortal themes to gild its graceful numbers, and many a youthful hero in the dim and far-off future will feel the first impulse of generous emulation while listening to the songs and tales which recite the deeds of Foote and Farragut.

Mr. STEVENS. I ask the gentleman from Maryland to allow me to move that the committee rise, in order to close debate.

Mr. DAVIS, of Maryland. I do not object to that.

Mr. STEVENS. I make that motion. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had come to no resolution thereon.

Mr. STEVENS. I move that the debate in the Committee of the Whole on the state of the Union on the naval appropriation bill be closed in one hour after its consideration shall be resumed.

Mr. PIKE. Let it be an hour and a half.

Mr. STEVENS. The debate has now run on interminably. We have a great deal of work to do. I cannot agree to more than an hour.

Mr. PIKE. I do not want to make a speech, but others do. Make it an hour and a quarter.

Mr. STEVENS. The gentleman from Maryland is entitled to close the debate; when he closes I want the debate closed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the naval appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866.

The CHAIRMAN stated that the pending question was the amendment of the gentleman from Maryland, [Mr. DAVIS,] on which that gentleman was entitled to the floor; and that the general debate had been limited by the House to one hour.

Mr. DAVIS, of Maryland. Mr. Chairman, had the gentlemen of the Naval Committee treated the proposition I had the honor to present with

ordinary fairness, or exhibited in the course of their discussion of it that they had read the bill and amendment which they rejected, and understood that which they attempted to induce the House not to adopt, I should not have indulged in a word of reply; for, sir, no fact I have adduced from the public record of this or the last session has been controverted or can be controverted by them; nor, indeed, if those facts stand is there any reply possible to the considerations urged by me. But instead of meeting the argument I addressed upon a measure introduced upon grave deliberation and referred to that committee for its consideration now nearly a year ago, both honorable gentlemen commenced their observations by remarking on the personal feeling and temper of my remarks.

Now, sir, whether that temper was that of a May morning, or of a November night, scarcely affects the value of the measure before the House. Whether I am pleased with or disgusted with the gentlemen who preside over the Navy Department is not an argument either for or against the measure I presented. My wrath did not sink the light-draught monitors, and the puffs of the Boston Advertiser cannot float them. If the gentlemen meant to intimate, for the purpose of weakening the weight of any observation I made here, that the measure I introduced is prompted by any personal feeling relative to the gentlemen who control that Department, I desire to say it is their invention, and nothing else, which gives foundation to the suggestion. I have not the honor of an acquaintance with either of those gentlemen. I have neither asked, nor received, nor been refused any favor at their hands, and that is more than the two gentlemen [Mr. RICE and Mr. PIKE] upon the committee can say for themselves.

If I am in ill-temper, and that ill-temper is to affect the judgment of the House upon the argument I presented, it is only fair to say—though I mention matters of this kind with great reluctance—that the devotion to the Department of the honorable gentlemen upon my right may be supposed equally to affect the weight of their arguments. And so far as the gentleman upon my left, [Mr. GRISWOLD,] who adduces his testimony to the efficiency of the machinery and the structure of the Dictator, is concerned, I may be permitted to say that the gentleman, if I am not misinformed, has had an interest in the construction of the iron-clads, which may naturally be supposed to warp his judgment upon that subject at least as much as my disgust biases mine. So that, when the collateral facts are made, I submit, be my temper what it might, my argument is entitled to weigh equally with the arguments of gentlemen upon the other side, irrespective of the temper that dictated or pervaded them.

Mr. PIKE. Will the gentleman yield to me a moment?

Mr. DAVIS, of Maryland. My time is limited.

Mr. PIKE. The gentleman says he has neither asked, received, nor been refused any favors at the hands of the Navy Department, and that is more than gentlemen upon the committee can say. Has the gentleman any evidence to sustain that charge?

Mr. DAVIS, of Maryland. I did not make the charge.

Mr. PIKE. Impliedly.

Mr. DAVIS, of Maryland. All I said or meant to say is, that the inclination or enlargement of the gentlemen's hearts toward the Department as seriously impairs the argument and weight of their judgment as mine.

Mr. PIKE. I understood the gentleman to say that it was more than I could say that I had neither asked, received, nor been refused favors at the hands of the Navy Department.

Mr. DAVIS, of Maryland. If the gentleman says he has not, he has only to say so.

Mr. PIKE. It is not for me to say whether I have or not. I ask the gentleman upon what proof he makes that assertion.

Mr. DAVIS, of Maryland. I will take the gentleman's word for it.

Mr. PIKE. He has not my word for it one way or the other. I ask the gentleman for the evidence.

Mr. DAVIS, of Maryland. I suppose the House can understand why the galled jade winces. I have done with these interruptions.

But another step; and it is to the gentleman I refer. He spoke about my inaccuracy touching the consideration of the bill before the committee, and said, if I understood him correctly, that it had been considered promptly by the committee after I had requested the honorable gentleman and some others to have it considered, whether at the last session or the present session I do not remember. When that consideration took place I do not know, and the honorable gentleman does. But if I was misled, I was misled by the statement of the distinguished gentleman from Ohio, [Mr. SPALDING,] a member of the committee, who, when I moved this amendment formally, said to the House, as an objection to its consideration, that it "*is now undergoing investigation before that committee*," and if it was decided before that time, I was not at fault in supposing it had not been decided. If it was decided since that time, I am right in supposing that the judgment was made while my amendment was pending, in order to affect the judgment of the House unfavorably and irregularly upon it.

Mr. RICE, of Massachusetts. Does not the honorable gentleman from Maryland know that the Committee on Naval Affairs have had no opportunity whatever to report on that measure?

Mr. DAVIS, of Maryland. That is not the question; the question is, when the committee came to their conclusion upon it.

Mr. PIKE. Will the gentleman yield a moment?

Mr. DAVIS, of Maryland. It is impossible, unless my time is extended.

Mr. PIKE. The gentleman said they came to an adverse conclusion.

Mr. DAVIS, of Maryland. He did not make such a statement.

Mr. PIKE. It is upon the record.

Mr. DAVIS, of Maryland. No, sir; he made that statement afterwards, when the amendment was under consideration; when I referred to his statement that the bill was undergoing investigation, and therefore undetermined, when I moved the amendment, he asked to be allowed to interrupt me, and said, for the satisfaction of the gentleman I tell him the committee have come to a conclusion, and determined to report against the measure. I am correct, or the gentlemen of the committee differ among themselves, and I cannot adjust their differences.

But how have the gentlemen treated the measure itself? From beginning to end as if I had introduced this bill to annex the British system of a Board of Admiralty to the organization of the Navy Department. There was no other ground of objection or point of observation made by either of those gentlemen, so far as I could understand them. I desire to say that gentlemen who are arguing from the Board of Admiralty in England against the measure I adduce either do not know what the Board of Admiralty of England is, or they never have read or understood this bill. The Board of Admiralty is the Navy Department of England. The six lords administer the navy, not advise a single head. They are the executive body itself, not a council to advise another head. It is formed upon the old system of the Government of England, which is ministerial, by a board of ministers and not by the nominal head, the king. The Board of Admiralty is carrying the organization of the ministry into the administrative department of the navy. That is the peculiarity of the system. Against that peculiarity the objections to the Board of Admiralty in England are directed alone. It is that peculiarity which I do not propose to adopt, and it is upon this peculiarity of that board that these gentlemen have argued here against the amendment which I introduced.

The gentleman who is chairman of the Naval Committee stated that a board of naval commissioners was appointed under a law passed in 1815, and that that law was repealed, and the bureau system was adopted in 1849. The burden of his argument was that the naval commission of 1815 was such a board as I propose now. Why, Mr. Chairman, does not the gentleman understand the history of the organization of the Department which he here represents and attempts to defend? The Navy Commissioners of 1815 were the ministerial organization of the Department, for which were substituted the present bureaus, now the ministerial portion of the Department, executing the

instructions of the Secretary of the Navy. What I propose—and I hope now, at least, I shall be able to make myself understood—what I propose is, not to remove the bureaus, not to substitute any other organization to discharge their ministerial duties, nor to interfere with the free discretion of the Secretary, but to interpose, on the French system, between the administrative discretion of the Secretary and the ministerial obedience of the bureaus a council of naval officers, whose advice the Secretary may command on all matters, whose opinions he must take on some matters, but which when taken he is free to disregard. Is that intelligible? As the President has his Cabinet, so the Secretary shall have his advisers. I would have the Secretary, without restricting his executive discretion, surrounded by advisers of competent professional knowledge, who would prevent blunders, expose errors, and furnish light if the Secretary have only eyes; or if he had light, give him greater light. The weaker he is the more he needs it; the wiser he is the more he will prize and profit by it. The very foundation of the American system of government is an executive head with a council of advisers around him.

In view of the great errors and blunders that have been committed by the present administration of the Navy Department, I endeavor to apply that same system to the Secretary of the Navy so as to surround him with professional advisers who may save him from repeating the errors of the past by mere caprice, by mere blundering, or by mere carelessness or haste. If he had the genius of Napoleon Bonaparte he would need advice, and if he were as wise as Napoleon before empire crazed him, he would seek and not decline it. Those who are familiar with the writings of the great historian of the Consulate and Empire know that in his earlier and better days, when he exhibited greater administrative capacity than any man who had ruled France since the days of Richelieu, he adopted no great measure of questions of war or peace, of diplomatic policy or internal administration, until it had been debated fully, freely, and deliberately by his council around him. The fruits of that consultation appeared in his judgment which closed the sitting, and in the event which consolidated France and revolutionized Europe. It was only when an insane ambition—as a smaller ambition here leads people to discard advice and avoid professional advisers, and inflict on this land of law all the evils of personal rule—only when an insane ambition had bent him on to the conquest of all Europe, and when his projects would not stand discussion even in his own private councils, that the campaign of Russia and the invasion of Spain were determined on, without consultation, in spite of remonstrances now sunk to whispers, on mere fancies of his own imagination; and he followed them to his ruin. It is thus all merely personal government must end, and it is from mere personal irresponsible rule the Navy is now suffering. If Napoleon could take advice, certainly Mr. Welles should not be above it. If he needed counselors around him, I submit that Mr. Fox is not a sufficient counselor for the Secretary of the Navy.

Now, what do I propose? First, that professional officers shall be appointed by the President. Next, that they shall advise the Secretary of the Navy on every matter relating to naval administration, naval legislation, and the application of the naval force in time of war. It does not compel him to follow, it gives him the privilege of taking, the advice of this board. But on the great subjects that involve vast expenditures, the organization of navy-yards, the structure of new vessels, the forms of iron-clads, the adoption of new machinery, the pursuit of investigations in new departments of inquiry—on these subjects the bill says, not that the Secretary shall be bound to come to the same conclusion with the board, but that he shall come to no conclusion, and shall make no order, until he has taken the advice of this board. Tell me what harm advice can do him. It does not divide the responsibility. It does not delay his judgment. It does not control his conclusions. It puts light around him, and then leaves him to take the way to ruin if he sees fit to do so, on his responsibility before the American people, with the advice which he has had, and which we have provided for him,

lying printed beneath his eyes, to condemn or to justify him.

The honorable gentleman who heads the Naval Committee [Mr. RICE, of Massachusetts] has informed us that boards have been organized, from time to time, by the Navy Department, for its assistance, and that that is done continually. Then, sir, if the Department, at its discretion, feels the necessity of advice, why should not the country have the benefit of the experience of men responsible to it, appointed under the law by the President and confirmed by the Senate, whose opinions shall stand before the country, instead of having a commission, packed for the occasion, responsible to no law and no person, but simply executing the Secretary's will and caprice? Why should we not have this board, instead of one to be summoned, as in the case of the additional expenses of the Dictator, for the purpose of revising the decision of another board, and of coming to a conclusion more satisfactory to the Department? the results of their adverse judgment known only by accident, and after Congress, in ignorance of their findings, had improvidently ratified the reckless extravagance of the Department for "the honor and interest" of the Government.

The committee treat my observations on their hunt for a navy-yard as an imputation on them. Nothing is further from my meaning. My complaint at the loss of their services in the House was wholly playful; but the argument which pointed my remark was sharp and direct, and that they evaded under cover of a personal complaint. Gentlemen have treated this measure as an imputation on the Administration. Perhaps they did not understand the point of my argument; they did not answer it. It was that the Committee on Naval Affairs conceded, last session, the necessity of advice by constituting themselves into a board of admiralty for the Secretary of the Navy. If they thought he needed advice and that they were competent to advise him on the choice of navy-yards, is not a board of naval officers as competent and as necessary to give advice upon the great questions of naval administration?

But, in the pursuit of their argument derived from the experience of the Board of Admiralty in England, the honorable gentlemen brought themselves, I think, into divers inconsistencies. They even attempted to play on our prejudices in favor of American genius. They are not more American than I am. They attempted to awaken the susceptibilities of this House by imputations that I had depreciated the enterprise of the American Navy. Mr. Chairman, every officer of the American Navy knows that I am pleading his cause; and if I do not give the names of officers of the first position in the Navy who hang breathless on the passage of the measure, it is because the Assistant Secretary of the Navy says that court-martials are organized to convict.

But, sir, let us pursue the argument on the question of the English Board of Admiralty. Notwithstanding this perpetual American gasconade about the performances of the Monitor in Hampton Roads, which, we are told, according to English authority quoted here, has made all their ships useless, neither France nor England has built a single monitor; and that was in 1862, and we are now in 1865. Russia has built thirteen monitors, we are boastfully told. When did Russia become a naval Power whose opinions could instruct Americans on a question of naval armament? Sir, I may have said bitter things in the course of my observations, but I said nothing so bitter and so insulting to the American Navy or the Navy Department as that.

But the honorable gentleman from Maine [Mr. PIKE] informs us that English authorities declare "that all their broadside vessels of the iron-clad class, like the Warrior, will have to be built over." Yet there they stand unchanged. England still adheres to her system of broadside iron-clads as tenaciously as she holds to the "exploded" Board of Admiralty. I suppose that we shall next be told that England is no naval Power, because she has changed neither the organization of her Navy Department nor the structure of the iron-clads that she has built.

The honorable gentleman has cited another authority, Sir Charles Napier, and one of the Napiers so proverbial for their quarrels in both branches of the English service. But what does he complain of? Unfair promotion and lack of

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responsibility. Will the gentleman ask any officer of the Navy of the United States whether he thinks that the promotions in our Navy are fair? That is a most unfortunate topic for the honorable gentleman just now that the Department has organized the board of promotions, on which its malice has excluded the officers of the south Atlantic squadron from the representation accorded every other squadron. Where is any responsibility? Who is responsible for anything that is done? For we have a head that does nothing, and the active power under him, irresponsible, that does everything.

Then the same honorable gentleman quoted a high English authority as saying that it would be an outrage to send men into action in wooden vessels. Why does he cast such an imputation upon the head of the Navy Department that sent Farragut to Mobile and Porter to Fort Fisher in wooden vessels, and is now building a whole fleet of them, with engines alone costing \$400,000 and \$600,000 each?

But a word on the question of iron-clads abroad. The "American idea," as it is called, embodied in the Monitor and the Dictator, has hitherto produced nothing that will cross the ocean. The New Ironsides that will cross it is not on that American idea, but a copy of the Warrior. And whatever opinions of magazines or officers the gentleman from Maine may quote, it is not true either that England or France has adopted the American idea or abandoned as failures the Warrior or La Gloire. Against those hasty suggestions I quote and prefer the opinion of an American naval constructor, that gentleman whom the gentleman from Maine so justly eulogized, the great naval constructor of the United States, Lenthall, to whom we are indebted for our great superiority in the structure of our wooden vessels. He does not think that the iron-clads of either England or France are a failure, but does think that we have now nothing to oppose them. Here are his words:

"For the protection of our coasts and harbors we are probably well prepared; but we have only three vessels that can pretend to cope with the sea-going iron-clad vessels of European nations, and these have not yet been tried. It is a problem to be yet resolved, whether a large steam vessel with her deck a foot or two above water, and without sails, can be effective and use her guns as a cruising ship. Experience has shown that as ships increase in dimensions and weight there must be a certain relative portion above the water; that is, the height of the guns from the water should be increased; but this may, to some extent, be modified by making sacrifices in some other qualities.

"The accounts we have of the performances of the iron-clad European vessels, if to be relied on, show that the elevated position of their armor-plating has not seriously affected the motion of the vessels, and some of them are represented as being easier than ordinary vessels. Their large dimensions have much influence in this; but our principal harbors do not permit us to have so great a draught of water as European vessels have, which is stated to be from twenty-six to twenty-seven feet."

Now, sir, with reference to the iron-clad navies of France and England, abandoned upon the mere rumor of the impossible Dictator, let me read again:

"Until such time as it becomes the policy of the Government to build iron-armored vessels for sea service—and, whenever commenced, it will require some years to have them in sufficient number to keep an enemy from our coast—we must have recourse to plating wood vessels, of which the first cost may appear less, though it is certain to be more expensive in the end.

"Unless we have armored sea-going ships?"—

Not Monitors, not Dictators, not Dunderbergs, but armed sea-going ships—

"We must give up the expectation of engaging our foes on the ocean, and must limit our operations to attacks on their commerce with fast and light-armored vessels."

That is the judgment of our great naval constructor upon the extent to which the American idea of monitors has affected the sea-going iron-clads of Europe. He declares that we must go to work and build iron-clads of the same class, if we contemplate meeting them on the ocean in battle array.

I will not repeat what I quoted from Admiral Porter about the New Ironsides—the only vessel of that kind in the Navy—the best he ever saw

for aggressive purposes, the counterpart of the Warrior; so that the Warrior class cannot be a failure if she is not. But I cannot refrain from invoking against the Department and the gentleman from Maine the judgment of Dahlgren, who went to Charleston to do impossibilities and staid there two years without accomplishing them; who went there to show that monitors could take forts, and has taken none. Though he was pledged by his appointment to a judgment in favor of the administration wherever it was possible, his scientific judgment could not be so deluded as to overlook the great power of this form of vessels. He ventures no opinion on the monitor form for sea-going cruisers, apologetically refuses a judgment on the general merits of iron-clads of that class, but gives the palm of superiority for aggression to the form which the gentleman from Maine supposes the monitors have exploded:

"The Ironsides is a fine, powerful ship. Her armor has stood heavy battering very well, and her broadside of seven eleven-inch guns and one eight-inch rifle, has always told with signal effect when opened on the enemy. Draught of water about fifteen and a half to sixteen feet. Speed six to seven knots, and crew about four hundred and forty men.

"Just as they are, the Ironsides is capable of a more rapid and concentrated fire, which, under the circumstances, made her guns more effective than the fifteen-inch of the monitors."

He, pledged by his appointment to a judgment in favor of the administration of the Navy Department, as far as it is possible to bend his scientific judgment to meet the expectations of the Department, cannot be so used as to put out of sight the great power of this form of vessel, or to venture an opinion in favor of monitors beyond the special circumstances of the war. He says what corroborates in every particular the statement of Admiral Porter read by me, that that vessel, constructed on that model, came more perfectly up to his idea of those intended for aggression than any other he had ever seen.

Now, sir, I agree with the honorable gentlemen of the committee that we cannot adjust these conflicting authorities. But here stands the great fact that while the general clamor across the water exaggerates the effect produced by the attack of the Monitor upon the Merrimac, it has not changed the course of European structure; it has not produced a single monitor in the ports of France or England; and the judgment of our naval officers is in conflict with the opinions quoted from abroad, responsible or irresponsible, by the gentleman from Maine, but conforms to the official judgments of France and England, that vessels of this class are neither a failure nor inferior to the American idea embodied in the monitors. I prefer the judgment of American naval officers to the judgment of English naval officers, and still more to the clamor of English magazines; and in any legislation for the benefit of the Navy I should consult their judgment and not a criticism of the English Board of Admiralty not analogous to the one I propose. Arguing from one to another is merely for the purpose of misleading the judgment of the House, or because gentlemen did not understand the bill they are criticising.

Now, Mr. Chairman, I do not contemplate following either of the gentlemen through their arguments, in which they evaded everything that was to be answered and controverted many things which were not asserted. But I desire to say, when my honorable friend on my right [Mr. Rice, of Massachusetts] spoke of the swiftness of the Lutaw—as if that in the least degree controverted my statements, which were in reference to war vessels of the Navy, and not to those river boats, as I termed them—he was introducing a topic I had not touched. I did not mean to say one word in respect to the speed of those vessels, because I considered them set out of the account as naval vessels. But the honorable gentleman must not suppose that I can allow to pass his statement of the performance of this vessel in smooth river water, without her provisions, without her ammunition—I do not know whether she had her armament—certainly without her full load

of coal, under none of the conditions of a vessel going to sea, subjected to no collision with the waves, as if I accepted that as a test of the power of the same vessel at sea.

Mr. RICE, of Massachusetts. Does the gentleman want to hear the report of Admiral Porter in reference to the sea-going of that vessel?

Mr. DAVIS, of Maryland. I do not know that that is in question. I spoke of the validity of your answer to a challenge of the speed of the Navy vessels. The question being as to the speed of the screw vessel, the Department ostentatiously put forward a river steamer, a paddle-wheel boat, upon smooth water, without the load necessary to be carried at sea, to answer the problem of the speed of screw sloops on the ocean; and gentlemen can form their own judgment whether that solved the problem submitted for solution, or served any other purpose than to mislead the public mind from the real question.

But, since the gentleman has referred to the double-enders in that behalf, I will do what I did not do the other day. I said then only this: whatever may be their speed, the faster it carries them into action the faster it will carry them to the bottom; that, since all their machinery and boilers are above water they are doomed to inevitable destruction in any general naval action where equal forces come into collision. I said for those reasons those vessels were not to be counted a part of our naval force for a war with a naval Power.

Mr. RICE, of Massachusetts. How can you build a ship to draw only six or seven feet with its machinery below the water-line?

Mr. DAVIS, of Maryland. I thank the honorable gentleman for that question. A board of engineers, summoned by the Department to criticise the machinery placed in these and other vessels, said that because of its peculiar form the boiler projected above the water-line, but that with a proper model it could be placed below.

Mr. RICE, of Massachusetts. State what model they recommended, or does the gentleman know of any?

Mr. DAVIS, of Maryland. The honorable gentleman has their report, and can read it for himself. My impression is neither he nor the Department read it after summoning the board. The report will show what I state to be correct; but no form of machinery of a paddle-wheel steamer can be protected, and therefore none of these vessels are war vessels.

But, sir, what I meant to refer to now, though not covered by my former remarks, is this: that it will appear that after the explosion on the Chenango in New York harbor, killing and wounding nobody can tell how many of our sailors, an investigation took place before the coroner, and the coroner, after a full investigation upon the evidence, stated the result of the evidence to the jury; and it went to show conclusively that the boilers placed in this vessel, and others of her class, which were condemned by the board of engineers summoned by the Navy Department, were so liable, by their peculiar structure, to exhaust the water in the boiler, that it was dangerous to run the vessel with open ports or full power. And that was proved by the officers of the vessel themselves.

I now send to the Clerk to be read an extract from that investigation.

The Clerk read, as follows:

"It is apparent that the engineer corps of the Navy, as well as the persons whose plans are involved, have a deep interest in assigning some other cause than low water; since if it were low it must have been so either from carelessness of engineers or from inherent defects in the organization which baffled the ordinary skill of such persons as had the machine in charge; yet no attempt has been made to explain away the melted lead or to reconcile its presence with the fact that there was enough water in the boiler. And as this is the ordinary cause of explosion it would seem consequently the true one here, particularly since no evidence of any sort has been produced to substitute any other cause; and we are left to the mere suggestion, without proof, that possibly the braces might have been taken out by Mr. Cahill and not replaced, or possibly the cold-water test, which experience has shown to be infallible, has in this case proved a snare. Unfortunately, there are other facts, which point out very clearly the existence of



an organic disease in these vessels, requiring the utmost vigilance to guard against, the presence of which is abundantly proved. A number of these vessels are just now coming out, and it so happened that on Saturday, the 16th, the day after this explosion, the Pawtuxet, having been run for ninety-six hours at the dock, was taken out on a trial trip from Providence. In the course of the run it became necessary to shut off the steam from the engine, from some cause, and thus the fire appeared that the water, which had seemed to be abundant in the gauges, was low. Mr. Baker, an experienced engineer, who set up and ran the engine on her ninety-six hours' trial, at once had the fires drawn from the furnaces, as a measure of safety, the necessity of which, under the circumstances, Mr. Sewell admitted to you when on the stand, and it was found that the steam pump required twenty-two minutes to resupply the boiler with the water found wanting, although the gauges had given no warning of its absence. But for Mr. Baker this accident would have probably had its counterpart; and so convinced of the danger of the machine was Mr. Baker that he refused to come to New York in the vessel unless he had the control given him; and he has told us these facts, and sworn to the danger.

"On the Chenango, the experienced engineers who ran the engine at the dock have told us that they considered their lives in danger from the liability to low water; and so convinced were they of it that they refused to open wide the throttle-valve, though the United States engineers who were present insisted that the contract required the engine to be run wide open. Mr. Smith, the engineer who erected and ran the engine of the Metacomb, another of the same class, has proved here that the water could only be kept in her boilers by so setting the valves that they would not fully open when the engine worked; and that when those valves were ordered by Mr. Sewell to be set so as to open wider, and the vessel was run from the ship to the navy-yard, the water worked so that the valves had to be put back to their original position, which was done by himself at the navy-yard, under orders from the chief-engineer of the ship. The drawings of these engines have been produced before us, and the measurements made of the cubic feet of vacant space which existed in these cylinders between the valves when they are closed and the piston when at the extreme end of the cylinder nearest the closed valves, and it appears that these spaces are great enough to hold more than sixteen hundred pounds of water at a revolution before they will be filled so as to arrest the motion of the piston as it approaches the end of the cylinder, and compel the opening of the relief valves, which are placed in each end of the cylinder to prevent the destruction of the engine by the confinement of the solid water in the cylinder; yet it appears here that even more than this quantity of water would at times come over from the boiler at a revolution, and that these self-acting relief valves had to be opened constantly by hand, to permit the escape of this enormous quantity of water more freely than it could be voided by the self-acting valves. When it is considered that only about nine pounds of water in the shape of steam are needed to make the ordinary revolution of these engines, and that at times they draw even more than three quarters of a ton of water at a revolution, it is very easy to see how the boilers might be robbed of their water in a very few minutes, and the attention of an ordinary man be eluded.

"The coal burned by the Chenango on her trial has been proved, and the amount of steam which that coal produced has been measured on the indicator diagrams which were taken on the trials, by which it is proved that in the form of steam these boilers only evaporate from three to four pounds of water to the pound of coal, whereas if they did not use up the heat by carrying it off from the boiler in hot water they would evaporate seven or eight pounds of water into steam; and it is testified to here, and the calculations show upon the indicator diagrams themselves, that these engines must have been working out of the boilers, in water, on an average during the ninety-six hours of the trial, about six times as much hot water as steam. Of the accuracy of such calculation, based upon comparing the weight of coal burned with the cubic feet of steam used by the engine, you are perhaps better judges than I am; but it is to be remarked that these calculations have been on the table for several days challenging contradiction, and that they are not disputed. It is further proved here that a considerable number of these vessels, exactly like the Chenango, have been recently built and tried, and that they are now awaiting orders for sea; yet no witness has appeared before us to say that any of the other of these vessels have operated differently from those whose performance has been proved; although there is no want of proof that when these boilers are arranged with a high steam space above the ends of the tubes, and a steam chimney, they do not work out their water. It would have been much more instructive to us if the engineers who have run so many of these low-roofed boilers had been produced, instead of those whose only experience has been with boilers not liable to that difficulty.

"It is not very surprising, perhaps, that among the great number of vessels used by the United States and placed in the hands of young men who have had but little experience, and who are employed when there is a scarcity of engineers, on account of the great demand for the services of such men suddenly made by the Navy, that an explosion should occur at some time; and if the machinery were of the ordinary kind the accident would excite no unusual interest. But when it occurs on machinery peculiar in its construction, and which had been condemned as inferior by an official board of the most eminent engineers in the country, and when it appears that those peculiarities have so exhibited their dangerous qualities as to alarm practical and scientific men, and to induce them to foretell an accident of this kind; and when we find these peculiarities existing on a greater number of our vessels just now coming into use, upon which the lives of our fellow-citizens are to be intrusted, then it is of serious consequence, and demands of us to raise a voice of warning in time to prevent any more such horrors as we have witnessed. Our brave men, who are willing to expose their bosoms to the enemy's shot, ought not to be subjected to the chances of a horrible death at the hands of their own friends, and in their own floating homes."

Mr. DAVIS, of Maryland. So much for the boilers of the double-enders.

Two gentlemen of the Committee on Naval Affairs have made great complaint that I imposed upon them last year a burden too heavy to be borne in the resolution of inquiry I introduced relative to steam machinery. Mr. Chairman, when I referred that resolution to the Naval Committee I thought I was paying them the highest compliment I could bestow, for I supposed I was sending a resolution to a committee which, from its connection with the Department, would have the best means possible of information; and from their attendance to the interests of the Navy would prosecute their inquiry with energy and thoroughness, and give us the full benefit of their judgment. It related to the same matter investigated in part by the board of engineers organized by the Department in 1863, and disregarded by the Department. It was intended to save the ruin of the machinery of the Navy, to bring it to the test of science and knowledge; and the topics which were to be inquired into could have been inquired into effectually as well in the course of two weeks as in the time which has elapsed from the day that resolution was brought in down to the day the committee brought in their report about a week ago. There were a few topics, and only a few, requiring investigation, which the examination of half a dozen engineers would have settled almost immediately, and the Department and this House would have had the results of the investigation upon that subject in time to act upon it.

But on the contrary what do we find? The stupendous diligence of the gentlemen of that committee had absorbed all their leisure time from the day of the reference of the resolution down to the day, I think, before the motion made by me to append this amendment to the naval bill. An immense mass of testimony—twenty-two hundred pages—was introduced, which nobody can possibly read, which nobody can possibly consider. Their report came here and has not yet been printed. It is worth now substantially, no matter how wise or correct the resolution to which the committee came, just as much as the paper upon which it will be printed, because during the time that the investigation was being carried on the Department had been building the very machinery that it was intended to test and correct and examine. Just as the Department has kept an investigation going on to verify the results of the report of the engineers appointed in February, 1863, still diligently at work in November, 1864, and all the time, the Department, since February, 1863, has been building the machinery; so that, without its being intended to have that effect by the gentlemen making the investigation, exactly the same result has been accomplished, that is to say, the Government does not get the advantage of the investigation at all, but while the investigation has been lumbering on, every machine shop in the country has been ringing with the construction of the very machinery which is in question. In a word, both investigations have been a mere screen to the Department, giving impunity to its gross abuse of the public confidence.

Mr. GANSON. I would ask the gentleman if it would not be a more direct and reliable mode of obtaining information to have the head of the Naval Department upon this floor?

Mr. DAVIS, of Maryland. I answer that question with very great pleasure. If the information were in the head of the Department, I would say yes. [Laughter.]

Mr. GANSON. I would ask the gentleman if he has found that it is so? [Laughter.]

Mr. DAVIS, of Maryland. I fear the gentleman does not give me credit for as much acuteness as I flattered myself I possessed. I had found that out long ago. [Laughter.]

I take leave of this digression.

Sir, I submit that this measure must be determined on its merits. Gentlemen cannot escape responsibility before the country by saying that I proposed it out of ill-temper; nor that a vote for it might disturb their relations with the Department; nor that their appointments might be interfered with; nor that it might diminish their capacity to serve their constituents with the head of the Department, whom the gentleman from Missouri [Mr. Blow] eulogized so strenuously, I take it, in order to procure weight for his navy-yard at Carondelet. These arguments cannot support

them before the country, and they are dangerous arguments to go into a political contest thereon. I ask a vote upon the measure I propose, not upon my disgust at the Department; I ask the vote upon the public considerations which must determine the judgment of the country that the measure is right or wrong. I ask gentlemen to say whether they think the Navy Department has been managed so during this war that no advice can improve it. I ask them whether they are content that the American commerce shall have been swept from the ocean by five rebel privateers, with six hundred cruisers in our Navy to catch and destroy them. I ask them if they think that American commerce can live if this is what we call an energetic and wise management of the Navy Department. If we give the Navy a chance to live, and a voice in its own preservation, we may rescue our commerce from destruction, and when we are called upon to meet a great naval Power on the ocean, we shall not be driven to imitate the plundering warfare of the rebels, and, shunning our armed enemies, go mousing over the ocean for their defenseless commerce, but, like a great Power, meet our foes in arms and dictate terms of peace on the water as well as on the land. When gentlemen shall take steps to do that America will be a Power; but as long as Congress will not assert its supremacy over the Departments and prescribe such organization of them as will give this nation the benefit of its resources, so long as Congress stops to inquire what the Departments wish, instead of imposing on them what the interest of the nation requires, we will be powerless before the nations of the world.

Mr. Chairman, I wish to say that I am here to-day pleading the cause of the American Navy against the Navy Department. I am saying what four out of five of the officers of the Navy would say had they a voice in this House. I say what the ablest and leading men of the Navy would say to-day through the newspapers, were it not that the fear of exposure makes the Department despotic. Gentlemen quote here the opinions of officers of the British navy against the administration of their navy; but who in our Navy dare say anything against the management of our Navy Department? Have we not seen one of the most distinguished officers of our Navy, Commodore Wilkes, for controverting statements in the report of the Department seriously affecting his honor as an officer, dragged before a court? Was that court organized on principles of justice, or was it organized "to convict," in the language of the Assistant Secretary of the Navy? He was dragged before a court for vindicating himself and his own administration of the squadron under his command, and subjected to three years' suspension from service—a cruel and disgraceful persecution such as never before has tarnished the administration of the American Navy. Sir, this system of tyranny in the Department deprives the country of the benefit of the opinion and advice and judgment of the officers of the Navy upon the structure and organization of the American Navy. They are always ready to risk their lives and shed their blood on anything that will float, but they shrink from advising the country for the benefit of the Navy at the expense of a trial by a court organized to convict. Let them have a voice in the making of the vessels they are to navigate; let them have a voice in the selection of the artillery they are to use; let them have a voice in advising where they shall be sent. Had this been done the Alabama's career would have been shorter and less disastrous. The coal depots and other necessities of navigation, the lines of commercial transit, the passes of the seas, pointed out the line where rebel cruisers must go from any given point; and any competent board could have devised a plan to meet and destroy them. Under the spasmodic guesswork by which the Alabama was pursued by this administration for four years, our commerce was swept from the ocean, sent to the bottom, or driven under foreign flags. Rebel cruisers burnt our ships not merely on distant seas but almost within sight of the American coast; and then the Department telegraphed to the navy-yards, and all the newspapers were filled with eulogies of the marvelous diligence of the Department in setting vessels afloat to catch the rebel cruisers. Those seas swarmed with vessels sent to the spot where the burning took place, and came back to report that the rebel cruisers

were not there, and that nothing was found but the ashes of the conflagration.

That system, sir, is one which could not have existed had there been competent professional advisers around the Secretary. His own patriotism, his feeling for his country's cause, the vain clamor of New York merchants, their cry to him to spare their commerce, would have compelled him to listen, if the law had only clothed a board of officers with the right to speak, free from the danger of courts-martial organized to convict. It is that great deficiency that I am now trying to remedy. I am not influenced by any estimate of the personal value of the present Secretary, or of any other Secretary of the Navy. Be he as respectable as he may, be he as able and upright as he may, be he as honest and efficient as he may, I would not waste five minutes of the precious time of this House in eulogizing or in condemning him. I look beyond men to measures. I look beyond the head of the Department to the great country which that Department represents. I look beyond the brief and fitting moments of his official life, now rapidly drawing to a close—if the prayer of every naval officer can be heard—to the day when the American nation will have to vindicate its power before the nations of the world now insidiously seeking our ruin, not by stealthy depredations on unarmed traders, but with a Navy bearing proudly the banner of the Republic over the seas, worthy to meet in arms the armed foes of the thirty millions of united Americans whose freedom and empire it guards, and able to prove on some great historic day that the Republic can neither be torn asunder by internal dissensions nor browbeaten by the coalesced monarchies of Europe. [Applause on the floor.]

The CHAIRMAN. The question is on the adoption of the amendment.

Mr. WASHBURN, of Illinois. What has become of my appeal from the decision of the Chair on the point of order?

The CHAIRMAN. The first question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. PIKE. I have but one word to say on the subject.

The CHAIRMAN. Debate is not in order.

Mr. PIKE. I propose to offer an amendment, and to speak to it.

The CHAIRMAN. That will be in order after the question of the appeal is disposed of.

The question was taken; and the decision of the Chair was sustained, ruling the amendment of the gentleman from Maryland [Mr. Davis] to be in order.

Mr. PIKE. I now propose to offer an amendment, if it be in order.

The CHAIRMAN. It is in order to offer an amendment to the amendment, but not to debate it except for five minutes.

Mr. PIKE. I move to amend the amendment by striking out the last line.

The CHAIRMAN. The gentleman will confine himself to the reasons for striking out that last line. [Laughter.]

Mr. PIKE. I made no point, Mr. Chairman, as to the ill temper of the gentleman from Maryland, which has called out this most intemperate reply. He has made profert voluntarily of his own temper, and I think with him that the House would be unwise to pivot upon it its action upon an important measure. But that gentleman did say about the Committee on Naval Affairs that it was simply recording the opinions of the naval Department. I asked what evidence he had for making that charge, and for attempting to belittle the committee, and in the remarks which he has just made to the House he has withdrawn the insinuation. I stated in reply to that charge that I, for one, so far from being influenced by the opinion of the naval Department, did not know what that opinion was, and had not taken means to inform myself of it, that I had had no conversation either with the Secretary or Assistant Secretary on this important measure, but that judging from the measure itself—which I stated in my remarks I understood to be an advisory board, more after the fashion of the French board, and not a controlling board after the manner of the British admiralty, that it was a conglomerate of the two systems, with the bad qualities of both; and I adduced naval opinion against the plan to show that it would simply introduce confusion into the coun-

cils of the Navy, that the board would be simply a debating society, that it would entail needless discussion, and that it would deprive the Navy of that single responsible head, which, in the opinion of Sir Charles Napier and other naval writers, is essential to its efficiency.

Now, one word more, and only one word, upon this question of armed vessels, upon which the gentleman cited the opinion of the distinguished head of the Bureau of Construction. Sir, that gentleman reported to the head of the Navy Department, and the head of the Navy Department sent his report in here approvingly, asking of this Congress, at the last session, that they would make appropriations for the purpose of building large armed vessels, vessels which European opinion has decided cannot be efficient unless with the enormous tonnage of six, seven, and eight thousand tons. But Congress decided, and properly, in my opinion, that the condition of the public Treasury was not such as to justify, at that time, an appropriation to carry out the recommendation of the Navy Department on this subject; and now the gentleman from Maryland complains of the head of the Navy Department for not building that class of vessels.

[Here the hammer fell.]

The question being taken on the amendment of Mr. Davis, of Maryland, there were, on a division—ayes 48, noes 44.

Mr. PIKE demanded tellers.

Tellers were ordered; and Mr. Davis, of Maryland, and Mr. Rice, of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 60, noes 57.

So the amendment was agreed to.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union, having had under consideration the special order, the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, had directed him to report the same with sundry amendments.

Mr. STEVENS. I now call the previous question upon the bill and amendments.

The previous question was seconded, and the main question ordered.

Mr. STEVENS. Most of the amendments were adopted against the opinion of the Committee of Ways and Means; but I am willing that the vote shall be taken upon them in the lump, except the last, which strikes out all after line three hundred to the end of the bill. That amendment, if adopted by the House, will leave the ordnance department and several other departments without appropriations which are absolutely necessary.

Mr. PIKE. I ask for a separate vote on the amendment of the gentleman from Maryland, [Mr. Davis.]

Mr. HOLMAN. I call for a separate vote on each amendment.

The first amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

In line eleven strike out the word "construction," and insert in lieu thereof the word "completion."

The amendment was agreed to.

The second amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

In line twelve strike out "twenty-one million five hundred and seventy;" and insert in lieu thereof "twenty-four million five hundred and thirty;" so that the clause will read:

For the construction and repair of vessels of the Navy, twenty-four million five hundred and thirty thousand dollars.

The amendment was agreed to.

The third amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

After line seventeen insert: "For bounties to seamen, \$1,000,000."

The amendment was agreed to.

The fourth amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

After line one hundred and forty-nine insert: "For completion of joiners' building, \$25,000."

The amendment was agreed to.

The fifth amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

Strike out, commencing at line two hundred and seventy-seven, the following words:

"And there is hereby authorized to be appointed in said office one additional aid, at an annual salary of \$1,333 33, and said amount is hereby appropriated therefor."

The amendment was agreed to.

The sixth amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

Strike out all after line three hundred to the end of the printed bill, as follows:

For pay of clerks in the ordnance departments at the several navy-yards, in lieu of the present per diem pay, namely:

For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,200.

For salary of one clerk at \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.

For salary of one clerk at \$1,200 per annum, and one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

For salary of one clerk at the Philadelphia navy-yard, \$1,200.

For salary of one clerk at \$1,400, one clerk at \$1,000, one draughtsman at \$1,000, one analytical chemist at \$2,500 per annum, one assistant pyrotechnist at \$1,400, and one keeper of magazine at \$480 per annum, at the Washington navy-yard, \$8,380.

On agreeing to the amendment,

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 75, not voting 55; as follows:

YEAS—Messrs. Alley, Allison, Ames, Aneona, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Boutwell, Brandegee, William G. Brown, Ambrose W. Clark, Cobb, Dawes, Dawson, Eckley, Eliot, Finck, Grinnell, Harrington, Benjamin G. Harris, Holman, Hotchkiss, John H. Hubbard, Orlando Kellogg, Knapp, McClurg, McIndoe, Middleton, Samuel F. Miller, Noble, Orth, Perham, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Spaulding, Stiles, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, Wilson, Windom, and Winfield—52.

NAYS—Messrs. James C. Allen, Ashley, Bailey, Baxter, Blow, Boyd, Broomall, Chanler, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Deming, Driggs, Eden, Edgerton, Eldridge, English, Farnsworth, Frank, Garfield, Grider, Griswold, Hale, Hall, Charles M. Harris, Herrick, Higby, Hooper, Hulburd, Ingersoll, Jenckes, Philip Johnson, Kelley, Francis W. Kellogg, Knox, Law, Le Blond, Loan, Long, Longyear, Marvin, McBride, McKinney, Morrill, Daniel Morris, James R. Morris, Amos Myers, Norton, Odell, Charles O'Neill, John O'Neill, Patterson, Pendleton, Perry, Pruyn, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Shannon, Smithers, Stevens, Strouse, Sweet, Townsend, Wadsworth, Ward, Whaley, Joseph W. White, Wilder, Fernando Wood, Woodbridge, and Yeaman—75.

NOT VOTING—Messrs. William J. Allen, Anderson, Blaine, Blair, Bliss, Brooks, James S. Brown, Freeman Clarke, Clay, Coffroth, Cole, Creswell, Denison, Dixon, Donnelly, Dumont, Ganson, Gooch, Harding, Asahel W. Hubbard, Hutchins, William Johnson, Julian, Kalbfleisch, Kasson, Kernan, King, Lazard, Littlejohn, Mallory, Marey, McAllister, McDowell, William H. Miller, Moorhead, Morrison, Leonard Myers, Nelson, Radford, Samuel J. Randall, Robinson, Scott, Smith, Starr, John B. Steele, William G. Steele, Stuart, Thayer, Thomas, Voorhees, Webster, Chilton A. White, Williams, Benjamin Wood, and Worthington—55.

So the amendment was non-concurred in.

During the roll-call, Mr. O'NEILL, of Pennsylvania, stated that his colleague, Mr. L. MYERS, was detained at his room by indisposition.

The vote was then announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The seventh amendment was read, as follows:

Add to the bill the following:

One midshipman, in addition to those now allowed by law, shall be appointed for each congressional district and Territory, to be appointed on the nomination of the present members of Congress and delegates from said districts and Territories respectively; but no midshipman shall be appointed for any district not represented in Congress.

Mr. SPALDING asked unanimous consent to insert a provision for the District of Columbia.

Mr. WASHBURN, of Illinois, objected.

Mr. WASHBURN, of Illinois, asked unanimous consent to insert the word "hereafter."

Mr. SPALDING objected.

The amendment was concurred in.

The eighth and last amendment reported from the Committee of the Whole on the state of the Union was then read, as follows:

Add to the bill the following:

Provided, That no money appropriated for the naval ser-

vice shall be expended otherwise than in accordance with the following provisions, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

SEC. — *And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

SEC. — *And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

SEC. — *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it subject to the approval of the Secretary.

SEC. — *And be it further enacted*, That the Secretary may add to the board from time to time other officers of the Navy eligible to the position of chief of bureau, not exceeding three at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 60, nays 70, not voting 52; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bailey, Augustus C. Baldwin, Beaman, Blaine, Boyd, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawson, Driggs, Eden, Fluck, Canson, Garfield, Hall, Harrington, Higby, Holman, Asahel W. Hubbard, Hubbard, Philip Johnson, Julian, Orlando Kellogg, Knapp, Knox, Le Blond, Long, Longyear, McClurg, McIndoe, McKinney, Middleton, Samuel F. Miller, Morrill, Daniel Morris, James R. Morris, Noble, John O'Neill, Orth, Pendleton, Price, Prayn, Ross, Schenck, Shannon, Smithers, Stevens, Stiles, Strouse, Townsend, Upson, Wadsworth, Elinor B. Washburne, Joseph W. White, Williams, and Wilder—60.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Blow, Boutwell, Brandegee, Broomall, William G. Brown, Chandler, Ambrose W. Clark, Cobb, Dawes, Denning, Dumont, Eckley, Edgerton, Eldridge, Eliot, English, Fairbank, Frank, Grider, Grinnell, Griswold, Hale, Benjamin G. Harris, Charles M. Harris, Harrick, Hooper, John H. Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Law, Loan, Marvin, Amos Myers, Norton, Odell, Charles O'Neill, Patterson, Perham, Perry, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Spalding, John B. Steele, Sweet, Van Valkenburgh, Ward, William B. Washburn, Whaley, Wheeler, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—70.

NOT VOTING—Messrs. William J. Allen, Anderson, Blair, Bliss, Brooks, James S. Brown, Freeman Clarke, Clay, Coffroth, Cole, Creswell, Denison, Dixon, Donnelly, Gooch, Harding, Hotchkiss, Hutchins, William Johnson, Kibbleschick, Kasson, Kernan, King, Lazenby, Littlejohn, Mallory, Marey, McAllister, McBride, McDowell, William H. Miller, Moorhead, Morrison, Leonard Myers, Nelson, Radford, Samuel J. Randall, Robinson, Scofield, Scott, Sloan, Smith, Starr, William G. Steele, Stuart, Thayer, Thomas, Tracy, Voorhees, Webster, Chilton A. White, Benjamin Wood, and Worthington—52.

So the amendment was non-concurred in.

During the roll-call,

Mr. DAWES stated that his colleague, Mr. GOOCH, had been compelled to leave the House by illness.

The vote was then announced as above recorded.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EVENING SESSIONS.

Mr. MORRILL. I ask unanimous consent of the House to submit the following resolution:

*Resolved*, That on and after Wednesday next, except

Saturdays, unless otherwise ordered, the House will take a recess daily at thirty minutes after four o'clock, p. m., to meet again at seven o'clock, p. m., for the transaction of business.

Mr. ANCONA. I object.

Mr. MORRILL moved to suspend the rules.

The question was taken, and two thirds voting in favor thereof, the rules were suspended.

The resolution was then adopted.

Mr. MORRILL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COUNTING THE ELECTORAL VOTES.

Mr. STEVENS. I ask unanimous consent to take from the Speaker's table and put upon its passage a concurrent resolution sent to us from the Senate to-day in reference to counting the electoral votes.

No objection being made, the resolution was taken up, considered, and agreed to; as follows:

*Resolved by the Senate*, (the House of Representatives concurring therein,) That the following be added to the joint rules of the two Houses, namely:

"The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the second Wednesday in February next, succeeding the meeting of the electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer. One teller shall be appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers having read the same in the presence and hearing of the two Houses thus assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the substance of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two Houses, which being obtained, the two Houses shall immediately reassemble, and the Presiding Officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either House. And any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner.

At such joint meeting of the two Houses seats shall be provided as follows: for the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; for the Senators, in the body of the Hall upon the right of the Presiding Officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform.

Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared, and no recess shall be taken unless a question shall have arisen in regard to the counting of any of such vote, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess not beyond the next day at the hour of one o'clock, p. m.

Mr. STEVENS moved that the vote by which the resolution was agreed to be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### QUOTAS OF THE SEVERAL DISTRICTS.

Mr. CHANLER. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Secretary of War be, and is hereby, directed to communicate to this House at an early day the basis upon which the quotas of the different districts of the States have been established and adjusted under each of the several calls for troops by the President of the United States, together with a detailed statement of the number of troops and seamen furnished by each State and district since the outbreak of the rebellion, with their respective terms of service.

Mr. UPSON. I object.

At a subsequent stage of the proceedings Mr. UPSON withdrew his objection.

The SPEAKER. Is there further objection to the introduction of the resolution?

Mr. GARFIELD. I shall object unless the gentleman modifies it by putting in the words "if not incompatible with the public interest."

Mr. CHANLER. I have no objection to that modification.

Mr. KELLEY. I object to the introduction of the resolution.

#### CHANGE OF REFERENCE.

On motion of Mr. STEVENS the Committee of Ways and Means were discharged from the further consideration of a memorial of the citizens of Cincinnati, Ohio, praying for increased hospital accommodations at that place; and the same was referred to the Committee on Commerce.

#### RECONSTRUCTION.

Mr. SCHENCK. There is a special order for to-day which now properly comes before the House.

The SPEAKER. The special order now before the House, if the House proceeds to its consideration, is the bill in reference to reconstruction.

Mr. WASHBURN, of Illinois. I move to postpone that matter for two weeks.

Mr. STEVENS. I move that the House do now adjourn.

The motion was agreed to.

And thereupon (at four o'clock and forty minutes, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, February 7, 1865.

Prayer by Rev. B. H. NADAL, D. D., of Washington, District of Columbia.

On motion of Mr. SHERMAN, and by unanimous consent, the reading of the Journal was dispensed with.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the concurrent resolution of the Senate proposing an additional joint rule of the two Houses, providing that the two Houses shall assemble on the second Wednesday in February next after the meeting of the electors of President and Vice President of the United States, in the Hall of the House of Representatives, for the purpose of opening and counting the votes for President and Vice President; and prescribing the rules for the proceedings of the two Houses in such joint meeting.

The message further announced that the House of Representatives had passed a bill (H. R. No. 676) making appropriations for the naval service for the year ending the 30th of June, 1866.

#### TRADE WITH REBEL STATES.

The message further announced that the House of Representatives had passed a concurrent resolution to authorize the Committee on Commerce on the part of the Senate to join the Committee on Commerce on the part of the House, for the purpose of making certain investigations in regard to trade with the States in rebellion, and making said committees a joint committee for the purpose of completing said investigations; in which the concurrence of the Senate was requested.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the concurrent resolution just communicated from the House of Representatives in relation to the investigation of the subject of trade with the States in rebellion.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, (the Senate concurring,) That the Committee on Commerce on the part of the Senate be joined with the committee on the part of the House in the investigations which said Committee on Commerce are now engaged in, under resolutions of the House of January 20, 1865, and January 25, 1865, in regard to trade with the States in rebellion, to constitute a joint committee for the purpose of completing said investigations; and that the said joint committee have the same powers as the Committee on Commerce of the House now have on the subject of said investigation.

Mr. CHANDLER. I move that the Senate concur in the resolution.

The motion was agreed to.

#### TELLER TO COUNT PRESIDENTIAL VOTES.

Mr. TRUMBULL. The joint rule which has been adopted by the two Houses in regard to counting the votes for President and Vice President to-morrow makes it the duty of the Senate to appoint one teller on its part and the House to appoint two. I move that the President of the Senate appoint the teller on the part of the Senate.



The motion was agreed to, and the Vice President appointed Mr. TRUMBULL.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 676) making appropriations for the naval service for the year ending the 30th of June, 1866, was read twice by its title, and referred to the Committee on Finance.

#### PETITIONS AND MEMORIALS.

Mr. HARRIS presented a petition of merchants of the city of New York for the construction of a national ship-canal from Lake Erie to Lake Ontario; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented the petition of booksellers and newspaper publishers, praying for the repeal of the impost on chemicals, feltings, wire-cloths, and other articles used in the manufacture of paper, and also the abolition of the excise tax; which was referred to the Committee on Finance.

Mr. COWAN presented the petition of field and line officers of the thirty-first regiment United States colored troops, praying that a brevet second lieutenant drawing the pay of the grade may be authorized by law to be appointed for each company of the United States colored troops; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of booksellers and newspaper publishers, praying for the repeal of the impost on chemicals, feltings, wire-cloths, and other articles used in the manufacture of paper, and also the abolition of the excise tax; which was referred to the Committee on Finance.

Mr. MORRILL. I present the petition of H. C. Ingersoll, Mary Wendell, and Nancy J. Spalding, who represent that the use of foreign luxuries of apparel tends to take the gold from the country and to depreciate our national currency; that those persons who desire to purchase American fabrics only have found themselves unable to distinguish the productions of our own country from the fact that the best American goods are put into the market with a foreign stamp upon them; that our manufacturers and merchants have combined to perpetuate this wide-spread falsehood; that this course is detrimental to the public conscience, and injurious to our national honor and to the American name; and they therefore ask that Congress place such a tariff of duties upon foreign luxuries of apparel as shall amount to prohibition, thus rendering it impossible that the extent and variety of American goods shall longer be concealed, and making the fact plainly discernible to the large number of persons who earnestly desire to promote the best interests of their country that they can clothe themselves with neatness and good taste in American fabrics. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. WILSON. I present seventeen petitions of officers in the military service of the United States, praying for an increase of the pay of Army officers. As the Committee on Military Affairs, to whom such petitions have been referred, have made a report, I move that these petitions lie on the table.

Mr. WILSON also presented the memorial of A. C. Swartzwelder, surgeon United States volunteers, remonstrating against an increase of the pay of Army officers; which was ordered to lie on the table.

Mr. HARRIS presented a petition of officers in the military service of the United States, praying for an increase of the pay of Army officers; which was ordered to lie on the table.

He also presented three petitions of ministers of the gospel and pastors of churches, praying that ministers of the gospel may be exempted from military duty; which were referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented resolutions of the Legislature of Kansas in favor of a grant of land to aid in the construction of a railroad from Ellwood, via Marysville, to the Big Bend of the Republican river; which were referred to the Committee on Public Lands, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up House bill No. 307.

Mr. TRUMBULL. Before the Senator moves

to take up that bill, which I suppose will take some time, I ask—

Mr. CHANDLER. If the Senator has a pressing matter of business before the Senate, I will move the postponement of this bill until the day after to-morrow at one o'clock, and that it be made the special order for that time.

Mr. SHERMAN. What is the bill?

The VICE PRESIDENT. The Senator from Michigan moves to take up the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. TRUMBULL. I ask the Senator not to press that motion until I can call up a resolution which I laid upon the table some days ago in reference to the constitutional amendment, which ought to be acted upon. I desire to make a short statement as to the practice of the Government.

The VICE PRESIDENT. Does the Senator from Michigan withdraw his motion?

Mr. CHANDLER. No, sir, but I am willing to let it be passed over informally.

The VICE PRESIDENT. The Senator either withdraws the motion or he does not.

Mr. CHANDLER. I move to make the consideration of the bill the special order for Thursday next at one o'clock.

The VICE PRESIDENT. The Senator from Michigan first moves to take up the bill indicated by him.

Mr. SHERMAN. On that question I desire to say a word. I have been trying now faithfully for three weeks to get the attention of the Senate to the consideration of public bills reported by the Committee on Finance. On Thursday next, at farthest, we ought to take up the legislative, executive, and judicial appropriation bill. We are getting behind-hand in business. The bill which the Senator from Michigan seeks to call up is, I understand, the bill about the railroads, a controverted subject, which will lead to long argument, and cannot be acted upon without serious debate. I trust, therefore, it will not be made a special order to stand directly in the way of the legislative business of Congress which must be acted on.

I feel it to be my duty, occupying the place assigned to me by the Senate, to call for the yeas and nays on the honorable Senator's motion. If, however, he will allow the bill to stand like other bills on the Calendar, subject to be called up on his motion when other business is not pressing, I shall not have the slightest objection, but shall vote with him. If he desires to make it the special order for Thursday, so that it will interpose to prevent the ordinary legislative business, it is my duty to call for the yeas and nays, and let the Senate decide the question.

Mr. CHANDLER. I do not wish to antagonize this measure with any of the Senator's financial bills, as a matter of course; but I desire to get a vote on it at the earliest moment. I do not think it will lead to further discussion. I have taken great pains to give an opportunity to every Senator to consider it during the session, and I think the speeches are made; at any rate, if they are not made, it is the fault of those who desire to speak, not mine. I desire to press the bill to a vote.

Mr. DOOLITTLE. The Senator from Michigan will allow me to say that I do not think the discussion on that question has begun yet.

Mr. SHERMAN. Several Senators around me say they mean to discuss it.

The VICE PRESIDENT. The Senator from Ohio calls for the yeas and nays on this question.

Mr. CHANDLER. I withdraw the motion. The VICE PRESIDENT. Reports of committees are now in order.

Mr. TRUMBULL. Before proceeding with other business, I ask the Senate to take up the resolution in reference to the approval of the constitutional amendment by the President, and I move to postpone all prior orders for that purpose.

Mr. DIXON. Will the Senator from Illinois allow me to make a report?

Mr. TRUMBULL. I shall get through with this matter while the Senator is making his report, if he will allow me to get it out of the way. The motion was agreed to.

#### CONSTITUTIONAL AMENDMENT.

The Senate accordingly proceeded to the con-

sideration of the following resolution, which was submitted by Mr. TRUMBULL on the 4th instant:

Resolved, That the article of amendment proposed by Congress to be added to the Constitution of the United States, respecting the extinction of slavery therein, having been inadvertently presented to the President for his approval, it is hereby declared that such approval was unnecessary to give effect to the action of Congress in proposing said amendment, inconsistent with the former practice in reference to all amendments to the Constitution heretofore adopted, and being inadvertently done, should not constitute a precedent for the future; and the Secretary is hereby instructed not to communicate the notice of the approval of said proposed amendment by the President to the House of Representatives.

Mr. TRUMBULL. Since the Government was formed several amendments to the Constitution of the United States have been proposed by Congress and adopted by the States. They were all proposed at three different times; the first series of ten amendments was proposed in 1789; the eleventh amendment was proposed in 1794, and the twelfth amendment in 1803. The Constitution of the United States declares that "the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," which being ratified in the manner prescribed shall become a part thereof; and the amendments which have been heretofore adopted have been adopted under this clause of the Constitution authorizing Congress to propose amendments, and those proposed amendments have never been presented to the President of the United States for his approval. The clause of the Constitution which declares that "every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States;" and the clause that requires "every order, resolution, or vote to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment)," to be "presented to the President of the United States" for his approval, are not applicable to the proposal of amendments to the Constitution. Those clauses of the Constitution requiring the approval of the President to the bills which pass Congress and to the resolutions which pass both Houses, have reference to ordinary legislative proceedings; and hence, when amendments were proposed in 1789, 1794, and 1803, they were not presented to the President for his approval.

I have before me a statement prepared by the Chief Clerk of the Senate, of the different amendments which have been adopted, and the manner in which they were adopted, from which the fact I have stated will appear. The question was raised distinctly in 1803 in the Senate of the United States on a motion that the then proposed amendment should be submitted to the President:

"On motion that the Committee on Enrolled Bills be directed to present to the President of the United States for his approbation the resolution which has been passed by both Houses of Congress proposing to the consideration of the State Legislatures an amendment to the Constitution of the United States respecting the mode of electing President and Vice President thereof, it was passed in the negative—yeas 7, nays 23."

On a distinct vote 23 to 7 voted that the Committee on Enrolled Bills should not present the proposed amendment to the President of the United States for his approval, and it was not presented to or approved by him. In 1798 a case arose in the Supreme Court of the United States depending upon the amendment to the Constitution proposed in 1794, and the counsel in argument before the Supreme Court insisted that the amendment was not valid, not having been approved by the President of the United States. This was his argument:

"The amendment has not been proposed in the form prescribed by the Constitution, and therefore it is void. Upon an inspection of the original roll, it appears that the amendment was never submitted to the President for his approbation. The Constitution declares that 'every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives,' &c. (Article one, section seven.) Now, the Constitution likewise declares that the concurrence of both Houses shall be necessary to a proposition for amendments. (Article five.) And it is no answer to the objection to observe that as two thirds of both Houses are required to originate the proposition, it would be nugatory to return it with the President's negative to be re-passed by the same number, since the reasons assigned for his disapprobation might be so satisfac-

tory as to reduce the majority below the constitutional proportion. The concurrence of the President is required in matters of infinitely less importance, and whether on subjects of ordinary legislation or of constitutional amendments the expression is the same, and equally applies to the act of both Houses of Congress."

Mr. Lee, the Attorney General, in reply to this argument, said:

"Has not the same course been pursued relative to all the other amendments that have been adopted? And the case of amendments is evidently a substantive act, unconnected with the ordinary business of legislation, and not within the policy or terms of investing the President with a qualified negative on the acts and resolutions of Congress."

The court, speaking through Chase, Justice, observes:

"There can surely be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition or adoption of amendments to the Constitution."

The court would not hear an argument from the Attorney General on the point, it was so clear. If the approval of the President were necessary, none of the amendments which have been made to the Constitution since its adoption would be valid, for not one of them ever received his approval.

I ought to state, perhaps, that three or four years ago, when Congress passed a proposition to amend the Constitution by a two-thirds vote, it was inadvertently presented to the President for his approval, just as the one passed a few days ago was presented; but that amendment has never been acted upon by the States, and it ought not to form a precedent. The object of the resolution which I have introduced is to prevent the inadvertent approval in this instance being considered as a precedent hereafter; so that it shall not be in the power of any future President by pocketing, if you please, an amendment proposed by both branches of Congress by the constitutional majority, to defeat it. I think it important that the precedent should be right. The resolution also instructs the Secretary not to inform the House of Representatives that the President has approved the proposed amendment. His approval of it can do no harm, but it is not a necessity, and it having been inadvertently presented for his approval, the Senate ought so to declare lest a wrong precedent be set.

Mr. HOWE. As I was the instrument of the Senate who took this resolution to the President, perhaps the Senate will indulge me in a single word on the matter.

The bulk of the precedents are against the propriety of that step, as has been stated by the Senator from Illinois. There is a judgment of the Supreme Court of the United States declaring that the assent of the President is not necessary to a resolution of this kind. That is the authority for dispensing with the assent of the President. Nevertheless, to my understanding, the express language of the Constitution requires the assent of the President just as much to a resolution of this kind as to any other. It does not require the assent of the President to a vote for adjournment, and that is the only exception. The Constitution declares that—

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

All legislative powers are vested in a Congress, and we are expressly told of what the Congress consists. If you will look to see what Congress may do, in the eighth section of the first article you are told that the Congress shall have power to lay and collect taxes, duties, imposts, and excises, to borrow money, to establish a uniform rule of naturalization, &c. The Congress may do these things. That is precisely the tribunal, in precisely the words, which is authorized in a subsequent clause of the Constitution to propose amendments to that instrument. It is the Congress that may propose amendments; it is the Congress that may raise armies; and the Congress consists of a Senate and House of Representatives. Now, how does it happen that any bill or any resolution must go to the President for his signature? Because there is a distinct clause in the Constitution which provides that—

"Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States."

He is not a part of the Congress, and all legislative powers are vested in the Congress; never-

theless, you cannot have a law unless you have presented the bill previously to the President. Not only that, but another clause of the Constitution requires that—

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed."

Not passed, but repassed—

"by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

If this language applies to any one resolution requiring the concurrent vote of the two Houses it applies to every one, for it says every one. So much for the express letter of the Constitution itself.

The Senator from Illinois, however, says—and in that he is borne out by the judgment of the Supreme Court, or at least he is borne out by the language of Justice Chase, formerly a member of that court—that this provision which I have just read only applies to the ordinary acts of legislation. It cannot be disputed that Justice Chase so said, and the court having concurred with him perhaps we are bound to consider the law settled upon that point. Not a reason was assigned for it; and the argument which was made by the counsel in that case against the validity of the amendment adopted was not answered either by the opposing counsel or by the court; nor have I heard it answered by any one. Justice Chase remarked, indeed, that argument was not necessary upon a point of that kind. In the vote which was taken in the Senate of the United States in 1803 I notice among the names of those who voted for presenting the resolution to the President the names of Mr. John Quincy Adams and Mr. Pickering. I think, with all deference to Justice Chase, that when such gentlemen as Mr. Adams and Mr. Pickering have affirmed that a step is necessary, some argument may fairly be offered to show that it is not necessary.

This resolution says that the resolution proposing an amendment to the Constitution was inadvertently presented to the President, and the aim of the resolution is to prevent its being made a precedent; but the Senator from Illinois has told us correctly that the precedent has already been established. In 1861 an amendment was agreed to by both Houses and was submitted to the President for his approval; and I have yet to learn that any member of either House of Congress entered any protest to that form of procedure. The President did approve it. The Senator from Illinois says it ought not to be considered a precedent because the Legislatures of the States did not adopt the amendment. How that can make it more or less of a precedent I do not understand. The two Houses concurred in the resolution; the organs of the Houses presented it to the President, and he approved it; and so your records show; and there is the precedent. If this resolution passes without dissent on the part of Congress it will be but another precedent. Precedents, I take it, cannot override the Constitution itself. The approval of the President will not do any hurt if the Constitution does not require it. My own judgment is that the express language of the Constitution does demand it, and my own judgment is that propriety sanctions it; that it is proper to present it to the President; for it does not follow, if the President dissents and presents his objections to the two Houses, that the vote of two thirds of each House can be again had to repass the resolution.

But assuming that the Constitution does not require the President's assent to such a resolution, and assuming that the resolution was inadvertently presented to the President, the resolution now pending declares that it was unnecessary to present it to him. I do not think that follows, even if the premises are as stated; for if it had not been presented to the President, I ask you, sir, and I ask the Senate, how would it have been transmitted to the Legislatures of the States? Your resolution proposing the amendment provided no means, and there has been no other action taken on the part of the two Houses to get it to the States. It would not go to the State Department unless presented to the President. When presented to the President, if he approves it he transmits it to the State Department; and

being transmitted to the Secretary of State, he transmits it to the Legislatures of the States. I think I am abundantly authorized to say that but for this very action of the Committee on Enrolled Bills, which your resolution says was not necessary, the resolution proposing this amendment to the Constitution would not have reached the Legislature of a single State probably until this time. If it had, I do not know how it could have got there, or who would have sent it there. You took no steps whatever to send it there. It certainly would never have got there until after, under the procedure which was adopted, many of the States had actually ratified the amendment. If it be the established law that these resolutions should not go to the President for his assent, certainly the two Houses which pass them ought to take some measures to execute them, and to get them before the State Legislatures.

I am free to confess that when I presented this resolution to the President I did so in pursuance of what is a mere habit, so to speak; I did not stop to distinguish between this and any other resolution. I had not looked into the precedents; I had not looked into the Constitution. Since my attention has been called to it I have looked into the precedents; I have looked into the Constitution; and as I have already said, my judgment is satisfied that the course taken was right, notwithstanding the authority which has been read goes so far against it.

Mr. JOHNSON obtained the floor.

Mr. TRUMBULL. If the Senator from Maryland will allow me, I desire to refer to the rule of the Senate on this subject. I omitted to do so when I was up before. One of the special rules of the Senate also shows that these constitutional amendments are not to be submitted to the President. The 26th special rule of the Senate declares:

"And all resolutions proposing amendments to the Constitution, or to which the approbation and signature of the President may be requisite, or which may grant money out of the contingent or any other fund, shall be treated in all respects, in the introduction and form of proceedings on them, in the Senate, in the same manner with bills."

Showing by irresistible inference that resolutions proposing amendments to the Constitution are not required to be submitted to the President for his signature; because the language is—

"And all resolutions proposing amendments to the Constitution, or to which the approbation and the signature of the President may be requisite," &c.

Mr. JOHNSON. It would be very improper to say that the question which is presented by the resolution offered by the honorable member from Illinois, if it was an original question, would be entirely free from doubt, not only because the honorable member from Wisconsin thinks differently, and has expressed a different opinion upon it, but because there were some six or seven Senators, in 1803, I think, who entertained a different opinion. But, to my mind—with due respect to the authority of my friend from Wisconsin—it seems to be quite clear that a resolution proposing an amendment to the Constitution is not to be submitted to the President for his approval. The object of the constitutional provision on the subject is simply to initiate a mode by which the people shall decide whether there shall be an amendment of the Constitution or not. It does not operate as a law. The whole effect of it is, if it is initiated by Congress, to submit the question to the people for their determination; and the Senate, of course, will have seen that that is but one way in which amendments are to be proposed. Precisely the same effect is given to amendments proposed by the Legislatures of the States. I suppose it will hardly be contended that the President has any control over a convention called by two thirds of the State Legislatures.

What makes it, as I think, still more obvious that it was not the purpose of the Convention that framed the Constitution that the President should decide upon a resolution of this description is, that the resolution itself is not to be passed unless it is concurred in by two thirds of each House. The constitutional provision which gives to the President the authority to veto any such bill as is to be submitted to him for approval or rejection says that if he disapproves, he is to send it to the House in which the bill or resolution originated, and if passed by that House and the other by two thirds it is to become a law notwithstanding the veto. You are not to construe these pro-

visions, therefore, literally where they come in conflict with each other, but you are to construe them in relation to the subject-matter with which they deal. By looking at the provision upon which my honorable friend from Wisconsin relies, you find that—

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States."

The clause immediately preceding says:

"If he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law."

Now, as such a resolution as the one in question is a resolution which cannot be passed by either House except by a vote of two thirds, why should it become necessary to submit that to the President for his decision; for, after he decides, there is but one provision looking to what is to be done in consequence of his decision against the resolution, and that is that it is to be passed by two thirds; so that if this resolution was sent to the President for his approval, and he rejects it, and it comes back, it will just be precisely the same vote.

Mr. HOWE. It does not follow that it will get the same vote after Congress has heard the President's objections.

Mr. JOHNSON. I know it does not; but what I mean to say is, that looking at the two provisions—that is to say, the provision which gives to the President the right to approve or disapprove, and the provision which looks to the duty of Congress consequent upon his disapproval—it is evident that what was intended to be submitted to the President was a question which was to be passed upon by more votes than were necessary before it was submitted. Then the provision is:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution" \* \* \* "which" \* \* \*

"shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof."

Now, the proposition is that no proposal by Congress of an amendment to the Constitution, although receiving the support of two thirds of both Houses of Congress, is to be submitted to the States, unless the President shall approve it. That is not the case in relation to the other mode of proposing amendments. There being two modes, and stated in the alternative, the other mode is:

"Or, on the application of the Legislatures of two thirds of the several States."

What are Congress to do then? Suppose two thirds of the States propose amendments, has the President anything to do with that? All will admit that he has not. Has Congress anything to do with that? All will admit that their single duty then is—an imperative duty—to call a convention. So that the whole object of the clause, as it seems to me, is merely to begin a mode by which the people shall have an opportunity of deciding whether the Constitution shall be amended or not. But when, as is stated by the honorable chairman of the Judiciary Committee, every amendment which has been adopted has been submitted to the States without having been approved by the President, and when the Supreme Court, at a time when it stood as high as it has ever stood at any time since its organization, refused even to hear an argument on the subject, supposing it to be too clear for discussion, it would seem to me that we ought to consider the question as settled; and in order that it may be considered as settled, that it is advisable to take the particular case which is before us (where the amendment has been submitted to the President for his approval without at the time, as my friend admits, due consideration or any consideration, taking it for granted it was to go to him for approval) out of the way as a precedent.

The resolution was agreed to.

#### CREDENTIALS PRESENTED.

Mr. FARWELL presented the credentials of Hon. WILLIAM PITT FESSENDEN, chosen by the

Legislature of the State of Maine a Senator from that State for the term of six years, commencing March 4, 1865; which were read and ordered to be filed.

#### REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 391) authorizing an adjustment of the claims for lands heretofore confirmed to any State, reported it with an amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 421) to amend an act entitled "An act to incorporate the Columbia Institution for the Deaf and Dumb and the Blind," approved February 16, 1857, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 364) authorizing and requiring the opening of Sixth street west, reported it without amendment.

Mr. HALE, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 368) to incorporate the Association of the Sisters of Mercy in the city of Washington, in the District of Columbia, reported it with amendments.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was recommended the bill (S. No. 238) to ascertain and settle private land claims in the State of California, reported it with an amendment.

#### DISTRICT BUSINESS.

Mr. DIXON. I am directed by the Committee on the District of Columbia to move that Saturday of this week, after the morning hour, be assigned for the consideration of business reported by that committee.

Mr. COLLAMER. I have in my charge a single bill relating to the Post Office Department that I wish to have passed. I do not know why the District Committee should have time particularly assigned to its business when I cannot get any time for mine.

Mr. DIXON. I believe it has been customary to assign a day for the business of the Committee on the District of Columbia.

Mr. COLLAMER. I know there has been that practice, but I insist that some other committees should have the same privilege also.

Mr. BROWN. I should like to ask the Senator from Connecticut to include in the business of the District for which he wishes to assign a special day, a bill of my own, reported from the Military Committee, touching the militia organization in the State of Missouri. It is a very important military bill, and ought to have been acted on long since.

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut.

The motion was agreed to.

#### BILL INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 431) to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862; asked a conference on the disagreeing votes of the two Houses; and had appointed Mr. J. F. WILSON of Iowa, Mr. W. H. WADSWORTH of Kentucky, and Mr. E. R. ECKLEY of Ohio, managers at the same on its part.

#### AMENDMENT OF ENROLLMENT ACTS.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. SUMNER. I do not wish to interfere with the regular order of the day; but with the indulgence of my colleague I am going to ask the Senate informally to take up the resolution which I

offered yesterday calling on the President for information with reference to recent conversations or communications with the rebels, that it may be acted on without debate.

Mr. SHERMAN. If that resolution is to be pressed now, I shall desire to discuss it.

Mr. SUMNER. Does the Senator desire to debate it?

Mr. SHERMAN. I desire to have it go over. I wish to discuss it.

Mr. WILSON. I hope, then, we shall proceed with the regular order of business.

Mr. SAULSBURY. I have prepared an amendment to the resolution of the Senator from Massachusetts, which I wish to lay on the table to go over with the resolution.

The VICE PRESIDENT. The amendment will be received. The regular order of business is the bill (S. No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes, the pending question being on the amendment of the Senator from California [Mr. CONNESS] to the amendment of the Committee on Military Affairs. The Senator from California proposes to amend the third section of the reported amendment by inserting after the word "who," in line two, the words "for pay or profit;" so that the clause will read, "that any recruiting agent, substitute broker, or other person, who for pay or profit shall enlist or cause to be enlisted," &c.

The amendment to the amendment was agreed to.

Mr. COWAN. I move further to amend the third section by striking out the word "by," in the eighth line, and inserting the word "in," and in the next line by striking out the words "martial or military commission" and inserting "of the United States having competent jurisdiction;" so that it will read if amended, "shall upon conviction in any court of the United States having competent jurisdiction, be fined," &c. I do not propose to debate this question. I merely wish to say that I have no doubt it would be better for the country that this amendment should be made. It will transfer this class of offenders to the proper court where they may be tried according to the forms to which the people are accustomed, and in the judgments of which they will acquiesce; and it will relieve the military department from that which must now be a source of great trouble, if not vexation to them. Further, it will unquestionably make this section conform to the Constitution. It will confine the jurisdiction of military tribunals to military men, to those who are in the land or naval forces and in the service of the United States. It will throw all civilians within the jurisdiction of the civil courts, and there they will be tried, and tried much more speedily, fairly, and, I think, acceptably to the country generally.

The question being put, it was declared that it appeared that the amendment to the amendment was agreed to.

Mr. CONNESS. I call for the yeas and nays. The yeas and nays were ordered.

Mr. CONNESS. I would not call for a division or for the yeas and nays if I believed it was the sense of the Senate to adopt this amendment; but I can hardly think the Senate will agree to transfer this class of cases to the United States courts where the process of trial and punishment will be so slow as really to amount to nothing. I do not wish to detain the Senate by any remarks on the subject; but having no doubts on the constitutional question involved, as presented yesterday so elaborately by the Senator who makes this motion, and desiring that the provision shall be effective, I can hardly think that it is the deliberate sense of the Senate to agree to this amendment. I have therefore called for the yeas and nays.

Mr. COWAN. I have but a single word to say. I may remark that the fact that the administration of criminal justice is slow has long been common to our system. One of the illustrations of it is, that a Turkish *cadi* will hear a crime, order the offender off to the other end of the room, give him a hundred on the soles of the feet, or the *bastinado*, and settle the question in twenty minutes; whereas an English or American court, having regard to the liberty of the citizen, would perhaps occupy itself for three months with that same question. It is the very essence of liberty, that those who are intrusted with the punishment of the citizen should go slowly, in order that the



citizen may have an opportunity to defend himself.

Mr. HOWARD. I do not wish to occupy the time of the Senate in discussing this clause further, except to say that if this amendment shall prevail it will destroy, as I think, all the efficiency of the measure itself. If it shall be made necessary by this act to try all these petty offenses before the ordinary civil tribunals of the county in which they may happen to be committed, if it is necessary to call a grand jury to indict the offender in every case, and a traverse jury to try him, if all the cumbersome and dilatory machinery of a civil court is to be employed in every case to punish these crimes committed against the interests of the military service of the United States, the bill itself will not be worth, practically, the paper upon which it is written. The very object of the bill in this respect is to expedite trials and bring them to a close, and to bring these offenders to speedy justice. There has been an almost universal outcry all over the country in relation to the agents and perpetrators in these frauds against the soldiers and against the interests of the Government, and in many cases the outcry has even claimed that a penal statute should be enacted by which they should be hung for defrauding the Government and for imposing upon the honest soldiers. I trust this amendment will not be made; I trust the Senate will stand by the bill and continue the policy which seems to have actuated the Committee on Military Affairs, of subjecting this class of offenders to trials by courts-martial. Nothing short of it will answer the purpose which is now demanded.

Mr. HARLAN. I desire to ask the attention of the Senator from Michigan to the point that I understand was raised by the Senator from Pennsylvania, that this bill proposes to punish a civilian by a military court, which he seems to think conflicts with the provision of the Constitution of the United States providing for the trial by jury of all crimes except where the party accused is attached to the military or naval service of the United States. It is on that point on which I should like to hear the Senator from Michigan.

Mr. HOWARD. If time would allow, I certainly would repeat the views which I expressed yesterday on that subject. I certainly entertain no doubt whatever of the competency of Congress to enact this law. I have no doubt of the power of Congress to punish as for a military offense acts injurious to the military or naval service of the United States, and intended to injure that service, or to obstruct it or impair its efficiency. There must be some power by which to protect the efficiency of the military service. We certainly have power to punish by court-martial offenders against the laws in all cases arising in the military or naval forces of the United States, for that is the language of the Constitution; the question is, therefore, what is a "case" arising in the military or naval forces of the United States? What is a case? It seems to me it requires no very great ingenuity of construction or of interpretation to ascertain and find out what a "case" is. Such a case I should understand to be a state of facts by which the military service or the naval service of the United States was damaged, obstructed, or endangered intentionally by a person committing the act. I know that definitions are not only difficult, but dangerous sometimes; but if any gentleman will turn his attention to the language of the clause in the fifth article of the amendments to the Constitution, it seems to me no doubt can remain as to the intention of the framers of the instrument. It was intended to be sufficiently broad to protect the military and naval service of the United States, and to punish all persons offending against it, all persons obstructing it, all persons intentionally damaging it, or injuring it in any respect whatever. All persons who assume to act as contractors for the United States, who assume to act as recruiting agents of the United States, or take upon themselves any other function connected with the military or naval service of the United States, are, as it seems to me, persons coming within the category of the fifth amendment, coming within the "cases" there mentioned.

It certainly never was the intention of the framers of the Constitution, as it seems to me, that this class of offenses, whether immediately in the military service or being more remotely connected

with it and growing out of it, should in all cases be subjected to trial by a jury of the vicinage. It is obvious to us, as it was obvious to our forefathers, that upon such a principle no army could be made efficient, no discipline could be of any value; and the military service, requiring promptness, activity, energy—the military service, which in most instances admits of no delay, no procrastination at all, would be as good as destroyed.

These are my views about it, Mr. President. I entertain no scruples and no doubt of the power of Congress to enact just such a clause as this. I think the language of the fifth amendment, to which I have referred, abundantly authorizes us in so doing, and I am sure that the public necessities existing at this moment demand this expeditious and rigid mode of procedure.

Mr. COWAN. The vice of my honorable friend's argument is that it proves entirely too much. If those are cases arising in the land and naval forces which are merely connected in some remote way with the Army and Navy, we are all entangled in this mesh of military dominion and military rule. If the fact of a man going forward and offering a substitute to be enlisted in the service of the country fraudulently constitutes a case in the land or naval force, then when a man comes forward and furnishes a defective gun for the service of the country, when a man furnishes bad clothes for the soldiers, shoddy blankets, wooden-soled shoes, and all those things, that constitutes a "case," and then the whole population is involved, then the military swallows up entirely the civil, and we are cut loose from all the safeguards of the Constitution and all those which the common law throws around us.

Mr. HOWARD. No, the Senator will allow me to say the case must embrace the military service; the state of facts must relate to the interests of the Government connected with the military or naval service of the United States. If the case does not embrace that interest, of course it is not one arising in the military or naval forces, and is therefore not in the category. But the essence, the test of the offense, is that it is committed against the military or naval service, tending to obstruct it, to hinder it, or destroy its efficiency.

Mr. COWAN. I think the Senator's position is not good. The true test is whether the person committing the crime is within the jurisdiction of the military officer. I merely wish to say a word further and submit this matter without any longer debate. All members of the Senate now, I have no doubt, understand it thoroughly.

The honorable Senator says that these cases demand immediate action. There is no force in that argument. If the substitute broker or the party violating the law in this instance is detected, he can be arrested, committed to the custody of the proper officers, and kept there just as summarily within the grasp of the civil power of the Republic as he could be within its military power. He can be disabled from further mischief quite as readily in the one way as in the other. Therefore the argument *as inconvenient* amounts to nothing.

But one word more. The "case" must not be outside of the land or naval forces; it must be within them, and it must attach itself to somebody who is within them, and somebody who is amenable to them. Now, upon an examination of the Articles of War, it will be readily seen what is the class of cases that fall within the exception of the fifth amendment to the Constitution. First, there is mutiny; second, desertion; third, advising desertion. Anything which militates against the regular organization and police of the camp, is the exception that was contemplated. Another most substantial reason, which ought not to be overlooked, is the fact that the moment that a man enters the military or naval service he voluntarily agrees to become subject to these extraordinary and extra-judicial provisions. The first thing that is done with the soldier or the sailor when he enlists is to ask him, and upon his oath, I believe, whether he submits to be governed by these Articles of War. That is never the case with the civilian. The civilian is left to be governed entirely by the municipal laws of the country, subject to them, and entitled to protection under them.

Now, it does seem to me that this section as it stands would be most mischievous. It not only affects these bad people, but it may affect good

people; there is the difficulty; and we are bound to protect the virtuous citizen as against any danger from this quarter. I have no hesitation here in asserting that, if these persons are indicted in the United States courts, and tried and convicted within them, a solemn judgment of the court inflicting this punishment will be a hundred times more efficacious than the sentence and punishment of a court-martial. I have no doubt of it, because there is a natural, innate love in the people of these forms of administering justice, and they will never be satisfied with any other forms.

Therefore I have the hope and the assurance that there will be an end put to this source of trouble and difficulty on the part of the Government itself, making it enemies every day and everywhere, and giving color to the charge of tyranny and oppression against it which, at the present time with us, is worth millions. When we are making a great struggle ostensibly for liberty and equality among men, we ought by all means to endeavor to preserve and guard for ourselves and for the loyal citizens all those great privileges and muniments of liberty which have come down to us intact for so many generations.

As my friend from New Jersey [Mr. TEN Eyck] suggests to me, these cases are taken into the United States courts every day, and are being tried there, and persons guilty of these offenses are being punished; and no one has ever yet come here with a complaint that those courts have conducted themselves in an informal or tyrannous manner; and nobody has ever yet charged them with having failed in their proper duty toward the country in the conviction of these persons. Why, then, not let them exercise their function as was contemplated by the Constitution? Let all people who are in the Army and who are in the Navy obey the laws of the Army and the Navy, and let people who are outside the service be subject to the municipal law, not because many guilty people may not do very bad things, may not commit offenses, and perhaps escape punishment, but it is better that ninety-nine of them should escape than that one innocent man should be punished improperly and the odium of his punishment thrown on the Government.

The question being taken by yeas and nays, resulted—yeas 29, nays 14; as follows:

YEAS—Messrs. Buckalew, Cardie, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Hale, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Kansas, Morgan, Nesmith, Pomeroy, Powell, Richardson, Riddle, Sausbury, Ten Eyck, Trumbull, Van Winkle, Willey, and Wright—29.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Grimes, Howard, Morrill, Nye, Ramsey, Sherman, Stewart, Sumner, and Wilson—14.

ABSENT—Messrs. Collamer, Harding, Hicks, Lane of Indiana, McDougall, Sprague, Wade, and Wilkinson—8.

So the amendment to the amendment was agreed to.

Mr. GRIMES. I move to strike out the first section of the amendment reported by the committee. I make this motion in order to call forth from the chairman of the Committee on Military Affairs some explanation of the reason why he proposes such a very radical change in the present method of conscription and enrollment. It will be remembered by the Senate that as the law now stands, a person who has been enrolled and who is liable to draft cannot be used as a substitute for another person who has already been drafted. This section proposes to change all that, and to say that any person who is enrolled in any particular township, although he may be subject to draft the next day if another draft shall be made, may be received as a substitute for a man who was drafted the day before. This, it will be observed, will in a great many instances require us to expend two men in order to get one man. The operation of it is destined to be exceedingly unjust. I can best illustrate the effect of this proposition, if it shall be adopted, by an example that has occurred within my own observation.

In the county in which I have the fortune to live there is one large town, and that is a town of considerable wealth, containing a population of ten or twelve thousand. Adjacent to it is a purely agricultural township, with not a store or a village in it, composed of excellent, loyal, industrious husbandmen. It was known that a very large number of the young men from this agricultural township had gone to the war, and it was supposed as a matter of course that there was no liability on the part of that township to the draft.

But when we had the draft last year, it was discovered that although there was a surplus of twenty-eight men who had gone from the agricultural township to the war, they were credited to the town in which I live, having been induced to accept the bounties that were furnished by the gentlemen in this wealthy town; and the result, therefore, was that this purely agricultural township, that had sent an excess of her population of twenty-eight persons to the war, was under that draft compelled to furnish fourteen more.

Is that fair? Is that what the Committee on Military Affairs want to provide for? Or is it what we ought to provide against? This proposition, if we adopt it, is going to create a very radical change in the whole system of conscription, and in half the instances, I think, to raise three hundred thousand it will cost us five hundred thousand enrolled men, as the section now stands.

**Mr. WILSON.** The original enrollment act allowed substitutes to be obtained among those who were enrolled. At the last session it was feared by some gentlemen that we should soon exhaust the enrolled men of the country if we allowed substitutes to be taken from among those enrolled, and we provided that substitutes could only be obtained from among men under twenty years of age or over forty-five years, or from aliens, unless the persons who were thus enrolled should be made liable on future drafts. The practical effect of that act is simply to confine the persons enlisted as substitutes or as volunteers mostly to aliens and to persons under twenty years of age. I think the tendency is to check filling up the Army. Now, what we want to do is to fill up the ranks of our armies and to do it at once. Most of the men put into the armies are enlisted; very few are obtained by draft. The enrollment system has more effect to stir up, to press the people and the officers of the various localities throughout the country to fill up the Army by volunteering, than it has the direct result of obtaining soldiers by draft. That is the great value of the law.

I am told by persons engaged in raising men that the effect of the law passed at the last session has been to check enlistments. I was told the other day, by a gentleman who has himself enlisted and put into the service during this war fifty-eight thousand men, that the passage of this first section will increase the number of enlistments tenfold at once, and he suggested at the same time that another provision ought to be made, which the committee have not reported, that the substitute should have the same bounty as the enlisted man, and be put on the same footing in every respect. He thought that in that way we could fill up the armies speedily.

I know that many provost marshals and many persons engaged in filling up the armies are of opinion that this change ought to be made. We now take men for one year, and when a man has served his time he goes back. There is no danger of exhausting the enrollment. I believe that if we could now fill up the pending call for three hundred thousand men, we should have no special reason for any more soldiers. We want these men now. Our armies are not filled up because of the manner in which the attempt has been made to execute the law, and because of the terrible abuses that have grown up under the system of heavy bounties, stimulating bad men to perpetrate wrongs upon others and upon the Government itself. If we had had three months ago fifty thousand or seventy-five thousand men to send to General Grant before Richmond, I think the war would have been ended to-day by the destruction of the only force there is in the country that carries the flag of the rebellion, I mean Lee's Army. Why did we not have it? We have had all sorts of constructions of this plain law which he that runs may read and understand. Then we have had all sorts of interference with its execution—committees sent here from localities to ask the Secretary of War or the Provost Marshal General or the President to do what none of them had any right to do; and I understand that committees have been here recently to fill up the call that has been made by getting reductions rather than by sending men. There is a report in circulation that a large percentage of the number called for from one of the States has been remitted by the President, who has no more right to do it than I have. Neither he, nor the Secretary of War,

nor the Provost Marshal General has any right to do these things. They are a violation of law, and it is unjust to the whole country that they are exercising power which does not belong to them.

Sir, this is a plain matter of calculation. The law provides for the enrollment of men between twenty and forty-five years of age; and when the enrollment is made, if it is incorrect it may be revised, and should be revised; but when the proper officers appointed have done that work, it does not belong to the President or anybody else to interfere with it. If a call is made for men, justice to all sections of the country requires that the record shall stand correct, and the quota of each locality is a matter of mere mathematical calculation and not of favoritism toward any man or set of men in the country. It is this eternal interference, this construction one way to-day and another way to-morrow, that has prevented filling up our armies promptly; and the result is also owing to the system of large bounties and those abuses by which insane men, drunkards, criminals, and men who have run away from the Army, have been enlisted and imposed upon the country; so that the result is that we do not get more than fifty per cent. of the men who are professed to be put in the service. General Hinks, who has had the superintendence of this matter in New York harbor for months, under his own hand, in a public letter that has been printed, testifies that not more than fifty per cent. of the men sent there really go to make up the forces of the country. Our present system seems to be to fill up quotas and not fill the armies. It is because the armies have not been filled up as they should have been under the call for five hundred thousand men last year that Lee's army is defiant at Richmond to-day. If General Grant had had fifty or sixty thousand more men last fall, he could have cut Lee's lines of communication and have destroyed that army.

Now, sir, I am opposed to this policy. I am in favor of adopting means at once to get all the men we can raise of the three hundred thousand men called for, and fill up the armies now, and put an end to this war that we all want to see ended. I think the striking out of the first section will simply have the effect of checking the filling up of the armies, and to make the matter linger along. There is no danger of exhausting the men of the country. We have in the country to-day more men fit for military duty than we had when the war opened. There is no danger on that point. What we want to do is to get the men now, at the earliest possible moment, for we have no time to lose. Open the spring campaign; destroy the military power of the rebellion; and then we shall have peace without sending commissioners to Richmond, or meeting their commissioners half way to talk about it.

**Mr. GRIMES.** If the purpose of this section of the amendment which is proposed by the Committee on Military Affairs be to accomplish that which the Senator says is all that was accomplished by the laws that have hitherto been passed on this subject—that is, to frighten people into volunteering in the national forces—it is possible that this section of the present bill may accomplish that end, and therefore may be of some value; but if it be a real, genuine enrollment bill; if it be based on the theory that every man owes his service, his life, if need be, to the country, and that we should come just as near as possible to requiring every man to perform that sacred duty, then I say that we ought to amend the Senator's proposition by striking out the first section.

The Senator says we have not accomplished as much as we ought to have accomplished hitherto in filling up the Army, for three different reasons, I believe; first, he says that there have been various interferences by the executive authorities of the Government; in the next place, there has been a great deal of rascality perpetrated by bounty brokers and other persons of that description; and in the third place, there have been a great many irrelevant and indecisive and improper constructions placed upon our laws by the executive authorities who have the administration of them.

Are we going to improve that condition of things by changing our legislation on this subject every few months? It is now thoroughly known all through the country what our legislation is. It is now known that a man who is already enrolled upon the books of the provost marshal cannot be

accepted as a substitute for another man. Has that operated injuriously? Has there been a draft in the Senator's own State? Has he had any experience or observation of it? I have had, in the town in which I live, which is the central point in the congressional district in which a draft has been made, and I can tell the Senator that he is wholly mistaken in regard to the operation of the law as it now stands. I have seen men of family and of substance who have been drafted, and who had the capacity and the opportunity to procure substitutes, but who said that they did not believe that it was a manly and generous course for them to pursue, and they shouldered their muskets, leaving their families and their property behind them, and are now under General Sherman.

We have experienced no difficulty there in the law as it now stands. We have no disposition to sacrifice two men for the sake of securing one. Where does this demand for a change come from? Will the Senator tell me that the War Department desires this change? He has not so informed the Senate, and I have heard from no quarter that anybody has desired it, except some gentleman who, the Senator says, has enlisted fifty-eight thousand men since this war began. He has not told me what relation that man sustains to the parties for whom he has enlisted them. It may be possible that it may be for the interest of that individual, as the agent of a State or as a private broker, that this change of the law should take place, because then he will have a wider field from which to secure his substitutes. He can then go into one of the agricultural townships in Massachusetts, if a draft should be ordered in that State, and exhaust from that township enough of the men who are already enrolled there to fill up the quota that may be due from a rich commercial township adjacent to it; and then when the draft shall hereafter come upon that agricultural township, she will be deficient to the extent of the men that have been drawn from her, and the draft will be imposed upon those who remain; and if there shall not be men enough capable of bearing arms in the township after this number have been drawn off into the rich commercial towns, who is the sufferer? The Government of the United States.

**Mr. President,** I confess that I have never heard that there was any objection to the law as it now stands in this respect, and I never imagined that there was going to be any attempt to change the enrollment law on this subject. As I have said before, I live in a State where a draft has been made in every county, and I have never heard of any objection to the law as it stands being made by anybody there. Why shall we change it; why shall we have this irresolute, this indecisive, this whiffling, changing kind of legislation, to the principle of which the Senator attributes so much of the evils of the past in regard to the filling up of the quotas?

**Mr. WILSON.** I will simply say to the Senate that I think the act we passed at the last session has had a tendency to prevent filling up the armies of the United States in this way: persons who are enrolled, knowing that they may be drawn if the draft comes, are not likely to go into the service, and thus their enlistment has been prevented. Besides, it has had a tendency to make persons who had substitutes to get or who wished to enlist men, go around and pick up aliens, get them in from Canada, get them anywhere they could, and pick up boys under twenty years and men over forty-five, and put improper men into the service. I have no doubt that if we allow the men who are enrolled to be enlisted, and exempt them from draft during the time they are in the service, it will enable us to fill up the armies more speedily at the present time.

**Mr. HENDRICKS.** Will the Senator allow me to ask him one question while he is on this particular subject?

**Mr. WILSON.** Certainly.

**Mr. HENDRICKS.** The Senator is speaking of the effect of the law of the last session upon the enlistments. I wish to ask him if the repeal of the commutation clause did not have the effect to cut off enlistments and stop volunteering?

**Mr. WILSON.** I have not examined the subject enough to decide that question; but I was opposed, as the Senator knows, to the repeal of the commutation clause. I had to submit to it, however, as I have to many other things here.

I referred to the opinion of a gentleman who has raised during the war fifty-eight thousand men. I alluded in that reference to Mr. Blunt, of the city of New York, who was here a day or two ago, and who impressed upon me the importance of this very section; and I have here a letter from a provost marshal in which he says that if this bill be passed it will fill up the armies and keep the armies full; if properly executed; that these amendments will have that tendency; and it is because I so believe that I have pressed the changes contained in this bill. The Senator from Iowa moves to strike out the first section. I hope his motion will not prevail. What we want to do is to fill up our armies now. If the war was to be continued three or four years longer there would be logic in what he says.

Mr. GRIMES. What assurance have you that the war will not continue?

Mr. WILSON. I believe we want the men now, and the assurance that the war will not be continued will be given by the fact of our furnishing the men now. If we furnish the men we now need within the next sixty days, everybody knows that this war cannot go on; but if we fail to do it, if we fill up quotas instead of filling up the Army, if we have a class of men put into the service just to fill up the quotas, who are unfit for service, men who are broken down in health, men who will run away, men who will desert, we shall have expended the resources of the country, filled the pockets of the substitute brokers, made fortunes for them, as many of them have made independent fortunes within the last few months, and we shall have spent millions of dollars on men who will be of no use to the country, and General Grant and our other generals will be as poorly off as they ever were for efficient men. What we want to do is to fill up the armies now, to get good men, and put an end to the war; and I go for this change because I have no doubt it will tend that way, and I know that to be the opinion of some of the gentlemen who are largely interested in filling up the Army; and I will say, in regard to Mr. Blunt, that I am told he has done this work for nothing, without pay, and that he has enlisted into the service of the country more men, by all odds, than any other person—over fifty-eight thousand.

Mr. CONNESS. Do I understand the Senator from Massachusetts to quote Mr. Blunt as the authority that he gave a while ago?

Mr. WILSON. Yes, sir.

Mr. CONNESS. The man who received \$50,000 at New York for doing nothing?

Mr. WILSON. It is said that is not so.

Mr. GRIMES. He is the gentleman that secured the naval enlistments of about twenty-nine or thirty thousand, is he not? I inquire whether those thirty thousand naval recruits credited to the city of New York are a part of the fifty-eight thousand?

Mr. WILSON. I do not know.

Mr. GRIMES. He is the gentleman who, in his report, chuckles over the admirable manner in which he was able to secure the credit of those recruits for that city.

Mr. BROWN. I desire to say in my own behalf that I differ very widely from the chairman of the Military Committee upon the effect of this section. I believe the effect of it will be the very reverse of what he has stated. If I can get his attention for a moment, I will suggest this reflection. He charges that the bounty system furnishes the Army now with the very worst class of soldiers, men who run off, men who are unfit for service, men who are insane, and men in every respect disqualified for the service; and yet, in the face of these facts, he wishes now to extend the bounty system, which is limited by law to a certain class, so as to enable the bounty brokers to have the whole of the population of the United States who are enrolled from whom to rake and scrape all the worst material they can get to go into the Army. In other words, he wants to increase tenfold the amount of bad material from which they can get those whom they can induce in this manner to go into the armies of the United States. Now, I contend that any such policy as that will be a policy destructive and injurious to the service. I say that the bounty system itself is a bad one, and the more the bounty system is limited the more effective will be the service of your Army. As you have it now limited to a small class, you

have it under far better restraint than if you extend it in this manner by authorizing a wholesale substitute system throughout of those who are enrolled.

That is the point to which I wish to call the attention of the chairman of the Military Committee; but, sir, I wish to call the attention of the Senate to another fact, that this expansion of the bounty system—for it is nothing more nor less than an expansion of the bounty system—is an increase in a tenfold ratio of the power of the wealth of the country to buy itself out of the duties of this war. It is giving it a power which it never had under any previous enrollment act, a power which those gentlemen who advocated the present enrollment act disclaimed when it was on its passage. It is giving the wealth of the country the power to buy itself out of the duties that are devolved on it by this war. It was argued here, when that measure was before us at the last session of Congress, that there would be no injustice in authorizing the purchase of a substitute, especially where that substitute was not liable to enrollment, and that it did not interfere with the basis of your armies as presented in the enrollment list; and that argument was held, to a certain extent, valid in the Senate, and on the strength of it the bill was passed as it now stands. But now, in the name of the wealth of the country, it is demanded that this whole restriction shall be abolished, and that it shall have opportunity to select its substitutes from all those who are enrolled, and who are required to do military duty, putting it in direct antagonism with the men who are poor and who are unable to furnish substitutes.

I desire to say for myself that I am opposed to the system of bounties; that I think it is injurious and disastrous to the service; that I think it has wrought us more ruin than any other feature of our enrollment bills, and I shall be glad to see it stricken out; but so long as it is maintained in any of your bills, I desire to see it limited to the smallest possible compass.

Mr. CLARK. I move to amend the section proposed to be stricken out by striking out in the fifth line the word "drafted" before "person," and inserting after the word "person" the words "drafted from the same town, city, or ward in which the substitute is enrolled;" so as to make it read:

That from and after the passage of this act any person enrolled and liable to be drafted may be accepted as a substitute for a person drafted from the same town, city, or ward in which the substitute is enrolled.

It is just this, that a man drafted may be permitted to find a substitute from the enrolled men in his own town, ward, or city, but that he shall not go into another ward, town, or city so as to excite competition between the different towns, wards, and cities. I can see an advantage in allowing the provision reported by the committee to pass with this amendment; and I desire to call the attention of the Senate to the position in which you place the enrolled men of the country and the military resources of the country by the old law. You enroll everybody liable to military duty; that is, the best men in your town, the men from twenty to forty-five, the men fit for service. When a man is drafted and proposes to get a substitute, he is from the very necessity of the case obliged to go outside of that enrollment and find a substitute among the men unfitted, or among aliens, or such people as would be enlisted for the bounties and then desert. If you allow a man in his own town to enlist a substitute from those who are enrolled, you are more sure that he will get a fit substitute and a good substitute, because the substitute was a man fit to be enrolled, and then you do not excite any competition with any other town, and whatever is done is done with the knowledge of the town, and the men of the town furnish their substitutes among themselves. You get the same class of people that you would get through the draft—the men liable to be drafted—if you allow the selection to be from the enrolled men; and the only objection to it is, that you exempt the man who goes as a substitute and the man for whom he goes at the same time.

Mr. COWAN. You exhaust two men on the enrollment for the service of one.

Mr. CLARK. Exactly; and there might be some danger that the enrollment list would be exhausted; but I do not think that danger and that mischief would be half as large as the danger and

mischief we are now encountering. I can state a case where two hundred and fifty men were put into one of the regiments in my State, and in forty days or less after those men were put in two hundred and forty of them deserted. They went away by the wholesale. They were men who went in for the bounties, and went in to desert; and they were smart men and did desert.

Mr. COWAN. If the Senator from New Hampshire will allow me, I think I can suggest to him a somewhat ancient method of avoiding the difficulty of which he speaks, in one moment. According to the provisions of some of the State laws in early times for making drafts, when John Smith was drawn and procured John Thompson to become his substitute, the name of John Smith was put back into the wheel, and that of John Thompson taken out. That prevented all the difficulty. Then at a subsequent day, if John Smith was drawn again and he chose to get John Jones for a substitute that time, the same process took place. It was left to be regulated between them entirely as to the amount of bounty which the principal would pay for his substitute. I do not see that there can be the smallest difficulty in introducing a provision of that kind into our law, which would avoid all this difficulty; because it is manifestly unfair that two men should be exempted from military service on account of the actual military service of one.

Mr. CLARK. I have not the least objection, if the Senate think proper, that it should be so arranged, and that the person who is first drafted and who procures a substitute shall take the place of the man who is substituted for him, and have his name put back on the enrollment. That would keep your enrollment full; but I do desire that there shall be some provision for persons who are drafted and cannot go to get some good men if they can, and not be obliged to take up any substitute that may be offered.

Mr. COWAN. There is one difficulty with regard to the proposition to confine the party to procuring his substitute from the enrolled men of his own district, because the population is to a certain extent transitory, and it is particularly so with reference to that class of men who go as substitutes. Sometimes they reside in one township, sometimes in another; sometimes in one county, sometimes in another; therefore it might perhaps be injudicious to confine the man in the selection of a substitute to the enrollment of the district in which he lived; but it could all be provided for, no doubt.

Mr. CLARK. I think that difficulty may be readily overcome. In fact I do not think it would amount to much, because the population is very stable in many parts of the country; the men enrolled are very stable men, they are the best men of the country, they are the young men, the strong men, the promising men.

Mr. WILSON. I hope that we shall adopt the amendment proposed by the Senator from New Hampshire, and that the Senator from Iowa will withdraw his motion and let us go on with the bill. I think the amendment is a good check and ought to be adopted.

Mr. BROWN. Does the Senator mean the amendment proposed by the Senator from Pennsylvania?

Mr. WILSON. The amendment of the Senator from New Hampshire.

Mr. BROWN. And that of the Senator from Pennsylvania also?

Mr. CLARK. We can adopt this amendment first, and then the other can be proposed.

Mr. BROWN. I have no objection to this. The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from New Hampshire to the first section of the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. JOHNSON. I am not sure that I understand how the bill will be amended. Is it the purpose of the clause to prohibit a drafted man from procuring a substitute unless the substitute himself be an enrolled man?

Mr. WILSON. By the present law a man can obtain a substitute anywhere.

Mr. JOHNSON. So I supposed.

Mr. WILSON. But if an enrolled man is drafted he is liable to go, and therefore it is very difficult to enlist good men, men who have any character or substance, who are enrolled, and the



enlistments are mostly from persons under twenty years of age, or aliens, or worthless men who are enrolled. The amendment just adopted is that a man that is drafted may get his substitute under age as now, or an alien as now, or pick up anybody that is enrolled that he can get, but he must get the enrolled man in his own township or locality. It confines him to that locality if the substitute is enrolled and liable himself to be drafted. I am willing to take that amendment and put that limitation upon the section. It meets the objection offered by the Senator from Iowa that a rich community may go into a poorer one and pick up its men.

Mr. JOHNSON. I did not mean to object to the amendment proposed by the honorable member from New Hampshire, but I want to know whether the effect of the clause as amended is to take from a drafted person the right to procure a substitute anywhere.

Mr. CLARK. Not at all.

Mr. WILSON. It enlarges the privilege he has now.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to strike out the first section of the amendment as amended.

Mr. GRIMES. I withdraw that motion. The Senator from New Hampshire has another amendment which he proposes to that section, which will make it unexceptionable to me, and I think everybody else.

Mr. CONNESS. I move to insert in the third section, after the word "person," in the fourth line, the words "convicted or person charged with crime." Let me say, in making this motion, because I find that the language I propose to insert was contained in the original bill for which the committee have presented this substitute, that I regard the insertion of these words as necessary, perhaps more necessary than any other provision contained in this substitute. Perhaps the greatest abuse that exists under the enrollment and in the obtaining of soldiers occurs in this connection. It is the habit in the city of New York, and in other cities, in the city of Washington, I am told, for men who are engaged in this business of bounty jumping, as it is now known, to cause the arrest of persons by police officers who are engaged with them in making money; and when they are arrested they are drugged, having been made drunk in advance, and incarcerated in prison, charged with the commission of an infamous crime, for which there is no foundation in fact. They are frightened with its publicity, surrounded with some evidences of the proofs that they are going to present of the crime charged against them. Thus the men are compelled to agree, while in a state of stupefaction and fear, to enlist in the Army of the United States, with the agreement that the parties with whom they thus agree shall receive the bounty that they are entitled to by law if they shall enter the service. In many instances in the city of New York—more instances than one—it is an ascertained fact that justices of the peace are found to engage in complicity with such transactions. The result is not only that you get honest men in the service who should not be there, who are not there by the love they bear for the service, who are not there by the obligations they feel to the country to render it military service or to engage in the national cause, but who are there by duress, by imposition, by fraud, but who feel, after they sober up and find themselves in the Army, that it is but just and right to themselves to desert on the first opportunity. In addition to that, you find your armies filled with felons, taken from the jails of the country, men of the worst classes, men who have no regard for their obligations, men who engage and bargain, as a part of the transaction, that they shall receive a portion of the money, and thus it is divided up between this latter class and the police officers and bounty-jumpers and brokers engaged in this business.

In many instances you get hundreds of soldiers nominally, no proportion of which remain in the Army, but all of whom desert and run to the enemy, desert and rebel; and if there is any form of crime committed in connection with this business of obtaining soldiers for our armies, it appears to me that the transactions of which I have spoken, and which are ascertained facts not subject to question any longer, are the grossest form

of crime that can be committed, and they should be stopped and punished. It cannot be called with any fairness, or with any justice, or with any reason, an advantage to put convicted men in the Army, and therefore I move the insertion of these words.

Mr. COWAN. Allow me to suggest that it ought to be an infamous crime, not an ordinary offense which does not render the party infamous.

Mr. CONNESS. The men engaged in this business would, then, simply lower the grade of their charges against the men whom they drug, make drunk, and drag into prison for the purpose of getting the bounty, and thus evade the law.

The PRESIDING OFFICER. Does the Senator from Pennsylvania move an amendment to the amendment?

Mr. COWAN. I move to insert the word "infamous" before "crime."

Mr. CONNESS. I submit that you will destroy the value of the amendment by the insertion of the word "infamous," because, as I before suggested, the men engaged in this business will be careful, then, not to charge them with infamous crime; they will simply lower the grade of charge they make against these persons and thus evade the law.

The PRESIDING OFFICER. The amendment proposed by the Senator from Pennsylvania is in the third degree; the Chair was not aware that the amendment of the Senator from California was an amendment to the amendment; but being so it is not amendable.

Mr. CONNESS. It can be inserted afterward, if such is the sense of the Senate.

Mr. RICHARDSON. I am opposed to the amendment proposed by the Senator from California in the shape in which he has got it, certainly. He uses the word "crime." A man is guilty of assault and battery, and it is a crime; it is so designated by the law. In many of the States it is indictable; in all of them it is a crime because it is punished by fine. But at all events I am opposed to the amendment for another reason. A man is guilty of manslaughter: it is a crime; but I do not see why that man may not be placed in the Army as well as a man who has been guilty of no crime. It is a good place in which to put him. I do not think the reason exists for the exclusion of that class of persons from the Army. I think they might as well be placed there; indeed it is a better place for them. There is a class of offenses known as crimes that do not disqualify men from voting, from serving upon juries, from the exercise of all the privileges of citizens, except the punishment that is inflicted. A riot is a crime; but I do not think that would render a man incompetent or unfit to be a soldier. I am opposed to it.

Mr. GRIMES. It may be desirable to amend the amendment proposed by the Senator from California at a subsequent stage, but I trust that we shall adopt it as it now is, and then if we see fit to amend it by inserting the word "infamous" or to use the word "felonious" in connection with it, we can do so. It seems to me that the transactions which have heretofore taken place in different portions of the country in this connection call for some remedy and some rebuke on the part of Congress. I do not know how it has been in all portions of the country, but I will state what I am informed has been the case here in the District of Columbia. I was told by a gentleman acquainted with the jail and connected with it that a large number of persons—I think seventy-two; I am not confident as to the exact number—who had been arrested and some of them indicted for high crimes and misdemeanors, some as high as arson and rape and robbery, have in some way or other, through the instrumentality of some agents or other, been taken out of the jail and sent to the Army, and not one of them to-day remains in the Army. Why, sir, do you suppose that such men as those are going to subject themselves continually to the discipline of an army? After preying for a little while upon their fellow-soldiers, if they do not desert to the rebels they go back to some of the large cities where they return to the commission of offenses of the description of those for which they were first incarcerated in a jail.

We owe it, Mr. President, to the noble men who are fighting for us that such men as these should not be thrust into the Army, and that they

should not be compelled to associate with them. It degrades and demoralizes the Army to allow in it culprits, men who have been charged and who are guilty doubtless—at any rate the presumption is that they are guilty. It is not right to allow men who have been charged with an offense, and many of them indicted and in jail, to be taken out without undergoing any trial or without any punishment being inflicted upon them, and pay bounty to them or to the agents who secure their release, who become "straw bail" for them, and then after going into the Army, associating with our soldiers for a little while, they run off and desert to the enemy or else come back and go to prowling about again in iniquity and vice. I trust the amendment of the Senator from California will be adopted, and then if it be the opinion of the Senate that we shall insert the word "infamous," or the word "felonious," I shall be content that it be done.

Mr. SHERMAN. I desire to submit a motion that I know will not be agreeable to the Senator from Massachusetts, but I think that he ought to yield to it, and that the Senate ought to yield to it when I state the facts. I move that the further consideration of this bill be postponed, and that the joint resolution in regard to the duty on printing paper be taken up. I will state to the Senate that on Saturday last that resolution was made the special order for yesterday, at one o'clock, but at the urgent demand of the chairman of the Military Committee I yielded without even a contest to allow this bill to be taken up, which he told me would be passed in half an hour, or an hour at most. This morning I called his attention to the fact that the bill had occupied all day yesterday, and he told me that at two o'clock to-day he would ask no further time, and would not resist my motion. I think it is manifest now, from the number of amendments that are pending, that this bill will give rise to further debate, and the Senate ought to carry out the understanding. It is now half past two o'clock, and I therefore move that the further consideration of this bill be postponed, or that it be recommitted, if the Senate desires that course, and that we take up the resolution fixing the duty on printing paper.

Mr. CLARK. I desire to submit to my colleague on the Committee on Finance, the chairman of the committee, whether it would not be better to finish this bill now. We have well progressed in it, and I think that we shall actually save time, and that the chairman of the Finance Committee will have more time for his bills after we shall have finished this, than he will by urging his now. I do not at all depreciate the importance of the measure which he moves to take up; it is a proposition to regulate the duty on printing paper; but I submit to the chairman of the Finance Committee, and I submit to the Senate, whether we do not owe it to the country rather to fix the manner in which we shall raise men to put in our armies, than to stop the debate just at this time and delay the measure for the purpose of fixing the duty on printing paper. I agree with him about the importance of that measure, and will go with him heart and hand to consider and dispose of it; but I think he had better let us finish this bill now. I submit to him whether that is not the better course.

Mr. SHERMAN. In reply to the remarks made by the Senator from New Hampshire, I will say that I know from remarks made about me that there are other amendments to be offered to this bill; and it will take a great deal of time. In regard to the joint resolution regulating the duty on printing paper, I am perfectly indifferent as to its fate, whether it be postponed or not; but it stands in the way of other business; it is a revenue measure, and I believe by the usual courtesy of the Senate has a preference for that reason. The legislative, executive, and judicial appropriation bill is ready for the consideration of the Senate, and I can call that up. There are other appropriation bills that are now pending in committee, and can be brought before the Senate. I think we had better proceed with these questions of practical legislation.

Mr. GRIMES. I will inquire if the paper duty bill does not decrease the revenue, in place of increasing it.

Mr. SHERMAN. The House bill undoubtedly does.

Mr. GRIMES. How is it with the Senate bill?

Mr. SHERMAN. I think that as we propose to amend it it will increase the revenue. That is our opinion, and I have no doubt of it. I insist on my motion. If a majority of the Senate are against me I shall consider myself overruled and say no more about it.

Mr. CLARK. I will make this suggestion: the draft is fixed for the 15th of this month, and whatever we do upon this bill should be done before that time. The session will not close until the 4th of March, and we may have all the time between the 15th of February and the 4th of March to pass the legislative appropriation bill, even if we were obliged to take up with other measures all the time between the present date and the 15th of February. I submit to the Senate whether we shall not save our time by finishing now the bill we have on hand, keeping at work on it until we get it out of the way, and then take up the measure the Senator from Ohio proposes; because if we postpone this now it will be called up again at the first opportunity by the Senator from Massachusetts, for it is a bill of which he feels the importance, and he will press it on the Senate until it is ended. I submit that it had better be finished now.

Mr. POWELL. I have a little interest in this squabble about the precedence of business. I have in my charge a very important bill to my region of country, and indeed to the whole country, which was made the special order of the day for yesterday. That bill was knocked out of the way by this. I do not intend any more to submit to the postponement of that bill unless I am voted down by the Senate. Now, if this bill be laid over, I shall move to take up that bill of mine in preference to any other. I yielded yesterday, as I thought gracefully, to this bill, which it was said would take twenty minutes, but has now taken nearly two days. I find that I acted very badly for the interest of my bill by yielding on that occasion, and I now notify Senators that I will yield no more. I think it will take but a little time to pass my bill, and I notify the Senate that I will challenge all comers on all bills until it shall be disposed of, and I will not even postpone it to my friend from Ohio with his paper duty bill, if I can help it. I would have done so yesterday, probably, but he waived the paper bill then, and now if any bill is taken up in preference to the one before the Senate, it ought to be my railroad bridge bill.

Mr. CONNESS. I hope the Senator from Ohio will withdraw his motion at this time, and let us finish this bill and get it out of the way. It is very evident that until this is cleared away we can get at nothing else with satisfaction. Then I for one will join the Senator from Ohio in getting his appropriation bills forward.

Mr. SHERMAN. I believe I am always good-humored about the order of business. If members of the Committee on Finance will not vote to take up our bills, I am afraid we shall be clogged at the end of the session with long and wearisome night sessions, and that legislation will not be properly considered. The honorable chairman of the Military Committee now tells me that he can pass this bill in an hour. I hope the Senate will enable him to do so, and therefore I withdraw my motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. Conness] to the amendment of the Committee on Military Affairs.

The amendment to the amendment was agreed to.

Mr. CLARK. I move now further to amend the first section of the substitute by striking out all after the word "person," where it occurs for the first time in the fifth line, and inserting at the end of what was inserted by a former amendment on my motion these words: "And the name of the drafted man shall be continued on the enrollment list, and such drafted man shall be liable to future calls and drafts in the same way and manner as his substitute would have been liable;" so that the whole section will read in this wise:

That from and after the passage of this act, any person enrolled and liable to be drafted may be accepted as a substitute for a person drafted from the same town, city, or ward in which the substitute is enrolled; and the name of the drafted man shall be continued on the enrollment list, and such drafted man shall be liable to future calls and drafts in the same way and manner as the substitute would have been liable.

Mr. WILSON. I will simply say that that is

the law now. I wanted to make a change in it. If it be the disposition of the Senate to take this amendment, I should like to add the words, "but not until the present enrollment shall be exhausted."

Mr. BROWN. Oh, no; that would destroy the whole effect of it.

Mr. WILSON. As the amendment is now, it is worse than the present law.

Mr. BROWN. We want to get rid of the system of exhausting two men to get one.

Mr. HENDRICKS. I want to ask the Senator who offers the amendment if it is not just what the law now is.

Mr. CLARK. It is, as I understand it, the law as it is; but I desire, in changing the law, to keep it still before the public by putting it in connection, so that no question shall arise about it.

Mr. HENDRICKS. The people of the State of Indiana are not so ignorant of the draft law that it need be repeated at every session of Congress. I believe one or two drafts pretty fully informed the people of the provisions of the law, so that I cannot see the necessity of this amendment. I am free to say that the only feature of this bill as it came from the committee which I admired was the first section of their amendment. I do not see much merit in all the rest of the bill; but this first section did open the entire military force of the country to the Army.

Mr. GRIMES. The second section would save fifty thousand men in a year to the Army.

Mr. HENDRICKS. I think the first section would cut off to some extent the business that bounty brokers feed and live upon. You open up the entire class from which substitutes are to be obtained by the proposition as it came from the Senate committee, and will, perhaps, if this law be properly administered, enable the War Department to fill up the Army at once with a very valuable and serviceable material. I thought there was something in the first section; but if we have to go right back to the law of the last session, or as we amended the former law at the last session, and leave the legislation just where we found it, I cannot see any necessity for the section. It is trifling with the subject, in my judgment. I want to see an opportunity to furnish substitutes from the men who are enrolled. There are two men in a neighborhood, both of them enrolled. The one is drafted, and the other is not. The probability is that for some months at least there will not be a necessity for another draft. The man who is drafted cannot go. The condition of his family is such as to make it impossible. Sickness at home or some other reason may make it impossible for him to go. His friends are willing to help him. This other man who is enrolled and is not drafted and who would make a good soldier, says, "I will go for a reasonable compensation." The Army in that way is filled at once, so far as that draft is concerned; the quota is supplied; the necessities of the country met. Is it not a good provision? But you say we shall go right back to where the law was, and not take a step in advance. I think the first section as reported is a good provision, and I hope the Senate will stand by it.

Mr. WILSON. If the Senator will allow me a moment, I will read what the law now is. It is the fifth section of the act of February 29, 1864:

"That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll and shall be liable to draft on future calls, but not until the present enrollment shall be exhausted; and this exemption shall not exceed the term for which such person shall have been drafted."

The object of the first section of the committee's amendment was to allow persons who were drafted to obtain their substitutes among men who are enrolled and liable to be drafted, but who have not been drafted. The Senator from New Hampshire moved to amend that so as to confine it to the persons within his own locality and his own township. I assented to that. If that stands, then the person is exempted for the time during which his substitute is liable to serve, if he gets him in his own town; but if he goes beyond his own township, he is under the operation of the fifth section of the act of last year; his name goes to the foot of the enrollment list, and he may be

drafted again. I am content that it shall stand in that way.

But if the amendment now proposed by the Senator from New Hampshire should be adopted, it will make the section more stringent than the law is at the present time. The person furnishing a substitute is now liable to be drafted, but he is not liable to be drafted until the enrollment is exhausted; he goes to the foot of that enrollment; but he has not even that limitation in the amendment proposed by the Senator from New Hampshire. I hope that the amendment will not be pressed. I think it would be well if we leave the section just as it now stands. Let the drafted man, if he gets a substitute in his own township, among his own neighbors, a good respectable man, be exempted for the time that that man goes into the service; but if he goes beyond his township to any other place, then his name goes on the list, and he is liable to be drafted again. Let him take that risk. I am willing that he should. As the section now stands, it equalizes all localities, and I hope it will be allowed to stand as it is.

Mr. CLARK. If the Senator from Massachusetts thinks the amendment I have offered is a little more stringent than the provision in the old law, I will withdraw the amendment striking out and inserting, and will move simply to strike out the words "and such drafted person shall be exempt from service for such time as the substitute shall be held to service under the terms of his enlistment," so as to leave the old law exactly as it stands in force; so that the section will read:

That from and after the passage of this act any person enrolled and liable to be drafted may be accepted as a substitute for a person drafted from the same town, city, or ward in which the substitute is enrolled.

And then the old law will prescribe the condition of the man who procures the substitute as to future enrollments.

Now, Mr. President, I desire to say to the Senator from Indiana that I have not presumed upon the ignorance of the people of his State; I have no doubt they are just as intelligent as any persons can be; but I have sometimes in the practice of the law found this difficulty, that when I found an alteration of a statute in part I was obliged to go and hunt up the old statute and compare the two together to see what was the true meaning of what was reenacted and what was left out. I desire to save all that trouble to everybody in constructing the law on this subject, by bringing it together in the same section. I desire, as the Senator from Indiana does, to allow a man to get a substitute from the men enrolled in his own town; that is, among his neighbors. But take the case he puts of a man who cannot go, whose family are sick, or it is very inconvenient for him to go, and he desires to get a substitute, and his neighbor is willing to go for him. He says to his neighbor, "Will you go for me?" and he says, "I will." It seems to be but just and fair to the other persons enrolled in that town that only one of those men should be excused; because if there be twelve men enrolled and you exempt two it leaves ten, and the chances are a little increased that one of those ten will be called for the next time. But I do not know that it is so very important as to make it necessary to pass the amendment that I proposed.

But there is a necessity that the amendment should prevail as it has been adopted by the Senate, in this regard, that one town should not be permitted to bid over another town. We found this difficulty in the State of New Hampshire. We are not so rich a State as the State of Massachusetts. There is the city of Boston lying right below us, and the towns of Lawrence and Lowell. They would offer higher bounties than we could give in many of our agricultural towns, and the result was that men went from there to Lowell, or Lawrence, or Boston, and took the bounty and enlisted, and were credited to the State of Massachusetts, and we had so many less men to procure our quota from. I desire to keep our men in our own towns, that one town shall not be permitted to forbid in that way on another town because it has more wealth. The city in which I reside, in that way would have a vast advantage over some of the small agricultural towns in the State. They would draw all the men there to be enlisted, which would be unfair to those little towns. If a man is to be permitted to get a substitute in his own town, and not go further among

the enrolled men, then it would be fair among all the towns.

Mr. HENDRICKS. I will say to the Senator from New Hampshire that I have not objected to that feature of his proposition.

Mr. CLARK. But I understood the Senator to say the section would not be worth anything.

Mr. HENDRICKS. No, sir; I said the section was useless if we go further and make it mean just what the law of last session means. I object to restricting the effect of furnishing a substitute, as I understood the Senator to propose. I have seen in my own section of country the effect of this business of furnishing substitutes. I think it is the most demoralizing thing that I have ever beheld. As the law now stands, a man can furnish a substitute only from a particular class—persons under twenty years of age, aliens, or negroes from the southern States. A person is drafted in some neighborhood. He does not know where there is any person of this class. He has to go to some of the more prominent towns where there are agencies established and who publish that they will employ and furnish substitutes. The substitutes go to them. Fellows are wandering over the country who want to sell themselves out for \$1,000. They hunt up the substitute broker; and thence arises this business. If the drafted man, instead of going to the substitute broker to obtain a substitute, were allowed to go to his neighbor and make a bargain with him and let this neighbor take his place and give him five or six hundred dollars, it would break up this system of substitute brokerage, and restore to some extent a little morality and decency in the country. I want to see that done.

Mr. CLARK. I agree with the Senator in that.

Mr. GRIMES. If the Senator from New Hampshire has withdrawn his amendment I desire to renew it.

Mr. CLARK. I have withdrawn the amendment to strike out and insert, and renew the amendment to strike out the words:

And such drafted person shall be exempt from service for such time as the substitute shall be held to service under the terms of his enlistment.

Mr. GRIMES. I hope the Senator will allow the Senate to take a vote on the proposition as he originally submitted it; and I want to try to show the Senate why I think the same principle that governs them in adopting the first amendment proposed by the Senator from New Hampshire, and the same principle to which I understand the Senator from Indiana and the Senator from New Hampshire now give their adherence, require us to adopt the amendment last proposed by the Senator from New Hampshire.

Mr. CLARK. If the Senator will allow me, I will renew the motion to amend that I made originally, and then if that should not be adopted I can make the motion to strike out.

Mr. GRIMES. Mr. President, when the enrollment bill was originally before us, and at the last session also, there was a majority of the Senate, or if not a majority at least a very large minority, who were opposed to the power being granted to any person who might be drafted under the enrollment law to procure a substitute. We believed it was the duty of every man to render his service to the Government; but at last, during the conflict that existed between the two Houses, we gave way, and, in the interest of capital, in the interest of wealth, we allowed men to procure substitutes to go into the Army and fight the battles of the country for them.

It is objected by the Senator from New Hampshire and the Senator from Indiana, and I think justly—I agree with them fully in it—that we ought not to allow this ability to procure substitutes to extend so far as to allow the persons who may be drawn in one township or ward of a city to go outside the jurisdiction of that township or ward and obtain substitutes from among men who have been enrolled in another township or ward of a city. Why? Because they say these rich counties, cities, townships, and wards will draw from the poor agricultural townships all the men, or a portion of the men, who are enrolled in that township, and who will be required to fill up the quotas of these agricultural and poor townships.

There is a great deal of validity in that argument. But let me ask the Senator from Indiana

and the Senator from New Hampshire if the same principle that governs them in regard to their conduct in relation to the townships, cities, and wards, ought not and should not govern them in regard to the individuals within the townships. Let me put an illustration. The Senator from Massachusetts, the chairman of the Committee on Military Affairs, lives in a township in the State of Massachusetts. He is a man of wealth.

Mr. WILSON. Oh, no.

Mr. GRIMES. If he is not, he ought to be, and we all wish that he were. I take it for granted that he is a man of wealth, with his half million dollars. Around him are twelve poor men, mechanics. The Senator is on the enrollment list and is drafted. He goes to one of those mechanics, and he hires him, by paying him \$1,000, to go into the Army and serve in a military capacity in his behalf for the term of three years. The draft still impends upon that township. There must be a certain number of those twelve drawn. Two of them are already exhausted. The Senator has been drawn. He has procured a substitute, and ought not to be compelled to perform service, according to the theory of the Senator from Indiana. He has also taken out one of the remaining twelve, thus increasing the burden or the liability to the burden at the rate of twenty per cent. or thereabouts upon the remaining men. Now, I ask, is not that a boon given to wealth? The duty was incumbent upon the Senator from Massachusetts. He was as liable to perform military duty as anybody else. We have allowed him to use his money in order to purchase his freedom, and he has purchased the services of a poor man, a mechanic, who was compelled equally with him to perform military duty.

Mr. FARWELL. If the Senator will allow me to make a single suggestion, I do not know how it has been in the section of country where he lives, but his statement of the case, so far as it applies to the section of the country from which I come, has no weight. All the money paid for substitutes has been assessed upon the wealthy. I think everywhere in New England where men have procured substitutes to supply their places, it has been done by the votes of the cities and towns, and it has been assessed upon the wealthy.

Mr. GRIMES. We are making a conscription law. There is wealth enough in the Senator's State, I suppose, to raise a vast fund from which they are able to purchase men to go into the Army without making a conscription. I live in a section of country where we have not that vast wealth; where every man is called upon to perform his duty to the country; where we volunteer; where we enroll and draft; and therefore I speak with some knowledge on this subject. I speak for the men in my own neighborhood, in my own town, who under the operation of this law, if it shall be passed without the Senator's amendment, will be liable in a much greater degree to be drawn and compelled to leave their families, because of the ability of men of wealth who are associated with them to buy the service of other poor men who are also enrolled. I submit to the Senator from Indiana, if the same principle that justifies his position in favor of the original amendment of the Senator from New Hampshire, so far as it relates to cities, wards, and towns, does not extend also so as to relate to the individuals within the jurisdiction of any of those wards, towns, townships, &c., who may be enrolled.

Now, in regard to inserting it in this bill, it is said that this is the law, except that the law as it now stands places the man who procures a substitute at the bottom of the enrollment list, whereas this puts his name into the wheel and he takes his chance. That is the only difference between the two cases. Is not that right? He has purchased his freedom from this draft. Why should he not be subjected to another draft? Why should he not stand his chance with the remaining men in that township to perform his duty to the country? I want it inserted in this same connection, for the reason assigned by the Senator from New Hampshire, that I do not want it to be left to any construction that may hereafter be put upon it by any of these provost marshals, or justices of the peace, or constables, that because this act was upon the same subject with another act passed a year before, therefore, by intentment, it contravened and repealed the provisions of the old law.

I want to have it so plain that the wayfaring man, though a fool, cannot err therein. If there is any law that ought to be plain and be within the comprehension of every man in the whole country it is this enrollment law.

Mr. CONNESS. The amendment now before the Senate does not meet my approbation or judgment; and yet I am at a loss to present a form by which it may be changed for the better. It appears to me in all that I have thought on the point now under consideration that the just proposition, and the proposition that would give us soldiers, would be one of this kind: that every man furnishing a substitute (and this leaves out of the question the source from which the substitute shall come) should be held bound to keep his substitute in the service in the field until he was wounded or rendered incapable of service longer; and that if his substitute should desert or leave the service, the principal should be immediately sent for and compelled to take his place. The adoption of a proposition of that kind would put an end to all this brokerage, or the worst class of it, that we have.

It is certainly the purpose of the law to get soldiers. When we provide that a citizen drafted may furnish a substitute in his stead, we simply accommodate the law to what may be the dire needs or necessities of the citizen drafted, and therefore we allow him to furnish a substitute in his stead. That is an accommodation that the law makes to the citizen. But there should be no form of law that should in any manner deprive the nation of the services of the soldier. Therefore every man who furnishes a substitute should be held responsible for the presence of that substitute in the service until he is rendered incapable of serving longer. Then if it shall be found that there is a deserter, the inquiry will be, "Who is he?" "A substitute for Mr. Brown, of such a place, such a district, such a ward, such a town." Immediately, through your provost marshals, you call upon Mr. Brown to enter the Army, and make him enter it or furnish another substitute as good as he is.

If such were the law, every man who was drafted and authorized to furnish a substitute would be careful to furnish an honest, able-bodied man, not a thief, not a felon, not a fellow just imported for the purpose of filling his place, not a man stolen from an immigrant ship, not a negro taken from the southern States; but a man that he believed would remain in his stead until he was incapacitated from service further in some manner by the exigencies of war. If you will add to that a regulation such as is attempted to be provided by this amendment, by which you shall make facility to the furnishing of substitutes, you will fill up the ranks of your Army. But, sir, it is a fallacy to fill the ranks of your Army nominally, when you have really got no soldiers, or when you lose five, ten, fifteen, twenty-five, or fifty per cent. under the substitute system by enabling you and I, sir, when we are drafted, to get any vagabond in the land to take our place, and who runs away as soon as possible, relieving us.

Mr. WILSON. I assure the Senator from California that I am very glad to have somebody in the world as hard, and as cruel, and as oppressive as I am. The sixth section of the original bill as I introduced it had that very provision in it, in these words:

And if any person who may hereafter enter the military or naval service as a substitute shall desert therefrom, or be discharged by reason of physical disability, existing prior to such entry into service, his principal shall be held to service for the remainder of the term for which such substitute shall be liable.

I thought that was a very good provision.

Mr. COWAN. Not without being drawn, I hope. I have no objection to the principle involved in the section, if after the substitute shall have been discharged on account of sickness, or deserts, the principal shall only stand his chance like other men to be drawn. Is that implied in the section?

Mr. WILSON. The Senator, I think, mixes the two subjects. By the existing law a person who is drafted may get a substitute anywhere. If, however, the substitute is liable to be drafted, the principal is not discharged for the whole time his substitute goes into the service, but his name goes on the roll at the foot of the list, and he may be drafted again. That is the existing law.

But, sir, we have got this practice in the coun-



try: we put in the Army a great many men who are not fit physically to go in, and in a few weeks they are discharged. They come in to supply places, and the communities that put them in are exempted. They have filled their quota; but the country has not got a man. He is physically unfit or deserts. The sixth section of the original bill provided that if he deserted, or if he was mustered out of the service on account of physical disability existing at the time of his being mustered in, the locality should give us another man, or the individual putting him in should give us another man, as the Senator from California now suggests. As soon as that proposition was made and went over the country immediately there came out in certain presses of the country a denunciation of it as very hard and oppressive, and a paper in my own State held me up as a man who was disposed to be very tyrannical and very oppressive; in a word, to be a little different after election from what I was before election. I have had a large number of those papers sent to me to show that I was certainly a very cruel, hard, and oppressive man. I am very glad to have the Senator from California with me to-day to share the odium and the burden of being such a cruel and oppressive man. I think it a sound principle. However, we struck it out in this amendment; but we hold the locality responsible and not the man.

Mr. CONNESS. I cannot understand the justice of holding the locality responsible and not the man. It is not the locality that owes service to the Government. It is the citizen that owes service to the Government. The Senator from Maine [Mr. FARWELL] suggests, in answer, that the practice in many districts is that localities fill up the quota without reference to men. When a district is required to furnish a certain number of men, what is it required to furnish? It is a certain number from its population; it is those that may be drafted and that are owing service to the Government. I cannot see that there is any injustice, or any tyranny, or any oppression in the proposition contained in the original bill, as suggested by the Senator from Massachusetts, the chairman of the Committee on Military Affairs. Suppose I am drafted, and I owe service to the Government, it is clearly my duty to go and render that service, or, the law permitting it, that I furnish a substitute. It is my duty; and can that duty be held to have ended and terminated when I turn a man into the Army, a man who deserts the next day, or a man who deserts and goes over to the enemy, or comes back to reenlist, or become a substitute for some other person and get a new bounty and a new price for his substitution? Can it be possible that I have paid the debt I owe to the Government by such a transaction as that? All I have got to say is, that unless the citizen is held bound to furnish an actual soldier, he should not be authorized to furnish a substitute at all. It is soldiers the country wants, and not a list of the names of men. A mere list of names can do no fighting. It is men that are wanted in the Army.

Mr. CLARK. I desire to suggest to the Senator what I presume he perceives already, that his idea is merely cumulative upon the one that is in the bill, and goes further.

Mr. CONNESS. That is so.

Mr. CLARK. It is not any objection to this amendment because it does not go quite as far as he suggests, because we might make his amendment afterward.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Does the Senator from New Hampshire withdraw his original amendment and offer another?

Mr. CLARK. No, sir; I renewed it.

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from New Hampshire to the first section of the amendment reported by the committee.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. SUMNER. I understand that the proposition now is to strike out the first section; is it not?

Mr. GRIMES. No, sir; I withdrew it some time ago.

Mr. SUMNER. Then I have an amendment to offer: to insert immediately after the first sec-

tion of the amendment of the committee the following, as additional sections:

*And be it further enacted,* That in addition to the substitute furnished by a drafted person, every such drafted person shall, before his discharge from the draft, be held to contribute a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment whatever, at the following rates, to wit: on all incomes over \$1,000 and not over \$2,000, five per cent.; on all incomes over \$2,000 and not over \$5,000, ten per cent.; and on all incomes over \$5,000, twenty per cent. And it shall be the duty of every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income, according to the requirements of the act to provide internal revenue, of July 1, 1862; and so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, as is inconsistent with this section, be, and the same is hereby, repealed.

*And be it further enacted,* That the contributions thus made shall be employed by the Secretary of War as a bounty to the men actually drafted and mustered into service subsequent to the date of this act whenever they shall be honorably discharged, or, in the case of death, to the legal representatives of any such man according to the rules and regulations established by the War Department.

Mr. SUMNER. Mr. President, on a former occasion I offered this amendment, and it was slightly considered by the Senate, not at much length, not, I think, as much as it deserved. Since then I have received many letters on the subject, I may say from all parts of the country, especially from the West, expressing a great interest in that amendment. The correspondents who have done me the honor to write to me have found in that proposition an element of justice to the poor man, and an endeavor to equalize the terrible burden of the draft. That is its essential character; and it is on that account that I now on this occasion renew it.

The proposition proceeds on the idea that it is not equal to exact the same sum from all men as an excuse from the draft. It is not equal when you compel the poor man, in order to save himself from the draft, to pay the same sum which is paid by the rich man. One man can pay with the greatest difficulty the five or six hundred dollars that may be required; to another man it is nothing. One man pays that sum out of his abundance; he loses nothing by it; his personal convenience, his necessities, are not in any way interfered with by the payment of that sum; but another man when compelled to pay that sum is constrained in the very necessities of life. Now, sir, I desire to say in this Chamber and before the country that that is not just. I stake the little reputation I have on that assertion as a principle of public morals; and I wish that my voice could go throughout the length and breadth of this country declaring that principle, and as a protest against this injustice. I say the rich man ought to pay for his exemption from the draft more than the poor man, and he ought to pay in proportion to his wealth.

But I have been told, or the Senate was told on other occasions, that the rich paid an increased tax, according to their income. Very well; that is one thing. The poor man pays his tax also according to his means. Let the rich man pay his tax according to his means. We come now to another matter which is not under the head of taxation; it is under another head, this head of conscription; and the question is, how much men who are drafted shall pay for their exemption. Under the existing law the poor man pays just as much as the rich man. I say that is unjust; and on that principle I stand.

The second section of the amendment which I have proposed provides that the contributions thus made shall be employed by the Secretary of War as a fund for bounties to be paid to the men actually drafted and mustered into the service. The fund that is gained in the way now proposed will be then for the benefit of drafted men. It will go to help them. It will go to add to the comfort and to the conveniences of the poor man who has been compelled to take part in the service of his country. Therefore there is a double object accomplished. In the first place, this burden, so far as legislation can do it, is equalized; it is made to bear equally upon the rich and the poor; and, in the second place, you obtain a very large fund for additional bounties to the poor man.

Mr. COWAN. I do not know whether I understand exactly the scheme of the honorable Senator from Massachusetts; and if I do not, he will of course correct me. I understand that the

basis of the proposition is in this: that political value, as well as commercial value, shall be measured by money; that is, all the citizens of the Republic shall be appraised and their money value ascertained precisely, and then they are to be assessed, not only as to their money contributions to support and maintain the Government, but also as to their personal and military service to maintain the Government. I hope I have stated him fairly. That seems to be the great principle which underlies the proposition sent to the Secretary's desk.

But the proposition does not carry out the principle, as I understand. The proposition confines it to those persons who are liable to be drafted. I think I am right in this. If that be so, then there is a conflict between them which is fatal, because if a man's weight and value in society depends upon his pecuniary value, why should not a man aged forty-six years and worth \$10,000,000 be obliged to contribute ten times as much as a man worth \$1,000,000 who is only forty years of age? If money is to be the measure of the contributions which we are to offer upon the altar of the Republic, money ought to measure those who are liable to the draft and those who are not liable. I suggest this for the consideration of the honorable Senator, in order that he may conform the system and make it harmonious; that he may introduce into it that symmetry which was supposed to be the essence of all virtue in ancient times.

But, Mr. President, I object to the taxation of salaries upon the broad ground stated in this proposition, and I object to it for this reason: there are three kinds of income in this country very distinct from each other. In the first place, there is a large class of incomes which arise out of contracts made before the passage of the present legal-tender law. A man may have purchased ground rents in 1860, yielding to him a revenue of \$2,000 per annum. In the present condition of our currency and its depreciation, that revenue is now really but \$1,000 per annum. The other \$1,000 is not put into the coffers of the Government, but is transferred from the pocket of the ground-rent landlord into that of the tenant who was to pay; or, in other words, the tenant pays \$2,000 with \$1,000, or with that which only costs him \$1,000 now to procure. That is a class of persons liable to be drafted who are already by the operation of our law taxed one half of their incomes; or, in other words, by the operation of those laws, their incomes are reduced to one half what they would be if we had not adopted the provision making United States notes and Treasury notes legal tenders.

Then there is another class of salaries that I would not subject to this kind of tax, and our own are an example of them. The salaries of State officers all over the United States are also examples. By the terms of the contract between the present members of Congress and the United States Government our salary was \$3,000; but by the depreciation of the currency in which we are paid it is now and has been for the last year but \$1,500. The other \$1,500 is taken from us and put into the coffers of the Government, and it is really \$1,500 tax. There is no fact more certain in the world than that the members of this Senate and of the other House have during the past year paid not only the income tax that all other citizens have paid, but they have paid the reduction in the value of their salaries, which amounted to \$1,500; and yet the Senator from Massachusetts, not satisfied with this burden, proposes to impose an additional one. If he will confine his burdens to another class whom I am about to mention, and who are the third class—

Mr. GRIMES. Are there any members of this Senate who are subject to the draft?

Mr. COWAN. Yes, sir, there are members of this Senate who are subject to be drafted; and I am utterly astonished that the honorable Senator from Iowa in casting his glances around cannot discover evidences of juvenility sufficient to warrant him in saying that that is the fact. [Laughter.]

The last large class of persons are those who may be denominated, perhaps, now, under the heads of "shoddy" and "petroleum"—people who have everything to sell and not much to buy; people whose incomes are not fixed, but whose commodities go into the market, and being nearly

as sensitive as the currency itself, rise and fall with it; people who do not care what the public credit may be—it does not affect them. If the public credit falls, their commodities rise. I would not object to the proposition of the Senator from Massachusetts being applied to such persons having large incomes; but he makes no discrimination in favor of those who are suffering and those who are rioting now in the enjoyment of perhaps larger profits than they ever had before. That class, at present, are those who depreciate the public credit. The man whose salary is not fixed to-day is put in antagonism with the Government, and it is his interest to depreciate its securities. The more he depreciates them the more he gets out of them; the more he has to present finally for ultimate payment. I have heard a contractor say that whenever his country was fortunate he was unfortunate, and whenever it was unfortunate he was fortunate; "so that," said he, "notwithstanding my patriotism and my great love of country, I have almost been afraid to hear of a Federal victory." Why? Because a Federal victory appreciates our currency, and the prices of his commodities fall in the same proportion; he loses; but a Federal disaster depreciates the currency, and his commodities rise in proportion.

If we could reach that class of people who have large incomes and subject them to any kind of tax, no matter what, I would have no objection to it; but I protest against this large drag-net which the gentleman has thrown about the whole community to sweep in those whose incomes were fixed before you established this fluctuating standard, to sweep in those whose incomes are fixed by law, or public officers, along with these people who are left perfectly free to regulate the prices of their commodities, apart from this standard. I should have been much better pleased to see a proposition come from the honorable Senator from Massachusetts to come back to a fixed standard. What would have been thought of a proposition in this body, agreed to by the other, and made into a law, that the yard-stick should be made of some substance elastic, variable in its nature, so that to-day it would be twenty inches, and to-morrow twenty-four inches, and the next day sixteen inches; or that the pound weight should depend for its gravity upon the direction of the wind—if you please? We have done that thing precisely. We have set up as a standard of value here a measure which varies with the fortunes of the Republic, which on the 1st day of January, 1864, made your dollar sixty-five cents, on the 1st day of July, 1864, made it thirty-five cents, and during the last year has kept it all the time below fifty cents. What is the consequence? We not only pay for the depreciation in this money, but we pay for its fluctuations; and it is its fluctuations rather than its depreciation which have enhanced the value of prices of every article, which have destroyed the relations which have heretofore existed among men, and which will, in my judgment, if not corrected, and corrected speedily, bring to us more ruin than defeat will bring to the armies of the United States. The reason is simple, perfectly simple.

If we had undertaken to be guilty of such folly as to alter the yard-stick, and change it from a fixed measure three feet in length into a variable measure which might be twenty inches to-day and twenty-four to-morrow, and fifteen the next day, what then? Would not the dealers have been changed from fair dealers into gamblers? As long as the yard-stick is a fixed measure the dealer is a fair dealer; but the moment you make him speculate as to what it will be you make him a gambler, and you make him bet upon that which no human foresight can foresee.

If it were a question of a contract between the honorable Senator from Iowa and myself as to whether I should deliver to him a thousand yards of cloth ninety days from this date, and we were to deal according to the fixed yard-stick, there would be only one kind of fluctuation that we should have to take into account, and that is the fluctuation in the supply and demand of the cloth. If the market was glutted, of course the price would be less; if the supply was limited, it would be more. But when I am to deliver this cloth at ninety days, and it is a question as to the yard-stick whether the yard-stick shall be twenty inches on the day of delivery, or whether it shall

be thirty-six, or thirty, or twenty-eight, the honorable Senator says, "I must take that into the account when I am making this bargain; I must provide for the probable fluctuation." So it is with regard to the money. If I stipulate to deliver to him a thousand barrels of flour ninety days from this date, it is not a question as to the supply and demand of the flour; it is principally a question as to the fluctuation of the money. What am I to do? The barrel of flour is really worth five dollars, but the standard now would make it worth eleven or twelve dollars, and it may be worth fifteen dollars; and if I am to deliver the flour at all I am to deliver it at such a price as will cover the probable fluctuation. What is the effect upon prices? To increase them half a dozen fold sometimes; and they have been increased in that way.

Now if this provision of the honorable Senator from Massachusetts is to apply to all people who are free to speculate upon these fluctuations, and whose incomes are derived from gambling upon them, I have no objection to it; but I do object to its being applied to that portion of the community whose hands are tied, and who have not been guilty of any depreciation of this currency. There are two classes of people connected with depreciation. The paper dollar of the United States is as good a dollar as the gold dollar if all the people will agree to take it as such. It is as good a dollar as the gold dollar if all the people of the country will give it the credit of the gold dollar.

Who is it that refuses this credit? It is not the members of Congress. When we go to the Secretary's desk to receive our pay we take the paper dollar as the gold dollar. It is not the soldier in the Army. He takes it as the gold dollar. It is not the seamen in the Navy, or the State officers employed under the State governments. They take it as a gold dollar. It is not the widow who lives upon a fixed dower charged upon land before the 25th of February, 1862, because she is obliged to take it by force of our law as a gold dollar. It is not the minor whose moneys have been loaned by his guardian and who has become of age since the prevalence of this fluctuating standard who depreciates it, because he is compelled to take it as a gold dollar.

And here, Mr. President, I will ask the indulgence of the Senate just to state a personal fact which was within my knowledge. A friend of mine was the guardian of a minor who had about ten thousand dollars in gold on the 1st of July, 1861. He was exceedingly anxious to invest that money upon real securities payable in three years, at the time the minor would arrive at maturity. He succeeded in doing so. On the 1st day of July, 1864, the money was repaid him in United States notes, which he was obliged to take; and upon an accurate calculation on that day, what he actually received was a little over four thousand and one hundred dollars for his \$10,000, with three years' interest. Its actual purchasing power in the market that day was equivalent to four thousand one hundred and some odd dollars. What became of the remainder? Who got it? The Government did not get it. It did not go into the Treasury of the United States; but it went into the pocket of the borrower. He had obtained ten thousand gold dollars, with the purchasing power of ten thousand gold dollars, and he paid it back with four thousand one hundred gold dollars, or a purchasing power equivalent. That guardian remarked to me, "If I had taken that \$10,000 on the 1st day of July, 1861, and locked it up in my safe and kept it there, not invested it at all, not put it to profit or to interest, on the 1st day of July, 1864, I could have gone out into the market and bought more than twenty-eight thousand dollars' worth of the money that I received in payment for it."

Now, I say that the minor child whose patrimony had been taken from him and put into the hands of a man who has given no consideration for it, has not depreciated the public credit. He took its dollars as gold dollars; and he is now liable to the draft; and he is one of the persons who would come within the provisions of the honorable Senator's proposition, which he says is founded on national justice. I can say to the honorable Senator that that minor to-day is in the Army of the United States, battling nobly for the honor of his country's flag; that he has paid more taxes than the honorable Senator and my-

self both since the war began; that is, I proceed upon the assumption that the honorable Senator is as poor as I am, [Mr. SUMNER nodded,] and therefore the more honor.

If these classes are to be distinguished, and if those who are free to take this dollar or not to take it are to be taxed, I have no objection; but I come now to the question, who does depreciate the currency? Who is it that depreciates the paper dollar of the United States? Who is it that refuses to take it as a gold dollar and to give to it the purchasing power of a gold dollar? I have said that it was not the officers the Federal Government; that it was not the soldiers in the Army, nor the seamen in the Navy; that it was not the officers of the State governments; that it was not the widows who lived on fixed incomes or dowers; that it was not old people who had retired upon ground rents, thinking they had something substantial to maintain themselves in their old age; it was not the minor whose patrimony is handed to him under this state of things; but who is it? It is the dealing part of the community; it is that part of the community who buy and sell, and whose incomes are not fixed. If the paper dollar is offered to me in payment of my salary I take it; but if I offer it to a farmer for his wheat he refuses it, and says, "Let me see, what is gold to-day—225? I must have \$2 25 in paper for this bushel of wheat." If I offer it to a merchant for his commodities, he inquires, "What is gold to-day—216? I will give you this for a gold dollar; but as gold is now 216 I must have \$2 16 in paper for it." It follows, as a matter of course, that the more it depreciates the more he makes out of it; and yet we proceed in stultifying ourselves by following this system, and following it without any attempt to escape from it.

Therefore, I say, I would have been much more happy to see the Senator from Massachusetts come in and plant himself upon the great general laws of political economy and the wealth of nations, and ask—first, that salaries be fixed and stable, that they be regulated by a fixed and certain standard before they are to be taxed; and if he had done so I would have been very glad to adjust them with him. And then I would be in favor of taxing incomes. I think—and I believe that I agree with the more advanced view of modern political economists—that to tax the income is the proper way to reach the available means of the community, which the Government has a right to call upon in order to improve its revenue; but I am opposed to the taxation of salaries when such an element of difference, and when such an unjust discrimination is made as against a large portion of the people and in favor of another much larger portion. I am opposed to it when it is proposed to put them upon the same footing.

Mr. SUMNER. I should like to have the attention of the Senate for one moment in order to bring the question back to its precise position. The bill under consideration is entitled as follows: "A bill in addition to the several acts for enrolling and calling out the national forces, and for other purposes." To that bill I have moved by way of amendment a proposition to equalize the burden of the draft, so that it will bear to a certain extent, and so far as that can be secured by legislation, equally upon the rich and the poor. But the Senator from Pennsylvania opposes my proposition, and he treats the Senate to a very elaborate disquisition on political economy in general, on the depreciation of the currency in particular, also on the currency, also on taxation, and still further on salaries.

Now, sir, admitting that all that the honorable Senator from Pennsylvania has so ably said is perfectly true, that it is according to just principles of political economy and the experience of the world, (and I am not disposed to go at this moment into that discussion with that learned Senator,) the proposition that I have had the honor to make has not been touched in the least by a hair's breadth. My proposition involves no question of political economy, no question with regard to the currency, or with regard to taxation, or with regard to salaries. It has nothing to do with any of those matters. Its single and exclusive object is to equalize the burden of the draft. There is no political economy in it. There is nothing but justice. I propose that every drafted person, before his discharge from the draft, shall be held to contribute not merely a substitute, but

a certain title of his annual gains, according to the following proportions:

On all incomes over \$1,000, and not over \$2,000, five per cent.; on all incomes over \$2,000 and not over \$5,000, ten per cent.; on all incomes over \$5,000, twenty per cent.

I provide in the amendment the means of ascertaining those incomes. I am not tenacious with regard to the percentage which they are to pay by my amendment. If Senators would suggest a different percentage I shall be perfectly willing to yield to any suggestion which shall seem to be reasonable. I have offered the proposition as the best under all the circumstances that I could devise. Other Senators may improve it; it is open to improvement; but I submit that the criticism of the Senator from Pennsylvania does not touch it in the least. The proposition still stands before the Senate in its original character as a measure which, if adopted, would equalize this burden of the draft. It would, if I may so express myself, temper this terrible draft to the poor of the country. It would make them see that the legislators here, while imposing this draft upon the country, thought of the poor, and took such steps as they could to the end that this burden should not press upon them with undue severity; so that it might to a certain extent be equalized upon them and upon the rich. I know full well that this cannot completely be accomplished; but, sir, it is something to make an endeavor in that direction. I think that the Senate of the United States owes it to this question; it owes it to the poor that are liable to be enrolled, that they should make the endeavor. Let them show to the country that while they require this draft they also recognize that there are inequalities of condition; that some men are poor and some men are rich; and that the same sum shall not be exacted from the poor man that you exact from the rich.

Mr. JOHNSON. Mr. President, I felt it my duty when this measure was proposed by the member from Massachusetts at the last session, to oppose it then, and notwithstanding I have listened very patiently to his observations in support of it, I am obliged to adhere to my original convictions.

In the first place, it is very undesirable, as I think, upon every ground, to draw a distinction between the poor and the rich as a general proposition. Class legislation is always mischievous, and is therefore, as I think, defective in principle. The honorable member from Massachusetts says he thinks, and no doubt he does think, that his proposition is so clearly just he can hardly imagine the Senate can fail to see it in the same way, and to adopt it. A great many things may be just in the abstract, and we might be very anxious to accomplish what in the abstract is just when we are not able to do it as legislators. What is proposed is to levy a tax of five per cent. upon all incomes between \$1,000 and \$2,000, ten per cent. upon all incomes between \$2,000 and \$5,000, and twenty per cent. upon all incomes exceeding \$5,000; and the fund that is to be raised by this tax is to go into the Treasury of the United States to be appropriated by the Secretary of War for the purpose of procuring soldiers for the Army of the United States.

Mr. COLLAMER. It goes to pay the drafted men a bounty.

Mr. JOHNSON. Drafted men or others.

Now, Mr. President, there are but two clauses in the Constitution under which this proposition can be maintained. The first is the clause which gives to Congress the power to lay taxes, and the other the one which gives to Congress the power to raise armies. There are no others. I suppose all will admit that under the power to lay taxes there must be a uniform rule. You cannot tax one man specifically by a different rule from which you would tax another. You cannot say that one man is to pay upon his real and personal estate one rate of taxation, and that another man is to pay a different rate of taxation. You cannot say that a man who is worth \$500 only is to pay five per cent. and the man who is worth \$20,000 is to pay fifty per cent.

Mr. COLLAMER. The income tax law imposes different rates of taxation.

Mr. JOHNSON. They all go upon the same footing, though; but this proposition wants uniformity in this very vital particular. It not only does not include all who may have the incomes

proposed to be taxed as far as the amounts are concerned, but it does not include a great many, or may not include a great many, who fall under the operation of the law itself. If a man having an income of \$5,000 is drafted, and he thinks proper to go into the service, he would pay nothing. It is not proposed to make him do anything more in that case than to comply with the draft, to go into the field. He might be worth his \$20,000 a year and yet he pays nothing.

Now, Mr. President, can this be done? Can you levy a different rate of taxation for the purpose of raising a fund to support and raise an army where one man is to pay upon his estate only one per cent. and another man is to pay upon his estate twenty per cent.? Can you do that specifically? He pays more by your general rule of taxation, because he has more with which to pay. If he has three farms, each farm is valued and each farm is taxed; but it is taxed by the same rate of taxation that he is taxed who owns only one farm. If the one farm is valued at \$5,000 and you tax him two per cent., you tax him who owns three farms, each worth \$5,000, two per cent.; but you cannot tax the man who owns one farm only two per cent., and say that he who owns three farms shall pay upon each of his three farms ten per cent.

No such rule of taxation ever has existed anywhere; and the Convention who gave to Congress the authority to lay taxes never dreamed that under that power Congress could discriminate between the rich and the poor as far as the rate of taxation is concerned. The proposition of the honorable member may perhaps be very acceptable to a majority of the people of the United States, because it may be that they would not fall within his rule. Then the result would be that they would control the legislation of the country, and controlling the legislation of the country they could impose taxes so as to bring all to the same level, destroy the property of the rich man by making him exclusively to support the Government. The Convention never contemplated a result of that sort. If they did not contemplate that as a thing to be done under the taxing power, it is to me very evident that they could not have intended that it should be accomplished under the authority to declare war and to raise armies, because the taxing power is given for the very purpose of enabling them to raise and support armies. When you are in the act of raising and supporting your armies and you go to your taxing power in order to enable you to do either, you are bound by the limitations to which the taxing power itself is subjected.

Nor is it true, Mr. President, in a political sense that there is any injustice in what is now being done. Each man, the poor as well as the rich, is bound to serve the country in time of war. If he happens to be poor, it only increases the misfortune under which he labored before he was called upon, that is, the misfortune of being poor; but it gives him no claim upon the rich as far as the Constitution is concerned; it gives him no right to say to the rich man, "You shall pay me for going into the Army, because you are able to pay me, and I cannot afford to go unless I am paid." As an application to the benevolence of the rich man, I can understand it; but as a right in Congress to draw the distinction, and make the rich man support the Army entirely, I cannot understand it. Where are you to stop? In the particular instance you are about to tax five per cent. on him who has an income of \$1,000; he who has an income of \$900 is not taxed at all. How do you know that the man who has an income of \$1,000 is better off than the man who has an income of \$900? What are the demands upon him? What family has he? What are the incumbrances? What does it cost him to live? He may be just as hard pushed to support his family out of his \$1,000, and much harder put to it, than the man who has but \$900, because the latter may have no family to support, and he is richer, therefore, in point of fact, than the man who gets his \$1,000; and so in relation to each of the other classes to which the amendment applies.

I object to it, therefore, on the ground that it is wrong in point of principle. I object to it, because, so far as the honorable member's ground is concerned, the rich man pays now a great deal more than the poor man, because he is rich, and

only because he is rich. He pays a great deal more on the estate which he has than a man pays who has no estate with which to pay. This is to take from the rich man who has an estate that you tax in every variety of form, because there is hardly anything that is not taxed; you make him pay an income tax of five per cent., or whatever may be the amount, and then you tell him that if he happens to be drafted, you give him the privilege of getting a substitute, for which he may have to pay four hundred or five hundred or a thousand dollars, and after he has done that he must place in the Treasury a fund out of which the Government can get just as many soldiers as they think proper. You had better pass by the system of substitutes and provide at once that all drafted men who have an income of \$1,000, or any sum above \$1,000, shall in the aggregate raise money enough to carry on the war.

Mr. SUMNER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HARLAN. I suppose that this proposition is not in the nature of a tax, but is intended to operate as a penalty on the drafted man to induce him to enter the service. As has been stated to-day, every man owes military service to the country when his service may be needed in the defense of the country. The names of all the able-bodied men in the country are enrolled and a draft is had to select the exact number for any particular exigency. It is the man that is wanted, and not money or material, and the Senator from Massachusetts proposes to make it inconvenient for the individual to evade that obligation. He will render it inconvenient for him to evade the obligation, to evade the performance of military service, first by requiring him to furnish a substitute, and in the second place by requiring him to pay a sum of money, which may be in the nature of a fine, in proportion to his wealth, in proportion to his substance, so as to increase that inconvenience on his part to stay out of the service. In voting, then, for the amendment proposed by the Senator from Massachusetts, I do not do it as a tax measure, but I do it for the purpose of inducing the drafted man to perform military service, for the purpose of making it inconvenient for him to evade the service; and in that view of the case it seems to me it is a very proper measure.

The question being taken by yeas and nays, resulted—yeas 8, nays 30; as follows:

YEAS—Messrs. Anthony, Harlan, Lane of Kansas, Morgan, Pomeroy, Sherman, Sumner, and Trumbull—8.

NAYS—Messrs. Brown, Bucklew, Carlile, Clark, Colman, Conness, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harris, Henderson, Howard, Johnson, Lane of Indiana, Morrill, Powell, Ramsey, Riddle, Stewart, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—30.

ABSENT—Messrs. Chandler, Harding, Hendricks, Hicks, Howe, McDougall, Nesmith, Nye, Richardson, Saulsbury, Sprague, Wade, and Wilkinson—12.

So the amendment to the amendment was rejected.

Mr. CONNESS. In section six I move to strike out after the word "therefrom," in the fourth line, the words "or be discharged by reason of physical disability existing prior to such entry into service;" so that the section will read:

That the remainder of the term of service of any person who shall hereafter enter the military or naval service as a volunteer or drafted man, and shall desert therefrom, shall be added to the amount of service due from the district to which such volunteer or drafted man shall have been credited, and the same shall be filled up from such district by enlistment or draft.

I wish to strike out the words which I have moved to strike out, because I think the Government should be responsible for the examination that it makes in advance upon the question of physical disability.

Mr. LANE, of Kansas. I ask if it is not in order now to move a substitute for the first section.

The VICE PRESIDENT. Not while the amendment of the Senator from California is pending. The question now is upon the amendment proposed by the Senator from California to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. LANE, of Kansas. I now offer the following as a substitute for the first section:

That all acts and parts of acts now in force providing for substitutions, or regulating the substitution of another for a person drafted into the military service, be, and the same are hereby, repealed.



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THURSDAY, FEBRUARY 9, 1865.

NEW SERIES.....No. 41.

I desire to state that I do not now suppose the Senate is prepared to adopt this amendment; but I feel it my duty to offer it, believing that the system of substitution has failed utterly to replenish the ranks of our decimated armies. I witnessed five weeks ago a scene which I will state to the Senate. I was invited to make a speech on the Sabbath day, at Benton barracks, in Missouri, near St. Louis. While speaking my attention was called to two or three hundred soldiers brought out on that day in the middle of the camp ground to hear my speech. I noticed that they were guarded with more care and more vigilance than if they had been felons. I inquired why that care and vigilance in guarding those soldiers, and I was told that they were substitutes, and that it was indispensable to guard them to prevent their running away.

A SENATOR. From the speech? [Laughter.] Mr. LANE, of Kansas. No; from the camp. They were very desirous to hear the speech, I will say to Senators.

The system of substitution, I repeat, has failed. It is necessary for us now to have soldiers to give the death-blow to this rebellion. If the system has failed, no Senator will deny that the burdens of this war now rest upon the poor and middle classes. I for one am desirous that the drafted man shall serve, and that the burdens shall be equalized. I will say to Senators that if they desire to replenish our armies they can do it by adopting the section which I propose as an amendment to this bill. It will encourage volunteering, and we shall not be troubled with a draft.

Mr. COWAN. I am obliged to object to this amendment for what I think will be deemed by this body at least sufficient reasons. If it should be adopted, I am not prepared now to say what would become of the Finance Committee. The honorable chairman of that committee [Mr. SHERMAN] is liable to be drafted. Suppose he is drafted, is he not to be allowed to put in a substitute?

Mr. LANE, of Kansas. Is he not exempt under the present law?

Mr. COWAN. No. The honorable Senator from Missouri, also a member of the committee, [Mr. HENDERSON], is liable to draft. Shall he not be allowed to put in a substitute? I do not know whether I could escape myself or not, but perhaps I might.

Mr. HALE. I want to inquire of the Senator from Kansas if those soldiers that had to be guarded while he was making his speech were any of those whom General Schofield imprisoned for hurrahing for Jim Lane. [Laughter.]

Mr. LANE, of Kansas. I am not prepared to answer the distinguished Senator from New Hampshire. That there were soldiers imprisoned for that offense is undeniable; but I can assure the Senator from New Hampshire that a soldier in Missouri would now be much more liable to imprisonment for refusing to halloo for Jim Lane than heretofore for doing so. Since the emancipation and freedom of Missouri has been secured there has been a change in the feelings of the citizens of Missouri.

Mr. President, being desirous to record my name in favor of the proposition that I have offered in good faith and in sincerity, I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 31; as follows:

YEAS—Messrs. Brown, Doolittle, Grimes, Howe, Lane of Indiana, Lane of Kansas, and Ramsey—7.

NAYS—Messrs. Anthony, Buckalew, Clark, Collamer, Conness, Cowan, Davis, Dixon, Farwell, Foot, Foster, Hale, Harlan, Harris, Henderson, Hendricks, Johnson, Morgan, Morrill, Pennington, Powell, Riddle, Sherman, Stewart, Sumner, Ten Eyck, Trumbull, Van Winkle, Wiley, Wilson, and Wright—31.

ABSENT—Messrs. Carlile, Chandler, Harding, Hicks, Howard, McDougall, Nesmith, Nye, Richardson, Saulsbury, Sprague, Wade, and Wilkinson—13.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I offer the following amendment as an additional section:

And be it further enacted, That the heads of Executive

Departments, judges of the courts of the United States, and members of Congress, during their terms of service, shall be exempt from military duty.

I believe, sir, that it was a subject of some astonishment when it was discovered after the passage of the original conscription law that members of Congress were not exempt; and although no personal inconvenience has occurred to any one, I think the law ought to be distinct on this question. This law contemplates personal service, that the person drafted will go. I submit that a member of Congress, or a judge of the courts of the United States, or the head of a Department ought not, in view of the Constitution and the laws, to render personal service in the Army. It has been decided, I believe, by the House of Representatives, that a man cannot be a member of that body and at the same time hold a military office. He cannot serve the country in the Army as an officer and also in Congress. Certainly that decision is right; and I submit that the Constitution requires that there shall be Senators here and that there shall be Representatives in the other body, and that we cannot pass a law taking a Senator or a Representative out of either Hall. The Constitution provides that there shall be two Senators from each State, and that there shall be representation in the other body in proportion to the population, and that Congress shall meet on the first Monday of December, unless otherwise provided by law. There is no other provision by law; the Constitution then regulates the time of the meeting of Congress; it is our constitutional duty to be here; not only a privilege and a right, but a duty under the Constitution to be here at the time provided in the Constitution. Now, is it possible that the Executive can demand of members of Congress service elsewhere? Is it not the right of the district to be represented in the other House by the man whom the people may elect? Is it not the right of the State to be represented in this body by the Senators selected by the Legislature? It is not competent, then, I submit, for Congress to take away either from the district or the State the representation which the Constitution gives in Congress.

I have no concern personally about this matter, and care nothing for it myself; I do for some other persons. Here is my distinguished friend from Missouri, [Mr. HENDERSON.] I should feel a sympathy for him if he should be drafted; but I do not choose to place the question on that ground. There is another objection, even if constitutionally we could provide that a member of Congress should be drafted. I submit that this power ought not to be given to the Executive. It was the contemplation of the framers of this Government that the three departments should be distinct and independent. Now, is it right to place the legislative department to any extent under the control of the executive department, or that the executive department under any circumstances shall take one single member out of this body or out of the other House? I submit that it ought not to be allowed. I think it has been an oversight up to this time; and clearly it would be a most mortifying spectacle to see the military officer take the judge off the bench of the United States courts. That judge is presumed to render as important service in the court as he could render in the field. That presumption applies to each member of this body. Whether it be true or not, it is unnecessary to discuss. The Constitution vests in this body its powers and devolves upon each member his duties. The powers are to be exercised here, and the duties to be discharged here at the time provided. I think there ought to be no objection to the adoption of the amendment.

Mr. BROWN. I trust, sir, for one, that the amendment moved by the Senator from Indiana will be adopted. I believe with him that it is a matter of very great doubt whether it is competent for Congress to place one branch of this Government under the authority and power of another branch of this Government. I have no doubt, however, about the policy of any law which has that tendency, any law which when carried out

might have that effect. I may cite a case in connection with the State which I have the honor to represent on this floor. The result of the draft has been very exhaustive there; there is pending a very heavy draft now, and it may so happen that in the draft which transpires a few days hence both the Senators from that State and every Representative on the floor of the other House of Congress may be taken and drafted into the armies of the United States. Now, I say that that is a condition to which no State should be subjected; and I say it is a condition to which the members of the legislative branch of the Government themselves should not be subjected, and I state frankly that it is a position to which I do not desire to be subjected myself. I have no hesitancy about this. I do not suppose that any one will accuse me of shirking the proper duties that devolve on me. I have already served out one term of enlistment in this war, having enlisted as a private soldier; and I therefore cannot imagine that any one will attribute motives of that kind to me; but I do feel that it is wrong; I feel that it is liable to effect still greater wrong, and I trust that we shall begin and make exceptions, as we shall have to begin hereafter to make them.

Another thing, Mr. President. I believe that if we are going to correct our military system, if we are going to put it on a true and a better basis than we now have it, we shall have to begin by making those necessary exceptions that are right for the civil service and for that portion of the business that cannot be conducted otherwise. Whenever you undertake to oppose the substitute system, whenever you undertake to oppose the bounty system, whenever you undertake to oppose this whole system by which money is put in the place of men, you are met with this simple assertion: "How are you going to do so and so?" Whenever you undertake to do that, you are met with the objection that you cannot carry on this, that, or the other branch of the Government; that you cannot carry on this, that, or the other necessary avocation of life. Now, sir, I say that if we are going to put our military establishment on the proper footing, making the proper exceptions, making the proper divisions, and giving to the country for its military service that which is requisite, giving to the civil departments that which is requisite, then we might as well begin now as at any other day to make those exceptions, and begin in the right place. I, for one, shall support the amendment which has been moved by the Senator from Indiana.

Mr. HENDERSON. I care nothing about the proposition pending before the Senate, but the remark of my friend, the Senator from Indiana, in regard to myself, makes it necessary that I should say a word. He seems to entertain some fear that I may be drafted into the service, and he, I believe, is the only Senator that seems to express any regret about it. He would be very sorry, I have no doubt. I am like my colleague from Missouri; I think it altogether likely that both of us may be drafted into the service in our State, especially if the quota now assigned to Missouri shall be drafted. But, sir, if it becomes necessary to go into the service, I suppose we both can go; and unless this question is settled in the course of a very short time, I shall be disposed to go, and not to furnish a substitute. I have been attempting here for the last three or four weeks to get a bill, of great interest to my State, before this body for consideration, but there are now some six or eight bills ahead of it, and I have been unable since I have been here this session to do anything for my constituents. I feel that I am doing nothing here for their good, and I do not know but that I may do some good in the service, and I do not know but that it would be well to draft me. Hence I shall vote against this amendment, so that there may be some possibility of my being drafted into the service. I am sure I can do some good in the military service, and I cannot see that I do any good here. I feel that it will be impossible for me to do any good here unless we very soon get rid of this proposi-

tion, in which there is nothing. There is not a thing in the bill now before this body. We have been discussing it here for two days, and I see nothing in it. I saw nothing in it when it was called up. I am willing to vote for it; I am willing to vote against it—any way in the world to get rid of it. If the Senator who so ably fills the post of chairman of the Military Committee insists upon it, I shall vote for it; but I care nothing about it. I do hope we may take a vote on this question, and let us get along with the business before the Senate.

Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 9, nays 27; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Hendricks, Pomeroy, Powell, Riddle, Trumbull, and Wright—9.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Stewart, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—27.

ABSENT—Messrs. Carlile, Collamer, Doolittle, Hale, Harding, Hicks, Howe, McDougall, Nesmith, Nye, Richardson, Salsbury, Sprague, Wade, and Wilkinson—15.

So the amendment to the amendment was rejected.

Mr. MORRILL. I propose to amend the seventh section by inserting after the word "service," in the thirteenth line, the words "and all persons who being duly enrolled shall depart the jurisdiction and go beyond the limits of the United States with intent to avoid any draft into the military or naval service duly ordered." It will be seen that the section now provides for disqualifying persons from holding any office of trust or profit who desert the military service. I do not see why the same principle should not extend to those who leave the country to avoid the draft.

Mr. CONNESS. I would remind the Senator that the act of desertion after a sailor or soldier is in the service is an act duly ascertained and proven, while the intent with which a man leaves his home and changes his residence cannot be so easily established. Why not require the person to go to the enrolling office and give notice there after his enrollment, and disfranchise him as proposed if he shall not do that? If you leave it to the proving of the intent I apprehend you will not disfranchise anybody by that means.

Mr. MORRILL. Of course it depends on the intent with which the party leaves. I think it would be a little severe, perhaps, to provide that a man shall be disfranchised on changing his residence unless he should report himself to the enrolling office.

Mr. CONNESS. He knows whether he is enrolled or not. Otherwise I submit that the proposition will not effect anything.

The amendment to the amendment was agreed to.

Mr. MORRILL. I suggest an amendment in the same section, with the view of raising a question about which I have some doubt. I move to strike out all after the word "service," in the third line, down to and including the word "and," in the eleventh line. The words which I move to strike out are:

All persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the passage of this act, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any of the rights of citizens thereof, and.

I am not clear that there is anything in the point I desire to raise, but it will be seen that the section provides for a penalty to two classes of persons; in other words, it applies to those who have deserted and to those who shall hereafter desert. The question I suggest is whether it is competent for us to impose this disability on persons who have heretofore deserted, whether it is not an *ex post facto* law, whether it is not fixing a penalty for an act already done.

Mr. GRIMES. It is removing the penalty.

Mr. JOHNSON. The honorable member from Maine is mistaken, as I think, because the penalties are not imposed upon those who have deserted, if nothing else occurs, but only on those who have deserted and who shall not return within sixty days. The crime for which the punishment is inflicted is made up of the fact of an antecedent desertion, and a failure to return within

sixty days. It is clearly within the power of Congress.

Mr. MORRILL. Then the Senator would make it depend on the fact of not returning. But the gist of the offense of course is the desertion.

Mr. JOHNSON. Deserting and not returning is the offense punished here. Besides, if this amendment is adopted, or anything like it, it will be necessary to alter the section in another particular, because the words proposed to be stricken out are the words in which alone the penalties are imposed, so that there would be no meaning to be attached to this section; for it would simply provide that all persons who shall hereafter desert the military or naval service "shall be liable to the penalties of this section;" and the penalties are in the words proposed to be stricken out.

Mr. MORRILL. As I said in moving the amendment, I had great doubt whether I was right. I have accomplished all the object I had, which was to call the attention of the Senate to the subject, and I now withdraw the amendment.

Mr. COWAN. I wish to move an amendment to the last line of the third section in order to make it conform to the amendment already adopted on my motion. I move to strike out the words "martial or military commission" after the word "court," and to insert the word "aforesaid," and also to strike out the word "at," in the eleventh line, and insert the word "in," and also to strike out the word "such" in that line, and insert "the," so that it will read, "in the discretion of the court aforesaid."

The amendments to the amendment were agreed to.

Mr. JOHNSON. I ask the chairman of the Military Committee if it is very clear what is the meaning of that part of the third section which begins on the sixth line. The immediately antecedent part of the section provides for the punishment of him who shall furnish as substitute a drunken man, or an insane man, or a deserter; and then it goes on to say in the sixth line, "or who shall defraud or deprive any volunteer or substitute of any portion of the State, local, or United States bounty."

I do not suppose it is the purpose of the section to prevent the business of procuring substitutes. As I understand it, persons who are willing to become substitutes for the bounty enter into an agreement with some agent, or broker, whatever he may be, and agree with him that they will pay a certain proportion of the bounty, say fifty dollars. That agreement may be in writing. The service is rendered; the substitute gets his bounty money, and the fifty dollars goes into the hands of the broker, and then the substitute says, "I want that fifty dollars back."

Mr. CLARK. Put in the word "wrongfully."

Mr. JOHNSON. I was going to say, "illegally deprive." I think it better to insert that word. I move to insert the word "illegally" after the word "or," in the sixth line of the third section.

The amendment to the amendment was agreed to.

Mr. DAVIS. I offer an amendment in the form of an additional section, to come in immediately before the last section:

And be it further enacted, That before there shall be another draft in any State or Territory or in the District of Columbia, the Secretary of War shall cause to be made a correct enrollment of the present military population of such State, Territory, or District of Columbia, by counties, towns, wards, and other local divisions, by which said draft may be conducted, deducting therefrom all persons who may be exempt from disability or other cause; and each State and Territory and the District of Columbia, by subdivisions, as aforesaid, shall be credited with any excess in its favor above its quota of the preceding draft, and with all persons, white or black, who may have been resident and subject to draft therefrom, who have entered or may enter the military or naval service of the United States subsequent to the last preceding draft and before the next draft.

There are three points in this proposition. The first is that another enrollment shall be made; that before another draft shall take place there shall be a correct enrollment of all the military population of each State and Territory and of the District of Columbia. The second is that before a draft shall take place it shall be ascertained who are entitled to exemption from that draft; that these exemptions shall be made before the draft takes place. Heretofore, in our State at least,

the exemptions from draft for military service were not ascertained until after the draft took place, and it produced a great deal of confusion, and I think is a very vicious principle. The draft ought to be from the population who are subject to military duty, and ought to be from that population exclusively, and therefore that population ought to be separated from all the people who are not subject to military duty before the draft takes place. The third point is, that where there was an excess in the smallest local division by which drafts took place at the last draft, that excess shall be credited to that locality in the ensuing draft. Now, I will read a short letter from the provost marshal of my county, that will show the necessity of this proposition so far as relates to that county, at least:

"Sir: In reply to yours asking the number of negroes who have joined the Army from this county, I submit the following remarks:

"I have the names of seven hundred and two who have left the county since enlistments commenced. At least a hundred more have left since, and are to be added to this list. Captain E. H. Moore, the provost marshal of the district, informs me that this county has a credit only of two hundred and five in his books for negro enlistments."

The county of Bourbon has sent into the Army upward of eight hundred negroes. The entire negro military population of the county have been swept from their owners, and yet the county has been credited with only two hundred and five negro recruits when it is entitled to about eight hundred. The military population of that county, white and black, amounted before the last draft to about twenty-two hundred men. Since that draft took place nearly one half of the aggregate military population of the county have been taken into the Army. As a matter of justice and of law the county ought to be credited with all the negro soldiers that have been enlisted into the Army. It has not received that credit. If it was to receive that credit it would be exempt for the next draft, and for a draft after the next; because there is no locality I presume in the United States, unless it be in some of the large slaveholding counties of Kentucky, where half the military population, including whites and blacks, has been mustered into the service.

This is not a single isolated case applying to the county of Bourbon alone; but there is something like the same disproportion of negro military population that has gone into the Army from all the counties in that State, and there has been the same omission to a greater or less extent to give to those counties the proper credits for the negro enlistments.

I do not propose to enlarge upon this proposition, but to state merely these facts, in order that the Senate may apprehend and appreciate the justice and the necessity of the proposition that I make. Is it right that a draft should take place in that county when about half of its aggregate military population at the last draft has already joined the Army? Certainly not. How is this to be avoided? Only by giving the county the proper credits for the military enlistments in that county, both black and white. That has not been done.

The remedy that I propose is embodied in this amendment, that a new enrollment of the entire military population of that county, and of every local district in the United States which is subject to the draft, shall be made, and that that locality shall receive a proper and a full credit for all the enlistments that may be made in it, whether they be negro or white enlistments.

I hope this amendment will be adopted—no, I will not say that I hope it; indeed I indulge in no such hope; but I say that it is a matter of the plainest and the most imperative justice that that county and every county which has given a redundancy of military enlistments to the Army, whether those enlistments be white or black, shall receive their full and proper credits. I ask for nothing more. I call for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 23; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, Howard, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Ramsey, Riddle and Wright—11.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Cowan, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Henderson, Johnson, Morgan, Morrill, Nye, Sherman, Stewart, Sumner, Trumbull, Van Winkle, and Wilson—23.

ABSENT—Messrs. Carlile, Chandler, Collamer, Hale, Harding, Harris, Hicks, Howe, McDougall, Nesmith, Richardson, Saulsbury, Sprague, Ten Eyck, Wade, Wilkinson, and Willey—17.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I move to strike out the seventh section, and I wish to say but one or two words on this motion. It seems to me to be very clear that this section proposes to punish desertions which have already taken place, with a penalty which the law does not already prescribe. In other words it is an *ex post facto* criminal law which I think we cannot pass. It is that "in addition to the other lawful penalty for the crime of desertion from military or naval service, all persons who have deserted the military or naval service of the United States, and who shall not return" within sixty days after the passage of this law, shall be punished by being stripped of all the rights of citizenship and be denied the right to hold an office of trust or profit under the United States. One of the penalties known very well to the criminal laws of the country is the denial of the right of suffrage and the right to hold offices of trust or profit.

It seems to me this objection to the section is very clear, but I desire to suggest further that this section punishes desertions that may hereafter take place in the same manner, and it is known to Senators that one desertion recently created is not reporting when notified of the draft. A person drafted is notified of the fact, and if he fails to appear within a certain number of days, he is a deserter. He may have a sufficient excuse for that; it may have been impossible for him to appear; but he is declared to be a deserter under existing laws. I submit to Senators that it is a horrible thing to deprive a man of his citizenship, of that which is his pride and honor, from the mere fact that he has been unable to report upon the day specified after being notified that he has been drafted. Certainly the punishment for desertion is severe enough. It extends now from the denial of pay up to death; that entire compass is given for the punishment of this offense. Why add this other? It cannot do any good.

The amendment to the amendment was rejected.

The amendment reported by the Committee on Military Affairs was agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole, as a substitute, was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. POWELL. Mr. President—

Mr. SHERMAN. I trust the Senator from Kentucky will allow me to submit a motion that all prior orders be postponed with a view to take up the joint resolution fixing the duty on printing paper.

Mr. POWELL. I wish to make such a motion myself, and I cannot yield the floor. I move that all prior orders be postponed and that Senate bill No. 392, for building a bridge across the Ohio river, be taken up.

Mr. SHERMAN. On that question I call for the yeas and nays.

Several SENATORS. Oh no, we will vote it down.

Mr. SHERMAN. I withdraw the call for the yeas and nays.

The question was put on Mr. POWELL's motion and it was declared not to be agreed to.

Mr. POWELL. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. TRUMBULL. I wish to make an appeal to the Senator from Kentucky on this subject, if he will allow me to do so. I am for the measure which he desires to take up, which I believe is to authorize the construction of a bridge across the Ohio river. I think he will gain nothing by making it a special order. We have had a pressure of business for some time past, but we can get on now. I think the Senator can get his bill up at almost any time, unless he antagonizes it with an appropriation bill.

Mr. POWELL. I believe every Senator in this Chamber is for my bill except one; but that

does me no good. I can never get it up for consideration.

Mr. TRUMBULL. Let the Senator pursue his own course.

Mr. POWELL. What good is it if the whole Senate is for the bill when I cannot get it up? It was made the special order for yesterday, but did not come up.

Mr. POMEROY. I move that the Senate do now adjourn.

The motion was not agreed to; there being, on a division—yeas 14, noes 19.

Mr. GRIMES. The Senate seems to be in an amiable frame of mind, and I therefore beg leave to ask unanimous consent to introduce a bill with a view to reference.

Mr. SHERMAN. I object until the order of business is settled.

The VICE PRESIDENT. The bill cannot be received. The question is on the motion of the Senator from Kentucky.

Mr. HENDERSON. Is it in order now to move to postpone all prior orders for the purpose of taking up Senate bill No. 359?

The VICE PRESIDENT. Not quite now, because the precise question before the Senate is on a motion to postpone the prior orders and take up a particular bill.

Mr. HENDERSON. I see that my friends from Ohio and Kentucky will never get through with this difficulty. I have been laboring for three weeks to get up the bill for Missouri, the number of which I have given, and I am satisfied that if we can get it up it will take but a short time. I make my suggestion merely to settle the difficulty between my two friends. I see there is some excitement on the question, and I move to postpone all prior orders and take up the bill I have indicated.

The VICE PRESIDENT. The motion is not now in order.

Mr. CLARK. I desire to make one suggestion to the Senate in regard to this matter of the priority of business. I see that several gentlemen desire to get up bills to-day, I suppose for the purpose of leaving then as unfinished business. I desire to say that that will do them no good, because at one o'clock to-morrow we have to go to the House of Representatives to count the presidential votes, and everything will be displaced.

Mr. SHERMAN. The unfinished business will come up.

Mr. CLARK. No, the unfinished business will lose its place, like everything else.

Mr. SHERMAN. But I understand that the unfinished business of to-day will come up at one o'clock on the next.

Mr. CLARK. I do not understand that it will.

Mr. SHERMAN. In all candor to the Senate, I must say that I do not think they ought to place me in this position. I am here as the representative of the Finance Committee, desiring to get up a public measure. I cannot engage in a struggle with Senators who simply desire to get up bills in which local communities are interested. That is the condition of the honorable Senator from Missouri, who is a member of the Committee on Finance, and of the honorable Senator from Kentucky. All I desire is to have the general legislative appropriation bill placed in a position where it can be considered without this continual struggle in regard to the order of business. If that bill is now taken up and fixed for any hour and day which may be named, I will not make any further struggle. That is all I desire.

Mr. CLARK. Let us fix it for half past twelve o'clock to-morrow.

Mr. SHERMAN. It is not in order now to submit the motion I desire, because the Senator from Kentucky is before me, although I believe I was on the floor first; but I do not complain of that.

Mr. SUMNER. Why not make the bill the special order for Thursday, at one o'clock?

Mr. SHERMAN. I cannot make any motion in regard to it until the pending motion is disposed of.

Mr. DOOLITTLE. I move that the Senate do now adjourn. That will unravel the difficulty.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 7, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

WILLIAM G. SHELDON.

On motion of Mr. HULBURN, the Committee on Public Expenditures was discharged from the further consideration of the petition of William G. Sheldon for relief; and the same was referred to the Committee of Claims.

#### RECONSTRUCTION.

Mr. WASHBURN, of Illinois. I demand the previous question upon the motion I made yesterday to postpone for two weeks the bill (H. R. No. 602) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government.

Mr. ASHLEY. I ask the gentleman from Illinois to withdraw that demand a moment and allow me to make a statement.

Mr. DAWES. I would also request the gentleman to withdraw the demand that I may make a statement to the House.

Mr. WASHBURN, of Illinois. What does the gentleman from Massachusetts desire?

Mr. DAWES. I desire to present to the House some reasons why I think they should dispose of this bill at this time, either by passing it or by a final vote of some kind. Will the gentleman withdraw his demand to allow me to do so?

Mr. WASHBURN, of Illinois. I would like to know more particularly the gentleman's purpose.

Mr. DAWES. I will renew the demand for the previous question, or make any other motion the gentleman may suggest.

Mr. STEVENS. I hope the gentleman will withdraw the demand and allow me to move to go into Committee of the Whole on the state of the Union to consider some appropriation bills.

Mr. WASHBURN, of Illinois. I will withdraw the demand and allow the gentleman from Massachusetts to make his statement.

Mr. STEVENS. Will not gentlemen postpone this matter for the present, and allow some public business to be disposed of?

Mr. DAWES. How much time will that consume?

Mr. ASHLEY. I would suggest that this matter be passed over informally for the present, as the committee on the rebellious States have not had an opportunity to consult with each other since the passage of the constitutional amendment. I make that suggestion, and hope it will be adopted.

Mr. DAWES. I do not desire to interfere with the appropriation bills, if by general consent this bill can be postponed to a particular hour when I can submit some views and present some reasons why I think there should be some early action upon it, as early as possible. That arrangement would be agreeable to me, and I should not then interfere with the appropriation bills. I suggest that we postpone the bill until three o'clock this afternoon.

Mr. STEVENS. It will come up as a matter of course.

Mr. DAWES. Should I be considered as having the floor?

The SPEAKER. The gentleman from Massachusetts will be entitled to the floor on the motion to postpone.

Mr. STEVENS. I now desire to move to go into Committee of the Whole on the state of the Union on an appropriation bill.

Mr. DAWES. Let me inquire what would then be the condition of this bill.

The SPEAKER. Whenever legislation shall be resumed in the House, the reconstruction bill will be the prior special order.

Mr. DAWES. Upon which I should have the floor?

The SPEAKER. The gentleman will have the floor on the motion to postpone; but the debate is limited simply to the question of postponement, and does not extend to the merits of the bill.

Mr. DAWES. I do not desire to be heard particularly on the question of the postponement of the bill. I desire, however, to submit some remarks to the House on the merits of the bill, for



the reason that the Committee of Elections, of which I am a member, have reports to make that have been kept back for want of some disposition being made of this bill. They are reports of importance which ought to be disposed of if this bill becomes a law. I am aware of the rule—

The SPEAKER. The Clerk will read the rule on the subject.

The Clerk read, as follows:

"A motion to postpone, under the practice, admits of but very limited debate."

Mr. DAWES. I am aware of the rule, and therefore I appeal to the House to permit me to submit some views upon the merits of the bill. If the gentleman from Illinois [Mr. WASHBURN] will withdraw his motion to postpone, I will agree to renew it.

Mr. WASHBURN, of Illinois. I withdraw it.

The SPEAKER. Then the gentleman from Massachusetts has the floor upon the bill.

Mr. DAWES. I will now yield to the gentleman from Pennsylvania, [Mr. STEVENS,] if he will permit me to resume the floor whenever legislation is resumed in the House.

The SPEAKER. The gentleman has a right to claim the floor whenever the bill comes up.

Mr. DAWES. Then I do not desire to impede legislation on the appropriation bills.

#### THE ASSAULT UPON HON. W. D. KELLEY.

Mr. BEAMAN. I rise to a question of privilege. I am instructed by the select committee appointed to investigate the assault upon WILLIAM D. KELLEY, a Representative in this House, and an alleged breach of privilege, to make a report, together with the testimony taken in the investigation. I ask that the same be printed.

I am also instructed by the committee to report two resolutions; and I propose to call them up as soon as members shall have had an opportunity of examining the report. I ask that the resolutions be read.

The Clerk read the resolutions, as follows:

*Resolved*, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending the House, commanding him to take into custody, wherever to be found, the body of A. P. Field, convicted of a breach of the privilege of the House in the attempt by language of intimidation and bullying to deter WILLIAM D. KELLEY, a Representative in this House from the fourth district of the State of Pennsylvania, from the free and fearless exercise of his rights and duties as a member of Congress and voting and deciding upon a pending subject of legislation, and in following up said attempt at intimidation and bullying by an assault upon the person of said Representative KELLEY, and forthwith bring him to the bar of the House; and that thereupon the said A. P. Field be reprimanded by the Speaker.

*Resolved*, That so much of the resolution of this House of the 5th day of December last, granting the privilege of the House to the claimants for seats from the State of Louisiana, as applies to the said A. P. Field, be rescinded.

The report was laid on the table, and ordered to be printed, together with the testimony.

#### PAY OF ARMY OFFICERS.

Mr. WILSON. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me for a moment, that I may make a report from the Committee on the Judiciary.

Mr. STEVENS. I yield for a moment.

Mr. WILSON. I report back from the Committee on the Judiciary Senate amendments to bill H. R. No. 583, entitled "An act to amend the twenty-first section of an act entitled 'An act to define the pay and emoluments of certain officers of the Army, and for other purposes,'" approved July 17, 1862. The committee recommend that the House non-concur in the amendments of the Senate and appoint a committee of conference.

The SPEAKER. The Committee on the Judiciary recommend that the House non-concur and appoint a committee of conference. If there be no objection, it will be so ordered.

There was no objection.

Messrs. WILSON, WADSWORTH, and ECKLEY were appointed as the committee on the part of the House.

#### FORTIFICATION APPROPRIATION BILL.

Mr. STEVENS. I now renew my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the special order, the fortification appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House

accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ROLINS, of New Hampshire, in the chair,) and proceeded to the consideration of the special order, bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866.

The bill having been read, was read again by clauses for amendment.

The Clerk having read as far as line thirty-nine,

Mr. WASHBURN, of Illinois. Of course, Mr. Chairman, I have not a specific knowledge with regard to the appropriations proposed in this bill. But I see that their amount is enormous. I would ask the chairman of the Committee of Ways and Means what is the total amount proposed to be appropriated by this bill.

Mr. STEVENS. I cannot state the total amount.

Mr. BROOKS. I have estimated it roughly at about five million.

Mr. WASHBURN, of Illinois. The gentleman from New York [Mr. Brooks] estimates it, by running it over casually, at \$5,000,000.

Now, sir, I do not know but that these appropriations may be necessary to be made at this time; but I do know, that if it be not absolutely necessary for the public defense that this stupendous appropriation of five or six million dollars should be made now, it ought not to be made until prices become somewhat lower than they are now. Were our financial affairs again upon a specie basis, one half of this amount, perhaps less than one half, would accomplish as much as the whole amount will do now. I should like to ask the chairman of the Committee of Ways and Means whether he does not believe that these appropriations can be cut down with safety to the public interest.

Mr. STEVENS. The Committee of Ways and Means, in looking at these large appropriations, felt disposed to cut them all down, and we had resolved to do so, unless upon a full examination we should be convinced to the contrary. We sent for the chief of the Engineer Department, General Delafeld, who seemed to us to be the most intelligent man whom we had before us from any Department; and after a full examination, consuming the whole of one morning, he convinced the committee that all these appropriations were necessary, in view of the new species of guns that have been adopted. He stated that changes in all the forts had been made necessary, in order to adapt them to the new ordnance mounted upon them, and that, if our defenses were to be of any use, these appropriations were in accordance with the lowest estimates that could possibly be made.

Mr. WASHBURN, of Illinois. I would inquire of my friend from Pennsylvania whether the Committee of Ways and Means inquired into the merits of this new system of ordnance by which these large appropriations are rendered necessary. Did the committee inquire whether this change, involving so vast an expenditure was proper to be made at this time?

Mr. STEVENS. The committee had no other information than that derived from the officers having charge of this Department. General Delafeld assured the committee that, in the new state of affairs with regard to warfare, naval as well as land, the old guns were of no use, and that new guns must be placed in all the fortifications, and new arrangements made.

Mr. BROOKS. I merely wish to say that intelligent, scientific, and highly cultivated gentlemen, occupying positions at the heads of Departments, feel naturally much *esprit du corps*, and are desirous that the fortifications of this country shall be put in a condition fully as strong as any in the Old World, which cannot be done without very great expense. I think, therefore, that the recommendations of these officers should always be looked upon with somewhat of distrust.

What I wanted to ask the gentleman, however, was whether the committee had taken into consideration the change of fortifications from stone to dirt. From demonstrations which have recently been made in the course of the war, earthen fortifications are now regarded as far superior to stone fortifications. I desire to ask whether the committee have taken this fact into consideration.

Mr. STEVENS. That matter was fully in-

quired into; and one of the reasons, as given by General Delafeld, for these large appropriations, was the fact that changes in the structure of fortifications, by the addition of dirt, had been rendered necessary, as well as changes in the kind of guns, and in the mode of mounting them, the old guns being now entirely useless.

Mr. BROOKS. I desire to ask one further question; and that is, whether the Committee of Ways and Means have consulted naval officers with respect to the question how far monitors or armed iron batteries may in some instances dispense with the necessity for these fortifications—whether armed iron batteries, like the Ironsides, stationed in our harbors, are not likely to do away in a good degree with the necessity for these fortifications.

Mr. STEVENS. In considering this bill we not only consulted General Delafeld, but we had before us some naval officers. They are not, I believe, very sanguine at present in favor of these iron-clad monitors as a sure defense against the vessels of Europe. I do not understand that any of them, except Admiral Porter, who is a gallant officer, are very sanguine. We believe, from all we can hear, that if we are to make defense against foreign nations these fortifications are necessary.

Mr. HUBBARD, of Connecticut. Mr. Chairman, I understand the chairman of Ways and Means to say that new guns are to be substituted in the fortifications for the old, and I desire to ask him what kind of new guns are to be used. Whether the old fashioned cast-iron gun is exclusively to be patronized, or whether a door will be open for the introduction of the improved wrought-iron gun.

A wrought-iron gun has of late been constructed by a Mr. Ames that will cast a missile seven miles, and which may be discharged ever so many times without bursting, and I hope it will be the policy of the Government to introduce into the service a reasonable number of guns of that kind of construction.

Mr. STEVENS. From the best information I understand that a contract has been made for fifteen wrought-iron guns, which have been fully tested, at least one of them has been, and is supposed to answer the purpose. Fourteen of these guns are waiting inspection, and have been waiting inspection for three or four months. The Department is occupied with other things to such an extent, and is so short of help, that it cannot send an officer to inspect them. So they remain uninspected and unpaid for, although finished according to contract.

Mr. HUBBARD, of Connecticut. These wrought iron guns, as I am well informed, throw seven and a half miles, and can be fired twenty thousand times without bursting; and I think that the policy of the Government requires that this kind of guns should be put into service instead of cast-iron guns, which have proved to be more dangerous at the breech than at the muzzle. [Laughter.]

Mr. STEVENS. I agree with my friend from Connecticut in some respects. I believe that these guns have been fully tested, and that one of them has thrown a ball seven and a half miles. At least such is the report. Fifteen were contracted for and the remaining fourteen have been finished for some time, but have not been inspected.

Now we cannot in a general appropriation bill undertake to regulate the action of the Department; we must leave that to them. I hope that they will find an engineer in the course of the coming summer, or fall, or next winter, who will find time enough to inspect these guns so that we can use them before the war is over. Whether it will or not, I do not know.

Mr. WILSON. I want to know whether the contract for these guns was made in advance of any appropriation by Congress, or whether it was authorized by any action of Congress.

Mr. STEVENS. There was a general appropriation for ordnance—for no particular gun; but under that a contract was made for fifteen of these guns. One of them, as I have already said, has been received, tested, and paid for.

Mr. WILSON. I would like to know whether any money to be expended for these fifteen wrought-iron guns is to come out of the appropriation under this bill.

Mr. STEVENS. I do not suppose that it will. This does not propose to go for paying for these

guns, but for the changes made necessary in fortifications by these changes in the ordnance used.

Mr. WASHBURN, of Illinois. Then, Mr. Chairman, in addition to these appropriations, which, instead of being \$5,000,000 are \$7,010,000, there are to be further and additional appropriations to pay for new guns to be mounted upon these fortifications.

Mr. STEVENS. We have made appropriations already for the ordnance itself. I believe that is all I have to say.

Mr. McBRIDE. I move to insert the following:

For completing the fortifications at and near the mouth of the Columbia river, the sum of \$100,000.

Mr. Chairman, some two hundred thousand dollars have been appropriated during the last two or three years and expended upon fortifications at that point which are not completed, and I was very much surprised on examining this bill to find that no provision had been made for them. I think that the extent and exposed situation of the commerce on that northwestern coast demand that something more should be done. It has been recommended by the Military Department. I am surprised that it has not met with favor from the Committee of Ways and Means. I hope that it will commend itself to the House, and that the amendment will be passed.

Mr. STEVENS. I would be willing to vote for anything recommended for that point unless I thought it extravagant. We have gone according to the estimates, and if we have overlooked this recommendation the gentleman can have it hunted up and the amendment made in the Senate. We hardly feel ourselves justified in inserting anything of this kind, in these times, which is not asked for by the Department. Sometimes we feel great reluctance in putting in what they have recommended, as we did in reference to many matters in this bill, and we sought to evade doing so after a long examination, but we could not do it. I hope, therefore, the gentleman will withdraw his amendment, and get a recommendation for it from the Department, and then get the amendment inserted in the Senate.

Mr. McBRIDE. I desire to state a single fact. Our coast is a thousand miles in extent from San Francisco north, and not a single dollar is appropriated for fortifying that long line of coast. We have two hundred miles of British coast north of us, which is strongly fortified. Our portion of the coast is the most exposed, and not a dollar is expended for defending it.

Mr. STEVENS. I desire to know whether he has examined to see whether there is not a surplus of former appropriations unexpended for that purpose.

Mr. McBRIDE. All the information I have is from officers there, and they are very anxious upon the subject.

Mr. STEVENS. I think it unsafe to put in the amendment here; but if upon examination it shall appear that there is no surplus of appropriation unexpended, and the Department is of opinion that the appropriation should be made, it can be inserted in the Senate.

The amendment was not agreed to.

Mr. BROOKS. I move to amend by striking out lines seventy-five and seventy-six, as follows:

For defenses of Washington, \$500,000.

I think we have reached that state of the war when we may dispense with this appropriation of \$500,000 for the defenses of Washington, and therefore I move to strike it out.

Mr. STEVENS. I do not know that it is entirely proper to tell what the general commanding informed us was the condition of a certain portion of our fortifications around this city, for if there should happen to be another rebel raid in a week or two, the enemy might take advantage of the information. There is a double row of fortifications on the west, so that if one row is broken through the city can be defended by the other. These double rows should be made efficient all around, and this appropriation is for that purpose in part. This is all I think necessary to say at present.

Mr. BROOKS. If I felt it necessary to incur the expenditure of half a million dollars for the defense of the city of Washington I should be the last person to move to strike out this appropriation. It seems to me that in the present condition of our affairs, instead of sending forth to

Europe, as we do by this appropriation, that it is necessary to expend half a million dollars for the defense of our capital, it would have a much better effect if we could devote \$500,000 to remove the defenses around our capital. I have no idea that another rebel raid will ever again approach within sight of this Capitol. I am quite sure in my own mind, unless there is utter inadequacy in the administration of our military affairs, that that period had gone by; and instead of adding anything more to the defenses of Washington, and making a fortified city of this, like Paris, Vienna, and Berlin, I hoped the time had about come when we could do away with all these fortifications. They are monuments of our civil war which I do not desire to perpetuate, and which I do not desire to preserve one hour longer than necessary for our own defense.

But if it becomes necessary to further defend this capital, there is a reserved military power in the hands of the Administration of this Government to do as we have done heretofore. From the funds now in their hands they can make a sufficient appropriation to make the present fortifications efficient. I would not object if it was proposed to expend fifty or a hundred thousand dollars for the protection of existing fortifications; but this large sum of half a million of money, in the existing condition of our affairs, seems to me entirely unnecessary, and a quasi confession on our part that we do not at this day and hour feel ourselves safe from the guns of the enemy in our own capital in the city of Washington. I hope the appropriation will be stricken out.

Mr. STEVENS. I do not feel as much confidence in the total annihilation of the armies of the South, perhaps, as the gentleman from New York. I did expect, to be sure, I did hope, that the late proceedings would have produced peace. It was very promising for a while—promised on that side of the House, promised elsewhere—but those promises have not been fulfilled, and I understand the war is to be resumed with renewed vigor. We know what we have witnessed in sight of this Capitol, and I know of no reason why we may not see the same thing again. I have no idea that the South will ever have force enough to make a permanent impression upon the North; but with this vast country of ours it is impossible to guard it all at once, and with their energy and skill they may take advantage of our position here and invade us in our own capital, unless we allow the proper fortifications to be made, which are required by the authorities who have charge of the business. I do not believe that a single dollar of this money will be expended unless it is necessary. I suppose that if a state of things exists which renders it improper that the money shall be expended, it will not be expended. I hope, therefore, that we shall grant this amount, so that in case of failure it shall not be the fault of Congress.

Mr. BROOKS. I withdraw my amendment, and move to strike out "\$500,000" and insert "\$100,000" in lieu thereof. In support of that proposition, permit me to say that I do not believe the rebel army contemplates ever again approaching the city of Washington; and if I am correctly informed respecting the recent proceedings which have taken place near Norfolk, Virginia, between the President of the United States and the Secretary of State, and certain persons said to be commissioners of the confederate States, the rebels themselves do not propose further aggressions upon their part upon us, but on the contrary were ready to accept an armistice from us, if we were ready to propose it, with a view forthwith of consulting their people during the cessation of hostilities between us and them. This is the information which I get upon the subject, and I suppose that I have means of information as correct as any gentleman upon the other side of the House, for my information comes in a good degree from gentlemen intimately connected with the Administration upon that side. If, then, it is true, as stated, that an armistice has been proposed upon the part of the confederates, and that the armistice has been rejected by us, *prima facie* evidence at least exists that it is not the intention hereafter of the rebels to enter upon any acts of invasion against us, but on the contrary that they contemplate mainly their own defense. I take it for granted that in the present condition of the

rebel army, with Sherman on one side, and Thomas on another, and Terry on another, surrounded by the anaconda as they are at present, the most that they can possibly contemplate is the protection of their own territory and their own forces, and that they can never contemplate any invasion of Washington. I do not expect ever again to see or to hear of the rebel flag within sight of the dome of the Capitol at Washington.

My main object in offering this amendment is not so much to save \$400,000, but to have a declaration of this House, a vote of confidence from the Representatives of the people, to be proclaimed abroad to the whole world, that a crisis has arrived in our public affairs when we no longer need half a million dollars, or three or four hundred thousand dollars, to defend these legislators here upon the Potomac river, but that our confidence in the ability of our Army and Navy is such that we can cease to fortify the capital. I wish the declaration to go forth to the world that Washington no longer needs, what the capitals of the Old World need, to be protected from the invasion of their own people or their own civil wars, but that we have reached a period when we can throw down our fortifications and rely upon the brave hearts of our soldiers and sailors fully and adequately to protect this capital from any contemplated invasion by the enemy. Watched as this country is by foreign ambassadors and representatives and correspondents of the foreign press, I should look upon the insertion of such a provision as this in an appropriation bill at this period of the war as a declaration of a want of confidence in our power to protect our own capital; while, if it is stricken out, I shall look upon it as a declaration to the whole world of our ability to maintain this capital without making any further appropriations for fortifications for its defense beyond what may be necessary for repairs; I shall look upon it as a declaration to the whole world that no such further appropriation is necessary.

Mr. MORRILL. Mr. Chairman, doubtless the gentleman from New York [Mr. Brooks] has more information than I have upon the subject of the negotiations that took place recently at Hampton Roads; but from the account which I have read, I have been unable to perceive that there was the least disposition upon the part of the rebels to consent even to an armistice except upon the basis of absolute independence, and when the negotiations terminated, it was, as I read the account—and I suppose that the same account has been read by the gentleman from New York—distinctly understood by both parties that the war was to be resumed exactly as if the conference had not taken place.

Now, Mr. Chairman, my understanding of this provision of the bill is diametrically opposite to that of the gentleman from New York. He seems to think that if we adopt this appropriation it will be a proclamation to the world that we are fearful of some further aggressions, and that it will be an exhibition of weakness. On the contrary, Mr. Chairman, I hold that the war will be more speedily ended if we now proclaim that we are preparing and ready to fight out this war if it should continue for the next twenty years; and I would not have it appear on the face of our legislation that we are to relax our front in the least, or that we are to be fooled or diddled by anything less than absolute submission on the part of the rebels to the terms which have so frequently and authoritatively been proclaimed. I think that if we should adopt this appropriation, instead of its being regarded as an evidence of weakness either here or abroad, it will be an evidence on our part that we mean to wage this war at all points to a successful and triumphant close.

Mr. CHANLER. Mr. Chairman, in view of the position which this House has assumed with regard to the Monroe doctrine, I feel myself constrained to differ with my colleague, and to sustain this appropriation of \$500,000. I think that all the arguments advanced by my colleague with regard to presenting a bold front and relying on the bayonets of our soldiers, apply with great force in regard to the rebellion, and that we may rely upon the spirit of peace which has recently shed its benign influence upon the Administration and its followers. But, sir, a new danger threatens the country, a danger from abroad; and if we propose in this House or through the country to sustain the manly position which we have assumed

by our votes in reference to the Monroe doctrine, it hardly becomes us at this moment to take from the Administration the sinews of war, and the means of holding a defiant front against the principle of *Dei gratia*, and the system of monarchy that is now being reestablished in the southwestern section of this continent. The time has come when no public measure looking toward the policy of this Administration in foreign or domestic relations should induce us for a moment to close our eyes to the importance of being prepared, *vi et armis*, to carry out the foreign policy which the predecessors of our present President laid down in the face of European aggressions upon the American continent. The period has come when the continental system of Monroe is to be the established principle of a united people. I believe that, by a proper spirit of conciliation, by a broad-minded, statesmanlike policy, founded on suitable appeals to the sympathies of Americans for the rights of Americans, we may reunite with us the armies that now march under the southern cross, and with combined energies we may repel at once the encroachments of European power upon the American continent. With these views, and not in any spirit of cavil or objection, I must maintain the propriety of the appropriation now under consideration, as reported by the Committee of Ways and Means.

The amendment of Mr. Brooks was rejected.

Mr. TOWNSEND. I move to amend by striking out in line eighty-three "\$300,000," and inserting in lieu thereof, "\$150,000." It occurs to me, Mr. Chairman, that an appropriation of \$300,000 "for surveys for military defenses, and for purchase of campaign maps," at this stage of the war, is an enormous sum. It strikes me that the ordinary appropriations for the Army embrace the services included in this item. Under the circumstances, I think that an appropriation of \$150,000 would accomplish all that is required; and the remainder of this sum might very properly be applied to the increase of pay of those officers below the grade of captain, in the Army, who, it is well known, are now suffering in consequence of the inadequacy of their pay.

The amendment of Mr. Townsend was rejected.

The Clerk read, as follows:

For survey of northern and northwestern lakes, including Lake Superior, \$125,000.

Mr. BROOKS. I want to know whether that is an appropriation for internal improvements, or for the military service.

Mr. STEVENS. It is for surveys for military purposes.

Mr. BROOKS. Does not that belong to the legitimate duties of the Coast Survey bureau?

Mr. STEVENS. The surveys of the Coast Survey are intended for the purposes of commerce and navigation.

Mr. BROOKS. I do not think that we have a satisfactory explanation of this appropriation of \$125,000 for the survey of the northern and northwestern lakes, including Lake Superior. It is a large sum for surveying, especially when we have a Coast Survey at an expense of over half a million dollars. If I could arrive at the full expense of the department I have no doubt that it would be more than that sum.

Mr. ELLIOT. If the gentleman from New York will pardon me for a moment I will state that the Coast Survey has never extended its labors to the lakes at all; and the duty of caring for the lakes has been imposed upon the topographical bureau of the War Department. This appropriation has always been made for and expended under the War Department, and these surveys have been made by the topographical bureau of that Department.

Mr. BROOKS. I am aware of that. The annual expense of the Coast Survey is over five hundred thousand dollars. I think that I am \$100,000 too low; but I have no means of making any accurate calculation, for the estimates of that bureau are made up in a way that defies all ordinary arithmetic. What I wish to suggest is that the duty of the Coast Survey should be extended so as to embrace the survey of the lakes. Lake Superior is an ocean of itself. I think that the Coast survey should incur these expenses. But, in a time of war like this, can \$125,000 be necessary for the survey of the northern and northwestern lakes? Michigan is pretty well surveyed, and Ontario and Superior cannot require so much.

Mr. GANSON. I move to insert the following:

For repairing, equipping, and enlarging Fort Porter, \$100,000.

Mr. Chairman, I propose that for the reason that I do not see any appropriation made for putting the forts above Niagara falls in any condition of repair. It has been reported to the Department within the last year that Fort Porter is in no condition whatever as a means of defense, and that repair and enlargement of that fort are necessary. In line ten of the bill \$50,000 is appropriated for repairs of Fort Niagara, near Youngstown, New York, a fort below the falls, and \$100,000 for Fort Ontario, Oswego, New York.

Now, sir, we have within a few days passed, by a large majority of this House, a bill, which I opposed, for a military canal which is to touch Niagara river above the falls and enter that river below those falls. That was proposed and passed as a military measure. All the vast commerce upon that canal will be exposed to inroads from the opposite shore. This Fort Porter is located upon the shoulder, at the foot of the lake, and the head of the river, commanding the entire Canadian shore. The fort is out of repair and it ought to be repaired and equipped.

There is no reason why this appropriation should be withheld. I think that there has been some mistake in a recommendation for this work not having been sent to the Committee of Ways and Means. I ask the chairman to allow the amendment to be inserted; and if there is anything wrong about it I will see that it is stricken out in the Senate. It has been recommended by the officer employed by the Navy Department to inspect this fort. He made a special report, which I have seen.

Mr. STEVENS. We put in all that the Department recommended. If they had recommended this, we would also have inserted it. It is much easier to have it inserted in the Senate than to insert it here, and have it stricken out there.

Mr. GANSON. I would like to gratify the gentleman from Pennsylvania, but this appropriation is manifestly right, and was omitted by an oversight.

Mr. SPALDING. I desire to offer a substitute for the amendment of the gentleman from New York. I ask that it may be read, and then perhaps the gentleman from New York will accept it.

The substitute was read, as follows:

For repairs of the public works, such as forts, piers, and breakwaters at the mouths of the harbors of the northern and northwestern lakes, \$300,000.

Mr. GANSON. I cannot accept that as a substitute. I prefer to have a vote upon this specific amendment in reference to Fort Porter, for I know the public interest requires the appropriation, and I know I could satisfy the House, from the report made by the Department, if I had time, that this appropriation ought to be made.

Mr. SPALDING. I withdraw my substitute.

Mr. DAVIS, of New York. I desire to say but a word upon the subject of the amendment proposed by my colleague from New York. I find that in the present bill \$100,000 have been appropriated for the repair of Fort Ontario, at Oswego; and I am confident that the work alluded to by the gentleman from Buffalo requires repairs to a greater extent even than Fort Ontario at Oswego. It is at the foot of the lakes, where the vast commerce of the West reaches the point where the waters of the lakes connect with the tide-waters of the Hudson. There is no protection for that commerce by way of forts. This position commands the Canadian shore and the Niagara river, and I am confident that the importance of Buffalo alone, without respect to the immense commerce of the lakes, demands that this improvement should be made, and the expenditure incurred. It is just to the people of the great West that their property and interests should be thus protected; and unless we put this fortification in complete repair, I know not what contingencies may arise, or what accidents or damages may result. I hope the amendment of the gentleman from New York will be adopted.

Mr. MILLER, of New York. I would like to inquire of my colleague who offered this amendment, if this Fort Porter is one of the defenses of the city and harbor of Buffalo; or is it further down the lake, at the mouth of the river?

Mr. GANSON. It is on the shore of the river upon the bluff where the elbow is formed by the junction of the river with the lake. Beneath this eminence passes the Erie canal, and the fort is necessary for the protection of that. It commands the opposite shore. Fort Erie is upon the other side. It defends Buffalo harbor, the Erie canal, the New York Central railroad, and all the communications between the West and the East upon which the products of the West are transported. There is no point, in my judgment, so important to be defended as this, and it is a gross oversight upon the part of the Department that an appropriation was not recommended for it. If I had time, I know I could satisfy this House, from the special report of the Department, that this is a necessary amendment. I have offered it in good faith, and I hope it will be seriously entertained.

Mr. MILLER, of New York. I made the inquiry merely for information, and I am perfectly satisfied with the reply.

The amendment was agreed to.

Mr. SPALDING. I now move to amend by inserting the following:

For repairs of the public works, such as forts, piers, and breakwaters at the mouths of harbors, on the northern and northwestern lakes, \$300,000.

I wish to say to the committee that last year Congress appropriated \$250,000 to be expended under the direction of the Secretary of War for the purpose of repairing works of—

Mr. STEVENS. I rise to a point of order. This is a fortification bill, and the amendment does not refer to fortifications.

Mr. SPALDING. The bill includes forts and other fortifications.

The CHAIRMAN. In the opinion of the Chair the amendment is not in order.

Mr. SPALDING. I appeal from the decision of the Chair.

Mr. WILSON. I would call the attention of the Chair to some items in this bill; for instance, in line thirty-seven is an appropriation for a seawall on Great Brewster's Island, Boston harbor, Massachusetts, \$40,000.

Mr. STEVENS. That is a fortification.

Mr. WILSON. There is nothing in the bill which shows that. There are several other similar items.

The CHAIRMAN. The Chair would state to the gentleman from Iowa that no objections were made to those items, and therefore they were passed.

Mr. WILSON. I make the suggestion for the purpose of sustaining the amendment of the gentleman from Ohio.

Mr. STEVENS. The appeal is not debatable, is it?

The CHAIRMAN. It is not.

The question being, Shall the decision of the Chair stand as the judgment of the committee?

Mr. SPALDING called for tellers.

Tellers were ordered; and Mr. SPALDING and Mr. GANSON were appointed.

The committee divided; and the tellers reported—ayes 50, noes 44.

So it was decided that the decision of the Chair should stand as the judgment of the committee.

Mr. STEVENS. I now move that the bill be laid aside to be reported to the House.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I move to take up bill of the House No. 663, making appropriations for the support of the Army for the year ending the 30th of June, 1866.

The motion was agreed to; and the bill was taken up, and read in full.

The Clerk then proceeded to read the bill by clauses for amendment.

Mr. BROOKS. I find on line forty-six a provision for "expenses of courts-martial, military commissions, and courts of inquiry." I avail myself of this opportunity to say that in my judgment it is quite time that these military commissions east of the Potomac and north of the Ohio river were dispensed with, and that the ordinary courts of law should be substituted for these military commissions. The military commissions which have been created here in this city have, some of them, been more oppressive than any of those which disgraced English history; and the recent decision of the chief justice of the supreme



court of the District of Columbia, settling certain principles of law, is one which, in my judgment, would have disgraced the age of Jeffreys. But I avail myself of this, the only opportunity that I have, to say to the President of the United States that in the present state of feeling east of the Potomac and north of the Ohio river, I hope he will exercise his prerogative to do away with the disgraceful, dishonorable, disreputable transactions in these military commissions. The record they have made the future and the existing historian will be obliged to conceal and gloss over if not to erase from the page of American history.

Mr. STEVENS. I have no doubt it is very disagreeable to have one's friends tried by court-martial and cashiered. I have had one such experience, about which, at first, I felt very much aggrieved; but after reading the evidence I did not say a word about it. The idea that you can do away with courts-martial in time of war is a novel idea in the history of nations. There may be great injustice done by these courts, as there is by all courts occasionally, sometimes through mistake, sometimes through ignorance, seldom, I think, through design. Whether the President should do away with these courts, as advised by his friend from New York, [Mr. Brooks,] is for him to consider. One thing I am sure of, and that is, that the people of these United States, the loyal people of these United States, have rather censured him for the facility with which he has pardoned and released those who have been convicted.

There was a case in my own State to which attention was called the other day by the gentleman from Massachusetts, [Mr. Dawes,] in which a horse inspector, I think, had dealt largely in fraudulent transactions and had been tried by court-martial. To what was he sentenced?

Mr. DAWES. The court sentenced him to the restitution of \$26,000 embezzled, a fine of \$5,000, and to be imprisoned for two years, and until the \$5,000 and the \$26,000 were paid, if it did not exceed in all five years.

Mr. STEVENS. I understand that the goodness of the President—I am not censuring him, perhaps; I say perhaps, because I have no right to do so—has remitted all of that sentence except six months' imprisonment. Am I right?

Mr. DAWES. I do not know that it was the goodness of the President. I inquired for the record in order to ascertain the facts. The record stated that by order of the Secretary of War the sentence was commuted to suspension from pay and rank for six calendar months.

Mr. STEVENS. Now, sir, after that sentence of the court, I think that that remission was remarkable.

Mr. DAWES. I wish to add, if my friend will allow me, that I understand that the same individual is pressing a private claim of \$81,000 against the Government.

Mr. WASHBURN, of Illinois. Well, he will be paid.

Mr. STEVENS. I think it likely he will get it. I do not know whether the President or the Secretary of War is kind enough to suit the gentleman from New York, but I am inclined to think that he is rather too lenient toward some of these malefactors and rebels. I find no fault, however.

Mr. GANSON. I would like to ask my friend from Pennsylvania if he approves the principle of trying civil offenses by military commissions, where the civil courts are open and the course of civil justice is unimpeded?

Mr. STEVENS. No, sir; but I have not heard of such cases.

Mr. GANSON. It is done daily in this city, and it is done all over the country. Persons in civil life, and committing civil offenses, are being continually tried by military commissions. I am informed by the Military Committee that there are, within sight of this Capitol, thirty-five persons, arrested in Ohio and other States on the charge of counterfeiting the currency—a mere civil offense, for which they could be indicted, tried, and punished by the ordinary civil tribunals. I understand that military commissions in Maryland have even gone so far as to try persons for counterfeiting the confederate currency.

Mr. STEVENS. Well, I think they ought to be hanged if they spent their time in such worthless labor as that. [Laughter.] If gentlemen will examine these matters I think they will find that

there is some connection between them and the military service of the country. Where private citizens have been tried before courts-martial it has been for their operations in military affairs, for matters connected with the orders of the War Department. I do not certainly approve the trying of purely civil offenses by military tribunals; but I think that the gentlemen from New York are mistaken, and that there are some facts in the cases with which they are not entirely acquainted.

But, Mr. Chairman, I merely rose to say that while I have no doubt there are many mistakes made and hardships arising from the great number of men whom we are obliged to watch, yet I think those mistakes are as few as could well be expected; and I think that the benignity of the President in the exercise of his pardoning power goes sometimes to an extent that ought not to be censured, certainly by those who oppose these military tribunals. I do not know whether any of us ought to censure him; but I am not certainly able to applaud the remission of the sentence in the case I have referred to.

Mr. GARFIELD. I move to amend by inserting, after line eighty, the following:

*Provided*, That the President shall dismiss no officer in the military or naval service of the United States, unless upon the finding of a court-martial convened according to law: *And provided further*, That any officer who shall be reported by his commanding officer absent without leave for twenty days, in time of war or active hostilities, may be dropped from the military or naval service by the President, for that cause assigned, by proclamation; but on the application of the officer so reported and dropped, stating a sufficient defense, under oath, against such charge during the whole absence to the day of application, the President shall convene a court-martial and try him on that charge; and if it acquit him, he shall, on approval of the sentence, stand reinstated; and if the sentence be disapproved for a legal cause, another court shall be ordered for his trial, by the order disapproving the former finding: *And provided further*, That the President may suspend any officer in the military or naval service, without pay or emoluments, in time of war or active hostilities, who shall be reported by his commanding officer or the Secretary of War for any flagrant offense, for which, under the Articles of War, dismissal or death is a legal punishment, and, in the opinion of the President, ought to be so punished; but the order of suspension shall specify the charges and convene a court-martial for the trial of the officer thereon, within ten days from the date of the suspension; and if the court shall not assign dismissal or death as the punishment, the officer shall stand restored to his rank, pay, and emoluments from the date of the suspension, subject to the sentence of the court-martial: *And provided further*, That section seventeen of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Mr. STEVENS. I rise to a question of order. This bill is one making appropriations for the support of the Army. The amendment is a new measure for regulating certain things in reference to the Army, and ought to come properly from the Military Committee. I believe it did come from that committee last session.

Mr. GARFIELD. The amendment is one regulating the use of the money appropriated.

Mr. STEVENS. Oh, yes; a good deal more than regulating that.

Mr. WASHBURN, of Illinois. I agree with the chairman of the Committee of Ways and Means in reference to this question of order as an original question; but the Committee of the Whole on the state of the Union has twice decided recently on similar provisos that they were in order. The committee that considered the naval appropriation bill overruled the decision of the Chair ruling such a proviso out of order. I thought the decision of the Chair was right then, and the decision of the committee wrong. I think so still. Now, I shall go with my friend from Pennsylvania [Mr. Stevens] in ruling out this amendment, and endeavoring, if possible, to keep the rules of the House unimpaired. We really have not many rules now; but the whim of the House appears to be the only rule.

Mr. STEVENS. We may have been wrong then; but we will correct our action now.

Mr. WASHBURN, of Illinois. We had better.

The CHAIRMAN. In the opinion of the Chair the amendment is out of order.

Mr. GARFIELD. I ask the Chair if the amendment would be in order to any bill.

The CHAIRMAN. It will be in order, but not to an appropriation bill.

Mr. GARFIELD. I withdraw the amendment, but I am very anxious to get it in somewhere.

Mr. CHANLER. I move to amend by in-

serting after the word "duty," in line one hundred and eleven, the following words:

*Provided*, That their commands are actually serving in the field, and the rolls of their companies show them to be actually up to the minimum standard fixed by law.

I will state my reason for offering this amendment. I have learned from a reliable source that of the eleven regiments organized under the law of 1861, nine of which were infantry regiments, one cavalry, and one artillery, upon the French standard of twenty-four hundred men, there are actually very few in the field at this time. Very few of those regiments now have their minimum standard of rank and file. Yet the officers of those regiments are receiving full pay. Many of them have easy places away from the field of battle. At this time the Army is in want of soldiers, and the President has issued his call for three hundred thousand men. I propose by this amendment to offer to the officers having charge of those regiments a reasonable and honorable stimulant to fill up their quotas, so that the President of the United States will not be obliged, in violation of those feelings of humanity which control him in all his actions, to call for another draft, without having any fixed and regular basis for the quotas to be furnished by the respective States and districts. While the people are constantly being called upon to send forward men, many officers who are receiving full pay are actually almost without commands.

I offer my amendment in the sincere spirit of reform and for the benefit of the Army, and to prevent the onerous and fearful consequences of the draft. If gentlemen of the Committee on Military Affairs would condescend to explain facts within their knowledge, or if members of the House would allow such proper inquiries to be made of the War Department as would bring the facts correctly before us, I believe that all I have said would be substantiated. Yesterday, when I endeavored to secure from this House permission to present a resolution calling upon the Secretary of War to state the basis upon which the quotas have been assigned to the respective States and districts, I was cut off by an objection, without reason and without argument. I believe that this is a question of the most vital importance. I believe that the adoption of such a resolution is due to the people of the country, due to the dignity of this House, due in consideration of the spirit which actuates the President himself; and I believe that it is due to the Secretary of War, that he may explain to the whole country why he has kept us so continually in the dark with regard to a matter which has been consuming the blood of the country, without system, law, or reason, exhibited to the people who are the sufferers.

Mr. STEVENS. I believe, Mr. Chairman, that we have already laws in regard to the subject embraced in this amendment. I think that we have not sufficient understanding of this matter to justify us in adopting the amendment of the gentleman from New York.

Mr. CHANLER. Let me explain to the gentleman. There are officers whose commands number far below the standard fixed by law, officers whose regiments are mere skeletons without soul or body. The object of the amendment is to induce such officers to raise the number of their commands to the proper quota.

Mr. STEVENS. The effect of this amendment, as I understand it, would be that if an officer's regiment were not quite full, although very nearly, he would get no pay; an officer not actually in the field, engaged, for instance, here at the capital, would receive no pay. The motive of the gentleman from New York in offering this amendment may be very proper; but it strikes me that the gentleman can best accomplish his object when we come to consider the amendments to the enrollment act.

Mr. CHANLER. I withdraw the amendment.

Mr. WILSON. Mr. Chairman, I offer the following, to come in as a proviso to this bill:

*Provided*, That no money appropriated by this act shall be paid for the purpose of paying any railway company for the transportation of property or troops of the United States where such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

Mr. Chairman, the subject of this proviso has

been before the House several times during the Thirty-Seventh and Thirty-Eighth Congresses. During the Thirty-Seventh Congress the House directed the Committee on the Judiciary to inquire whether any of the railroad companies whose railroads have been constructed in whole or in part by donations of land from the United States, accepted such donations on the condition that the troops and munitions of war of the United States should be transported over such roads free of charge; and if so, what railroad companies have received donations of land on the considerations aforesaid; and whether such acceptance of lands so donated conferred upon the United States the unqualified right to the free transportation of troops and munitions of war over such roads by the companies owning the same; and, if not, the character of the limitations on such right. That subject was fully considered by the Committee on the Judiciary during the second session of the Thirty-Seventh Congress, and it made an elaborate report through Mr. Porter, a member of that committee, and that report concluded with the following resolution:

"Resolved, That the several railroad companies which have received from States grants of public lands, made to such States by acts of Congress, for the purpose of aiding in the construction of the roads of such companies respectively, are required to transport the property and troops of the United States over their roads free of toll or other charge whatsoever."

That was the conclusion of the committee, and that resolution was adopted by the House. Subsequently the gentleman from Indiana [Mr. HOLMAN] introduced a resolution, which was also adopted, that the Secretary of War be directed to inform the House whether any payments have been made to either of the following-named railroad companies, the Illinois Central Railroad Company, the Burlington and Missouri River Railroad Company, or the Mississippi and Missouri Railroad Company, for transporting property or troops of the United States since the 25th day of February, 1862, and if any such payments have been made, the amount paid to each company; and also the amount paid to each of said companies prior to the above date, and the basis on which said payments have been made; and that he also inform the House what claim, if any, the said companies, or either of them, have against the Government for the transportation of property or troops, and which are still unpaid.

In answer to that resolution the Secretary of War sent a communication to the House, under date of March 2, 1864, in which he gives a statement of the several amounts paid to the various railroad companies mentioned in the resolution as having received grants from the United States on the condition that troops and property of the United States should be transported free of charge. The amount stated in the answer of the Secretary of War is as follows:

Amount paid Illinois Central Railroad Company.....	\$307,809 50
Amount paid Burlington and Missouri River Railroad Company.....	3,453 85
Amount paid Mississippi and Missouri Railroad Company.....	40 66
/Total.....	\$311,304 01

After that letter was received, the gentleman from Indiana [Mr. HOLMAN] introduced a series of resolutions that the several railroad companies which have received from States grants of public lands, made to such States by acts of Congress, for the purpose of aiding in the construction of the roads of such companies, respectively, are required to transport the property and troops of the United States over their roads free of tolls or other charges whatsoever; that this House approves and reaffirms said resolution; that the Secretary of War be directed to require the said companies to repay to the Treasury of the United States the sums of money so paid to them respectively as aforesaid, and to decline to make any further payments to said companies for any transportation hereafter or heretofore required of said companies by the War Department; and that a copy of the preamble and resolutions be transmitted by the Clerk of this House to the Secretary of War.

There the case rested, so far as the action of this House was concerned, at the adjournment of the first session of the Thirty-Eighth Congress. Since that time it appears that other attempts have been

made, and a resolution was introduced by the gentleman from Indiana, [Mr. HOLMAN,] calling for information on the subject, and the Secretary of War sends in answer to that resolution the following:

WAR DEPARTMENT,  
WASHINGTON CITY, January 27, 1865.

SIR: In answer to the resolution of the House of Representatives of the 16th instant, inquiring whether or not any payments have been made to the Illinois Central railroad since the passage of the House resolution of the last session of Congress, and if so, how much, and by what authority, I have the honor to state, first, that payments have been made to the Illinois Central railroad since the passage of the resolution referred to; second, that said payments, as reported by the Quartermaster General, amount to the sum of \$552,597 40; third, that they have been made by authority of the President of the United States.

Very respectfully, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

HON. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Now, sir, the amendment I have proposed is for the purpose of preventing any money appropriated by this bill being used for the purpose of paying those companies when they have received already an equivalent for these services. The law requires them to transport free of charge. They accepted upon that express condition, as is shown by the debates which occurred on the bill making the grant to the Illinois Central railroad when it was pending in Congress. I will read an extract from the report:

"The committee have no doubt that these several acts render it incumbent upon the companies, respectively, which accepted the grants of public lands, themselves to transport over their roads, to the full extent of their ability and means of carriage, the property and troops of the Government free of toll or other charge whatsoever. The same ingenious refinement which could limit the right of the Government to the transportation of its property and troops to a mere free right of passage over the road, with means of transportation to be furnished by itself, could restrict the right of the Government to have the United States mail transported on these roads at such price as Congress might direct, to cases where the Government itself furnished all the means of transportation. In neither instance is it in mere words expressed by whom such means shall be provided."

"The act of September 20, 1850, granting lands to Illinois, is understood to have been framed by Mr. Douglas, who introduced the measure into Congress. On the 29th of April, 1850, when the bill was under consideration in the Senate, Mr. Bradley moved an amendment, to limit the grants of lands to the alternate sections, within six miles of the road, not already sold. Mr. Douglas, after remarking that if the amendments should pass, he did not know whether he should vote for the bill, and that he should hardly regard it as worth contending for, said, 'It [the land] is granted on condition that we make and complete a railroad the whole length of the route, and put it in operation within a period of ten years; and on the further condition that we transport over it the Government troops and Government property of every kind free; and further, that the mails shall be carried at such price as Congress shall prescribe.' Mr. Dayton, of New Jersey, who opposed the bill, did not venture to question this interpretation, but replied, 'But what is this thing? The compulsory conveyance of troops and munitions of war. What will that amount to? Compulsory to carry the United States mail for a sum which the Government of the United States shall prescribe! The United States will pay a fair price for it. Every man knows that the Government will not act meanly and bigly, and the only good contained in the provision is to prevent any act of extortion from the Government.'"

It will be seen from the position taken by Mr. Douglas, when he was asking Congress to pass that act conferring on that railroad company this immense, this magnificent grant of lands, that he asked it upon the express condition, agreed to by the company, that it should be received as compensation to the company for such transportation as it might furnish the Government for troops and property belonging to the Government.

But, sir, the companies by some means, I know not what, have induced first the Secretary of War to override this law, and when his act was met by a resolution of this House, then they induced the President of the United States to override it; and they were paid an additional sum amounting to almost double that which had been paid when the House first took action upon the matter. I insist that our appropriation bills shall be so guarded that neither the Secretary of War, nor the President, nor any other officer of the Government, shall appropriate money to uses which are prohibited by law; and nothing more and nothing less can be said of these payment made to the several railroad companies mentioned in this bill. The law forbids it; the action of the House forbids it; several resolutions of the House declare that such payments shall not be made; and yet, in violation of all this, and of the express understanding between the Government and the company at

the time, money is appropriated to pay for services which have already been paid for. I therefore hope this committee will place this amendment upon the bill in order that no more payments of this kind shall be made."

Mr. BROOKS. I will say to the gentleman from Iowa that I have no doubt that technically his construction of the law incorporating the Illinois Central railroad is right; but as a member of Congress at the time the act was passed, and hearing the discussion upon the subject, I had no idea that Congress ever contemplated a civil war, and that the transportation of the munitions of war mentioned and intended in that bill were intended as connected with foreign wars. Civil war was never contemplated; and the immense amount of work the Illinois Central railroad has been compelled to do was never contemplated.

Mr. WASHBURN, of Illinois. Will the gentleman state how much the stock of the Illinois Central railroad has been enhanced since the war commenced?

Mr. BROOKS. I think I have seen it quoted at one hundred and eight or one hundred and nine.

Mr. WASHBURN, of Illinois. It was eighty when the war commenced.

Mr. WILSON. I suggest to the gentleman from New York that the point which he makes is not the one made by the company. They acknowledge that the condition requires them to furnish the road over which this transportation might be made, but that they are not required to furnish the rolling stock for such transportation. They acknowledge that the limitation extends to this war as well as to all others.

Mr. HUBBARD, of Iowa. I would inquire of my colleague if he knows what amount the Illinois Central Railroad Company has received from the sale of lands granted by Congress, and what they estimate the remaining lands to be worth.

Mr. WILSON. I do not know. I am informed by a gentleman from Illinois that it amounts to \$20,000,000.

Mr. HUBBARD, of Iowa. The company have already sold lands amounting to from twelve to fifteen million dollars, and the unsold lands are estimated to be worth from twelve to fifteen million more; making from twenty-five to thirty million dollars that will be derived from that grant.

Mr. J. C. ALLEN. I desire to ask my friend from Iowa what those lands were worth before the company built their road and increased their value.

Mr. HUBBARD, of Iowa. That is not the question I am discussing. I am speaking of the amount of money that railroad company have received from that grant.

Mr. J. C. ALLEN. That is not the question the gentleman ought to discuss. Is further debate on this amendment in order?

The CHAIRMAN. It is.

Mr. J. C. ALLEN. I am not willing to sit quietly by and see this amendment adopted. I think the reasoning of the gentlemen on the other side, who urge this amendment, is most unfair and most unreasonable. I presume that at the time this company accepted their charter, with this provision in it, no man in this broad land contemplated the state of things we have witnessed during the last three years. No company on earth would have accepted such a charter in view of what has been transpiring for four years past. It is a fact that the Government has been employing the Illinois Central Railroad Company for the transportation of troops and munitions of war, and have been paying them something for it, under a contract made with the company; but it is a fact which gentlemen cannot dispute, that within the last year that company has been doing that business for the Government at a loss of \$240,000 over and above their actual outlay. They have been as fair as gentlemen could require them to be, for they have kept faith with the Government.

My colleague [Mr. WASHBURN] asked the question a while ago, how much the value of the stock of that company had advanced during the war. I answer him that the stock of that company is not worth as much to-day as it was before the war broke out. Recently, in view of the diminished value of our currency, it is quoted at higher figures than it was formerly. But it is not

quoted to-day in our currency at so high a figure as it was before the commencement of the war.

And now a word in reference to the question propounded by the gentleman from Iowa a while ago as to the value of these lands. Sir, those who know anything of the condition of the interior of Illinois at the time this work was commenced know that these lands were comparatively valueless, and those who are honest and willing to do justice must admit that their increased value is due to the building of this great central thoroughfare, by means of which those lands could be brought into cultivation and their products conveyed to market.

Again, sir, what did the Government lose by this grant of lands? Not a dollar, for the price of every alternate section was doubled, and the Government got all the money that it could possibly have got if it had sold all the lands at the Government rate of \$1 25 an acre and had not granted any to the Central railroad.

I repeat that when this grant was made no man contemplated the state of things that we have had for the last four years. The fact that the President and the Secretary of War have seen fit to give to the Central Railroad Company something for their immense outlay of money in procuring laborers and stock to facilitate their military operations, is but an evidence that they were not inclined to do what my colleague [Mr. WASHBURN] and the gentleman from Iowa [Mr. WILSON] would do, play the Jew and exact the last pound of flesh from this company. It is unjust, it is unreasonable; and the effect of the passage of this amendment would be totally to break down this Central Railroad Company. The Government would have to take the road and run it themselves, and run it at a much greater expense than the company can run it for, considering the prices they now receive for the transportation of troops and munitions of war. During the last four years of civil war there has not been a day upon which the Government has not been transporting troops or munitions of war over this road, and it is unreasonable that the company should be compelled to do it without some sort of compensation.

Gentlemen may think that among a few of their constituents who do not look into this question they may make a little capital by favoring this amendment, but in doing it they will do injustice to one of the greatest enterprises of the Northwest, and are welcome to all the glory that may gather around an effort thus to destroy that great enterprise, one of which we feel proud, one which has opened up the wilderness through central Illinois and made it bloom like a garden; they are welcome to all the glory they can gather from such a course.

Mr. WASHBURN, of Illinois. I am a little surprised at the observations on this subject which have just fallen from my colleague, [Mr. J. C. ALLEN.] He evaded the issue raised by the proviso we are discussing, and proceeded to a defense of the Illinois Central railroad, a corporation of gigantic proportions, and which is grinding to the earth the people of our State. I think if the defense he has just interposed in behalf of this railroad had been known before the election he would not have obtained quite as many votes as he did on the line of the road for Congressman at large, and I believe he only came within thirty-two thousand votes of being elected.

Mr. J. C. ALLEN. I believe I got as many votes along the line of the railroad as my competitor did.

Mr. WASHBURN, of Illinois. I do not know that. I know his competitor beat my colleague by thirty-two thousand majority.

But I propose, Mr. Chairman, to address myself to the committee for a moment on the subject of the amendment of my friend from Iowa, [Mr. WILSON.] I am aware it touches a matter in my own State, and it may be thought that an Illinois man should not array himself against a great interest there. But, sir, I do not propose to have my lips sealed on a question of this character, however local those interests may be to my State, but I shall speak incidentally of the character and the management of this corporation. I know the power and influence of this mammoth railroad company, running through the entire length of the State; but while I represent that constituency that has so long honored me with its confidence and support, I will stand up here and defend their

interests. Not only shall my constituents, but the people of the whole State, find in me a mouth-piece to defend them against oppression, regardless of consequences to myself. In view of the management of this road since the breaking out of the rebellion, it is now only known by its oppressions and extortions upon the people along the line of it. It has raised its rate of fare enormously, five, six, and even seven cents per mile for passengers. I myself have, within two months, paid within a fraction of seven cents per mile fare on this road. And freight, too, has been raised in nearly the same proportion, adding a most burdensome, odious, and intolerable tax upon all my constituents who have to use the road, and it runs through the entire length of my district. I charge that the rate of freight and fare on this road, which was built by the magnificent bounty of the Government, and which the honest and industrious farmers of the State have chiefly to bear, is utterly outrageous, and ought not to be tolerated if it can be helped. I speak for the people of the State, and not from any personal grievance, for I have none.

But to the point of amendment before us. The act of Congress granting the land to build this road had in it the express condition, as has been shown so unanswerably by the gentleman from Iowa, [Mr. WILSON,] that all Government property, arms, munitions of war, &c., should be carried by the company receiving the grant free from all toll and charge. In the last Congress this precise question was up. It was reported that this Illinois Central Railroad Company had been charging and receiving money from the Government for doing the business which it was bound to do without pay. The question was referred to the Committee on the Judiciary—a committee distinguished for its ability, and having in it not only the best legal talent of the House, but of the country. That committee did not gloss over the important question presented to them with a hurried and imperfect examination. They gave it a full and thorough examination, and Mr. Porter, of Indiana, one of the very ablest lawyers in the House, made an elaborate report from the committee, and pronounced its conclusion by the resolution at the close of the report, and which the gentleman from Iowa [Mr. WILSON] read. That resolution denied the right of the road to charge the Government for carrying its property, troops, &c. The report was adopted unanimously by the House; not a single member dissented from its doctrines. It was the opinion of the House deliberately declared that this railroad company had no right to make this claim.

It appears, however, Mr. Chairman, that very large amounts of money have been paid to this road, notwithstanding the House has repeatedly declared that nothing ought to be paid, and requesting that if anything had been paid it should be recovered back. At the last session the House reaffirmed the judgment of the previous Congress, that nothing was due by the Government to the road for this service, and requesting the Department not to pay anything more. There had already been paid more than three hundred thousand dollars for this service. And yet, regardless of that resolution, I know not on what grounds, and of course I will not attempt to speak in regard to it, instead of paying no more to this company, instead of taking measures to get back the money already paid to the Illinois Central Railroad Company, a further sum of \$552,000, more than half a million dollars, has since been paid to that company. A gentleman near me suggests that the Secretary of War in his letter says it was paid by order of the President. If the company had not the right to this money by law, the President had no more right to order its payment than I have. I believe it is a constitutional provision that no money shall be drawn from the Treasury without warrant of law. I do not know the reasons that induced the President to order this payment. I have no doubt the reasons were satisfactory to him, and perhaps they would be satisfactory to me if I knew them. I know that the President is governed by the highest and purest motives, and that he would do nothing but what he believed to be right. But I think it very likely that he and I should differ in opinion on this subject, and there is certainly no man on earth more tolerant of a difference of opinion than the President.

But my colleague [Mr. J. C. ALLEN] has spoken

of the benefits of this railroad to the State. That is not the question we are discussing. The question is whether the law shall be obeyed and this company held to its bargain with the Government. This company has one of the most stupendous franchises and by far the most valuable franchise that has ever been obtained in this country. I wish I had the figures here, as shown us by its reports, as to the almost incredible value of the property of the company, of its lands, and of its road. And yet it comes before the Government and claims and receives, in defiance of the judgments and order of this House, nearly a million dollars of the people's money, which my colleague's constituents and the constituents of us all must pay. And by whom is this road owned, and where is our money going? Sir, it is not owned by American citizens, but it is mostly owned by British bond-holders, men living in a country that is the hereditary enemy of the United States, exhibiting to us its deadly hostility in every way. Who can tell whether or not a part of this vast sum of money paid to this company by our Government has not been paid to British bond-holders and invested in pirate ships to drive our commerce from the ocean—the commerce of the great city of New York, represented in part by the gentleman [Mr. Brooks] who has spoken in mitigation of this transaction?

I have spoken of the property of this company; of the vast amounts of land owned by the company. This land is now held at such high prices as to prevent to a very considerable degree that immigration which would have come to our noble State had they put down their land to reasonable figures. Does my colleague uphold this company in thus putting up their land, and its generally oppressive management? Does my colleague wish to keep immigrants from coming into our State by justifying this company in putting up the land to such high prices to the settler? Does not my colleague know that this corporation has already been arraigned this very winter before the Legislature of our State for alleged frauds upon the law? Does he not know that this whole subject is there undergoing investigation, and that the Legislature, acting in behalf of the oppressed people, is groping round in search of some remedy or redress? What claim, I ask, has this road upon the votes or the sympathies of the Representatives of the State of Illinois in this House?

I have seen that the Legislature has arraigned this road for its dealings with the State, and let me tell my colleague that unless it shall reform its accommodations and management, and lower its rates, it will be arraigned at the bar of an enlightened and inexorable public opinion in that State. Why, sir, I have right here before me a paper published in the city in which I reside, which shows how my own immediate constituents are treated by this mammoth monopoly, and the losses which the people in my own city and county are suffering by the management of this company. This paper says that there are at Galena seven hundred car loads of oats, and twenty-five car loads of pork awaiting shipment to Cairo for Government use. It says further:

"There are also three hundred car loads of miscellaneous freight here for Chicago, making in all over one thousand car loads of freight ready to be shipped as soon as cars can be had. Estimating that an average of ten car loads per day could be sent off, it would take nearly three and a half months to clear out this vast amount of freight, to say nothing of what would accumulate in the mean time."

"At Duaneville there is an immense winnow of oats, in sacks, piled up out of doors, extending all the way from the dry bridge, below the old packet office, up to the elevator. The company has no place to store them, and if a heavy rain should come, there would be nothing to do but to let them soak."

That is the way in which the people are treated by this road, not only in my own town, but I believe at nearly every depot upon the line of the road in my district. The company have failed to use the means in their power to accommodate the people; and when the people complain, they are told, "Help yourselves if you can; build a rival road if you are not satisfied with what we do." And the president of the road told me in this very Hall, not more than three weeks ago, that "if the Illinois members of Congress sat here silent when their road was being interfered with they would charge forty cents a mile for passengers." Sir, they may charge me forty cents per mile passage. I shall not only not be silent, but will



always raise my voice as long as the rights of the people of Illinois demand a vindication at my hands.

I trust that the committee will adopt the amendment of the gentleman from Iowa, and prevent any further payments from being made to this company; and I trust that further legislation will be adopted which will recover from that road what it has obtained from the Treasury, as I think, unlawfully.

Let me, before concluding, reply to one remark of my colleague on the other side, [Mr. J. C. ALLEN.] He said that if we did not pay this company, in violation of law, (I say "in violation of law," because every man about here has said so, and the House has said so time and again,) the company cannot run the road, and the Government will have to take it in its own hands. Sir, I am tired of that kind of talk. It would have been well if the Government had taken possession of the road long ago. The Government could have run the road vastly better than this company have run it. I hope that the committee will not be influenced by such suggestions. The Government is abundantly able to run the road, and run it in such a manner as not only to indemnify itself, but give satisfaction to the people of the State. But it is all idle for the company to talk about turning over the road to the Government. It never intends to do it. All such talk might be regarded as intending to influence in the matter before us.

Mr. GRINNELL. Mr. Chairman, I have no quarrel with the Illinois Central Railroad Company, nor any other company; and I regret that my colleague saw fit to introduce this amendment. Sir, this question has wide bearings. It affects my State as well as the State of Illinois. We have four land-grant railroads now in the market seeking to raise money on their bonds, whereby they may go on with the construction of their roads, so that they may meet and become a part of the great Pacific railway, which will link us with the mines and the Pacific as a mutual benefit. What do we propose now? It may be true that we have these companies in our power; but shall we inflict upon them an act of injustice because they seem to be in our power or we have the law technically on our side?

Mr. WILSON. If my colleague will allow me to interrupt him, I would like him to state how much money was paid to the Mississippi and Missouri Railroad Company up to the time when this report was made by the Secretary of War.

Mr. GRINNELL. I know that it was a very small amount.

Mr. WILSON. Forty dollars and sixty-six cents.

Mr. GRINNELL. But since that time they have done work for the Government to the amount of thousands and tens of thousands of dollars, and will be called on for much more.

Mr. WILSON. Has the Government paid anything to that company, in addition to that sum, since the House acted upon the subject?

Mr. GRINNELL. I do not know how that is, but I know that if the Government has not it ought to have done so. It is but just and right that it should have done so.

Mr. WILSON. Then I wish my colleague to state whether he desires the officers of the Government to obey the law.

Mr. GRINNELL. Mr. Chairman, I desire that the Secretary of War shall follow the construction of the law as made known to him by his constitutional law advisers.

Mr. WILSON. I suggest to my colleague that even the company does not question this construction of the law, that their road is to be used free of charge or of toll for this transportation. The only point they make, and the only one which was made to the Committee on the Judiciary, is that while they have furnished the road the Government should furnish the rolling stock.

Mr. GRINNELL. Hon. John A. Dix is the president of the road, and I am informed that he made a proposition to the Government in regard to the carrying of troops and munitions of war. "Yes, gentlemen, here is the road; go and use it—use it as much as you please." Then another question arose, whether the Government should furnish the rolling stock and the men to operate it. There was the question. It was believed by those whose duty it was to interpret the law, it

was believed by the Secretary of War, it was believed by the President of the United States, that it was never contemplated, and that it would be the grossest injustice to compel these roads to furnish and work the rolling stock.

Mr. STEVENS. I ask the gentleman from Iowa whether the grant made to this company was in the same terms as that to the Illinois Central railroad. Were the Illinois and Iowa railroad grants made in the same terms?

Mr. GRINNELL. I think that the wording was the same, or nearly the same, for all the roads.

This is the point I make: it is not my idea of political economy in a time of great civil war to take advantage of these useful and necessary railroad corporations. I do not believe in that kind of economy. I regard it rather as injustice—a wrong to those who have been and are now in the service of the country as public carriers. We have an interpretation of the law by the Secretary of War, and we have an interpretation by the President of the United States, and I am willing to stand by that until we have an authorized decision to the contrary.

In my opinion the gentleman from Illinois [Mr. WASHBURN] has gone out of his way to declare that our enemies abroad control the Illinois Central railroad. I believe that his prejudices are so strong that he has not taken the trouble to inquire in regard to the stockholders of this road. I do not think that he knows who they are. I am assured that one of the best and most influential friends this country has had abroad, I mean Richard Cobden, is one of the controlling directors and a very large stockholder in the Illinois Central railroad. Why, sir, if we could give him a present of millions for his labors in our behalf we should not overpay him for what he has done for us as a representative of our cause abroad.

Mr. WASHBURN, of Illinois. Why, then, does not the gentleman bring and put it upon that ground? Why not make a specific appropriation?

Mr. GRINNELL. But I am not alone; for the interpretation I have given of Richard Cobden commends itself to every fair man. He deserves much at our hands. His friendship was early and has been lasting, firm as the hills, and I am not willing, connected as he is with this road, to strike at him and his friends unheard.

Mr. WILSON. There is one point I fear that my colleague will forget, and I desire to call his attention to it; that is, that during the first session of the Thirty-Eighth Congress he voted for several bills, one at least—the road upon the line of which he lives—confering additional grants of land, upon the express condition contained in the Illinois Central Railroad grant; and that after the House had taken this action, after this construction had been placed upon it, and after the House had directed that this money should be recovered by the Secretary of War from those companies.

#### MESSAGE FROM THE SENATE.

The committee then informally rose.

A message was received from the Senate by Mr. HICKEY, its Chief Clerk, notifying the House that that body had passed a bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company of the District of Columbia," in which he was directed to ask the concurrence of the House; that it had concurred in the following resolution of the House:

*Resolved*, (the Senate concurring,) That the Committee on Commerce on the part of the Senate be joined to the Committee on Commerce on the part of the House in the investigations in which said Committee on Commerce on the part of the House are now engaged, under resolutions of the House of January 20, 1865, and January 25, 1865, in regard to trade with the States in rebellion, to constitute a joint committee for the purpose of completing said investigations, and that the said joint committee have the same powers as the Committee on Commerce of the House now has on the subject of said investigation;

and that it had appointed Mr. TRUMBULL teller, on its part, to count the electoral votes for President and Vice President of the United States.

#### ARMY APPROPRIATION BILL—AGAIN.

The committee resumed its session.

Mr. WILSON. I was remarking that my colleague voted for those land grants containing precisely the same conditions that were contained in other grants. I also voted for this grant, and I intend, while that remains the law, to require those companies to live up to the conditions of the grant to which they assented, and I shall not stand here

asking this appropriation of public money in violation of that condition after Congress made the grant upon the condition that the companies should perform that service free of toll or charge.

Mr. GRINNELL. I was opposed to that condition, and I stand by the vote I then gave. I do not believe the interpretation which has been put upon the condition is right, and if it is a right interpretation I believe the enforcement of it now would be wrong.

Mr. WILSON. Did not the gentleman vote for the bill to which he refers?

Mr. GRINNELL. I voted for it, but I want a fair interpretation of it.

Mr. WILSON. Has not that construction been placed upon it by the House, and acted upon by the Secretary of War?

Mr. GRINNELL. It has not been placed upon it by the Senate; and I propose to leave the law there to take its course.

Mr. THAYER. Will the gentleman tell me what the construction of the law is?

Mr. GRINNELL. My construction is this: that under its provisions the land-grant roads are required to furnish the road. That they have furnished, and if the Government wants to transport troops and munitions of war, there are the roads, and let it use them. The companies do not believe they are required to furnish the rolling stock and operate it to such an extent as would lead to their bankruptcy.

Mr. THAYER. If the gentleman will allow me a little further, I desire to ask him whether the language of the proviso which has been referred to does not in express terms require them to carry for the Government troops and munitions of war free of toll; and whether the word "carry," or any equivalent word will be answered by what he now suggests as a substitute for it, to wit, that they shall give the Government the privilege of carrying?

Mr. GRINNELL. I will read the fourth section of the act:

*And be it further enacted*, That said lands hereby granted to said State shall be subject to the disposal of the Legislature thereof for the purposes aforesaid, and no other; and the said railroad and branches shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property or troops of the United States.

"Free from charges or free from tolls." Run your trains every hour, and no tolls can be collected, none would be asked.

Mr. THAYER. Is the company willing that the Government should take possession?

Mr. GRINNELL. Whether willing or not, the Government can do it. But I can answer the gentleman in behalf of the Illinois Central Railroad Company. So far as this, I am told, they are willing that the Government should take possession of their road, rather than do all the Government work without pay and trust to a generous and future action for their reward.

Mr. THAYER. I would like to ask the gentleman how, in his opinion, the conditions of the grant are to be performed by the company; how, in other words, the United States is to get the consideration for the grant of the land. Now, I suppose he will concede that those were not idle words; that the Government of the United States never intended to transfer those large and valuable bodies of lands to these companies, and to couple that transfer with a condition requiring them to perform a certain service, and that they did that without attaching any meaning to it. I would like the gentleman to state frankly how he proposes that these companies shall perform their contracts which they entered into with the Government of the United States when they received these lands.

Mr. GRINNELL. I will answer the gentleman in all frankness. He asks how the Government received a consideration for the grants. I answer, by receiving double price upon each alternate section of land. The Government really gave nothing, while the country got much.

Mr. THAYER. The gentleman misapprehends my question. How does he propose that the condition shall be executed by the companies, the condition being that they shall carry Government troops and munitions of war free of charge?

Mr. GRINNELL. The gentleman mistakes the language of the section. That is not the condition; it was that all Government transportation over their roads shall be free.

Mr. THAYER. Does the gentleman propose to surrender the roads to the United States in order that they may transport the freights themselves?

Mr. GRINNELL. It has been proposed by the railroad companies from the beginning to surrender their roads to the Government.

Mr. THAYER. Then that is a different proposition entirely.

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman from Iowa a question.

Mr. GRINNELL. In one moment; I wish to answer the gentleman from Pennsylvania first. There is this further consideration. In addition to putting a double price on the alternate sections, in the case of the Illinois Central railroad, seven per cent. of the gross earnings of the corporation go to the State of Illinois; and has not every portion of the United States an interest in building up a State so that we may tax it, so that there may be population to bear the burdens of government in peace and in war?

Mr. WASHBURNE, of Illinois. I desire to ask my friend if he speaks for the Illinois Central railroad here?

Mr. GRINNELL. I think if the gentleman was a young member I should say he ought not to ask me that question. [Laughter.]

Mr. WASHBURNE, of Illinois. It is a question which is respectful to my friend from Iowa and respectful to the House. I mean it in no offensive sense, as a matter of course.

Mr. GRINNELL. I know but one person connected with the Illinois Central railroad. I do not know that anybody engaged the gentleman to speak against the company, and I have as good a right to ask him if he is employed to speak against it.

Mr. WASHBURNE, of Illinois. I did not ask if the gentleman was employed to speak for or against it. The gentleman from Iowa undertook to say that the Illinois Central railroad would do so and so. I wanted to know from him whether he was authorized to say that.

Mr. GRINNELL. I say that I have heard it from the lips of an officer and one of high standing in the road, that they would rather surrender the road.

Mr. WASHBURNE, of Illinois. One word more. The gentleman has spoken of the consideration to the State of Illinois, the State receiving seven per cent. of the gross earnings of the road in lieu of taxation. That is what the gentleman undertook to say. The gentleman probably does not know another thing, that the railroad company is already arraigned before the Illinois Legislature for its attempts to defraud the State of its just revenue by taxation; this charge, which I see is made by a distinguished member of the State senate, Mr. McConnell, the representative of Morgan and Sangamon counties, is that the company have retained the title of lands which they have sold to settlers in their own name, giving a bond for a deed, thus depriving the State of the power of taxing those lands.

Mr. PRUYN. What has that to do with the merits of this question?

Mr. WASHBURNE, of Illinois. Does the gentleman desire to know?

Mr. PRUYN. I desire to know if it has any pertinency to the question that we are considering.

Mr. WASHBURNE, of Illinois. I suppose it has just as much pertinency on the one side as upon the other.

Mr. PRUYN. If that is the only reason my question is answered.

Mr. WASHBURNE, of Illinois. The gentleman from Iowa first mentioned it, and I explained it.

Mr. GRINNELL. This seven per cent. of the gross earnings of the road is given to the State in consideration of the taxation of the lands which they give up. That meets the case exactly. Why, sir, seven per cent. of the gross earnings of that great corporation amounts to millions of dollars a year, and the State receives that in lieu of a tax upon lands that are fifty miles from a stick of timber and that never would have been occupied in this generation but for the railroad.

Mr. HUBBARD, of Iowa. I would like to ask my colleague as to the quantity of land granted to the Missouri and Mississippi Railroad Company, whether those lands are not worth from one

to two million dollars; and whether, therefore, that railroad company cannot well afford to do all the transportation that it is called upon to do for the Government in consideration of its grant.

Mr. GRINNELL. I will answer my colleague's question.

Mr. FARNSWORTH. Will the gentleman from Iowa yield to me?

Mr. GRINNELL. Yes, sir.

Mr. FARNSWORTH. Mr. Chairman, the State of Illinois receives seven per cent. of the gross earnings of the road in lieu of a tax on the road itself, not in lieu of a tax on the land. These lands, of course, are subject to taxation as soon as they are sold. Every settler who obtains a title to land is at once taxed by the State, as every other proprietor of land in the State of Illinois is taxed. Of course the tax of seven per cent. amounts to a very large sum. I desire to ask a question of the gentleman from Pennsylvania, [Mr. THAYER,] who seems to insist that that provision of the statute requiring the road to remain a public highway, and to be subject to the transportation of Government troops and supplies, free of charge, should be enforced. I understood him to claim that these words also apply to the rolling stock, engines, engineers, the men necessary to load and unload the cars, and all that sort of thing. Suppose the railroad company has not got the rolling stock to perform all the work required by the Government, does the gentleman from Pennsylvania [Mr. THAYER] understand the section to require that the company shall go to work and build an additional number of cars and employ an additional number of hands?

Mr. GRINNELL. That is just the question which I was going to ask.

Mr. THAYER. I will answer the question very candidly. I suppose no lawyer can mistake the meaning of the section for one moment. It means that, to the extent of the ability of the company, to the extent of their car accommodations, to the extent of their engine power, and of their ordinary running ability, the company shall, at all times, receive and transport the property of the United States, in the language of the section, "free from toll or other charge." What could be more explicit, or what could indicate more clearly the intention of Congress, than the accurate and precise terms in which this condition is framed? The committee will observe that the condition states that "the said railroad and branches shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge." Now, if this section had ended there, there would have been something in the argument of the gentleman from Illinois, that the Government of the United States, whenever it wished to transport freight over this road, should itself furnish facilities for the transportation.

But the gentleman only reads half the contract. He stops at the material words which pin this company. He would perform half the condition, and strike out from the contract the words that impose the remainder of the condition, because the section adds to the words "free from toll" the words "or other charge on the transportation of any property or troops of the United States." The law therefore declares, as plainly as language can declare anything, that this company shall not only suffer the Government to have the use of its road-bed free of toll, but that it shall also "transport" the property or troops of the United States free of charge. That is the plain meaning of the words of the section. The last words, which are superadded to the words prohibiting the charge of toll, plainly indicate the intention of Congress to impose upon the company the duty of transportation without charge to the United States; and I do not see how any one can read the section with any other meaning.

Mr. FARNSWORTH. I would like to put a supposed case to my friend from Pennsylvania. I understand from him that, in case of a sudden emergency on the part of the Government for the transportation of a large number of troops and a large quantity of supplies over this railroad, greater than the rolling stock of the road could accommodate, the company would be guilty of a violation of law and would be liable to the forfeiture of its charter, if it did not instantly put on the road the rolling stock to perform this work.

Mr. O'NEILL, of Ohio. With the permission of the gentleman from Iowa [Mr. GRINNELL] I

would like to ask the gentleman from Illinois [Mr. FARNSWORTH] a single question. I desire to ask him how soon it was after the Government claimed to have its troops and munitions of war transported without charge over this road that the road advertised the Government of its intention to charge for transportation. I ask the question in view of the construction put upon the provision in question.

Mr. FARNSWORTH. I do not know.

Mr. PRUYN. I wish to ask the gentleman from Pennsylvania [Mr. THAYER] whether he has considered the reasons which the Secretary of War and the President gave for the conclusion to which they arrived, and for which they are now arraigned on this floor.

Mr. THAYER. If the gentleman from Iowa [Mr. GRINNELL] will permit me to answer the question of the gentleman from New York, [Mr. PRUYN,] I will state for his satisfaction that I have not considered the reasons of the Secretary of War or of the President of the United States. They have not done me the honor to submit those reasons to me. But let me add that I conceive that the members of this House are quite as competent to interpret their own laws as either the Secretary of War or the President of the United States. I am not to be told, in answer to the plain meaning of the act of Congress, that it has not that meaning because the Secretary of War, or, as the gentleman from Iowa [Mr. WILSON] has said, the Solicitor of the War Department, puts an interpretation upon it which conflicts with my ideas of common sense and plain English.

Now, if the gentleman will point me to a decision—I will not say of the highest judicial tribunal of this country, but to the decision of any respectable judicial tribunal—putting a construction upon this act of Congress different from that which I say properly belong to its words, then he will be in a position to ask me why I hold the construction which I have assigned to it. But he does not answer the argument which presses upon him by asking me whether I have considered the reasons of the Secretary of War. The Secretary of War has no more right to give a construction which shall bind this House than any private individual of this country. Why should I go to the Secretary of War, or to any other public functionary in this country, or to anybody but the judicial tribunals of this country, to interpret a law which is so plain that it requires no interpretation?

Mr. PRUYN. I take no such position. I simply asked the question of the gentleman.

Mr. GRINNELL. I think I must now resume the floor for a few moments. In the first place I wish to answer the question of my colleague, [Mr. HUBBARD.] He asks what these lands are worth which have been given to these railroads. Undoubtedly, sir, they are worth a large sum of money. But I wish to ask him, and that will answer his question, what he supposes the stock of those railroads is worth that is based upon the cost of the road and these land grants to aid in the construction of railroads in Iowa and several other States? These land-grant railroads have never earned three per cent. upon their capital stock, not one of them; and when this assault is made upon this great interest in the West, I make the assertion that these railroads have never yet earned three per cent. upon their cost. The stock has only a nominal value. Gentlemen upon this floor must have absolute knowledge upon this subject, and I am the more surprised at the harsh conditions which they seek to impose.

What I object to is this forced interpretation, this unreasonable interpretation of the law; this oppression of those who now in time of calamity seem to be in our power; who are now carrying our soldiers and munitions of war, as well as thousands of tons of freight, wearing out their rolling stock and their rails for a small compensation. I object to this as unwise, since the State of Illinois cannot well complain; and the States of Michigan, Wisconsin, Iowa, Minnesota, Missouri, and Kansas, will be unable to build another mile of railroad in those States by land grants, if the law receives any such interpretation as is proposed to be given. I should not have made these remarks, as I will never defend monopoly or extortion, but that I desire to repel the idea that the proper course to carry a measure is to assail somebody, to create a prejudice against some one, and I refer especially to the remarks of the gen-

tleman from Illinois [Mr. WASHBURN] when he sought to create a prejudice in this House against a company because its stock is held across the ocean. I especially wish to demur, when the capitalists, the great friends of the enterprise, especially the Illinois Central railroad, have been not only the great friends of the Government but the powerful friends of the enterprise he now denounces. I do not say that those men are to a fault generous, but will say that I believe the State of Illinois has made hundreds of millions of dollars by the investment of foreign capital in that State, by building its railways, and I do not propose to go back to frown down or degrade such gentlemen as Richard Cobden and his associates, who are our friends to-day as they have always been. I do not propose to grind under my heel as a legislator those who have put their money into our western railroads, which have made our lands valuable, and have built up commerce and trade among us, and are doing the country a real good by their unremunerative investments. I do not mean to be a party to crushing them when they are not getting three per cent. upon their investments.

I understood the gentleman to doubt whether this Illinois Central Railroad Company would like to give up its railroad to the Government. If it is to be a military railroad, and if it is to carry everything for the Army and the soldiers, then they can go to his own town, Galena, where they can buy oats for forty or fifty cents a bushel and have a train ten miles long or less if necessary, saving expense to the Government, to take them down to our soldiers at Cairo.

Mr. WASHBURN, of Illinois. I would inform my friend from Iowa, [Mr. GRINNELL,] that our western soldiers are not fed on oats. [Laughter.]

Mr. GRINNELL. I should have said cavalry, as it so happens that many of their soldiers have horses that need the grain. I wish to conclude by saying that I am confident this legislation will be destructive to our best interests in the new States. I believe it is out of place, and I regret that my colleague [Mr. WILSON] has seen fit to introduce such a proposition here on an appropriation bill. I believe it is oppressive, and that it will not as a just measure stand the test of time. I believe it is a wrong toward those who have invested their money in our enterprises and who are now contemplating further investments which promise to extend our roads and unite us to the rich and far West.

Mr. STEVENS. Mr. Chairman, I rise for the purpose of making a five-minute speech, and then I shall ask that the debate be closed. I think that this discussion has been very discursive, not very logical, nor very close to the mark. All that has been said might, I think, have been said in half an hour.

Mr. DAVIS, of New York. Will the gentleman yield to me for a few moments?

Mr. STEVENS. Yes, sir.

Mr. DAVIS, of New York. Mr. Chairman, it seems to me that, in the discussion of this question we have lost sight of one great principle which should guide us in its decision. I think it is due to the parties interested in this question and to the country, that we, as an American Congress, should look at the position which the Government and this company relatively occupied at the time when they entered into that contract by which the Government granted and the company accepted this donation of land. Whatever duties the parties believed that contract imposed upon them they are bound to perform; whatever contingencies or circumstances were contemplated by the parties they are bound to abide by. But I submit to this House and the country that when that contract was entered into, neither party understood that such a contingency as has arisen would arise. Neither party understood that this Government would make a demand upon the resources and transportation of that company beyond anything in their power to place upon their road. A new circumstance has arisen; a new condition has sprung into existence; and in view of this fact I say equity demands that we should step forward and give a compensation in accordance with the new condition of things. I affirm here that not a land-grant railroad company in the United States ever accepted a grant from Congress with the understanding that, in a time of war, when we had

two million men in the field, when the resources of every company were taxed beyond its capacity, that company was to go on and furnish transportation for munitions of war, for troops, for freight, without charge to the Government or compensation for the service.

Mr. WILSON. The gentleman from New York will allow me to say that the Hannibal and St. Joseph Railroad Company and the Pacific Railroad Company in Missouri did regard this obligation; and they applied to Congress for relief on the ground that their roads had been destroyed by guerrillas; and Congress did extend relief. Both those companies regarded this obligation as binding upon them. Now, sir, if the gentleman from New York or any other member of the House will introduce a bill to relieve these companies from the obligations into which they have entered, we shall then have presented to us a very different question from that which we are now considering, which is merely, shall we enforce the law as it now exists until it shall be changed by Congress?

Mr. STEVENS. I agree with the gentleman from New York [Mr. DAVIS] that we have gone wide of the mark, and I think that he has gone a little wider than the rest, for he proposes absolutely to violate the law. He says that inasmuch as, when this law was passed, we had no civil war, therefore—although no exception was inserted in the contract; although there was no provision that civil war should operate as an abrogation of the obligation—we are bound as honest men not to insist on the performance of the contract. Why, sir, what sort of war was contemplated when this law was passed? Was it expected that we should transport munitions of war through Illinois to protect the Canadian border? With what particular nation was war contemplated? Not with France, because it was not expected that we should transport troops along that road to attack France. Not with England, for the road did not reach to England. What war, then, was in contemplation when it was provided that troops and munitions of war should be transported without charge? Why, any war, any disturbance, any insurrection, any civil war which required an interior road to transport troops and munitions of war along it. The provision can have no other sensible interpretation. It cannot apply to any other condition of things. Unless we adopt this construction the Government can never get any return for its grant to this company.

It is plain that, when this grant of land was made, it was a general grant upon a general condition. 'This grant of hundreds of thousands of acres was made upon what condition? That the company should build the road; that they should stock it, and operate it. None but that company had the right to put rolling stock upon it. The right to construct, and stock, and operate the road was granted exclusively to this company. For anybody to attempt to interfere with their prerogative of constructing, stocking, and operating the road would have been an absolute violation of the charter, and an outrage upon the rights of this company.

Just so with the Government. It made this grant of land for a consideration, and that consideration was that in time of war its troops and munitions should be transported free of toll or other charge by this road. Who is there senseless enough not to see that the Government was not only to use the road but also to use the rolling stock of the road? For that grant of lands we had not only the right to the use of this road, but to the rolling stock of the road. It is not too much to ask for the munificent grant of lands made by the Government. I know that we are told that there is the road, and that we are at liberty to use it, but that we must put upon it our own rolling stock. I know that we are told that there will be no charge for the use of this road. The transportation was to be free of toll or other charge. What are the other charges? What was meant except charges for freight and transportation?

Mr. Chairman, I remember that in 1850, when this law was passed, I took objection to it, and suggested that the Government would not get the value for the grant of lands; that it would not get the proposed transportation of troops and munitions of war free of charge. I recollect that my language was offensive to an honorable member from Massachusetts, (Robert Rantoul,) who said

that the imputation was unjust, and that there never would be a time when the Government would not have that transportation free of charge according to the law. I remember afterward having seen a statement, made by authority of the railroad company, setting forth the value of those lands, and that it was shown that, after building the road without costing the stockholders one cent, there would be a surplus from these lands for the stockholders of over thirty million dollars.

Mr. PRUYN. Is the gentleman aware that, with these advantages and development of this road, gentlemen living abroad who have invested money in this road cannot now get more than fifty cents on the dollar?

Mr. STEVENS. The gentleman knows that you cannot now get more than forty dollars in gold for a \$100 bond of the United States, which is one of the best securities in the world; and what has that to do with the matter except to show that the gold gamblers have deluded us, and that we have not sense enough to confound them?

When interrupted I was saying that the stockholders of that road had from these lands a surplus of \$30,000,000, although they had not expended out of their own pockets one dollar upon the construction of the road. I predicted all this in 1850. If the company says that it has made a bad bargain and wants to be relieved, perhaps we may relieve it.

I move that the committee rise, to close this debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ROLLINS, of New Hampshire, reported that the Committee of the Whole on the state of the Union, having had under consideration the special order, the bill (H. R. No. 688) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending the 30th June, 1866, had directed him to report the same back with an amendment; and also having had under consideration the Army appropriation bill, had come to no resolution thereon.

Mr. STEVENS. I now call the previous question upon the fortification appropriation bill and amendment.

The previous question was seconded, and the main question ordered.

The amendment of the Committee of the Whole on the state of the Union was concurred in, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN CLAIMS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, asking an appropriation to complete the payment of certain Indian claims; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### TAX BILL.

Mr. BROOKS moved that three times the ordinary number of the tax bill be printed for the use of the House; which, under the law, was referred to the Committee on Printing.

#### TELLERS TO COUNT ELECTORAL VOTES.

The SPEAKER appointed Messrs. WILSON and DAWSON as tellers on the part of the House to count the electoral votes for President and Vice President of the United States.

#### ARMY APPROPRIATION BILL—AGAIN.

Mr. STEVENS moved that general debate in Committee of the Whole on the state of the Union on the Army appropriation bill be closed in one minute after its consideration shall be resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ROLLINS, of New Hampshire, in the chair.)



and resumed the consideration of the Army appropriation bill.

The CHAIRMAN. By order of the House all debate on the bill is closed in one minute. The pending question is on the amendment offered by the gentleman from Iowa, [Mr. WILSON.]

Mr. J. C. ALLEN. Upon that I call for tellers. Tellers were ordered; and Mr. J. C. ALLEN and Mr. WILSON were appointed.

The committee divided; and the tellers reported—ayes 68, noes 31.

So the amendment was agreed to.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ROLLINS, of New Hampshire, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the special order, being the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, and had directed him to report the same to the House with an amendment.

Mr. STEVENS. I demand the previous question upon the bill and amendment.

The previous question was seconded, and the main question ordered to be put.

The first question was on the amendment reported from the Committee of the Whole on the state of the Union, as follows:

*Provided*, That no money appropriated by this act shall be used for the purpose of paying any railroad company for the transportation of property or troops of the United States when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

Mr. J. C. ALLEN. Upon the adoption of that amendment I demand the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENCOURAGEMENT OF IMMIGRATION.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill to amend an act entitled "An act to encourage immigration," approved July 4, 1864, and an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes; which was read a first and second time, and referred to the special committee on immigration.

#### EVENING SESSION.

Mr. STEVENS. I want to move that when this House adjourns it adjourn to meet at seven o'clock this evening.

The SPEAKER. That is not a privileged question, and can only be made by unanimous consent.

Mr. STEVENS. My object is to have an evening session for debate alone on the President's message. Several gentlemen wish to make speeches, and this is the last opportunity they will have.

Mr. HOLMAN. Is it understood that no business is to be transacted?

Mr. STEVENS. Such is to be the understanding.

By unanimous consent, the motion was agreed to.

#### MILITARY AND POSTAL ROADS.

Mr. SLOAN, by unanimous consent, introduced a bill to declare certain roads military and postal roads; which was read a first and second time, and referred to the Committee on Military Affairs.

#### PRINTING THE TAX BILL.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the members of this House fifteen hundred copies of the amendatory internal revenue bill, reported by the Committee of Ways and Means on the 6th instant.

#### PENNSYLVANIA WAR CLAIMS.

Mr. STROUSE, by unanimous consent, presented the joint resolution of the Legislature of the State of Pennsylvania, relative to the repayment by the United States of certain moneys advanced by the Commonwealth of Pennsylvania to pay the volunteer militia of 1863; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### STEAMER VANDERBILT.

Mr. DAWES, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House the amount of money paid by the Government to the owner of the steamer Vanderbilt for the use of said steamer previous to the presentation of the same to the Government, on what terms the same has been paid, and for how long a period of service.

Mr. DAWES moved that the vote by which the resolution was adopted be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENNSYLVANIA WAR CLAIMS—AGAIN.

Mr. SCHENCK. I rise to a privileged question. I move to reconsider the vote by which the joint resolution of the Pennsylvania Legislature relative to the repayment by the United States of certain moneys advanced by the Commonwealth of Pennsylvania to pay the volunteer militia of 1863 was referred to the Committee of Ways and Means. I desire to have it referred to the Committee of Claims.

Mr. THAYER. I hope that will not be done.

Mr. STEVENS. It might as well be laid on the table. A bill passed the House last session covering these claims, and it is now in the Senate.

The question was taken on the motion to reconsider; and it was agreed to.

The question recurred on the motion to refer the joint resolution to the Committee of Ways and Means.

Mr. SCHENCK. I move that it be referred to the Committee on Claims.

Mr. STEVENS. I move that the joint resolution be laid on the table, and printed.

The question was taken on Mr. STEVENS's motion, and it was agreed to.

#### PAY OF A CONTESTANT.

Mr. NOBLE. I ask unanimous consent of the House to offer the following resolution for reference to the Committee on Elections:

*Resolved*, That there be paid out of the contingent fund of the House of Representatives to Hugh M. Martin the usual pay and mileage up to the day when he withdrew his contest before the Committee on Elections as a contestant for a seat in the Thirty-Eighth Congress as Representative from the fourth district in the State of Iowa.

Mr. WILSON. I object.

Mr. NOBLE. I appeal to the gentleman to withdraw his objection, and allow the resolution to be referred to the Committee on Elections.

Mr. WILSON. No, sir; I cannot do it.

#### RETALIATION.

Mr. LOAN. I ask the unanimous consent of the House to take from the Speaker's table joint resolution of the Senate No. 97, advising retaliation for the cruel treatment of prisoners by the insurgents, for the purpose of having it referred to the Committee on Military Affairs.

Mr. WASHBURN, of Illinois. I object to its being taken up to be referred to the Committee on Military Affairs, because if it gets there the Lord only knows when they will be able to report it back, and I hope that when it is taken up it will be put upon its passage.

#### BRIDGE OVER THE MISSISSIPPI RIVER.

Mr. NORTON. I ask the unanimous consent of the House to introduce a bill relating to the railroad bridge across the Mississippi river from Rock Island, in the State of Illinois, to Davenport, in the State of Iowa, to establish and declare the same a post route.

Mr. WASHBURN, of Illinois. I shall have to object to that.

#### MILEAGE OF MEMBERS OF CONGRESS.

Mr. ANCONA. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Mileage be directed to inquire into the expediency of reducing the rate of mil-

age to ten cents per mile; with a view to equalizing the compensation of members; and that they be directed to report by bill or otherwise.

Mr. SPALDING. I object.

Mr. HOLMAN. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the enrollment bill.

Mr. HOLMAN. I move that the House do now adjourn.

Mr. MILLER, of New York. I appeal to the gentleman from Indiana to allow me to offer a resolution.

Mr. HOLMAN. I will waive my motion for that purpose.

#### CLAIMS FOR ARMY SUPPLIES.

Mr. MILLER, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of repealing so much of the act passed July 4, 1864, as allows the heads of the Quartermaster's and Subsistence Departments to audit and allow claims for stores furnished to the Army of the United States not receipted for by the officer receiving the same, and which are substantiated only by *ex parte* affidavits, and that the Committee be further instructed to inquire into the expediency of so amending the said act as to restore the jurisdiction of the Court of Claims in said cases, with leave to report by bill or otherwise.

#### ENROLLMENT LAW.

Mr. SCHENCK. Mr. Speaker, the bill amending the enrollment law was made the special order for last Thursday. It has been crowded out of its place again and again, and now the draft is nearly approaching. I ask the gentleman from Indiana, before pressing his motion to adjourn, to permit that special order to be taken up so that we shall know that it will come up regularly.

The SPEAKER. The bill is already before the House.

Mr. DAWES. Mr. Speaker, what has become of the special order that preceded the enrollment bill?

The SPEAKER. It was understood that the reconstruction bill was laid aside temporarily.

Mr. DAWES. I did not so understand it.

The SPEAKER. The Chair will state that if the reconstruction bill can be passed over temporarily, as the gentleman from Ohio first suggested, it will not lose its priority. The enrollment bill will come up, and as soon as that is disposed of the reconstruction bill will come up.

Mr. PENDLETON. I would like to inquire what effect that will have on the other matters set aside for the latter days of this week.

The SPEAKER. These are the only two special orders in the House. The others are postponements.

Mr. PENDLETON. The tax bill is made a special order after to-morrow evening. When will the bill in reference to Cabinet ministers in Congress come up?

The SPEAKER. The Chair cannot state.

Mr. PENDLETON. I will object to postponing the reconstruction bill unless it be postponed to a day later than the bill for admitting Cabinet ministers to the floor.

Mr. RICE, of Maine. I desire to make an inquiry of the Chair as to the bill for territorial buildings.

The SPEAKER. That is a postponement according to the Journal—not a special order.

Mr. RICE, of Maine. It was a special order before, and was postponed as a special order.

The SPEAKER. Then there are several special orders. The gentleman from Ohio [Mr. PENDLETON] says he will object to the reconstruction bill being postponed, unless it be postponed until a day later than the bill for the admission of Cabinet ministers.

Mr. DAWES. I cannot consent.

The SPEAKER. Then the reconstruction bill will be the special order at the meeting when the House resumes that class of business.

Mr. WASHBURN, of Illinois. I move that the House do now take a recess until seven o'clock.

The SPEAKER. The Chair will state that when the House resumes its session at seven o'clock, it will be in Committee of the Whole on the state of the Union on the President's annual message. The Chair requests that the gentleman from Maine [Mr. BLAINE] will take the chair.

Mr. BLAINE. I beg the Chair to excuse me; I am not well.

The SPEAKER. Then the gentleman from Minnesota [Mr. DONNELLY] will please take the chair this evening.

The question was taken on Mr. WASHBURN's motion, and it was agreed to.

The House thereupon, (at four o'clock, p. m.) took a recess until seven o'clock, p. m.

#### THE PRESIDENT'S ANNUAL MESSAGE.

The House reassembled at seven o'clock, p. m., and resolved itself into Committee of the Whole on the state of the Union, (Mr. DONNELLY in the chair,) and resumed the consideration of the annual message of the President of the United States, on which the gentleman from Pennsylvania [Mr. BROOMALL] had the floor.

MESSRS. BROOMALL, LONG, DONNELLY, (Mr. BROOMALL in the chair,) COLE, of California, and JULIAN, addressed the committee. [Their speeches will be published in the Appendix.]

Mr. COLE, of California, moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and Mr. COLE, of California, having taken the chair as Speaker *pro tempore*, Mr. BROOMALL reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

And then, on motion of Mr. BROOMALL, (at twenty-five minutes to eleven o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, February 8, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The VICE PRESIDENT. The Journal of yesterday will be read.

Mr. FOOT. Unless some member of the body is particularly interested in hearing that Journal read, I suggest that it be dispensed with, by the unanimous consent of the Senate.

There being no objection, the reading of the Journal was dispensed with.

#### WITHDRAWAL OF PAPERS.

Mr. FOOT. I move that the Committee on Patents and the Patent Office be discharged from the farther consideration of the petition of Henry Stanley for the continuance of his patent; and that the petitioner have leave to withdraw his petition. I make the motion with the consent of the chairman of that committee.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had, in conformity to the joint rule on the subject, appointed Mr. J. F. WILSON of Iowa, and Mr. J. L. DAWSON of Pennsylvania, tellers on its part to examine and count the electoral votes for President and Vice President of the United States on this day.

The message also announced that the House had passed a bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866; and a bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending the 30th of June, 1866; in which the concurrence of the Senate was requested.

#### PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of captains, commanders, and lieutenant commanders on the active list of the United States Navy, praying for the repeal of so much of the act to establish and equalize the grades of line officers of the Navy, approved July 16, 1862, as relates to the pay of captains and commanders, and of the pay at sea of lieutenant commanders, so as to restore to their respective grades and duties the pay to which they were entitled prior to the passage of that act; which was referred to the Committee on Naval Affairs.

He also presented a petition of ministers of the gospel and pastors of the churches at New Bruns-

wick, New Jersey, praying that ministers of the gospel may be exempted from military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. CLARK presented the petition of Samuel L. Gerould, for pay for his services as reporter in a court-martial; which was referred to the Committee on Claims.

Mr. HALE presented the petition of Dorsey Edwin William Towson, of Georgetown, District of Columbia, praying that his name be changed to Dorsey Edwin William Carter; which was referred to the Committee on the Judiciary.

Mr. LANE, of Indiana, presented the memorial of the common council of Michigan City, Indiana, praying for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

He also presented the petition of officers of the subsistence department of the Army, praying that the subsistence department be placed on an equality with the quartermaster's department in the way of promotion; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of commissioned officers of Indiana regiments in the military service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I present a petition of citizens of Cambridge, in Massachusetts, headed by Henry W. Longfellow, asking Congress to enact a law preferring for appointment to all inferior offices persons honorably discharged from the military or naval service of the United States. I have already presented a similar petition to this, which was referred to the Committee on Military Affairs. I move that this also be referred to the same committee.

The motion was agreed to.

Mr. COWAN. I beg leave to present the petition of George W. Martin, praying that his case may be investigated and the record of the Senate amended and other acts done which will secure his rights. It appears that Mr. Martin was appointed military storekeeper, and he alleges he was confirmed by the Senate, but that the record, from accident or otherwise, does not show the fact, and he prays, therefore, that it be amended. I move that this petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### POSTAL LAWS.

The VICE PRESIDENT. Reports of committees are in order.

Mr. COLLAMER. I desire now, as I can never get any other time, to move to postpone all prior orders and take up the bill (S. No. 390) relating to the postal laws. I think it will not cause debate; it is a bill which ought to be sent to the other House.

Mr. TRUMBULL. Let us make our reports first.

Mr. SUMNER. Had we not better go through the morning business?

Mr. COLLAMER. Gentlemen ask to make reports, and then they insist on the immediate consideration of those reports, so that there is no chance for other business.

Mr. TRUMBULL. Let the Senator go on with his bill. I withdraw my suggestion.

The VICE PRESIDENT. The question is on the motion of the Senator from Vermont.

The motion was agreed to, and the bill (S. No. 390) relating to the postal laws was considered as in the Committee of the Whole.

The bill was read.

The Committee on Post Offices and Post Roads reported the bill with several amendments. The first amendment of the committee, was to strike out the first section, as follows:

That from and after the 1st day of July, 1865, unpaid postage upon letters and other mail matter received for delivery, the registration fee on registered letters, rents of drawers and boxes, and all other postal transactions at post offices in which money is involved, except collections of drafts and deposits, shall be paid and performed by the use of United States postage stamps, under such rules and regulations as the Postmaster General shall prescribe.

The amendment was agreed to.

Mr. HALE. Before another vote is taken, as this is a very important bill, and the Senate evidently have not listened to it, I wish the chairman

of the Committee would state some of the principal alterations made by the bill.

Mr. COLLAMER. This bill as it has now been read was prepared by the head of the Post Office Department. He recommended a variety of legislation in his general report of the year. I called on him and asked him to put in the form of a bill all the legislation he desired for his Department for the year, and we could then examine it and make such amendments as we thought advisable and necessary. He prepared a bill, and this bill as it stands printed here now is the very bill which was prepared by him. I presented it, and it was read twice, and referred to the Committee on Post Offices and Post Roads. With that bill he also sent a letter explaining all the parts of the bill which he had not explained in his annual report. That letter has been printed. The bill was drawn up out of the materials in the Post Office report, and from this letter of the Postmaster General, at the Department, to carry into effect the views they entertained in relation to legislation.

The committee, after spending some time in carefully examining the bill, reported it with a variety of amendments which have not yet been read. The Chair has called them up one at a time, the first section first. The committee reported that the first section should be stricken out. If gentlemen would collate the bill with the Post Office report, and the letter of the Postmaster General, they would see and understand the reason for all these various sections. They have very little relation to each other; they are isolated sections to secure certain purposes stated in his report and letter. I can go over them all if gentlemen desire it; but I hardly thought it worth while, inasmuch as the bill as drawn by the Department was sustained and explained by the letter of the Postmaster General, to occupy the attention of the Senate in explaining it. However, if any gentleman wishes it, I will endeavor to do so.

The committee have reported a variety of amendments to the bill. The first section, which the committee recommend be stricken out, is based on this idea: a year ago, at the recommendation of the Department, a law was passed to enable them to dispense with keeping so great a variety of accounts, and in order to do that it was provided that at least all letters should be prepaid by postage stamps, and then, if that was faithfully done, all the accounts that would have to be kept by postmasters would be the accounts of their postage stamps. They would need then only so many postage stamps; and inasmuch as nothing can pass through the mails but what is stamped and canceled, if they kept an account of the postage stamps, that is all they would have to keep. It would dispense with all this great variety of quarterly returns, amounting, as the gentleman from New Hampshire very well knows, he having been a member of the Committee on Post Offices and Post Roads, there being about twenty-eight thousand post offices, to twenty-eight thousand quarterly accounts to be looked over and collated with the post office bills. It was utterly impracticable to do that. These quarterly returns acted as some sort of check upon the postmasters, because they were supposed to be looked over, but in fact they never were.

The first section of the bill is predicated on the idea that everything done in a post office, pay for box rents and everything else connected with the Post Office Department, should be paid in postage stamps; the whole dealings of the office should be in stamps. The only object to be secured by that was the simplifying of accounts; but the trouble is that it does not simplify them; it is undertaking to push the principle beyond any practicable result. For instance, suppose a man comes in to pay for his box; suppose it is a dollar. He comes with his dollar and says to the postmaster, "I want to pay my box rent." The postmaster tells him, if this section should be adopted, that the law requires him to pay it in postage stamps. "Very well," says he, "hand me the postage stamps for my dollar." The postmaster hands him the postage stamps, and he hands them right back again to pay the box rent. It will be perceived that those are not canceled stamps; they are stamps paid back into his hands that he can use again; and he may, if he has one hundred box rents at the same price, with one dollar's

worth of stamps have the whole of them paid to him; and after all he has no stamps canceled; he has just as many to return and just as many to account for, and no more, than he had before. Still you have to rely upon his account of how much money he got for these boxes. And so it is with regard to all the other things mentioned in this section.

Mr. FARWELL. If the Senator will allow me I should like to make one suggestion to him. I perceive the tendency of this section, and certainly it will be plain to every Senator it would be a good section if it could be carried out. Now, I suggest to the Senator whether, if the postmaster was required to cancel the stamps paid in for such purpose in the presence of the man who pays him, it would not carry out the intention of the section and protect the Government?

Mr. COLLAMER. There is no security about what the man paid. The Department does not know who pays the box rents or who does not. Whom are we to call upon for any check upon him one way or the other? The committee considered this section at large; but they could not see how, practically, it could simplify accounts, and they directed me to call upon and have a conference with the head of the Department about it. I did so, and suggested to him our difficulty about it; that we did not see what practical effect the section would have; that the Department would still have to depend on accounts about those things. After a full discussion, and on conference with his Assistants, he said it would not simplify them; that really it would not effect the purpose at all; and he did not wish it preserved. He entertaining the same view that the committee did about it, the committee recommended that the first section be stricken out. That is all I desire to say about that section.

I will proceed with the other sections if any gentleman wishes it; if not—

Mr. HALE. If the Senator from Vermont will allow me a moment, he will recollect that when some debate took place on the post office bill which was passed at the last session, the Postmaster General was present, and I believe had some consultation with the honorable chairman backward and forward—

Mr. COLLAMER. I recollect what he said to you.

Mr. HALE. He did not say anything to me; but I want to ask the chairman if, practically, the predictions and anticipations of the Postmaster General in regard to the operation of that measure have been realized, or have they failed?

Mr. COLLAMER. When we come to the section of this bill which relates to that subject I will state how it is as well as I know.

Gentlemen seem to desire that I should explain these different sections; and as they may not all have read the report and letter on which they are founded, I will endeavor to do it. If gentlemen desire it, of course they will attend to it.

The second section is to carry out the principle of requiring all letters to be prepaid. That is the principle on which we started, and which we desire to carry into effect. This section provides that if a man deposits a letter without prepayment by stamp, it shall be returned to him. If the postmaster can ascertain who wrote it or knows who wrote it, he is to return it to the writer for that reason; and if he cannot ascertain without opening the letter, he need not keep it till the end of the quarter and then transmit it to the dead letter office here to be opened, as the law now requires, but he may open it, ascertain who wrote it, and send it back to the writer without its having to go around the circuit of the dead letter office.

Mr. CLARK. I desire to ask the Senator, if he will permit me, whether some other provision, such as advertising, or something of that kind, may not be adopted for returning those letters instead of opening them. I do not like allowing them to be opened in this way.

Mr. COLLAMER. They are opened now.

Mr. CLARK. Here at the dead letter office; but I do not quite like to allow them to be opened by all the postmasters about the country.

Mr. COLLAMER. That section is left by the committee unaltered, just as the Department desired; and the committee were reconciled to it, after some considerable debate, from the consideration that the unpaid letters now go to the dead

letter office and are there opened, and it will be much more expeditious to let them be opened on the spot and given back at once to the men who deposit them, and there is no more exposure.

Mr. CLARK. The Senator will pardon me; I think there is a great deal more exposure in one view; that is, it acquaints all the postmasters in the neighborhood what the people about them are writing, instead of sending the letters here where the parties are not supposed to know the writers personally.

Mr. COLLAMER. It is the simplest thing in the world to stop all that by just putting a stamp on a letter. If the writer prepaies his letter it cannot be opened. There is no occasion of a man getting into difficulty or in any sort of danger except by his own inattention and neglect; if he will just stamp his letter there is the end of it.

The third section is an attempt to secure the prepayment of all printed matter. There is some difficulty in the practical working of the present system. Papers are now sent from the publishers through the post offices without prepayment, the arrangement being that the postage shall be collected by the quarter at the office of delivery; but in point of fact it is not all collected; a large amount of it remains uncollected; it is lost as revenue to the Department. It is therefore desirable to secure a prepayment of the printed matter as well as of the letters, and this section is drawn with a view to that. It provides that from and after January 1, 1866, so as to give time to make all the arrangement for that purpose, printed matter shall be prepaid. It does not say that it shall be prepaid by postage stamps; that is not the provision; but it shall be prepaid in such manner as the regulations made by the Department shall order and direct. It is probably impracticable to secure prepayment of postage on newspapers by postage stamps. Take a large edition of a daily paper, say the New York Herald, if you please, which every day distributes perhaps a hundred thousand copies, but I will say fifty thousand. They always delay the issuing of the paper as late as they can, so as to put in the last news. They just allow time enough to wrap and direct the papers when they close their press, and then get them into the post office wrapped and directed. If each of these wrappers is to have a stamp put upon it, and that stamp is to be canceled, the papers will not get off that day, for it would require a new manipulation of each paper. This would be impracticable without delaying the sending off the paper until the day after publication. The section, therefore, provides that the manner of doing it shall be left to arrangements by the Postmaster General, and the remainder of this year is allowed to make these arrangements. Of course he will make them after consultation with the publishers as to the best way, either by weighing the papers, or by requiring a return under oath of the extent of their distribution, and having access to their books for the purpose of verifying their return. The regulations will be arranged by the Postmaster General, as I am assured by him, on consultation with the publishers, and in such a manner as to make it easy and practicable. The prepayment of printed matter is a very great object to effect, and the Postmaster General entertains no doubt that it is entirely practicable without the use of postage stamps, and that he can make regulations to carry it into effect.

Mr. HOWE. Let me inquire of the chairman of the Post Office Committee if it is not practicable to make these arrangements by the 1st of July?

Mr. COLLAMER. He prefers to have a year to do it in.

Mr. HOWE. If the arrangements were made by the 1st of July we might know something of their operation by the next session of Congress.

Mr. COLLAMER. The truth is that if you require the prepayment of postage, the publisher will add the amount to the price of the paper, and the subscriptions for papers almost universally commence with January, and the Postmaster General wants to commence with January. For that reason January is put in.

Mr. HALE. I would inquire from the chairman whether it would suit his convenience better, if there are any amendments to be proposed to the sections, to have them suggested as he goes along now, or wait until he gets through.

Mr. COLLAMER. The fact is that the committee have recommended amendments which

have not yet been read, and I want those amendments first passed upon. They may cover what the Senator wants. I think the usual course had better be taken about it.

Mr. HALE. Very well.

Mr. COLLAMER. I come next to section four.

Mr. TRUMBULL. I should like to make an inquiry in regard to section three before the Senator passes from it; it may save time hereafter. I desire to know if it is not practicable to fix in the law the regulation by which postage is to be prepaid on printed matter. One of the newspaper publishers of the country has written to me, and objects to this provision because it leaves it discretionary with the Postmaster General. He says one Postmaster General may adopt one set of rules, and another another, and the publishers are at the mercy of the Postmaster General in regard to it. Why not fix the matter by law? Let them know what they are required to do, and then there will be some certainty.

Mr. COLLAMER. The Senator had the goodness to hand me that letter, and I showed it to the Postmaster General and had a consultation on the subject. It is a matter which has not been overlooked. The difficulty of undertaking to prescribe by law the manner of doing it I have already suggested to the Senate when I spoke of the impracticability of requiring newspapers to be prepaid by stamps. It is difficult now to say what should be the exact mode of prepaying printed matter without consultation with the publishers. We have not had information from the publishers in the different parts of the country to enable us to say that we can now fix on a certain plan. The Department can do it better after consulting with the publishers and ascertaining which is the most advisable course, and it will be done as the body of them want it. If you now say by law that it shall be done in a particular mode, the result will be, if that mode shall not work well, it cannot be altered without changing the law and legislating on the subject over again. On the whole I thought it would be the most prudent and practicable way, and I believe that is the opinion of the committee, to leave the section as the Postmaster General drew it.

The next section is section four. We were applied to again and again by postmasters whose post offices had been robbed, destroyed, and burnt up by the enemy, for relief for the postage stamps they had lost and what they had suffered in their offices. These applications became very numerous, and Congress last year passed a law authorizing the Postmaster General to settle those cases, but confined it to losses occasioned by the enemy, and did not cover those cases where the postoffice itself was destroyed by our own troops. The object of this section is to enable the Postmaster General to settle those accounts in cases where the destruction has been by our own forces. That is all there is in that section.

The fifth section is to help to carry out the money-order system. It became necessary to make expenditures in relation to furniture and fixings in the money-order offices to enable them to carry on their work. There was no authority given to the Department to settle with the postmasters for these necessary expenses, and this section is to enable the Postmaster General to do that.

I come next to the sixth section. It has been found by the Postmaster General that he cannot get published in these times the list of undelivered letters, which is required by law to be published in newspapers, for one cent per letter. The papers will not do it for that; and as he is confined to that price by law, this section proposes to amend the law so that he may get it done, if he can, for a rate not exceeding two cents per letter.

The seventh section is explained in the Postmaster General's report. Last year, in fixing the pay for the agents of the Post Office Department on the Pacific coast, we cut down the pay of a man which had already accrued to him by the law as it was before, thus depriving him of his regular salary, which was not intended. This section is to enable the Department to pay that officer his salary, which was cut down by a mere inadvertence.

The eighth section provides that the special agents of the Department other than those appointed for the Pacific States and Territories, to



superintend postal matters connected with the railway service of the United States, shall be allowed for their traveling expenses, while actively employed in the service, a sum not exceeding four dollars a day.

The ninth section is in relation to maps which the Department has been making arrangements for preparing and publishing. They are maps of the States and Territories arranged in groups, showing the post routes and the location of post offices. These maps are to be engraved, and some money is required to finish the engraving and to make the publication, and the ninth section makes an appropriation of \$10,000 for that purpose.

Section ten is to carry into effect a plan which has been recently entered upon by the Department, of making distribution in the railway cars, instead of having all the letters pass into the distribution offices to be there distributed. They put clerks upon the cars and distribute the mail matter as they go along through all the important routes of the country.

Mr. HALE. Is not that done now?

Mr. COLLAMER. They have put it in operation now, and this section is to provide pay for the clerks that are employed in that service; that is all.

Mr. HOWE. These clerks, I take it, are to supersede the present agents.

Mr. COLLAMER. I suppose the result will be to dispense with what we call route agents on the important routes; but the Department will not be able to dispense with as many of them as they put on clerks, by any means, because these clerks have to do the duties formerly done by the route agents and by the clerks in the distributing offices.

Mr. HOWE. Where they have these clerks, they will not have what are now called route agents.

Mr. COLLAMER. They will still need route agents on some routes where they do not have these clerks, but on the routes where these clerks are employed they will probably be able to dispense with the route agents.

The eleventh section relates to the carrying of the mails by steamships. The present law on that subject provides that if they are American ships they may be allowed the inland and the sea postage for this service, and if foreign ships the sea postage only. There was a doubt whether the Postmaster General was always obliged to give them all that. On some of the routes he says the service ought to be done for a great deal less, and he wants to be at liberty to get it done for less if he can. His reading of the law was, as the owners of the vessels claimed, that they were entitled to the whole of that postage, at any rate, and in order to remove any doubt about that this section eleven is put in, that he shall get the service done if by American vessels for any sum not exceeding the sea and inland postage and if by foreign vessels, for any sum not exceeding the sea postage, so that he may be at liberty to get it for less if he can.

Section twelve only carries into effect section eleven by compelling the vessels to take the mails. It is a provision to compel them when they take clearances to take the mails if so required.

Section thirteen is superseded by an amendment of the committee. It was originally drawn with a view to enable the money-order offices to make deposits in national banks that are depositories of United States moneys, so that they may make transfers of their money where it is received to where it is desired to be paid out. That section is altered at the suggestion of the Department so as to enable all deputy postmasters to make deposits in the national banks that are depository banks in all cases where they have moneys to deposit. It is only to allow them to do that which the Assistant Treasurers do, which the collectors of internal revenue and the collectors of customs do.

Mr. HOWE. I notice another difference between the amendment proposed and the section struck out. By the amendment the money, as I understand it, is to be deposited at the risk of the Government; whereas, in the section struck out, it was to be deposited at the risk of the postmaster. I do not find fault with the amendment, but I wish to know if I understand it aright.

Mr. COLLAMER. The Senator understands it aright, and I will tell him the reason for the change. These depository banks are required to

furnish and deposit United States bonds with the Treasurer of the United States as a security for the deposits made with them. Now, if you say that the postmaster who deposits his money shall do so at his own risk, we cannot hold those securities for it; but if he deposits, as the Assistant Treasurers and collectors do, for the Government, those securities will be held for it. I presume the gentleman understands it.

Mr. HOWE. I think it is right.

Mr. COLLAMER. Section fifteen provides punishment for tearing down post-office boxes, and is a security for the safe deposit of letters.

Mr. HALE. Could you not make these offenses punishable by military commission? [Laughter.]

Mr. COLLAMER. No, we do not do that. The next section is the sixteenth. As the law now stands, the Postmaster General may publish his yearly advertisements for proposals to carry the mails in as many papers in every State as he directs. He is applied to, of course, by every paper, and every paper has its friends about here urging its claims. There seems to be no end to the applications, and the matter really becomes a job to be given out, not for the public service, but as a matter of favor. This section proposes that the Postmaster General shall not be allowed to publish the advertisements in more than five papers in each State or Territory where the mail service is to be performed, limiting it so that he will not have to subsidize all the papers in the country. That is the object of it, to relieve him from importunities.

Section seventeen is the one of which the Senator from New Hampshire [Mr. HALE] spoke, which proposes to amend the act of March 3, 1863, relative to the free-delivery system.

The VICE PRESIDENT, (the Clerk of the House of Representatives having appeared below the bar.) Will the Senator from Vermont be kind enough to suspend his remarks that a message may be received from the House of Representatives?

Mr. McPHERSON delivered his message, as follows:

Mr. President, I am directed to inform the Senate that the House of Representatives is now ready to receive the Senate for the purpose of proceeding to open and count the votes of the electors of the several States for President and Vice President of the United States.

Mr. COLLAMER. The seventeenth section of the bill is an explanation of the act about the free-delivery system—

Mr. TRUMBULL. If the Senator from Vermont will give way, as we have received this notice from the House—

The VICE PRESIDENT. At one o'clock the Senate will repair to the Hall of the House without any notice.

Mr. COLLAMER. I wish this bill to be left as the unfinished business.

The VICE PRESIDENT. The Senator can proceed for five minutes, if he chooses.

Mr. COLLAMER. I will go on. I can get through, perhaps, in that time. The seventeenth section is the last section in the printed bill. The act providing for the free-delivery system provided that two cents postage should be paid on drop letters, and that all letters should be delivered free, the expense of delivery being supposed to be covered by the charge of two cents instead of one cent on drop letters as it was before; and the head of the Department at that time entertained the belief that it would extend practically to all our cities and large towns in the country, and dispense with boxes, &c.

Mr. SHERMAN. With the consent of the honorable Senator from Vermont, and in order to prevent confusion, I move to postpone the further consideration of this bill informally, to take up the legislative, executive, and judicial appropriation bill, that it may be made the order of the day for one o'clock to-morrow.

Mr. COLLAMER. And in the morning hour I can finish this? ["Yes."]

The VICE PRESIDENT. If there be no objection, the motion of the Senator from Ohio will be entertained.

Mr. COLLAMER. Let this be treated as the unfinished business of the morning.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio, to take up the bill indicated by him.

The motion was agreed to.

Mr. SHERMAN. I now move to postpone its further consideration, and to make it the special order of the day for one o'clock to-morrow.

The motion was agreed to.

Mr. COWAN. I am directed by the Committee on Patents and the Patent Office to report a resolution, and to ask for its present consideration.

Mr. COLLAMER. I take it the business I had under consideration remains for consideration.

The VICE PRESIDENT. The Chair understands it will be the unfinished business of the morning hour to-morrow morning, and it will be the unfinished business for to-day, when the Senate returns.

Mr. COLLAMER. If we return here to-day, may we not go on with it as unfinished business?

The VICE PRESIDENT. Yes.

#### PATENT OFFICE REPORT.

Mr. COWAN. I am directed by the Committee on Patents and the Patent Office to report the following resolution:

Resolved, That there be printed for the use of the Senate five thousand copies of the annual report of the Patent Office for the year 1864.

Mr. ANTHONY. That resolution should go to the Committee on Printing.

The VICE PRESIDENT. It is the report of a committee.

Mr. ANTHONY. If the committee from whom it is reported knows the expense, I have no objection to action now; but I think, before a document so expensive is ordered to be printed, before the number is decided upon, the Senate ought to be in possession of the cost of doing it. ["Move to refer it."] I would rather that the committee from whom it comes should make the motion to refer.

Mr. POMEROY. I move that it be referred to the Committee on Printing.

Mr. COWAN. I have no objection, certainly.

Mr. ANTHONY. If the Senator has an estimate, I would as lief it should come from his committee.

Mr. COWAN. I am content that it should go to the Committee on Printing.

The motion to refer was agreed to.

#### COUNTING OF PRESIDENTIAL VOTES.

The VICE PRESIDENT. The hour agreed upon by the concurrent vote of the two Houses having arrived, the Senate will now repair to the Hall of the House of Representatives for the purpose of opening, counting, and declaring the votes for President and Vice President of the United States for the term commencing on the 4th of March, 1865.

The Senate accordingly proceeded to the Hall of the House of Representatives, preceded by the Sergeant-at-Arms, and headed by the Vice President and the Secretary.

The Senate returned to their Chamber at two o'clock, p. m.

#### ORDER OF BUSINESS.

Mr. SUMNER. I move that the Senate take up the resolution which I offered two days ago, calling upon the President of the United States for information relating to recent conferences with certain rebels. There will be no debate upon it. I hope it may now be acted upon and passed.

The VICE PRESIDENT. The motion can be entertained only by unanimous consent.

Mr. BUCKALEW. I object. I think the Senator might wait until we get into our seats.

Mr. SUMNER. I hope the Senator will not object.

The VICE PRESIDENT. The Senator rose in his place and objected distinctly.

Mr. SUMNER. Then I can move to postpone all prior orders and take up that resolution.

The VICE PRESIDENT. That will be in order.

Mr. SUMNER. I will do that. Let us get this resolution out of the way. It will only take two minutes.

Mr. COLLAMER. I wish to inquire whether that will supersede the unfinished business.

The VICE PRESIDENT. It will if the motion obtains.

Mr. COLLAMER. Then I must object to it.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D Session.

FRIDAY, FEBRUARY 10, 1865.

NEW SERIES.....No. 42.

## PRESIDENT AND VICE PRESIDENT-ELECT.

Mr. TRUMBULL. I ask the unanimous consent of the Senate to offer a resolution in connection with our proceedings in conjunction with the House of Representatives. It is the usual resolution.

The VICE PRESIDENT. Is there any objection? The Chair hears none. The resolution will be received, and read.

Mr. TRUMBULL. The joint committee on the part of the Senate appointed to join such committee as might be appointed on the part of the House of Representatives to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election, in further execution of the duties with they were charged by the two Houses have agreed to the following resolution, which I ask the Senate to consider now:

*Resolved*, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives to be appointed by that House to wait on Abraham Lincoln, of Illinois, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1865; and also to notify Andrew Johnson, of Tennessee, that he has been duly elected Vice President of the United States for four years, commencing on the 4th day of March, 1865.

The resolution was adopted.

## CONFERENCES WITH REBELS.

The VICE PRESIDENT. The special order is now before the Senate.

Mr. SUMNER. I understand that the Senator from Pennsylvania [Mr. BUCKALEW] withdraws his objection to the consideration, informally, of my resolution. It will not displace the bill of the Senator from Vermont. It can be taken up informally by unanimous consent, and acted upon and put out of the way.

Mr. DOOLITTLE. That resolution had better go over until to-morrow. I am quite sure it will lead to some discussion.

Mr. SUMNER. I think not. I think the Senator is mistaken.

Mr. COLLAMER. I am informed by the Chair that it will supersede the unfinished business.

The VICE PRESIDENT. If taken up informally it will only supersede it for the time being.

Mr. SUMNER. I merely wish to take it up and get it out of the way.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution? The Chair hears none, and it is now before the Senate.

Mr. SAULSBURY. I sent to the Secretary's desk yesterday an amendment which I intended to propose to this resolution.

The VICE PRESIDENT. The resolution and amendment will be read.

The Secretary read the resolution, as follows:

*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interests, to furnish to the Senate any information in his possession concerning recent conversations or communications with certain rebels, said to have been under executive sanction, including communications with the rebel Jefferson Davis, and any correspondence relating thereto.

The amendment of Mr. SAULSBURY was to add the following:

And that he be also requested to inform the Senate whether he, or others acting under his authority, did not require, as a condition to reunion, the acquiescence of said persons mentioned in said resolution, or of the public authorities of the so-called confederate States, in the abolition of slavery in said States; and also, whether he, or those acting by his authority, did not require as a condition to negotiation that the said confederates should lay down their arms. And that he be requested to inform the Senate fully in reference to everything connected with or occurring in said conference or conferences in relation to the subject-matter of said conferences. And also that he be requested to state whether or not an armistice was not asked for by Messrs. Stephens, Hunter, and Campbell with the view to prepare the minds of the Southern people for peace and reunion of the States.

Mr. DOOLITTLE. I will inquire whether the resolution and amendment have been printed.

The VICE PRESIDENT. Neither has been printed.

Mr. DOOLITTLE. I would like to have them lie over until to-morrow, and be printed.

Mr. SUMNER. Allow me to make an explanation.

Mr. DOOLITTLE. I desire to make an explanation also.

Mr. SUMNER. I object to the amendment of the Senator from Delaware, and on this simple ground: to my mind it is not respectful to the President; it is in the nature of interrogatories addressed to an unwilling witness. I believe that, in the relations between the Senate and the President we have only to express to him our desire that he should communicate to us what in his opinion he can without any injury to the public interests. I believe that he will make a full and frank communication; and I believe I do not go too far when I say it is well known to many Senators that the President is ready to do it; perhaps I might say that he desires to do it. I think, therefore, there should be no delay in making this call upon him in order to give him that opportunity. There is no occasion for printing a resolution which is merely one of this nature, and which can be understood as it is read from the desk; for the original resolution as presented by myself is as simple as language can make it. The amendment as presented by the Senator from Delaware, I admit, does conflict with the resolution, but I presume the Senate will not be disposed to adopt it; there is no occasion for it.

Mr. SAULSBURY. Mr. President, nothing was further from my intention than to offer any disrespect to the President of the United States. It never occurred to me that the amendment could bear any such construction. Inasmuch as the original resolution requests the President to communicate the conversations that occurred in that conference, I wish everything that occurred to be made known. I have been informed that an armistice was requested by those southern commissioners; and if that be a fact, the country ought to know it. I have been informed also that that request was refused. If that be so, the country has as much interest in knowing that fact as in knowing any other.

I rose simply to disclaim any intention of being disrespectful to the President of the United States or anybody else.

Mr. CONNESS. I suggest to the Senator from Delaware that the resolution as proposed by the Senator from Massachusetts should first be adopted and go to the President; and if the communication the President shall make shall be found, in the judgment of the Senator from Delaware, not to be as full as he thinks it should be, then he may offer a resolution calling for further information; but certainly he should not presume in advance that the President will not furnish all the information in his possession. I think, therefore, he should withdraw the amendment.

Mr. SUMNER. Let us vote it down.

The amendment was rejected.

Mr. SHERMAN. Yesterday when this resolution was called up I objected to it upon the ground that I did not believe it related to any matter of a legislative character to be brought before Congress. The President of the United States not only has the power under the Constitution, but by an express act of Congress, to grant terms of amnesty to rebels or insurgents in arms against the Government. I doubted very much from the reading of the resolution whether it would be wise for the Senate to call for this information. What transpired in that interview will probably never be disclosed, or at least not for some time, either to the Congress of the United States or to the insurgents in Richmond. I doubt very much whether the resolution would do any good. The Senator from Massachusetts has stated that the President is ready to communicate this information. It may be well to satisfy the public mind to a certain extent as to what was done there, or what reason induced him to go there; and upon the statement of the Senator from Massachusetts that this is not a resolution intended to hector or lecture or accuse the Presi-

dent for doing what he has a right to do, I am perfectly willing to waive my objections. The only reason why I objected to it yesterday was that I might have some understanding as to what was intended by calling for this information, and whether it was agreeable to the President to communicate it. The President of the United States ought to exercise his entire pleasure in the matter, and he ought not to communicate this information merely to satisfy the curiosity of the Senate and the country unless he thinks it will tend to quiet the public mind.

Mr. DOOLITTLE. In my opinion, Mr. President, this resolution is unwise at the present time. It can do no good. If the communication is made of all that occurred at the interview which is said to have taken place between the President of the United States and these gentlemen coming informally or formally from the southern States, we cannot base any legislative action upon it. The President of the United States is charged with this matter upon his responsibility under the Constitution, and we have no control over it so far as the administration of this is concerned. As was said by the Senator from Ohio, the power of granting amnesty is confided to the Executive under the law as it stands. What may have occurred in an interview like this, on that subject, we do not know. In the discussions between the Executive and these men, if they were pleading for mercy in behalf of those whom they supposed might be ready to lay down their arms, something may have occurred on this subject of amnesty, as to what the President might be disposed to do in the exercise of the pardoning power; but whether there was or not, it seems to me peculiarly improper and unwise to seek by a resolution of the Senate to enter at the present time into that subject.

Sir, I think we ought to presume that the President of the United States knows something. For four years he has been discharging the duties of that high office to the satisfaction of the great mass of the American people. So well satisfied have they been with his administration that they have by tremendous majorities reelected him to this office to discharge its duties. I know that some persons in Washington and outside of Washington, in Congress and out of Congress, have sometimes been disposed to criticize with a great deal of animadversion the course pursued by the President; but, sir, the result has proved, whenever he has passed through any important crisis in his administration, that although he may not have displayed as much genius as some men possess, in the end he has displayed a wisdom and a sagacity which entitle him to the confidence of the country.

While I believe it is unwise to send a resolution of this kind to the President, because it is assuming, on our part, a wish or a disposition to exercise some control over him in the exercise of his great executive responsibilities, I entertain no opposition to the resolution from any fear or any expectation that when the truth comes to be known anything will appear which tends in the slightest degree to weaken the confidence of the country in the wisdom or the sagacity of the President. In my opinion the facts will show that that has transpired on his part, so far from weakening, will strengthen the confidence of the country in the President. At the same time my opinion is just as decided that it is unwise to go into this inquiry.

The honorable Senator from Massachusetts objects to the amendment proposed by the Senator from Delaware, because it is not respectful to the President. Let me ask the honorable Senator what more is there contained in that proposition than there is, in substance, in his own resolution? The Senator from Massachusetts uses different language, I admit; but still his inquiry covers the whole ground. It would cover all that may have been said on the subject of amnesty, if anything was said, just as much as the proposition of the Senator from Delaware. It is only a difference in form of expression, not in substance.

Mr. President, I shall content myself with voting against the resolution, because I believe it would be unwise to enter into this inquiry.

Mr. MORRILL. This, I believe, is an ordinary resolution of inquiry.

Mr. SUMNER. That is all.

Mr. MORRILL. Ordinary in its terms, courteous in its language, and by no implication that I see arising from it does it charge the President, or can a suspicion arise that anybody here suspects the President to be unwilling to communicate the information he is supposed to have, or that it is in any sense a sinister resolution. Therefore, as an ordinary resolution, in the ordinary form of business, I should vote for it; and so I propose to do.

But I rise to say to my honorable friend from Wisconsin that I do not see any occasion now on this resolution for a championship of the President. I do not think the Senate ought to be put in the attitude of being defended against an assault made upon the President; for certainly, from the tenor of the remarks of the honorable Senator from Wisconsin, every Senator here who votes for this resolution must feel that there is an implication that we are in some sense or in some way hostile to the President; that we have not as much confidence in his wisdom, his patriotism, his sagacity to manage public questions, as somebody else has. I feel a little more sensitive on this subject this morning at these remarks, because they are a repetition of the remarks of the same kind made the other day by that Senator. I have never said on this floor anything in any way detrimental to the patriotism or the sagacity or the prudence of the President of the United States. I have felt, and I now feel, as profound a regard for him, I trust, as those who have said a great deal more about it. I insist that there is no occasion on a mere ordinary resolution for putting this Senate in the attitude of voting it upon the idea that a majority of this Senate are not particularly solicitous of the character and feelings of the President of the United States. I do not understand it to be so; and therefore, for one, I object on a mere ordinary resolution of inquiry to being told that it is not wise, that it is a reflection on the President; or, at any rate, that it will be taken for granted that we have not as high a regard and as profound a respect for the President as we ought to have. I rose only to make these remarks.

Mr. SUMNER. I shall content myself with one single remark. I do not intend to debate this resolution, nor do I intend to reply to the speech of the Senator from Wisconsin, a speech that he has made more than once on this floor; but I will remind that Senator of a remark from a very illustrious person, one of the most eminent men in the history of the law—I mean the great Chief Justice of England, Matthew Hale—who was accustomed very often to say from the bench to very ardent advocates, "Do not jump till you get to the stile." The Senator from Wisconsin would do well if he did not jump so often before he gets to the stile. Sir, when Senators on this floor attack the President of the United States the Senator may well rush forward, as swiftly as is his habit, to defend him.

Mr. DOOLITTLE. The Senator from Massachusetts admitted in his former speech that the amendment offered by the Senator from Delaware was an attack substantially upon the President, and he opposed it for that reason. Wherein consisted that attack? It was simply in this: in putting questions to the President about his conduct. This resolution presented by the Senator from Massachusetts is in different language, it is true, but it is doing precisely that thing. It is the favorite weapon which is made use of whenever a party undertakes to attack an Administration to put them on their examination, to put them on their inquiry, to begin to cross-examine them, "What have you been doing? Render us an account of yourself." That is the substance of it.

The Senator from Maine mistakes very much when he supposes that I have said that every person in this Senate who votes for this resolution intends to make an attack upon the President; I say no such thing. I said, or intended to say, no such thing.

Mr. MORRILL. I do not charge the Senator with saying that; but I say that is the inference and inevitable conclusion from the tone of his remarks.

Mr. DOOLITTLE. The Senator did not confine himself to the remarks made by me on this occasion, but referred to what I said the other day. I think the Senator could not have heard the remarks I made the other day, or he would have understood that I had reference particularly to the Senator from Kentucky [Mr. POWELL] and the Senator from Ohio [Mr. WADE] when I charged them with a common purpose to oppose the Administration and destroy the free State of Louisiana.

Mr. MORRILL. If the Senator will allow me, I thought it particularly offensive then, and I think so now, for the Senator to rise and characterize the Senate here as distinguished by radicals and conservatives, especially among his own friends; and that was the whole tone and tenor of his speech the other day. We were classified; some of us were radicals and some of us conservatives, under the general phrase of Herod and Pilate, I believe, applicable particularly to the Senator from Ohio and the Senator from Kentucky. What I complained of then was the general tone of the speech, classifying the Senate, as if there were a body of radical men in this Senate against whom the President of the United States needed to be defended. I think the Senator's speech was obnoxious to that charge, and in that sense offensive.

Mr. DOOLITTLE. I mentioned the Senator from Ohio and the Senator from Kentucky, and I did not refer to any other Senator on the floor in the course of my remarks. My reply was made to them, and was intended for them; I meant what I said, and I mean it now. The Senator from Ohio but the other day, in speaking of the Executive, said, "Your Executive lacks blood; he has not got the nerve to carry out and perform his duties as he ought." And particularly was I replying to the Senator from Ohio in reference to the State of Louisiana when I charged upon him and upon the Senator from Kentucky a joint purpose to attack the Administration, and to destroy the free State of Louisiana. Sir, their joint purpose is this: the Senator from Kentucky would keep Louisiana out of the Union until the rebels can vote under its constitution; and the Senator from Ohio would keep her out until the negroes of Louisiana can vote in the formation of her constitution.

Mr. President, that is what I said. I referred to those gentlemen; and the Senator from Ohio will excuse me when, in reference to this matter, I undertook to speak to him and of him, because that Senator, in the course of the last six or eight months, has undertaken, in a published letter of his, to charge upon me conspiracy with the President to defeat the passage in this House of a certain bill in relation to the construction or the reconstruction of the State of Louisiana and other States.

Mr. WADE. When did I do that?

Mr. DOOLITTLE. I mean by the letter published under the Senator's own hand, in which he assumed to say that I had written to the State of Louisiana stating that that bill would be kept back in the Senate of the United States to save the President the necessity of vetoing it. Sir, I ask the gentleman to produce his proof on that subject.

Mr. WADE. Does the Senator deny that he wrote any such letter?

Mr. DOOLITTLE. I do. But, Mr. President, is it right for the Senator from Ohio, in a published letter, to say that he is informed by a responsible gentleman that some other gentleman has said in the presence of another gentleman that the Senator from Wisconsin has written a letter to Louisiana in which he says this, and that, and the other thing; and upon evidence like that has the Senator from Ohio the right to undertake, not only to attack the President, but to attack me personally?

Sir, the Senator from Maine [Mr. MORRILL] will understand that when I have reference to anything that he says on this floor I shall speak of what he says and of him. I certainly have not yet referred to him or his action here; but in the speech which I made I spoke of the Senator from Ohio and the Senator from Kentucky.

In relation to this resolution I have only to say what I said in the beginning, that I do not see that it can accomplish any good purpose; it may possibly do harm; and upon the very face of it

is an inquiry at the present time in relation to the administration of the executive office, which, in my opinion, is unnecessary and unwise.

Mr. WADE. Mr. President, when this debate commenced, I had very little idea of being dragged into it. I did not know that I had anything particularly to do with it. I said nothing about the resolution. I stood the torrent of passion which the Senator from Wisconsin belched forth upon the Senate the other day in perfect silence. I cared nothing about it. I believed I was right, and the result showed that I had a very large majority of the Senate with me. So believing, I cared but very little what the Senator from Wisconsin might say about it. I did not think that all he could say was worth one moment of the time of this body in reply to it. I did not suppose that either he or myself, in any personal remarks that we could make, would be serving the country so much as we should by allowing the measure then under consideration to pass, and proceeding with the public business. It was not necessary that he should drag up this topic unprovoked, without my saying a word, and turn back to his old controversy and repeat it over again, making it almost necessary for me to get up now and detain the Senate for a few moments.

I ask the Senator and I ask the Senate, why is it that this unprovoked, gratuitous attack should be commenced upon me now, when the Senator had the floor to himself on that occasion, and said all he could say to the Senate, and said it, I suppose, as well as he has said it now? If he harbors any particular malice against me, or if he wants to make it appear that he is the peculiar defender of the President of the United States, and that the President cannot stand alone anywhere unless braced up by such help as that, allow me to say that he has a very much poorer opinion of the President than I have, [laughter,] for I hardly think such props will tend to support him much; and I will give this advice to the President now in my place: "If you are in danger of any attacks, for God's sake select as your defender some man that somebody pays some attention to." I care nothing for the Senator's attacks. I did not reply before, and I am trespassing on the Senate in replying now. Why wake up Rip Van Winkle? The Senator says that a certain letter was published. Sir, in the protest which Mr. Davis and myself put forth—I suppose that is what he alluded to—we did say that we were informed that a letter had been written by him down to New Orleans, in which he stated that they intended to postpone that measure till so late in the session that the President would not have time to consider it. That is what we were informed; I have the letter which so informed me, from as good a man as there is in the State of Ohio or elsewhere, and Mr. DAVIS has another letter to the same effect. The Senator very early in the session spoke to me on that subject. I told him that I had such a letter, but that I had not brought it with me, and if he wished to see it I could send home and get it. He did not seem to require that; he did not ask me to do it, and I dropped the subject. That, I suppose, was more than two months ago. Why does he drag it up now? I have done nothing to stir up his malice that I know of. I have not spoken of him or about him, or thought of him. He was not even in my thoughts or in my mind. I care nothing about him any more than I do about anybody else. I bear him no malice, and very little good-will. [Laughter.] I care nothing about him. I do not know why he has waked up now. He has slept about a year on these letters that he complains of, and never before asked me to produce them; he never denied what they contained in all my conversations with him; he never pretended to deny that it was just as the statement was in the letter of Mr. DAVIS and myself. He spoke to me to inquire about the letter. I told him we had such a letter, but that I had it at home and would produce it if necessary. He did not say that he wanted to see it, or I would have sent for it.

Mr. DOOLITTLE. Did I not tell the Senator from Ohio distinctly that I had never written to any person in Louisiana on the subject of that bill, and that I had never had a conversation with the President about it until the bill passed?

Mr. WADE. I do not remember that the Senator said so.

Mr. DOOLITTLE. I certainly did.



Mr. WADE. I do not remember that the Senator said one word of that kind. I will not say he did not, because I did not treasure up much of what he said. I did not think it very important then, nor do I now. But enough as to that gentleman. He is the peculiar defender of the President! I fear the President will fare very hard unless he has better support, as I said before; but I care nothing about that; it is between him and the President. The President, I suppose, will stand on his own foundation and I shall endeavor to stand on mine. I have not attacked the President. Sometimes when I have thought the President was wrong, I have attacked the thing he has done that I believed to be wrong. I think the Senate of the United States has some independent duties of its own to perform. I do not think that it always consists with the honor even of the President that we should be his mere servants, obeying everything that we may ascertain to be his wish and will, because he is not always wiser than the whole of us or a majority of us. I have not said he was unwise, nor have I said he was wise. I have not criticised the President at all. I have criticised some of his acts, and I have disapproved of some of them; and the Senator believes that is a violent attack upon the President which needs rebuke here! Why did he not turn to me and make that rebuke at first? He got up and made his statements and did not apply them to me until he was rebuked from higher quarters, and then he turned around and went back to his old speech and recapitulated it and said that he meant me by the old speech, and thereby sought to get rid of the new one to-day. That is what he was after; and he was properly rebuked for it.

What is more arrogant than for any Senator to rise on this floor and arraign the whole body as being in hostility to the President of the United States merely because a resolution of inquiry is offered? The Senator says we have no right to question the President for anything; it is an impeachment of his wisdom to do so. Why, sir, resolutions of this kind are the business of almost every morning hour. It is this peculiar "friend" of the President, one of "the king's friends," that must rise here in opposition to it. The President is not opposed to it that ever I heard of. I suppose the President is perfectly willing—nay, I am not certain but that he is anxious, and I have understood that he is anxious—to give the Senate such information on this subject as they may ask of him. I have heard from a gentleman—as good a "friend," who ought at least to be quite as good a friend as the Senator—that the President rather desired and wished to give us the information called for by this resolution. I will not say that the fact is so, but I have been so informed. Whether it be so or not, however, the President has initiated a proceeding of the utmost consequence to the nation; he has held a conference with leading enemies of the country with regard to the great question of peace or war. Is the Senate of the United States not interested in such questions? When these tremendous issues are pending, are we to be told that the Senate of the United States has no right to look into them? The Senator seems to suppose so.

I should like to know what the Senator thinks the people of Wisconsin have sent him here for. Has he anything to do for them? Has he any judgment of his own to exercise upon any question? and if upon any question, what more important than that in the midst of this gigantic war we shall know what kind of negotiations have been entered into, what offers have been made *pro* and *con*., what are the probabilities of the result? The whole nation stands on tiptoe to ascertain. The people know that questions of the most vital interest have been pending between the President of the United States and the emissaries of the rebel chief. What offers did he make, and what offers did they reject? Can any question more important than this arise before the American people, and is a Senator to be rebuked upon this floor and told that he is doing something which does not belong to him, that he is an intermeddler with the private business of the President, when he assumes to ask him in respectful language, "Sir, if the public interest is not opposed to it, please to communicate to the Senate of the United States what passed there at that conference between you and the enemies of the country?" This is im-

pertinent in the opinion of "the king's friend;" but, sir, the "king" himself does not consider it so. Abraham Lincoln never objected to a fair inquiry like this, nor, in my judgment, will he thank his "friend" for interposing in his behalf in a case of this kind.

Sir, I did say on a former occasion that I thought there was great impropriety in this meeting, and I have not altered my mind on that subject. I wish to God that the President had taken a different view from that by which he seems to have been actuated. I wish the President had conceived it incompatible with the high position he holds as the President of the United States to proceed to meet the emissaries of the rebel chief. I think it was a condescension not very honorable to the nation, on his part; but he has done it, and good may come of it for aught I know. He took one view of the subject and I another; but being a Senator upon this floor, I entertain my opinion as strongly and as firmly as the President does his. He may be right and I may be wrong, but there is nothing in the relation between the President and the Senate that requires me to get on my knees and humiliate myself before him, and say these great questions of public interest do not belong to me as well as to the President. I am responsible to the State of Ohio, nay, to the whole nation, as much as he is, for the way that this thing shall come out. I want to know what he is doing. We have invested him with vast powers, says the gentleman. So we have; and is it not the business of a free people, is it not the business of the Senate of the United States, to watch the President, and see how he exercises the vast powers we have conferred upon him? I know of nothing more important in our position than that, although we have the utmost confidence in the President, on these great questions we shall look into his acts; we shall call for all the facts, because we are ultimately to act upon them, as well as the President of the United States. Why should we not respectfully ask him, "Sir, if there is nothing incompatible with the public interest in telling us what you have done, let us know what it is." Is there anything more important than to know what propositions he did make to the rebels, on what terms he did agree that there should be an amnesty; what offers on our part they so arrogantly rejected? These are questions that the Senator thinks we have nothing to do with; these are questions which he thinks do not interest the Senate of the United States. He thinks this interview was a mere personal amusement of the President, with which the Senate has nothing to do, and in regard to which it is impertinent to inquire. Sir, I scout all such ideas.

I care nothing for the gentleman's attack to-day. As I said before, he will not provoke a reply from me. Perhaps I ought not to say a word in reply, as I did not before. I care nothing for what he has said; I think nothing about it; I even bear him no malice for anything he can say, for I have never had anything to do with him and never want to have. [Laughter.] I did say on a former occasion that I intended to know, if there was power in this body to ascertain, what it was that that negotiation was about. I thought it interesting, and I thought we ought to have it, and I declared that if the Senate had the power to get the information I would know. I should have introduced such a resolution as this long before now, but very soon after I took my seat on making those remarks to which I have just alluded the Senator from Massachusetts offered a resolution—almost in the exact terms of that which I would have presented, and I was content with it, glad that he had taken the matter under his wing, and was not disposed to say a single word on the subject, only glad that the inquiry was to be made, willing and anxious to vote for the resolution in silence, without saying a word, but here I must be provoked by this uncalled-for attack of the Senator, repeating his old speech against me, and trying to make it offensive by saying that he meant me, and me alone, or the Senator from Kentucky and myself. What a poor miserable appeal to what he supposes to be the prejudices that exist on one side and the other of this Chamber! What fine statesmanship for a "friend" of the President here, instead of undertaking to make peace and conciliation in this great council of the United States, to descend to the lowest depths of

demagogism in order to provoke a controversy between me and those who are disposed to agree with me upon a certain proposition that we suppose to be right! How did he suppose that a gentleman worthy a seat upon this floor was going to be swayed by such an appeal as that?

Sir, I rejoice when on the other side of the Chamber I find gentlemen who agree with me in regard to any great question that concerns the country. I am glad we are not divided always. We have been divided, we frequently are divided in opinion, so that we have to battle sharply to maintain our different positions. I regret that always; and nothing pleases me more than when I think I am right to be confirmed in that opinion by finding that statesmen on the other side of the Chamber rise and express their agreement with me and their intention to vote in company with me. On the occasion referred to more than two thirds of the Senate voted as I did; and yet I am to be arraigned here as the enemy of the President, and the Senator says his remarks applied to nobody but me. Because I advocated a position which commanded the votes of more than two thirds of the Senate, and because the Senator from Kentucky and some other gentlemen on the other side of the Chamber agreed to a proposition which it was so manifest to everybody ought to pass, I am to be arraigned. He is particular to tell the Senate that he means the Senator from Ohio, and the attack is made on me for agreeing with a Senator on the other side! I say again, the Senator thus appeals to the low, miserable prejudices of party spirit on the floor of the Senate; and he tells us that he hurls his anathemas not at the Senate, but at the Senator from Ohio; and yet I was speaking the sentiments, if I understand the vote, of two thirds of the members of this body. I was content with the substance. My position was maintained strongly against all he could say, and I thought I might well set off the vote sustaining me against a poor, miserable, demagogical speech that anybody might make anywhere. The substantial thing was that a triumphant vote of the Senate of the United States sustained me in my position; and the Senator says he gave me a sound thrashing for holding such opinions, and that he did not mean to attack any other members of the Senate. Did not others argue the same question? Did not others give the same vote? Did not his remarks as well apply to them as to me? If I was Pilate and the Senator from Kentucky was Herod, were there not a great many Pilates and Herods on both sides of this Chamber on that same subject? The Senator from Kentucky and myself do not disagree more than the Senator from Wisconsin disagrees with a large majority of the Senate of the United States. But I am to be singled out, and old things that have slept for a year are to be brought up against me, because another Senator properly sees fit to rebuke the Senator from Wisconsin for his unprovoked attack upon the Senate itself, and he parries it by saying, "I, the other day, attacked the Senator from Ohio; I attacked him personally; I did not speak for the Senate; I did not speak for the country; I hurled my anathemas at the Senator from Ohio, and the rest of you ought not to complain, because I did not mean you." The Senate agreed with me in my argument; but he did not mean to attack the Senate, he meant to attack the Senator from Ohio!

Sir, in an hour like this, when the nation is engaged in a gigantic struggle with the worst enemies that the world ever saw, and we are deliberating how best we can extricate the country from this condition, I envy not the Senator who so far forgets his duty to the country and to the Senate itself as to rise here and make a speech of an hour and a half or two hours barely to lecture the Senator from Ohio or anybody else. Poor "friend" of the President! Miserable prop, to maintain his dignity by an attack on me! It does not make much difference to the President whether the attack succeeds or fails. The President will not care much about it either way. But that is the Senator's excuse. He made the longest, fiercest, most vindictive speech I have heard in the Senate since the rebels ran away; and now he says he meant it nearly all for me, and a little portion of it for the Senator from Kentucky, who seemed to care as little about it as I did. That Senator handled the subject so well that if I had been disposed to say anything afterward I could not have

added a word to what I believe, in the judgment of the Senate, was his triumphant vindication of himself and, I thought, incidentally of me. So I dropped it; and now I drop it again, hoping that this resolution will pass, because I believe that things transpired in that conference which the Senate of the United States ought to know. I think the President ought to tell us what propositions he made to these scoundrels, and what they rejected, that the whole country may know how we stand related to them. Did they maintain their old arrogance? Did they reject propositions that were most reasonable to be made? Or did the President fail to make any propositions or terms that ordinary men should have complied with? Are not these things matters that the Senate ought to know; and if they ought to know them, how else can they reach that knowledge, except by a resolution like this, respectful in its terms, calling on the President to disclose to us whatever transpired, that, in his judgment, it is not incompatible with the public interest to let us know? That is all there is of it; and the Senator from Wisconsin thinks that is a violent attack on the President against the peace and dignity of the country. Sir, there is nothing wrong about it. There is nothing in it that the President would not agree to. I have made no attack on the President. I maintain this resolution without fear of any rebuke from the President of the United States or anybody else, except the Senator from Wisconsin. And, sir, I have done with him. I have marked his course a long time. I do not know why he has become so venomous toward me. I have never had anything to do with him. I have no disposition to enter into any negotiations with him on any subject whatever. I am willing here to leave him the defender of the President. Whenever I see fit to attack the President when he is wrong, I shall do it just as quick as if this Cerberus stood in the way barking as though there was no opposition whatever; it would make no difference with me.

Mr. DOOLITTLE. Mr. President, this denunciation of the Senator from Ohio will not provoke my temper. I have never expressed myself as angry to the Senator from Ohio. I have spoken to the Senator from Ohio in earnestness, and I usually speak in earnestness on every subject when I address the Senate. I said in reference to the Senator from Ohio that in the language which he used in his speech he did attack the Administration and the President in the strongest terms possible to be used; but have I used any expression of anger toward the Senator from Ohio? Not at all. I have spoken of his language toward the Administration and the Executive; I have denounced the language, denounced the position, and I have done it heretofore; I shall do it hereafter, undoubtedly. When the Senator assumes that I stand here to speak as the special friend of the Executive, he is entirely mistaken. I admit that I am one among the friends of the Executive, and when I think the Executive is right in the course that he pursues, I propose to defend him against all the denunciations the Senator from Ohio can make, has ever made, or may hereafter make, when he is wrong in making them.

Now, Mr. President, the Senator from Ohio in this very speech says the President was wrong in consenting to go down to Fortress Monroe to listen to the propositions of any individuals on the subject of peace; that it was undignified and unbecoming his great presidential office which he fills to do so. The Senator the other day in the midst of his denunciatory and inflammatory speech, went on to declare to the Senate, in denunciation of that proceeding, that he desired to know, and he vowed that he would know if there was power enough in the Senate to compel the knowledge to be given, what transpired between the President and those gentlemen. Sir, when that gentleman asks and prays for peace here among the friends of the Administration is it for him to begin war on the Administration; war on its friends, denunciation of the Executive in advance, without knowing the circumstances under which he met those gentlemen, denouncing it in ignorance of all that has occurred, and declare that the power of the Senate was to be used to compel the truth of all that to be disclosed to the Senate and the country? I suppose the honorable Senator from Ohio is thinking about "running" this Administration by the committee on the conduct

of the war, assuming that instead of the President of the United States controlling the Army, granting amnesty, listening to propositions for peace, for laying down the arms of the rebels, the committee on the conduct of the war must be consulted; the Senate must exercise its power and go into all this administration and see what amnesty ought to be tendered by the President, whether pardon should be granted if their arms should be laid down, or upon what terms!

Let me say to the honorable Senator from Ohio, once for all, that I claim no more to be a supporter of the Administration than any other gentleman on this floor; and I am no more a supporter of the Administration than he, in my judgment, ought to be in good faith, from the position that he holds, because I believe that the interests of this country and the interests of the Government depend upon our giving the Administration a fair, a cordial, and a united support in the great struggle through which we are passing. I do not ask the Senator from Ohio to go against his own convictions and to sustain what he does not believe; I do not ask him to do wrong, to violate his own conscience; nor do I expect to violate my own conscience, nor will I support any measure which I believe to be wrong. I claim for myself the same independence which I am willing to give to him; but what I say to the Senator from Ohio is, that he has no right to begin a denunciation in advance of the action of the Executive when he knows nothing of the facts, as he did time and again, the other day, in his speech denouncing this whole proceeding by which the President of the United States has, it is said, held these conferences with those gentlemen and listened to the proposals that they made. Why should the Senator from Ohio denounce it in advance? Why should he threaten the Executive with the whole power of the Senate to compel the disclosure of all that occurred between them? Why all these muttering threats from the Senator from Ohio in advance of his knowing what had occurred?

Mr. President, I have not denounced this resolution as coming from the Senator from Massachusetts as an attack on the President. I have said, and the strongest expression I have used in relation to it is, that I believed it was unwise to make the inquiry in the present state of the circumstances. I did go on and say further that it was the usual mode which was adopted when attacks were made upon the Administration by an opposition. It seems to presuppose that the President of the United States will not voluntarily disclose to Congress what it is necessary should be disclosed, or that something has occurred which, as the Senator from Ohio himself says, in his opinion does not conform to the dignity of the high position that he holds; that he has been doing something derogatory to his character as President of the United States, as the Senator believes.

Now, sir, I come to speak to the Senator from Ohio. He says that I have no right to speak particularly of him. I think I have some right when the Senator connects me personally with the Executive in a public charge circulated all over the country, alleging that I had been in some conspiracy with the Executive to defeat the proper action of Congress upon a bill that was then pending. I tell the Senator from Ohio that I never passed one word with the President on the subject of the bill to which he referred until it had passed. I complain of that.

But the Senator says that is an old matter that has been asleep. Having expressed myself on it, if the Senator so desires, it can sleep. If the Senator thinks that upon this floor, between all parties here who claim to support the Government in this great crisis, it is our duty that we should be at peace one with another, I am ready for peace. But in order that that peace may be maintained, I insist that the Senator from Ohio shall not, in every speech that he makes on this floor, travel out of the record unnecessarily to denounce the Executive as wanting nerve, wanting blood, failing in the performance of his duty, denouncing him for this very proceeding which is called for by the resolution as undignified, not comporting with the presidential office, and threatening in advance that he will bring the power of the Senate to compel the disclosure of all that has there occurred.

Mr. WADE. I want to put one question to

the Senator. If I am supposed to be guilty of all these improprieties what has he to do about it particularly? What charge has he over me?

Mr. DOOLITTLE. I claim no authority over the Senator from Ohio, but the Senator from Ohio must not make war on me if he expects to have peace.

Mr. WADE. I wish barely to say that in all the things about which the Senator accuses me, I had not mentioned his name or thought of him; and why does he talk about my attack on him? He seems to consider what he calls an attack on the President as an attack on him. I have not mentioned his name, nor would I do so now but for the fact that having got into a little controversy with another Senator, he turns around and repeats his old speech and says he meant it all for me then and now. I care nothing about it.

He says there may be peace or war between us. It will not disturb me very much whether there be peace or whether there be war. I reckon I shall always "pursue the even tenor of my way" here very much as I have done heretofore, and I doubt whether I shall think of the Senator three times during the whole session, and certainly not unless he wakes me up as he has done now when I was not dreaming of him at all, and had not for a month.

The resolution was agreed to.

#### POSTAL LAWS.

Mr. WILSON. I ask unanimous consent to introduce a bill with a view to reference.

Mr. COLLAMER. I object to everything until my little bill is finished.

The PRESIDING OFFICER, (Mr. FOSTER.) The bill (S. No. 390) relating to the postal laws is before the Senate as in Committee of the Whole.

Mr. COLLAMER. In pursuance of the request of members I had the honor to go through with the bill, explaining its various provisions, until I reached the last section, the seventeenth. In 1863, Congress, on the recommendation of the head of the Department, adopted a plan to enable him to put in operation the free-delivery system, and in order to do that it was provided that on all drop letters two cents postage should be prepaid, and with that money it was thought he would procure the free-delivery of mail matter in most of our cities and large towns. It was in consequence of that assurance that the law was passed. The present head of the Department finds, as he thinks, under the experiments made by his predecessor and himself, that the two cents which is received on drop letters does not anything like pay the expense of the system of free delivery, and therefore he cannot carry on that system in many of the cities and towns where it has been established, and he has been compelled to suspend it. He so construes the law which provided for free delivery that he cannot have a penny post to deliver letters, as formerly was the case, and the seventeenth section of this bill is to so construe that law as not to forbid that. It is so framed as to say that the act of 1863 shall receive that construction.

The committee on examining the subject were willing that where he could not sustain his free-delivery system he might have the penny post, but that in such cases he should have but one cent postage on drop letters. The additional cent was given to pay for the delivery, and if there is no free delivery we think the postage should be but one cent on drop letters. That is to say, for instance the people in Dover or Salem shall not pay two cents on their drop letters in order to enable Boston and New York to have theirs delivered free. We therefore propose in this section to amend the law by providing that the Postmaster General may set up a penny post where he does not have free delivery, in his discretion; but that in that case the postage on the drop letters shall be but one cent. It is further provided that in those cities in which there are at least fifty thousand population he shall establish the free-delivery system; meaning thereby that if it cannot be made efficient for that purpose we shall not have it at all.

There is also an additional section recommended as an amendment by the committee, beyond the seventeenth section as printed in the original bill. This new section may perhaps well claim some attention, and it may be liable to some objection. It is now proposed to be inserted in the form in which the Department recommended. I am not

perhaps entirely satisfied with it. It is said that our mails are made the vehicle for the conveyance of great numbers and quantities of obscene books and pictures, which are sent to the Army, and sent here and there and everywhere, and that it is getting to be a very great evil. This section is drawn with a view to prevent that. The first part of it provides that if such publications are in the mails the postmasters may take them out; and the latter part provides a penalty and a punishment for those who put them into the mails. The Senate may adopt the whole of this section, or the latter part of it without the first part.

Mr. JOHNSON. If they are sent in envelopes, how does the postmaster know what they are?

Mr. COLLAMER. Printed publications are always sent open at one end. It will not require the breaking of seals.

Mr. JOHNSON. You do not propose to let the postmaster break the seals?

Mr. COLLAMER. There is not a word said about "seals" in the section. If gentlemen are not satisfied with that part of it which authorizes the postmaster to throw them out, that part of the section can be stricken out; and I take it the objection would be mainly that it might be made a precedent for undertaking to give him a sort of censorship over the mails and allow him to discard matter which was not satisfactory, politically, to some party—like throwing out the abolition papers that used to be talked about. If it is thought that it may furnish a bad precedent to that extent, the first clause of the section may be stricken out, and then the amendment will merely make it penal for anybody to deposit such matter in the mails. The provision is reported as the Department wished it; but I shall be quite as well satisfied personally if the first clause is rejected.

Mr. JOHNSON. I move to strike out the first clause. The precedent is a bad one, I think.

The PRESIDING OFFICER. The first question is on the amendments reported by the committee.

Mr. JOHNSON. Will my motion be in order after those amendments shall have been disposed of?

The PRESIDING OFFICER. It will be.

Mr. COLLAMER. This section of which I have just spoken is an amendment of the committee; but there is one before it which should first be acted upon.

The PRESIDING OFFICER. The Secretary will read the next amendment of the committee in order.

The Secretary read the amendment, which was to strike out the thirteenth section of the bill, in the following words:

SEC. 13. *And be it further enacted*, That nothing contained in the act entitled "An act to establish a postal money-order system," approved May 17, 1864, or in any other act, shall be so construed as to prevent deputy postmasters at money-order offices from depositing in the national banks designated by the Secretary of the Treasury as public depositories, to their own credit and at their risk, money-order funds in their charge, under the direction of the Postmaster General, nor to prevent their negotiating drafts, orders, or other evidences of debt through these banks, as they may be instructed and required by the Postmaster General, in order to facilitate the working of the money-order system.

And in lieu thereof to insert:

*And be it further enacted*, That nothing contained in the act entitled "An act to establish a postal money-order system," approved May 17, 1864, or in any other act, shall be so construed as to prevent deputy postmasters at money-order or other offices from depositing in the national banks designated by the Secretary of the Treasury as public depositories, to their own credit as deputy postmasters, money-order or other funds in their charge, under the direction of the Postmaster General, nor to prevent their negotiating drafts, orders, or other evidences of debt through these banks, as they may be instructed and required by the Postmaster General.

The amendment was agreed to.

The next amendment was to add to the seventeenth section the following proviso:

*Provided, nevertheless, and it is hereby further enacted*, That the system of free delivery shall be established in every place containing a population of fifty thousand within the delivery of the office thereof, and at such other places as the Postmaster General in his judgment shall direct: *And further provided*, That the prepayment postage on drop letters in all places where free delivery is not established shall be one cent only.

The amendment was agreed to.

The next amendment was to add the following as an additional amendment:

*And be it further enacted*, That no obscene book, pamphlet, picture, print, or other publication of a vulgar and indecent character, shall be admitted into the mails of the

United States; but all such obscene publications deposited in or received at any post office, or discovered in the mails, shall be seized and destroyed, or otherwise disposed of, as the Postmaster General shall direct. And any person or persons who shall deposit or cause to be deposited in any post office or branch post office of the United States, for mailing or for delivery, an obscene book, pamphlet, picture, print, or other publication, knowing the same to be of a vulgar and indecent character, shall be deemed guilty of a misdemeanor, and, being duly convicted thereof, shall, for every such offense, be fined not more than \$500, or imprisoned not more than one year, or both, according to the circumstances and aggravations of the offense.

Mr. JOHNSON. I move to amend the amendment by striking out the first part of it, so as to leave it merely to create an offense on the part of those who deposit in the mails these books or other publications. It seems to me—and in that I believe the chairman of the Post Office Committee, in a great measure, if not wholly, concurs—that it would be establishing a very bad precedent to give authority to postmasters to take anything out of the mail. It is true that most of the printed matter that is sent is sent without being covered or sealed up; but if there is any danger of this kind those who send this species of publications will no doubt soon begin to seal them, and then the postmaster, whenever he suspects that the envelope contains anything which is obnoxious to objection, will break the seal. It does not appear to me to be at all necessary to the accomplishment of the purpose; for after the postmaster takes the material out, what is he to do with it? May he circulate it if he thinks proper? It is sufficient, as I think, to accomplish the end, which is a laudable end in itself, to make it a misdemeanor on the part of him who seeks to send through the mail matter of this description. That will be done if the first part of the section is stricken out. I move to strike out all of the section after the enacting clause down to, and including the word "and" in line seven.

Mr. SHERMAN. I would much prefer, if the Senator would be satisfied, with simply striking out the second clause of the first paragraph. I think the prohibition against publications of this character going into the mails ought to stand. We are well aware that many of these publications are sent all over the country from the city of New York with the names of the parties sending them on the backs, so that the postmasters without opening the mail matter may know that it is offensive matter, indecent and improper to be carried in the public mails. I think, therefore, the legislative prohibition against carrying such matter when it is known to the postmasters should be left. Probably the second clause allowing him to open mail matter should be struck out; and I suggest to the Senator to modify his amendment by merely moving to strike out the words "but all such obscene publications deposited in or received at any post office, or discovered in any mail, shall be seized and destroyed or otherwise disposed of, as the Postmaster General shall direct."

Mr. JOHNSON. I have no objection to that, and I so modify my amendment.

The amendment, as modified, was read.

Mr. HALE. I wish to suggest a mere verbal amendment. I think, in the third line, it would be well to say that none of them shall be delivered or admitted into the mail. This simply says they shall not be admitted.

Mr. COLLAMER. The other part goes on to make the offense of putting in such matter for mailing or delivering a misdemeanor.

Mr. HALE. Well, I do not care about it.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. COLLAMER. That ends all the amendments proposed by the committee.

Mr. SHERMAN. There is one amendment, verbal in its character, which I wish to suggest. On page 5, in the fourth line of section seven, as it now stands—the original section eight—the reference to the section should be stricken out, and the word "preceding" inserted, so as to make it definite. It refers now to "the seventh section of this act," but by the changes made the original seventh section is now the sixth section.

Mr. COLLAMER. It ought to be "the sixth."

Mr. SHERMAN. Say "the preceding section."

The PRESIDING OFFICER. That mistake will be corrected as a clerical error.

Mr. SHERMAN. I desire also to call the

Senator's attention to the maximum of expense allowed to special agents. In the seventh section, as it is now, the amount allowed to special agents for traveling and incidental expenses is four dollars a day, and in the preceding section it is five dollars. I think it ought to be uniform.

Mr. COLLAMER. It is five dollars a day in the Pacific States and Territories.

Mr. SHERMAN. While the present sixth section applies to the special agent on the Pacific coast, it also authorizes the appointment of "two additional special agents to superintend postal matters connected with the railway mail service of the United States," and their maximum allowance for traveling and incidental expenses is five dollars a day, while the next section fixes the allowance for all special agents at four dollars a day. I think that ought to be increased to five dollars.

Mr. COLLAMER. I have no objection.

Mr. SHERMAN. I move to amend the present seventh section by striking out "four" and inserting "five."

The amendment was agreed to.

Mr. HALE. I now propose an amendment which is of some consequence, and I want the attention of the chairman to it. I move to strike out the third section. It is the section which compels the postage on every newspaper sent through the mails to be prepaid at the place of publication. I think that will operate to the ruin of a great many country papers. It will be destructive to that interest and will operate exceedingly partially. I suppose the very large papers that circulate by fifties and hundreds of thousands, such as the New York Herald, Tribune, and World, and some of the Philadelphia papers, pay no postage, but are transmitted by express outside of the mails and are sold by newsboys. They are thus free from the burden of postage. The country papers that are sent to their subscribers go through the mails; and now, in addition to the taxes you have imposed on them for advertising and everything else, you propose to require the publisher to pay the postage in advance at the place of publication. I think the small country papers are sufficiently burdened, and that this further tax upon them will be very severe, and in many cases ruinous.

A great many of the country papers do not receive all their subscription money, or anything like it, in cash, but circulating in the country they are paid for in barter, by the country produce of the farmers who take them; and my friend from Maine [Mr. FARWELL] suggests, what I have no doubt is true, that a great many of the subscribers never pay at all. To impose on the editor the necessity of paying in advance the postage upon these papers, for many of which he never gets any pay, it seems to me would be burdensome. It is a new feature. I think that the arrangement of making the subscribers pay quarterly is well enough. If you choose, you may require them to pay quarterly in advance.

Mr. FARWELL. It is so now.

Mr. HALE. If that is properly enforced by the Post Office Department, it is enough, and this section is not necessary.

Mr. COLLAMER. The law is now that the postage on all papers that go through the mails must be paid. This section visits no new burden on anybody. Instead of having the postage paid by the quarter, at the end of the quarter, and collected at the office of delivery, it provides, in order to secure the money, that the postage shall be paid at the place where the paper is mailed. That will not make any country paper pay any more than it does now. Instead of having the postage collected from the subscribers through the postmaster, the publisher will pay the postage when he puts it in the post office, and the subscriber will pay the publisher, instead of paying the postmaster. That is all. There is nothing in the idea that this will visit any new burden on anybody. It is no new burden. It creates no new amount of postage for anybody to pay. It is only to secure the Government that we may get the money we charge for our postage, and the subscribers will pay the postage in advance to the printer, and he will pay it to the postmaster, instead of their paying it to the postmaster. They have got to pay the printer for the paper, and they may as well pay him the postage at the same time.



But the Senator says that some of the large papers that issue great editions send their papers outside of the mails. Undoubtedly they do. This section creates no new law about that. We do not tax by this law papers that do not go into the mails. Under the law now, we do not charge postage on those which do not go into the mails. I do not, therefore, see that there is any new burden created. As I have already explained, it is nothing more nor less than a provision to get the postage already provided for by collecting it in a different manner.

Mr. ANTHONY. I think that while this proposition certainly does not increase the burden, it makes it much more inconvenient. It is an inconvenience, certainly, because many of the country papers, as has already been suggested, are not paid for in money; they are paid for in barter, in country produce. It is so with many papers in the Senator's own State; and if the publisher is obliged to pay the postage in advance he will not send the paper. It is very desirable for the country that these small papers that just live should be kept alive. They are very useful in the circulation of intelligence, very useful for town and county purposes, and they are very useful in stimulating the patriotism of the country at this time, and I think this would be felt as a very considerable burden on them. It would not be of any consequence to the papers in the large cities, because most of them are distributed by news men, and those that go to individual subscribers are almost always paid for in advance. It is not so with country papers; they are not generally paid for in advance; but at the end of the time a farmer comes in with a load of wood, or a barrel of potatoes, and settles with the publisher. If this section of the bill be retained it will tend very much to curtail the circulation of small country papers.

Mr. COLLAMER. It happens that I live in the country, and the gentleman lives in a city; I understand the country press. The talk of paying for papers in country produce, a practice which existed some twenty, thirty, or forty years ago, has nothing in it. There is not an article of country produce anywhere in our country now that is not cash at the door. No man is obliged to run around to try to get the printer to take his wood for the paper. He can have his dollar for his wood any day, anywhere. There is no such thing now as paying in produce for papers. No country printer could get butter for his family in that way. The system is all money. So far from being an injury to the publisher, this will be a benefit. It will be a benefit that the credit system, which is almost entirely done away with throughout our country, shall cease with printers as well as other people. This will enable the printer to say to his subscribers, "I have to prepay this postage; now you must prepay me." I do not believe it will injure them in the least. Certain it is, that as the matter is now regulated, we are losing a large amount of our postage which is not collected, and this is the only way in which we can secure its collection.

Besides, while we keep up the practice of sending printed matter through the mails without prepayment, we are obliged to keep up this great system of accounts to which I have already called attention. The accounts of the postmasters for what they collect all over the country cannot be kept in postage stamps. We have now more than twenty thousand quarterly returns; and by continuing the practice of carrying newspapers without prepayment we still keep up that system, and all that immense number of accounts must be managed and manipulated in the Department here. We never can simplify that system of accountability in the office in any other manner than by making prepayment uniform on printed matter as well as on written matter.

Mr. ANTHONY. I have no doubt that there is great force in the argument in regard to the simplification of accounts; but I think there is nothing at all in regard to postage. I think at the present price of paper the papers that are forfeited for the non-payment of postage are fully equal to the postage. I think they would sell for that.

Mr. COLLAMER. The very same difficulty arises that we never get any accounts of them.

Mr. ANTHONY. Then I think you ought to have honest postmasters, and the country pa-

pers ought not to suffer for that deficiency. It is true that the Senator lives in the country and I live in a city; but almost the only thing about which I pretend to know as much as the Senator is newspapers, and I can assure him that if this section passes he will hear from the country press all over the country, and the voice will be such as I predict, not such as he does.

Mr. LANE, of Kansas. I desire to inform the chairman of the Committee on Post Offices and Post Roads that in my opinion, and I live in the country, the workings of this section will be to suspend all our weekly papers. The papers are sent to the country people on credit frequently. The editors cannot prepay the postage. The average circulation of our weekly newspapers is four or five hundred. The editors cannot prepay the postage on four or five hundred papers every week. It is as much as they can do to live now. I can assure the Senator that the section will have a very serious effect on the papers in our State. I want to give my vote so that it shall be understood, and I ask for the yeas and nays. ["Oh, no."] Well, I withdraw the call for the present.

Mr. HALE. I renew the call.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Cowan, Doolittle, Farwell, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Howe, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Powell, Riddle, Saulsbury, Sherman, Sprague, Sumner, Ten Eyck, Wilkinson, Wiley, Wilson, and Wright—31.

NAYS—Messrs. Collamer, Conness, Henderson, Johnson, Pomeroy, Ramsey, and Van Winkle—7.

ABSENT—Messrs. Chandler, Davis, Dixon, Foot, Harding, Hicks, Howard, Lane of Indiana, McDougall, Richardson, Stewart, Trumbull, and Wade—13.

So the amendment was agreed to.

Mr. FARWELL. Was the first section stricken from the bill?

The PRESIDING OFFICER. The first section has been stricken out.

Mr. FARWELL. I propose to offer an amendment to that section, but I can do it when the bill is reported to the Senate.

The PRESIDING OFFICER. The bill will be amendable in the Senate.

The bill was reported to the Senate as amended.

Mr. FARWELL. I have examined the first section that was stricken out in Committee of the Whole, and I propose to offer an amendment to it, and then retain the section as amended as a part of the bill.

The PRESIDING OFFICER. The Chair will first put the question on concurring in the remainder of the amendments made as in Committee of the Whole, excepting the first.

The remainder of the amendments were concurred in.

Mr. FARWELL. I move to amend the first section by inserting in line nine, after the word "stamps" the words "which stamps shall be canceled by the postmaster in presence of the person paying the same."

I will state in a word the reason of my offering this amendment. It is clear from the idea the committee had in the first draft of this bill that there were two objects sought to be attained. One object was to secure the revenue of the Post Office Department against any neglect of the postmasters to return moneys that might be collected for unpaid postage, or for box rents, or any other miscellaneous matters where money might come into the hands of the postmaster in any way. Another was to simplify the accounts, to prevent, if possible, the necessity of the quarterly returns of these accounts. The chairman of the committee, when the question was up upon striking out the first section, stated as one of the leading objections, that it would make it necessary to have all his quarterly accounts furnished to the Department, and to be there examined and passed upon by the Department. I hold that if this section is retained with the amendments proposed by me, it will accomplish both the objects which, evidently, the committee wished to accomplish. It will effectually prevent the postmaster from keeping back any of the money that belongs to the Department; and, in the second place, it will do away with the necessity of making returns to the Department of the moneys received not only for business, but for the newspapers included in the section which has been stricken from the bill.

The amendment that I propose provides that all moneys for unpaid postage, which will include

the newspapers, shall be paid in postage stamps. The committee were right, so far as that section went, in deciding that it gave no protection. A man goes into a post office and pays his postage stamps, and the postmaster receives them as so much money, and he may sell them again and may put the money into his pocket. But the amendment which I have proposed says that he shall, in the presence of the party paying him those stamps, cancel and destroy them. It may be objected that it will be neglected, that it will not be done, or that there will be some trouble in doing it, but I hold that it will not be neglected. When it is made the duty of the postmaster, (and it will soon be known to every man, woman, and child in the land that it is his duty,) when any stamps are paid him for any of these purposes, in their presence to cancel and deface those stamps, he will do it. I think, perhaps, it would be well to add a penalty to this section, providing that if he shall fail to do it, a penalty shall be inflicted on him for not doing it.

I think I am understood. If I am, that is all I wish to say on the subject. I believe the amendment will accomplish the whole view that the committee had in mind when they drew the bill, and will also remove the objections stated by the chairman of the committee upon the proposition to strike out the first section.

Mr. COLLAMER. I think I need add nothing to what I have heretofore said on this subject. It is said that we shall have some security if we provide that the postmaster shall take these postage stamps and cancel them in the presence of the persons who pay them; but, sir, what security have we that those persons will stay there? They are not bound to stay there, and there is no way to keep them there.

Mr. FARWELL. It is usual, when a postmaster takes money for box rents, to give a receipt, and the person waits for it though he is under no necessity to do so; and if the law provides that he shall cancel these stamps in the presence of the person who pays them, they will be likely to stay there and see it done.

Mr. COLLAMER. There is no law requiring the person to stay there when he pays box rent until he gets a receipt, and in all probability he goes away and cares nothing about a receipt. The great probability is that the person who pays the postage stamps will go right away without waiting to see whether the stamps are canceled or not. He does not care anything about that. The Senator says that if the postmaster is bound to cancel them he will do it; but suppose he does not, there is no possible way of knowing who you are to call on for evidence. The Department are not informed who paid them in. They do not know who were present when they were canceled, and never can know. There is no way to call upon these persons, over whom we have no control and no knowledge, whom we cannot tell anything about. If they are obliged to pay in postage stamps, you will still have to trust to the postmaster's accounts; you will still have to trust to his integrity entirely. You may as well trust him by having him render his accounts as by having him cancel the stamps.

Mr. CONNESS. I was unfortunate in not hearing the first part of the remarks made by the chairman of the committee, but I will state this as an apparent objection to the amendment: the persons sent to the post offices to do business are frequently servants and children. What is their testimony worth in regard to the cancellation of the stamps? No cancellation made in their presence can amount to a check. Nothing can be a check that is not a matter of record between the officer who does the business and the Department. It is there that checks can occur; but nothing that can be done, or be required to be done, in the presence of a third party can amount to a check.

The PRESIDING OFFICER. The question is on the amendment to the first section before the question is taken on striking it out.

The amendment was not agreed to.

The PRESIDING OFFICER. The question now is on concurring in the amendment made in Committee of the Whole, striking out the first section.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

## REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Alfred Spink and Daniel Wolf, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Henry Rudd, submitted an adverse report; which was ordered to be printed.

Mr. WADE. The Committee on Territories, to whom was referred the bill (S. No. 430) to amend an act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, have directed me to report it back to the Senate without amendment, and I should like to have it taken up now and passed, for I believe nobody will object to it.

The PRESIDING OFFICER. It requires unanimous consent to consider the bill now, it having been just reported.

Mr. POWELL. I object.

## EVENING SESSIONS.

Mr. JOHNSON. I submit the following resolution; and I give notice that I shall call it up on some future day for consideration:

*Resolved, That on and after Tuesday next the Senate will take a recess every day from four o'clock p. m. to seven o'clock p. m.*

Mr. SUMNER. Let that lie over.

Mr. JOHNSON. I have already said that I do not ask its consideration now.

## BRIDGE ACROSS THE OHIO RIVER.

Mr. POWELL. I move to take up Senate bill No. 392, the bill to provide for building a railway bridge across the falls of the Ohio river.

Mr. WILSON. I propose to move that the Senate proceed to the consideration of executive business.

Mr. POWELL. I want my bill taken up first. We can pass it in a few minutes.

Mr. CONNESS. I desire to inquire whether there was any objection made to the request of the chairman of the Committee on Territories; and if so, by whom? The bill that he asked the consideration of will not occupy an instant. It concerns the Senators from Nevada, who have had no opportunity to get the attention of the Senate to it. It will excite no debate, and if taken up I think will be passed with unanimity. I hope that it will be allowed to be taken up at the present time.

Mr. POWELL. I cannot consent to it. I have yielded my bill for three weeks. I have no doubt I shall vote for the bill indicated by the Senator; but I think my bill is one of that kind also, and I want it to be acted upon now.

Mr. CONNESS. We will take that bill up afterwards.

Mr. POWELL. I think I can get my bill through when taken up in a few moments.

Mr. WADE. I do not care which is taken up first, and I do not think that either will give rise to debate; but I should like to have that bill in regard to Nevada taken up. They can both be acted upon, I think, this afternoon.

Mr. POWELL. I move that the bill indicated by me be now taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads." It proposes to amend the act of Congress of July 14, 1862, so as to authorize the Louisville and Nashville Railroad Company and the Jeffersonville and Indianapolis Railroad Company (stockholders in the Louisville Bridge Company) to construct a railroad bridge over the Ohio river at the head of the falls of the Ohio, subject to all the provisions of that act; but the bridge may be constructed at a height not less than fifty-six feet above low-water mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river; one over the Indiana chute, one over the middle chute, and one over the canal. The spans of the bridge are not to be less than two hundred and forty feet, except over the Indiana and middle chute and the canal. The bridge is to be constructed with draws of one hundred and fifty feet wide on each side of the pivot pier over the Indiana and middle chutes, and

ninety feet wide over the canal; and the bridge and draws are to be so constructed as not to interrupt the navigation of the Ohio river.

The second section provides that the bridge erected under the provisions of this act is to be a lawful structure, and is to be recognized and known as a post route.

The Committee on Post Offices and Post Roads reported the bill with two amendments: in line five, after the word "be," to insert the words "and the same is hereby;" and in line six, after the word "Jeffersonville," to strike out the words "and Indianapolis;" so that it will read:

That the act of Congress approved July 14, 1862, entitled "An act to establish certain post roads," shall be, and the same is hereby, so amended as to authorize the Louisville and Nashville Railroad Company, and the Jeffersonville Railroad Company, &c.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BUCKALEW. I move to postpone the further consideration of the bill until to-morrow. My colleague is absent, and I do not know where he is.

Mr. POWELL. I hope that motion will not prevail.

The motion was not agreed to.

The bill was passed.

## BOUNDARIES OF NEVADA.

Mr. WADE. I now move to take up the bill for Nevada.

Mr. SHERMAN. I appeal to my colleague not—

Mr. WADE. If my colleague will allow this bill to be taken up now, we can take up his afterward.

Mr. SHERMAN. There is another bill only four or five lines in length in regard to the Covington bridge over the Ohio river, which can be acted upon in a moment.

The PRESIDING OFFICER. The bill indicated by the Senator from Ohio [Mr. WADE] having been reported to-day and objected to, the motion can only be entertained by unanimous consent.

Mr. WADE. I believe it is not objected to now.

Mr. SHERMAN. I do not object to it.

Mr. WADE. We will take up the other bill afterward.

Mr. HENDERSON. I should like to inquire of the Senator from Ohio if the bill will give rise to debate?

Mr. WADE. I presume not. I have no idea that it will. The Senators from Nevada are very anxious that it shall be passed now, in order that we may get it through the other House. I do not think it will give rise to debate. If it does, I will give way. I am as much interested in the next bill as my colleague is, and I want it to pass; but the Senators from Nevada want this bill passed now, and I am anxious to accommodate them.

Mr. HENDERSON. What is the next bill?

Mr. WADE. It is a bill similar to the one just passed for a bridge over the Ohio.

Mr. SHERMAN. It is to declare the Cincinnati and Covington railroad a post road.

Mr. WADE. There will be no debate on either of them, I presume.

Mr. CONNESS. I hope the Senator from Missouri will allow this bill to be taken up. It will only occupy a moment of time.

Mr. HENDERSON. Certainly, I am perfectly willing to yield. I have no idea that I shall be able to get up my bill; my friend from Ohio [Mr. SHERMAN] to-morrow at one o'clock takes up the bills reported from the Finance Committee, and I do not see any hope at all of getting my bill considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 430) to amend an act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States. The bill proposes to amend the second section of the act to which it is an amendment, so as to read as follows, to wit:

That the said State of Nevada shall consist of all the territory included within the following boundaries, to wit: commencing at a point formed by the intersection of the thirty-seventh degree of longitude west from Washington

with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary line of the State of California; thence in a northwesterly direction along the said eastern boundary line of the State of California to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude, and said eastern boundary line of the State of California, to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-seventh degree of longitude west from Washington; thence due south down said thirty-seventh degree of west longitude to the place of beginning.

Mr. WADE. That the Senate may understand really what this bill is, I will remark that the State of Nevada is bounded on the east by Utah Territory; they lie side by side; and this bill proposes to take one degree of longitude from Utah Territory and annex it to the State of Nevada; about sixty-nine and a half miles, I suppose, or thereabouts. I have not measured it; but from the eye it seems that Nevada and Utah will then be about equal in point of territory.

Mr. SHERMAN. Are there any inhabitants in the portion proposed to be annexed to Nevada?

Mr. WADE. There are a few inhabitants there, I am told. I am told also—the Senators from Nevada will be more able to speak on that point than I am—that this will make a very excellent boundary between Utah and Nevada, because there is a kind of desert that divides them on this parallel; so that it will be a natural division as well as one that will be equitable between the two; it makes their territory about equal.

The Senators from that State, however, will be able to speak more intelligently upon the subject if there is any dispute about it.

Mr. TRUMBULL. I rise merely to inquire of the Senator from Ohio whether the Latter Day Saints have been consulted in regard to this encroachment upon their borders.

Mr. WADE. I believe not; I do not know that they were. The committee had no evidence of it.

Mr. TRUMBULL. Then it is done without consulting them at all?

Mr. WADE. I do not know that they understand it, or know anything about it, and I do not know but they do. The committee had no such evidence.

Mr. JOHNSON. I suppose the territory that will be added to the State of Nevada by this bill has some population and constitutes portions of some of the counties into which the Territory of Utah may be divided, and there may be suits pending there. There is no provision in this bill for the transfer of those cases to the courts in Nevada. I think perhaps it would be well, therefore, and I suggest it to the honorable members from Nevada, to let the bill lie over in order that they may make a provision that will cover all such cases. It can be done in the morning. I do not know whether there is any population there.

Mr. NYE. Mr. President, I am quite familiar with the ground described in this bill. There are no inhabitants in that portion of the Territory of Utah that we propose to annex to the State of Nevada. Next year, in all probability, there will be quite a large population there; but not Mormons. The object in getting this bill passed through Congress at the present session is with a view of determining the status of those people who shall then be there. The boundary as it now lies runs through a valley that is well adapted to agricultural purposes, and about in the center of the valley running from the north to the south of the Territory. The boundaries as we now propose will run through a desert, and it will be a more distinct and plainer boundary.

As I remarked, if this bill should pass, and this territory should be annexed to Nevada, it will have this advantage: it will not be settled by Mormons. The Latter Day Saints have called in all their subjects and followers and brought them in and about Salt Lake and further north and east. They have withdrawn entirely from this portion of territory. The valley in which it lies and the mountain on the eastern side has lately been discovered to be a mining region, and the miners will get there. Their rights will be bettered by this annexation. It is well known to this body that no laws recommended by the Governor of Utah can be passed if they come at all in collision with the will and dictum of the reigning power there, Brigham Young. Therefore, if this dis-

trict of country remains in the territorial limits of Utah, the miners will be without law and without protection. Our people ask for this measure for the purpose of furnishing protection to the inhabitants who will be in this territory as soon as the spring opens—protection such as is required in order to preserve and maintain the rights of the miners and agriculturists there.

I presume there will be no objection on the part of Utah to the passage of this law. I have heard of none, and the presumption is that there will be none. I think the true way to dispose of this troublesome question of Mormonism is to absorb it by parceling out the Territory of Utah among the other Territories adjacent; and when the period arrives that they cannot be supreme in their rule, they will leave the country, and relieve us of the necessity of keeping a large force of our Army there.

Mr. GRIMES. I wish to inquire of the Senator from Nevada what is the area of that State now. How large is it?

Mr. NYE. I am unable to give the exact number of miles without a calculation. It is quite a large State, but not as large as Utah is now.

Mr. POMEROY. It is estimated to be one hundred and eight thousand square miles with this addition.

Mr. WADE. It is not a large State.

Mr. GRIMES. There are very grave questions connected with the subject of taking territory from Territories already in existence and adding it to States whence we cannot hereafter reclaim it. If we take this territory from Utah and add it to Nevada, it cannot be taken from Nevada again. It may become important to erect a new Territory between Nevada and Utah. It is not for the interest of the State that the Senator from Ohio himself represents, it is not for the interest of the States of the Northwest, that these States to the west of us should be made so large as we are in the habit of making them, because it deprives us of our proper representation in this branch of Congress. I should like to know a little more than I know now before I vote to make Nevada a State of one hundred and eight thousand square miles; much larger than New York.

Mr. POMEROY. Virginia has sixty-nine thousand square miles.

Mr. GRIMES. New York does not begin to have sixty-nine thousand square miles. It is very evident nobody knows how large Nevada is now; and ought we not to have that information before we add a whole degree of longitude to it and put it beyond our ability hereafter to add it to another State, or to make it a part of a new Territory, and afterward part of a new State?

I do not like to interfere with anything that relates to the Senators from Nevada, but this is a matter in which we are all just as much interested as they are, especially the cluster of States of which mine happens to be one, and who are destined to be very intimately connected with all the States to the west of us. I want to see prosperous States built up there, and just as many of them as possible. I want that section of the country to have its due proportion of influence and power in this branch of Congress as well as in the other. If the physical geography of that country is such as to enable a new State to be erected between Utah and Nevada; if it be a rich agricultural country, as the Senator from Nevada says it is, it will support a good population, and I want those States to be made. I think, at any rate, we have not the information before us now that it is requisite for us to have in order to pass upon so important a question, and I therefore move that the bill be laid upon the table.

Mr. NYE rose.

Mr. GRIMES. I will withdraw my motion to enable the Senator from Nevada to make an explanation.

Mr. NYE. The objection the Senator from Iowa urges against the passage of this bill is one that would be apt to occur to as discerning a gentleman as he is; but there is no probability of the formation of any State between the State of Nevada and the Territory of Utah. After you pass the present boundary, and before you reach the contemplated boundary by this bill, you pass into a desert extending almost clearly across the width of the State of Nevada, where it will hardly be possible for a population to exist. I think, therefore, that that objection is not a valid one.

The territory of the State of Nevada is now larger than that of the State of New York; but, sir, a large portion of that State will never be inhabited; it is a desert. We live there in communities, a mining district here, and a mining district there. It will take a long time, I think, before there will be a necessity for any State between Nevada and the Territory of Utah; and as Utah now stands, I believe it is the settled judgment of Congress that it shall not be admitted as a State. This territory is not sought to be annexed to Nevada because the size of the State of Nevada is inferior, but because the necessities and the convenience of the population that will settle it require it.

Mr. HENDERSON. I see that there is an indisposition to vote upon this question this evening. I do not know that I have any objection to the measure pending myself; but I see that Senators desire to look into it, and I also desire to do so. I will move, therefore, to postpone the pending and all prior orders, and proceed to the consideration of Senate bill No. 359, to reimburse the State of Missouri for moneys expended for the United States.

Mr. SHERMAN. I will not contest with the Senator from Missouri on this point, nor seek to delay his measure, if he will allow a bill reported from the Committee on Post Offices and Post Roads to be read and passed.

Mr. HENDERSON. Suppose we take up this one first.

Mr. SHERMAN. If there is any objection made to the bill to which I refer I will give way. It will be recollected that I gave way to my colleague, thinking that this bill would not lead to debate.

Mr. WADE. I hope this bill will not be dropped. The other Senator from Nevada, who has not spoken, wants to enlighten the Senate on this subject, and I think he ought to have an opportunity to speak upon it.

The PRESIDING OFFICER. The motion now is to postpone the present and all prior orders and proceed to the consideration of Senate bill No. 359.

Mr. WADE. I hope the Senate will not do that now.

Mr. HENDERSON. I desire to remind my friend from Ohio of his promise that if the bill now before the Senate should take any time whatever, or provoke discussion, he would give way. He will remember his very kind promise on that subject. However, I do not make this motion now for the purpose of getting rid especially of this measure and taking up another; but I am really in no condition to vote upon the proposition before us, and I find various Senators around me in a like condition. I would prefer to have time to look into the bill further. I do not wish to stave it off; but we should have time to consider it and look into it; and I hope the bill that I have indicated will be taken up.

Mr. STEWART. In order that the Senate may have an opportunity to look into it, and in order that they may have some information in regard to it further than they have, I wish simply to remark, in addition to what my colleague has said, that although the annexation of this territory would give us a middling large State, larger than some of the eastern States in extent of territory, still it would never give us a State where we could have a population equal to one of the western States. Three fourths, probably, and perhaps four fifths, of all the territory in the Great Basin is a desert. The balance is mountain ranges that contain minerals, and little valleys in the carons of the mountains where vegetables can be raised. In order to support a population sufficient for a State we need much more territory. It is not an agricultural country. There are several ranges of mountains that will be mined. Mining will be exhausted in time; of course not in our time; but all the mineral veins may be exhausted; they will be worked to a great depth, and the country will be sparsely settled. The little valleys will be inhabited by an agricultural people; but a mining country, legitimately and emphatically, cannot support a large population like an agricultural country. We need more territory. We shall have a reasonable-sized State when we get the additional territory that we ask for. It will be in a compact form, making it convenient for all the people; it will be nearly square. I have

not figured it exactly, but it will contain a little over one hundred thousand square miles.

Mr. GRIMES. Without this addition?

Mr. STEWART. I think not; with this we propose to commence our boundary at the thirty-seventh degree of longitude west from Washington, commencing at a point formed by the intersection of the thirty-seventh degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along the thirty-seventh degree of north latitude to the eastern boundary of the State of California. (The western boundary line, commencing about the center of our State, runs in a southeasterly direction, so that the State is not square, by any means. The southern end of the State is not as wide as the northern end. We go thence in a north westerly direction along the eastern boundary line of the State of California to the forty-third degree of longitude west from Washington. The northern half of the State extends from the thirty-seventh to the forty-third degree, six degrees. The western line runs southwest from that point, in the middle of it, thence north along the forty-third degree of west longitude, and the eastern boundary line of the State of California, to the forty-second degree of north latitude. From the thirty-seventh to the forty-second degree gives us five degrees north and south, and, in the widest portion of the State, six degrees east and west. It is nearly a square, except that the corner is taken off by that western line. We go thence, due east along the forty-second degree of north latitude to a point formed by its intersection with the thirty-seventh degree of longitude west from Washington; thence due south down the thirty-seventh degree of west longitude to the place at which we began.

The people of Nevada, in forming a State constitution, inserted in its provision that the thirty-seventh degree should be its eastern boundary, if Congress would consent; so that if this bill be passed we can assume immediate jurisdiction. There has been some prospecting for gold and silver in the territory for which we ask, and next spring there will be some population there. There will be a considerable population there if they can have protection and laws. They cannot get them from Utah. Brigham Young is opposed to developing the mining region at all. He is opposed to mining. He does not want the miners there. He says that they interfere with his sway. Consequently, unless this territory be ceded to Nevada, this range of mountains which is on our eastern border must remain unprospected and undeveloped altogether, or the miners must take the hazard of protecting themselves. It will be a great advantage to those who desire to develop that country to have it within our State at once, so that they may be protected there this next year. Our people particularly desire this. The Legislature has passed a resolution asking Congress to do this. They want it because they desire to go there and mine.

I assure Senators that when we get this territory we shall have of a country that can be developed, that can be inhabited, a State not as large as Massachusetts, not capable of supporting as large a population as the State of Massachusetts. We are not asking for a country in which we can have an empire, in which we can have a large population; but we are asking for a sufficient amount of territory so that the mining region will support a respectable State. We need this territory to give us a respectable State, to give us a State large enough to support itself properly. We need it for the purpose of protecting those who desire to go there and mine.

This territory is so situated that you will have no other States formed out of it. No difficulty of that kind can arise. A State cannot be formed between us and Utah. You cannot divide the present Territory of Utah into two States. I am in favor of cutting it down to the size of a legitimate State by adding from it to the surrounding Territories and States as they are formed, and not give them a larger territory than we have. Besides, Utah is more of an agricultural country than Nevada. They do not need this territory when they form a State as much as we do. There would be more propriety in our going two degrees further east than in our remaining where we are; it would be a more fair division of the territory. You will never attempt in that desert country between us and Utah to form a separate



State. No State can exist there; no State will ever be formed there.

Give us that additional range of mountains, place the eastern boundary of the State in the desert where it belongs, and we shall not call upon you then for a survey. If you keep our present eastern boundary where it is, next year we shall have to ask for an appropriation for a survey. It will be necessary for the people to ascertain where they are in order that they may have an administration of justice. It will be necessary to go to considerable expense to make that survey. If you go a degree further east—I have seen something of the country myself, and I have taken the pains to inform myself from others who are accurately acquainted with it—there will be no necessity for a survey; but if you let the line remain where it is, through a country that is to be inhabited next year, you must give us a survey to determine the lines. I think the point of expense, the point of convenience, and every other consideration is in favor of the passage of this bill. The objections which gentlemen make to it are very natural, because they regard this country as an agricultural country, and they imagine that the whole country can be settled up like the western States. We have no such country. If gentlemen will go there and see what we have and see what is necessary, I am confident they will all be satisfied about it.

I do not think a postponement of this measure will accomplish anything, because you can get no information with regard to the country other than you can get from us. My colleague and myself have traveled over the country; we are familiar with it; we know its resources; we know what is necessary to give us a reasonable extent of country for a State. You have no description of the country. This country has been put upon the maps heretofore as the "unexplored region." You have no description of it; you do not know how much of it is agricultural; you do not know how much of it is mineral; you do not know how much of it is inhabited. We tell you that two thirds, and perhaps three fourths of it, is a desert and cannot be inhabited and cannot support a population; and we need this much territory to make a State with fair proportions. If you take our statement for it you can pass the bill now. You can get no other information, because you have not had the country explored; you have no maps of it, you have no authentic information except what you get from individuals who have traveled over it.

Mr. HENDRICKS. I wish to suggest to the Senators from Nevada that I think the probability of the passage of this measure would be very much promoted if it should lie over for a day or two. I know that I would look upon any measure affecting that new State with a great deal of interest, but I could not vote for the bill this evening, and I think that is the disposition of many Senators. I therefore suggest to the Senators from Nevada to let the bill lie over for the present.

Mr. CONNESS. The Senator from Indiana must be aware that it imperils any bill, at this stage of the session, to delay it for two or three days, with the pressure of public business here. I think, with the Senators from Nevada, that if it is to be passed at all, it must be passed now; and let us have a vote upon it.

What has been said by the Senator from Nevada [Mr. STEWART] in regard to the disposition of Brigham Young toward the settlement of that country for mining purposes is all true, and to a greater extent than he has stated it. I have a constant correspondence with General Conner, located in Utah, having the Mormon problem in charge, and I understand it is only by his protection that miners have been allowed to enter into the Territory of Utah and mine; and that he cannot—

Mr. HENDRICKS. Will the Senator from California allow me to ask him a question?

Mr. CONNESS. Certainly.

Mr. HENDRICKS. If this measure must be forced upon its merits now, I wish to ask the Senator if he is advised whether the Legislature of the State of Nevada or any other authorities have asked for it, and whether they have furnished the reasons and the facts upon which they did ask it.

Mr. STEWART. They have asked it. The constitutional convention asked it.

Mr. HENDRICKS. Have we that document here?

Mr. STEWART. The constitution of the State when it was formed provided that this should be the boundary line, if Congress would consent; thereby asking Congress to consent, and the Legislature, before we left there, passed a memorial—whether it has reached here or not I am not advised—asking for it, and setting forth substantially the reasons we have given to-day for this boundary. I do not know whether that memorial has arrived or not. The constitution of the State provides that this shall be the boundary, if Congress will consent.

Mr. CONNESS. I will not continue to occupy the time of the Senate, and hope the Senator will withdraw his motion to postpone and let us take a vote upon the bill.

The PRESIDING OFFICER. The question is on postponing the present and all prior orders for the purpose of proceeding to the consideration of Senate bill No. 359; and the Chair will suggest that under the rules of the Senate debate upon that question does not involve the merits of either bill, but should be confined to giving the reasons for and against taking up the one or the other of the bills.

Mr. HENDERSON. I will simply state, in reference to this matter, that I think the Senators from Nevada themselves would advance their measure by a postponement of it until another day. I am not prepared to vote upon it now, and if called upon to vote upon it this afternoon it is altogether likely that I should vote against it. Would it not be better to wait until this memorial arrives here, or at least for a short time? I cannot consent to withdraw my motion.

Mr. STEWART. I think if the bill is to be passed at all it ought to be passed in time to go through the other House at this session. Next year we shall have a population in this territory, and we shall be asking appropriations to make surveys. It is highly important that this measure should be passed at this session. If the members of the Senate could see the country and understand the situation, no gentleman certainly would vote against it; it would be apparent to all that we need this additional territory. I have no objection to the bill lying over, but I am fearful at this stage of the session that if it is laid over there will not be time to get it through the House; and it is quite important for the accommodation of those who desire to develop that country that if it is to be acted upon at all it should be passed at this session. If there were any means of information open to the Senate, any means of investigation, if the description of the country was in the books, if they had not ultimately to take the statements of individuals who have seen it, if they had any access to any other information, I would not press it; but it is not probable that they will have any this year or next year unless we can induce gentlemen to go out with us next year and see the country.

Mr. TRUMBULL. This will be the unfinished business in the morning; the Senate is getting very thin—

Mr. CONNESS. There is a motion to postpone pending.

Mr. TRUMBULL. I know there is a motion to postpone; and in order to get rid of all these motions, and have it come up right in the morning, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 8, 1865.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed a bill (S. No. 408) entitled "An act in addition to the several acts for enrolling and calling out the national forces, and for other purposes," in which he was directed to ask the concurrence of the House.

#### CONGRESSIONAL DIRECTORY.

On motion of Mr. A. W. CLARK, by unanimous consent, joint resolution of the Senate

(No. 106) providing for the compilation of the Congressional Directory at each session, was taken from the Speaker's table and read a first and second time.

Mr. A. W. CLARK moved that the joint resolution be referred to the Committee on Printing.

Mr. WASHBURNE, of Illinois. I think this is a very proper resolution and may as well be passed now. It will enable us to get the Directory in time to be of some service to us, and not oblige us to wait weeks for it, as we have to do now. I ask for the reading of the joint resolution.

The joint resolution was read. It provides for the compilation of the Congressional Directory under the direction of the Joint Committee on Public Printing, and to be published by the Superintendent of Public Printing, the first edition for each session to be ready for distribution within one week after the commencement of the session.

Mr. A. W. CLARK. I withdraw the motion to refer.

The joint resolution was then ordered to a third reading, and it was accordingly read the third time, and passed.

#### REPORTS FROM COMMITTEES.

Mr. SCHENCK. I would state to the House, that as the business of the House now stands, there seems to be very little probability that the committees of this House can be called for reports at this session. And as every gentleman knows how our desks are filled with reports ready to be made from all the several committees, I would ask that unanimous consent be given that the morning hour of every other day than Monday shall be appropriated to the call of committees for reports, and that the call shall proceed regularly.

No objection being made, the order was accordingly made.

#### PEACE NEGOTIATIONS.

Mr. STEVENS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President be requested to communicate to this House such information as he may deem not incompatible with the public interest relative to the recent conference between himself and the Secretary of State and Messrs. Stephens, Hunter, and Campbell, in Hampton Roads.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### COMMISSIONER OF PATENTS.

Mr. HIGBY, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas charges of gross fraud and corruption in office have been made recently against the Commissioner of Patents and placed on the desks of the members of this House, and signed by a gentleman who offers to prove the same: Therefore,

*Resolved*, That a committee of five be appointed to investigate the said charges, and report their action to this House.

Mr. HIGBY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### JOHN FLOWER.

Mr. BROOMALL. I ask leave to withdraw the papers of John Flower from the Committee of Claims, to which committee they were improperly referred on my motion, when they should have gone to the War Department.

No objection was made.

#### AMENDMENTS OF THE RULES.

Mr. COX. I desire to make a report from the Committee on Rules.

Mr. STEVENS. Is this report in order, or has the Committee on Amendments of the Rules a right to report at any time?

The SPEAKER. The Chair does not know of any rule that gives that committee the right to report at any time; though reports from that committee have usually been received at any time they have been presented.

Mr. STEVENS. I have no objection to receiving the report if the gentleman from Ohio [Mr. Cox] will allow it to be laid on the table and printed.

Mr. COX. I have no objection to that.

Mr. WASHBURNE, of Illinois. I would suggest to my colleague on the committee [Mr. Cox] to have the report printed and postponed to a future day.

Mr. COX. I would then ask to have it set down for next Tuesday.

Mr. STEVENS. I call for the reading of the report.

The report was accordingly read, as follows:

*Resolved*, That rule 74 be amended so as to add to the standing committees to be appointed at the commencement of each Congress, and to consist of nine members each:

Committee on Appropriations;  
Committee on Banking and Currency;  
Committee on the Pacific Railroad;  
said amendment to take effect from and after the close of the present Congress.

*Resolved*, That the following be added to the standing rules of the House from and after the close of the present Congress:

**RULE —** It shall be the duty of the Committee on the Pacific Railroad to take into consideration all such petitions and matters or things relative to railroads or telegraph lines between the Mississippi valley and the Pacific coast as shall be presented, or shall come in question and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

**RULE —** It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department and such other propositions relative to raising revenue, and providing ways and means for the support of the Government as shall be presented, or shall come in question and be referred to them by the House; and to report their opinion thereon by bill or otherwise, as to them shall seem expedient.

**RULE —** It shall be the duty of the Committee on Banking and Bank Currency to take into consideration all propositions relative to banking and the currency as shall be presented or shall come in question and be referred to them by the House; and to report thereon by bill or otherwise.

*Resolved*, That from and after the close of the present Congress, rule 76 be amended as follows: Strike out all after the word "consideration," in line two, to and including the word "expedient," in line six, and insert in lieu thereof, "All executive communications and such other propositions in regard to carrying on the several Departments of the Government as may be presented and referred to them by the House." Strike out in line one the words "Ways and Means," where they occur, and insert in lieu thereof the words "on Appropriations."

*Resolved*, That from and after the close of the present Congress, rule 77 be amended by striking out the words "of Ways and Means," and inserting in lieu thereof the words "on Appropriations."

Mr. COX. I ask that the report be printed and postponed till Tuesday next.

The SPEAKER. The Chair would suggest that the report can be received and printed, and a motion to reconsider entered, which will enable the gentleman to bring it up again at any time.

Mr. COX. I will then make the motion that the report be laid on the table, and printed.

The motion was agreed to.

Mr. COX. I ask that a motion to reconsider the printing be entered upon the Journal.

#### EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of War in answer to a resolution relative to alleged exemption from military duty of certain preachers of the gospel; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### BUST OF THE LATE CHIEF JUSTICE TANNEY.

Mr. FRANK, by unanimous consent, reported from the Committee on the Library a bill providing for a bust of the late Chief Justice Taney, to be placed in the room of the Supreme Court of the United States.

Mr. FRANK. I ask that this bill may be considered at the present time.

No objection was made.

The bill was then read a first and second time. It provides that the sum of \$1,000 be appropriated to enable the Joint Committee on the Library to contract for a marble bust of the late Chief Justice Roger B. Taney, to be placed in the room of the Supreme Court of the United States.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FRANK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### APPLICATIONS FOR PENSIONS.

Mr. BRANDEGEE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the expediency of reporting a bill

to remedy the almost insuperable difficulties which now exist in procuring the proof required by the Commissioner of Pensions, arising out of the fact that an order has been issued by the Adjutant General forbidding all officers furnishing information of any kind connected with the death or term of service of soldiers under their commands; and also to report what legislation, if any, is needed to insure to applicants for pensions the return of their papers of discharge, when required, from the files of the Pension Office.

#### PACIFIC RAILROAD.

Mr. COLE, of California, by unanimous consent, introduced a joint resolution relative to the Pacific railroad; which was read a first and second time, and referred to the select committee on the Pacific railroad.

#### PRINTING AGRICULTURAL REPORT.

Mr. BALDWIN, of Massachusetts. The Committee on Printing have instructed me to report back the following resolution:

*Resolved*, That the Public Printer be, and is hereby, instructed to print fifteen thousand extra copies of the Agricultural Report for the year 1863, for the benefit and use of the Agricultural Department.

Mr. WASHBURNE, of Illinois. I should like to have some explanation in regard to the printing of this additional number.

Mr. BALDWIN, of Massachusetts. This resolution was offered in the House by the chairman of the Committee on Agriculture, [Mr. CLAY], after having been indorsed by that committee; and it is now reported back by the Committee on Printing. In response to the gentleman's request for information, I ask the Clerk to read the letter which I now send forward.

The Clerk read, as follows:

DEPARTMENT OF AGRICULTURE,  
WASHINGTON, D. C., February 3, 1865.

SIR: In reply to your inquiry, as well as that of other members of your committee, to wit:

"How many additional copies of the Report of the Department of Agriculture for 1863 do you require to supply the necessary demands made upon you?"

I beg to say that I made a communication on the 7th ultimo to Hon. BRUTUS J. CLAY, chairman of the Committee on Agriculture, in answer to the above interrogatory; but since that the further examination of the matter, and the unprecedented demands, daily increasing, many of them from new and unlooked for sections of our country, induce me to correct that statement and submit the following instead:

From the House of Representatives I received ten thousand copies, and seven thousand from the Senate—seven thousand.

The Department is called upon to supply, first, its own correspondents, of whom there are, of those who furnish statistical information and facts about the crops, say eight thousand—sometimes a few more or less, the number having been daily and largely increased the past few weeks by accessions from Missouri, Kentucky, and Tennessee. Of agricultural societies and clubs there are about one thousand; these average one hundred members each. Ten copies to each society is a small allowance.

For the Smithsonian Institute observers, our consuls abroad, who furnish the Department with important information, and foreign agricultural and literary societies, who have been in the habit of receiving the Reports, about one thousand are required.

On examination of the Department books, I find that the last year about eight thousand copies of the Report of 1862 were distributed at large to individuals applying personally or by letter. The demand for the Report of 1863 is much greater, so far, than last year; for this purpose at least ten thousand copies will be required.

There should certainly be reserved three thousand copies for calls in after years.

This statement, then, would show that I required about fifteen thousand copies more, to wit:

For correspondents .....	8,000
For societies .....	10,000
For consuls and Smithsonian observers.....	1,000
For general distribution .....	10,000
For reserved copies .....	3,000

Number of copies received.....

Number of copies required.....

15,000

I am, respectfully, your obedient servant,  
ISAAC NEWTON,  
Commissioner.

Hon. AMBROSE W. CLARK, Chairman Committee on Printing, House of Representatives.

Mr. BALDWIN, of Massachusetts. I call the previous question.

Mr. WASHBURNE, of Illinois. I hope the gentleman will withdraw that call for a moment.

Mr. BALDWIN, of Massachusetts. I withdraw it for a moment.

Mr. WASHBURNE, of Illinois. I did not learn, by the reading of that letter, the aggregate number of copies which, if we adopt this resolution, will have been appropriated to the use of the Commissioner of Agriculture. I think the number will be between thirty and forty thousand.

Mr. BALDWIN, of Massachusetts. Thirty-two thousand.

Mr. WASHBURNE, of Illinois. I desire to state, for the benefit of members of the House, that the copies of the Agricultural Report which have already been printed seem to have been "gobbled up" by the Commissioner of Agriculture, while we have none to send to our constituents. I do not believe that we should become a great book-publishing concern, to give this Department any number of these Reports that it may desire, to send to everybody in the country. To do so would be an unjustifiable expenditure of the public money. I desire to ask the chairman of the Committee on Printing, [Mr. A. W. CLARK]—

Mr. MALLORY. Mr. Speaker—

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from Kentucky?

Mr. WASHBURNE, of Illinois. Yes, sir; for a moment.

Mr. MALLORY. I wish to inquire whether, in the letter of the Commissioner of Agriculture there is not an item of ten thousand copies for distribution by the Commissioner among agricultural and literary societies? Now, sir, I take it that every literary and agricultural society in the various States is furnished with copies of this Report by the members of Congress. It is regarded by each member as one of his first duties to send to such societies a copy of the Agricultural Report. I can, therefore, see no need for appropriating ten thousand copies to the use of the Commissioner of Agriculture with a view to distribution among these societies.

Mr. WASHBURNE, of Illinois. I desire that the chairman of the Committee on Printing shall state the precise number of these Reports needed for the Department of Agriculture.

Mr. A. W. CLARK. I will answer the interrogatory of my friend from Illinois by sending to the Clerk's desk a letter from the Superintendent of Public Printing which has just been laid upon my table with the request that I shall lay it before the House.

The Clerk read, as follows:

OFFICE SUPERINTENDENT PUBLIC PRINTING,  
WASHINGTON, February 7, 1865.

DEAR SIR: I understand that an effort is to be made to induce the House to order fifteen thousand additional copies of the Agricultural Report of 1863 to be printed.

One hundred and eighty-three thousand five hundred copies of that work have already been ordered. Such is the demand of the War Department and the other Executive Departments on the press facilities of the office that they cannot all be printed for several months. Why add to the number at a cost of about twenty thousand dollars, when, if ordered, they cannot be printed for a long time?

The amount of printing rendered necessary for the Executive Departments by our present condition is immense. The expenditure of this office, from appearances, will reach over two million dollars the present year. Ought not every possible curtailment be made?

Very respectfully yours, &c.,

JOHN D. DEFREES,  
Superintendent Public Printing.

Hon. A. W. CLARK, Chairman Committee on Printing, House of Representatives.

Mr. WASHBURNE, of Illinois. I believe that that letter does not answer the question I put to the gentleman from New York. I desire to know how many thousand copies the Commissioner of Agriculture has had.

Mr. A. W. CLARK. Seventeen thousand.

Mr. SLOAN. Will the gentleman from Massachusetts yield to me for a moment?

Mr. MILLER, of Pennsylvania. I appeal to the gentleman to permit me to say one word.

Mr. BALDWIN, of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. SLOAN. I think that the objection to giving so large a number of volumes of this Report to the Agricultural Department grows out of the fact that its distribution has been unjust and unequal. The mode of distribution provided through members of Congress distributes these books through all parts of the country, and each district is supplied; but the volumes given to the Department are distributed unequally, some States getting three or four times the number that others do.

Mr. INGERSOLL. I hope that I may be allowed to put a question to the gentleman from Wisconsin.

Mr. BALDWIN, of Massachusetts. I yield now to the gentleman from Pennsylvania.

Mr. MILLER, of Pennsylvania. I have only one word to say in regard to that proposition. This is the last Department of the Government in

reference to which I would care to enforce a rigid economy. I believe if there is a Department in which the people generally feel a deep interest, it is this Agricultural Department, and I believe that I would be willing to vote for an appropriation that would cover double the number of volumes if I had any faith in the proper distribution of the books themselves. It strikes me, in the short experience I have had here and with that Department, that the discretion lodged with the Commissioner of Agriculture is entirely too large; and that it results in favoritism. I believe that it is a discretion in the wrong direction, and that it does more harm than good.

Why, sir, I have not been able at the present session even to get one paper of sorghum seed, though I understand that there are other gentlemen upon this floor who can command baskets full. If these appropriations are to be made, if these books are to be printed, if these seeds are to be imported, I claim that they should be distributed upon some basis which will deal a greater equality than grows out of the discretion of the Commissioner of Agriculture.

Mr. WASHBURN, of Illinois. I understand that thirty-two thousand copies of this Agricultural Report have been printed, and that of that number seventeen thousand copies have been given to the Department of Agriculture, and only five thousand copies to the members of this House.

Mr. INGERSOLL. I do not understand that seventeen thousand copies of the Report for 1863 have been sent to the Commissioner on Agriculture.

Mr. BALDWIN, of Massachusetts. I cannot yield any further. I wish to say that I am not aware any of the representations made in regard to the distribution of these books are true, or whether there is any foundation for them. If the statements of the letter which has been read be correct, and I have no doubt that they are, it is very plain that a great many copies are needed by the Department. We lodge the same discretion in the heads of other Departments in regard to their reports, such as the Patent Office report. I do not propose to argue the question, and I now call for the previous question.

Mr. WASHBURN, of Illinois. I move that the resolution be laid on the table.

Mr. CLAY. I should like to make a statement.

Mr. JOHNSON, of Pennsylvania. The gentleman from Massachusetts says that he doubts the statements which have been made. Now I wish to indorse the statement made by my colleague of the injustice of the distribution of these books.

Mr. WASHBURN, of Illinois. I am willing to withdraw my motion to hear the gentleman.

Mr. BALDWIN, of Massachusetts. I insist on my demand for the previous question.

Mr. JOHNSON, of Pennsylvania. The statement of my colleague is true, for the distribution by the Commissioner has been fraudulent so far as my district is concerned.

The House divided on Mr. WASHBURN's motion, and there were—ayes 78, noes 39.

So the resolution was laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN A. McCLOSKEY.

On motion of Mr. A. MYERS, the Committee of Ways and Means were discharged from the further consideration of the petition of John A. McCloskey; and the same was referred to the Committee of Claims.

#### COUNTING OF ELECTORAL VOTES.

Mr. WILSON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk inform the Senate that this House is now ready to receive that body for the purpose of proceeding to open and count the votes of the electors of the several States for President and Vice President of the United States.

#### ADMISSION OF LADIES TO THE HALL.

Mr. MORRILL. Upon the request of many members, I desire to move, as there are many ladies who cannot find accommodations in the galleries, that the wives and families of members of

Congress have the privilege of coming into the cloak-rooms of the House.

Mr. GANSON. I suggest to the gentleman that he include all ladies.

Mr. SCHENCK. I rose for the purpose of making the same suggestion.

Mr. MORRILL. I have no objection to that.

Mr. HARRINGTON and others objected.

#### SUPPLY OF WATER ON CAPITOL HILL.

Mr. RICE, of Massachusetts, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds be instructed to inquire whether any legislation is necessary to prevent the drawing off of the water from the Washington aqueduct so as to prevent the free use of it on the main floor of the Capitol and in the dwelling-houses on Capitol Hill, and that they report by bill or otherwise.

#### INTERNAL REVENUE.

Mr. KELLOGG, of New York, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether the present laws relating to internal revenue are sufficient to insure thorough and correct assessments of property and incomes, and whether further legislation is necessary to secure that end, and report by bill or otherwise.

#### ASSIGNMENT OF SEATS FOR SENATORS.

The SPEAKER. By the amended joint rules of the two Houses, adopted by concurrent resolution, the seats upon the right of the Chair are to be reserved for Senators when they enter the Hall. The seats between the first aisle and the southern part of the Hall will be reserved for that purpose. Members occupying those seats will be kind enough to obtain some other seats, to be ready for Senators when they arrive.

#### JUVENILE OFFENDERS.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, a bill providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge.

The bill directs that juvenile offenders against the laws of the United States, being under the age of sixteen years, and who may hereafter be convicted of crime by any court of the United States, the punishment whereof shall be imprisonment, shall be confined during the term of sentence in some house of refuge to be designated by the Secretary of the Interior, and shall be transported and delivered to the warden or keeper of such house of refuge by the marshal of the district where such conviction shall have occurred; or if such conviction be had in the District of Columbia, then and in such case the transportation and delivery shall be by the warden of the jail of said District, and the reasonable actual expense of the transportation, necessary subsistence and hire, and transportation of assistants and the marshal or warden only, shall be paid by the Secretary of the Interior out of the judiciary fund.

The bill further provides that it shall be the duty of the Secretary of the Interior to contract with the managers or persons having control of such houses of refuge for the imprisonment, subsistence, and proper employment of all such juvenile offenders, and to give the several courts of the United States and of the District of Columbia notice of the places so provided for the confinement of said offenders; and such offenders shall be sentenced to confinement in the house of refuge nearest the place of conviction so designated by the Secretary of the Interior.

Mr. MORRIS, of Ohio. Will it be in order to move to refer the bill to the Committee on the Judiciary?

Mr. WILSON. I will state to the gentleman from Ohio that this bill relates not only to the District of Columbia but to all the United States. It is a general bill. It has been referred to the Committee on the Judiciary, and is now reported back with the approval of that committee. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved that the vote by which the bill was passed be reconsidered; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOUTHERN PEACE SENTIMENTS.

Mr. TOWNSEND. I ask unanimous consent to introduce the following resolution:

*Resolved*, That we hail with profound emotions of satisfaction the disposition of the southern people to submit the questions that have so long drenched our land in blood to the arbitrament of reason rather than the sword; and we pledge our earnest efforts to sustain all measures looking to a settlement that an honorable Government, seeking to sustain its integrity, can offer.

Mr. GRINNELL objected.

#### ADMISSION OF LADIES TO THE FLOOR.

Mr. COX. I move that ladies who wish to have a place on the floor of the Hall be admitted by the Doorkeeper.

Mr. HARRINGTON. I object, and demand the regular order of business.

#### RECONSTRUCTION.

The SPEAKER. The regular order of business is the consideration of a bill (H. R. No. 602) to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government; and upon that question the gentleman from Massachusetts [Mr. Dawes] is entitled to the floor.

Mr. DAWES. I hardly think the House would desire to have that bill taken up just now.

Mr. WASHBURN, of Illinois. If the gentleman will give way, I will move to postpone it.

Mr. GRINNELL. I move to take a recess until the arrival of the Senate, the hour of one o'clock having nearly arrived.

The question was taken; and the House refused to take a recess.

Mr. DAWES. Mr. Speaker, if it is the desire of the House that I shall occupy its time—

Mr. STEELE, of New York. I ask the gentleman from Massachusetts to yield to me for one moment. I want to make a request of the House.

Mr. DAWES. I have no objection.

#### SESSIONS OF COMMITTEES.

Mr. STEELE, of New York. I ask the unanimous consent of the House that the Committee for the District of Columbia have leave to sit during the sessions of the House.

No objection was made, and the leave was granted.

Mr. COBB. I desire to ask leave that the Committee on Enrolled Bills may sit during the sessions of the House.

No objection was made, and the leave was granted.

Mr. GARFIELD. I ask that the Committee on Military Affairs have leave to sit during the sessions of the House.

Mr. BROOKS. I will not object if the same privilege be extended to the Committee on the Post Office and Post Roads.

The SPEAKER. Does the gentleman from New York object?

Mr. BROOKS. No, I will except this particular case.

Mr. SCHENCK. I do not know that there is any special reason for it. We have already had that leave granted us.

The SPEAKER. The Chair is of the impression that the privilege was granted only during the last session.

No objection being made, the leave asked for by Mr. GARFIELD was granted to the Committee on Military Affairs.

#### TONNAGE OF VESSELS.

Mr. WARD, by unanimous consent, introduced a bill requiring ship-owners to make annual returns of the tonnage of vessels; which was read a first and second time, and referred to the Committee on Commerce.

#### WILLIAM B. CUTTER.

On motion of Mr. WARD, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of William B. Cutter.

#### PRIVILEGES OF THE FLOOR.

Mr. HARRINGTON. I rise to a question of privilege. The rules require that no one except members shall be allowed inside the bar of the House. I have objected to admitting outsiders,



but there are some upon this floor who have been admitted by the negro barber through a window. I ask that all except members be required to retire.

The SPEAKER. The Chair would state that other persons besides members are entitled to the privilege of the floor.

Mr. HARRINGTON. I ask, then, that all except those who are entitled to the privilege of the floor by the rules of the House be required to withdraw.

The SPEAKER. The gentleman from Indiana insists that all those who are not privileged shall retire.

Mr. STEVENS. Is it in order to move that those now upon the floor may remain?

The SPEAKER. It would require unanimous consent.

Mr. STEVENS. I will move a suspension of the rules.

The SPEAKER. The rules can only be suspended on Monday after the morning hour.

Mr. FARNSWORTH. I do not understand that the ante-rooms are within the bar of the House.

The SPEAKER. They are not.

Mr. COLE, of California. I would inquire if members of the Electoral College are not entitled to the privilege of the floor upon this occasion?

The SPEAKER. The Chair does not know of any rule which entitles them to the floor. They might be permitted to remain by courtesy, but the Chair can give no order on the subject.

Mr. COLE, of California. I move that they be permitted to occupy places on the floor.

The SPEAKER. That can be done by unanimous consent.

No objection was made.

#### PRIVATE LAND CLAIMS IN ARIZONA.

Mr. THAYER, by unanimous consent, from the Committee on Private Land Claims, reported a bill to provide for the settlement of private land claims in the Territory of Arizona; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. J. C. ALLEN. I would inquire what the regular order of business is at this hour, [one o'clock, p. m.] under the rules of the House.

The SPEAKER. Until the Senate arrives, the bill in regard to reconstruction is in order, upon which the gentleman from Massachusetts [Mr. DAWES] is entitled to the floor.

Mr. J. C. ALLEN. Have not the House fixed that they will proceed at this hour to count the electoral votes?

The SPEAKER. They have; but the Senate has not yet come.

Mr. DAWES. Before we proceed with the regular order, I desire to move that the evening session for this evening be dispensed with, and I would like to submit a few remarks upon that subject.

The SPEAKER. The gentleman will suspend his remarks.

#### COUNTING THE ELECTORAL VOTES.

At five minutes past one o'clock, p. m., the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by the Vice President and the Secretary of the Senate, the members and officers of the House rising to receive them. The Senators took the seats set apart for them in the eastern section of the Hall.

The VICE PRESIDENT took his seat as Presiding Officer of the joint convention of the two Houses, the Speaker occupying a chair on the left of the Vice President.

Senator TRUMBULL, the teller appointed on the part of the Senate, and Messrs. WILSON and DAWSON, the two tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats; two of the clerks of the Senate occupying seats at the reporters' desk.

The VICE PRESIDENT. The Senate and House of Representatives having met under the provisions of the Constitution for the purpose of opening, determining, and declaring the votes for the offices of President and Vice President of the United States for the term of four years com-

mencing on the 4th of March next, and it being my duty, in the presence of both Houses thus convened, to open the votes, I now proceed to discharge that duty.

The Vice President then proceeded to open and hand to the tellers the votes of the several States for President and Vice President of the United States, commencing with the State of Maine.

Senator TRUMBULL, one of the tellers, read in full the certificate of the vote of the State of Maine, giving seven votes for Abraham Lincoln, of Illinois, for President of the United States, and seven votes for Andrew Johnson, of Tennessee, for Vice President of the United States.

Senator WADE. Mr. President, I move to dispense with the reading of everything in the certificate except the result of the vote.

Mr. COX. Mr. President, I believe that it is not competent for this joint convention to have any motion submitted, but I suggest, as General Cass suggested in 1857, that only the result of the votes shall be announced.

The VICE PRESIDENT. That can be done, as suggested. The Chair does not think that it is within his power to receive the motion, unless the Senator from Ohio desire that the Senate shall separate in order to pass upon the question.

Senator WADE. I do not propose any such thing. I believe we may dispense with the reading of all but the results.

The VICE PRESIDENT. The Chair will, therefore, if there be no objection, direct the results of the returns only to be read. The tellers will now read the results of the vote of the State of New Hampshire.

The tellers reported, through Senator TRUMBULL, that they had examined the vote of the State of New Hampshire, that they found it in due form, that all the votes given for President of the United States were five, all which were for Abraham Lincoln, of the State of Illinois; and that all the votes given for Vice President of the United States were five, all of which were for Andrew Johnson, of the State of Tennessee.

The same form was observed in announcing the votes of the other States.

The tellers having read, through Mr. WILSON, the certificate from the State of Nevada, showing that two votes had been given for Abraham Lincoln, of Illinois, for President, and two votes for Andrew Johnson, of Tennessee, for Vice President.

The VICE PRESIDENT said: The Chair will state to the convention that the messenger who bore the returns from the State of Nevada communicated the fact that the third elector did not appear when the vote was taken. The State having been but recently admitted into the Union, had no law by which the vacancy could be filled; and consequently but two votes were given for President and Vice President.

The vote of the State of Nevada having been recorded,

Senator COWAN said: Mr. President, I inquire whether there are any further returns to be counted.

The VICE PRESIDENT. There are not.

Senator COWAN. And if there be, I would inquire why they are not submitted to this body in joint convention, which is alone capable of determining whether they should be counted or not.

The VICE PRESIDENT. The Chair has in his possession returns from the States of Louisiana and Tennessee, but in obedience to the law of the land the Chair holds it to be his duty not to present them to the convention.

Senator COWAN. I ask whether the joint resolution on that subject has become a law by having received the approval of the President of the United States?

The VICE PRESIDENT. The Chair believes that the official communication of its approval by the President has not been received by either House. The Chair, however, has been apprised of the fact that the joint resolution has received the approval of the President.

Senator COWAN. Then, as a motion is not in order in this body, I suggest that the votes of Louisiana and Tennessee be counted, and that this convention determine the fact.

Mr. COX. I suggest the reading of the joint resolution by which our action is to be determined.

The VICE PRESIDENT. The Secretary will

read the joint resolution under which the House and Senate are now acting.

The Secretary of the Senate then read, as follows:

*Resolved by the Senate,* (the House of Representatives concurring therein,) That the following be added to the joint rules of the two Houses, namely:

The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock, p. m., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer. One teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers having read the same in the presence and hearing of the two Houses thus assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with the list of the votes, be entered on the Journals of the two Houses.

If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two Houses, which being obtained, the two Houses shall immediately reassemble, and the Presiding Officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either House. And any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner.

At such joint meeting of the two Houses seats shall be provided as follows: for the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; for Senators, in the body of the Hall upon the right of the Presiding Officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform.

Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared, and no recess shall be taken unless a question shall have arisen in regard to the counting of any such votes, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess not beyond the next day at the hour of one o'clock, p. m.

Mr. STEVENS. I do not think any question has arisen which requires the two Houses to separate. That, according to the wording of the joint resolution, can only be upon the reading of the returns which have been opened by the President of the convention.

Senator COWAN. I merely wish to say that, believing as I do that it rests with this joint convention, in its joint capacity, to determine all questions which ought to arise here, I have done what I have thought to be my duty in bringing to the attention of the convention the question which I have raised. Having done so, I now beg leave to withdraw it.

The VICE PRESIDENT. The Chair did not understand the Senator from Pennsylvania [Mr. COWAN] as making any distinct motion, but merely a simple suggestion.

Senator COWAN. I understood that no motion could be entertained in this convention.

The VICE PRESIDENT. Motions can be entertained upon any matters pertinent to the purpose for which the convention has assembled. The decision of those motions must be determined by the two Houses separately, after the Senate shall have withdrawn from the convention.

Mr. YEAMAN. Mr. President, if it requires a distinct motion to determine the question, I will move that all the returns before this joint convention be opened and presented for its consideration.

The VICE PRESIDENT. The Chair is of the opinion that the motion of the member from Kentucky [Mr. YEAMAN] is in order, being pertinent to the object for which the House and Senate have assembled in joint convention. The member will reduce his motion to writing, so that the precise question shall be in possession of the Senate when it shall retire for the determination of the question presented for the consideration of the convention.

Mr. PRUYN. I wish to inquire whether a second proposition, one in regard to the counting of the votes, can be entertained before the two Houses shall separate. If so I desire to move

that the tellers be instructed not to count the vote of the so-called State of West Virginia.

The VICE PRESIDENT. In the opinion of the Chair the motion of the member from New York [Mr. PRUYN] is made too late, the vote of the State of West Virginia having been already announced and declared.

Mr. PRUYN. With all respect to the Vice President, I desire to say that I understand the rule to be this: the certificates of the votes of the respective States have been opened, read, and announced, and now the tellers, as the proper officers of this joint convention, are to pass upon those votes, and announce the result. My motion is that the tellers be instructed not to count the vote of the so-called State of West Virginia.

Mr. WHALEY. If it be in order, I would ask the gentleman from New York [Mr. PRUYN] to state his reasons for his motion.

The VICE PRESIDENT. The language of the rule under which the two Houses are now acting is as follows:

"If upon the reading of any such certificate by the tellers, any question shall arise as to the counting of the votes therein certified," &c.

The question must be raised when the vote is announced. In the opinion of the Chair the member from New York [Mr. PRUYN] should have made his motion, in order to come within the rule, at the time the tellers announced the vote of the State of West Virginia.

Mr. COX. If the rule is that which has just been enunciated by the Chair, how is it that the gentleman from Kentucky [Mr. YEAMAN] can submit his motion before the Vice President shall have opened, and the tellers shall have announced, the votes of the States of Louisiana and Tennessee?

The VICE PRESIDENT. In the opinion of the Chair the motion of the member from Kentucky [Mr. YEAMAN] is in order. It does not apply to a return where objection is made, but it applies to a return which has not been submitted to the convention. It is a distinct motion that a return shall be submitted to the convention. It comes within the latter clause of the joint resolution, which relates to any other motion pertinent to the object for which the two Houses have met in convention.

Senator FARWELL. I would suggest that the question raised by the member from Kentucky [Mr. YEAMAN] has already been decided by the two Houses of Congress in the passage of the joint resolution which has just been read. It is not in order, therefore, to again raise the question in this convention, the point of order having already been determined by the two Houses of Congress.

The VICE PRESIDENT. Does the Senator from Maine [Mr. FARWELL] raise a question of order upon the ruling of the Chair?

Senator FARWELL. I raise the question of order that this question has already been decided by the two Houses of Congress in passing the joint resolution under which this convention is acting, which joint resolution has been approved by the President.

The VICE PRESIDENT. The fact of that approval of the President is within the knowledge of the Chair, and in consequence of that knowledge the Chair has seen fit to withhold the returns of the States in question. There has been no official promulgation of that approval of the President. Still, in the opinion of the Chair, if either branch of Congress shall be disposed to order the returns now upon the table to be read, it is within their power to do so. The reading of the returns would be one thing; then would arise another question, whether the vote in the return so read should be added to the count of the tellers. In the opinion of the Chair the motion of the member from Kentucky [Mr. YEAMAN] is in order.

Mr. YEAMAN. Before I submit my motion in writing, I would inquire whether the submission of that motion would require the temporary dissolution of this convention and the resolving of the two Houses into their separate bodies in their respective Chambers?

The VICE PRESIDENT. The Chair has no doubt upon that point. Each House must determine the question in its own Chamber; and each House has a negative upon the determination of the other.

Mr. YEAMAN. Then I desire to submit another suggestion.

Mr. WASHBURN, of Illinois. I object to any debate.

The VICE PRESIDENT. All debate is out of order. The rule itself prescribes that no question shall be debated in the convention.

Mr. YEAMAN. Then I withdraw my motion, if it requires the separation of the convention into the two Houses.

The motion was accordingly withdrawn.

Senator TRUMBULL, on the part of the tellers, announced the following as the result of the vote for President and Vice President of the United States:

List of votes for President and Vice President of the United States for the constitutional term to commence on the 4th day of March, 1865.

Number of electoral votes.	States.	President.		Vice President.	
		Abraham Lincoln, of Illinois.	George B. McClellan, of New Jersey.	Andrew Johnson, of Tennessee.	George H. Pendleton, of Ohio.
7	Maine.....	7		7	
5	New Hampshire.....	5		5	
12	Massachusetts.....	12		12	
4	Rhode Island and Providence Plantations.....	4		4	
6	Connecticut.....	6		6	
5	Vermont.....	5		5	
33	New York.....	33		33	
7	New Jersey.....		7		7
26	Pennsylvania.....	26		26	
3	Delaware.....		3		3
7	Maryland.....	7			
11	Kentucky.....		11		11
21	Ohio.....	21		21	
13	Indiana.....	13		13	
16	Illinois.....	16		16	
11	Missouri.....	11		11	
8	Michigan.....	8		8	
8	Wisconsin.....	8		8	
5	Iowa.....	5		5	
5	California.....	5		5	
4	Minnesota.....	4		4	
3	Oregon.....	3		3	
3	Kansas.....	3		3	
5	West Virginia.....	5		5	
2	Nevada.....	2		2	
233	Total.....	212	21	212	21

The VICE PRESIDENT. The tellers report that the whole number of votes cast for President and Vice President of the United States is 233; necessary to a choice, 117. For President of the United States, the tellers report that Abraham Lincoln, of Illinois, has received 212 votes; George B. McClellan, of New Jersey, has received 21 votes. For Vice President of the United States, the tellers announce that Andrew Johnson, of Tennessee, has received 212 votes, and George H. Pendleton, of Ohio, has received 21 votes.

Wherefore, I do declare that ABRAHAM LINCOLN, of the State of Illinois, having received a majority of the whole number of electoral votes, is duly elected President of the United States for four years commencing on the 4th day of March, 1865; and that ANDREW JOHNSON, of the State of Tennessee, having received a majority of the whole number of electoral votes for Vice President of the United States, is duly elected Vice President of the United States for four years commencing on the 4th day of March, 1865.

[The announcement of the result of the vote was received with applause upon the floor and in the galleries.]

The VICE PRESIDENT. The object for which the House and the Senate have assembled in joint convention having transpired, the Senate will retire to its Chamber.

The Senate accordingly retired from the Hall of the House of Representatives, when

The House was again called to order.

EVENING SESSION DISPENSED WITH.

The SPEAKER. The pending question, at the time of the entrance of the Senate into the Hall, was on the motion of the gentleman from Massachusetts [Mr. DAWES] that the session of this evening be dispensed with.

Mr. STEVENS. If that motion be adopted, will the tax bill come up as the first business in the morning?

The SPEAKER. There is but one special order in Committee of the Whole on the state of the Union which antedates the tax bill, and that is the Indian appropriation bill, which, by unanimous consent, is understood to be passed over. As by unanimous consent the tax bill was made the special order for this evening at seven o'clock, and until disposed of, therefore, if there should be no session this evening, to-morrow morning, after the morning hour, the tax bill will be the special order in Committee of the Whole.

Mr. STEVENS. Then I have no objection to the motion to dispense with the session this evening.

Mr. DAWES. I supposed, in making the motion, that I was acting in accordance with the wishes of the chairman of the Committee of Ways and Means.

The motion of Mr. DAWES was agreed to.

Mr. DAWES. I desire to ask what will be the first business to-morrow.

The SPEAKER. There will be a morning hour, during which the committees will be called for public business, beginning with the Committee on Public Lands. After that, the reconstruction bill will come up, unless the House should go into Committee of the Whole on the state of the Union, in which case the tax bill will be the special order.

Mr. STEVENS. I move that the House do now adjourn.

The motion was agreed to.

And thereupon the House (at two o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, February 9, 1865.

Prayer by Rev. B. H. NADAL, D. D.

ELECTION OF PRESIDENT PRO TEMPORE.

The SECRETARY. The Senate will please come to order. I have received from the President of the Senate the following letter:

VICE PRESIDENT'S CHAMBER,  
WASHINGTON, February 9, 1865.

SIR: I shall be absent from Washington for several days from date. Please inform the Senate of this fact.

H. HAMLIN.

Hon. J. W. FORNEY, Secretary of the Senate.

Mr. FOOT. Mr. Secretary, I offer this resolution:

Resolved, That, in the absence of the Vice President, Hon. DANIEL CLARK, of New Hampshire, be, and he is hereby, chosen President of the Senate pro tempore.

The resolution was adopted *nem. con.*, and the Secretary designated Messrs. FOOT, ANTHONY, and BUCKALEW to escort Mr. CLARK to the chair. On motion of Mr. FOOT, it was

Ordered, That the Secretary wait upon the President of the United States and inform him that, in the absence of the Vice President, the Senate has chosen Hon. DANIEL CLARK, of New Hampshire, President of the Senate pro tempore, and that he make a similar communication to the House of Representatives.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I offer proceedings of the Chamber of Commerce of the State of New York, relating to various subjects. I move that so much of the document as relates to a general tax on sales of merchandise be referred to the Committee on Finance; so much as relates to a ship-canal around the falls of Niagara, to the Committee on Military Affairs; so much as relates to a monthly or semi-monthly line of steamers from San Francisco to China and Japan, and the Pacific Mail Steamship Company, to the Committee on Post Offices and Post Roads; and so much as relates to fast-sailing ships of the Navy being made to answer the double purposes of cruisers and mail packets, to the Committee on Naval Affairs.

The motion was agreed to.

The PRESIDENT pro tempore. It will be necessary to print the communication by unanimous consent of the Senate, in order that the different portions may go to the respective committees.

Mr. MORGAN. I ask that the order to print be made.

The PRESIDENT pro tempore. That order

may be made by unanimous consent. The Chair hears no objection, and the order is made.

Mr. MORGAN. I also present a memorial of merchants of the city of New York remonstrating against the passage of the bill to establish a uniform system of bankruptcy throughout the United States. As that bill has been reported from the committee, I move that this memorial lie on the table.

The motion was agreed to.

Mr. HOWE presented a memorial from the Legislature of the State of Wisconsin, praying for the establishment of a naval depot in the harbor of Milwaukee; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. LANE, of Kansas, presented the petition of Cyrus Leland, first lieutenant and regimental quartermaster of the thirteenth regiment Kansas volunteers, and acting assistant quartermaster at Post Van Buren, Arkansas, praying relief from all liability to the Government in consequence of the capture of the Government train containing all of his retained copies of returns, reports, books, accounts, and the public property in his possession, by the enemy, at the battle of Marks's Mills, near the Saline river, Arkansas, on the 25th of April, 1864; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented the petition of officers in the Army of the United States in the year 1863, praying a repeal of so much of the act of Congress as makes them liable to pay a special income tax of five per cent. on their pay as officers in the Army for that year; which was referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented resolutions of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from La C La Belle to the Cliff mine, in Keweenaw county, thence along the Mineral range to some point on the Montreal river; which were referred to the Committee on Public Lands, and ordered to be printed.

#### ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. If there be no further petitions or memorials to be presented, reports from committees are in order.

Mr. LANE, of Kansas. I ask the Senate at this time by unanimous consent to take up a resolution reported by me from the Committee on Agriculture. It will excite no discussion, I am sure.

Mr. CONNESS. We adjourned last evening with some business pending, and I hope that the regular order will go on this morning until we can take up and finish that.

Mr. LANE, of Kansas. When the Senator hears my statement he will consent to the passage of the resolution. It is for the printing of two thousand copies of the agricultural part of the Census Report of 1860, for the use of the Commissioner of Agriculture. Time is important, for unless the resolution is soon acted upon, the type will be distributed.

Mr. CONNESS. I have no objection to the resolution, but I think it can wait yet a little while. The type will not be distributed until the morning hour is over, certainly.

Mr. LANE, of Kansas. But when the morning hour is over I shall not be able to get it up.

The PRESIDENT *pro tempore*. Is objection made to the present consideration of the resolution?

Mr. LANE, of Kansas. I withdraw the motion at present.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 424) to facilitate the collection of certain debts due the United States, reported it with amendments.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 75) declaring what States of the Union are entitled to vote at the approaching presidential election, reported it without amendment, and moved that it be postponed indefinitely; which was agreed to.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Afri-

cans in Liberia, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred a memorial of the Legislature of Minnesota, reported a bill (S. No. 432) to extend the time limited for the completion of the railroads mentioned in the act entitled "An act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands in alternate sections to the State of Alabama to aid in the construction of a certain railroad in said State," approved March 3, 1857; which was read, and passed to a second reading.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of certain citizens, appropriated by the United States for Indian reservations, in the Territory of Washington, reported it with amendments.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the petition of Dennis Nolan, praying that he may be allowed to purchase or lease a strip of land now occupied by him, lying between the inclosure of the light-house and the shore of Lake Michigan, in Michigan City, Indiana, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 414) to authorize the construction of the Northern Pacific railroad eastward to Ontonagon, in the State of Michigan, and provide for its connection eastward with the Ohio, Indiana, Michigan, and Canadian systems of railroads at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of the crier and bailiffs of the United States courts in the District of Columbia, praying for an increase of their pay, and back pay from January 1, 1863, to the present time, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 419) for the better organization of the pay department of the United States Army, reported it without amendment.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States communicating, in compliance with a resolution of the Senate of the 13th ultimo, information in relation to the present condition of Mexico and the case of the French war-transport-steamers Rhine; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of the Treasury communicating, in compliance with a resolution of the Senate of the 23d of January, 1865, information in relation to contracts made by Hanson A. Risley, supervising special agent of the Treasury Department; which was referred to the Committee on Commerce.

He also laid before the Senate a letter of the Secretary of the Interior transmitting a copy of a report from the Commissioner of Indian Affairs in relation to the balance due to claimants under the third article of the treaty of September 10, 1853, with the Rogue river Indians, for property destroyed by those Indians, and for improvements made by land claimants on the Indian reserve, and recommending an appropriation of the sum necessary to complete the payment of those claims; which was referred to the Committee on Indian Affairs.

#### CREDENTIALS PRESENTED.

Mr. WILKINSON presented the credentials of Hon. Daniel S. Norton, chosen by the Legislature of Minnesota a Senator from that State for the term of six years, commencing on the 4th of March, 1865; which were read, and ordered to be placed on the files.

#### BILLS INTRODUCED.

Mr. LANE, of Kansas, asked, and by unani-

mous consent obtained, leave to introduce a bill (S. No. 433) to extend the homestead act of May 20, 1862, to settlers on lands reserved for railroad purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 434) more effectually to provide for the national defense by establishing a uniform militia throughout the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 435) to amend an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864; which was read twice by its title, and referred to the Committee on Commerce.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 436) making a grant of lands to the Territories of Dakota, Montana, and Idaho, in alternate sections, to aid in the construction of certain railroads in said Territories, to connect with the railroad system of Minnesota and Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

#### CONSTITUTIONAL AMENDMENT.

Mr. TRUMBULL. I offer the following concurrent resolution, and ask for its present consideration:

A concurrent resolution requesting the President of the United States to transmit to the Executives of the several United States the amendment proposed by Congress to the Constitution respecting the extinction of slavery therein.

*Resolved, &c.*, That the President of the United States be requested to transmit to the Executives of the several States copies of the article of amendment proposed by Congress to be added to the Constitution of the United States respecting the extinction of slavery in the United States, to the end that if either of the said States may not have already acted upon the said proposed amendment they may proceed to do so; and that he request the Executive of each State which has ratified or shall hereafter ratify such amendment to transmit to the Secretary of State a certified copy of such ratification.

This is a concurrent resolution, requiring but one reading, I think. I ask for its present consideration. I presume there will be no objection to it.

There being no objection, the Senate proceeded to consider the resolution.

Mr. JOHNSON. I think the title of the resolution should be amended. It says the "several United States;" it should be the "several States."

Mr. TRUMBULL. This is a copy of the resolution that was adopted in regard to the other amendments, and if the Senator from Maryland will have the first part of it read again he will see, I think, that there is no objection to the phraseology of the resolution.

Mr. JOHNSON. I ask for the reading of the title of the resolution again.

The Secretary read it.

Mr. JOHNSON. The words "several United States" are surely wrong; I suppose it means "several States."

Mr. TRUMBULL. It was copied by the Secretary, and I think copied from a former resolution. I have no objection to that change in the phraseology.

Mr. JOHNSON. It is right in the resolution; but wrong in the title. There is but one United States.

The PRESIDENT *pro tempore*. The resolution will be so modified.

The resolution, as modified, was adopted.

#### SOLOMON WADSWORTH.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 431.

Mr. FOOT. I hope the ordinary morning business will be gone through with before any motion of this kind shall be entertained. Some four or five mornings have passed in which such motions have been made, cutting off the usual morning business before an opportunity for presenting it was had. I desire to offer a resolution; and I know there is a large quantity of business of the usual character for the morning hour not yet presented.



Mr. HARLAN. This bill will not occupy more than three or four minutes. It is a bill to correct the description of a piece of land owned by a citizen of my State, to which I am sure there will be no objection. I prefer that the rule should not be changed just now, the first time I have asked a favor of this kind for some months. I think the Senate has not proceeded according to the rules of the Senate for the last four years. The Senate has not been transacting business as arranged on the Calendar at any time since the election of the present incumbent of the Executive office. Every bill that has been passed has been taken up out of its order; and I would regret that my friend should insist on his objection now.

Mr. FOOT. I do not insist upon it.

Mr. HARLAN. I move, then, to take up the bill I have indicated.

Mr. CONNESS. I will ask whether, if this bill is taken up, it will displace the business that was pending when the adjournment took place yesterday.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that it will not. The unfinished business does not come up until one o'clock.

Mr. CONNESS. My impression was that it would be in order after the ordinary morning business, during the morning hour.

The PRESIDENT *pro tempore*. It comes up at one o'clock. It was the unfinished business of the session of yesterday.

The motion of Mr. HARLAN was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 431) for the relief of Solomon Wadsworth, which proposes to amend the act for the relief of Solomon Wadsworth, approved June 16, 1860, by striking out the word "ninety-four" and inserting in lieu thereof the word "ninety-five."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PRESIDENT AND VICE PRESIDENT-ELECT.

Under the resolution adopted yesterday Mr. TRUMBULL was appointed on the part of the Senate to join such committee as may be appointed on the part of the House to notify Abraham Lincoln of Illinois, and Andrew Johnson of Tennessee, of their election as President and Vice President of the United States.

#### ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The introduction of bills and joint resolutions is still in order.

Mr. CONNESS. If there are no more bills or joint resolutions to be introduced, as the Senator from Ohio, the chairman of the Committee on Finance, has given us notice that he will call for the precedence of his legislative appropriation bills this morning as soon as the hour of one o'clock arrives, I move now to postpone all prior orders and take up the unfinished business when the Senate adjourned yesterday.

The PRESIDENT *pro tempore*. The Chair will ask the indulgence of the Senator to allow the Chair to go through with resolutions, and then it will be in order for him to submit his motion.

Mr. CONNESS. Certainly.

#### ARRANGEMENTS FOR THE INAUGURATION.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a committee of three Senators be appointed by the Presiding Officer of the Senate to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th of March next.

Mr. FOOT. As the mover of the resolution I have to request that the Presiding Officer, in the appointment of this committee, will waive the parliamentary usage in the appointment of its chairman.

The President *pro tempore* appointed Messrs. FOSTER, DOOLITTLE, and HENDERSON as the committee.

#### STATE BANKS.

Mr. WILLEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Finance inquire into the propriety of amending the act of Congress entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, so as to allow

State banks having branches to become national banking associations under the said act, and still use a portion of their capital for banking purposes, and keep offices of discount and deposit at the several places where such branches are now located.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866; and

A bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866.

#### MILITARY SERVICE.

On motion of Mr. WILSON, the Senate proceeded to consider its amendments, disagreed to by the House of Representatives, to the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

Mr. WILSON. I move that the Senate insist on its amendments disagreed to by the House, and agree to the committee of conference.

Mr. GRIMES. I desire the Senator first to explain what the disagreeing vote is about.

Mr. FOOT. Let the record be read.

The Secretary read the amendments of the Senate disagreed to by the House, which were to add at the end of the bill the following as additional sections:

SEC. —. *And be it further enacted*, That it is not within the intent of the first section of the act of March 3, 1863, entitled "An act to authorize the brevetting of volunteer and other officers in the United States service," authorizing the President to confer brevet rank for gallant actions and meritorious conduct, to make a distinction as to pay between officers of volunteers and other forces, including the regular Army; but that such brevet rank does not entitle any officer, either of the regular Army or volunteers, to any increase of pay or emoluments.

SEC. —. *And be it further enacted*, That if a soldier, discharged for wounds received in battle, die before receiving the bounty provided by the act of March 3, 1863, entitled "An act to amend an act to authorize the employment of volunteers, and so forth," the bounty due shall descend to his heirs in the same manner and order of succession as if he had died in service.

SEC. —. *And be it further enacted*, That no alien who has resided in the United States for five years prior to the 19th day of April, 1861, and who, if naturalized, would have been subject to military duty, shall be hereafter naturalized, any act to the contrary notwithstanding.

Amend the title of the bill by adding at the end thereof the words "and for other purposes."

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts that the Senate insist upon its amendments and agree to the conference asked by the House. The motion was agreed to.

Mr. WILSON. I move that the committee on the part of the Senate be appointed by the Chair.

The motion was agreed to by unanimous consent; and Messrs. WILSON, GRIMES, and LANE, of Indiana, were appointed the committee of conference on the part of the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment a joint resolution (S. R. No. 106) providing for the compilation of a Congressional Directory at each session.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 748) providing for a bust of the late Chief Justice Taney to be placed in the Supreme Court Room of the United States; and

A bill (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge.

#### COMMERCE AMONG THE STATES.

Mr. WADE. I now move to take up the unfinished business of yesterday. I do not suppose it will take long.

The motion was agreed to.

Mr. CHANDLER. I ask that that bill be laid aside informally, so that I may be allowed to move to make House bill No. 307 the special order for Monday next.

The PRESIDENT *pro tempore*. The motion

may be entertained at this time by unanimous consent. The Chair hears no objection.

Mr. CHANDLER. I move now that House bill No. 307 be made the special order for Monday next. I will simply state that the chairman of the Committee on Finance objected the other day to making it a special order, because he had a couple of bills that he desired to have considered. I will say to that Senator that I shall not antagonize this bill with any of his financial bills; but I desire to get a vote upon it, and I will press it to a vote at the earliest possible moment. As Saturday has been assigned for the business of the District of Columbia, and the chairman of the Committee on Finance has to-day and to-morrow for his business, I move, if it be agreeable to the Senate, that this bill be made the special order for Monday next at one o'clock.

Mr. WRIGHT. I desire to inquire what the bill is.

Mr. CHANDLER. It is House bill No. 307.

The PRESIDENT *pro tempore*. Its title will be read for information.

The SECRETARY. "A bill to regulate commerce among the several States."

Mr. WRIGHT. I object.

The PRESIDENT *pro tempore*. The motion has already been received, and the question is upon it.

The motion was agreed to by a two-thirds vote.

#### BOUNDARIES OF NEVADA.

Mr. WADE. Now let us go on with the bill I have called up.

The PRESIDENT *pro tempore*. The bill (S. No. 430) to amend an act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, is before the Senate as in Committee of the Whole.

Mr. LANE, of Kansas. I was very anxious that the Senators from Nevada should take their seats in this body; but I am surprised that they have commenced so soon to absorb the lands that adjoin them. I am not prepared to adopt as a system the policy of making these western States so large as Nevada will be by the passage of this bill. I should like to learn from the two Senators how many square miles there will be in the State of Nevada when they have made this their first grab.

Mr. STEWART. I have not figured the number of square miles that there will be; it will be something over one hundred thousand square miles, desert and all; and I suppose that of that number there will not be exceeding twenty-five thousand square miles which can be inhabited. The great majority of our territory is barren waste; we have a few small valleys, and the remainder is a mountainous country, containing silver and gold and other minerals. When the mines shall become exhausted we shall have a very small territory to cultivate and support the population of a State. We need this, at least.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. FARWELL. I do not like to raise any opposition to this new State that has just come in here, but it does appear to me this is extraordinary legislation. The Senators from that State say this is an unknown, unexplored country. They, of course, cannot have explored this vast territory very much, and there is a very great degree of ignorance certainly in this Senate in regard to the condition and location of it. Now, if this country is once annexed finally and becomes a part of the State of Nevada, Congress will have no power or authority hereafter to change the arrangement. I should have no objection to providing that the jurisdiction of Nevada may extend over this territory, with a reservation that if it shall be found necessary or convenient hereafter to make a new Territory of it, Congress shall retain the power to take it back. It is a large section of land; it is a section of land which is being annexed, without any knowledge on the part of the Senate, to a State much larger than many of the original States, much larger than many States in the Union, and it may interfere very much with the necessary legislation for the organization of that country. I wish the Senators would so change this bill as to leave in Con-

gress authority hereafter, if it may be necessary, to make a different arrangement in regard to this whole degree, sixty miles wide, perhaps three or four hundred miles long. It may be all right, but I certainly think we have not the necessary information to justify us in this sort of legislation. I do not doubt that every word the Senators have stated is true, so far as they know; but they do not pretend that they have explored this country, or any considerable portion of it. I did not so understand them.

Mr. WADE. I am surprised that this bill meets with the opposition here that it does. Here are a State and a Territory lying side by side. The Mormon Territory, that will some time be made a State probably, will contain at least one third more territory than Nevada if you leave the latter as it is now; but if you remove this boundary, as the bill proposes, the two will be very nearly equal in extent of territory. And yet it seems even here that the Saints are preferred to the Gentiles in the extent of territory they shall have. The objection is that we do not know very much about this territory. That may be true, but we know as much about it as we do about any one of the new States that we have admitted into the Union for some considerable time past. We know, in my judgment, much more about the country that is covered by this bill than we do about many portions of the State of Oregon and perhaps of the State of California. We do know that this is a mountainous region, that it is not an agricultural country, and never can be very thickly inhabited. We all know that. It is only valuable for its mining interests; not much else. The State will not be larger than the States we have already organized West. It will not be as large as Oregon; it will not be half as large as California; it will not be much larger than any of the extreme western States on this side of the mountains, and it is a State that perhaps ought to have boundaries larger than any of them when we consider the nature of the soil, &c. I do not wish to make an argument; I want to vote on it.

Mr. FARWELL. I did not wish to interfere with this bill, and I feel called upon to explain why I interfered. The objection I had was that I had no faith or belief that Utah would ever be admitted as a State into the Union with her present population and institutions. We are about getting rid of one unwholesome institution, and I trust we shall not adopt another one that is full its equal. I thought possibly it might be necessary at a future time, for the arrangement of this whole subject, that Congress should have jurisdiction over this territory which it is now proposed to annex to the State of Nevada. I merely made the suggestion; I do not propose to vote against the bill if the Senate are satisfied with the arrangement.

Mr. DOOLITTLE. With this amount of territory added to Nevada, it will not be much if any larger than the State of Oregon; it will not be much more than two thirds as large as the State of California; it will not be half as large as the State of Texas; it will not be very much larger than the State of Minnesota; and you must take into consideration the fact that probably two thirds of the whole area of Nevada is a desert, uninhabitable and uncultivated, and impossible to be cultivated, because there is no rain there, and they cannot irrigate it, because there is no river to irrigate it. The rich territory embracing the good land will not be larger than that contained in the State of New York or Wisconsin.

Mr. CONNESS. I will say to the Senate that the latter condition, uncultivability, certainly includes nine tenths or nineteenth twentieths of it. The bill was read the third time, and passed.

#### BRIDGE ACROSS THE OHIO.

On motion of Mr. COWAN, it was ordered that the bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads," be recalled from the House of Representatives in order that a motion to reconsider may be entertained.

#### BRIDGE AT CINCINNATI.

On motion of Mr. SHERMAN, the bill (S. No. 413) to establish a certain post road was considered as in Committee of the Whole.

As originally introduced, the bill declared that the bridge across the Ohio river at Cincinnati, in the State of Ohio, and at Covington, in the State

of Kentucky, shall be, when completed, a lawful structure in its present position, and at the elevation of one hundred feet above low water, and shall be so held and taken to be, anything in any law or laws of the United States to the contrary notwithstanding. It also proposed to declare the bridge to be a post road for the passage of the mails of the United States, and to authorize the Covington and Cincinnati Bridge Company to have and maintain their bridge at its present site, and at the elevation of one hundred feet above low water at the center; and the officers and crews of all vessels and boats navigating the river are required to regulate the use of their vessels and boats, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation and construction of the bridge.

The amendment of the Committee on Post Offices and Post Roads was to strike out all after the enacting clause of the bill, and insert the following:

That the bridge across the Ohio river, at Cincinnati, in the State of Ohio, and at Covington, in the State of Kentucky, is hereby declared to be, when completed in accordance with the laws of the States of Kentucky and Ohio, a lawful structure and post road for the conveyance of the mails of the United States.

Mr. COWAN. I do not know that I understand the amendment. I have no objection to the bridge built according to the description of the bill; but if that description is to be stricken out, and this amendment inserted, I do not know what the bridge is to be. The amendment provides that it shall be constructed according to the laws of Ohio and Kentucky. I do not know what those laws are. I know what the description of the bridge is in that part of the bill proposed to be stricken out, but I cannot tell what it will be under these unknown laws. I should like to be informed, therefore, whether the description of the bridge contained in the original bill, that is to be stricken out, is the same as is contemplated under the laws of Kentucky and Ohio.

Mr. COLLAMER. Those laws provide that the bridge shall be of the height stated—one hundred feet high in the center—and shall be a thousand feet span.

Mr. JOHNSON. Is there a provision for a draw?

Mr. COLLAMER. No, there is no necessity for a draw. It is to be one hundred feet above low-water mark in the center, and with a single span of one thousand and fifty feet, I think.

Mr. COWAN. If that is the case I have no objection to the bill whatever, but I would prefer that the bill itself should prescribe the width of the bridge and the length of the span.

Mr. COLLAMER. It appeared to the committee that the original bill did not contain so definite a description of the bridge as is contained in the laws of Ohio and Kentucky. Two piers are already up to some extent. They begin at the second street in Cincinnati, and run, I believe, to the second street in Covington. They have the piers up nearly to the bank, and it was thought rather indefinite to speak of the "present bridge." The House committee have had the same subject before them, and we have recommended this amendment so as to have the propositions exactly alike in both Houses, in order to facilitate the passage of this bill in the other body.

Mr. JOHNSON. Will the Senator tell me how the bridge is being built? Is it under an act of Congress?

Mr. COLLAMER. No, sir; it is being built under an act of the State of Kentucky, and a corresponding act of the State of Ohio, describing it in the manner I have mentioned. This bill is now to declare by the United States that it shall be a legal structure if built according to these charters.

Mr. JOHNSON. I was informed, but no doubt erroneously, that it was being built under the authority of an act of Congress.

Mr. COLLAMER. No, sir.

Mr. SHERMAN. There was an act of Congress passed, I think, at the last session of Congress, giving some general authority to bridge the Ohio river.

Mr. COLLAMER. That was a general act for building bridges on the Ohio river above the mouth of the Big Sandy.

Mr. SHERMAN. That is true.

Mr. COLLAMER. But this is below that point, and this bridge is being built in pursuance

of the laws of the two States of Kentucky and Ohio.

Mr. JOHNSON. I ask my friend from Vermont whether there is any testimony as to the effect of the bridge, if built, on the navigation of the river. Will it interfere with the navigation?

Mr. COLLAMER. We had before us in the committee some men experienced in the navigation of the Ohio river, steamboat men and others, and it was clearly shown that it will be no interruption to navigation if carried one hundred feet above low-water mark, and with a thousand feet span.

Mr. POWELL. I feel a great deal of interest in this matter, and I am very well satisfied that this bridge will not interfere with the navigation of the Ohio river. I think the statement of the Senator from Vermont is correct in every particular. I hope the bill will pass.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read: "A bill to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road."

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed the bill (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota; and the bill (S. No. 234) for the relief of Louis Roberts.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 748) providing for a bust of the late Chief Justice Taney to be placed in the Supreme Court Room of the United States, and the bill (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge, were severally read twice by their titles, and referred to the Committee on the Judiciary.

#### MISSOURI MILITIA CLAIMS.

Mr. HENDERSON. I move now that the Senate proceed to the consideration of the bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. FOSTER. With the consent of the honorable Senator from Missouri, I wish to suggest that I am very desirous of moving a number of amendments to the bankrupt bill. They are to perfect the bill and generally to change its phraseology. It will take but a few moments to move these amendments. I wish to do it now, because it is very desirable to have the bill printed with the amendments, the present edition of the bill which has been printed having been exhausted, so great is the demand for it. I should feel it to be a great favor if the honorable Senator from Missouri would allow his bill to be laid aside for a few moments for that purpose, not to have any discussion, but simply to have my amendments voted on, that the bill may then be printed as amended.

The PRESIDENT *pro tempore*. That course will be taken if there be no objection.

Mr. SHERMAN. I do not desire to object, but I notify Senators that there is a special order for one o'clock, and I shall feel it to be my duty to insist upon going on with it.

Mr. HENDERSON. I hope my friend from Connecticut will withdraw his request, and let this bill be considered. It is a matter of very great importance, and I desire that it should be acted on at once.

Mr. FOSTER. If the Senator can get his bill through before one o'clock I shall not insist on my suggestion. I cannot get what I want done by that time.

Mr. SHERMAN. I should like to have the bill that is before us read.

The Secretary read the bill. It proposes to direct the President to appoint immediately a commissioner, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri in enrolling, equipping, subsisting, and paying such State forces as have been called into ser-

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

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FRIDAY, FEBRUARY 10, 1865.

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vice in that State since August 24, 1861, to act in concert with the United States forces in the suppression of rebellion against the United States.

The commissioner so appointed is to proceed at once to examine all the items of expenditure made by the State for the purposes named in the bill, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander. No allowance is to be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States, and subject to their orders.

In making up the account, for the convenience of the accounting officers of the Government, the commissioner is to state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, and paying the troops, and from the aggregate amount he is to deduct the amount of direct tax due by the State to the United States under the act approved August 5, 1861, or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

In the adjustment of accounts the commissioner is not to allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases. So soon as he shall have made up the account and ascertained the balance he is to make a written report showing the different items of expenditure to the Secretary of the Treasury; and if from that report it shall appear that any sum remains due to the State he shall draw his warrant for the same, payable to the Governor of the State, and deliver it to him.

The commissioner, before proceeding to the discharge of his duties, is to be sworn that he will carefully examine the accounts existing between the United States and the State of Missouri, and that he will, to the best of his ability, make a just, true, and impartial statement thereof, as required by the act. He is to receive such compensation for his services as may be determined by the Secretary of the Treasury. The bill appropriates the sum of \$4,000,000 to carry its provisions into effect.

The PRESIDENT *pro tempore*. The time has arrived for the consideration of the special order.

Mr. HENDERSON. Inasmuch as the Missouri bill is now before the Senate, and will require but a few minutes for its disposition, I move that the special order be passed over informally.

Mr. SHERMAN. If there is no desire to debate this bill I have no objection to its being acted on.

The PRESIDENT *pro tempore*. The special order will be passed over informally.

Mr. HENDERSON. This bill provides for an appropriation of money, and therefore I know that there will be unwillingness on the part of Senators to pass it, as there has been; and it is proper, it is nothing but right to examine carefully and critically all measures of this character. I do not come here asking for any bonus to the State of Missouri, or anything that is not perfectly and legally just. There is a report made by my colleague (report No. 107) from the Committee on Military Affairs, where the subject was thoroughly examined. That sets out all the facts connected with this matter. A bill was passed in 1862 to adjust affairs of this character in the State of Missouri, but no adjustment was ever made, and not one dollar has ever been paid under that bill. It provided that the direct tax which had been levied on the State by the act of 1861 should be set off against the moneys appropriated for the payment of our troops.

The circumstances may be readily stated. In 1861, at the time of the beginning of the insurrection in the State, we had no Federal troops there, and large numbers of militia were called out, first by General Lyon, and afterward by General Fremont. There was an act passed that provided for the payment of these troops, and that has been settled; but the State convention passed a military bill in the fall of 1861; and in the spring of 1862 another invasion of the State was made under Coffee, Hughes, and various other parties, who had under their command a large force in northern Arkansas. They came into the State in large force, and we found ourselves entirely without the necessary military force to eject them. A provision had been made by which the military commander of the department of Missouri was to be the major general of the State militia. The design of this, the Senate will see, was to have entire and perfect cooperation between the State forces and the United States forces. The design was that the State militia should in no way be used in opposition to the commands of the United States officers. The United States officers called them out. The Senators will see, for instance, on page 14 of the report, what General Schofield says in regard to portions of this force:

"The 'ten provisional regiments' which the Governor organized for continuous service and placed under my command, enabled me to relieve an equal force of United States troops, and send them to General Grant. On several occasions I have called out from one to four additional regiments for temporary service to meet the emergencies as they have arisen. With a few exceptions, they have responded with promptness and alacrity, and have done good service."

"As an example illustrating the value of this organization, on the 18th instant I called out the seventh regiment of St. Louis to relieve troops in the city, which I wished to send after Shelby. Within six hours after the order was made the whole city was under the guard of this regiment and a few colored recruits, and the old troops were on their way to Jefferson City. The regiment was just as valuable to me, during the short time that its services were required, as a regiment of regular troops would have been."

Senators will see on pages 9 and 10 of this report the number of regiments that have been called into the field under the militia laws of the State, and the time that they have actually served. There have been at various times as many as seventy or eighty-odd regiments called out, because the militia organization in the State is perfect and complete. They have been called into service only at times of actual invasion or uprising in the State, when we could not do without them.

They have always been called out under the orders of the major general whom the President has sent to take command of that department. For instance, Senators will see on page 15 that General Curtis, under date of April 23, 1863, says:

HEADQUARTERS DEPARTMENT OF THE MISSOURI,  
ST. LOUIS, April 23, 1863.

"I desire to strengthen my forces on the Southwestern Branch railroad, and also on the Iron Mountain road."

A formidable rebel force has entered southeast Missouri, which must be immediately repelled.

I desire you to call out three or four regiments of enrolled militia on each of the three roads for thirty days' service, and that three regiments may be added to the strength of this city.

I have the honor to be, Governor, your obedient servant,  
S. R. CURTIS,  
Major General.

His Excellency Governor H. R. GAMBLE.

And the Governor immediately gave the following order:

ST. LOUIS, April 23, 1863.

The adjutant general will order General McCormick to call out three regiments for active service—say thirty-second, sixty-fourth, and sixty-eighth. He will order Brigadier General Crawford to call out three regiments for active service, to be embodied at suitable points. He will order Brigadier General Edwards to call into service three regiments of his command. All for thirty days.

H. R. GAMBLE.

I have before me the figures showing the money that had been expended by the State up to July last; but General Rosecrans called a large force into the field during the last fall, and in regard to that subject I have no figures. The State of Missouri is now called upon to pay that force. I have no figures either from the quartermaster's

department or the pay department in regard to the troops called out by General Rosecrans.

I will state, further, that General Dodge has called out a large force there very recently, under an order dated January 30, 1865. I notice that in his order he has embodied this provision:

"The troops when called out will be clothed and subsisted by the General Government, and armed, equipped, and paid by the State, as provided by the military bill."

Though these men have been called out by the Federal authority, the State of Missouri has been required to pay the troops. Not only that, but in the early part of the war they compelled us to supply quartermasters' stores for these troops.

Mr. JOHNSON. Was any settlement made under the act of 1862?

Mr. HENDERSON. No further than to adjust the accounts so far as our direct tax was concerned. The Secretary of the Treasury was required, under the act of 1862, to offset our direct tax against the expenditures we had made for the militia.

Mr. JOHNSON. Is that tax to be deducted out of this payment?

Mr. HENDERSON. Yes. One of the provisions of the bill is that it shall be deducted. The pay department accounts show that the amount due to us up to July last was \$4,006,919 49, and the quartermaster's up to January 1 of last year was \$984,314 61, making an actual payment by the State of Missouri of \$4,991,234 10. Our direct tax under the act of 1861 was \$761,127 33, leaving an amount due of \$4,230,106 77; but, as I have stated, these figures do not include the expenses of the organization called out last fall by General Rosecrans.

Mr. JOHNSON. I want to know whether the appropriation of \$4,000,000 made by this bill is in full of all the demands.

Mr. HENDERSON. I ask no more, and I have asked no more, because I cannot well do it. I have not the figures from the pay department and the quartermaster's department. The quartermaster's department will be able to send but few figures because the United States have subsisted the troops that have been called out within the last year, and from the pay department I have no figures since the 1st of July, and have not attempted to include them. I do not want anything unless it be found by the commissioner to be appointed by the United States under this bill that the accounts are just and proper, that the troops were called out as specified in the bill, by United States officers, under the command of United States officers, and acted in conjunction with the Federal troops, and acted only when they were absolutely needed, and not a dollar is to be paid out at higher rates than were allowed for the same service by the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

## BANKRUPT BILL.

Mr. FOSTER. Before the special order is proceeded with, I desire to ask the Senator from Ohio to allow me to move those amendments to the bankrupt bill to which I before referred, for the purpose of having them printed. It will not occupy beyond eight minutes certainly, and it is desirable to have the amendments made in order that the bill may be printed as amended. I have been waiting for a number of days for an opportunity to present them, and if the occasion passes by now the matter must go over I know not how long. The pressure is so great from all quarters for business that unless I can get something of this sort done now, I do not know when the bill will be in a condition to be presented to the Senate for action.

Mr. SHERMAN. I have no objection to an order being made to print the amendments with the bill.

Mr. FOSTER. If the Senate will consent that the amendments that I offer shall be printed with the bill as amended, it is all that I ask.

Mr. SHERMAN. That order, no doubt, may be made without objection.



The *PRESIDENT pro tempore*. The order to print will be made if there be no objection. The Chair hears none.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker had signed the enrolled bill (H. R. No. 684) to provide for Acting Assistant Treasurers and depositaries of the United States in certain cases; which thereupon received the signature of the President *pro tempore* of the Senate.

#### LEGISLATIVE, ETC.; APPROPRIATION BILL.

The *PRESIDENT pro tempore*. The special order is the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866; which is now before the Senate as in Committee of the Whole.

Mr. SHERMAN. As this bill is some forty pages long, it is scarcely worth while to read it in full at first, unless some Senator desires that it shall be read, as it must be read in detail in order to consider the various amendments. It will take probably an hour to read the bill through, and nobody will listen to that reading. I suggest, therefore, that the bill be read in detail, and that as each amendment is reached it be acted on in its order.

Mr. SUMNER. If I understand the Senator, he means that the bill shall be read on, and as we come to any amendment of the Committee on Finance we shall act upon it.

Mr. SHERMAN. Yes, sir.

Mr. SUMNER. I think that is the best way. The *PRESIDENT pro tempore*. That course will be taken if there be no objection.

Mr. HALE. I want to know for what reason this bill has preference of a special order which was made on my motion, at the suggestion of the Senator from Wisconsin, [Mr. DOOLITTLE,] about a week ago. I attempted to address the Senate on a matter of interest some two or three mornings successively by installments of a few minutes each time, and at the suggestion of the Senator from Wisconsin the resolution on which I was speaking was postponed and made the special order for this day a week ago, I think. It has been constantly overridden ever since by unfinished business or something of that sort. How the Senator from Ohio now gets in his bill ahead of me I do not understand. I wish to be corrected from the record if that resolution is not the special order which should now come up regularly.

Mr. SHERMAN. That was an old special order which is superseded by this.

The *PRESIDENT pro tempore*. The Chair will inform the Senator from New Hampshire that it appears by the record that the resolution to which he refers was made the special order for Thursday of last week, but was then passed by, and thereby lost its place. This bill was made the special order for to-day by assignment of the Senate.

Mr. HALE. It was only passed by because the Chair decided that the unfinished business had precedence of it.

The *PRESIDENT pro tempore*. That displaced it.

Mr. HALE. Then does not the special order take its place when the unfinished business is out of the way?

The *PRESIDENT pro tempore*. The Chair is of opinion that it does not. The unfinished business displaces it as a special order until it shall be reassigned. If the unfinished business had been disposed of the same day, it would have been the next special order.

Mr. HALE. But the unfinished business occupied several days.

The *PRESIDENT pro tempore*. Then the special order lost its place.

Mr. SHERMAN. If the Senator from New Hampshire simply desires to make his resolution the special order for some future time, I have no objection.

Mr. HALE. That is all.

The *PRESIDENT pro tempore*. That motion may be entertained by unanimous consent.

Mr. HALE. I move that the resolution be made the special order for next Tuesday, at one o'clock.

Mr. SUMNER. I suggest that a bill has already been made the special order for Monday which may be debated and run over into Tuesday. It is the bill regulating commerce among the States, and the Senator from Michigan, who has it in charge, has declared it to be his purpose to keep it before the Senate until it is voted upon.

Mr. HALE. But I suppose that I can get the Senate to make the resolution the special order again, or else say that I shall not have the floor at all. I do not much care which.

Mr. CONNESS. What measure is proposed to be made a special order?

The *PRESIDENT pro tempore*. The Chair understands it to be a resolution offered by the Senator from Kentucky, [Mr. DAVIS.] Is there any objection to the motion of the Senator from New Hampshire?

Mr. CONNESS. I object.

The *PRESIDENT pro tempore*. Objection being made, the motion cannot be entertained. The Secretary will read the bill before the Senate.

The Secretary proceeded to read the bill, and as he reached a portion that the Committee on Finance proposed to amend, the question was put on the amendment.

The first amendment was in line fifty-three, to strike out "ten" and insert "twenty," so as to appropriate \$20,000 for reporting the proceedings of the Senate in the Daily Globe for the first session of the Thirty-Ninth Congress.

The amendment was agreed to.

The next amendment was to insert after line fifty-four, among the items for "contingent expenses of the Senate:"

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, \$12,900.

For one complete set of the Congressional Globe and Appendix for each Senator in the Thirty-Ninth Congress who has not already received them, \$6,800.

The amendment was agreed to.

The next amendment was to increase the appropriation for Capitol police, on the part of the Senate, from \$10,234 to \$19,170.

The amendment was agreed to.

The next amendment was to strike out lines seventy-three, seventy-four, and seventy-five, as follows:

For removing the unsightly high fence, or railing, which has been erected in the old Hall of Representatives, \$100, or as much thereof as may be necessary.

Mr. SUMNER. Why should we strike that out?

Mr. SHERMAN. The committee found that the fence or railing was erected in the old Hall of the House of Representatives by order of Congress, made at the last session, and that it is not unsightly but is very serviceable, and indispensably necessary to protect the sculpture and valuable property placed behind the railing. In order to see the cause for this clause, we examined the debate in the other House and we also examined the Commissioner of Public Buildings and the architect who prepared the plan, and after a full examination we were satisfied that the clause was inserted in the bill under a misapprehension. At any rate, even if it was the desire of Congress to remove the railing, it should be done by a simple order or joint resolution, and not by such a clause as this in an appropriation bill, characterizing the work as unsightly and improper, and authorizing somebody, it does not say whom, to remove it, and appropriating \$100 for that purpose. The truth is that the clause was hastily inserted in the appropriation bill in the House of Representatives, and did not come from any committee. It was done on the motion of a single member, probably without very much consideration.

Mr. SUMNER. I would simply remark that as this fence is in the part of the Capitol that, if I may so say, rather belongs to the House of Representatives than to the Senate, I should be disposed to leave to the House the jurisdiction of the matter.

Mr. SHERMAN. Then it only shows the haste with which it was put in, because the item is inserted among the items of appropriation for

the contingent expenses of the Senate. It is really a fence or railing put up by virtue of an act of Congress passed at the last session for the protection of the sculpture and other works of art in the old Hall of the House of Representatives. This is a strong, firm railing, erected after reflection and consideration, intended to protect the property. The complaint made in the debate in the House was that it was not a small railing which would not impede the sight.

The amendment was agreed to.

The next amendment was in line one hundred and five, to increase the appropriation, on the part of the House of Representatives, for the pay of the Capitol police, from \$13,920 to \$19,170; and to increase the aggregate appropriation for annual salaries paid by the House from \$104,178 to \$109,428.

The amendment was agreed to.

The next amendment was to insert, after line one hundred and sixty-one, the following:

For completing the tiling of the floor of the old Hall of Representatives, under the same authority that the work has already been done, \$3,875.

The amendment was agreed to.

The next amendment was in line two hundred and twenty-three, after the word "laws," to strike out the words "in pamphlet form;" in line two hundred and twenty-five, to strike out "seventeen" and insert "thirteen," and after the word "thousand," to strike out the words "one hundred and twenty-five;" so that the clause will read:

For publishing the laws and in newspapers of the States and Territories and in the city of Washington, \$13,000.

The amendment was agreed to.

Mr. TRUMBULL. The amendment which has just been adopted leaves the sentence imperfect and ungrammatical. It now reads:

For publishing the laws and in newspapers of the States and Territories, &c.

The word "and" after the word "laws" should be stricken out.

Mr. SHERMAN. The word "and" should have been included in the brackets, and ought to be stricken out.

The *PRESIDING OFFICER*, (Mr. FOSTER in the chair.) That amendment will be made if there be no objection.

Mr. SHERMAN. It is due to the Senate that I should explain that Messrs. Little & Brown, who have heretofore published the laws of Congress, have informed us by letter and also in person that they cannot publish the laws at the old prices. They ask, I think, half as much again. After a full examination and conference with the Committee on Printing, it was deemed advisable to print them at the Public Printing Office. According to the estimates furnished to us, they could be printed at the Public Printing Office just as well and in the same form precisely that they are now printed by Little & Brown. Extra copies of the laws are now printed at the Public Printing Office; and, on the whole, we concluded it was better to discontinue the arrangement with Little & Brown, so far as they were concerned, rather than increase their compensation.

As this is a matter that will probably excite some objection in certain quarters, I deemed it proper to call the attention of the Senate to it, so that they may know they have acted upon that question.

Mr. TRUMBULL. I should like to inquire what has become of the contract heretofore made for this publication. Has it expired by limitation of time?

Mr. SHERMAN. The contract is only in the nature of an appropriation from year to year for this pamphlet copy. The original contract was for so many pamphlet copies of the laws in a certain style. That has been renewed from year to year by an appropriation. I can state to the Senate that there can be no controversy about the contract, because Little & Brown do not look upon it as a contract binding upon them, and they will decline to print for the United States the number of copies heretofore printed at the price heretofore paid. There can be no controversy, therefore, as to the existence of this contract, because both parties regard it as abandoned, and the effect of withholding the appropriation will be to abandon the contract with Little & Brown. They say they cannot furnish these pamphlet

copies at the price they were heretofore paid, and we must either give them an increased price or else we must print them somewhere else.

Mr. TRUMBULL. I would like to inquire further what arrangements, if any, have been made for side notes and indexes to these laws. The Senator from Ohio is aware that in the edition published by Little & Brown they have side notes and indexes, and references frequently to other statutes. Some arrangement ought certainly to be made, if it has not been already made, to continue these notes. They were very useful in the examination of the statutes, which have now become so voluminous.

Mr. SHERMAN. That matter has been looked into also. The present marginal notes and indexes were prepared by a clerk of the State Department for Little & Brown, and Little & Brown paid that clerk, I believe, some compensation for that work.

Mr. SUMNER. Four hundred dollars.

Mr. SHERMAN. But the marginal notes and indexes for the edition published at the Government Printing Office are also prepared at the State Department, and, in the opinion of the Committee on Printing and in my opinion, they are better than those prepared by Little & Brown; so that every year we prepare marginal notes for the copy printed at the Government Printing Office, and a better index than is furnished by Little & Brown. Both indexes, however, are prepared at the State Department. If the index prepared by Little & Brown is considered better than that prepared by Congress, all we have got to do is to set the clerk in the State Department who prepared that index to prepare the index for a congressional edition.

Mr. JOHNSON. I should like to know from the chairman of the Committee on Finance what additional price Little & Brown are willing to continue the work for. Having frequent occasion to use the book, it appears to me that the work, from the time they have undertaken it up to the present time, has been most admirably performed. The paper itself is of the very best kind; the print is remarkably good; and the marginal notes, by whoever prepared, are all, I think, that is necessary to inform the reader of the contents of each section. It is very desirable, if there is to be a change, that the form of publication should be precisely the same with that which has been heretofore printed. I understood the honorable member to say that the committee were of opinion they could get the work done cheaper at the Public Printing Office than by increasing the price which Little & Brown heretofore received. I should like to know how much additional price they do ask.

Mr. SHERMAN. I have now the letter of Little & Brown before me. It seems that the old price was thirty-seven and a half cents per copy, and Congress took eleven thousand copies. The average size then was about one hundred pages. They say the size has increased to four or five times the old size, and the price of paper, materials, &c., has increased two and a half times. They do not state how much they would furnish them for. They say it is impossible to furnish them at the present prices, and probably they would ask six or seven times as much as we now pay.

Mr. JOHNSON. The expense of printing them in the Public Printing Office would also be increased. You will have to pay paper, and employ hands, and the price of paper and labor and everything else has increased in proportion.

Mr. SHERMAN. But in the Public Printing Office we already set up the type to print these identical laws; we already have them indexed and notes prepared for them by the Public Printer; and the only additional expense is the paper and the additional impression.

Mr. ANTHONY. There is no reason why an edition of the laws uniform with that published by Little & Brown may not be published at the Public Printing Office, in precisely the same style, and with considerable economy to the Government. The work is edited here now; the proof is read here; and that would be better and more conveniently done if it were printed here than if it were printed in Boston. I was not disposed to interfere with this contract so long as it existed and was to be carried on by both parties at the old rates; but I have no doubt a considerable

saving will be produced by the proposition of the Finance Committee. We print one edition of the laws for distribution as a congressional document; and that can be printed in the same style as the present edition, to be bound uniform with the Revised Statutes, and the type-setting of one edition will be saved. I believe that the edition printed by the Senate and House of Representatives at the last session was found by gentlemen of the profession, in its index and marginal references, to be at least equal to the Boston one, and I think it was superior.

Mr. JOHNSON. I do not know what edition the chairman of the Committee on Printing refers to.

Mr. ANTHONY. The Senator has it in his hand.

Mr. JOHNSON. This has no marginal notes, and is inferior in every respect to the edition of Little & Brown.

Mr. ANTHONY. It has marginal references, has it not?

Mr. JOHNSON. I do not see any. It has an index. The index is very good, but the paper is very inferior.

Mr. ANTHONY. I hold in my hand the Acts and Resolutions of the second session of the Thirty-Seventh Congress, and that has marginal references.

Mr. JOHNSON. The book I have here is the laws for the last session, and this has none. Is it the purpose, if the work is to be printed at the Public Printing Office, to print it in the same form as Little & Brown have heretofore done?

Mr. ANTHONY. Certainly. There are no marginal notes to the last edition of the laws, but there will be no difficulty in preparing them. The man who prepares them for Little & Brown is a clerk in the State Department, and he can prepare them for the Public Printer.

Mr. SUMNER. This is perhaps a more important matter than some which on their face may seem to be more important. It certainly is not unimportant how the statutes of the country shall be printed. They ought to be printed, in the first place, uniformly with the previous statutes; and I wish to call the attention of my friend, the chairman of the Committee on Printing, to that point, that in any arrangements that may be made for the printing of the statutes hereafter, reference should be had to the existing statutes, so that the series shall go on with a certain uniformity.

Mr. ANTHONY. Undoubtedly.

Mr. SUMNER. Without that uniformity the statutes will have a bad appearance, and they may be inconvenient in use. In the next place, we must consult accuracy. There must be very considerable care in the superintendence of the publication. Then they must also be edited. That, as I understand, was secured through the contract with Little & Brown. They always, from the beginning, kept a competent person, latterly a gentleman who had been on the bench and who had retired, to superintend the publication, and who performed what may be called the editorial labor. He made those side notes, and also the index. I do not understand that the index was made, as the Senator from Ohio, in rather an off-hand way said, by some clerk. It was made by an eminent member of the bar. It is a service that cannot be performed by an ordinary person. It must be performed by a man who has a certain familiarity with the statutes of the country, and with the language of legislation. Only such a person can make a proper index.

I do not know that this subject properly comes up for consideration now, but I make these remarks in order to bring the attention of the Senate to the question. I do not wish that we should take a leap in the dark; that we should pass from the very good system which we now have of publication by competent publishers, like Little & Brown, to something that is vague and unknown. The publications of the Government, as a general rule, do not compare with those by private publishers. You have only, for instance, to go to the publications of the statutes before the contract with Little & Brown in order to see what we gained by handing over the publication of our laws to a private firm, rather than undertaking to print them ourselves. Look at any of the old volumes, and you will find how crude they are; you can hardly use them. But the volumes that

we now have published by Little & Brown are very convenient. They are illustrated by these side notes to which reference has been made, and by good indexes. I hope that in any change that may be made these conditions will be preserved. I do not know what means have been taken in order to secure them; and I should like to ask the chairman of the Committee on Printing whether any means have been taken in order to secure the continuance of the conditions under which the statutes have been heretofore edited and printed.

Mr. ANTHONY. I understand that the editing and printing of the statutes is done under the direction of the State Department. I thought it was done by some employé of the State Department; but I am not sure of that. It is to be done to the satisfaction of the State Department, and it must be so done under the system that is now proposed. I do not see any reason why it cannot be done at the Public Printing Office as well as in Boston. The comparison which the Senator from Massachusetts suggests between the statutes as printed by Little & Brown and the statutes as printed before they took the contract would be a very unfair one indeed; because the statutes, before they took the contract, were printed by private contractors, whose only object was to make all the money they could out of the Government, and they were printed on the poorest paper and in the most slovenly manner. But since the public printing has been done by the Government itself, it has not only effected a great saving, but the printing has been done in a handsome manner. For instance, look at the Rules of the Senate which each Senator has on his table. It is a book fit to be placed in any gentleman's library, and does not cost more than two thirds as much as it used to cost under the old system. Little & Brown have performed their contract, I think, to the entire satisfaction of the Department and of the country, and no fault whatever is to be found with them. But when the Government Printing Office was first erected and organized, the intention was that all the Government printing should be executed there. The printing of the Supreme Court requires the greatest care and accuracy of any printing that is done by the Government; and it was at one time proposed that that printing should be done, as it was done before, by certain private contractors, but the Senate decided that it should be printed at the Public Printing Office; and I believe it has been done there to the entire satisfaction of everybody. The Senator from Maryland can answer as to that better than I can.

Mr. JOHNSON. It is very well done.

Mr. ANTHONY. I see no reason why these laws cannot be published as well by the Government Printer as by the Boston publishing house. But at the same time I desire to bear my testimony, with the professional gentlemen of the Senate, to the accuracy and general elegance with which they have printed the laws.

Mr. SUMNER. Allow me to ask my friend if there should not then be some legislation or resolution of Congress on the subject directing the State Department how these volumes shall be printed.

Mr. ANTHONY. I think there is no such regulation now. I understand it is merely in the nature of an appropriation.

Mr. SUMNER. The Senator does not meet my point. What assurance have we that the statutes will continue to be published in the same shape that we have them in now—uniform?

Mr. ANTHONY. That would be so obviously proper that I suppose the Secretary of State would give such directions, or the Superintendent of Public Printing would see the propriety of it without any directions.

Mr. SUMNER. I ask, would it not be advisable to have some definite action on that point by calling the attention of the Senator's committee to it?

Mr. ANTHONY. I think it very likely.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) This amendment having been agreed to, the reading of the bill will be proceeded with.

The next amendment was in line two hundred and sixty to strike out the word "which" and insert the word "who."

The amendment was agreed to.

"The next amendment was in line two hundred and seventy-three to strike out the word "which" and insert the word "who."

The amendment was agreed to.

The next amendment was in line two hundred and eighty to strike out the word "which" and insert the word "who."

The amendment was agreed to.

The next amendment was in lines three hundred and twenty-five, three hundred and twenty-six, and three hundred and twenty-seven to strike out the words "and for additional compensation to clerks in same Department: *Provided*, That the temporary clerks herein provided for may," and to insert the word "to;" in line three hundred and twenty-eight, after the word "services," to insert "\$25,000;" and also to strike out the following proviso:

*And provided further*, That the Secretary of the Treasury may award such additional compensation to clerks as in his judgment may be deemed just and may be required by the public service, \$250,000; but the said Secretary shall not have the authority to award any such additional compensation to such clerks after the 1st day of July, 1866.

So that the clause will read:

For compensation of temporary clerks in the Treasury Department, to be classified according to the character of their services, \$25,000.

Mr. SHERMAN. The Committee on Finance have reconsidered their proposed amendment on this item and desire to withdraw it. It is necessary for me to make an explanation in regard to it.

This provision of law is somewhat new. It authorizes the Secretary of the Treasury to employ temporary clerks, and to give additional compensation to the clerks now in the office and to all the officers of that Department, and places at his disposal a fund of \$250,000 for that purpose. The Committee on Finance were not disposed to intrust the Secretary of the Treasury or any other officer of the Government with this power, not from any want of confidence in the Secretary of the Treasury, but simply because the principle was a bad one. The compensation of these officers ought to be fixed by law and ought not to be changed. But we are met with this difficulty: some of the officers in the nature of experts in the Treasury Department cannot be retained in their present positions unless there is some mode of increasing their compensation. These officers are now very much needed by the banks that have organized throughout the United States and in other employments of a peculiar character, and it is impossible for the Secretary to retain these persons in his employment unless he can give them additional compensation. The Committee on Finance thought it better not to embark in the general system of an increase of salaries; and on the whole we deemed it better to adopt the provision made by the House of Representatives, and place at his disposal a fund out of which he might increase certain salaries as the exigencies of the public service required. This provision confines the increase to one year, to the next fiscal year. In the last appropriation bill, we appropriated, I believe, \$200,000 for the payment of temporary clerks in the Treasury Department. Many of those clerks are now made permanent by this bill. This appropriation will enable the Secretary to employ temporary clerks, and also in certain cases to increase their salaries. We have to leave the distribution of this money to his discretion. I hope, therefore, the amendment of the Committee on Finance will not be concurred in.

The PRESIDING OFFICER. The question is on the amendment reported from the Committee on Finance.

The amendment was rejected.

The next amendment was to insert after line five hundred and fifteen the following:

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of and arising from fines, penalties, and forfeitures, in the fiscal year ending June 30, 1865, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe keeping of prisoners, \$300,000.

Mr. SHERMAN. I will state that probably by an oversight the House of Representatives have neglected to make the ordinary appropriation for the judiciary fund, unless they designed to put it on some other bill, and the Committee

on Finance have inserted it here in its proper place.

The amendment was agreed to.

The Secretary continued the reading of the bill down to the following clause:

For compensation of the clerks in the office of Military Justice, \$7,200.

Mr. JOHNSON. I will inquire of the chairman of the committee, what is "the office of Military Justice?"

Mr. SHERMAN. Judge Holt is the head of that office.

Mr. JOHNSON. Is that the title of it?

Mr. SHERMAN. Yes; it is called the Bureau of Military Justice, and was organized at the last session of Congress.

The next amendment was in the appropriations for the Mint at Philadelphia, in line seven hundred and thirty-eight, to insert the words "ores and" before the word "coins;" so that the clause will read:

For specimens of ores and coins to be preserved in the cabinet of the Mint, \$300.

The amendment was agreed to.

The Secretary continued the reading of the bill to the eight hundred and ninety-seventh line.

Mr. JOHNSON. I did not notice that the Secretary had progressed so far. I am instructed by the Committee on the Judiciary to propose an amendment at the end of the eight hundred and eighty-fourth line.

Mr. SHERMAN. I trust the Senator will allow the usual course to be taken; let the amendments of the Committee on Finance be disposed of first.

Mr. JOHNSON. I did not know you had any others.

Mr. SHERMAN. We have several yet.

Mr. JOHNSON. Very well.

The next amendment was after line eight hundred and ninety-seven to strike out the following clause:

For salaries of additional clerks in the office of the Assistant Treasurer at Boston, which are hereby authorized, \$11,500.

The amendment was agreed to.

The next amendment was in line nine hundred and two, after the word "treasurer" to strike out the words "of the Mint," so that the clause will read:

For salaries of clerks, messengers, and watchmen, in office of the Assistant Treasurer at Philadelphia, \$13,300.

The amendment was agreed to.

The next amendment was in line nine hundred and forty-nine, to strike out the proviso to the following appropriation:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$2,000,000.

The proviso is as follows:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.

Mr. SHERMAN. I trust the Senate will allow this amendment to be passed over informally for the present, as I have another proviso to offer as a substitute, and let the whole matter be acted upon together.

The PRESIDING OFFICER. The amendment will be passed over if there be no objection.

The next amendment of the committee was in line one thousand and eleven, after the word "clerks," to strike out the words "be and the same;" at the end of line one thousand and sixteen, to strike out the word "the;" in line one thousand and seventeen, after the word "proportion," to strike out the word "equal;" in line one thousand and nineteen, after the word "Washington," to strike out the words "and Georgetown;" and in line one thousand and twenty, after the word "county," to strike out the words "be and they;" so that the clause will read:

For salaries and other necessary expenses of the Metropolitan Police for the District of Columbia, \$110,000. And the compensation of said Metropolitan Police force, officers, and clerks, is hereby increased fifty per cent. upon the amount hereby appropriated, commencing on the 1st day of July, 1865, said increase to be borne by the cities of Washington and Georgetown and the county of Washington, in the District of Columbia, in proportion to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington, and the levy court of said county are

hereby authorized and empowered to levy a special tax, not exceeding one quarter of one per cent. for the purpose aforesaid.

Mr. JOHNSON. I am not sure, and I suppose we ought to ascertain, whether this county is not named the "county of Washington and Georgetown."

Mr. GRIMES. Oh, no; it is the "county of Washington." It is right as the committee propose to amend it.

Mr. JOHNSON. Very well.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the Committee on Finance have now been gone through with.

Mr. SHERMAN. I have several other amendments to offer from the Committee on Finance. On page 8, line one hundred and eighty-three, I move to strike out "fifty" and insert "ninety;" so that the clause will read:

For lithographing and engraving for the Senate and House of Representatives, \$90,000.

Mr. JOHNSON. I move to insert at the end of the eight hundred and eighty-fourth line, on the 37th page, this provision, which the Committee on the Judiciary have determined ought to be inserted:

For the repair of the building at St. Augustine, Florida, heretofore used for holding the courts of the United States for the northern district of Florida, \$3,000, or so much thereof as may be necessary for that purpose.

I send to the Chair the papers which were before the committee. They show that the building now is in no condition at all to be occupied by the court. The committee were unanimous in thinking the appropriation ought to be made.

Mr. SHERMAN. Is St. Augustine in our undisputed possession now? I am very much afraid that if we spend this money the guerrillas may interfere with the building after we put it in order.

Mr. TEN EYCK. It seems that the courthouse for the repairs of which this amendment is proposed has been very much dilapidated and injured by being occupied by United States troops. It has been occupied by the troops of the United States, and in consequence of their occupancy these repairs have become necessary. This remark applies to the building itself, but does not apply to a wall which it is proposed to repair. But I have received no information that the building is not now occupied by United States troops, or that if it shall be repaired by the Government it will not be again occupied by United States troops and injured in the same way by their occupancy. So far as I am concerned, I think an appropriation at the present time for this purpose is premature. I am opposed to the amendment.

Mr. JOHNSON. The amendment is the recommendation of the Committee on the Judiciary. The papers which I have sent to the Chair were communicated to the committee by the Interior Department, and they show that the house is now needed for the use of the court, and that it cannot be used unless repairs are made to it, and the repairs can be made within the limit of the appropriation. We have a court there now; we have recently appointed a district attorney, and if the court is to be used at all, it ought to have a building to meet in.

The amendment was agreed to.

Mr. SHERMAN. I have a few more amendments to offer from the Committee on Finance. On page 18, line four hundred and thirty-three, I move to strike out "three thousand" and insert "twelve thousand five hundred," so as to make the clause read:

For repairs of the Patent Office building, \$12,500.

We have the statement of the Secretary of the Interior showing that the appropriation contained in the bill is totally inadequate, and on the showing made we could not refuse to increase the appropriation. I can have the letter read if any Senator desires.

The amendment was agreed to.

Mr. SHERMAN. In line nine hundred and twenty-four, on page 38, after the word "of," where it first occurs, I move to insert the words "officers and;" in line nine hundred and twenty-six, after the word "Treasury," to insert "and the tenth section of act of March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending



the 30th of June, 1854;" and in line nine hundred and twenty-six, after the word "such," to insert "further," and in line nine hundred and twenty-seven to strike out " \$38,060" and insert " \$50,000;" so as to make the clause read:

For salaries of additional clerks, and additional compensation of officers and clerks under act of August 6, 1846, for the better organization of the Treasury, and the tenth section of act of March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, at such further rates as the Secretary may deem just and reasonable, \$50,000.

I ought probably to explain this amendment. Under the sub-Treasury act, as it is called, the Secretary of the Treasury is authorized to employ additional clerks and to give additional compensation in certain cases to clerks already employed for extra work, sometimes done at night, sometimes done under circumstances which demand additional compensation. The ordinary appropriation is about what is stated here, \$38,060; but the Secretary also finds it necessary to give additional compensation to certain persons employed in that bureau who are called officers and clerks—the assayers and some other officers that would not be reached by the word "clerks." An appropriation was called for for additional clerks at Boston. It will be remembered that that clause has been stricken out, and the amount of this appropriation is increased so as to enable the Secretary to award compensation and to employ, if necessary, additional clerks at Boston out of this fund.

Mr. SUMNER. Do I understand that the same thing is accomplished by this?

Mr. SHERMAN. Yes, sir. It is found necessary also to give additional compensation to officers and clerks in the assay office, and therefore I have moved to insert the descriptive words of the act organizing the assay office in New York so as to cover the whole in this appropriation.

Mr. HARLAN. I desire to be informed on this subject. Will this appropriation place the amount of the increase of the salaries of the clerks at the discretion of the head of the Department?

Mr. SHERMAN. That is so by the law now. The sub-Treasury law which was passed many years ago authorizes the Secretary of the Treasury to make additional compensation in certain cases, and every year since that time an appropriation has been made for the purpose, sometimes more and sometimes less. This does not change the present law, except that it extends the authority to the "officers" as well as the "clerks."

Mr. HARLAN. Is it intended to include another class of persons besides those embraced in the old law?

Mr. SHERMAN. It does. It includes officers as well as clerks. That is the material change. Under this, the Secretary of the Treasury may pay some of the money to the officers of the sub-Treasury as well as to the clerks. The officers are, the assayers, and the Assistant Treasurers, and others.

The amendment was agreed to.

Mr. SHERMAN. I now move in lieu of the following proviso on page 39—

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor—

To insert these words:

*Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and adjust the accounts of Stewart Gwynne for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to award to him such sum as may be equitably his due, to be paid from the appropriation for the expenses of national loans: *Provided further*, That for items furnished or supplied under contract no greater sum than the contract price shall be allowed: *And provided further*, That before any payment shall be made, the said Stewart Gwynne shall, in such form as may be prescribed by the Secretary of the Treasury, fully convey and secure to the United States the right to use said presses and any additional number thereof, with their machinery and future improvements, in the Treasury building or any other buildings directed by the Secretary, for any and all printing the Government may desire for its own use and purposes.

The subject of the Treasury Department printing has been controverted a great deal, and very much has been said about it. I believe an examination took place in the House of Representatives by a committee of that House in regard to the mode of printing the United States notes in

the Treasury Department, and the subject gave rise to a great deal of feeling. This proviso was inserted in this bill by the House of Representatives on the motion of a member, and came to us, and we were therefore compelled to examine into the subject of the hydrostatic printing. A sub-committee of the Committee on Finance was appointed to examine the matter. I was not a member of the sub-committee, but they gave the subject a very careful and patient investigation. It was also examined by the Committee on Finance. I can only state generally, without going into the voluminous papers that relate to it, that we were all satisfied that the experiments in hydrostatic printing were, to say the least, beneficial in some respects; and we were satisfied, I believe without exception, that the plan of printing in the Treasury Department was wise and economical, and that the preparation of the paper and the printing of all the notes and securities of the Government should be carried on in the Department. Whether the hydrostatic mode of printing is the best in the world, we were not experts and could not say; but from the best testimony we had before us from persons on both sides, we were satisfied that in some respects it was a success, and on the whole we thought it very unwise by a provision of law to refuse to the Secretary of the Treasury the right to print by this mode of printing, if there was any doubt about it. So far as I am concerned, I would not deny the Secretary the power to print in this particular mode unless it was perfectly clear from the experiments had that the mode was not a proper one. We concluded therefore to strike out the proviso.

The amendment I now submit authorizes the Secretary of the Treasury to settle with Stewart Gwynne the disputed claim about which so much has been said. In regard to that I can only say that the Secretary has the power under the law as it now stands to settle this claim. He can pay for the presses and materials used in printing. The power conferred on him by the law is ample for that purpose; but at the same time, as he says himself, he felt a delicacy about paying this claim when, as he knew very well, it was disputed, and was alleged by some to be improper. He thought that Congress should take the responsibility of directing the mode in which the claim should be settled. To meet this point the provision was drawn up, requiring the account to be made out in the usual form as a voucher against the United States, and to be submitted to the accounting officers to be settled by them. That is the effect of the amendment. I do not think it gives any additional power to the Secretary of the Treasury; it simply requires that this claim shall be presented in the usual form, shall pass through the various accounting offices, and be settled according to the principles here laid down. If the Senate desire to go into the whole of this controversy, I have the papers here before me, and they can enlighten the Senate on the subject. I give this brief statement simply to present an outline of this controverted matter to the Senate.

Mr. GRIMES. I am extremely anxious to have a decision upon a point of order on this question. It is seldom that a point of order is raised against the Committee on Finance, but I will raise a point now and submit it to the decision of the Chair. The point is that this is a private claim in behalf of Mr. Stewart Gwynne, and that under the rules of the Senate it cannot be put on an appropriation bill, even on the motion of the Committee on Finance. If I am overruled in this point the flood-gates are opened, and the Senator from Ohio and the Senators who are associated with him upon the Finance Committee must expect hereafter to take the consequences of the decision which they ask the Senate to make in this case. I submit the point of order that this is a private claim.

Mr. SHERMAN. I am very desirous that the rules of the Senate shall be enforced strictly against the Committee on Finance, because I shall seek to enforce them on all others. If there is any doubt about the point of order, I would rather the claim should be excluded. But the reason why it does not come within the rule is this: the provision is already contained in the bill that affects this claim, that destroys this property; the provision as it comes to us from the House of Representatives denies the Secretary of the Treasury the right to use these machines for printing on the

hydrostatic principle. It is here. We cannot refuse him the right to use them without affecting the claim of Mr. Gwynne, or whoever owns the presses. The amendment I offer now is simply a substitute for the proviso. The proviso itself affects the claim, and the amendment also affects it. I admit that I do not think the amendment would be proper if the House had not already inserted in the bill a provision which affects this claim. If the point of order is decided against the amendment, I shall be very happy to get rid of the controversy in this way; but we felt it to be our duty to report the amendment.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Chair will inquire of the Senator from Ohio whether this appropriation is to carry out any law of Congress? If so, the Chair will decide that the amendment is in order.

Mr. SHERMAN. The appropriation is already made. There is no appropriation in the proviso. The fund is already provided for in the preceding clause of the same paragraph, which is in these words:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$2,000,000.

That is the appropriation; and the question now is whether any portion of this money shall be applied to the payment of Stewart Gwynne.

The PRESIDING OFFICER. If there is no appropriation made in the amendment, there is no question of order involved.

Mr. JOHNSON. The first part of the clause contains the only appropriation, and the proviso is merely to say that out of that appropriation certain things shall not hereafter be done. What is hereafter to be done, according to that proviso, is that no portion of that \$2,000,000 shall be expended for carrying out further the experiment of hydrostatic printing at the Treasury Department until such experiments shall be definitely approved. I understand that this kind of printing has been going on for a year or two, whether successfully or not is not the question. Dr. Gwynne has been permitted to have rooms in the Treasury—no doubt the Department thought they had authority to authorize it—and he has been apparently an officer of the Treasury Department, and he has gone into the community and he has purchased a variety of machinery; he has purchased these presses. The persons with whom he contracted were under the impression—I know it to be true as to some of them—that they were dealing with the Government. For example, he contracted near Baltimore for the building of some of these presses, and the work has been furnished, and it has been used by the Government to some extent. A portion of it is still undelivered; has been ready to be delivered, and has only not been delivered because the contractors, supposing, as I have stated, that they were doing the work for the Government, were advised by the investigation by the other House that it was doubtful whether Dr. Gwynne had any authority to bind the Government. But the Government has received some of the presses, the Government has the presses now, and the Government has been using the presses.

Then there are two questions: first, whether you will limit the Secretary of the Treasury so as to control his right to go on with this kind of printing, although he may think it the best kind under the circumstances; and, second, whether, after you have permitted an individual to go into the country and contract large debts, apparently on the credit of the Government, and you have got the machinery which has been furnished under those contracts, and you hold the machinery still, you will not pay for it. There is due, as I understand, some thirty-three or thirty-four thousand dollars—I do not know exactly how much the amount is in the aggregate—for what has been furnished in that way. It seems to me very clear that the Government ought to pay for it; and all that will be done by striking out the proviso and substituting the amendment proposed by the Committee on Finance, is to authorize the Secretary of the Treasury to audit the accounts and to pay only such as he thinks are just. The Government, having received the labor and the materials which have been furnished, as I have said, upon the credit of the Government, it should pay for them.

Mr. GRIMES. I have no controversy with

the Senator from Indiana, or with anybody else in regard to the merits of the claim of Mr. Stewart Gwynne. There may be a legitimate and honest debt due to him from the Government of the United States. The only question before the Senate is whether or not the attempt to provide for the payment of the claim by the amendment proposed by the chairman of the Committee on Finance is not a violation of the rules of the Senate.

Mr. CLARK. That question has been decided.

Mr. GRIMES. I do not understand that it has been decided; but if it has been, I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Chair inquired of the Senator from Ohio if this amendment was to carry out any existing law, and if so, the Chair said he would decide it to be in order. But as the amendment makes no appropriation the Chair decided that the question could not be raised.

Mr. GRIMES. Will the Chair permit me to read the 30th rule of the Senate?

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

If the rule stopped there, I admit that my point of order would not apply to this amendment, but it goes on to say:

"And no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

What does this do? This proposition directs that the Secretary of the Treasury shall investigate the claim of Stewart Gwynne and "award" to him. What is meant by that? As my friend from Vermont [Mr. COLLAMER] well says to me, it means to pay. It means nothing else. How are you going to get rid of this last clause of your rule, "no amendment," no matter where it comes from, no matter what committee may propose it, "no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation?" Is there an existing law here that is proposed to be carried out? Is there any treaty stipulation here? Does not the argument of the Senator from Maryland admit that this is a private claim? Has he not told us how this private claim originated? Has he not told us that persons have claims through Mr. Stewart Gwynne, men of whom he purchased these materials, thinking that they were selling them really to the Government when in fact they were selling to Stewart Gwynne to the amount of \$34,000? So far as this particular case is concerned, I have no interest in it, but I want the rules of the Senate observed.

Mr. JOHNSON. The honorable member from Iowa has misunderstood me. I have not said that whatever claim Stewart Gwynne may have is, in the sense of that rule, a private claim, by any means. All that I said was that he had gone into the country and had contracted for this material, and it was furnished by the persons who made the contracts with him, as they supposed, to the Government. How was he authorized to go abroad and buy that machinery and bring it in and put it in the Treasury Department? Was it done without any law? I presume there was a law that authorized it.

Mr. GRIMES. Will the Senator point us to the law?

Mr. JOHNSON. I do not know all the laws. I suppose there was some general law. I take it for granted there was some law that authorized it. I understand the chairman of the committee to say that the Secretary had authority to do what was done, and the only question is whether he did it; and I understand him also as saying that the present Secretary thinks he is authorized to pay the claim.

Mr. GRIMES. Then why does he not do it?

Mr. JOHNSON. He is unwilling to take the responsibility of doing so because the subject itself has been a matter of investigation at the instance of the House of Representatives; but as far as the law is concerned, if I am correctly informed, he believes that he was properly employed by the Secretary of the Treasury, and having been

properly employed, there is an obligation to pay him. What I referred to, was the great practical hardship, the great injustice, even if there was any doubt upon the subject, of permitting this man to hold himself out as an officer of the Government, apparently an officer of the Government, acting under the actual authority of the Secretary of the Treasury, contracting all these debts for the Government, and then not paying those who dealt with him on the credit of the Government. I do not know what the amount is.

Mr. GRIMES. It may be all true, and from what I have heard from others as well as from the Senator from Maryland, I have no doubt it is a fact that great hardship has been suffered by various persons who have had transactions with Stewart Gwynne. I am not going to controvert the fact that Mr. Stewart Gwynne has an honest, substantial claim against the Government. That is not the question now in issue before us. I admit that he has for the purpose of this argument. But what has that to do with the question whether or not this amendment comes within the rule? If he has an honest claim it is excluded from this bill by the rule; if he has an honest claim it cannot be put in this way.

The Senator from Ohio says that the Secretary of the Treasury can pay it now. Undoubtedly he can, under the provision appropriating \$2,000,000 for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes. We have made a similar provision in a previous appropriation bill. Under that provision the Secretary of the Treasury, if he believed these hydrostatic presses were necessary in order to carry into effect the law of Congress authorizing him to do this printing, might pay for them. Why does he not pay the claim? Why are we asked to come in here and interpose in behalf of this particular man when equal hardships have been inflicted in thousands of other cases upon honest creditors of the Government? Is Stewart Gwynne the only man who has an honest claim against this Government unpaid?

Mr. CLARK. That is not the point.

Mr. GRIMES. I should like to know what the point is. I should like to see where the point is that makes this an exception to the rule.

Mr. CLARK. I will state, if the Senator will allow me, what is the state of the case. Under the provision of the law, without the amendment the Secretary undoubtedly has power to pay for this printing to Stewart Gwynne, but as this has been a disputed claim he wants it to go before the proper accounting officers of the Treasury, so that it shall go upon the record that the claim is a just one, and that it is adjudicated by the accounting officers before he pays it. That is all he requires. He desires that Congress shall direct it to be done. It is not to make any provision for paying a claim that would not otherwise be paid, but simply to specify how this claim shall be examined.

Mr. GRIMES. Does he desire that it shall go on an appropriation bill?

Mr. CLARK. No, but it is in the appropriation bill before; the amendment does not put it there.

Mr. SHERMAN. I am disposed to give a good deal of attention to the point made by the Senator from Iowa, because I desire to enforce the rule strictly myself, and therefore, if there is any strength in the objection made by him, I desire to give it full effect; but I have modified the amendment so that I think he will admit that it does not come within the rule, and I should like to have him examine it in the modified form with that view.

The rule simply forbids an amendment to be offered providing for a private claim in a general appropriation bill. That is a very wise rule, which ought not to be departed from. In this case there is a general appropriation for certain purposes, for carrying on this printing bureau. There is no doubt about the power of the Secretary of the Treasury to take a portion of this money and pay for printing by the hydrostatic process, or any other means. Consequently, so far as the amendment I offer is concerned, it is not for the benefit of Mr. Gwynne. It is not offered for his benefit. It is really for the benefit of the Secretary in this respect. Here is a claim that is controverted and disputed, about which a great

deal has been said in the other House. If he passes upon it, and pays it in the usual way, he pays it out of a special fund on his own examination. The purpose of the amendment is simply to require this claim of Stewart Gwynne to undergo a supervision and an inspection, and an examination that it would not undergo were it not for this amendment. That is the only effect and the only purpose of it. I will now read it as I have modified it:

*Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and adjust the accounts of Stewart Gwynne for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to report to him such sum as may be equitably due said Gwynne.

I have stricken out all about making an award, and then I provide further that no payment shall be made until Stewart Gwynne shall file in the office of the Secretary of the Treasury a release for all patents and of all claims growing out of improvements in the Treasury Department. That is to avoid the objection which has been made that these improvements have been made in the Treasury Departments out of money furnished by the Government, and that the Government ought not to pay for any inventions made by its officers in experimenting for the benefit of the Government. That is right enough, and this amendment is intended to protect the Government against any claim by Stewart Gwynne or his associates for any patent right. That is the purpose of the amendment. It does not seem to me to be subject to the objection; but if it is, I do not want it to go on the bill.

Mr. CLARK. I would suggest to the Senator from Ohio to divide his amendment. The one proviso has no connection with the other really, and the question of striking out and inserting is under our rules indivisible.

Mr. SHERMAN. I will submit it, then, as a separate amendment. The motion to strike out the House proviso is one thing, and the motion to insert is another.

The PRESIDING OFFICER. Does the Senator from Iowa withdraw his point of order?

Mr. GRIMES. Are these to be offered as separate amendments?

Mr. CLARK. Yes.

Mr. GRIMES. Then I withdraw the point of order.

Mr. COLLAMER. I take it that the question now is on striking out the proviso as it is in the House bill.

The PRESIDING OFFICER. That is the question.

Mr. COLLAMER. I desire to hear something about this matter from the committee who are said to have examined it. I understand that the proviso which it is now moved to strike out is to stop this experimenting with that hydrostatic press business; I have a general information that there has been expended on that experiment something over a third of a million of dollars, between three and four hundred thousand dollars already, and if any work is produced from it of any value, it is more than we are informed. I do not understand that this proviso prohibits the use of these presses. It is that no further expenditure shall be made with the experimental system of hydrostatic printing.

Mr. CLARK. What they call the experiment is the use of the presses.

Mr. COLLAMER. The proviso is that the Department shall make no more expenditures on the system. If they can use it as it is, there is nothing here to prohibit that. No one, surely, will deny that. If the Secretary can use the presses he has now, he may use them. The men who have examined the subject have stated to the community, and I believe it is generally understood, that the experiments have gone far enough; the amount expended is extravagant, and we do not want any more experiments about it. If what they have is of any use, let them go on and use it. I hope the sub-committee who have examined into the subject will inform us in regard to it.

Mr. CLARK. I was one of the sub-committee who went to make an examination of this method of printing. I did not go so far in the examination as I should like to have done before this debate occurred, nor so far as I intend to go before I get through with the matter; but I went

so far, and I think the sub-committee went so far as to satisfy them entirely, and to satisfy the Committee on Finance that it was unwise to make this limitation, and to prevent any further experimenting on this system. It is well known that there has grown up a division in the Treasury Department, and in the country, in regard to printing paper for the Government. It is printed now in the Treasury Department by two methods. It is printed by the hydrostatic method of printing and by the old method of the hand press. Those who have been used to the hand press still adhere to it; and you may go down into the Treasury Department to-day and find the old spoke-wheel press, where a man turns it around with his hand and uses his foot to help him along, which has been in use forty years in printing bills. When I asked the man who stood at that printing press the other day how it happened that they used that old press which has been in use for forty years, when in almost every other branch of machinery improvements had been made, all he could say to me was: "I do not know, sir; I have been a printer thirty years and I have used it all the time; and I suppose it is because the old fogies like it." That was the man who stood at the press; but I do not propose to enter into that diversity of opinion or quarrel. The committee examined the method of printing by the hydrostatic process, and came to the conclusion that it was by no means wise to prohibit the experiment.

One design of the hydrostatic printing is to prevent the wetting of the paper as you have to do by the hand press, and drying it, and shrinking it by the process of wetting and drying. When the paper is wetted and dried it dries unevenly, and pulls the plates by shrinking unevenly, and thus the lines get out of form. It became very desirable, therefore, that there should be a method of printing the paper without wetting it. This is accomplished by the hydrostatic process. The paper is laid on the plate dry, receives the impression, and comes out precisely as it went into the press as to form. The advantage gained in that particular is in several ways. In the first place, you avoid the expense of wetting it down; then you avoid the expense of drying it; and then you avoid the expense of pressing by power presses as you always have to do paper which has been wetted and printed. But there is another great advantage in that regard, that when the paper has been printed it comes out in sheets. Take a sheet on which you have printed the fractional currency, upon which there may be sixteen or eighteen different bills. The old method, when it was printed by hand, was to take your shears and trim that all around, and then cut them all apart, because you were obliged to follow the lines as they had altered in shrinking. You can take now a sheet, printed by the hydrostatic method, put it into a machine; it goes through almost immediately, and comes out all cut up and laid into a little hopper by itself; and the machine is so perfect that, when you have run through a certain amount of sheets of a given denomination, say ten dollars of currency, when ten dollars of that currency is laid in the hopper, the machine itself rings a bell and notifies you that you have got just ten dollars in that place. So of the bills for the banks; they are all trimmed in the same way whenever printed by the hydrostatic method.

The experiment has gone along so far that the committee would not be warranted, and I do not think the Secretary of the Treasury would be warranted—and he does not desire nor does he think it advisable—to stop that method of printing, but to go on with it to perfection. I am so well satisfied with it by my examination and from the acquaintance I have with machinery as to be able to say that I have full confidence that it is to be a success.

I desire the Senate to understand that in making these remarks I have no allusion to the character of, or what may have been said about, any employed in the Treasury Department.

The committee examined further than the mere machinery and hydrostatic printing. They examined the system that is carried on there in regard to the safe-keeping of the money, and I think they would like to examine further on that point; not because they do not find all the proper securities so far as they have gone, but to make the research more extended, more critical, and more satisfactory that it is safe for the Government. I

can say—and I think I shall be justified in saying it from the committee, and be borne out in it by the conclusions of the individual members of the committee—that I have never been in an establishment where the securities seemed so great as in that Department.

One of the first requisites was—and this will bear more upon the other point (I mean the accounts of Dr. Gwynne) than upon this particular proviso—the production of a paper in the Treasury Department that should be entirely distinctive from any other paper. You can go into the book-stores here on your streets and buy the ordinary bank-note paper; you can go down to Hudson Taylor's and buy bank-note paper; you can buy the bank-note paper on which some of your currency has been printed, because there has not been enough produced in the Treasury Department for the production of all your currency. It is very desirable to prevent counterfeiting and to produce a paper that cannot be photographed. I have in my pocket and will exhibit to the Senate—they will see nothing particular about it at any distance—a piece of paper produced in the Treasury Department, [exhibiting one of the denominations of the fractional currency of the latest issue.] It has the appearance of being rather coarse, but the bit of paper which I now hold in my hand has been washed, has been dipped in a tumbler, thoroughly wetted and soaked, and then washed with soap, and rubbed as hard as you would rub an ordinary piece of cloth, and yet it cannot be destroyed; and one peculiarity of this paper is that it cannot be by any process of wetting returned to pulp again. But it has another advantage beyond this: there is mixed with the pulp that produces the paper a chemical preparation, a fibrous preparation which you can hardly notice by looking at it, but which photographs black when an attempt is made to photograph it, so that it can be detected at once. One great design and desire of the Department is to prevent the counterfeiting of your currency.

Mr. GRIMES. Will the Senator tell me how much of the currency has been printed on that paper?

Mr. CLARK. I cannot from any figures that I have.

Mr. HENDERSON. Very little of it.

Mr. CLARK. Not a very large amount.

Mr. GRIMES. Does it exceed \$400,000?

Mr. CLARK. I cannot tell.

Mr. JOHNSON. Are they going on to use that kind of paper?

Mr. CLARK. They are. It is particularly desirable for the currency. The committee examined so far as to see that these experiments were very valuable to the Government.

Mr. COLLAMER. That paper has nothing to do with the hydrostatic printing.

Mr. CLARK. The Senator will remember that I said this bore more particularly upon the Dr. Gwynne part of the case than upon the question of striking out the proviso; but this is clearly connected with the other experiments that have been going on, and tends to show somewhat the value of the experiments. I think that the experiments now going on in the Treasury Department are only a repetition of what has occurred in the world before, and what will probably occur many times again, so often as you have improvements in machinery that aid in the process of manufacture.

Here are two systems; here is the machinery for the hydrostatic system of printing, which is in operation. I ask Senators if it is wise to limit the appropriation so that further developments of this system cannot be made, so that further experiments cannot be had to ascertain the value of any improvement that may be made. Is it wise to shut right down upon the system here and say we will have no further experiment in this matter? That is not the opinion of the sub-committee; that is not the opinion of the Finance Committee; that is not the opinion of the Secretary of the Treasury; it is not, I think, the opinion of anybody who has examined the matter to see what is the advantage of this system. I know there are persons who are opposed to it. I know there are persons who come to us to give us information on the subject, but the bias of those gentlemen could easily be detected on examination. The committee attempted to satisfy them-

selves, not upon the testimony of individuals, but of their own eyes as far as they could; and by their own examination, having spent considerable time in the Treasury Department.

Mr. GRIMES. As the Senator has given a great deal of attention to this subject, I should like a little information that he has not given us. About a year ago we had a large amount of fractional currency, of the denominations that he has exhibited to the Senate, printed upon a paper that was in the habit of splitting. I desire to know whether or not that was printed by the hydrostatic process, and whether that paper was or was not manufactured by Mr. Gwynne.

Mr. CLARK. I do not understand that they used the paper manufactured by Dr. Gwynne. I cannot speak, however, on that point with that certainty that I can in regard to some other things. I know there was complaint of a paper that did split. I know that was one of the complaints made in the reports on this matter.

Mr. GRIMES. There was laid on our desks, yesterday, a book that purported to be a report from Mr. Clark, the gentleman who has charge of the printing in the Treasury Department. I do not know how it got here, or how it came to be published; it has no imprint of any publishing establishment on its face. It does not bear the appearance of having been sent here by the Secretary of the Treasury, to whom it is addressed, but I take it as the genuine report of this gentleman. If I am not mistaken, his report states that that split paper was the product of one of these experiments of Mr. Gwynne; and the purpose I had in making the inquiry of the Senator from New Hampshire was to ascertain if he could tell us how much that experiment cost the Government.

Mr. CLARK. I have no information on that subject. I do not know that that was an experiment.

Mr. GRIMES. I should like to know how much these various experiments that have been made with the hydrostatic presses have cost the Government. Is the committee prepared to inform the Senate how much these various presses have cost, how many have been broken down, how much has been expended for repairs?

Mr. SHERMAN. I can tell the Senator precisely. The contract, which I have here among these papers, was \$1,100 for each press. Seventy presses were delivered. The amount spent for repairs was comparatively a small item. All the particulars of the claim are here. The total amount for the presses was \$77,000, together with some expenses for repairs.

Mr. GRIMES. How many of them have been abandoned as incapable of being repaired? How many of them are lying in a pile outside of the Treasury?

Mr. SHERMAN. I have no information, except from the reports before me. The difficulty with some of them was that the frame-work was too weak to bear the enormous pressure caused by the system. That was the result of a dispute as to whether wrought iron or cast iron would resist the greater pressure. Since the change has been made to the present machines they are perfectly satisfactory. The only change is in reference to the form. As I am not a machinist, and do not understand printing or anything about it, I may be mistaken in regard to this; but the cost of repairing has been comparatively very slight.

Mr. CLARK. I desire to make one statement farther in regard to the capacity of these presses. By a hand press two persons will print in a day from about seven hundred to eight hundred impressions. By a hydrostatic press, if a man could ink fast enough, you could have four thousand impressions; but ordinarily the person who inks the plate cannot stand any such labor, and they get through about two thousand impressions a day, and those impressions are paid for by the piece. They pay for impressions on the hand press a dollar for one hundred impressions. On the hydrostatic press they pay a dollar for the first four hundred, and then seventy cents a hundred for the remainder of a day's work, bringing the whole cost about seventy-five cents to the hundred; that is three fourths of the cost upon a hand press. I was satisfied that the fact was so as the prices are now. There is no question that when this method of printing first came to be attempted, the printing went on slowly, as is the case with all new kinds of busi-



ness; but it has been brought to a very great degree of perfection, and I think if gentlemen would take the trouble to go and see for themselves, especially if they have any idea of mechanics and machinery—

Mr. COLLAMER. When the work is done, how is the impression? Will it rub off, or is it good?

Mr. CLARK. There has been a great deal of complaint made that the work done by the hydrostatic press was not so good as that done by the ordinary press. I am not a printer; but I took the impressions, and I took a microscope to examine them, and, in my judgment, the work done by the hydrostatic press is full as good as that done by the ordinary power press. The Senator from Vermont inquires if it rubs off. He will see that that is not so from the exhibition of this bill which I have already presented to the Senate, which has been rubbed, soaked, and washed in soap and water, and the impression has not started a particle. I say I have not examined this matter so far as I desire to do, as a matter of curiosity and knowledge, even.

Mr. COLLAMER. The question is, will it endure?

Mr. CLARK. The gentleman can tell by examination as well as I can. I understand it wears admirably well.

Mr. GRIMES. How long is it since that kind of paper has been used?

Mr. CLARK. I cannot tell how much of it has been used or how long. I put it to the test that I have stated. I could not try it as the old man said he had tried his locust posts. He said they would last forever, for he had tried them out and out. But so far as I have been able to put this to the test, it wears admirably well. I do not think it is quite wise for the Senate to stop these experiments. I think they should go further.

Mr. GRIMES. Then I understand the Senator to admit that this system has not reached that degree of perfection which he expects it will attain.

Mr. CLARK. Certainly I do; and I will admit it as to everything else in the world, even as to mankind. I hope we have not yet got to that degree of perfection which we expect to reach. I will admit it in regard to the Senator's iron-clads. [Laughter.] It is the very reason I want to go further. I do not want to stop here.

Mr. HOWE. I do not know that anything more need be said on this point; but I was one of the sub-committee who were instructed by the Finance Committee to look into this matter somewhat, and I desire to say in reply to some inquiries originated here by the Senator from Iowa, that we were not instructed to investigate the past operations of the Currency Bureau, or of that branch of the Treasury Department. Our investigations were directed to the particular matter referred to in the proviso now proposed to be struck out. The House of Representatives had voted to prohibit any further experiments upon this new method of printing our currency, and we were instructed to look into the matter, make up our minds whether it was advisable to prohibit further experiments or not, and our investigations were directed therefore to two methods now in vogue in that bureau of printing this paper. The two methods have been described to you by the Senator from New Hampshire. So far as my own examination went, it was directed mainly with a view of determining in my own mind which of the two methods was the most economical, and which was the safest, which furnished the best security to the Government. Unquestionably there is great danger of loss, let this vast amount of paper be printed where it will. I was satisfied equally with the Senator from New Hampshire who has just testified upon that point that every security was thrown about this branch of your service that I could conceive was practicable by either method of printing.

It will be manifest to the judgment of every one that the more hands this paper is passed through the greater is the danger of loss. By printing on the hydrostatic press, it will pass through at least the hands of three less sets of hands than when printed on the old press. If printed on the old press it has to go, when the impression is placed on one side, first into the wetting room, and a class of laborers are employed in the wetting room; then the impression is laid upon one side;

then it has to go into the drying room and passed through under a new set of men; and then it has to go, after the impression is put upon the other side, into the trimming room, as the Senator from New Hampshire has described to you, and be trimmed. If printed on the hydrostatic press, it does not go to the wetting room, it does not go to the drying room, it does not go to the trimming room. There are three sets of hands, there are three classes of laborers who handle the money printed on one of the presses that do not touch it when printed on the other. I think that necessarily furnishes some additional security to the Government, or if it does not furnish additional security it saves some of the risk to which the Government is liable in the printing of this paper.

Now, as to the economy of the two methods, I cannot testify on that point with so much positiveness as the Senator from New Hampshire has done. The result of my examination is that, so far, it has been proved the hands have printed more sheets in the day on the old press than on the hydrostatic press. Nevertheless we stood there and saw both presses at work, and it is true, as is said by the Senator from New Hampshire, that on the hydrostatic press sheets may be thrown off just as rapidly as one man can put on the ink. While that press is at work, one man has as much as he can do to ink the plates, whereas on the other press, on the old press, the same man not only inks the plates but passes them through the press. My own judgment was that a plate would pass through that press in about the time it would through the new press. Some members of the committee, I believe, differed with me on that. I do not know but that the Senator from New Hampshire thought it would pass through the new press in less time than through the old press. I thought it took about the same time.

There is another fact, that two hands are employed upon the old press, and three hands are employed upon the new press; and there is but one experienced workman employed on either of the presses. To the amount of labor expended in actually printing a thousand sheets on the old press must be added the amount of labor expended in wetting the sheets, in drying them, and in trimming them, so that about the same amount of labor probably is actually expended in getting at a thousand sheets of currency on one press as on the other.

My own judgment is that the experiment is not complete. The Senator from Vermont says that a vast amount of money has been expended. It is true; but though I profess to have no sort of intimate acquaintance with mechanics of any kind, it seems to me so manifest that a press which will keep one hand employed all the time in inking, must, when made to work perfectly, print more economically than a press which requires the same man who puts on the ink to run the plates through the press, that in consideration of the large amount of money we have already expended, I think it is not judicious to prohibit the Secretary of the Treasury from making further experiments in the same direction. Therefore I acquiesced with my colleagues on the sub-committee and on the Finance Committee in the propriety of striking out this proviso.

Mr. HENDERSON. I do not know that it is necessary for me to say anything, but I was one of the committee who visited the Treasury Department in order to examine these two modes of printing; and my impression is that our examination was hardly sufficient to enable us to pass an opinion that the Senate can rely upon in reference to these two modes of printing. The hydrostatic system of printing has been adopted there, as I understand, for the purpose of giving us a bill that cannot be photographed or counterfeited. How far that has been accomplished by this system of printing, I am unable to say; I really cannot tell. I cannot say that the one cannot be as easily counterfeited as the other. There is this thing most assuredly about it, that the machinery necessary for the hydrostatic printing costs eight, ten, fifteen, or twenty times as much as the machinery necessary for the other printing.

I differ with my friend, the Senator from New Hampshire, about the rapidity of this printing. Although I am not prepared to say that the hydrostatic printing ought to be rejected, I cannot say that it is as rapid a mode of printing as the

other. I examined the books in the Department. I ran over the books showing the rapidity of work for a great many days. The hydrostatic or dry system of printing and the wet system of printing are kept in separate rooms; the books are kept separately and distinctly. I examined them, and my understanding is that they average about eight or nine hundred sheets per day upon the old presses, and about five, six, and seven hundred upon the hydrostatic presses; not exceeding that. I am not prepared to say that I would condemn them as being less economical on that account, because there are other things to be taken into consideration which have been alluded to by the Senator. It takes three persons to run one of these hydrostatic presses and to produce an impression, and yet those three persons cannot produce as many impressions during the day as the old wet press. I am perfectly satisfied of that.

I have no prejudices against the hydrostatic printing; I intend to support this amendment; I am not prepared to say either that further experiments ought not to be made in this thing; but I am prepared to say that a vast amount of money has been expended in the Treasury without any compensating benefits that I can see so far. They may be there, and something may be produced in the future that will triumph over many of the difficulties that I see in that Department now. I am not prepared to say that when this distinctive paper—a matter that I did not attempt to look into—shall have been produced in the Treasury Department, a system of printing may not be adopted upon these hydrostatic presses that will prevent counterfeiting in all future time. That would certainly be a very great item to be taken into consideration in the examination of a question of this sort.

Mr. COLLAMER. I will ask the Senator whether, when we have that sort of paper, we have not the same security in either form of printing.

Mr. HENDERSON. That is one of the points that Mr. Clark urged upon us when we were examining this subject; but really I am not prepared to say that the distinctive paper may not be printed upon either press.

Mr. CLARK. Undoubtedly.

Mr. HENDERSON. I know it can be; but I was about to remark, I am not prepared to say it can be printed upon either press and yet avoid counterfeiting. In the hydrostatic system of printing the object to be attained is simply this: to procure power enough to force the ink into dry paper. In the other system the paper is made moist. It does not require much force to put the ink in the paper in this moist condition. It is forced into it with much less trouble. I am not sufficiently acquainted with matters of this sort to pass any judgment as to the superiority of one or the other of the systems. The press that will turn off nine hundred sheets a day, that is the old press, or the wet system of printing with the paper moistened, costs \$125; the hydrostatic press will cost \$1,100. It has to be made very strong, because the water pressure that is thrown upon the machinery is estimated, I believe, at forty tons. I will ask the Senator from New Hampshire if that is not so.

Mr. CLARK. Yes, sir.

Mr. HENDERSON. You can put, of course, any weight you desire upon it. There is no trouble about obtaining any amount of force that you wish to apply; it can be easily obtained. But whether this ink can be forced into the dry paper so as to make it stay there is a question that I really did have some doubts about. I know that Mr. Clark, who is the superintendent of this Department, insists that there is no doubt about it at all, and I know it is the belief of both the distinguished gentlemen who have recently been at the head of the Treasury Department that it is a success, and therefore I am not prepared, from the examination I have made, to say that it should be entirely discarded.

But, sir, while I am up I desire to say a word or two in reference to a matter that I do really have a very great deal to complain of. It seems that these gentlemen, Mr. Clark and Mr. Gwynne, have been making these experiments in the Treasury Department. Perhaps the experiments were all necessary. I do not know what may be accomplished by them. Perhaps we may arrive at a perfection in the system of printing by these

experiments that nobody else would find out, and if so, the Government would save a great deal of money. The Senate can judge of that just as well as I can; and they would not be any wiser after they had gone there and examined it. The hydrostatic system is the most expensive one in the machinery; and I do not see, taking everything into consideration, that there is a great deal of difference in the handling of the paper after the impressions are produced, or in the production of the impressions. As the Senator from New Hampshire very properly says, in the wet system you have got to dry the paper twice, and then it has to be again pressed, in order to straighten it out, and then you have to trim it; but the Senator forgets one thing that he might have mentioned; and that is, that in the hydrostatic system of printing the paper has to be trimmed also. It is trimmed before it is printed, and not afterward.

Mr. CLARK. It is trimmed by machinery.

Mr. HENDERSON. Both of them can be trimmed by machinery, and both of them were trimmed by machinery. There is no doubt of that.

I was going to remark that there have been expended in the Treasury at least \$300,000 in that machinery. How far a large portion of it may have been necessary under any given state of circumstances I cannot say; but one thing is certain, that these parties, after experimenting with the Government money, have gone and taken out patents in the Patent Office for four of these machines, or for four improvements.

Mr. SHERMAN. The Senator will remember, and it is due to these men to say, that they have never presented any claim to the United States for this patent; that they themselves propose to surrender any such claim. Indeed, this amendment provides that they shall surrender any such claim. If other parties outside of the Government of the United States desire to use this machinery, they claim the patent right.

Mr. HENDERSON. Then we take the benefit of it so far as we are concerned; but, as the Senator from Iowa very properly said, whenever machinery fails there and is cast aside, whose loss is it? The Government loses it. These parties have gone on and they have tried machine after machine, and whenever a machine fails the loss falls upon the Government. I object to the *modus operandi* of getting up this machinery and of experimenting. A large sum of money has been expended in that way. Whether the benefits already derived, or hereafter to be derived, are sufficient to compensate the Government for this loss, is another question. The Senate can judge of that just as well as I can. But I wish merely to state that these patents have been obtained, and although the amendment—

Mr. GRIMES. Who owns these patents?

Mr. HENDERSON. They do; Stewart Gwynne and Clark. Some of them are owned by them jointly, and others are owned by either the one or the other. I think one is taken out in Clark's name, one in Clark & Gwynne's name, and the other perhaps in Gwynne's name alone. I know it is said by Senators that if this amendment be adopted the Government will have the use of this machinery. I admit that fact; but do not these parties hold that machinery against all other parties in the world except the Government of the United States?

Mr. WILSON. What objection is there to that?

Mr. HENDERSON. Why, sir, if the Government of the United States would furnish me \$300,000 to experiment upon and give me the benefit of those experiments, I could make any amount of money out of it; and so could any other mechanic. There is not a mechanic in the country that would not take up such an offer from the Government. There is no doubt that if you would furnish any man with \$300,000 to make experiments, and let him experiment for four or five years, and then allow him to patent the machinery after it has been perfected and matured, leaving the Government to lose all the machinery that has been defective, he certainly could do well out of it. That is a very serious objection, and Senators will see it at a glance.

While I am upon this subject I desire to make a remark upon another branch of it, because I do not wish to trouble the Senate any more about it.

One of the members of the sub-committee, who examined this printing with me, has remarked that he saw nothing whatever in the examination to show otherwise than that there was perfect security in the production of these sheets. The Senator remarked, also, that at any paper store in town the paper might be purchased upon which this money is printed.

Mr. CLARK. I said at Philp & Solomon's.

Mr. HENDERSON. Well, at Philp & Solomon's, or at any other paper store. I think, from my examination, that one of the greatest advantages to be derived from the experiments that have been carried on in the Treasury Department will be in the production of a distinctive paper. If that distinctive paper can be produced, it will be worth all the experiments that have been made. There is no doubt about that. I do not know whether they will be able to secure it or not. I care not what the printing may be in the future; whether it be the dry printing or the moist printing, it is certainly desirable that a distinctive paper should be produced; and I, for one, would be willing to see money appropriated for the purpose of producing that paper.

But, Mr. President, I am not so well satisfied upon another subject that has been alluded to, and that is, the perfect security of the Government in the printing of these notes and bonds. So far as my examination went, I saw nothing in the manner in which this department is being conducted to show any design whatever on the part of Mr. Clark to do otherwise than what was right; I saw no disposition manifested on his part that would indicate that he desired in any manner whatever to take any advantage of the Government; but I supposed the Senators who were with me in that examination came to this conclusion, that if Mr. Clark so desired, serious loss could be entailed upon the Government through his management there. When the paper upon which all our bonds and notes are printed is brought into the Treasury Department, it first goes into the hands of Mr. Clark. It is true that recently some sort of a check has been devised in having a paper department; but, as I understand, all this paper first falls into Mr. Clark's hands, and the paper department never gets the control of the paper, except through his hands. It first goes to him, and it is turned over by him to this paper department, and the paper department turns it back again to him upon his order. I know the Secretary of the Treasury has provided that a mark be put upon the paper before it is delivered to Mr. Clark; but the Senator from New Hampshire will bear me witness that Mr. Clark himself said that he did not regard the mark upon it as any protection whatever against wrong, and the gentleman who has charge of the paper department admitted that there was no sufficient protection of the Government, and that he was attempting to perfect the system so as to have a complete check upon it. The very mark that is put upon the paper in this paper department is taken off the paper before it is printed, or at the time it is printed, and it is cut off before the notes go out; so that there is no mark left upon it at all.

I must say, from my examination into this matter—although I saw no evidence of a disposition on the part of anybody to defraud the Government; although I saw in every department there an earnest desire apparently, and especially so on the part of Mr. Clark himself, to give us all the information we could possibly desire and that might be necessary to a correct understanding of this whole subject—that that department is not properly conducted; that there ought to be checks there that do not exist there; that another system ought to be adopted.

I examined the books in the different departments of this business. Most of the books are kept by ladies. I suppose they are not experienced book-keepers. I doubt whether any examination has ever been made of the books by the heads of the different departments; and I doubt whether there is to-day a single book-keeper that knows anything about the other books of the office. I have never seen any report here; but I doubt exceedingly whether, upon a correct examination of those books from the beginning of this immense work of printing the notes and bonds of the Government in that establishment, they would perfectly compare.

I had no time to examine into this thing; in fact it would take many days to do it; and I was not sent there for that purpose, but for the other purpose of examining merely, as I understood, into the two different modes of printing, and whether it was justifiable on the part of the Secretary to continue these experiments in printing. I turned my attention mostly to that. The other matters came up incidentally, and I mention them incidentally here. I think there ought to be some legislation on the part of Congress in reference to this subject.

Much has been said in the country against Mr. Clark. I saw nothing prejudicial to him in my examination; but I desire to state here, and I will state it while upon the subject, that Mr. Clark has almost entire and perfect control of all the vast machinery of printing these notes and bonds for the Government. He is the soul of the whole thing. His word is law in the whole department.

Mr. HOWE. Oh, no.

Mr. HENDERSON. In this department of printing. I apprehend that if Mr. Clark were to ask that forty or fifty sheets of money be printed upon either system, or forty or fifty bonds be printed and turned over to him, there is not an employe in that department that would object to it, or that could object to it. I understand from clerks of that department that such has been the case; that he has asked these things to be done; and it is necessary at times that they should be done. I do not mention the fact for the purpose of creating any suspicion against Mr. Clark. I desire to do no such thing. I understand that two thousand five hundred millions of money have been printed upon these presses, and I say that no one man ought to have entire control of a department of this character. I know there are checks; but what checks are there? They are such checks as Mr. Clark himself has established. I do not understand that the Secretary of the Treasury has ever prescribed a single check over him. If so, where is it? Where did you find it? As I understood from Mr. Clark himself, he said that this paper check was all nonsense; that it was no check upon him. He said, "I can go to Philp & Solomon's and buy as much paper as I desire to purchase, and come back here and have it printed by corrupting three or four different individuals in this department." He is perfectly frank on that subject. I say this vast power ought not to be intrusted to one, two, three, or four different individuals; but there ought to be a system of checks provided, not by Mr. Clark, but by the Secretary of the Treasury, over this whole matter. It is a subject of exceeding importance to the nation, in my judgment. I merely allude to it now, from the little examination I have made, in order that the Senate may, at the proper time, take the subject into consideration.

Mr. HENDRICKS obtained the floor.

Mr. CLARK. I do not desire to protract this debate, but I cannot permit the statement of the Senator from Missouri to go out unchallenged.

The PRESIDING OFFICER. The Senator from Indiana was recognized by the Chair.

Mr. HENDRICKS. If the Senator wants to speak now, I have no objection to giving way. I merely wanted to move that the Senate take a recess until half past seven o'clock. ["Oh, no."] This bill, I suppose, ought to be finished to-night, and we cannot do it unless we have an evening session. ["Oh, no."] I withdraw the motion; I see Senators do not desire it.

Mr. CLARK. I could not but feel, as the Senator from Missouri was making his remarks, although I have no doubt he intended them to be fair and to convey his impressions rightfully to the Senate, that he was giving a very wrong impression in some particulars in regard to the method and manner and the security of printing this paper money; and I hope the Senate will bear with me for a few minutes while I give them somewhat in detail the method in which this paper money is printed.

It is true that the invoice of the paper which comes from abroad is made to Mr. Clark, or it comes into his possession. Then it goes from him to the counting or paper clerk, as he is called. He makes an examination of all the paper, and he stamps every sheet with these words, "Treasury Department;" and he stamps every sheet in such a way that if you are printing two bonds upon one sheet, upon each of these bonds will be

this stamp of "Treasury Department." He takes an account of it, and has it in his department; and that paper clerk is not under the control of Mr. Clark. When Mr. Clark makes a requisition upon the paper clerk for paper, he answers the requisition, delivers him the paper, and charges it to him upon his books; and those books in that department, as I said before, are not under the control of Mr. Clark; and the paper clerk can tell at any time how much paper he has delivered to him stamped in this way.

Then it goes from the paper clerk to the counting clerk; and the counting clerk is under the direction and control of Mr. Clark. She takes the paper and has it counted twice by two individuals. If they are found to agree, she enters upon the book the amount that she got from the paper clerk. If they are not found to agree, she at once notifies the paper clerk of the discrepancy there is in the paper, and the account is ascertained and made right.

Then the counting clerk delivers it to the next person who has to handle it; and that is the man who bronzes it, or puts on the bronze figures. The man requiring the paper to bronze makes a requisition on the counting clerk for so many sheets, say a thousand sheets. She counts it out to him, and charges it to him. He takes it, and goes into his department, and there he counts it to see if it is right. If it is right, he enters upon his book that he has received so many sheets from the counting clerk. If it is not right, he then notifies the accounting clerk that it is not right, and that mistake is corrected. The bronzer then puts the paper through his bronzing machine, and when it is all bronzed it is counted again by the man bronzing it. If he finds he has exactly the number of sheets charged to him in the morning for bronzing, he takes it back to the counting clerk and delivers the paper over to her, and then he is credited with so much paper. That makes his account correct. There, in the simple process of getting the paper from the paper clerk and delivering it to the bronzer and carrying it back, it has been counted four times.

Then after it goes back to the counting clerk, and is needed to be delivered to some other person for some other operation, say to the man who is going to make the first impression; so many sheets are counted out to him, and charged to him. He does his work, and finding it right, carries it back, and his account is correct. So it is with every operation until the whole work is perfected, and the last work to be done is to put on the seal. It then comes back to the counting clerk; is there again counted; is delivered to the sealing clerk, and then brought back and counted again.

In this operation sheets are destroyed sometimes. For instance, a sheet will be torn, and it is necessary to replace it. How is it done? Say a thousand sheets are counted out, and given to a clerk who has it in charge distinct from the counting clerk, which are put in packages by themselves. When a sheet is wanted for the purpose of duplicating one which has been destroyed one is taken out from the package, and this destroyed or imperfect sheet is put right in its place, so that when every one of these sheets is used in this way, you have a thousand imperfect sheets in their place brought in.

I do not undertake to say that this operation cannot be made more secure. I think it very likely it can; because I think it can be improved, as everything else can; but I think the statement of the Senator from Missouri was calculated to convey a wrong impression. It certainly conveyed a different impression from what I got. It undoubtedly conveyed faithfully the impression the Senator got.

But that is not precisely the point. The point is, whether these experiments should be continued further; because this objection as to insecurity applies to the printing of the paper, wet as well as dry; it applies to the whole system of printing in the Treasury Department, and involves the important question of the work being done there or in New York. I desire to state one thing to illustrate this method of printing in the Treasury Department or printing in New York.

The engraver takes a piece of steel plate, and he engraves upon it the precise bill that he wants, upon softened steel. Then that plate is hardened, made as hard as the workman can make it. Then there is a hard piece of steel, what they call a

roller, laid upon one end, and a pressure brought upon it, and it is rolled over this plate; so that that roller takes the impression from the plate upon the roller itself, that roller being softened. Then after it is upon the roller, the roller is hardened, so as to be made as hard as the workman can make it, and from that roller, rolled upon plates one after another, you can get as many impressions of that plate, almost, as you please. Now, some of these engravings were made in New York, and some of those rollers were made in New York, and a controversy arose between the Secretary of the Treasury and the engravers in New York, who should have these rolls to keep, and have charge of them. The bank-note companies refused to let him have them; and they have got these rolls today, and can take as many impressions as they choose. You rely upon their honesty, and I dare say they may be perfectly honest people. I only mention it to show that these rollers are out of the control of the Government; whereas if your work is done here the rollers are all kept here, and they are kept under the direction of men beyond the control of Mr. Clark. I mention this to show the necessity of this work being under the control of the Government.

Mr. CONNESS obtained the floor.

Mr. HENDERSON. I desire to make one remark, if the Senator pleases, while this subject is fresh in my mind.

Mr. CONNESS. I yield.

Mr. HENDERSON. The Senator from New Hampshire certainly misunderstood me if he understood me to cast any reflection upon any officer in the Department.

Mr. CLARK. I did not understand the Senator so, and did not mean to say so. What I did say was that his remarks were calculated to give a wrong impression about the security there might be there.

Mr. HENDERSON. If there is a want of security in the Treasury Department in printing this paper the sooner the Senate knows it the better. I say there is a want of security in it. I undertake to say that if Mr. Clark were a dishonest man he could take out of the Treasury Department every evening twenty-five, fifty, or one hundred thousand dollars in bonds or anything of that sort that he desired. I say that that can be done.

The Senator says he can get no paper unless it is stamped. What sort of a stamp is that? Why, sir, I would not have observed it hardly if the gentleman who is at the head of the paper department had not called my attention to it. It is a very small stamp just on the margin of the sheet. In making the impression it does not reach the stamp, and in trimming the sheets afterward, the stamp is always cut off. You cannot see that stamp upon a bond or upon a Treasury note. This old paper clerk never sees it after it leaves him, and whether he has any settlement or not I do not know. I think he said he never had any settlement. I asked Mr. Clark himself, (and I believe the Senator was present at the time,) "Is that any check upon you?" He replied, "I can put that stamp upon a thousand sheets in the course of a few hours; I can go and make a stamp, and put it on the sheets as fast as I choose." I had that from Mr. Clark himself, and I think it was stated in the presence of the Senator from New Hampshire. Any mechanic could make such a stamp; and I look upon Mr. Clark as one of the finest mechanics in the country, perhaps superior to any I have ever seen. There is no difficulty in making a stamp to compare with this stamp, and to make a similar impression with this stamp. Even if it were not so, it is subsequently cut off or taken off, and it affords no check at all.

The Senator talks about this paper clerk being a check. Where is he a check? I asked Mr. Clark himself, "Do you receive the paper first from the paper makers? Is it shipped to you, or is it shipped to the paper clerk?" He told me it was shipped to him and not to the clerk; that he turned it over himself to the clerk. Is he bound to turn it all over? May he not keep fifty thousand sheets back? He can go and buy it. This is what I complained of. I say if he were a dishonest man, and I do not pretend to say he is, he could abstract as much paper and as many bonds as he chose.

The Senator says this paper is counted by different individuals. Does not the Senator know

that in making these impressions there are hundreds and hundreds of sheets that are returned in a damaged condition?

Mr. CLARK. Not that many.

Mr. HENDERSON. Well, say six or seven sheets with one workman during the day. They are working a great many wet presses there; some one hundred and fifty or two hundred I suppose; and they are working a large number of hydrostatic presses. A great number of those impressions are badly made. Take the case of a newspaper. It is not every impression that is a good one. Those upon which bad impressions are made are cast aside. If a workman during the day loses eight or ten out of his nine hundred, he only accounts for the good impressions. Now I ask, may not a workman return at night eight or nine bad impressions of \$1,000 bonds?

Mr. HOWE. My friend will allow me to ask him if each one of those workmen who takes possession of any portion of this paper does not account for each sheet of the paper?

Mr. HENDERSON. If the Senator will wait a moment I will explain that.

Mr. CONNESS. I yielded to the Senator from Missouri because I did not think he would occupy a great deal of time; but if he is going to discuss the question at length I must claim the floor.

Mr. HENDERSON. I am not going to discuss it at length. If the Senator had not interrupted me he would have seen what I was driving at. I know the workmen have to account for the bad sheets; they have to return them; but I say that Mr. Clark may put into the hands of one single workman, if he chooses to do it, and get forty \$1,000 notes printed, on paper that never went into the paper clerk's hands at all.

Mr. HOWE. How so?

Mr. HENDERSON. The Senator will see in an instant. It would only be necessary for him to corrupt one man. He has only to corrupt one single individual in the Department; because there is not a sufficient check on the paper department.

Mr. HOWE. I cannot assent to that proposition.

Mr. GRIMES. Who appoints them?

Mr. HENDERSON. I do not know who appoints them.

Mr. JOHNSON. I submit to my friend from Missouri whether upon the question immediately before the Senate the topics to which he is referring are pertinent.

Mr. HENDERSON. I am aware that this is out of order; but I desire to say a word or two in answer to the statement of my friend from New Hampshire, that I was mistaken on this subject. It is a matter of importance; and while this subject is up, I think there is nothing improper in referring to a matter of such vast importance in order that the proper legislation may be had to provide checks that I do not perceive to be at present in that Department.

Mr. CONNESS. When the question now before the Senate—whether the proposition of the House of Representatives discontinuing these experiments in paper should be stricken out and we should insert in lieu thereof an authority to the Secretary of the Treasury to ascertain how much is due to the parties connected with furnishing these machines spoken of, and that it may be paid—was before the Finance Committee, they examined it with all the care that could possibly be applied to it. In order that it might be examined with relation to the exact quality and kind of printing, a sub-committee was appointed, consisting of the Senators who have addressed the Senate to-day. With due respect to these Senators, with great deference to their judgment, and for the examination they have made, I submit that it has not been so thorough, nor complete, as in my opinion to authorize the expression of a definite opinion now; I mean as to the amount of checks necessary to be imposed, and as to the manner in which the printing is carried on. As I understand, that sub-committee expects to continue their investigations and complete their researches, and then it will be for them to suggest what additional safeguards and checks may be adopted in connection with this printing, which is of so much importance.

But the question now directly before us has been passed upon by the Finance Committee, examined with all the care that they could apply to it, and I cannot see, upon a question of this kind,



that the Senate can do better than to accept the recommendation that that committee have made. They have certainly been guided by the greatest regard for the public interests. I hope, sir, that we shall come to a vote upon the proposition as it is before the Senate, so that we may get through with the bill which the Senator from Ohio now has before us. We have all got business waiting, important to us, but we cannot get at it until we are relieved from the pressure, worse than a hydrostatic pressure, from the Senator from Ohio, the chairman of the Committee on Finance.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. Let us vote on this amendment. We are all ready now.

Mr. GRIMES. No, we are not.

Mr. WILSON. I insist on my motion.

Mr. CONNESS. I do not wish to discuss now a matter that is irrelevant. When I said we were ready to vote the Senator from Iowa said, "No, we are not." I listen with great attention to the Senator from Iowa when he discusses naval affairs, and when he goes into the minutiae of the subject, and feel that I am instructed when he speaks; but I hope he will not continue the discussion of this proposition, and prevent us from voting on the subject. I hope we shall get a vote.

#### EXECUTIVE SESSION.

The motion of Mr. WILSON was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, February 9, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Mr. GRAY.

The Journal of yesterday was read and approved.

#### LEAVE OF ABSENCE.

Mr. J. C. ALLEN. I ask indefinite leave of absence for my colleague, Mr. ROBINSON, who has been called away from his seat by indisposition in his family.

There being no objection, leave was granted.

#### CORRECTION OF THE JOURNAL.

Mr. PRUYN. I desire to make an inquiry in regard to the minutes. I wish to know in what manner the proceedings of the joint convention of the two Houses yesterday have been brought upon the Journal of this House.

The SPEAKER. In pursuance of the law which provides that the proceedings of the joint convention shall be spread upon the Journals of both Houses.

Mr. PRUYN. I did not hear that part of the Journal read, and I want to know in what manner those proceedings are introduced. Is it on the report of the Speaker as to what took place?

The SPEAKER. The uniform usage, following, as the Chair understands, the provision of the law, is that such proceedings shall be placed upon the Journals of both Houses; and of course that is done in each House under the direction of the Journal Clerk, who is responsible for the Journal.

Mr. PRUYN. The parliamentary method of stating the matter, according to the practice in other legislative bodies, would be that the Senate had met the House in joint convention, and that, when the House resumed its session, the Speaker reported that the joint convention had transacted certain business, stating that business. I do not know how the proceedings of yesterday are introduced in our Journal. I was not here when the Clerk read that portion of the Journal.

The SPEAKER. The Chair will examine the matter during the day, referring to the law or rule on the subject.

Mr. PRUYN. I think that this is a question of parliamentary practice, in regard to which our Journal should be right if it is wrong.

The SPEAKER. The present understanding of the Chair is that the rule or law makes it imperative that the proceedings shall be placed upon the Journals of both Houses.

Mr. PRUYN. I think that the practice has been in other cases that, when the House has resumed its session, the Speaker has reported what has taken place in the joint meeting.

The SPEAKER. The gentleman is mistaken so far as the practice of this House is concerned. The present occupant of the chair has been present on two previous occasions when the presidential vote was counted, and the form of proceeding has been in this respect the same as that read from the Journal to-day.

Mr. PRUYN. In what way do the proceedings get upon our Journal?

The SPEAKER. They are placed there by the Journal Clerk.

Mr. PRUYN. Let the Clerk read that portion of the Journal which introduces the proceedings of the joint convention.

The Clerk read, as follows:

"The Senate attended in the Hall of the House.

"The President of the Senate took the Speaker's chair, as the Presiding Officer, in pursuance of the joint rule of the two Houses, the Speaker being seated on his left, and the Senators having taken the seats provided for them.

"The President of the Senate then proceeded, in the presence of the two Houses of Congress, to open the certificates of the electors of the several States," &c.

Mr. PRUYN. That is clearly not parliamentary. I refer to it as a matter of parliamentary practice. Our Journal Clerk undertakes to say what was done in the joint convention of the two Houses. That should be an announcement from the Speaker to the House when the House resumes its session.

The SPEAKER. That would be at variance with the practice heretofore followed upon the Journals of the House on such occasions. The Chair does not feel at liberty to order the change proposed, but he will entertain a motion for the correction of the Journal.

Mr. PRUYN. It is only a question of parliamentary practice, as to the manner in which we get these proceedings upon our Journal. I do not see how our Clerk can put them there, as he has done.

The SPEAKER. The joint rules for the guidance of both Houses require that the Vice President shall take the chair, and that the Clerks of the two Houses shall, with the tellers, take seats in front.

Mr. PRUYN. Those proceedings are not our proceedings; they are the proceedings of the joint convention of the two Houses.

The SPEAKER. The Journal has been made up in strict accordance with the usage.

#### ORDER OF BUSINESS.

Mr. KASSON. I ask to take up and concur in an amendment of the Senate to a House bill.

Mr. WASHBURN, of Illinois. Mr. Speaker, I do not object if the morning hour has not commenced.

The SPEAKER. The order of the House yesterday looked to the fact that there should be a morning hour, and when the regular order shall be demanded the morning hour will commence, and not before.

Mr. WASHBURN, of Illinois. My purpose will be subverted, then, by demanding the regular order of business when I want the morning hour to commence?

The SPEAKER. By the order of the House, making a morning hour imperative, conference reports and other privileged questions will have to come in after the morning hour. The intention was that there should be a morning hour.

Mr. WASHBURN, of Illinois. That, undoubtedly, was my understanding. The morning hour has not yet commenced?

The SPEAKER. It has not.

#### ACTING ASSISTANT TREASURERS, ETC.

Mr. KASSON, by unanimous consent, moved to take up House bill No. 689, to provide for Acting Assistant Treasurers or depositaries of the United States in certain cases.

The motion was agreed to.

The amendment of the Senate was to insert the words, "with the approval of the Secretary of the Treasury."

Mr. KASSON moved to concur in the amendment.

The amendment was concurred in.

Mr. KASSON moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MAJOR DAVID H. HASTINGS.

The SPEAKER laid before the House a letter from the Secretary of War transmitting, in compliance with a resolution of the House, the record of the late trial by court-martial of Major David H. Hastings.

Mr. DAWES. I move that it be laid upon the table and ordered to be printed.

Mr. BROOKS. What is the case, that we should have all that mass of papers printed?

The SPEAKER. It is the case that has been referred to so frequently in debate upon the floor.

Mr. DAWES. The importance of the case demands that these papers should be printed in order that the people may see them.

Mr. COX. Is all of that large bundle to be printed?

The SPEAKER. The motion to lay on the table is not debatable.

Mr. COX. Does not the motion to print go to the Committee on Printing?

The SPEAKER. It does not; only motions to print extra copies go to that committee.

Mr. COX. Is the motion divisible?

The SPEAKER. It is.

Mr. COX. Then I ask that it be divided.

Mr. DAWES. On the question of printing, allow me to say that, although those documents are voluminous, it is a precedent to the country. I want to know whether a man who stands convicted of twenty-six forgeries is only to be suspended for a term from rank and pay.

The SPEAKER. The motion to lay on the table is not debatable.

Mr. DAWES. I withdraw that motion; and I desire to say one word in support of the motion to print. At the end of six months this man goes back into the Army, with the record in the War Department that he has been convicted by court-martial of twenty-six forgeries and the embezzlement of \$26,000. Such is the record. Now, he may have been improperly convicted; the evidence may not have sustained the conviction. I know nothing at all about it; but he is either guilty or he is not guilty. If he is not guilty of those charges, it seems to me the War Department ought to have set aside the verdict, and ordered him to be tried again, rather than have permitted the conviction to remain, and alter the sentence to the miserable adjudication that the amount of penalty which is to be affixed upon forgery and embezzlement in this country is only a suspension of pay and rank for six calendar months.

I understand from the proceedings on the trial that not only was this man convicted on these charges, but that he hired witnesses to absent themselves; that the witnesses testified upon the stand to his giving them three and five thousand dollars, and other sums, to absent themselves in Canada, out of reach of process. This case may be all wrong, and he may have been convicted upon insufficient or unreliable testimony; but if that is so I want to know why the verdict was not set aside; why the War Department did not say that he was improperly convicted. But while the judgment stands in this way, with the finding of guilty approved, with the penalty affixed to it, it appears that the judgment of the War Department is that a sufficient penalty for these enormous crimes is simply a suspension of rank and pay for six calendar months.

It is a matter of money-making on his part; he goes off with the \$26,000 in his pocket, not being required to restore it, for such is the finding and such the record left in the War Department. Now, as I have already said, I know not whether justly or unjustly, he stands convicted, but the War Department seemed to be dissatisfied that the court which convicted him should sentence him to a penalty which seems to me to be a proper one for so enormous a crime. The sentence of the court-martial was that he should pay a fine of \$5,000, be confined two years, should restore the \$26,000 that he had embezzled, and should continue in confinement until he had paid the fine and restored the \$26,000, if the confinement did not exceed five years. That seems to me a punishment in some measure adequate, but the War Department, without setting aside the verdict of guilty, set aside the sentence attached to that verdict of guilty, and substituted this paltry sentence of suspension of pay and reduction of rank for six calendar months. He goes back into the

Army with his associates, as one of them, with this brand of forgery and embezzlement upon him, and yet only forfeits his pay and rank.

Mr. GANSON. I would inquire of the gentleman what he expects to accomplish, beyond allowing us to read the papers.

Mr. DAWES. I intend to get this matter printed, so that we can see what peculiar reason there was for the War Department attaching such a penalty for such a crime. The proceedings of the court-martial presented to me were accompanied by the proceedings of a court-martial upon a poor soldier who, being drunk, happened to insult an officer, and he was sent for five years to the Dry Tortugas; and yet nobody in the War Department ever thought that too heavy a penalty upon the poor soldier. But when a horse inspector, or something of that kind, plunders the United States by vouchers forged by him, or by others used by him, and knowing them to be forged, he is only worthy, in the opinion of the War Department, of six months' suspension of pay and rank, at the expiration of which period he goes back whitewashed into the Army.

Mr. COX. I desire to say to the gentleman from Massachusetts that, when I made objection to printing this document, I did not know that it related to the case referred to by the gentleman the other day. I will not object to printing the document, although the bundle appears to be large. The case calls for publicity, and the only way of correcting these enormous outrages is to expose them to the people. If this case be as is stated by the gentleman from Massachusetts, it ought to be spread before the country broadcast, in order to correct by public opinion the action of the War Department.

Mr. GANSON. I would suggest to the gentleman that the best way would be to call the head of the Department upon the floor, and interrogate him as to what has been done.

Mr. COX. I do not want him to be called into this House. That remark is entirely out of this case.

Mr. DAWES. When the case is printed I desire to have it go before the country, that they may pass judgment upon the remarkable state of things which the record discloses.

The SPEAKER. Perhaps it is just to the Department that the concluding report of the Judge Advocate General should be read.

The Clerk read, as follows:

It is recommended that the findings and sentence be disapproved.

J. HOLT,  
Judge Advocate General.

Mr. BROOKS. I suggest that the whole document ought to be read if any part of it is read.

The SPEAKER. Does the gentleman demand the reading of it?

Mr. BROOKS. I do not.

The SPEAKER. The gentleman has a right to demand the reading of the entire document on the motion to print.

Mr. DAWES. I have the official record here, signed by E. D. Townsend, in which the only thing set aside is the sentence. The verdict of "guilty" stands recorded to-day. I should like to have a letter which my friend from Pennsylvania before me [Mr. THAYER] has, from the judge advocate who conducted the trial, read at the desk, if any part of the record is read. I call the previous question on the motion to print.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to print was agreed to.

Mr. DAWES moved to reconsider the vote by which the communication was ordered to be printed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, informed the House that the Senate, in the absence of the Vice President, had elected Hon. DANIEL CLARK, of New Hampshire, President *pro tempore* of the Senate.

#### SALE OF MINERAL LANDS.

Mr. JULIAN. I call for the regular order of business.

The SPEAKER. The regular order of business during the morning hour, which now commences, is the call of committees for reports, commencing with the Committee on Public Lands.

Mr. JULIAN, from the Committee on Public Lands, reported back bill of the House No. 730, to provide for the subdivision and sale of the gold and silver lands of the United States, and others containing valuable minerals, for the coining of the products of such lands, and for other purposes.

Mr. WASHBURN, of Illinois. I wish to have the bill read. It is a bill upon a very important subject, which I have not been able to examine, and one in which I take a great deal of interest.

Mr. JULIAN. The bill is not reported for action now.

Mr. WASHBURN, of Illinois. Then I will not insist on the reading.

The SPEAKER. The time consumed by the reading would not come out of the time of the gentleman from Indiana, but it would come out of the morning hour, and the morning hour would expire before the conclusion of the gentleman's hour.

Mr. WASHBURN, of Illinois. If the gentleman from Indiana does not desire to consider the bill now, of course I will not take up the time of the House by having it read.

Mr. JULIAN. Mr. Speaker, the policy of the Government in dealing with the vast mineral resources of the nation is a subject of the highest moment to the people, and invokes the early and earnest attention of Congress. No one can overstate its magnitude, considered in relation to the actual facts of our condition to-day. In seasons of prosperity and peace our country can endure much mal-administration and very serious financial mistakes; but these are not to be hazarded in this crisis of her history. We are compassed about with perils and pressing necessities, and must husband both our wisdom and our resources, if we hope to save the Republic.

The measure I have had the honor to report from the Committee on Public Lands proposes a radical and entire change in the present policy of the Government respecting its lands containing the precious metals. It provides for vesting the fee in individual proprietors by public and private sale, instead of retaining the title in the Government and treating their occupants as tenants at will. It contemplates their survey and subdivision into small tracts, and fixes a minimum price upon them, graded according to size, locality, and mineral value. It prohibits combinations among bidders at the public sales, and the purchase of any lands by foreigners, except those who shall have declared their intention to become citizens. It provides that actual discoverers and workers of mining localities shall have the right to purchase them at the minimum price, and thus relieve themselves from the disadvantage of competing with rich capitalists. It limits the quantity of mineral land which any single purchaser may buy to forty acres. It requires that the gold and silver extracted shall be coined in the mints of the United States, empowers the President to lay off the mining regions into suitable coining districts, and compels miners to have their gold and silver coined in the districts in which they are found. It further provides that every purchaser shall first take the oath of loyalty to the United States prescribed by law, and that the net proceeds of the sales of these lands shall be dedicated and applied to the payment of the principal and interest of the bonds of the United States. This is a brief outline of the main features of the bill; and I propose, in entering upon its discussion, to refer to some preliminary considerations which fairly open the way.

That the present condition of our currency is an unsound one, is a proposition which no man will dispute. That the only safe basis for a financial medium of exchange is coin, may be affirmed as equally true. It is needless to deny this fact or dispute about its philosophy. The civilized world has so adjudged. The question may fairly be accepted as a settled one, that gold and silver constitute the true medium of exchange and the permanent standard of value. No financial policy therefore can be trusted which does not contemplate a return to specie payments as soon as practicable. This is the opinion of Mr. McCulloch, the able Comptroller of our national banks. He says, "it should be the object of all honorable bankers to expedite, as far as possible, rather than to postpone, a return to specie payments," and that "it must never be forgotten that the

business of the country rests upon an unsound basis, or rather is without a proper basis, as long as the Government and the banks are not meeting their obligations in coin." Our Government securities may be very current to-day, because they are sustained by popular confidence and the tide of fortune which seems to be sweeping away all obstacles to the triumph of the national cause. But this confidence may not be abiding. What we most of all need is such a policy as will sustain popular confidence, even under military failures and a prolonged war; and such a policy must embody the fundamental principle just stated.

But to this end, Mr. Speaker, the quantity of the precious metals must be increased. The startling disproportion of gold and silver to other values, and to our commercial wants, must in some way be destroyed or greatly reduced. The property of the United States within the last ten years has increased about nine hundred million dollars per year. This increase is estimated to be more than two hundred times greater than the increase of coin during the same period. These are very suggestive and significant facts. The growth of our commerce and the issue of paper money and Government securities still further complicate our financial condition, and demand, as an absolute necessity, an increase of the quantity of gold and silver. If this is not provided for the price of coin will continue to advance, and by its effect upon Government stocks and prices generally must seriously cripple the prosecution of the war, and most injuriously affect the welfare of the whole country. Here is the real problem of our finances, if not also a problem involving the national life. That we are to crush the rebellion, and that speedily, few men can any longer doubt. Every passing day is demonstrating that our military power is amply adequate to the task it has in hand. Of the questions growing out of the war which yet remain to be settled, the grand one, and by far the most difficult of solution, is that of our finances. How can the further inflation of the currency be prevented, and a return to specie payments become possible, without increasing the quantity of specie? Even should the war be ended within the present year, and permanent peace be restored, the question I am presenting must continue a vital one, demanding the early and most earnest consideration of statesmen.

Perhaps it will be said that increased taxation can meet the financial difficulty. I agree that it may partially do so. If Congress, in the early stages of the war, had known *how to tax*, and had possessed the courage to impose such burdens upon the people as the national exigency demanded, our financial condition would have been incalculably better than we now find it. The price of gold would not have gone up as we have seen it. The great mass of the people, who are interested in stable and moderate prices, would not have been compelled to buy the necessities of life at the enormous and ruinous rates which have resulted from the inflation of the currency, unaccompanied by courageous efforts in the way of taxation to defray the expenses of the war as it progressed. The Government, in the purchase of its vast supplies for our grand armies, would have been able to do so at such reasonable rates as to have saved hundreds of millions of dollars, thus husbanding our resources, maintaining the national credit, and insuring the confidence of the people. A system of vigorous taxation, inaugurated early in the year 1862, before the derangement of the currency was made manifest, and steadily maintained since that time, would have saved to the country more than a million dollars per day, thus averting the frightful national debt which has accumulated, and is rapidly increasing through the failure of timely and adequate taxation.

But these legislative mistakes cannot be undone. We are compelled to deal with the present as the past has made it. Congress, within the last three years, has been learning the science of taxation. Our burdens, while they are by no means crushing, are heavy. Undoubtedly we shall be compelled to increase them in any event of the future; but no rate of taxation which any public man will dare propose, or which the people would endure, will help the country out of its financial crisis. Some policy which will secure to the Government a fresh and liberal supply of the precious

metals will be found absolutely necessary. If, therefore, there is anywhere an available source of revenue yet untouched, by which the burdens of the people may be greatly relieved and the nation itself rescued from the great financial maelstrom which threatens to swallow it up, it becomes our chosen and highest duty to seek that source of revenue, and coin it into the national service. Sir, I believe it requires no divining-rod to find it, and that all we need, in the words of Mr. Ruggles, is to "uncover the mountains of gold and silver garnered up by Providence to meet the cost of saving our nation's life."

The auriferous region of the United States on the western portion of the continent extends from thirty-one degrees and thirty minutes north latitude to the forty-ninth parallel, and from one hundred degrees of longitude to the Pacific, embracing portions of Dakota, Nebraska, Colorado, New Mexico, Arizona, Utah, Nevada, California, Oregon, Washington, Idaho, and Montana, and covering an area of more than a million square miles. These vast regions are described in official reports as stretching longitudinally and in lateral spurs, crossed and linked together by intervening ridges, connecting the whole system by five principal ranges, dividing the country into an equal number of basins, each being nearly surrounded by mountains and watered by mountain streams and snows, thereby interspersing this immense territory with bodies of agricultural lands equal to the support not only of miners, but of a dense population. These mountains are literally stocked with minerals, gold and silver being interspersed in profusion over this immense surface, and daily brought to light by new discoveries.

According to the Commissioner of the General Land Office, a greater amount of mineral wealth is to be found in the territory of the United States than in all other habitable countries. Before the discovery of the precious metals in California the annual production of gold in all parts of the world did not exceed an average of \$18,000,000. The present annual production in California alone is estimated at \$70,000,000. The Commissioner of the General Land Office, in his report for 1862, estimated the production of gold in that year, in California and the other western gold-bearing regions, at \$100,000,000; and the Secretary of the Interior, in his report of the same year, estimated that if an amount of labor relatively equal to that expended in California had been applied to the gold fields known to exist outside of that State, the production, including that of California, would have exceeded \$400,000,000. Taking into account subsequent and quite recent discoveries in our mining regions, and especially in Arizona, I think it safe to say that an annual product of \$1,000,000,000 might be realized under a just policy which would at once invite laborers to our western Territories and reward them by rich returns. I quote the following facts from the official report just referred to:

"The usual size of a mining claim in the quartz region is one hundred feet on the line of the lode or vein, and one hundred feet on each side, equal to an area of twenty thousand square feet, or say twelve hundred claims to the square mile. Allow that only one hundredth part of the mountain surface is occupied by paying lodes or veins, and there will be space for three million six hundred thousand claims. But Governor Evans, of Colorado, estimates the already discovered gold bearing region of that Territory as affording ample room for eight hundred thousand claims, and states that new discoveries are daily increasing with area. A glance at the map is sufficient to show that the mineral region of Colorado occupies less than one sixth of the whole extent under consideration; but assume it to be one sixth, and there will be ample extent on this basis for four million eight hundred thousand claims, which, if worked, would give employment to twenty million men."

These pregnant facts, Mr. Speaker, are supplied by the Government itself; and yet, weighed down with debt, and threatened with bankruptcy and ruin through the scarcity of gold and silver, it has adopted no policy whatever in dealing with our mineral lands, except the negative one of reserving them from sale. The United States have left them open to our people and to the greed of monopolists from foreign countries for the past sixteen years, during which \$1,000,000,000 have been extracted, without a dollar of revenue to the national Treasury. Sir, this is financial profligacy. It is legislative madness. If not repented of, and that speedily, it may end in national suicide. Our system of taxation reaches everywhere, drawing revenue from all quarters, except these

prime sources of supply. They are exempt, while every other interest is made to groan under the pressure; and yet the Government, slumbering over its grand opportunity, declines to adopt any policy respecting them. It does not sell its mineral lands; it does not lease them; it simply abandons them, while owning them in fee, and solemnly bound, as the trustee of the people and by the Constitution itself, to "make all needful rules and regulations" for their government and the development of their wealth. How long will the people thus sport with their resources and bear with their public servants who are thus recreant to the public good?

But assuming that this "let-alone" policy is to be abandoned by the Government, the important question remains as to the disposition of these mineral lands. As a saving financial expedient and a wise national policy, what shall be done with them? This becomes an immediate, practical question. Three several methods of solving it have been advocated, namely, the system of leasing, the imposition of a tax upon the mining products, and the absolute sale of the fee. The two methods first named rest upon substantially the same principle. They both recognize the United States as the perpetual landlord of these vast possessions, and the people who enter upon them as tenants, either for years or at will. They are both at war with our republican institutions. They are both in direct antagonism with the policy of sale which would utterly divest the title of the Government, and vest it in individual proprietors. It is this latter policy which is submitted in the bill I have reported, and which I propose briefly to argue.

The ordinance of 1785, for the disposal of the lands in the "Western Territory" contained the first reservation of mineral land from sale. Some fifteen years later, authority of law was given for leasing such lands. The folly of our rulers at one time went so far as to provide by law for leasing agricultural lands, and I mention this to show how unsafe it is to make the past action of our Government the guide of our steps to-day. In 1807 the power to lease was confined to lead mines. In the Canadian bounty-land act of 1816 lead mines and salt springs were excluded from location. Congress, however, by act of March 3, 1829, conferred authority on the President to expose to sale as other public lands "the several lead mines and contiguous lands in the State of Missouri," under certain specified restrictions; but with this exception the policy of reserving mineral lands from sale, and of leasing lead and copper mines, continued till the year 1846, when Congress, on the 11th day of July, ordered "the reserved lead mines and contiguous lands in the States of Illinois and Arkansas" and the then "Territories of Wisconsin and Iowa" to be exposed to sale under certain conditions, the price being not less than two dollars and a half per acre. In the following year Congress ordered the organization of the Lake Superior district in the upper peninsula of Michigan, and the Chippewa land district in Wisconsin, and provided for the sale of lands containing copper, lead, or other valuable ores, at a minimum price of five dollars per acre.

These acts of Congress show how long and patiently the Government acted the part of national landlord over its national tenants, the miners of the Northwest. And the experiment failed utterly. The leasing policy drew into the mining regions a population of vagrants, gamblers, and ruffians, excluding sober and intelligent citizens, and making the establishment of organized civil communities impossible. Their houses were mere hovels and shanties. They resisted the payment of taxes on the products of the mines, and killed the agents of the Government. The settlement and civilization of these mining regions was not only thus prevented, but neither the national Treasury nor the miner was the pecuniary gainer under this policy. The Government at length was forced to adopt the policy of selling the fee, when a new class of men took possession of these regions as the owners of the soil, brought their families with them, laid the foundations of social order, expelled the barbarians who had secured a temporary occupancy, and thus at once promoted their own welfare, the real prosperity of the country, and the financial interests of the Government.

Mr. Speaker, this signal and very instructive failure of the leasing policy in the mines of Illinois, was preceded by a similar one in the lead mines of Missouri. The Government, as already stated, adopted the policy in 1807, and tried it for more than twenty years in that State. Many leases were taken, and great quantities of lead were dug from the mines, but no rents were paid to the Government—"no, not a dollar; not one cent." I quote the words of Colonel Benton in the Senate of the United States, in the year 1823, after the experiment had been tried in his State fifteen years; and I fortify my argument by his high authority. I shall bring to my aid both his facts and his reasoning in discussing the measure I have submitted. "The spirit of tenancy," said he, "is everywhere the same; it is a spirit adverse to improvements, always leaning toward the injury of the property in possession, and always holding back from the payment of rent." The truth of this principle will be universally admitted, and as an argument against the policy in question is unanswerable, and in itself sufficient to demand a totally different system. Every landlord and tenant, whether of mineral or agricultural lands, must admit its force.

Colonel Benton declared that the fruit of this false system has been "injury to the national prosperity, loss to the national Treasury, and a resource to foreign Powers to supply us with the articles of which God in His providence has given to us more than He has given to them." He argued that to continue this system would be "to perpetuate the relation of landlord and tenant throughout the vast extent of the mineral districts of the Republic, that landlord being the Federal Government, and holding its domains and a body of tenantry within the limits of a sovereign State." He denied such a power to the Federal Government. "I take my stand," said he, "upon the words of the Constitution, and deny to the Federal Government a power to hold lands in any State, except upon grants made, in cases enumerated, and for the purposes specified in the Constitution. The monarchies of Europe have their serfs and vassals, but the genius of the Republic disclaims the tenure and the spirit of vassalage, and calls for freemen, owners of the soil, masters of their own castles, and free from the influence of a foreign sovereign." The effects of this policy he said would be "population retarded, the improvement of the country delayed, large bodies of land held free of taxation, and their elections more or less influenced by the presence of men holding their leases at the will of the Federal Government." He would "deliver up the mines and salines of the Republic to the pursuit of individual industry, to the activity of individual enterprise, to the care of individual interest, guided and sustained by the skill and capital of those who may choose to hold them."

He argued that the Government would "find its indemnity in the price which would be paid for them, and in the increased wealth of its citizens, which is, in fact, the wealth of the Government itself. Besides, without a freehold in the soil, the experience of all countries proves that the riches of the mineral kingdom can never be discovered or brought into action. A lessee for years cannot incur the expense of sinking shafts, connecting them by galleries, opening ventilators, constructing hydraulic machines, and building permanent furnaces. And without these labors, the mineral riches which lie some hundred feet in the bowels of the earth can never be discovered. All this is now proved on the mineral lands of the United States in Missouri. Fifty or sixty mines have been opened, exhausted, and abandoned. Yes, in the space of a few months a mine is exhausted, while in England mines are now worked which were opened two thousand years ago. The reason is obvious: the English miner, having the freehold of the soil, husbands and improves his property, and follows the vein downward even to the distance of two thousand feet. The American lessee can only take what he finds near the surface of the ground. He cannot pierce the rock in pursuit of the descending veins which lead to the great beds of ore below. He can only pick out the eyes of the mine, without touching its body; nor is it possible to tell where nature has deposited her hidden treasures, except by opening the earth to the places where they lie."

In concluding his speech, embodying so much



both of argument and fact, and so forcibly expressed, Colonel Benton referred to the example of England:

"In the early ages her base metals were considered as too precious for the people, and were reserved as Crown property. Her mines were leased out, and the great tin mines of Cornwall brought the imposing sum of one hundred marks per annum, and the rest in proportion. In the reign of Philip and Mary this policy was changed. The mineral kingdom, by an act of Parliament, ceased to be a monopoly in the hands of the Crown. It was delivered up to the skill and capital and industry of individuals, and the result has been that the iron, lead, copper, tin, coal, and salt of England have carried the wealth and power of the British empire to a height to which the mines of Peru and Mexico could never have exalted her. Let us follow her example, not the example of her dark ages, but of that enlightened period which has made of a small island in the sea one of the richest and most powerful empires on the face of the globe."

These, Mr. Speaker, are some of the arguments of the great statesman of Missouri, as embodied in a speech delivered in the Senate of the United States forty-two years ago. They did not fail of their purpose; for, though not heeded at the time, they at length found their vindication in the act of Congress of 1829, already referred to, abolishing the system of tenancy in Missouri, and subjecting her mineral lands to sale; and still further in the acts of 1846 and 1847, inaugurating the same reform in the lead and copper regions of Illinois, Michigan, and Wisconsin. To the extent of this legislation the reasoning of Colonel Benton has prevailed in the policy of the Government, and has been fully justified by time. If it be said that the policy of selling the fee of lands containing other minerals than those mentioned has not been tried, I reply that for that very reason there is no fact which can be adduced against it; and I reply further, that the arguments I have employed, showing the principle of tenancy to be a vicious one, apply as legitimately to lands containing gold and silver as to those containing copper and lead; to our great western Territories as well as to regions far less remote. On the other hand, there is one unbroken chain of testimony against the policy of retaining the fee of mineral lands in the Government, and dealing with their occupants as tenants, whether the lands contain the precious or the useful metals, and whether they lie on this or the other side of the Rocky mountains. On this point fact and argument join hands, and leave that policy totally unsupported.

Mr. Speaker, the sale of our mineral lands is demanded by considerations which appeal, with irresistible force, to the common sense of every man who will allow himself to think. In the first place, it will give security to land titles, and thus necessarily invite into the mining regions a population of permanent settlers, and sober, intelligent, wealth-producing people. This has been shown in the case to which I have already referred of the lead mines of Illinois. It must be remembered that population is not always wealth. It should be permanent, industrious, and able to find its support in the rewards of labor and the general prosperity which that labor secures. Under the policy which treats miners as mere tenants at will permanent settlements are impossible. No settler can have any security for the claim he may select. He can have no sure protection against its forfeiture. Since he has no better title to the land he occupies than he has to the whole of the unoccupied country around him, he is perpetually tempted to change his temporary habitation. Having no tie of ownership to bind him to the soil, and no permanent improvements on it, he is at perfect liberty at any moment to "take up his bed and walk." Hence it is that our miners are proverbially nomadic. Their unsettled and roving habits will not allow them to accumulate property for themselves, while they contribute nothing to the permanent growth of the country. What Colonel Benton said of the leasing system in Missouri applies, in all its force, to the superficial mining of these wandering tribes, who have no title to the soil. It is madness to hope for revenue to the Government, or the development of our mineral resources, through the agency of such a population and such a policy; nor is there any possible remedy save in the sale of these lands in fee to actual settlers.

The policy for which I plead is urged by kindred and stronger reasons. Under our present system there can be no homes in the mining regions. Where there is no security for land titles,

no permanent communities can be established. The miner cannot afford to build him a comfortable house, with substantial improvements around him, because he is simply a tenant at will. His dwelling will be a mere hovel, and every fact of his condition will testify of his transitory character. In a country thus dealt with homes will be exceedingly "few and far between." In fact, a people without substantial habitations, and whose time is largely employed in migrating from place to place, must practically dispense with domestic life. That the proportion of men to women among such a people should be three or four to one is not remarkable, nor should we be surprised that of the few women in the mines of California "a considerable share are neither maids, wives, nor widows." This is the saddest fact connected with our present mining policy. It is a conspiracy against the establishment and sacredness of American homes.

It has been said, with truth, that the best part of the education of every man and woman is received at home. This is the grand school for virtue. The most precious interests of life belong to it. One of our most gifted American writers says that just so far as the family is improved, its duties performed, and its blessings prized, all artificial institutions of society, including Government itself, are superseded. The family is the foundation of the State, the peculiar institution of God. The Government, therefore, should throw its parental wing over it, and guard it as the mother guards the life of her child. My chief quarrel with our existing policy is that it makes the establishment of homes practically impossible in vast regions of our unoccupied territory, which else might be carved up into independent homesteads, and dotted over by smiling habitations. This is the crowning argument against the system of tenancies at will. Under it, civil society, practically speaking, cannot exist in the mining regions. The virtual outlawry of woman forbids it. Public opinion, which in well-regulated communities exerts a wholesome power over the individual, is here unfelt. The better class of miners soon leave the country, while the lower and more brutalized classes are constantly swelled by that law of moral gravitation which draws kindred spirits together. Nothing can arrest the growth and dominating influence of this evil element but the policy of conferring permanent homes upon the occupants of the soil. This will drive out the vicious, the thriftless, the dissipated, as it did in the lead and copper regions of the Northwest, and introduce order, industry, and real civilization in their stead. With these, the wealth of the mines will be extracted, and, by becoming the subject of taxation, increase the revenues of the Government while rewarding the miner for his toil.

The sale of our mineral lands, Mr. Speaker, is to be vindicated by still other considerations. No country can prosper in which land does not become valuable, and increase in value with the increase of population. Our present policy totally overlooks this principle. By denying permanent ownership in the soil, and thus preventing its improvement, it necessarily keeps down its value. While it fails to draw from the mines the wealth which they contain, for reasons already given it cripples enterprise in this and other directions by depriving capital of the best possible security for its investment. Men will not lend their capital to mining projects when the title to the soil is in the Government, and cannot be pledged as security. This non-employment of capital not only retards mining, but keeps idle multitudes of laborers who need employment. Capital, wanting investment somewhere, is sent to New York or to Europe. According to Hittell, to whose valuable and interesting work on the Resources of California the public is greatly indebted, \$40,000,000 a year are shipped from that State because there is nothing to give as security. "We offer to pay," says he, "twice as much interest as anybody else, and our offer would be gladly accepted if there were a certainty that we would pay as we promise; but there is no certainty, no security." Every interest suffers under this false policy. It operates unequally. "The farming districts," says the same authority, "where the inhabitants own the land, pay heavy land taxes, whereas mining claims pay no taxes at all. The result is that the taxation upon the men in the valleys is about three times as heavy as upon those in the

mountains. The miners generally have no homes and no fixed property, and cannot be forced to pay taxes. Most of the mining counties are deeply in debt, and many are growing deeper every year. The only way to equalize the taxation is to sell the mineral lands; and compel the miner to pay a tax upon his mine as well as the farmer on his farm." The justness of these observations will not be questioned; and they will apply to all our mining regions as perfectly as to California.

Mr. Speaker, I have already referred, in my opening remarks, to the question of our finances, and to the singular fact that our mines of gold and silver have yielded no revenue to the Government. I urged the absolute financial necessity of some radical change in our present policy. The exposure of our mineral lands to sale would not only inaugurate the true policy with a view to the settlement of these lands, and the development of their resources, but would very speedily be felt in its returns to the Treasury. The sales could not fail to be large. The spirit of enterprise, of adventure, was never more alive among our people than to-day. The demand for labor, caused by the waste of war, can scarcely be appreciated, and is recasting the judgment of the whole country as to the value of foreign laborers. Immigration is accordingly largely on the increase, and is destined to pour in upon us to an extent unexampled in the past. The arrivals at the port of New York alone last year were one hundred and eighty-five thousand two hundred and eight; and there is no fact which does not look to its increase, at least for several years to come.

The rapid settlement of our distant Territories within the past few years, partly attributable to the beneficent policy of our homestead law, and the tempting discoveries of their precious metals which have been made, are exceedingly prophetic of their speedy population. The Secretary of the Interior, in his report for the year 1862, estimated that at least five hundred million dollars could be realized by the sale of our mineral lands in one-acre lots, after granting to those now engaged in mining a clear title without cost to the lands they occupy. Should they bring only the half, or even the fourth, of this estimate, it would furnish an argument of no inconsiderable weight in favor of the policy. The people, undoubtedly, would be glad to have their burdens lightened to this extent, and they will demand it of their servants, if not forbidden by the strongest and most conclusive reasons. If peace now prevailed throughout our borders, and the Treasury of the Government were full to overflowing, as we have known it in the past, I would not urge this consideration. I would apply to our mineral lands the great principle embodied in the homestead law, which aims at the settlement and improvement of our public domain as at once the true source of revenue to the Government and of prosperity to the country. I agree to the modification of that principle now, and urge it, because of an absolute public necessity, which demands that this important source of immediate financial relief shall not escape.

And now, sir, permit me to refer to some of the objections which are urged to the policy for which I plead. The sale of our mineral lands, it is asserted, will place them in the grasp of speculators, who will hoard them up for their own aggrandizement, and "to the prejudice and deprivation of the many." This objection suggests several replies. In the first place, this horror of land monopoly is shared by men who see no sort of objection to the wholesale monopoly of all our mineral lands by the Government. If monopolies are pernicious, as I admit them to be, they are so in principle. Government monopolies are not less so than others. They have often been as much worse as their greater power of evil would permit. The feudal system of the Old World was land monopoly in its glory and fruition, in the crowning luxuriance of its infernal sway over the people, who toiled as its slaves. The theory which insists upon retaining the fee of our mineral lands in the Government, and treating the miner as a feudatory or serf, is of European origin. It is borrowed from monarchical institutions and ideas, which we profess to have forsaken, but from which we are by no means yet fully divorced. Our institutions are republican, and our ideas should be democratic, not monarchical. Under the feudal or kingly system Government is every-

thing, the subject nothing. Our American ideas, on the other hand, have respect chiefly to the individual, and regard Government simply as the servant of the people.

Sir, I submit that this popular cry against the monopoly of our mineral lands by speculators, does not sound very well in the mouths of those who justify Government monopoly, and have not yet been able to emancipate themselves from the anti-republican ideas against which our revolutionary fathers contended. Let me add, that what I now say furnishes a reply also, to the argument often urged that the policy of European nations and of other sovereignties on this continent is against the sale of their mineral lands. Our Government is a republic, and the remotest thing possible from a safe precedent for us would be the example of Governments resting upon feudal ideas, and utterly hostile to the rights of the people.

But I ask, Mr. Speaker, why is there more danger from the monopoly of mineral than of agricultural lands? The monopoly of the latter has undoubtedly been a great evil, yet the Government, from the beginning, has parted with the fee to purchasers, and is still doing so. It also sells its lands containing lead, iron, copper, salines, and coal; and I believe the opponents of the measure now proposed offer no objection. Why not extend the same principle to other minerals? True, the intrinsic value of gold and silver gives to them a peculiar relation, and as the representative of values and the medium of exchange they perform a function totally unlike that of any of the merely useful metals. But I am unable to see why this should exempt the lands containing them from the general policy of sale. As to foreign capitalists, the bill I have reported forbids their becoming purchasers unless they shall have declared their intention to become naturalized. Undoubtedly these lands will be the subject of monopolies, just as will our coal and other lands. This cannot wholly be prevented by any possible legislation, or any failure to legislate. Land monopoly notoriously prevails now in the great mining regions under our present policy of withholding the fee. Capitalists, both foreign and domestic, enter these regions, and purchase and monopolize the possessory rights of miners, and will do so in spite of any prohibitions. This is a sufficient reply to all that can be said against the monopoly of the fee of mining lands. I believe, however, the evil of such monopoly will be much less than is apprehended. It is not probable that capitalists would become the first purchasers, or that the richest places would fall into their hands. The men who are on the ground, engaged in actual mining, would secure the best investments; for under this bill they are not required to compete with men who could outbid them. If capitalists buy the lands, they cannot afford to let them remain unproductive. If they should secure enough to be fairly named a monopoly, their own interest would prompt them to develop their riches, and this will bring into the mining regions multitudes of laborers who would find remunerative employment, and help develop the wealth of our country.

Another principal objection to the policy of sale is the difficulty of fixing upon a just minimum price. Unquestionably this is a real practical difficulty. A perfectly just minimum is impossible; but the same is true of our lead, copper, iron, and coal lands. It is even true of our agricultural lands, as to which there is very great inequality of value. If our lands containing gold and silver are exposed to sale, all we can do is to approximate, as nearly as we can, to a just and reasonable price. The method of doing this is provided for in the sixth section of the bill. The geologist for each land district for which the bill makes provision, in connection with the register and receiver, is to classify the mineral lands of the district with reference to their value, and the subdivisions necessary to accommodate actual miners, or those who may intend to become such, and report to the surveyor general and the General Land Office, giving the minimum price of each class, the location and extent of each deposit and of each settlement or mining operation, with the reasons for the facts reported. The Commissioner of the General Land Office then, upon these facts and reasons, is to fix the minimum, and his decision is to be final. Perhaps

this process will secure a price for the lands as nearly just to the Government and to the purchaser as any that can be devised. I believe it meets the difficulty; and since the vested rights of miners are protected under the fifth section of the bill, no material injustice can result, either to the Government or the purchaser.

Mr. Speaker, there are other and minor objections, to which I think I need not refer. They are all met or overcome by the arguments already presented, joined to the palpable folly of further maintaining the present suicidal policy of the Government. Nor shall I stop to discuss the details of the bill I have reported, the leading features of which have already been stated. It has been prepared with much care, and with the assistance of some of the ablest men in the country, whose extensive knowledge of our land system gives peculiar weight to their opinions, and who have given to the subject much thought. The policy which it proposes has also the decided approval of many of our most distinguished public characters, including such men as Colonel Benton, Chief Justice Chase, General Fremont, Robert J. Walker, Hugh McCulloch, and Horace Greeley. I may mention also Hon. John Wilson, who so ably presided over our General Land Office years ago, and whose thorough acquaintance with the subject should command great respect for his judgment. I add, further, that the most intelligent men I have met from California and other mining regions, who speak from actual observation and extensive experience in mining, express the same opinion. Undoubtedly, the bill is imperfect. A measure so revolutionary of past ideas and policy, and dealing with interests so vast and peculiar, must of necessity, to some extent, prove an experiment. I believe it will be a grand one.

Holding the principle of the measure to be sound, I would launch it, trusting to time and experience to point out its defects and suggest the needed remedies. I sincerely hope the Thirty-Eighth Congress will not close its labors without adding this bill to the list of those great measures which have already signaled its legislation. The passage of the bill will powerfully stimulate foreign immigration, and the settlement of the great Pacific States of the future. By drawing into our mining regions a large and constantly swelling stream of settlers, it will demand and necessitate the speedy construction of our great railway thoroughfare to the Pacific, which shall belt the continent with ribs of iron, and prove themselves the grandest of commercial enterprises and the mightiest bonds of national union. In securing perfect land titles it will build up permanent settlements, promote a more thorough knowledge of localities, and institute a more profitable system of mining than could otherwise be possible.

The establishment of settlements in the mines will lead to the exploration and purchase of the agricultural lands in the valleys, and thus develop their productive power. It will introduce social order, domestic life, fixed habits, free schools, homogeneous communities, and general prosperity, in the place of itinerant and scattered tribes, whose condition could best be defined by the absence of all these blessings. It would cement and consolidate the Union, by intrenching the Government in the hearts and homes of the teeming millions whose habitations are to be set up in the great empire of States now so rapidly springing into life in the distant West. It would rebuke those feudal ideas to which the Government has so long lent its sanction, and recognize the independence and dignity of labor. Holding these views, Mr. Speaker, and embracing them, as I do, with ardor, I have labored with some zeal to awaken among our public men an interest in the subject; and I shall regard it as one of the many grand and providential compensations of this war if the financial crisis which has been its result shall prepare us to enact this great and far-reaching measure, and thus lay the foundations of Christian civilization and genuine democracy in the budding Commonwealths of the Pacific.

Mr. Speaker, I now move to recommit the bill to the Committee on Public Lands, but I do not ask a vote on that question now. I am willing to yield the remainder of my time.

The SPEAKER. The gentleman has seven minutes of his time left.

Mr. JULIAN. I ask that the motion be passed over for the present, informally.

Mr. SHANNON. I would ask the gentleman if he means to press this question for consideration.

Mr. JULIAN. Not at present. I will yield now to the gentleman from Wisconsin, [Mr. SLOAN.]

The SPEAKER. The Chair cannot state what will be the condition of the motion to recommit if passed over informally, or when it will come before the House, as the motion to recommit is not a privileged motion.

Mr. SCHENCK. I desire to object to passing over this motion.

Mr. JULIAN. To avoid any unpleasant feeling on the subject, I ask that the question be taken on the motion to recommit now.

The question was taken, and the motion to recommit the bill to the Committee on Public Lands was agreed to.

#### GRANT OF LANDS TO A SHIP-CANAL.

Mr. SLOAN, from the Committee on Public Lands, reported back, with sundry amendments, bill of the Senate No. 241, an act granting to the State of Wisconsin a donation of public lands to aid in the construction of a ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State.

Mr. HOLMAN called for the reading of the bill, and it was read at length.

Section one provides for granting to the State of Wisconsin one hundred thousand acres of public land, subject to the approval of the Secretary of the Interior, from any lands lying within sixty miles of the western terminus of said canal, and not including any to which the rights of pre-emption or homestead have been attached, or any heretofore reserved to the United States, or mineral lands.

Section two provides that said canal shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge for the vessels of the Government engaged upon public service, or vessels employed by the Government in the transportation of any property or troops of the United States.

Section three provides that if the canal is not commenced within three years, and completed within ten years, the State of Wisconsin shall pay to the United States the amounts received for the sale by the State of any land hereby granted at a rate not less than \$1 25 per acre.

Section four provides that there shall be kept an accurate account of the amount of sales and net proceeds of the lands hereby granted, and all the expenditures in the construction, repairs, and operating the canal, together with the earnings; the statement of the same to be made annually to the Secretary of the Interior; and after the expense of the canal shall have been reimbursed to the State only such tolls shall be imposed as shall be sufficient to pay the necessary expenses of repairs and operating the canal.

Section five provides that before the State shall dispose of any of these lands, the route of the canal shall have been established, and the plot or plots thereof filed in the office of the Commissioner of the General Land Office, the canal to be at least one hundred feet wide, with a depth of water of fifteen feet.

The question recurred upon the first amendment reported by the Committee on Public Lands.

The first amendment was to strike out, in line five of section one, the words "said canal," and insert the following:

A harbor on the western shore of Lake Michigan, by the building of a breakwater opposite Sturgeon bay, and a ship-canal from said lake to said bay.

The amendment was adopted.

The next question was upon the second amendment.

Mr. SLOAN. The object of this amendment is to require that the work shall be commenced in one year instead of three years, and be completed in five years instead of ten years.

The amendment was adopted.

The next question was upon the following amendment:

Add a new section, as follows:

Sec. 6. And be it further enacted, That the lands hereby granted to said State shall be disposed of by said State only

In the following manner, that is to say, that whenever the Governor of said State shall file with the Commissioner of the General Land Office a certificate subscribed by him and sealed with the official seal of said State, that the sum of \$40,000 has been expended upon such work, twenty thousand acres of said land may be sold and a certificate or certificates therefor shall issue to said State, or to any individuals or corporation designated by said State, and for each additional sum of \$40,000 expended upon said work and certified as aforesaid twenty thousand acres of land may be sold and a certificate or certificates therefor issue as aforesaid.

The amendment was adopted.

Mr. SLOAN. I now demand the previous question upon the passage of the bill as amended.

The SPEAKER. The morning hour has expired.

#### MESSAGES FROM THE PRESIDENT.

Sundry messages in writing were received from the President, by Mr. NICOLAY, his Private Secretary.

A message informed the House that the President had approved and signed joint resolutions and an act of the following titles:

Joint resolution (H. R. No. 91) to terminate the treaty of 1817 regulating the naval force on the lakes;

Joint resolution (H. R. No. 142) tendering the thanks of Congress to Major General Philip H. Sheridan and the officers and men under his command; and

An act (H. R. No. 644) to extend to certain persons in the employ of the Government the benefits of the Asylum for the Insane in the District of Columbia.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit to Congress a copy of a note of the 4th instant, addressed by J. Hume Burnley, Esq., her Britannic Majesty's chargé d'affaires, to the Secretary of State, relative to a sword which it is proposed to present to Captain Henry S. Stollwagen, commanding the United States frigate Constitution, as a mark of gratitude for his services to the British brigantine Mersey. The expediency of sanctioning the acceptance of the gift is submitted to your consideration.

ABRAHAM LINCOLN.

WASHINGTON, February 8, 1863.

The SPEAKER also laid before the House the following message from the President of the United States; which was read, referred to the Committee on the Judiciary, and ordered to be printed:

To the honorable the Senate and

House of Representatives:

The joint resolution entitled "Joint resolution declaring certain States not entitled to representation in the Electoral College," has been signed by the Executive in deference to the view of Congress, implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from counting all electoral votes deemed by them to be illegal; and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if he acted were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes; and he also disclaims that, by signing said resolution, he has expressed any opinion on the results of the preamble, or any judgment of his own upon the subject of the resolution.

ABRAHAM LINCOLN.

EXECUTIVE MANSION, February 8, 1863.

#### FREEDMEN'S BUREAU.

Mr. ELIOT. I rise to a privileged question, and call up the report of the committee of conference on the disagreeing votes of the two Houses upon the Senate amendments to the bill of the House (No. 51) to create a Bureau of Freedmen's Affairs.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An act to establish a Department of Freedmen and Abandoned Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established at the seat of Government of the United States a Department of Freedmen and Abandoned Lands, whose object shall be the good of the freedmen and the administration of lands and other property falling to the national Government in the rebel States not

heretofore appropriated to other uses. And this Department shall be under the care of a Commissioner, who shall be appointed by the President, and by and with the advice and consent of the Senate, with an annual salary of \$4,000.

Sec. 2. And be it further enacted, That the Commissioner of Freedmen and Abandoned Lands shall appoint a chief clerk, with an annual salary of \$3,000, who shall act also as disbursing officer, and who in all cases during the necessary absence of the Commissioner, or when the principal office shall become vacant, shall perform the duties of Commissioner; and also such number of clerks, not exceeding two of each class, as shall be necessary. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in the act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of \$100,000 and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with sureties to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

Sec. 3. And be it further enacted, That the Commissioner shall, under the direction of the President, create districts of freedmen and abandoned lands within the rebel States, not to exceed two in each State, so far as the same may be brought under the military power of the United States; and each district shall be under the supervision of an assistant commissioner, with an annual salary of \$2,500, under bond as required for the chief clerk, to be appointed by the President of the United States, with the advice and consent of the Senate, and with authority to appoint local superintendents and clerks, so far as the same may be needed, not, however, more than four in each district, each of whom shall have an annual compensation not exceeding \$1,500.

Sec. 4. And be it further enacted, That the Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations from time to time, and cause the same to be enforced for their needful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty. And every such freedman shall be treated in all respects as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Sec. 5. And be it further enacted, That the assistant commissioners, under the direction of the Commissioner and within their respective districts, shall take possession of all abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses, and all property found on and belonging to such estate, and shall rent or lease such real estate or any portions thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree; and if the lands with the property aforesaid shall not be required for the freedmen, then they shall rent or lease the same to other persons on such terms and under such regulations as shall be mutually agreed upon, and no freedman shall be employed on any estate above mentioned otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent: *Provided*, That no lease, permission to occupy, or contract, shall be for a longer period than one year, and all papers required or authorized by this act shall remain valid and effectual although no revenue stamp is attached thereto. But nothing herein contained shall be construed to prevent the execution of process against the real estate or property above named issued in due course of law from any court of competent jurisdiction; but the possession of such real estate or property by any purchaser thereof at a judicial sale shall be postponed until the termination of any outstanding contract duly made and executed under the provisions of this act.

Sec. 6. And be it further enacted, That the assistant commissioners and local superintendents shall, as advisory guardians, aid the freedmen in the adjustment of their wages, or in the application of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; that they shall do what they can as arbitrators to reconcile and settle any differences in which freedmen may be involved with each other or with other persons; and, in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

Sec. 7. And be it further enacted, That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order, three hundred and thirty-one, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; but such lease shall not continue beyond the period of one year from its date; and immediately upon the organization of any district of freedmen and abandoned lands such agents shall cease to execute their functions within such district, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any district prior to its organization under this act shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

Sec. 8. And be it further enacted, That the Commissioner shall apply the proceeds accruing under this act to defray the expenses of this Department, so that the same may become at an early day self supporting; and any pro-

ceeds over and above such expenses shall be paid into the Treasury of the United States.

Sec. 9. And be it further enacted, That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall so far as practicable make provision for them with humane and suitable persons, at a just compensation for their services.

Sec. 10. And be it further enacted, That the President of the United States is charged with furnishing the military and other support needful to carry this act into effect, and any military officer may be appointed under this act without increase of salary.

Sec. 11. And be it further enacted, That the Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required. And it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen not mustered into or regularly engaged in the military service, to make return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

Sec. 12. And be it further enacted, That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony, for any act of embezzlement or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

Sec. 13. And be it further enacted, That the last clause of a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Sec. 14. And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

THOMAS D. ELIOT,  
WILLIAM D. KELLEY,  
Managers on the part of the House.  
CHARLES SUMNER,  
J. M. HOWARD,  
Managers on the part of the Senate.

Mr. ELIOT. Mr. Speaker, when this report was presented last week, I distinctly stated to the House the character of the provisions of the bill; and it was made to appear at that time that the operative clauses in the bill are the same as those which were passed upon by the House last year, or which were acted upon in the Senate, and all of which have been printed and upon the files of members for several months. I do not propose at this time, Mr. Speaker, to say anything in defense of the bill; but I am prepared and shall be glad to answer all objections that may be urged against the bill, if any shall be, in the course of any debate upon it. Congress has within a few days done all that we could do to make free all the slaves within the United States. But it will be remembered that, although that freedom was initiated by the President in his proclamation of the 1st of January, 1863, yet, up to this time, there has been no legislative action which has had in view the welfare of that class of men. We have legislated for the Treasury. We have done what we could to provide for the leasing of the abandoned lands, in view of revenue. But thus far nothing has been done in connection with the freedmen or their welfare, except a law passed on the 2d of July, I think, of the last session of Congress. That law, in one of its provisions, put into the care of the Treasury Department this whole business. I desire to refer to a few of the provisions of that law.

By that act the agents of the Treasury Department, that is, the special supervising agents, the agents who were appointed under the act, I believe, of March, 1863, to whom was given in charge the taking possession of abandoned lands and other property, and the leasing of lands for the largest revenue that could be obtained, and the selling of property for the use of the Government; these special agents are empowered to "take charge of and lease the abandoned lands, houses,



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and tenements within the rebel districts; and they shall also provide, in such leases or otherwise, for the employment and general welfare of the freedmen." That is to say, as gentlemen will find by examining the law, these agents are now required to lease the lands, and in those leases or otherwise to provide for the employment of these freedmen; the United States being the lessors, parties going from all sections of the country being the lessees, the freedmen being the subjects of the contract.

Mr. WILSON. On this point, if the gentleman will allow me to interrupt him, I wish to call his attention to one section in the report, as bearing upon the same question. The ninth section of the report submitted by the committee of conference reads thus:

That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall, so far as practicable, make provision for them with humane and suitable persons, at a just compensation for their services.

I should like to hear some explanation in support of the necessity for incorporating such a provision in the law. My own judgment is that the less restraint we put upon these freedmen the sooner we shall make men of them. Therefore I dislike very much to see, in any bill which is to become a law of Congress, a provision which shall give the control of these persons into the hands of any officer of the Government. It seems to me that the better course for us, while legislating so far as may be necessary to protect these persons, is to let them have the responsibility upon themselves of disposing of their own services in such a way as they may deem proper, receiving compensation therefor. I call the gentleman's attention to this point, in order that we may have any explanation which he may be able to make.

Mr. ELIOT. In reply to the inquiry of the gentleman from Iowa, I would say that the object of this bill is in accordance with the very wish that he expresses; that is to say, that these parties shall be aided, not controlled. There is not in this bill, from the beginning to the end, one word that looks to control. They are to be aided; they are to be assisted. The hand of the Government is to be held out to them, but they are not to be controlled. They are to be treated—and my friend will find throughout the bill that such are its provisions—like freedmen. They are to make contracts themselves. They are not to be contracted for by others, but they are to be parties to the contracts for employment; and so particular are the provisions of the bill in that behalf that the gentleman will find in one portion of it that these contracts for employment are all of them to be reduced to writing and to be certified to by one of the assistant commissioners, so that there shall be proof that the freedman acted as a party to the contract.

One moment, and I will answer more specifically the remark of the gentleman in reference to the section itself to which he called my attention. Now, Mr. Speaker, that section was not the one originally incorporated into the law as the committee passed it, or as the Senate passed it. If gentlemen will examine the debates that occurred upon this bill in the other branch of Congress, they will find that there were objections made to it. The amendment itself was offered, if I am not mistaken, by a Senator from one of the middle States, and the object of it was, that in case it should so happen there were not convenient opportunities to employ these freedmen as they desired to be employed, and as it seemed at the time best, this discretionary authority should be conferred under which provision might be made with leading humane persons for their services. It is not designed to take the control of these freedmen and to direct their labor any further than they themselves shall desire, or at the time shall seem right to them to be done for their interest.

Mr. WILSON. Mr. Speaker, I will call the attention of the honorable gentleman in the same

connection to another section. Section nine provides that—

Whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall, so far as practicable, make provision for them with humane and suitable persons, at a just compensation for their services.

Section four also provides that—

The Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations, from time to time, and cause the same to be enforced for their needful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty.

I desire to suggest this question to the gentleman: suppose that he should make arrangement for the employment of these freedmen with persons in the loyal or rebellious States, and they should refuse to comply with the arrangement so made; has not the Commissioner, under the fourth section, power to issue such regulations and to compel obedience on the part of the freedmen?

Mr. ELIOT. Mr. Speaker, my friend from Iowa omitted to read the last clause of the fourth section simply because, I suppose, in his judgment it did not aid to throw light on the inquiry; but I think that it does. It declares that—

Every such freedman shall be treated in all respects as a free man, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Mr. WILSON. Does the gentleman intend this bill, if it should become a law, to continue in operation within the rebel States after the suppression of the rebellion and the reestablishment of civil authority? If he does, I think this an objection to the bill. If he does not so intend, then what courts of justice are to afford the remedies mentioned in that part of the section to which he has referred? No authority is exercised in the districts to be affected by this bill other than military, and no courts of justice are provided. No remedy can be had without a court, and there is no court to afford a remedy.

Mr. ELIOT. It may be so; it ought to be so. But the inquiry of the gentleman has not been replied to. If any of these freedmen should be, as he supposes, at their own request, with their own consent, and under arrangements which they themselves have made, placed under the care of humane or suitable persons at fair compensation for their services, those persons living in the loyal States, which is one part of the inquiry, it is very manifest that after they have gone into those States they would be under the direction and protection of the laws of those States. It is not supposed that the jurisdiction of any commissioner shall extend beyond the district placed in his charge; and the subject of this bill is only that territory embraced within the rebel States.

Now, as to the other part of the inquiry, what if provision has been made for them under the care of some person in the rebel States? Those districts would be within the general jurisdiction of this Department, and I suppose that the rights of these freedmen would be protected under this bill.

I do not exactly see the point which seems to trouble my friend from Iowa. The freedman would be protected and guarded in every particular, and have all the rights that any man could have, within the courts and under the tribunals which are contemplated in this act.

One word more. The gentleman will find in the bill a provision which requires that the commissioners shall act, so far as they can, not only as advisers, but as arbitrators for reconciling differences, settling disputes, and bringing to terms of peace freedmen and those who employ them, or freedmen among themselves, if differences arise.

Mr. WILSON. I would like to know of the gentleman from Massachusetts if it is the intention of the committee that this bill, if it becomes a law, shall be operative after the reestablishment of civil authority?

Mr. ELIOT. As soon as civil authority is re-

established, and those States are admitted into the Union, or readmitted, as gentlemen may please, and their social and political relations resumed, there can be no doubt that those States will have the same rights as the State in which my friend lives, or the State in which I live, may have concerning all the matters which may come within the jurisdiction of such States.

Mr. WILSON. I intended that question as a leader to another, which is, that if this law is not to be operative in those States after the reestablishment of civil authority, then what courts does the gentleman refer to when he speaks of those parties having the proper remedies in the courts of justice?

Mr. ELIOT. I have not stated that the law would not be operative, nor would it follow from any remark I have made that such would be the case. I have said, and it is true, that each State would have a right to do all those things within its boundary that the State of Iowa or Massachusetts would have. It may be that for the passing time the operations of this bill might be continued for the care of those freedmen after that point of time should have arrived. That would perhaps depend upon the legislation of each State. When the time comes that action should be had which would terminate the charge which this bill would have, provisions would be made which would probably cover all the difficulties suggested by the gentleman from Iowa.

We must remember that in legislating at all upon this subject we are stepping upon untried ground. There are difficulties which beset us before and behind; but we ought to do something, and we have been trying for years to bring to perfection some legislation. There are difficulties, and I cannot undertake to say that this bill is perfect; but I think it will be found to be sufficient for the purposes it seeks to accomplish.

Mr. WASHBURN, of Illinois. As the gentleman from Massachusetts was polite enough to say that he would yield to questions, and being in search of information honestly in reference to this matter, I desire to make some inquiries in reference to the position of this bill before the House. It seems, in the first place, that the House of Representatives passed a bill of five pages and five sections in reference to this whole matter. It went to the Senate, and that body, paying no attention to the bill which we passed after much deliberation, struck out the whole concern and substituted a bill of no less than thirteen sections. We disagreed to that, and the matter was referred to a committee of conference, and that committee brought in a third bill of fourteen sections more. It seems to me that this is a very strange sort of legislation; and we are called upon now, upon the report of a committee of conference, to act upon a new or very nearly a new bill. If I had known as much about the matter then as I do now, I think I should have raised the point of order that the committee of conference had exceeded their powers. I desire of the gentleman from Massachusetts some explanation of the action of the two Houses, and of the committee of conference.

Mr. ELIOT. The gentleman from Illinois shall have the information. The gentleman should have remembered that this is by no means a course of unusual procedure. In the action upon the confiscation bill the precise course was taken which was taken here in the committee of conference. The House passed a confiscation bill, and the Senate passed a bill which they called a bill for the punishment of treason. The conference committee could not agree to the provisions of the Senate bill at all, and having had several meetings, it was at one time determined to report a disagreement to the two Houses. But upon a fresh conference it was determined to take the confiscation provisions of the House bill, and the provisions of the Senate bill for the punishment of treason, and put them together in one bill with some new provisions not contained in either of the two bills. After that agreement of the conference committee, that bill was reported by myself to the House. My friend from Iowa

[Mr. Wilson] acted with me upon that conference committee. I would say, moreover, and besides that, that when the revenue bill was passed (I mean the bill which contains the provision for imposing a direct tax of \$20,000,000) the same course was taken. The committee of conference rejected the bills which had been agreed upon by the two Houses, and substituted another bill in the form of a report, which was adopted. That course is precisely the one that has been adopted in this case.

Mr. WASHBURN, of Illinois. I will ask the gentleman from Massachusetts another question: if the principles of his bill as it originally passed the House have not been widely varied and departed from?

Mr. ELIOT. I should think not; not the principles of the House bill.

Mr. WASHBURN, of Illinois. I mean the principles and details of the bill. Has it not been entirely changed?

Mr. ELIOT. Oh no, sir. The gentleman will find, if he examines the bills, that the Senate bill, excepting the sections that I referred to the other day, which were upon matters of detail, contains the provisions which the House had acted upon and the principles of the bill which the House had passed. And, Mr. Speaker, I think that the point of order of the gentleman from Illinois, if it had been taken in season, could hardly have prevailed. This report is in accordance with the precedents of the House.

Mr. WASHBURN, of Illinois. There seems to be one precedent, a precedent which we fought against at the time, and that is what is known as the English Lecompton bill, which we all denounced here at the time.

Mr. ELIOT. I do not know why my friend should say that there has been but one precedent. I have just named two others.

Mr. WASHBURN, of Illinois. Not that went to this extent.

Mr. ELIOT. I beg pardon; they are upon all-fours with it.

Now, I stated when I began that I did not intend to defend the provisions of this bill unless called upon to do so. I have done nothing except reply to inquiries made, and I shall close by asking to have read at the Clerk's desk some passages from a communication to the President of the United States, and then I wish that the message of the President on the subject shall be read.

Mr. WILSON. Before the gentleman has that read, I desire to ask some further explanation. The power of this Commissioner is to be exercised in that portion of the country occupied by our armies, and he is authorized by the fourth section of this bill to establish regulations. Now, suppose there should be a conflict between the regulations established by the Commissioner and those of the military officer commanding the military department, what remedy does the gentleman propose to apply to that conflict?

Mr. ELIOT. Such difficulties as that might possibly occur under any possible management of this Department wherever it might be. The gentleman must bear in mind that it now stands in the Treasury Department, and that it now stands without any guard or any protection. But if he will refer to the tenth section, he will find that the President is charged with furnishing the military and other support needful to carry this act into effect. The necessary military aid will be thus secured. If it should by possibility happen that a conflict should arise because of some exigency at the moment, the gentleman does not need that I should say to him that the military for the time being must control. It is not to be presumed, however, that any such control will be had to the prejudice of the interests of the parties cared for by this bill, nor can I see how even possibly such difficulties could occur. They are inseparable, however, from the subject itself to a certain extent.

I ask for the reading of the communication.  
The Clerk read, as follows:

WASHINGTON, D. C., December 1, 1863.

SIR: We appear before you a committee of gentlemen representing the Freedman's Aid Societies in Boston, New York, Philadelphia, and Cincinnati, and, in general, the anxieties and sympathies of the American people in regard to the present position and future prospects of the freedmen created by your proclamation of emancipation.

It is not, Mr. President, that we are seriously in doubt

as to the methods to be adopted with the freedmen, for we have not been disappointed in the schemes in their favor we have already planned and executed. It is only that these schemes are small, and must continue so, while the demand for their adoption is large, beyond even our present power to meet it, and growing with prodigious strides every hour. It is the magnitude, not the nature of the work, that appalls us, and drives us to the Government for aid and support. We have found the freedman easy to manage, beyond even our best hopes; willing and able to fight as a soldier; willing and able to work as a laborer; willing and able to learn as a pupil; docile, patient, affectionate, grateful, and although with a great tribal range of intellect from nearly infantile to nearly or quite the best white intelligence, yet with an average mental capacity above the ordinary estimates of it.

We have no doubts of the aptitude of the slave for freedom under any fair circumstances. But we see that his circumstances must inevitably be unfair under the best arrangements the Government can make, and that, independently of a great paternal care on the part of the Government, they will be so bad as to wring cries of shame and indignation from the civilized world, dishearten the friends and advocates of emancipation at home, and give new vitality to the disloyal suggestions of the slaveholders' allies in the North and West.

Has the Government any moral right to free the slave without seeing to it that, with every chain it breaks, the best within its power is done to keep the freedman from hankering after his master and his bondage, from feeling that his liberty is a burden, his life a curse, and his domestic affections even more fatal to his peace under our flag than beneath the plantation whip? Shall he hunger and thirst, shall he go naked and cold, shall he wander houseless and die unburied, shall his aged parents and young children be scattered where he cannot find them, and in unspeakable misery lay their bones together, too old and too young to contend with their fate upon the strange and distant soil to which fear and want have driven them? While anything remains undone within the power of the nation or the Government to do to alleviate or diminish this misery, the Christian principle and pity of our people will allow none who are responsible for it to rest in peace.

It is plain to us, with our experience, that the question is too large for anything short of Government authority, Government resources, and Government ubiquity to deal with. The plans, the means, the agencies within any volunteer control are insignificant in their adequacy to the vastness of the demand. Our relief associations have discharged their highest duty in testing many of the most doubtful questions touching the negro's ability and willingness to come under direction when direction has lost its authoritative character. They have proved the freedman's diligence, docility, and loyalty, his intelligence and value as a laborer. They have alleviated much want and misery also. But were their resources ten times what they are, and ten times what they can be made, they would be no substitute for the governmental watchfulness and provision which so numerous a race under such extraordinary circumstances requires. In our judgment the present and the future of the freedmen demand a kind and degree of study, of guidance, and of aid, which it is in the nature of things impossible the Government should give indirectly, or by means of any existing bureau or combination of bureaus.

We ask, then, your interposition with Congress, recommending the immediate creation of a bureau of emancipation, charged with the study of plans and the execution of measures for easing, guiding, and in every way judiciously and humanely aiding the passage of our emancipated and yet to be emancipated blacks from their old condition of forced labor to their new state of voluntary industry. We ask it for many reasons, but we will content ourselves with stating only two:

1. It is necessary that there should be a central office, to collect from original investigations, and to receive from investigations already made and making, the now scattered information and varied and undigested testimony respecting the condition, wants, and prospects of the freedman. The amount of knowledge now existing in private hands, or local spheres and associations, is already great; but it is nearly useless for want of being arranged and brought into systematic order. If offered to the Government, as it constantly is, it is brought to officials already overburdened with care and duties, and laid before Departments which are not yet agreed as to the precise sphere within which it falls. The honest differences of Departments as to their authority and responsibility in the case have been a chief obstruction to the methods of dealing promptly with the necessities of the freedman. Were a bureau in existence with no other duty but to attend to this vast and ever-expanding class of our fellow-creatures, countrymen, and citizens, it would at once be able to concentrate, and in the shortest possible time to methodize, the now diffused and disjointed testimony in the case, and from its central and commanding point of view to devise plans and measures which would satisfy the humanity and relieve the anxieties of the nation.

2. It is not merely a central office that is wanted. It must be a Government bureau. The various freedmen's associations, rich, numerous, and powerful, might unite and establish a central office at Washington, in which should converge all the light and knowledge collected at the most distant points of the circumference, and from which wise and humane plans might originate and radiate in all directions; but such a central office, disconnected from the Government, as in that case by the hypothesis it would be, without any right to official information or assistance, would lack the chief illumination now required, which is simply this: a knowledge how the existing machinery of the Government in all departments can be brought to bear on the problem of guidance, support, and relief in this temporary though not brief state of the transition of millions of bondmen from forced to free labor. This is a problem in which the vast, costly, omnipresent machinery and agencies of the Government already existing, with the least possible additions and the least possible disturbance, are to be

economized and applied to the work of starting and aiding a humane process of emancipation.

But, apart from political economy, there is a moral economy to be considered. It is really a matter of small consequence whether the humane and successful exodus of the negro cost more or less. The honor, the dignity, the moral and religious character of this nation is at stake. Our duties to God and man are not to be sacrificed to any mere pecuniary considerations. We are bound by the highest spiritual obligations to make the process of emancipation for the slaves as safe and as little unhappy and destructive to them as possible. Again, unfortunately, an indifference to human life—the terrible accompaniment of a state of war—is demoralizing in the extreme to civil and social order. White life is not safe when negro life is held cheap.

The neglect of the negro is self-neglect; and his abuse, or his needless decimation, is certain to produce murder, and arson, and violent crimes at home. We cannot escape the vengeance inhabiting violated laws. We are members one of another, and if one of the members suffer all the members suffer with it. It is, therefore, with an instinct of self-preservation, as well as with a fear of the righteous retribution of God, that the moralized and intelligent, the humane and Christian people of this country, cry out to their national Government that the forced and military emancipation of the negro shall be made as humane as the difficult and serious circumstances of the case will permit. The Christian heart, the moralized brain of the nation, will not suffer their Government to do less than the utmost in the ordering of this great and solemn matter.

Let not this anxiety for a bureau of emancipation, as an expression and organ of Government solicitude and care, be confounded with a disposition to overdo the care of the freedmen; to come between them and the natural laws of political economy; to substitute supervision and direction for their own latent energies and self-helpfulness. The utmost extent to which the ordinary principles of free light and labor can be applied to the blacks should be insisted on; the least possible dole for them, the most possible expected of them; as little difference made as can be between them and other laborers, their treatment always leaning rather to too little than too much aid and direction. It is to learn by careful inquiry the utmost extent to which this sound canon of civilization can be applied to the freedmen that the first study of the bureau of emancipation would be directed. But experience has already taught that it cannot be applied to at least a million of them further than it is applied to our own children. If, in obedience to the general principle that all aid and direction is weakening to human beings, we are ready to cast our own offspring at a tender age upon their own resources, we may think it wise to deal with like Spartan severity with the freedmen, of whom so many are children in character when not children in years. We must lead leading-strings to these babes of liberty, and, would we have them go alone, see that they do not dash out their own brains before they learn to walk.

Implored the blessing of God on the nation, the freedman, the country's cause, and the President of the United States, we are, with profound respect, your Excellency's fellow-citizens and fellow-countrymen.

STEPHEN COLWELL, President of Joint

Committee.

EDWARD ATKINSON,

GEORGE CABOT WARD, } Secretaries.

J. M. WALDEN,

FRANCIS GEORGE SHAW, President National

Freedman's Association, of New York.

HENRY WARD BECHER, of New York.

HENRY W. BELLINGS, of New York.

GEORGE CABOT WARD, of New York.

C. R. ROBERT, of New York.

STEPHEN COLWELL, of Philadelphia.

J. WHEATON SMITH, of Philadelphia.

ELLIS VARNALL, of Philadelphia.

FRANCIS R. COPE, of Philadelphia.

ADAM POB, President Western Freedman's

Aid Committee, of Cincinnati.

EDWARD HARWOOD, of Cincinnati.

LEVI COFFIN, of Cincinnati.

J. M. WALDEN, of Cincinnati.

J. M. FORBES, of Boston.

EDWARD ATKINSON, of Boston.

Mr. MORRIS, of Ohio. I did not hear the whole of that document read. Is it in order to ask that it be reread? [Laughter.]

The SPEAKER. It requires unanimous consent.

Mr. COLE, of California. I object.

Mr. ELIOT. I am very glad it is so interesting to the gentleman from Ohio. I now ask the Clerk to read the message of the President of the United States.

The Clerk read, as follows:

To the Senate and House of Representatives of the United States:

Herewith I lay before you a letter addressed to myself by a committee of gentlemen representing the Freedman's Aid Societies in Boston, New York, Philadelphia, and Cincinnati. The subject of the letter, as indicated above, is one of great magnitude and importance, and one which these gentlemen, of known ability and high character, seem to have considered with great attention and care. Not having time to form a mature judgment of my own as to whether the plan they suggest is the best, I submit the whole subject to Congress, deeming that their attention thereto is almost imperatively demanded.

December 17, 1863.

Mr. ELIOT. That letter of the President was written in December, 1863. Nearly one year before that time, in January, 1863, I offered the first

ABRAHAM LINCOLN.

bill upon this subject, establishing a Bureau of Emancipation, which was referred, as gentlemen will remember, to a select committee, at the head of which, I think, was Judge White, of Indiana. That committee was prepared to report a bill, but having the charge of the bill concerning Missouri and one or two other bills, they were prevented from doing so.

The bill was again offered at the next session of Congress, and stands No. 1 upon the Calendar. It was referred to a committee, and reported again as House bill No. 51, and it now comes up for action from the committee of conference. Since January, 1863, we have been endeavoring to mature some legislation on this subject. Now, unless some other member desires to propound interrogatories or wishes to speak upon this subject, I propose to call the previous question.

Mr. SCHENCK. Will the gentleman from Massachusetts [Mr. Eliot] withdraw that call for the present?

Mr. ELIOT. Certainly.

Mr. SCHENCK. Mr. Speaker, I am perfectly well aware that in the few remaining days of this short session not much or long debate would be either proper or in good taste. But I trust the House will excuse me for asking at least a little attention to this subject from another point of view this morning; my excuse being that this subject of providing for refugees, set adrift by the fortunes of war, was, some two months ago, referred to the Committee on Military Affairs, of which I am chairman, and that as soon after that time as opportunity could be had, the committee reported to this House a bill which they had printed for the information of the House and recommended to that committee; and that committee now holds itself ready, whenever an opportunity offers, to report that bill back to the House, with two or three small amendments.

I can better, perhaps, present the view taken by the Committee on Military Affairs of this whole subject, by asking to have read from the Clerk's desk the very short bill concerning this matter which that committee are prepared to report. The three verbal amendments proposed by the committee are inserted in the bill, and if the Clerk will read it the House will be in possession of the bill precisely in the shape the committee propose to report it back.

The Clerk read, as follows:

A bill to establish in the War Department a Bureau for the Relief of Freedmen and Refugees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a bureau be established in the War Department, to continue during the present war of rebellion, to which shall be committed the supervision, management, and control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the Department and approved by the President. The said bureau shall have one chief, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be deemed necessary by the chief of the bureau, and approved by the Secretary of War, not exceeding two of the fourth class, two of the third class, three of the second class, and five of the first class.*

*Sec. 2. And be it further enacted, That the President may assign to such bureau, for the benefit of said refugees and freedmen, the temporary use of such abandoned lands and tenements in insurrectionary States, not belonging to loyal owners, as may be necessary, and may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, and their wives and children, under such rules and regulations as he may direct.*

*Sec. 3. And be it further enacted, That all laws and parts of laws conflicting herewith are hereby repealed.*

Mr. SCHENCK. The bill which has been read by the Clerk was prepared by the Committee on Military Affairs; and as contrasted with the bill from the committee of conference, which is now under consideration, it presents the difference between the two systems proposed. That difference, briefly, is this: the bill of the conference committee, as has been stated by the gentleman from Illinois, [Mr. Washburne,] is a bill actually made up and brought into this House by the committee of conference. It is not the bill which was first passed by the House. It is not the bill which was offered to us by the Senate as a substitute for the House bill. But it is made up by an abandonment of both of those bills in order to have a compromise upon an entirely new bill.

The first feature of this new bill produced by

the committee of conference is this: the House passed a bill which would have given the whole care of the subject of freedmen to the War Department, and as I think very properly. These men are set adrift by the accidents of war, or, if they be freedmen, by being released from bondage as our armies advance, or they escape within our lines. And whatever relates to them, whatever they do, and whoever they may be, they fall naturally with the lines of operations of the Army as it proceeds, and as its advance is made in any direction.

It seems to me, therefore, that the House was perfectly right in providing that these persons thus set adrift by the accidents and necessities of war, and needing assistance and relief from the Government, should fall within the care and attention of that Department of the Government which is engaged in the conduct of the war, and that a resort to any other system is but to produce a clashing between different Departments; is but to attempt to introduce, as it were, a wheel within a wheel—a system of operations looking for its head and direction to one Department of the Government within the very field of the operations of another Department of the Government. The Senate took a different view, and preferred to leave the care of this matter where it now is, under the present loose legislation that exists upon the subject, in the Treasury Department; thus building up a sort of rivalry by giving the Treasury Department the care of matters which are the incidents and consequences of the war, and within the very area covered by the war-making power in its operations. The committee of conference, in making their compromise, have proposed to us a new thing entirely; that is, that neither the Treasury Department, as the Senate wishes, nor the War Department, as the House proposes, shall have charge of this subject, but that a new Department of the Government shall be established, at the head of which there shall be a Commissioner, with a salary of some four thousand dollars, with various subordinates under him, to take care of this whole subject.

Mr. ELIOT. The gentleman will allow me to say that in the provisions for the appointment of a Commissioner and assistant commissioners, the committee made no change as to the expense.

Mr. SCHENCK. That is a mere matter of detail on which I did not mean to comment or make any criticism. The main point to which I am inviting the attention of the House is that the report of the committee of conference, instead of leaving this subject to the War Department as the House desired, or to the Treasury Department as the Senate proposed, presents a new idea altogether; that is, to create a new and independent Department of the Government to have charge of freedmen. In this consists the first material difference in idea between the bill proposed by the Committee on Military Affairs and that reported by the committee of conference. We do not think it necessary to build up a new Department of vast proportions. We do not think it necessary that that Department should be indefinite as to its duration. We do not think that the present condition of the freedmen in the country is anything more than one of the incidents of the war—temporary in its character from the very nature of things; to be disposed of as the war progresses, and to be ended about the time when the war closes. We think, therefore, that some competent existing Department of the Government should take care of this subject while the war continues, as the subject will probably need no further attention when the war shall have ended. The Committee on Military Affairs think, and have provided accordingly in the bill which they have prepared, that the proper Department to have the care and supervision of this whole matter is the War Department, inasmuch as all these necessities of refugees and freedmen are matters arising as consequences of the war, and having their existence within the line of operations of our armies.

This leads me to remark upon another feature in which the bill which the Committee on Military Affairs would propose to the House differs from this bill. We propose to limit the operation of our bill to the time of the existence of this present war of rebellion. The bill before the House from the committee of conference has no limitation as to time. Now, it would seem proper that there should not be a great system built up,

under a new Department, of indefinite duration, to be added to the various other Departments of the Government, when this new Department would have relation only to this subject of freedmen, provision for whom is, from the very nature of things, a temporary and fleeting necessity.

But there is another and a very material difference of idea between the bill proposed by the Military Committee and the bill reported from the committee of conference. We have introduced a bill which makes no discrimination on account of color—a favorite phrase, as is well understood, in these times among us all. The peculiarity of the bill introduced by the Military Committee is that it does not discriminate against whites; that it proposes to take care of all refugees, as well as all freedmen, who may need the help of the Government. Now, I have no objection to the Government authorities taking under their care and supervision, to whatever extent may be necessary, these colored men who may be released from bondage and thrown by the accidents of war upon our hands. I think it a duty which we owe to them to look after them to a certain extent. Yet I think that, with regard to them as well as with regard to white refugees, there is always danger that we may keep them too long in a state of pupillage. It will not do to give them too much as a matter of course the help of the Government, lest, instead of building up in them a feeling of strength and self-dependence, we should create in them rather a habit of dependence on others, a disposition to remain to some extent paupers in charge of the Government, not looking out for themselves, because their condition of dependence would be an easier life than taking care of themselves. That is to be guarded against either as to whites or blacks; and the difference of which I am speaking between the two bills is that the system proposed by the committee of conference, building up the legislation heretofore attempted and which resulted in the difference between the two Houses, looks only to the care and supervision to be extended over freedmen, while nothing whatever is to be done for the white refugees.

We have heard, Mr. Speaker, time and again, and heard related most truthfully, details moving our sympathy, some of them most appalling in their character, of the suffering of the poor creatures who, by the accidents and necessities of war, being released from bondage, live along the border or escape into our lines, and for a time, men, women, and children, all of them, are more or less helpless, depending upon the bounty and care of the Government to save them from destitution and starvation, until they can in some manner be looked after. And whatever is true in regard to the blacks is also true in regard to the whites in relation to this matter. From the very nature of war, its surging over the country back and forth, no matter whose army it may be, that of the rebels or that of our own Government, the march of that army must always result in houses being destroyed, in homes being made desolate, in people being driven from the shelter of these homes in destitution, in suffering. It follows from this cause, and that unfortunately extends alike to blacks and whites and to all colors. The details, if we were to go into them, and if we should have information read which has come before the Committee on Military Affairs, as the gentleman has had an argument read in favor of providing for freedmen; the details would be most harrowing of the sufferings of these white men who have been driven by the progress of our armies or the rebel armies from the country which they had occupied before on the other side of our lines.

The bill proposed by the Committee on Military Affairs does not, as I have said, look to a distinction on account of color; it does not discriminate against the whites; but, if we are to legislate on this subject, would provide for refugees and freedmen, refugees of all colors as well as freedmen, in order that all shall have that temporary relief, that immediate help, which is required in order that they may not undergo great suffering, and in order that they may be put in a condition to shift for themselves and become independent of this help from the authorities of the country at the earliest time when that can be brought about.

There is another general difference in character between the bill proposed by the Military Committee and this bill from the committee of con-



ference. The bill from the committee of conference, like the bill which went from this House to that committee and the Senate substitute, deals very largely in detail. Now, I think in regard to a matter of this kind, which my friend from Massachusetts himself says is experimental legislation, that it is better, from the very nature of the case, as it is a matter which relates to an emergency, to a necessity, to an accident, as it were, of the times and the condition of the war in which we are, that the system should build itself up and grow by accretion and development according to the necessities as they arise or are found to exist. If you attempt to provide in advance for every particular thing, if you have complicated machinery in this bill, or simple machinery even, running so much into detail, you run the risk of not accomplishing the object you seek, but, on the contrary, the further risk of defeating the very object which you are engaged in by raising endless questions as to the meaning or application of this particular provision of this law.

The bill proposed, therefore, is simply that, under proper regulations to be prescribed by the Department and approved by the President, with the help of the officer detailed or appointed for that purpose at the head of the bureau, with such subordinates and clerks as may be required, this bureau shall be established in the War Department, and as the emergency arises and the necessity exists, shall take care of the whole subject; and the only detail is that the President may assign for the benefit of the refugees, black and white, and freedmen, such abandoned lands; not lands in possession, but such abandoned lands of disloyal owners temporarily, as may be required to aid them in having subsistence supplied until they can obtain such subsistence themselves.

Now, sir, with these views upon the subject, and having presented these differences of ideas, I am frank to say that I realize the position in which this matter comes before the House. I know we have to adopt this report of the committee of conference as an entirety; that we have got to take it as a whole or vote it down entirely; that there can be no substitute, as I wish there could be, offered now; and that there can be no amendment proposed now. It is for the House, then, to determine whether it is better to give up entire this which legislates for those freedmen in the manner now proposed by the committee of conference, and run the risk, if they agree with me in my opinions upon this subject, of passing a bill which will cover the whole ground and provide for all refugees who suffer from the war; or whether, wishing to be sure of something in the way of legislation, although not covering the whole ground, they will take this partial legislation now, by agreeing to the report of the committee of conference.

Mr. GANSON. I would inquire of the gentleman from Ohio what course is now adopted by the Department in reference to this matter?

Mr. SCHENCK. A very bad one. There are a great many agents, superintendents, and assistant superintendents in the Department, who have charge of the subject of trade, upon which this matter devolves. The law under which they act is as follows:

"SEC. 2. And be it further enacted, That, in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease, for periods not exceeding twelve months, the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free. Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion."

The Secretary of the Treasury, in adopting regulations under that law, has provided that the special agents of the Government and their subordinates shall do all that is required relative to the employment and general welfare of the freedmen; that all these matters shall be carried into effect by the same agents and under the same supervision as are provided under the regulations concerning commercial intercourse. These commercial agents, whose duties lie in an entirely different direction, and who are mixed up with the regulation of all these cotton trades and other matters along our lines, which every gentleman is more

or less familiar with, are charged with the execution of everything relating to these destitute people along our lines. There is thrown upon them a duty entirely different from, if not antagonistic to, those more direct duties to which they were appointed, and having no connection with this class of duties; and the consequence has been—I may say without imputing wrong or negligence to any one—that little or nothing has been done, or, perhaps, can be done to take care of the freedmen.

And how stands the matter in reference to these refugees generally, for of that matter I have had extensive opportunity for personal observation? There come continually within the lines of our Army people whose homes have been made desolate, or who have been cut off from supplies of food, clothing, or other necessities which would enable them to remain at their homes, and who have the alternative to stay at home and starve, or throw themselves upon the mercy of our Government or military authorities. When thus they come to us we are compelled, without authority of law, to meet their condition as a mere question of humanity and charity, from which I would not shrink, and would direct commissaries and quartermasters to supply the necessary wants of those people, without which relief they would starve, or freeze, or suffer. In all cases, I believe, and in cases within my own personal knowledge I know, the Government has sanctioned what has thus been done by military commanders; and that, too, where, as in some instances within my own knowledge, that relief has been extended to the wives and children of rebels and of rebel soldiers, and who being within our lines in this destitute and suffering condition, it was not thought should starve or perish miserably on account of the conduct of their fathers and husbands and friends. That relief has sometimes extended to the wives and children of our own soldiers who, called away from home to distant fields suddenly, could not leave their families in such a condition as to get along without aid. That relief has been very frequently applied to persons living along our lines, having no connection with either army, but affected by and driven away from their homes by the movement of one or the other of the two armies.

This matter of suffering is one to which you cannot shut your eyes; and as a matter of humanity and charity you must meet and provide for it. It is a matter to which no man has a right to shut his eyes, or any officer of the Government shrink from affording immediate and speedy relief at the moment when the necessity exists, without which starvation and death will come to the sufferers.

The Government therefore, I say, has been compelled, from the very necessities of the case, to sanction this relief, and yet it is irregular and without law, but has been done under the promptings of the higher law and the necessities of humanity.

Now, I propose to legalize the system; and I propose to legalize the system not merely with respect to freedmen or to a particular class, but as to all parties that suffer in that way along the lines of military operation in consequence of the war which is going on.

I know, and I believe I have already alluded to it, that in reference both to the bill of the committee of conference and the bill which the Committee on Military Affairs propose, there is always a danger that you may raise up, as it were, a large body of paupers living and preferring to live on the Government rather than exercise their own means of obtaining a subsistence for themselves; but that after all is a matter which must be left to the discretion of those engaged in relieving them, as all such things always are; and while I see the danger in one direction upon that side, it is not nearly as great as the necessity which spurs us on, upon the other, to do something for these people. I would pass a law, if I could, which should extend a provision of this kind so as to relieve the sufferings and keep from perishing all men of all color anywhere along within the limits of the operations of our Army who need thus to be relieved.

Mr. KELLEY. Mr. Speaker, it seems to me that the gentleman from Ohio [Mr. Schenck] has a little overstated the case in characterizing the bill submitted by the committee of conference as a new bill. It really presents the provisions

of the two bills, that which originated in the House and that which originated in the Senate, and contains very little that is not to be found in one or the other of them.

The committee of conference discovered grave objections to putting this matter in charge of either of the Departments to which the House and the Senate bills proposed to confide it. In the one case it was proposed to leave it to the Treasury. That was in the judgment of the committee to make man a mere appendage to cotton, a commercial article to be treated and dealt with with exclusive reference to increasing the revenues of the country. To leave it to the War Department, as was proposed in the other, there were objections, which, without characterizing, I may illustrate by pointing to the alleged treatment of thousands of contrabands by Major General Jefferson C. Davis in the course of Sherman's march through Georgia. It was, therefore, believed by the committee of conference that they could best embody the views of the two Houses by proposing the establishment of the Department provided for in this bill.

The view taken by the gentleman from Ohio, who has certainly presented his suggestions with a great deal of point, is a very narrow one. It does not comprehend the scope of this bill, or of the want for which it proposes to provide. He seems to desire to enlarge its purposes by embracing a class of people not contemplated by the bill, but proposes really to narrow them by reducing the functions simply to those of feeding exiled people or hungry refugees. The bill contemplates a temporary organization for systematizing the labor of the four million people who hold no other relation than life and nativity to our country or its institutions. They have no experience of life beyond the plantation, or if they have, they have derived it as they have gone in gangs from one slave market to another, or from the market to the field of labor. They have not been permitted to know the cares and responsibilities of life.

We provide by national law for the care of the newly-arrived immigrants, and why? Because many of them come to us in ignorance, and most of them without knowledge of our country, its laws, its habits. We protect them against the vices of our own people. We induct them, as it were, into the great temple of American civilization.

The system, or rather want of system, proposed by the gentleman from Ohio would, in my judgment, create and foster an immense body of paupers, while the aim of every provision in the bill of the committee of conference is to elevate into independent, self-sustaining, self-governing men and women the freedmen of the country. They hold no relation, I say, to our laws. They are not witnesses under the laws of the States in rebellion; they may not sue; they may be robbed of their earnings, and there is no court before which they can successfully present or press their claims. They are, thanks to the infernal system of laws under which they have been reared, unable to read or write.

This bill would throw around them for a brief time the care of the Government, and see that contracts are fairly made with them and fairly enforced. It involves no large amount of patronage. It involves no cost. It proposes to add immensely to the revenue of the country by making lands that otherwise would lie waste bloom and bear, and to quicken the industry by giving the stimulant of a just reward to those who, without such care, would wander in vagrancy and pauperism, under the general provisions of the bill which the gentleman from Ohio would substitute.

I have been reminded by a question put to me by the gentleman from Missouri that one of my statements, while practically accurate, may not be technically true; that this people cannot sue in some of the States now in insurrection. I suppose that when their freedom should be acknowledged they would have the right to issue process, to implead a party, but they could not sustain it. Neither their oaths nor the oaths of the people of their race could be heard in support of their suit; and the right to issue a writ, without the right to adduce witnesses to sustain your cause, is practically the denial of the right to sue; so that, although my statement was not technically true, it was substantially and practically true.

Mr. Speaker, it is not often given to a Legislature to perform an act such as we are now to pass upon. We have four million people in poverty, because our laws have denied them the right to acquire property; in ignorance, because our laws have made it a felony to instruct them; without organized habits, because war has broken the shackles which bound them, and has released them from the plantations which were destined to be their world.

We are to organize them into society; we are to guide them, as the guardian guides his ward, for a brief period, until they can acquire habits and become confident and capable of self-control; we are to watch over them, and if we do we have, from their conduct in the field and in the school, evidence that they will more than repay our labor. If we do not we will doom them to vagrancy and pauperism, and throw upon another Congress, and perhaps upon another generation, the duty or the effort to reclaim those whose hopes we will have blasted, whose usefulness we will have destroyed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House, namely:

An act (S. No. 413) to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road;

An act (S. No. 390) relating to the postal laws;

An act (S. No. 430) to amend an act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;

An act (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia; and

An act (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States.

#### ENROLLED BILL.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 689) to provide for Acting Assistant Treasurers or depositaries of the United States in certain cases; when the Speaker signed the same.

#### REIMBURSEMENT OF MISSOURI.

Mr. KING asked and obtained unanimous consent to have taken from the Speaker's table an act (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

#### METROPOLITAN RAILROAD COMPANY.

Mr. STILES asked and obtained unanimous consent to have taken from the Speaker's table an act (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia;" which was read a first and second time, and referred to the Committee for the District of Columbia.

#### STATE OF NEVADA.

Mr. WORTHINGTON asked and obtained unanimous consent to have taken from the Speaker's table an act (S. No. 430) to amend an act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read a first and second time, and referred to the Committee on Territories.

#### FREEDMEN'S BUREAU.

Mr. ELIOT addressed the Chair.

Mr. CHANLER. I ask the gentleman from Massachusetts to yield the floor to me for a few minutes.

Mr. ELIOT. Certainly, sir.

Mr. CHANLER. Mr. Speaker, when this bill was before the House the other day I rose for the purpose of moving its reference to the Judiciary Committee—I did so in good faith, for the purpose of bringing before that committee the character of the bill and the general tenor of its provisions. It appears to me to be a bill to provide for tenants in fee in one case, and for

tenants at will in another. The overwhelming pretext of "military necessity" has developed throughout the country a new class of American citizens—men without homes, without rights, without history, and apparently without the protection of the law. I would keep these men within the purview of the pretext which gave them their present status. I would hold them amenable to the military law during the existence of the present rebellion.

I consider the remarks made by the gentleman from Ohio, [Mr. SCHENCK], of the Military Committee, to be pertinent, wise, and proper, and in looking at the bills presented—the one by the gentleman from Massachusetts, [Mr. ELIOT], from the committee on conference, and the one by the gentleman from Ohio, [Mr. SCHENCK], from the Committee on Military Affairs—I shall support that of the gentleman from Ohio, because it meets the case logically and carries out the established policy of the Administration, in my view, in the most mild and judicious manner. The arguments advanced by the gentleman from Pennsylvania [Mr. KELLEY] also prove the necessity there exists that those freedmen should be under some stronger hand for their government than that proposed to be laid upon them by the bill presented from the committee on conference.

The position presented to this House by the two races under consideration, in the bill of the gentleman from Ohio [Mr. SCHENCK] is simply this: that on a given line of territory are to be found two races struggling for life, liberty, and happiness, and demanding the protection of the American Government. The major premise is the broad, philanthropic, reasonable, and constitutional one assumed by the gentleman from Ohio. While the clash of arms is ringing in the ears of men from one end of the land to the other, he proposes to throw the protection of the sword around those who are too helpless to protect themselves. Remove that protection, send to the border a commission appointed under the bill of the conference committee, and to what result will it come? That very commission must demand from the military commander of that department the very protection which the Military Committee extend directly to the parties in distress.

Sir, the question of immigration has been brought into consideration. We are all, in one sense, immigrants; we are all the descendants of immigrants; we represent in this country the grand principle of immigration, the development of that principle, and the civilization which follows a free exercise of it. It is useless, for the purpose of argument, to contrast the situation of the immigrant to-day with the situation of the black freedman now thrust upon us. That proves nothing. We invite the immigrant from abroad to seek a home here for the purpose of developing our resources. We have received the runaway slave and the freedman as the result of a military necessity which we could meet in no other way. That line of argument has no force on my mind; it presents no new phase of the argument presented to this House from time to time by the gentlemen who have addressed the House upon this subject. It has but one merit. It proves uncontestedly that at no time, and under no circumstances, will gentlemen who are laboring under certain influences of fanaticism—which has been called, by those who use language stronger than I propose to use at present, a species of lunacy—allow any adjustment of this subject which will give the white race equal protection from this Government, under the same circumstances, to that enjoyed by the blacks. That is all I can see in that argument.

We are told that the military bill is a bill for force. We are not told, however, what will be the advantage of leaving these freedmen without the protection of the military arm. During the existence of military departments throughout the country it is impossible that they can be removed at any time from military surveillance, even if the bill proposed by the committee on conference should pass.

Now, sir, on the question of revenue I have nothing to say. The chief objection offered by the gentleman from Pennsylvania to the proposition was that it proposed to treat this subject as a revenue question. Whether either bill be incidentally a measure of revenue cannot, it seems

to me, be an important consideration, if the provisions are in accordance with justice and adapted to promote the welfare of those for whom we are seeking to provide. The objection that this bill is a measure of revenue overlooks, it appears to me, its chief merit. The true merit of the bill seems to be that it will do good, and that it will, by the force that is now in the field, make that good permanent, and secure to certain lessees of the Government tenements to hold at will until the President of the United States, in his wisdom, shall deem it time to make other provision for that class sought to be provided for.

Mr. ELIOT. Mr. Speaker, I propose to occupy the attention of the House but a few minutes in reply to some of the suggestions made by the gentleman from Ohio, [Mr. SCHENCK], the chairman of the Committee on Military Affairs. I desire that his vote shall be given for the measure reported by the committee of conference, and I give him notice, Mr. Speaker, that I expect him thus to vote. I do not believe that it will be in his heart to refuse to vote in favor of this bill because he desires that something more shall be accomplished.

What my friend has said in regard to refugees, I do not propose to controvert. It may be that the facts are all exactly as he states them. If at a proper time the committee having charge of this matter of freedmen had had an opportunity to consider the question with regard to refugees, that question would have been treated by them with careful attention, and they would have been prepared to report upon it. What was referred to them was the matter of freedmen, not because it was a discrimination in favor of the black against the white, but because the time had come when, in the order of Providence, some legislation was demanded for those men.

It may be that legislation is also needed for the white refugees. Then let my friend vote with us for this bill; so much will be gained; and when the time shall come, if the gentleman from Ohio will initiate supplemental legislation, he will find nothing in my heart that will prevent me from giving him such support as the character of his bill may properly call for. But let us not destroy all because we cannot now get all. It is perfectly obvious that no change can be made in this report. It must be adopted as a whole or it must be rejected as a whole. Why shall we run the risk of doing nothing because, in the judgment of some gentlemen upon this side of the House, the bill does not go far enough? No, sir; let us care now for the freedmen, because that is the subject immediately under consideration; and when the time shall come we can act together in caring also for those about whom my friend from Ohio has interested himself.

The gentleman from Ohio has argued in favor of placing the care of these freedmen in the hands of the War Department. Well, Mr. Speaker, so I have done myself; and there is very little that has fallen from my distinguished friend with which I would not agree. He forgets, however, one or two difficulties. If this subject be now committed to the care of the War Department, there must be at once a collision and a conflict between the War Department and the Treasury Department. The Treasury Department now has the care of all the abandoned lands. If you put upon the War Department the care of sufficient lands for the use of the freedmen, you create at once a collision between the agents and officers of the War Department, who are seeking to protect the freedmen, and the agents and employees of the Treasury Department, who, under our legislation, are looking out for revenue for the Government. Let me say to the gentleman that this practical difficulty was one which, more than any other, perhaps, induced me to believe that, situated as we now are, it would be better to separate this subject for the time from both the War and the Treasury Departments. I am afraid that, if we should undertake to parcel out the lands, giving to the War Department enough for the freedmen and the Treasury Department the remainder for revenue, it would be difficult to prevent collision. This is the conclusion at which the committee arrived, after much examination, discussion, and deliberation.

But, Mr. Speaker, let me say to the gentleman that it will be the easiest thing in the world to

attach this bureau to the War Department, if it should be deemed proper, after this bill shall have passed. When Congress legislated in behalf of agriculture, it was found best at first to create a Department not connected with any of the Executive Departments of the Government. So there was established a Department of Agriculture, acting with the President, and not through the Secretary of the Interior. In the course of not many years it was found advisable to attach that Department to the Department of the Interior, and so it now stands. Thus it can be here. If between this time and next winter it should for any reason be found advisable to connect this Freedmen's Bureau with the War Department, it can be done by act of Congress, and no disturbance will be created. This fact will then be that the War Department will have the management of all the abandoned lands; not those sufficient themselves for freedmen only, but all that shall come within the control of the United States during this rebellion. So I say that the gentleman will find a reason there why he should now sustain the bill, because it will be easy to carry out by subsequent legislation the proposition which he has indicated.

The gentleman has said that this is a permanent establishment. No, sir; it is not permanent. It is temporary. It may not last but for a season. It will last but for a season. We all see that the time must come, in a few years, when the operations of this Department must cease. Not with the war—let me call the gentlemen's attention to this fact—not with the war. It will not do to end our care of freedmen when the war ends. The war may end during the coming summer. We trust that it will end during the present summer. The time for caring for freedmen will not have ended. This is of course temporary. It cannot be lasting, but it cannot be done in a few months, even though the war may have ended.

I agree fully with the remarks of the gentleman from Ohio, that this should not be a permanent, enduring plan; but I differ from him when he says that it should end when the war ends. I think that the gentleman on reflection will be willing, even so far as his own *protégés* are concerned, I mean the refugees, that we should not terminate the care which should be bestowed upon them when the clash of arms shall cease and peace shall be restored to the land. He wants these persons to cease to have help when the war ends, and we do not agree to that, because there may be the same need for help that there is now. That is all there is of it.

When the gentleman from Ohio says that this bill deals in details, I wish to say to him that he has not treated it entirely with fairness. It goes a little more in detail than either the bill which the committee or the House passed. It does deal a little more in detail than the bill which the gentleman from Ohio proposed. But I will call his attention to the fact that his bill, like the bill passed by the House, confers upon the Secretary of War power to make all needful rules and regulations, and under that power all the details, a very few of which are inserted in the bill reported from the conference committee, would be embraced. In other words, a system would have to be devised, a plan would have to be established, to carry into effect the power to make all needful rules and regulations. The Secretary of War would have the same right to institute an elaborate system that the Secretary of the Treasury had under the act of July, 1864, to which reference has been made. No, sir; it does not deal in details. The gentleman will find most of these provisions which he calls details are required; that they are involved in the general provisions of the House bill, and are rather amplifications than specific, independent provisions; and that they indicate that, in the judgment of the House, in any rules or regulations to be adopted these provisions are to be embraced.

I do not think the gentleman from Ohio has considered the question of collision between the two Departments which would be involved by the passage of his bill. Under this there can be no such collision. And gentlemen on this side will bear in mind that the effect of a vote against this report will be to leave the whole care of the subject under the Treasury Department, under the three lines of the law I have referred to. All the special agents, who have been appointed un-

der the act of March, 1863, and other acts, will dispose of abandoned property of all descriptions for revenue purposes. If this report be not favorably received the same hands will be intrusted with this matter that have charge of the Treasury and financial affairs of the Government. The question then presents itself whether the bill reported by the conference committee is not, under the circumstances, the better bill; whether it is not a vast improvement of legislation to adopt rather than to reject this report? There are provisions in that report which I think gentlemen will hardly want to vote against.

So far as freedmen are concerned, let me say that perhaps there has been no subject before this Congress or the last that has received more careful attention than this has at the hands of those who had it in charge. Not a line of the bill has been omitted from a careful examination and scrutiny. Hours have been passed in collecting information and in putting together the best bill that, under the circumstances, could be framed. The question now is, is it not an improvement upon the legislation as it will be if this bill be not accepted? I think, Mr. Speaker, upon that point there can be no division of sentiment. I think as between this bill and the law as it now stands, capable of being effectually carried into effect, as it is, according to its provisions, we shall find gentlemen upon both sides of the Chamber preferring this law to the one now in force. That is the question now; and not proposing to occupy the time of the House further, I call the previous question.

Mr. WADSWORTH. Will the gentleman yield for a moment?

Mr. ELIOT. For what purpose?

Mr. WADSWORTH. I am not bold enough to claim the indulgence of the House or the gentleman for the purpose of discussing the bill. I only rise to ask a question. What is the object of the thirteenth section of the conference report?

Mr. ELIOT. I will explain that to the gentleman. After the House had passed the confiscation act it went to the Senate for its sanction. An honorable gentleman from Tennessee, Mr. Maynard, called upon some of his friends on this side of the House and stated that there was a provision in that act which he thought would be retroactive in its operation, and desired that it should be amended. In order to amend it he offered a single explanatory resolution, providing that the part of the act to which he referred should not be retrospective. That resolution was passed by the House and sent to the Senate. While the resolution was in the Senate the confiscation act was before the President for his examination, it having passed the Senate. Before it came back from the President, for reasons which the gentleman will not perhaps want me to occupy the time of the House in detailing, it was found expedient in the Senate to amend the explanatory resolution which had gone to them from the House by adding to it the clause which is referred to in this thirteenth section; that is to say, the clause which limited the operation of the confiscation act to the life of the parties who owned it when confiscated.

Mr. WADSWORTH. I merely want to know if that limitation would be repealed if this report is adopted.

Mr. ELIOT. Most certainly. This thirteenth section repeals the last clause of that explanatory resolution, and will leave the confiscation act in the same condition in which it was when it left this House and went to the Senate.

Mr. GANSON. I desire to ask the gentleman whether, if that repealing clause is kept in this bill, it will not insure a veto from the Executive? I understand the Executive would not approve the original joint resolution upon the ground that it violated, in his opinion, the Constitution, and the explanatory resolution was adopted to meet his objection to the original resolution. Now, if this repealing clause is put in here, and the Executive has not changed his mind as to what the Constitution means, it will insure the veto of this bill.

Mr. ELIOT. The inquiry of the gentleman is, whether in case this bill goes to the President as it is, it will not be vetoed. I think it will be signed. The gentleman from New York has progressed very greatly since July, 1862.

Mr. GANSON. I desire to know whether the President has progressed upon this subject also.

Mr. ELIOT. The President is always progressing in the right direction. I call the previous question.

The previous question was seconded.

Mr. ROSS. I move to lay the report on the table.

The motion was not agreed to.

The main question was then ordered to be put, namely, Will the House agree to the report?

Mr. HOLMAN. I call for the yeas and nays. The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 64, nays 62, not voting 56; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Dawes, Denning, Donnelly, Eckley, Eliot, Frank, Grinnell, Hooper, John H. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Sloan, Spalding, Starr, Stevens, Thayer, Upton, Van Valkenburgh, William B. Washburn, Wilder, Wilson, Windom, Woodbridge, and Worthington—64.

NAYS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Brooks, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Edger-ton, Eldridge, English, Finck, Ganson, Grider, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, Kauffleisch, King, Knapp, Le Blond, Long, Mallory, McAllister, McKimney, Middleton, William H. Miller, James R. Morris, Nelson, Noble, Odell, John O'Neill, Pendleton, Radford, William H. Randall, Rogers, Ross, Schenck, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Sweet, Townsend, Tracy, Wadsworth, Ward, Elihu B. Washburne, Webster, Whaley, Wheeler, Joseph W. White, and Winfield—62.

NOT VOTING—Messrs. William J. Allen, Alvey, Anderson, Blaine, Blair, Bliss, Blow, Brandegee, James S. Brown, Freeman Clarke, Creswell, Henry Winter Davis, Denison, Dixon, Driggs, Dumont, Eden, Farnsworth, Garfield, Gooch, Griswold, Hale, Harrington, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, Hutchins, William Johnson, Francis W. Kellogg, Korman, Law, Lazear, Marcy, McDowell, Moorhead, Daniel Morris, Morrison, Porham, Perry, Price, Prunty, Samuel J. Randall, Robinson, James S. Rollins, Scott, Shannon, Smith, Stuart, Thomas, Voorhees, Chilton A. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—56.

So the report was agreed to.

During the roll-call,

Mr. WILSON stated that Mr. Price had been called from the city, and had paired with Mr. Scott.

Mr. DEMING stated that Mr. BRANDEGEE was detained from the House by indisposition.

Mr. DAWES stated that Mr. Gooch was absent in consequence of sickness in his family.

Mr. WEBSTER stated that Mr. CRESWELL was detained from the House by indisposition.

Mr. MILLER, of Pennsylvania, announced that Messrs. MARCY, RANDALL of Pennsylvania, and DENISON, were absent on account of sickness.

The result of the vote was announced as above recorded.

Mr. ASHLEY. I move to reconsider the vote by which the report of the committee of conference was agreed to, and to lay the motion to reconsider on the table.

Mr. NOBLE. I demand the yeas and nays on the latter motion.

Mr. ASHLEY. I withdraw the motion.

WAGON ROADS IN THE TERRITORIES.

Mr. ARNOLD. I ask leave to report from the Committee on Railroads and Canals a bill to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska, for the purpose of having the bill printed and recommitted.

Mr. HOLMAN. I will not object if it be understood that the bill shall not be brought back by a motion to reconsider.

Mr. ARNOLD. I will not move to reconsider.

Mr. HOLMAN. Then I make no objection.

The bill was read a first and second time, re-committed to the Committee on Railroads and Canals, and ordered to be printed.

TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the special order, being the tax bill.

Mr. ELDRIDGE. I ask the gentleman from Vermont to allow me to present a memorial of the Legislature of the State of Wisconsin.



Mr. MORRILL. I will yield this evening, but not now.

Mr. ELDRIDGE. I shall not be able to be here this evening.

Mr. MORRILL. I have declined to yield to several members around me, and must insist on my motion.

The question was taken; and the motion was agreed to—ayes 67, noes 25.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and proceeded to the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. MORRILL. Mr. Chairman, at an earlier period of the session it was my purpose on some proper occasion to submit some remarks upon the financial questions which now so largely concern the present and future condition of our country; but at the present time I shall not detain the committee long, but confine myself mainly to the duty of explaining such features of the bill as may be considered novel or not heretofore embraced in our internal revenue laws. The leading object of the legislation now proposed is to make a considerable increase of revenue, and thereby reinforce the Treasury at the same time we are adding to our forces in the field.

It is not to be disguised that our requirements have been on so vast a scale, and must continue to be for yet a time longer, that it requires the coolest sagacity and greatest skill to successfully conduct our financial affairs. It is not necessary to moot the question whether the adoption of the legal-tender paper currency was wise or not, though my own opinion still inclines to the negative, as on all sides it will now be generally conceded that the time has arrived when the further sinking of the value of the United States securities and evidences of debt must be promptly arrested. The only mode of certainly accomplishing this object is by increasing the revenues of the country, even if we should have to go so far as to equalize revenues and expenditures. I do not think this will be necessary; but if it were necessary, I feel certain we might pay as we go. Yet it might be unwise to push taxation to that extent. We are engaged in a war for which posterity can preëminently afford to bear its fair share of the cost. Mr. Gladstone, the financial minister of England, made a futile attempt to place the whole burden of the Crimean war at once upon the British people. Commencing comparatively out of debt, with unstrained resources, and backed up by an all-pervading patriotism of the people, we might do better; but it is not now proposed to try the experiment. The five per cent. war income tax will have produced about thirty-five million dollars, which shows the income of the whole country on incomes exceeding \$600 to have been \$700,000,000; and if to this we add the probable amount which escaped this tax, the whole annual income of the country could not be computed at less than \$1,000,000,000, and this is much more than our annual rate of expenditure has been thus far during the rebellion. Beyond this, I hold that for every dollar we raise now we shall lessen more than a *pro rata* amount of future indebtedness. We lessen it first by the actual payment of dollar for dollar, and next by the talismanic power exerted upon values, whereby the cost of all the immense war outfits of the Government will be greatly reduced and its magnitude rendered less unwieldy and placed within safer limits. It will also tend to raise the value of that currency paid out to the officers and men belonging to the military, naval, and civil establishments of the Government, and relieve us from the pressure for an increase of pay and salaries. Who will maintain that this is not a more excellent way than it would be to take steps in the opposite direction, by increasing the nominal amount of pay and salaries twenty per cent., only to find, when we return at the next session of Congress, that we had imposed upon the Treasury Department the inexorable necessity of a greenback expansion instead of a curtailment, and that officers and men were as much straitened

to live upon their twenty per cent. advance as they were the year before without it? Our great lakes of paper currency will become a shoreless and bottomless sea unless we can confine it here and now within fixed bounds, never to be changed, except by gradual compression within narrower limits.

Those who assume that a great expansion of currency is a great fertilizer and a public benefit, and cling to that idea as a part of the permanent policy of the country, must concede that the rebel States have reached an acme of prosperity to which we have not yet arrived. With us a gold dollar purchases two dollars of United States currency. Among the rebels, two dollars and a half in gold will buy one hundred dollars of their paper. This to me appears to be the road to ruin and not to prosperity.

No one doubts our ultimate success in subduing, thoroughly and forever, the great rebellion. That our people will fight on this idea there is no question; but the query is, will they pay? If this is not so, why is it that Europe is allowed to-day to obtain our bonds at half their nominal value? We all know they will be paid to the uttermost farthing, and their intrinsic value is not less than the nominal; but having provided a means by which our own people can pay for them in a currency depreciated, it is impossible to prevent foreigners from availing themselves of the same privilege. By further taxation we shall be in the market less frequently, and if we sell our bonds for what they will bring, the price obtained will gradually more nearly approximate to their actual value. We shall smooth the path of any future Secretary of the Treasury, and deal more justly by ourselves as well as posterity, whose taxation hereafter as well as our own will be diminished.

The owner of any incumbered estate, with the title in dispute, must pay a higher rate of interest than the owner of an unfettered estate not in dispute. So we must pay, possibly, a higher rate of interest than we should have to pay were there no rebel blood-hounds barking at our heels; but we can at least try to make that rate of interest the only barometer which shall indicate the condition of our public credit.

The stupendous improvements in modern warfare, its costly scientific requirements, will hereafter make all wars far more expensive than in the past history of the world. This was exhibited very prominently in the late struggle of the English and French with the Russians, and our own example points still more strongly in the same direction. More than ever money enters into the calculation of success. The sinews of men may not fail, but they must be fed and clothed, transported, paid, and pensioned, and iron, salt, and saltpeter must be had in abundance. A shot or shell that once answered the purpose at a cost of a few cents, as now fashioned costs as many dollars. A cannon that in 1776 would have been dear enough at \$100, is now cheap, perhaps, at \$5,000. The skill of a whole nation's cunning workmen is brought into action, whether in the small patent fuse, or the most ponderous engine, and all the operations, by land or sea, are on a Titanic scale.

With these inevitable conditions, any nation involved in war must now husband its resources; or it may be forced to conclude an inglorious peace; and it must call forth its resources, or it will be mired in the first ditch.

But I need not waste the time of the committee on this point. The soundness of the policy of increased revenues is obvious to the merest tyro in finance. I will not, therefore, anticipate any objection on this score to the general purpose of the bill, but suppose it will arise as to its details, if it shall arise at all.

It will be asked, why make so many and so frequent changes? The frankest answer I can make to this is, that besides seeking a larger sum of money, we find it necessary, as the law comes to be practically administered, to add new or amend old provisions, so that the unwilling shall be made to pay equally with the willing, and that the honest portion of the community may not bear all the burdens, while the others—few in number, to be sure—escape. The honest and honorable need very little law, but those of the other sort are prolific in unrighteous ingenuity, and need a great deal of law, and very good law also.

It is due to the engrossing clerks to say that at

the last session an unusual amount of labor was imposed upon them, and when the act to which the present bill is an amendment passed they were so jaded and overtaken that several new and unpracticed hands were employed in engrossing it, and hence the reason of the rather numerous verbal mistakes in the act, which we now propose to have rectified.

That any law of this kind can be made absolutely perfect, so as to give satisfactory results at all times and in all seasons, is an impossibility. The English excise laws are the subject of constant complaint and constant revision. It is likely that each year will show to us the need of some change. When the war is over, and that is not very distant, I feel tolerably sure, it will then come in the form of some diminution of taxation, and Congress will be called upon to adjudge what subjects shall be first released. Then it depends greatly upon those who immediately execute the law whether it proves good or bad, just or unjust, efficient or abortive. In the hands of one man it goes on systematically and with little or no complaint, while in the hands of another it lags along painfully, producing discordant lamentations from whomsoever it touches.

The law is getting to be more thoroughly understood by the various officers throughout the country who are called upon to administer it, giving it a more equal interpretation, and the revenue is steadily increasing; and yet it is believed that if the law could be uniformly and strictly enforced in every part of the country there would now be no urgent necessity for a large increase of taxation. To remedy this, in part at least, it has been thought advisable to somewhat increase penalties in certain cases, to change the mode of taxation on cigars, fixing all at one rate, to require all tobacco, snuff, and cigars to be inspected, to give a small commission on all sums collected, however large, so that the collectors shall have an interest in collecting all that may be properly due in their districts, besides various other additions deemed important to accomplish similar ends.

Wherever any inequality appeared to exist in the law the Committee of Ways and Means have endeavored, as it will be the duty of this committee to endeavor, to remove it, as we may expect, whenever we may have reached the close of the present war and public attention shall not be absorbed by matters of far higher import, that small matters will produce irritation and call forth very potent criticism.

The Committee of Ways and Means propose to increase the duty on wine made of grapes from five to ten cents per gallon. The tariff upon foreign wines is high enough to give American wines great advantages, and their increased production has been and will be largely stimulated thereby.

The same remark applies to brandy made of grapes. This is a pure brandy, but may as well be taxed fifty cents as twenty-five, though the amount produced is small.

Brandy made of apples and peaches has not been subjected heretofore to any uniform tax, and \$1 50 per gallon is now proposed.

Having at the last session of Congress imposed a duty upon spirits of \$2 per gallon, and all that we can possibly collect, and perhaps more than we can collect unless we can effectually close the door against smugglers, it is now barely proposed to raise the duties upon malt liquors to a relative proportion, or \$1 50 per barrel. This will be rather under than over-taxed, as the relative competition between beer and whisky will be still in favor of the former article. The general license No. 49 has been found to include altogether too much, and it has been proposed to strike that out and to include a provision for a license for miners, expressmen, insurance brokers, and substitute brokers. The last, at least, will not be objected to.

It is also proposed to tax cotton six cents per pound, in coin. This is a new feature, believed to be eminently proper at the present time; and if on trial it should prove otherwise it can be readily changed. Nor is any drawback proposed for cotton exported, though on manufactured cotton an amount is to be allowed equal to that paid on the raw cotton according to the present existing law. This tax may strike the manufacturer at first as a great hardship. I think it will turn out otherwise. The outlets for cotton are increasing, and

even with this duty levied upon it the price cannot be kept up. The losses already entailed upon manufacturers and the owners of cotton goods by the recent decline in the price of cotton have been large, and the duty will at least check a still further too rapid decline in price, while the amount manufactured for exportation, though not large, will in no degree be checked. When we reflect that this American raw material sustains a much larger population by its manufacture abroad than it does here at home, no one will feel disposed to cripple the comparatively small amount of foreign trade it now enjoys.

But, it will be asked, will raw cotton bear this duty and still be exported? The cotton famine has increased the price four or five times its former current rate, and yet, notwithstanding this enormous stimulus to all the cotton lands of the world, the price is still extravagantly high. The crop of India for 1865 is expected to be less than that of 1864, and that from Egypt, always more or less uncertain, will be no greater. There is no cotton, with the single exception of that of Egypt, which competes at all with even the "New Orleans middling," and none whatever which competes with the Sea Island cotton. I do not think the duty would come out of the American planter if exacted, and not returned when exported, and I am the more convinced that this will prove so as the rebel Congress have imposed an export duty on cotton of twenty cents per pound—not much, to be sure, if paid in their currency—which they would not do if they did not suppose they were making the foreign purchaser pay the duty.

Then it is to be paid in coin. There is no article at its value so readily exchangeable for coin as cotton, and it will always be so. The duty is not so high as to prevent traffic. It will still circulate as an article of commerce; and it is not improvident to provide in time for an accession of means to pay the interest on such bonds, now bearing interest in currency, as may be within three years converted into specie-paying bonds. This will serve to fortify these securities, and place them beyond the reach of any peril arising from any possible fluctuations of the tariff, our main reliance for continuing specie payments of interest.

The amount of cotton in the southern States is now at least three million bales, and probably more. Very little of this can now be expected to run the blockade. The British, according to some estimates I have seen, expect to obtain only sixty thousand bales of this. We can probably furnish them with more. Most of it, early or late, can be made to pay tribute to our tax collectors, and no article deserves their hug more cordially. If we could realize the tax on the whole it would amount to over \$75,000,000. In quiet times of peace, on the ordinary annual production, we might safely count upon a revenue from this source of not less than thirty-five to forty millions, whatever it may be now. But the amount of the duty we shall realize now will certainly be considerable.

Without reducing the duty on refined petroleum, the Committee of Ways and Means propose to place a duty on crude petroleum, and do not propose any drawback whatever when exported. It is believed that this marvelous production is found almost exclusively in the United States, and, for illuminating purposes, its cheapness and purity is unsurpassed by anything known in commerce. Without sounding its praises, it appears to be our duty, as that of many others, to *strike oil*, and we have done so at the rate of six cents per gallon. This will be, including the present duty of twenty cents on refined, equal to twenty-eight or twenty-nine cents per gallon, and even then, at its market price, it will be, next to the sun, the most economical light in the world.

The amount of our exports to all parts of the world in 1864 was 31,121,791 gallons, having largely increased since 1862 and 1863. Notwithstanding this increase of exports, the consumption has not tarried behind, as the stock on hand in London and Liverpool on the 1st of January, 1865, was not more than one third of the amount on hand and unsold the year before. To show how firmly established this new article of commerce abroad has already become, I will give some extracts from a recent circular of a large mercantile house in Liverpool. They say:

"The home consumption has steadily increased, and is

even now considered far short of what it will ultimately become, the more so as genuine petroleum has been found to be but most slightly affected by the various coal oils that have been daily introduced, but has maintained its superiority in all particulars to a most marked degree. The fluctuations in price, as compared with last year, have been unimportant. Still speculation has been carried on to an even greater extent than hitherto, and as the article is daily finding increased favor, operations of still larger magnitude may yet be expected; the market to-day (January 1, 1865) is very firm." \* \* \* \* "The home consumption of crude oil has not increased in proportion to that of refined, the manifest advantages enjoyed by the Americans in refining enabling them to produce a *fine oil* at a price quite disproportionate to that for which it can be manufactured here, and consequently the British refiners have for the most part closed their works; the smallness of present stocks, however, causes firmness on the part of holders."

I have no doubt these statements are truly made, and if so, the American refiners will have no apprehension of any permanently unfavorable effect on their trade by the bill now before the committee. It is plain that coal oil, and nothing else, competes with refined petroleum, and that British refiners give up the contest as against the superior advantages of the Americans.

It is proposed to add to the duties now levied, in the section embracing manufactures, one fifth; so that where the rate is now five per cent. *ad valorem*, it will hereafter be six per cent., making exceptions of such articles as might not be able to bear the tax. If any such articles, in order to sustain this burden, shall require an increase of the tariff in proportion, such increase will hereafter be proposed; but it is not believed that so small an increase will render this needful in many cases.

It is to be borne in mind that taxes of this kind on manufactures can only be defended by the necessities of the day, as each addition lessens the power on the part of the people for consumption, and do not, like duties on imports, give any compensation by an impetus to the industry of the country. As legislators at this critical period in our history, I think it indispensable to our success in the great contest now going on, that we should see to it with the most earnest solicitude, that every man, every machine, every engine, and every mill is kept constantly and profitably employed. The capital expended in war is gone forever, and unless the productive energies of the country are skillfully and properly directed to a daily repair of this waste, we shall at the close find the people irretrievably impoverished. Today the universal employment of our people is a leverage that would give us the preponderance though the rebels were our equals in numbers. Our people know how to work, are willing to work, and we should give them a fair chance to work. In all these respects we possess great advantages over our foes. Let us maintain this as at once our staff and rod.

The income tax, intrinsically the most just of all taxes, is yet one extremely difficult of adjustment and collection. The fault found with our present law is that too many large incomes partially escape which ought to contribute more fully. Every man would be content, provided his neighbor paid his just proportion. This we have attempted to remedy by providing that in all cases returns shall be made under oath, and that even then this shall not be final unless the assessor shall be satisfied of their correctness. We also propose that all incomes over \$3,000 shall be assessed at ten per cent. Some other modifications will also appear.

Notwithstanding the recent enactment of our law and the sudden repetition of the tax last year, less complaint, it is believed, has been made about it than is constantly made about the income tax in Great Britain, though they have had long years of experience and their law has received numberless modifications. An able British writer upon the subject of taxation, Sir Morton Peto, as late as 1863, asserts of the income tax, that "the tax has carried with it every sort of grievance, trouble, vexation, annoyance, heart-burning, and strife." Our income tax is doubtless regarded as a heavy burden, but no such sweeping charges have been made against it. There will always be difficulty in ascertaining the actual income of reluctant tax-payers, and these will be sufficient in number to form a respectable company of growlers. I do not argue that our law is perfect, by any means. If it were to remain a permanent feature among our statutes, I should urge, as the basis of the ascertainment of every person's income, the adoption of a plan by which to get at

the actual amount of property held by such person over and above all indebtedness. This was the principle arrived at by Mr. Hume, in 1851, as the chairman of a parliamentary committee of fifteen, after a very elaborate investigation of the subject. None other appears to me either theoretically or practically more just. By such a plan we should not tax accumulations until they were made. A person may hold a vast amount of property yielding no present income, but which it may be very profitable to hold. Whatever it may be profitable to hold, or a privilege to hold, whether it be merchandise or stocks, lands or houses, mines or ships, horses or plate, cattle or anything else, should be subject to the same rule. This would be essentially a property tax, and the facts could be obtained with more absolute certainty. If this were the rule, the man with a large fortune but who lives a drone, without making his property productive, would not escape with paying a less tax than his more active neighbor, who, with little capital, and borrowing more, bestirs himself to leave the world better than he found it, and does not bury his talent in a napkin.

But it will be time enough when the rebellion shall be ended to speculate upon a system of taxation by which our public debt shall be gradually extinguished, and by which the more rigid forms of equity shall be carried out.

Upon the subject of taxing leaf tobacco the Committee of Ways and Means have spent much time in hearing the views of those engaged in its production and manufacture and of exports from various parts of the country, and became satisfied that it would be better to rely upon our present laws, with some important changes, than to try a new experiment at great cost and with no result so certain as that it would prove a great annoyance and hinderance to the producer. The collection of duties on manufactured tobacco, snuff, and cigars, is even now far more satisfactory than it was a few months ago. With a more rigid enforcement of the penalties, and with the amendments now offered, it is not seen why the duties on these articles may not be collected as well as upon any others, save that the temptation of high duties always induces more or less fraud. The different rates heretofore exacted upon cigars have been the source of systematic evasions, and now a moderate duty, intended to be about ten dollars per thousand, or one cent on each cigar, is provided for by fixing the duty at sixty cents per pound. In addition to this all cigars are to be boxed and inspected. It is believed that all parties will prefer to pay the duties now proposed rather than to run the risk of neglect, refusal, or fraud.

There are two printed amendments for which neither the Committee of Ways and Means nor myself are responsible. I mean that relating to banks, and that placing a tax on sales. Other gentlemen will offer them at the proper time, and it is enough for me to say that it appears that some further legislation as to the tax on banks is desirable. What that shall be will of course be for the House to determine.

Upon the other question, however, I feel compelled to say that a tax on sales has not appeared to me any more expedient now than when it was broached here three years ago. There are many gentlemen here and throughout the country for whose judgment I entertain the greatest respect, who seem to regard the question with favor, and it has the recommendation of that important officer at the present time, the Commissioner of Internal Revenue. It may be that the only way to satisfy its advocates of the impolicy of this measure will be to test it. I feel certain, if adopted, that the first thing our constituents would demand at the next session would be its repeal.

Taxes, to be tolerated at all, should be equal. If taxes were placed upon sales, then those living near the places of production would have advantages not available to those remote, in addition to the less cost of freight. The merchandise, foreign or domestic, from the Atlantic coast, before it reaches the Mississippi passes through the hands of many owners, and according to the theory of taxing sales its cost would be increased at each successive transfer. So a barrel of flour, from St. Louis or Chicago, before it reaches New York is often bought and sold a half dozen times. The tax would be cumulative, and the internal commerce of our country, always free until now,

would be choked and dammed up—confined to narrow localities. Instead of being national, so far as our laws could make it so, it would become provincial or sectional. We should destroy that great feature of America; the spirit and enterprise of trade. Of what use would it be to produce or to manufacture, if the channels of trade were to have obstructions placed in the way and rising higher and higher at every step? Better could the manufacturers and producers afford to pay the whole tax than to have it imposed in this form.

Then it would revolutionize trade and drive out of employment the middle-men. In the cities only men of large capital—the importers and wholesale merchants—would be patronized. They would at once combine the trade of wholesale dealers, jobbers, and retailers. Country merchants would buy of the original importer, if he chose to break up original packages, and the occupation of jobbers would be gone. Those who desired to buy at retail would seek the stream of merchandise at its fountain-head before it had trickled through gateways where its cost would be increased by repeated taxation. That merchandise often transferred would become unsalable as compared with that not so transferred. It would be soon understood that the merchant, whose goods when distributed were charged with but one tax, possessed advantages over his more humble neighbor whose goods could not be disposed of without having paid not less than three taxes. I think it important that our laws should disturb the usual agencies of trade as little as possible. This measure would clog and harass every business transaction of the country. It would increase the prices of every raw material and of every perfected manufacture out of all proportion to the amount of revenue to be obtained. According to the laws of trade, a profit would be taxed upon the tax itself as forming a part of the original cost. To the consumer it will be the most expensive of all taxes in proportion to the amount realized. Nor could it be fairly and fully collected. More frauds and evasions would be practiced than under all other provisions of the internal revenue laws. The number of men who do not keep an accurate account of their sales is now large and would be larger. None but merchants do this, and yet vast amounts of property are disposed of by other persons. The farmer and mechanic would be compelled to study book-keeping by double entry. I could pursue this subject much further, but I do not think it necessary. If our aggregate sales should amount to \$3,000,000,000, the half of one per cent. would yield but \$15,000,000. That is not enough for so large an experiment.

The hour of half past four having arrived, the committee took a recess until seven o'clock, p. m.

#### EVENING SESSION.

The Committee of the Whole on the state of the Union resumed its session at seven o'clock, p. m.

Mr. MORRILL. Mr. Chairman, if there are any other matters connected with this bill which I did not fully explain in my remarks before the recess, I am ready to answer any questions which gentlemen desire to ask.

Mr. BOUTWELL. Has the gentleman from Vermont made any statement of the amount of revenue which he expects would be received under this bill?

Mr. MORRILL. I will say, in reply to the gentleman from Massachusetts, that my time has been so much occupied that I have not been able to go through the entire bill. I can give him, however, a rough estimate of what I expect it will produce by certain amendments. I should estimate the amount to be received under the ninety-fourth section, adding twenty per cent. to the present duties, at from \$15,000,000 to \$20,000,000. I suppose that the increase on the income tax, taxing all incomes above \$3,000 at ten per cent., instead of graduating the tax as we now do—a part at five and a part at seven and a half per cent.—might produce somewhere between five and ten million more. I estimate the amount of increase upon ale and beer at about \$2,000,000, and the amount to be received upon tobacco perhaps not less than \$5,000,000. In consequence of the increase of tax upon the manufactured article, and of other provisions in relation to collecting the tax on tobacco and cigars, I should

think it might increase it at least \$10,000,000. In regard to the other parts of the bill I have not yet been able to make an accurate estimate.

The Clerk then proceeded to read the bill by clauses, for amendment.

Mr. MORRILL. I move to amend by adding after line twenty the following:

That section fourteen be amended by striking out the word "fifty" and inserting in lieu thereof the words "twenty-five;" so that it will read: In case of a refusal or neglect, except in case of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add twenty-five per cent. to such duty.

The amendment was agreed to.

Mr. WILSON. I move to amend by striking out the following clause:

That section twenty-five be amended by inserting after the words "\$400,000" the words "and not exceeding \$1,000,000 and one eighth of one per cent. on all sums above \$1,000,000;" by inserting after the words "reasonable charges for" the word "advertising;" and by striking out all of the first proviso, and by striking out the word "further" in the second proviso.

The section proposed to be amended is as follows:

SEC. 25. *And be it further enacted*, That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, and in addition thereto a commission of three per cent. upon the first \$100,000, and a commission of one per cent. upon all sums above \$100,000 and not exceeding \$400,000, and a commission of one half of one per cent. on all sums above \$400,000, such commissions to be computed upon the amounts by them respectively collected and paid over and accounted for under the instructions of the Treasury Department. And there shall be further paid, after the account thereof has been rendered to and approved by the proper officers of the Treasury, to each collector his necessary and reasonable charges for stationery and blank-books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent, and exclusively relating to official business; but no such account shall be approved unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of the collector: *Provided*, That the salary and commissions of no collector, exclusive of stationery, blank-books, and postage, shall exceed \$10,000 in the aggregate, nor more than \$5,000 exclusive of the expenses for rent, stationery, blank-books, and postage, and pay of deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office: *And provided further*, That the Secretary of the Treasury be authorized to make such further allowances, from time to time, as may be reasonable in cases which, from the territorial extent of the district, or from the amount of internal duties collected, or from other circumstances, it may seem just to make such allowances.

Mr. WILSON. I find that the proviso to which this clause refers is that the salary and commissions of no collector, exclusive of stationery, blank-books, and postage, shall exceed \$10,000 in the aggregate, nor more than \$5,000 exclusive of the expenses for rent, stationery, blank-books, and postage, and pay of deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office. If that proviso be struck out there will be no limitation on the salary of a collector. I should like to know whether the gentleman from Vermont can state the maximum sum that may probably be received under this clause by the collector who will have the greatest compensation.

Mr. MORRILL. Mr. Chairman, that will depend very much, of course, on the amount collected. This provision will not touch, perhaps, more than six or eight districts in the whole United States. After a full hearing of the subject the Committee of Ways and Means came to the conclusion, almost unanimously, I think, if not quite so, that it would be for the advantage of the Treasury to allow a small commission on all sums collected over \$1,000,000, thereby making it the interest of the collector to close up his accounts and collect all the taxes assessed in his district.

Mr. WILSON. I suppose the Committee of Ways and Means has some data on which they might base an opinion as to the highest compensation that a collector would receive, with or without this limitation.

Mr. STEVENS. The committee came to the conclusion that after the allowance of three, two, and one per cent. ends, and where there is still a considerable amount of taxes uncollected, it would be wise to allow a small commission for collecting them. It will make but a very small increase of compensation, and that will be pretty nearly all absorbed in the expense of collection. It will be a stimulus to greater exertions on the part of the collector.

Mr. WILSON. I understand that the collector has now allowed him compensation for clerk hire,

&c.; and I do not see that I have yet received an answer from the Committee of Ways and Means as to what the compensation of the collector may be in the district where the largest amount of taxes is collected. If I cannot get that answer, I will insist on my amendment.

Mr. STEVENS. The maximum is already fixed in the original bill, and this will increase it very little.

Mr. WILSON. If it will not increase the compensation much it may as well be struck out.

Mr. SPALDING. Mr. Chairman, I am in favor of the amendment. I think we should have some limitation to these salaries. In very many districts the salary of the collector runs up, with percentage, to the full amount of \$10,000 allowed by the law of last year. But now it seems we are to have no limit; the proviso is to be removed; and in large cities the percentage is to run on to the extremest dollar. We are told, as a reason why we should do this, that it will encourage the collector to perform his duties thoroughly. Now, I object to the employment, as collectors, of men of that character who require to be influenced in this manner. I should have hoped that the Committee of Ways and Means would have fixed some limit—five, ten, or twenty thousand dollars. I prefer, therefore, to let the law on this point remain as it now is.

Mr. STEVENS. After the commissions on the amount collected shall have reached the maximum amount allowed as compensation to a collector, he will have no personal interest in exerting himself to collect what remains. The commission which we propose to allow to the collector after the first million dollars is only one eighth of one per cent.

Mr. BEAMAN. Will the gentleman from Pennsylvania [Mr. STEVENS] allow me to ask him a single question?

Mr. STEVENS. Certainly.

Mr. BEAMAN. Are not the deputies also paid out of the salaries of the collectors?

Mr. STEVENS. Yes, sir.

Mr. BEAMAN. So I understand.

Mr. STEVENS. The collector has to pay all the expenses.

Mr. BEAMAN. Of the deputies as well as the clerks?

Mr. STEVENS. Yes, sir.

Mr. DAWES. I would like to know if the Committee of Ways and Means have any data by which they can inform the House of the amount usually received by the assessors for their compensation. It seems to me from all the information I can obtain that the assessors are better paid than the collectors. They do not give any bonds; they have no money in their hands; they have no risk to run; and still they have a greater compensation than the collectors. It seems to me that the compensation of the assessors is too high, or that of the collectors is not high enough. Now, I would ask if there is existing in the Bureau of Internal Revenue, or in the provision of the Committee of Ways and Means, any data by which they can inform the House about the actual compensation of the assessors under the law.

Mr. STEVENS. There was nothing from which we could ascertain that with any certainty. One thing is certain, however, that with the exception of the cities the assessors do the most work.

Mr. DAWES. I think there ought to be some different proportion from what the law now establishes, some relative alteration in the compensation of the assessors and the collectors. As it is now fixed by the law, either the collectors are not well enough paid or the assessors are too well paid. The assessors are not compelled by the law to pay their assistants as the collectors are. The assistant assessors are paid a separate compensation. The assessors are also allowed clerk hire, almost without limit; at least such is my observation. They have no responsibility in the custody or the collection of money; nor do they run any risk in the enforcement of the law. Their services are more clerical than that of the collectors; as I have already said, they have no compensation to pay to anybody. They have furnished them rent for their offices, hire for their clerks, and that, too, to an almost unlimited extent, and their own compensation as fixed by the statute, it seems to me amounts to, and I have reason to think actually does amount to, much more than



that which the collectors receive under the present law.

Now, I regret exceedingly that the Committee of Ways and Means have not obtained information from some source. I wonder that the Bureau of Internal Revenue does not furnish any evidence of what is the compensation of these assessors. The Internal Revenue Bureau has now been in existence some two years or more, and there ought to have been at least one or two years' settlement with every assessor in the country. And yet I am informed by the chairman of the Committee of Ways and Means [Mr. STEVENS] that they do not have in their possession, nor can they find in the Internal Revenue Bureau, any data from which can be ascertained what these assessors obtained for their compensation. Why are we then called upon to change one way or the other the compensation of these parties without the slightest data from which we can judge what they actually receive?

Mr. PRUYN. It is fixed in the law now; they can receive \$4,000, and not over.

Mr. DAWES. They receive \$4,000 and perquisites; perquisites in the shape of office rent and clerk hire. And the entire family of the assessor may be transformed into clerks. How can we tell whether these assessors or collectors have enough or do not have enough? Why is it that their accounts have not been settled in the Department, so that there can be shown us here what compensation they now have; and if we cannot tell what they do have how can the Committee of Ways and Means have any data upon which they can ask us either to make greater or less the compensation of either of them?

Mr. STEVENS. I suppose the gentleman desires particular cases?

Mr. DAWES. How can we legislate upon particular cases?

Mr. STEVENS. We know that no assessor can go beyond a certain amount, \$4,000. We know that many go below that amount.

Mr. DAWES. Has the gentleman any data, either in the committee or in the Bureau of Internal Revenue, that justifies him in saying that many of them fall below that amount?

Mr. STEVENS. I have not the returns. I know that in my district, a pretty populous district, the assessor receives less than two thousand six hundred dollars, and the amount of collections is about three quarters of a million of dollars, and I ascertained the same from inquiry in two or three of the surrounding districts.

Mr. DAWES. How much did he receive for office rent and clerk hire?

Mr. STEVENS. He received \$800 for clerk hire, and \$150 for office rent.

Mr. DAWES. I want to be understood. I have no special complaint as to any particular collector or assessor. Of course, I do not think that those in my district are any too well paid. But there does not seem to me to be the proper relative compensation with regard to the duties performed and the character of those duties.

Mr. ODELL. I desire to ask the gentleman from Massachusetts what he intended to convey to the committee in the statement which I understood him to make, that the assessors have perquisites, and that the perquisites are clerk hire and office rent.

Mr. DAWES. I mean to state, Mr. Chairman, that, under the general and liberal provision of the statute in reference to office rent, clerk hire, and other charges—there is some phrase of general character; I am not quoting it exactly—there is, in the administration of the law, a very liberal margin, under which I apprehend—that is as strong as I desire to make it—under which I apprehend the assessors are very liberally compensated. My anxiety was to learn whether there were any data from which we could ascertain just how liberal that compensation is. It can be determined in every district in the United States to a single dollar how much the assessors receive, and I think it ought to be ascertained.

Mr. STEVENS. We cannot tell what the allowance is; that is in the breast of the person who administers this Department. All I know is that, in my district, the amount allowed for clerk hire was just \$380 less than the assessor paid. Eleven hundred and eighty dollars was the amount which he paid, and the Commissioner of Internal Revenue allowed him only \$800. He,

therefore, is but very poorly paid. He is an able man, a well-read lawyer, and his real compensation did not last year amount to \$2,000. I cannot say how liberal the allowance may have been in other districts. But the amount of allowance for clerk hire and office rent is within the discretion of the Commissioner of Internal Revenue. So far as I have heard, the complaints are that he has been very close in his allowances.

Mr. ODELL. I do not feel entirely satisfied with the answer of my friend from Massachusetts to my interrogatory, nor do the gentlemen who surround me.

Mr. DAWES. I regret it exceedingly.

Mr. ODELL. I have no doubt that the gentleman will be able to make his explanation more explicit. I wish to know whether I understood the gentleman rightly when I understood him to say that the assessors derive advantage from the allowance for clerk hire and office rent. Does not the Government pay to the assessor in New York just what he has paid for office rent and clerk hire? Does the Government pay any assessor more for clerk hire than is actually paid by him?

Mr. DAWES. I have no particular case in my mind, and therefore I do not refer to the city of New York any more than I do to my own district.

Mr. ODELL. I understand that. I simply referred to New York by way of illustration.

Mr. DAWES. I submit that if my friend from New York will turn to the law and will then recall, from his own observation, the liberal manner in which such laws are sometimes construed at Departments, he will see what opportunity there is for obtaining a liberal compensation. The phrase of the law is, if I mistake not, "necessary clerk hire." Now, what is "necessary clerk hire?" It is just exactly what the assessor can make the Commissioner of Internal Revenue believe is necessary. Now, the assessor may—I do not say that he does in any case—make the Commissioner of Internal Revenue believe that it is necessary to have his entire family resolved into clerks.

Mr. FARNSWORTH. It seems to me that there is no difficulty about this, unless there is perjury and corruption, either in the Department or on the part of the assessor or his clerks. The law provides:

"The several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire; but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed, and the precise periods of time for which they were respectively employed, and the rate of compensation agreed upon, and shall be accompanied by an affidavit of the assessors stating that such service was actually required by the necessities of his office, and was actually rendered; and also by the affidavit of each clerk, stating that he has rendered the service charged in such account on his behalf, the compensation agreed upon, and that he has not paid, deposited, or assigned, or contracted to pay, deposit, or assign, any part of such compensation to the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give any reward or compensation for his office or employment, or the emoluments thereof."

Mr. DAWES. I am aware of all that; and if we could have had from the Committee of Ways and Means the benefit of definite information as to the actual amount paid in different districts under that very provision, I think that my friend from New York would have understood the matter without any remarks from me.

Now, I submit, Mr. Chairman, that I am not to have dust thrown in my eyes by "custom-house oaths" or any sort of affidavits. It is the easiest thing in the world for a man to make himself believe that any number of clerks for whom he can get an allowance through the Department here at Washington are "necessary" to him. In some quarters of the country men's consciences are easy on that point.

I only rose to ascertain what was the practical operation of this law, and I have not yet learned it; for there is not a man who is able to tell me what the assessors get under this provision, I have reason to believe, Mr. Chairman—and I adhere to it notwithstanding my friend from Illinois read a long list of affidavits as to the gauntlets through which these men ran.

Mr. FARNSWORTH. I can state how much these men get, unless they swear falsely. They only get what the law allows.

Mr. STEVENS. Does the gentleman from Massachusetts suppose it reasonable that the Committee of Ways and Means are to inquire into the net receipts of every assessor throughout the United States? Does he make any intimation of that kind?

Mr. DAWES. I beg the gentleman's pardon. I do not want to reflect upon the Committee of Ways and Means. The Committee of Ways and Means recommend a change of payment to the assessors, and it occurred to me that I could get some valuable information as to the relative compensation. I believe that the Committee of Ways and Means do everything in their power; and I say that sincerely and frankly.

Mr. WILSON. Has the gentleman knowledge of any case which illustrates what he has said? He has been talking a good while in regard to the compensation of these officers—that he cannot get information from the Committee of Ways and Means, and so on. Now, I ask him whether there is any case he can place before the committee which will illustrate what he has said.

Mr. SPALDING. Mr. Chairman, I desire to go back for a moment to the point that we are considering, and that is, whether the amendment proposed by the Committee of Ways and Means should be adopted. We object to striking out the proviso which limits the pay of the collectors.

The first proviso which it is proposed to strike out declares that the salary "and commissions of no collector, exclusive of stationery, blank-books, and postage, shall exceed \$10,000 in the aggregate, nor more than \$5,000 exclusive of the expenses for rent, stationery, blank-books, and postage, and pay of deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office." Then the second proviso goes on to say that the Secretary of the Treasury "shall be authorized to make such further allowances, from time to time, as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, or from other circumstances, it may seem just to make such allowances." Is not that a sufficient guarantee to collectors in the large districts that they will have their allowances paid by the Secretary of the Treasury if their collections are so great as the gentlemen say they may be under certain circumstances?

It will be noted that this amendment proposes to take off the limitation on the collector. We do not then know what their compensation may be. I am able to affirm that in my district we have no salaried officer, State or national, who is anything like as well paid as the Collector of the Internal Revenue. I know that he gets his \$5,000, and I am sure he takes care to get \$5,000 for clerk hire, &c. When he gets one eighth of one per cent. I tell you that he will receive \$7,500 for his own salary. I object to this. I say that \$5,000 is enough. If my district be an average one in the United States, I say that it is enough.

Mr. MORRILL. How much tax is collected in the gentleman's district?

Mr. SPALDING. I know that under the law as it stood before it was amended at the last session the collector realized \$6,000.

Mr. MORRILL. I desire to know how much tax is collected in that district?

Mr. SPALDING. Probably \$2,500,000.

Mr. STEVENS. In one of the districts of Philadelphia, after you reach the maximum of \$10,000, all the expense for collecting the balance comes out of the pocket of the collector. I think that it amounts to four or five million dollars. The collector, who is an honorable man, told me that his own receipts, after paying all expenses, were \$242.

Mr. WILSON. I should like the chairman of the Committee of Ways and Means to state why this cannot be adjusted under the present law—under the proviso which was referred to by the gentleman from Ohio, [Mr. SPALDING.]

Mr. MORRILL. I have no doubt that the object of all who have taken part in discussing this amendment is precisely the same, and that is, to get the largest amount of revenue possible into the Treasury, and at the least expense. Now, if gentlemen will fairly figure up the amount which can be received in each district they will see that what is proposed by the Committee of Ways and Means is no very extravagant proposition. If

they will figure up the amount which can be received in the district of the gentleman from Ohio, [Mr. SPALDING,] or in any other district, they will learn that the amount proposed to be allowed is not large.

And let me say here in passing that, except in three or four cities of the United States, and in districts where there are distilleries, there are no such sums as \$2,500,000 collected. If this proposition, therefore, should pass, it would affect but very few in number of all the districts of the United States. Under the present law, we allow the collector on the first \$100,000 the sum of \$3,000. Between the sum of \$100,000 and \$400,000 one half of one per cent. is allowed. So that if the collector shall collect \$400,000 he will have a salary of \$4,500. From that point up to \$1,000,000—that is for collecting \$600,000—he is to receive only \$1,000. And let me say here that all these collectors employ deputy collectors, to whom they are compelled to pay a percentage on what they collect; and it is much harder work, after having collected in the district \$400,000, to collect \$600,000 more, than it is to collect the first \$400,000. Then suppose there are collected in the district \$1,000,000, the salary is \$5,500; and if the amount should be \$2,000,000, it is \$7,167. If the amount should reach \$3,000,000, the salary would reach the outside limit under the present law, namely, \$9,834.

Now, Mr. Chairman, it seems to me reasonable and proper that if there are districts in which more than three million dollars are collected—a vast sum of money—we should be willing to pay something in order that this sum shall be collected. I have no feeling about it; I only desire to have the best interest of the country consulted.

Mr. STEVENS. My idea is that if we agree to give this one eighth of one per cent. the words "or from the amount of internal duties collected" should be stricken out, still leaving the territorial extent of the district to be considered by the Secretary of the Treasury in making further allowances. That is my idea; and if this amendment prevails I shall move to amend by striking out those words, so as to take away the discretion of the Secretary of the Treasury in making allowances on the ground of the amount collected. I do not like to leave that discretion to the Secretary of the Treasury, but would prefer to make it definite in the bill. He may sometimes be mistaken; and if we strike it out we relieve him of that duty, and relieve everybody of the temptation to make a large thing out of it.

Mr. WILSON. If that course be pursued, then the collector in districts in which the amount is not so great as the smallest amount fixed in the law, and still in which extraordinary duties are performed by the collectors, they could not receive an additional compensation from the Secretary of the Treasury. The effect then would be to increase the compensation of the collectors in the heavy districts and take away the power to allow additional compensation to collectors in the smaller districts, where a smaller amount is collected and larger labor performed.

Mr. STEVENS. I do not propose to strike out the words "that the Secretary of the Treasury be authorized to make such further allowances, from time to time, as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, or from other circumstances, it may seem just to make such allowances," but only the words "or from the amount of internal duties collected."

Mr. WILSON. If you strike out the words "or from the amount of internal duties collected," and leave in the words "or from other circumstances," the amount of internal duties collected will be one of the other circumstances. So it will be just as broad as it is long.

The question being on the amendment offered by Mr. WILSON—

Mr. WILSON demanded tellers.

Mr. HOLMAN. I hope it will be agreed that a vote may be taken in the House upon this amendment, so that we shall not break up the committee for want of a quorum.

Mr. WILSON. I do not propose to break up the committee.

Mr. WASHBURN, of Illinois. If, on a division, the House is found without a quorum, the roll must be called.

Tellers were ordered; and Messrs. WILSON and ODELL were appointed.

The committee proceeded to divide; when Mr. WILSON withdrew the call for a division.

Mr. HOLMAN. I must insist on a division, unless it can be agreed that we shall have a vote on this proposition in the House.

Mr. ANCONA. If gentlemen will agree to give us a vote in the House, we will not insist on a division now.

Mr. STEVENS. I am quite willing to agree to that.

Mr. SCOFIELD. I move to amend, upon page 3 of the bill, by striking out the word "ten," in line thirty-nine, and inserting "twenty" in lieu thereof, so that the clause will read:

That section twenty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the words "that each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement, published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than twenty days after such notification."

The section as it now stands gives the collector twenty days to furnish the county newspaper with the notice. That is all the notice the taxpayer gets, and he is required to be ready with his money in ten days. I think he ought to have twenty days. If it takes twenty days for the collector to get his notice in the paper, you certainly ought to give the tax-payer twenty days to get ready with his money and find out that the notice has been given. It is only ten days now.

Mr. HOOPER. If the gentleman will have the goodness to look further on in this section, he will find that the twenty days are there. The section reads:

And if any person shall neglect to pay, as aforesaid, for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice, to be left at his dwelling, &c.

Mr. SCOFIELD. I was aware of that; but during those ten days after the first ten days the tax-payer must seek the collector at his office, or at some place where he can find him. The notice is that he will be at a particular place at the end of ten days, and all the tax-payers may come there and pay him; but if they do not see the notice and are not there, then they have ten days more in which to hunt him up anywhere; he may be forty miles away; in any sparsely settled district he may be a long way off; and unless there is some reason why the time should be shorter, I think we ought to give them twenty days.

Mr. HOOPER. The wording is that it shall not be less than ten days—it may be more; but still the tax-payers have ten days after the first ten days from notice, and I think it would be too much to extend the time to twenty days.

Mr. SCOFIELD. I know from my own observation that these notices hitherto published in country districts have never come to the knowledge of a large portion of the tax-payers until the time was up. I do not know what time is required by the present act, but I do know that many people never find it out until the collector has been collecting and has left.

Mr. HOOPER. The gentleman will notice that the law is changed. Before the penalty for non-payment is now incurred, there must be another notice, giving ten days additional before the penalty is incurred. Formerly the penalty was incurred after ten days' notice. Now, there must be an additional notice served at the dwelling of the party, and before any penalty is incurred ten days must elapse. I think that more than covers the time the gentleman asks for.

Mr. HUBBARD, of Iowa. I move to amend the amendment of the gentleman from Pennsylvania [Mr. SCOFIELD] so as to make the time fifteen days instead of twenty. I think that is ample time for the purpose.

Mr. MORRILL. I think if the gentleman from Iowa, and other gentlemen, understand this question, they will not ask any further change than is proposed by the Committee of Ways and Means. It will be noticed that this section refers exclusively to the annual tax, and the newspaper notice, I believe, is regarded throughout the country as

being useless. The people understand when their taxes become due and pay them accordingly; but the modification proposed by this bill is that the party, in addition to the newspaper notice, shall have personal notice left at his dwelling-house ten days before the penalty can be imposed.

The amendment to the amendment offered by Mr. HUBBARD, of Iowa, was rejected.

Mr. SCOFIELD's amendment was disagreed to.

Mr. STEVENS. On page 4, line seventy-three, I move to insert after the word "discretion" the words "if any such can be found," so that the clause will read:

And in case of distraint it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling, or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded and the time and place of sale.

This, I may say, does not refer to the Commissioner of Internal Revenue, but to the person with whom the notice is to be left.

The amendment was agreed to.

Mr. TOWNSEND. Mr. Chairman, it may not be generally known to the committee that persons doing business in cities and residing in the country read the city newspapers and rarely read the local papers. This section provides that the notice shall be published in the county papers. Therefore, in order to provide for the difficulty in regard to persons residing near the cities, I move to insert after line thirty-five the words "and on all ferries and railroad depots," so that it will read:

That each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, and on all ferries and railroad depots, that the said duties have become due and payable.

The amendment was not agreed to.

Mr. PRUYN. Mr. Chairman, I notice a clerical error running through the section. In some places the word "notice" is used, and in other places the word "notification" is used. I move to amend by striking out the word "notification" where it occurs, and inserting the word "notice."

Mr. BOUTWELL. I hope that amendment will not be adopted. There is a distinction between the two words.

Mr. ELDRIDGE, (on the Democratic side of the House.) I wish to know whether they are in Committee of the Whole over there or only in committee of part of the House.

A MEMBER, (on the Republican side.) Come over here. [Laughter.]

The CHAIRMAN. Does the Chair understand the gentleman from New York to propose an amendment?

Mr. PRUYN. Yes, sir.

The amendment was rejected.

Mr. KALBFLEISCH. I would like to ask the chairman of the Committee of Ways and Means whether provision is made for the bonds of the collectors being changed, as the duties are changed.

Mr. STEVENS. We have not got that far along.

Mr. KALBFLEISCH. Is it in the law?

Mr. STEVENS. I do not doubt that the Secretary of the Treasury will take care to have the bonds changed when necessary.

Mr. KALBFLEISCH. That is not the question. The gentleman from Pennsylvania understands that I am correct. I only ask if he has made any provision in this case.

Mr. STEVENS. For changing the bonds?

Mr. KALBFLEISCH. Yes, sir.

Mr. STEVENS. Not at all. It is not necessary.

Mr. KALBFLEISCH. That is where I differ, sir. The duties are changed, and the bonds become null and void. And yet there is no provision for the renewal of the bonds. I will, at the first proper place, offer an amendment to this effect.

Mr. KASSON. I understand that the bonds cover the duties imposed by law. If not, there is a general statute meeting all these cases and authorizing the Secretary of the Treasury to

require a new bond at such times as he shall deem necessary.

**MR. KALBFLEISCH.** The law has been changed before, but new bonds were not required. I want to provide against the contingency of these bonds becoming null and void.

**MR. HOLMAN.** I move to amend the last proviso, by inserting the words "school books," so that it will read:

*Provided, further,* That there shall be exempt from dis-  
train the tools or implements of a trade or profession, one  
cow, arms, and provisions, and household furniture kept  
for use, school books, and apparel necessary for a family.

The amendment was agreed to.

**MR. WASHBURN,** of Illinois. I move to  
amend by inserting the following:

And hereafter there shall be assessed and collected a tax  
of fifty cents per gallon on all domestic spirits on hand for  
sale.

The question was taken, and there being, on  
a division, no quorum voting,

The **CHAIRMAN** ordered tellers, and ap-  
pointed Messrs. **WASHBURN**, of Illinois, and  
**HOLMAN**.

The committee divided, and the tellers reported  
—ayes 26, noes 44; no quorum voting.

The **CHAIRMAN.** The Clerk will proceed  
to call the roll.

**MR. MORRILL.** I suggest that the gentleman  
from Illinois can offer his amendment to any other  
part of the bill to-morrow or next day; and I ask  
him to withdraw it now.

**MR. WASHBURN,** of Illinois. I do not  
know that I shall be here to-morrow or next day.  
I do not see why this matter cannot be compro-  
mised by having a vote taken in the House by  
yeas and nays. The gentleman from Pennsylvania  
[**MR. STEVENS**] agreed to that on another  
question.

**MR. NELSON.** How often must this ques-  
tion be determined by the House?

**MR. STEVENS.** The constant repetition of  
this proposition is destroying and unsettling the  
business of the country.

**MR. WASHBURN,** of Illinois. Let it un-  
settle it.

The roll was then called, and eighty-two mem-  
bers answered to their names—not a quorum.

The committee then rose, and the Speaker hav-  
ing resumed the chair, **MR. POMEROY** reported  
that the Committee of the Whole on the state of  
the Union having found itself without a quorum,  
had caused the roll to be called, and had directed  
him to report the names of the absentees to the  
House.

The following are the names of the absentees:

Messrs. James C. Allen, William J. Allen, Alley, Ander-  
son, Arnold, Ashley, Baily, Augustus C. Baldwin, Blaine,  
Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown,  
Chanler, Freeman Clarke, Clay, Coffroth, Cole, Creswell,  
Henry Winter Davis, Dawson, Denison, Dixon, Donnelly,  
Edmont, Eden, English, Finck, Ganson, Gooch, Grider,  
Grinnell, Harding, Harrington, Benjamin G. Harris, Her-  
rick, Hotchkiss, Hutchins, Jenckes, William Johnson,  
Julian, Francis W. Kellogg, Kernan, King, Knapp, Law,  
Lazear, Le Blond, Loan, Longyear, Mallory, Marcy, Mc-  
Dowell, McDouge, McKinney, William H. Miller, Moorhead,  
Daniel Morris, Morrison, Amos Myers, Noble, Norton, John  
O'Neill, Orth, Patterson, Perry, Price, Radford, Samuel J.  
Randall, William H. Randall, Alexander H. Rice, Robin-  
son, Rogers, Edward H. Rollins, James S. Rollins,  
Ross, Scheuck, Scott, Shannon, Sloan, Smith, Smithers,  
John B. Steele, Stuart, Sweat, Thomas, Van Valkenburgh,  
Voorhees, Wadsworth, Webster, Wheeler, Chilton A. White,  
Joseph W. White, Williams, Windom, Benjamin  
Wood, Fernando Wood, and Yeaman—100.

**MR. ELDRIDGE** moved that the House do  
now adjourn.

The question was taken; and, upon a division,  
there were—ayes 22, noes 54.

**MR. FRANK** demanded tellers.

Tellers were not ordered.

So the House refused to adjourn.

#### CALL OF THE HOUSE.

**MR. WILSON** moved a call of the House.

The motion was agreed to.

**MR. FARNSWORTH.** I move that the House  
adjourn. It is useless to remain here.

The question was taken; and, upon a division,  
there were—ayes 23, noes 53.

**MR. FARNSWORTH** demanded tellers.

Tellers were not ordered.

So the House refused to adjourn.

The **SPEAKER.** A call of the House having  
been ordered, the Clerk will proceed to call the  
roll.

**MR. WASHBURN,** of Illinois. If there can  
be a vote on this amendment to-morrow—

Several MEMBERS. Order! Order!

The **SPEAKER.** No debate is in order; the  
Clerk will proceed with the call.

The roll was then called; and the following  
members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Alley, An-  
derson, Arnold, Ashley, Baily, Augustus C. Baldwin,  
Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G.  
Brown, Chanler, Freeman Clarke, Clay, Coffroth, Cole,  
Creswell, Henry Winter Davis, Dawson, Denison, Dixon,  
Donnelly, Dumont, Eden, English, Finck, Ganson, Gooch,  
Grider, Grinnell, Harding, Harrington, Benjamin G. Har-  
ris, Herrick, Hotchkiss, Hutchins, Jenckes, William John-  
son, Julian, Francis W. Kellogg, Kernan, King, Knapp,  
Law, Lazear, Le Blond, Loan, Longyear, Marcy, McDow-  
ell, McDouge, McKinney, William H. Miller, Moorhead,  
Daniel Morris, Morrison, Amos Myers, Noble, Norton, John  
O'Neill, Orth, Patterson, Perry, Price, Radford, Samuel J.  
Randall, William H. Randall, Alexander H. Rice, Robin-  
son, Rogers, Edward H. Rollins, James S. Rollins, Ross,  
Scheuck, Scott, Sloan, Smith, Smithers, John B. Steele,  
Stuart, Sweat, Thomas, Van Valkenburgh, Voorhees,  
Wadsworth, Webster, Wheeler, Chilton A. White, Joseph  
W. White, Williams, Windom, Benjamin Wood, Fernando  
Wood, and Yeaman—89.

The list of absentees was then called.

**MR. SPALDING** moved that the House ad-  
journ.

The motion was not agreed to.

The **SPEAKER.** The Doorkeeper will now  
close the doors of the Hall, and the Clerk will  
call the list of absentees for the purpose of receiv-  
ing excuses.

The doors were then closed, and the names of  
the absentees were called, as follows:

**JAMES C. ALLEN.** No excuse offered.

**WILLIAM J. ALLEN.** No excuse offered.

**LUCIAN ANDERSON.** No excuse offered.

**ISAAC N. ARNOLD.** No excuse offered.

**JAMES M. ASHLEY.** No excuse offered.

**JOSEPH BAILY.** No excuse offered.

**AUGUSTUS C. BALDWIN.** No excuse offered.

**JAMES G. BLAINE.**

**MR. WASHBURN,** of Illinois. I move that  
the gentleman from Maine [**MR. BLAINE**] be ex-  
cused, as he has been confined to his room all  
day by sickness.

The motion was agreed to.

**JACOB B. BLAIR.** No excuse offered.

**GEORGE BLISS.** No excuse offered.

**HENRY T. BLOW.** No excuse offered.

**AUGUSTUS BRANDEGEE.**

**MR. DEMING.** My colleague [**MR. BRANDE-  
GEE**] left the Hall this morning in consequence of  
indisposition. I move that he be excused.

The motion was agreed to.

**JAMES BROOKS.** No excuse offered.

**WILLIAM G. BROWN.** No excuse offered.

**JOHN W. CHANLER.** No excuse offered.

**FREEMAN CLARKE.** No excuse offered.

**BRUTUS J. CLAY.** No excuse offered.

**ALEXANDER H. COFFROTH.** No excuse offered.

**CORNELIUS COLE.** No excuse offered.

**JOHN A. J. CRESWELL.**

**MR. DAVIS,** of New York. The gentleman  
from Maryland [**MR. CRESWELL**] has been con-  
fined to his room for two or three days past by  
illness. I move, therefore, that he be excused.

The motion was agreed to.

**HENRY WINTER DAVIS.**

**MR. DAVIS,** of New York. The gentleman  
from Maryland [**MR. DAVIS**] has also been con-  
fined to his room since the day before yesterday  
by illness. I move that he be excused.

The motion was agreed to.

**JOHN L. DAWSON.**

**MR. MALLORY.** I move he be excused.

The motion was not agreed to.

**CHARLES DENISON.**

**MR. JOHNSON,** of Pennsylvania. I am not  
informed as to the cause of the absence of **MR.  
DENISON**; but I know that he is in very poor  
health, and is unable to attend all the sessions of  
the House, as is known to many gentlemen. I  
move that he be excused.

The motion was agreed to.

**NATHAN F. DIXON.** No excuse offered.

**IGNATIUS DONNELLY.** No excuse offered.

**EBENEZER DUMONT.**

**MR. HOLMAN.** It is well known that my  
colleague [**MR. DUMONT**] is in very poor health.  
I move that he be excused.

The motion was agreed to.

**JOHN R. EDEN.** No excuse offered.

**JAMES E. ENGLISH.** No excuse offered.

**WILLIAM E. FINCK.** No excuse offered.

**JOHN GANSON.**

**MR. MALLORY.** I move that he be excused.

The motion was not agreed to.

**DANIEL W. GOOCH.**

**MR. DAWES.** My colleague [**MR. GOOCH**]  
has been detained at his room for several days  
by very severe sickness in his family. I move  
that he be excused.

The motion was agreed to.

**HENRY GRIDER.**

**MR. MALLORY.** Mr. Speaker, I have been  
so unfortunate in the excuses which I have offered  
for my friends to-night that I do not know but  
that I ought to get some other gentleman to pre-  
sent the excuse for my colleague, [**MR. GRIDER**];  
but I will say for him that I have no doubt that  
he is detained at home by the infirmities incident  
to old age. He is too old a man to be required  
to come here; and I move, therefore, that he be  
excused. Now, gentlemen, be kind.

The motion was not agreed to.

**JOSIAH B. GRINNELL.**

**MR. HUBBARD,** of Iowa. I would say that  
my colleague, [**MR. GRINNELL**], has been quite  
unwell during the day; and I think he is detained  
to-night in consequence of sickness. I move that  
he be excused.

**MR. WOODBRIDGE.** I would state, also,  
that the gentleman from Iowa [**MR. GRINNELL**]  
was obliged to leave the House this afternoon,  
before the adjournment, on account of a sudden  
and apparently quite severe indisposition. I am  
certain that it would not have been prudent for  
him to come out of his room to-night.

The motion was agreed to.

**AARON HARDING.** No excuse offered.

**HENRY W. HARRINGTON.** No excuse offered.

**BENJAMIN G. HARRIS.** No excuse offered.

**ANSON HERRICK.** No excuse offered.

**GILES W. HOTCHKISS.**

**MR. MILLER,** of New York. My colleague  
is detained from the House by sickness; and I  
move that he be excused.

The motion was agreed to.

**WELLS A. HUTCHINS.** No excuse offered.

**THOMAS A. JENCKES.**

**MR. POMEROY.** Mr. Speaker, just before  
the House adjourned this afternoon **MR. JENCKES**  
said to me that he was so unwell that he would  
be compelled to leave. I have no doubt that he  
is not well enough to be present this evening,  
and I move that he be excused.

**MR. STEVENS.** I hope that **MR. JENCKES**  
will be excused.

The motion was agreed to.

**WILLIAM JOHNSON.**

**MR. JOHNSON,** of Pennsylvania. **MR. JOHN-  
SON** said to me when we were both riding in the  
cars that he had been unwell for several days,  
and I move that he be excused.

The motion was agreed to.

**GEORGE W. JULIAN.** No excuse offered.

**FRANCIS W. KELLOGG.** No excuse offered.

**FRANCIS KERNAN.**

**MR. ODELL.** My colleague was called home  
in consequence of sickness in his family last  
week, and I move that he be excused.

The motion was agreed to.

**AUSTIN A. KING.** No excuse offered.

**ANTHONY L. KNAPP.** No excuse offered.

**JOHN LAW.**

**MR. CRAVENS.** My colleague is generally  
very attentive to the business of the House, and  
as he is an old man I move that he be excused.

**MR. EDGERTON.** I think that my colleague  
ought to be excused.

The motion was agreed to.

**JESSE LAZEAR.**

**MR. ANCONA.** My colleague has gone to  
Baltimore to meet some members of his family,  
and I move that he be excused.

**MR. GARFIELD.** Is he in the city now?

**MR. ANCONA.** He is not.

The motion was agreed to.

**FRANCIS C. LE BLOND.** No excuse offered.

**BENJAMIN F. LOAN.**

**MR. BOYD.** I understand that my colleagues,  
**Messrs. LOAN** and **KING**, have had an arrange-  
ment to meet the Secretary of War this evening,



and that, for that reason, they are not present in the House.

The SPEAKER. The committee on the conduct of the war have gone to meet the Secretary of War this evening, so the Chair understands.

Mr. BOYD. I move that Mr. LOAN, who is a member of that committee, be excused.

The motion was agreed to.

Mr. HOLMAN. My colleague, Mr. JULIAN, is a member of that committee, and ought also to be excused.

The SPEAKER. His name has been passed; but if there be no objection a motion will be received to excuse him.

Mr. WASHBURN, of Illinois. The committee on the conduct of the war have had leave to sit during the sessions of the House, and I make the point of order that they cannot be brought here.

The SPEAKER. That will be reached in due order if the House continues this call.

Mr. HOLMAN. I move that my colleague, Mr. JULIAN, be excused.

The motion was agreed to.

JOHN W. LONGYEAR.

Mr. DRIGGS. Mr. LONGYEAR has gone to Baltimore to meet his wife, whom he has not seen for ever a month. I move he be excused. [Laughter.]

The motion was agreed to.

DANIEL MARCY.

Mr. ANCONA. I think Mr. MARCY had leave of absence.

The SPEAKER. It is in the recollection of the Chair that the gentleman had leave of absence by the House.

JAMES F. McDOWELL.

Mr. CRAVENS. Mr. McDOWELL has been ill for several days past, and is not able this evening to attend the sitting of the House. I move he be excused.

The motion was agreed to.

WALTER D. MCINDOE.

Mr. COBB. Mr. MCINDOE has been seriously indisposed from a sore throat for several days, and although he has attended the daily sessions of the House, he is not able and it would be improper for him to come here to-night; I therefore move he be excused.

The motion was agreed to.

JOHN F. MCKINNEY.

Mr. COX. Mr. MCKINNEY left here some half an hour ago, and asked me before he left whether I thought there would be anything before the House this evening. I did not think the gentleman from Illinois would bring up his amendment in reference to spirits, and I told him I thought there would not be anything of consequence; and therefore I propose to take any punishment that may be imposed on my colleague, vicariously. [Laughter.]

JAMES K. MOORHEAD.

Mr. BROOMALL. Mr. MOORHEAD is detained from the House by injuries received from a railroad collision. I move he be excused.

The motion was agreed to.

DANIEL MORRIS.

Mr. WINFIELD. I rise to a question of privilege. Was Mr. MCKINNEY excused?

The SPEAKER. No motion to excuse him was made.

Mr. WINFIELD. I move he be excused.

The SPEAKER. That motion is not now in order except by unanimous consent.

Mr. GARFIELD. I object.

Mr. BAXTER. Mr. MORRIS, of New York, has been sent for to see a sick daughter, and I move he be excused.

The motion was agreed to.

WILLIAM R. MORRISON. No excuse offered.

AMOS MYERS.

Mr. KELLEY. My colleague from the oil district is interested in a very large tract of oil land, is president of a company, and has gone to the telegraph office to learn the result of recent borings; and as the Government looks for a very large revenue from the result, I move that Mr. MYERS be excused.

Mr. KALBFLEISCH. Then they better send somebody else down there if the Government wants any revenue. [Laughter.]

The motion was not agreed to.

WARREN P. NOBLE. No excuse offered.

JESSE O. NORTON. No excuse offered.

JOHN O'NEILL. No excuse offered.

GODLOVE S. ORTH. No excuse offered.

JAMES W. PATTERSON.

Mr. BEAMAN. I wish to state that Mr. PATTERSON left the House a short time since on account of indisposition. I move he be excused.

Mr. MORRILL. Mr. PATTERSON was here a part of the evening, and left, I understood, because he was too ill to remain.

The motion was agreed to.

NEHEMIAH PERRY. No excuse offered.

HIRAM PRICE. No excuse offered.

WILLIAM RADFORD.

Mr. TOWNSEND. My colleague, Mr. RADFORD, has gone home to put himself upon a low diet. [Laughter.] I move he be excused.

The motion was not agreed to.

SAMUEL J. RANDALL.

Mr. STROUSE. Mr. RANDALL has been seriously indisposed since last Saturday, and is confined to his bed at his residence in Georgetown. I move he be excused.

The motion was agreed to.

WILLIAM H. RANDALL. No excuse offered.

ALEXANDER H. RICE.

Mr. HOOPER. Mr. RICE, living in the same house with Mr. JENCKES, who is quite sick, having fallen down, is obliged to stay at home to attend to him. [Laughter.] I move he be excused.

Mr. MALLORY. I did not hear that excuse. I wish the gentleman would state it again.

Mr. WASHBURN, of Illinois. I object.

Mr. STEVENS. He is sitting up with JENCKES. [Renewed laughter.]

The motion was not agreed to.

ANDREW J. ROGERS.

Mr. NELSON. I was informed some days since that Mr. ROGERS was sick, and not having seen him or heard of his recovery, I suppose that he must be sick yet. I move, therefore, that he be excused.

Several MEMBERS. He has recovered.

The motion was not agreed to.

EDWARD H. ROLLINS. No excuse offered.

JAMES S. ROLLINS. No excuse offered.

LEWIS W. ROSS. No excuse offered.

ROBERT C. SCHENCK.

Mr. FARNSWORTH. I understood the Chair to decide that members of committees having leave to sit during the sessions of the House were excused.

The SPEAKER. The Chair has made no such decision. The Chair has only decided that such members have a right to vote before the announcement of the result.

JOHN C. SCOTT. No excuse offered.

ITHAMAR C. SLOAN. No excuse offered.

GREEN CLAY SMITH.

Mr. WILDER. Mr. SMITH has been sick for a number of days, and I move that he be excused.

The motion was agreed to.

NATHANIEL B. SMITHERS.

Mr. ECKLEY. The House will recollect that Mr. SMITHERS has just recovered from a spell of sickness. To my knowledge he did not feel well enough to come to the House this evening. I therefore move that he be excused.

Mr. WINFIELD. If he has recovered, I do not see why he should be excused.

Mr. ECKLEY. Mr. SMITHERS, as I supposed the House knew, had a fever a short time ago, and has not quite recovered.

A MEMBER. He was here to-day.

Mr. ECKLEY. He was here during the session to-day, but did not feel like coming out this evening.

The motion was agreed to.

JOHN B. STEELE. No excuse offered.

JOHN T. STUART. No excuse offered.

L. D. M. SWEAT. No excuse offered.

FRANCIS THOMAS.

Mr. STEVENS. Mr. THOMAS is well known to be somewhat infirm. I think that all old men ought to be excused. I move that he be excused on account of his great age.

Mr. MALLORY. The presence of the gentleman himself is a sufficient reply to his application to have Governor THOMAS excused. If my friend from Pennsylvania can attend the sessions of the House, why cannot Governor THOMAS?

The motion was agreed to.

ROBERT B. VAN VALKENBURGH. No excuse offered.

DANIEL W. VOORHEES.

Mr. CRAVENS. My colleague has been absent for a number of days in consequence of the illness of his wife, who has not yet entirely recovered. I move that he be excused.

The motion was agreed to.

WILLIAM H. WADSWORTH.

Mr. MALLORY. Mr. Speaker, my colleague is quite unwell, and is unable to attend the session of the House to-night. I move that he be excused.

The motion was agreed to.

EDWIN H. WEBSTER.

Mr. MORRILL. I believe it is well understood by the House that the gentleman from Maryland has been sick several days. I move that he be excused.

Mr. KELLEY. Mr. Speaker, just before going out the gentleman from Maryland assured me that he was very much indisposed—to stay, as he had been on his feet all day.

Mr. MORRILL. I withdraw my motion. No other excuse was offered for Mr. WEBSTER.

EZRA WHEELER.

Mr. ELDRIDGE. Mr. Speaker, the gentleman from Wisconsin has been in poor health all winter. I move that he be excused.

The motion was agreed to.

CHILTON A. WHITE.

Mr. PENDLETON. Mr. Speaker, my colleague [Mr. C. A. WHITE] was called home several days ago by indisposition in his family. I move that he be excused.

The motion was agreed to.

JOSEPH W. WHITE.

Mr. COX. Mr. Speaker, my colleague was along with Mr. MCKINNEY when I gave the information I referred to. I move that he be excused.

Mr. CRAVENS. Mr. Speaker, I am boarding at the same house with Mr. WHITE, and I know he is in delicate health.

Mr. COX. I do not put it on that ground. [Laughter.]

Mr. CRAVENS. I do put it on that ground, for I know the fact.

Mr. COX. It is altogether my own fault that these gentlemen went away.

The motion was agreed to.

THOMAS WILLIAMS.

Mr. STEVENS. Mr. Speaker, my colleague went away quite indisposed, and asked me to mention that fact, if there should be a call of the House. I move that he be excused.

The motion was agreed to.

WILLIAM WINDOM.

Mr. RICE, of Maine. Mr. Speaker, the gentleman from Minnesota is detained from the House by sickness in his family. I move that he be excused.

The motion was agreed to.

BENJAMIN WOOD. No excuse offered.

FERNANDO WOOD.

Mr. DAVIS, of New York. Mr. Speaker, some gentlemen have been excused to-night for the reason that they were on the committee on the conduct of the war. I move that my colleague be excused on the ground that he is on the committee on the conduct of the peace. [Laughter.]

Several MEMBERS. Which of them?

Mr. DAVIS, of New York. Both of them.

The motion was not agreed to.

GEORGE H. YEAMAN.

Mr. MALLORY. I move that my colleague's absence be excused.

The SPEAKER. On what grounds?

Mr. MALLORY. On general grounds. [Laughter.]

The motion was not agreed to.

Mr. FARNSWORTH, (at nine o'clock, p. m.) I move that the House do now adjourn.

The motion was not agreed to.

Mr. COX. I suggest whether it may not be necessary to institute a commission to inquire into the sanitary condition of this city.

Mr. MALLORY. I move that all further proceedings under the call be dispensed with.

The motion was not agreed to.

Mr. MALLORY. I suggest that if the doors be opened there will be enough of members to proceed to business. I do not see any necessity for further proceedings under the call.

Mr. MORRILL. I move that the Speaker be directed to issue his warrant to the Sergeant-at-Arms to bring in the absentees.

The motion was agreed to; and the Speaker thereupon issued his warrant to the Sergeant-at-Arms to arrest and bring into the House the absent members who were not excused.

Mr. JOHNSON, of Pennsylvania. I would inquire whether it is in order to move for a warrant to issue for the arrest of deserters under the present draft?

The SPEAKER. The Chair thinks that is not in order at this time.

Mr. ELDRIDGE. I move that the warrant required to be issued be made returnable to-morrow at twelve o'clock, noon.

The SPEAKER. The Chair rules that that motion is not in order, as by adjournment all proceedings under the call are thereby terminated. It has been tried in various Congresses to have the effect of the call operate upon the next day; and it has been repeatedly decided, upon appeal and otherwise, that it cannot be done.

Mr. ELDRIDGE. I care nothing about the effect upon the call; I only want my motion adopted.

The SPEAKER. The motion is not in order. The Digest, on page 35, states that by an adjournment pending the call, all proceedings under the call are terminated.

Mr. PRUYN. Cannot the House take a recess until to-morrow noon?

The SPEAKER. The Digest states that it is not in order to take a recess pending a call.

Mr. PRUYN. The Clerk has concluded the call.

The SPEAKER. The House is now engaged in concluding proceedings under the call.

Mr. BROWN, of Wisconsin. I move to suspend the rule, so that we can take a recess.

The SPEAKER. The gentleman can move to adjourn.

Mr. BROWN, of Wisconsin. No; I move to suspend the rule.

The SPEAKER. A motion to suspend the rules can only be made on Monday after the morning hour.

Mr. NELSON. Would it be in order to move to direct the Sergeant-at-Arms to appoint such members of the House as are now present his assistants?

The SPEAKER. That is not in order.

Mr. ODELL. I call for the regular order of business.

The SPEAKER. The regular order of business is a call of the House; and the House is proceeding under that call now.

Mr. MORRIS, of Ohio. I understand that the question pending in the Committee of the Whole, when it was found that there was no quorum, was taxing the stock of whisky on hand. I want to know whether it is in order, pending that question, to consume the stock on hand. [Laughter.]

The SPEAKER. The Chair thinks it is not in order. [Laughter.]

Mr. PIKE. It seems to me that we have done enough to vindicate the dignity of the House; I therefore move the House do now adjourn.

The question was then taken, and, upon a division, resulted—ayes 21, noes 40.

So the House refused to adjourn.

The Sergeant-at-Arms then appeared at the bar of the House, having in custody Messrs. MORRISON, RADFORD, and WEBSTER.

The SPEAKER. Mr. MORRISON, you have been absent from the sessions of this House without leave. What excuse have you to render for your absence?

Mr. MORRISON. I presume I did not start from my lodgings as early as I ought to have done to come to this Hall.

Mr. COX. I move that the gentleman from Illinois [Mr. MORRISON] be excused, upon the payment of the usual fee.

The motion was agreed to.

The SPEAKER then said: Mr. RADFORD, you have been absent from the sessions of this House without leave. What excuse have you to render for your absence?

Mr. RADFORD. I went to bed as soon as I

got home; and as soon as I woke up I came here. [Laughter.]

Mr. MALLORY. I move that the gentleman from New York [Mr. RADFORD] be excused.

A MEMBER. Upon the usual terms?

Mr. MALLORY. Yes, upon the usual terms.

Mr. FRANK. I would ask, what are the usual fees?

The SPEAKER. Two dollars for each arrest, one dollar for each day's custody, and ten cents a mile for travel.

Mr. RADFORD. I would ask to amend my excuse, and say that I went to bed sick.

Mr. STEVENS. How did you get up?

Mr. RADFORD. I got up well. [Laughter.]

Mr. MALLORY. I move that the gentleman from New York [Mr. RADFORD] be absolutely excused.

Mr. STEVENS. I move to amend that motion by excusing the gentleman upon the payment of the usual fees. I judge by inspection. [Laughter.]

The question was then taken upon the amendment of Mr. STEVENS, and upon a division it resulted—ayes 44, noes 37.

So the amendment was adopted.

The motion of Mr. MALLORY, as amended, was then adopted.

The SPEAKER then said: Mr. WEBSTER, you have been absent from the sessions of the House without leave. What excuse have you to render for that absence?

Mr. WEBSTER. I came into the House early in the evening, and feeling indisposed I requested my friend from Pennsylvania [Mr. KELLEY] to say as much to the House, if necessary. Afterward, supposing that he might himself feel indisposed, I returned voluntarily to the House. I am not here as a drafted man, but as a volunteer. [Laughter.]

Mr. INGERSOLL. I would ask the gentleman if he was indisposed, or merely indisposed to stay here?

Mr. WEBSTER. I have made my excuse to the Speaker. [Laughter.]

Mr. COX. I move that the gentleman from Maryland [Mr. WEBSTER] be excused.

Mr. STEVENS. I move to amend the motion so that the gentleman from Maryland [Mr. WEBSTER] be excused upon the payment of the usual fees.

The amendment was adopted; and the motion, as amended, was agreed to.

Mr. MORRISON. I rise to a question of privilege. I am required to pay the costs of this arrest to the Sergeant-at-Arms. I have here in my hand the necessary funds, authorized to be issued by this Government; the Sergeant-at-Arms refuses to take it, as it is not legal tender; yet it is authorized by Congress.

The SPEAKER. The Chair thinks that if the gentleman from Illinois [Mr. MORRISON] has made tender of the fees in legal tender he has complied with the order of the House.

Mr. ELDRIDGE. It is not legal tender, but bank notes authorized by the Government.

The SPEAKER. That raises another question. [Laughter.]

Mr. ELDRIDGE. I move that the gentleman from Illinois [Mr. MORRISON] have leave to pay from stock on hand. [Laughter.]

Mr. SPALDING, (at ten o'clock, p. m.) I move that the House do now adjourn.

The motion was not agreed to, there being, on a division—ayes 30, noes 47.

Mr. MALLORY. I move that all further proceedings under the call be dispensed with.

Mr. STEVENS. I would inquire whether a quorum is yet present.

The SPEAKER. Not yet.

Mr. STEVENS. I hope we shall wait for a quorum.

The motion of Mr. MALLORY was not agreed to.

Mr. WILSON. Is it in order to have a count of the House, to ascertain whether a quorum be present?

The SPEAKER. The Chair will count the House, if it be desired.

Mr. WILSON. I ask that the House be counted.

The Speaker, after counting, announced that eighty-nine members were present.

Mr. WILSON. It is now ten minutes past ten o'clock. The Sergeant-at-Arms has gone into the

city to arrest some of the absentees. It will certainly be some time before he can return with any of them. I therefore move that the House do now adjourn.

The question being taken, there were, on a division—ayes 35, noes 41.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Messrs. FARNSWORTH, and JOHNSON of Pennsylvania, were appointed.

The House divided; and the tellers reported—ayes 31, noes 51.

So the motion was not agreed to.

Mr. UPSON. I move that the gentleman from New York [Mr. PRUYN] have leave to give the reasons for the exclusion of the presidential vote of West Virginia. [Laughter.]

Mr. PRUYN. I should like to make some remarks on the position which the House now presents before the country, and on the question whether we are not bringing ourselves into contempt before the whole country by the course we are now pursuing.

The SPEAKER. The gentleman can only make those remarks by unanimous consent.

Several MEMBERS. "I object."

Mr. MALLORY. Mr. Speaker, I rise to a privileged question. Although not well, I came here to-night intending to participate in the deliberations of the House if anything of importance should be transacted. I do not now feel well, and I would like the House to grant me permission to retire. I wish to go to my bed.

The SPEAKER. The gentleman from Kentucky asks leave of absence during the remainder of this day's session. Shall it be granted?

Leave was granted, there being, on a division—ayes 37, noes 25.

Mr. STEVENS. Can a member be excused when there is no quorum voting?

The SPEAKER. The Chair thinks that he can. A number of absentees have been excused to-night without a quorum.

Mr. JOHNSON, of Pennsylvania. I move that the gentleman from Kentucky be permitted to put in an able-bodied substitute.

Mr. ELDRIDGE. A white man? [Laughter.]

Mr. BALDWIN, of Massachusetts. Seriously, I think that we have carried this thing far enough, and I move that all further proceedings under the call be dispensed with.

Mr. COX. I call for a division of the gentleman from Massachusetts. [Laughter.]

The House divided, and there were—ayes 33, noes 48.

So the motion was disagreed to.

Mr. UPSON. I move to reconsider the vote by which the gentleman from Kentucky was excused. [Laughter.]

The motion was agreed to.

The question recurred on the motion to excuse Mr. MALLORY.

The House divided, and there were—ayes 33, noes 46.

So the House refused to excuse Mr. MALLORY.

Mr. PIKE moved that the House do now adjourn.

The motion was disagreed to.

Mr. PRUYN. I move that the doors be opened.

Mr. WILSON. What will be the effect of that?

The SPEAKER. It will have the same effect as a motion to dispense with all further proceedings under the call.

The motion was disagreed to.

Mr. SPALDING moved that leave be granted to the gentleman from Massachusetts [Mr. DAWES] to go on with his speech on reconstruction.

Objection was made.

Mr. DAWES. I have no doubt that the gentleman is anxious to give his experiences of being under arrest, and I move that he have permission to do so.

The motion was agreed to.

Mr. BALDWIN, of Massachusetts, moved that there be a sanitary commission appointed upon the condition of the absent members who were reported sick.

The motion was disagreed to.

Mr. MORRIS, of Ohio, moved to adjourn.

The motion was disagreed to.

Mr. BROWN, of Wisconsin. Will it be in

order to move that those who so desire may retire, and that those who want to see the Sergeant-at-Arms return with members in arrest may remain?

The SPEAKER. Excuses must be made in each case.

Mr. ELDRIDGE. I move that my colleague be excused.

Mr. COX. My friend does not want to be excused, as he stands here as a sentinel upon the tower of freedom. [Laughter.]

Mr. THAYER. Is it in order for me to make a report from the Committee on Private Land Claims?

The SPEAKER. It is not. No business can be done without the presence of a quorum.

Mr. WINFIELD. I move that my colleague [Mr. WARD] have leave to make a speech on reciprocity.

The motion was agreed to.

[Cries of "WARD!" "WARD!"]

Mr. GARFIELD. He does not reciprocate. [Laughter.]

A special messenger appeared at the bar with Mr. BALDWIN, of Michigan, in custody.

The SPEAKER. Mr. BALDWIN, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. BALDWIN, of Michigan. I was detained from the House by business, and I have no further excuse.

Mr. STILES. I move that the gentleman be discharged on the payment of costs.

Mr. ELDRIDGE. The gentleman was absent on business, and I move that he be excused. Gentlemen on the other side will vote for the amendment when they recollect that he voted for the constitutional amendment. [Laughter.]

Mr. WINFIELD. I move to lay the amendment on the table.

The SPEAKER. That will carry the motion with it.

Mr. ELDRIDGE. Will it carry the prisoner? [Laughter.]

The SPEAKER. The Chair supposes not.

The motion was disagreed to.

The amendment was disagreed to; and Mr. STILES's motion was adopted.

Mr. DAVIS, of New York, moved to adjourn. The motion was disagreed to.

Mr. BALDWIN, of Massachusetts. Is it in order for members to leave the Hall?

The SPEAKER. Not without consent of the House.

Mr. THAYER. I move that the Doorkeeper be ordered to direct the Sergeant-at-Arms to make instant report to the House.

The motion was disagreed to.

Mr. RICE, of Maine, moved (at eleven o'clock, p. m.) that the House adjourn.

Mr. THAYER. I call for tellers.

Tellers were ordered; and Mr. THAYER and Mr. COX were appointed.

The House divided; and the tellers reported—ayes 47, noes 109. [Laughter.]

During the division,

Mr. ELDRIDGE. I rise to a question of order. I saw several gentlemen pass through the tellers twice.

The SPEAKER. The gentleman can call the yeas and nays if he doubts the count of the tellers.

The result of the division having been announced, as above,

Mr. RICE, of Maine, demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 33, nays 49, not voting 100; as follows:

YEAS—Messrs. Boutwell, James S. Brown, Cox, Cravens, Thomas T. Davis, Eckley, Farnsworth, Frank, Griswold, Hale, Hall, Asabel W. Hubbard, John H. Hubbard, Hubbard, Kalbfleisch, Littlejohn, Long, McAllister, McBride, Middleton, James R. Morris, Charles O'Neill, Pendleton, Pruyn, John H. Rice, Spalding, William G. Steele, Thayer, Tracy, Ward, Elhu B. Washburne, Whaley, and Wilson—33.

NAYS—Messrs. Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Boyd, Broomall, Cobb, Dawes, Deming, Driggs, Eldridge, Eliot, Garfield, Charles M. Harris, Higby, Holman, Hooper, Ingersoll, Philip Johnson, Kasson, Kelley, Orlando Kellogg, Knox, Loan, Marvin, McClurg, Samuel F. Miller, Morrill, Morrison, Leonard Myers, Nelson, Odell, Perlman, Pomroy, Radford, Scofield, Shannon, Starr, Stevens, Stiles, Strouse, Townsend, Upson, Wilder, Winfield, and Woodbridge—49.

NOT VOTING—Messrs. James C. Allen, William J. Al-

len, Alley, Anderson, Arnold, Ashley, Baily, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cole, Creswell, Henry Winter Davis, Dawson, Denison, Dixon, Donnelly, Dumont, Eden, Edgerton, English, Pinck, Ganson, Gooch, Grider, Grinnell, Harding, Harrington, Benjamin G. Harris, Herrick, Hotchkiss, Hutchings, Jeuckes, William Johnson, Julian, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazear, Le Blond, Longyear, Mallory, Marcy, McDowell, McIndoe, McKinney, William H. Miller, Moorhead, Daniel Morris, Amos Myers, Noble, Norton, John O'Neill, Orth, Patterson, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Sloan, Smith, Smithers, John B. Steele, Stuart, Sweet, Thomas, Van Valkenburgh, Voorhees, Wadsworth, William B. Washburn, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Benjamin Wood, Fernando Wood, Worthington, and Yeaman—100.

So the House refused to adjourn.

Mr. JOHNSON, of Pennsylvania. I notice that Mr. Amos Myers is at the door of the Hall. I move that the Assistant Sergeant-at-Arms be authorized to bring him to the bar of the House.

Mr. PIKE. Can that be done?

Mr. ANCONA. Has the gentleman from Maine himself [Mr. PIKE] been excused?

The SPEAKER. The gentleman from Maine voted on the last vote.

Mr. ANCONA. I noticed him leaving the Hall some time ago, and I supposed that he was among the absentees.

The SPEAKER. The Chair would state that members are allowed to leave the Hall by the usage, under a call, only on a parole for a few moments by the Speaker, a record of which is kept by the Doorkeeper, and the Chair does not remember that the gentleman from Maine has asked leave of absence at all.

Mr. JOHNSON, of Pennsylvania. I move that the Assistant Sergeant-at-Arms be permitted to bring in the body of Amos Myers.

The SPEAKER. The Chair thinks that motion, if made directory, is in order. There is no doubt in the mind of the Chair that any member may be taken into custody by any special messenger appointed by the Sergeant-at-Arms.

The motion was agreed to.

A special messenger appeared at the bar, having in custody Mr. Amos Myers.

The SPEAKER. Mr. Amos Myers, you have been absent from this House without its leave. What excuse have you to render for your absence?

Mr. A. MYERS. Mr. Speaker, I presume that it will take me a moment or two to make myself correctly understood. [Loud cries of "Go ahead!"] I will state first that I was in the House until perhaps an hour and a half ago, and then I left with the belief that oil would not be reached for some time. [Laughter.]

Mr. JOHNSON, of Pennsylvania. Were you boring?—that is the question. [Laughter.]

Mr. A. MYERS. My colleague asks a question that is rather awkward in its nature.

A MEMBER. It augers well for your cause.

Mr. A. MYERS. I returned and discovered that oil was still not reached. Important business required—however I will not state that. [Cries of "Go on!"] Perhaps without a very great violation of the truth, I might say that I was in search of some information in reference to the question whether "crude oil" could stand a tax of six cents a gallon. [Laughter.] The member of the Committee of Ways and Means who has charge of this bill said very truly that they had "struck ile." I thought they had struck it entirely too hard, and in search of information on that point I got into contact with an officer in the Census Bureau to find out the statistics on the subject.

But, sir, to make a long story short, (for I do not wish to detain the House, and if I have a good excuse, a fair and reasonable apology, I presume the House will let me off easily; I throw myself upon the indulgence of the House,) I came here, and I don't think I was arrested. I should have been in here if the doors had not been shut. [Laughter.] Coming down the avenue as hard as I could, thinking that perhaps something might take place here, although not knowing that anything had taken place, I saw the light shining from the top of this building. Hastening my steps as fast as I could, coming down to Four-and-a-half street, I think it is, an excellent street, on which some very fine persons live, [laughter,] I struck

the Sergeant-at-Arms, or rather the Sergeant-at-Arms struck me. [Laughter.] When I discovered that it was the Sergeant-at-Arms, I very innocently asked the question if the House was still in session. "Why, yes," says he, "and I am just after you." I then did not know him at all. [Laughter.] I thought I had been looking after some one, but after he made use of that expression I discovered that he was not the man, at all. [Laughter.] It is a little like the case of a Dutchman I knew out in the oil country—

Mr. KALBFLEISCH. None of your Dutch, now. [Laughter.]

Mr. A. MYERS. I say I was a little in the situation of a Dutchman in the oil country who lost his son Peter; the old man had a short way of calling him "Pete." He lost the boy for three or four weeks. It made a great talk all through that country. Well, on a certain occasion when there was a public sale, and the whole township were gathered together, the people asked him, "How is this, Jake, about your having lost your son Pete? Tell us all about it."

Mr. KALBFLEISCH. Pete is not Dutch. [Laughter.]

Mr. A. MYERS. The crowd gathered all around him. The auctioneer's hammer was still; the cry of "Going, going, gone," had ceased at last for a time. All were anxious, intensely anxious, and one said, "Tell us about your losing your son Pete." Well, the old man commenced his story. I will tell it as nearly as I can as he did, although the old man exhibited some emotion in telling it. The old man said: "I did lose my son Pete. He was gone a long while. I did not know whether he was lost, whether he was killed, whether he was dead, whether he was drowned, or whether he was run away. Anyhow I could not find him. One day I did find him. I was going down the street; my son Pete was coming up the street. I see Pete, Pete see me. I ran upon Pete; Pete ran upon me. I put my hands on Pete's shoulder and my arms round his neck; Pete put his head under my shoulder. I cried, and Pete cried. I raised up my head, and Pete raised up his head. Then Pete raised up his face, and I raised up my face, but it was not him—oh!" [Laughter.] Mr. Speaker, when I looked at the Sergeant-at-Arms I first thought it was he, but when I talked with him and he told me what he wanted, I did not think it was he. [Laughter.]

Mr. RADFORD. The gentleman augers well. I move that he be excused.

Mr. GARFIELD. I move, as an amendment, that he be excused on payment of the usual fee.

Mr. JOHNSON, of Pennsylvania. I move to amend the amendment by adding "and that the Sergeant-at-Arms take it out in oil stocks." [Laughter.]

The SPEAKER. The Chair doubts whether that would be in order. [Laughter.]

Mr. JOHNSON, of Pennsylvania. I will not insist on it.

The question was taken on Mr. GARFIELD's amendment, and it was agreed to.

The question then recurred on the motion as amended, and it was agreed to.

Mr. COX. I move that a special messenger be directed to bring in the member from Illinois, [Mr. Ross.]

Mr. PENDLETON. That gentleman is present in the Hall.

Mr. ELDRIDGE. I would inquire how that gentleman is here.

Mr. ROSS. I waive arrest.

Mr. JOHNSON, of Pennsylvania. We have got his corpus here. That is all that we care for.

A special messenger appeared at the bar of the House, having in custody Mr. Ross.

The SPEAKER. Mr. Ross, you have been absent from the session of the House without its leave. What excuse have you to offer for your absence?

Mr. ROSS. Guilty, my lord. [Laughter.]

Mr. STEVENS. I move that the gentleman be excused on payment of the usual fee.

Mr. COX. I suggest that the Speaker reprimand the gentleman. [Laughter.]

Mr. ROSS. I would say, in mitigation of damages, that, having had an intimation of the want of a quorum in the House, I started to come here. On the way, between the gate and the Capitol, I met a member returning to the city, who told me that he had come near enough to see that



the light was out and the flag down. He said he was certain about that. I therefore turned back, and, on my way, met a polite and amiable gentleman who sometimes officiates as Sergeant-at-Arms, and who informed me that the House was in session.

Mr. JOHNSON, of Pennsylvania. And the flag still waving.

Mr. ROSS. I made my way up here. I had some pressing calls from some of my constituents who seemed to have a claim on my attention and hospitality. Since some votes taken in the House, and especially since the vote on the resolution introduced by the distinguished gentleman from New York, [Mr. FERNANDO WOOD,] in which a majority of the members indorsed the principle that we should negotiate for an honorable peace and for a restoration of the Union, I felt that I might with perfect safety absent myself for a short time, and intrust the business of legislation in the hands of the majority. I do not know that I have any other excuse. I believe I have been here as many days of this Congress as any other member.

The SPEAKER. The Chair will state that the flag is not flying over the Representatives' Hall because about ten o'clock the halyards broke, and the officers cannot repair them before morning.

Mr. ROSS. That is the reason why I was not here some time ago.

Mr. JOHNSON, of Pennsylvania. Mr. Speaker, the gentleman states that in consequence of the flag not flying over the Hall he was misled as to the House being in session. I move, as an amendment, that he be excused unconditionally.

The amendment was not agreed to.

The question recurred on Mr. STEVENS's motion; and it was agreed to.

Mr. STEVENS. Mr. Speaker, I believe that makes a quorum.

The SPEAKER. That makes a quorum if all the members are in the Hall.

Mr. STEVENS. Then I move that all further proceedings under the call be dispensed with.

The SPEAKER ordered tellers, and appointed Messrs. ANCONA and INGERSOLL.

The House divided, and the tellers reported—ayes 39, noes 40.

So the House refused to dispense with all further proceedings under the call.

Mr. COX, (at twenty minutes of twelve, p. m.) I move that the House do now adjourn.

Mr. FARNSWORTH called for tellers.

Tellers were not ordered.

The motion was not agreed to.

Mr. CRAVENS moved that all further proceedings under the call be dispensed with.

The SPEAKER appointed Messrs. MORRILL and CRAVENS to act as tellers.

The House divided; and the tellers reported—ayes 29, noes 39.

So the House refused to dispense with further proceedings under the call.

Mr. BALDWIN, of Massachusetts, (at fifteen minutes of twelve o'clock, said: Mr. Speaker, we would now have a quorum in the Hall if some gentlemen had not left by unaccustomed outlets. And as I suppose that no order will be taken in regard to those gentlemen, and perhaps not with any others who may leave, I think our remaining here longer will be useless; I therefore move that the House do now adjourn.

The question was taken, and decided in the negative.

So the House refused to adjourn.

Mr. ANCONA. I understand that the Sergeant-at-Arms is here, and has made no arrests. If my information is correct, I would ask that he be directed to report to the House.

The SPEAKER. The Doorkeeper informs the Chair that the Sergeant-at-Arms has not yet returned.

Mr. STEVENS. I desire to know from the Doorkeeper whether he has allowed any members who have been here to escape; because, if not, then we have a quorum.

The SPEAKER. There is no door through which members can leave the Hall but the one immediately on the left of the Chair, and no members have passed there but those under parole, to return in a few minutes.

Mr. STEVENS. Then we should have a quorum. I therefore move to dispense with all further proceedings under the call, in order that we may

have a vote on the proposition to tax whisky on hand. I hope we will not adjourn until we have taken a vote on that question.

Upon this question Mr. FRANK demanded tellers.

Tellers were accordingly ordered.

Messrs. FRANK and ANCONA were appointed tellers.

The House divided, and the tellers reported—ayes 36, noes 41.

So the House refused to dispense with further proceedings under the call.

Mr. WILSON. Several members are in the Hall who have not voted; I therefore ask for a count of the House.

The SPEAKER. If gentlemen will come in from the cloak-room and the corridors, and will stand so that the Chair can count them, he will count the House.

Subsequently the Speaker announced that he could count but eighty-six members present.

Mr. GARFIELD. Has the Sergeant-at-Arms been heard from by the Chair?

The SPEAKER. The last the Chair has heard from the Sergeant-at-Arms has been from the gentleman from Pennsylvania, [Mr. AMOS MYERS.] He supposes that that officer is endeavoring to find members on whom to serve notices of arrest.

Mr. THAYER. I move that the Doorkeeper be sent after the Sergeant-at-Arms.

The question was taken, and, upon a division, there appeared—ayes 21, noes 31.

So the motion was not agreed to.

Mr. ANCONA. Would it be in order to move that the roll be called in order to ascertain whether a quorum is present?

The SPEAKER. The Chair thinks that, as a matter of information to the House, it would not be out of order to have the roll called.

Mr. KASSON. It may avoid the necessity of calling the roll again if I may be allowed to state that there is but one wanting to a quorum. The absence of one member, who was once excused, renders the number present less than a quorum by one member.

Mr. ANCONA. Then I withdraw my motion.

Mr. GARFIELD. Is there no remedy by which this House can enforce its authority? The Sergeant-at-Arms has been absent now for nearly three hours without making any report.

The SPEAKER. The Chair supposes the Sergeant-at-Arms is absent in the city looking for members.

Mr. JOHNSON, of Pennsylvania, asked unanimous consent to introduce the following resolution:

*Resolved*, That the Sergeant-at-Arms, in having delayed for nearly three hours to execute the order of this House, has rendered himself liable to its censure.

Mr. HUBBARD, of Iowa, objected.

Mr. THAYER. It is now twelve o'clock. Has the morning hour now arrived?

The SPEAKER. The morning hour of this day's session has already passed, about eleven hours ago.

Mr. BROWN, of Wisconsin. I move that the House now adjourn, and upon that I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and resulted—ayes 33, nays 49, not voting 100; as follows:

YEAS—Messrs. Boutwell, James S. Brown, Cox, Cravens, Thomas T. Davis, Eckley, Farnsworth, Frank, Griswold, Hale, Hall, Asahel W. Hubbard, John H. Hubbard, Hulbard, Kallbelsch, Littlejohn, Long, McAllister, McBride, Middleton, James R. Morris, Charles O'Neill, Pendleton, Prunty, John H. Rice, Spalding, William G. Steele, Thayer, Tracy, Ward, Elihu B. Washburne, Whaley, and Wilson—33.

NAYS—Messrs. Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Boyd, Broomall, Cobb, Dawes, Deming, Driggs, Eldridge, Eliot, Garfield, Charles M. Harris, Higby, Holman, Hooper, Ingersoll, Philip Johnson, Kasson, Kelley, Orlando Kellogg, Knox, Loan, Marvin, McClurg, Samuel F. Miller, Morrill, Morrison, Leonard Myers, Nelson, Odell, Perham, Pomeroy, Radford, Seofield, Shannon, Starr, Stevens, Stiles, Strouse, Townsend, Upson, Wilder, Winfield, and Woodbridge—49.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Ashley, Baily, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chauler, Ambrose W. Clark, Freeman Clarke, Clay, Colfroth, Cole, Cresswell, Henry Winter Davis, Dawson, Denison, Dixon, Donnelly, Dumont, Eden, Edgerton, English, Finck, Ganson, Couch, Grider, Grinnell, Harding, Harrington, Benjamin G. Harris, Herrick, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazard, Le Blond, Longyear, Mallory, Marcy, McDowell, McIntosh, McKinney, William

H. Miller, Moorhead, Daniel Morris, Amos Myers, Noble, Norton, John O'Neill, Orth, Patterson, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Sloan, Smith, Smithers, John B. Steele, Stuart, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, William B. Washburn, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Benjamin Wood, Fernando Wood, Worthington, and Yeaman—100.

So the House refused to adjourn.

Mr. ROSS. Would it be in order to move that additional Sergeants-at-Arms be appointed, in order to bring in absent members?

The SPEAKER. That motion would hardly be in order, unless the additional officers were named. The Chair will state that probably the Sergeant-at-Arms, after going down into the city saw that the flag was down, and supposed that the House was not in session. The flag has been down since ten o'clock.

Mr. THAYER. I move that the Assistant Doorkeeper be appointed a special messenger to go for the Sergeant-at-Arms, and require his immediate attendance in the House.

Mr. FARNSWORTH. I rise to a point of order. We are proceeding now against absent members, not against the Sergeant-at-Arms. The motion proposes other business than that before the House.

Mr. DAWES. In order to execute that order, it is necessary to have the Sergeant-at-Arms.

Mr. FARNSWORTH. The Sergeant-at-Arms is now executing the order.

Mr. THAYER. My motion proposes no proceeding whatever against the Sergeant-at-Arms. It simply proposes that this House shall command the attendance of one of its officers.

Mr. FARNSWORTH. The officer has been in attendance, and is now absent in pursuance of an order of the House.

Mr. THAYER. Well, he is bound to attend as often as the House requires his attendance.

The SPEAKER. The Chair thinks that the House has the right at any time to require the presence of its officers. It may see fit to bring the Sergeant-at-Arms back to revoke the order of arrest.

Mr. HOLMAN. I think that the Sergeant-at-Arms, during his absence, ought to be treated fairly. I would, therefore, move as an amendment to the motion of the gentleman from Pennsylvania, [Mr. THAYER,] that a rule be served on the Sergeant-at-Arms by the Doorkeeper of the House, requiring him to show the House why he has not made return of the process that was issued for the arrest of absent members. That is the more usual proceeding against an absent officer.

Mr. THAYER. I would suggest to the gentleman from Illinois, [Mr. FARNSWORTH,] that his motion proposes a proceeding against the Sergeant-at-Arms without any evidence that he is in default.

Mr. HOLMAN. It is certainly in order to send for him that he may show why he has not made return.

The SPEAKER. The Chair doubts whether that would be in order. The Chair thinks that the farthest verge to which the House can go is to require the presence of the Sergeant-at-Arms to give him any orders that it may see fit.

Mr. HOLMAN. There are precedents of cases where a proposition has been made and adopted, to require the Sergeant-at-Arms to show cause why he did not serve process.

The SPEAKER. There are no such precedents within the recollection of the Chair, and he thinks that the motion of the gentleman from Indiana cannot be recognized as in order.

Mr. THAYER. I move that the Assistant Doorkeeper be appointed to require the presence of the Sergeant-at-Arms in the Hall.

Mr. ROSS. I hope that that motion will not be adopted. I will say, in behalf of the Sergeant-at-Arms, that it cannot be expected that in a city of three or four miles in extent he could make his return any more promptly than he has done. When I saw him, he was discharging his duties as rapidly as possible. I think that the proper course would be to send more officers to assist him.

Mr. MILLER, of New York. I move to amend the motion of the gentleman from Pennsylvania so as to provide that the Assistant Doorkeeper be appointed a special messenger to arrest, under the

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SATURDAY, FEBRUARY 11, 1865.

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warrant of the Speaker, the absent members and bring them to the bar of the House.

Mr. THAYER. I rise to a point of order. I submit that the amendment is not germane to my motion.

The SPEAKER. The Chair doubts whether the amendment is germane. It would be in order as an independent proposition, but not as an amendment to the motion now pending.

The motion of Mr. THAYER was not agreed to.

Mr. MILLER, of New York. I now move that the Assistant Doorkeeper be appointed a special messenger to go after absent members and bring them to the bar.

Mr. BALDWIN, of Massachusetts. If we send out another messenger we may have to wait three or four hours longer before we hear from him. [Laughter.]

Mr. DAWES. Then we can send another messenger for him.

The motion of Mr. MILLER, of New York, was not agreed to.

Mr. HOLMAN. There are several of the absentees now at the door who are unable to enter.

MEMBERS. Who are they?

Mr. HOLMAN. Mr. O'NEILL, of Ohio, and Mr. FINCK. I move that the Deputy Sergeant-at-Arms be directed to take them in custody and present them at the bar of the House.

The motion was agreed to.

A special messenger appeared at the bar, having in custody Messrs. O'NEILL and FINCK, of Ohio.

The SPEAKER. Mr. O'NEILL, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. O'NEILL, of Ohio. Mr. Speaker, my health was such that I did not deem it prudent to leave my room when I went home from here this afternoon.

Mr. THAYER. I move that the gentleman be excused unconditionally.

The motion was agreed to.

The SPEAKER. Mr. FINCK, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. FINCK. An informal meeting of the Committees of the Senate and the House on the Post Office and Post Roads took place this evening at the house of the Postmaster General, and I had the honor to be one of that company. It was thought, perhaps, that we might promote the general interest.

Mr. JOHNSON, of Pennsylvania. I move that the gentleman be excused unconditionally.

The House divided; and there were—ayes 28, noes 33.

So the motion was disagreed to.

Mr. GARFIELD. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

Mr. HOLMAN. I believe that a quorum is now present, and I move that all further proceedings under the call be dispensed with.

The SPEAKER. There ought to be ninety-five members present; but there are only ninety.

Mr. KASSON. Several members are in the refreshment room who have remained beyond their parole.

The SPEAKER. The members will be sent for. No more paroles will be granted until after another call of the yeas and nays to ascertain if a quorum is here.

Mr. HOLMAN's motion was disagreed to.

Mr. RADFORD. I move that the House adjourn, and on that motion demand the yeas and nays.

Mr. GARFIELD. I hope the gentleman will withdraw that motion, as another absentee is present.

Mr. RADFORD. I withdraw the motion for the present.

Mr. GARFIELD. Mr. COFFROTH, an absentee, is now present, and I move that he be taken into custody by the Deputy Sergeant-at-Arms and brought to the bar of the House.

The motion was agreed to.

A special messenger appeared at the bar of the House having in custody Mr. COFFROTH.

The SPEAKER. Mr. COFFROTH, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. COFFROTH. Mr. Speaker, I have a notice which was left at my hotel, and in obedience to that I came here. The only excuse that I have for my absence is that I promised to take a lady to the theater, and bought the tickets this morning before I knew there would be a night session. As I have said, a notice was left at my hotel. I think that it was disrespectful to the House and the member for the Sergeant-at-Arms to leave the notice on so small a piece of paper. [Laughter.] It says:

MY DEAR SIR: You are requested to report at my office immediately, under arrest, for absence from the House.

N. C. ORDWAY,  
Sergeant-at-Arms.

Mr. JOHNSON, of Pennsylvania. Did you go to the theater?

Mr. COFFROTH. I did.

Mr. JOHNSON, of Pennsylvania. I move that my colleague be discharged on payment of fees.

The motion was agreed to.

Mr. JOHNSON, of Pennsylvania. My opinion is that the Sergeant-at-Arms has been delinquent in executing the warrant of the House. He has been three hours absent, and as yet we have had none but Democrats presented here. I protest against the partial action of the Sergeant-at-Arms. No member on that side of the House has been arrested.

A MEMBER. Mr. AMOS MYERS was.

Mr. JOHNSON, of Pennsylvania. He came here by himself. I think that it is time we were treated alike. I move, therefore, that all fees be withheld from the Sergeant-at-Arms.

Mr. STROUSE. I do not believe that we have the right to discriminate against the Sergeant-at-Arms in reference to fees any more than we can take away the pay of the attachés of the House.

Mr. HIGBY. I object to debate.

Mr. JOHNSON's motion was disagreed to.

Mr. RADFORD, (at twenty-five minutes to one o'clock, a. m.) I move that the House do now adjourn; and on that motion I demand the yeas and nays.

Mr. WASHBURN, of Illinois. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and RADFORD, were appointed.

Mr. RADFORD. I withdraw the call for the yeas and nays.

Mr. HOLMAN. I renew the call for the yeas and nays, and for tellers on the yeas and nays. We can ascertain if there is a quorum in that way.

Mr. GARFIELD. Let me suggest that the Speaker count the House, to ascertain if there be a quorum here.

The SPEAKER. There are several members in the cloak-room and lying upon sofas, and it would be impossible for the Speaker to count the House exactly.

Tellers were ordered; and Messrs. HOOPER and TOWNSEND were appointed.

The House divided; and the tellers reported—ayes 15, noes 41.

So the yeas and nays were ordered.

The SPEAKER. The Chair ceased giving permits to leave the Hall half an hour ago, and every member who is in the Capitol is now in the Hall.

The question was taken; and it was decided in the negative—yeas 43, nays 49, not voting 90; as follows:

YEAS—Messrs. John D. Baldwin, Baxter, Boutwell, Broomall, James S. Brown, Ambrose W. Clark, Cox, Daves, Diggs, Eckley, Edgerton, Griswold, Hale, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Kallfleisch, Littlejohn, Long, McAllister, McBrade, Middleton, Morrill, James R. Morris, Amos Myers, Charles O'Neill, Peudleton, Pike, Prunty, Radford, John H. Rice, Seefeldt, Shannon, Spalding, Starr, William G. Steele, Strouse, Thayer, Tracy, Ward, and Elisha B. Washburne—43.

NAYS—Messrs. Allison, Ames, Ancona, Augustus C. Baldwin, Beaman, Boyd, Cobb, Coffroth, Cravens, Thomas T. Davis, Deming, Eldridge, Eliot, Farnsworth, Finck, Frank, Garfield, Hall, Charles M. Harris, Highty, Holman, Philip Johnson, Kasson, Kelley, Orlando Kellogg, Knox, Loan, Marvin, McClurg, Samuel F. Miller, Morrison, Leonard Myers, Nelson, Odell, John O'Neill, Perham, Pomeroy, Ross, Stevens, Stiles, Townsend, Upson, William B. Washburn, Whaley, Wilder, Wilson, Winfield, Woodbridge, and Worthington—49.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Ashley, Baily, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chanler, Freeman Clarke, Clay, Cole, Creswell, Henry Winter Davis, Dawson, Denison, Dixon, Donnelly, Dumont, Eden, English, Ganson, Gooch, Grider, Grinnell, Harding, Harrington, Benjamin G. Harris, Herrick, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Francis W. Kellogg, Keran, King, Knapp, Law, Lazear, Le Blond, Longyear, Mallory, Marcy, McDowell, McIndoe, McKimney, William H. Miller, Moorhead, Daniel Morris, Noble, Norton, Orth, Patterson, Perry, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scott, Sloan, Smith, Smithers, John B. Steele, Stuart, Sweet, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Benjamin Wood, Fernando Wood, and Yeaman—90.

So the House refused to adjourn.

Mr. STEVENS. A quorum being now present, I move that all further proceedings under the call be dispensed with, and I hope the House will not adjourn until we have taken a vote on the amendment pending in the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. STEVENS. I now move that the House resolve itself into Committee of the Whole on the state of the Union on the special order.

Mr. SPALDING, (at twelve minutes to one o'clock, p. m.) I move that the House do now adjourn.

The question was taken; and the House refused to adjourn—ayes 17, noes 63.

The SPEAKER. No quorum has voted.

Mr. SHANNON. Several members have left the Hall since the doors were opened.

The SPEAKER. The doors were opened as soon as further proceedings under the call were dispensed with.

Mr. COX. What is the motion before the House?

The SPEAKER. A motion to go into Committee of the Whole on the state of the Union.

Mr. COX. I call for tellers on that motion.

Mr. WASHBURN, of Illinois. Can any motion be entertained before a quorum is present?

The SPEAKER. It cannot. The fact that no quorum is found to be present arrests all business until a quorum shall appear.

Mr. GARFIELD. I move that there be a call of the House.

The motion was agreed to.

So a call of the House was ordered.

The roll was called; and the following members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Ashley, Baily, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chanler, Freeman Clarke, Clay, Cole, Creswell, Henry Winter Davis, Daves, Dawson, Denison, Dixon, Donnelly, Dumont, Eden, English, Ganson, Gooch, Grider, Grinnell, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Francis W. Kellogg, Keran, King, Knapp, Law, Lazear, Le Blond, Longyear, Mallory, Marcy, McAllister, McDowell, McIndoe, McKimney, William H. Miller, Moorhead, Daniel Morris, Noble, Norton, Orth, Patterson, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scott, Sloan, Smith, Smithers, Spalding, John B. Steele, William G. Steele, Stuart, Sweet, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Benjamin Wood, Fernando Wood, and Yeaman.

The SPEAKER. The Doorkeeper will now close the doors of the Hall, and the names of the absentees will be called for excuses.

Mr. STEVENS. I move that the names of the members who were excused for cause on the last roll-call be omitted in the present call.

There being no objection,

The SPEAKER. The Clerk will pass over the names of members excused on the first call.

The names of the absentees, who were not

excused on the first call, were then called, as follows:

JAMES C. ALLEN. No excuse offered.  
 WILLIAM J. ALLEN. No excuse offered.  
 JOHN B. ALLEY. No excuse offered.  
 LUCIEN ANDERSON. No excuse offered.  
 ISAAC N. ARNOLD. No excuse offered.  
 JAMES M. ASHLEY. No excuse offered.  
 JOSEPH BAILY. No excuse offered.  
 JACOB B. BLAIR. No excuse offered.  
 GEORGE BLISS. No excuse offered.  
 HENRY T. BLOW. No excuse offered.  
 JAMES BROOKS. No excuse offered.  
 WILLIAM G. BROWN. No excuse offered.  
 JOHN W. CHANLER. No excuse offered.  
 FREEMAN CLARKE. No excuse offered.  
 BRUTUS J. CLAY. No excuse offered.  
 CORNELIUS COLE. No excuse offered.  
 HENRY L. DAWES. No excuse offered.  
 JOHN L. DAWSON. No excuse offered.  
 NATHAN F. DIXON. No excuse offered.  
 IGNATIUS DONNELLY. No excuse offered.  
 JOHN R. EDEN. No excuse offered.  
 JAMES E. ENGLISH. No excuse offered.  
 JOHN F. FARNSWORTH. No excuse offered.  
 JOHN GANSON. No excuse offered.  
 AARON HARDING. No excuse offered.  
 HENRY W. HARRINGTON. No excuse offered.  
 BENJAMIN G. HARRIS. No excuse offered.  
 ANSON HERRICK. No excuse offered.  
 WILLIAM S. HOLMAN.  
 The SPEAKER. The gentleman from Indiana is present, and the Clerk will so record him.  
 WELLS A. HUTCHINS. No excuse offered.  
 FRANCIS W. KELLOGG. No excuse offered.  
 AUSTIN A. KING. No excuse offered.  
 ANTHONY L. KNAPP. No excuse offered.  
 FRANCIS C. LEBLOND. No excuse offered.  
 ROBERT MALLORY. No excuse offered.  
 DANIEL MARCY. No excuse offered.  
 ARCHIBALD McALLISTER. No excuse offered.  
 JOHN F. McKINNEY. No excuse offered.  
 WILLIAM H. MILLER. No excuse offered.  
 WARREN P. NOBLE. No excuse offered.  
 JESSE O. NORTON. No excuse offered.  
 GODLOVE S. ORTH. No excuse offered.  
 NEMEMIAH PERRY. No excuse offered.  
 FREDERICK A. PIKE. No excuse offered.  
 HIRAM PRICE. No excuse offered.  
 WILLIAM H. RANDALL. No excuse offered.  
 ALEXANDER H. RICE. No excuse offered.  
 JAMES C. ROBINSON. No excuse offered.  
 ANDREW J. ROGERS. No excuse offered.  
 EDWARD H. ROLLINS. No excuse offered.  
 JAMES S. ROLLINS. No excuse offered.  
 ROBERT C. SCHENCK. No excuse offered.  
 JOHN G. SCOTT. No excuse offered.  
 ITHAMAR C. SLOAN. No excuse offered.  
 RUFUS P. SPALDING. No excuse offered.  
 JOHN B. STEELE. No excuse offered.  
 WILLIAM G. STEELE. No excuse offered.  
 JOHN D. STUART. No excuse offered.  
 L. D. M. SWEAT. No excuse offered.  
 ROBERT B. VAN VALKENBURGH. No excuse offered.

BENJAMIN WOOD. No excuse offered.  
 FERNANDO WOOD. No excuse offered.  
 GEORGE H. YEAMAN. No excuse offered.  
 Mr. BALDWIN, of Massachusetts, (at a quarter past one o'clock, a. m.) It is evident that there is something at fault in the rules of the House; that something more is required in order to enforce the duty of members to be present when the House is in session. Some members evidently feel too lightly that obligation. Therefore, in view of this evident defect in the rules, which makes it hopeless to attempt to accomplish anything here to-night, I am disposed to move again that we adjourn. It does not annoy me to stay here late. I am accustomed to late hours. My habits in that respect are such that I can sit out the night here comfortably; and I would do it gladly if there were any good object before us that it would seem possible for us to accomplish. There being no hope of reaching the object for which we are struggling, I again move that the House adjourn.

Mr. HIGBY. I hope the House will not adjourn. I hope that some men of this House who have been here and have left will be brought here.

The question was taken; and the House refused to adjourn.

Mr. WILSON. I hope as many members of this side of the House will be brought in here as

have been brought in here of the other side, and then we will have a quorum.

Mr. STEVENS. I hope those who have been here and have left will be first brought in.

Mr. GARFIELD. I move that the Sergeant-at-Arms, Assistant Sergeant-at-Arms, the Doorkeeper, and Assistant Doorkeeper, be designated as special messengers to bring in absent members.

Mr. WILSON. I move to amend by adding that they be especially instructed to first arrest and bring here those who have been here and have left without leave.

The SPEAKER. The Chair doubts whether the motion of the gentleman from Iowa [Mr. WILSON] is in order. The order must be to arrest absent members.

Mr. POMEROY. It is a matter of notoriety to every man in the House that Mr. FARNSWORTH of Illinois, Mr. SPALDING of Ohio, Mr. PIKE of Maine, Mr. DAWES of Massachusetts, and Mr. WEBSTER of Maryland, who have been once excused to-night upon the payment of the usual fees—and I do not know but some others—have been here and have left the House, some of them saying emphatically that they would not remain here to make up a quorum.

Mr. COX, (sotto voce.) Say that they said they would be damned if they would stay. [Laughter.]

Mr. POMEROY. Well, I will not say what my friend from Ohio [Mr. Cox] has said.

Mr. COX. I did not say it myself.

Mr. POMEROY. I think it is due to those who are remaining here that those men should be brought in here. I say it is an insult to the House that those men should have left under the circumstances they did. I say the House cannot maintain its own dignity properly unless these men are first brought in.

The SPEAKER. The Chair will state that four years ago, while acting as the Presiding Officer *pro tempore*, during a call of the House in an evening session, he examined the authorities upon this subject, and found no case where orders have been specially given for members named to be brought in.

Mr. GARFIELD. I have no doubt that the officers designated for this duty will carry out the wishes of the House.

Mr. WILSON. I will state that my motion to amend was intended rather as directory to the Sergeant-at-Arms than for the action of the House. I withdraw the motion to amend. I am informed that the gentleman from Illinois has departed from the Hall. If so, I wish that the Sergeant-at-Arms would pay particular attention to his case.

Mr. POMEROY. The member from Illinois, from the Galena district, [Mr. WASHBURN.]

Mr. BROWN, of Wisconsin. Mr. Speaker, it will not be pretended, I suppose, that members who have attended here to-night until this late hour should be punished for their punctuality; and hence I think it proper that we should make some provision as to the time for the next meeting of the House. It is very evident that we shall not be in a condition to do anything to-morrow; and therefore I move that when we adjourn it be to meet on to-morrow, that is, Saturday. We cannot, I believe, under the rules, adjourn over until Monday.

The SPEAKER. The gentleman can move to adjourn till Monday if a quorum is present. This is Thursday's session.

Mr. BROWN, of Wisconsin. We cannot adjourn till Monday without a quorum?

The SPEAKER. Not without a quorum. Nor can we adjourn till Saturday without a quorum.

Mr. BROWN, of Wisconsin. I prefer the motion as I stated it: that when we adjourn it be to meet on to-morrow, or, in other words, on Saturday.

The SPEAKER. In legislative parlance this is Thursday, and will remain so even after twelve o'clock noon, if the House should continue in session.

Mr. BROWN, of Wisconsin. I call the attention of the Chair to the opinion of Hon. Thomas Benton at the time when the House remained in session until Sunday morning.

The SPEAKER. That opinion has been overruled since. The Chair to-day looked at the Congressional Globe in reference to that very point. Volume forty-four of the Congressional Globe

shows that the Senate proceedings of Saturday, Sunday, and Monday, March 2, 3, and 4, are all recorded as of the legislative day of Saturday, March 2, 1861.

Mr. MORRILL. If there is not a quorum, can the motion of the gentleman from Wisconsin be adopted?

The SPEAKER. If there is no quorum, the motion cannot prevail; and if there is no quorum, the Chair is of opinion that the motion must be reserved till a quorum appears.

Mr. MORRILL. I believe, Mr. Speaker, that, by attempting to pursue this proceeding, we are punishing ourselves more than the absentees. I have had considerable experience of these prolonged night sessions. I know exactly how this proceeding will result. I know that the absentees cannot be brought here unless they choose to be brought here. I know that they do not choose to be brought here to-night, and that we shall sit here till nine or ten o'clock to-morrow morning, before we shall get their presence, and that the absentees will have enough votes in the House to excuse them; so that we cannot fine them.

Mr. WILSON. We will try it.

Mr. MORRILL. I have seen it tried over and over again.

Mr. KASSON. I wish to inquire whether the proceedings under the call cannot be continued if we take a recess until quarter before twelve o'clock to-morrow.

The SPEAKER. The Clerk will read the rule on the subject.

The Clerk read, as follows, from page 35 of Barclay's Digest:

"It is not in order for the House to take a recess during a call of the House."

The SPEAKER. That is the only obstacle in the way of the motion indicated by the gentleman from Iowa, [Mr. KASSON.]

Mr. POMEROY. In answer to the remarks of the gentleman from Vermont, [Mr. MORRILL,] I have this to say, that after sitting here from nine till one o'clock in order to get a quorum of the House, if the House has not the power to compel the attendance of the members necessary to form a quorum, then the call of the House is a farce. I maintain that it is due to the dignity of this House that we should compel the attendance here of all members who were present when the call of the roll showed that there was no quorum present, and to fine them in such a way as will be a lesson to members hereafter. For one, I desire that every man who was present when the proceedings under the former call were dispensed with shall be brought to the bar of the House and properly punished. In my view it is the greatest indignity that could be offered to this House for members to leave under the circumstances under which the men whose names I mentioned a little while ago left this Hall. I am willing to sit here forty-eight hours rather than permit them to escape proper punishment.

Mr. ANCONA. Would it not be competent for the House to impose the penalty suggested by the gentleman upon delinquent members?

The SPEAKER. Not unless they are brought to the bar and asked to give reasons for their absence.

Mr. GARFIELD. I move to substitute in place of the Doorkeeper, Mr. Goodenow, who is at home with a sick wife, Mr. John T. Chancy.

The SPEAKER. For what purpose?

Mr. GARFIELD. To act as special messenger for the arrest of absentees.

The motion was agreed to.

Mr. TOWNSEND. I move that they be brought here dead or alive. [Laughter.]

Mr. COX. I insist on a division of the motion.

Mr. ELDRIDGE. I move to amend by striking out the words "and alive." [Laughter.]

The SPEAKER. The Chair regards the motion as not in order.

Mr. STEVENS. I ask to be excused from further service during the remainder of this day's session.

The motion was agreed to.

Mr. COX. As the gentleman from Pennsylvania has retired, I think that we had better adjourn, as we have lost our head. [Laughter.]

Mr. HOLMAN. Was not a motion to adjourn until Saturday made?



The SPEAKER. That question is reserved until a quorum appears.

Mr. HOLMAN. We can receive it by unanimous consent.

The SPEAKER. Until a quorum appears, no unanimous consent can be granted. No motion is in order except to adjourn or that there be a call of the House.

Mr. KELLEY. I agree with the suggestions made of the utter futility under the present rules of the House to enforce the attendance of a quorum; and I think that we will do well to accept the lessons of this result to the point of the necessity of the modification of the rules of the House. We must leave those gentlemen, who, being here until within a moment of the taking of the question on the business of the day, then left the House, to their constituents and the public press.

Mr. JOHNSON, of Pennsylvania. They will never hear of it.

Mr. KELLEY. I think that they will hear of it. At any rate, if they do not, we may revise the rules of the House to prevent them from inflicting such a necessity upon it again.

Mr. MORRILL. I ask that my colleague on the Committee of Ways and Means, Mr. LITTLEJOHN, who, the House will remember, has been in feeble health all the session, be excused from further attendance upon the session of the House.

Mr. JOHNSON, of Pennsylvania. I move that the Committee of Ways and Means, having had extra labor, be all excused.

Mr. MORRILL. I hope not.

Mr. WILSON. They are now attending to their business.

Mr. MORRILL's motion was agreed to.

Mr. LITTLEJOHN. I propose to offer a resolution. I do not know what the practice may be in this House; but in State Legislatures my proposition has been found efficient to compel the attendance of members. It is as follows:

*Resolved*, That the members absent without leave of the House be declared in contempt of its authority, and that until they shall purge themselves of such contempt by sufficient excuse, to be rendered at the present or some subsequent session, they be held to have forfeited their rights as members.

I know that that has worked a full cure in the legislative bodies of the States, and I think that it will do so here if there is nothing in the rules to interfere. I care nothing for precedents. If there be nothing in the rules to interfere, and the resolution be adopted, the absentees to-morrow will place themselves at the bar of the House and render their excuses.

Mr. PRUYN. That is a substantive resolution, and requires a majority of the House to pass on it.

The SPEAKER. The Chair rules, in accordance with the usage of the House, that the resolution is not in order. The usage has been, since the formation of the Government, that when a member shall be said to be in contempt he has a right to be heard at the bar before final decision is made.

Mr. ELDRIDGE moved to reconsider the vote by which Mr. LITTLEJOHN was excused from further attendance.

Mr. MORRILL moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BROOMALL. I ask whether it would not be competent for the House to-morrow to pass a resolution of censure upon those who are absent without leave; and if so, whether that would not meet the difficulty?

The SPEAKER. The Chair will say that that has not been in accordance with the usage. It is for the House, and not the Chair, to change the rules, and he can only administer them as they have been administered by his predecessors.

Mr. ANCONA. I rise for the purpose of making a motion to adjourn. I have thus far invariably voted against motions of this kind; but after the action the House has just taken, excusing two members, and in view of the inefficiency of the Sergeant-at-Arms in bringing in members, I think it is folly for us to remain here. I therefore move that the House do now adjourn.

The question was put; and there were—ayes 42, noes 36.

Mr. GARFIELD demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 47, not voting 101; as follows:

YEAS—Messrs. Ancona, John D. Baldwin, Baxter, Boutwell, James S. Brown, Ambrose W. Clark, Cox, Eckley, Edgerton, Eldridge, Frank, Griswold, Holman, Asahel W. Hubbard, John H. Hubbard, Hubburd, Ingersoll, Kalbfleisch, Long, McAllister, McBride, Middleton, Morrill, James K. Morris, Amos Myers, Pendleton, Pruyn, Radford, Shannon, Strouse, Tracy, Upson, Ward, and William B. Washburn—34.

NAYS—Messrs. Allison, Augustus C. Baldwin, Beaman, Boyd, Broomall, Cobb, Coffroth, Cravens, Thomas T. Davis, Deming, Driggs, Eliot, Finck, Garfield, Hall, Charles M. Harris, Higby, Philip Johnson, Kasson, Kelley, Orlando Kellogg, Knox, Loan, Marvin, McClurg, Samuel F. Miller, Morrison, Leonard Myers, Nelson, Odell, Charles O'Neill, John O'Neill, Perham, Pomeroy, John H. Rice, Ross, Scofield, Starr, Stiles, Thayer, Townsend, Whaley, Wilder, Wilson, Winfield, Woodbridge, and Worthington—47.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Ames, Anderson, Arnold, Ashley, Bailly, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chaulier, Freeman Clarke, Clay, Cole, Creswell, Henry Winter Davis, Dawes, Dawson, Denison, Dixon, Donnelly, Dumont, Eden, English, Farnsworth, Ganson, Gooch, Grider, Grinnell, Hale, Harding, Harrington, Benjamin G. Harris, Herrick, Hooper, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazear, Le Blond, Littlejohn, Longyear, Malory, Marey, McDowell, McIndoe, McKinney, William B. Miller, Moorhead, Daniel Morris, Noble, Norton, Orth, Patterson, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scott, Sloan, Smith, Smithers, Spalding, John B. Steele, William G. Steele, Stevens, Stuart, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburne, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Windom, Benjamin Wood, Fernando Wood, and Yeaman—101.

So the House refused to adjourn.

Mr. WILSON. For the purpose of suggesting a question of order, I renew the resolution offered by the gentleman from New York, [Mr. LITTLEJOHN.]

The SPEAKER. The resolution will be again read.

The Clerk read the resolution, as follows:

*Resolved*, That the members now absent without leave of the House be declared in contempt of its authority, and that until they shall purge themselves of such contempt by sufficient excuse, to be rendered at the present or some subsequent session, they be held to have forfeited their rights as members.

Mr. WILSON. I will modify the resolution by striking out so much of it as relates to the forfeiture of the rights of absentees as members.

I offer the resolution for the purpose of calling the attention of the Chair to a provision in the Constitution which I think obviates the difficulty suggested by the Speaker in passing this resolution. I find this provision in the Constitution of the United States:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."

Now, it may be answered that the manner of compelling the attendance of members must be established by the rules of the House prior to the enforcement of the rule.

But, sir, suppose that difficulty should have occurred in the First Congress which convened under the Constitution of the United States, and that Congress, or any Congress at the commencement of a new Congress, had found itself without a quorum before any rule had been established, what remedy would the House have had to compel the attendance of absent members? I suggest, sir, that the House, under this provision of the Constitution, may adjourn from day to day, and provide for the compelling of the attendance of absent members under such penalties as may be prescribed by such portion of the House as may adjourn from day to day. Otherwise there can be no penalty at all, because a majority of the members, being absent, would have it in their power to prevent the adoption of any rule by virtue of which a member may be punished for absence from the House.

The SPEAKER. The Chair has heard with interest the suggestions of the gentleman from Iowa. He ruled the resolution out of order, and reflection has satisfied him that the ruling was right. The section of the Constitution read by the gentleman provides that a smaller number than a quorum may adjourn from day to day, and may be authorized to compel the attendance

of absent members in such manner and under such penalties as each House may provide. The words "each House" must have some definition. If the gentleman will look at the next clause of the Constitution he will find what those words mean. "Each House may determine the rules of its proceedings." Nothing less than a majority of the House can adopt rules for the House. "Punish its members for disorderly behavior." Nothing less than a majority can do so. "And, with the concurrence of two thirds, expel a member." The gentleman from Iowa will not say that two thirds of this body, as it is now situated, without a quorum, can expel a member. It follows, therefore, when the Constitution declares that "each House may provide" penalties, &c., to compel the attendance of absent members, it means a quorum of the House, and no less.

Mr. WILSON. If the Chair will permit me—

The SPEAKER. The Chair will cite a precedent to the gentleman from Iowa, which would seem, on a first reading, to be on his side. The Constitution says each House may be authorized to compel the attendance of absent members in such manner and under such penalties as it may direct. In the Twenty-Seventh Congress, under a call of the House, the House passed a resolution declaring that all such members of the House as had not appeared in pursuance of the call of the House and given satisfactory excuse, should be fined the amount of fees of the Sergeant-at-Arms, subject to be released on the payment of the same on appearing afterward and making such excuse as should be satisfactory to the House. That was not done, however, till there was a quorum present. If there were a quorum, then there would be a House authorized to act similarly.

Mr. WILSON. I suggest, in answer to the remarks of the Chair, that the second clause of the section just read by the Chair relates to the powers of the House as an entirety, establishing rules for the punishment of members for disorderly behavior, and for the expulsion of members. That power can only be exercised after the attendance of a quorum has been secured. There are two classes of powers: first, the power to compel the attendance of a quorum. After that has been secured, that quorum of the House may establish rules to punish members for disorderly behavior, and, with a concurrence of two thirds, to expel members. Now, I suggest that disorderly behavior, which may be punished, must be behavior in the presence of the House. Consequently, it is the exercise of a power on the part of the House after a quorum has been secured. But, in the first clause of the section which I have read, the provision of the Constitution was intended to secure the attendance of a sufficient number of members to constitute a quorum, in order that the rules of proceedings should be determined under which members might be punished for disorderly behavior, or, by a vote of two thirds, expelled.

The SPEAKER. The Chair will state, in reply to the suggestions of the gentleman from Iowa, that the section, taken altogether, certainly seems to be in antagonism to the gentleman's views; and what is still more apposite is that the House of Representatives has administered and executed this section of the Constitution. "Each House shall be judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number" may "be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide." The House of Representatives has provided how the attendance of absent members, when there is less than a quorum present, shall be enforced. But less than a quorum cannot affix penalties not specified in the rules. In that opinion the Chair is very clear. The Constitution goes on to provide what each House may do: punish for disorderly behavior, compel attendance, and expel members.

Mr. WILSON. I would then ask the Chair whether an appeal from the decision of the Chair would be entertained.

The SPEAKER. Certainly.

Mr. WILSON. If that appeal can be entertained, then by what body can that appeal be determined?

The SPEAKER. The Chair always feels that

he is under the control of the House, (except in rare and exceptional cases, which need not be referred to here,) or that portion of the House which may be present. If the House shall determine the question against the opinion of the Chair, still the Chair would not be shaken in his opinion, for he believes that the opinion he has expressed is the true construction of the Constitution, as his predecessors have administered it. But the Chair would feel it a duty to be governed by the decision of the majority of his fellow-members here.

Mr. WILSON. I wish to say that the resolution I have offered, for the purpose of raising this question of order, goes further probably than I would desire to go in the enforcement of any penalty against any member of the House for absence. I offer it for the purpose of raising this question; and with all due deference to the Chair, and in order that those present may pass upon this question, and that it may be discussed if desired, I therefore appeal from the decision of the Chair.

Mr. THAYER. The position taken by the Chair is undoubtedly correct. The resolution now before the House does not contemplate the compulsory attendance of the absent members; but it contemplates the punishment of those members in a manner which is tantamount to an expulsion.

Mr. WILSON. I have modified the resolution.

Mr. THAYER. It is clearly incompetent for less than a quorum to expel a member; yet this resolution goes to that extent, for to enact that these members are to be deprived of their privileges as members, is in effect to enact their expulsion.

Mr. WILSON. I modified the resolution by striking out that passage.

Mr. KASSON. I wish to say on this subject that there is one point which it seems to me ought to settle the question as the Chair has decided it. And that is that if we have the right to pass a resolution requiring the excuse to be satisfactory to the House before they can be restored to their privileges, then a minority of the House, meeting at the beginning of a session, and acting under a resolution of this character, might defeat the meeting of a quorum by refusing to receive any excuse as satisfactory, and thus prevent the organization of the House. The rule cuts both ways; therefore I think the ruling of the Chair is right on principle as well as on precedent.

Mr. HIGBY. It seems to me that there is one rule by which we can settle this question, and that is this: when the members were called to the bar of the House, and the question was asked them what excuse they had to offer for being absent from the House, they gave no excuse such as the House would receive; and some member then made the motion that they be excused upon paying the usual fees. Now, can the motion be made here that a fine be imposed of ten, fifteen, or twenty dollars? Then arises another question: could the motion be made here, and would it be a valid motion, that the member be considered in contempt of this House for his conduct, provided he gave no excuse, or if whatever he did give showed that it had rather been in contempt of the action of this House?

Then the question is, would it be in the power of this body, having less than a majority, to enter on the record that that person was in contempt of this House? And if under the rules that penalty or punishment, for it would be in the light of a punishment, could not be inflicted upon a member when he is called to the bar, then I can very readily conceive that we have no power to adopt this resolution. But if we have the power, although in a minority—that is, not a quorum present—if we have the power under the rules to inflict that penalty, have we not also the same power now?

Mr. THAYER. The difference lies just here; that we cannot do that until the member has been arraigned at the bar of this House and had an opportunity to be heard. He is not convicted of any contempt until his excuse is pronounced insufficient by this House. If he appears, and his excuse is found to be insufficient, then he can be punished.

Mr. HIGBY. It is simply giving the opportunity to hear his excuse; it is a conditional matter, whatever it may be.

Mr. JOHNSON, of Pennsylvania. It seems

to me the gentleman overlooks one point in this case. It is not simply bringing members here who have been absent, but to bring those here who have once been brought to the bar of the House, and then have left the House. Suppose that some of these gentlemen who were brought here under the process of the House to-night, had, in the face of this minority of the House, wheeled upon their heels and walked out; is there no power in this minority to compel their attendance here? Has not this minority the power to hold those members here? Has it not the power to inflict a punishment over and above the amount of the fees of the officer who arrests them? Has it not the power to impose upon them a fine of twenty-five, fifty, or one hundred dollars? If not, then I say that we have not the power under the Constitution to compel the attendance of members here until we have a quorum. Therefore, I think that, under a resolution reciting flagrant misconduct, (as leaving the Hall while the House is engaged in trying to compel the attendance of a quorum has been considered by certain gentlemen here,) and therefore calling such delinquents before the bar of the House, we have the right to impose such a penalty as will prevent them from leaving the Hall in that manner again. By holding them, and sending for others, we might eventually get a quorum; otherwise we might never do so, because the back door might let out more than could be brought in at the front door.

Mr. WILSON. Before this debate proceeds further, I ask the Clerk to read the resolution as modified.

The Clerk read the resolution, as follows:

*Resolved*, That the members of this House absent without leave be held to be in contempt until such time as they shall appear and purge themselves thereof by rendering sufficient excuses respectively for their absence.

Mr. GARFIELD. I wish, Mr. Speaker, to state briefly what seems to me the teaching of the Constitution in the case before us.

In the first place, there is a House, a quorum of which is empowered to do business. A smaller number than a quorum, not being a House, has two functions under the Constitution, and only two: first, to adjourn from day to day; and second, to compel the attendance of absent members.

Mr. BOUTWELL. The gentleman will allow me to direct his attention to a single point. The Constitution does not say that a smaller number than a quorum may compel the attendance of absent members; it says that they "may be authorized to compel the attendance of absent members."

Mr. GARFIELD. Yes, sir; "may be authorized."

Mr. BOUTWELL. For authority to enforce such attendance, this number less than a quorum must look to the rules established by the House when there is a quorum acting.

Mr. GARFIELD. If the gentleman will allow me, I will conclude what I have to say.

A smaller number than a quorum may do two things: in the first place, they "may adjourn from day to day;" and in the second place, they "may be authorized to compel the attendance of absent members." How? "In such manner and under such penalties as each House may provide." The House has, in its rules, determined how that shall be done. Now, the resolution offered by the gentleman from New York [Mr. LITTLEJOHN] provided for the expulsion of members. But that is not compelling their attendance; it is getting rid of them altogether. It therefore falls entirely outside of the second of the two functions of the House, and is in my judgment clearly unconstitutional.

Mr. LITTLEJOHN. I beg leave to remind the gentleman that the resolution which was proposed by myself is not now under consideration.

Mr. GARFIELD. I am aware of that. I am speaking of the gentleman's resolution, however, to show that it was clearly out of order.

Now, a smaller number than a quorum may compel the attendance of absent members in such manner as they may be authorized by the House. The House, by its rules, has authorized less than a quorum to proceed as we have been proceeding to-night. But we are not justified, I judge, in going in any direction beyond the rules of the House. If the gentleman from Iowa [Mr. WIL-

SON] concedes that the rules, as they now exist, do not admit of this resolution censuring members who are not here, he gives up, it seems to me, the whole question.

In conclusion, let me say that there is one point on which I wish to ask the Speaker a question. How can this House, in its present condition, without a quorum, fine a member when he is brought in? Is there any specific rule of the House that authorizes the fifteen members who may adjourn from day to day, to fine a member when he comes in and fails to present a satisfactory excuse? If the Speaker answers that question, I think the case will be entirely with him. That is the only point on which there is any doubt in my mind.

The SPEAKER. The Chair has never yet decided that the portion of the House now present has a right to go beyond a resolution requiring the payment of the usual fees. To enable it to do so would require action by the House of Representatives. The rules themselves declare that a member may be discharged with or without paying the usual fees. So far as the recollection of the Chair extends, no member has ever been seriously required in such a case as this to pay anything except the fees.

Mr. GARFIELD. According to my recollection, (the Chair will correct me if I am in error,) at the last session, on an occasion when there was not a quorum present, a motion was made and entertained—not ruled out of order—proposing to fine a member of the House \$250.

The SPEAKER. That motion, the Chair presumes, was entertained simply because no question of order was raised upon it. The gentleman will bear in mind that it is not possible for the Chair, unaided by suggestions from the House, to rule out every inadmissible proposition. As the gentleman knows, members repeatedly engage the Speaker in conversation while the Clerk is reading resolutions. Hence, when the Chair fails to rule out propositions which are out of order it may be owing to the fact that his attention is not drawn to the matter. The Chair sometimes rules out propositions when no point of order is raised, because they strike his mind as being clearly out of order; but, as a general thing, the duty of the Chair is to rule out inadmissible propositions when a point of order is raised on the floor.

Mr. MORRILL. I have no doubt about the correctness of the ruling of the Chair on this point; but I desire, as other gentlemen have interrogated our Speaker, to propound one question to the Chair in reference to a point wherein I think he is wrong. Suppose we were about to arrest absentees who had gone to Boston, or New York, or Chicago, is it the decision of the Chair that we cannot adjourn, and that we must keep in continuous session until the Sergeant-at-Arms has gone to New York, Chicago, or Boston, and returned with the absentees?

The SPEAKER. The Chair will answer that question with pleasure, and he thinks that the gentleman from Vermont will concede the answer to be correct; that when a quorum is in attendance after a call has been gone through, and the House is in session, they can make an order as they please.

Mr. MORRILL. Suppose there is not a quorum?

The SPEAKER. Then, under the rules, pending a call, nothing would be in order except a motion to adjourn, or that all further proceedings under the call be dispensed with.

Mr. THAYER. Is that a rule or precedent?

The SPEAKER. It is the usage of the House.

Mr. THAYER. Then it is not a rule, but a precedent.

The SPEAKER. It is virtually a rule, as the House of Representatives have adopted Barclay's Digest, a compend of parliamentary law, for the House.

Mr. THAYER. I hope that the House is not responsible for every precedent in that book.

The SPEAKER. They are bound by it, having adopted it, to the same extent as if they had adopted Cushing's Manual, or any other. It has always been recognized as authority since its compilation.

Mr. WILSON. I desire to say that this is too important a question to be passed upon by the number of members now present. I have accom-

plished what I desired to accomplish by presenting it to the House, and that is, to call attention to it. It may be important to have a decision on it by a full House at some other time, so that we may know what power the House has to enforce the attendance of its members. Inasmuch as I have accomplished my present purpose, and in order that it may be determined whether the House is in a humor to adjourn, I withdraw my appeal.

The SPEAKER. The Chair has no pride of opinion on this question, and as the House has discussed the point at some length, he would be glad to have it decided now.

Mr. WILSON. I do not want so important a question decided by so thin a House. I therefore withdraw my appeal from the decision of the Chair.

Mr. HUBBARD, of Iowa. Is it not competent for the House to-morrow, when we have a quorum, to adopt a resolution of censure in reference to these members whose absence has kept us here to-night? I ask whether that will not consummate all that can be consummated by any proceeding we may take?

The SPEAKER. The Chair will not decide a question of that gravity before it comes up.

Mr. HUBBARD, of Iowa. I see no propriety in our staying here all night to bring in absent members. I am pretty well satisfied that when the House has a quorum it will assert its dignity.

A Deputy Sergeant-at-Arms appeared at the bar, having in custody Messrs. McDowell, Steele of New York, McKinney, and J. W. White.

The SPEAKER. Mr. McDowell, you have been absent from the session of the House without its leave. What excuse have you to offer?

Mr. McDOWELL. I have been in attendance but few hours during the last four days on account of illness. I have been quite unwell, and do not think I have slept two hours in the last three or four nights.

The SPEAKER. It seems to be a mistake that the gentleman was brought here, as he was excused by the House. The gentleman is not under arrest properly, and is discharged.

Mr. CRAVENS. He was excused on my motion.

Mr. ELDRIDGE. Was his name in the warrant of arrest?

The SPEAKER. All those excused for cause upon the first call were excused upon the second call. In consequence of the fewness of the clerks to-night, the Clerk of the House himself came in and made out the warrant, and this mistake has accidentally crept in.

Mr. ELDRIDGE. Was Mr. McDowell's name in the warrant?

The SPEAKER. The Sergeant-at-Arms has the original warrant.

Mr. ELDRIDGE. We seem to be proceeding in a loose way.

The SPEAKER. Mr. STEELE, of New York, you have been absent from the session of the House without its leave. What excuse have you to offer?

Mr. STEELE, of New York. I am not very well at any time, and not being as well as usual to-night, I remained at home.

Mr. O'NEILL, of Pennsylvania. I move that the gentleman be excused unconditionally.

Mr. JOHNSON, of Pennsylvania. As these men are all Democrats, and all "disloyal," of the same class which has been brought here heretofore, I move that they be committed to the Old Capitol prison. It seems that the Sergeant-at-Arms cannot find any other class of members.

The SPEAKER. The Chair finds nothing in the rules authorizing that motion to be made.

Mr. GARFIELD. I second the motion of the gentleman from Pennsylvania, [Mr. O'NEILL.]

The question was taken on Mr. O'NEILL's motion, and it was agreed to; and Mr. STEELE, of New Jersey, was excused.

The SPEAKER. Mr. McKINNEY, you have been absent from the House without its leave. What excuse have you to offer?

Mr. McKINNEY. I was asleep.

Mr. DAVIS, of New York. I move that the gentleman be excused unconditionally.

The motion was agreed to.

Mr. MORRILL. As there seems to have been some imputation cast on the Sergeant-at-Arms, it

is just to say that I have been informed by him that he did not assume to arrest any member forcibly, but that he gave any member whom he found notice to come here.

Mr. JOHNSON, of Pennsylvania. It requires more explanation than that. Fifteen or twenty men have been brought here and not one Republican. I say that it is an outrage upon decency and upon the dignity of this side of the House.

The SPEAKER. The gentleman is not in order.

Mr. JOHNSON, of Pennsylvania. There are men here who will resent it here and elsewhere.

The SPEAKER. Mr. JOSEPH W. WHITE, you have been brought here through a mistake which the Chair much regrets. You are discharged from custody.

Mr. HIGBY. I move to reconsider the vote by which Mr. McKINNEY was excused. I do it for the reason that I do not believe in excusing any man who is brought here unless he has an excuse; and I believe in staying here until the men who went from this side of the House are brought back into the House and punished. I hope that members on this side of the House will stay here until that is done.

The excuse that the Sergeant-at-Arms did not attempt to force any member to come here amounts to nothing. If he has any power, it is his duty to force members to come here.

Mr. DAVIS, of New York. I made the motion to excuse Mr. McKINNEY upon this ground. It was stated that the Sergeant-at-Arms had notified members on both sides of the House to appear. It seems that gentlemen upon this side of the House did not obey that notice, and that gentlemen upon the other side of the House did obey it like men, and on that account I am in favor of excusing them.

Mr. ELDRIDGE. I desire to inquire if the name of Mr. JOSEPH W. WHITE is in the warrant of arrest.

The SPEAKER. The Chair supposes that his name is in the warrant of arrest, erroneously. It should have been erased, as he was excused.

Mr. ELDRIDGE. Is the warrant returned?

The SPEAKER. It is not, because the officers are still executing it.

Mr. HIGBY. I only desire to say a word more, in order that I may be correctly understood. I did not make the motion to reconsider out of any feeling toward any one particular member or any class of members. But I think we should not trifle with any member who comes here without an excuse. I hope we shall stay here until we accomplish the object for which we are staying, and that is to bring members into this House. I will now withdraw the motion to reconsider, as gentlemen upon this side of the House seem to be tender-footed about it.

The SPEAKER. Mr. ANSON HERRICK, you have been absent from the House without its leave. What excuse have you to offer?

Mr. HERRICK. I did not feel very well; I had a headache and I went to bed. As soon as I got the notice from the Sergeant-at-Arms, I dressed myself and came here.

Mr. KELLEY. I move that the gentleman be unconditionally excused.

Mr. RADFORD. I move to amend that motion by adding "on the payment of the usual fees."

The amendment was agreed to.

Mr. KELLEY's motion as amended was then adopted, and Mr. HERRICK was excused on payment of fees.

Mr. COX. If I understand the statement of the Speaker in regard to the returns made here, it is the custom for the Sergeant-at-Arms to leave a notice for members to come here and consider themselves under arrest. That is not the way in which process is generally served. The members who are in contempt of this House will never appear; we may stay here till morning and the members of the majority will not appear. We are punishing ourselves simply for the purpose of bringing in Democratic members who do obey this notice to appear. I hope the Speaker or the House will direct the Sergeant-at-Arms, their own agent, to bring these men here in person by arrest, and let us understand whether their contempt of this House is to pass by with perfect immunity. It is a perfect farce and sham, and we ought to adjourn at once if that is not done. Does the

Sergeant-at-Arms undertake to favor members of the House because he wishes to be reelected to his office? Is that the idea? I hope not.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. COX. Certainly.

Mr. KELLEY. I was going to put the question to the gentleman whether, if he was a candidate for reelection, he would like to give offense to men who were going into caucus to choose candidates.

Mr. COX. If I were a candidate for election I would do my duty everywhere, even if I were to injure my prospects by it.

A special messenger appeared at the bar of the House having in custody Mr. ROLLINS, of New Hampshire, and Mr. DONNELLY.

The SPEAKER. Mr. ROLLINS, you have been brought before the bar of the House for absence from its sessions without leave. What excuse have you to offer for your absence?

Mr. ROLLINS, of New Hampshire. I have not any excuse.

Mr. A. MYERS. I move that the gentleman from New Hampshire be excused unconditionally.

Mr. RADFORD. I move to amend by saying "on payment of the regular fee."

Mr. SCOFIELD. I would like to inquire whether the member was notified before by the Sergeant-at-Arms and neglected to attend, or whether he evaded the Sergeant-at-Arms.

Mr. ROLLINS, of New Hampshire. Mr. Speaker, shall I reply to the gentleman?

The SPEAKER. The gentleman may do as he pleases in that respect.

Mr. ROLLINS, of New Hampshire. I reported here immediately on being notified by the Sergeant-at-Arms.

Mr. LOAN. I wish to inquire of the Chair whether we have authority to take any action in regard to this matter; whether it must not be disposed of by the House, and not by a less number than a quorum?

The SPEAKER. Under the rules of the House a minority has a right to determine whether a member shall be excused, with or without the payment of the usual fee.

The question was taken on Mr. RADFORD's amendment; and it was agreed to.

The question was taken on the motion as amended, and it was agreed to.

Mr. TOWNSEND. Mr. Speaker, I move, even at this early hour, that the action of the House in regard to all these fines be made uniform. There have been some singular discrepancies in our action, and gentlemen must naturally feel hurt about it. The fines are to result to the benefit of the Sergeant-at-Arms for the performance of his duty. As we have been here from ten o'clock till now, half past two, and have not yet got a quorum, it strikes me that all these fines may very properly be dispensed with.

Mr. GARFIELD. I hope that will not be done. Each one of these cases has come up and been disposed of on its own merits. There have been very different circumstances attending the recent cases in comparison with those in the early part of the evening. It would be very unjust to say that a member, having had two notifications from the Sergeant-at-Arms, occupies the same position as the member who has had but one call. The cases that will come before us from this time out will probably be very different from the cases already passed upon.

Mr. BALDWIN, of Massachusetts. Mr. Speaker, is the motion of the gentleman from New York [Mr. TOWNSEND] in order?

The SPEAKER. The Chair thinks that it is not in order.

Mr. ROLLINS, of New Hampshire. I desire to say, in justice to the Sergeant-at-Arms, that I have been informed that he called at my rooms once or twice while I was absent, and of course he could not find me.

Mr. STEELE, of New York. And I desire to say that I have been in my room all the evening, and came here as soon as I was notified.

Mr. JOHNSON, of Pennsylvania. I understand the Chair to decide that it is not competent for the House, as at present constituted, to go back and remit all the penalties that it has imposed. It seems to me to be so manifestly unjust that these persons should be required to pay the fees



of the Sergeant-at-Arms that I feel constrained to take an appeal from the decision of the Chair.

The SPEAKER. The Chair has ruled that each of these cases has been decided on its own merits; that the House has complied with the rules and exhausted its powers by assessing penalties; that it is not now in order to go back and make a sweeping rule applying to all the absentees who have been brought up—the fees vesting in the Sergeant-at-Arms by a vote of the House—and that therefore the motion of the gentleman from New York [Mr. TOWNSEND] is not in order. From that decision the gentleman from Pennsylvania [Mr. JOHNSON] appeals. The question is, Shall the decision of the Chair stand as the judgment of the House?

The question was taken, and the decision of the Chair was sustained.

Mr. ANCONA (at two o'clock and thirty minutes) moved that the House adjourn.

The motion to adjourn was not agreed to.

Mr. ROSS. I have understood the Chair to decide that after a quorum has been ascertained to be present we can proceed to act upon the cases of absent members.

The SPEAKER. The Chair has read the precedent.

Mr. ROSS. Then I suggest that we dispense with further proceedings under the call of the House, and proceed to act upon the cases of absent members. If no question is raised it may be assumed that there is a quorum present.

The SPEAKER. As soon as any question is taken by yeas and nays, or by a division, and it is shown that no quorum is present, then the House will be as competent to adopt resolutions as before the calls.

Mr. HUBBARD, of Iowa. I would suggest that the Chair count the House in order to see whether there is a quorum present.

The SPEAKER having done so, announced that the Chair could count but eighty-nine members present.

The Sergeant-at-Arms now appeared at the bar of the House, having in custody Messrs. YEAMAN and DONNELLY.

The SPEAKER. Mr. YEAMAN, you have been absent from the sessions of this House without its leave. What excuse have you to offer for being absent?

Mr. YEAMAN. I think I have a good excuse. This is the first time I have undertaken to be absent from this House when I knew it was in session, or that any business was to be transacted in it. I did know there was to be a session to-night, but I understood that it was to be for the consideration of unimportant items of the tax bill, and feeling a little wearied with the overmuch labor of the session, I spent the evening, from dinner time till about nine o'clock, reading the History of Civilization, a species of information which I thought members of this House stood very much in need of. [Laughter.] After that I undertook to practice some of the amenities of civilization by paying my respects to the distinguished Senator from New York, [Mr. MORGAN], and finding the ice cream good, the punch good, the music good, and the ladies handsome—upon the whole a very civilized crowd—I remained there a little over time. That is all the reason I have to offer for being absent. I hope the House will excuse me.

Mr. RADFORD. I move that the gentleman from Kentucky [Mr. YEAMAN] be excused upon payment of the usual fees.

The motion was agreed to.

The SPEAKER then said: Mr. DONNELLY, you have been absent from the sessions of this House without its leave; what excuse have you to give for being absent?

Mr. DONNELLY. I believe I have no good excuse to offer. I will have to submit to the action of the House.

Mr. HIGBY. I move that the gentleman be excused upon the payment of the usual fees.

The motion was agreed to.

Mr. BROOMALL. I ask leave to submit the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to bring the members now absent without leave before the bar of this House at one o'clock to-morrow, or as soon thereafter as possible; and that they then be required to show cause why they should not be declared to be in contempt of the House, and abide the order of the House.

The SPEAKER. There has been no vote of the House yet taken by yeas and nays, to disclose the fact that there is a quorum present. The Chair cannot entertain the resolution until that fact has been shown.

Mr. KASSON. I would ask the gentleman from Pennsylvania [Mr. BROOMALL] to withdraw his resolution for the present, that I may move that the House now resolve itself into Committee of the Whole.

Mr. BROOMALL. I am willing to let the resolution remain until that has been done.

The SPEAKER. Some vote must be taken to show the presence of a quorum.

Mr. NELSON. I move that the House adjourn, and upon that I call the yeas and nays. That will show that there is a quorum present.

The SPEAKER. The same thing might be shown by voting upon the motion to dispense with further proceedings under the call.

Mr. GARFIELD. If that motion is adopted then the doors will be opened, which we do not want done.

Mr. ANCONA. I demand tellers upon ordering the yeas and nays upon the motion to adjourn. That will show whether a quorum is present just as well as by any other vote.

Tellers were ordered.

Messrs. ANCONA and THAYER were appointed to act as tellers.

The House divided, and the tellers reported—ayes 4, nays 86; no quorum voting.

So the House refused to order the yeas and nays upon the motion to adjourn.

On the motion to adjourn there were, on a division—ayes 16, nays 72.

So the motion was not agreed to.

Mr. WILSON. For the purpose of ascertaining whether there is a quorum present, I move that further proceedings under the call be dispensed with, and on that motion I demand the yeas and nays.

The SPEAKER. The Chair, on reflection, thinks that the motion is not probably the proper one at the present time to carry out the evident wishes of the members. The rule declares that "no motion, except to adjourn or with reference to the call, is ever entertained during a call." The motion to dispense with further proceedings under the call, if successful, would prevent further action in regard to absentees.

The Chair will state that his experience is that whenever there is barely a quorum present it is impossible to get a quorum to vote, except on a call of the yeas and nays.

Mr. TRACY. I move that the House now adjourn, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 23, nays 68, not voting 89; as follows:

YEAS—Messrs. James S. Brown, Cox, Cravens, Edger-ton, Eldridge, John H. Hubbard, Hubbard, Ingersoll, Philip Johnson, Kalbfleisch, Littlejohn, McBride, McDowell, McKinney, James R. Morris, Amos Myers, Pendleton, Prunty, Scofield, Shannon, Tracy, Ward, and Joseph W. White—23.

NAYS—Messrs. Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Coffroth, Thomas T. Davis, Deming, Donnelly, Driggs, Eckley, Eliot, Finck, Frank, Garfield, Griswold, Hall, Charles M. Harris, Herrick, Higby, Hoffman, Asahel W. Hubbard, Kasson, Kelley, Orlando Kellogg, Knox, Loan, Long, Marvin, McAllister, McClurg, Middleton, Samuel F. Miller, Morrill, Morrison, Leonard Myers, Odell, Charles O'Neill, John O'Neill, Perham, Pomeroy, Radford, John H. Rice, Edward H. Rollins, Ross, Starr, John B. Steele, Stiles, Strouse, Thayer, Townsend, Upson, William B. Washburn, Whaley, Wilder, Wilson, Winfield, Woodbridge, Worthington, and Yeaman—68.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Ashley, Bailly, Blaine, Blair, Bliss, Blow, Brandegee, Brooks, William G. Brown, Chanler, Freeman Clarke, Clay, Cole, Creswell, Henry Winter Davis, Daves, Dawson, Denison, Dixon, Dumont, Eden, English, Farnsworth, Ganson, Gooch, Grider, Grinnell, Hale, Harding, Harrington, Benjamin G. Harris, Hooper, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Francis W. Kellogg, Kernan, King, Kuapp, Law, Lazear, Le Blond, Longyear, Mallory, Marcy, McIndoe, William H. Miller, Moorhead, Daniel Morris, Noble, Norton, Orth, Patterson, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Schenck, Scott, Sloan, Smith, Smithers, Spalding, William G. Steele, Stevens, Stuart, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Elihu R. Washburne, Webster, Wheeler, Chilton A. White, Williams, Windom, Benjamin Wood, and Fernando Wood—89.

No quorum voting.

The SPEAKER. The Chair votes in the negative, making a quorum; and the motion is disagreed to.

Mr. BROOMALL. I now offer the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to bring the members now absent without leave before the bar of the House at one o'clock to-morrow, Friday, February 10, 1865, or as soon thereafter as possible, and that they then be required to show cause why they should not be declared in contempt of the House, and abide the further order of the House.

Mr. BALDWIN, of Massachusetts. I rise to a question of order. My point is this: if we adjourn after passing this resolution, will not the adjournment nullify it? Can we continue these proceedings beyond an adjournment?

The SPEAKER. On the 6th day of April, 1842, in the Twenty-Seventh Congress, after prolonged proceedings under a call, Mr. Landaff W. Andrews moved the following resolution:

*Resolved*, That all such members of the House as have not appeared in pursuance of the call of the House, and given satisfactory excuses, shall be fined the amount of the fees of the Sergeant-at-Arms, subject to be released from the payment of the same on appearing hereafter and making such excuse as shall be deemed satisfactory to the House.

The attendance of a quorum having been secured, the Speaker entertained that resolution, and under the previous question it was adopted. Further proceedings under the call were then dispensed with, the doors were opened, and the House adjourned. This is the precedent of the Twenty-Seventh Congress.

Mr. BALDWIN, of Massachusetts. That settles my point.

The SPEAKER. The Digest seems to correspond with this precedent; for it says:

"No motion except to adjourn, or with reference to the call, is ever entertained during a call."

"By an adjournment pending a call, all proceedings in the call are terminated; but where the House—"

This is now a House—

"has previously passed an order specially directing otherwise, such special direction should doubtless be executed."

Mr. BROWN, of Wisconsin. I hope that the motion will be amended so as to make it Saturday.

Mr. BROOMALL. I demand the previous question.

Mr. BEAMAN. I ask the gentleman to withdraw the demand for the previous question for a moment.

Mr. BROOMALL. Certainly.

Mr. BEAMAN. It seems to me, Mr. Speaker, that there is some little misapprehension about the proceedings in the case referred to. It appears that all further proceedings under the call were dispensed with. I do not understand that it is contemplated by the gentleman that all further proceedings under this call shall be dispensed with; on the contrary, I understand that the proceedings thus far are to be left in the state in which they are now, and that the Sergeant-at-Arms shall bring these absent members to-morrow morning.

The case instanced by the Speaker is not in point. Have the proceedings, so far as the call is concerned, been suspended? No; the Sergeant-at-Arms is now out executing the order of the House. We are proceeding under the call. After the call was made we made an order to bring in absent members. Our officers are out executing that order, and by adjourning till to-morrow we do not suspend the proceedings under the call, which was the fact in the case cited by the Speaker. After the resolution passed for the purpose of bringing in absentees, then a further motion was made that all further proceedings under the call shall be suspended, and that motion was carried. I do not understand that it is proposed to suspend all further proceedings under this call, but that on the contrary we shall leave it where it is.

Mr. BROOMALL. I have only one remark to make. If the proceedings under the call be dispensed with—the proceedings which are now going on for the purpose of bringing absent members here at the present sitting—that, I understand, will not suspend the action of any resolution the House may pass, the question being put and carried.

The SPEAKER. It matters little whether, when a motion to adjourn has been carried, all further proceedings under the call have been dispensed with or not, as the effect of the motion to

adjourn would dispense with all further proceedings under the call. It is declared in Barclay's Digest that by an adjournment, pending a call, all proceedings under the call are terminated; but where the House, that is, a quorum of the House, has previously passed an order specially directing otherwise, such special direction will doubtless be executed.

**MR. BEAMAN.** It seems that that dictum was founded upon the case put by the Speaker; and if the case does not bear it out, it of course falls. This dictum, in Barclay's Digest, is based upon the decision in that case. Now, the case does not bear out the statement of the Digest.

**THE SPEAKER.** The Chair differs with the gentleman from Michigan. In that case, as now, after a quorum appeared, a resolution as to absentees was proposed; and after its adoption all further proceedings under the call were dispensed with.

**MR. BROOMALL.** I insist on the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

**MR. WILSON** moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**MR. MORRILL** moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

**MR. MORRILL.** I suppose that the main purpose of this struggle will not be accomplished unless we spend a few moments in the Committee of the Whole on the state of the Union. I make the motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

**MR. ROSS** moved that the House do now adjourn.

The motion was disagreed to.

**MR. MORRILL's** motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair), and proceeded to the consideration of the tax bill; the pending question being on the following amendment, moved by **MR. WASHBURN**, of Illinois:

And hereafter there shall be assessed and collected a tax of fifty cents per gallon on all domestic spirits on hand and for sale.

The committee divided; and there were—ayes 20, noes 72.

So the amendment was rejected.

The Clerk then proceeded with the reading of the bill.

**MR. MORRILL.** I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, **MR. POMEROY** reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the tax bill, and had come to no resolution thereon.

And then, on motion of **MR. KELLEY**, (at a quarter past three o'clock, a. m.,) the House adjourned.

#### IN SENATE.

FRIDAY, February 10, 1865.

Prayer by Rev. B. H. NADAL, D. D.

The reading of yesterday's Journal was, on motion of Mr. Foor, and by unanimous consent, dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The **PRESIDENT pro tempore** laid before the Senate a report of the Secretary of the Treasury communicating, in compliance with a resolution of the Senate of January 23, 1865, statements showing the amount of public money deposited and the amount withdrawn from each of the national banks during each month from the date of their organization to June 30, 1864; which was ordered to lie on the table.

He also laid before the Senate a letter of the Secretary of the Interior, transmitting copies of correspondence relating to the payment in coin of the annuities of the Chippewas of Lake Superior,

as required by the treaty with them, and recommending that the appropriation be special, according to the terms of the treaty; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, transmitting a copy of a communication dated the 14th ultimo, from the Commissioner of Indian Affairs, and accompanying extract from a letter of Hon. C. D. Poston, of September 1, 1864, in relation to expenses incurred by him while he was superintendent of Indian affairs in Arizona in supplying the Indians of that Territory with provisions upon which to subsist during the present winter, and recommending an appropriation to pay the indebtedness; which was referred to the Committee on Indian Affairs.

#### REPRESENTATION IN ELECTORAL COLLEGE.

The **PRESIDENT pro tempore** also laid before the Senate the following message from the President of the United States:

To the honorable the Senate and House of Representatives:

The joint resolution entitled "Joint resolution declaring certain States not entitled to representation in the Electoral College" has been signed by the Executive, in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from counting all electoral votes deemed by them to be illegal; and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if his action were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes, and he also disclaims that, by signing said resolution, he has expressed any opinion on the recitals of the preamble, or any judgment of his own upon the subject of the resolution.

ABRAHAM LINCOLN.

EXECUTIVE MANSION, February 8, 1865.

**MR. JOHNSON.** That to me is a very extraordinary course for the President to pursue. I have no doubt his motives are perfectly correct and patriotic; but if his approval is necessary to give effect to the joint resolution, accompanying that approval with a disclaimer of any belief in the doctrines of the resolution is wholly inconsistent with his duty of approving or disapproving. I suppose nobody will contend for a moment that the resolution, if his approval is necessary, though approved in the way in which he has thought proper to approve it, is not just as effective as if he had approved it without saying a word on the subject.

It is, in my judgment, a reflection upon the Senate and upon Congress, although not so designed. If he is sincere (and of course I do not call in question his sincerity) in thinking that it was not a subject for the legislation of Congress, he ought to have disapproved the resolution; but in my judgment he is entirely wrong in point of law. It may be true, and perhaps to that extent is true, that in the absence of any legislation the two Houses of Congress, either acting in convention or acting separately, might establish for themselves rules by which they would be governed in admitting or excluding votes. But it is equally true, in my judgment, (and I speak it with all the deference that I can feel for the opposite opinion announced by the President,) that it is a subject over which Congress has a right to legislate in order to guard against the very mischiefs which would result from leaving the subject, without legislation, to be disposed of by the convention.

This is not the first time in which it has been done. The bill for the reconstruction of the seceded States was passed by an overwhelming vote in both Houses at the last session. The President, to be sure, did not return it with a qualified veto, or with any veto, or with any approval. There not being ten days between the passage of the bill and the adjournment of Congress, he had a right not to act upon it, and by not acting he put it out of the power of Congress to pass it; but immediately after Congress adjourned he issued a manifesto or a proclamation in which he said that, according to his view, there were some good things in the bill passed by Congress and some bad things; as far as they were good he would act upon them; as far as he considered them bad, or not as good as what he proposed himself, he would be governed by his own judgment.

It seems to me to be his clear and manifest duty—and I speak it with no possible want of respect to him; I should say the same thing if any other man was in the presidential office—to approve

or disapprove, and not to do it in part by way of approval and in part by way of disapproval. He reads us a lecture, virtually, in this paper. He says we have legislated on a subject with which we have nothing to do. It was for us to decide for ourselves whether it was within our jurisdiction, and we have decided. In the exercise of his constitutional power of acting upon all subjects submitted to him in the form of legislation he has a clear right to disapprove, if he thinks that he ought to disapprove, but not to take the course which he has adopted in this case, or to take the course which he adopted in the other case to which I have adverted.

The message was laid on the table.

#### BRITISH PRESENT TO CAPTAIN STELLWAGEN.

The **PRESIDENT pro tempore** also laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a copy of a note of the 4th instant, addressed by J. Hume Burnley, Esq., her Britannic Majesty's charge d'affaires, to the Secretary of State, relative to a sword which it is proposed to present to Captain Henry S. Stellwagen, commanding the United States frigate Constellation, as a mark of gratitude for his services to the British brigantine Mersey. The expediency of sanctioning the acceptance of the gift is submitted to your consideration.

ABRAHAM LINCOLN.

WASHINGTON, February 8, 1865.

**MR. SUMNER.** I move the reference of those papers to the Committee on Foreign Relations, and that they be printed.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

**MR. MORGAN** presented a petition of merchants of the city of New York, praying for the passage of the bill to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

**MR. ANTHONY** presented a memorial of manufacturing jewelers of the city of Providence, Rhode Island, praying for a reduction of the tax on their business; which was referred to the Committee on Finance.

#### FREEDMEN'S BUREAU.

**MR. SUMNER.** The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs have met, and after a full conference have agreed upon a report, which I send to the Chair, and move its adoption by the Senate.

The Secretary commenced the reading of the report.

**MR. SAULSBURY.** I move to dispense with the reading, and to print the document. This seems to be a new bill entirely.

**MR. SUMNER.** It was printed ten days ago for the House of Representatives.

The **PRESIDING OFFICER**, (Mr. Foor in the chair,) The reading must proceed, unless it be dispensed with by unanimous consent.

**MR. CLARK.** I suggest that the reading had better be postponed until we can have an opportunity of examining the report and getting a knowledge of the bill in its present shape. This is the first time it has been called to the attention of the Senate, and of course we want a little time to look it over before we shall be prepared to pass on the report. It may be delayed by unanimous consent for a short time, that we may have an opportunity to look into it.

**MR. SUMNER.** The Senator makes no proposition?

**MR. CLARK.** I have no further proposition to make than this: I find myself in the condition of other Senators about me, that we do not know anything about it, and have not seen it.

**MR. SUMNER.** I will make a brief statement.

**MR. DAVIS.** I hope the honorable Senator from Massachusetts will let the report lie over until to-morrow.

**MR. SUMNER.** I was merely going to state that the report was agreed upon some ten days ago and made to the other House, where, according to the rules of Congress, it should have been made, because the measure originated there. I have had the report in my drawer, ready to make it as soon as it was in order, for the last ten days. When it was made in the other House it was at once ordered to be printed, and the House postponed action upon it for a certain time in order

to have it printed, and it was acted upon finally yesterday. The Senate will remember that a message came here yesterday informing us that the House had concurred with the committee. The subject then becomes in order for the report of the Senate committee, and it is because it is now in order that I make it. I shall not press it at this moment against the inclination of Senators. It is in order that the report when made shall be read. If Senators desire that it shall lie on the table for another day I shall not object, though my impression is that the subject has been so long before Congress, so maturely considered in committee, and also so much considered in the other House, that we may proceed with it now and come to a conclusion.

**The PRESIDING OFFICER.** If no motion be interposed, the Chair has no other course to pursue but to direct the reading of the report, and the reading will proceed.

**Mr. DAVIS.** The honorable Senator from Massachusetts has expressed his willingness that this matter should lie over for a day. If that course be taken, I suppose it is hardly necessary to consume the time of the Senate in reading the report. Every Senator who feels an interest in the subject will of course make himself familiar with it by to-morrow.

**The PRESIDING OFFICER.** By common consent, then, the report will lie upon the table.

**Mr. SUMNER.** Until to-morrow.

**The PRESIDING OFFICER.** Until to-morrow. The Chair hears no objection, and the report will lie upon the table, subject to be called up at any time.

**Mr. COLLAMER.** I doubt very much whether we shall get out of the difficulty in that way. That report has never been printed in this body. Other gentlemen may be more industrious than I am, and may have more time than I have, but I am not able to read the proceedings of the House; it is as much as I can do to keep up with those of the Senate.

**Mr. SUMNER.** Perhaps the Senator is not aware of the fact that when a document is ordered to be printed in one body it is considered as printed for both. This report was ordered to be printed in the House, and the next day after it was printed it was laid on all our tables. It is now within call, in the Document Room, from any Senator. The Senator from Vermont has only to send a page to the Document Room, and it will be forthcoming.

**The PRESIDING OFFICER.** The report will lie upon the table by common consent.

#### REPORTS OF COMMITTEES.

**Mr. FOSTER,** from the Committee on Pensions, to whom was referred the petition of P. J. Howard, praying that her husband, John Howard, a soldier who enlisted, as she alleges, for two years and is now held for three years, may be discharged, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

**Mr. ANTHONY,** from the Committee on Printing, to whom was referred the motion to print five thousand extra copies of the report of the committee on the conduct of the war relative to the circumstances attending the attack at Petersburg and the explosion of the mine there in July last, reported in favor of the motion, and it was agreed to.

**Mr. CLARK,** from the Committee on Claims, to whom was referred the bill (H. R. No. 714) supplemental to the act entitled "An act to restrict the jurisdiction of the Court of Claims," &c., passed July 4, 1864, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 151) to refer the claim of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, back to the Court of Claims, reported adversely thereon.

**Mr. DOOLITTLE,** from the Committee on Indian Affairs, to whom was referred a bill (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California," reported it with an amendment.

**Mr. POMEROY,** from the Committee on Claims, to whom was referred a bill (H. R. No. 384) for the relief of C. F. Johnson, of Alabama,

asked to be discharged from its further consideration; which was agreed to.

#### PRINTING OF A REPORT.

On motion of **Mr. MORRILL**, it was

*Ordered,* That the statement of all contracts executed by Hanson A. Risley, agent, since July 4, 1864, which accompanied the report of the Secretary of the Treasury yesterday laid before the Senate, be printed.

#### COMMITTEE SERVICE.

**Mr. MORRILL.** The Senator from Oregon having had leave of absence for the rest of the session, I move that the Chair be authorized to fill his place on the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to.

#### SENATE GALLERIES.

**Mr. MORRILL.** I offer the following resolution:

*Resolved,* That the order of the Senate of the 31st of December, 1860, in relation to the Senate galleries be, and the same is hereby, rescinded.

**Mr. SUMNER.** What is the order?

**Mr. MORRILL.** Let the resolution lie on the table till to-morrow, and then the Senate can see.

**Mr. SUMNER.** I should like to know what the order is.

**The PRESIDENT pro tempore.** The resolution will lie over.

#### COMMITTEE ON MINES.

**Mr. STEWART.** I offer the following resolution:

*Resolved,* That the 34th rule of the Senate be amended by adding the following as an additional clause, to wit: A Committee on Mines and Mining Interests, to consist of five members.

**The PRESIDENT pro tempore.** The resolution will lie upon the table, unless the Senator desires the present action of the Senate upon it.

**Mr. STEWART.** I ask for present action.

**Mr. COLLAMER.** Let it lie over under the rule.

**The PRESIDENT pro tempore.** Objection being made it will lie over.

#### MANUFACTURE OF CAPTURED COTTON.

**Mr. WILSON.** I desire to offer a resolution, and I ask for its present consideration.

**Mr. DOOLITTLE.** I will say to the Senator from Massachusetts that I should like, before his resolution is called up, to ask the Senate to take up Senate joint resolution No. 85. It is a very important matter in relation to Indian affairs which I think will not occupy more than five minutes of the time of the Senate.

**Mr. GRIMES.** What is it about?

**Mr. DOOLITTLE.** It is a resolution in relation to refugee Indians in the Indian Territory.

**The PRESIDENT pro tempore.** The resolution submitted by the Senator from Massachusetts will be read for information, unless, by unanimous consent, the motion of the Senator from Wisconsin be interposed.

The Secretary read the resolution, as follows:

*Resolved,* That the Committee on Military Affairs and the Militia be, and are hereby, instructed to inquire into the expediency of the national Government directing that such cotton as may have been captured at Savannah, Georgia, be manufactured into cloth and tents for the use of the soldiers of the Army of the United States.

There being no objection, the Senate proceeded to consider the resolution.

**Mr. WILSON.** I desire simply to say in regard to this resolution that I have received a communication from the Quartermaster General of the Army covering estimates of the cloth used in the Army for tents, and making this suggestion; and in order to bring the subject before the Committee on Military Affairs I have offered this resolution.

**Mr. GRIMES.** I hope that we will not even instruct the Committee on Military Affairs to inquire into the expediency of establishing a vast manufactory for the purposes of manufacturing tents for the Army. The resolution is nothing more nor less than that.

**Mr. TRUMBULL.** It is manifest that this resolution will lead to some discussion. I have a bill which, I will state to the Senate, is for putting a little money into the Treasury of the United States. I am sure nobody will object to that; and I move to postpone all other orders for the purpose of considering it. It will take but little time, I am sure. That is the only object I have. [Mr.

**DOOLITTLE rose.]** I know the Senator from Wisconsin will not object to getting a little money into the Treasury.

**Mr. DOOLITTLE.** If it does not lead to discussion, I will give way to it.

**Mr. TRUMBULL.** I think nobody will object to it. I move to postpone all prior orders and take up Senate bill No. 424, to facilitate the collection of certain debts due the United States.

#### COLLECTION OF POST OFFICE DEBTS.

The motion was agreed to; and the bill (S. No. 424) to facilitate the collection of certain debts due the United States, was considered as in Committee of the Whole.

**The PRESIDENT pro tempore.** The bill will be read.

**Mr. TRUMBULL.** Before the reading of the bill, if I can get the attention of the Senate for one minute, I will state what it is. The object of this bill is to enable the Postmaster General to collect sums due in the rebellious States chiefly, though it applies in terms to any of the States of the Union, by postmasters who, when the rebellion took place, were indebted to the Government, and have since gone into the rebellion or left the country, so that service of process cannot be obtained upon them. I am informed that, at Memphis alone, there is some twenty or thirty thousand dollars due the Government, which the Government could collect if it had any way of proceeding against the property of the defaulting postmaster and his sureties. This bill is introduced for the purpose of authorizing an attachment similar to attachments issued in most of the States against these defaulting officers where service cannot be had upon them. The Committee on the Judiciary have considered it, and unanimously recommend its passage. That is all there is in the bill; and unless there should be some objection to the details—which I hope there will not be—it can be passed at once. I ask that, in the reading of the bill, the amendments of the committee, which are mostly verbal, be acted upon as they are reached in their order.

**The PRESIDENT pro tempore.** If there be no objection, that course will be pursued.

The first amendment was in line eight of section one, to strike out "or" and insert "and," so as to read, "such officer and his sureties."

The amendment was agreed to.

The next amendment was in line ten of section one, to strike out "or" and insert "and."

The amendment was agreed to.

The next amendment was in line eighteen of section one, to strike out "or" and insert "and."

The amendment was agreed to.

The next amendment was in section one, line thirty, to strike out "marshals" and insert "marshal;" in line thirty-one to strike out "districts" and insert "district;" and in line thirty-three to strike out "marshals" and insert "marshal."

The amendment was agreed to.

The next amendment was in section three, line three, to strike out "of" and insert "before," so as to read, "twenty days before the return day."

The amendment was agreed to.

The next amendment was to strike out "ten days," before "notice," in line four of section three, so as to read, "on giving to the district attorney notice of his intention."

The amendment was agreed to.

The next amendment was to strike out, in lines nine, ten, and eleven of section three, the words, "such jury shall consist of six men, a majority of whom shall decide upon the verdict."

The amendment was agreed to.

The next amendment was to strike out the word "common" before "consent" in line eleven of section three.

The amendment was agreed to.

The next amendment was in line five of section five, to strike out "three" and insert "two," and to strike out "six" and insert "four."

The amendment was agreed to.

The next amendment was in line four of section six, after the word "them" to insert "and having knowledge of such notice."

The amendment was agreed to.

The next amendment was after the word



"them," in line seven of section six, to insert "and having knowledge as aforesaid."

The amendment was agreed to.

The next amendment was in line eleven of section six, to strike out the words "and null," so as to read, "illegal and void."

The amendment was agreed to.

The next amendment was in lines seven and eight of section seven, to strike out the words "sued for, conditioned for the full payment of all damages, costs, and expenses adjudged by the court," and in lieu of them to insert, "of the value of the property attached, conditioned for the return of said property, or to answer any judgment which may be rendered by the court in the premises."

The amendment was agreed to.

The bill, as amended, provides, in the first section, that where debts are due from postmasters, mail contractors, or other officers, agents, or employes of the Post Office Department, who are in default or delinquency, a warrant of attachment may issue against all property, possessions, and rights legal, equitable, and contingent, belonging to such officer and his sureties, or either of them, in the following cases: First. When any such officer, agent, or employe, and his sureties, or either them, has, within the meaning of the act of July 17, 1862, chapter one hundred and ninety-five, and the proclamation of the President in pursuance thereof, dated July 25, 1862, participated in, aided, abetted, or countenanced any rebellion against the United States. Second. When such officer, agent, or employe, and his sureties, or either of them, is a non-resident of the district where such officer was appointed, or has departed from such district for the purpose of residing permanently out of such district, or of defrauding the United States, or of avoiding the service of civil process. Third. When such officer or his sureties, or either of them, has conveyed away or is about to convey away his property, or any part thereof, or has removed or is about to remove his property, or any part thereof, from the district wherein the same is situated, with intent to defraud the United States. And where such removal has taken place, certified copies of the warrant may be sent to the marshal of any other district into which the property may have been removed, under which certified copies it shall be lawful for the marshal to seize such property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. Alias warrants may issue upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

The second section provides that application for such warrant may be made by any district attorney or assistant district attorney, or any other person authorized by the Postmaster General, before any judge, or, in his absence, before any clerk of any court of the United States having original jurisdiction of the cause of action. The application is to be made upon an affidavit of the applicant, or some other credible person, stating the existence of either of the grounds of attachment enumerated in the first section, and upon production of legal evidence of the debt. Upon such application, and upon due order of any judge of the court, or, in the absence of any judge, without such order, the clerk is to issue a warrant for the attachment of all the property of any kind belonging to the party or parties specified in the affidavit, which warrant is to be executed with all possible dispatch by the marshal, who is to take the property attached into his custody, and hold it subject to all interlocutory or final orders of the court.

By the third section the party whose property is attached may, at any time within twenty days before the return day of the warrant, on giving to the district attorney notice of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached in the defendants, or either of them; in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea. But the parties may, by consent, waive a trial by jury, in which case the court shall decide the issues raised by the affidavit and plea. Any party claiming ownership of the property attached and its

specific return is to be confined to the remedy afforded by the act, but his right to an action of trespass or other action for damages is not to be impaired by it.

The fourth section provides that when the property attached shall be sold on any interlocutory order of the court, or when it shall be producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the order of the court.

By the fifth section, immediately upon the execution of the warrant of attachment, the marshal is to cause due publication of such attachment to be made, in the case of absconding debtors or adherents of the rebellion, for two months, and in case of non-residents for four months. Such publication is to be made in some newspaper or newspapers within the district where the property attached is situated, and the details of the publication are to be regulated in each case by the order under which the warrant is issued.

By the sixth section it is provided that after the first publication of the notice of attachment in all the newspapers required, every person indebted to the defendants, or either of them, and having knowledge of such notice, whose property is liable to attachment, and every person having possession of any property belonging to such defendants, or either of them, and having such knowledge, is to account and answer for the amount of such debt, and for the value of such property, and any disposal or attempt to dispose of any such property to the injury of the United States shall be illegal and void. When the person or persons so indebted to or having possession of the property of the defendants, or either of them, shall be known to the district attorney, or the marshal, it shall be the duty of such officer to see that personal notice of such attachment is served upon such persons, as in the cases of garnishees; but the want of such notice shall not invalidate the attachment.

The seventh section declares that upon application of the party whose property has been attached the court, or any judge thereof, may discharge the warrant of attachment as to the property of the applicant; but the applicant is to enter into and execute to the United States a good and sufficient penal bond in double the amount of the value of the property attached, conditioned for the return of the property, or to answer any judgment which may be rendered by the court in the premises, which bond is to be approved by the court, or any judge thereof.

The eighth section prescribes that the fees, costs, and expenses of issuing and serving the warrants of attachment shall be regulated, as far as possible, by the existing laws of the United States and the rules of court made in pursuance thereof. In the case of preliminary trials as to the validity of the attachment or the right of property, clerks' and marshals' fees shall be the same as in ordinary cases, and the docket fee of the district attorney shall be ten dollars.

According to the ninth section this act is not to be construed so as to limit or abridge in any manner such rights of the United States as have accrued or been allowed in any district under the former practice of the United States courts or the adoption of State laws by those courts.

Mr. TRUMBULL. In line six of the first section, to make the bill a little more specific, I move to insert the words "real and personal" after "property."

Mr. JOHNSON. Is it not very general now? Does it not say "all property?"

Mr. TRUMBULL. It says "against all property;" but I will state to the Senator from Maryland that a subsequent section, section two, makes it the duty of the marshal to take all property into his possession. As the word "property" is used in both instances I was apprehensive it might be construed by the courts to confine the attachment simply to personal property. Of course the marshal cannot take real property into his own possession, and it is not intended that he should take the actual possession of real estate, and turn the party in possession out of occupancy.

Mr. JOHNSON. There was a provision which looked to his taking possession of real estate in one district and removing it to another, but we altered that, I think.

Mr. TRUMBULL. That of course could only apply to personalty.

Mr. JOHNSON. Certainly; but the language unaltered would seem to include real as well as personal property.

Mr. TRUMBULL. As to the removal?

Mr. JOHNSON. Yes, sir; that is the case in the original bill, as I remember.

Mr. TRUMBULL. That would only apply, as a matter of course, to personal property. The amendment I suggest can do no harm, at any rate. I move to insert the words "real and personal" after the word "property" in the sixth line of the first section.

The amendment was agreed to.

Mr. TRUMBULL. In line seventeen of section two, after the word "attached," I move to insert "if personal," so as to read, "who shall take the property attached, if personal, into his custody."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading; and it was read the third time, and passed.

#### REFUGEE INDIANS.

On motion by Mr. DOOLITTLE, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to issue certain bonds for feeding the refugee Indians.

Mr. HARLAN. Under existing laws, it is the duty of the Secretary of the Interior to report to Congress a statement of the manner in which the funds have been expended for the preceding year in support of these refugee Indians. Some of these accounts have been sent in and some have not been. The accounts are not here for the quarter ending the 1st of December last. I have called at the office for the purpose of seeing them, and have been informed that they are in the hands of clerks, going through the process of being copied. Before this resolution is acted on, I should prefer to see those accounts; they will be here in a few days. I therefore suggest to the chairman of the committee that it would be as well to let the joint resolution go over until that statement comes in; and I move that its further consideration be postponed until to-morrow.

Mr. DOOLITTLE. I do not feel inclined to oppose the motion of my honorable friend from Iowa. I desire myself to see these accounts, although I am perfectly well satisfied that the expenditures will not exceed the amount which is called for in this resolution. I have no objection to its going over until to-morrow.

Mr. HARLAN. I prefer to take that course. I believe these accounts will be in a few days and we shall be able to look them over. Probably I shall then have no objection to the passage of the resolution.

The motion to postpone was agreed to.

#### AGRICULTURAL CENSUS REPORT.

Mr. LANE, of Kansas. I ask consent of the Senate to take from the table a resolution which was reported from the Committee on Agriculture, for printing two thousand copies of a portion of the Census Report. It is important that it should be passed.

Mr. MORRILL. I notice that the Senator from Rhode Island [Mr. ANTHONY] who is not now in his seat, seemed to take an interest in that subject, and I suppose the Senator does not desire to take it up in his absence.

Mr. LANE, of Kansas. I have the consent of the Senator to whom the Senator from Maine alludes, to the passage of this resolution, and am authorized by him to state that the expense of this publication will be very slight indeed, only about forty-six hundred dollars.

Mr. COLLAMER. Four thousand six hundred dollars!

Mr. LANE, of Kansas. I desire to state, for the benefit of the Senator from Vermont, that the suggestion he made will not answer the purpose, to deduct one volume from the three furnished to us; that would destroy the usefulness of the three, and the persons to whom he would send one volume would at once want the whole three volumes. It would affect us very materially.

Mr. COLLAMER. That will be the same with every man to whom this is sent; he will want the other volumes.

Mr. LANE, of Kansas. But it does not destroy our volumes.

Mr. COLLAMER. The result will be that every man who receives this volume, a quarto volume, through the Commissioner of Agriculture, will of course be importunate to have the other volumes to fill up the sets. I do not believe this is the end.

Mr. LANE, of Kansas. But the suggestion of the Senator from Vermont was that he would have one volume extracted from a set. It cannot be done in the way he suggested.

Mr. COLLAMER. Every man who receives this receives a single volume, a broken set, and will want the others.

Mr. LANE, of Kansas. This is demanded by the Commissioner, who seems to be very anxious about it. I should like to have the ear of the Senator from Iowa [Mr. HARLAN.] This is the resolution introduced by him to furnish to the Commissioner of Agriculture two thousand copies of the agricultural portion of the Census Report.

Mr. HARLAN. I understand that the Commissioner of Agriculture desires to use these volumes to distribute to the correspondents with the office. He has several thousand, I think, scattered all over the country, from whom he gains information, statistics, and knowledge of the condition of the crops; and he believes that the possession of these books by those correspondents would enable them to correspond more satisfactorily, and enable him to discharge his duties more sensibly. I think if the cost will be no more than the Senator from Kansas states, it ought to be appropriated.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the motion of the Senator from Kansas to take up for consideration the resolution indicated by him.

The motion was agreed to; and the resolution was considered, as follows:

*Resolved*, That two thousand copies of the agricultural part of the Census Report for 1860 be printed for the use of the Commissioner of Agriculture.

Mr. LANE, of Kansas. I would like now to have the opinion of the Senator from Rhode Island, whom I see in his seat.

Mr. ANTHONY. I think this resolution ought to pass. I think the documents ought to be given to the Commissioner of Agriculture. The expense will be less than I thought it would be when I first objected. It will cost \$4,600 for the printing in the style in which the book is now printed; but it is unnecessary to do that. It can be done for about \$3,500.

The resolution was agreed to.

#### SWAMP LANDS IN KANSAS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of extending the provisions of the act "granting swamp and overflowed land to certain States" to the swamp and overflowed lands in the State of Kansas, and to report by bill or otherwise.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866; the pending question being on the amendment of the Committee on Finance, to strike out the following proviso in lines nine hundred and fifty, nine hundred and fifty-one, nine hundred and fifty-two, and nine hundred and fifty-three:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.

Mr. SHERMAN. The debate yesterday took a much wider range than it seems to me it ought to have done, considering the question before the Senate. We are not now discussing whether the guards in the Treasury Department are sufficient for the protection of the Government against fraud. That question is now before the Committee on Finance, and is being investigated, so far as our time will allow. There are other bills that will bring that question directly before the Senate before the close of the present session. The only purpose of this proviso, on the part of the House of Representatives, if I understand it, was

to stop the use of the hydrostatic machines. Perhaps the language of the proviso is not broad enough to cover their purpose; but I have read the debate in the House, and it is manifest that the purpose of the mover of this proviso was to stop the use of the hydrostatic presses; and the effect will be, if this proviso is adopted, to stop their use. It is admitted on all hands that some of these presses are defective; some of them have been changed, and are now in good condition, and are working daily to the satisfaction of the Department and the friends of the machines, and others of them need repairs. If the Department is forbidden by this provision from making changes in the machines now on hand; from adopting new improvements; from strengthening these machines, although improvements may promise perfection, this provision will cut off all such improvements.

Now, it seems to me that a few facts ought to settle the controversy in this matter. We know that at great expense the Government has established a Printing Bureau in the Treasury Department. No one who has examined it would be willing to place ourselves again at the mercy of the bank-note companies in the country. It is proved very clearly, by the documents that have been laid on our tables, that the saving in the cost of printing in the Treasury Department is very large, counting even all that may be said about the expenditures on these and all other experiments.

Mr. GRIMES. Will the Senator be kind enough to refer me to that document?

Mr. SHERMAN. I can. The facts will be found in the reports which have been made.

Mr. GRIMES. What reports?

Mr. SHERMAN. The Secretary of the Treasury, at the last session of Congress, made a report on that subject which I think is satisfactory; at any rate it is sufficient for me to say now that there is no proposition before Congress to abolish the printing in the Treasury Department. Every gentleman who has gone from either House of Congress to investigate this subject is satisfied that it would not be wise to stop the printing in the Treasury Department, and I believe no proposition is now pending to change it. It has been organized under the law, and is now being conducted with great success.

In printing notes they have adopted two forms of printing; one is called the wet-press printing, and the other the dry-press printing. Both are being now daily practiced; both are believed to be successful. The friends of one system claim that it is the best, the friends of the other system that it is the best. Now, the question is, whether Congress, with its limited knowledge, will come in and say by law that the officers charged with the execution of the law shall not use a particular kind of machine, or shall not perfect that machine in the way they have been doing. It seems to me that the statement of the proposition is sufficient of itself to induce the Senate to vote against this proviso. As long as we carry on the system of printing notes in the Treasury Department improvements will constantly be made.

I may strengthen this position by saying that not only was the former Secretary of the Treasury Department, now the Chief Justice, in favor of this system, which was established under his supervision, but the present Secretary who is there, and who must be familiar with all the facts connected with it so far as a gentleman of the legal profession can be with practical matters like this, believes that the system is a success. Three members of the Senate Committee on Finance, who certainly were not prejudiced in favor of this mode of printing, went there and examined it with a view to report to the Finance Committee on the subject, and they unanimously agreed that it would be unwise to discontinue the system. It is true some believe it is a success on one point and some on another, but they unanimously agree that the printing should be continued in the Treasury Department.

Under these circumstances, for the Senate and House of Representatives to say by law that the Secretary of the Treasury shall not pursue these experiments, shall not continue this system of printing, it seems to me is rather peculiar legislation. I will not now be led into the discussion of yesterday whether the protections are suffi-

cient. This is not the question before the Senate. The only question now is whether the Senate will say that the Secretary shall not print by the hydrostatic process, or shall not improve on the present system now going on in that Department. I say it will be unwise in Congress to take such action. We had better leave it to the officers who have charge of this service, allow them to make all the improvements they can, allow them to adopt that which is best, to experiment as much as they choose as to the mode and printing, and hold them responsible for the consequences.

Mr. GRIMES. I agree with the chairman of the Committee on Finance that this whole question is in a nut-shell. I agree with him, too, that the question which is now before us is not as to whether there are proper checks and guards in the Currency Bureau; although I am satisfied, from the statement of the Senator from Missouri, [Mr. HENDERSON,] combined with the statement of the Senator from New Hampshire, [Mr. CLARK,] taken in connection with the report that has been laid on our tables, purporting to be the report made by Mr. Clark, the chief of this particular bureau, who has charge of the printing, and purporting to have been submitted to the Secretary of the Treasury, that there are not proper guards and balances. But, sir, I am alarmed—I am alarmed as one who is interested in the currency of this country—when I see that the man who has the charge of that bureau is still grasping after and attempting to secure the printing of the national bank currency.

Mr. President, let us look at the history of this matter a little. It seems that the Secretary of the Treasury preceding the present one commenced some experiments in the Bureau of Printing—which Congress, I suppose, authorized him to establish—in regard to hydrostatic printing. I think there are two or three things that are not controverted here between the Senators who are members of the sub-committee of the Committee on Finance. The first of these is that there has been at least \$300,000 expended in these experiments. I understood the Senator from Missouri to say so. Am I correct or am I wrong?

Mr. HENDERSON. I cannot state the precise amount, but I suppose it is between two and three hundred thousand dollars—somewhere in that neighborhood. It certainly must be, if we take into consideration the hydrostatic presses that have been furnished.

Mr. GRIMES. Then I am correct in that assertion.

Mr. SHERMAN. The Senator from Iowa does not wish to misunderstand the matter.

Mr. GRIMES. No, sir.

Mr. SHERMAN. I am informed that the whole cost of experiments in the Treasury Department in regard to printing, of all forms, will not exceed \$250,000, and the entire expense of the hydrostatic printing is less than \$100,000, including all the repairs and all the machines. We have the bills before us showing that fact.

Mr. GRIMES. I understand as a further fact that as a result of these experiments four patents have been obtained in the names of Mr. Clark and Mr. Stewart Gwynne, or one of them, for inventions and improvements that have been made in the Treasury Department with our money with which they have been experimenting. I understand that to be a fact asserted by the Senator from Missouri. Am I right about that?

Mr. HENDERSON. I believe that there have been four caveats filed. I so understand. I do not know whether all the patents have been issued or not.

Mr. GRIMES. I understand it further to be a fact that the amount of printing that has been done by these hydrostatic presses up to this time does not exceed a quarter of a million of dollars.

Mr. HENDERSON. I so understand.

Mr. GRIMES. I think the amount of hydrostatic printing on the paper such as was exhibited here yesterday by the Senator from New Hampshire does not exceed a quarter of a million of dollars.

Mr. CLARK. On that particular paper.

Mr. HENDERSON. On any paper whatever. I do not understand that the hydrostatic presses have been in operation any great time.

Mr. CLARK. They have printed over two millions, as you will find by examining the figures.

Mr. HENDERSON. Two millions of currency or of bonds and currency?

Mr. CLARK. Of both.

Mr. HENDERSON. Ah! that may be. I spoke of currency.

Mr. GRIMES. I should presume there had been more than two millions of bonds and currency both; but that is not what the Senator from New Hampshire based his argument upon yesterday.

Mr. HENDERSON. It is but just to say that the hydrostatic presses have been in operation printing the fractional currency, and a great many impressions make but a small amount of money.

Mr. GRIMES. I am astonished that there has not been more than two millions of our bonds and currency in circulation, of one kind and another, printed by the hydrostatic presses during the whole time we have been running those presses.

Mr. CLARK. That is only six months.

Mr. GRIMES. It is more than six months ago since the House of Representatives instituted their investigations into this very subject of hydrostatic presses. The House of Representatives have seen fit to provide as a proviso to this appropriation that no more money shall be expended upon these experiments. They want to stop them where they are. They do not want our money to be used by either Mr. Gwynne or Mr. Clark, or both of them, in perfecting patents by which they are going to fill their own pockets. They are content to leave the Secretary of the Treasury to do his printing as he has done it. If he choose to continue the use of these hydrostatic presses, he has a right to do it under this clause. The proviso is simply that no more money shall be expended in experiments; and I agree with the House. I think it is time we stopped them. I think the proviso was properly put on by the House of Representatives, and I am in favor of maintaining it.

Mr. HENDRICKS. I have been astonished that this subject should have excited so much debate. It seems to me to be a very plain one. Congress has heretofore decided that the Secretary of the Treasury should exercise his own pleasure whether the currency shall be printed in the Department or by contract. It is not proposed to take away from him that discretion. Then, if the work is to be done in the Department, it is not merely an administrative question how it shall be done, whether upon one kind of press or another, whether upon this sort of paper or that. Is that a question Congress can decide? It seems to me that all Congress can do is to authorize the issue of securities of a particular description, and leave it as an administrative question to the head of the Department as to the manner in which that shall be done. I cannot see that Congress could safely undertake to say whether the printing shall be done in one style or in another. For myself I have not this information which would enable me to give an intelligent vote on a question of that kind. I shall certainly support the amendment of the committee, as I understand that it is in accordance with the views of the Department.

Mr. CLARK. I do not desire to take up the time of the Senate, but I wish to correct some impressions that I think are wrong in the minds of Senators; and first, in regard to the amount that has been expended in the Treasury for the printing of the currency altogether. It was asserted here yesterday, certainly, by Senators around me, if not in the debate, in such a way as to become known, that there had been two or three millions expended in this printing. The whole amount is one million fifty-four thousand and some hundreds of dollars, as shown by the books, and not one hundred thousand dollars has been expended in this hydrostatic method. About fifteen millions in amount have been printed by the ordinary printing presses, and two millions by the hydrostatic presses, for the reason that the ordinary presses have been running a year and a half, and only fifteen hydrostatic presses for six months. We have seventy-two of them, and the rest have not been running yet; there are only fifteen running now; but it is contemplated to run about double the number we are now running, next week. I think it can be clearly shown that there is a great saving to the Government. We have already paid to the bank-note companies of New York for the work they have done, over two million dollars, they retaining the plates, &c.,

while we in the Treasury Department have done our own work, and expended a little over a million, and have printed a vast amount of currency.

Mr. JOHNSON. How much was issued by the bank-note companies?

Mr. CLARK. I have not the means of stating, because it does not appear here. I have here the official report of Mr. Clark to the Secretary of the Treasury, giving these figures, and they can be verified by the books of the companies. The report says:

"The quantity and amount of work upon the currency and securities in this division, from the date of its organization to the 1st of October, 1864, is properly divisible into three classes, namely:

"First. Currency and securities, printed wholly or in part by the New York bank-note companies, and finished in this division. These aggregate 12,768,214 sheets, and amount to \$629,305,900."

There are certain securities that are printed in part in New York, and then come here unfinished and are finished here.

"Second. Currency and securities printed and finished in this division. These aggregate 6,693,257 sheets, and amount to \$1,636,281,239.

"Third. Securities which have been delivered to this division by the Treasurer of the United States and the Comptroller of the Currency, for printing indorsements and certificates thereon. These aggregate 20,022 sheets, and amount to \$52,375,350."

I will not take up the time of the Senate to go over and show these various kinds; I will simply turn the attention of the Senate to what was the effect of this printing upon the postal and fractional currency. Senators will bear in mind that some time ago we printed postal currency, as it was called, and now we print what is called fractional currency, being about the same in size and printed in the same way. The postal currency was printed by the bank-note companies, the fractional currency is printed in the Department.

The comparative cost of fractional currency and postal currency, computed at the prices actually paid, is—

	Fractional.	Postal.
Of 50 cent pieces per \$1,000.....	\$1 59	\$6 97
Of 25 " " " " " " " " " "	3 08	13 94
Of 10 " " " " " " " " " "	6 71	28 87
Of 5 " " " " " " " " " "	13 43	55 75
	\$24 81	\$105 53

The "Treasurer's assortment" of \$50,000, would cost—  
Of postal currency.....\$1,128 51  
Of fractional currency.....262 61

Saving on each \$50,000.....\$865 90

Now, Mr. President, I have to say that a certain amount of printing done in New York, after it was finished cost more to bring it here and deliver it to the Treasury, than it did to print it here, the express charges were so great. Let me call attention to that point:

"The cost of producing issues in New York, instead of in the Treasury, is further augmented by the cost of transmission from New York to Washington of the printing executed by the bank-note companies. The charges for transmission to the Government, though reported to be much less than the charges to individuals for like service, still aggregate a large amount; and on some of the issues the cost of transmission alone exceeds the entire cost of producing in the Treasury. For instance, the charge for transmitting the registered bonds from New York to Washington is fifteen cents for each \$1,000 transmitted. Two packages of registered bonds were recently delivered to this division, printed in New York and transmitted by express, marked to contain \$32,000,000. Each of these packages could have been carried by hand. The contract price of transmission would be \$4,800. The same amount of this issue of the same denominations could have been printed in the Treasury for \$110."

I may be permitted here, perhaps, by the indulgence of the Senate, to say one word in regard to the security of this matter. I will not undertake to say, because I have not made the examination sufficiently to know, that this system in the Treasury is entirely secure, but I venture to say that it is much surer than the method of printing in New York. Take an instance which is here given:

"That the check upon production, established by these companies for their own protection, is insufficient, is proven by two marked occurrences in this division. In one case, one of the New York companies sent to me a package containing one thousand more impressions—amounting to \$8,000—than was marked upon the package or included in the invoice. I immediately notified the proper officers of the company of its receipt. They at first denied the sending of the excess. Even after the sheets were converted into lawful money, and I had delivered the amount to the Treasurer of the United States and obtained his receipt therefor, they still refused to admit the sending of the excess. It was not until such excessive sending was proven

upon them by the consecutiveness of numbers that they reluctantly admitted the error, and rendered a bill for the printing."

Mr. GRIMES. What company in New York was that?

Mr. CLARK. It does not specify which one.

Mr. GRIMES. If the Senator is going to read against one of the New York companies charges of that kind on the authority of Mr. Clark's report, that does not come here vouched even by his chief, the Secretary of the Treasury, I think he ought at least to tell us which one of the New York companies it was, so that we might have the opportunity to contradict it.

Mr. CLARK. I differ entirely from the Senator from Iowa. There may be a good reason why I should not specify the company.

Mr. GRIMES. But there is a good reason why Clark should.

Mr. CLARK. I do not know any good reason why Mr. Clark should, and I do not think Mr. Clark has the same feeling toward the New York companies that they seem to have in regard to him. He does not desire to find fault with any one company, nor do I, but to call the attention of the Senate to the fact that such things have been done, without charging it upon this or that person, but only to show the system. That is all.

"Within a few days \$16,000,000 of the same bonds were received in one package, which could be carried by hand. The contract price of transmission was \$2,400. The cost of printing these in the Treasury would have been but sixty-three dollars."

As I said before, we have paid these bank-note companies in New York over two million dollars. I do not find any fault with the companies; I am only discussing the cost of the two systems. The bank-note companies have done over twenty million dollars of work in securities and currency, as shown by this report, and the amount which we have expended in the Treasury for the same purpose, including machinery, paper, and everything, the experiment of making paper and all, a little over a million dollars.

Mr. GRIMES. If that be so, I would inquire how this bill happens to make appropriations to the extent of \$3,775,000 for this very bureau.

Mr. SHERMAN. I can answer that question readily. The Senator from Iowa leaps at conclusions too rapidly. He has lumped together three items amounting to three million dollars and over. The first item covers all the expenses of the national loans, the advertising, the printing of notes, the amount paid to banks, &c., as agents. The second item, \$1,100,000, is solely for the Internal Revenue Bureau, for procuring dies, stamps, adhesive stamps, paper, printing forms and regulations for the internal revenue. Not one dollar of it ever goes into the Printing Bureau of the Treasury Department. So of the next item. The whole amount of this money which is paid for the Printing Bureau is only a small fraction of the \$2,000,000 appropriated in the first clause, and that appropriation of \$2,000,000 covers all the expenses of national loans. The second item, as I have said, is entirely paid out by the Internal Revenue Bureau.

Mr. GRIMES. It is the fault, then, of the committees who manufactured the bill originally, if they put it under the wrong head.

Mr. SHERMAN. Not at all.

Mr. GRIMES. These items are not put under the head of internal revenue, or under anything that relates to any other subject than "the Independent Treasury" and the manufacture of money.

Mr. SHERMAN. The Senator in that does not do justice to the other House, which framed this bill. He is talking at random. The second item is:

For procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and other expenses of carrying into effect the act of June 30, 1864.

That is the act to provide internal revenue.

Mr. GRIMES. Look back to page 37 and see what head you have got your items under.

Mr. SHERMAN. That head only applies to the items relating to the sub-Treasury. These are all independent items.

Mr. GRIMES. That head applies to every item until you get down to "commissioners of direct taxes in insurrectionary districts," only four lines after the item to which the Senator refers. That is the next general head after the one relative to the expenses of the sub-Treasury. If I jumped the stile before I reached it, it is simply



because the item was not included by the authors of the bill under the heading to which it properly belonged.

Mr. SHERMAN. Even that criticism is not well taken. This bill is divided into several heads, but there are many items scattered through the bill that do not relate to the particular heads. This is the ordinary form and mode in which these bills have come to us for years from the House of Representatives. These three items in regard to printing, stamps, &c., are all grouped together. They relate to all the different Departments of the Government.

Mr. CLARK. There was some confusion in the debate yesterday in regard to the distinctive paper of the Treasury Department, whether it could be printed both wet and dry. I was under the impression that it might be printed both ways, but on inquiry I find that the fractional currency paper is only to be printed dry. I stated yesterday that in photographing this fractional currency paper the membranous part of it photographed black. I hold in my hand a specimen of the fractional note paper which has been photographed, and Senators by looking at it will see that the result of photographing is to cover the paper all over with black marks like ink marks.

I have here a great variety of this printing from the Treasury Department, which I obtained by giving my receipt for it, with my bond of honor that it should be returned. I shall not allow anybody to take it from my desk, but if anybody desires to see it I will carry it into the Vice President's room and be happy to show it to any one, for I am answerable that it shall go back to the Treasury, it being charged to me, and the sheets being all imperfect. There is not one of them that can be used in its present condition, but I shall be happy to show them to any Senator.

Mr. DAVIS. I would inquire of the honorable Senator if he is the only honest Senator, in the judgment of the Treasury Department, in this body.

Mr. CLARK. Not by any means; but suppose I should let these sheets wander about among the Senators; Senators, while being entirely honest, might not think of bringing them back, or somebody might take them from them, so that I could not find them. I beg the Senator's pardon if he infers from anything I said that I would not trust them with a Senator.

Mr. DAVIS. No, sir.

Mr. COWAN. On giving bond.

Mr. CLARK. I will let any Senator have a specimen without a bond, if he will be responsible to bring it to me again.

Now, Mr. President, I shall conclude what I have to say at this time—I am prepared to go further into the matter—by sending to the Chair a letter from the former Secretary of the Treasury to Mr. Clark, dated the 6th of February, which I ask may be read.

The Secretary read the following letter:

WASHINGTON, February 6, 1865.

MY DEAR SIR: I have read with much interest, and all the care my duties allowed, your report to Secretary Fessenden on the operations of your division of the National Currency Bureau. I am glad you have prepared this complete vindication of the system of bond and note engraving, printing, and preparation for issue in the Treasury Department. Strange that a system which saves millions of dollars should need any.

Perhaps no one can appreciate your services as I do; for, as I authorized the system and put on you the work of organization and practical operation, I naturally observed your action with much anxiety. I saw what difficulties you encountered and overcame, and predictions of failure and upbraidings both of motive and conduct which hardly any other man could or would have endured. My own faith at times almost entirely gave way. Nothing enabled me to persevere but your perseverance.

Looking back now, and seeing what great benefits have been secured to our country, I greatly rejoice that, though sometimes much discouraged, I did not give up. Not many, it is true, will ever understand what has been done; but the work is there, and a few know it.

The greatest part—by far the greatest part—is yours, and your best reward is consciousness. But I trust that consciousness will not be your only reward. I still hope that your services will be suitably acknowledged by Congress and the Government. Were I yet Secretary you should at least have as much honor as a Secretary's report can give.

Sincerely your friend,

S. P. CHASE.

SPENCER M. CLARK, Inq., Chief First Division National Currency Bureau, Treasury Department.

Mr. SUMNER. I understand there is now on the table a message from the President in answer to a resolution passed by the Senate the other day

relating to certain conference with rebels. I ask that the present measure be informally laid aside, and that the message be read.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The business before the Senate can be laid aside only by unanimous consent. The Chair hears no objection; it will be laid aside, informally, and the message read.

#### CONFERENCES WITH REBELS.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

In answer to the resolution of the Senate of the 8th instant, requesting information concerning recent conversations or communications with insurgents under executive sanction, I transmit a report from the Secretary of State, to whom the resolution was referred.

ABRAHAM LINCOLN.

FEBRUARY 10, 1865.

DEPARTMENT OF STATE,  
WASHINGTON, February 10, 1865.

To the President:

The Secretary of State, to whom was referred a resolution of the Senate of the 8th instant, requesting "the President of the United States, if in his opinion not incompatible with the public interests, to furnish to the Senate any information in his possession concerning recent conversations or communications with certain rebels, said to have been under executive sanction, including communications with the rebel Jefferson Davis, and any correspondence relating thereto," has the honor to report that the Senate may properly be referred to a special message of the President bearing upon the subject of the resolution and transmitted to the House this day. Appended to this report is a copy of an instruction which has been addressed to Charles Francis Adams, Esq., envoy extraordinary and minister plenipotentiary of the United States at London, and which is the only correspondence found in this Department touching the subject referred to in the resolution.

Respectfully submitted.

WILLIAM H. SEWARD.

Mr. Seward to Mr. Adams.

DEPARTMENT OF STATE,  
WASHINGTON CITY, February 7, 1865.

SIR: It is a truism that in times of peace there are always instigators of war. So soon as war begins, there are citizens who impetuously demand negotiations for peace. The advocates of war, after an agitation, longer or shorter, generally gain their fearful end, though the war declared is not infrequently unnecessary and unwise. So peace agitators in time of war ultimately bring about an abandonment of the conflict, sometimes without securing the advantages which were originally expected from the conflict.

The agitators for war in time of peace, and for peace in time of war, are not necessarily, or perhaps ordinarily, unpatriotic in their purposes or motives. Results alone determine whether they are wise or unwise. The treaty of peace concluded at Gaudalope Hidalgo was secured by an irregular negotiator under the ban of the Government. Some of the efforts which have been made to bring about negotiations, with a view to end our civil war, are known to the whole world, because they have employed foreign as well as domestic agents. Others, with whom you have had to deal confidentially, are known to yourself; although they have not publicly transpired. Other efforts have occurred here which are known only to the persons actually moving in them and to this Government. I am now to give for your information an account of an affair of the same general character, which recently received much attention here, and which doubtless will excite inquiry abroad.

A few days ago, Francis P. Blair, Esq., of Maryland, obtained from the President a simple leave to pass through our military lines, without definite views known to the Government. Mr. Blair visited Richmond, and on his return he showed to the President a letter which Jefferson Davis had written to Mr. Blair, in which Davis wrote that Mr. Blair was at liberty to say to President Lincoln that Davis was now, as he always had been, willing to send commissioners if assured they would be received, or to receive any that should be sent; that he was not disposed to find obstacles in forms. He would send commissioners to confer with the President with a view to a restoration of peace between the two countries if he could be assured they would be received. The President thereupon, on the 18th of January, addressed a note to Mr. Blair, in which the President, after acknowledging that he had read the note of Mr. Davis, said that he was, in, and always should be, willing to receive any agents that Mr. Davis or any other influential person, now actually resisting the authority of the Government, might send to confer informally with the President with a view to the restoration of peace to the people of our one common country. Mr. Blair visited Richmond with this letter, and then again came back to Washington.

On the 29th [ultimo] we were advised from the camp of Lieutenant General Grant that Alexander H. Stephens, R. M. Hunter, and John A. Campbell were applying for leave to pass through the lines to Washington as peace commissioners to confer with the President. They were permitted by the Lieutenant General to come to his headquarters to await there the decision of the President. Major Eckert was sent down to meet the party from Richmond at General Grant's headquarters. The major was directed to deliver to them a copy of the President's letter to Mr. Blair, with a note to be addressed to them and signed by the major, in which they were directly informed that if they should be allowed to pass our lines they would be understood as coming for an informal conference upon the basis of the aforementioned letter of the 18th of January

to Mr. Blair. If they should express their assent to this condition in writing, then Major Eckert was directed to give them safe conduct to Fortress Monroe, where a person coming from the President would meet them. It being thought probable, from a report of their conversation with Lieutenant General Grant, that the Richmond party would in the manner prescribed accept the condition mentioned, the Secretary of State was charged by the President with the duty of representing this Government in the expected informal conference. The Secretary arrived at Fortress Monroe in the night of the 1st day of February. Major Eckert met him in the morning of the 2d of February with the information that the persons who had come from Richmond had not accepted in writing the condition upon which he was allowed to give them conduct to Fortress Monroe. The major had given the same information by telegraph to the President at Washington. On receiving this information the President prepared a telegram directing the Secretary to return to Washington. The Secretary was preparing at the same moment to so return, without waiting for instructions from the President. But at this juncture Lieutenant General Grant telegraphed to the Secretary of War, as well as to the Secretary of State, that the party from Richmond had reconsidered and accepted the conditions tendered them through Major Eckert; and General Grant urgently advised the President to confer in person with the Richmond party. Under these circumstances the Secretary, by the President's direction, remained at Fortress Monroe, and the President joined him there on the night of the 2d of February. The Richmond party was brought down the James river in a United States steam transport during the day, and the transport was anchored in Hampton Roads.

On the morning of the 3d, the President, attended by the Secretary, received Messrs. Stephens, Hunter, and Campbell on board the United States steam transport River Queen, in Hampton Roads. The conference was altogether informal. There was no attendance of secretaries, clerks, or other witnesses. Nothing was written or read. The conversation, although earnest and free, was calm and courteous and kind on both sides. The Richmond party approached the discussion rather indirectly, and at no time did they either make categorical demands, or tender formal stipulations or absolute refusals. Nevertheless, during the conference, which lasted four hours, the several points at issue between the Government and the insurgents were distinctly raised, and discussed fully, intelligently, and in an amicable spirit. What the insurgent party seemed chiefly to favor was a postponement of the question of separation, upon which the war is waged, and a mutual direction of efforts of the Government, as well as those of the insurgents, to some extrinsic policy or scheme for a season, during which passions might be expected to subside, and the armies be reduced, and trade and intercourse between the people of both sections resumed. It was suggested by them that through such postponement we might now have immediate peace, with some not very certain prospect of an ultimate satisfactory adjustment of political relations between this Government and the States, section, and people now engaged in conflict with it.

This suggestion, though deliberately considered, was nevertheless regarded by the President as one of armistice or truce, and he announced that we can agree to no cessation or suspension of hostilities except on the basis of the disbandment of the insurgent forces and the restoration of the national authority throughout all the States in the Union. Collaterally, and in subordination to the proposition which was thus announced, the anti-slavery policy of the United States was reviewed in all its bearings, and the President announced that he must not be expected to depart from the positions he had heretofore assumed in his proclamation of emancipation and other documents as these positions were reiterated in his last annual message. It was further declared by the President that the complete restoration of the national authority everywhere was an indispensable condition of any assent on our part to whatever form of peace might be proposed. The President assured the other party that while he must adhere to these positions, he would be prepared, so far as power is lodged with the Executive, to exercise liberality. Its power, however, is limited by the Constitution; and when peace shall be made Congress must necessarily act in regard to appropriations of money and to the admission of representatives from the insurrectionary States. The Richmond party were then informed that Congress had on the 31st ultimo adopted by a constitutional majority a joint resolution submitting to the several States the proposition to abolish slavery throughout the Union; and that there is every reason to expect that it will be soon accepted by three fourths of the States, so as to become a part of the national organic law.

The conference came to an end by mutual acquiescence without producing any agreement of views upon the several matters discussed, or any of them. Nevertheless it is perhaps of some importance that we have been able to submit our opinions and views directly to prominent insurgents, and to hear them in answer, in a courteous and not unfriendly manner.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. SAULSBURY. Regarding that message as the most important one that has ever been delivered to the Senate of the United States, I move that it be referred to a select committee of five members of this body, with leave to report in writing.

Mr. SHERMAN. It seems to me that motion had better lie over.

Mr. SUMNER. I think it will be enough if we order the message to be printed.

Mr. SHERMAN. Let it lie on the table.

Mr. SUMNER. I move that it lie on the table, and be printed for the use of the Senate.

Mr. SAULSBURY. I wish to give notice that I shall make the motion I have indicated.

The PRESIDING OFFICER. Unless objected to, the message will be laid on the table and printed for the use of the Senate. The Chair hears no objection.

Mr. SAULSBURY. Does the Chair decide that my motion is out of order?

The PRESIDING OFFICER. The Chair did not so decide. The motion to lay upon the table took precedence of it.

Mr. SAULSBURY. My motion is considered, then, as entered.

Mr. SHERMAN. Certainly.

The PRESIDING OFFICER. The motion to lay upon the table took precedence of it, and has been agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 112) for the relief of the heirs of Almond D. Fisk.

The message further announced that the House had passed a bill (H. R. No. 145) for the relief of Major McFarland, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution, which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 431) for the relief of Solomon Wadsworth; and

A joint resolution (S. R. No. 106) providing for the compilation of a Congressional Directory at each session.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 145) for the relief of Major McFarland, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1866, the pending question being on the amendment of the Committee on Finance, on page 39, line nine hundred and forty-nine, after the word "dollars" to strike out the following proviso:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.

Mr. GRIMES. I think it very desirable that we should have accurate information on this subject, and therefore I want to draw a little more from the Senator from New Hampshire, who has investigated the subject. I want to know whether the Senator from New Hampshire includes in his statement with regard to the expense of printing the expense of the clerical force in the bureau?

Mr. CLARK. It includes everything. I have the figures here:

"The payment and expenses of the division from the day it was first started until the 27th day of June, 1864, was reported to Congress by my predecessor on the latter date, and amounted to \$669,075 78. This report was printed, and will be found on page 45 of the report of the special committee of the first session of the present Congress. The payments and expenses since that period have been \$394,921 27."

If the Senator will add these sums together, I think he will find them to amount to \$1,054,937 05. The amendment was agreed to.

Mr. SHERMAN. I have another amendment to offer on this subject as a separate and distinct amendment. It is to insert on page 39, line nine hundred and forty-nine, after the word "dollars" the following proviso:

*Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and adjust the accounts of Stewart Gwynne for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to report to him such sum as may be equitably due said Gwynne: *Provided further*, That for items furnished or supplied under contract no greater sum than the contract price shall be allowed: *And provided further*, That before any payment shall be made, the said Stewart Gwynne shall, in such form as may be prescribed by the Secretary of the Treasury, fully convey and secure to the United States the right to use said presses, and any additional number thereof, with their

machinery and future improvements, in the Treasury building or any other buildings directed by the Secretary for any and all printing the Government may desire for its own use and purposes.

Mr. GRIMES. I raise the point of order that I raised yesterday, that this amendment makes provision for the payment of a private claim supposed to be held by Stewart Gwynne against the Government.

Mr. SHERMAN. The point of order is not well taken, because the amendment does not make provision for a payment. It does not direct the payment, nor even an award.

I wish to say in regard to this amendment that I offer it really for the protection and at the request of the Secretary of the Treasury. I have no particular desire that the amendment be adopted. I do not think it is susceptible to the objection made by the honorable Senator; nor do I see any objection to it. The amendment does not make an appropriation. It does not direct the money to be paid out of this fund. It simply restricts and limits the power of the Secretary of the Treasury. The Secretary of the Treasury may now pay Stewart Gwynne, or anybody else, for work done in this Printing Bureau out of the general fund; but this amendment provides that before he shall pay it the account shall pass through the surveillance of the proper officers of the Treasury Department, and that the Secretary shall not pay it until Stewart Gwynne shall execute a proper release of his patent; so that it is really a restriction of the power of the Secretary to pay this money which he can pay under the law. The amendment itself does not direct the Secretary to pay it, nor does it even authorize the Secretary to pay the money. That he can do under the general provisions of law under the appropriation as it now stands. The Secretary simply desires this amendment so that he may send this matter to the proper accounting officers and have it properly investigated and have the records kept there, and that he may demand of Stewart Gwynne a proper release to the Government of the patents, which are really inventions made by officers of the Government or agents of the Government in the Treasury building. It therefore limits the power of the Secretary, instead of extending it. Nor is the amendment for the benefit of Stewart Gwynne; it is rather for the benefit and protection of the Secretary and for the protection of the Treasury. I do not care myself anything about the amendment.

Mr. GRIMES. I only raise this point of order that we may have it settled hereafter for my own government and the government of the Senate. I think the amendment is manifestly within the rules. It directs that the Secretary of the Treasury shall examine these accounts—and then there is a negative pregnant: he shall not pay unless certain things are done; which is just as much as to say he shall pay if those things are done. It is a parliamentary question, which I am willing to submit to the decision of the Chair; and I shall be satisfied with the decision of the Senate, let it be whatever it may. I shall know hereafter how to draft amendments; that is all.

The PRESIDING OFFICER. (Mr. FOSTER.) Upon the amendment submitted by the Senator from Ohio the Senator from Iowa raises a point of order that it is to pay a private claim, and under the rules of the Senate an amendment cannot be made upon an appropriation bill to pay a private claim. The Chair will submit the question of order for the decision of the Senate.

Mr. SHERMAN. I hope the Presiding Officer will decide the question. It is the duty of the Presiding Officer to decide it. I shall be perfectly satisfied, whichever way he decides it; and I think the Senator from Iowa will be too.

Mr. GRIMES. Certainly.

Mr. SHERMAN. I do not think it of sufficient importance to take the sense of the Senate upon it.

The PRESIDING OFFICER. It is the right of the Chair to submit the question to the Senate. The Chair would rather not decide a question of this sort, being of the impression that the amendment on its face is to pay a private claim. It may, however, be to pay a private claim under an existing law; and if it be to pay a private claim under an existing law it is not objectionable. The Chair is not advised whether there is an existing law which would authorize the payment,

and therefore is disposed to submit the question to the Senate.

Mr. GRIMES. Let us have the yeas and nays. The yeas and nays were ordered.

Mr. POMEROY. It occurred to me when this matter was before the Senate yesterday that this amendment was in the nature of a restriction or limitation. It is certainly not an appropriation, and, technically speaking, it does not come within the rule. It simply provides the manner in which payment either shall or shall not be made, and in that view of the case I was very clear that the amendment as submitted by the Committee on Finance was certainly in order, and not against the 30th rule of the Senate.

Mr. HENDERSON. I desire to state that, as I understand it, the only question now before us is whether the Secretary of the Treasury had the authority under any preceding law to authorize this sort of work to be done in the Treasury Department. I cannot have any doubt about that. He had an ample authority to cause these notes to be printed, and to be printed in the Treasury Department. I do not doubt that the Secretary of the Treasury had authority to make these experiments upon these hydrostatic presses. The propriety, the policy, the expediency of so doing are altogether different questions. Whether the Secretary of the Treasury did right or not is another question. Whether he could not have saved money by letting the hydrostatic presses alone, and printing upon the old style of press, is quite a different thing from the one that is now before us. The only question is whether he had authority to do this thing. I think we cannot avoid paying for these presses, because this individual, Gwynne, was authorized to put them there. If the Secretary of the Treasury had the power to make the contract, he having made the contract or authorized it, we are under obligations to pay for them, and I think justice would require that we should pay for them. I do not regard it as settling a private claim. I think the authority existed by law in the Secretary to do this work. I may be mistaken, and viewing it in that light I cannot but agree and consent to the payment of the claim.

Mr. GRIMES. This is precisely such a claim as we are referring every day to the Court of Claims. There is not a case that has come before the Senate during this session that is not in some way or other connected with or based upon some law. A man says that by the authority of law somebody has entered into a contract with him, and that contract has not been complied with; and we send his case to the Court of Claims. There is not any doubt, I suppose, but what the Secretary of the Treasury had, under a general appropriation bill, authority generally to make certain printing, and under that authority he has gone and contracted, or authorized somebody to contract, with Stewart Gwynne for certain hydrostatic presses, which the Government has been using; but is that the kind of a law upon which a claim is to be based that does not come within the rule of the Senate? I understand that that rule applies to a case like this: that where there is a positive, unqualified law specifying the amount that is due to a man, it is competent for us to insert it upon an appropriation bill; but I apprehend the chairman of the Committee on Claims has not got a case in his possession to-day referred to the Committee on Claims that is not based just as much on a law, or a contract with the Government, expressed or implied, as this claim. As I said before, I am not particular as to how the Senate decide the question. It is a precedent that is to be followed during the balance of this session; that is all.

As to its not being an appropriation, as suggested by the Senator, there is not any more doubt about that than there is that I stand here. The section goes on and provides that the accounts shall be adjusted by the Secretary of the Treasury, and then that he shall not pay unless certain things be done. Is there a man here that ever reads Blackstone, or that understands the rudiments of the English language, or that knows anything about logic, that does not know that that is just as much as to say, if those things are done the payment shall be made. Is not that what all school-boys know as a negative pregnant? And are we to be told that this is not an appropriation? It is just as much an appropriation as if it was

said in express terms that \$38,000 should be paid by the Secretary of the Treasury out of the Treasury to Stewart Gwynne.

Mr. HENDERSON. In my view of this matter, the Secretary of the Treasury has full power to adjust this claim. As was very properly stated, however, by the Senator from New Hampshire, yesterday, the Secretary desires that the claim be settled not by him, and he seems to think authority is given to him alone to settle it under the former laws. He wants it to go before the accounting officers of the Treasury Department, and he thinks this amendment will send it before the accounting officers, and it can there be adjusted like any other claim. He does not wish to assume the responsibility of settling it himself, and he does not conceive that the previous laws on the subject authorize it to go before the accounting officers. I understand that that is all.

The PRESIDING OFFICER. The question is, whether this amendment shall be received, on a point of order being made that it is to pay a private claim.

The question being taken by yeas and nays, resulted—yeas 27, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Conness, Doolittle, Furwell, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Nye, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Stewart, Sumner, Ten Eyck, Willey, Wilson, and Wright—27.

NAYS—Messrs. Brown, Grimes, Harlan, Trumbull, Wade, and Wilkinson—6.

ABSENT—Messrs. Carlile, Chandler, Colliamer, Cowan, Davis, Dixon, Foot, Foster, Hale, Harding, Harris, Hicks, McDougall, Morrill, Pomeroy, Powell, Richardson, and Van Winkle—18.

So the point of order was not sustained.

The PRESIDING OFFICER. The amendment is received; and the question now is on the adoption of the amendment.

The amendment was agreed to.

Mr. SHERMAN. I have another amendment to offer from the Committee on Finance. It is to insert as a new section:

*And be it further enacted, That to enable the Secretary of the Treasury to provide temporary accommodations for the State Department, and for the accommodation of such of the clerks of the Treasury Department as cannot be accommodated in the present building, the sum of \$35,000 is hereby appropriated. And the Secretary of the Interior is hereby required to furnish suitable rooms in the Patent Office building for the accommodation of the Attorney General, Assistant Attorney General, clerks, and messengers in his office; and for the purpose of furnishing and fitting up such rooms the sum of \$5,000 is hereby appropriated.*

The amendment was agreed to.

Mr. SHERMAN. I am directed by the Committee on Finance to move as a further amendment on page 40, line nine hundred and fifty-six, to insert before the word "act" the words "internal revenue," so that the clause will read:

*For procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and other expenses of carrying into effect the internal revenue act of June 30, 1834, \$1,100,000.*

The amendment was agreed to.

Mr. SHERMAN. On the same page, line nine hundred and sixty-one, I am directed by the same committee to insert, after the word "same," the words "in the office of the Comptroller of the Currency," so that the clause will read:

*For paper, special dies, and the printing of circulating notes, and expenses necessarily incurred (including express charges) in procuring the same, in the office of the Comptroller of the Currency, \$675,500.*

The amendment was agreed to.

Mr. SHERMAN. I am also instructed by the Committee on Finance to offer as a new section what is called the deficiency bill. It is scarcely worth while to read it. It is precisely the bill as it has been agreed upon by both Houses, with the exception of the disputed clause about the extra compensation to the clerks and employes of the other House.

The PRESIDING OFFICER. The reading of the proposed amendment will be dispensed with unless called for by some Senator.

Mr. SUMNER. I have an amendment to offer.

Mr. CLARK. I desire to make a report from the committee of conference on the deficiency bill.

The PRESIDING OFFICER. If no objection be made, the report will be received at this time.

#### DEFICIENCY BILL.

Mr. CLARK. I submit the following report

from the committee of conference on the deficiency bill:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill of the House (H. R. No. 620) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1865, having met, after full and free conference have been unable to agree.

T. STEVENS,  
G. H. PENDLETON,  
J. S. MORRILL,  
*Managers on the part of the House.*  
DANIEL CLARK,  
JAMES W. GRIMES,  
GEORGE READ RIDDLE,  
*Managers on the part of the Senate.*

The PRESIDING OFFICER. The question will be on agreeing to the report of the committee. No recommendation is made by the committee, but they simply report the fact of their disagreement.

Mr. CLARK. I move that the Senate insist upon its amendment to the House bill; and, Mr. President, if I may be pardoned in taking up the time of the Senate, I desire, for the purpose of bringing this matter before the country more directly than it is, to make a few remarks upon the report.

The only disagreement upon the bill is upon the provision inserted by the House of Representatives appropriating \$38,000 out of the contingent fund to pay a gratuity to the clerks and employes of the House.

Mr. CONNESS. In violation of law.

Mr. CLARK. In violation of law, as is suggested by the Senator from California. From the year 1849 to the year 1858 there grew up a practice in one House and the other House of paying toward the end of the session, or at the close of the session, a gratuity to the employes of each House. The House of Representatives, or the Senate, as the case might be, would pass a resolution and pay twenty per cent. extra compensation to the employes of that House. Then the employes of the other House would solicit the same gratuity to them; and the result would be that each House would pass a resolution for a gratuity of twenty per cent. That practice went on until the year 1858, when Congress passed a law that it should not continue any further. That law will be found in the eleventh volume of the Statutes, page 326, and is in these words:

"SEC. 5. And be it further enacted, That no part of the appropriations which may be at any time made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them."

After that I think neither House attempted to make such a gratuity to their employes until, at the last session, the House passed a resolution of that kind. When that resolution came to the accounting officers of the Treasury, if not before, it was refused a passage. I think the Clerk of the House did not pay it, but submitted it to the Treasury Department, and was told it could not pass there; and therefore it was not paid. Now, the House, in order to make an appropriation for that gratuity, have appended an amendment upon the deficiency bill. They put it on a former deficiency bill. The Senate rejected it. It went back to the House, and they refused to concur in the amendment of the Senate. It came back here, and a committee of conference was appointed, which disagreed. The Senate agreed to that report, and insisted upon its amendment with great unanimity. Another committee of conference was appointed, and they disagreed. The Senate still insisted, and finally voted, with great unanimity, to adhere to its amendment to the deficiency bill; and the House of Representatives having previously voted to adhere, the deficiency bill failed.

Thereupon the House of Representatives introduced and passed another deficiency bill, and it contained the distinct provision that \$38,000 should be appropriated for this precise object, with a little difference in the phraseology. The Senate struck it out. It went back to the House for their approval, and they disagreed to the amendment of the Senate. It is in this view that I desire to call the attention of the Senate and the country to the position of the matter, because the House attempted to cast the odium, if there be any, of the failure of the deficiency bill upon the Senate. I

know I shall be pardoned if I read from the Globe this remarkable passage:

"Mr. WASHBURN, of Illinois. I ask the gentleman's attention to one fact. I understand from the Secretary of War that at the present time not a single dollar can be expended from his Department for the sick and wounded soldiers in our hospitals because of the delay in the passage of this bill.

"Mr. STEVENS. So far as that subject is concerned, I look upon the action of the Senate as an atrocity."

After the deficiency bill had failed in the House by the disagreement between the two—

Mr. JOHNSON. Was that said in debate?

Mr. CLARK. That was in the debate reported in the Globe; and I do not desire, and am not willing, that it should go out to the country without being challenged. I desire to bring the attention of the country to the precise position of the fact.

Here was a large deficiency in the War Department, and in other Departments, of over one hundred million dollars needed by the Government to carry on the purposes of the Government and put down this rebellion. The soldiers were unpaid; the men in the hospitals were unpaid. The bill had gone to both Houses and had failed, because we could not agree upon this point; and then the House of Representatives—I shall not be charged with speaking with any discourtesy of the House of Representatives, because I mean to confine my remarks to what is reported in the Globe—passed another bill with precisely the same provision in it on which we had disagreed; they put into it a provision which they knew had defeated the bill; and then, because the Senate would not assent to a provision that was contrary to law and give a gratuity of twenty per cent. to the clerks and messengers of the House; because they would not willingly consent to do that, the action of the Senate is charged before the country as an "atrocity!" Then this report goes on to say:

"If the sick and wounded soldiers are not provided for the blame should justly rest with the Senate."

The sick and the wounded soldiers cannot be provided for if they do not put into the deficiency bill providing for them a provision to give \$38,000 gratuity to the clerks and messengers of the other House. There is no difference of opinion between us; we have agreed to every provision and every deficiency for the sake of the wounded soldier; but because the Senate will not consent that \$38,000 shall be given to these employes, who, in my judgment, are paid for what they do as well as any other employes—

Mr. GRIMES. It is an attempt to take it from the sick and wounded soldiers and pay it to these employes.

Mr. CLARK. As is said by the Senator from Iowa, it is taking so much away from the sick and wounded soldiers. But, I say, because we will not assent to what is contrary to law, and in conformity to very bad practice, which both Houses of Congress agreed to cut up and remove, the action of the Senate is charged before the country as "an atrocity." I hope I may be permitted to say here further that, when the vote shall be taken, we shall put the deficiency bill upon the legislative bill, and let us see if we cannot make provision for the sick and wounded soldiers.

The PRESIDING OFFICER. It is moved that the Senate insist upon its disagreement to the House bill called the deficiency bill and ask for a further conference.

Mr. CLARK. That was not a part of my motion. I moved only to insist; I did not ask for another committee. I am willing that the motion should be simply to insist, and let the House take action on the question whether we shall have another committee.

The PRESIDING OFFICER. The motion is that the Senate further insist upon its amendment striking out a portion of the House bill.

The motion was agreed to.

#### BRIDGE ACROSS THE OHIO.

Mr. DOOLITTLE. I desire to enter a privileged motion. I move a reconsideration of the vote by which Senate bill No. 392, relative to a bridge across the Ohio river at Louisville, was passed.

The PRESIDENT *pro tempore*. The motion will be entered.

Mr. POWELL. I would inquire in regard to the rule, whether if I allow the motion to be



entered I waive any right to object to the vote being reconsidered because the motion to reconsider is out of order at this time.

The PRESIDENT *pro tempore*. The Chair does not think the Senator loses his right to object by the entering of the motion to reconsider.

Mr. POWELL. I only want to know that I shall have a right to make my objection to-morrow as well as to-day. I think, under the 20th rule, no motion to reconsider can be entertained in this case.

The PRESIDENT *pro tempore*. The Senator may call the attention of the Senate to the time at which the motion is made.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Ohio, [Mr. SHERMAN,] to amend the bill before the Senate by adding to it the deficiency bill. The reading of the amendment will be dispensed with unless called for by some member, and the question is on its adoption.

Mr. HALE. Omitting the clause in dispute, I suppose.

The PRESIDING OFFICER. That is omitted.

Mr. SHERMAN. It is precisely the deficiency bill as agreed upon by both Houses, omitting the disputed clause.

Mr. SUMNER. Before that is done, I merely wish to call the attention of the Senate to the nature of the possible controversy in which they are about to embark.

Mr. COLLAMER. We have insisted on that.

Mr. SUMNER. Will the Senator have the kindness to hear my statement?

I understand that the motion of the Senator from Ohio is to add, by way of amendment, the deficiency bill to the bill now pending.

Mr. SHERMAN. Yes, sir, that is it precisely.

Mr. SUMNER. I take it the motion is without precedent in this body. On that account it perhaps may be open to criticism. But if you look at it in other aspects, if you look at it on its merits, perhaps you may see some occasion to hesitate, at least. I think you will find that from the beginning of our Government all the great appropriation bills have been originated in the other House. The Senator from Vermont, I see, shakes his head. I am simply calling attention to a historical fact. The language of the Constitution is rather general. It says:

"All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills."

I know very well a question has been raised as to the interpretation of the words, "all bills for raising revenue," and it has been argued that those terms are exclusively applicable to what we sometimes call tariff bills; and we are reminded that appropriation bills are originated in the Senate. To a certain extent that is true; but none of the great standing appropriation bills are originated in the Senate. When this subject was examined in the Senate some eight or nine years ago, after a two days' debate the Senators who were then here will remember very well the conclusion was that the Senate never had undertaken to originate one of the great appropriation bills; the traditions of the Government were all against it. Mr. Seward, who was at that time in this body, made a very elaborate speech in reply to Mr. Hunter, who brought forward a resolution affirming that the Senate might originate appropriation bills. I remember at the time I took some part in the discussion.

Mr. FOSTER. If the Senator will allow me, it was not a resolution; it was a bill.

Mr. SUMNER. I beg the Senator's pardon; it was a resolution.

Mr. FOSTER. I beg the Senator's pardon; it was a bill.

Mr. SUMNER. I have looked at the debate within a few days.

Mr. FOSTER. I have not, but my recollection is very distinct about it.

Mr. SUMNER. If the Senator has looked at the debate within a few days, I will defer to him.

Mr. FOSTER. I have not looked at it for

years; but I know we passed an appropriation bill and sent it to the House. The Senator is right in regard to the speeches about it, but I think there was no division taken when the bill was passed.

Mr. SUMNER. What I refer to is a resolution. I had it on my desk until two days ago, when I sent it away.

Mr. SHERMAN. What was it about?

Mr. SUMNER. It was a resolution, reported by Mr. Hunter from the Finance Committee, that the Senate would undertake to originate appropriation bills.

Mr. FOSTER. And we passed the bill.

Mr. SUMNER. Passed the resolution, I say.

Mr. FOSTER. We passed the appropriation bill reported by Mr. Hunter, the chairman of the Committee on Finance. We passed, I think, more than one of the regular appropriation bills, and sent them to the House.

Mr. SUMNER. What did the House do?

Mr. FOSTER. The House kept it, passed a similar bill, and then we re-passed it.

Mr. SUMNER. Then what became of the Senate bill?

Mr. FOSTER. The House laid it on the table.

Mr. SUMNER. They treated your act as null and void.

Mr. FOSTER. They laid it on the table, took it up again in another form, passed it, sent it to us, and we passed it.

Mr. SUMNER. We come, then, practically to the point: the House treated the act of the Senate as null and void, and it undertook to originate these measures itself. But I was alluding, when I was interrupted by the Senator from Connecticut—

Mr. FOSTER. I beg the Senator's pardon.

Mr. SUMNER. It is all right. I am obliged to him for the interruption.

I was alluding to the proposition of Mr. Hunter, on which the debate took place. That was a resolution. Afterward, the resolution, I am aware, was followed by the introduction of certain bills. That was the other stage. To the best of my recollection, those bills were sent to the House, and were at once tabled. The House, then, when it was fully organized, proceeded to originate bills itself, which were sent to the Senate, and they were finally passed upon in due course of legislative proceedings.

I merely call attention to this incident. It is a matter in which I take comparatively little interest; but I am desirous that the Senate should see the character of the step which it is about to take, and that it should not embark unnecessarily in a controversy with the other House.

Mr. SHERMAN. The Senator warns us against embarking in a controversy with the other House; but let me ask him this question: what shall we do with the deficiency bill? Shall we allow it to fail, and thus refuse to pay for the support of the sick and wounded soldiers now in the hospitals? The deficiency bill contains appropriations for the transportation of the Army and Army supplies, and money is now needed from that fund to pay the expense of transporting the corps lying within reach of this city to its proper military destination. Several of the funds in the War Department are exhausted. The Senator tells us we must not have a controversy with the House. The House will not allow us to provide the ordinary appropriations for the Army, unless the Senate will agree to pay what is prohibited by law. The occupant of the chair [Mr. CLARK] has already dwelt enough on that subject. Shall we let the deficiency bill fail, or shall we be compelled to vote that which our consciences disapprove? There is but one of two ways. We must pass this deficiency bill in some form, if possible. That is a public duty. We cannot separate in Congress until we do it, or if we do, we shall be called back again to complete our duties.

Now the question occurs, shall we yield to the House this point in controversy, or shall we take some other mode of passing the deficiency bill? If we yield to the House, we agree that the House may, against our will, take money from the public Treasury, in violation of a plain law, without our consent. It seems to me the Senate ought not to be placed in that position. The rule is clear that every appropriation in an appropriation bill must be assented to by both Houses, and the Senate and the House have always acted upon the idea that where either House objects consci-

entiously, or for any reason, to any item of an appropriation bill, to abandon that item. That has been the custom and the practice. The House now insists upon passing a provision for their clerks and employes that they admit to be in violation of law, simply because they say their honor is pledged to pay this sum of money. We can only say, in reply to that, that the law forbids them paying it; that we cannot enter upon that subject without setting a dangerous example—we must make the same provision for our own employes; we must make the same provision for the employes of the Departments and of the Army; we cannot enter upon this matter; it is unwise to do so. That is the deliberate judgment of the Senate, and upon that judgment we stand. Now, shall we be forced to agree to that which our judgments condemn merely to provide for a public exigency? I do not say that I would not in the end yield this point, although I do not think I shall.

There was no other resort, then, but to move this as an amendment to an appropriation bill. The Senator is mistaken in supposing this is without precedent. There are many laws and many appropriation bills which in the second section contain deficiencies. The general appropriation bill of 1862 contained a section which provided for deficiencies, and there was no deficiency bill passed that year. Formerly, I will say to the Senator from Massachusetts, it was the practice of the Government always to add the deficiency for the current year as a second section to the general appropriation bill; that has been a common practice, and by referring to the statutes the Senator will find many examples.

But the Senator says the Senate cannot originate an appropriation bill. We do not propose to do so in this case. The House sends us a bill making appropriations for the civil fund. We add to that various amendments; we strike out various clauses, and add to it others. We have the right to do it under the Constitution. Even if it was a revenue bill, we could amend it in any particular. We could add five thousand, five million, or one hundred million dollars. The Constitution plainly gives us the right to make amendments. It does not stipulate what amendments we shall make—that is, conceding that it is a revenue bill. But I think it was never even claimed in the House of Representatives that an appropriation bill was a revenue bill.

The Senator has confounded this subject with a controversy that is familiar to me, because I was then a member of the House and took part in it. The Senate undertook to pass a loan bill. That was in 1857 or 1858, shortly after our financial difficulties. It was claimed in the House of Representatives that that was a revenue bill. The Senate, however, insisted that a loan bill was not a revenue bill; and they produced several historical examples. It appeared that in the war of 1812, the Senate had originated a loan bill. It appeared that in the Mexican war the Senate had originated a loan bill. The House, however, insisted upon it that a loan bill was a bill to raise money from the people by loan, and therefore a revenue bill. The controversy grew up on the loan bill, and not on an appropriation bill.

I do not remember in my legislative experience that the House ever contested the right of the Senate to originate an appropriation bill. An appropriation bill is not a revenue bill in any sense. It is for carrying into execution existing laws, and to set aside and appropriate money for that purpose. It is not included in any definition that has ever been given to the term "revenue bill," because it has been exercised very many times. Almost every bill introduced into the Senate appropriating money for a private claim is an appropriation bill. The Senate every day introduces bills to pay five, ten, or twenty thousand dollars to this man or that man, and no one ever objects. I do not think there is the slightest doubt upon the point made by the Senator from Massachusetts. Probably one half the bills introduced into the Senate of the United States contain appropriations of money. If we have a right to appropriate \$5,000 for the payment of a private claim, we have a right to pay \$10,000,000 to pay the legislative expenses of the Government. There can be no distinction drawn between appropriation bills. An appropriation bill is not a revenue bill in the sense used in the Constitution.

The mode now adopted by the Committee on Finance was the only expedient left. We must provide for this deficiency, and we must do it soon. The public exigencies demand it. We must either, therefore, make up our mind to defeat the deficiency bill entirely, to yield the point that is controverted by the House, or else to make another attempt to provide for this deficiency by an amendment to the legislative bill. It is the only course left us; and it seemed to us so plain that we did not expect there would be any controversy or dispute about it.

Mr. WILSON. I think, Mr. President, that Congress presents to the country to-day a strange spectacle. We owe our armies millions of dollars. Many of our soldiers have not been paid for months. Many of our officers are unpaid, and have been unpaid for months. Many of them have put in the hands of their commanding officers their resignations and are imploring the Government to accept their resignations, for the reason that their families are suffering at home while they are not paid even what the Government owes them, and that is not enough to support them and their families. This is the condition of our soldiers; this is the condition of our officers. Millions are wanted to pay them, and we have not the means to do it as rapidly, at any rate, as we ought to do it.

Mr. SHERMAN. The Senator from Massachusetts, from the high position occupied by him, might convey to the country a very erroneous idea by his remarks.

Mr. WILSON. I do not intend to convey to the country a false impression. I can go a great deal further than I have yet gone.

Mr. SHERMAN. There is no deficiency in the appropriation for the pay department. There is ample for the current fiscal year.

Mr. WILSON. There is no deficiency in appropriations, but there is a deficiency in the money. That deficiency is what I am talking about. I was speaking of the want of means to carry out the laws, to pay our soldiers what we have agreed to pay them; and I say we want at once tens of millions of dollars for that purpose.

And now, sir, when the nation is struggling for the means to carry itself through this rebellion, we have an issue made here in Congress to increase the compensation twenty per cent. of a class of men who deserve it less than any other men in the employment of the Government. Here are women in this city working for six or seven hundred dollars a year who ask you to increase their small compensation; here are clerks working from morning till night all the year round, who ask you to increase their compensation, and you refuse to do it; and why? Because you have not the means to do it. You need more money than you can obtain to pay your just debts and to pay what we have already agreed to pay. In the face of all this—and I hope the country will note it—in the face of the fact that we owe tens of millions to our brave soldiers, many of whom have not been paid for many months; in the face of the fact that the officers of our armies are sending in their resignations, and some of our generals hold them by the handful, asking to be allowed to resign that they may go home and take care of their suffering families; in the face of these facts, that we cannot help, or do but little to relieve by reason of the financial condition of the country, we have a contest and an issue raised here in Congress by one branch of this Government, in violation of the laws of the country, to increase the compensation of their employees twenty per cent. It is utterly and wholly indefensible. I do not shrink from a contest on that issue. I welcome the contest here and before the country, if they choose to make it.

I say, sir, the fact as it stands before us and before the country to-day is not creditable to the Congress of the United States, and I hope the Senate will stand firm, put this amendment upon the bill, and stand by it. If gentlemen anywhere choose to make an issue before the country about increasing the compensation of well-paid officers employed here about ten months in two years when we have not the means to increase the compensation of men who do not receive enough now to support their wives and children at home while they are suffering, fighting, bleeding, and dying for the country, let them make that issue before the country. I welcome the contest.

Mr. JOHNSON. Upon the question of power,

about which the honorable member from Massachusetts—

Mr. SUMNER. The question of usage, not of power.

Mr. JOHNSON. The usage as evidence of the want of power. I was about to say I did not understand the Senator to say that in his own opinion there did not exist a power in the Senate to pursue the course which it is now proposed to pursue. The origin of this clause of the Constitution was evidently taken from a clause of the same description existing in the English Government with reference to the respective privileges of the House of Lords and the House of Commons. The House of Commons, which has always, from the beginning of their Government up to the present time, been exceedingly jealous upon this subject, will not permit the House of Lords to amend a money bill of any description in the slightest particular; and it has operated very prejudicially in a great many instances. The suggested amendment, which is often necessary to give effect to the bill as it comes from the House of Commons, is sent down to the House of Commons to be there acted upon; and that produces great delay. The reason why the House of Commons has always claimed that particular privilege is stated by Blackstone. It is not necessary to trouble the Senate by reading what Blackstone says on the subject. Mr. Justice Story does not even approve of the extent of the doctrine as it exists in England, and he tells us in the eight hundred and eightieth section of his Commentaries—I cite the section because the editions are not uniform:

"§ 880. What bills are properly 'bills for raising revenue,' in the sense of the Constitution, has been a matter of some discussion. A learned commentator supposes that every bill which indirectly or consequently may raise revenue is, within the sense of the Constitution, a revenue bill. He therefore thinks that the bills for establishing the post office and the Mint, and regulating the value of foreign coin, belong to this class, and ought not to have originated (as in fact they did) in the Senate. But the practical construction of the Constitution has been against his opinion. And, indeed, the history of the origin of the power already suggested abundantly proves that it has been confined to bills to levy taxes in the strict sense of the words, and has not been understood to extend to bills for other purposes, which may incidentally create revenue. No one supposes that a bill to sell any of the public lands or to sell public stock is a bill to raise revenue in the sense of the Constitution. Much less would a bill be so deemed which merely regulated the value of foreign and domestic coins or authorized a discharge of insolvent debtors upon assignments of their estates to the United States, giving a priority of payment to the United States in cases of insolvency, although all of them might incidentally bring revenue into the Treasury."

So that a bill of this description might, upon the authority of Mr. Justice Story (and I speak knowingly when I say he is borne out by the usage) have been originated in the Senate; and if it could have originated in the Senate of course it would have been in the power of the Senate to make the appropriation suggested by the honorable member from Ohio, the chairman of the Committee on Finance. One thing is very certain: whether it is a bill to levy taxes or not, we can amend it. If it be a tariff bill for the purpose of raising revenue, we can lower the amount proposed to be levied upon any particular article, or upon all the articles included in the bill, or we may raise the amount proposed to be levied, the power given to the Senate even in the case of bills to raise revenue being a power to amend as contradistinguished from a power to originate; but I have no doubt the Senate, with reference to the power of amendment, is wholly unrestrained even in relation to bills to raise revenue.

Now, in relation to the conduct of the House, I can hardly believe that, when they come to reflect upon the subject, they will, as matters now stand, continue their difference with the Senate. It is impossible, it seems to me, even if the nature of this amendment was not such as to address itself not only to the good sense, but to the patriotism and good feeling of the House, that they would continue a difference with the Senate in which they are so clearly wrong. If they have by what they did at the last session involved themselves in a matter of honor, it is not a matter of honor belonging to the House in its corporate capacity. The question is, whether they had the authority to do what they did. If in exercising an authority which they had not, they have involved themselves in any point of honor, it is an involvement which affects them individually, and it they wish to pay the money, they can pay it out of their own pockets.

But in this particular amendment, as the Senate is aware, there is nothing at all about which there exists any difference of opinion; and the only question then is, whether, as this amendment makes a provision which the honor of the country and the safety of the country, what is due to those in the field as well as what is due to those in the councils of the country in every Department of the Government is involved, the House will hesitate a moment in accepting the amendment? I have no doubt—indeed it would be discourteous and wrong to reflect upon the conduct of the House—they are just as patriotic as we are; they are just as anxious to preserve the true honor of the country as we can be; and they are just as unwilling to trespass upon the constitutional rights of the Senate or to enlarge their own, as we are to trespass upon their rights or to enlarge our own. But in relation to this particular amendment there can be no difference as concerns either subject, because both branches admit that the amendment as it stands is all right.

Mr. HENDRICKS. Mr. President, I am not satisfied of the propriety of the amendment proposed by the Senator from Ohio. I believe he presents it from the Committee on Finance. I understand him to say that there are many instances in which the deficiencies of the Government have been provided for in general appropriation bills.

Mr. SHERMAN. I have one before me, passed in 1862.

Mr. HENDRICKS. A number of years ago, most of the objects of appropriation were provided for in a general appropriation bill called the civil and diplomatic bill. Subsequently a rule was adopted, or it became a usage, to divide up these objects of appropriation into several bills; and I will ask the Senator from Ohio whether, since that usage obtained in Congress, there is an instance in which the deficiencies of the Government have been provided for in any of the general appropriation bills.

Mr. SHERMAN. It has been done for the last three years consecutively. I have now a law before me, approved March 3, 1862. It is entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862." The first section goes on and makes the ordinary appropriations, and the second section provides for deficiencies. That year we passed no separate deficiency bill. Both bills were put in one. There is one other case of that kind, I think.

Mr. HENDRICKS. I did not suppose there had been a recent instance of that sort in which such a usage had obtained; but certainly the usage is a proper one, to make the deficiencies the subject of a separate bill. Deficiencies are not generally received with favor in Congress. They ought to be considered upon their separate merits. The theory of the Government is that there should be no deficiencies; that the executive departments ought not to go beyond the appropriations, and therefore there should be no deficiencies. But, sir, since the war, the deficiency bills have been large; sometimes, I believe, between two and three hundred million dollars. I do not think they should ever have been so large. I concede that there will necessarily be some deficiencies, but I think the deficiencies ought to be provided for in a separate bill. We ought to stand by the usage in that respect.

But I wish to submit to the Senator having this particular bill in charge now, where there is a dispute between the two Houses, whether we ought to increase the differences between the two Houses. Does the Senator from Ohio suppose that the House will yield its point merely because this deficiency is tacked to a general appropriation bill? If the House is unwilling to yield the point upon the deficiency bill, have we a right to presume that it will yield it upon this bill? We not only endanger the deficiency bill, which ought, I suppose, to be provided for, but we endanger this entire bill. I am not willing, when there is a difference between the two Houses, to increase the embarrassment of the Government by adding this deficiency bill to a general appropriation bill.

I will say to the Senator from Massachusetts [Mr. Wilson] I do not go so far as he does. I

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am willing to yield very much to the House of Representatives; and if they stand upon this point of honor, and the public service requires these appropriations, I am not going to see inconvenience and suffering to the soldiers and those requiring the deficiency bill merely upon a question of \$38,000. I have thought the Senate was right; I have voted with the majority of the Senate upon that question; but if the House understands that there is a point of honor between it and its employes, and will not yield it, I do not expect to stand up stubbornly, and say we will not respect what the House deems to be a point of honor. I have thought the Senate right; but certainly I am not going, as a Senator here, to vote persistently that the House shall not be gratified upon a question of that sort. To a reasonable extent, I expect to stand upon the position assumed by the Senate; but when we have gone as far as duty seems to require, then I am going to let the House take the responsibility, so far as my vote is concerned; and I will say to the Senator from Ohio, if his proposition carries, and we tack the deficiency bill to this general appropriation bill, and it goes to the House, and the House amends it, I expect to concur in the proposition of the House, and I think it is likely the Senator will find a good many Senators taking the same view of it.

Is it possible these two bills are to be lost upon a question of that sort? The House says it made this promise to its employes; it is a question of honor. They construe the law one way and we another; and are Senators prepared to say we will lose a very important bill, that we will allow embarrassment in the public service upon a question of that sort? I am not prepared to say that. I do not go as far as the Senator from Massachusetts [Mr. Wilson] went in his very earnest remarks a few minutes ago; and I do not see that the passage or defeat of the appropriation bill has anything to do with the question that he discussed. He says it is a question of means; it is not a question of appropriation—the payment of the Army. Why have we not the money? The internal revenue measure is bringing as much revenue in the Treasury as was expected. I think the mistake is just here: the present Secretary of the Treasury (for whom I have the very highest regard) esteems it to be his duty to issue no more Treasury notes. I apprehend he will have to come to that. I suppose, while the war continues, especially during a period when we are largely increasing the Army, we will have to look to other means than the internal revenue and loans. I do not concur exactly in this notion that it is the highest political wisdom now to reduce the circulation in the country to any very great extent. That must be done very gradually. I think the interests of commerce require that the currency shall be kept reasonably within the present amount, and that the reduction shall be very gradual. But I do not intend now to discuss that, but to say that I think the proposition of the Senator from Ohio is not a pertinent one.

Mr. SUMNER. Surely, sir, I do not yield to any Senator on this floor, not even to my colleague, in an ardent desire to have all those appropriations in the deficiency bill carried out. I join with him in every one of his ardent words for the payment of the soldiers in the field, and all other debtors of our Republic; but I feel that I do not render a service unworthy of the place when I undertake to call the attention of the Senate to the traditions of the Government, to its usage during its best days, to the end that, so far as I may, I may contribute something to establish harmony between the two legislative bodies. Sir, you cannot conduct the legislation of the country if you perpetually start points and questions of difference and discord between the two legislative branches.

I am not going into the question which is right or wrong on the main occasion of difference between the two Houses. I have voted with the Senate constantly. I have regretted the course of the House; but I am not disposed to add to ex-

isting embarrassments. It was on that account that I undertook a few moments ago simply to remind the Senate of the controversy that they were about to open. Senators about me shook their heads, and Senators reminded me that I was mistaken. I undertook to refer to a debate of some importance in which I took part myself, now some eight or nine years ago, and so far as I could, according to my memory, I undertook to state the occasion of that debate. The Senator from Connecticut [Mr. Foster] again and again said that I was mistaken. I have since then sent to the library for the volume of the Globe. I have it before me. I was not mistaken. The debate occurred on a resolution brought forward by Mr. Hunter, the chairman of the Committee on Finance, on the 4th of February, 1856. Its consideration was postponed to a later day, and made, I think, a special order. It came up finally for consideration on February 7, 1856, and was in the following terms:

*Resolved*, That the Committee on Finance be instructed to prepare and report such of the general appropriation bills as they may deem expedient.

I think it must have been during the winter of this resolution that the organization of the House was for a long time in suspense. My friend from Ohio [Mr. Sherman] can correct me on that point. I think it was.

Mr. SHERMAN. It was during what was called the Banks contest.

Mr. SUMNER. During what is called the Banks contest; and I presume, (though that has escaped my memory,) the occasion for the introduction of this resolution was that it was supposed that unless the Senate undertook to originate these bills there would not be time to act upon them. It was introduced. The first person who expressed himself with regard to the proposition was Mr. Seward, who made an elaborate speech, and one that I think will compare in its argument and statement with any that he ever made on this floor. It is within my recollection that it was a speech carefully considered in advance, as most of his speeches were, and that it was the result of mature study. In the course of that speech he makes the following statement; I read from the Globe for February, 1856, page 375:

"The practice of this Government from its foundation has been that general appropriation bills for the support of the Government have originated in the House of Representatives, and not in the Senate of the United States. The Government has been in operation since the year 1789, a period of more than half a century, and never yet has a general appropriation bill been prepared or reported or submitted to the Senate or sent to the House of Representatives from this body. On the other hand, the practice for this period of seventy years has been that all appropriation bills of that character have originated in the House of Representatives, and have been sent to this House for its concurrence and amendment.

"As this, then, is a proposition made, not only for the first time within our own experience, but for the first time since the foundation of the Government, we are to presume that it will be admitted that what is proposed is an innovation—a direct, specific, and effective innovation. Since it is an innovation, let us for a moment see what is the nature of it."

He then proceeds to consider the question historically and on principle, and toward the close of his speech proceeds as follows:

"I confess, therefore, sir, to an earnest desire, a strong desire, to retain for the House of Representatives the privileges and rights which it has exercised from the foundation of the Government until this day."

And finally, in another place, he says:

"I think then, sir, that I stand upon the principles and the spirit of the Constitution of the United States in advising against the instruction which is asked for by the Committee on Finance."

In the face of this speech, the resolution of the Committee on Finance reported by Mr. Hunter was adopted by this body; and then, I believe, ensued what was mentioned by the Senator from Connecticut, that appropriation bills were introduced and passed through the Senate and sent to the House; but, sir, nothing came of them. They were simply a vain effort on the part of the Senate; *vox et praterca nihil*. In the face of that precedent, I submit to the Senate whether upon the whole it is expedient for us to add to the embar-

rassments between the two bodies by introducing an additional occasion of difference.

Mr. SHERMAN. If the honorable Senator from Massachusetts had made the speech he has now made upon the motion of the honorable Senator occupying the chair, [Mr. Clark,] it would have been pertinent to the case.

Mr. SUMNER. The Senator will remember that when he introduced it I objected to it.

Mr. SHERMAN. Before any action was had upon my amendment, and, purposely, because I did not wish to offer this amendment to this bill until there was no hope of an agreement between the two Houses on the deficiency bill, the honorable Senator from New Hampshire moved that the Senate insist on its amendment to the deficiency bill. It was not until the vote was taken upon that motion, and it was decided, so far as there was any appearance in the Senate, by a unanimous vote, that I offered, or asked, a vote on this amendment. There was no other course left. The Senate insisting on its amendment sent the deficiency bill back to the House with the disagreement continuing, and there was no other choice except between a defeat of the deficiency bill and putting it on as an amendment to this appropriation bill.

Now, I do not wish to get up any feeling between the two Houses; I do not wish to get up any controversy between the two Houses. I think the position of the House of Representatives is totally untenable, and I am satisfied that if they could understand it and discuss it and consider it they would yield at once. Their position is simply that they will not appropriate for the Army and the Navy unless we agree to appropriate money from the national Treasury in violation of law. I have no reflection to cast upon them. It is a point of honor with them. They think that as they have by resolution voted this money to their employes, the Senate, as a matter of courtesy to the House, ought to allow the money to be taken and paid to the employes. That is their claim. But, sir, the House of Representatives are yet as much bound by the law as we are or any other branch of the Government. The law expressly forbids the House from doing what they attempted to do in this instance. If we must yield in courtesy to the House when they undertake to violate the law, we must also yield in courtesy to the President when he undertakes to violate the law; and if our national judiciary or any other department of this Government undertakes to violate the law, we must yield rather than make any controversy on the subject.

Here let me say to the honorable Senator from Massachusetts that in this whole controversy I have done no more than he. I have voted according to my conscientious convictions of duty on this question of extra pay; so did he; and we have voted together.

Mr. SUMNER. Certainly.

Mr. SHERMAN. But now, when it is manifest that this disagreement between the two Houses is likely to defeat the deficiency bill, the question comes up, is there any other way in which we can save that bill? I say there is. I say that in the form of an amendment to the legislative appropriation bill, we may again submit the deficiency bill to the House of Representatives. I cannot for a moment suppose that the House will renew the controversy by inserting in this bill the same old controverted matter. I do not believe they will do so. I shall be disappointed and chagrined if they renew the controversy in that way. We propose to them now an amendment upon which there is a concurrence of views, a bill that they have originated and passed, but a bill which, on account of the difference of opinion upon an independent matter, cannot be carried into execution as a law. We propose this bill as an amendment to a bill which has already been originated in the other House, and is now here for amendment.

The point made by the honorable Senator does not arise here. This pending bill originated in the House of Representatives. The Senate might



originate it. In the case referred to by him the House did not deny the power of the Senate to originate an appropriation bill. The Globe is before me. The Senate passed the appropriation bill in that case while the House of Representatives was in a state of disorganization and confusion. To avoid delay the Senate originated the bill; but just about the time when the Senate did so—I think within a day or two of the passage of the bill by the Senate—the House became organized by the election of Mr. Banks as Speaker, and the Committee of Ways and Means, of which Mr. Campbell, of Ohio, was made chairman, was appointed, and then, within a very short time, the House in the usual manner originated its own appropriation bill; and that one which went from the Senate was simply laid upon the table, and nothing further was done with it. There is nothing in the debates on that occasion to show that any member of the House of Representatives denied to the Senate the power of originating appropriation bills. The reason for originating them in the Senate on that occasion ceased within a week of the time they were originated here, and they fell, and the bills were originated in the usual way in the House of Representatives, and assumed the ordinary form and came back to the Senate, and no objection, no controversy, was made between the two Houses.

In this case the bill now before the Senate has come to us from the House of Representatives in the usual form. We have made but very few amendments to it. We simply now propose to amend the bill by adding what the House have already agreed to. We do not make the proposition until there is no way that I am aware of to save this controverted matter, and to save the necessary appropriations for deficiencies. It is true the House may recede from its position on the deficiency bill, which has been acted on by the Senate, or may ask for another committee of conference. If it shall agree to the Senate amendment, the deficiency bill will be passed, and then this amendment to this bill will fall as a matter of course. I do not think this proposition now will complicate the matter. On the contrary, I believe it will enable the House of Representatives, without abandoning their position on the original deficiency bill, to assent to this amendment, and thus end the controversy. In that hope I offer it.

Mr. FOSTER. I interrupted the honorable Senator from Massachusetts rather hastily. I did not mean to do it discourteously.

Mr. SUMNER. Not at all.

Mr. FOSTER. I wish to explain the reason. I understood that the honorable Senator from Massachusetts was making this point against the amendment proposed by the honorable Senator from Ohio, that it was in effect originating an appropriation bill in the Senate—the prerogative to do that belonging to the House of Representatives—and therefore it was contrary to the Constitution, and that it was without precedent in the previous legislation of Congress. The Senator alluded to an occurrence in this body some years ago, by way, as I supposed, of vindicating that position, the position being in effect that there was no precedent for such an amendment as that offered by the Senator from Ohio, either upon the House bill or as an original bill in this body. When, therefore, the Senator from Massachusetts went on to speak of that occurrence, and said that a debate arose upon a resolution regarding the power of the Senate to originate such a bill, and that the result was that the project was abandoned, given up, because—

Mr. SUMNER. I had not got to the statement of what the result was.

Mr. FOSTER. The Senator says he had not got to the statement of what the result was, and therefore I was too hasty, because I supposed that when he said there was no precedent, he was not going to quote a case which showed there was a precedent.

Mr. SUMNER. I rather think I must have said that in the early and best history of the country there was no precedent. I think I said something like that.

Mr. FOSTER. My impression is that the Senator said broadly that there was no precedent for such an amendment as that offered by the Senator from Ohio.

Mr. SUMNER. Allow me to interrupt the Senator just there, for I surely intended to limit my

testimony in regard to the precedent to the date of that resolution, because I knew that at that date the subject had been carefully discussed, and it had been ascertained that before that there was no precedent.

Mr. FOSTER. I was, as I say, too hasty, because I supposed the Senator, after having laid down his proposition, was quoting a case to support it; and when he spoke of the resolution, I had in my mind the result at which the Senate arrived, and that was the passage of the bill. I was not, therefore, making the point that the Senator had asserted that the debate was on the resolution, instead of on the bill; the point I had in my mind was the point which the Senator had made, that the case here was without precedent. The Senator asserted that it was in regard to a resolution that the question arose. I said no, not in regard to a resolution, but in regard to a bill, my mind being on the important fact of the bill, not upon the unimportant fact of the resolution.

The Senator, however, quotes the Globe, and thinks that he has shown that he was quite right in regard to the fact that the debate was on the resolution. Well, Mr. President, as I said then, I spoke entirely from memory; but I have since furnished myself with the Journal, and I can complete now from the Journal the exact statement of the case as it occurred. I read from the Senate Journal for the first session of the Thirty-fourth Congress. The resolution was originally introduced by Mr. Brodhead, December 11, 1855. In that day's proceedings, I find:

"Mr. Brodhead submitted the following resolution for consideration:

"Resolved, That the Committee on Finance be directed to inquire into the expediency of reporting the appropriation bills for the support of the Government, or adopting other measures with a view of obtaining more speedy action on said bills."

Subsequently, on the 7th of January, 1856:

"The Senate proceeded to consider the resolution, submitted by Mr. Brodhead the 11th December, in relation to the adoption of measures for more speedy action on the appropriation bills; and

"The resolution was agreed to."

On the 4th of February, 1856:

"Mr. Hunter, from the Committee on Finance, reported the following resolution:

"Resolved, That the Committee on Finance be instructed to prepare and report such of the general appropriation bills as they may deem expedient."

On the 6th of February:

"The Senate proceeded to consider the resolution submitted by Mr. Hunter, the 4th instant, to instruct the Committee on Finance to prepare and report such of the general appropriation bills as they may deem expedient; and

"On motion by Mr. Hunter,

"Ordered, That the further consideration thereof be postponed until to-morrow at half past twelve o'clock; and be the special order of the day."

On the 7th of February:

"The Senate resumed the consideration of the resolution, reported from the Committee on Finance, to instruct the committee to prepare and report such of the general appropriation bills as they may deem expedient; and

"After debate,

"The resolution was agreed to."

On the 5th of March, 1856:

"Mr. Hunter, from the Committee on Finance, reported a bill (S. 141) making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters, for the year ending the 30th of June, 1857; which was read and passed to the second reading."

On the 9th of March:

"The bill (S. 141) making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters, for the year ending the 30th of June, 1857, was read the second time, and considered as in Committee of the Whole; and, no amendment being made, it was reported to the Senate.

"Ordered, That it be engrossed and read a third time.

"The said bill was read the third time, by unanimous consent.

"Resolved, That it pass, and that the title thereof be as aforesaid.

"Ordered, That the Secretary request the concurrence of the House of Representatives therein."

There was an end of legislation on that one bill originating in the Senate, making appropriations for certain purposes, originating here after resolutions instructing the Committee on Finance to report such a bill; and the bill was passed unanimously, and sent to the House of Representatives. I had supposed that the Senator from Massachusetts was referring to the subject-matter of that debate, not to any particular portion of it. Whether the debate was on the resolution or on the bill, was not the point which I was making or supposed that the Senator was making. I sup-

posed that he was making a point to show a precedent here in the Senate adversely to the action now asked by the Senator from Ohio, and therefore I said that the debate was upon the bill, and that the bill was passed and sent to the House of Representatives. It seemed to strike the Senator's mind as a novelty, and he asked what became of the bill. I said that I believed it was laid upon the table in the House; but that has nothing to do with the question whether the Senate, among its legislative privileges and prerogatives, has the power to originate an appropriation bill. What the House of Representatives may do with it has nothing to do with our power. We are to judge of that question. They, of course, are to judge of their constitutional rights and prerogatives. Each must judge for itself; neither for the other.

It is seldom that I am disposed to interrupt a Senator; and if I had but waited and heard the Senator from Massachusetts quote a precedent, not to establish his proposition but to contradict it, I should, of course, have been saved the trouble; but inasmuch as I supposed he was quoting a precedent to prove that the Senate had never exercised this prerogative and that it did not belong to us, I was disposed, not (as he understands, and as every one I hope would understand) offensively, to contradict his claim that there was a precedent to support his proposition. I repeat again that it was not on the point whether the debate was on the resolution or on the bill, but on the point that, so far from there being a precedent to sustain the proposition which he was supporting, the precedent was exactly the other way; and in this I think the Journal vindicates my own recollection, and proves it most distinctly.

Mr. SUMNER. I am very much obliged to the Senator for his explanation. His interruption at the time was entirely legitimate and most agreeable to myself. If the Senator, however, had listened perhaps more carefully to what I said, he would have seen there was no occasion for it. I was trying to develop the idea that in the best periods of our history and down to a very recent period there was no precedent for such an assumption of power on the part of the Senate, and I was proceeding to say that this subject was much discussed since I have been a member of the body on a resolution introduced by Mr. Hunter, of Virginia. It was then that I was interrupted by the Senator, who reminded me that the debate was not on the resolution but on the bill, and I understand the Senator now to assume that I was arguing that there never had been such a precedent in this body. By no means, sir. The Senator entirely misunderstood me. I was perfectly familiar with the precedent to which the Senator has referred, but then I beg to remind the Senator of the time when this precedent was set.

It was in the winter of 1856, when this very rebellion was beginning to brood, and when this Senate was under the reign of those very rebel chiefs who are now filling this land with blood. Sir, I do not consider a precedent under their auspices a proper precedent for us now; and, therefore, in the few remarks which I presumed to address to the Senate I began by confining myself to what I called the best periods of our history, meaning those anterior to the precedent on which the Senator from Connecticut now so confidently leans. Sir, I reject the precedent. A precedent which has for its author and originator Richard Brodhead, of Pennsylvania, and R. M. T. Hunter, of Virginia, is not a precedent for the Senate of the United States at this time, unless it can be sustained by principle and by the better history of our Government. Sir, I put it all aside; all that the Senator has read from the record goes for nothing, worse than nothing; for that very precedent only goes to illustrate those very usurpations on the part of the Senate under the lead of the slave power, of which we so justly complained in those dark days. Sir, I wish none of that darkness brought into the Chamber now. I prefer the long period of light beginning with the Republic and coming down to that very day when this rebellion began to brood in this Chamber.

Mr. FOSTER. I am certainly unwilling to add anything by way of prolonging this discussion. I may agree entirely in the Senator's opinion, that when we are pointed to any action as creating a precedent for this body, we should look to the times, and to the men acting in those times, and that there are some precedents to which

we should yield greater respect than to others. But, sir, when we come to the principle whether or not this body, the Senate of the United States, may or may not originate an appropriation bill, I must say that I conceive it to be a point on which men can scarcely differ.

Mr. JOHNSON. This is only amending it.

Mr. FOSTER. To amend one is of course a more clear proposition, if there be any doubt about the first. That reasonable, sensible men should even differ on the question whether we may not originate an appropriation bill proper, I can scarcely believe. That power seems to me as clear as any one of the privileges which belong to this body. The Senator speaks of the better days of the Republic. Let me ask him to show in the better days of the Republic, nay, from the beginning down to this time, when that question was made and it was decided that the Senate had not that power.

Mr. COLLAMER. I desire to inquire whether it appears by the record that anybody presumed to ask for a division on the question in the Senate.

Mr. FOSTER. Not at all. There was no division asked on any vote taken on this question from the 11th of December, 1855, when Mr. Brodhead first introduced the resolution, down to the 9th of March following, when the bill was passed. Two resolutions were debated. I think the debate was confined to the honorable Senator from Massachusetts and an honorable Senator who was then in this body from New York, and who now holds the position of Secretary of State of the United States. I think those were the only two Senators who spoke in opposition.

Mr. GRIMES. There were a few remarks by Mr. Toucey.

Mr. FOSTER. Not by way of opposition. These two Senators, I believe, were the only ones who spoke in opposition to the power of the Senate.

Mr. SUMNER. My colleague also.

Mr. FOSTER. There may have been others, but at all events there never was a division asked on any vote taken. All was by unanimous consent, as we pass resolutions and pass bills to which nobody objects. There was no doubt evidenced by a vote as to the power of the Senate over the subject. It is true that the Constitution restricts us from originating a bill for raising revenue. Our Constitution follows the example in that respect of the British constitution, which gives to the Commons the power to originate money bills, as they are called in England, and denies that power to the Lords. That distinction, in this respect, exists in our Constitution between the Senate and the House of Representatives, not with any very good reason, as I apprehend. There is no principle in denying to the Senate the power to originate revenue bills; but our fathers judged it best that it should be so, and they put the prohibition in the Constitution, and therefore that power is denied us. But so far as the power to originate an appropriation bill is concerned, it is not taken from us, and not one sensible reason can be given why we may not exercise it as well as the House of Representatives. But if there were, as the honorable Senator from Maryland well suggests, when we come to amending even a revenue bill, the Senate has as much power, in that regard, as the House, and we can really make a new bill by what we put on to the House revenue bill; thus, in effect, therefore, can practically originate a revenue bill as well as the House.

All that it is proposed to do here by the honorable Senator from Ohio is to put on this bill the deficiency bill which has been previously passed by both Houses. It is true that it was passed by the House of Representatives with another clause to it, which other clause did not pass the Senate. Striking off the clause which did not pass the Senate, it is offered in that shape as an amendment to this appropriation bill; and the Senator from Massachusetts insists that this is a step taken which cannot be justified by the practice of the better days of the Republic; that it is an innovation dangerous to the liberties of the people, a usurpation of a prerogative not belonging to the Senate, and of dangerous example.

Mr. President, it is as dangerous to vote on a motion to adjourn as it is to vote on that proposition, and quite as much an infringement of the Constitution and of our prerogatives. Sir, it is not possible to raise a doubt on the question. About its policy, its expediency, men may differ; but as to

the right of the Senate, I repeat, it is not possible to raise a doubt.

As it regards any difference between the two Houses, and any danger that we may get into a serious collision with the other branch, it seems to me that adding the deficiency bill to this bill, under the circumstances, is a way out of controversy rather than a way into a new one. I agree with the honorable Senator from Ohio, that if the House of Representatives are disposed to get out of a troublesome controversy, here is a door opened, here is a way by which each House may retain its honor, if it has any feeling of wounded honor. There is certainly nothing offensive to the House of Representatives in putting the deficiency bill as an amendment on this appropriation bill; there can be nothing offensive in it. It is not legislative matter which is obnoxious to objection on an appropriation bill. The practice of both Houses is, when a legislative matter is put on by one House to which the other objects, for the House putting it on to withdraw it; but this is matter pertinent to the bill, it is matter about which the two Houses do not differ, and under these circumstances it seems to me just, right, and expedient that we adopt it.

Mr. JOHNSON. Mr. President, I did not understand the honorable member from Massachusetts when he was up before as denying the right of the Senate to originate precisely such a bill as this amendment would be if it was before us as a bill originated here in the Senate exclusively. I speak it with due respect and the better reading of the honorable member from Massachusetts; but I never have heard the authority of the Senate to institute a bill of this description doubted by anybody. Whether it was advisable, looking to the character of the two Houses, that the Senate should exert that power was another question. By many it was supposed that it would be better that these bills should come in the first instance from the House of Representatives. There were many reasons why perhaps that usage should be pursued; but that the Senate had the power to do it if they thought proper to do it, and that there might be circumstances which render it proper that it should be done, has always seemed to me to be perfectly clear.

In the case to which the honorable member from Connecticut has referred, in which the proposition was introduced into the Senate by the late Mr. Brodhead, and was supported by the Committee on Finance and was supported by almost every member of the Senate, it is very clear that as the Senate was situated at that time and as Congress were at that time situated, it was very advisable that the power which the Senate was admitted to have should be exerted. From the peculiar condition of Congress, it was exceedingly doubtful whether the appropriation bills would be passed at all if the Senate waited until they were originated first and passed by the House of Representatives; and in order to serve the country, in order to preserve for the time our institutions, and to do justice to the many persons who were depending upon the appropriation bills, the honorable member then from Pennsylvania, (Mr. Brodhead,) with the assent of his colleagues on the Finance Committee, thought proper to introduce that resolution, and the Senate acted upon it.

Now let me say a word before I sit down in answer to the suggestion of the honorable member from Massachusetts, that the precedent established by those men who then controlled the Senate upon this subject is not one to be pursued. Why not? They are in arms, he says. Suppose they are; were they not educated men, experienced men, men who had been in the councils of the country for ages, and some of them very acute men, some of them very able men? And among others Mr. Hunter, with whom the President has recently been carrying on a *quasi* negotiation, was one among the ablest members that this body has ever had. He has sinned now, I admit; but, as I had occasion to say the other day, he was by those by whom he was surrounded much "more sinned against than sinning." He has been led astray, and is now, I have no doubt, if his heart could be read, in the condition in which he is most unwillingly. But my purpose is not to vindicate Mr. Hunter. My purpose is more specially to vindicate the memory of a man who is now dead, to whom I stood in the relation of

friend for years before his decease, Mr. Brodhead. Why not follow a precedent that Mr. Brodhead had anything to do with establishing? He was a lawyer of very respectable ability. He was a patriotic man, exceedingly patriotic; and I say in justice to his memory—and it may perhaps make his memory more acceptable to the honorable member from Massachusetts—that the honorable member himself was not more opposed to the course pursued by those southern gentlemen than the man whose memory he has unwittingly, as I think, aspersed. I speak knowingly when I say that Mr. Brodhead labored day and night to prevent the fatal course which those men thought proper to adopt, and from the moment that it was done, up to the last moment when he left this world, he continued not only to lament but to condemn it; and with all the respect that I may feel for the intelligence of the honorable member from Massachusetts, if Mr. Brodhead was not his equal in general literature, if because he was comparatively poor and had a family to support he was obliged to give his time almost exclusively to his profession, I say that so far as professional ability was concerned, high as I may esteem that of the honorable member from Massachusetts, Mr. Brodhead was at least his equal, and just as competent to decide upon the true interpretation to be given to this or any other clause of the Constitution as any member of this body.

I have said this, Mr. President, because, as I said just now, I stood in the relation of friend to a man who I know was patriotic; not because he agreed with me politically as to the manner in which the Government was to be administered—he was a Democrat always; I never—but as far as his patriotism is concerned, from the moment when my acquaintance with him commenced up to the last moment that I saw him, which was a month or two before he died, his was as pure and perfect as the feeling can be in the bosom of the honorable member from Massachusetts.

Mr. SUMNER. I have no desire to protract this discussion, and I am sure that it has gone much beyond anything that I could have anticipated. I shall not follow the Senator from Maryland in the topics, personal or general, which he has introduced. I have no motive to enter upon any criticism of the gentleman to whom he has referred, but I was his associate in this Chamber, and I remember well his position on all critical questions of the time. Perhaps, on that account, I was more familiar with him than the Senator from Maryland. However, let that pass. I do not wish to add to the burden which may perhaps rest upon his memory. The Senator could say less of the other authority. I do not wish even to refer to him. I merely call attention to it to put it aside. I shall not follow the Senator.

Nor, again, am I disposed to follow the Senator from Connecticut in the graver topics which he introduced. I had already said enough perhaps to elucidate the idea which I tried to present. The Senator certainly has exaggerated what I intended to say; I did not intend to present the case as strongly as he makes me present it; and yet I am obliged to meet the Senator on one question. He says that the power of the Senate to originate an appropriation bill is beyond all doubt; nobody can doubt it. Why, sir, the records of this body show that it has been doubted, and by some of the most eminent Senators who have been here. I quoted the words of one of our most eminent Senators. He more than doubted it. Let me add, I more than doubt it. I know full well that the language of the Constitution is not perfectly clear; it is perhaps ambiguous; it requires interpretation; but I do know that there is an unbroken usage of this Government from its beginning down to 1856, and that is enough for me. Even if there were a power in those ambiguous words of the Constitution, I should submit that it was perhaps lost by non-user. Senators know very well that a power that has not been used for more than half a century is a power that we might well hesitate to use. That is all that I wish to suggest.

Mr. DOOLITTLE. I think that I concur in the views of the Senator from Massachusetts, that if we move to put the deficiency bill upon which the controversy has arisen between the Senate and the House of Representatives upon this appropriation bill, we shall raise another issue, and an

issue upon which the consciences and the judgments of the House may sustain them in their action. But if we hold upon the deficiency bill to the issue made on that, and hold it by itself, we have a clear, defined issue upon which I have no doubt that the heart, and the conscience, and the judgment of the House will be with us and against themselves when it comes to be discussed. There is perhaps a little feeling of pride, because a resolution has passed and the money has been appropriated by some of the officials; but the danger is that if we put the deficiency bill on to the legislative bill, we may change the issue, which is now clear and distinct, about which there can be no question, into an issue that the House may say and some of them conscientiously believe that we are trespassing on their constitutional prerogative. Now, without going into the discussion of that point, I think by this course we shall raise a question we had better avoid. Let us stand distinctly upon our position on the deficiency bill and let us take the responsibility. Let us stand fast, and by a unanimous, united voice of the Senate show that we cannot yield on that point. It is impossible for us to yield and allow the House, contrary to law, to pay their employees twenty per cent. more than the law allows. We cannot yield that without doing the same thing by our employees, and the employees around the House and the Senate are better paid I believe than any other employees of the Government. If we yield as to them, we are compelled to yield as to the whole, and there is no end to it. I do not intend to discuss the question further than to express my hope that the Senator from Ohio will not insist on putting this deficiency bill upon the legislative appropriation bill. Let us meet the issue square on the deficiency bill by itself and pass the legislative appropriation bill.

Mr. SHERMAN. I am perfectly satisfied that the mode adopted by the Committee on Finance will bring us out of this difficulty without further serious controversy; but if it should be otherwise, if the House of Representatives should insist on amending this amendment of ours, we can at any time recede from it and leave the matter stand as it now stands on the difference between the two Houses. We can recede from this amendment at any time, at any stage of the contest. I assure the Senator from Wisconsin that if he wants to accomplish the purpose he declares, he had better vote this amendment on this appropriation bill.

The amendment was agreed to.

Mr. ANTHONY. I am directed by the Committee on Printing to offer the following amendment, to come in on page 8, after line one hundred and seventy-two:

For addition to the Public Printing, Office and the necessary presses, machinery, and fixtures, \$61,000.

The Committee on Printing have, with a good deal of reluctance, come to the conclusion to recommend this large appropriation, and the reasons for it perhaps will be as well understood from the reading of the letter of the Superintendent of Public Printing as in any other way. I send the letter to the desk to be read.

The Secretary read the following letter:

OFFICE SUPERINTENDENT PUBLIC PRINTING,  
WASHINGTON, February 2, 1865.

DEAR SIR: Your letter making inquiry as to the best means to be adopted to facilitate the public printing has been received, and I hasten to reply.

The Government is the owner of sixty-eight feet front on H street running back one hundred and seventy-five feet. An addition to the present building of fifty-eight feet front (leaving a ten-foot alley for light and passage) and running back seventy-five feet, four stories high, would not exceed \$25,000 in cash. This would give room on the ground floor for eighteen Adams book presses if found necessary. I think, however, twelve would be sufficient. These would cost, put up, about \$3,000 each. The appropriation necessary for the addition and presses would be \$61,000. With this outlay, the public work could be done promptly. After the decrease of work for the Executive Departments, which must take place at the close of the war, a daily record of the proceedings and debates in Congress (similar to the Congressional Globe) could be printed at a much less cost to the Government than the amount now paid for that publication.

I think it much better to thus increase the facilities for doing the press-work in this office than to send it out to be done by the token. The amount of money thus saved would soon refund the amount of the appropriation.

Very respectfully, yours, &c.,

JOHN D. DEFREES,  
Superintendent Public Printing.

Hon. H. B. ANTHONY,  
Chairman Committee on Printing, U. S. Senate.

P. S. I hand you an estimate of master builders as to the

cost of the building, and the cost of Adams presses as shown in the price list of R. Hoe & Co.

Mr. ANTHONY. One of two things must be done in regard to the public printing: either a larger amount than is now done outside of the office must be done—for a considerable amount is now done outside of the office—or the office must be enlarged. It is the opinion of the Superintendent, who is a very careful man, and I think one of the most economical men connected with the Government, that, at the present rates of printing, the expenditure which is called for by this amendment will be saved in about two years over the cost of doing the work out of the Government building; and if the presses shall not be wanted at the termination of the war they are always of considerable value, and probably would be worth one half or two thirds of their actual cost.

The amendment was agreed to.

Mr. ANTHONY. From the same committee I offer this amendment, to come in after line one hundred and sixty-nine, on page 8:

And the Superintendent of Public Printing is hereby authorized to pay the foreman of the binding the same compensation now paid to the foreman of the printing.

I am as reluctant as any Senator can be to make any increase in salaries. The compensation of this officer now is \$1,500; that of the foreman of the printing is \$1,800. The Superintendent assures me that \$1,800 is as low as is paid by other establishments. The officer whom he has with him, and whom he considers very valuable, has offers to go to private establishments for that compensation. The Senate understands that this compensation is to a skilled laborer, and I have no doubt that the difference between a man capable of doing the work and an ordinary man is a great many times the salary paid.

The amendment was rejected; there being, on a division—ayes 15, noes 16.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to move an amendment to come in on page 11, under the head "incidental and contingent expenses of the Department of State," after line two hundred and forty-three:

For the payment of the first annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt dues, to fulfill the stipulation contained in the fourth article of the convention between the United States and Belgium on the 20th of May, 1863, the sum of \$55,564 in coin, and such further sum as may be necessary to carry out the stipulations of the convention providing for the payment of interest on the said sum and on the portion of the principal remaining unpaid.

This is based on an estimate that has been furnished to me from the Department of State.

Mr. SHERMAN. I understand it is to carry into effect a treaty.

Mr. SUMNER. It is to carry into effect an existing treaty.

The amendment was agreed to.

Mr. SPRAGUE. I submit this amendment as an additional section:

And be it further enacted, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$10,000 for each Congress, and mileage as provided by the act approved August 16, 1856, and other laws pertaining thereto; and that the provisions of this section shall apply to the present Congress, and each Senator, Representative, and Delegate shall be entitled to receive the difference only between their compensation already received under the law now in force, and the compensation provided by this act; and that all acts or parts of acts inconsistent with or repugnant to the provisions of this act be, and the same are hereby, repealed.

Mr. FOOT. I ask for the yeas and nays on that amendment. I think that is all the argument it is necessary to present to the Senate.

The yeas and nays were ordered.

Mr. HALE. I move to amend the amendment by striking out that part of it which makes this increase applicable to the present Congress.

Mr. COLLAMER. I hope the amendment now proposed will not be sustained. If the pay is to be increased I think we who are now suffering ought to have the benefit of it. My opinion is against the whole proposition; but I think if it is entertained we should not be excluded from it.

The amendment to the amendment was rejected.

Mr. SHERMAN. I ask if the amendment is in order.

Mr. FOOT, and others. Never mind; let us have the yeas and nays.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, and the call will proceed.

The question being taken by yeas and nays, resulted—yeas 10, nays 31; as follows:

YEAS—Messrs. Davis, Hendricks, Lane of Kansas, Nesmith, Powell, Richardson, Riddle, Saulsbury, Sprague, and Wright—10.

NAYS—Messrs. Anthony, Buckalew, Clark, Collamer, Conness, Cowan, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nye, Ramsey, Sherman, Stewart, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wilson—31.

ABSENT—Messrs. Brown, Carlile, Chandler, Dixon, Doolittle, Harding, Hicks, McDougall, Pomeroy, and Van Winkle—10.

So the amendment was rejected.

Mr. HARLAN. I offer the following amendment as a new section:

And be it further enacted, That from and after the passage of this act the public lands in the State of Nevada shall, for surveying purposes, be attached to and included in the surveying district of California.

The amendment was agreed to.

Mr. HARLAN. There will be a slight verbal amendment now necessary. On page 20, in line four hundred and seventy-two, I move to strike out "Nevada," and in line four hundred and seventy-eight to insert "and Nevada" after "California."

The PRESIDENT *pro tempore*. Those verbal amendments will be made, to carry out the previous vote of the Senate.

Mr. JOHNSON. I move to amend the bill by striking out lines eight hundred and fifty-nine, eight hundred and sixty, eight hundred and sixty-one, eight hundred and sixty-two, and eight hundred and sixty-three.

The Secretary read the words proposed to be stricken out, as follows:

For legal assistance and other necessary expenditures in the disposal of private land claims in California, \$10,000.

For special and other extraordinary expenses of California land claims, \$10,000.

Mr. JOHNSON. We have from first to last appropriated between two and three hundred thousand dollars for the settlement of these land claims. I think it is time we stopped it. The "legal assistance" which is here provided for is not only legal assistance in California, where the claims originate, but assistance in the Supreme Court of the United States. It has always seemed to me extraordinary that the Attorney General and the Assistant Attorney General have not been entirely competent—perhaps I ought to speak in a different way; I suppose they are competent, I will say willing—to argue all these cases.

Mr. GRIMES. Do they not argue them?

Mr. JOHNSON. No. During the last Administration—and it has been so during the present Administration, as well as I recollect—not a single one of these cases was argued by the Attorney General; and he has paid away as much as \$200,000 for assistance. Whatever may have been necessary in the beginning because of the character of these cases, it certainly cannot be necessary now that there should be any extraordinary help. When these cases were first brought before the courts the questions were comparatively new; indeed, perhaps altogether new. They involved the mining laws as they existed under the Spanish and Mexican Governments; and then there were a great many questions of fraud, actual or alleged, which required very great labor either to make out the allegation in point of fact or to disprove it, and that required perhaps very extraordinary efforts which the proper officers of the Government were not in a situation to make. But that is all over now. There is not, as I think, a question that can now arise in any of these cases that has not been so far settled, analogically, at least, by cases that have already been before the Supreme Court, that every Attorney General competent to discharge the duties can very fully represent the interests of the United States; and I have no doubt that the present incumbent of the office, who is a man of ability and a man of great industry, will be found altogether equal to the discharge of these duties.

The amendment was agreed to.

Mr. JOHNSON. I move further to amend the bill by striking out the word "one" in the eight hundred and seventieth line and inserting "three;" so as to read, "for traveling expenses of the judge assigned to the tenth circuit, for attending session of the Supreme Court of the United States, \$3,000."

Mr. HOWARD. I should like to hear some



explanation of this amendment from the honorable Senator from Maryland. It is a very large amount for traveling expenses.

Mr. JOHNSON. I was about to state why I offered it. The judge of that circuit now, by your recent legislation, is to attend the circuit court in the State of Oregon, and he will have to attend one in Nevada. You give him now \$1,000 for the purpose of paying his expenses in coming here. The currency which is used in that country, fortunately for them, is altogether a currency of coin; the notes of the United States are really not negotiable except as an article of barter and sale. As I have understood—not from him; I have heard it from others, but I am sure it is true—the salary, which is \$6,000, I think, and then \$1,000 for travel, making \$7,000, he was obliged to sell, and could only get for it \$2,400. Now, it seems to me to be bad policy every way that we should pay a judge of the Supreme Court, whose duties are not only of the highest character to be discharged here, but whose duties require him to go to those three States, only what, in point of fact, in the present condition of the country, is but about twenty-four hundred dollars. I believe the Senators from Nevada and the Senator from California [Mr. CONNESS] and the Senator from Oregon [Mr. NESMITH] will concur in the opinion which I state that it is altogether inadequate to defray his expenses.

Mr. STEWART. Knowing something about the matter spoken of by the Senator from Maryland, I will state for the information of the Senate that it is much more expensive to travel from here to Nevada or Oregon by the way of California than might at first be supposed. Coming this way, the steamship line on both sides demands coin. I believe that in going from here they take currency from New York to the Isthmus, but on the Pacific side coin is used. Then, in the present condition of traveling, there are many incidental expenses. In going between here and California, a fair average would be at least \$200 in coin. If there is any extra baggage, as there always must be with gentlemen traveling, it is twenty cents a pound across the Isthmus. If a gentleman is going to travel continuously, every year, and live for any considerable length of time on the steamers, particularly those on this side, he must have some extras, and must have food that he does not get at the regular table, and he must give something to the servants, unless Vanderbilt's line on this side is reorganized. Perhaps a very healthy man could stand it for one or two trips, but a judge of the Supreme Court cannot live for a term of years and travel over that route without having different supplies from what is ordinarily to be had on the steamships.

I think a gentleman would ordinarily spend in going from here to California, \$500 in coin. I do not think that any gentleman in this body could go there and back for less than \$1,000 in coin, taking into account all the incidental expenses of the trip. To get that amount of coin would take over \$2,000 of your currency. To go from San Francisco to Nevada to hold one term of the court would cost not less than \$300 in coin, and about the same to go to Oregon.

Mr. CONNESS. He could not go to Oregon and back for that.

Mr. STEWART. I think it is a very low estimate; \$3,000 a year in currency will not defray the necessary traveling expenses of the judge who presides over that circuit. It will no more than place him on an equal footing with the judge on the bench, whose circuit is most remote from this place, but the next to his, and who receives no allowance for traveling fees.

I look at the question in this light: if the Senate is satisfied that this judge ought to have this amount of money in order to enable him to perform the functions which are assigned to him, it is its duty to make this appropriation. I presume the Senate does not wish to call upon a judge of the Supreme Court to defray the legitimate expenses of the Government; that is, to hold courts to accommodate the people and defray his own expenses. If we cannot in that remote region have judges paid so that they shall not be objects of charity, placing themselves under pecuniary and other obligations to litigants as they pass through the country; if we cannot have judges who can by economy live independent of litigants or of borrowing from friends, we had better have

no courts. We have had some experiments in paying judges not sufficient to live upon in that western country, and we would not ask for this increase of appropriation if it was not absolutely necessary. If you will not make the necessary appropriation to defray the ordinary expenses of these courts, it is better not to have the courts, or to declare at once that nobody but a man of fortune shall hold a judgeship. I am perfectly confident that a little reflection and a little counting of the cost on the part of the Senate will satisfy every one that \$3,000 is as small an allowance as we ought to make, and that the judge in attending upon the duties of this circuit incurs \$3,000 of extra expense over the necessary expenses of the judge of any other circuit in the United States.

Mr. NESMITH. I think there is a manifest justice in this amendment, and I hope to see it adopted. When the bill was originally passed which provided for the compensation of the member of the Supreme Court for California, it was declared that in addition to his salary he should have \$1,000 a year for traveling expenses. Since that time the currency has not only become very much depreciated, but we have added very largely to his duties. He is now required not only to make the trip from here to California and back annually, but he is compelled to make the trip from San Francisco to Portland in Oregon, and thence returning, to make the trip from San Francisco to the capital of Nevada. This is an increase of duty over what was contemplated by the original law. I think there should be a consequent increase of compensation.

I have had some experience in traveling over that route, and I know that it is utterly impossible for any gentleman to travel from Oregon to Washington city upon \$1,000 in the present currency. It may be possible for him to make the trip from New York to Oregon with that amount; but under any circumstances \$3,000 will no more than compensate the ordinary expenses of the trip from here to San Francisco, and from San Francisco to Portland, and thence back to San Francisco, and from there to the capital of Nevada, and then back to San Francisco and thence to this city again.

I desire to call the attention of the Senate to the fact that the distinguished member of the Supreme bench for the Pacific States, who discharged his high duties with such distinguished ability, is not in the condition of a member of Congress. A member of Congress from that coast receives a much greater mileage than is provided for even by this amendment, and he is not compelled to return to his constituents during the recess of Congress; but the judge is compelled to hold his courts in California, in Nevada, and in Oregon, during the recess of the Supreme Court. There is no possibility of his evading that duty or avoiding its performance. He is necessarily compelled to make the trip. I introduced a bill some time ago providing that the judges of the Supreme Court of the United States should be allowed the same mileage as members of Congress. I think that is the least we should give them; but inasmuch as the Senate thinks differently from me on that subject I am satisfied to take the best I can get. I trust this amendment will be adopted, so as to afford compensation for the actual traveling expenses.

Mr. HALE. I want to raise a question of order. Is the amendment in order under the 30th rule of the Senate?

Mr. CONNESS. I would not read that rule now. That question was determined yesterday.

Mr. HALE. I rather think not. The 30th rule is that—

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

The PRESIDENT *pro tempore*. The Chair was aware of the rule, and is inclined to the opinion that this is not an amendment proposing an additional appropriation. It is an appropriation proposed to be increased, but is not within the rule an additional appropriation, as the Chair understands. The Chair, however, will take the sense of the Senate on the question if the Senator desires.

Mr. HALE. Let the amendment be read. The Secretary read the amendment, to strike out in line eight hundred and seventy the word "one" and insert "three," so as to make the clause read:

"For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, \$3,000."

Mr. HALE. Is not that an additional appropriation?

Mr. CONNESS. I understand the Chair has decided the question.

The PRESIDENT *pro tempore*. The Chair will take the sense of the Senate on the question.

Mr. SHERMAN. I should like information on this point for myself. The question must have been raised many times in the Senate as to whether an increase of an appropriation already in the bill is prohibited by the rule. Is that an additional appropriation? It certainly is additional in amount; but is it an additional or new appropriation?

Mr. HALE. The words of the rule are, "no amendment proposing additional appropriations."

Mr. CONNESS. As I understand, the Chair has decided the question, and the Senator has not appealed.

Mr. HALE. I do not understand the Chair to have made a decision, but to have said that he would take the sense of the Senate on the point.

Mr. CONNESS. I understand it to be the duty of the Chair to decide, and that the Chair did decide, but said to the Senator that if he appealed the Chair would take the sense of the Senate.

The PRESIDENT *pro tempore*. The Chair gave his own impression; but at the same time said he would take the sense of the Senate, if the Senator desired, which may clearly be done under the rules.

Mr. GRIMES. I trust the Chair will take the sense of the Senate. If the views of the Chair on this occasion are carried out, as I understand them, culminating on the decision made this morning, we shall understand exactly where we are.

The PRESIDENT *pro tempore*. The Chair will put the question in this way: Is this an additional appropriation?

Mr. GRIMES. If it is not, if the point of order is not well taken by the Senator from New Hampshire, I confess I do not understand the English language.

Mr. CONNESS. I regret very much that this new application of the rule is proposed in this case. This slight appropriation is proposed for causes sufficient, I think, as has been stated, and directly after an appropriation of \$20,000 applicable to California has been stricken from the bill without any objection from us, showing clearly that our purpose is not to take money from the Treasury and give it to any case applicable to California. Upon a proposition to add a necessary amount to sustain one of the highest magistrates in the land in the performance of a duty to which he is appointed, and to enable him to go to the distant parts of his circuit and to come here annually to transact the important business of his office, this rule is invoked. I trust the Senate will not sustain the point of order. Certainly we give no evidence here of seeking a wasteful appropriation of money for our region of country.

Mr. NESMITH. The provision of the 30th rule just relied on is that "no amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law." Now, there is a law which was passed at the time this judgeship was provided for, making provision for the payment of his salary. Since he was assigned to that position his duties have been augmented by the action of both branches of Congress. It is a question to my mind whether a strict construction of the rule would prohibit this appropriation. The payment of his expenses is provided for by law. It is ascertained that the sum is inadequate. Now we propose to appropriate a sum which is adequate to carry out the very provisions of the law, and not in contravention of the law.

Mr. HENDRICKS. I wish to inquire what is the decision of the Chair on the question of order.

The PRESIDENT *pro tempore*. The Chair

proposes to take the sense of the Senate on the question.

Mr. HENDRICKS. I thought the Chair had decided the question.

The PRESIDENT *pro tempore*. The Chair gave an opinion, but said he would take the sense of the Senate on the question whether the amendment was admissible on the point of order.

Mr. SHERMAN. I am very much in favor of giving Judge Field an additional allowance for traveling expenses; I have talked with him about it, and therefore would be in favor of this proposition; but if the question of order is submitted to be decided upon the rule, I do not see how any other conclusion can be arrived at but that this is within the rule. The law not only allows him for traveling expenses, but fixes the amount at \$1,000. The amount is fixed by law. Now, this is to appropriate money not allowed by law, an additional sum beyond the amount authorized by law; so that if the legal question is submitted to us, I shall be bound to vote that it is within the rule. I can suggest to Senators that it would be very easy to have this matter referred to the Judiciary Committee and have it examined. If the amount is too low, in some subsequent appropriation bill the Judiciary or some other Committee can report the proper amendment. That is the true way. I feel bound by my position to enforce the rule, and if the question is submitted to us, shall decide the question according to the rule as I read it. I think the amendment is clearly out of order under the rule, though I should be glad to vote for the allowance.

The PRESIDENT *pro tempore*. Shall the amendment be received within the 30th rule?

Mr. STEWART. It seems to me that this is rather a strict construction of this rule. We have increased several appropriations. If the construction now urged be correct, the only thing we can do is to cut out and cut down appropriations after they are reported.

Mr. GRIMES. Those amendments came from committees. This does not come from a committee.

Mr. SHERMAN. I will say to the honorable Senator from Nevada that the objection is this: it does not come from a committee. A committee may report an amendment raising an amount, but the rule requires that it should be acted on by a committee. Until that is done, it is within the rule.

The PRESIDENT *pro tempore*. The question is on receiving the amendment.

Mr. HALE. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The Chair will state that the question is not on the amendment, but whether it can be received under the rule.

Mr. HENDRICKS. On that proposition I wish to make this suggestion: this is clearly not an additional appropriation but an addition to a proposed appropriation. It is an amendment to a proposed appropriation of the committee. It is a proposed addition instead of an additional appropriation.

Mr. JOHNSON. Before the vote is taken, I will say that it appears to me very clear that it is not in conflict with the rule. I should be entirely confident of that if some of the Senators around me did not entertain a different opinion. To construe the rule as they would have it construed is to place the Senate in this situation: on these general appropriation bills the Senate could do nothing in relation to any of the items except to reduce the amount; they could not increase the amount. I suppose the object of the rule is to prevent any additional item being brought into the appropriation bill, any additional subject. It would be most extraordinary that when we are authorized to amend bills, (for this rule is not against the power of amendment,) when we are authorized to amend appropriation bills as well as other bills, our whole charge over the appropriation bill with reference to the items contained in the bill should be to reduce the amount and not to increase it. If you add a dollar to any single item, it is against the rule, provided it be true that that makes an appropriation within the meaning of the rule. Can that be so? Is that the purpose of the rule? Do the Senate mean to tie up their hands in relation to all the appropriation bills so that they shall consider nothing that does not lessen the amount appropriated for each item?

I do not understand it so. My opinion is that if the item itself is in the bill, if the subject of appropriation is in the bill, you may add to the amount without reference to the restriction of the rule. The whole purpose of providing that an amendment shall come from a committee before it can be incorporated into an appropriation bill in the Senate, is that the committee may decide upon the propriety of introducing some new matter into the bill. That is not proposed here. The bill already proposes to give \$1,000 for this purpose. The Senator who makes this point of order supposes that you can reduce the appropriation to any amount, but cannot add a dollar to it, because the addition of a dollar is an additional appropriation. Diminishing it a dollar is in one sense an appropriation; that is, it is appropriating less than the bill appropriated before. I submit to the Senate that there is nothing in the rule inconsistent with the amendment which I have suggested, and I do not understand that there is on the part of the Senate any objection to the amendment upon its merits.

The question being taken by yeas and nays, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Buckalew, Clark, Conness, Cowan, Dixon, Doolittle, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Nye, Pomeroy, Powell, Ramsey, Sprague, Stewart, Sumner, Wilkinson, Willey, Wilson, and Wright—23.

NAYS—Messrs. Brown, Chandler, Collamer, Davis, Farwell, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howe, Morgan, Morrill, Saulsbury, Sherman, Ten Eyck, and Trumbull—18.

ABSENT—Messrs. Anthony, Carlile, Foot, Harding, Hicks, McDougall, Richardson, Riddle, Van Winkle, and Wade—10.

So the Senate decided that the amendment was receivable under the rule.

Mr. HALE. I am opposed to this amendment for one reason, if for no other, and that is, that the amendment on its face does not speak the truth. In saying that, I of course mean no disrespect to the Senator who moves it. I say so because on its face it proposes to give this judge \$3,000 for his expenses in traveling to attend the sessions of the Supreme Court, and it is manifest to the Senate, and to everybody else, who will take the trouble to look into it, that the sum already provided by law will pay those expenses.

Mr. JOHNSON. It does not pay anything like them, as the Senator from Nevada has stated.

Mr. HALE. Let the amendment be again read. The Secretary read the amendment.

Mr. HALE. It is now proposed to assign him \$3,000 for his traveling expenses in attending the sessions of the Supreme Court; and if it shall be read hereafter that that does not cover more than one third of his traveling expenses, we shall be called on to pay more. If the Senate are determined to pay Judge Field this salary, if they think it due to him, I have no objection to it; but I have objection to the Senate voting to pay a man \$3,000 for performing a journey which does not cost \$1,000. I am opposed to it for that reason, and I am opposed to it because I do not think this is the time to increase salaries. We decided just now by a very large vote not to increase our own salaries. Most of the argument that is presented for this increase to Judge Field might be presented for the increase of our own salaries. The Senate have, not uniformly, but in a great many instances, refused to raise any salary unless it was put in the shape of "the rank, pay, and emoluments of a brigadier general;" put in that shape, it has been pretty certain to go through. But I think this is not the time to raise salaries; and if it was, it is not the time to pay for a thing three times what it costs.

Mr. CONNESS. I regret to be compelled to say anything in this case which shall amount to a contradiction of what a Senator has said in debate; but I am bound to state that the Senator from New Hampshire is in error and mistaken in what he has stated in regard to the expenses of the persons spoken of and to whom this amendment is applicable. And I would remind the Senator that, although he sometimes advocates economy, as he does at present, such is not always his course. Recently, if I am not mistaken—I saw it in a printed record—he had \$2,000 paid him for going to Halifax.

Mr. HALE. I call the Senator to order. I do not wish to get into any personal controversy here, but I want the rules enforced. I raise a question of order.

Mr. CONNESS. Very well, sir.

The PRESIDENT *pro tempore*. The Senator from New Hampshire will state his point of order.

Mr. HALE. The point of order is that he has no right to impeach my motives or conduct in any way, nor to refer to my private history for an illustration of his argument.

Mr. CONNESS. I believe I have not impeached the Senator's motives. I certainly declare that that was not my intention. I think if the Senator has raised a question which involves a matter of expenditure he should not be an exception to the rule which illustrates it.

The PRESIDENT *pro tempore*. If the point of order is insisted upon, it is not debatable. If the Senator from California would confine himself to the matter before the Senate, the Senator from New Hampshire perhaps would not insist on the point of order.

Mr. CONNESS. I suppose it is in order to state that the Senator recently advocated the increase of the salary of the consul at Halifax. I am satisfied (and I say that to the credit of the Senator) that he would never have done that if he had not ascertained it to be necessary, perhaps by going there. I hope I do not trench on the rules of order in stating this much. This economy that is spasmodic in its character is not the kind to follow.

I have called the attention of the Senate to the fact that we consented to a motion to strike out \$20,000 of appropriations from this very bill applicable to our State, thus illustrating clearly that our purpose is not to expend public money in behalf of persons from that country. I know that if the Senator was as well aware as I am of the expenses incurred by this magistrate, he would not take the position he has taken here. I know that from his generosity of character. And I will take leave to say here that there is nothing more difficult than to have gentlemen on this side of the continent understand that it costs more to travel, more to live, more to buy any necessary or comfort or luxury connected with life, on the Pacific coast than it does here. This magistrate has not only to travel back and forth annually and live at this expensive capital, where others have got to live, but he goes to Oregon, he goes to Nevada, and the incidental expenses connected with his performance of duty cannot be and are not paid by his salary and the mileage allowed. It is within my personal knowledge, which I have avoided stating here thus far, that he cannot sustain himself and does not sustain himself from the salary that he receives. I will not state here the details and invade his privacy from whence it comes. Suffice it to say that a purer-minded gentleman does not exist on earth. I say it is not right to impose absolute suffering and want upon such an officer through what is very near akin to parsimony.

We are not here as advocates of increase of salaries or the wasteful expenditure of money. It cannot be charged upon us. I regret very much that I have been called upon even to respond thus in reply to the Senator. I will say, before I take my seat, that I had no intention of invading the courtesies due to the Senator, nor of impeaching his motives. I have no doubt that the Senator on the occasion to which I referred rendered a *quid pro quo*.

Mr. HENDERSON. I move that the Senate take a recess until seven o'clock. ["No," "No."] I desire to state that the Senator who has this bill in charge, the chairman of the Committee on Finance, is exceedingly anxious to get through with it this week and to-morrow is assigned for District of Columbia business.

Mr. CONNESS. Let us vote on this amendment.

Mr. WILKINSON. I move that the Senate adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. FOSTER. I wish to ask whether the Senator from Ohio, who has charge of this bill, desires the Senate to remain here until it shall be disposed of. I shall be governed by his views on that subject, because he knows what the wants of the country are in reference to this bill.

Mr. SHERMAN. If we can pass the bill to-morrow, I shall be perfectly content; I think we ought to pass it this week; we are getting behind hand.

Mr. HOWARD, and others. We will pass it to-morrow.

Mr. SHERMAN. But the special order for to-morrow is in the way.

Mr. COLLAMER. This business is more important than that.

Mr. SHERMAN. With the understanding that I shall have to-morrow for this bill, I have no objection. ["Agreed."]

Mr. TRUMBULL. Let the call for the yeas and nays be withdrawn.

The PRESIDENT *pro tempore*. The call may be withdrawn by unanimous consent.

The motion of Mr. WILKINSON was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 10, 1865.

The House met at twelve o'clock, m. Prayer by Rev. E. H. GRAY.

On motion of Mr. WILSON, by unanimous consent the reading of the Journal was dispensed with.

### APPOINTMENT OF A COMMITTEE.

The SPEAKER announced as the select committee appointed under the resolution of the day before yesterday to investigate charges against the Patent Bureau, Messrs. HIGBY, FRANK, CRAVENS, ANCONA, and NORTON.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of their clerks, announcing that they had passed a bill (S. No. 424) entitled "An act to facilitate the collection of certain debts due the United States;" in which they requested the concurrence of the House.

Also, that the Senate had passed the following resolution:

*Resolved*, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives, to be appointed by that House, to wait upon Abraham Lincoln, of Illinois, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1865; and also to notify Andrew Johnson, of Tennessee, that he has been duly elected Vice President of the United States for four years, commencing with the 4th day of March, 1865.

*And ordered*, That Mr. TRUMBULL be the said committee on the part of the Senate.

### PRIVILEGES OF MEMBERS.

Mr. J. C. ALLEN. I desire to propound an inquiry to the Chair touching the privileges of certain members to the floor. I understand that the House last evening passed a resolution ordering the arrest of certain members who were absent upon a call of the House. I am not able myself to give to that resolution an interpretation which satisfies me that those members who are under arrest by virtue of that resolution have a right to participate in the proceedings of the House until they have purged themselves of contempt. The question I desire to propound to the Chair is, whether the members absent last night will be permitted, under that resolution, to participate in the proceedings of the House to-day?

The SPEAKER. The Chair knows of nothing that would prevent them from participating in the proceedings of the House until one o'clock, or as soon thereafter as possible—five minutes after one—when they are to be presented at the bar by the Sergeant-at-Arms.

### BRIDGE OVER THE OHIO RIVER.

On motion of Mr. ARNOLD, by unanimous consent, bill of the Senate No. 413, to establish a bridge across the Ohio river at Cincinnati, Ohio, a post route, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Roads and Canals.

Mr. HOLMAN moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### NATIONAL CURRENCY.

Mr. BROWN, of West Virginia, presented resolutions of the Legislature of West Virginia, asking an amendment of the act to provide a national currency, approved June 4, 1864; which was referred to the Committee of Ways and Means, and ordered to be printed.

### PACIFIC RAILROAD.

Mr. COLE, of California, from the select committee on the Pacific railroad, to whom was referred the bill of the House (No. 593) granting lands to aid in the construction of certain railroads in the State of California, reported back the same; which was recommitted to the committee, and ordered to be printed.

### CENSUS REPORT.

Mr. BALDWIN, of Massachusetts. I ask the unanimous consent of the House to offer the following resolution:

Whereas we are now in the year of our Lord 1865, and it appears nowise likely that the remaining portions of the report of the census of 1860 will be completed before the next census is taken: Therefore,

*Resolved*, That the Committee on Printing be directed to consider the expediency of a joint resolution ordering a discontinuance of all work on the report of the census of 1860, after the volume now in the hands of the printer is completed.

Mr. ANCONA. I object.

### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, recommending an appropriation to pay indebtedness incurred on account of Indian affairs in Arizona; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior recommending that appropriations made for the Chippewas of Lake Superior under treaty stipulations be made special, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

### REPORT OF THE COMMISSIONER OF PATENTS.

Mr. ORTII submitted the following resolution; which was read, and referred to the Committee on Printing:

*Resolved*, That there be printed thirty thousand copies of the report of the Commissioner of Patents, twenty thousand for the members of the House of Representatives and ten thousand for the Commissioner of Patents.

### MILEAGE OF MEMBERS.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Mileage be directed to inquire into the expediency of reducing the rate of mileage to ten cents per mile, with a view to equalizing the compensation of members, and that they be directed to report by bill or otherwise.

Mr. ANCONA moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

### WITHDRAWAL OF PAPERS.

On motion of Mr. HALE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of William G. Sheldon.

On motion of Mr. WINDOM, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of A. M. Clenny.

The SPEAKER announced as the regular order of business the calling of committees for reports of a private nature.

### SAMUEL NORRIS.

Mr. BOYD, from the Committee on Indian Affairs, reported a bill for the relief of Samuel Norris, accompanied by a report in writing thereon; which bill was read a first and second time, referred to a Committee of the Whole House, and with the report, ordered to be printed.

### ANNA MARIA AMAN.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, reported adversely upon the petition of Anna Maria Aman, widow of Laurens Aman, a soldier who was drowned while bathing, August 6, 1862; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### JACOB GATES.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, reported ad-

versely upon the petition of Jacob Gates, praying for a pension on account of wounds received during the war with Great Britain, in 1813; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### HENRY L. MYERS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely upon the petition of Henry L. Myers for allowance of pension; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### MARY F. B. LEVELY.

Mr. PERHAM, from the Committee on Invalid Pensions, also reported adversely upon the petition of Mary F. B. Levely, widow of Henry Levely, captain of the private armed schooner Nonsuch, praying for allowance of arrears of pension; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### D. H. FITCH, AND OTHERS.

Mr. PERHAM, from the Committee on Invalid Pensions, also reported adversely upon the petitions of D. H. Fitch, D. W. Lunsford, and sundry other soldiers of the war of 1812, praying for the allowance of pensions; and moved that the committee be discharged from their further consideration, and that they be laid on the table.

The motion was agreed to.

### ABRAM BRAGAW.

Mr. LAW, from the Committee on Revolutionary Pensions, reported adversely upon the petition of Abram Bragaw for a pension; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### CHARITY HARROW.

Mr. HERRICK, from the Committee on Revolutionary Pensions, reported adversely upon the petition of Charity Harrow, praying for an increase of pension; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### SARAH P. MATHER.

Mr. NOBLE, from the Committee on Patents, reported adversely upon the petition of Sarah P. Mather; and moved that the committee be discharged from its further consideration, and that it be laid on the table.

The motion was agreed to.

### PHEBE ANN FISK.

Mr. NOBLE, from the Committee on Patents, also reported back Senate bill No. 112, being "An act for the relief of the heirs of Almon D. Fisk, deceased," with a recommendation that it pass.

The bill was read at length. It provides that Phebe Ann Fisk, or the heirs of Almon D. Fisk, deceased, who obtained a patent for a new and useful improvement in coffins, dated November 14, 1848, for fourteen years, which has now expired, shall be authorized to apply, within thirty days after the approval of this act, for an extension of said patent for seven years, which application must be decided by the Commissioner of Patents within ninety days after it shall have been filed; provided that nothing in the act shall give authority to prosecute persons for damages for use of the patented article between the expiration of the patent and the approval of this act.

Mr. NOBLE moved the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman from Ohio [Mr. NOBLE] will not call the previous question on a bill which taxes the ashes of our dead soldiers.

Mr. NOBLE. I will withdraw the motion for the previous question, and ask that the accompanying report be read.

The report was read.

Mr. MORRILL. Mr. Speaker, Congress having changed the policy of the country in relation to the reissue of patents, the case ought to be a very strong one wherever we are called upon to give relief in these cases. Now I desire to ask



the gentleman from Ohio [Mr. NOBLE] if the fact is not true that parties are now engaged all over this country in the manufacture of this article, and whether anything in the bill protects the rights of the persons thus manufacturing? Heretofore it has been usual when there has been a lapse of patent, and parties have engaged in the manufacture of patented articles, to give them a release and protection against the prosecution of the patentee.

Mr. NOBLE. I would answer the gentleman from Vermont [Mr. MORRILL] by saying that it is not true that parties all over the country have engaged in the manufacture of this improvement, nor is it true that they or any of them thus engaged object to the reissue of this patent. Neither is it true that this case comes within the spirit of the new rule in reference to the issuing of patents. This patent was issued under the old law, and in all such cases patents are even now suffered to be extended under the patent law. This widow, who has not been recompensed for the invention of her husband, made application, as I have stated, in due form of law; but, by reason of a mistake made by the Commissioner of Patents, the extension was not granted. The Commissioner of Patents to-day acknowledges that mistake. Any lawyer who understands the facts must agree that this woman is entitled by law to this extension.

Mr. MORRILL. From the reading of the report I understand the facts to be very different from what they would appear by the statement of the gentleman from Ohio. He says that this patent was not reissued by reason of a mistake of the Commissioner. Infer from the report that it was not reissued in consequence of the fraud of the applicant in claiming as the invention more than could rightfully be claimed.

Mr. NOBLE. Mr. Speaker, in answer to that allegation I will say that I do not so understand the case. The original patent was reissued in 1860, and that reissue embraced no more than was contained in the original patent. But the Commissioner, when the objection was made, did decide that it embraced more; the objection was suffered to prevail, to the detriment of the applicant for the extension. These are the facts of the case. The Commissioner is satisfied to-day that he made an error, and so are all the members of the committee. The object of this bill is, not to give this woman any more than justly belongs to her, but to reinstate her legally in the possession of her rights, of which she was deprived by a mistake of the Commissioner.

Mr. Speaker, I move the previous question.

Mr. WASHBURN, of Illinois. I hope that the previous question will not be seconded. This question is of more importance than some members appear to think it.

The SPEAKER. Debate is not in order pending a demand for the previous question.

On seconding the previous question there were, on a division—yeas 48, noes 37; no quorum voting.

The Speaker, under the rule, ordered tellers; and Mr. NOBLE, and Mr. WASHBURN of Illinois, were appointed.

The House divided; and the tellers reported—yeas 59, noes 36.

So the previous question was seconded.

Mr. WASHBURN, of Illinois. I move that the bill be laid on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 86, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Baxter, Beaman, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Ficenian Clarke, Cole, Dawes, Deming, Eckley, Farnsworth, Garfield, Hughes, Hooper, Hubbard, Ingersoll, Julian, Kelley, Knox, Longyear, Marvin, McClurg, Morrill, Amos Myers, Charles O'Neill, Orth, Porham, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Smithers, Spalding, Starr, Stevens, Upson, Wadsworth, Eliza B. Washburne, William B. Washburn, Williams, Wilson, Windom, Woodbridge, and Worthington—51.

NAYS—Messrs. James C. Allen, Ancona, Anderson, Bailly, Augustus C. Baldwin, Blair, Bliss, Blow, Broome, James S. Brown, Chanler, Clay, Cobb, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Donnelly, Briggs, Dumont, Edgerton, Eldridge, Eliot, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Charles H. Harris, Herrick, Asabel W. Hubbard, John H. Hubbard, Jenckes, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Orlando Kellogg, King, Law, Lazer, Le Blond, Littlejohn, Long, Mallory, McAllister, McBride, McDowell, McIndoe, McKinney, Middleton, James R. Morris, Morrison,

Leonard Myers, Nelson, Noble, Norton, Odell, John O'Neill, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Thayer, Thomas, Townsend, Van Valkenburgh, Webster, Whaley, Wheeler, Joseph W. White, Winfield, and Yeaman—86.

NOT VOTING—Messrs. William J. Allen, Alley, John D. Baldwin, Blaine, Brooks, Creswell, Henry Winter Davis, Denison, Dixon, Eden, Frank, Gooch, Grinnell, Harrington, Benjamin G. Harris, Holman, Hotchkiss, Hutchins, Francis W. Kellogg, Kernan, Knapp, Loan, Marcy, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, Patterson, Pendleton, Pike, Price, Samuel J. Randall, Robinson, Ross, Sloan, Smith, Stuart, Sweat, Tracy, Voorhees, Ward, Chilton A. White, Wilder, Benjamin Wood, and Fernando Wood—45.

So the House refused to lay the bill on the table.

The question recurred on ordering the main question to be put.

Mr. WASHBURN, of Illinois. I ask permission to make a statement in reference to this matter.

Mr. ELDRIDGE. I rise to a question of order. I understand that the gentleman from Illinois is in arrest for contempt of the House, and I insist that he is not entitled to take part in our proceedings.

The SPEAKER. The Chair has decided in reference to the gentleman from Illinois [Mr. J. C. ALLEN] that the order of the House does not operate until the Sergeant-at-Arms, at five minutes past one o'clock, presents the members in arrest at the bar of the House. The gentleman from Illinois [Mr. WASHBURN] answered on the second call, and is not included in the order of arrest.

The main question was then ordered to be put. The bill was ordered to be read a third time, and it was accordingly read the third time.

Mr. NOBLE demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The bill was passed.

Mr. NOBLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENSION LAWS.

Mr. WHALEY. I ask unanimous consent to report from the Committee on Invalid Pensions a bill supplementary to the several acts relating to pensions, that it may be recommitted and ordered to be printed.

Mr. HALE. That is not a private bill; it is a public bill, and is not in order to-day. I object.

#### MAJOR HENRY M'FARLAND.

Mr. FARNSWORTH, from the Committee on Military Affairs, reported back House joint resolution No. 145, for the relief of Major Henry McFarland.

The joint resolution provides that \$1,000 be paid, out of any money in the Treasury not otherwise appropriated, to Major Henry McFarland, that being the amount expended by him as a reward for the detection and conviction of a clerk who had stolen a large amount of Government money.

The report states that Major McFarland, an additional paymaster of the Army, on the evening of August 4, 1863, had stolen from his room in Washington city the sum of \$40,000, (United States Treasury notes,) which he had on that day drawn from the Treasury for the payment of United States troops; that Major McFarland was under orders to go to the Army with this money on the following morning; that the money was necessarily drawn on that day, as he could not get it in the morning in time for his departure, and the regulations of the Treasury Department were such that he was not allowed to deposit this money after it was drawn; that this money was stolen by the clerk of Major McFarland, in whose custody he left this money for a short time while McFarland went to the post office, about half past eight o'clock p. m.; that the money was in the paymaster's safe; that immediately upon discovering the theft McFarland offered a reward of \$1,000 for the detection of the thief and recovery of the money; and that, stimulated by this offer, the Metropolitan police of Washington detected the thief and recovered the money.

Mr. HOLMAN. There is one point to which I wish to call the attention of the gentleman from

Illinois. I do not see any statement of the circumstances under which this clerk was employed. What reason had McFarland to believe he was a man of integrity to whom could be intrusted this money?

Mr. FARNSWORTH. These clerks are employed with the approval of the War Department. The Clerk will read what I have marked.

The Clerk read, as follows:

The court of inquiry beforementioned reported that the clerk [McFarland] "had a proper reputation at the time his services were engaged by Major McFarland," and that all due precautions were observed in selecting him; also "that it is a custom of the service, and is necessary for paymasters to intrust their clerks at times with the custody of safes wherein moneys are contained."

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, September 18, 1863.

SIR: I am directed by the Secretary of War to say that the court of inquiry in your case has exonerated you from any blame for the loss of the money stolen by your clerk.

By direction of the Secretary you will report for duty to the Paymaster General of the Army.

E. D. TOWNSEND,  
Assistant Adjutant General.

Mr. ROLLINS, of New Hampshire. The clerk was tried by court-martial, and convicted and sentenced to Albany penitentiary. He had been previously employed by the Department, and McFarland had a right to suppose that he was an honest man. The money was recovered. And I am informed that Colonel Baker also offered a reward of \$1,000. Major McFarland paid this money, which it is proposed to refund to him.

Mr. FARNSWORTH. I demand the previous question.

Mr. GANSON. I wish to inquire whether these detectives in the employ of the Government were paid for their services at the same time.

Mr. FARNSWORTH. No, sir; it was the Metropolitan police that received the reward.

Mr. ROLLINS, of New Hampshire. The money was paid over to the parties who detected the scoundrels.

The question being on seconding the demand for the previous question,

Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. ROLLINS of New Hampshire and ANCONA were appointed.

The House divided; and the tellers reported—yeas sixty-eight; noes not counted.

So the previous question was seconded. The main question was ordered to be put, and under the operation thereof the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH. I demand the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered to be put.

The question recurring on the passage of the resolution,

Mr. J. C. ALLEN demanded tellers.

Tellers were ordered; and Mr. J. C. ALLEN and Mr. FARNSWORTH were appointed.

The House divided; and the tellers reported—yeas 49, noes 49.

The SPEAKER. The Chair votes in the affirmative, and the resolution is passed.

Mr. FARNSWORTH moved that the vote by which the resolution was passed be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 431) for the relief of Solomon Wadsworth; and a resolution (H. R. No. 106) providing for the compilation of a Congressional Directory at each session of Congress; when the Speaker signed the same.

#### PROCEEDINGS UNDER THE CALL.

The SPEAKER. The morning hour having expired, the Sergeant-at-Arms will execute the order of the House of last evening. The Clerk will report the resolution under which the House is now about to act.

The Clerk read the resolution, as follows:

Resolved, That the Sergeant-at-Arms be directed to bring the members now absent without leave before the bar of the House at one o'clock to-morrow, Friday, February 10, 1865, or as soon thereafter as possible, and that they be required to show cause why they shall not be declared in contempt of the House, and abide the order of the House.

Mr. DAWES. I rise to a question of privilege. It is to make a report from the Committee of Elections.

The SPEAKER. The House is acting upon a question of privilege at the present time.

Mr. DAWES. I ask the consent of the House to make a report to be laid on the table and printed.

Mr. ELDRIDGE. I object.

#### THE PEACE CONFERENCE.

A message in writing was received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

The SPEAKER. Is it the pleasure of the House that the pending business be postponed until the message of the President is presented to the House?

Mr. GARFIELD. I object.

Mr. WASHBURNE, of Illinois. Would it not be in order to move to postpone this privileged question?

The SPEAKER. It would; and then a motion to go to the Speaker's table would be in order, when the President's message would be first reached.

Mr. STEVENS. I move to postpone the privileged question before the House.

The motion was agreed to.

Mr. STEVENS. I now move that the House proceed to the business on the Speaker's table.

The motion was agreed to.

The first business taken from the Speaker's table was a message from the President of the United States, which was read, as follows:

To the honorable the House of Representatives:

In response to your resolution of the 8th instant, requesting information in relation to a conference recently held in Hampton Roads, I have the honor to state that on the day of that date I gave Francis P. Blair, sr., a card written as follows:

Allow the bearer, F. P. Blair, sr., to pass our lines, go South, and return. A. LINCOLN.  
December 23, 1864.

That at the time I was informed that Mr. Blair sought the card as a means of getting to Richmond, Virginia, but he was given no authority to act or speak for the Government; nor was I informed of anything he would say or do on his own account or otherwise. Afterward Mr. Blair told me that he had been to Richmond, and had seen Mr. Jefferson Davis; and he (Mr. B.) at the same time left with me a manuscript letter, as follows:

RICHMOND, VIRGINIA, January 12, 1865.

Sir: I have deemed it proper, and probably desirable to you, to give you, in this form, the substance of remarks made by me to be repeated by you to President Lincoln, &c. I have no disposition to find obstacles in forms, and am willing, now as heretofore, to enter into negotiations for the restoration of peace; am ready to send a commission whenever I have reason to suppose it will be received, or to receive a commission if the United States Government shall choose to send one.

That notwithstanding the rejection of our former offers, I would, if you could promise that a commissioner, minister, or other agent would be received, appoint one immediately, and renew the effort to enter into conference, with a view to secure peace to the two countries.

Yours, &c., JEFFERSON DAVIS.

F. P. BLAIR, Esq.  
Afterward, and with the view that it should be shown to Mr. Davis, I wrote and delivered to Mr. Blair a letter as follows:

WASHINGTON, January 18, 1865.

Sir: You having shown me Mr. Davis's letter to you of the 12th instant, you may say to him that I have constantly been, am now, and shall continue, ready to receive any agent whom he or any other influential person now resisting the national authority may informally send me, with the view of securing peace to the people of our one common country.

Yours, &c., A. LINCOLN.

F. P. BLAIR, Esq.  
Afterward Mr. Blair dictated for and authorized me to make an entry on the back of my retained copy of the letter last above received, which entry is as follows:

[Indorsement.] JANUARY 28, 1865.

To-day Mr. Blair tells me that on the 21st instant he delivered to Mr. Davis the original of which the within is a copy, and left it with him; that at the time of delivering it, Mr. Davis read it over twice in Mr. Blair's presence, at the close of which he (Mr. Blair) remarked that the part about "our one common country" related to the part of Mr. D.'s letter about "the two countries," to which Mr. D. replied that he so understood it. A. LINCOLN.

Afterward the Secretary of War placed in my hands the following telegram, indorsed by him, as appears:

[Cipher.]

OFFICE UNITED STATES MILITARY TELEGRAPH,  
WAR DEPARTMENT.

The following telegram received at Washington, January 29, 1865, from headquarters army of James, 6.30 p. m., January 29, 1865:

To Hon. EDWIN M. STANTON, Secretary of War:

The following dispatch just received from Major General

Parke, who refers it to me for my action. I refer it to you in Lieutenant General Grant's absence.

E. O. C. ORD,

Major General Commanding.

HEADQUARTERS ARMY OF POTOMAC,

4 p. m., January 29, 1865.

Major General E. O. C. ORD, Headquarters Army of James:

The following dispatch is forwarded to you for your action. Since I have had no knowledge of General Grant's having had any understanding of this kind, I refer the matter to you as the ranking officer at present in the two armies.

JOHN G. PARKE,

Major General Commanding.

HEADQUARTERS NINTH ARMY CORPS, January 29.

Major General JOHN G. PARKE,

Headquarters Army of the Potomac:

Alexander H. Stephens, R. M. T. Hunter, and J. A. Campbell desire to cross my lines in accordance with an understanding claimed to exist with Lieutenant General Grant, on their way to Washington as peace commissioners. Shall they be admitted? They desire an early answer to come through immediately. Would like to reach City Point to-night, if they can. If they cannot do that, they would like to come through at 10 a. m. to-morrow morning.

O. B. WILSON,

Major General Commanding Ninth Corps.

Respectfully referred to the President for such instructions as he may be pleased to give.

EDWIN M. STANTON,

Secretary of War.

[8.30 p. m., January 29, 1865.]

It appears that about the time of placing the foregoing telegram in my hands, the Secretary of War dispatched General Ord as follows:

WAR DEPARTMENT,

WASHINGTON CITY, January 29, 1865, 10 p. m.

Major General ORD:

This Department has no knowledge of any understanding by General Grant to allow any person to come within his lines as commissioners of any sort. You will therefore allow no one to come into your lines under such character or professions until you receive the President's instructions, to whom your telegram will be submitted for his directions.

EDWIN M. STANTON,

Secretary of War.

[Sent in cipher at 2 a. m., 30th.]

Afterward, by my directions, the Secretary of War telegraphed General Ord as follows:

WAR DEPARTMENT,

WASHINGTON, D. C., 10 a. m., January 30, 1865.

Major General E. O. C. ORD, Headquarters Army James:

By direction of the President you are instructed to inform the three gentlemen, Messrs. Stephens, Hunter, and Campbell, that a messenger will be dispatched to them at or near where they now are without unnecessary delay.

EDWIN M. STANTON,

Secretary of War.

Afterward I prepared and put into the hands of Major Thomas T. Eckert, the following instructions and message:

EXECUTIVE MANSION,

WASHINGTON, January 30, 1865.

Sir: You will proceed with the documents placed in your hands, and on reaching General Ord, will deliver him the letter addressed to him by the Secretary of War, then by General Ord's assistance procure an interview with Messrs. Stephens, Hunter, and Campbell, or any of them, deliver to him or them the paper on which your own letter is written, note on the copy which you retain the time of delivery and to whom delivered; receive their answer in writing, waiting a reasonable time for it, and which, if it contain their decision to come through without further condition, will be your warrant to ask General Ord to pass them through as directed in the letter of the Secretary of War to him. If, by their answer, they decline to come, or propose other terms, do not have them passed through. And this being your whole duty, return and report to me.

Yours truly, A. LINCOLN.

Major T. T. ECKERT.

GENTLEMEN: I am instructed by the President of the United States to place this paper in your hands, with the information that if you pass through the United States military lines it will be understood that you do so for the purpose of an informal conference on the basis of that letter, a copy of which is on the reverse side of this sheet, and that if you choose to pass on under such understanding, and so notify me in writing, I will procure the commanding general to pass you through the lines and to Fortress Monroe, under such military precautions as he may deem prudent, and at which place you will be met in due time by some person or persons, for the purpose of such informal conference; and further, that you shall have protection, conduct, and safe return, in all events.

THOMAS T. ECKERT,

Major and A. D. C.

MESSRS. ALEXANDER H. STEPHENS, J. A. CAMPBELL, and R. M. T. HUNTER.

CITY POINT, VIRGINIA, February 1, 1865.

WASHINGTON, January 18, 1865.

Sir: You having shown me Mr. Davis's letter to you of the 12th instant, you may say to him that I have constantly been, am now, and shall continue, ready to receive any agent whom he or any other influential person now resisting the national authority may informally send me with the view of securing peace to the people of our one common country.

Yours, &c., A. LINCOLN.

F. P. BLAIR, Esq.

Afterward, but before Major Eckert had departed, the following dispatch was received from General Grant:

[Cipher.]

OFFICE UNITED STATES MILITARY TELEGRAPH,  
WAR DEPARTMENT.

The following telegram, received at Washington, January 31, 1865, from City Point, Virginia, 10.30 a. m., January, 1865:

His Excellency ABRAHAM LINCOLN,  
President of the United States:

The following communication was received here yesterday:

PETERSBURG, VIRGINIA, January 30, 1865.

Sir: We desire to pass your lines under safe conduct, and to proceed to Washington, to hold a conference with President Lincoln upon the subject of the existing war, and with a view of ascertaining upon what terms it may be terminated, in pursuance of the course indicated by him in his letter to Mr. Blair of January 18, 1865, of which we presume you have a copy; and if not, we wish to see you in person, if convenient, and to confer with you on the subject.

Very respectfully yours,

ALEX. H. STEPHENS,

J. A. CAMPBELL,

R. M. T. HUNTER.

Lieutenant General U. S. GRANT,  
Commanding Armies United States.

I have sent directions to receive these gentlemen, and expect to have them at my headquarters this evening, awaiting your instructions.

U. S. GRANT,

Lieut. Gen. Commanding Armies United States.

This, it will be perceived, transferred General Ord's agency in the matter to General Grant. I resolved, however, to send Major Eckert forward with his message, and accordingly telegraphed General Grant as follows:

EXECUTIVE MANSION,

WASHINGTON, January 31, 1865.

Major General GRANT, City Point, Virginia:

A messenger is coming to you on the business contained in your dispatch. Detain the gentlemen in comfortable quarters until he arrives, and then act upon the message he brings as far as applicable, it having been made up to pass through General Ord's hands, and when the gentlemen were supposed to be beyond our lines. A. LINCOLN.  
[Sent in cipher at 1.30 p. m.]

When Major Eckert departed, he bore with him a letter of the Secretary of War to General Grant, as follows:

WAR DEPARTMENT,

WASHINGTON, D. C., January 30, 1865.

GENERAL: The President desires that you will please procure for the bearer, Major Thomas T. Eckert, an interview with Messrs. Stephens, Hunter, and Campbell, and if, on his return to you, he requests it, pass them through our lines to Fortress Monroe, by such route and under such military precautions as you may deem prudent, giving them protection and comfortable quarters while there, and that you let none of this have any effect upon your movements or plans.

By order of the President:

EDWIN M. STANTON,

Secretary of War.

Lieutenant General GRANT, Commanding, &c.

Supposing the proper point to be then reached, I dispatched the Secretary of State with the following instructions, Major Eckert, however, going ahead of him:

EXECUTIVE MANSION,

WASHINGTON, January 31, 1865.

Hon. WILLIAM H. SEWARD, Secretary of State:

You will proceed to Fortress Monroe, Virginia, there to meet and informally confer with Messrs. Stephens, Hunter, and Campbell, on the basis of my letter to F. P. Blair, Esq., of January 18, 1865, a copy of which you have. You will make known to them that three things are indispensable, to wit:

1. The restoration of the national authority throughout all the States.
2. No receding by the Executive of the United States on the slavery question from the position assumed thereon in the late annual message to Congress, and in preceding documents.
3. No cessation of hostilities short of an end of the war and the disbanding of all the forces hostile to the Government.

You will inform them that all propositions of theirs not inconsistent with the above will be considered and passed upon in a spirit of sincere liberality. You will hear all they may choose to say, and report it to me. You will not assume to definitely consummate anything.

Yours, &c.,

ABRAHAM LINCOLN.

On the day of its date the following telegram was sent to General Grant:

WAR DEPARTMENT,

WASHINGTON, D. C., February 1, 1865.

Lieutenant General GRANT, City Point, Virginia:

Let nothing which is transpiring change, hinder, or delay your military movements or plans.

A. LINCOLN.

[Sent in cipher at 9.30 a. m.]

Afterward the following was received from General Grant:

[In cipher.]

OFFICE UNITED STATES MILITARY TELEGRAPH,

WAR DEPARTMENT.

The following telegram received at Washington 2.30 February 1, 1865, from City Point, Virginia, February 1, 12.30 p. m.:

His Excellency A. LINCOLN, President of the United States:

Your dispatch received. There will be no armistice in consequence of the presence of Mr. Stephens and others

within our lines. The troops are kept in readiness to move at the shortest notice, if occasion should justify it.

U. S. GRANT,  
Lieutenant General.

To notify Major Eckert that the Secretary of State would be at Fortress Monroe, and to put them in communication, the following dispatch was sent:

WAR DEPARTMENT,  
WASHINGTON, D. C., February 1, 1865.

Major T. T. ECKERT, care General Grant,  
City Point, Virginia:

Call at Fortress Monroe, and put yourself under the direction of Mr. S., whom you will find there.

A. LINCOLN.

On the morning of the 2d instant the following telegrams were received by me, respectively from the Secretary of State and Major Eckert:

FORTRESS MONROE, VIRGINIA,  
11.30 p. m. February 1, 1864.

The President of the United States:

Arrived at 10 this evening. Richmond party not here. I remain here.

WILLIAM H. SEWARD.

CITY POINT, VIRGINIA, 10 p. m., February 1, 1865.

His Excellency A. LINCOLN, President United States:

I have the honor to report the delivery of your communication and my letter at 4.15 this afternoon, to which I received a reply at 6 p. m., but not satisfactory.

At 8 p. m. the following note, addressed to General Grant, was received:

CITY POINT, VIRGINIA, February 1, 1865.

SIR: We desire to go to Washington city to confer informally with the President personally in reference to the matters mentioned in his letter to Mr. Blair of the 18th January ultimo, without any personal compromise on any question in the letter. We have the permission to do so from the authorities at Richmond.

Very respectfully, yours,

ALEX. H. STEPHENS,  
R. M. T. HUNTER,  
J. A. CAMPBELL.

To Lieutenant General Grant.

At 9.30 p. m. I notified them that they could not proceed further unless they complied with the terms expressed in my letter. The point of meeting designated in above note would not, in my opinion, be insisted upon. Think Fortress Monroe would be acceptable. Having complied with my instructions, I will return to Washington to-morrow, unless otherwise ordered.

THOS. T. ECKERT, Major, &c.

On reading this dispatch of Major Eckert, I was about to recall him and the Secretary of State when the following telegram of General Grant to the Secretary of War was shown me:

[In cipher.]

OFFICE UNITED STATES MILITARY TELEGRAPH,  
WAR DEPARTMENT.

The following telegram received at Washington 4.35 a. m., February 2, 1865, from City Point, Virginia, February 1, 1865:

Hon. EDWIN M. STANTON, Secretary of War:

Now that the interview between Major Eckert, under his written instructions, and Mr. Stephens and party has ended, I will state confidentially, but not officially, to become a matter of record, that I am convinced, upon conversation with Messrs. Stephens and Hunter, that their intentions are good and their desire sincere to restore peace and union. I have not felt myself at liberty to express even views of my own or to account for my reticence. This has placed me in an awkward position, which I could have avoided by not seeing them in the first instance. I fear now their going back without any expression from any one in authority will have a bad influence. At the same time, I recognize the difficulties in the way of receiving these informal commissioners at this time, and do not know what to recommend. I am sorry, however, that Mr. Lincoln cannot have an interview with the two named in this dispatch, if not all three now within our lines. Their letter to me was all that the President's instructions contemplated to secure their safe conduct if they had used the same language to Major Eckert.

U. S. GRANT,  
Lieutenant General.

This dispatch of General Grant changed my purpose, and, accordingly, I telegraphed him and the Secretary of State respectively, as follows:

WAR DEPARTMENT,  
WASHINGTON, D. C., February 2, 1865.

Lieutenant General GRANT, City Point, Virginia:

Say to the gentlemen I will meet them personally at Fortress Monroe, as soon as I can get there.

A. LINCOLN.

[Sent in cipher at 9 a. m.]

WAR DEPARTMENT,  
WASHINGTON, D. C., February 2, 1865.

Hon. WILLIAM H. SEWARD, Fortress Monroe, Virginia:

Induced by a dispatch from General Grant, I join you at Fortress Monroe as soon as I can come.

A. LINCOLN.

[Sent in cipher at 9 a. m.]

Before starting, the following dispatch was shown me. I proceeded nevertheless:

[Cipher.]

OFFICE UNITED STATES MILITARY TELEGRAPH,  
WAR DEPARTMENT.

The following telegram, received at Washington, Feb-

ruary 2, 1865, from City Point, Virginia, 9 a. m., February 2, 1865:

Hon. WILLIAM H. SEWARD,  
Secretary of State, Fortress Monroe:

[Copy to Hon. Edwin M. Stanton, Secretary of War, Washington.]

The gentlemen have accepted the proposed terms, and will leave for Fortress Monroe at 9 30 a. m.

U. S. GRANT,  
Lieutenant General.

On the night of the 2d I reached Hampton Roads, found the Secretary of State and Major Eckert on a steamer anchored off the shore, and learned that the Richmond gentlemen were on another steamer anchored off shore, in the Roads, and that the Secretary of State had not yet seen or communicated with them. I ascertained that Major Eckert had literally complied with his instructions, and I saw, for the first time, the answer of the Richmond gentlemen to him, which, in his dispatch to me of the 1st, he characterizes as "not satisfactory." That answer is as follows:

CITY POINT, VIRGINIA, February 1, 1865.

MAJOR: Your note, delivered by yourself this day, has been considered. In reply, we have to say that we were furnished with a copy of a letter of President Lincoln to Francis P. Blair, Esq., of the 18th of January ultimo, another copy of which is appended to your note. Our instructions are contained in a letter of which the following is a copy:

RICHMOND, January 28, 1865.

In conformity with the letter of Mr. Lincoln, of which the foregoing is a copy, you are to proceed to Washington city for informal conference with him upon the issues involved in the existing war, and for the purpose of securing peace to the two countries.

With great respect, your obedient servant,

JEFFERSON DAVIS.

The substantial object to be obtained by the informal conference is to ascertain upon what terms the existing war can be terminated honorably.

Our instructions contemplate a personal interview between President Lincoln and ourselves at Washington city, but, with explanation, we are ready to meet any person or persons that President Lincoln may appoint, at such place as he may designate. Our earnest desire is that a just and honorable peace may be agreed upon, and we are prepared to receive or submit propositions which may, possibly, lead to the attainment of that end.

Very respectfully, yours,

ALEX. H. STEPHENS,  
R. M. T. HUNTER,  
JNO. A. CAMPBELL.

THOMAS T. ECKERT, Major and A. D. C.

A note of these gentlemen, subsequently addressed to General Grant, has already been given in Major Eckert's dispatch of the 1st instant.

I also here saw, for the first time, the following note, addressed by the Richmond gentlemen to Major Eckert:

CITY POINT, VIRGINIA, February 2, 1865.

MAJOR: In reply to your statement that your instructions did not allow you to alter the conditions upon which a passport could be given to us, we say that we are willing to proceed to Fortress Monroe and there to have an informal conference with any person or persons that President Lincoln may appoint on the basis of his letter to Francis P. Blair, of the 18th of January ultimo, or upon any other terms or conditions that he may hereafter propose, not inconsistent with the principles of self-government and popular rights, on which our institutions are founded.

It is our earnest wish to ascertain, after a free interchange of ideas and information, upon what principles and terms, if any, a just and honorable peace can be established without the further effusion of blood, and to contribute our utmost efforts to accomplish such a result.

We think it better to add that in accepting your passport we are not to be understood as committing ourselves to anything, but to carry to this informal conference the views and feelings above mentioned.

Very respectfully, yours, &c.,

ALEXANDER H. STEPHENS,  
J. A. CAMPBELL,  
R. M. T. HUNTER.

THOMAS T. ECKERT, Major and A. D. C.

NOTE.—The above communication was delivered to me at Fortress Monroe at 4.30 p. m., February 2, by Lieutenant Colonel Babcock, of General Grant's staff.

THOMAS T. ECKERT,  
Major and A. D. C.

On the morning of the 3d the gentlemen, Messrs. Stephens, Hunter, and Campbell, came aboard our steamer, and had an interview with the Secretary of State and myself of several hours' duration. No question of preliminaries to the meeting was then and there made or mentioned; no other person was present; no papers were exchanged or produced, and it was, in advance, agreed that the conversation was to be informal and verbal merely.

On our part the whole substance of the instructions to the Secretary of State, heretofore recited, stated and insisted upon, and nothing was said inconsistently therewith; while by the other party it was not said that, in any event, or on any condition, they ever would consent to reunion, and yet they equally omitted to declare that they never would so consent. They seemed to desire a postponement of that question, and the adoption of some other course first, which, as some of them seemed to argue, might or might not lead to reunion, but which course we thought would amount to an indefinite postponement. The foregoing, containing, as is believed, all the information sought, is respectfully submitted.

ABRAHAM LINCOLN.

The message was laid on the table, and ordered to be printed.

Mr. WASHBURN, of Illinois. In view of the last clause of that message, I move that twenty

thousand extra copies be printed. I desire to say here that I think this message will meet the cordial approbation of the entire loyal people of this country, and shows wisdom and discretion in the President of the United States in acting upon this whole matter.

Mr. BROOKS. But for the remarks of the gentleman from Illinois, [Mr. WASHBURN,] I do not know that I should have felt it my duty just now to express any opinion upon these documents, for it is difficult to comprehend them as they are rapidly read here; but I rise to say, as I understand them, I do not think the President will meet the cordial approbation of all the loyal people of these United States. From the documents that are submitted by the President of the United States, and also the report which comes to us from the rebel chief and his commissioners, these two facts seem to be evident: first, that the President of the United States will consent to no armistice whatsoever between us and the rebel States without the previous absolute submission on the part of those rebel States; and next, that the President will enter into no consultation whatsoever with any single State of those rebel States. The President of the United States is silent upon that last particular subject; but it is positively affirmed, both in the remarks of the chief of the rebel States and his commissioners, that our President would not treat with any one of the rebel States. The President is silent upon the subject, while Mr. Davis says:

"I therewith submit, for the information of congress, the report of the eminent citizens above named, showing that the enemy refused to enter into negotiations with the confederate States, or any of them separately, or to give to our people any other terms or guarantees than those which the conqueror may grant, or permit us to have peace upon any other basis than an unconditional submission to their rule, coupled with the acceptance of their recent legislation, including an amendment to the Constitution for the emancipation of all negro slaves, and with the right on the part of the Federal Congress to legislate on the subject of the relations between the white and black population of each State."

The three rebel commissioners and the rebel president thus positively affirm in their official report that the President of the United States would neither consult nor act without previous submission, nor agree to an armistice with any single State of that rebel government any more than with the rebel government itself.

Mr. Speaker, I am reluctant to say, but nevertheless I feel it my duty to say, that in a great civil war like this, where so much blood has been shed and so much treasure expended, the President of the United States, without all these preliminary conferences and arrangements but calculated to embarrass any negotiations whatsoever, should, in the spirit of a larger and nobler mind, have thrust away all these petty intricacies and approached the great subject under consideration. And yet I should be unjust to him if I did not say that under the embarrassments surrounding him he deserves the thanks of the country for even approaching these commissioners, and for making any effort whatsoever for the attainment of peace.

I am aware, Mr. Speaker, of the difficulties that already beset any civil power in any effort to make a peace; and I sometimes fear that even now we have reached a period in our history like that which has existed in other nations heretofore engaged in great civil wars, when no legislative or civil power can end a war like this, and when peace is to be obtained by military chieftains only, not altogether on the field of battle, but by the control and subjection of the people in their respective districts to their arms and their wills. The spirit of peace exists; but there is no civilian or statesman great enough to lead or guide it. Thousands and tens of thousands of all parties, North and South, would welcome it on any honorable terms; but no man in power, North or South, dare take bold steps to forward it. The armies, too, North and South, are panting for it, as was shown when, amid the loudest cheers, the rebel commissioners departed from the rebel ranks, and with reëchoing cheers were welcomed into ours. Soldiers even now could and would make honorable peace; but in the storm of passions excited by men in civil life, peace, I fear, is passing beyond the control of civil chiefs.

When the President of the United States left this capital, the fanaticism and the fanatics his policy has here created opened at once in full howl upon him. In view of the demonstrations which have been made in another branch of this



Government, to which it would not be parliamentary to refer, it required some courage on his part to take any steps whatsoever for the pacification of our country. If he had had the spirit of a Jackson, or the spirit of a Clay, the higher, the nobler, the more self-relying spirit of the men who, in crises like these, have hitherto controlled the destinies of this country, he would have allowed no men, not even Senators, thus booed and spurred, to mount and rowl him, or he would have unhorsed them and thrown them into that ditch where they ought to have been thrown when they attempted to thwart all pacification.

But the President deserves credit and thanks for resisting, even for a moment, the denunciations hurled forth against him when entering into consultation with the rebels on board of the steamers in the Chesapeake, near Fortress Monroe. I thank him for the effort, no matter what motives may have prompted it. It is what I asked and desired of him in December last, but what was met in some quarters on the other side of the House in a spirit highly condemnatory of the course I suggested. I should be inconsistent, then, with myself, and unjust to him, if I did not avail myself of this opportunity to thank him, amid the denunciations by which he was surrounded, for entering into any preliminary negotiations whatsoever with these rebel commissioners. But I deeply regret to say that when the President approached these commissioners in consultation, he did not carry out the spirit with which he seemed to start, and then act on his own responsibility, that is, on rebel submission to the Constitution of the country, the Constitution which was handed down to us by our fathers, ask no other terms whatsoever, and add that on these terms alone he would enter into preliminary arrangements for peace. It seems to me, also, that when the opportunity was offered to him to negotiate with any one of the rebel States he should have cheerfully availed himself of that opportunity.

Mr. Speaker, there arises a period in the history of civil wars when power passes from the civil to the military authorities alone. Sir, that period is passing, nay, may have already passed, when either an Abraham Lincoln or a Jefferson Davis, if both were never so much disposed, could hush the storm they have raised. Certain it is that while Abraham Lincoln is driven, as often he is, from positions he takes, by the howl of the hounds that beset him, the fate of Actæon in the fable affrights him, lest he be devoured by them; and hence, from the Potomac to the Passamaquoddy, he strives in vain to still the elements of passion and of pelf that there everywhere reign; while not less powerless is Jefferson Davis to put down the specter of rebellion he has conjured up from the Rio Grande to the Rapidan. Sir, neither of those men, high in position as they are, was cradled in the conciliatory school of a Washington, an Adams, a Jefferson, or a Hamilton; and into neither of them at their birth did God breathe the great spirit that could lift them above human passion to comprehend the awful responsibility of their influence over human life and human affairs. Both are but drifting, and drifting now, as if on the white crests of ocean billows, while both dread to steer their craft to any port or harbor for fear of the mutiny they may have on board when the surges cease to roll and to terrify their crews. Sir, when such a crisis arises in the history of civil wars, peace passes not only from the jurisdiction of Presidents but from Federal and rebel Congresses also. Peace passes then from all civil jurisdiction, and all the terms of peace. When the sword is unsheathed too long the toga and the robe can never drive it back to its scabbard. Is not peace already admitted to be only with the sword, or the men of the sword? Are Congressmen anything? Are not armies everything? And in the end, in all probability, if this war is prolonged many years more, that power which dictated peace to the senate and people of Rome, to the commonwealth of England, and to the republic of France, some Augustus Caesar, some General Monk, or some rising Bonaparte will dictate peace to all of us—the peace of despotism and of civil death upon the ruins of the Constitution of our country. This is the peace of civil wars. This is the peace of history. This is the record of two thousand years. And may God avert that unhappy destiny from us

which I fear having been given to all other nations, is at last reserved to our unhappy country.

The President, so it seems to me, Mr. Speaker, threw away about the last opportunity he will have to make peace when he refused, as stated by the rebel commissioners, to entertain "terms or proposals of any treaty or agreement looking to an ultimate settlement either with the authorities of the confederate States or from the States separately." The refusal in any form to recognize the government of the confederate States—although a government *de facto*, yet not a government *de jure*—because not a government recognized by our Constitution, can be understood; but the refusal to recognize the well-known *de jure* as well as *de facto* governments of the States of the South seems to me as unwise and as impolitic as it is indefensible, under our mixed Governments, Federal and State. There are elements of peace in Georgia, in Alabama, in North Carolina, and if the executives of those States, or if those States were separately consulted and negotiated with, peace, in all probability, could be given to the land without further arbitrament of the sword and cannon on the field of battle. North Carolina is ready for peace if she could be preserved from the rebel army. Georgia (and Stephens represents the feelings of Georgia in a great degree) is in a condition to make peace if her institutions, her State rights and sovereignty, can be preserved. Indeed, Mr. Stephens says, in a letter that has been read here, to Major Eckert, that he desires peace "upon any terms or conditions that he," the President, Mr. Lincoln, "may hereafter propose, not inconsistent with the principles of self-government and popular rights, on which our institutions are founded." Give to Georgia, then, the guarantee of self-government and of popular rights within the State, and peace doubtless may be restored to this Union by a separate negotiation with the State. There are, too, elements of peace in Alabama. I regret that the President has thus closed the door of peace and opened the doors of everlasting war by declining any consultation with the separate States of North Carolina, Georgia, or Alabama. There is no other hope of peace now left. Even if Davis himself were to attempt peace in the rebel capital I have but little doubt that civil war would ensue within his domain from resistance to it of wild men there. And if Abraham Lincoln were to restore peace here only on condition of the restoration of the Union, I think I can name five or six northern States that would be soon involved, if not in physical rebellion against the government of Abraham Lincoln—

Mr. ASHLEY. Name one of them now.

Mr. BROOKS. Will the State of Ohio submit to peace on condition of having the Union as it was?

Mr. ASHLEY. Not by my vote.

Mr. BROOKS. I have an answer from the honorable gentleman from Ohio, that his State will not submit to peace on the restoration of the Union as it was. Let me ask him now what would Ohio do on condition that Abraham Lincoln negotiated a treaty of peace on the restoration of the Union as it was?

Mr. ASHLEY. If the constituted authorities of the country would sustain the President the State of Ohio would submit.

Mr. BROOKS. Then the gentleman contradicts himself.

Mr. ASHLEY. No, sir.

Mr. BROOKS. The gentleman from Ohio will not submit to a restoration of the Union as it was.

Mr. ASHLEY. While Ohio is speaking herself for her own citizens, her voice would be, as mine shall be, against a restoration of the Union with the domination of the slave power and with the rebels back in this Capitol.

Mr. BROOKS. It is in the power of the President of the United States alone to negotiate a treaty of peace. This is not like a foreign war in which it is necessary to submit a treaty of peace to the Senate of the United States for ratification; but in this matter of a negotiation for peace the supreme power is in the President of the United States. I desire, therefore, to ask an explicit reply to this question from the gentleman from Ohio, [Mr. ASHLEY.] Suppose Abraham Lincoln, the constituted authority of this country, should make peace to-morrow with the rebel

authorities, and bring them back to this Capitol, upon the basis of the Union as it was, would Ohio submit then to Abraham Lincoln?

Mr. ASHLEY. What does the gentleman from New York [Mr. Brooks] mean by "the restoration of the Union as it was?"

Mr. BROOKS. I mean the right of self-government within the States.

Mr. ASHLEY. Nobody denies that.

Mr. FARNSWORTH. Does the gentleman from New York [Mr. Brooks] mean the Union of the States as it was on the basis of the forgiveness of rebels, and the return to them of the slaves who have been fighting the battles of the Union?

Mr. BROOKS. The President of the United States has absolute power of pardoning these rebels, and if he chose to pardon them and exercise that power, I have not a reply that I can quite understand from the gentleman from Ohio, [Mr. ASHLEY,] whether he would submit or not to the exercise of that prerogative by the President of the United States.

But as the gentleman does not choose explicitly to reply to my question, what I want to know from him, and what the country hereafter will want to know, is whether this war is expressly to be prosecuted on the basis of a new Constitution, new institutions, new Government, new laws, and a new country. I tell him here that if he realizes his project of giving free suffrage, universal, uncontrollable suffrage to the negroes of the South, who shall displace the white man's Government within that region, and bring up only the negroes of the South, to be represented here in this Congress; if that is his new Constitution, I desire no longer to prosecute war for any such purposes as that.

Mr. ASHLEY. Mr. Speaker, the gentleman from New York [Mr. Brooks] is very well aware of the fact that the question of the right of suffrage is confined exclusively to the States of this Union. If they choose, as the State of New York and other northern States have done, to permit blacks to vote, as many southern States formerly did, that is a question over which Congress has no power.

Mr. BROOKS. Then the honorable gentleman differs altogether from the honorable gentleman from Pennsylvania, [Mr. KELLEY,] and other honorable gentlemen, who are insisting that Louisiana shall not be readmitted into Congress unless the negroes there are first permitted to vote.

Mr. KELLEY. I do not understand the gentleman from Ohio [Mr. ASHLEY] to differ from me in opinion upon the question put in issue by the gentleman. I took occasion, some days ago, to spend a few minutes in illustrating the fact that the question of suffrage is a question belonging peculiarly to the people of each State. I have never entertained any other opinion. It has, however, always belonged to Congress to determine who might exercise the right of suffrage within the Territories; but in the States the question belongs to the States themselves.

Mr. BROOKS. Let me ask the honorable gentleman from Pennsylvania, [Mr. KELLEY,] in order that I may understand him thoroughly, has he proposed to let Louisiana enter into this Union without a preliminary provision permitting the negroes in Louisiana to vote?

Mr. KELLEY. I propose, so far as my vote shall be concerned, to admit Louisiana into the Union whenever she comes here with a constitution republican in form, which shall have been ordained by the people of that State—

Mr. ASHLEY. Loyal people.

Mr. BROOKS. Black people?

Mr. KELLEY. After our armies shall have made conquest of the entire territory of the State, or the rebels now in arms against us shall have submitted to the authority of the supreme Government of the land; that is the administration to which the people for the time being have confided the administration of affairs and the enforcement of the Constitution and laws. I do not propose by any vote of mine, however, to subject the people of that State who are now and at all times have been loyal to the Government to the control of the pardoned but unconverted traitors who have attempted to overthrow my Government and divide my country.

Mr. BROOKS. The honorable gentleman from Pennsylvania makes a very good speech within my speech, and yet when he speaks of the "peo-

ple" of Louisiana he means the black people as well as the white people of Louisiana, and more the blacks than the whites, because the black people are largely in the majority there.

Mr. KELLEY. Why, sir, I have always regarded an intelligent black patriot as a better man and a better citizen than the most lily-livered traitor that ever capered in a lady's chamber. [Laughter and applause.]

Mr. BROOKS. The honorable gentleman from Pennsylvania has made that speech once before in this House during this session—

Mr. KELLEY. I would be glad if the gentleman would refer to the expression I have just uttered. I do not think he can find it in the Globe.

Mr. BROOKS. And if he repeats it again he may again have applause from the surrounding galleries and from certain members on the floor of this House.

But I tell the honorable gentleman from Pennsylvania and all other gentlemen, that while I am willing to recognize the equality of the negro before the law in the State from whence I come, yet, whatever may be the law of my State, I do not intend here in Congress to support any effort to impose upon other States or upon Territories terms which shall compel them to allow the negroes there to vote, thus to govern the whites.

Mr. KELLEY. Will the gentleman yield to me one moment?

Mr. BROOKS. I cannot yield except for a brief question.

Mr. KELLEY. I desire merely to ask a question. The gentleman speaks of Territories. I desire to ask him whether the Congress of the United States has not always regulated the question of suffrage in the Territories when giving them organic laws, and whether any territorial act, either of the Congress of the Confederation or of the Congress of the United States down to 1812, ever excluded the free negro from the exercise of the right of suffrage. Did Congress, by any act prior to 1812, when the Territory of Missouri was organized, ever exclude the free negro from the exercise of suffrage in the Territories?

Mr. BROOKS. Congress never attempted, before the assembling of this Congress or the preceding one, to impose negro suffrage upon any Territory of this Union.

Mr. KELLEY. The gentleman is mistaken. In 1812, the Congress of the United States for the first time excluded the free negro from suffrage in the Territories. Notwithstanding the fact that South Carolina undertook, as early as 1778, to force the insertion of the word "white" into the provision of the Articles of Confederation regulating the right of suffrage, Congress, from the very organization of the Government down to the year 1812, uniformly maintained the right of the negro to suffrage in all the Territories, whether they lay north or south of the slave line.

Mr. BROOKS. Mr. Speaker, it would be too much of a diversion from the main objects of my present remarks to enter into a historical discussion upon negro suffrage as it may have been exercised in different States or Territories. I am well aware that until the abolition excitement began, a small portion of the negroes of North Carolina, and even of Tennessee, had the right of suffrage. All this is aside from the President's message that I rose to discuss, and I do not propose to be further diverted from that discussion now.

Mr. ASHLEY. Will the gentleman yield to me for a moment?

Mr. BROOKS. I will hear the gentleman from Ohio.

Mr. ASHLEY. The gentleman stated some moments ago that in a certain contingency there were six northern States that would rebel against the Government. I asked the gentleman once before to name the States to which he referred, and he declined to do so. I now ask him again to name them.

Mr. BROOKS. The gentleman has declined to answer my question. I ask him again, if Abraham Lincoln should admit the southern States again, if the rebels formerly representing the southern States here should be pardoned and admitted upon this floor—say Toombs of Georgia, or Jefferson Davis—would the honorable gentleman submit to it?

Mr. ASHLEY. The President may pardon and this House may admit any gentleman elected

by a State as its representative. The Representatives from the State of Ohio and the civil authorities of the State of Ohio would submit and bow to the constitutionally expressed will of the majority of this or the other branch of Congress in admitting such men.

Mr. BROOKS. That is not an answer to my question. I ask whether, if the executive authorities of the United States were to exercise this power of pardon, and admit the rebels of the southern States to amnesty and pardon, and those rebels were to be elected to Congress and admitted within this Capitol, would he submit?

Mr. ASHLEY. So far as I am concerned I would submit to the constituted authorities of the land. So far, however, as my vote here is concerned, it shall never be given for the admission of rebels here.

Mr. BROOKS. Is not the President, in the case of pardon, the constituted authority of the United States?

Mr. ASHLEY. I do not recognize the President of the United States as the constituted authority of the land. The coordinate branches of Congress, acting with the President, constitute the Government.

Mr. BROOKS. Then, if sixty or seventy rebel Representatives were admitted upon the floor of this House, and forty or fifty of us were to unite in admitting them, what would the gentleman do?

Mr. ASHLEY. I would submit, of course. I have answered the gentleman's question before. Personally I would vote against them. If a majority of this House, or of the Government as it may be constituted now or hereafter, should permit gentlemen to be admitted from rebel States, I should submit.

Mr. BROOKS. The gentleman has answered my question now. Taking him, therefore, as the standard of opinion, I do not think then that five or six States would rebel against the authority of the United States, for I now understand him to say that when the President assumes the merciful prerogative of pardon, and exercises that prerogative which the people intrusted to him, and the doors of Congress are again opened to Representatives from the rebel States, the gentleman will sit here with me, if we both happen to be elected members of the House, and submit to amnesty and pardon and to Abraham Lincoln, receiving them as friends and brothers. I am glad to get that concession from so extreme a man as the honorable gentleman from Ohio. I desire that it may reach the ears of the President. I desire it to go out to the South as an invocation from him to the southern rebels to lay down their arms and come once more within the portals of this Capitol.

Mr. INGERSOLL rose.

Mr. BROOKS. I wish the gentleman would pardon me. I want to go on with my remarks.

Mr. INGERSOLL. I wish to say that the American Congress—

The SPEAKER. Does the gentleman from New York yield?

Mr. BROOKS. I would rather not. I will yield some other time.

I was about to say, when interrupted in the course of my remarks, that Mr. Lincoln, in refusing to negotiate with the States in rebellion, has not consulted the antecedents in our history. When the State of Pennsylvania was in rebellion against the Government of the United States on the subject of whisky, the then President of the United States, high and lofty as he was—

Mr. THAYER. The State of Pennsylvania never was in rebellion.

Mr. BROOKS. Then I will correct my remark. When a large portion of the people of the State of Pennsylvania were in a state of rebellion, Washington himself did not deem it beneath his dignity to consult with those rebels and institute a commission to negotiate. When in the State of Rhode Island there was rebellion, or when a considerable portion of them was in rebellion, the then President of the United States did not deem it beneath his dignity to consult the rebels. A large portion of the people of Rhode Island were in rebellion.

Mr. JENCKES. Against whom?

Mr. BROOKS. Against their own State.

Mr. JENCKES. And they were treated as they deserved to be.

Mr. BROOKS. And a large portion of the

people of Massachusetts were in a state of rebellion prior to the formation of the Constitution of the United States, and the high authorities of that State did not hesitate to enter into negotiation and consultation with Shay and other leaders of that rebellion, and actually settled terms with them when they were in arms. These are but State matters; but I proceed to the consideration of another.

When in 1832 the State of South Carolina was in rebellion, when the Army and Navy of the United States were surrounding the city of Charleston, the high, imperious, and haughty General Jackson, who threatened to string up the traitors upon the lamp-posts, did not hesitate to send General Scott, Colonel Bankhead, and civilians, too, over and over again, to consult with Governor Hayne and General Hamilton, and other leaders of that rebellion, to propitiate the State of South Carolina and avert the storm of civil war. When civil war was imminent, when the armies were approaching each other, Clay, even the fiery spirit of Henry Clay, in the other House of Congress, did not hesitate, for the sake of peace, to throw aside the protective tariff interests of the States of Pennsylvania and Massachusetts and to surrender that mere question of money in order to propitiate that State. And a bill of compromise and concession General Jackson cheerfully signed: Men of such lofty spirit did not hesitate to consult with the leaders of actual organized rebels in South Carolina, in order to avert the storm of civil war; and why should President Lincoln hesitate now to follow in such illustrious steps?

These are the precedents of our history which it seems to me the President of the United States should have consulted when he entered into this negotiation with the rebels in the Chesapeake bay, and when one of their propositions was separate negotiations with the rebel States of the Federal Union.

Mr. INGERSOLL. I would like to inquire of the gentleman where he obtains the evidence that there was a proposition made to the President of the United States, that the separate States would enter into negotiations for peace upon the basis of the Union, or upon any other basis.

Mr. BROOKS. I have already read the authority.

Mr. INGERSOLL. Where is it to be found?

Mr. BROOKS. It is in the communication made by Jefferson Davis to the rebel congress, and in the letter of the three commissioners to the rebel congress. That is my authority, and there is no denial of it in the documents read at the desk from the President of the United States.

Mr. INGERSOLL. There is no affirmation of it in the document sent to us by the President.

Mr. BROOKS. I regret also that all terms of armistice have been refused by the President of the United States. I deeply regret that there is to be no cessation, no pause in this horrible civil war. And when I heard the honorable gentleman from Indiana yesterday, [Mr. JULIAN,] and the gentleman from Vermont also, [Mr. MORRILL,] anticipate an early conclusion of this war, I could not but recall the illusions I have heard from the floor of this House now for four years past; though I could not help pray from the bottom of my heart that now they might turn out to be better prophets than they have been heretofore. I will not now reëxpress my opinions upon that subject. It is unnecessary. The history, the Anglo-Saxon history, records what must be the result, without any prediction of mine—long and continued war. Even with the suppression of armies and the sack of southern cities, guerrilla warfare will be protracted, no man can tell how long. Why, if there be any part of the South which has been subjugated it is that part within ten or fifteen miles of this Capitol; and yet twice within this winter the guerrillas have been formidable within fifteen miles of this Capitol, once at Rock creek, and again out on the Fairfax road; and no man at this day or hour can venture alone and unarmed over the Potomac twenty miles from this Capitol, or even ten miles within this subjugated country. The overthrow of armies, the sack of cities, the removal of all apparent forces, is not the subjugation of the people nor the end of the war. Hence I deeply regret that the President of the United States did not avail himself of this opportunity for an armistice, in order to give again to the people of the South the means of reasoning and con-

sultation. Armed forces, swords, bayonets, artillery, are not weapons of American civilization—

Mr. WASHBURNE, of Illinois. Is the gentleman from New York in favor of an armistice?

Mr. BROOKS. I am. I repeat, I am. I am in favor of appealing from guns and bayonets and artillery to reason, to sense, to Christianity, and to civilization—

Mr. WASHBURNE, of Illinois. The gentleman agrees with Jeff. Davis and his commissioners upon that subject.

Mr. BROOKS. Why, certainly I am in favor of an armistice. Someday or other this war must stop.

Mr. WASHBURNE, of Illinois. Never until the rebellion is subdued.

Mr. BROOKS. There must, I repeat, be an end of the war, and prior to that, there must be a cessation of hostilities, a truce, or an armistice.

I regret deeply that the President did not avail himself of this opportunity, for I believe that it would have ended the war, and ended it in the restoration of this Union. If we were once again to resort to the arbitrament of reason and sense instead of the logic of artillery, neither our people nor the southern people could again be driven to arms. If the cheers of the army of Grant and of the army of Lee can be permitted once more to echo, the soldiers of those armies, who are fighting the battles of this war, will meet in common fraternization and they will end the war. Our Army are for an honorable peace; our armies are for an armistice for the restoration of the Union; our soldiers want to see our flag, the stars and stripes, float from the Passamaquoddy to the Rio Grande, and the trade of the South again opened to our people; and whenever there is a cessation of hostilities and an opportunity to reason upon the subject, never again will the din and clangor of arms resound.

Mr. Speaker, there is another topic in connection with the armistice which I wish could have arrested the attention of the President of the United States, and that is the condition of our foreign relations. Sir, there is a movement going on of far more importance to us than slavery in the South, or these mere technical preliminary negotiations which the President could not break through—a European movement, that movement which is threatening to plant French arms and the French flag in the States of Sinaloa, Chihuahua, Durango, Sonora, and Lower California, a territory embracing about one half of all Mexico, and larger than New England and New York and Pennsylvania combined. The Monroe doctrine is gone. The unity and honor of our continent are gone. Europe is overriding us. Rebel chiefs even are made dukes and viceroys under the control and direction of the Emperor of France. These States of Sinaloa, Chihuahua, Durango, Sonora, and Lower California, are worth ten times what we are fighting for; and while we are destroying ourselves, the Emperor of France is preventing the further extension of our magnificent empire. For a miserable debt, originally but \$125,000, he has taken possession of these vast Mexican States, and there is no resistance whatsoever from the authorities of this Government. The President of the United States is forced to be silent; the Secretary of State dare not remonstrate. The *Memorial Diplomatique*, a French paper of high authority, published in the city of Paris, a paper which ninety-nine times out of a hundred is accurate in reflecting diplomatic authority—that high authority states that in September and October last Maximilian was not recognized by the constituted authorities of our country only because of the then approaching presidential election, and it is alleged by the same high authority that Mr. Corwin, our minister plenipotentiary, was permitted to depart from Mexico in order to no longer recognize the Juarez Government, but that in due time, after our election, Maximilian would be recognized as the constituted authority of Mexico. I do not know that that is the fact, but I utter it on the authority of the *Memorial Diplomatique*, a paper of the highest authority among all the diplomatic authorities of the European world assembled in the city of Paris. But whether it be true or not, the fact is on record that while we have been fighting, nominally to abolish slavery, a great republic, a sister republic, the republic of Mexico, has been overthrown, dethroned, enslaved, and an Austrian

monarchy has been substituted in its stead, through the silence of our authorities. No remonstrance on record, no resistance, but apparent assent! While we have been fighting, these vast Mexican States, of which I have spoken, have passed even from the Emperor of Mexico, and have been seized upon by the Government of France in payment of a debt of only \$125,000. A remonstrance from this House, it is true, has gone forth, none from any other branch of the Government, while we have been officially rebuked by our own executive authority for remonstrating at all!

Then let us hush this unnatural, fraternal, civil war till we can again expel European invasion, at least from the continent of North America. Let not Mexico and Central America be enslaved in order to free a few negroes here. Nay, not even to free a few negroes; for, although but a few days ago we emancipated all the negroes of the southern States, the House yesterday, by a vote of 64 to 62, passed a bill (the freedman's bill) substantially to reenslave all the negroes whom we had liberated by the constitutional amendment a few days before. It is on these grounds, sir, that I deeply regret that the President would not consent to the armistice desired. Some day or other we must come to that and agree to a cessation of hostilities. We have the high authority of President Lincoln for saying that war cannot continue forever; that peace must come, sooner or later. If, as Mr. Stephens hints in his letter, all that the South asked for is self-government and the restoration of popular rights, this is quite the time for an armistice to be accepted by us. We lose nothing by it. We hold on to what we have got, and stand in position to take more. And we are in the hey-day of our prosperity now. Our honor is unsullied. Our armies are triumphant almost everywhere. Now, then, is the day and hour to be magnanimous. The adversities of war may approach us. The adversities of finance may overwhelm us. We are taxed now as no other people on earth is taxed, by Federal, by State, by county, by town, by municipal authorities of all sorts, to carry on this war. The honorable gentleman from Vermont [Mr. MORRILL] again demands fresh taxation to the amount of forty millions more, and a tax upon incomes more grinding than ever. I venture to say that, within a very few days, the Committee of Ways and Means will again come before the House demanding new loans of millions on millions to carry on this war. These loans cannot always be made. We cannot always borrow. Why not now, then, in this the hey-day of our prosperity, in the midst of the glories of our military achievements, accept what the rebels seem, almost on bended knees, to have asked from us, an armistice of sixty or ninety days, in order to enable them to go back and reason with their people and bring their minds to permanent peace?

Mr. Speaker, these are my sentiments, and I dare to utter them. I know not, and I care not, what may be said of me. What may befall me or my fortune is a matter of entire indifference. Whether I am popular or unpopular, whether I am denounced, calumniated as disloyal, or not, is a matter of entire indifference to me when I have the support of my own sense of right. Here and elsewhere, on all occasions, then, I shall proclaim and advocate what I believe to be this right, namely, that now is the day and hour, with only one condition, the restoration of the Union, for the acceptance of any honorable terms that will immediately end this unnatural war.

Mr. STEVENS addressed the Chair.

#### MEMBERS EXCUSED.

Mr. NORTON. I desire to ask unanimous consent to make now my excuse for being absent last night without leave of the House.

Mr. COX. I object.

Mr. WASHBURNE, of Illinois. I ask if it is not a matter of privilege for a member under arrest here to offer his excuses.

Mr. NORTON. I wish to leave the city at three o'clock this afternoon.

The SPEAKER. The House has postponed the consideration of the cases of absent members until this matter is disposed of.

Mr. STEVENS. I hope that we will understand that if the gentleman from Illinois [Mr. NORTON] is necessarily absent, his case will be passed over until his return.

Mr. FARNSWORTH. That will do.

Mr. ENGLISH. I desire to state to the House that I am called upon to leave the city this afternoon, in consequence of the extreme illness and probably death of my father-in-law, now ninety years of age. I may be absent until some time next week.

Messrs. NORTON and ENGLISH were excused temporarily from attendance upon the sessions of the House.

#### PEACE NEGOTIATIONS—AGAIN.

Mr. STEVENS. Mr. Speaker, I have not risen for the purpose of attempting the impossible task of answering such a speech as we have just heard from the gentleman from New York, [Mr. Brooks.] I would rather that this question of printing had been taken without remark. But it has been opened by discussion; and the position of the gentleman from New York, [Mr. Brooks,] it seems to me, is but perfectly natural and just. The rebels of the South have been arraigned by the message of the President. In all justice they were entitled to an advocate upon this floor, and they ought to have one who fully enters into their views and sympathizes with their purposes. I see, therefore, great propriety in the gentleman from New York undertaking that task of love; for he tells us at the outset that he believes—and indeed seems to be electioneering for a further division of this Union—that five States of this Union beyond those already in rebellion will yet be in rebellion. I know not what five States he means. Of course he speaks for the city of New York in one of those States; but the States I do not know. But I trust he will confine himself to his clients and not touch those of the loyal States.

Now, sir, the gentleman is hard to please. Some time ago it was earnestly asked that President Lincoln should send ambassadors, or agents in some shape, to hear what the South would say; the gentleman from New York [Mr. Brooks] was among that number; and they declared that if, upon that being done, they should refuse to treat upon the basis of the integrity of the South, there would hereafter be perfect unanimity among all parties in the North; that all men would be loyal; that all men would support this Government. The gentleman from New York [Mr. Brooks] and those who acted with him on that occasion differed somewhat from the loyal people—I mean the other loyal people of the North—and from the gentlemen on this side of the House, for I do not believe there was a man on this side who desired the President to sue for peace for what had already been done. I believe the people were somewhat indignant at the idea that it was done. We therefore differed from the gentleman.

But the President has thought it was best to make the effort, and he has done it in such a masterly style, upon such a firm basis and principle, that I believe even those who thought his mission there was unwise will accord to him sagacity and patriotism, and applaud his action. Now, sir, I understand the gentleman to condemn the President of the United States for not opening a negotiation upon the basis tendered by the rebel commissioners. Now, sir, what was that basis? They tendered no basis upon which negotiations could be inaugurated, except independence of the rebel States and a dissolution of the United States. Does the gentleman mean to say, in the face of this House, in the face of the American people, that he condemns the President of the United States for not entering into negotiations with the confederate States upon the basis of their independence and a dissolution of this Union?

Mr. BROOKS. Does the gentleman desire an answer? I thought I made myself clear upon that subject. I applauded the President of the United States for entering into a negotiation with the rebel commissioners. I thought I was explicit upon that subject, and I have yet to learn, from any documents which have been submitted to us, that any basis of that negotiation was the separation and dissolution of the Union of these States.

Mr. STEVENS. I propose to read a few words from a speech of Jefferson Davis, made when these commissioners returned. It was a speech made in Richmond to a meeting called for the purpose of considering the report of these commissioners. They met in the African church. I do not know what to understand by that. They



have got very low when they can do that. However, that is a passing remark. What does he say?

"In my correspondence with Lincoln, continued Mr. Davis, that functionary has always spoken of the United States and the confederate States as one country; but in my replies I have never failed to refer to them as separate and distinct Governments. Sooner than that we should be united again, I would be willing to yield up everything I have on earth; and if it were possible, I would yield up my life a thousand times rather than succumb."

And upon the conclusion of the speech, the following resolutions, among others, were passed in the presence of the rebel commissioners:

"Resolved, That we spurn with indignation the grossly insulting terms which the President of the United States has proffered to the people of the confederate States."

"Resolved, That the terms in which and the circumstances under which it was made, stamp the proffer as a designed and premeditated outrage upon and indignity to our people."

"Resolved, That in this presence"—

That is in the presence of the rebel president and commissioners—

"and in the face of the world, invoking thereto the aid of Almighty God, we renew our resolve to maintain our liberties and achieve our independence, and to this end we mutually pledge our lives, our fortunes, and our sacred honors."

And yet a man calling himself a patriot and an American rises upon this floor and sends forth to the country a denunciation of the President of the United States for not entering into negotiations with men holding these doctrines and entertaining these views as the only ones upon which they would negotiate. Sir, the simple statement of the proposition is all that the American people will require to stamp with proper condemnation the man who denounces the President of the United States for the course which he has taken. I will apply no epithets to such a man; I do not know that I could use any which would be sufficiently merited.

Dissolution of the Union being the only condition of the negotiation for peace, the gentleman from New York condemns the President of the United States for not granting an armistice to these traitors. What is an armistice? It is a withdrawal of your armies; it is a cessation of hostilities; it is to enable the traitors whom we are seeking to crush to prepare for renewed hostilities. What would an armistice imply? It would be an admission that in the terms proposed by the rebels there was something that we could accept. If the President had consented to an armistice, thus acknowledging that upon that basis peace might come, he would have deserved to be impeached by this House and convicted by the Senate.

Now, sir, the gentleman says that this war can never end except by the desolation of the South? Whose fault is that, sir? Whose fault is it if these people, instead of laying down their arms and submitting to the law, are determined to resist to the last man and the last dollar? If we should lay waste their country and bring the peace which reigned in Warsaw, it would be but a just retribution for their hellish rebellion; it would be but a just retribution for the entertainment of sentiments such as the gentleman from New York has uttered.

Sir, the President of the United States, in my judgment, ought to do nothing more than he did some time ago: say to the rebels, "Peace is within your reach whenever you cease hostilities; peace is for you to declare, and not for us." We are no suppliants to rebels who have cost our country millions of dollars and shed the best blood of hundreds of thousands of our citizens. What dastard is there who would ask us, under these circumstances, to sue for peace on the basis which the rebels propose, or to lay down our arms for a single moment until they either submit or are exterminated? Sir, I do not hesitate to say that, in my judgment, one or the other of these alternatives must come. That the rebels can maintain themselves for any great length of time, I do not believe. That peace will come as early as some of our sanguine friends have hoped, I do not believe. I have believed from the first that men who for thirty years had concocted without the least cause the vastest and the foulest rebellion that was ever known in any country had made up their minds to take the consequences to the bitter end. I believe that in that vast country, although our superiority in arms must be acknowledged, it is very hard to produce immediate

results. Several years ago I did not hesitate to predict that scarcely five years would see the end of this rebellion, and I do not now believe that it will finally be terminated within the period of six or twelve months. I believe that the main armies of the rebellion will be crushed in the ensuing season, unless we agree to the terms advocated by the gentleman from New York, and withdraw our armies from the circle which is now closing in upon the heart and body of the rebellion. I believe we shall speedily crush all the great armies of the rebellion. Still I look for guerrilla warfare for a year or two; but that will be of comparatively little importance.

But the gentleman denounces the idea that we are to dictate terms to these people. Now, sir, was any great war ever ended by force of arms when the conquerors did not dictate terms to the conquered country, imposing upon it, in whole or in part, their own laws? But I understand the gentleman to object to other portions of the President's message. It was, if they come back, they must take the condition of things as they find them. The constitutional amendment, if finally adopted by three fourths of the loyal States, as I have no doubt it will be, will prohibit forever the admission of any State into the Union with slavery in its constitution. If they come back they come back to a free country. That touches the sensibilities of the gentleman from New York, [Mr. Brooks.] The time will come when this nation will suffer no compromise, no attempt to reestablish slavery in the slave States, no matter by whom. Does the gentleman, I ask, wish to reestablish slavery where it has been abolished or is about being abolished by the people? Is that the kind of doctrine which a Representative utters in the American Congress? Is that to be heard in this century, when almost the universal world is crying for general emancipation? When it is proposed to put the black man back into slavery, chains, and bondage, is the President to be condemned because he does not reëcho that sentiment?

Mr. Speaker, when I rose I did not intend to say so much, as I wish to get to the business of the country; but I desired to put before the country the distinct propositions of the two nations, as they are called in the rebel correspondence. I want it to go out that Jefferson Davis has stated that he will sacrifice everything upon earth, and that he will die a thousand times over rather than negotiate upon any other terms than independence of the southern States. That is the proposition which they make, and the one which Abraham Lincoln has rejected. All I ask is that this shall be placed distinctly before the American people.

Mr. MALLORY. Will the gentleman allow me?

Mr. STEVENS. Yes, sir.

Mr. MALLORY. Mr. Speaker, I think that I heard very distinctly the message of the President when it was read by the Clerk this morning, and I hope, for the sake of history, that the gentleman will not repeat the declaration that these commissioners from Richmond insisted upon southern independence as a basis of negotiations. The President says that that was not insisted upon, and the gentleman from Pennsylvania gets his information from a stump speech, or some sort of speech, made by Jefferson Davis, in Richmond. There is nothing to show that it is authentic. It may have been misprinted. He may have made no such speech as that. I hope the gentleman from Pennsylvania will confine himself to the message delivered to us by Mr. Lincoln.

Mr. STEVENS. I take both; the one introduced by the gentleman from New York [Mr. Brooks] from the rebels, and the one introduced in the message of the President. They both show conclusively that they refused to negotiate upon any other terms than the independence of the South.

Mr. MALLORY. The speech which the gentleman from Pennsylvania cites may say that southern independence was insisted upon, but the message of the President declares that no such thing was insisted upon. Now which authority is the gentleman determined to rely upon?

Mr. STEVENS. I did not so understand Mr. Lincoln.

Mr. MALLORY. Then you misunderstood him.

Mr. STEVENS. He said that they had no authority to negotiate upon any other terms than southern independence.

Mr. MALLORY. Let that part of the message be read, in order that the House may see the force of the argument which the gentleman has been making. The declaration of the President is, as compared with the telegraphic correspondence, like the small piece of bread to the vast deal of sack in Falstaff's bill. I call for the reading of that part of the President's message. I want it to go forth with the gentleman's speech.

Mr. STEVENS. It goes right along with it. [Laughter.]

Mr. MALLORY. I should like to have it in the gentleman's speech.

Mr. STEVENS. Both the report of the rebel commissioners and the report of the President of the United States go upon the ground that they would consent to no agreement except upon the concession of their independence. The President of the United States offered to treat distinctly upon the terms of his letter, and they refused to treat upon those terms. The President does not repeat them, but he refers to the letter he wrote to Mr. Blair, which contained the proposition. They refused to treat upon those terms, and thence those who censure the President now for not treating, censure him because he could not agree to severing this Union; and although he offered to pardon many of them and deal liberally with them, they did not ask that, but scorned it. They go upon the ground that they are a nation at war with us, and nothing but the sword can end it. Now, it seems to me that that brings us simply to the point whether we are for disunion or not. I know that the President claims that they must take the Constitution as we have amended it. I understand the gentleman from New York desires that the rebels shall come back under the Constitution as it was, and not the Constitution as it is now made by us. That might suit him very well, because by the aid of the rebels here, and the Representatives of some portions of New York and the West, they would have it all again their own way. That would be the rebel congress transferred to this Hall.

But, sir, I did not suppose I should say so much; and I call the previous question upon the motion to print.

Mr. COX. I ask my friend to yield to me.

Mr. STEVENS. I must insist upon it, there having been a large speech on the one side, and a very small one upon the other.

Mr. COX. I will not consume more than five minutes, if the gentleman will allow me.

Mr. STEVENS. We must go to work. I had intended to say something more. I intended to answer the charge against Pennsylvania, when, really, that rebellion was nothing but that kind of whisky insurrection which our friend from Illinois [Mr. Washburne] introduced here last night.

Mr. COX. Does the gentleman from Pennsylvania decline to yield to me five minutes? I have granted him more grace than that often.

Mr. STEVENS. I thought the gentleman wanted me to surrender the floor for the purpose of a speech. I will give the gentleman five minutes of my time.

Mr. COX. I would not now detain the House, but for the fact that in some sense the resolution which I offered a few days ago was intended to support the Administration in the policy of peace. I was the more anxious to do this, inasmuch as gentlemen upon the other side were in opposition to their own Administration on this policy. If possible, I would strengthen the arm of the Administration for peace, as I have voted to strengthen it for war to sustain the Government. Gentlemen on this side of the House generously gave it their support in its endeavors to seize the results of war and victory, and thus bring an end to this devastating conflict. The gentleman from Pennsylvania [Mr. Stevens] and others, upon that side, were opposed (as he has said to-day) to making any inquiry into the disposition of the armed insurgents. They denounced, not the terms or conditions which might be tendered in advance of effort, but the effort itself. They were exasperated at the attempt to ascertain whether peace was possible without sacrificing the Union and its integrity. In other words, they were unwilling to close the war, even by the accomplishment of its object. They want war for bloody

and revengeful purposes. Their resentments and hates must be gratified. I prefer to gratify the patriotic object of all our sacrifices, and, if it can be done, to restore peace with its blessings of Union and good-will. Gentlemen affect to believe that the negotiations, whose record has been read, have utterly failed. They please their own minds now with the efforts, since the effort has seemed to them fruitless of results.

But, sir, I am glad that this attempt at negotiation was made, for this reason: if the message be properly studied and the correspondence be read between the lines, it will appear to every one who looks at the matter with careful criticism and dispassionate statesmanship that this negotiation will not end now and here, but if it be followed up in a patriotic spirit may end in a restoration of peace and reunion. In the five minutes allotted to me I can barely hint at my reasons for this conclusion. My hope for peace was great, and my desire greater. The House knows the deep interest I have taken in this movement. This interest may give a bias to my judgment. But I will submit to them the reasons which have impressed me upon the mere reading of the message.

I am sorry that the gentleman from Pennsylvania should have given the emphasis of his great name—great in the country, greater in his party—to propagate the idea that the southern commissioners stood inflexibly on their independence. This is a mischievous torture of the correspondence. I appeal from the inferences of the gentleman [Mr. STEVENS] and from the speech of Jefferson Davis made after this seeming failure to a popular assembly, to the message of Mr. Lincoln, and the facts therein stated.

In the letter from City Point of February 2, 1865, the southern commissioners state their willingness "to proceed to Fortress Monroe and there to have an informal conference with any person or persons that President Lincoln may appoint on the basis of his letter to Francis P. Blair, of the 18th of January ultimo, or upon any other terms or conditions that he may hereafter propose, not inconsistent with the principles of self-government and popular rights, on which our institutions are founded. It is our wish to ascertain, after a free interchange of ideas and information, upon what principles and terms, if any, a just and honorable peace can be established without the further effusion of blood, and to contribute our utmost efforts to accomplish such a result."

What was the letter of President Lincoln to Mr. Blair of the 18th? Its very language, familiar to me before read here, was, "peace to the people of our one common country." It was used in response to the language of Mr. Davis, which was "peace to the two countries." It was used by Mr. Lincoln, and as appears by the indorsement of Mr. Lincoln of January 28, understood by Mr. Davis to have direct reference to the language of the latter as to the "two countries." Hence when the commissioners agreed to meet it was a recession from the point of Mr. Davis as to "two countries," and an agreement to treat for peace to the people of "one common country." All through the correspondence nothing appears to the contrary. Mr. Lincoln says they omitted to declare that they never would consent to reunion. General Grant himself says in his cipher telegram of February 1, and I call the attention of gentlemen to the striking and conclusive significance of his language:

"I am convinced, upon conversation with Messrs. Stephens and Hunter, that their intentions are good and their desire sincere to restore peace and union. I have not felt myself at liberty to express even views of my own, or to account for my reticency. This has placed me in an awkward position. I fear now their going back without any expression from any one in authority will have a bad influence."

Why will it have a bad influence? Why would it hurt our cause if they should return willing for peace and union, and no attempt made to secure such results by negotiation? With such an expression from the Lieutenant General before me, I say, Mr. Speaker, that the thanks of this Congress and the thanks of the country are due to President Lincoln for this effort to negotiate, which has drawn out this significant and hopeful explanation from a majority of these commissioners.

In the entire correspondence, and in the conversation which ended the conference, there is not a word, not a syllable, which does not look to the treatment of peace upon this patriotic basis of

Union. If we fail or have failed to treat upon that basis, the fault, I will not say the crime, of failure will lie at the door, if not of the President, of the radicals whose incessant pressure is always at his back. I wish, sir, that the House were possessed of what took place at the concluding interview. All we know is, that the commissioners "desired a postponement" of the question of reunion for a time, and "the adoption of some other course first." This the President regarded as an indefinite postponement. What that other course was we are only left to conjecture. Perhaps it had reference to a union of our armies for a common object—perhaps in Mexico. Whatever it was, there is nothing but the inference of the President that it might have been inconclusive; or, that it might have resulted in an armistice, which the President regarded as an indefinite postponement of the question of reunion. But, whatever it may have been, it is clear that by recommending another "course first," the commissioners did regard peace and Union as feasible at last.

The gentleman from Pennsylvania, in answer to the gentleman from New York, [Mr. Brooks,] denounced an armistice. He thought it ought not to be agreed to at this time. I have never thought an armistice indispensable to negotiation; neither is an armistice what it is here defined. It does not mean a withdrawal of force, only its suspension. But, sir, we can let the war go on and still talk of and act for peace. A treaty may be in progress up to the very moment of the end of hostilities; it may be celebrated by the firing of hostile cannon; or, as at New Orleans, in the late war, hostilities may continue after a treaty is signed, in ignorance of its signing. But, sir, I cannot, in the short time allotted, speak on that subject. I only wished for five minutes to speak upon this question, because I stand here as a Representative, as I believe from the vote taken the other day upon my resolution, of the loyal and patriotic sentiment of the people of the country, whose hearts are yearning toward peace and union, and who want to escape taxation and bloodshed and drafting, and to see the old political relations between the States, if it be possible, and as nearly as may be, restored to the whole country. They believe in superadding to the force of the Army and Navy that higher, nobler, and benign Christian element of conciliation toward which the President is approximating, even if it has not been fully tried and exhausted. I do not see, as some of my friends around me do, any discouragement in the negotiations, so far as they have advanced. I would not represent my district or State, certainly not my party, if I did not encourage every effort of the proper authorities to end the war and save the nation.

At the outset of these negotiations the President made three propositions: first, to restore peace on the basis of the restoration of the national authority. We would all agree to that. No man, no Democrat, no Republican, will contravene that as an indispensable condition. Secondly, he says that there will be no receding from his position on the slavery question as developed in his message and documents. I can draw, sir, any proposition on any side of the negro question from these messages and documents. From them may be drawn either the principles of constitutional regard for the local government of the States over slavery, as enunciated in his first message, or the principles of gradual emancipation, or of compensation, or of total abolition. If the President desires to settle the conflict by a resort to his messages, he can in a diplomatic way find the material in his letters or messages. This condition I do not choose to regard as insuperable. In the third place, he says that there shall be no cessation of hostilities short of the end of the war. Very well; then we can still go on and treat for peace. Hostilities may go on without armistice, and negotiations may go on at the same time. There is no reason, therefore—and I choose to give the most charitable interpretation to these negotiations—why the people of this country may not hope for a restoration of peace and the reunion of the States if the President is not broken down in his laudable efforts by the fierce onslaughts of his radical adherents. God help him to do all, and do it courageously, to save our land from its terrible woes, while something worth having of material wealth, social order, and political virtue, remains to be saved.

Mr. STEVENS. I now move the previous question.

The previous question was seconded, and the main question ordered.

The motion of Mr. WASHBURN, of Illinois, for the printing of extra copies was referred, under the law, to the Committee on Printing.

Mr. STEVENS moved to reconsider the vote by which the President's message was laid on the table, and ordered to be printed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKY, its Chief Clerk, informed the House that the Senate insisted upon its amendments to the bill of the House making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1865, in which the House had non-concurred.

#### PROCEEDINGS UNDER THE CALL.

The SPEAKER. The question now comes up in reference to absent members, which was postponed until the President's message was disposed of.

Mr. MALLORY. I move to dispense with all further proceedings in the privileged case now before the House, and to remove the case from the docket. I think we have enough to do without this matter, and that we had better go on with the consideration of the tax bill or some other measure of importance.

The SPEAKER. The Chair will state that, after the resolution was adopted under which the Sergeant-at-Arms is about to execute the order of the House, all further proceedings under the call were dispensed with. A quorum being present, the resolution was adopted, and then all further proceedings under the call were dispensed with. The House resolved itself into the Committee of the Whole on the state of the Union and proceeded with the tax bill, and afterward rose and reported. The only way of disposing of the matter, that the Chair sees, is to take up the cases individually, or lay the whole subject on the table.

Mr. MALLORY. Then I move to lay the whole subject on the table.

Mr. UPSON. I rise to a question of order. I ask whether the gentleman from Kentucky [Mr. MALLORY] is not included in the list of delinquents, and whether he is entitled to make any motion?

The SPEAKER. The Chair sustains the point of order.

Mr. MALLORY. I suppose I have the same right as in an ordinary court of justice.

The SPEAKER. The Chair will state that his predecessors have decided that a gentleman under arrest has no right to make a motion or a speech, except in reference to the motion.

Mr. BLAINE. I move to lay the whole subject on the table.

Mr. BALDWIN, of Massachusetts. Is not the gentleman from Maine in the same category?

The SPEAKER. He is not.

The question being on Mr. BLAINE's motion—

The SPEAKER said: The Chair will state that he cannot count the vote of any member included in the order of arrest, and now at the bar of the House technically, although he may happen to be in his seat.

Mr. MORRIS, of Ohio. Mr. Speaker, is there any way of disposing of this matter, except by rescinding the resolution?

The SPEAKER. It comes up as a resolution adopted by the House; and the only way to dispose of it is to hear the excuses of the absentees individually, or to lay the resolution on the table.

Mr. MORRIS, of Ohio. I move to reconsider the vote by which the resolution was adopted.

The SPEAKER. That was done, and the motion to reconsider was laid on the table.

Mr. ASHLEY. I understand the Chair to have decided that gentlemen who were absent without leave are not entitled to vote.

The SPEAKER. The names of over fifty gentlemen are included in this list; and neither of those gentlemen is entitled to vote until he is excused by the House.

Mr. ASHLEY. I ask that the Clerk be directed to read the names, so that we may know who are entitled to vote.

The SPEAKER. The Clerk will read the names of the gentlemen under arrest.

The Clerk read the list.

The question was taken on Mr. BLAINE's motion, and it was not agreed to—there being, on a division—ayes 9, noes 88.

So the House refused to lay the whole subject on the table.

The SPEAKER. The Sergeant-at-Arms will now present the gentlemen in his custody at the bar of the House.

The members named in the list appeared in the area in front of the Speaker's chair, in custody of the Sergeant-at-Arms.

Mr. L. MYERS. Mr. Speaker, I inquire why it is that the name of the gentleman from Illinois [Mr. WASHBURN] does not appear in the list.

Mr. WASHBURN, of Illinois. I will inform the gentleman from Pennsylvania that I did not happen to be absent.

The SPEAKER. The Chair will state that it appears by the Journal that the gentleman from Illinois answered on the second roll-call last evening.

Mr. STEVENS. Mr. Speaker, was there not a call afterward, when the House found itself reduced below a quorum?

The SPEAKER. There were two calls last evening. All further proceedings were dispensed with under the first call of the House, when ninety-two members appeared in their seats. After that call there was an attempt to go into the Committee of the Whole on the state of the Union, on which motion no quorum voted. Another call was ordered, and it appears by the record that on that call the gentleman from Illinois responded.

Mr. STEVENS. Somebody must have answered for him.

Mr. L. MYERS. The gentleman from Illinois had disappeared from the Hall.

Mr. WASHBURN, of Illinois. The gentleman from Pennsylvania is mistaken; and he has no right to make the assertion. I was here, and I did answer to my name.

Mr. L. MYERS. I make it, notwithstanding.

Mr. WASHBURN, of Illinois. I understand the gentleman to say that he makes the assertion, nevertheless.

Mr. L. MYERS. I would ask the gentleman if he answered to his name upon the second call.

Mr. WASHBURN, of Illinois. I have already stated that I did answer to my name, and the gentleman is bound to believe it.

Mr. L. MYERS. If the gentleman states that here as a fact, of course I am bound to believe it.

Mr. WASHBURN, of Illinois. I have stated it once, and no gentleman has a right to question it.

Mr. L. MYERS. My recollection is different; but of course I must believe the statement of the gentleman.

The SERGEANT-AT-ARMS then appeared at the bar of the House and said: Mr. Speaker, in obedience to the order of this House, and of your warrant to me directed, I have, with as little delay as possible with the means at my command, notified and caused to appear at the bar of this House the following-named members:

James C. Allen, John B. Alley, Lucien Anderson, Isaac N. Arnold, James M. Ashley, Joseph Bailey, Jacob B. Blair, George Bliss, Henry T. Blow, James Brooks, William G. Brown, John W. Chandler, Freeman Clarke, Brutus J. Clay, Cornelius Cole, Henry L. Dawes, John L. Dawson, John F. Farnsworth, John Ganson, Aaron Harding, Benjamin G. Harris, Wells A. Hutchins, Austin A. King, Francis C. Le Blond, Robert Mallory, William H. Miller, Warren P. Noble, Godlove S. Orth, Nehemiah Perry, William H. Randall, Andrew J. Rogers, James S. Rollins, Robert C. Schenck, John G. Scott, Rufus P. Spalding, William G. Steele, L. D. M. Sweet, Robert B. Van Valkenburgh, and Edwin H. Webster.

The SPEAKER. The Clerk will read the resolution of the House under which it is now acting:

The Clerk read, as follows.

"Resolved, That the Sergeant-at-Arms be directed to bring the members now absent without leave before the bar of the House at one o'clock, p. m., to-morrow, February 10, 1865, or as soon thereafter as possible; and that they then be required to show cause why they shall not be declared in contempt of the House, and abide the order of the House."

The SPEAKER. Gentlemen, you have all been brought to the bar of the House by order of the House, for absence from its session without its leave, in order that you may be required to show why you should not be declared in contempt of the House, and why you should not

abide the order of the House. Your names will be called in order.

JAMES C. ALLEN.

The SPEAKER. Mr. ALLEN, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. J. C. ALLEN. Mr. Speaker, at the time of adjournment yesterday afternoon I retired to my quarters in this city, and in company with one or two friends dined out. I made some inquiry before leaving the House as to the probable course of business at the evening session, and I was advised upon what I conceived to be very high authority indeed, but which I need not name, that there would be no business done except to continue the debate upon the tax bill, and however anxious I felt to hear what gentlemen might have to offer on so important a measure as that, being fatigued with the labors of the day, I did not feel that I was doing injustice to myself, or committing any contempt upon the authority of the House, by failing to attend its session.

At a late hour of the morning I returned to my room. I found a bundle of mail matter lying upon my table when I entered my room. But it was so late that I did not undertake to read my letters before retiring. I retired and slept; slept very soundly indeed. I came to the House this morning, and very shortly after making my appearance in the Hall I was arrested by the Sergeant-at-Arms. I did not learn until after I had breakfasted this morning that there had been any call of the House last night.

Mr. WADSWORTH. I would inquire whether the hour rule applies to these proceedings. [Laughter.]

The SPEAKER. The Chair would state that by the decision of Speaker Winthrop, made many years ago, the hour rule does apply.

Mr. JOHNSON, of Pennsylvania. I rise to a question of order. Even though the hour rule does apply, a member must confine himself to a statement of the causes of his detention—the things which operated to detain him. How he felt and how he slept have nothing to do with the cause of his detention.

The SPEAKER. The Chair sustains the point of order.

Mr. J. C. ALLEN. I may be a little too obtuse, sir, to understand exactly what would be a good excuse for my absence from this House. I was endeavoring to state the reasons why I had not been here. They may not be satisfactory to my friend from Pennsylvania; I cannot tell how that may be.

I was not aware, sir, that there was a call of the House. I had been advised by those who were presumed to know the order of business, that no legislative business would be transacted last evening. It may be that I ought not to have relied upon what was thus stated to me. I should have been here had I anticipated that my colleague [Mr. WASHBURN] would revive the "whisky insurrection," as I understand he did; for on that question, according to my information, arose the call of the House. I am very sorry to hear, however, that, on being defeated, he retired in great disorder from the Hall.

I have said all that I propose to say in exculpation of myself, except that I desire to add that I did not purposely commit a contempt against the House by absenting myself.

Mr. BROOMALL. I move that the gentleman be excused upon the payment of the usual fees.

The motion was agreed to.

JOHN B. ALLEY.

The SPEAKER. Mr. ALLEY, you have been absent from the session of this House without its leave. What excuse have you to render to the House for your absence?

Mr. ALLEY. Mr. Speaker, the Postmaster General sent a written request to the Committees on the Post Office and Post Roads of both Houses of Congress to meet at his house last evening to consult upon matters connected with his Department. In compliance with that invitation I attended that meeting with the other members of the committee.

Mr. Speaker, I deem that a sufficient excuse; but I have another which I think is perhaps even stronger. Before I left home I promised my good wife that I would not keep any bad company or

late hours. [Laughter.] During the recess last evening—

Mr. GARFIELD. I call the gentleman to order. I submit that his remarks are, by inference, disrespectful to the House.

The SPEAKER. The gentleman has not proceeded far enough to enable the Chair to decide that point. The gentleman has not yet said anything out of order.

Mr. ALLEY. My friend from Ohio has misapprehended my remarks entirely. I suppose he thought I intended to reflect upon the House as being bad company.

Mr. GARFIELD. I certainly thought so. If the gentlemen did not intend that, I withdraw the point of order.

Mr. ALLEY. Not at all; I referred to the House in speaking of late hours.

The SPEAKER. The Chair so understood it.

Mr. THAYER. I desire to ask the gentleman whether he had any refreshments at the Postmaster General's.

Mr. ALLEY. I believe it is one of the rules of this House, Mr. Speaker, that anything that transpires in committee shall not be divulged. [Laughter.]

Mr. STEVENS. I desire to ask the gentleman whether the members of the Post Office Committee met at the Postmaster General's on business, or whether the meeting was a convivial party.

Mr. ALLEY. We met there on business, of course.

During last evening I received a letter from home stating that my good lady was on her way here to look after me, and would probably be here to-morrow. Now, Mr. Speaker, I submit to you and to the honorable House, how I could answer to the promise I gave if I had been here last evening and staid till three o'clock this morning. [Laughter.] That is my excuse.

Mr. BROOMALL. I move that the gentleman be excused on the payment of the usual fees.

Mr. O'NEILL, of Ohio. I move that he be excused unconditionally.

Mr. STEVENS. Has the Committee on the Post Office and Post Roads leave to sit during the sessions of the House?

The SPEAKER. It has not.

Mr. STEVENS. Then the gentleman had no business to be absent.

Mr. O'NEILL's motion was rejected.

Mr. PRUYN. I move, if it be in order, to amend the motion of the gentleman from Pennsylvania, by providing that all of those who are under arrest, except the members who were present at the first call and left before the second call, be excused on the payment of the usual fees. I think that we have spent enough of the time of the country on this, and at this stage of the session I think we had better get to business.

The SPEAKER. Each member has the right to have a decision on his own case.

Mr. PRUYN. I think there will be no objection to excusing all except those who were present upon the first call and absent on the second call.

The SPEAKER. Let the gentleman name the members he wants excepted.

Mr. PRUYN. I cannot do it; but I suppose the Clerk has their names.

The SPEAKER. The Clerk cannot do it; the Chair therefore cannot entertain the motion.

Mr. BROOMALL's motion was agreed to.

Mr. RADFORD. Is a motion in order?

The SPEAKER. A motion is in order to lay on the table.

Mr. RADFORD. I propose that as many gentlemen as choose to pay the usual fees be discharged.

The SPEAKER. The Chair thinks that that motion would not deprive any member of his right to be heard. If adopted the members can avail themselves of it or not as they choose.

Mr. RADFORD. That is my motion.

The motion was disagreed to.

LUCIEN ANDERSON.

The SPEAKER. Mr. ANDERSON, you have been absent from the session of the House without its leave. What excuse have you to offer?

Mr. ANDERSON. Mr. Speaker, last night a gentleman from Kentucky, with whom I am well acquainted, having some important business



# THE CONGRESSIONAL GLOBE.

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to transact, came to my room and remained till half past ten o'clock; and when he left I went to bed. I was notified about three o'clock this morning, and was on my way to the House when I was told that it had adjourned.

Mr. BROOMALL. I move that the gentleman be excused, on the payment of the usual fees. The motion was agreed to.

ISAAC N. ARNOLD.

The SPEAKER. Mr. ARNOLD, having absented yourself from the sitting of the House without its leave, what excuse have you to offer?

Mr. ARNOLD. Mr. Speaker, I regard the passage of the Illinois and Michigan ship-canal bill as of the greatest possible importance to my constituents. That bill is now pending before the Committee on Military Affairs of the Senate. Learning that nothing was to be done in the House except making general speeches on the tax bill, I believed that by conference with members of that committee I could do more service to my constituents than by being here, and I was accordingly in the company of members of that committee during the evening. I was absent, subserving the interests of my constituents.

Mr. WILSON. Was the gentleman notified before the adjournment last night that his presence was needed?

Mr. ARNOLD. I was not.

Mr. GARFIELD. I move that the gentleman be excused on the payment of the usual fees. The motion was agreed to.

JAMES M. ASHLEY.

The SPEAKER. Mr. ASHLEY, you have been absent from the House without its leave. What excuse have you to offer?

Mr. ASHLEY. Mr. Speaker, understanding there was to be speech making and no business transacted last night, I concluded to remain at home, being somewhat fatigued, and put myself upon low diet. After reading and answering my letters I turned to *Dombey and Son*, and read some of the extraordinary incidents in that remarkable book. I was unconscious that the Sergeant-at-Arms was out after members. I have no other excuse.

Mr. RADFORD. I move the gentleman be excused, upon the payment of the usual fees.

Mr. WILSON. I desire to ask the gentleman one question, and that is, whether he was notified by the Sergeant-at-Arms or any one authorized by him that his presence was needed here?

Mr. ASHLEY. I desire to ask my friend from Iowa why he asks me that question.

Mr. WILSON. If the notice was received by the gentleman from Ohio, or by any other gentleman now at the bar of the House, that his presence was desired in the House, I am in favor of adding to the usual fees a fine for not attending in accordance to notice.

Mr. ASHLEY. Then the gentleman wants me to criminate myself. [Laughter.]

Mr. WILSON. I would like an answer.

Mr. ASHLEY. Well, I was notified and knew nothing about the matter until this morning. The motion to excuse was agreed to.

JOSEPH BAILY.

The SPEAKER. Mr. BAILY, you have been absent from the sittings of the House without its leave. What excuse have you to render for your absence?

Mr. BAILY. When I left the Hall yesterday afternoon I supposed the evening session was to be devoted to general debate exclusively. I was not well, and remained in my room all the evening. I had no notice that my presence was needed in the House, or I should have been here.

Mr. GARFIELD. In consideration of what the gentleman says in reference to his health, I move that he be unconditionally excused.

Mr. STEELE, of New York. I move to amend the motion by striking out the word "unconditionally," and adding "upon payment of the usual fees."

The amendment was agreed to.

The motion, as amended, was agreed to.

JACOB B. BLAIR.

The SPEAKER. Mr. BLAIR, you have absented yourself from the sitting of the House without its leave. What excuse have you to render for your absence?

Mr. BLAIR rose in his seat to speak.

Mr. THAYER. I rise to a question of order. The gentleman must come forward to the bar of the House.

Mr. BLAIR, (stepping forward to the bar of the House,) I rose in my seat for the purpose of being heard, as I want gentlemen to hear my excuse. I was about to observe that most of the members of this House probably know that I have been seriously indisposed in one of my limbs for several weeks, so much so that I have been almost unable to get to the House in the day time. I am in the habit of retiring to my virtuous couch about the time I think all sober and honest men should go to rest. Last evening, at my usual hour, I retired. About half past one o'clock I heard an unusual noise at my door. I got up, went to the door, placed my hand upon the key and was about to turn it, when the thought struck me that possibly some one was there who wished to rob me of that which would not enrich him, but make me poor indeed. I retired again in good order to my bed. A second thought occurred to me that as there was great excitement throughout the country in reference to the question of oil, and particularly the stock of the Blair Oil Company, some one might be there wanting to purchase the few shares that are left. I went to the door and opened it, but instead of finding a purchaser, I found the Sergeant-at-Arms. He told me my presence was required at the House. Just then my foot, which had caused me a great deal of trouble, but which I thought was almost well, commenced hurting me most dreadfully. I appealed to the Sergeant-at-Arms, extending my lame limb toward him, and asked him if he thought I should go out at the dead hour of the night, cold as it was, in that condition. He remarked at once that he thought he would report me as being too unwell to visit the House. I assured him from the bottom of my heart of my most distinguished consideration, and retired again to my bed. I remained there until morning, and when I reached the Hall at twelve o'clock I was informed that I was under arrest. This is the only excuse I have.

Mr. GARFIELD. I move that the gentleman be excused on paying a fine of ten dollars and the usual fees.

Mr. STEELE, of New York. I move to amend by striking out the ten dollars. The gentleman was lame and could not walk up here, and there was no provision made for bringing him.

Mr. WADSWORTH. I move that he be excused unconditionally.

Mr. STEELE, of New York. I accept that in the place of my amendment.

Mr. WADSWORTH's motion was not agreed to.

Mr. GARFIELD's motion was agreed to.

GEORGE BLISS.

The SPEAKER. Mr. BLISS, you have been absent from the session of the House without leave. What excuse have you to offer for your absence?

Mr. BLISS. I have but a few words of excuse to offer, and there will be no wit contained in them. I left the House at an advanced hour yesterday afternoon without any intelligence that there was to be an evening session. I supposed that the business of the day was substantially accomplished. The Sergeant-at-Arms is guilty of treating me with neglect last night, for I got notice neither from him nor any other functionary or source of information that the House was in session. Had I known it I should have been here. I was in perfect health, and have no excuse except, perhaps, such negligence as may be imputed to me for not knowing that the House would be in session. The legal and legitimate consequences I am ready to respond to.

Mr. HOLMAN. I move that the gentleman be discharged unconditionally.

Mr. BROOMALL. I move to amend that motion by adding thereto the words "on payment of the usual fees."

Mr. HOLMAN. I desire to be heard for a moment on that point.

The SPEAKER. Debate is not in order.

Mr. BROOMALL's amendment was agreed to.

Mr. HOLMAN's motion, as amended, was then agreed to, and Mr. BLISS was excused on payment of the usual fees.

HENRY T. BLOW.

The SPEAKER. Mr. BLOW, you have been absent from the session of this House without leave. What excuse have you to offer for your absence?

Mr. BLOW. Mr. Speaker, about a week ago, not anticipating a night session, I accepted an invitation for last evening to a delightful dinner party, as it proved. I did not feel at liberty, under the circumstances, to withdraw the answer I had given to the polite gentleman who had invited me to his house. I remained there until half past eleven o'clock last night, and then proceeded to assist my friend from Illinois [Mr. ARNOLD] in his efforts to secure legislation in reference to the Illinois ship-canal. I saw the Sergeant-at-Arms at a distance at one of the places where I was, and on my way to the Capitol I was made prisoner at the National Hotel—not, however, by the Sergeant-at-Arms. That is all I have to say.

Mr. ROLLINS, of New Hampshire. I move that the gentleman be excused on payment of the usual fees.

Mr. JOHNSON, of Pennsylvania. I desire to inquire of the gentleman if he was notified by the Sergeant-at-Arms that his attendance was required here?

Mr. BLOW. I was.

Mr. JOHNSON, of Pennsylvania. At what hour?

Mr. BLOW. The Sergeant-at-Arms can answer that question; I must decline answering.

Mr. HOLMAN. It seems to me that under these circumstances something more than the payment of the ordinary fees should be required. It is a case of willful neglect of public duty. I therefore move that an additional penalty of ten dollars be imposed.

Mr. BLOW. I desire to say to the gentleman from Indiana that it was not willful.

Mr. HOLMAN. Then I will take back the word "willful."

Mr. HOLMAN's amendment was disagreed to.

The motion of Mr. ROLLINS, of New Hampshire, was then agreed to; and Mr. BLOW was discharged on payment of fees.

Mr. YEAMAN. I move that all the remaining gentlemen at the bar of the House, who see fit to pay the usual fee, be excused.

Mr. HOLMAN. I rise to a question of order. If I remember right, the gentleman from Kentucky [Mr. YEAMAN] was before the bar of the House last evening and had a fine imposed upon him. I understand the rule to be that he has no right to take part in the proceedings unless the penalty is paid.

The SPEAKER. The Chair presumes that every member of the House obeys the order of the House. As the gentleman from Kentucky was released on payment of the usual fee, the Chair presumes that he has complied with the order of the House.

Mr. HOLMAN. A very violent presumption.

The SPEAKER. That may be.

The question was taken on Mr. YEAMAN's motion, and it was not agreed to.

JAMES BROOKS.

The SPEAKER. Mr. Brooks, you have been absent from the session of the House without its leave. What excuse have you to render for your absence?

Mr. BROOKS. Mr. Speaker, there was a conflict of authority last night. I obeyed the rules of the House up to nine o'clock. I was then called by the chairman of the Post Office Committee to another sphere of duty at the Postmas-

ter General's. In that other sphere I thought I might render as good public service as if I had remained here.

Mr. JOHNSON, of Pennsylvania. I desire to inquire whether the gentleman was notified that the Sergeant-at-Arms had called on him.

Mr. BROOKS. I was not notified. I never heard of it till I saw it in the papers this morning.

Mr. TOWNSEND. I move that my colleague be excused unconditionally.

Mr. BROOMALL. I move, as an amendment, that he be required to pay the usual fees.

The amendment was adopted; and the motion, as amended, was agreed to.

Mr. BROOKS. Mr. Speaker, if I pay the Sergeant-at-Arms now, can I vote?

The SPEAKER. Certainly.

Mr. BROOKS, (stepping forward to the Sergeant-at-Arms.) Then I will settle up. [Laughter.]

Mr. ASHLEY. Do I understand the Chair to decide that until a member who has been fined has paid the Sergeant-at-Arms he is not entitled to vote?

The SPEAKER. The Chair has already decided that he presumes all gentlemen have obeyed the orders of the House unless there be evidence to the contrary.

Mr. BROOKS. I rise to a point of order. I am told that there is an arrangement between certain gentlemen who were here last night to collect a considerable sum of money for the Sergeant-at-Arms and to have a grand supper at the close of the session. My point of order is that those gentlemen are interested and therefore are not entitled to vote. [Laughter.]

The SPEAKER. The Chair overrules the point of order.

Mr. THAYER. The remarks of the gentleman from New York are a reflection on the House.

Mr. WORTHINGTON. Mr. Speaker, as one of those who remained here till four o'clock in the morning, I utterly deny the existence of any such arrangement. [Laughter.]

Mr. THAYER. I understand the Chair to say that the remarks of the gentleman from New York are in order.

The SPEAKER. The Chair has ruled them out as not being a valid point of order under the rule.

WILLIAM G. BROWN.

The SPEAKER. Mr. BROWN, you have been absent from the session of the House without its leave. What excuse have you to render for your absence?

Mr. BROWN, of West Virginia. Mr. Speaker, I had an engagement last evening for a few hours with a friend. My health is not very good at any time, and at the conclusion of my engagement I went to bed unwell. Some time in the night, after I had slept for a considerable time, my wife told me that some gentleman had come to the door wanting to see me, and that she sent word to the gentleman that I was unwell. The gentleman then left without my seeing him. It was a fact that I was unwell; and I would not have come here last night for any amount that the House would probably fine me on account of my absence. My condition of health was such that I could not come.

Mr. JOHNSON, of Pennsylvania. I move that the gentleman be discharged unconditionally. The motion was agreed to.

JOHN W. CHANLER.

The SPEAKER. Mr. CHANLER, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. CHANLER. I left the House on yesterday under the impression that the debate upon the internal revenue bill, which had been commenced by the honorable gentleman who had charge of that bill, [Mr. MORRILL,] would certainly continue until the next morning, and that it would not be necessary for me to be here. Before I started from the Capitol, I left word with one of the officers of the House that in case any other business should transpire I should be sent for. I heard nothing of the order of the House, but came here this morning unaware any call had been made.

Mr. BROOMALL. I move that the gentleman be excused upon the payment of the usual fees.

The motion was agreed to.

FREEMAN CLARKE.

The SPEAKER. Mr. CLARKE, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. F. CLARKE. Mr. Speaker, I am not well enough to attend the evening sessions of the House.

Mr. BROOMALL. I move that the gentleman be unconditionally excused.

Mr. HOLMAN. I would ask the gentleman if he was confined to his room last night.

Mr. F. CLARKE. I was not.

Mr. HOLMAN. I move to amend the motion of the gentleman from Pennsylvania [Mr. BROOMALL] so as to excuse the gentleman upon the payment of the usual fees.

The amendment was adopted; and the motion, as amended, was then agreed to.

BRUTUS J. CLAY.

The SPEAKER. Mr. CLAY, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. CLAY. I was not aware, Mr. Speaker, that my services were needed here last night. I left the Hall last evening under the impression that we were to have a night session only for the purpose of allowing gentlemen an opportunity to make speeches for their constituents; not particularly to enlighten members of this House; and as I felt no particular interest in them I did not think it necessary to attend. I went home to my room and remained there, and was not aware of anything that was being transacted here last night; and furthermore I am not much inclined to travel at night over the slippery pavements and steps, and therefore I concluded I would not come up here last night. I had no intention or desire to show any contempt of this House.

Mr. ARNOLD. I move that the gentleman be unconditionally excused.

Mr. RADFORD moved to amend so as to excuse the gentleman upon the payment of the usual fees.

The amendment was adopted; and the motion, as amended, was then agreed to.

CORNELIUS COLE.

The SPEAKER. Mr. COLE, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. COLE, of California. Mr. Speaker, I was by special invitation at a more festive scene than the one transpiring in this House last night. It was between eleven and twelve o'clock when I reached my lodgings, and I supposed then that the House was keeping better hours than the members of the Committees on Post Offices and Post Roads, and I retired for the night. I knew nothing then of the proceedings of the House. When I saw the statement in the papers this morning to the effect that when last heard from the House was still in session, my first impression was to come up here immediately and relieve you from the dilemma in which you were placed. But stopping to obtain my breakfast, I learned that the House had adjourned some time during the morning.

Mr. BROOMALL. I move that the gentleman be excused upon payment of the usual fees. The motion was agreed to.

HENRY L. DAWES.

The SPEAKER. Mr. DAWES, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. DAWES. Mr. Speaker, as the House is well aware, I attended upon the session of the House last evening until a very late hour. During the discussions of last night, as the House is also aware, I unfortunately became involved in a personal difficulty with the venerable and, until then, very much esteemed gentleman from Ohio, [Mr. SPALDING,] under the impression that he was attempting to appropriate to himself an article that belonged entirely to me. In the course of the evening I received a message from him of such a character that I was a little uncertain what it meant. I therefore consulted the distinguished gentleman from New York, [Mr. BROOKS,] who, we all know, is perfectly *au fait* in such matters, [laughter,] and he informed me that it admitted of but one construction, and that I must meet the

gentleman from Ohio outside of the District and vindicate my honor, [renewed laughter,] and, in company with the gentleman from Ohio, I left the House for that purpose late in the evening. I was not aware of the call of the House after I left. I am happy to say that such explanations took place between the gentleman from Ohio and myself as rendered it entirely satisfactory to me that he had no intention to make the appropriation that I at first supposed he had, and that is the reason why I left the House.

Mr. STEVENS. I understand that the gentleman from Massachusetts [Mr. DAWES] is one of those who left after the doors were opened, and thus left the House without a quorum; and both for that reason and because he accepted a challenge, I move that he be excused upon paying a fine of ten dollars in addition to the usual fees.

Mr. COX. I do not think we ought to press so hard upon my friend from Massachusetts, [Mr. DAWES.] He has said that he left the House upon a belligerent errand. Now, it is so unusual a thing for our New England friends to fight that I think it should be regarded in his case.

Mr. TRACY. I move to amend by striking out the fine of ten dollars.

The amendment was rejected.

Mr. WADSWORTH. I move to amend by striking out "ten dollars" and inserting "one dollar."

The amendment was rejected.

The motion of Mr. STEVENS was then agreed to.

JOHN L. DAWSON.

The SPEAKER. Mr. DAWSON, you have been absent from the session of this House without its leave. What excuse have you to render for your absence?

Mr. DAWSON. Mr. Speaker, I was present during the regular session of the House on yesterday until the hour for the recess. It seems that the House had resolved to meet again at seven o'clock. I did not learn that fact until after eight o'clock, when I immediately repaired toward the Capitol, but on my way was informed that the House had adjourned. I then returned to my lodgings. I received no notice from any one that the House was in session, and knew nothing of the fact until after I appeared here to-day at twelve o'clock and was informed that such was the case.

Mr. ANCONA. I move that the gentleman be unconditionally excused.

Mr. BROOMALL. I move to amend so as to excuse him upon the payment of the usual fees.

The amendment was adopted; and the motion, as amended, was then agreed to.

JOHN F. FARNSWORTH.

The SPEAKER. Mr. FARNSWORTH, you have been absent from the session of this House without its leave. What excuse have you to render to the House for your absence?

Mr. FARNSWORTH. Mr. Speaker, I attended the session of the House last evening until nearly one o'clock, until all further proceedings under the call of the House had been dispensed with, and the doors were opened. Presuming that no further business would be transacted, and feeling quite unwell and very much fatigued, I went to my lodgings, and, after taking some refreshment, retired to my virtuous couch. I had just got into my first slumber when

"I heard a rapping  
As of some one [not very] gently tapping  
At my chamber door."

Upon asking who was there, the Sergeant-at-Arms responded, desiring me to get up and come to the House. I told him that was impossible; that I could not, in the condition of my health, get out of my bed at that hour.

Mr. MORRILL. I ask the gentleman to yield to me for a moment, that I may make a motion which, if it be made at all, must be made before half past four.

Mr. FARNSWORTH. I cheerfully yield to the gentleman.

Mr. MORRILL. I move that the session of this evening be dispensed with. I desire that we shall get through with the business in which we are now engaged, and I think that we had better continue this afternoon's session until we conclude this matter.

The SPEAKER. The gentleman from Vermont moves that the session of this evening be

dispensed with. That is a privileged motion, the effect of the adoption of which will be that the session of this afternoon will be extended until a motion to adjourn shall be adopted.

Mr. COX. I move to amend so as to provide that all the evening sessions be dispensed with.

The SPEAKER. That motion cannot be entertained. The House has resolved by unanimous consent that there shall be a session every evening, unless otherwise ordered by a majority of the House.

Mr. J. C. ALLEN. I rise to propound an inquiry to the Chair. The House having passed a resolution for evening sessions, can that resolution be repealed in this way?

The SPEAKER. The terms of the resolution provided that there should be a session every evening, unless otherwise ordered; the intention being that, as during last session, a majority should dispense with the evening session when they saw fit.

The motion of Mr. MORRILL was agreed to.

Mr. FARNSWORTH. As I was stating, I told the Sergeant-at-Arms that I was not able to get up and come to the House, which was true. I dislike, Mr. Speaker, to make excuses on account of the state of my health; and I know that when I tell the House that I have had for several days past that ignoble malady, the fever and ague, I shall not get very much sympathy. I have been taking medicine every day for several days for the chills and fever. Last evening I was not well.

Mr. ARNOLD. I move that my colleague be unconditionally excused.

Mr. STEVENS. The gentleman was here a part of last evening. I desire to ask him whether, on leaving the House, he asked permission to retire?

Mr. FARNSWORTH. I did not.

Mr. J. C. ALLEN. I suggest that the fact that my colleague is at large is *prima facie* evidence that he has paid his fine.

Mr. GARFIELD. I regret to ask the House to allow me to make an amendment of the motion. It seems to me that this is one of the clearest cases of positive contempt of the authority of the House that has yet come before us, and I move that the gentleman be fined twenty-five dollars in addition to the usual fees.

Mr. STEVENS. I move to make it ten dollars.

Mr. JOHNSON, of Pennsylvania. Before I vote on a proposition of that kind I would like to know from the gentlemen from Illinois how he got out of the House last night?

Mr. FARNSWORTH. The doors were open.

Mr. STEVENS. If I understood the gentleman, after we obtained a quorum and were going into the Committee of the Whole on the state of the Union to transact business, he with others went away and left us without a quorum, so that we had to stay here all night.

Mr. STEVENS's amendment was rejected.

Mr. HALE. I move to amend by striking out twenty-five dollars and providing that the Speaker shall reprimand the gentleman. [Cries of "No!" "No!"] Well, then, I withdraw the amendment.

Mr. MORRILL. I know that the gentleman from Illinois was not well, and I move to amend by making it five dollars.

The amendment was rejected.

Mr. FRANK. I move that it be made \$12 50, the same as the gentleman from Massachusetts, who left at the same time.

The amendment was agreed to; and the motion, as amended, was adopted.

JOHN GANSON.

The SPEAKER. Mr. GANSON, you have been absent from the session of the House without its leave. What excuse have you to offer?

Mr. GANSON. Mr. Speaker, when I left the House in the afternoon I intended to attend the evening session; but I was detained by several agreeable gentlemen. When they left I retired. I was notified by the Sergeant-at-Arms, before morning, that the House was still in session, and at once prepared to come here. I called upon Mr. Rice, of Massachusetts, on my way, and found that he was sick. When I reached the Capitol the House had adjourned. I returned home again, getting there at half past four o'clock.

Mr. BROOMALL. I move that the gentleman be excused on the payment of the usual fees.

Mr. COX. I move that he be unconditionally excused.

The motion was disagreed to.

Mr. BROOMALL's motion was then agreed to.

AARON HARDING.

The SPEAKER. Mr. HARDING, you have been absent from the House without its leave. What excuse have you to offer?

Mr. HARDING. Mr. Speaker, although I have attended the sessions of the House for the last three or four days, I have not always felt well enough to remain till the adjournment. Last night I felt better, but was still suffering from disease, so that I did not deem it prudent to come here. For the same reason I declined to accept the invitation to attend the Postmaster General's with the Post Office Committee.

Mr. ELDRIDGE. I move that the gentleman be unconditionally excused.

The motion was agreed to.

HENRY W. HARRINGTON.

The SERGEANT-AT-ARMS. Mr. Speaker, Mr. HARRINGTON started to come to the House, but seeing the flag down, thought the House had adjourned, and returned home.

The SPEAKER. The Chair will state that the halyards broke this morning, and the flag had to be taken down while the House was in session.

Mr. HARRINGTON not being present, his case will be reserved.

BENJAMIN G. HARRIS.

The SPEAKER. Mr. HARRIS, you have been absent without the leave of the House. What excuse have you to offer?

Mr. HARRIS, of Maryland. Mr. Speaker, I have labored for several days under a bad cold, from which I have not yet recovered. I think that it would be imprudent for me to come out during the night. It would only be exposing my health to do so. I was not notified by the Sergeant-at-Arms. Even if I had been, my health would not have permitted me to come here.

Mr. DAVIS, of New York. I move the gentleman be unconditionally excused.

The motion was agreed to.

WELLS A. HUTCHINS.

The SPEAKER. Mr. HUTCHINS, you have absented yourself from the sitting of the House without its leave. What excuse have you to offer for your absence?

Mr. HUTCHINS. I was aware that night sessions of the House had been ordered to commence soon, but that there was to be such a session last evening was a fact that had entirely escaped my mind. By my absence I intended no disrespect to the House, and I was not notified of the fact until I came here to-day.

Mr. BROOMALL. I move that the gentleman be excused upon the payment of the usual fees.

The motion was agreed to.

FRANCIS W. KELLOGG.

The Sergeant-at-Arms stated that Mr. KELLOGG was out of the city.

AUSTIN A. KING.

The SPEAKER. Mr. KING, you have absented yourself from the sitting of the House without its leave. What excuse have you to render for your absence?

Mr. KING. I was aware that the House had adopted a resolution for night sessions, but I absented myself out of no disrespect to the House. The streets have been very bad to walk upon during the last week, and in the first part of the week I was not able to keep my feet under me, and on one occasion fell and sprained my wrist, and I have hardly been able to use my hand since. After getting my dinner yesterday, at five o'clock, I went to my own room and remained there, and was not notified that my attendance was required at the House. Had I been notified at any hour of the night, I should have felt it my duty to try to come here; but not feeling that there was an absolute necessity for being here, I was not willing to undertake at night to walk up these slippery walks and steps which I have not been able to walk with safety during the day.

Mr. ROLLINS, of Missouri. I would like to know of my colleague whether he got his fall before or after dinner. [Laughter.]

Mr. RADFORD. I move that the gentleman be unconditionally excused.

The motion was agreed to.

ANTHONY L. KNAPP.

Mr. J. C. ALLEN. Mr. KNAPP is in the city of New York.

FRANCIS C. LE BLOND.

The SPEAKER. Mr. LE BLOND, you have absented yourself from the sitting of the House without its leave. What excuse have you to render for your absence?

Mr. LE BLOND. I was not aware that there would be any business transacted last evening beyond mere speech making, and therefore I remained at home with my wife. I was neither sick, nor upon any important committee, nor was I served with any process requiring my attendance. I did not know that my presence was needed until I came here this morning. Had I known it I should have come here last night.

Mr. RADFORD. I move the gentleman be excused upon the payment of the usual fees.

The motion was agreed to.

ROBERT MALLORY.

The SPEAKER. Mr. MALLORY, you have absented yourself from the sitting of this House without its leave. What excuse have you to render for your absence?

Mr. MALLORY. I came up to the House last night because I understood some questions I felt a great deal of interest in would be taken up for consideration when the tax bill was before the Committee of the Whole. If it had not been for that I should not have come at all, for I did not feel very well. Coming here, I found the House without a quorum, answered to my name, and tried to get the House to exercise mercy toward the delinquents; but the House was a little hard-hearted last night, and it seems they are disposed to be a little hard this morning. As the evening advanced, not feeling very well, I asked leave of the House to retire to my room. Leave was granted; but because I did not avail myself of the privilege immediately, some gentleman moved to reconsider the vote by which such leave was granted. The vote was reconsidered, and the leave was rescinded. [Laughter.]

Mr. BALDWIN, of Massachusetts. May I ask the gentleman by what means he left the Hall?

Mr. MALLORY. Ah! Mr. Speaker, I do not think that a very pertinent question.

Mr. BALDWIN, of Massachusetts. The doors were all closed.

Mr. MALLORY. I object to his drawing the conclusion that because I am a member of the Committee of Ways and Means I have mean ways. I went out correctly.

Mr. HOLMAN. This being an unusual case, I move the gentleman be excused upon paying \$12 50 and the usual fees.

Mr. MALLORY. I presume the gentleman with his usual courtesy will permit me to get through with my excuse.

Mr. HOLMAN. I thought the gentleman had concluded his remarks.

Mr. MALLORY. I was about to remark that I belonged to the Committee of Ways and Means, or mean ways, just as gentlemen see fit to call it; and I have a right to be absent from this House during its sessions. But that is not my excuse. I was unwell and left the House. If that is sufficient the House can excuse me.

Mr. HOLMAN. I now make my motion, omitting, however, the \$12 50.

Mr. COX. I must say I never in my life knew my friend from Kentucky so gay and festive as he was last night. [Laughter.]

Mr. MALLORY. The gentleman from Ohio will allow me to say that it was fictitious, something like the prosperity that exists all over our country now. I had just left the gentleman from New York, [Mr. GANSON,] and the gentleman from Ohio knows his character well enough to know how to account for the spirit which I exhibited when I came to this House.

Mr. COX. If the gentleman says it was a hectic flush, I will agree to let him off.

Mr. MALLORY. Oh, no! Not a hectic flush.

Mr. STROUSE. I move that the gentleman be excused unconditionally.

Mr. GARFIELD. I move to amend that motion by adding that he be fined ten dollars in addition to the usual fees.

Mr. WADSWORTH. My colleague has been confined to his room by indisposition, and was here last night very indiscreetly. He ought not to have been here.



Mr. GARFIELD. Then I withdraw the motion.

The question was taken on Mr. STROUSE's motion, and it was agreed to.

WILLIAM H. MILLER.

The SPEAKER. Mr. MILLER, you have been absent from the session of the House without leave. What excuse have you to render for your absence?

Mr. MILLER, of Pennsylvania. When the House passed the resolution providing for evening sessions I was detained at my home by illness. I left the House yesterday afternoon prior to the recess, unwell, and remained in my room; and I knew nothing of this call of the House until this morning.

Mr. HOLMAN. I move that the gentleman be unconditionally discharged.

The motion was agreed to, and Mr. MILLER, of Pennsylvania, was discharged from custody.

WARREN P. NOBLE.

The SPEAKER. Mr. NOBLE, you have been absent from the session of the House without leave. What excuse have you to offer for your absence?

Mr. NOBLE. I got the impression yesterday about the time the House adjourned that the evening session would be devoted to speaking, and nothing else. Nevertheless, I intended to come here. But when I arrived at the hotel to get my dinner I found two of my constituents there, who demanded my personal attention last night in the transaction of public business. I could not very well leave them. I was, however, sufficiently in health to be here, and meant no contempt of the House by my absence.

Mr. ELDRIDGE. The gentleman from Ohio is almost always in his seat; I believe he has scarcely ever been absent. I move that he be unconditionally excused.

Mr. BROOMALL. I move to amend that motion by adding to it "on payment of the usual fees."

The question was put, and on a division there were—ayes 48, noes 35; no quorum voting.

Mr. J. C. ALLEN. Would it be in order to move that there be a call of the House?

The SPEAKER. It would.

Mr. J. C. ALLEN. Then I make that motion. The question was put, and the House refused to order a call.

Mr. BROOMALL. I withdraw my amendment.

The question was then taken on Mr. ELDRIDGE's motion, and it was agreed to; and Mr. NOBLE was excused unconditionally.

GODLOVE S. ORTH.

The SPEAKER. Mr. ORTH, you have been absent from the session of the House without leave. What excuse have you to offer for your absence?

Mr. ORTH. I was too unwell to leave my room last night. I retired at a very early hour, and knew nothing of the proceedings of the House until I got here this morning.

Mr. COX. I move that the gentleman be unconditionally excused.

The motion was agreed to.

NEHEMIAH PERRY.

The SPEAKER. Mr. PERRY, you have been absent from the session of the House without leave. What excuse have you to offer for your absence?

Mr. PERRY. On Wednesday I received a telegram from New Jersey that made it important for me to go there. I left on Wednesday evening in the half-past seven o'clock train for New Jersey, and transacted the business I had to do. Fearing that my friend WASHBURN would move this whisky amendment, I took the train back and arrived here at six o'clock this morning. That is all the excuse I have to make.

Mr. RADFORD. I move that the gentleman be excused on the payment of the usual fees.

Mr. ELDRIDGE. I move to amend that motion so as to excuse him unconditionally.

The amendment was disagreed to.

Mr. RADFORD's motion was then agreed to.

WILLIAM H. RANDALL.

The SPEAKER. Mr. RANDALL, you have been absent from the session of the House without its leave. What excuse have you to offer for your absence?

Mr. RANDALL, of Kentucky. Mr. Speaker, I do not think I have any good excuse. I forgot that there was a night session, and was not absent through any contempt of the House at all.

Mr. HOLMAN. Mr. Speaker, in consequence of the frankness of the avowal, I move that the gentleman from Kentucky be unconditionally discharged.

Mr. RADFORD. I move, as an amendment, that he be discharged on payment of the usual fees.

The amendment was adopted; and the motion, as amended, was agreed to.

ALEXANDER H. RICE.

The SPEAKER. Mr. RICE, you have been absent from the session of the House without its leave. What excuse have you to offer for your absence?

Mr. RICE, of Massachusetts. Mr. Speaker, for the last fortnight I have been in ill health, and sometimes have not been able to attend the day session of the House. During the whole of that time I have not been out of my house on any evening, for any purpose whatever. I was detained at home by illness last night.

Mr. INGERSOLL. I move that the gentleman from Massachusetts be unconditionally excused. The motion was agreed to.

ANDREW J. ROGERS.

The SPEAKER. Mr. ROGERS, you have been absent from the session of the House without its leave. What excuse have you to offer for your absence?

Mr. ROGERS. Mr. Speaker, my understanding was that there was to be nothing but speaking at last evening's session; and therefore I remained absent, supposing that there was no necessity for my presence. I had no notice from the Sergeant-at-Arms.

Mr. BROOMALL. I move that the gentleman be excused on payment of the usual fees.

The motion was agreed to.

JAMES S. ROLLINS.

The SPEAKER. Mr. ROLLINS, you have been absent from the session of the House without its leave. What excuse have you to offer for your absence?

Mr. ROLLINS, of Missouri, (from his seat.) Mr. Speaker—

Mr. THAYER. I rise to a question of order. The gentleman must come to the bar of the House and answer.

The SPEAKER. The Chair sustains the point of order.

Mr. ROLLINS, of Missouri, (from the center aisle.) Mr. Speaker—

Mr. J. C. ALLEN. I rise to a question of order. The gentleman should come to the criminal dock. [Laughter.]

Mr. ROLLINS, of Missouri, (having stepped to the area in front of the Speaker's chair.) Mr. Speaker, I meant no disrespect to the House by my absence last night. I was not positively certain that there was to be an evening session. There was some doubt in my mind on that question. I represent a very excellent people—a more than average constituency. [Laughter.] A couple of my constituents arrived here yesterday; and I hold it to be the duty of a polite Representative to give all proper attention, not only to his legislative duties, but also to his constituents when they visit this city. I felt it my duty to pay my respects to those gentlemen last night, and finding them very agreeable, I remained with them. That is my excuse.

Mr. BROOMALL. I desire to ask the gentleman from Missouri whether he got notice last night that the House was in session.

Mr. ROLLINS, of Missouri. I did not. I was not notified till this afternoon by the Sergeant-at-Arms.

Mr. BROOMALL. I move that the gentleman be discharged on payment of the usual fees.

The motion was agreed to.

ROBERT C. SCHENCK.

The SPEAKER. Mr. SCHENCK, you have been absent from the session of this House without its leave. What excuse have you to offer for your absence?

Mr. SCHENCK. Mr. Speaker, I was present in the House yesterday all day, and in my usual health, being blessed with a tolerably vigorous constitution, for which I am grateful. I knew

there was to be an evening session, and I knew that it was to be for the purpose of taking up and acting on the tax bill, and not for the mere purpose of debate. I determined, however, after some inquiry, not to come last evening. I have an impression, Mr. Speaker, that I am the hardest-working man in the House of Representatives. My committee has met every morning for the last three weeks; and it is as much as I can do to get my breakfast and get there punctually for the meeting of the committee, as I always endeavor to anticipate the arrival of the other members. From the committee I come into the House. Last night I felt fagged out and in need of recreation and rest. Still I would not leave the House until I ascertained from the chairman of the Committee of Ways and Means [Mr. STEVENS] that the question of the tax upon tobacco, in which my constituents felt great interest, would not be likely to come up. I am perfectly disinterested upon that subject, for I do not use it in any shape, either in smoking, chewing, or snuffing. Still I have many constituents who are large producers of that article.

Owing, therefore, not to any want of health, or want of disposition to do my duty, but simply because I was tired out—and I shall be glad when the 4th of March comes, on that account—I failed to come here last night; and I feel myself quite as much surprised, in view of the labor I have performed this session, in being tried here for neglect of duty, as I think some gentlemen who are trying me must feel that they are engaged in that trial.

I have no other excuse than this to offer, except to state the circumstances attending my absence. I passed a portion of my evening away from my lodgings with some friends. I then returned to my lodgings, and applied myself to some letters which had to be written, and to the preparation in part of some memoranda for a bill, and for an interview with the Secretary of War in relation to some matters before the Military Committee, and I think I got to bed about two o'clock in the morning, which is about my usual time for retiring. The Sergeant-at-Arms did not call upon me or notify me that I was wanted here. This morning, when I read in the papers that the House was still in session when last heard from, I inquired of my family whether any one had called in the course of the evening while I was out and left any notice for me, and was told that no one had done so. My notice from the Sergeant-at-Arms was received in this Hall at one or two o'clock today. This is my excuse for my absence.

Mr. WILSON. I suppose that the absence of the gentleman from Ohio [Mr. SCHENCK] was owing to the fact that he feels great anxiety to have the business of the House advanced, in order that we may have a call of committees, which will afford an opportunity to the Committee on Military Affairs to submit their reports. I suppose that will account for his absence from the House, and it seems to me that it is a good excuse.

Mr. ODELL. The gentleman from Ohio [Mr. SCHENCK] says he was absent on account of his position on a very hard-working committee. I only desire to say that other gentlemen who are on that same hard-working committee were here all last night. I do not think that the gentleman should be unconditionally excused, but that he, like others, should be required to pay the usual fees.

Mr. RICE, of Massachusetts. I move that the gentleman from Ohio [Mr. SCHENCK] be excused upon payment of the usual fees.

Mr. HOLMAN. Would it be in order to add the words "in view of the remarks of the gentleman from Ohio, [Mr. SCHENCK], the Chair be directed to administer a mild censure to him for the manner in which he spoke of his judges," who are known to be very industrious gentlemen? [Laughter.]

The SPEAKER. The Chair supposes the gentleman from Indiana [Mr. HOLMAN] does not propose to press his motion.

Mr. HOLMAN. I supposed the gentleman was criticising his judges rather severely.

Mr. SCHENCK. I disclaim any purpose of that kind. I was not aware that the gentleman from Indiana [Mr. HOLMAN] would apply my remarks to himself.

Mr. HOLMAN. I will withdraw the motion to amend.

The question was upon the motion of Mr. Rice, of Massachusetts, to excuse the gentleman upon the payment of the usual fees.

Mr. SCOTFIELD. I move to amend so as to excuse unconditionally.

The amendment was rejected.

The motion of Mr. Rice, of Massachusetts, was then adopted.

Mr. FARNSWORTH. I move that all those members who were not here at all last night be excused unconditionally, and all those who were here until one o'clock be fined ten dollars each.

The SPEAKER. The Chair is of the opinion that that motion is not in order.

JOHN G. SCOTT.

The SPEAKER. Mr. Scott, you have been absent from the session of this House without its leave. What excuse have you to render to the House for your absence?

Mr. SCOTT. Mr. Speaker, several of my friends were in the city yesterday on very important business. They expected to leave to-day, and desired that I should see them last night. I called upon them, and returned to my room at ten o'clock. I received notice at twelve o'clock to-day from the Sergeant-at-Arms. The business upon which my friends came here was very important, and it was necessary that I should see them last night.

Mr. BROOMALL. I move that the gentleman be excused upon paying the usual fees.

The motion was agreed to.

RUFUS P. SPALDING.

The SPEAKER. Mr. Spalding, you have been absent from the session of the House without its leave. What excuse have you to render for your absence?

Mr. SPALDING. Mr. Speaker, I never at any time absent myself willingly from the sessions of this House. I have for some days, perhaps I might say for some weeks, been suffering from a severe cold. I attended the House yesterday from twelve o'clock until the recess at half past four. I really was not able to come during the evening session; but I was impressed with the importance of aiding in the examination of the bill from the Committee of Ways and Means, the internal revenue bill, and I did come punctually at seven o'clock. My purpose was to remain during the whole session of the House. I staid here for some six hours, with very much discomfort to myself. I asked the Speaker once whether I could retire, but he said that the rules would not permit it. I stayed until the proceedings under the first call were dispensed with. It was then about one o'clock. The doors were opened. I supposed that then the proceedings of the House were substantially ended. I had no idea but that the House would, within five or ten minutes, adjourn, and as I had to walk from the Capitol to Seventh street, the cars having ceased to run, I went out in advance, as I supposed, of the House, with no intention to condemn the House, but for the purpose of getting as speedily as I could to my lodgings, where I knew I ought to be. If I had remained here during the subsequent sitting of the House, I do not believe that I could have attended here to-day.

I should perhaps have asked permission of the House before leaving; but I did not consider it necessary. It was rather a thoughtless act on my part to go away without asking permission; but I felt the necessity of going; so as soon as the doors were opened I did go.

Mr. KELLEY. I desire to ask the gentleman a question: whether it was not suggested to him, as he was about to go, that if he would remain for two or three minutes the question would be taken on the business before the House, and that then we could have an adjournment?

Mr. SPALDING. I have no recollection of that; it may have been so.

Mr. KELLEY. I have a very distinct recollection of having made that suggestion.

Mr. SPALDING. If so, I replied that I could not remain longer. I was almost in a condition to sink in my seat.

Mr. FARNSWORTH. I do not suppose that any gentleman knew that the business would be concluded in two or three minutes.

Mr. KELLEY. I gave such notice to the gentleman, and received from him a very angry and indignant answer.

Mr. HUBBARD, of Connecticut. I heard the gentleman from Ohio remark, as he left the Hall, that, unless he left immediately, he did not believe he would be able to come here to-day.

Mr. COX. As my colleague has stated that he was so ill last night that he felt ready to sink in his seat, I think that he should be unconditionally excused, as have been others who were sick.

Mr. A. W. CLARK. I know that the gentleman came here last night when he really should have remained away.

Mr. RADFORD. I move that the gentleman be excused on paying a fine of \$12 50, in addition to the usual fees.

Mr. DAVIS, of New York. I desire to ask whether the gentleman from Ohio asked permission to absent himself from the House.

Several MEMBERS. He has said that he did not.

The question recurred on Mr. RADFORD's motion.

Mr. ROSS. I move to amend by making it five dollars.

Mr. COX. I hope that this police court business will stop.

The amendment was rejected.

Mr. BROOMALL. I move to amend that he be excused on the payment of the usual fees.

The amendment was agreed to.

The motion, as amended, was then adopted.

JOHN T. STUART.

The Sergeant-at-Arms stated that Mr. STUART was reported to be absent from the city.

L. D. M. SWEAT.

The SPEAKER. Mr. SWEAT, you have been absent from the sitting of the House without its leave. What excuse have you to offer?

Mr. SWEAT. Mr. Speaker, when I left the House yesterday afternoon I was aware there would be an evening session, but it was not my purpose to attend it, neither would it be my purpose to attend this evening if there were to be a session, because for the past week I have been laboring under such a severe cold that it would be not only imprudent but unsafe to have exposed myself. I was not confined to my room. I will add that I received no notification that my presence was desired.

Mr. DAWSON. I move that the gentleman be unconditionally excused.

The motion was agreed to.

ROBERT B. VAN VALKENBURGH.

The SPEAKER. Mr. VAN VALKENBURGH, you have been absent from the House without its leave. What excuse have you to offer?

Mr. VAN VALKENBURGH. Mr. Speaker, I have no excuse to offer. I have been unwell for a few days, but was able to be here.

Mr. ROLLINS, of Missouri. Was the gentleman sick?

Mr. VAN VALKENBURGH. I was able to attend, but did not deem it prudent. When the gentleman has paid his fine I will answer all of his questions.

Mr. GARFIELD. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

EDWIN H. WEBSTER.

The Sergeant-at-Arms stated that Mr. WEBSTER had been present, but had been called to attend Senator Hicks who was lying dangerously ill.

WILLIAM G. STEELE.

The SPEAKER. Mr. STEELE, you have been absent from the House without its leave. What excuse have you to offer?

Mr. STEELE, of New Jersey. Mr. Speaker, I was present last evening until about one o'clock. I had been suffering some two hours prior to that, and as soon as the call was suspended I went home, not believing that there would be another call. I could not have remained longer.

Mr. HOLMAN. I move that the gentleman be unconditionally excused.

The motion was agreed to.

The SPEAKER. The call has been concluded. Mr. GARFIELD. I submit the following resolution:

Resolved, That Hon. E. B. WASHBURN, in leaving the Hall without permission, pending a call of the House, at its session Tuesday evening, February 9, was guilty of disorderly conduct, and deserves the censure of the House.

Mr. FARNSWORTH. I do not understand that that is a question of privilege; or that going out of the House constitutes disorder.

Mr. MORRILL. I suggest, as the gentleman from Illinois is not present, that the resolution be withdrawn.

The SPEAKER. The Chair is of the opinion that it is a question of privilege, as a charge is made by one member against another for violating the rules of the House.

Mr. GARFIELD. Inasmuch as the gentleman from Illinois is not present, I move that the further consideration of the resolution be postponed until one o'clock to-morrow.

Mr. FARNSWORTH. It must be submitted to the House whether it is a question of privilege.

The SPEAKER. In a case where the Chair doubts, he has the right to submit it; but here the Chair holds this to be a question of privilege, as a charge is made by one member against another. The Chair expresses no opinion whether the fact is true or not.

Mr. FARNSWORTH. I move that the resolution be laid on the table.

Mr. ELDRIDGE. I move that the House do now adjourn.

Mr. J. C. ALLEN. If we adjourn what becomes of the resolution?

The SPEAKER. As the House has resolved that there shall be a morning hour every day except Monday, it will come up to-morrow after the morning hour.

Mr. MORRILL. I think we had better have a vote upon this to-night, and not consume another day with this matter.

Mr. ELDRIDGE. I move that the House do now adjourn.

The motion was agreed to.

The House accordingly (at twenty minutes past five o'clock, p. m.) adjourned.

## IN SENATE.

SATURDAY, February 11, 1865.

Prayer by Rev. B. H. NADAL, D. D.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal was dispensed with.

## COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. RAMSEY to supply the vacancy on the Committee to Audit and Control the Contingent Expenses of the Senate occasioned by the absence of Mr. HARDING.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of State, transmitting, in obedience to law, a report on the commercial relations of the United States with foreign nations for the year ending September 30, 1864.

Mr. MORGAN. It has heretofore been necessary to pass a resolution of the Senate in relation to the number of copies to be printed of this document, but by the fifth section of the act passed at the last session to facilitate and expedite the public printing, the number to be printed is provided for. No motion to print is necessary, therefore. I move that the communication lie on the table.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a letter of the Secretary of the Navy, communicating the report of the commission appointed under the joint resolution of Congress, approved June 30, 1864, "to select the most approved site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries," and recommending an appropriation to cover the expenses of the commission; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior transmitting the estimates of the superintendent of the southern superintendency for feeding the refugee Indians for the first and second quarters of 1865, and for the fiscal year ending June 30, 1866, and recommending the appropriation asked for; which was referred to the Committee on Indian Affairs, and ordered to be printed.

## CREDENTIALS PRESENTED.

Mr. CLARK presented the credentials of Hon. AARON H. CRAIG, chosen by the Legislature of

the State of New Hampshire a Senator from that State for the term commencing March 4, 1865; which were read, and ordered to be filed.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the memorial of the Legislature of Minnesota, in favor of an additional grant of lands to aid in the completion of the several lines of railroad and branches in that State, mentioned in the act of Congress approved March 3, 1857, and for an extension of the time limited therein; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Minnesota, in favor of additional relief to the sufferers from the Sioux Indian war of 1862; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented a petition of officers in the military service of the United States, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY presented the petition of Jane Clark, of Washington city, District of Columbia, praying compensation for a house and lot seized and confiscated by the Government under the act of July 17, 1862; which was referred to the Committee on Claims.

Mr. HARRIS presented a petition of citizens of the city of New York, praying for the passage of the bill to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

Mr. HOWARD presented the memorial of J. W. Sheldon, claim agent in the city of Washington, praying for the payment of bounty to veterans and other recruits belonging to the thirteenth and fourteenth Michigan batteries, promised them by recruiting officers; which was referred to the Committee on Claims.

Mr. HENDERSON presented resolutions of the Legislature of Missouri, in favor of mustering out volunteers recruited under promise of discharge at the expiration of the term of service of their respective regiments in accordance with such promise; which were referred to the Committee on Military Affairs and the Militia.

He also presented five petitions of citizens of Missouri, praying for the establishment of a daily mail route from Macon City, Missouri, to Keosauqua, Iowa; which were referred to the Committee on Post Offices and Post Roads.

Mr. SUMNER. I present a memorial of the executive committee of the board of delegates of the American Israelites, who represent that they are a permanent executive committee of conference, representing about forty congregations of Israelites in various parts of the United States, and have been appointed to watch over all occurrences which may interest the Israelites in their social, religious, and political concerns. As such they come forward at this juncture, they say, to protest energetically against the amendments to the preamble of the Constitution of the United States prayed for in the memorial of the Presbytery of Cincinnati, dated December 12, 1864, and signed by A. J. Reynolds, and twenty-one others, and against any changes in the various articles of the Constitution to make them agree with the amendment suggested by a conference of ministers and laymen of various denominations held at Philadelphia on the 29th and 30th of November, 1864, and which, they say, no doubt, have been or will be presented to Congress at this or the next session. They set forth at length in their memorial their objections to any such constitutional amendment, and they invoke the example and spirit of our fathers at the adoption of the Constitution against all religious tests and disabilities. The memorial is signed by Isaac Leaser, the first vice president and acting president, Henry Josephi, chairman of the executive committee, and Myer S. Isaacs, secretary; and it bears the seal of the board of delegates of the American Israelites. As this relates to a proposed amendment of the Constitution, I move that the memorial be referred to the Committee on the Judiciary. The motion was agreed to.

#### BILL RECOMMENDED.

Mr. RAMSEY. I move that the bill (S. No. 373) to aid in the construction of a telegraphic line from St. Cloud, in Minnesota, to the British

possessions, which is now lying on the table, be recommended to the Committee on Public Lands. The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, have directed me to report it, with amendments; and I give notice that I hope to get it up for action on Tuesday next.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command, reported it without amendment.

Mr. POMEROY, from the Committee on Claims, to whom was referred the petition of George J. Stubblefield, praying payment for chewing tobacco delivered by him to the United States at Atlanta, Georgia, and issued to the army under General Sherman, reported a joint resolution (S. R. No. 109) authorizing the adjustment of the claim of George J. Stubblefield for chewing tobacco furnished the United States; which was read, and passed to a second reading.

Mr. HENDERSON, from the Committee on Finance, submitted a letter from the Secretary of the Interior to the chairman of the Committee on Finance recommending a reorganization of the clerical force in the office of the Commissioner of Indian Affairs; which was referred to the Committee on Indian Affairs.

Mr. CLARK, from the Committee on Claims, to whom was referred a memorial of William Pierce, of San Francisco, California, praying an issue to him of duplicate bonds in place of four Oregon war bonds lost by the burning of the steamer Golden Gate on the 27th day of July, 1862, submitted a report, accompanied by a bill (S. No. 442) for the relief of William Pierce. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 748) providing for a bust of the late Chief Justice Taney, to be placed in the room of the Supreme Court of the United States, have instructed me to report it back without amendment, and with a recommendation that it pass; and as that is the only object of the bill, I ask for its present consideration.

Mr. SUMNER. I must object to the consideration of the bill now.

The PRESIDENT *pro tempore*. Objection is made, and it cannot be considered.

#### CHANGE OF NAME.

Mr. HALE. I am instructed by the Committee on the Judiciary, to whom was referred the petition of Dorsey Edwin William Towson for a change of name, to report a bill for his relief. As it is a very simple proposition to change the name of an individual, and relates to nothing else, and there are numerous instances of this jurisdiction being exercised by Congress, I am instructed to ask that the bill be considered now.

By unanimous consent the bill (S. No. 439) to change the name of Dorsey Edwin William Towson to that of Dorsey Edwin William Carter, was read three times, and passed.

Mr. HALE. It has been suggested to me that for the purpose of showing jurisdiction on the face of the bill, the individual should be described in the title as of Georgetown, in the District of Columbia. I therefore move to amend the title by inserting after the word "Towson" the words "of Georgetown, in the District of Columbia."

The PRESIDENT *pro tempore*. The amendment will be made, if there be no objection. The Chair hears none.

#### TREATMENT OF COLORED REFUGEES.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to furnish, for the information of the Senate, the report of Hon. Thomas Hood and Hon. S. W. Bostwick, special commissioners appointed to investigate and report upon the condition and treatment of colored refugees in Kentucky, Tennessee, and Alabama, lately made to the War Department.

#### BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 437) to continue in the service of the United States certain troops in the State of Missouri; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 438) relative to the railroad bridge across the Mississippi river, from Rock Island, in the State of Illinois, to Davenport, in the State of Iowa, and to establish and declare the same a post route; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 440) to define the jurisdiction of the district and circuit courts of the United States for the districts of California, Oregon, and Nevada; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 441) to enlarge the canals and improve the navigation of the Fox and Wisconsin rivers, from the Mississippi river to Lake Michigan, for military and naval purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 110) creating a Committee on Damages; which was read twice, and referred to the Committee on Claims.

#### MEETINGS OF CONGRESS.

Mr. FOOT. I offer the following resolution:

*Resolved*, That the compilation of the provisions of the Constitution and laws of the United States for fixing the time for the meeting or sessions of Congress and of the extra sessions of the Senate, and the practice under the same, from the 4th of March, 1789, to the present time, prepared by the Chief Clerk of the Senate, be printed.

This resolution, under the rule, will go to the Committee on Printing. I will remark, in a word, that this compilation of the provisions of the Constitution and the laws and practice of the Government upon that subject, from the beginning of the Government to the present time, has been performed by the Chief Clerk of the Senate at the request of one or two members of this body, to which he responded with promptness; and that request was made on account of his well-known and acknowledged long experience and intimate acquaintance and familiarity with the laws, practice, and precedents of the Government on that question.

The resolution was referred to the Committee on Printing.

#### DISTRICT OF COLUMBIA BUSINESS.

Mr. DIXON. The Senate assigned this day after the morning hour for the consideration of the business of the District of Columbia. As there is an important appropriation bill before the Senate, which it is understood we are to take up at one o'clock, I propose that the Senate devote the morning hour to District business.

Mr. SUMNER. I hope not; there is some other business we want to do this morning.

Mr. DIXON. In order to test the sense of the Senate on that subject, I move to postpone all prior orders and take up Senate bill No. 393.

The motion was agreed to.

#### TAXES IN GEORGETOWN.

The Senate accordingly, as in Committee of the Whole, proceeded to consider the bill (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes. It proposes to empower the corporation of Georgetown to levy and collect, in the same manner in which other taxes are levied and collected in that town, an annual tax not to exceed, in any year, fifteen hundredths of one per cent. of the assessed value of the taxable property in the town, to be applied to the payment of the interest and the extinction of the principal of the debt recently contracted by the corporation in filling its quota under the several drafts for troops made during the present war. The corporation is also further authorized and empowered to levy and collect, in the same manner, a sum sufficient



to pay the town's proportion of the direct tax imposed on the District of Columbia by the act of Congress, approved August 5, 1861, and the cost and expenses of collecting the same.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### COLUMBIA INSTITUTION.

On motion of Mr. DIXON, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 421) to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the deaf and dumb and the blind," approved February 16, 1857. It proposes to repeal so much of the act of February 16, 1857, as requires the teaching of the blind in that institution, and the corporate name and style thereof is hereafter to be "the Columbia Institution for the instruction of the Deaf and Dumb." The Secretary of the Interior is authorized to cause all indigent blind children who are now, or might hereafter become entitled, under the law as it now exists, to instruction in the institution, to be instructed in some institution for the education of the blind in Maryland or some other State, at a cost not greater for each pupil than is, or may be, for the time being, paid by such State, and to cause the same to be paid out of the Treasury of the United States. This act is to take effect from and after the 30th of June, 1865.

Mr. DIXON. In the third line of the second section I propose to strike out the word "might" and to insert the word "may."

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### FREEDMEN'S BUREAU.

Mr. SUMNER. I now ask the Senate to be good enough to take up the report of the conference committee made yesterday, relative to the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. DIXON. I will suggest to the Senator from Massachusetts that as we are now upon the business of the District of Columbia, we had better proceed with it. I do not think it will take more than ten minutes.

Mr. SUMNER. After this report is acted upon, those bills can be taken up.

Mr. SAULSBURY. I wish to raise a point of order. By an inspection of that report, it appears that the committee of conference, instead of considering the points in dispute between the two Houses, have reported an entirely new bill. I raise the point of order against the reception of the report, if it is not too late. Only a session or two ago when a committee of conference of this body, at the head of which was the Senator from Connecticut, [Mr. FOSTER,] attempted, or did, in fact, incorporate something in their report which was not the subject of disagreement between the two Houses, the Senate by a decisive vote rejected the report because the committee had not the power to consider anything except what had been in dispute or controversy between the two Houses.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Delaware, that if he raises a point of order it must be decided without debate.

Mr. SAULSBURY. I was only stating the point.

The PRESIDENT *pro tempore*. And the Chair is of opinion that the objection comes too late, the report having been entertained by the Senate; but the whole question will be before the Senate on the consideration of the report.

Mr. DAVIS. Mr. President—

Mr. SUMNER. The question is only on taking it up now.

Mr. DAVIS. I object to the report being taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to take up the report for consideration.

Mr. SAULSBURY. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. All I wish to say is sim-

ply this: there has been no printed copy of that report laid upon the tables of Senators. It is true that I this morning got hold of the report and glanced over it; but I have seen no copy of it upon the tables of Senators; and I assign this as a reason why it should not be taken up. It cannot be passed to-day, I presume.

Mr. SUMNER. The Senator is entirely mistaken. The printed copy was on his table a week ago. It was on the table of every Senator a week ago.

Mr. SAULSBURY. I am not aware that the Senator from Massachusetts inspects my table to see what is on it. I have never seen it if it has been there. If he knows the fact, it is more than I do.

Mr. HALE. I wish to make an inquiry. This day was assigned for the consideration of bills relating to the District of Columbia, and there are several such bills that are not acted upon. I understand that the chairman of the Committee on the District of Columbia, in consideration of the fact that the chairman of the Committee on Finance has an appropriation bill which he wants to press to-day, consented to waive that assignment if he might have the morning hour for the purpose of passing his bills; and I desire to know whether, if this report be taken up, those bills will be postponed, contrary to the assignment of the Senate.

The PRESIDENT *pro tempore*. The Chair will remark that it is in the power of the Senate to make the order of its business.

Mr. SUMNER. The Senator from Connecticut has got through with his bills.

Mr. HALE. No, he has not.

Mr. SHERMAN. I can say to the Senator from New Hampshire that the special order will be displaced necessarily by the unfinished business. That is the ordinary order of business; and I am very anxious to have the legislative appropriation bill passed to-day.

Mr. MORRILL. I should like to ask the Senator from Massachusetts whether he contemplates the consideration of the report at the present time, or whether his object is to assign a time for its consideration.

Mr. SUMNER. I supposed that the Senate would be ready to act upon it. I was not aware that it would be debated. It has been debated in both Houses until I thought each House was tired of it. There is but one single point in this bill that is new, which can be stated in one minute, so that the Senate can be in complete possession of the whole question. I assume that Senators wish to expedite public business, especially when it concerns an important measure.

Mr. MORRILL. The Senator is advised already that this bill will not pass without debate. The Senator from Delaware intimates that he shall debate it through the day. Others will debate it also. The Senator from Massachusetts knows very well that this day was set down for the business of the District of Columbia, upon which we are now engaged; and I submit whether it is proper to antagonize this bill under these circumstances with that business.

Mr. SUMNER. If it is more agreeable to the Senate, I will have it made the special order for half past twelve o'clock on Monday.

Mr. MORRILL. I believe there is already an assignment for Monday.

Mr. SUMNER. Not in the morning hour.

Mr. CONNESS. Do not put it in the morning hour.

Mr. SUMNER. Then the Senator postpones it indefinitely.

The PRESIDENT *pro tempore*. The question is on taking up the report, upon which the yeas and nays have been ordered.

Mr. MORRILL. I suggest to the Senator from Massachusetts to assign it for Monday.

Mr. SUMNER. In compliance with the Senator's suggestion, I will have it taken up and made the special order for Monday next at one o'clock.

The question being taken by yeas and nays, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Collamer, Conness, Dixon, Farwell, Foot, Foster, Grimes, Harris, Howard, Howe, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—25.

NAYS—Messrs. Cowan, Davis, Henderson, Hendricks, Johnson, Lane of Indiana, Nesmith, Powell, Riddle, Saulsbury, and Willey—11.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Doolittle, Hale, Harding, Harlan, Hicks, Lane of Kansas, McDougall, Richardson, Sprague, Van Winkle, Wilkinson, and Wright—15.

So the motion to take up the report was agreed to.

The PRESIDENT *pro tempore*. The report is now before the Senate.

Mr. SUMNER. Now, in deference to the sentiments of Senators, contrary to my own convictions of duty, I may say, I shall move that it be postponed to Monday next, and made the special order for that day at half past twelve o'clock.

Mr. CHANDLER. Oh, no; I have got a special order for Monday.

Mr. SUMNER. That is at one o'clock. The motion was agreed to, there being, on a division, yeas twenty-seven, nays not counted.

#### OPENING OF SIXTH STREET WEST.

Mr. DIXON. I now move to take up House bill No. 364.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 364) authorizing and requiring the opening of Sixth street west. It requires the corporate authorities of the city of Washington to open Sixth street west, from the canal to Maine avenue, under the direction of the Commissioner of Public Buildings, in accordance with the plan approved in May, 1822, by James Monroe, then President of the United States.

The bill was reported to the Senate without amendment.

Mr. GRIMES. I move to amend the bill by adding the following proviso:

*Provided, however, That Sixth street, through the public ground known as the Armory square, shall not be opened until after the removal of the Armory hospital from such public ground, or until the consent of the Secretary of War and Surgeon General of the United States Army shall be first had and obtained.*

Mr. DIXON. There is no objection, I believe, to that amendment.

Mr. JOHNSON. I want to know of the honorable member from Iowa whether he requires the assent of the Surgeon General as well as the Secretary of War?

Mr. GRIMES. I did insert that in the amendment.

Mr. JOHNSON. It seems to me rather singular.

Mr. GRIMES. I will state, in one word, why I have offered the amendment. I have had no consultation with the Surgeon General on the subject of opening Sixth street since last summer. This bill was then before the Committee on the District of Columbia, of which I was at that time a member; and he objected, and wrote me a letter in opposition to the passage of the bill because it would interfere with the hospital there. I went myself and examined the grounds, and I was satisfied that there would not be a compensating advantage to the Government or to the city in opening the street at this time. My object is simply to save the hospital there.

Mr. JOHNSON. The Senator misunderstands me. I do not think it should be authorized without the consent of the Secretary of War; but why should not his consent be sufficient? I cannot imagine why you should also require the assent of the Surgeon General.

Mr. MORRILL. It should be properly the Surgeon General alone.

Mr. GRIMES. I am willing to strike out "the Secretary of War," and leave the proviso so as simply to require the assent of the Surgeon General.

The PRESIDENT *pro tempore*. Does the Senator so modify his amendment?

Mr. GRIMES. Yes, sir; I will modify it by striking out the words "Secretary of War and."

The PRESIDENT *pro tempore*. It will be so modified.

The amendment, as modified, was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### EXCHANGE OF PRISONERS.

Mr. WADE. I ask the consent of the Senate to make a short report from the committee on the conduct of the war. It is the testimony of Lieutenant General Grant on the subject of an exchange of prisoners. I believe it will save many inquiries on that subject.

The **PRESIDENT pro tempore**. The report will be received by unanimous consent. The Chair hears no objection.

Mr. WADE. I move that it be printed.

The motion was agreed to.

Mr. WADE. As it is very short, being the testimony of General Grant on the subject, I will ask that it be read.

Mr. ANTHONY. What is the date of it?

Mr. WADE. It is testimony that we have taken this morning.

The Secretary read, as follows:

*Question.* It is stated, upon what authority I do not know, that you are charged entirely with the exchange of prisoners.

*Answer.* That is correct; and what is more, I have effected an arrangement for the exchange of prisoners, man for man, and officer for officer, or his equivalent, according to the old cartel, until one or the other party has exhausted the number they now hold. I get a great many letters daily from friends of prisoners in the South, every one of which I cause to be answered, telling them that this arrangement has been made, and that I suppose exchanges can be made at the rate of about three thousand a week, and just as fast as they can deliver prisoners to us I will receive them and deliver their prisoners to them. And the Salisbury prisoners will be coming right on. I myself saw Colonel Hatch, the assistant commissioner of exchange on the part of the South, and he told me that the Salisbury and Danville prisoners would be coming on at once. He said that he could bring them on at the rate of five or six thousand a week.

*Question.* There is now no impediment in the way?

*Answer.* There is no impediment on our side. I could deliver and receive every one of them in a very short time if they will deliver those they hold. We have lost some two weeks lately on account of the ice in the river.

The **PRESIDENT pro tempore**. The report will be printed.

#### METROPOLITAN INSURANCE COMPANY.

Mr. DIXON. I now move to take up Senate bill No. 167.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 167) to incorporate an insurance company in the city of Washington. It proposes to declare William L. Hodge, Samuel Bacon, Augustus E. Perry, Edward Hall, George W. Utermehle, William H. Morrison, Peter F. Bacon, William R. Riley, Benjamin Beall, A. C. Richards, Henry A. Scheets, and John H. McCutchen, and their associates and successors, a body politic and corporate by the name and style of the Metropolitan Insurance Company.

The Committee on the District of Columbia reported the bill with various amendments. The first amendment of the committee was in section two, line seven, after the word "for," to insert the words "and within ninety days the further sum of fifteen dollars on each share subscribed for;" in line nine to insert the words "payment of the" before the word "remainder;" and in line fourteen to strike out the word "three" and insert "one;" so that the section will read:

Sec. 2. *And be it further enacted*, That the persons named in the foregoing section, or a majority of them, are hereby authorized to open a subscription in the city of Washington for raising a capital stock of \$500,000 in shares of fifty dollars each; and that each person, on subscribing, shall pay to the persons above mentioned ten dollars on each share subscribed for, and within ninety days the further sum of fifteen dollars on each share subscribed for; and that the payment of the remainder of the said fifty dollars shall be secured by negotiable notes, signed and indorsed to the satisfaction of said persons, or a majority of them; and payment thereof may be demanded at such times and in such proportions as the president and directors hereafter mentioned shall judge advisable, giving one week's notice in two papers printed in the District of Columbia.

The amendment was agreed to.

The next amendment of the committee was in section four, line one, to strike out the word "one" and insert "two;" so that it will read:

That as soon as two thousand shares shall be subscribed the persons hereby authorized to receive subscriptions shall call a meeting of the subscribers, giving one week's notice in two of the papers printed within the District, &c.

The amendment was agreed to.

The next amendment of the committee was in section five, line one, after the word "that" to strike out the following words:

The members of the company shall not be liable for any loss, damage, or responsibility arising from any contract of insurance, other than the property they have in the capital or funds of the company to the amount of the shares respectively held by them and any profits arising therefrom not divided: *Provided*.

So that the section will read:

That the said corporation shall deposit with the Register of the Treasury of the United States, or other officer to be designated by him, bonds or other securities of the United States, in amount equal to one fourth of the capital stock

paid in, to be held by said officer to secure and indemnify parties who shall insure with said company.

The amendment was agreed to.

The next amendment of the committee was to insert, at the end of the sixth section, the following proviso:

*Provided*, That no loan shall be made to the stockholders of said company, or any of them.

The amendment was agreed to.

Mr. DIXON. I move to strike out the first name on the list of incorporators, that of Mr. William L. Hodge, at his request.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### NATIONAL UNION INSURANCE COMPANY.

On motion of Mr. DIXON, the bill (H. R. No. 517) to incorporate the National Union Insurance Company of Washington, was considered as in Committee of the Whole.

It proposes to empower James Harper, Thomas Patton, C. H. Moody, John W. Magill, John M. Reilly, B. F. Guy, Valentine Blanchard, Thomas J. Fisher, Hudson Taylor, Augustus F. Perry, D. Walker, James Montgomery, Joseph J. May, or any five of them, to receive subscriptions to the capital stock of a company to be denominated the National Union Insurance Company of Washington, who shall open a book for that purpose in the city of Washington, at the time and place to be by them designated, of which they shall give ten days' notice in two or more of the daily papers of the city, and shall keep it open until twenty thousand shares of fifty dollars a share each shall have been subscribed. The usual powers of a corporation are granted. The company is to make insurance against losses by fire on any house, building, tenement, manufactories, mills, or other buildings; on goods, wares, chattels, and effects of all kinds therein, or otherwise; upon grain, produce, and implements, and upon vessels building on the stocks, in port or at moorings; and, generally, upon all and every sort and description of property, of whatever kind soever, on land or water.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### SISTERS OF MERCY.

The **PRESIDENT pro tempore**. The hour has arrived for the consideration of the unfinished business of yesterday.

Mr. HALE. The bills for the District of Columbia are all through except one, and we do not want another day for that. I therefore ask the consent of the Senator from Ohio to allow me to move to take up Senate bill No. 368.

Mr. SHERMAN. Let it be done by unanimous consent, so as not to displace the regular order.

The **PRESIDENT pro tempore**. That course will be taken, and the bill (S. No. 368) to incorporate the Association of the Sisters of Mercy in the city of Washington in the District of Columbia will be regarded as before the Senate as in Committee of the Whole.

Mr. HALE. I suggest that the bill need not be read, as the amendment of the committee is a substitute for the bill.

The Secretary read the amendment reported by the Committee on the District of Columbia, which was to strike out all after the enacting clause of the bill and insert the following:

That Isabel Atkinson, Elizabeth Medcalf, Teresa Byrne, Ellen Mathews, Mary Duffy, Teresa Moran, and Ellen Wynne, and their successors, hereafter to become Sisters of Mercy, and to be appointed according to the rules and regulations that have been or may hereafter be established by their association, be, and they are hereby, made, declared, and constituted, a corporation or body politic, in law and in fact, to have continuance forever, by the name, style, and title of the "Sisters of Mercy in the District of Columbia."

Sec. 2. *And be it further enacted*, That all and singular the lands, houses, tenements, rents, legacies, annuities, rights, property, privileges, goods, and chattels, heretofore given, granted, devised, or bequeathed to the said Sisters of Mercy, in the District of Columbia, or to any individual of the said corporation, or to any person or persons for the use of said corporation, or that have been purchased for or on account of the same, be, and they are hereby, vested in, and confirmed to, the said corporation; and that the said corporation may purchase, take, receive, hold, and apply to the uses and purposes of the same, according to

the rules, regulations, and by-laws that they may establish from time to time, for the management of the concerns of the said society or corporation, any lands, tenements, rents, legacies, annuities, rights, property, and privileges, or any goods, chattels, or other effects of what kind or nature soever, which shall or may have been or may hereafter be given, granted, sold, bequeathed, or devised unto the said association or corporation, by any person or persons, bodies politic or corporate, capable of making such grant, sale, or bequest, and that the said association or corporation of the Sisters of Mercy, in the District of Columbia, may dispose of and convey the same as they may deem proper: *Provided*, That the said association or corporation shall not, at any one time, hold, use, possess, and enjoy, within the District of Columbia, either by legal seizure, or trust, for its use and benefit, more than three hundred and twenty acres of land, nor shall the said association or corporation hold, in its own right, or by any other person in trust, or for its benefit, real estate the annual net income of which, after discharging all its expenses, debts, and liabilities, shall exceed the sum of \$50,000.

Sec. 3. *And be it further enacted*, That the said corporation, by the name of the Sisters of Mercy, in the District of Columbia, be, and shall be hereafter, capable in law and in equity to sue and be sued, within the District of Columbia and elsewhere, in as effectual a manner as other persons or corporations can sue or be sued, and that the said corporation, or a majority of the persons composing the same, shall adopt and use a common seal, and the same to use, alter, or change at pleasure, and from time to time make such by-laws, not inconsistent with the Constitution of the United States or any law of Congress, as they may deem expedient and proper for carrying into effect the objects of the said association or corporation, including the care, control, and education of children; the care, protection, instruction, and employment of destitute females; the care, nursing, and alleviation of the sufferings of sick or wounded persons, and such other objects of literature and charity as may be determined upon by their by-laws, as aforesaid, and which their means and net income may enable them to effect and support.

Sec. 4. *And be it further enacted*, That if, at any time hereafter, any of the persons hereinbefore named, or any of their successors, as Sisters of Mercy, in the District of Columbia, shall cease to belong to the said association or corporation, according to the said by-laws, such persons shall thereafter have no part or control in the proceedings of the said association or corporation under or in pursuance of the provisions of this act.

Sec. 5. *And be it further enacted*, That the said association or corporation shall have power to appoint such officers, agents, and persons as may be necessary, and to construct or purchase such buildings or to create such establishments as may be required to effect and carry out the humane and charitable objects of its institution, in accordance with its by-laws and regulations, as aforesaid, under this act.

Sec. 6. *And be it further enacted*, That the schools and all other institutions of instruction, education, or employment, established by the Sisters of Mercy in the District of Columbia, shall at all times be subject to the visitation and inspection of the justices of the supreme court of the District of Columbia, or any one of them, or the Committees on the District of Columbia in either House of Congress, or any other committee of Congress that either House may appoint, and the books, records, and proceedings of said Sisters of Mercy shall at all times be subject to the examination and inspection of said justices or any such committee.

Sec. 7. *And be it further enacted*, That this act may, at any time hereafter, be amended, altered, or repealed, in whole or in part, according to the pleasure of Congress.

Mr. JOHNSON. I would ask the honorable member who has the bill in charge if any such provision as is contained in the sixth section is to be found in any other act of incorporation in this District?

Mr. GRIMES. What is in the sixth section?

Mr. JOHNSON. Let the sixth section be read again.

The Secretary read the sixth section of the amendment.

Mr. JOHNSON. Unless that has been done in other cases, I would suggest to the honorable member and to the Senate that it would be rather invidious to make a provision of that sort now for the first time. If there are any classes of people who are engaged in acts of mercy, and whose conduct is worthy of man's honor, and who would seem to be entitled especially to the mercy of Heaven hereafter, it is the very persons whom you are about to incorporate. They are ladies who devote their time exclusively to the charitable object of educating the poor and the helpless, and of nourishing and nursing and consoling the sick and the wounded; and you are about now to throw open their institution by this provision to any committee that Congress may suggest, or to the District judges. I see no necessity for it, for if there shall be any abuse we shall be sure to know it, and under the authority to modify or repeal the charter any abuse can be prevented in the future. I do not know how it may be received by these ladies, but it seems to me if it never has been done before it would be considered by them as exceedingly invidious; and as I do not think it is at all necessary to accomplish any public good, I should hope that such a provision would not be incorporated in this bill. There is no class of

the community who have been of more service to us during this war than the very people whom you are now about to subject to this particular examination. They have traveled everywhere, risked life, put themselves to every sort of inconvenience and trouble, subjected themselves to almost every variety of peril, and they have never charged anything or got anything except the reward consequent upon the performance of acts of that description; and I think it would be rather unkind that you should subject them to a supervision to which you have not subjected and do not propose to subject any other institution of learning or any other institution which you have heretofore incorporated.

Mr. HALE. It will be within the recollection of most of the Senators who now hear me that although members of Congress are made by law visitors of all institutions in the District of Columbia, within four years the marshal of this District issued an order forbidding Senators to visit the jail in this District, and the chairman of the Committee on the District of Columbia, in one of his official visits to the jail, was refused admission under that order. Inasmuch as we are the official and legal visitors, it occurred to the committee that it would be well to put this clause in. I am sure that the Senator from Maryland does not appreciate more highly than I do the merits and virtues and self-sacrificing devotion of these Sisters of Mercy and Sisters of Charity to the sick and wounded of the Army. But this is a corporation which is created with powers that may make it a pretty extensive concern. They are authorized by the bill to hold real estate to the amount of three hundred and twenty acres of land, and to have an annual income of \$50,000. It is perfectly clear that there ought to be some power of visitation somewhere, and the committee thought that it might well enough be vested in the supreme court of this District and in the committees of each House, that it would not be liable to abuse; that there is no disposition to infringe on any of their privileges or rights, and that the public safety requires that some such provision as this should be made either by a general or special law. I have no feeling on it. These are the motives that governed the committee, and if the Senate see fit to strike out the section I am content; but I think it is well enough as it is.

Mr. MORRILL. This is the ordinary provision for visitation to an institution which is in every essential sense secret in its character. The bill contemplates committing children of tender age, infants so to speak, under the years of discretion, to the care and custody of these females, and they have the absolute control over the persons and over the education of these children. This section is the exercise of the ordinary power of Government to reserve to itself the right of visitation. I do not think there is a charitable institution in this country—

Mr. HALE. Outside of the District of Columbia.

Mr. MORRILL. Not one outside of the District of Columbia that undertakes to assert a right to absolute control over the persons of tender years, without the right of visitation on the part of the Government; and with the highest regard for the motives and purposes of these females, and with a disposition to deal with them liberally in every way, I would never consent to grant to any set of persons, male or female, the absolute control of such children as they may take into this institution by the authority we grant, and shut them up from the world with no right in the Government to visit that institution and to inquire after the welfare of those children. It is therefore precisely this case: we authorize these persons to take into this institution such children as they can induce, from various considerations, to enter the institution; we give them absolute control over the person and over the education of those children; that is all right; I do not object to it, and I think every presumption, from the character of these females, is on their side, that this authority will not be improperly used; but it seems to me to be the grant of an authority so absolute, that I doubt if the Government have a right, so to speak, to part with the power to supervise the conduct of others that is implied in this section. I am so very decided upon a question of this kind that I do not think my consent could be obtained on any consideration whatever to an institution of this

sort, worthy as I think its object to be, without a provision in it for the visitation by the proper officers, whose duty it should be at all times to be vigilant in inquiry after the children who are themselves absolutely committed to the care and discretion of these persons.

Mr. JOHNSON. The right of visitation which every Government possesses over institutions of this description is one thing; whether it should be exercised in the way proposed in this section is quite a different thing. This section is not only a reservation of a right in Congress at any time to visit the institution, but it reserves the right to visit it to the judges of the superior court here in the District of Columbia, or any one of them, and to the committees of the District of Columbia in either House, or any other committee of Congress, and the books and records of proceedings of these Sisters of Mercy are at all times to be subject "to the examination and inspection of such justices or of any such committee." I can readily imagine that from time to time, from week to week, some one will go up to the justices of the supreme court here and suggest that something is going wrong, and then there is to be a full inspection of the whole establishment!

Congress by reserving to itself the right to repeal the charter can guard against any mischief; or if Congress think proper to preserve the right on visitation over it, they can do so without subjecting this institution to a daily inspection and to all the annoyance certain to be the result of a daily inspection. These Sisters are not nuns; they are not excluded from the world by their religious vows; they mix with the world, as I understand, but have devoted themselves exclusively to these charitable objects.

Now, why is it (provided I am right in saying this is the first time a provision of this sort has found its way into such a bill) that you select these people for this provision? Is it because of their particular religion? I am sure it is not so. It is not because they are Roman Catholics, nor because they think it their duty to appropriate their lives to these purposes. Then it is simply from an apprehension that some wrong may be done to some of the children who may get under their charge. There are plenty of people who will know that that wrong will be done; and the children are not placed entirely by this charter under the control of these corporations; the courts are all open. These children will have just as sure a protection through the courts as any one who goes to any boarding-school is sure of being protected against any misconduct on the part of the teacher by going to the courts. But I repeat, it seems to me rather to be an invidious matter as against these people, whose lives are devoted to these very charitable objects, and who are now, I believe, in charge of four or five of our hospitals, to insert a provision nowhere else to be found. I move to strike out the section.

Mr. MORRILL. I submit that there is little occasion for the criticism which my honorable friend makes on the remarks that I have made. There is no suspicion, I understand, growing out of the peculiar religion of these people; it did not occur to me that that question could possibly arise; but it is the principle of allowing anybody anywhere to have the absolute control over persons without the right of visitation. That is the principle. This bill authorizes these people to take control of children, and during their minority to maintain an absolute control over the persons and over the education of those children, nobody on earth having the right to interfere or the right to inquire. Now, I put the question to my honorable friend whether it is to be regarded as invidious when it is known that the general principle everywhere is the right of visitation? The right of visitation is a principle which almost everywhere obtains in all Governments. Then, sir, why an exception in this case? Why is it supposed that these persons who ask for this particular privilege should be exempt from this general principle? I submit that the inference is not at all favorable to the purposes of this institution. I have gone upon the ground that it is all very laudable, all very charitable, all very well. I wish to maintain good faith toward these parties, but I insist upon it that the general principle which pervades all legislation and which all Governments hold as to the right and the duty of the Government, should be expressed in this bill, and I shall cer-

tainly oppose its passage if this section is stricken out of it.

Mr. POMEROY. It occurs to me that this feature of the bill is unobjectionable, and I have never known any provision of this kind to be resisted.

Mr. JOHNSON. It has never been in any other bill.

Mr. POMEROY. I do not know that I have ever seen it specifically in any bill; but when an institution of this kind refuses to allow by legislation the judges of the courts and the committees of Congress to visit it, it creates the impression of a desire to secrete the institution from the public observation. I certainly would not vote to strike out a provision of this kind after it has once been reported, because it looks as if there was some design in striking it out, which I trust there is not. I hope nobody is afraid to organize an institution of this kind and have it inspected by members of Congress and judges of the courts; I certainly shall not give my vote for the thing if it is to have any secrecy about it.

Mr. CONNESS. It seems to me that the criticism of the honorable Senator from Maryland is hardly fair or well-founded. It can hardly be assumed that the judges of the supreme court of the District of Columbia would needlessly and wantonly go to these institutions every day at the instance of irresponsible parties. I really cannot see anything objectionable in the section, and I shall vote to keep it in.

The amendment to the amendment was rejected.

The amendment of the committee was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read, "A bill to incorporate the Sisters of Mercy in the District of Columbia."

#### EVENING EXECUTIVE SESSIONS.

Mr. WILSON. I offer the following resolution:

*Resolved*, That the Senate meet on the evenings of Tuesday and Wednesday of next week for the consideration of executive business.

Mr. GRIMES. I move to amend the resolution by adding the word "exclusively."

Mr. WILSON. I accept that amendment. I will simply say that we have before us fourteen or fifteen hundred nominations, and it is very important to act on some of them.

Mr. GRIMES. The resolution does not fix the hour.

Mr. WILSON. I propose to fix it at seven o'clock.

Several SENATORS. Say half past seven.

Mr. WILSON. Well, say half past seven.

The resolution, as modified, was agreed to, as follows:

*Resolved*, That the Senate meet on the evenings of Tuesday and Wednesday of next week, at half past seven o'clock, for the consideration of executive business exclusively.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866, the pending question being on the amendment of Mr. JOHNSON, to strike out in line eight hundred and seventy the word "one" and insert "three," so as to make the clause read:

For traveling expenses of the judge assigned to the tenth circuit, for attending session of the Supreme Court of the United States, \$3,000.

The amendment was rejected.

Mr. SHERMAN. I now move to amend that clause by striking out "one" and inserting "two," so as to make the allowance \$2,000. I think as we have put additional duties on this judge we ought to increase somewhat his allowance for traveling expenses.

The amendment was agreed to.

Mr. HENDERSON. I am instructed by the Committee on Finance to offer the following amendment as a new section:

*And be it further enacted*, That the first or sole assistant in each of the Executive Departments, whose duty it is to act as the head of the Department, in the absence of that officer, shall hereafter receive an annual salary equal to



that now paid to the Assistant Secretary of the Navy; and such an amount as, with existing appropriations, is necessary to pay such salaries until the expiration of the fiscal year ending June 30, 1866, is hereby appropriated.

Mr. HENDRICKS. I understand the Senator to say that that amendment comes from the Committee on Finance.

Mr. HENDERSON. Yes, sir; it is an amendment recommended by the Committee on Finance. It is not an amendment of my own; I am instructed to offer it.

Mr. HENDRICKS. The Senate agreed to more than this at the last session, but yielded to the House of Representatives. Now this places the first assistants in all the Departments on an equality so far as their salary is concerned, and I understand it will increase the expenses of the Government about four thousand dollars a year.

Mr. SHERMAN. The Senator from Missouri was authorized by a majority of the Committee on Finance to report this amendment. I did not myself vote for it. The law upon the subject probably is familiar to most Senators: two of the Assistant Secretaries now receive \$4,000, and the rest of them receive \$3,000. At the last session of Congress the Senate, after considerable debate, agreed to place them on a footing of equality, at \$3,500, but some controversy occurred about it, and it was finally abandoned by the committee of conference. The Senate then voted \$3,500 to all. They reduced the compensation of two and increased the compensation of five, if I recollect aright.

Mr. HENDRICKS. I call the attention of the Senate to the fact that the proposition of the last session was more comprehensive than this.

Mr. SHERMAN. It extended to all.

Mr. HENDRICKS. This places upon an equality the first or sole assistants; second assistants are not included.

Mr. SHERMAN. The objection to this is that I fear it will get up jealousy among these Assistant Secretaries. Now, take the Assistant Postmaster General. The First Assistant is undoubtedly the deputy of the Postmaster General, but the Second Assistant performs duties probably as responsible as the First Assistant. The First Assistant is rather a political position; that is, its business is the appointment of officers. The Second Assistant, I believe, gives out all the contracts, and the Third Assistant is an important officer. That is the objection I have to it. I would much prefer to put them all on the same footing, at \$3,500, which would reduce two and increase five, and make very little difference in the aggregate compensation.

Mr. HENDERSON. I have no feeling or interest in this matter; but I see no reason why there should be a distinction among these Assistant Secretaries, who, in the absence of the head of the Department, are required to perform the duties of that office. I never could see any reason for it; I see none now. I cannot see why the Assistant Secretary of the Treasury should receive more than the first Assistant Secretary of War, or the Assistant Secretary of the Interior. I apprehend that at this particular time when the duties of Government officers are very greatly enlarged, these men are all kept busy; I apprehend that they have all they can possibly do. It is a fact well known to the Senate that whenever the duties become very onerous in one of these Departments, so that the chief and his assistant cannot do the work, they come here and get additional assistants provided for. That has been done in many cases.

I know that if we agree to this proposition we may have some difficulty afterward in regard to some other officers. Some of the second and third assistants may suppose they have an equal right with the first assistant, and perhaps the jealousy spoken of by the Senator from Ohio may exist. But there is certainly great jealousy existing now because of the fact that some of the first assistants are receiving more than others, when they all think they are entitled to as much as those who are now receiving \$4,000.

I do not believe that \$3,000 is a sufficient salary at present for the responsible position held by these men; and any Senator who knows anything of the expenses of living in this city can very well certify to what I say. These officers have to stay here during the whole year. We can scarcely get along ourselves, and we stay here

perhaps on an average only six months during the year, and the rest of the time we are at home. These men have to remain here all the year round, and in the absence of the superior officer they are compelled to discharge his duties. It seems to me the salary proposed is low enough, from what I know of the duties performed by these men and of the expenses of living here. I am utterly indifferent as to the fate of the amendment; I care nothing in regard to it; but I think as a matter of strict justice to these men it ought to be adopted.

Mr. CLARK. The Senator from Missouri says that he does not see how a person holding one of these offices can get along in the city of Washington for \$3,000. I desire to have that Senator or any other Senator tell me, if that be true, how the man in the Army who holds a commission as captain, with a family at home to support, and he taken away from them to fight the battles of the country, can get along for \$1,400 or \$1,500 a year.

Mr. HENDERSON. If the Senator expects me to say that I think the line officers are sufficiently paid, he is mistaken. I do not think so. I think, however, that very large bounties are now being paid; the soldiers are receiving large bounties, and rations are furnished in the Army, so that they can get along tolerably well; but at the same time I am willing to increase the pay, especially of line officers. But it is exceedingly unfair whenever a question of this sort is presented to throw up the Army. I feel just as desirous of seeing men who are risking their lives day by day and night by night in defense of the country well paid as any others, and I am not going to say that they ought not to be sufficiently paid; but the Senator must very well realize the great expense of living here in this place. We are imposing it on these men, and I think we ought not to be niggardly about the compensation that we pay them. We ought at least to pay them enough to cover their expenses in this city.

Mr. CLARK. I did not mean to be unfair to the Senator from Missouri or any other person when I called his attention to the condition of the line officers of the Army. I was not speaking in regard to the soldiers, but those gentlemen in the Army who go to fight the battles of the country, not with bounty, but without bounty.

Mr. HENDERSON. If two wrongs exist, there is no use of the Senator's urging on me the propriety of continuing both. I think it is entirely proper that we should first rectify one and then the other. I am willing to rectify the pay of the line officers of the Army first, if the Senator desires it; but there is no use of comparing the two, and urging that wrongs exist in regard to both, and that there should be a continuation of this wrong simply because we cannot relieve both at the same time.

Mr. CLARK. The Senator from Missouri seems to think that I am pushing this matter at him personally.

Mr. HENDERSON. Not at all.

Mr. CLARK. Certainly I am not. I am only desiring in this way to bring the attention of the Senate to it. I might instance not only the line officers of the Army, but some of the under officers of the Navy, the masters' mates and various other officers. And if I were to go out of the Army and out of the Navy, I might ask these men in Washington who cannot live upon \$3,000, how it is that men with families as large as theirs, perhaps holding an equally high social position at home, come here and live as they do upon \$1,200. You have men through all your Departments living upon \$1,200. I say this not to show that the salaries should not be raised in an individual case, but to show that this difficulty exists not only in regard to the Assistant Secretaries of the Departments and the heads of bureaus, but that it goes everywhere, and that if we begin we should take the whole and rectify the whole, and the first that we should rectify is not these men who have their thousands for a salary, but the men who starve upon hundreds. Begin at the other end. It is where starvation comes or hunger pinches that we should begin, and not by equalizing the man with \$3,000 to him with \$3,500 or \$4,000. We should begin where the necessity exists. And though this may be a small appropriation, and it may appear somewhat invidious to resist it, I will resist all attempts of this kind till we can lay our hands on the whole at the

proper time and bring these men who are almost asking our charity up to some proper basis. There ought to be a general scaling of the salaries; especially those which are so very low and which are affected more than those that are higher by the high prices of living, should be brought up to where the man can live decently; and where a man has enough to live already, let him live on till the time comes when we can give him more. But I do not, I cannot, favor a proposition of this kind to increase the higher salaries, and let the lower ones remain where they are; to increase the few and let the many that are toiling for you suffer and live in want.

Mr. HENDRICKS. If the Senator from New Hampshire will propose to raise the pay of the clerks so that they shall not starve, he shall have my support. I think it is right that it should be done. I have some little knowledge of the necessary expenses which clerks in the Departments were put to before the commencement of the war and the depreciation of the currency, and I thought it was hard work for them to get through the year on \$1,200 then if a man had any family to support; and now, when the salary of a \$1,200 clerk is really worth to him but \$500, I believe it is a shame that provision is not made for it. That is my judgment. It ought to be done. Twelve hundred dollars is not much. Clerks get that in many of the ordinary employments that they are called to in the country. In this city, where it is very expensive to live, and always has been, \$1,200, when a dollar was a full dollar, was regarded as a low compensation for a man that was qualified to serve the public in these offices. But what is the effect of it? I am told now by the heads of bureaus that it is driving the best clerks out of the Departments. They are seeking employment elsewhere where they can get better compensation, for the reason that they cannot support and educate their families in this city on \$1,200, or \$1,400, or \$1,600. Do we desire that result? Do we desire to lose the services of the best clerks? It is not for the good of the public service that it should be so.

But what is the force of the Senator's argument? He asks why we shall give to an Assistant Secretary \$3,000, and to a clerk but \$1,200. Let me ask him why we give to a Secretary \$8,000, and to a clerk \$1,200? The Senator knows very well that a Secretary has to maintain an establishment here very different in its expense from that required of a clerk; and I do not think that the argument is entitled to much respect, although I have very much respect for the Senator, which says that a Secretary and an Assistant Secretary should only have the compensation that is given to a \$1,200 clerk. We expect very different things from a Secretary. We expect much more of an Assistant Secretary than we do of a clerk. In the first place, we want much higher talent. For a Secretary we want a man who, at home, can make some money. We do not want a man for a Secretary or an Assistant Secretary that has to go around begging for an office to make a living out of it. We want talent, and therefore we pay for talent. Talent, the world over, commands money; and we expect to pay for it. We expect to pay a Secretary for his brains. We expect to pay a clerk for his writing, and such brains as the particular office requires. I was astonished to hear the Senator make a comparison between a clerk and a Secretary. He might as well make a comparison now between a messenger and the Secretary of the Treasury or the Secretary of War; the one borne down with weighty responsibilities, and bringing to the position, as it is presumed, the very highest talent.

I do not think \$8,000 is too small a salary for a Secretary; but when the Secretaries got \$6,000, the Assistant Secretaries and the heads of bureaus got just half as much, \$3,000. When the compensation of the Secretaries was raised to \$8,000, I think the Assistant Secretaries ought to have had so much as half of that, \$4,000. It is not high; it is not an extravagant proposition. The case is this: it is not right to give one Assistant Secretary \$4,000 and another Assistant Secretary, discharging the same duties and having the same rank, but \$3,000. If the Senate thinks this proposition is right, and that we ought to bring about a correction, let it reduce those who are getting \$4,000. Justice is equality in this matter. It was the judgment of the Senate at the last ses-

sion that this ought to be done, and we finally agreed to a compromise, allowing \$3,500 to all, but the other House would not consent to reduce those who were getting \$4,000 down to \$3,500. This proposition is to let the first assistants have \$4,000; it is a fair thing.

Now about the comparison between the officers of the Army in the field and the Assistant Secretaries. I understand that there is a proposition likely to be presented to this body by the Committee on Military Affairs to provide for the officers in the field by commuting their rations at fifty cents instead of thirty cents, and also by relieving them from the Federal income tax. I do not know whether that will be brought before the body, or whether it has already been presented. The chairman of that committee nods to me that that is so. That, then, is to be provided for, and when that proposition comes before this body it shall receive my support. I think it is right. Then I answer the Senator from New Hampshire that a provision is to be made by the Committee on Military Affairs for those men for whom he drops a tear but introduces no measure. If they are not paid enough, why does not that Senator, from his responsible position, provide for them and let them be paid now? We are not so poor that we must make men fight at starving rates. We are not so poor as a country that we must make the clerks in the Departments here serve the public at a compensation that will not support them and educate their children. It ought not to be asked, and I do not think the people of the country require it. As far as I know, they pay their taxes cheerfully. If more taxes are necessary I suppose they will pay them, though I think they are quite as high as the business of the country will allow. The two comparisons I do not think justify the argument of the Senator.

Mr. CLARK. I was not aware that I started any such argument, or any such line of argument, as the Senator from Indiana attributes to me. I did not inquire why we paid a Secretary \$8,000, or why we paid an Assistant Secretary \$4,000 or \$3,000. The tendency of my remarks was, as I intended they should be, to show that if we began to raise salaries we should begin with the men who needed the increase most, among the persons who had the smallest salaries, and who found the greatest difficulty to live, and among those who received the largest sum, and could live upon that sum. I know very well that we pay a large salary to the head of a Department for the amount (if the Senator pleases so to say) of brains he brings to it; but I have sometimes thought that in some minor places of the Departments we gave the most money for the least brains. We do not always graduate our pay according to what we get; and I am not by any means sure that we do not get as much brains in some smaller offices as we get in some that are larger. I, of course, have no reference to anybody in the world. But the pay should be somewhat in proportion to the services rendered as well as to the state maintained. A man can better forego the state and equipage than he can get rid of the gnawings of hunger. I insist that this increase should not be made among the higher salaries, and the lower ones be neglected; that is all I mean to say. I shall vote cheerfully, as the Senator from Indiana, I have no doubt, will do, for the increase of the pay of the smaller officers. I shall vote for the increase of the pay of the officers of the Army when it comes properly before the Senate. The Senator puts to me the question why I have not introduced such a measure. For two or three reasons, and the Senator knows what they are. He well knows that the question answers itself when it is propounded. He knows that measure should come from the Military Committee where it was properly put, and he well knows that I am not upon that committee. I am told that the Military Committee are about to propose something for the increase of the officers' pay. I certainly shall vote for it in any reasonable shape or to any reasonable amount; and I desire, when we take hold of the question of salaries, that we take hold in that direction; and if the objection is that the salaries are unequal—and that seems to bear upon the Senator's mind—I will very much more readily go for the proposition of the last session to bring all these officers to a level at \$3,500, rather than to put them all up to \$4,000.

Mr. SAULSBURY. I do not exactly know

what connection the subject which is now being debated has with the bill before the Senate; but as it is said that some of the officers of the Army do not get pay enough, I wish to make a suggestion, and that is, whether the Lieutenant General of the armies of the United States does not get too much. I saw him for the first time on the floor of the Senate this morning, and I suggest whether the President has not made a great mistake in appointing him, for this reason: he seems to be a man who does not know how to put on a swell, or to strut. Take the lieutenants and provost marshals whom Mr. Stanton sends down to our State to keep us from voting, and any one of them can outswell General Grant ten to one. It seems to me this is a proper consideration, whether a Lieutenant General who cannot put on the swell and the airs of a lieutenant in the Delaware home guards or some provost marshal that Mr. Stanton sends into States that are peaceable and quiet, is entitled to the compensation which the Lieutenant General now receives.

Mr. HENDRICKS. I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. HOWE. I am going to vote for the amendment. I believe it is as true of the Government of the United States as it is of any corporation or of private individuals, that if they want good service they must pay for it. They are not sure of getting good service if they do pay for it, but they are pretty sure not to get good service if they do not pay for it. I believe the pay of the officers referred to in this amendment is quite inadequate. I therefore propose to vote for the amendment, because I think its tendency is to make it nearer adequate. I do not think it is a good answer to say that there are other officers in our service who need or deserve an increase of salary more. It is a sufficient reason, in my judgment, to vote for this measure of justice because it is now proposed to us, and it will be a sufficient reason to vote for any other measure of justice when it shall be proposed to us. I do not see the propriety of ignoring a measure the justice of which we all admit out of any mere apprehension that by and by a similar measure may be proposed in reference to another class of officers, and will not be assented to. Let us take these measures as they are proposed to us, and vote upon them as they are proposed to us. I vote for this now because it is now before us.

Mr. POWELL. I shall vote most cheerfully for this amendment. I very fully concur with the Senator from Wisconsin, that you cannot get good service unless you pay for it. I think there is no economy in half paying your officials. If you expect to get the services of competent and faithful men, you must give them a remunerative salary.

Now, sir, what will be the pay of the Assistant Secretaries, who do not now receive \$4,000, when it shall be raised to that sum? It will be a good deal less than \$2,000, for the greenback money in which they are now paid is not worth fifty cents on the dollar; it is to-day worth between forty and forty-five cents, perhaps; so they will really get less than \$2,000 a year. For the ability required of the Assistant Secretary of one of the Departments, that is very poor remuneration. It will not compensate them for their labor, and, moreover, they cannot live and maintain their families properly in this city on that sum.

The Senator from New Hampshire talks about raising the pay of the soldiers and the officers of the Army. I regret very much that that was not done last year. I proposed an amendment to a bill under consideration at that time providing that officers and soldiers of the Army should be paid in gold, or its equivalent when they could not receive gold. That would have raised their pay very much, but I could not get the Senate to adopt the proposition. I am to-day prepared to increase the pay of the officers and soldiers of the Army.

I am in favor of this amendment for another reason. I can see no reason for discriminating between these Assistant Secretaries. Some of them now get \$4,000, some \$3,500, and some \$3,000. It is no answer to tell us that there are other officers who are not paid a sufficient compensation. I will say to Senators that whenever they bring forward a bill to increase the pay of officers and

soldiers of the Army, I, for one, am prepared to vote for it. I know that their pay is not sufficient now; but I know, too, that no man can live and support his family in this city in that kind of style which is expected from the Assistant Secretary of a Department for a sum of money less than \$2,000 a year. I know that \$4,000 sounds like a large sum; but you must remember that it is not paid in money, but in the depreciated paper currency of this Government, so that it is less than \$2,000 in gold. From the adjournment of this Congress until the next session it will not average probably more than fifteen or sixteen hundred dollars in gold, and you paid that much money to large numbers of clerks before the depreciation of the currency.

Mr. HALE. The suggestions which have been made by the Senator from Kentucky in regard to the depreciation of the currency and the cost of living apply to every employe of this Government, from the President down to the humblest messenger; and every argument of that sort which can be suggested for raising these salaries will apply to everybody who is paid any salary by the Government of the United States, because all our employes are paid in depreciated currency; and unless we are willing to advance all salaries at least one hundred per cent., it seems to me that argument can be of no weight.

I may possibly be supposed not to speak with great partiality for the Assistant Secretary of the Navy. I thought at the time his office was created that it was unjust to pay him a higher salary than other Assistant Secretaries, and upon my motion I think—at least if I did not make the motion I advocated it—the Senate agreed at the last session to fix the salary of these Assistant Secretaries at \$3,500. That was taking off \$500 from the Assistant Secretary of the Navy and the Assistant Secretary of the Treasury, and putting \$500 on the salaries of the others. Thereupon a howl was made by all those newspapers that are specially devoted to the interests of the actual Secretary of the Navy that Mr. HALE, from selfish and other bad motives, had made an attack upon the Assistant Secretary of the Navy, merely because I wanted to put him on the same footing with the other Assistant Secretaries. I am of the same opinion now. I think the provision which gives the Assistant Secretary of the Navy \$4,000 and other Assistant Secretaries \$3,000, is unjust and invidious, and it ought not to stand upon the statute-book. I am opposed, however, to raising any of these salaries. I voted against raising the salary of members of Congress, and I have voted and shall vote against raising the pay of any officer except where I think an increase is absolutely necessary. I believe I did vote once to raise the salary of the consul at Halifax because I thought it ought to be raised. But unless we are prepared to enter upon a general increase of all salaries to an extent equivalent to the depreciation of the currency of the Government, we ought not to venture upon an experiment of this kind. I shall vote in favor of reducing the salary of the Assistant Secretary of the Navy to that of the other Assistant Secretaries, not that I am governed by any motives of peculiar hostility to that officer, but I think as a matter of justice to them all this provision ought to be done away with. If it is in order to do so, I will move to amend the amendment by striking it all out after the enacting clause, and providing that from and after the commencement of the next fiscal year the salaries of all the Assistant Secretaries shall be \$3,000, or if the Senate prefer to put it at \$3,500 I shall be satisfied.

Several SENATORS. Say \$3,500.

Mr. HALE. Well, I will say \$3,500.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The amendment of the Senator from New Hampshire will be read.

The Secretary read the amendment to the amendment, which was to strike out all after the enacting clause of the amendment proposed by Mr. HENDERSON, and to insert the following:

That from and after the commencement of the next fiscal year, the salaries of all the Assistant Secretaries of the Executive Departments shall be \$3,500 per annum.

Mr. COLLAMER. Why should so much pains be taken to pass over the Post Office Department? Why should not the Assistant Postmasters General have the same pay as the Assistant Secretaries?

Mr. CONNESS. This will include them.

Mr. COLLAMER. No, they are not "Assistant Secretaries."

Mr. CONNESS. We can add them.

Mr. HALE. I am willing to include them.

Mr. HENDERSON. The amendment, as I proposed it, included the First Assistant Postmaster General.

Mr. COLLAMER. It included the one who has the least to do, but carefully left out the two who have the most to do.

Mr. HENDERSON. Do I understand the amendment of the Senator from New Hampshire now to be to allow \$3,500 to all Assistant Secretaries?

Mr. HALE. Yes; and the Assistant Postmaster General.

Mr. COLLAMER. And "the Assistant Attorney General" ought to be added.

Mr. HALE. Very well.

Mr. HENDERSON. I think the Assistant Attorney General gets \$3,500 now.

Mr. COWAN. No, only \$3,000.

Mr. HENDRICKS. If it is the pleasure of the Senate to adopt the proposition of the Senator from New Hampshire, I have no objection. I want to see equality among the officers of this grade. The proposition of the Senator from Missouri affects the Treasury just \$4,500. If the Senate thinks that is a matter of such consequence as to go away from it and adopt another proposition, very well. I want to see them equalized. The proposition of the Senator from New Hampshire, I understand, will take more money out of the Treasury than that of the Senator from Missouri. I think the First Assistants in the various Departments ought to be provided with a salary equal to half that of the head of the Department.

Now, as to the Second and Third Assistant Postmasters General, they are simply the heads of bureaus. The First Assistant Postmaster General, in the absence of the head of that Department, represents him and has the responsibility of that position. I do not know whether he does more work or less work than the Second and Third Assistants, but the one is over the whole Department, and the others are but bureau officers, corresponding with the Commissioner of the General Land Office and the Commissioner of Pensions. I think the proposition of the Senator from Missouri, coming from the Committee on Finance, is the right one, to make all who are the First Assistants, and who represent the head of the Department in his absence, equal at \$4,000, just half the pay of the Secretaries; and it will affect the Treasury just \$4,500, as I understand from the chairman of the Committee on Finance.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire will be now read as it has been modified.

The Secretary read the amendment, which was to strike out all after the enacting clause of the section proposed by Mr. HENDERSON, and to insert the following:

That from and after the commencement of the next fiscal year the salary of each of the Assistant Secretaries of the Executive Departments, the Assistant Attorney General, and the First Assistant Postmaster General, shall be \$3,500 per annum.

Mr. COLLAMER. I object to saying "First Assistant Postmaster General." I want to say "the Assistant Postmasters General."

Mr. HALE. I have not the slightest feeling or judgment on that point. The Senator from Indiana, on whose judgment in these matters I rely with great confidence, though I do not have so much respect for his political opinions generally, thinks it would be unjust to include the other Assistant Postmasters General, because they are mere heads of bureaus. But the honorable chairman of the Committee on Post Offices and Post Roads makes the suggestion that the three Assistant Postmasters General should be included, and of course I shall not set myself up in opposition to him, but will accept his modification.

The amendment to the amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. COLLAMER. I am opposed to this proposition. If we are to begin this system it seems to me we are beginning at the wrong end, with those who get the large salaries; and I do not know where it is to end. Are we to go on scaling

and raising the pay of all the employes of the Government, civil and military, *pro rata*, if you please? Are we to issue more greenbacks for that purpose?—for there is no other way to pay them. If we do, the increased number of greenbacks they will get will not, in six months more, buy as much as the greenbacks they now get will buy. I do not want to visit them with such a calamity as that.

Mr. STEWART. Let the amendment be read as it now stands.

The Secretary read the amendment, as follows: insert as a new section:

And be it further enacted, That from and after the commencement of the next fiscal year, the salary of each of the Assistant Secretaries of the Executive Departments, the Assistant Attorney General, and the three Assistant Postmasters General, shall be \$3,500 per annum.

Mr. CONNESS. I shall vote for this amendment as now proposed. I see in it, or hope I see in it, a final adjustment of this difficult question. It will be remembered that it occupied our time a great deal during the last session. There is also an apparent injustice in paying the Assistant Secretary of one Department \$4,000, while the Assistant Secretary of another Department, certainly equally occupied and with equally important duties and liabilities, is paid but \$3,000. If you undertake to equalize these assistants, as suggested by the honorable Senator from Vermont, there is the greatest justice in extending the slight increase that is made to the Second and Third Assistant Postmasters General, who really perform the most important duties in their Department, and, in my opinion, rank among their best public officers. I did not look on this as an increase of salary, but as an adjustment of a question that comes up every session and occupies the time and attention of Congress. I shall therefore vote for the amendment.

The question being taken by yeas and nays, resulted—yeas 21, nays 17; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Cowan, Doolittle, Foster, Hale, Harlan, Hendricks, Howe, Johnson, Lane of Indiana, Nesmith, Nye, Powell, Ramsey, Riddle, Stewart, Trumbull, Wilkinson, and Willey—21.

NAYS—Messrs. Anthony, Brown, Clark, Collamer, Davis, Dixon, Farwell, Grimes, Henderson, Morgan, Morrill, Pomeroy, Saulsbury, Sprague, Sumner, Ten Eyck, and Wilson—17.

ABSENT—Messrs. Carlisle, Foot, Harding, Harris, Hicks, Howard, Lane of Kansas, McDougal, Richardson, Sherman, Van Winkle, Wade, and Wright—13.

So the amendment was agreed to.

Mr. WILLEY. I desire to state that my colleague [Mr. VAN WINKLE] is detained from his seat by indisposition.

Mr. WILSON. I offer this amendment as additional sections:

And be it further enacted, That from and after the 1st day of March, 1865, and during the continuance of the present rebellion, the commutation price of officers' subsistence shall be fifty cents per ration: *Provided*, That said increase shall not apply to the commutation price of the rations of any officer above the rank of brevet brigadier general, or of any officer entitled to commutation for fuel or quarters.

And be it further enacted, That hereafter, during the continuance of the present rebellion, there shall be no deductions made from, or income tax levied upon, the salary of any officer in the military or naval service; and all acts or parts of acts inconsistent herewith are hereby repealed.

And be it further enacted, That all officers of volunteers, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper: *Provided*, That the provisions of this section shall not apply to officers not on duty, or to officers entitled to commutation of fuel and quarters.

I will simply say that the first section of this amendment provides for increasing the ration from thirty to fifty cents to officers below the rank of brevet brigadier general. It does not apply to brigadier or major generals, and it does not apply to officers who receive commutation for fuel or quarters. It applies to officers in the field.

The second section of the amendment relieves the officers of the Army and Navy from the income tax that we have put upon them since they went into the service, which is a great burden upon them, especially the extra tax of five per cent. imposed by the act of July 4 last.

The third section gives three months' pay proper to volunteer officers who shall continue in the service till the close of the war; not officers who have fuel and quarters at the rear, but officers who are in the field; and not to officers off duty, but to officers at the front doing their duty. I hope this amendment will prevail.

Mr. COLLAMER. I wish to call the Senator's attention to one point in connection with the

last section of his amendment. The provision is that the allowances there made shall not apply to officers not on duty. A man at that time may have been off duty perhaps a week, and he should not be excluded.

Mr. GRIMES. I suggest to the Senator from Massachusetts that we take the vote separately on the first two sections, and then on the third section.

Mr. WILSON. I am willing to agree to that.

Mr. HALE. I want to inquire if this amendment comes from a committee.

Mr. WILSON. Yes, sir; from the Committee on Military Affairs.

Mr. COLLAMER. Do they recommend that it be put on this bill?

Mr. WILSON. I will say that the bill of which this amendment is a copy was reported by the authority of the Committee on Military Affairs, and I have obtained the assent of a majority of the committee, those who are present to-day, to move it as an amendment to this bill. It is proper, I think, that it should go on this bill. Action ought to be had in the matter, especially for the reason that we ought to give some assurance to the men who are about entering on the spring campaign that we are to do something for their benefit; for I tell you, sir, that the information from all our armies is that the line officers are really suffering for some aid. This amendment applies to the officers in the field who get no commutation for fuel or quarters. That makes a great difference. The difference between the allowances of a captain in the front and a captain on duty in Washington receiving commutation for fuel and quarters is about six hundred dollars a year. This provision does not apply to those who get this commutation, but is for the benefit of the men who are fighting the battles of the country. I think we ought to make this allowance. I think it will be better made in this form, increasing the value of the ration, and will do more justice than we can in any other form. I hope the amendment will be adopted.

Mr. SHERMAN. I am disappointed that the Senator from Massachusetts should offer this amendment at this time on this appropriation bill. This bill makes appropriation for legislative, executive, and judicial expenses; it does not affect the pay of the Army; there is nothing in the bill about the pay of the Army. Within a week we shall have before us the bill which does make appropriations for the support of the Army. If it be at all proper to put a legislative measure on an appropriation bill, this provision certainly should not be put on this bill. We ought to have some little sense of the propriety of things and the proper place to put our legislation, and it seems to me, therefore, we ought not to put it upon this legislative appropriation bill. I am not prepared to say whether I shall vote for or against this provision at some proper place, but I shall certainly oppose its being put on this bill. There is nothing in this bill in regard to the pay of the Army. It is true we have attached the deficiency bill to this bill, but it was under peculiar circumstances, and it is sufficient to put that on this bill without loading it with measures that will be controverted between the two Houses. I hope the Senator will withdraw this proposition, and I can tell him that early next week we shall probably report the Army appropriation bill, and it will be before the Senate within a week or ten days.

Mr. WILSON. In accordance with the suggestions of the chairman of the Committee on Finance, I withdraw the amendment now, with the understanding that it is to be moved on the Army appropriation bill whenever it comes up.

Mr. ANTHONY. I wish to make a suggestion in connection with the amendment of the Senator from Massachusetts, which is now withdrawn. I agree with the object of it, but I hope the Committee on Military Affairs will propose to raise the pay of the officers of the Army in some other way than by taking off the income tax. I prefer that the amount should be added to their pay either *pro rata* or by a percentage, for I think that if we begin to make exemptions from the income tax we are liable to go a great deal further than we intend to go when we make the provision.

Mr. COLLAMER. I have been charged with some amendments by the Committee on the Library. I move in line one hundred and eighty-nine, on page 9, to strike out "five" and insert "eight,"



so to make the appropriation for the purchase of books for the Library \$8,000.

The amendment was agreed to.

Mr. COLLAMER. I now move an amendment which I notify gentlemen makes a pretty large appropriation. It is to insert after line one hundred and ninety-two:

For an enlargement of the Library of Congress so as to include in two wings built fire-proof the space at either end of the present Library, measuring about eighty feet in length by thirty feet in width, in accordance with the plan of the architect of the Capitol extension, \$160,000.

We have now in the Library proper, that is, in the fire-proof room, about forty thousand volumes, and we have a great deal more than that on the floor, in the passages, and adjoining lobbies exposed to fire, and which we have no shelf-room to put up; and in that condition of the Library it may about as well be abandoned unless we make room to contain the books we have on hand and some little shelf-room for the accumulations. The Librarian has drawn up a statement showing the present condition of the Library, and as his statement gives the facts perhaps more summarily than I could do, I send his communication to the Chair and ask that it be read, I adopting it as part of my remarks on the subject.

The Secretary read the following:

*Statement of the necessity and expediency of an enlargement of the Library of Congress.*

1. The enlargement is necessary because no more room exists in the Library for the constantly accruing accessions of books.

2. It is necessary because a large portion of the books belonging to Congress are unprovided with shelf-room, and inaccessible except at great expenditure of time and trouble. This especially applies to the set of British Parliamentary Documents, numbering about three thousand volumes in folio, full of invaluable information, which is daily wanted for reference. These are all upon the floor, because no shelves can be provided for them in the present Library.

3. It is necessary in order to secure the invaluable Library built up at great expenditure of care and money from another fire. The books of the Library, from the first purchase of Mr. Jefferson in 1815, until date, have cost somewhat over four hundred thousand dollars. The fire of December, 1851, destroyed all except twenty thousand volumes of the Library. The present Library numbers over eighty-eight thousand volumes, less than half of which (or forty thousand volumes) are contained in the fire-proof portion of the Library. The remainder are stored in the dark corners and passage-ways of the old Capitol, surrounded with wood-work, and liable to accident from the firing of a flue (which was the occasion of the former fire) or other causes.

4. The enlargement is necessary in order to provide some space where the current newspapers and periodicals, both American and foreign, can be filed and consulted by members of Congress and others entitled to the use of the Library. At present there are not ten feet of room anywhere for such purpose, and the very valuable files of political and literary journals taken in the Library are useless to Congress until bound; when they have lost their freshness, and much of their interest.

5. The constant donors, from the State governments and from foreign powers, of works illustrating the history, statistics, politics, and legislation of our own country and of other parts of the world, cannot any longer be accommodated. These donations might be largely increased without expense to the Library fund, and a vast amount of valuable information, useful in the practical legislation of Congress, could be obtained, catalogued, and permanently filed for the use of members. Every State and Territory in the Union should have a set of its public documents in the Capitol constantly accessible to its citizens in Washington. But the officers of the Library have been for years deterred from seeking these additions, because there has been no room to contain them.

6. The appropriation asked is \$160,000, and the plan of the architect accompanying the estimate proposes to provide an increase of room equal to nearly double the present fire-proof Library, which cost \$92,500, exclusive of the outer walls. The iron-work was then put up to competition, and the lowest of seven bids was accepted. The present estimate is therefore far from extravagant considering the extent of the enlargement secured. And it can be done for the amount notwithstanding the advanced cost of materials, as the patterns from which the ornamental iron-work was cast are still on hand.

7. The present plan for enlargement was originally designed to be carried out in 1852, when the old Library room was rebuilt, but the space in the two wings was then occupied by the officers of Congress, and it was therefore left incomplete. Over twelve years have elapsed, and the great increase of the Library has been such that its number of volumes is quadrupled, while no additional room of a permanent character has been provided.

8. The appropriation asked is not unreasonably high, as may be seen by comparing the cost of similar library accommodations elsewhere.

The new reading-room of the British Museum (constructed entirely within the old edifice) cost £100,000, or \$500,000. The Boston Public Library building cost, exclusive of ground, \$240,000. The sum of \$160,000, although large in itself, is not so in comparison with the great object of providing safe and permanent room for this rich historical collection, which is rapidly increasing, and much of which, if destroyed, could never be replaced.

9. The Library has asked for no appropriations beyond its regular annual one for books since 1852, until last Congress, when \$4,000 was appropriated for a marble floor, in lieu of

carpets. The Library had got along for eleven years with but one carpet, and no renewal of furniture, exhibiting an economy of expenditure sufficiently rare, if not unequaled in any department of the Government. It is therefore with some confidence that Congress is now asked to provide permanently for the security of the invaluable literary stores which have been accumulated in the Capitol, and to protect which from injury or destruction, no amount of care can be ill bestowed.

Mr. COLLAMER. I do not wish to add much to that communication; but I see it has been so read that gentlemen paid very little attention to it. I fancy if Senators, and I presume most of them have, take any occasion to look at the condition of the Library, the condition of the room and the books there, they must be convinced that something should be done, or we might as well abandon it altogether. The situation of the Library is such, exposed as a portion of it is—containing some of the most valuable books—to ruin by fire and everything of that sort, that if we really have any means left, except the business of carrying on the war, if we can do anything else, this is certainly a most imperative demand upon our finances and upon Congress, and I trust that it may receive the attention it deserves. With the exception of making a marble floor, instead of buying new carpets, and I believe they have had one carpet there for fourteen years, nothing has been laid out on the Library since 1852, the time it was burned down. The rooms which are wanted to be taken in are abandoned by the House and by the Senate, and are not needed for our use, and we can take them into the Library. The estimate made by the architect is a very reasonable one, and it ought now to be executed.

The PRESIDENT *pro tempore* put the question, and declared that the yeas appeared to have it.

Mr. COLLAMER. I desire the yeas and nays upon the amendment. I wish gentlemen to express their opinions one way or another.

The yeas and nays were ordered.

Mr. JOHNSON. The chairman of the Committee on the Library has stated everything, I have no doubt, that is necessary for the Senate to know in order to pass understandingly upon this amendment; but I am not sure that there were many members of the Senate who listened to my friend the chairman of the committee. If they had done it, I think they would have been almost unanimous in opinion that the appropriation should be made. We have now books on hand, many of which cannot be procured anywhere; the very rarest and most valuable works. If the Senate could see, as the committee were of course obliged to see, the condition in which the Library is, I am sure they would not hesitate to make this appropriation. The works now on hand are worth a good deal more than the amount of the expenditure, and they are liable to be burned up at any moment; but even if they were not liable to be burned up, they are now really in a condition which renders it, as I think, disgraceful to the country. The most valuable works are on the floor. Whenever they are needed, and they are books of that description that they are often needed, you have to take up a dozen before you get what you want.

Senators ought to know, and of course do know, that the Library is now a place of resort at times of the most learned men of the country, who are anxious to contribute still more to the literature of the country in all its departments, scientific and otherwise. They come here expecting to find in the Congressional Library books that they are unable for the most part to find in other libraries. The Library has been selected with great care; but when they get here it is almost impossible for them to use what is there, which, properly arranged, could be used with very great facility. The arrangement would improve very much the appearance, too, of the building. We have voted millions and millions and millions of dollars for comparatively unimportant interests, as I think; and I should therefore hope that the Senate, under all the circumstances, would see the propriety of concurring in what was the unanimous opinion of the committee, that this appropriation should be made.

Mr. TEN EYCK. I listened to every word that was uttered by the Senator from Vermont, and also to the reading of the paper which was read at the desk, because it was a subject on which I felt a very deep interest; and under any

other circumstances than such as surround us, although I make no profession of literary attainment, I would, with the utmost cordiality, support, and, if need be, lend my feeble voice in aid of the amendment proposed by the Senator from Vermont, which is to apply \$160,000 for the purposes of the Library.

The Senator says that it is necessary for the protection of the books we now have; that the books that are in jeopardy and liable to be destroyed by fire or accident are of greater value than the proposed cost of the rooms to be fitted up for that purpose. I see in the newspapers, and I learn from other sources, that this Government now is indebted to the brave men who are in the field to sustain this Union and this Government to perhaps the amount of one hundred and forty or one hundred and fifty million dollars. I learn from the chairman of the Committee on Military Affairs, and from others, that for the last six, ten, or twelve months many of the officers of the line have not received a dollar of their pay; that they have actually been obliged to obtain aid through the quartermaster's department, not exactly through a subterfuge, but through an arrangement by which they can actually maintain themselves. I also read in the newspapers that hundreds of these patriotic men, not because they are tired of the service, but as a matter of absolute necessity, to protect themselves and their families, from which they are separated, from starvation, are compelled to resign their commissions unless some aid or assistance shall be extended to them. Nay, I understand that the pockets of their commanding generals are now full of their requests to be permitted to resign as a matter of sheer necessity, that they may go home and maintain their families in some other way. With these facts staring me in the face, and believing that unless we give some additional aid to our Army in the field the Union will be destroyed, I consider that a much more important measure than the protection even of this magnificent Library; and in that point of view, although on the outside, and not having the information which the Committee on Finance have on this subject, I am most reluctantly compelled to say, in advance of any expression on this floor from any other person, that I must hesitate before I can give my vote for this amendment under the existing circumstances.

Mr. JOHNSON. I propose to amend the amendment by striking out the words "the plan of the architect of the Capitol extension," and inserting "a plan to be approved by the Committee on the Library;" so that it will read:

For an enlargement of the Library of Congress, so as to include in two wings, built fire-proof, the space at either end of the present Library, measuring about eighty feet in length by thirty feet in width, in accordance with a plan to be approved by the Committee on the Library, \$160,000.

Mr. COLLAMER. I have no objection to that.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The amendment will be so modified.

Mr. HALE. I concur fully with the views stated so well by the Senator from New Jersey. I am not willing, while we are raising money by taxing the people for everything they eat, drink, and wear, to vote \$160,000 for an addition to this Library. I think it would be unjust to the people who pay taxes, and unjust to the soldiers to whom we owe the money. We have no moral right to vote this sum, which must be taken from what we are actually owing, and owing to-day, to our soldiers; and therefore I shall vote against it.

Mr. JOHNSON. Does the honorable Senator suppose we have no moral right to take care of our own property? I suppose, if there ever was a right, it would be the right the Government would have to protect its own property, which has cost it more than the amount of this appropriation; and which, if destroyed to-morrow, could not be replaced by twice the amount.

I am a little surprised, too, to find that both the honorable Senators who have spoken on the subject are under the impression that this war must fail or will be seriously endangered if we appropriate \$160,000 for the Library. We are coming to a very poor pass indeed; we are in a state of hopeless bankruptcy if we, by appropriating what is necessary to take care of the Library, put it out of our power to carry on this war. What is \$160,000 as far as the war is concerned, and the

appropriations which you must make in order to carry on the war? Why, it is nothing; it is but a drop in the bucket. But if there was a fire there to-morrow the United States would lose more in money or in money's worth than the whole amount of this appropriation; and yet my friend from New Hampshire says that notwithstanding that, we have no moral right to vote this appropriation.

It is a question therefore of economy, practical economy. Suppose this building was leaking and was going to ruin, and we found out that it could not be arrested except by an expenditure of \$200,000, would not the honorable member vote it? And if he would, why would he vote it? Because not to vote it would inflict upon the country a larger pecuniary loss than to vote it. The principle is precisely the same. Here is the Library going to ruin, liable to be destroyed at any moment, and while it exists, if it should not be destroyed, almost practically valueless in relation to a vast variety of publications which are invaluable. It is true that, if the safety of the nation depended upon a refusal to make this appropriation, there could be but one opinion in the Senate, that the Library ought to go, and the nation be saved; but we are reduced to a sad condition if the safety of the nation is endangered by an appropriation necessary to take care of our own property.

Mr. HALE. This argument of the Senator from Maryland would virtually destroy all idea of economy, and we would vote away treasure in an indefinite amount by the question, "What is \$160,000? Nothing." Well, sir, double it; and what is \$320,000? "Nothing." Let us come to that, and you may go on making appropriations until you are sunk in the vortex of bankruptcy.

Sir, I do not call this a small appropriation; I do not call this one of the small leaks; this is not one of those leaks made by the little foxes that steal into the garden; this is a gigantic appropriation of \$160,000, under the pretense that it is to protect the Library. Let me call the attention of the Senate to a fact. Some years ago—I do not remember how long since; I was a member of the Senate, however—the Library was burned. It was then constructed of wood. It was repaired, and repaired on the idea that it was to be made fire-proof, and I believe it is.

Mr. COLLAMER. That part of it is.

Mr. HALE. That is the main part.

Mr. COLLAMER. It does not contain half the books.

Mr. HALE. I do not know that it does; but when Senators spoke of destroying the Library, I thought they meant what I call "the Library;" but it seems that is not the Library; that the Library is where some private books are stored away in some little select corners where literary valetudinarians go for the purpose of amusing themselves at the public expense. [Laughter.]

Mr. President, we have got to begin somewhere and stop making these appropriations while there are such calls made upon us for the expenses of the Army and the Navy. If we do not say that \$160,000 is something, what will be the sum which the magnificent Senator from Maryland will consent to say is something? One hundred and sixty thousand dollars! Pooh; that is nothing; a mere flash in the pan, mere pocket money; it is not worthy the consideration of statesmen; it is not worthy of those who regard the Treasury! Would twice that be anything? No, sir; I doubt even that \$320,000 would be considered anything. Suppose it was \$1,000,000; what is \$1,000,000 to a nation that is spending \$1,000,000,000 a year? Nothing; nothing.

Sir, let me tell you an anecdote, very illustrative, I think. A very distinguished gentleman, whose name I will not mention, was sick upon his death-bed, and the physician came in and told the daughter, who was with the father, that he could not probably survive many hours. Her countenance sank at once; and her father saw that there had been some communication made to her. Said he, "My dear, what did the doctor say?" "Oh, nothing; nothing." "Well," said the gentleman, "my dear, will you be so kind as to tell me precisely what the doctor says when he says nothing?" [Laughter.] Sir, I should like to know what would be the sum to which the honorable Senator from Maryland would cease to apply the term "nothing, nothing." One hundred and

sixty thousand dollars before this war commenced would pay the whole of the expenses of the State of New Hampshire, civil, judicial, military, and naval, for at least three years; and yet it is "nothing!"

I do not want to repeat what I have before said; but I confess I cannot see where we shall commence economy or retrenchment if we are not going to stop here, if we are going to expend this sum on the ornamenting of the Library, for it is nothing else. It will be a little more comfortable, I know. Possibly if this appropriation passes, some gentlemen will lounge away a few hours there that they now have to spend in their rooms; but this is not an appropriation that I think is justified by the present condition of the Treasury.

Mr. SUMNER. I certainly agree with the Senator from New Hampshire that \$160,000, at this time, is a considerable appropriation. I do not call it "nothing;" it is much; and ought not to be made, certainly, without good cause, especially when, as the Senator has reminded us, there are soldiers unpaid. But the Senator will pardon me when I say that while I agree with him in recognizing that the sum is considerable, I do not agree with him in his conclusion; and I think his own speech actually showed the necessity for this appropriation. The Senator avowed that he only knew the Library as it was restored some ten or twelve years ago, which he called "the Library." He knew nothing at all of the other rooms attached to it and of the books there. He counted those out. Now, as I understand it, it is for those books and their accommodation that this appropriation is proposed to be made.

Mr. COLLAMER. If the Senator will allow me, we have more volumes, and probably of more value, stored in the lobbies and passages around that Library than there are in the Library—considerably more.

Mr. SUMNER. I think the Senator from Vermont is right, and he speaks of course with full knowledge of the subject. The books that the Senator from New Hampshire takes no notice of, in point of fact are the most valuable part of the Library. They give to it its special, and perhaps I may say its transcendent, value at this moment among the libraries of the country; and the question is, whether those books shall be used, or will you leave them where even the Senator from New Hampshire will not find them? The Senator is not unacquainted with this edifice; and yet he knows nothing of the larger part of the Library which is under its extensive roof.

Sir, it is not creditable to the Government that so large a part of that Library should be left in that condition. If it is worth while to obtain the books, so valuable, as the Senator from Maryland has just said they are, it is certainly of importance that they should be properly taken care of. What is the use of having them if they are not in a condition in which they can be used? They must be made accessible; they must be put upon shelves, be arranged, systematized, and in certain order. If that is not done, you might as well have them packed in the crypts of the Capitol below.

Mr. WILSON. I should like to ask my colleague how long they have been in that condition?

Mr. SUMNER. They have been accumulating now for some years. It was in 1852 that the change was made, and the large room known as the fire-proof room, to which the Senator from New Hampshire has alluded, was built; and those books have been accumulating from that time to this; first piled away in one small room at one side, and then in another on another side; and so room after room has been taken into the circle of the Library, filled up with books, unarranged, so that they are practically inaccessible except to the Librarian himself, and he must find very great difficulty in going to them.

I said, when I was interrupted, that it was not creditable to the Government that so important a collection of books should be left in such a condition. This Library is one of the chief ornaments of the national Capitol. I need not remind you that perhaps in the whole world there is not an edifice more complete in all respects than this very national Capitol, unsurpassed as it is in magnificence, and also in convenience. One of its best treasures is that very Library; but if you leave it in its present neglected condition, with the books

unarranged and inaccessible, it will not bring the results which such a treasure ought to bring.

Mr. TEN EYCK. I would not assume the position of undertaking to question the conduct of any former Committee on the Library of this body, or the action of Congress in former years upon this subject; but I cannot fail to entertain the common-sense view of the matter, (at least so it seems to me,) that if this Library is in such an imminent state of peril, it is singular we should have been for the last fourteen years making annual appropriations for the purchase of these very valuable books, (and no one disputes that they are so,) with no suitable place in which to put them but to consign them to passages and alleyways and rooms liable to be destroyed at any day, or any hour of any day. We have been going on now, as it appears, for the last fourteen years, making annual appropriations to the amount of thousands of dollars for the Library, until we have acquired property of this description of more than one hundred and sixty thousand dollars in value, perhaps double that amount; and all this property has been suffered to lie for the last fourteen years in a place which the Senator from Massachusetts has described as being almost like the crypt of the Capitol. There they have remained, inaccessible except to the Librarian and a few other persons, subject to the destruction which might befall them at any moment; and now we have suddenly awakened to the peril in which they are, and we are called upon at this particular moment of extreme national difficulty, so far as the finances are concerned, to appropriate this large sum of money. Certainly, if our conduct to-day in opposing this amendment is indefensible, the action of former committees and of former Congresses is subject to exception and criticism on account of the vast expenditure of money for the procurement of such books, and the exposure of those books in the way which has been described.

Although I think the Senator from New Hampshire has most completely and satisfactorily replied to the suggestion of the Senator from Maryland, I wish to relieve myself from the sublimely ridiculous position in which the Senator from Maryland would seek to place us by giving a construction to our opposition of this character: that we here declare the condition of the Treasury to be such that an increased expenditure of \$160,000 at this hour will produce national bankruptcy, and will deprive us of the power of continuing our armies in the field. I think that was an unfair and unjust construction to be placed upon our opposition to this measure. There is an old Scotch saying that many mickles make a muckle. It is not the \$160,000 now asked to be appropriated, but it is the one thousand times \$160,000 multiplied that we are called upon to appropriate for this, that, and the other purpose, very few of them commending themselves so highly to the consideration of all thoughtful and reflecting men as this does, that place us in this extreme posture of necessity, and which require us to be cautious at least in making additional appropriations.

Now, I admit that every hour these books remain in this position they are subject to the increased liability of loss; and I have the fact flashing upon my mind by remembering the lighted dome of the Smithsonian Institute. It brings it to my vision and to my consciousness. Yet still I cannot but remember, as I had occasion to say, that we have got gallant armies in the field, and without any impeachment of the patriotism of the men constituting those armies, unless we do set ourselves to work to supply them with the necessary means of keeping life in their bodies, and in the bodies of their wives and children at home, those armies must dwindle as a matter of necessity; and not only the Library, and the valuable books which are stowed in the passage-ways of the Capitol, but this splendid edifice itself, and this Union, may fall beneath the influences of this rebellion, because we have not the resources which are requisite in order to keep all these things in movement.

I may be entirely in error in the view which I take. It may be an entirely too contracted one. I am led to doubt the correctness of my view when gentlemen of so much respectability and sagacity as those I see before me [Mr. COLLAMER and Mr. JOHNSON] recommend a measure of this

kind; and yet the stubborn, severe fact stares me in the face that we must keep our armies full; we must supply fighting men who are in the field with the necessary means to sustain life; and if that be in peril at this moment, and in consequence of that the Union may be in peril, I must withhold my vote from the appropriation of these large sums of money to other purposes. I do not believe that the appropriation of \$160,000 for this purpose by itself would interfere with the existence of this Government, either to shorten its life or to lengthen it; but I believe that with other appropriations directed to other purposes and not to the vital one, it may end in overtaxing the brains of the men who are now busily at work in endeavoring to find the ways and means to carry on this war, and when their brains fail then the cause I am afraid will also fail.

Mr. GRIMES. I will suggest to the Senator from New Jersey that perhaps this amendment may be the natural result of one we have already adopted from the Committee on the Library. If I am not misinformed, the regular annual amount usually appropriated for the increase of the Library is \$5,000; but we have by an amendment proposed by the Senator from Vermont, the chairman of the Committee on the Library, increased that amount from \$5,000 to \$8,000, and if we are going to continue increasing the Library in a greater proportion in these times than we have been in the habit of increasing it, the enlargement may be the natural result of that increase.

Mr. FOSTER. Mr. President, I shall vote for this appropriation with a great deal of pleasure—not because I consider it a small sum; not because, as I hope, I shut my eyes to the condition of the country, and especially to the wants of the Army; but I shall vote for it as a necessity. I believe it to be a necessity in the strict sense, and I believe it is more a necessity now than it ever was before. I believe that if we had had libraries of books like this spread over the country this rebellion would have been prevented. It had its origin in the ignorance of the people. I may perhaps speak unadvisedly in saying it had its origin in the ignorance of the people; it may not have had its origin in their ignorance; it has had its support and its success because of the ignorance of the people. Men, not ignorant, but depraved and ambitious, set the rebellion on foot, and have been enabled, in consequence of the clouds of ignorance which overspread certain parts of our land, to prosecute the rebellion thus far with the success it has attained. Ignorance is the bane of the Republic. We need enlightenment. The public mind once thoroughly enlightened, ignorance dispelled from among us, and a rebellion of the description now raging will be in this country an impossibility.

As regards the debts due to our soldiers, and their necessities, I hope I feel as strongly as any member of this body, and would go as far to pay and relieve them. I think I may be entitled to speak for the soldiers from my own State, and to say that I do not believe there is a native soldier in the Army from the State of Connecticut who would not cheerfully, so far as his pay is concerned, make the deduction that would be his full proportion of that scanty pittance, in order that this appropriation might be made. Sir, I believe that we can do the country, the cause of liberty and humanity, no greater service than to make this appropriation. Let us diffuse light and knowledge among the people.

Mr. COLLAMER. The condition of our Army, the condition of our finances, and the necessities which our circumstances create, furnish at least very grand subjects of declamation. I did not suppose when, pressed by the necessities of our Library, I asked for this appropriation, that I was to be either directly or obliquely accused of trying to take away money necessary to pay the soldiers what we owe them. It is more than intimated that that is the purpose of this amendment; at any rate, that that is to be its effect.

Mr. TEN EYCK. Oh, no.

Mr. COLLAMER. Then why all this declamation about it? If that is not its purpose and object, why drag it in? It amounts to this: we cannot make an appropriation, whatever may be the necessities, however great may be the want of the thing, because we want money entirely for the Army; and then come up beautiful specimens of eloquence, sent home, I take it, for the purpose

of satisfying the people that certain persons are peculiarly the patriotic men of the country, who take care of the soldiers, and other men do not mean to take care of them, but to fritter away the money of the Government for other purposes. If that is not directly argued, it is more than intimated. Now, sir, there is no purpose of that kind entertained by anybody, nor is such a consequence necessary from the amendment.

Another argument, if it may be called one, and from the source from which it comes it is entitled to be treated as such, is to blame the committee because they have asked for \$8,000 instead of \$5,000, the old standing appropriation for procuring books, because, when they get so many more, they will want so much more room to put them in; that the proposition is to increase their wants. I suppose that question should be argued with the gravity with which it is presented. Does not that gentleman, and every other man of common sense, know that \$8,000 now will not buy as many books as \$5,000 did before the war? Five thousand dollars has been the standing appropriation since 1853. Do we not know that many of these books are brought from Europe, and the rate of exchange is such that we cannot get one half as many as before for the same money? I did not propose to buy any more books; and yet the question is argued as if we were pressing a proposition to increase the amount of books we are buying. It is no such thing. We cannot now buy with \$10,000 the books that seven years ago we could have bought for \$5,000. It is not a proposition to increase the amount of appropriation for books. It is that we may be enabled to go on with the series of books which are in process of publication in Europe and this country, for which we have become subscribers. The great body of the books are to make up those series; and we cannot make them up and cannot get along unless we increase that appropriation; we cannot obtain the books we have heretofore received. It is no proposition, as is represented here, to increase the amount of our difficulties by increasing our books or anything of that kind. A large part of the books we receive are by way of exchange, and many of them, some of the most valuable we have, are donations. Take the parliamentary documents that are found in one room. I think there are about seven hundred volumes. They are there piled up on the floor, and in dark passages; the most valuable books there are on the face of the earth. That is our condition.

But why has it been so? The honorable Senator from New Jersey seems to think that the Committee on the Library have been too extravagant; that they ought not to get so many books; that they should not have got them at all. That is a new complaint. I can say that after 1853, when the fire-proof Library was reconstructed, we got in there not only what books we had then, but we went on for several years filling that up, from 1853 to 1856, I think. Then we began to be crowded for room. Since that time they have been accumulating in the passage ways, in the side rooms, and in out of the way places, wherever they could find storage room, and upon the floor. We have received books as donations and exchanges from the British Government, and from other Governments; as valuable books as there are to be found in the world. We have not been even buying this amount of books. We have not bought more than about half of them. We have received them in the various manners I have suggested.

Then again complaint is made because we ask the appropriation at this time. Sir, we have been pressed with this thing about the Library for a long time, and we have delayed bringing it forward for four years in consequence of this war, hoping that it would soon come to an end, and we should not have to keep our books exposed much longer. We deferred asking for it until we are so pressed by this condition of things that we think it unsafe any longer to leave the Library in its present condition; and the question is, whether we shall take any measures to secure the property we have. If gentlemen say that cannot be done, there is the end of it; I must submit, of course, to that.

The Secretary proceeded to call the roll.

Mr. POWELL (when his name was called) said: I am paired off on this question with the Senator from New Hampshire, [Mr. HALE.]

Were I not paired I should vote for the amendment, and the Senator from New Hampshire would vote against it.

The result was then announced—yeas 20, nays 14; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Cowan, Davis, Foster, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morrill, Nye, Riddle, Salsbury, Sumner, Trumbull, and Willey—20.

NAYS—Messrs. Dixon, Grimes, Harlan, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Ten Eyck, Wade, Wilkinson and Wilson—14.

ABSENT—Messrs. Brown, Buckalew, Carlile, Chandler, Doolittle, Farwell, Foot, Hale, Harding, Hendricks, Hicks, McDougall, Nesmith, Powell, Richardson, Van Winkle, and Wright—17.

So the amendment was agreed to.

Mr. SHERMAN. I am directed by the Committee on Finance to offer another amendment, to continue the operation of an existing law one year longer. It is to add as a new section:

*And be it further enacted,* That the provisions of the act approved April 29, 1864, increasing the compensation of inspectors of customs in certain ports be extended to July 1, 1866.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. SHERMAN, the title of the bill was amended by adding the words "and additional appropriations for the current fiscal year."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following Senate bill and joint resolution:

A bill (S. No. 231) for the relief of Alexander J. Atocha.

A joint resolution (S. R. No. 91) appointing General Richard Delafield to be a regent of the Smithsonian Institution.

#### COLLECTORS AND SURVEYORS OF CUSTOMS.

Mr. SHERMAN. I ask the Senate to postpone all prior orders and take up a bill that ought to be acted upon. It is House bill No. 705, for the relief of collectors and surveyors of the customs in certain cases. I feel very sure it will not give rise to debate.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury in all cases in which any collector or surveyor of the customs has paid, or accounted for, or is charged with duties accruing under the "joint resolution to increase temporarily the duties on imports," approved April 29, 1864, and in which he shall be satisfied that the collection of the duties was omitted by such collector or surveyor for the reason that he was not informed of the passage of that resolution when the duties accrued, under such rules as he may prescribe, to remit or refund, as the case may require, such duties to such collector or surveyor.

Mr. GRIMES. I should like to have the chairman of the Committee on Finance explain this bill.

Mr. SHERMAN. The bill explains itself. Congress at the last session increased the duties on imports, and the law took effect on the day of its passage. In two or three remote ports, one of which is Mackinaw, I believe, they had no notice of the fact of the passage of the resolution until the law took effect, and collected the old rates of duties. It is simply to give relief to the collectors in such cases under such regulations as may be prescribed by the Secretary.

Mr. HOWE. I should like to hear what the relief is. I did not hear the bill read.

Mr. SHERMAN. It had better be read over again. If the Senator will hear the bill read, he will find there can be no objection to it.

The Secretary again read the bill.

Mr. HOWE. I do not now understand whether the bill is intended to act retrospectively alone, or generally.

Mr. SHERMAN. Retrospectively alone, and applies only to the increase made by that joint resolution. The joint resolution took effect on the 29th of April, and in some of the remote ports they did not know of the increase of duties.

Mr. HOWE. I understand what the difficult-



ties in the past have been, but I was in doubt whether the resolution would not apply to all other cases of the kind.

Mr. SHERMAN. Oh, no; it expressly says that it is confined to the duties paid under that resolution.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business. It is of great importance to have an executive session to-day.

The motion was agreed to.

Mr. CONNESS. Before the doors are closed, I move to take up the resolution offered by the Senator from Nevada [Mr. STEWART] yesterday, proposing an additional committee of the Senate on mines and mining interests.

The PRESIDING OFFICER, (Mr. POMEROY.) It may be taken up by unanimous consent before the doors are closed.

Mr. WILSON. I think that had better lie over.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

The Senate thereupon proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, February 11, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Dr. E. H. GRAY.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports of bills of a private nature.

#### TESTIMONY BY DEPOSITION IN CERTAIN CASES.

Mr. WILSON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for taking testimony by deposition for the defense in criminal cases in the District of Columbia when the witness resides beyond the limits of the District, and report by bill or otherwise.

Mr. DAWES. I rise to a question of privilege.

Mr. WASHBURN, of Illinois. Has the morning hour commenced?

The SPEAKER. It has.

Mr. DAWES. I ask unanimous consent to make a report from the Committee of Elections.

The SPEAKER. That can only be done by unanimous consent during the morning hour.

Mr. DAWES. I will postpone it, then, and especially as I see that some of my colleagues on the committee are not present.

#### NAVAL DEPOT AT MILWAUKEE.

Mr. ELDRIDGE, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin for a naval depot at the city of Milwaukee, in the State of Wisconsin; which was referred to the Committee on Naval Affairs.

#### HABEAS CORPUS, ETC.

Mr. LE BLOND, by unanimous consent, introduced a bill to repeal the act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases;" which was read a first and second time, and referred to the Committee on the Judiciary.

#### COLLECTION OF CERTAIN DUTIES.

Mr. KASSON. I am requested by one of the officers of the Government to ask that Senate bill No. 424, relating to the revenue, be taken from the Speaker's table and referred to the appropriate committee.

No objection being made, the bill (S. No. 424) to facilitate the collection of certain duties due to the United States was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### POST ROUTE IN KENTUCKY.

Mr. RANDALL, of Kentucky, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and

Post Roads inquire into the expediency of establishing a post route from Mount Vernon, Kentucky, to Somerset, Kentucky, and report by bill or otherwise.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication of the Secretary of State, transmitting, in compliance with the acts of August 16, 1842, and August 18, 1856, a report on the commercial relations of the United States with foreign nations; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. ELIOT, by unanimous consent, introduced the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That four thousand additional copies of the report on the commercial relations of the United States with foreign nations for the year ending September 30, 1864, be printed in usual form for the use of the House; also one thousand copies for the use of the State Department.

#### NAVY-YARD ON THE MISSISSIPPI.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting the report of the commission appointed under the joint resolution of Congress, approved June 30, 1864, to "select the most approved site for a navy-yard or naval station on the Mississippi river," and asking an appropriation therefor; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### SOUTHERN SUPERINTENDENCY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting the estimates of the southern superintendency for the first and second quarters of 1865, and for the fiscal year ending June 30, 1866; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. CRAVENS. I ask leave of absence, for the remainder of the session, for my colleague, Mr. McDOWELL, whose health is very bad.

Leave was granted accordingly.

Mr. WASHBURN, of Illinois. Two members of the Committee on Commerce, Mr. PERRY and myself, are obliged to leave the city on business connected with that committee. I ask leave of absence for my colleague and myself for ten days.

Leave of absence was granted accordingly.

#### PERSONAL EXPLANATION.

Mr. RICE, of Massachusetts. I rise to a question of privilege.

The SPEAKER. That cannot be done during the morning hour except by unanimous consent.

Mr. RICE, of Massachusetts. I ask unanimous consent to make a personal explanation based upon an article in the New York Evening Post.

Unanimous consent was granted.

Mr. RICE, of Massachusetts. I ask the Clerk to read the article I send him, from the New York Evening Post.

The Clerk read the article, as follows:

A WORD ON PUBLIC MORALS.—Among those who represent the State of Massachusetts at Washington, is Mr. ALEXANDER H. RICE, of Boston. We desire our readers to note well the name of that member—ALEXANDER H. RICE.

Suppose this Mr. RICE were to have a cause in court. Suppose the judge presiding at the trial should be discovered to have a large pecuniary interest in the event of the suit, which induced him to charge the jury in such a manner as to procure a verdict against Mr. RICE. Would there be any expression of condemnation too severe, in Mr. RICE's judgment, for such conduct? Would he not say that here is a magistrate, bound impartially to administer the laws, who has yet so little sense, not merely of integrity, but even of decency, that he sits in judgment on a cause which is virtually his own, and perverts the functions of his high office to his own private ends? Would he not say, here is a clear case for impeachment and an ignominious removal of the offender from the bench?

Or suppose that in the same cause a person who had an interest in the suit adverse to that of Mr. RICE should procure himself to be smuggled into the jury, and should use his utmost powers of persuasion with his fellows to induce them to give a verdict against Mr. RICE, would not this be regarded not merely as most unjust proceeding, but as a piece of knavery deserving of infamy?

We should like to know how Mr. RICE distinguishes these cases in their essential qualities from that of a member of Congress who, bound as he is to support impartially all good measures and oppose all bad ones, with a single eye to the public good, should yet sit in that body to vote

money into his own pocket; to support measures which bring him a pecuniary profit; to pervert his office of legislator into an engine for advancing his own sordid interest.

But has Mr. RICE done this? it will be asked. Let the Springfield Republican, a journal published in Mr. RICE's own State, answer. In a recent number of that paper is a well-considered article on the question of the paper duty, which the Senate, it seems, is likely to decide against the people and in favor of the paper-makers. In this article occurs the following passage, referring to the ridiculously small reduction of the paper duty proposed by the Finance Committee in the Senate:

"The victory is with the manufacturers, and not with press or people; and Congress has vindicated itself from the charge that it did not dare withhold what the newspapers demanded, only to expose itself, however, to the supposition of being influenced by a smaller, but richer and more persistent body. The Massachusetts Representatives, indeed, early took pains to show themselves on the manufacturers' side. Under the lead of one of their number, Mr. RICE, himself a paper manufacturer and dealer, whose business has probably been more profitable since the war began than that of all the papers in the State, and of the Representative of this district, which makes more fine paper than all the rest of the country, they voted solidly against the united appeal of the press of their State, and so showed their independence of the 'third estate.'"

How much Mr. RICE is voting into his own pocket by opposing the repeal of the paper duty will be understood by looking at a communication from a Massachusetts correspondent on the first page of this sheet. At Hadley Falls, and in the county of Berkshire, the paper mills have been piling up a profit of from one hundred to two hundred per cent. for two or three years past. Mr. RICE is not willing to give up so princely a revenue, which, perhaps, as poor human nature is constituted, is not much to be wondered at, in his case at least; but we must tell him plainly that it is not the part of an honest man to get himself elected to Congress and then vote for a duty which brings to himself a hundred per cent. on the bad paper he makes, and to the public Treasury nothing at all. We have always maintained, and urged again and again, that men who had such interests to promote, men who had anything to gain or to lose in a pecuniary respect by certain measures which were likely to come before Congress, had no right to be in that body; no more right, in fact, than a man interested in the event of a suit has to be on the jury before which it is tried. We want just and impartial legislators and none other, and a just and impartial legislator in this case Mr. RICE cannot be. When he saw the question coming up before Congress he should have instantly resigned his place. By remaining in it and voting for his dirty hundred or two hundred per cent. profits he exposes himself to censure as severe and as ignominious as the juror would deserve in the case we have supposed.

Mr. RICE, of Massachusetts. Mr. Speaker, it has been my fortune to be a member of this House during the last five or six years; and I do not deem it necessary that I should rise in my place to vindicate myself in the presence of my associates and colleagues in respect to the manner in which I have discharged either my public or my private duties in this House. I have never heretofore felt called upon to notice any remarks or criticisms that have been made upon my conduct in any quarter whatsoever; and in departing in this case from the rule which has governed me heretofore, I do it as much for the purpose of vindicating the rights of a member upon this floor, and of every member, as I do of vindicating myself against the foul and unjust aspersions cast upon me in the article which has just been read.

I do not propose, sir, to descend into the depths of a personal controversy in respect to any assaults or animadversions of which I may be the subject; but I wish to say a single word or two upon the argument which is embraced in the article which has just been read. That article proceeds upon the assumption that no member of this House who has any interest whatever in any of the great questions which arise here in Congress is entitled to express his opinion or to give his vote upon any of those measures, or even to continue a member of this body unless he is entirely independent of them. Now, sir, I want to ask you and the members of this body how it is possible that a House of Representatives can be organized in a country like this, spreading over a vast extent of territory, North and South, and East and West—territory which is measured, not by miles, but by parallels of latitude and meridians of longitude—embracing every variety of soil, climate, and of production; I ask how it is possible that from the length and breadth of so vast a territory, supporting a people living upon its natural and artificial resources and in the employments furnished by them both; how it is possible that a legislative assembly can be convened to legislate upon the interests of such a people if the members of that assembly be entirely independent of those interests? Sir, it is a perfect absurdity to suggest it. If it were possible to send here men identified with none of the interests of the country, they would not only be destitute probably of the proper information for their duties,

# THE CONGRESSIONAL GLOBE.

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but be open to every species of bribery and corruption in regard to the questions coming here for consideration and decision, without concern enough about any of them to make them fit Representatives of American constituencies. The reasoning of this writer would exclude every business man in the country from Congress.

But, Mr. Speaker, I do not deny that I have an interest in one and in many of the questions that arise in this House; and if I had no interest in them I could not represent a constituency of this country. Sir, I feel the stimulus which comes from the interests of my constituents, and of my fellow-countrymen, whether they be in the district, in the State which I in part represent, or wherever they are within the limits of our country. I have felt it to be my first and foremost duty, since I have been a member of this House, to acquaint myself to the utmost of my ability with every one of the great leading interests of this country, in order that I might be prepared, when called upon, to give my vote and my voice in accordance with that which is just to the special interests and at the same time just to the common interests of our country.

Now, the writer of this article arraigns me for my vote and my remarks on the question of reducing the duties on imported paper, and he charges me with being governed in my action in that particular by a pecuniary interest which I have in American paper, and which will be affected by a high or a low tariff on the foreign article. He designates me as a manufacturer and as being in a combination of manufacturers, and acting in behalf of and for their interests, and for my own especially, and acting because my interest lies in the direction of my vote. Well, sir, I claim that I have the same right as any other gentleman to protect my own interests so long as they are not in conflict with the interests of my fellow-countrymen, whether they be in this House or out of it. But, sir, let me ask whether there are not other gentlemen in this House who have interests in the questions which come up here for discussion and decision? Are there no gentlemen here representing the interests of coal, of iron, of wool, of tobacco, and of the multimorph shapes which these articles take in different lines of manufacture? Sir, to come more closely to the subject in question, are there no men here representing the opposite side of this paper question? Are there no proprietors of newspapers in this House? Are there no editors here? Are there no publishers here? And did they or one of them resign his seat or withhold his vote when this question came up? Yet, sir, why does the Evening Post travel out of the line of its own profession, ignoring the fact that there are editors and publishers and proprietors of newspapers here, and that they participated in legislation on this question? Why was it necessary for it to pass over all its side of the interest and to select me from among the large number of gentlemen who spoke and voted in opposition to the reduction of the paper duty?

Sir, I acted on that question, let me say, not in the interests of the manufacturers any more than I did in the interests of the publishers; and I am glad that I stand upon the records of the House on that question as I do stand, because I am perfectly sure that the future will vindicate me by showing that we cannot tamper with any one of the great interests of the country by special and hostile legislation without depriving the people of the country of the advantages that otherwise flow from them. Both publishers and manufacturers will suffer from this legislation respecting paper, in my opinion.

The action I have taken here has been so far in the interests of the manufacturers as to stimulate production, and everybody knows that the amount of production, whether of paper or any other article of manufacture, is the principal regulator of price as well as of supply.

And we come to another point, and that is that this charge against me here as acting from the interest of a manufacturer is utterly and totally false. I have not one single dollar invested in

any paper mill upon the face of the earth; nor have I one single dollar invested in the manufacture of paper anywhere; and whoever charges that on me charges that which is utterly and absolutely false.

So much for the charge which has been made against me. Now, sir, I do not speculate upon men's motives. I do not know why the men connected with the Evening Post have selected me as the mark toward which they fling their insinuations and falsehoods. But, sir, there are sometimes indications which give us the line of direction to the motives which influence men in their action; and since I read the article in the Evening Post there has been placed in my hands a copy of the Baltimore American of the 25th ultimo, which I send to the Chair that an extract from it may be read. It fell to my fortune the other day in the discharge of my duty as a member of the House to say something in defense of the Navy Department, and it is barely possible, after reading the extract, that some connection may be discovered between the duty which I then performed and the article which will be read from the Clerk's desk. I ask that the article from the Baltimore American may be read.

Mr. GRISWOLD. I wish to ask the gentleman a question.

Mr. RICE, of Massachusetts. Not now.

The Clerk read, as follows:

"The Evening Post has enjoyed, in past years, a reputation and influence not wholly unmerited, but there has recently been an obvious change in its tone toward the Navy, and the editors must be careful not to prostitute its former character to personal ends or private malignity, or its influence will be impaired, if not wholly sacrificed. It is well known that the publisher of the Post, who was Navy Agent, was removed by the Navy Department for alleged criminal practices; that he was tried before a United States Commissioner, and held to bail after examination; and that the grand jury have found four bills of indictment against him for fraud and malfeasance, for which he is to be tried in the United States court. Since the removal of the publisher of the Evening Post for these alleged criminal practices the columns of that paper have exhibited marked unfriendliness to the Navy Department, and in many instances to the gallant men of the naval service. If the editors of the Evening Post are permitting themselves to be animated by feelings of revenge, because their associate has been checked in a criminal career; or if they fancy they can influence the court or the Government in his case by robbing our naval officers and crews of their just merit, and are therefore defaming the services of these brave men or attempting to transfer it to others, they commit a fatal mistake."

Mr. RICE, of Massachusetts. Now, Mr. Speaker, I will detain the House but one moment more. I cannot believe that the article in the Evening Post came from the pen of the venerable and respected gentleman in whose name the business of that paper is conducted, and whose writings have so long and so greatly adorned the literature of this country; but from whatever teacher of "public morals" this vile slander came under the head of the Evening Post I hurl it back, in defiance and contempt, to the unclean source from which it emanated.

Mr. STEVENS. Mr. Speaker, in connection with this I desire to offer a resolution.

Mr. GRISWOLD. Let me first ask the gentleman from Massachusetts a question. Does the gentleman know whether that article came from the reporter of that paper?

Mr. RICE, of Massachusetts. I do not think that it did.

Mr. STEVENS. I offer the following resolution:

*Resolved*, That the New York Evening Post shall hereafter be allowed no reporter or reporter's table in this House.

Mr. JOHNSON, of Pennsylvania. How does this resolution get in?

The SPEAKER. Unanimous consent was granted to the gentleman from Massachusetts.

Mr. BROOKS. I object to that resolution.

Mr. MORRILL. Has the gentleman any suspicion that the reporter had anything to do with this?

Mr. STEVENS. I do not know anything about that. I know that that paper has had something to do with it, and that it has no right to a representative upon this floor.

Mr. MORRILL. I understand the gentleman

from Massachusetts to say that he does not think the reporter has had anything to do with it.

Mr. JOHNSON, of Pennsylvania. I rise to a question of order. The resolution is not before us.

The SPEAKER. In the opinion of the Chair it is. Unanimous consent was granted to the gentleman from Massachusetts to bring in the matter, and that gives the right to consider it.

Mr. JOHNSON, of Pennsylvania. I thought the gentleman from Massachusetts [Mr. RICE] only rose to a personal explanation.

The SPEAKER. Yes, based upon an article in the New York Evening Post.

Mr. JOHNSON, of Pennsylvania. And the gentleman from Pennsylvania followed that up with a resolution.

Mr. ELDRIDGE. The House did not grant consent to any such proceeding.

The SPEAKER. The Chair stated to the gentleman from Massachusetts [Mr. Dawes] that the morning hour had commenced running by a call of committees for reports of bills of a private character. The gentleman from Massachusetts [Mr. Rice] then asked unanimous consent to make a personal explanation in regard to an article contained in the New York Evening Post. The Chair asked if there was any objection, and no objection was made. He then made a statement, and the gentleman from Pennsylvania, as a matter growing out of it, offered a resolution.

Mr. JOHNSON, of Pennsylvania. I do not object to the resolution for any matter contained in it, although I should oppose its adoption, but because it seems to me to be a departure from the rules of the House, and establishing a dangerous precedent. Other gentlemen, following this example, may introduce resolutions upon matters of a personal nature or explanation admitted before the House, and thus block up the business of the House entirely with a matter which the House did not intend should be introduced when it gave its consent. I now oppose the manner of introducing the resolution.

The SPEAKER. The gentleman from Pennsylvania cannot argue the matter unless he appeals from the decision of the Chair.

Mr. RICE, of Massachusetts. I desire to say that I have no belief whatever that the reporter for the Evening Post in this House is in any way, even the least, directly or indirectly, involved in the article in that paper, and I should very much regret to have such an imputation rest upon him.

Mr. STEVENS. I do not desire to do what would be considered improper by the gentleman from Massachusetts. I do not cast any censure upon the reporter, but I say that papers which contain such libels upon members of this House have no right to a representative here. I say that these papers, and especially those in New York—I do not speak of any except those belonging to our own side of politics, for I know no others—have become so infamous, so libelous, and so calumnious, if we venture to differ from their dogmas, that scarcely a day passes that some one on this floor is not attacked in a most foul manner. But as the gentleman from Massachusetts desires that I shall withdraw my resolution, I will do so.

RAILROAD LINE IN ARIZONA, ETC.

Mr. YEAMAN, by unanimous consent, introduced a bill providing for the construction of a railroad and telegraph line through the Territories of Arizona, New Mexico, and Colorado; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

The SPEAKER resumed the call of committees for report of bills of a private nature.

Mr. CORB. I ask unanimous consent to present to the House a memorial of the Legislature of Wisconsin.

Mr. HALE. I object, and call for the regular order.

SERVICES OF A STENOGRAPHER.

Mr. DAWES, from the Committee of Elections, reported the following resolution:

*Resolved*, That the Clerk of the House pay, out of the

contingent fund, fifty dollars to Theodore F. Andrews, for reporting proceedings and evidence before the Committee of Elections in the matter of the Louisiana delegation.

Mr. DAWES. I would explain that this expense was incurred before the appointment of a reporter to committees to transact such business. It was deemed by the committee a matter of sufficient importance to be reported.

The resolution was agreed to.

Mr. DAWES moved that the vote by which the resolution was agreed to be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DIGEST OF ELECTION CASES.

Mr. DAWES. I have a report here, but I am not certain whether it is of a private nature or not. The House will recollect that at the last session they appointed the clerk to the Committee of Elections to prepare a digest of all election cases since 1834. That digest has been prepared with great care, and is now ready for the printer. It is necessary that some one should be employed to superintend the printing, and, after that is done, to prepare a proper index.

Upon consultation with the Clerk of the House he has prepared for me a resolution to accomplish that object. It is proposed to have the work printed at the Government Printing Office, and to have the index prepared under the superintendence of the clerk to the Committee of Elections, who shall have the pay of the clerk of the Committee of Elections for the time he is actually employed in doing the work, the Clerk of the House to see that no more time is consumed than necessary.

The SPEAKER. It is clearly business of a private nature.

Mr. A. W. CLARK. Does the gentleman propose to take one of the employes of the Clerk of the House to perform this work, or some one outside? If it is necessary to take some one outside, I have objection to it.

Mr. DAWES. I suggest to the gentleman that it would be difficult for any new clerk to take hold of this matter, and therefore we propose to take the clerk to the committee. This work covers thirty or forty years of the records of this House, and he is familiar with it all.

Mr. WASHBURN, of Illinois. This matter relates to a subject which has been agitated ever since I have been in Congress. Several attempts have been made to make a digest of all contested-election cases. It has been reported on by several Committees of Elections, but no definite action was ever had. This is a matter of great importance to the House, and of still greater importance to the Committee of Elections. Our election cases, unindexed and undigested, are comparatively valueless. This is a small amount, and I think it fair and just and proper that it should be voted, and that the party who has got up the digest should make the index.

Mr. DAWES. I wish to say, in addition, that this work has been prepared with great care and fidelity. Research has been made into the records both of the House and of the Senate, and cases have been brought out that were neither found in the Globe nor upon the Journal of either House, but only in the manuscript records of the House and the Senate. I think that this will be found to be a work of great value, inasmuch as it will place in the possession of Congress and of the country cases that otherwise would never have been seen.

The nature of the case is such that it did seem to the Committee of Elections, upon consultation with the Clerk of the House—and I think the Clerk told me that he had consulted our Journal Clerk, who agreed with him in his opinion—that it is proper, in order to have a correct and useful index, that the clerk of the Committee of Elections should be employed merely at his ordinary pay for the time he is actually employed, to stop when he gets through with his work; and he is to be entirely under the control and superintendence of the Clerk of the House.

Mr. A. W. CLARK. I would inquire why one of the regular employes of the Clerk cannot do this work?

Mr. DAWES. I offer the resolution in this shape at the suggestion of the Clerk of the House, because it was thought that he could not employ any of the clerks now in his office to do the work

advantageously. I now offer the resolution and call the previous question upon it.

The resolution was read, as follows:

*Resolved*, That there be printed for the use of the members of the House five thousand copies of the Digest of Election Laws, made under the order of the House by the clerk of the Committee of Elections, together with a full index to the same, to be prepared by the said clerk, for which, and for the necessary revision and superintendence connected therewith, he shall be paid by the Clerk of the House a per diem for the days actually employed thereon, not exceeding that paid to clerks of committees during the session of Congress.

The SPEAKER. The Chair would suggest that if the provision for extra copies be left in, the resolution will have to go to the Committee on Printing.

Mr. DAWES. I will strike out "five thousand copies," and insert "the usual number of copies."

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAWES. I now move that five thousand extra copies be printed.

The motion was referred, under the law, to the Committee on Printing.

#### ALEXANDER J. ATOTCHA.

Mr. HALE, from the Committee of Claims, reported back, with the recommendation that it do pass, bill of the Senate No. 281, for the relief of Alexander J. Atotcha.

The bill directs the Court of Claims to examine into the claim of Alexander J. Atotcha against the Government of Mexico for losses sustained by him by reason of his expulsion from that republic in 1845, and if they shall be of opinion that the claim was a just one against Mexico when the treaty of 1848 was ratified, they shall fix and determine the amount of the loss or damage sustained, which, being adjusted or determined by the court, shall be paid out of any money in the Treasury not otherwise appropriated; provided, that the amount so to be paid shall in no event exceed the balance of the \$3,500,000, provided by the fifteenth article of the treaty of Guadalupe Hidalgo for the payment of claims of citizens of the United States against the Government of Mexico, which still remains unapplied to that object.

Mr. HALE. I ask that the bill be considered now.

There being no objection, the bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELIPHALET BROWN, JR.

Mr. HALE, from the same committee, reported back, with the recommendation that it do not pass, bill of the Senate No. 334, for the relief of Eliphalet Brown, jr., artist in the Japan expedition.

The bill was laid on the table.

#### HENRY A. BRIGHAM.

Mr. HALE also, from the same committee, reported back, with the recommendation that it do pass, bill of the Senate No. 212, for the relief of Henry A. Brigham.

The bill directs the Secretary of the Treasury to pay to Henry A. Brigham the sum of \$2,000, being the amount of his check drawn in favor of the Assistant Treasurer of the United States at New York, on the 7th of November, 1862.

Mr. HALE. I ask for the consideration of the bill now.

Mr. WILSON and Mr. SPALDING objected. Mr. HALE. I hope the objection will be withdrawn. This is as plain a case as ever came before the House.

Mr. WILSON. Does the gentleman mean to press the bill to its passage without discussion?

Mr. HALE. No, sir; I am willing that it shall be discussed.

Mr. WILSON. Then I withdraw my objection.

Mr. SPALDING. And I withdraw mine with that understanding.

Mr. HALE. In the first place, this claimant is a man of very high character, which I think is an important fact in the case. He has maintained a very lofty character as an upright and honest man. I can appeal to his Representative to sustain me in saying this.

Mr. WILSON. I will state to the gentleman from Pennsylvania that I do not think that question is involved here at all.

Mr. HALE. It is a fact in the case.

Mr. WILSON. There is nothing to show but what this man is of the best possible character. I admit all that. I do not think it is a question involved in the case.

Mr. HALE. It is a fact in the case which I think has an important bearing, although not conclusive, and which ought to be considered. The claimant, who is a paymaster, went to New York to draw his monthly pay, \$38,000. He gave notice the day before to the sub-Treasurer of the amount and the denominations he required. The amount was counted out by a clerk in the sub-Treasurer's office and put on a tray in a drawer in an inner room. The next day, Mr. Brigham called, according to promise. The clerk took out the tray containing, as he said, \$38,000, and proceeded to count it in the presence of Mr. Brigham, he being upon one side of the counter and Mr. Brigham upon the other. When he had counted it to his satisfaction he handed it to Mr. Brigham to count. Mr. Brigham took up the parcels of money and found, instead of six parcels of \$2,000, only five parcels. The money had not been removed at all; it was in their presence.

When this fact was brought to the attention of the clerk he at once began to search for the missing parcel; he went back into the room which he had brought the money from and looked about, but he could not find it, and finally, when the money could not be found, Mr. Brigham offered to be searched upon the spot to banish any suspicion that he had the money; but the clerk did not insist upon it, and they referred the matter to Mr. Cisco to decide whose the loss should be. They both went to Mr. Cisco, and he decided that the delivery was complete when the clerk put the money on the desk, and that if anything was lost it must be the loss of Mr. Brigham. It is not alleged that Mr. Brigham had received one dollar of the money. I believe that no lawyer will say that if it had been a bank which was paying the money to the paymaster, it would have been a delivery. The bank could have been sued for \$2,000, if they had refused to pay it, and made to pay it in any court in the country or anywhere else. Why then should the United States require the paymaster to lose this money when it is not pretended that he got the money?

The inference is that somebody who was about there stole the money. There was a stranger in the neighborhood, a total stranger to the paymaster, a man whom he had never seen before in his life; this man came up and stood in the neighborhood of the money.

Mr. WILSON. I will ask the gentleman whether that feature of the case was not abandoned in the Senate when the bill was under consideration there. Was not the suggestion that the money might have been taken by a stranger who was present entirely withdrawn from the case?

Mr. HALE. I do not know how that is; but I understand this to be one of the incidents of the case.

Mr. WILSON. I will state that that is the case.

Mr. HALE. It is alleged or insinuated by the clerk that the stranger stole the money.

Mr. WASHBURN, of Illinois. Will not the passage of this bill involve the principle that the Government is to become the insurer against all such losses? If we pass this bill, will it not become a precedent?

Mr. HALE. If the money had been delivered to the paymaster, and lost after he had received it and while in his custody, then I agree that the loss should have been his own. But I submit that, in this case there is no evidence to lead any fair-minded man to believe that the money ever went into the hands of the paymaster at all, actually or constructively.

Mr. WILSON. It does appear in this case beyond a doubt that the Government has lost \$2,000. The Government has paid out that amount of money, because the testimony in the case is that



the account in the Assistant Treasurer's office for that day balanced properly. Now, the \$2,000 was taken by somebody.

Mr. HALE. I beg the gentleman's pardon. I think there is no evidence of that kind in the case. My own opinion is that the clerk never counted out the \$2,000.

Mr. WILSON. There must have been some disposition made of that \$2,000, for this reason: the paymaster endeavored to get a \$36,500 check for that \$38,500. The Assistant Treasurer held vouchers, in the form of checks, for \$38,500, given by the paymaster; whereas, in fact, the paymaster received but \$36,500. Consequently, the \$2,000 must have disappeared somewhere. Otherwise, the account of the Assistant Treasurer would not have balanced for that day.

Mr. HALE. I cannot say how that is; but I believe that the evidence is such as to satisfy any reasonable mind that the money never was delivered in any form whatever to the paymaster.

Mr. WILSON. I think that is the case. I do not believe that this money was delivered to the paymaster.

Mr. HALE. I think that none but the very sharpest kind of a lawyer would maintain that this money was delivered. It being a matter of doubt whether this money was delivered or not, (and that is putting the case in the very best possible form for the Government,) then the question arises, whether it is fair that the Government or the individual should lose the money, the latter being a man of undoubted character. I think that, taking the evidence as presented, we cannot come to any other conclusion than that there was no fault on the part of this man; that the money never came into his hands; that he never had the possession or control of it; and that, to hold him responsible for it would be great injustice.

Mr. GANSON. I agree with the gentleman from Iowa [Mr. WILSON] that, from the evidence in this case, it is very clear that there were only \$36,500 delivered, and that the Government took for that amount a check for \$38,500, holding this man responsible for the full amount. Now, I should like to ask, upon what principle of justice would the gentleman charge a man with \$2,000, when he is entirely satisfied that the man never had a cent of it? This check, in my view, was retained wrongfully and illegally. The representative of the Government refused to make the amount of the check correspond with the amount actually delivered.

Mr. HALE. He had to take a receipt or get no money. He had to take a receipt under duress.

Mr. WILSON. As I have said already, I do not think that the evidence in this case shows that the \$2,000 which has disappeared went into the hands of this paymaster. I do not think that he received it. I think that all the evidence in the case clearly rebuts that presumption. It clearly comes to this, that when the paymaster applied for \$38,500 and checked for that amount, and was handed \$36,500, he, instead of refusing to take any of the money, which he had the right to do, in order to get money to pay out to the employees of the arsenal, checked for \$2,000 more than he had received. I do not think that that is a good business rule to establish by the passage of this bill. It may create a precedent which may lead to difficulty and loss to the Government.

Mr. HALE. I agree that the act of the paymaster in receipting for more money than he received was a foolish one. The matter was referred to Mr. Cisco, and he decided that the paymaster should bear the loss. I do not think that that was just. It was neither right in law nor justice. But the paymaster felt bound to get money, and to do so he had to give the check. He had to have money to pay the employees at the arsenal. Mr. Cisco said that he was liable to pay. The question is whether Mr. Cisco was right or wrong.

Mr. WILSON. I think that Mr. Cisco was wrong.

Mr. HALE. Then pass this bill.

Mr. GRISWOLD. I ask the gentleman whether, when the money was lost by the Government agent, and when the paymaster was forced to give a receipt for \$2,000 which he had never received, by the arbitrary demand of the Government agent, it is not a case to be settled by Congress? I beg to assure the gentleman that

the paymaster making this claim is as far above suspicion as any man upon this floor.

Mr. WILSON. I have no doubt of that.

Mr. GRISWOLD. There is no dispute in regard to the facts; and I submit that under the same circumstances any gentleman would have done as he did.

Mr. WILSON. If the gentleman puts it upon that ground, it will stand in this position: if the gentleman had two disbursing agents and they should make a mistake of \$2,000 in account, he asks us to put this thing in the position in which he would be and lose the \$2,000.

Mr. GRISWOLD. If the gentleman concedes that the money was lost by the Government agent then is it fair to make this paymaster responsible?

Mr. WILSON. There was one of the agents in the transaction. There was an affidavit submitted in this case, which I saw in the Globe, by one of the clerks in the office of the Assistant Treasurer in New York, giving an explanation of the transaction; and it occurred to me when I read it that it might be true. Still the clerk might know where the money had gone.

Mr. GRISWOLD. Suppose that he had discovered that the clerk had stolen the money. That clerk was the clerk of the Assistant Treasurer.

Mr. WILSON. I think that it should be settled between the paymaster and the Assistant Treasurer, who received vouchers for \$2,000 more than he paid out.

Mr. GRISWOLD. Will the gentleman indicate how it can be settled in that way?

Mr. WILSON. I think that I can, but I do not think that that is involved in this discussion.

Mr. GRISWOLD. There is no relief except by Congress.

Mr. HALE. I demand the previous question.

Mr. GARFIELD. I ask the gentleman to withdraw that for a moment.

Mr. HALE. I withdraw the demand for the previous question.

The SPEAKER. The morning hour has expired, and the bill goes over until next Friday.

#### REMITTANCE OF A FINE.

Mr. WILSON. I move to reconsider the vote by which the gentleman from Massachusetts [Mr. DAWES] had a fine imposed upon him by the House for non-attendance. Considering the circumstances in his case, I do not think that the action of the House was just. I think every member of the House will bear me out in saying that no member is more faithful in his attendance upon the sessions of this House than the gentleman from Massachusetts. He can always be found in his seat unless detained from the House by sickness, or some other cause which the rules of the House would recognize as a sufficient excuse for his absence.

Mr. ELDRIDGE. Is debate in order upon this motion?

The SPEAKER. It is not.

Mr. ELDRIDGE. Then I object to debate.

The SPEAKER. The gentleman gives his excuse, and the House determines what the penalty, if any, shall be.

Mr. ELDRIDGE. The gentleman gave his excuse yesterday.

The SPEAKER. This subject is governed by the same rules as governed the original proposition.

Mr. WILSON. I only desired to do justice to the gentleman from Massachusetts, as many who were let off without fine were more culpable than he was. He remained here until about one o'clock a. m., and was, as I am informed, and believe, too unwell to remain longer. I am sure he would not have absented himself without good reason therefor.

The SPEAKER. Does the gentleman from Wisconsin still object to debate?

Mr. ELDRIDGE. I do. The gentleman from Massachusetts [Mr. DAWES] gave his excuse yesterday.

Mr. WILSON. I desired to make a statement of the reasons which control my action. Of course if the gentleman from Wisconsin objects, I must yield. I hope the motion will be reconsidered.

The question was put on the motion to reconsider, and it was agreed to.

The question recurring on the motion that the gentleman from Massachusetts [Mr. DAWES] be

excused upon the payment of the usual fees and a fine of ten dollars,

Mr. WILSON moved to amend by striking out the ten dollars.

The amendment was agreed to.

The motion, as amended, was then agreed to.

Mr. HOLMAN. I move to reconsider the vote by which the House last evening imposed a penalty upon the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I ask no favor of that kind.

The SPEAKER. The Chair is informed that the gentleman was excused upon the payment of the usual fees.

Mr. HOLMAN. I move to reconsider that action.

The motion was not agreed to.

#### EXCUSE FOR ABSENCE.

Mr. W. J. ALLEN. I desire to be excused for non-attendance upon the sittings of the House since last Tuesday on account of illness.

Excuse was granted.

#### REMITTANCE OF A FINE.

Mr. BROOMALL. The gentleman from Illinois [Mr. FARNSWORTH] being now the only one on whom the House yesterday imposed an extra fine, I move to reconsider the vote by which that extra fine of ten dollars was imposed.

The motion to reconsider was agreed to.

The question recurring on the original motion, Mr. BROOMALL. I now move to amend by striking out the extra fine of ten dollars.

The amendment was agreed to.

The motion as amended was agreed to.

#### EXCHANGE OF PRISONERS.

Mr. GOOCH. I ask unanimous consent to submit to the House an extract from the testimony of General Grant, given before the committee on the conduct of the war this morning, in reference to the exchange of prisoners.

Mr. COX. What is the object? Does the gentleman propose any resolution or action upon the subject?

Mr. GOOCH. I desire to present it merely for information.

The SPEAKER. The Chair will state that if the question is brought before the House, unless a motion to print is made, and the previous question called, it will be open to any resolution growing legitimately out of it.

Mr. COX. I would like to have the House take up the Senate resolution upon that subject as soon as this matter is read. That would be a very proper way to have the matter taken up.

Mr. GOOCH. I ask unanimous consent to have it read solely for information.

The SPEAKER. That would be in order, and will cut off all subsequent action.

Unanimous consent was given, and the evidence was read, as follows:

"Question. It is stated, upon what authority I do not know, that you are charged entirely with the exchange of prisoners.

"Answer. That is correct; and what is more, I have effected an arrangement for the exchange of prisoners, man for man, and officer for officer, or his equivalent, according to the old cartel, until one or the other party has exhausted the number they now hold. I get a great number of letters daily from friends of prisoners in the South, every one of which I cause to be answered, telling them that this arrangement has been made, and that I suppose exchanges can be made at the rate of three thousand per week; and just as fast as they can deliver prisoners to us I will receive them and deliver their prisoners to them. And the Salisbury prisoners will be coming right on. I myself saw Colonel Hatch, the assistant commissioner of exchange on the part of the South, and he told me that the Salisbury and Danville prisoners would be coming on at once. He said that he could bring them on at the rate of five or six thousand a week.

"Question. There is now no impediment in the way?

"Answer. There is no impediment on our side. I could deliver and receive every one of them in a very short time, if they will deliver those they hold. We have lost some two weeks lately on account of ice in the river."

Mr. GOOCH. The committee were aware that great anxiety existed upon this question, not only among members of the House, but throughout the whole country, and they desired that this information should be given to the country as soon as possible. I ask that the paper read be printed.

The paper was ordered to be printed.

#### REPRESENTATIVE FROM LOUISIANA.

Mr. DAWES. I am instructed by the Committee of Elections, to whom was referred the

credentials of M. F. Bonzano, claiming a seat here from the first congressional district of Louisiana, to make a report, accompanied by a resolution; which I ask may be read, laid on the table, and printed.

The resolution was read, as follows:

*Resolved*, That M. F. Bonzano is entitled to a seat in this House as a Representative from the first congressional district of Louisiana.

The resolution was laid on the table, and ordered to be printed.

Mr. SMITHERS presented the views of the minority of the committee on the same subject; which was laid on the table, and ordered to be printed.

#### REGENT OF SMITHSONIAN INSTITUTION.

Mr. FRANK. I ask the unanimous consent of the House that joint resolution of the Senate (No. 91) appointing General Richard Delafield to be a regent of the Smithsonian Institution, be taken from the Speaker's table and passed.

There being no objection, the joint resolution was taken from the Speaker's table, received its several readings, and was passed.

#### ENROLLMENT BILL.

Mr. SCHENCK. I ask the unanimous consent of the House that bill of the Senate (No. 408) in addition to the several acts for enrolling and calling out the national forces, and for other purposes, be taken up and referred to the Committee on Military Affairs, and ordered to be printed.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### THE PEACE CONFERENCE.

Mr. PENDLETON. I desire to call the attention of the House to the fact that the message of the President of the United States, sent to the Senate yesterday, contains a letter from Mr. Seward to Mr. Charles Francis Adams, giving a detailed statement of the recent interview at Fortress Monroe. It did not accompany the message sent here, for the simple reason that the House had not asked for that communication. I desire to move, if it be agreeable to the House, that this communication from Mr. Seward to Mr. Adams be printed with the message of the President.

The motion was agreed to.

Mr. PENDLETON. I move that twenty thousand extra copies of it be also printed, together with the message.

The motion was referred, under the law, to the Committee on Printing.

Mr. MORRILL. Has the morning hour expired?

The SPEAKER. It has.

Mr. MORRILL. Then I call for the regular order of business.

#### QUESTION OF PRIVILEGE.

Mr. GARFIELD. I wish to say that the resolution which I offered last night, although I am responsible for it, was not drawn by myself, and it expresses what I desired in stronger terms than I intended; I have therefore modified the resolution so as to read as follows:

*Resolved*, That Hon. E. B. WASHBURN be required to answer at the bar of the House why he should not be held in contempt for leaving the Hall of the House without permission on the evening of February 9, instant, during a call of the House, and that he abide the order of the House.

The SPEAKER. The Chair will state that the resolution is not debatable, the gentleman from Illinois [Mr. FARNSWORTH] having moved last evening to lay it on the table.

Mr. FARNSWORTH. Is an amendment in order?

The SPEAKER. It will be if the gentleman withdraws his motion to lay on the table.

Mr. FARNSWORTH. I did not withdraw it for the purpose of enabling the amendment to be made.

The SPEAKER. The gentleman from Ohio had a right to modify his resolution under the rule.

Mr. FARNSWORTH. As I understand that there are one or two gentlemen who desire to be heard upon the resolution, and as I wish to make a few remarks upon it myself, I will withdraw the motion to lay on the table.

The SPEAKER. Then the gentleman from

Ohio [Mr. GARFIELD] is entitled to the floor upon his resolution.

Mr. FARNSWORTH. He was not taken from the floor at all. He offered his resolution and then took his seat. How could I make the motion to lay the resolution on the table while the gentleman from Ohio was on the floor?

Mr. GARFIELD. If the Speaker will allow me I will state that I only yielded the floor after the statement was made that the gentleman from Illinois [Mr. WASHBURN] was absent. I was willing, in view of that fact, that the resolution should be postponed; and I myself made the motion that it should be postponed until to-day, after the morning hour.

Mr. FARNSWORTH. That motion was not made until after I had moved to lay the resolution on the table.

The SPEAKER. The Chair understands the condition of the resolution to be as follows: the gentleman from Ohio [Mr. GARFIELD] offered the resolution; it being suggested that the gentleman from Illinois [Mr. WASHBURN] was not in his seat, he said that he would ask to have it postponed; the gentleman from Illinois [Mr. FARNSWORTH] then rose and moved that it be laid on the table.

#### VISIT OF LIEUTENANT GENERAL GRANT.

Mr. MALLORY. I move that the House take a recess of five minutes, to enable members to pay their respects to General Grant, who is present in the Hall.

The motion was agreed to; and the House accordingly took a recess for five minutes.

When the House was again called to order, Mr. SCHENCK said: In order that the Representatives of the people and all loyal persons present may have a better opportunity of making the acquaintance, at least by sight, of the Lieutenant General, I move that he be invited for a moment to the stand.

No objection was made.

Lieutenant General Grant was conducted to the Speaker's desk, amid general applause, and took his stand on the left of the Speaker.

The SPEAKER. Gentlemen of the House of Representatives, I have the honor of introducing to you this day our heroic defender in the field, the Lieutenant General of the armies of the United States, Ulysses S. Grant. [Great applause on the floor and in the galleries.]

The Lieutenant General bowed to the House, and then withdrew from the Speaker's stand, and took a seat on the floor of the House.

#### QUESTION OF PRIVILEGE.

The SPEAKER. The pending question is the question of privilege. The gentleman from Ohio [Mr. GARFIELD] having offered his resolution last evening as a question of privilege, desired to have it postponed. The gentleman from Illinois [Mr. FARNSWORTH] moved to lay the resolution on the table. The House then adjourned; and the question came up this morning after the expiration of the morning hour. This morning the gentleman from Ohio modified his resolution. The Chair then stated to him that the motion to lay on the table would prevent his debating it. On examination, reflection, and consultation, the Chair is convinced that the gentleman from Ohio, having virtually withdrawn the resolution by its modification, and having offered another, the motion to lay on the table did not apply to it; and that therefore the gentleman from Ohio is entitled to the floor on his resolution.

Mr. GARFIELD. Mr. Speaker—

Mr. MORRILL. I appeal to the gentleman from Ohio to yield the floor to me.

Mr. GARFIELD. Certainly.

Mr. MORRILL. I am very anxious that we shall go on with the internal revenue bill; and I foresee that if this question be brought before the House it will inevitably consume much time. I therefore appeal to the gentleman from Ohio to withdraw his resolution entirely.

Mr. GARFIELD. Mr. Speaker, I have already made an explanation of the resolution as first drawn, in justice to the gentleman from Illinois [Mr. WASHBURN] and in justice to myself, and have stated that it was not my intention that it should express as much as it did. I made a modification of it this morning so that it should as near as possible relate the circumstances of the case involved. But the fact that the gentleman

from Vermont requires time for the tax bill, which is so important to the country, and the further fact—the temper of the House—shown in its action toward members who were fined yesterday, indicate to me that it is the general desire that the resolution should be withdrawn; and I therefore withdraw it.

#### COMMITTEE TO WAIT ON THE PRESIDENT.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
February 8, 1864.

*Resolved*, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives to be appointed by that House to wait on Abraham Lincoln, of Illinois, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1865; and also to notify Andrew Johnson, of Tennessee, that he has been duly elected Vice President of the United States for four years, commencing on the 4th day of March, 1865.

*Ordered*, That Mr. TRUMBULL be of the said committee on the part of the Senate.

The resolution was concurred in.

#### TAX BILL.

Mr. MORRILL. I move that all general debate on the tax bill be closed in one minute after its consideration shall be resumed in Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair), and resumed, as a special order, the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. MORRILL. I move to amend by inserting, after line one hundred and ninety-five, the following:

That section sixty-one be amended by striking out after the words "and all," the words "refined coal oil and naphtha," and inserting in lieu thereof the words "distilled or refined coal oil, distilled benzine or benzole;" also, by inserting after the word "warehouse" and before the words "and no drawback" the words "and the same fees shall be allowed for exports as are allowed to exporters for like services in the custom-houses;" also, by inserting after the word "redistilled," the words "or canned;" so that the section will read:

SEC. 61. *And be it further enacted*, That all distilled spirits and all distilled or refined coal oil, distilled benzine or benzole upon which an excise duty is imposed by law, may, after being inspected, gauged, proved, and marked by the inspector according to the provisions of this act, be removed, without payment of the duty, under such rules and regulations, and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe. The said spirits, oil, or naphtha so removed shall be transferred directly from the distillery or refinery to a bonded warehouse, established in conformity with law and Treasury regulations, and may be transported from such warehouse to any one other bonded warehouse used for the storage of distilled spirits, coal oil, or naphtha. And after the arrival of such distilled spirits, coal oil, or naphtha, at the bonded warehouse within the district of the assessor to which it has been transferred, it shall be again inspected, and the duty shall be assessed and paid on any deficiency or reduction of the number of proof gallons, beyond such allowance for leakage as may be established by the regulations of the Commissioner of Internal Revenue, received at the warehouse, from the number of proof gallons as stated in the bond given at the place of shipment. And any distilled spirits, coal oil, or naphtha in the public warehouses shall be subject to the same rules and regulations, and be chargeable with the same costs and expenses in all respects to which imported goods deposited in public store or bonded warehouse may be subject; and shall be in charge of a proper officer, to be designated by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits, oil, or naphtha so stored in said warehouse, which shall be at the risk of the owner of the said spirits, oil, or naphtha. And all labor on the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor of the warehouse. And the same fees shall be allowed for exports as are allowed to exporters for like services in the custom-houses. And no drawback shall in any case be allowed on any distilled spirits, coal oil, or naphtha, upon which an excise duty shall have been paid, either before or after it shall have been placed in a bonded warehouse: *Provided*, That any distilled spirits, coal oil, or naphtha may be withdrawn from the bonded warehouse after payment to the collector of internal revenue for the district in which the warehouse is situated of the duty imposed by law, or may be removed without payment of the duty for the purpose of being exported, or for the purpose of being redistilled or canned for export, after the quantity and proof of the spirits, oil, or

naphtha to be removed has been ascertained and inspected according to the provisions of law, under such rules and regulations and the execution of such bond or other security as the Secretary of the Treasury may prescribe. And any spirits, oil, or naphtha so removed for distillation shall be returned to the warehouse and shall be again inspected, and the duty shall be paid to the said collector on any deficiency or reduction beyond the allowance for loss by redistillation established by the Commissioner of Internal Revenue, in the number of proof gallons received at the warehouse for the purpose of being exported, as aforesaid.

The amendment was agreed to.

Mr. HOLMAN. I move to amend, in line one hundred and ninety-eight, by striking out the words "and fifty cents."

Mr. KASSON. I suggest to the gentleman from Indiana that he will reach his object more simply by moving to strike out lines one hundred and ninety-six, one hundred and ninety-seven, and one hundred and ninety-eight.

Mr. HOLMAN. I accept the modification. I move to amend by striking out the following clause:

That section sixty-four be amended by striking out "one dollar," wherever it occurs, and inserting in lieu thereof the words "one dollar and fifty cents."

The section proposed to be amended is as follows:

Sec. 64. And be it further enacted, That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity, or for fractional parts of a barrel, which shall be brewed or manufactured and sold, or removed for consumption or sale, within the United States or the Territories thereof, or within the District of Columbia; which duty shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fermented liquors so chargeable with duty as hereinafter required: *Provided*, That fractional parts of a barrel shall be halves, thirds, quarters, sixths, eighths, and sixteenths; and any fractional part containing less than one sixteenth shall be accounted one sixteenth; more than one sixteenth, and not more than one eighth, shall be accounted one eighth; more than one eighth, and not more than one sixth, shall be accounted one sixth; more than one sixth, and not more than one quarter, shall be accounted one quarter; more than one quarter, and not more than one third, shall be accounted one third; more than one third, and not more than one half, shall be accounted one half; more than one half shall be accounted one barrel: *Provided further*, That beer, lager beer, ale, porter, and other fermented liquors in bottles, shall be assessed, according to the quantity contained therein, at the rate of one dollar for thirty-one gallons, when the duty has not been previously paid on the liquors contained therein.

Mr. HOLMAN. Mr. Chairman, the present duty of a dollar per barrel was deemed enormous at the time it was adopted. The judgment of business men was that sixty cents per gallon was as much as it could bear. Put that duty up to \$1 50, and you make it at least three times as high as in any other country. I believe there is no country where it pays more than from forty-three to forty-seven cents per barrel of thirty-two gallons. Beer is an article of general consumption, and is much healthier than spirituous liquors. Especially is this oppressive where a very cheap article of beer is manufactured—what is called common beer—which is required under existing laws to pay as high a tax as the more expensive and valuable species of malt liquors. Looking at this as a question of revenue alone, I trust that the revenues of the country will not be oppressed, and the people themselves will not be oppressed, by this unnecessary increase of taxation.

Mr. SPALDING. I propose to vote for this amendment; and I shall do so in obedience to the wishes of a very large class of my constituents.

Mr. MORRILL. I raise the point of order that the gentleman from Ohio, [Mr. SPALDING], as he does not rise to oppose the amendment, is not entitled to the floor.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SPALDING. I have said all that I proposed to say.

Mr. MORRILL. As I understand the matter we have more than quadrupled the duty upon spirits since the time when we first levied fifty or sixty cents a barrel upon beer. It is only recently that ale and beer have been brought into competition with spirits which have paid two dollars per gallon. Now, the price of ale and beer, it must be admitted, has advanced very largely from what it was formerly. The price of ale or beer per barrel was formerly from four to six dollars; the price at the present time is from ten to twelve dollars. The retailers make the largest profit on this article. At five cents a glass, the usual rate

near the place of its production, it yields to the retailers a profit of one hundred per cent.; that is, a barrel when retailed will bring twenty dollars.

Now, the tax is not going to increase the price; it is the demand of the retailers that has this effect. They ask in many cases from ten to fifteen cents a glass for it, giving them a most extravagant profit. I suppose that if we increase the tax to \$1 50 we shall not do more than place it upon a relative competition with spirits. I think that with this increase the profits of the retailers will be as large as they ought to be.

Mr. JOHNSON, of Pennsylvania. I move, as an amendment to the amendment, to strike out "fifty" and insert "twenty-five," so that it will read "\$1 25."

I offer this amendment *pro forma*, for the purpose of saying that it is my deliberate opinion that, as a revenue measure, the increase of tax upon this article will operate against the revenue. I desire to remind the committee of the fact that the article proposed to be taxed differs from spirituous liquors in this, it has but one purpose, that of consumption as a beverage. Hence the people are not compelled to use it as they are spirituous liquors, which are employed for various manufacturing purposes relating to colors, chemicals, and the like.

Now, what has been the effect of the increased taxation upon spirituous liquors? This increased taxation has in my section of the country entirely suspended the manufacture of those articles. In my own county there were one year ago more than a dozen distilleries in operation, paying a very heavy revenue (I have not ascertained how much) to the Government. Not one of those distilleries is operating to-day. They are all standing idle, and must stand idle as long as the tax upon spirituous liquors remains at its present rate; and this, notwithstanding the fact that spirituous liquors are required for other purposes than for use as a beverage.

It may be the fact, as the gentleman from Vermont [Mr. MORRILL] states, (for I am not informed on this question, and I know that he takes pains to acquaint himself with any subject upon which he speaks,) that beer produces, when sold at retail, one hundred per cent. more than the wholesale price of the manufacturer. But this is not all profit. There are large deductions to be made. Most of these articles are manufactured in the winter season and are kept until summer for consumption. Large quantities sometimes spoil upon the hands of the holder from not being kept in proper vaults. If improperly stored away or handled, they are very likely to become unfit for use. It is true that the price has gone up with the price of all other things. The cost of manufacture and the cost of the material used, the cost of everything, has been enhanced. And I know from conversation I have had with gentlemen largely engaged in this business, some from my own district, who send their manufacture to the city of New York, that if we impose this additional tax of fifty cents we will so embarrass them that they will have to abandon the business altogether. There is nothing which induces this manufacture but the use of this article as a beverage, and it will be dispensed with as a beverage if this tax be imposed upon it. If the tax is put upon moral grounds I have no argument to make. I think that the imposition of such a tax upon moral grounds is improper, and that as a revenue measure it will certainly fail to meet the object which the committee have in view in increasing this tax.

Mr. KASSON. Mr. Chairman, when this proposition was before the House last year, a proposition was made to increase the tax to the point proposed by the Committee of Ways and Means, and I then opposed it upon the ground that while it could undoubtedly bear the tax of one dollar a barrel, I thought at that time it could bear no more without inflicting a serious injury to the production of the article. This article is peculiar, and essentially distinct from the article of spirits which we have taxed at this high rate. While the manufacturer of beer, as stated by the gentleman from Pennsylvania, is obliged to sell within a limited time, the manufacturer of spirits may store it and wait for a market for years, and the spirits will improve while he waits. Again, the manufacturer of beer is obliged to keep a large amount of money invested in barrels, for in the

course of trade, when he sells beer the barrels are returned. Here is a large sum invested, amounting to many thousand dollars.

A large portion of the community, the Germans particularly, when provisions are high, find in this article a substitute for tea, coffee, and ardent spirits, even mixing it with water and taking it morning, noon, and night as the regular support of the family; and I trust that we will not put this additional burden on it when the articles out of which it is produced have largely enhanced in price, thus necessarily enhancing the value of the article. I say that it cannot bear the added tax of fifty cents, or even of twenty-five cents as suggested by the gentleman from Pennsylvania, [Mr. JOHNSON,] and I trust, therefore, that the motion of the gentleman from Indiana will be adopted, so that we may leave the tax where it is.

Mr. JOHNSON, of Pennsylvania. I withdraw my amendment.

Mr. BROWN, of Wisconsin. I renew the amendment. I wish to make a few remarks in addition to what has been said, and I wish to call attention to another aspect of the case. I know that there are various members of the House who look upon a tax upon everything of this kind as tending toward temperance. I have discovered in my experience that beer supplies the place of stronger drink, and is used by those who before were in the habit of taking the worst and poorest sort of spirits. In the city where I live drinking is more general than in any other city, and from what I have observed I do not think that there is a city in New England where drunkenness is so rare and where drunken men are so seldom seen. I believe that those who before took the poorer and cheaper spirits, which were intoxicating, now take malt liquors with which there is scarcely a chance of disturbing the brains. And beyond that, with a large class of our population it becomes the means of social enjoyment. We must recollect that we have taxed the poorer classes of our people almost out of the power of social enjoyment. The food they eat, the clothes they wear, the houses they live in are, and I do not know but after this session of Congress the very light they see by and the air they breathe will be, the subject of taxation. I think some little consideration should be paid to that class of persons who, gathering around the social board, take these lighter liquors which never intoxicate, but are conducive rather to health. I therefore hope that the original proposition to strike out this increased tax will prevail. I withdraw my amendment.

The question recurring on the amendment offered by Mr. HOLMAN,

Mr. MORRILL demanded tellers.

Tellers were ordered; and Mr. MORRILL and Mr. HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 68, noes 39.

So the amendment was agreed to.

Mr. INGERSOLL. I propose to offer an amendment, to come in after line one hundred and eighty-three, page 8.

Mr. MORRILL. That is going back on the bill, and I object to it now.

Mr. INGERSOLL. When shall I have an opportunity?

Mr. MORRILL. By and by.

Mr. INGERSOLL. I will propose it now to line one hundred and ninety-eight of the next section.

The CHAIRMAN. That whole clause has been stricken out, so that there is nothing left to amend.

Mr. INGERSOLL. Then I will move it to the next section.

The CHAIRMAN. That has not yet been reported by the Clerk.

The Clerk then proceeded with the reading of the bill.

Mr. INGERSOLL. I have agreed to submit to the Committee of Ways and Means for their action, between this and to-morrow, the amendment which I intended to propose. I propose now another amendment, to come in after line two hundred and twenty-two, by way of a proviso, as follows:

*Provided*, That no license shall be issued to any person, firm, or corporation who distills or manufactures spirits for sale, who shall distill or manufacture less than two hundred gallons per day.



The object of this amendment is to protect the legitimate manufacturer of high wines who manufactures and pays a duty upon it of two dollars a gallon.

Mr. ASHLEY. I hope my friend will call the attention of the gentleman from Kentucky [Mr. MALLORY] to that.

Mr. INGERSOLL. I will call, not only his attention, but the attention of the whole House, and especially of the Committee of Ways and Means, to it. Under the law as it now stands licenses for manufacturing high wines, no matter to what extent it is carried on, can be had for fifty dollars a year. If they manufacture less than a specified quantity, they may have a license for twenty-five dollars. Now, I have knowledge of the fact that in my own town alone not less than thirty stills for manufacturing high wines have been made and sold to parties who have or can obtain licenses, and who have manufactured with them two or three barrels a day. They pay the license, and if they are detected in this illegitimate manufacture of whisky, under the law as it now stands they simply forfeit the still, and there is no personal penalty attached to a violation of the law. The consequence is that in the cities of Chicago, St. Louis, and Peoria, stills of a sufficient capacity to manufacture one, two, or three barrels a day have been sold to parties who obtain licenses to manufacture spirits, but who carry on the business of producing contraband whisky, on which they pay no tax whatever.

Now, if the law provided that no license should be granted to any person, firm, or corporation that should manufacture less than two hundred gallons a day, you would cut off all this contraband manufacture, and you would derive from the legitimate manufacture the tax of two dollars a gallon, which is lost, if this thing is allowed to go on, to the Treasury.

Now, if there is any particular locality which should be excepted, as perhaps some districts in Kentucky, Pennsylvania, and Tennessee, where there may be small manufacturers of whisky of a superior quality, out of peaches or rye, they may be, so far as I am concerned, excepted. But if we desire to protect the Treasury and procure the greatest amount of money possible, no person ought to be permitted to carry on a distillery unless he manufactures two hundred gallons a day. No establishment that carries on the business in any of the States north of the Ohio river, so far as I know, runs less than from three to five hundred, and often two thousand bushels a day, making from twenty-five to two hundred barrels of whisky of first proof. By this amendment I propose to protect the Government, and to protect those men who pay a tax of two dollars per gallon, against the contraband manufacturer of whisky and high wines, who pay no tax on the article, and only avail themselves of their license to defraud the Government. I hope that for that reason my amendment will be adopted.

Mr. MORRILL. Where does the gentleman propose to have his amendment come in?

Mr. INGERSOLL. After line two hundred and twenty-two. I will say that there are no distillers in the northern or western States that run less than two hundred gallons a day. There may, however, be some such in Kentucky.

Mr. MALLORY. I must object to the amendment offered by the gentleman from Illinois. I cannot see what good purpose it is to effect. The sort of distillation which the gentleman speaks of—on a small scale—is, in my estimation, as legitimate a business as that done on a large scale. The distiller, in each case, pays his license, and in each case the product of the distillery is taxed by the Government. Why should we discriminate, therefore, in favor of the large producers and against the small ones? It is true that, in my State, there are a good many persons who have small establishments where they produce grape and peach brandy, and occasionally distill corn into whisky, good old Bourbon whisky, sir, which is not made in such quantities as is the stuff which the constituents of the gentleman from Illinois make, and which he calls whisky. Why he should aim to deprive the people of the right to make these beverages when they pay a license, and pay a tax on the article produced, is more than I can say. I did not give full attention to what he said, as I did not know on what subject he was speaking till he had got pretty well under

way. But I understood him to say that the permission to distill in small quantities furnishes facilities for frauds and for evading the payment of the revenue. I cannot see how that is.

I will tell the gentleman, however, that the high tax which we impose on whisky at this time, by which its price is brought up to \$2 50, \$3, and even \$4 a gallon, will beget that sort of illicit distillation that is practiced so extensively in Ireland and England, where a man puts up a small still in his cellar, completely concealed from the public view, and runs perhaps five or six gallons of whisky a day, making an immense profit by it, paying no license and no tax on the article produced. He buys a bushel of corn at twenty-five or thirty cents, and makes six or eight gallons of whisky a day, which he can sell for three or four dollars a gallon. His business is much more profitable than any other in which a mere laborer can engage. Thousands will be induced to resort to this thing everywhere. You may try to prevent it by the vigilance of your revenue officers. You can do it in that way, but in no other. You certainly cannot do it by discriminating against the small producers and in favor of the large ones. I hope, therefore, that the amendment of the gentleman from Illinois will not be adopted.

Mr. ODELL. I move to amend the amendment by reducing the limit to a hundred gallons a day.

Mr. HOOPER. If the gentleman will permit me, I will say, that if this amendment is to be adopted, this is not the proper place for it to come in. It should come in as an amendment to the seventy-ninth section. And if the gentleman from Illinois will withdraw his amendment now, I will call his attention to the subject when that section is under consideration.

Mr. ODELL. I will withdraw my amendment.

Mr. MALLORY. I suggest to the gentleman from Massachusetts that the amendment might as well be submitted to the committee now, and be acted on.

Mr. INGERSOLL. I have no desire whatever to discriminate against any honest man or any legitimate traffic.

Mr. MALLORY. I so understand.

Mr. INGERSOLL. I would be perfectly willing to make it twenty-five gallons a day instead of two hundred. Perhaps the limit of one hundred gallons would answer the purpose. The object I have in view is simply this: that a man shall be required to carry on this business so extensively as to notify the world around him what business he is carrying on. For instance, as the gentleman from Kentucky says, a man may, without license, take a little still into his cellar or into his garret, and distill his ten gallons a day, which, under the present tax, will net him a profit of twenty dollars. He might possibly run one barrel, of forty gallons, at a profit of eighty dollars a day. I know that, as the law exists now, there is no adequate protection to the Treasury, and to the legitimate manufacturers of high wines. Under our law a license may be procured for fifty dollars, which the illegitimate manufacture of twenty-five gallons of whisky will reimburse. Yet he may select some place to carry on the business of manufacturing high wines under his license, which cannot be discovered, and if discovered the only penalty is the forfeiture of the apparatus used in the manufacture. I am willing, if the Committee of Ways and Means recommend it, to except Kentucky; but I would prefer that all the States should be affected by the provision, if it will not inflict any hardship on honest men. The legitimate manufacture of whisky, if protected, will yield an annual duty of \$80,000,000; although there is not perhaps a single manufactory running to-day. It is supposed by those who are most familiar with the subject that it is the illegal and contraband manufacture that is supplying the market. We must protect the legitimate manufacture or else we will derive no revenue from the business. I desire that the business, when carried on at all, shall be carried on to such an extent as that it shall be notorious, because a man cannot manufacture a hundred gallons a day without sufficient machinery and apparatus so that his neighbors may know what he is about. I hope my amendment may pass—either at a hundred or two hundred gallons.

Mr. MALLORY. I move to amend the amendment by inserting one hundred and ninety gallons. I have no doubt, Mr. Chairman, of the honesty of purpose of the gentleman from Illinois. My objection to his resolution is, that I do not think it will secure the object which he evidently aims at. The only objection that I have to the present heavy tax imposed on whisky is that it will beget a fraudulent production of the article, which will go on increasing from year to year until the Government will come to the conclusion that, instead of raising revenue by this enormous taxation on whisky, there will be actually less revenue gained from it than if the duty imposed were smaller. I believe that when this tax of two dollars a gallon goes into operation hundreds of men throughout the country—in the gentleman's State as well as in mine—will be induced to resort to the business of secret distillation. I am sorry to say that men do regard acts of this sort as not so morally offensive as they really are. This business of illicit distillation will go on increasing until the tax on whisky is reduced. I believe that the Government will be brought to that before the expiration of two years.

That is one of the reasons, Mr. Chairman, why I, in the Committee of Ways and Means and here on this floor, have always opposed this large tax on whisky. I am disposed to regard whisky—as many other gentlemen do—as a legitimate source of taxation, as an article out of which as large a revenue as possible should be raised. But the question is, whether we can raise more revenue by a small duty or a large one. I contend that a large tax begets illicit distillation; and the result must necessarily be a diminution of revenue. If you render this distillation on a small scale illegal, you will increase the disposition on the part of small producers to engage in this business secretly. As it is now, not one out of twenty of them would attempt to evade the law. Men are willing to pay the tax provided they can make a profit on their business after the payment of the tax. And they will continue to do so.

Many of these distilleries of which the gentleman speaks do not produce more than a barrel or two of properly distilled peach or apple brandy or whisky per day. Such is the case in Kentucky, where old Bourbon, the best whisky that is produced, is manufactured in these limited quantities in copper stills. I do not want to see this business rendered illegitimate. I do not see why the man who wants to make that sort of whisky in small quantities shall not have a license to do it. I do not see why we should declare by our legislation that, if a man is determined to carry on that kind of business, he must do it in violation of law, must do it in some secret place, in some cavern of a mountain, or in the cellar of his house. I wish him to be allowed to pursue this business, and to be required to pay the tax on it. I desire that the tax-gatherer shall be instructed to hunt him out and collect the tax. I want the tax reduced, but whatever it is I want it paid.

Mr. WEBSTER. Mr. Chairman, I listened with some attention to the remarks of the gentleman from Illinois, [Mr. INGERSOLL:] yet, in consequence, I suppose, of my own dullness, I have failed to see any reason why his amendment should prevail. It strikes me that one effect of the adoption of that proposition would be to give to the large capitalists the control of one of the most important branches of industry in the United States. It would tend to make of this business a monopoly, favoring the rich man and discriminating against the poor man. So far as my own district is concerned I do not believe that there can be found in it more than one distillery that makes two hundred gallons of high wines per day, while there are a great number of small manufacturers, making from five to twenty-five gallons per day. The liquors that are made by the small manufacturers are much superior in quality to those made by the large manufacturers. The small manufacturers—I speak from my personal observation in my own section of country—are as respectable and honest men as those who manufacture in large quantities. If, then, the character of the article produced by the small manufacturer is superior, and if the Government gets the same amount of revenue from the small manufacturer as from the large, I cannot understand why his legitimate business should be broken up for the benefit of the

capitalist, the large manufacturer. The amendment of the gentleman from Illinois would make an unjust discrimination against labor and against the poor men of the country, although I know that the gentleman had no such intention.

Mr. INGERSOLL. Will the gentleman allow me to say a word here? As he has already disclaimed for me any intention to legislate unjustly against the poor man, I desire to state that in the great Northwest—Ohio, Indiana, Illinois, Iowa, and all those States—not a single distiller can be found in all that country who manufactures less than five hundred gallons a day.

Mr. WEBSTER. Then, Mr. Chairman, if this amendment will not affect all the gentleman's constituents and the people of the great Northwest, it strikes me as very unjust for him to ask that it shall be imposed upon my people, discriminating against the interest of my section of the country; for, as I have remarked, the manufacturers in my section are small manufacturers. In thus striking a blow at one of the interests of my people, while favoring unduly the interests of his people, the amendment appears still more unjust. Such sectional legislation should not be countenanced.

Mr. INGERSOLL. The gentleman will understand me as meaning the legitimate manufacturers, those who regularly pay the internal revenue tax.

Mr. WEBSTER. It is the business of the assistant assessors of internal revenue in every county of the United States to make proper inquiries and investigations; and if they discharge their duties, they can discover any effort to evade the law; they can ascertain where all these small manufacturers carry on their business. I maintain that it is unjust to punish, by an enactment of this kind, the small manufacturers, because there are in the country dishonest men who endeavor to evade the law.

I hope, therefore, that this House will adopt no such proposition as that now offered, whether the quantity be fixed at two hundred, one hundred, fifty, or twenty-five gallons. Let every man have his just chance in the manufacture of this article.

Mr. MALLORY. I withdraw my amendment.

Mr. CLAY. I renew the amendment. I hope that no such proposition will pass this House, making a discrimination against small distillers. It appears to me that it would be legislation in favor of capital against labor—the rich against the poor. In my district spirits are distilled in small quantities by the farmers, who, in many places where they have no good roads, convert their crops into spirits. I think it unjust, therefore, to prevent our citizens from following their legitimate business. If men cannot distill spirits on a small scale without cheating the Government, I do not see why the Government will not be cheated when spirits are distilled upon a large scale. But, sir, there is nothing in that argument. You cannot distill spirits without using a great deal of wood. The grain is required to be ground, and for that purpose it must be taken to the mill. It seems to me impossible to distill even in cellars or out-houses without it being discovered. You cannot carry on a distillery without the whole neighborhood knowing it.

I hope, sir, that no discrimination will be made in favor of large distilleries and men of capital at the expense of the farming interest. It is a legitimate business in my district, and the best spirits are made by those who only distill in small quantities. I hope that the amendment will not pass.

Mr. A. MYERS. I presume that the amendment of the gentleman from Illinois is misunderstood. I think that the gentleman from Kentucky and the gentleman from Maryland have misunderstood it. The gentleman from Illinois means that all distilleries making less than five hundred gallons shall go on without paying any license at all, and in that view of the case I think it will suit the gentlemen.

Mr. MALLORY. The law provides that no man shall distill who does not procure and pay for a license.

Mr. MORRILL. I understand that the gentleman from Illinois proposes to withdraw his amendment.

Mr. INGERSOLL. I will withdraw my amendment, proposing to offer it at another place in a modified form, so as to suit the gentleman

from Kentucky and the gentleman from Maryland.

The Clerk proceeded with the reading of the bill.

Mr. SCHENCK. I move to add the following:

*Provided further, That no person between the ages of twenty and forty-five, who is not enrolled for military duty, or regularly exempted from enrollment, shall be entitled to a license as a peddler.*

Mr. Chairman, I will explain in one word what is the object sought to be accomplished by that amendment. Now, in the midst of this war, a great number of persons, and especially foreigners not liable to the performance of military duty, who take care not to be naturalized by making a declaration of intention to become citizens so as to subject them to the laws requiring military duty, go through the country as peddlers. While I would permit the women and the aged who were not liable to enrollment, persons who by sex or age are exempted from the performance of military duty or enrollment for that purpose to carry on the business, I desire to declare by law that all foreigners and others between the ages of twenty and forty-five shall not hawk any goods throughout the country unless they can show that they are regularly enrolled, or have been regularly exempted.

Mr. MORRILL. I see no objection to that amendment.

Mr. GANSON. This is a revenue bill, and will it not diminish the revenue?

Mr. SCHENCK. I think not. It allows the women and the aged to take up the business.

Mr. GANSON. It ought to be in a military bill.

Mr. SCHENCK. It is in the right place here. It does not prevent any person availing himself of this as a means of livelihood who has been regularly enrolled and who is waiting for a draft, or who has been regularly exempted.

Mr. INGERSOLL. I move to amend by inserting in line two hundred and thirty-four, page 10, after the word "commission," the following:

*And no one shall be licensed to distill spirits unless the assessor is satisfied that the person applying for the license has the necessary apparatus for distilling not less than fifty gallons daily.*

By this amendment I believe I have avoided the objections made by the gentleman from Kentucky [Mr. MALLORY] and by the gentleman from Maryland, [Mr. WEBSTER.] The parties are not required by this proposed amendment to manufacture fifty gallons a day, or even one gallon; but the assessor shall not issue them a license unless they have an establishment or apparatus by which they could make fifty gallons a day, though they need not manufacture that amount unless they choose.

Mr. GANSON. What is the object?

Mr. ELDRIDGE. Is it the object of this amendment to require that a party desiring to distill spirits shall have an apparatus that is unsuitable to the quantity he is able to distill?

Mr. INGERSOLL. No, sir; that is not the object. I imagine that there is no one who desires to manufacture whisky or high wines in any of these forms who does not, if he intends to carry on a legitimate business, require an apparatus by which he could manufacture fifty gallons a day. My object is to protect the legitimate manufacture against a contraband article; and to that end I propose that a man who desires to manufacture so small a quantity as fifty gallons a day shall have an apparatus which shall necessarily be patent to the inspector; so large that the inspector cannot fail to know that he carries on the business. If this amendment is not adopted, any person may take out a license allowing him to manufacture, without limiting the capacity of the establishment by which the business is to be carried on, and he may hide his apparatus in a cellar or a garret, and there secretly manufacture a half barrel or a barrel a day. He can do so secretly that his place of manufacture is not known and cannot be known by the inspector or the assessor; and although such party may pay the small license of fifty dollars to the Government, he will pay no duty on the article manufactured.

Now, the object of the amendment is to require that parties shall have an apparatus that shall be capable of manufacturing fifty gallons a day at least, so that it may be open and notorious to the officers of the Government. In short, it is to pro-

tect the legitimate manufacture against contraband competition.

Mr. MORRILL. I have listened attentively to the gentleman from Illinois, being desirous to ascertain whether his proposition would really be of any benefit to the Government, and I certainly have not been able to see that it would give any additional security, but think it would rather withdraw that security which we already have. How it is the gentleman proposes to collect any more tax from a party engaged in this illicit manufacture, by withholding from him a license, I cannot see. The very fact that he has a license enables the officers of the Government to know that he is carrying on that kind of business, and that he must be watched. I think the gentleman's amendment rather tends to withdraw the security we have now.

Mr. MALLORY. I move to amend the amendment of the gentleman from Illinois by inserting "sixty" in the place of "fifty." I move the amendment merely that I may make a remark. If I understand the amendment of the gentleman it is to confine the issuing of licenses to parties who manufacture at least fifty gallons a day. They must show to the inspector that their apparatus is capable of doing that amount of work. The gentleman argues that if you confine the issuing of licenses to distilleries of that capacity, they will have to be so large that they cannot be hid in garrets and cellars, but will be open to the view of the inspectors. If you adopt the amendment of the gentleman see what a strait you reduce men to. If a man wants to manufacture less than fifty gallons a day, he will get out a license, if he is permitted to do so and he is an honest man. Why not let him do it? The gentleman says that if the party happens to be a rogue he would conceal his apparatus, and therefore no man should have the privilege allowed him of manufacturing a smaller amount than fifty gallons daily. Why, you tempt honest men to become dishonest. If you do not allow men to have a license, you tempt them to get machinery and manufacture secretly. You bring this temptation to bear upon that class of men in the country who, perhaps more than anybody else, need the profits of distilling this article; men who have not the capital to engage in the business largely, even to the extent of fifty gallons a day. And let me tell the gentleman that the apparatus that would be suitable to produce fifty gallons a day would not be required, perhaps, to produce the eight, ten, or twenty gallons that one of these manufacturers might desire to produce in a day. It seems to me that the whole effect of the gentleman's proposition is to encourage and promote frauds, to promote the non-payment of revenue to the Government of the United States, to promote dishonesty; and for that reason I hope it will not prevail. I now withdraw the amendment to the amendment.

Mr. SCHENCK. I renew the amendment to the amendment in order that I may say that this appears to be an attempt to legislate in favor of the capitalists and heavy distillers as against the men of small means and capital engaged in this business. I suppose the idea comes from the British system of restrictions upon little distilleries hid away among the hills to escape the excise duty, and as far as that is its object, there seems to be reason in the amendment; but that reason is, I think, overborne by the objection that in this country, where every man, great or small, is struggling to get on in the world, we put the restriction on men of small means for the benefit of large distillers, like the distillers of Peoria county, Illinois, or of Montgomery county, Ohio, in which I live; for I believe that the gentleman from Illinois [Mr. INGERSOLL] and myself have the distinction, good or bad as it may be, of representing about as much of this business as any gentleman on this floor.

A MEMBER. And of using the product, too. [Laughter.]

Mr. SCHENCK. I do not speak of that; but since the gentleman speaks of using the article, it reminds me of another argument; this is a discrimination against good whisky, for the best of whisky is made in these copper stills by distillers of small means up in the mountains of Pennsylvania and elsewhere, and it is proposed to legislate against them and throw the whole business into the hands of those who in the gentleman's district and mine make this liquid upon a large

scale but of inferior quality. It only suggests, to me, therefore, another reason for opposing this amendment. If we must have liquor let it be good, for I believe, bad as drinking may be, that more persons are injured by the bad quality of the liquor than they are by the quantity. I withdraw the amendment to the amendment.

The question was taken on Mr. INGERSOLL's amendment, and it was disagreed to.

Mr. COLE, of California. I move to amend the clause by adding to it the following proviso:

*Provided, That when the amount distilled by any one person or firm shall be less than five hundred gallons per annum no license shall be required.*

Mr. Chairman, all the vintners in the country are in the habit of manufacturing small quantities of brandy out of the lees and sediment that result from the fermentation of the grapes. The quantity they manufacture is but small, and is generally used for the purpose of perfecting the wine afterwards. They run the still only for a few days in each year, or perhaps for a week or two, and do it only for the purpose of working up this refuse matter. But if there is a license required, they will of course be unable to use up this substance, and it will be so much loss.

It is for the purpose of meeting such cases that I have introduced this amendment. Some of my constituents have written to me upon the subject, and have presented very forcible reasons why the amendment should be adopted. I believe that it would result advantageously to the revenue, because the brandy so manufactured will pay the twenty-five cents a gallon already provided for by law, whereas if the amendment is not adopted there will be so much absolute loss, both to the persons who make the wine and brandy and to the revenue.

Mr. MORRILL. I hope the amendment will not prevail. The provisions of the present law are very favorable to these manufacturers of grape brandy and peach brandy and apple brandy. Only twenty-five cents a gallon is imposed on it; and if the amendment proposed by the Committee of Ways and Means be adopted, the duty will be but fifty cents a gallon. The amount of profit on a single barrel will pay for the license.

Mr. COLE, of California. The gentleman misunderstands me; I do not propose to take off the excise duty, but only the license for making brandy.

Mr. MORRILL. I understand that.

Mr. MALLORY. I move to amend the amendment by inserting five hundred and one gallons instead of five hundred. I do so for the purpose of giving my support to the gentleman from California in the motion he has made. I think it evidently a just one. The gentleman from Vermont [Mr. MORRILL] suggested that the producer of peach and apple brandy is now protected by having the product taxed less than whisky is taxed.

Mr. MORRILL. I alluded to the duty imposed on foreign brandy, not to anything else.

Mr. MALLORY. The business proposed to be protected by the amendment of the gentleman from California [Mr. COLE] is a limited one. Whisky is not produced to a large extent or by many persons in quantities less than five hundred gallons a year, but apple, peach, and grape brandy is. Farmers who have a surplus crop of peaches and apples, convert them into brandy, which is very much esteemed in some regions of the country. If this fruit were not converted into brandy it would be wasted and lost. It may be asked why it should be taxed less than whisky. For the reason that the slop produced from corn and rye used in distillation yields a large profit to the distiller; but the residue from peaches and apples used in distillation is good for nothing, is a dead loss. The difference between the profit made by the manufacturer of whisky and the manufacturer of peach and apple brandy is greater than the difference of duty proposed by the Committee of Ways and Means. I propose, at the proper time, to offer an amendment reducing the duty on peach and apple brandy. I am reminded that the time is past; that that clause was acted upon while I was unfortunately absent. But on some occasion, before the bill is reported by the Committee of the Whole on the state of the Union, I will ask the committee to go back to that section and act upon it. I hope the amendment of the gentleman from California will prevail. I see no reason in the world why it should not. The

tax imposed on the product of this distillation will be permitted to stand; and all that the gentleman proposes is to relieve these manufacturers from the necessity of taking out a license. I think that to that extent they ought to be relieved.

Mr. MORRILL. I trust the amendment of the gentleman from California and the amendment to it offered by the gentleman from Kentucky will be voted down. If we intend to have any control at all of these distillers I think it very important to require all of them to take out a license. It will be utterly impossible to keep track of these men unless they are compelled to take out a license. If we do not we will allow small distilleries to spring up all over the country. Any man who will manufacture less than a certain amount would be permitted to have a distillery without paying license. I am sure that that is a condition of things which we ought by all means to avoid.

Mr. MALLORY. I withdraw my amendment, and move to amend the amendment of the gentleman from California by inserting five hundred and two gallons. I do this for the purpose of suggesting to the gentleman from California, in order to meet the objection of the gentleman from Vermont to his proposition, to reduce the license required of those who will make not exceeding five hundred gallons a year to fifty cents. That will insure the safety proposed to be secured by the gentleman from Vermont in requiring every distiller to take out a license; while it will relieve the small producer from paying a large license which is burdensome to him.

Mr. COLE, of California. I rise to offer an amendment to the proviso.

The CHAIRMAN. There is an amendment to the amendment already pending. No other amendment is in order.

Mr. MALLORY. I withdraw the amendment to the amendment.

Mr. BROWN, of Wisconsin. Will the gentleman from California allow me to suggest that the annoyance of taking out a license, where a farmer manufactures currant wine, or where, as in California, he manufactures wine from grapes, is even greater than the amount to be paid; and I hope that the gentleman will insist upon his amendment as he offered it.

Mr. COLE, of California. I was going to propose that, in order to obviate the objection raised by the gentleman representing the Committee of Ways and Means, we specify brandies made from grapes, apples, peaches, currants, &c.

Mr. MORRILL. I desire to call the attention of the gentleman from California to the fact that, under the present law, persons who distill less than three hundred barrels a year pay only one half of the regular license. Those who distill apples, grapes, and peaches are required to pay a license of only \$12 50. This is the provision of the existing law. I do not see the necessity for any amendment in that respect. I trust, therefore, that either the gentleman will withdraw his amendment or that it will be voted down.

Mr. COLE, of California. As has been well said by the gentleman from Wisconsin, [Mr. BROWN,] the annoyance and trouble of procuring a license is a matter of more consideration than the cost of it. I withdraw the amendment to the amendment.

The amendment was rejected.

Mr. BROOMALL. I desire to call the attention of the committee to the phraseology of the amendment adopted a short time ago with respect to peddlers. I find, on examination, that it will bear the construction which was objected to by some members at the time when it was offered; in other words, it would exclude women from the pursuit of the business of peddling. I move to amend that portion of the bill by substituting "man" for "person," and by inserting, after "draft," the words "for physical disability." The clause will then read thus:

That no man between the ages of twenty and forty-five, who is not enrolled for military duty or regularly exempted from enrollment or draft for physical disability, shall be entitled to a license as a peddler.

The amendment was agreed to.

Mr. PRUYN. I observe, Mr. Chairman, that it is proposed in this bill to amend the law of last year so as to provide that "miners shall pay for each and every license the sum of ten dollars." I move to strike out the words "ten dollars," in

order that I may present to this committee some general considerations which, in my view, should govern them in their action on this bill.

Taking the bill as a whole, it proposes to increase the taxation of the country very considerably. Now, sir, in view of the very heavy municipal and State taxes which are pressing upon every portion of the country, I think that the taxes to be paid under the legislation of Congress should not be increased, unless such increase be imperatively necessary in reference to some well-established financial system of the country.

Now, the great element in a public debt—that which makes it command the confidence of the country and the world—is the fact that full, sufficient, and certain means, pointed out by law, are resorted to for the purpose of securing a fund for the punctual payment of the interest on that debt. What is our position in this respect? I had intended, when a suitable occasion should occur, to elaborate this subject more fully than I can do now. At the present time I can only call the attention of the committee to the very important consideration which lies at the bottom of the legislation which is now proposed.

The present expenditures of our Government for ordinary purposes are about one hundred or one hundred and twenty-five million dollars a year. They were formerly seventy or eighty million. The amount of interest paid last year on the public debt was something over seventy million dollars. During the coming year it may perhaps be one hundred and twenty-five million. Now, make these two allowances, which are both very large and very liberal, and you have an aggregate of about two hundred and fifty million dollars; it probably will not quite equal that. Now, as I understand it, our gross income is about four hundred million per year. In other words, we are not only raising enough to carry on the Government and to pay the whole interest on the public debt, but, in the present position of our public affairs, when the bounty system and other systems are bearing so heavily upon the country, we propose to raise from one hundred to two hundred million dollars per year—perhaps fully two hundred million, if this bill fulfills the expectations of its authors—toward the payment of the principal of that debt.

Well, now, if heavy taxes in municipalities and States were removed, this might be very well. But we have a debt upon us which we have to look in the face as a debt which is to exist for generations; and the object we should now have in view is to systematize that debt, to place it in a position in which the world will have confidence in it. And so long as we legislate to raise money to pay the interest on that debt, which will be certain, which will be secure, as much so as legislation can make it, we give that debt the very highest character we can give to it. Will we go beyond that at this time? Will we ask the country to add still more to these burdens until we get to a condition in which the debts of municipalities and States will press less heavily than now?

[Here the hammer fell.]

Mr. PRUYN. I ask for five minutes more.

The CHAIRMAN. That is not in order, under the order of the House.

Mr. ALLEY. Mr. Chairman, I am very much surprised at the remarks of the gentleman from New York, [Mr. PRUYN.] That gentleman is a member of the Committee of Ways and Means, and I have been surprised ever since the commencement of the session at what I understand to be the views of the Committee of Ways and Means upon taxation and currency. I have been surprised at their reluctance to bring in a bill which should tax the people of the country as I believe, and as I think I know, they want to be taxed.

Mr. STEVENS. Will the gentleman let me ask him a question?

Mr. ALLEY. Certainly.

Mr. STEVENS. How has the gentleman ascertained that the Committee of Ways and Means have been reluctant to bring in a bill which shall tax the people for the necessities of the country?

Mr. ALLEY. I have the evidence from conversation with members of the committee, and from what is generally understood to be their views, that they have been unwilling to meet what we believe to be the views of the country. I have



had letters from correspondents in various parts of the country.

Mr. STEVENS. What are the views of the country? How much does the country wish to be taxed at present? What is the amount that they wish to be taxed?

Mr. ALLEY. I do not know that they have any definite idea about the particular amount, but there is an opinion in the country that there is a great holding back on the part of Congress; and I heard a distinguished gentleman largely interested in protecting the interests of the Government remark the other day, there seemed to be a determination on the part of the Committee of Ways and Means to hold back on this question, and there was a determination also on the part of Congress to hold back, but not so great as on the part of the Committee of Ways and Means, and no disposition, so far as he had discovered, on the part of either to meet fully the wishes and desires of the country.

Now, Mr. Chairman, this is my opinion of the sentiment of the country: I believe that if there is anything the people desire more than another, it is that our taxes should be increased to such a degree that the credit of the country should be preserved and protected. It is the only way in which it can effectually be done. The people of the country feel that, and they feel it intensely. Letters are pouring into me, and I know also to many other members of Congress, in both Houses, begging and praying us to impose such additional taxes as will place the credit of the Government beyond question. And I have yet to see such a disposition on the part of the Committee of Ways and Means, or of Congress either, to do it to the extent which the people of the country desire.

I was much surprised to hear the gentleman from New York assert that it was exceedingly desirable and even indispensably necessary to provide for the interest on this great debt, but not to go beyond this point in the imposition of heavy taxes. He talked against raising these additional taxes to pay off the debt. Who ever dreamed of our paying any portion of it during the existence of this war? Are we not and must we not be getting unavoidably in debt, with the most stringent taxation, several hundred millions annually? [Here the hammer fell.]

Mr. PRUYN. Mr. Chairman, I withdraw the amendment I made, and move to insert "five." I was about to say when the hammer fell before, with regard to taxation in the State of New York, that I believe I may venture to say this in answer to the gentleman from Massachusetts: that if the whole real estate of the State of New York at this time—except, perhaps, the farms occupied by the owners, and I do not know that I might not include them—I say at this time, and I believe it is based upon sound data, I believe the whole income of the State of New York will not pay the charges and taxes upon it.

Now, sir, this may be a startling assertion. I have not time to go into details, but if any gentleman will sit down with me at any time, I will show him the facts and figures which lead me to this conclusion.

In regard to the Committee of Ways and Means, I am placed in that situation toward them that I may venture to say that which otherwise it would not perhaps be quite proper for me to state. I was placed on that committee in the early part of this session, but I was called away on one or two occasions, so that I have not been with them quite as much as I hoped to be. But I can bear this testimony to their labors, and especially the labors of the sub-committee (of which I was not a member) who prepared this bill: that they have been most earnest, zealous, and industrious. Without prejudice to the claim put forth yesterday by the gentleman from Ohio, [Mr. SCIENCK], who claimed that he had been the most industrious man in this House, I think I could point to three members of the Committee of Ways and Means, and perhaps to more, who can say even more than that gentleman could, or rather the same thing, and with more justice; because the Committee of Ways and Means have been in session, I believe, every day of this session, while the committee of which the gentleman from Ohio is chairman has only held daily sessions for two or three weeks.

Now, sir, that committee has brought forward

this bill at as early a day as they could bring it forward with the views and spirit which animated them; and with the intention of imposing a tax on the country which should meet the expectations of those whose opinions were expressed by the gentleman from Massachusetts, [Mr. ALLEY.] But I want the House and the country to understand what the principle is which lies at the bottom of this bill, and have them determine whether, under the circumstances, we should go on and raise more than the annual expenses of the Government, and apply two or three hundred millions to sinking the national debt.

There are other general views which I would like to present to the committee in relation to our public debt and the system on which it should be managed. But the present time is not, perhaps, the time to do it; and at any rate, the five-minute rule would prohibit me from going into that subject. But I hope the House—and that was my principal object in rising—in passing upon the increase of taxation proposed in this bill, will bear in view the general considerations I have mentioned. I am not familiar enough with details to know whether these propositions are adjusted as they should be; but if they are not, adjust them as they should be. The object of increasing the taxation as indicated in the bill is, in my opinion, to a very great extent not needed in the present condition of the country, and is not justified under the circumstances in which we are placed with reference to the great debts of our municipalities and States.

Mr. STEVENS. I am opposed to the motion to strike out. I am somewhat astonished at the remarks of the honorable gentleman from Massachusetts, [Mr. ALLEY.] The object of his remarks, or at least the tendency of them is, to bring the Committee of Ways and Means into odium with the House and the country. Now, sir, I claim nothing for myself particularly eminent upon the Committee of Ways and Means.

Mr. ALLEY. Will the gentleman allow me to interrupt him a moment?

Mr. STEVENS. Certainly.

Mr. ALLEY. If the gentleman from Pennsylvania understood me as casting any imputation upon the integrity or the industry of the Committee of Ways and Means, he greatly misapprehended the scope and purposes of my remarks. I concur fully with the remarks of the honorable gentleman from New York [Mr. PRUYN] upon that point. I know that their labors have been very arduous, and that they have exerted themselves to the utmost in preparing this and other measures which have emanated from that committee. I believe, with the gentleman from New York, that no committee of this House does as much work as the Committee of Ways and Means; and I did not intend to apply my remarks to any member of that committee.

Mr. STEVENS. I do not suppose the gentleman intended anything in particular, when he made his statement; but his remarks tended toward bringing the Committee of Ways and Means into disrespect with the House and the country.

Now, sir, he misstated when he said the committee were believed to be reluctant to raise by taxation sufficient to meet the exigencies of the Government. Who made that statement I know not. I do not believe the man exists who talked with a member of the committee and received a reply to that effect. The committee have tried to raise as much money as the exigencies of the country required, and in the best way they could. This committee seemed to think that we are too exacting, and have just struck out three millions of proposed revenue by refusing to increase the tax on beer half a dollar a barrel.

As to the industry of the Committee of Ways and Means I have little to say. I may say, however, that every day since the session commenced that committee has been in session from ten or half past ten o'clock in the morning until the House met. And not only that, but it has been in session on exempt days. On Saturdays when this House has adjourned over, we have uniformly met and worked. It may be, sir, I know that we are slow workers and cannot do what we are attempting to do. Of course the gentleman's impeachment of us is only an impeachment of our capacity, about which I say nothing. So far as I am concerned I feel humbled in the presence of the chairman of the Committee on the Post Office

and Post Roads, [laughter,] which committee no doubt meets once or twice a month and does its business well.

Sir, what is expected of the Committee of Ways and Means? What burdens does the gentleman from Massachusetts expect it to put on the people? I contend that if we provide for the ways and means to liquidate the interest on the public debt fully, leaving the principal for a future time, we establish public confidence; for all that the bondholders want is their interest. If the bill before us shall be executed as it ought to be, it will produce more than four times the interest of our present debt. Gentlemen have not looked into it, I fear. They know less about it than we do. No one except the gentleman from Massachusetts [Mr. ALLEY] has examined it; but I assure you, sir, that the avails of this bill will pay the interest on the present public debt and will leave \$300,000,000 to be applied to our current expenses, if the law be properly executed. That is a sufficient portion of the expenses of the war for the people to bear now. I have found nobody who did not consider himself sufficiently taxed except the gentleman from Massachusetts. I know that a good many of our manufacturers, in order to evade the tax which they pay at home, have latterly built establishments and had tanneries in Canada, and in that way lightened their taxes. A large quantity of leather is thus manufactured in Canada, and finds its way here under the reciprocity treaty. When we come to the income tax, I propose to increase the present rate on all incomes above \$2,000 to fifty per cent. [Laughter.] Will that gratify the gentleman from Massachusetts? Will the country demand more than that? If it does, I, for one, cannot stand it.

[Here the hammer fell.]

Mr. PRUYN. I withdraw my amendment.

Mr. JOHNSON, of Pennsylvania. I move to amend the forty-ninth paragraph by striking out the word "minerals" and inserting the word "metals," so that it will read, that "every person, firm, or company who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other metals, shall be regarded as a miner." I doubt very much the expediency of adopting the paragraph as it now stands. I think it will be found very difficult to execute it. To the miners of iron in my region of country the payment of ten dollars for a license is nothing at all. They have large blast furnaces, and many of them have a capital of nearly half a million dollars, employing perhaps two or three hundred men. Under this paragraph they will only have to pay ten dollars. But there is another class of men to be affected by it—men who have only a little iron mine, and who may, perhaps, have an assistant to help them in their little work. They will have to pay the same license fee for the privilege as these miners on a larger scale.

There are three classes of mining interests in my district, of which I intend to speak more particularly. Coal mining there is of the same character. Some of the coal-mining companies have their half million dollars invested. What is a license of ten dollars to them? So, too, with the zinc mining. The business is of the same class. But if we let this paragraph stand as it now is, and leave it to be construed by the assessor, there will be found a difficulty in its construction; for, in point of fact, limestone is a mineral, and that is mined by every farmer in the country. It may not be mined by his own hand. He may employ, and he does generally employ, somebody to assist him in it. He would, therefore, be required to pay ten dollars for his license. I do not think that it is the intention of this committee to require a man who mines limestone, and who burns it on his farm for the purpose of manure, to pay ten dollars for a license. And yet, not straining the construction of this section, it would require him to do so. But by striking out the word "minerals" and inserting in lieu of it the word "metals," we leave it as I think the committee intend it should be left—a license on those who mine coal and metals; and we relieve the section from any danger of an improper construction as to the mining of limestone and other materials of that character.

Mr. McBRIDE. If I correctly understand this section, I have no objection to it. We have imposed a license upon almost every trade and busi-

ness which employs capital in the country, and I therefore do not think that this should be made an exception. A fair distribution of the burdens of taxation is all that we ask, and the tax imposed by this section seems to me reasonable and fair. It does not apply to the laborer in the mines, but to the employer only, who, being a man of capital, engages in mining as a speculation for his capital; and as it is thus withdrawn from other business and trade, it is but just that it should be subjected to this equal and fair tax. Many of my constituents are engaged in mining for a product, to increase which it is alike the interest of the nation and the producer; still they do not, as has been freely and often charged upon them from this floor, seek to shun their fair share of the burdens of taxation. They will accept it willingly and submit to it without a murmur.

The question being on the amendment offered by Mr. JOHNSON, of Pennsylvania—

Mr. JOHNSON, of Pennsylvania. I do not care about pressing my amendment, if the chairman of the Committee of Ways and Means is opposed to it.

Mr. MORRILL. I think the effect of the gentleman's amendment would be more extensive than he thinks. Take, for instance, the State of Maine: there they are very largely engaged in working limestone; and the gentleman's amendment would exempt all of those who are thus engaged.

The question was taken on Mr. JOHNSON's amendment, and it was rejected.

Mr. INGERSOLL. I move to amend the forty-ninth paragraph by striking out the word "every" and inserting the words "of such;" so that it will read, "only such person, firm, or company as shall employ others in the business of mining," &c. It seems to me that the construction which would be naturally given to this section as it now stands, without the amendment which I propose, would be that all persons operating in mining should pay a license of ten dollars each. I desire that the section shall be amended so that no such construction can be given to it, so that no license duty shall be imposed upon operatives who work by the day, or who work for a compensation, or upon a man who is prospecting. I wish to exempt all such from the payment of license.

Mr. MORRILL. I do not think that the amendment proposed by the gentleman from Illinois [Mr. INGERSOLL] is at all necessary. The language here is plain and explicit. The definition of a miner is that he must be a person who employs others. Can there be anything more explicit than that? If a man only works with his own hands he is, of course, exempt. No one is to be taxed or licensed unless he employs others. There can be no difficulty about that.

Mr. INGERSOLL. I withdraw my amendment.

Mr. COBB. I move to amend the forty-ninth paragraph by inserting between the word "others" and the word "in" the words "two or more," so that it will read:

49. Miners shall pay for each and every license the sum of ten dollars. Every person, firm, or company, who shall employ others, two or more, in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having taken out a license as a manufacturer, shall be regarded as a miner under this act.

I offer this amendment for the purpose of curing what seems to me to be an uncertainty and ambiguity in the meaning of the section. If it is proposed to tax those persons who engage in the business of mining by means of hired help I have no objection to it. In the district which I have the honor to represent lead mining is carried on extensively.

Mr. SHANNON. My colleague [Mr. HIGBY] has prepared an amendment which I think will accomplish the desired object and obviate all objection.

Mr. COBB. I shall be glad to hear the amendment.

Mr. HIGBY. I desire to offer an amendment which I think will not interfere with any object sought to be accomplished by the Committee of Ways and Means. I propose to strike out the words "miners shall pay for each and every license the sum of ten dollars," and to add after the word "act," in the two hundred and forty-second line the words, "and every such person, firm, or company, shall take out a license and pay

the sum of ten dollars therefor." The section will then read thus:

Every person, firm, or company, who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having taken out a license as a manufacturer, shall be regarded as a miner under this act; and every such person, firm, or company, shall take out a license and pay the sum of ten dollars therefor.

This amendment, I think, will obviate all difficulty as to the construction of the language.

Mr. COBB. With all due deference to the gentleman, I must say that I do not think it will. In the lead-mining business, where it is carried on upon a small scale, it is generally the case that not more than two persons work together. Frequently a man has a very small mine, and cannot afford to hire more than one person to assist him. This assistant is called a windlassman, being employed to draw the dirt and mineral away. A person carrying on this kind of business with one assistant ought not to be required to pay a license any more than the farmer.

Mr. MORRILL. The gentleman will allow me to call his attention to the fact that a party must employ at least two persons in order to come within the provisions of this section. The language is plural. It reads "every person, firm, or company, who shall employ others."

Mr. COBB. If that is the intention, I think that my amendment will obviate a possible ambiguity.

Mr. McBRIDE. I desire to call the attention of gentlemen who have been criticising the language of this section to the fact that, according to the uniform method in which the bill is drawn, the class is first designated, with the amount of license, and then immediately following is a description of the persons included in that particular class. In this view of the matter I think the section should be adopted in its present form.

The amendment of Mr. COBB was rejected.

Mr. HIGBY. I now move the amendment which I have already indicated—to strike out the words, "miners shall pay for each and every license the sum of ten dollars," and to add after the word "act" in the two hundred and forty-seventh line, the words "and every such person, firm, or company, shall take a license, and pay the sum of ten dollars therefor."

Mr. BOUTWELL. I think that the adoption of this amendment would violate that uniformity of language which is desirable in our legislation. It will be observed that throughout these various sections the first sentence contains a statement of what the rule of law shall be, and the latter part describes the persons to whom the law shall apply. There has been one uniform interpretation of this language in the Department and in the courts, and I think that the safest course is not to depart from it unnecessarily.

Mr. HIGBY. As the gentleman from Massachusetts [Mr. BOUTWELL] is better acquainted with this subject than I am, I withdraw the amendment.

Mr. BENNET. I wish to say that the latter part of this section includes a class of persons who are not defined to be miners. The first part of the section refers to miners—a class of individuals who are known and recognized as persons who delve in mines. The second clause of the section includes a class of persons who do not delve in mines, but who employ others to do so. It brings in a different class from the first class. I believe that the construction of this section will be that it not only includes all persons delving in mines, but that it includes and designates as miners those who employ others to delve in mines. It taxes not only those who delve in the mines but the employer also. I think that the amendment of my friend from Illinois on my left is necessary and proper to cover the difficulty in this case.

Mr. HIGBY. I withdraw my amendment.

Mr. ALLEY. Mr. Chairman, I renew the amendment of the gentleman from California for the purpose of making a remark in reply to the observations of the gentleman from Pennsylvania, [Mr. STEVENS:] not to the line of his argument, but to the mean insinuations he made against me personally in reference to my action in this House concerning these revenue bills.

In the first place he spoke of my being influenced by my interests in relation to the tax upon leather and other materials in which I was sup-

posed to be interested. I think if there is any gentleman upon this floor who is free from that charge, completely and entirely, it is myself; and I think that the gentleman's associate on that committee who has immediate charge of this bill will bear me witness that I have always in every instance advocated the largest tax on every article which I manufactured, or in which I have the slightest interest.

The gentleman from Pennsylvania also remarked that the people in Canada would like to have heavy taxes because they were interested in protecting manufacturing there, and because they were interested in the manufacture of leather, &c. If there was any point in that remark, he must have referred to me as being interested in manufacturing in Canada, and the House so understood him. I will state to that gentleman and to the House that I have no manufacturing interest in Canada. I have no interest in any property there, directly or indirectly, of any kind. I suppose that that is a sufficient answer to that baseless insinuation.

The gentleman asked me whether I would like to have the income tax raised fifty per cent. I have only to say that there has never been any income tax proposed in the House that I have not invariably voted for, (even for the largest amount,) from the very beginning. And I think that that is a sufficient answer to the gentleman's inquiry upon that point.

I made no unworthy imputation upon the gentleman's committee. I merely meant to say that the Committee of Ways and Means differ, I believe, from this House, and in a much greater degree with the country, in their judgment as to the best mode of protecting and preserving the credit of the Government. And this difference, in my opinion, was a serious calamity to the country.

Mr. SHANNON. As there seems to be some difference of opinion in reference to the construction of this paragraph, I move an amendment.

The CHAIRMAN. An amendment is pending.

Mr. ALLEY. I withdraw my amendment.

Mr. SHANNON. I move, in line forty-two, before the word "shall," to insert the words "and no others," so that it will read:

49. Miners shall pay for each and every license the sum of ten dollars. Every person, firm, or company, who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having taken out a license as a manufacturer, and no others, shall be regarded as a miner under this act.

Mr. MORRILL. I have no objection to the amendment, but I do not think that it is necessary. There are none who are required to pay a license unless they come within the specific prescription. All others are exempted.

The amendment was agreed to.

Mr. JOHNSON, of Pennsylvania. I propose now, if the gentleman from Vermont will give me his attention, to strike out these words, "miners shall pay for each and every license the sum of ten dollars," and also the words "who shall," and inserting in lieu of them "whose business it shall be," so that it will read, "every person, firm, or company whose business it shall be, &c., shall pay for each and every license the sum of ten dollars."

The paragraph as it is now makes every miner pay a license of ten dollars, as well as those who employ miners.

Mr. MORRILL. I do not think that the paragraph can be more explicit than it is.

The amendment was rejected.

Mr. UPSON. I move to strike out the following:

26. Conveyancers shall pay ten dollars for each license. Every person, other than one holding a license as a lawyer or claim agent, whose business it is to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, shall be regarded a conveyancer under this act.

And in lieu thereof to insert the following:

Conveyancers shall pay ten dollars for each license. Every person, other than one holding a license as a lawyer or claim agent, who shall draw deeds, bonds, mortgages, wills, writs, or other legal papers for others, or whose business it is to examine titles to real estate, shall be regarded as conveyancers under this act.

I move this amendment for the reason that in many parts of the country the provision of the law as it now stands is held as not applicable to

a large class of persons who, as magistrates, justices of the peace, and notaries public, draw deeds for others without charge and without taking out a license, but who, after drawing them, take their acknowledgments by virtue of their respective offices, and receive the fees allowed by law for such services. Such I know to be the practice in some parts of the West, and yet they are not held to be conveyancers under the act. I therefore call the attention of the committee to the subject, that they may make the law effectual for the accomplishment of the end in view, namely, the obtaining of revenue from the class of men who do this kind of business for others. I will say that this amendment would allow a man to draw deeds for himself of his own property.

Mr. FRANK. I would have no objection to the amendment of the gentleman from Michigan if it applied to those who draw deeds for a compensation. But if I understand the amendment, it would compel a man who draws simply one deed for another without compensation, to take out a license and pay ten dollars for the same. There are little towns all over the country where there are no lawyers to draw deeds and conveyances at all. If this amendment could be modified so as to include only those who draw deeds for a compensation, I would not object to it. I move to amend by inserting the words "for a compensation."

Mr. UPSON. The amendment offered by the gentleman from New York does away with the whole object of the original amendment. Those individuals who do the business of conveyancing claim that they do not charge for drawing the instrument, but only for taking the acknowledgment, and that therefore they do not come within the provision of the law which requires them to take out a license. They draw the papers simply as a preliminary to taking the acknowledgment for which they charge the legal fee. They claim that they do not come within the purview of the act. It is to meet that particular class of cases that I drew up this amendment, and also to meet the decision of the assessors in different parts of the country, that where men do this work without pay they are not required to take out a license.

The amendment to the amendment was not agreed to.

Mr. JOHNSON, of Pennsylvania. I propose to oppose the amendment.

The CHAIRMAN. Debate is exhausted upon that.

Mr. JOHNSON, of Pennsylvania. Then I move to amend it by striking out the last line, in order to allow me to make the remarks I desire. I believe the law is well enough as it is. The proposition of the gentleman from Michigan is to require every man who writes a deed for another to take out a license, or to make every man who writes a deed for another a notary public, and then require the notary to take out a license, which is the same thing in another form. Now, if I sell a piece of land to another and write a deed for it, I write a deed for another, though the object is to convey my own title. So, if I should be in *extremis*, and should write my last will and testament, I make it for the benefit of others; and then I might have the assessor after me for ten dollars just as I was taking my exit from the world. [Laughter.] So it seems to me that the distinction implied in the words "those who shall do it for others," amounts to nothing. It certainly would be a very strict construction of the law to say that no man should write the will of another unless he took out a license as a notary public. It is not always convenient to get a notary to write a man's will.

Mr. MORRILL. Mr. Chairman, in relation to this matter there may be some difficulty like that complained of by the gentleman from Michigan, [Mr. Urson,] but the Committee of Ways and Means have heard more complaint in another direction, and that is, that in towns where there are no lawyers, and no one licensed under the act to draw these papers, the town clerk, who does a small amount of business, is frequently called upon to do this work, and he is required to take out a license, when perhaps he draws but one or two deeds in the course of a year. Under the circumstances I think the law as it is as well as it can be made, and therefore I hope it will not be amended at all.

Mr. JOHNSON, of Pennsylvania. We have no town clerks with us. If we have a town clerk he is only a pound-keeper. Suppose a man should be injured on the road and is likely to die, are we to have no one to draw his will? Sir, the old definition of a notary is a man who follows the business of writing these things, and he ought to pay a license; but the man who writes here and there a single deed or will ought not to be required to pay a license. Let the old definition of a notary public stand.

Mr. FRANK. I am perfectly willing that the law shall remain as it is without amendment, and I moved the amendment to the amendment for that purpose.

Mr. Urson's amendment was rejected.

Mr. FINCK. I move to add to the clause the following proviso:

*Provided*, That the provisions of this section shall not apply to persons who mine coal solely for their own consumption.

Mr. Chairman, I do not suppose that it was the purpose of the Committee of Ways and Means to tax the class of persons that I propose to exempt. There are persons who own coal lands, situate at some distance from market, who mine coal exclusively for their own use, and it would be unjust to tax them. I trust, therefore, that my amendment will be agreed to.

Mr. BOUTWELL. The gentleman from Ohio will see that his amendment is objectionable in this respect, that it would exempt from license tax persons whose business it is to mine coal which they themselves consume in some branch of manufacturing which they carry on. A person who mines coal merely for ordinary domestic uses will be exempt under the article as proposed by the Committee of Ways and Means, upon principles which have been recognized in the Office of Internal Revenue from the beginning, such as this: peddlers are subject to a license tax; but a farmer who peddles his own produce has from the beginning been exempted, on the ground that it is not his business to peddle, but that that is an incident to his business of farming. So the mining of coal for domestic use is not under the law a business, but an incident to the domestic necessities of the household. But a person who mines coal for the purpose of manufacturing iron, for example, or manufacturing salt, should be subject to a license duty as a producer under this section, and therefore the law is well enough, in my judgment, in the language proposed by the committee.

Mr. FINCK. I will modify my amendment by inserting before the word "consumption" the word "domestic."

Mr. BOUTWELL. The amendment is unnecessary. It is exempt already.

Mr. FINCK's amendment was disagreed to.

Mr. INGERSOLL. I move to strike out the word "ten," in line two hundred and forty-three, and to insert "twenty" in lieu thereof; so that the clause will read:

50. A license of twenty dollars shall be required of every person, firm, or company, engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of \$600 per annum.

Mr. MORRILL. I hope that amendment will not prevail. We tax express men, as we do manufacturers and various others, on their gross receipts in addition to this ten dollars for a license. Ten dollars is sufficient. Many of these expresses are small concerns running, perhaps, only from a depot to an adjoining town, and their receipts are, perhaps, not more than a few hundred dollars.

Mr. INGERSOLL. Those whose receipts do not come up to \$600 are not included in the section; only those whose receipts exceed \$600 have to pay a license. There are few express companies in the country districts whose receipts exceed \$600, but the receipts of the large companies come up to \$100,000, and perhaps some of them \$500,000. It seems to me that twenty dollars is a small sum to pay for a license, and we need the money. As the chairman of the Committee of Ways and Means says we have lost \$3,000,000 by refusing to increase the tax on beer, let us make it up by something else.

Mr. JOHNSON, of Pennsylvania. I am opposed to the amendment of the gentleman from Pennsylvania because the amount he proposes is

too small. Ten or twenty dollars to an express company seems to me to be a mere trifle. I think the Committee of Ways and Means have not levied this tax properly; it ought to be upon each office of an express company. Take, for instance, the Adams Express Company; they have offices in Washington, Baltimore, Philadelphia, New York, and throughout the whole United States, doing a business of more than a million dollars, making great wealth and charging enormous prices. They charged me five cents a pound for carrying my trunk from this city to my home, almost the fare of a passenger. They charged me nearly as much for taking my trunk as I had to pay for myself, although I weigh almost twice as much as the trunk. [Laughter.] It seems to me that these express companies ought to be taxed for every office they keep.

The CHAIRMAN. Does the gentleman from Pennsylvania propose an amendment to the amendment?

Mr. JOHNSON, of Pennsylvania. No, sir. I do not see how I could do it very well.

The CHAIRMAN. Then the gentleman's remarks are out of order.

Mr. JOHNSON, of Pennsylvania. I make the suggestion. I do not suppose the amendment would carry if I did propose it.

Mr. MORRILL. I move to amend the amendment of the gentleman from Illinois [Mr. INGERSOLL] by striking out twenty dollars and inserting fifteen dollars. I merely desire to say that the licenses provided for in the act are not mainly for the purpose of revenue. We tax these express companies now three per cent. on their gross receipts. That is intended to be the real tax on their business. But, having been accidentally omitted in the last tax bill, they are put in here. I withdraw the amendment to the amendment.

Mr. JOHNSON, of Pennsylvania. It is very little consolation to me, when an express company robs me of eight or ten dollars, to know that the Government has got two cents of it.

Mr. INGERSOLL. Will the gentleman from Vermont answer me one question? Where ten dollars license is paid by an express company, does that permit it to have an office in every city of the United States without the payment of any additional license?

Mr. MORRILL. I do not know how that may be construed. I suppose the gentleman from Massachusetts [Mr. BOUTWELL] can inform us. The question was taken on Mr. INGERSOLL's motion, and it was rejected.

Mr. INGERSOLL. I propose to amend the fiftieth paragraph by adding the words, "and where the gross receipts exceed \$5,000 shall pay \$100 for a license;" so that it will read:

50. A license of ten dollars shall be required of every person, firm, or company, engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of \$600; and where the gross receipts exceed \$5,000 shall pay \$100 for a license.

The amendment was rejected.

Mr. INGERSOLL. I move to amend the fifty-first paragraph by striking out "\$100" and inserting "\$500;" so that it will read:

51. Substitute brokers shall pay \$500 for each and every license. Every person who shall furnish, or offer to furnish, for pay, fee, or reward, volunteers, representative recruits, or substitutes for men drafted, or liable to be drafted, for the military or naval service of the United States, shall be deemed a substitute broker under this act.

Mr. TRACY. I move to amend the amendment by striking out "\$500" and inserting "\$2,500," and by adding the following proviso:

*Provided*, That any person having been licensed as aforesaid, who shall, directly or indirectly, demand or receive any greater sum than ten dollars for each and every substitute by him furnished, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall, for every such offense, be fined not exceeding \$300, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

I have some doubts, Mr. Chairman, as to the propriety of dignifying this substitute business by licensing it; yet, as the proposition has been presented by the Committee of Ways and Means, it seems to me that the substitute business should be regulated. Congress has deemed it wise to regulate the business of persons engaged in procuring pensions for others. If that is wise, it seems to me that there is a greater necessity for regulating the business of substitute brokers, who are now allowed to go on and swindle the men



engaged in the military service of the United States.

Mr. KASSON. Mr. Chairman, in regard to this paragraph the question is reduced to a very small compass. The Committee of Ways and Means has deemed it proper, finding an existing business, to provide for a responsibility in that business, and for such revenue as may come from it. Touching the propriety of continuing the business, the Committee of Ways and Means has deemed it proper to leave all such questions to the proper committee of the House—perhaps the Military Committee—which may report a bill to prohibit it altogether. If members intend that the business shall continue, let the terms on which the license will be given be such as are consistent with its continuance. If they wish to prohibit it, the whole section should be stricken out, and the Committee on Military Affairs should report a bill prohibiting it entirely. I am satisfied that the opinion of the committee is that this tax is probably all that is consistent with the continuance of the business as such. Finding it existing as a business in the community, they have proposed the highest tax consistent with its continuance. If it is to be abolished, let an amendment striking out the section be adopted, with the understanding that the business shall be prohibited by law, a suitable bill for that purpose emanating from the proper committee. That, I understand, will meet the views of the Committee of Ways and Means.

The amendment to the amendment was rejected.

Mr. MORRILL. I offer, *pro forma*, an amendment to the amendment, to make the amount of license \$150.

I think, Mr. Chairman, that we have already had sufficient experience in the imposition of licenses as fines. In the case of lottery tickets, this system resulted in yielding no revenue. It is well known to all of us that the business of substitute brokerage is carried on in all parts of the country, and is extremely profitable. We propose to obtain from that business all the revenue that we think possible. The gentleman from New York [Mr. DAVIS] has shown to me an amendment which he intends to offer at some subsequent period, and which proposes to obtain a certain revenue upon every recruit that may be offered by a substitute broker. It would, perhaps, be proper to adopt such an amendment. But so far as the license is concerned, I believe that \$100 is all that we can reasonably expect. I hope the amount will not be increased.

I withdraw the amendment to the amendment.

Mr. GARFIELD. Mr. Chairman, I believe that this House is ready to cooperate with the members of the Committee on Military Affairs in the passage of a measure which will sweep away almost entirely this business of substitute brokerage. I may mention that that committee have already introduced a bill on this subject, which, I believe, is next in order after the reconstruction bill. It provides that all substitutes shall be credited to the town or district in which they reside. The adoption of such a provision would, I believe, break up the business of the substitute brokers.

I hope, therefore, that this amendment will be voted down, and that I may have an opportunity to offer an amendment to strike out the whole clause; for I dislike to see upon our statute-books anything that seems to give a kind of countenance to so nefarious a business.

The amendment was rejected.

Mr. DAVIS, of New York. I move to amend by adding after the word "license," in the two hundred and forty-ninth line, the following words:

And in addition thereto, ten dollars for each substitute procured by him and actually mustered into the military service of the United States.

The amendment was agreed to.

Mr. GARFIELD. I move to strike out the entire paragraph.

Mr. BROOMALL. I move to amend the original text in line two hundred and fifty-two, after the word "drafted," to insert the words "or desiring representative recruits;" so that it will read:

51. Substitute brokers shall pay \$100 for each and every license. Every person who shall furnish, or offer to furnish, for pay, fee, or reward, volunteers, representative recruits, or substitutes for men drafted, or liable to be

drafted, or desiring representative recruits for the military or naval service of the United States, shall be deemed a substitute broker under this act.

Mr. Chairman, in explanation I will only say that representative recruits are not furnished by men drafted, or liable to be drafted, but by persons not liable to be drafted at all.

The amendment was adopted.

Mr. NELSON. I move to add the following proviso:

*Provided*, That persons appointed in any State, county, city, and town, or the officers thereof, to procure the enlistment of volunteers or substitutes for the quota of such State, county, city, or town, for the military service of the United States, shall not be considered substitute brokers.

Mr. MORRILL. I have no objection to that amendment.

Mr. JOHNSON, of Pennsylvania. I hope the gentleman will include the word "district."

Mr. NELSON. I modify my amendment so as to provide for districts and townships.

The amendment, as modified, was agreed to.

Mr. KASSON. Mr. Chairman, I wish to say I think that the committee would act with too much haste to strike out the entire section in anticipation of the action of the Military or other Committee, and for this reason: as long as the military law allows the procurement of substitutes for personal military service, it is a great convenience to people in a corporate as well as individual capacity to permit some intermediate to make the proper negotiations for them. It concentrates the business and facilitates its transaction. As long as it is allowed to be done—the furnishing of substitutes—it is of some importance, that it should be put under proper regulations. If you strike out this provision entirely, and fail to provide for the proper military regulation of substitute brokers, you are without revenue as well as without improvement of the evils known to exist.

I ask whether it is not best that the committee should pass this clause as it now stands, and await the action of the Military Committee and the action of the House on the report of that committee as to whether the business should be entirely abolished, or regulated by proper military law covering the military aspect of the case. My own opinion is that we should allow the continuance of the business, and leave the Military Committee to regulate that business, protect the Government of the United States, the rights of substitutes, and the rights of citizens equally touching this entire subject. I think that we ought not to strike the paragraph out until we know what is the conclusion of the other committee on the subject. I think it safer to pass it as it is, and send it to the Senate, and in the mean time we will get a report from the Military Committee in reference to the proper law on the whole subject of substitute brokers.

Mr. MORRILL. I think that the amendment of the gentleman from Pennsylvania [Mr. BROOMALL] was adopted under a mistake, and I move, by unanimous consent, that it be stricken out.

Mr. BROOMALL. I consent to that.

There was no objection, and the amendment was stricken out.

Mr. DAVIS, of New York. I move to add the following:

*And provided further*, That such person or agent shall receive no compensation except such as is given by such State, county, district, city, or town.

Mr. STILES moved that the committee rise.

Mr. MORRILL. Let us get through another paragraph.

Mr. STILES. I withdraw my motion.

Mr. COBB. I move to amend by adding at the end of the fifty-first clause, line three hundred and fifty-four, the following:

*Provided*, That every substitute broker shall, upon conviction thereof, be confined at hard labor at the Dry Tortugas, or Rip Raps, for three years or during the war.

Mr. MORRILL. I raise a point of order upon that amendment.

The CHAIRMAN. The Chair decides that the amendment is out of order.

The question was put upon the motion of Mr. GARFIELD to strike out; and it was not agreed to.

#### MESSAGE FROM THE SENATE.

The committee informally rose, and the House received a message from the Senate, by Mr. HICKEY, one of their clerks, announcing that the

Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 705) for the relief of collectors and surveyors of customs in certain cases; and  
An act (H. R. No. 517) to incorporate the National Union Insurance Company, of Washington.

Also that the Senate had passed the bill (H. R. No. 364) entitled "An act authorizing and requiring the opening of Sixth street west," with an amendment in which they requested the concurrence of the House.

Also, that the Senate had passed bills of the following titles, in which they requested the concurrence of the House:

An act (S. No. 167) to incorporate an insurance company in the city of Washington;

An act (S. No. 368) to incorporate the Sisters of Mercy in the District of Columbia;

An act (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes;

An act (S. No. 421) to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the deaf and dumb and the blind," approved February 16, 1857; and

An act (S. No. 439) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter.

#### TAX BILL—AGAIN.

The committee resumed its session; and the Clerk proceeded with the reading of the bill, and continued it to the three hundred and sixty-fifth line, when—

Mr. MORRILL moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and had come to no resolution thereon.

#### PENSION BILL.

Mr. WHALEY. I ask unanimous consent to report from the Committee on Invalid Pensions a bill supplemental to the several acts relating to pensions, that the same may be printed and recommended to the committee, with leave to report at any time.

Mr. SCHENCK. I object to giving the committee any authority to report back the bill at any time.

Mr. WHALEY. This session is drawing rapidly to a close, and it is important that the pension law should be amended. I only ask that it may be reported, printed, and recommended, with the privilege to the committee to report it back at any time, so that it may become a law before the session expires.

Mr. SCHENCK. My objection goes only to the leave to report the bill back at any time. That would be equivalent to making it a special order, and I know no reason why one committee should have that privilege over another.

The SPEAKER. The Chair would state that this is partly a private and partly a public bill. Would there be objection to allowing it to be printed and recommended, with the privilege of reporting it back on the next private bill day?

Mr. SCHENCK. I have no objection to that.

Mr. HOLMAN. I suggest that it be printed and recommended.

No objection being made, the bill was received, ordered to be printed, and recommended to the committee.

Mr. HOLMAN. I move that the vote by which the bill was recommended be reconsidered.

Mr. ROLLINS, of New Hampshire. I move that the House do now adjourn.

Mr. SCHENCK. I move to lay the motion to reconsider on the table.

The SPEAKER. That motion is not in order pending a motion to adjourn. The motion to reconsider will be entered.

#### ENROLLED BILL SIGNED.

Mr. COBB, by unanimous consent, from the Committee on Enrolled Bills, reported that the

committee had examined and found truly enrolled a bill for the relief of the heirs of Almon D. Fisk, deceased; when the Speaker signed the same.

The motion to adjourn was agreed to.

The House accordingly (at four o'clock and forty minutes, p. m.) adjourned.

#### IN SENATE.

MONDAY, February 13, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal of Saturday was dispensed with.

#### NATIONAL ACADEMY OF SCIENCES.

The PRESIDENT *pro tempore* laid before the Senate the report of the National Academy of Sciences for the year 1864, which was ordered to be printed; and a motion of Mr. WILSON to print five hundred additional copies for the use of the Academy was referred to the Committee on Printing.

#### PETITIONS AND MEMORIALS.

Mr. JOHNSON presented a memorial of merchants, mechanics, and manufacturers of Baltimore, remonstrating against the passage of the bankrupt bill; which was ordered to lie on the table.

He also presented the petition of William H. Watkins, late captain company K, Purnell legion, Maryland volunteers, asking for pay due him as such from October 25, 1864, to January 5, 1865; which was referred to the Committee on Claims.

He also presented the memorial of Andrew J. Wilcox, praying for certain amendments to the Constitution of the United States with a view to the settlement of our unhappy difficulties; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the memorial of the Boston Board of Trade, praying for the passage of the bill for the construction of a ship-canal around the falls of Niagara; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Mary Howard Schoolcraft, praying payment for services rendered by her husband in superintending the collection and publication of statistics of Indian tribes; which was referred to the Committee on Claims.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of indemnifying the citizens of that State who suffered loss by reason of Sterling Price's raid in that State in October, 1864, and for damages sustained by acts of our own Army; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HENDRICKS presented the petition of J. W. Gordon, late major eleventh United States infantry, praying that the proper accounting officers of the Treasury may be authorized to credit him for payments of bounty to enlisted men; which was referred to the Committee on Claims.

Mr. LANE, of Indiana, presented a petition of citizens of Indiana and Illinois, praying for the establishment of a mail route from Newport, Vermillion county, Indiana, to Ridge Farm, Vermillion county, Illinois; which was referred to the Committee on Post Offices and Post Roads.

Mr. DIXON presented a petition of colored persons in the city of Washington, District of Columbia, praying for a charter under the name of the Colored Benevolent Association of Washington city; which was referred to the Committee on the District of Columbia.

Mr. MORGAN presented the petition of booksellers and newspaper publishers of Buffalo, New York, praying for the repeal of the import duty on chemicals, feltings, wire-cloths, and other articles used in the manufacture of paper, and also the abolition of the excise tax; which was referred to the Committee on Finance.

He also presented a petition of merchants and citizens of the city of New York, praying for the passage of the bill to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

Mr. GRIMES presented a petition of officers in the Navy praying compensation for clothing lost on board of vessels destroyed, of which they were part of the ship's complement; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented resolutions of the Legislative Assembly of the Territory of Nebraska in favor of the payment of the Nebraska militia while actually employed in the service of the Government in repelling hostile Indians and guarding the United States mail and Pacific telegraph, and protecting the border settlers; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. SUMNER. I present a memorial from the Boston Board of Trade, signed by their president and secretary, in which they say that they have heard with great satisfaction of the passage by the House of Representatives of a bill for the construction of a ship-canal around the falls of Niagara, and they earnestly hope the Senate will concur with the House in sanctioning and providing for this public work. I understand that bill has been referred to the Committee on Military Affairs. I move that this memorial be referred to the same committee.

Mr. MORRILL. I suggest, as that does not seem to be a military matter, whether it should go to that committee.

Mr. SUMNER. The Senator understands there is a bill on the subject which is before the Committee on Military Affairs, and I move that this memorial be referred to the same committee.

The motion was agreed to.

#### STEAMSHIP LINE TO CHINA.

Mr. CONNESS. I move to postpone all prior orders and to take up the bill (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China.

The motion was agreed to.

It proposes to authorize the Postmaster General to invite proposals by public advertisement, for the period of sixty days, in one or more newspapers published in the cities of Washington, New York, Philadelphia, Boston, and San Francisco, respectively, for mail steamship service between the port of San Francisco, in the United States, and some port or ports in the Chinese empire, touching at Honolulu, in the Sandwich Islands, and one or more ports in Japan, by means of a monthly line of first-class American sea-going steamships, to be of not less than two thousand tons burden each, and of sufficient number to perform twelve round trips per annum, and to contract with the lowest responsible bidder for the service for a term of not more than ten years, to commence from the day the first steamship of the proposed line shall depart from the port of San Francisco with the mails for China. No bid is to be considered which shall amount to more than \$500,000 for the twelve round trips per annum, nor unless it is from a citizen or citizens of the United States, and accompanied by an offer of good and sufficient sureties (also citizens of the United States) for the faithful performance of the contract.

The second section provides that any contract which the Postmaster General may execute, under the authority of the act, shall go into effect on or before the 1st day of September, 1866, and shall, in addition to the usual stipulations of ocean mail steamship contracts, provide that the steamships accepted for the service shall be constructed of the best material and after approved models, with all the modern improvements adapted to sea-going steamships of the first class, and shall be subject to inspection and survey by an experienced naval constructor, to be detailed for that purpose by the Secretary of the Navy, whose report shall be made to the Postmaster General. The Government of the United States is to be entitled to have transported, free of expense, on each and every steamer, a mail agent, to take charge of and arrange the mail matter, to whom suitable accommodation for that purpose shall be assigned. In case of failure from any cause to perform any of the regular monthly voyages stipulated for in the contract, a *pro rata* deduction is to be made from the compensation on account of such omitted voyage or voyages; and suitable fines and penalties may be imposed for delays and irregularities in the performance of the service, and the Postmaster General is to determine the contract at any time in

case of its being underlet or assigned to any other party.

The Committee on Post Offices and Post Roads reported two amendments to the bill. The first amendment was in line twelve, section one, to strike out "two" and insert "three," so as to read, "steamships, to be of not less than three thousand tons burden."

The amendment was agreed to.

The next amendment was in line four of section two, to strike out "September, 1866," and insert "January, 1867," so as to read, "shall go into effect on or before the 1st day of January, 1867."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HALE. Will somebody be so good as to state what the annual expense of this line will be?

Mr. COLLAMER. The provision of the bill is that it shall not exceed \$500,000.

Mr. HALE. How much do the committee expect will be realized from postages on this line?

Mr. COLLAMER. They do not expect any very large sum at present. The contract is not to go into effect until 1867 at any rate; so that there is no present outlay. The bill merely invites proposals to set up a line of steamers of not less than three thousand tons burden, and it will take till 1867 to do it; the parties will have to build the steamers in the mean time. The amendment of the committee requires the ships to be at least three thousand tons burden, and I will state the reason for that. That is not as large as the steamers the Pacific Mail Steamship Company now have on that ocean. If small steamers are used, they will just about carry their own fuel, and their commercial capacity will amount to but a trifle, and the moment the subsidy of the Government runs out they will fall, whereas if large steamers are used so that they can carry some fifteen hundred tons of commercial burden beside their fuel, the line may, when the subsidy expires, at the end of ten years, be able to sustain itself.

A bill for this purpose was passed by the Senate three years ago by a very strong vote. It was at that time moved by Senator Latham, of California, and sustained by a very decisive vote in this body. This is a renewal of the same proposition, but on a less expensive scale. There is one part of the world which British enterprise has not yet covered with subsidized mail steamship lines, and that is the trade across the Pacific ocean. They have a line down the west coast of South America, but they have none across the ocean commanding the commerce between the continents. It is, I believe, almost the only track that is left in this world of which we can avail ourselves without competition, and unless we attend to this at once they will soon, in all probability, possess themselves of this, and American enterprise and American commerce must entirely succumb. I cannot occupy at present the attention of the Senate with the tables I have before me, showing the present commerce on the Pacific, but if gentlemen will look at them they will find them very interesting; and this commerce will be very much increased if we get our railroad made to the Pacific, and in the mean time secure some measure of communication across the Pacific ocean between the two continents, making that trade subsidiary to our enterprise and our interest. The door is now open to effect it. If we do not do it soon, we lose it forever. I do not think it worth while to take up the time of the Senate by saying anything more on the subject now.

Mr. HALE. As I read this bill, the Senator from Vermont is mistaken in saying that it does not go into immediate operation and effect. The second section, as I read it, is that any contract which the Postmaster General may execute under the authority of this act, shall go into effect on or before the 1st day of September, 1866.

Mr. COLLAMER. The contract is to take effect, but the pay is not to commence until the steamers are actually built and running on the ocean. They have got to build them, and it will take two years to build them.

Mr. HALE. Where is that provision? They may be bought and put in operation to-morrow.

Mr. COLLAMER. There are not any in America to buy. They have no other resource

but to build them. There are no ocean steamers of three thousand tons burden in the country, except those of the Pacific Mail Steamship Company, that run from Panama up to California.

Mr. HALE. I hate to oppose this measure, particularly as it comes from California.

Mr. CONNESS. Will the Senator allow me, in a single word, to give him some information on the point he is now discussing?

Mr. HALE. Yes, sir.

Mr. CONNESS. The object in seeking to pass this bill now is that capitalists may engage in the enterprise, and lay the keels of ships of a certain magnitude and tonnage, vessels that will carry at least from fifteen hundred to two thousand tons of freight as merchandise, and at the same time be able to carry sufficient fuel to last during the entire voyage. There are no vessels afloat at the present time able to do that. Even the great ships that are owned and run between Panama and San Francisco, a distance of thirty-two hundred and fifty miles or more, by the Pacific Mail Steamship Company, could not perform the service. The purpose of putting the tonnage at the rate inserted in this bill is to exclude from the service all inferior vessels now used as transport ships and chartered vessels by the Government, and to secure, in all respects, a first-class line of steamships. If this encouragement is offered, capitalists stand ready to engage in building the finest ships that were ever yet put afloat by our country, to enter upon this service. It is not expected that they will be able to enter upon the execution of the contract the Postmaster General is authorized by this bill to advertise for before the time stated, the 1st of January, 1867.

I make this explanation and suggestion to the Senator that he may understand the magnitude of the enterprise, and what is earnestly desired and contemplated by the merchants who are prepared to enter upon this service. I can add nothing to what the chairman of the Committee on Post Offices and Post Roads has briefly stated, and what he is further authorized and prepared to state from the data in his possession, without consuming unnecessarily the time of the Senate, but to say that it is of the first consequence to our country, to its commerce, to its nationality if you please, to its dignity, to its power, and to its best interests, that we at once enable our people to grasp this great commerce and to connect it with the contemplated and now building Pacific railroad. The schedule of time now required between London and China is some sixty-two days. It is proposed to make the time by this route, not only between our country and China, but between China and London, by this route over our country, at the outside fifty days, and thus give us an advantage that they never can reach, nor be able to cope with us.

I hope the Senator will see in this, not simply a demand upon the Treasury, for it is very moderate in that respect, but a proposition having a scope as wide as our country, and contemplating an interest as deep as any connected with it at the present time.

Mr. HALE. I am sorry to feel obliged to say a single word against this measure, and particularly as it comes from California.

The PRESIDENT *pro tempore*. The Chair is obliged to interrupt the Senator from New Hampshire to call up the special order of the day at this hour, being the report of the committee of conference on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. CONNESS. I ask the Senator from Massachusetts to agree to let that lie over for a few moments. I suppose we shall soon be able to get a vote on this bill.

Mr. HALE. I will not speak three minutes.

Mr. SUMNER. I will let it lie over informally for a short time.

The PRESIDENT *pro tempore*. That course will be taken, if there be no objection.

Mr. HALE. I was about to say that I was sorry that I feel compelled to vote against this measure, particularly as it comes from California, as it has been intimated that I do not vote liberal appropriations for that portion of the country. Sir, I do not know any part of this country for which I would vote appropriations sooner than I would for any other portion, and certainly no portion of the country could appeal to my feelings with more

power than California; but I have the same objection to this bill that compelled me to vote against the "little nothing" of \$160,000 for the Library, which was opposed by me on Saturday. The objection applies with equal force to this other "little nothing" of \$500,000. If we go on and make these appropriations of \$160,000 and \$500,000, and God only knows what, the question will then be, not have we any commerce, but have we a country? I think the first we should consider is the war and the debts of the war, and we should not go launching out in any of these schemes. I think favorably of this scheme. I appreciate with great force the suggestions made by the Senator from California; and when the war is over I should be willing to engage in this thing, and I should be willing to pass the bill with an amendment that the contract should not be entered upon as long as there was anything due to our soldiers. I will not occupy time, but simply ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TRUMBULL. I was struck with the fact, in the remarks of the Senators who were advocating the passage of this bill, that neither the chairman of the Committee on Post Offices and Post Roads, nor the gentleman from California who called it up, has said one word in his advocacy of the bill about the object for which it is brought before the Senate, namely, to establish mail steamship service between the United States and China for the purpose of carrying the mails. Not a word was said by them about carrying the mails. It is manifestly a bill to build up a steamship company; and it is placed upon the ground which was assumed by the Senator from Vermont, and which had the approbation of the Senate and of Congress, I believe, at the last session, and I suppose will have the approbation of both Houses at this session, that because Great Britain has thought proper to establish certain lines of ocean steamships therefore the United States must do it.

Now, sir, if it were a new question I should like to know by what authority this is proposed to be done. The Senator from Massachusetts [Mr. WILSON] the other day submitted a proposition in some shape that the Government of the United States should go into the manufacturing business, and should manufacture the cloth that was needed for the Army; and now, under the idea of carrying the mails between this country and Japan, or some islands in the eastern Archipelago, we are to build vessels of large tonnage. I suppose it would take large vessels to carry the mails between the two countries! There are large seas to be traversed, and I presume it would take vessels of large capacity to carry the correspondence that takes place between the semi-barbarous people inhabiting the eastern countries and the people of the United States!

Everything is being thrown into this vortex; the Federal Government is about to do everything. During these times of war, I know (and I regret that it is so) that the Federal Government has had to assume vast powers, drawing to itself all the powers ever exercised by any Government; and we are setting the example, not only in regard to military matters, but, under the name, or under the pretense, of carrying the mails between some far-off country and this country, the funds and the moneys of the people are to be taken to build vessels. That is what this measure is for; and yet not one word is said, in arguing the necessity for the establishment of this line, as to the amount of correspondence that takes place between these countries. It is simply an undertaking of the Government of the United States to establish steamship lines for commercial purposes. I am sorry to see such bills introduced and passed. I should be very glad to see a line of ocean steamers between San Francisco and China or Japan; but I do not know what authority the Government of the United States has to establish that line of steamers, any more than it has to tax the people of the country and appropriate money for sailing-vessels between the same ports, or between any other ports. If we embark in this species of legislation, and undertake to manufacture goods in order to compete with Great Britain, lest she should manufacture more cheaply than we can; or, as the Senator from Vermont will have it, we shall be driven from the ocean if we

do not as a nation appropriate money to keep our vessels afloat, we have to run a race in this respect with the other nations of the world. I do not think such was the intention in the establishment of this Government; and although I believe it right and proper, and that we have ample authority to appropriate money to carry the mails, wherever there is any correspondence to be carried, I have never believed in the authority of Congress, under a pretense of carrying the mails, to build vessels and establish lines of steamers costing the Government millions and millions of dollars, many more times what it would cost to hire somebody to carry the mails.

I shall vote against this measure; and I am glad that the yeas and nays have been called upon it. I voted against a similar proposition at the last session of Congress. I have never voted for the establishment of one of these ocean lines of steamers. We tried it some years ago with what was known as the Collins line. We kept up that line at a vast expense for several years, and finally abandoned it, I believe to the satisfaction of Congress, and the great satisfaction of the people of the country.

Mr. COLLAMER rose.

Mr. SUMNER. If this debate is to go on; I must call for the special order. I gave way.

Mr. CONNESS. I do not suppose it will go on more than a moment longer. I shall have nothing further to say on the subject. I leave the explanation to be made in a few words by the chairman of the committee, and then we can come to a vote on the subject.

Mr. COLLAMER. Perhaps we might as well let the vote be taken without saying anything further.

Mr. CONNESS. I am perfectly willing to let the vote be taken, and leave the measure to be decided by the Senate on its merits.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. On the passage of the bill the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Farwell, Foot, Foster, Harris, Henderson, Howard, Lane of Kansas, Morgan, Nessmith, Nye, Pomeroy, Ramsey, Stewart, Sumner, Wade, Wilkinson, and Wilson—25.

NAYS—Messrs. Cowan, Davis, Grimes, Hale, Harlan, Hendricks, Powell, Riddle, Sherman, Ten Eyck, and Trumbull—11.

ABSENT—Messrs. Buckalew, Canine, Harding, Hicks, Howe, Johnson, Lane of Indiana, McDougall, Morrill, Richardson, Saulsbury, Sprague, Van Winkle, Willey, and Wright—15.

So the bill was passed.

#### BILL RECOMMITTED.

On motion of Mr. MORRILL, the bill (S. No. 311) for the relief of W. H. & C. S. Duncan was recommitted to the Committee on Claims.

#### FREEDMEN'S BUREAU.

The PRESIDENT *pro tempore*. The special order for half past twelve o'clock, which was laid aside informally, is the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An Act to establish a Department of Freedmen and Abandoned Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established at the seat of Government of the United States a Department of Freedmen and Abandoned Lands, whose object shall be the good of the freedmen and the administration of lands and other property falling to the national Government in the rebel States not heretofore appropriated to other uses. And this Department shall be under the care of a Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate, with an annual salary of \$1,000.

Sec. 2. And be it further enacted, That the Commissioner of Freedmen and Abandoned Lands shall appoint a chief clerk, with an annual salary of \$2,000, who shall act as disbursing officer, and who in all cases during the necessary absence of the Commissioner, or when the principal office shall become vacant, shall perform the duties of Com-



missioner; and also such number of clerks, not exceeding two of each class, as shall be necessary. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in an act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of \$100,000 and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with securities to be approved as sufficient by the Attorney General; which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

Sec. 3. *And be it further enacted*, That the Commissioner shall, under the direction of the President, create districts of freedmen and abandoned lands within the rebel States, not to exceed two in each State, so far as the same may be brought under the military power of the United States; and each district shall be under the supervision of an assistant commissioner, with an annual salary of \$2,500, under bond as required for the chief clerk, to be appointed by the President of the United States, with the advice and consent of the Senate, and with authority to appoint local superintendents and clerks, so far as the same may be needed, not, however, more than four in each district, each of whom shall have an annual compensation not exceeding \$1,500.

Sec. 4. *And be it further enacted*, That the Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations from time to time, and cause the same to be enforced for their needful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty. And every such freedman shall be treated in all respects as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Sec. 5. *And be it further enacted*, That the assistant commissioners, under the direction of the Commissioner and within their respective districts, shall take possession of all abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses, and all property found on and belonging to such estate, and shall rent or lease such real estate or any portion thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree; and if the lands with the property aforesaid shall not be required for the freedmen, then they shall rent or lease the same to other persons on such terms and under such regulations as shall be mutually agreed upon, and no freedman shall be employed on any estate above mentioned otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent: *Provided*, That no lease, permission to occupy, or contract, shall be for a longer period than one year, and all papers required or authorized by this act shall remain valid and effectual although no revenue stamp is attached thereto. But nothing herein contained shall be construed to prevent the due execution of process against the real estate or property above named issued in due course of law from any court of competent jurisdiction; but the possession of such real estate or property by any purchaser thereof at a judicial sale shall be postponed until the termination of any outstanding contract duly made and executed under the provisions of this act.

Sec. 6. *And be it further enacted*, That the assistant commissioners and local superintendents shall, as advisory guardians, aid the freedmen in the adjustment of their wages, or in the application of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; that they shall do what they can as arbitrators to reconcile and settle any differences in which freedmen may be involved with each other or with other persons; and, in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

Sec. 7. *And be it further enacted*, That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order, three hundred and thirty-one, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; but such lease shall not continue beyond the period of one year from its date; and immediately upon the organization of any district of freedmen and abandoned lands such agents shall cease to execute their functions within such district, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any district prior to its organization under this act shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

Sec. 8. *And be it further enacted*, That the Commissioner shall apply the proceeds accruing under this act to defray the expenses of this Department, so that the same may become at an early day self-supporting; and any proceeds over and above such expenses shall be paid into the Treasury of the United States.

Sec. 9. *And be it further enacted*, That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall so far as practicable make provision for them with humane and suitable persons, at a just compensation for their services.

Sec. 10. *And be it further enacted*, That the President of the United States is charged with furnishing the military and other support needful to carry this act into effect, and

any military officer may be appointed under this act without increase of salary.

Sec. 11. *And be it further enacted*, That the Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required. And it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen not mustered into or regularly engaged in the military service, to make return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

Sec. 12. *And be it further enacted*, That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony; for any act of embezzlement or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

Sec. 13. *And be it further enacted*, That the last clause of a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Sec. 14. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

THOMAS D. ELIOT,  
WILLIAM D. KELLEY,  
*Managers on the part of the House.*  
CHARLES SUMNER,  
J. M. HOWARD,  
*Managers on the part of the Senate.*

Mr. DAVIS. I will state several objections that I have to the adoption of this report. The first is to the reception of the report itself. It begins in these words:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute.

According to parliamentary law and the rules of this House, I think the proposition is true that a committee of conference cannot decide any questions whatever except those that are in issue between the two Houses and upon which they have disagreed. This question was made formally some two years ago, and the Senate then solemnly adjudged in favor of the proposition which I have laid down, if I remember right. I had hoped that the honorable Senator from Massachusetts whose name is signed to this report [Mr. SUMNER] would have explained to the Senate the points and matters outside of the issues between the two Houses that are introduced into this bill. I should like the honorable Senator to make that explanation before I proceed further in my remarks, if it is agreeable to him.

Mr. SUMNER. Very well, I can do so now. Mr. President, the Senator from Kentucky [Mr. DAVIS] raises a question of form, or rather of order. He suggests that the committee have erred in reporting a new bill. The Senator is mistaken. This was done in the case of the difference between the two Houses on the confiscation bills, and also in another difference on a tariff bill. I have in my hand the Journal of the Senate for August 2, 1861, where may be found the report of a conference committee, which was followed by the committee on the present occasion. A new tariff bill, from beginning to end, was reported as a substitute, and the report was adopted. This is all that I think it necessary to say on the question of form.

Mr. POWELL. The Senator from Massachusetts will allow me to ask him if there was any objection made to that report in 1861.

Mr. SUMNER. It does not appear that there was any objection.

Mr. POWELL. That was the reason it was passed in that way.

Mr. SUMNER. I think if the Senator reflects he will see that there could be no objection. There

was no objection, I think, certainly none that was sustained, to the report of the conference committee on the confiscation bill. I trust that there will be no opposition to this most important, and, as I solemnly believe, most beneficent measure. But I shall be happy to make any explanation with regard to it.

Senators have not forgotten the bill to create a Bureau of Freedmen, which, after careful debate for several days, was passed by the Senate at the close of the last session as a substitute for a House bill on the same subject. For some time the difference between the two Houses has been under the consideration of a conference committee, whose report is now before you. This report embodies substantially the Senate bill, including various propositions moved by different Senators; among others the proposition relating to the forfeiture of estates, moved by the Senator from Illinois, [Mr. TRAUMBULL]; that relating to the care of freedmen unemployed on the lands, moved by the Senator from West Virginia, [Mr. WILLEY]; and that relating to trials by courts-martial, moved by the Senator from Wisconsin, [Mr. DOOLITTLE]. All of the Senate bill, in substance, and generally in language, is preserved, with one single exception. By the Senate bill a bureau was created in the Treasury. The committee of the two Houses unite in recommending a separate Department, holding directly under the President, and therefore free from the control of either the Treasury or the War.

In point of fact, the only substantial difference between the two Houses was on the place where the bureau should be. Each was for a bureau; but one was for it in the Treasury and the other was for it in the Department of War; and there were strong arguments in favor of each. There were also strong feelings expressed against each. Sometimes it was compendiously said that the freedmen could not be trusted to "the harpies of the Treasury," and then again it was said, with equal point, that they could not be trusted to "the blood-hounds of the War." These were the exaggerations of opposite opinions; but they serve to disclose the irreconcilable discord on the subject. In attempting to avoid Scylla we were carried to Charybdis.

If the freedmen could have been provided for without reference to the lands, the question would have been relieved from much of its embarrassment. But it was the conviction of the committee, in which they were sustained by all most familiar with the matter, that the care of the freedmen and the care of the abandoned lands ought to be in the same hands, and that they could not be separated without exposing the freedmen to all the mischiefs of two conflicting jurisdictions. But the War Office was not adapted to manage the lands, as many insisted that the Treasury was not adapted to manage the freedmen.

There was another consideration which was not without influence. It was felt that each of these great Departments of the Government was already so severely burdened, so weighed down with manifold duties, that it was hardly in condition to assume a new trust, so grave and onerous as that now under consideration.

For such reasons, sir, and yielding to such influences, the committee, after most careful and conscientious deliberation, determined to recommend a new Department, not unlike that of agriculture, which should not be subject either to the Treasury or to the War. It was felt that in doing this they were doing the best for the cause, and they were not insensible also to the consideration that in this way they should be able to secure a high order of talent and of character for this branch of public service. Men fitted for Treasury agents, or fitted for War, might not always be the best for the care of freedmen. The man for this humane service should be humane by nature, and should sympathize especially with that race which has so long been neglected and outraged. They must be versed, if I may so express myself, in the humanities of the question.

The PRESIDENT *pro tempore*. It becomes the duty of the Chair to call up the special order for one o'clock.

Mr. SUMNER. I hope I may be allowed to go on, at least to finish this statement. I can go on informally.

Mr. CHANDLER. I am informed by the

Senator from Ohio, the chairman of the Committee on Finance, that he will require to-day to pass one of his bills from the Committee on Finance; and I am also informed that the Senate will not be in session to-morrow, because of the announcement of the death of Mr. Hicks. I gave notice that I will not antagonize the House bill No. 307, which is the special order for this hour, against any bill from the Committee on Finance. I therefore move that it be made the special order for Wednesday at one o'clock, instead of to-day. The motion was agreed to.

Subsequently, the order relative to the bill (H. R. No. 307) to regulate commerce among the several States, was changed so as to make that bill the special order for to-morrow at one o'clock, Mr. CHANDLER stating that he understood the announcement of Mr. Hicks's death would not be made till Wednesday.

Mr. SHERMAN. With the consent of the honorable Senator, I move to take up the resolution fixing the duty on paper, and then I will yield to the Senator from Massachusetts to finish his statement.

The motion was agreed to.

Mr. SHERMAN. I have no objection now to yield to the Senator from Massachusetts to conclude his statement.

Mr. SUMNER. Mr. President, in confirmation of the views of the committee, I ask attention to a letter which I have recently received from Captain Wilder, who is superintendent of negro affairs at Fortress Monroe. He writes me under date of 6th February, as follows:

"I am glad to learn that Congress is considering the expediency of establishing an independent Department of negro affairs, &c."

"If it is the purpose of its friends by this to throw additional safeguards around the colored people, and between them and their enemies and speculators, and to secure to them the reforming and elevating influences of education and the gospel of the Son of God, which I do not doubt, I would respectfully suggest that one great obstacle to our success in this work has been the want of some general policy, at once practical and operative, securing protection, removing obstacles, and affording to them opportunity and encouragements to make their accustomed labor available, not only for their own support and elevation, but a source of power and wealth to the country."

"If this can be so arranged as to prevent a perpetual conflict of control and rights between the military and Treasury or civil agents, with the use of rebel and abandoned lands, at least for a time, we shall be out of the woods and on a fair field to test every other mooted question, and save to the Government very large and continued expenditures."

"Without this, or its equivalent, freedom will be to them a doubtful boon, and the Government will become, by neglect at least, an abettor of degradation."

The views so strongly enforced by military experience at Fortress Monroe are enforced with equal strength by military experience at New Orleans. I hold in my hand an elaborate letter from Major General Hurlbut, commander of the Department of the Gulf, under date of January 21, relating to the treatment of freedmen, from which I will read an important passage:

"A central bureau, then, of selected men of character, courage, and knowledge of the subject, at Washington is desirable. Subordinate bureaus still more carefully selected in the several States possessed by our arms will be established, who shall loyally enforce regulations."

"It possible to be obtained, these should be constituted of men having knowledge already of the peculiarities of negro character in its several distinct races, truthful and of undeniable integrity, who will render justice to the poor, and resist blandishments and bribes."

"The burden of this important affair should as speedily as possible be taken from the military authorities, and permanently and systematically vested elsewhere. Military commanders are often changed, and the system fluctuates with each change."

It may be easy to find fault with the proposed measure, to criticise it in its details, or to object to the creation of a separate Department. But the question has arrived at such a stage that you must take this or nothing. I err. There is another system which will continue, if you reject this. By the act of Congress, passed at the close of the late session, relative to abandoned property, it is provided that the agent of the Treasury "shall take charge of and lease for periods not exceeding twelve months the abandoned lands, houses, and tenements within the districts therein named, and shall also provide in such cases or otherwise for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free." (Sec. 2.) Under this statute the

Treasury Department has proceeded to establish regulations, of which the first is as follows:

"The regulations relative to the employment and general welfare of freedmen will be carried into effect by the same agents and under the same supervision as are provided under the regulations concerning commercial intercourse."

Such is the system which now exists, under which the freedman is the mere accident of the Treasury. Sir, this is not worthy of the Republic at this great period of our history.

Already the President, by irrevocable proclamation, has declared all slaves to be free. An amendment to the Constitution will, in the course of a few weeks, place their freedom under the sanction of constitutional law. But this is not enough. The debt of justice will not be paid if we do not take them by the hand in their passage from the house of bondage to the house of freedom; and this is what is proposed by the present measure. The temporary care of the freedman is the complement of emancipation; but the general welfare is involved in the performance of this duty. Without it emancipation may for a while seem to fail, and the general welfare will surely suffer.

Mr. GRIMES. Before the Senator closes I should like to have him explain—

Mr. SHERMAN. It would be better to let the report go over.

Mr. GRIMES. I wish an explanation of the ninth section in connection with the Senator's remarks.

Mr. SHERMAN. I think we had better go on with the paper-duty bill. The Senator desired to make his explanation; he has made it, and the subject goes over.

Mr. SUMNER. I am perfectly ready to go on and take the vote.

Mr. SHERMAN. I call up the pending business.

Mr. SUMNER. I ask that this be made a special order for half past twelve o'clock to-morrow.

The PRESIDENT, *pro tempore*. That can be done by unanimous consent.

Mr. POWELL. I object.

Mr. SHERMAN. It comes up as unfinished business in the morning hour.

Mr. POWELL. There is a motion to reconsider a bill of mine which I want disposed of.

Mr. SUMNER. If this report comes up as unfinished business in the morning hour, very well.

Mr. COLLAMER. I wish to make a single inquiry in regard to this bill: is it open to amendment?

Mr. SUMNER. It is not.

The PRESIDENT, *pro tempore*. It is not open to amendment. The report is an entirety.

Mr. COLLAMER. Then it cannot have three readings, nor can it be amended.

The PRESIDENT, *pro tempore*. The question is simply on the acceptance of the report. It will now go over till to-morrow morning.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol, in which the concurrence of the Senate was requested.

The message also announced that the House had concurred in the resolution to appoint a joint committee to notify the President and Vice President-elect for the ensuing term of their election, and had appointed Messrs. J. F. WILSON of Iowa, and J. L. DAWSON of Pennsylvania, the committee on its part.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*.

A bill (H. R. No. 517) to incorporate the National Union Insurance Company of Washington.

A bill (S. No. 281) for the relief of Alexander J. Atocha;

A joint resolution (S. R. No. 91) appointing General Richard Delafield to be a Regent of the Smithsonian Institution; and

A bill (H. R. No. 705) for the relief of collectors and surveyors of the customs in certain cases.

#### DUTY ON PRINTING PAPER.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, used for books and newspapers exclusively, the pending question being on the amendment of the Committee on Finance, to strike out "three per cent." and insert "fifteen per cent." as the rate of duty.

Mr. SHERMAN. Before the amendment is adopted I desire to submit a statement of the reasons that induced the Committee on Finance to report it. The present rate of duty on printing paper is twenty per cent. The proposition of the House of Representatives is to reduce the rate of duty to three per cent. The leading objection of the Committee on Finance to the proposed rate of duty was that it is less than the rate of duty levied on the home manufacture. The duty now levied on printing paper made in the United States is equivalent to eight to ten per cent., and is assessed in various forms. We levy a direct tax on the manufacture of three per cent. We levy on the income derived from it from five to ten per cent. We levy a tax on the coal, lime, and many of the materials entering into the composition of paper; soda ash, bleaching powder, alum, sulphuric acid, and other articles indispensable to its manufacture must pay a large import duty, or, if manufactured in the United States, must pay an excise duty. I have a statement which approximates the duty paid by the home manufacturer on one ton of paper. It is as follows:

In producing one ton of paper from wood, straw, flax, or hemp tow there are used 12½ bushels of lime, at 43 cents per bushel, \$5 37½; excise on which is 3 per cent. \$0 16	
1,230 lbs. soda ash, import duty 1½ per cent. per lb., \$6 10 in gold, or, in currency, with gold at 225. 13 72½	
813 lbs. bleaching powders, import duty 30 cents per 100 lbs., \$2 44 in gold, or, in currency, with gold at 225. 5 49	
57 lbs. alum, import duty 60 cents per 100 lbs., 34 cents in gold, or, in currency, with gold at 225. 76½	
41 lbs. sulphuric acid, import duty 1 cent per 100 lbs., 41 cents in gold, or, in currency, with gold at 225. 92½	
Wood feltings, duty 20 cents per lb., and 35 per cent. <i>ad valorem</i> additional. 1 20	
Wire-cloth, excise 3 per cent. 20	
3½ tons of coal, for boiling and drying. 17½	

Making in duties and excise on materials, a total of The value of one ton of printing paper, 22½ cents per lb., (the present market rates,) is \$4 30; excise tax 3 per cent. 13 50	
Estimated profit on one ton \$45, or 10 per cent.; of which is paid in income and war taxes, 10 per cent. 4 50	

Showing that Government receives on each ton of paper as above made in the United States. 40 63½	
When printing paper is made entirely of rags, the consumption of lime, chemicals, coal, &c., is much less; but estimates made in same manner as above, in detail show that Government receives from one ton of printing paper, made from rags alone, a revenue of. 21 24	

It is thus shown that the amount of revenue received from a ton of paper made here is forty dollars, and cannot be less than twenty dollars. If the House resolution passes, what revenue will be derived from a ton of imported paper? Let us see. Paper abroad is \$160 a ton; three per cent. will yield \$4 80 in coin, or in paper, at present rates, about ten dollars. Thus the resolution of the House would reduce the revenue from ten to thirty dollars on every ton of paper imported. Are we prepared to thus reduce the revenue?

But this is not the worst effect of the proposed duty. It is an actual discrimination against home manufacture and in favor of foreign manufacture of about seven per cent. The Canada mills across our boundary line may manufacture paper and sell it in our markets, paying less tax than the home manufacturer. I venture to assert that no such discrimination has ever been made in any tariff or revenue law of the United States. If we must admit paper duty free or at a nominal rate we should at least reduce our internal duties to the same rate. When we are searching through all branches of industry for subjects of taxation we are not disposed to reduce the present revenue from any articles. Cheap paper is demanded by the press, by the people, and by the House of Representatives; but in yielding to that demand we must not, at one blow, destroy seven hundred paper mills, giving employment to fifty thousand persons and \$70,000,000 of capital. It is idle to say that they could continue their operations when we not only invite competition with the labor of

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Europe, but actually discriminate against them to an amount equal to interest on their investments. This is an injustice so manifest as, when stated, to meet at once the dissent of every just man.

But it is said that the duty on the imported article is paid in gold. That is true. Three per cent. in gold is equivalent to six per cent. in paper money on the same valuation; but it must be remembered that the three per cent. in gold is levied upon the foreign valuation and not upon the home valuation, and that makes all the difference in the world. The foreign valuation of printing paper is \$160 a ton, instead of \$400 a ton, the home valuation. The price of paper in Belgium is about eight cents a pound, according to the statement furnished us from the Treasury Department, or \$160 a ton, according to the foreign valuation, and the rate of duty on imported goods is levied on the foreign valuation. Consequently the three per cent. on \$170 a ton—I compute it at \$170 to cover commissions—is \$5 10 in coin, or, at the present rate, equal to about \$10 20 in paper money; so that if the House resolution should pass we would by our internal taxation levy a duty of \$40 63 on a ton of paper manufactured at home and only \$10 20 in paper money upon a ton of paper imported into this country. Such a discrimination as this would be manifestly unjust and improper.

A great deal has been said in the newspapers about this paper duty; a great deal of complaint has been made on the subject; but it is very certain that the editors and proprietors of those papers can scarcely expect us by our legislation to impose a lighter duty on the imported article than on the home manufactured article. That would not be just, and would soon leave them to the mercy of foreign paper-makers.

It is said that the high price of paper is caused by the high rate of duty on imported paper. This is strange when we consider that the present rate of duty is lower than it has been for forty years. Under the tariff of 1846, it was thirty per cent.; under the free-trade tariff of 1857, it was twenty-four per cent.; under that of August 5, 1861, it was thirty per cent.; under that of July 14, 1862, it was thirty-five per cent.; under the present tariff, it is twenty per cent. The true reason for the high price of paper is to be found in the condition of the country, the same causes that produce the advance in gold, iron, and all the materials and commodities of industry and manufacture. Paper has steadily advanced or fallen with the price of gold. In counteracting so far as we can this inevitable effect of paper money, we must take care not to destroy our home industry. If we yield to one interest to-day, we may be compelled to yield to another to-morrow. We cannot make cheap prices by legislation while we are compelled to levy enormous taxes.

For the reasons I have stated the Committee on Finance were unanimously of the opinion that the proposed reduction to three per cent. was unwise, unjust, injurious to the revenue, and destructive to an important branch of home industry. The question then arose whether any reduction of the duty was expedient. My own opinion then is that a duty of ten per cent. would be sufficient to equalize taxation between the home and foreign manufacture and yet leave a healthy competition between them that would reduce the price of paper to the lowest rate consistent with the largest revenue. Printing paper is one of those articles of indispensable necessity that enters into the expenditure of every family in the community. Books are no longer printed for the rich alone, but are of universal use; and any legislation that would materially increase their cost or restrict their use is unwise. The daily and weekly newspaper, spreading to the remotest hamlet not only the news of the day but also popular information upon questions of legislation, religion, war, finance, have become the schoolmasters of the people; not always good teachers, it is true, but still as indispensable as any of the numerous wants of modern civilization. Most families would rather restrict their table comforts than do without their newspaper. Again, sir, school books are the founda-

tion of our common schools, and the number of volumes now published annually is greater than the aggregate of all the public libraries in the United States. Tract and various religious and charitable societies consume a vast amount of paper. The Government of the United States is itself a vast consumer of paper. The printing establishment in this city, under the charge of Mr. Defrees, conducts a printing business far greater than any publishing house on this continent; and in the printing of revenue blanks, stamps, dies, &c., in the Currency Bureau, the United States becomes the great purchaser of paper, exhausting the market supply, and thus largely contributing to the high price of paper. Under these circumstances the paper mills that formerly could supply the demand for printing paper have not always been able to do so, and it would seem to be the part of wisdom to invite a healthy competition from foreign labor. But in doing so we dare not yield to an interested clamor and surrender any portion of our revenue, or destroy a branch of American industry.

These views have convinced me that the best rate of duty is ten per cent., a rate about equivalent to the aggregate of internal taxes. The manufacturer of printing paper needs no protection. His product is heavy, and expensive to transport. This is an advantage you cannot deprive him of when competing with foreigners. The present rate of duty is shown, by experience, to be prohibitive. No printing paper has been imported during the last year. The effect of the reduction will probably induce some competition, but, in my opinion, the home producer will be able to sell all he can make at a fair, remunerative rate; and in case the supply is deficient, the duty will not be so high as to give him a monopoly.

It is urged in favor of retaining the present duty that all changes in the tariff laws destroy confidence; that our citizens engaged in business have a right to demand stability in legislation affecting their business interests; and it is urged that if lower duties are yielded to the printers they will be yielded to other interests, and thus destroy our revenue system and impair faith in the payment of the public debt. This argument loses its force when it is shown that the proposed change does not reduce the revenue, and does not materially affect any interest, but only tends to supply the demand for an article the consumption of which is enormously increased by the war.

I can say for the Committee on Finance that it has fully considered all the arguments urged upon us. We have heard delegations from both the paper makers and the publishers, and as the result of a compromise between the opposing views I have mentioned, we have recommended fifteen per cent. as a proper rate of duty. I shall feel at liberty to vote for the lower rate of ten, but a less rate will, I am sure, result in a loss of revenue and a serious injury to the paper makers. We must remember that while the newspaper press may appeal to us daily, that their interest must no more be considered than the seven hundred paper mills and the very large capital employed in them. The interests of both must be held subordinate to the paramount interest of the Government, and that is that paper makers and printers and readers must all contribute their fair share in the support of the Government.

Mr. COLLAMER. I have some doubts on my mind which perhaps the Senator from Ohio can relieve. I am aware that pretty much all that has been said on this subject has been through the newspapers. The printers and publishers of newspapers have papers to talk through; the manufacturers of paper have no newspapers to talk through. Now, the first thing that strikes my mind is, that while it is proposed to reduce the duty on imported paper, the existing duty is left on all the imported articles which enter into the manufacture of paper in this country. The Senator has stated to us the materials and elements that enter into the manufacture of paper in this country. The chemicals, the wire-cloth, the felt, are all matters of foreign importation. The

wire-cloth is not made in this country. That is the screen on which the paper is dipped, and it makes fine paper according to the fineness of the screen, or otherwise. It is the screen which covers the wheel where paper is made by machinery, through which the water oozes and on which the pulp collects. The wire-cloth is imported from abroad. Now, it is proposed to reduce the duty on imported paper and still leave the duties on all these articles which enter into the manufacture of paper here.

Mr. SHERMAN. If the Senator will allow me I will state to him that in the statement furnished to me by the paper manufacturers, and which I have verified at the Treasury Department, the duty on the acids and other articles is reduced to paper money at the market rate of gold, so that the whole aggregate in paper money is what I have stated. It includes the felting, the wire-cloth, the alum, the sulphuric acid, bleaching powders, soda ash, coal, and the whole amount to \$40 63 in currency per ton.

Mr. COLLAMER. The duties on all the imported articles which the manufacturer must have are left unredacted, so that our manufacturers must buy these articles to carry on their work, pay all the duties levied on them, and then the paper which is brought in to compete with the paper they manufacture is to come in with a reduction of duty. I believe that the persons actually engaged at present in the manufacture of paper amount to about fifty thousand; and I have understood that the amount of capital invested in the business was considerably larger than the gentleman has stated.

Mr. JOHNSON. It is between eighty and one hundred million dollars, I think.

Mr. COLLAMER. One reason given for the reduction of the duty on printing paper is that it has become an article of necessity. Grant it. Is not the cloth for a man's coat a necessity too? I should think it was. You say poor people want to use it. Does not the poor man want a coat? You now impose a tax of five per cent. on all manufactures of every description of cloth in this country, however necessary the articles may be to life. Our condition requires it; we need the money, and we must have it. Then the fact that a thing is a necessary of life constitutes no reason for letting in the foreign manufacture and destroying the American production, when by destroying the American production we fail to get the duty and raise the money we otherwise should get.

I am not satisfied as yet that this duty ought to be reduced in any degree. Last year, or the year before that, as a compromise, the duty on the importation of paper was reduced from thirty to twenty per cent., and it stands at twenty per cent. now. That was the result of a compromise then understood to be in some degree satisfactory and permanent, but now it is to be disturbed again. I do not mean to say that it is so disturbed by the committees of either House, for they have not disturbed it as I understand. It seems to me that having settled it at twenty per cent., and settled it as a matter of compromise and arrangement with the other arrangements in the general bill, we ought not now to disturb it. The mere fact that American paper has grown dear is the only ground for it. Why is that? Is it true that the American manufactured paper has increased in price any more than other articles of American manufacture, or that it has increased any more than the materials out of which it is made have increased? Not at all. The Senator from Ohio says it fluctuates with the rise and fall of gold. Undoubtedly that is true of paper as of everything else. It goes up or down according to the variations in the depreciation of our currency. That is not peculiar to the article of paper, nor, as I before remarked, can the fact that paper is a necessary justify this movement.

Again, it is said the duty ought to be reduced because the Government is a large consumer and user of paper. Is it not also a large consumer of clothes and of all materials for the Army service? and yet we keep our duty on those articles.



My idea is, that by adopting this measure and doing nothing for the relief of our manufacturers of paper, the effect will be to wind up the business, to close the mills, to leave our manufacturers to pay the same duties as before on the materials which they import, and which go into the manufacture of paper, while reducing the duty on the imported article even to fifteen per cent. will almost entirely cripple them.

I think upon the whole, and in the long run, we shall do better to let this manufacture stand, like all other manufactures of the country, and pay duties on their home production, by having such duties on imported articles as will enable them to compete with the foreign producer; otherwise, they never can pay us much internal revenue.

Again, the Senator from Ohio said that there are about seven hundred paper mills scattered all over the country. I think he is about right as to the number. You have them out in Iowa and Illinois, and all through the country. Mills are now being established in the far-off States for the purpose of using straw, wood, husks of corn, and other materials for making paper, using comparatively a small proportion of rags. I think we had better promote that, increase it, improve it, encourage it. If we adopt the system now proposed, that will be ended; no more will be built, no more investments will be made, no more improvements in that direction will be instituted. On the whole, I am not satisfied that there should be any reduction at all.

Mr. WADE. Mr. President, on this subject of the reduction of the duty on printing paper, my colleague and myself are instructed by the Legislature of Ohio to vote for the reduction, and if it were not for that instruction I should probably give a silent vote on this measure. On almost any question about which I entertain the least doubt, my respect for the Legislature of Ohio would cause me to solve that doubt in favor of the opinions which they have expressed. I have never believed that the Legislatures of our States have a right to instruct Senators so that we are bound, under all circumstances, to obey those instructions; but, on the other hand, there is no question but that the opinion of the Legislature is entitled to the gravest consideration, and should not be departed from, unless where one is fully persuaded that the instructions that he has received are not in accordance with the best interests of the country. That, I must say, is my position now. Since receiving these instructions I have taken some pains to look into this question, and my colleague has explained the facts just as I find them to be, and I therefore need not repeat what he has said. I was unable, however, in this case, to find anything which particularly affects this article of paper that should induce us to discriminate between it and a great many other articles that are protected by a higher duty than that imposed on paper.

I know very well, as has been said, that almost every commodity we make use of has increased very much in price, and seems to fluctuate with the rate of gold from day to day. It is so with paper, just as it is with everything else; and I see no reason why, if we vote now for the reduction of the duty on paper, we should not, on the same principle, be compelled to vote for the reduction of the duty on almost every article that I know anything about. It is an article in the production of which in this country a great deal of capital is invested. It is an article which can be manufactured as well in this country as anywhere else. We have all or nearly all the materials necessary for the manufacture. There are some of the elements that enter into it of foreign production which it is not proposed to disturb in regard to their protection, for they are left precisely as they were. But these things are not of such consequence perhaps as to confine our action to this one article. This of itself would not make any very great difference to the country; but it is an important question in view of the proper provision to be made for the vast accumulated debt of this nation. That is a subject on which I have reflected a great deal, and which has troubled me much more than the war which is on our hands, because I have always believed that the war could only be determined in one way sooner or later.

I have always felt assured that when the immense power and resources of the free States in

war were brought in collision with the seceded States, notwithstanding all our blunders, if we make any, notwithstanding all the bad policy we may adopt, if we adopt any, we cannot so err but that in the end we must overcome our comparatively feeble enemy. But this vast debt that we are accumulating is a thing of paramount consideration, and we cannot begin to look it straight in the face too early. According to my philosophy, if we are to successfully grapple with this great burden of debt, we must provide for paying it off by the labor of man. There is nothing else that I know of which is of any value for the purpose. I know of nothing that we esteem valuable which is not the product of human labor; and if we are to pay off this debt we have got to work it out, and it must be worked out by our own people, and not by foreigners. Our people have to earn the money. The people of the United States by their own labor, and by their wise application of that labor, are to grapple with and discharge the debt, and I agree that they are perfectly able to do it. The debt does not perplex me provided we make a wise disposition of the vast resources we have in hand, for if we shape our policy so that whatever commodities are necessary for our people shall be the product of our own labor, we overcome any debt you can conceive of.

Why, sir, look at the results of labor and compare them with the debt. I believe, according to the census of 1860, it was shown that the products of manufactures in the United States at that time were about two thousand million dollars per year. Reflect upon that, sir. One year's work of all those engaged in manufactures, if it could be all applied to the payment of your debt, would sweep it out and pay it off. What is that compared with the products of labor applied in other departments, in agriculture, in your mines, in all the various branches of labor? I do not know the figures, for I have not summed them up, but I suppose the products of the labor of the people of the United States now cannot fall much short of five thousand million dollars per annum.

It is vast, it is almost inconceivable; and if we shape our policy so as to perform our own labor, no man need be frightened at the amount of debt we have to meet; but if we so shape our policy that we are to go abroad for our labor, and undertake to pay for it by depriving our own people of the right to do this labor and to perform this necessary service, we shall fail. I know that in that event we shall fail. I am not going to enter into the argument of the tariff question; but just at the threshold, when for the first time it is proposed that with all this burden upon our back we shall put it into the hands of foreigners to do our labor, I think it becomes every statesman to pause and consider. How are we to pay this debt if we deprive our own people of the right to do our labor, as will be the case if you discriminate in favor of foreigners?

Nay, sir, I go further. When we consider the vast capital and means in the hands of foreign manufacturers to underbid us in the market and to overcome our manufacturers and thereby destroy our labor, it seems to me to be a wise and a necessary policy to protect our own labor, and to see that the nation so shapes its policy that its own necessities shall be supplied by the labor of its own people. I am told that we shall destroy the labor of our own people to the amount of a hundred million dollars by reducing the duty on imported paper as now proposed. Open that branch of business to foreign competition and foreigners will do the work, but you have got to pay them for it; and you have got to pay them in the proceeds of your mines, for they will not take your paper. You have to send abroad the products of the mines of California and Nevada to pay for this labor that ought to be done by our own people. I am opposed to it. I regret that the Legislature of Ohio was so easily led into the adoption of the instructions to which I have referred. I have endeavored to find what arguments were made use of to induce the conclusion at which they arrived, but I have seen nothing of them. I fear that it was the result of but very little reflection; I fear they did not take into consideration the present condition of this great nation, and reflect that the only means on God's earth by which we can meet the burdens now upon us is by so shaping our policy as to support

and encourage our own labor in every department of industry. If we do that, I fear not the debt; it will vanish before the advancing interests of the nation like the frost before the sun.

With a population doubling as ours does, almost, from decade to decade, with the products of our labor increasing in a ratio infinitely greater than the population, any debt which we may have will be but a light burden on us, and that but for a short time, if we adopt a wise policy; but if, on the other hand, we adopt a policy that compels us to go abroad for the products of foreign labor, if we discourage the employment of labor in our own country, we must be a poor, insignificant nation. I know that abroad there is a great deal of talk aimed at this country about free trade. Great Britain will pay millions to authors who write about free trade, and to papers that preach free trade, and to orators who go forth on the stump and proclaim the glories of free trade. But look at their own practice; take up their tariff, see the vast amount they have collected from customs, and compare it with ours. We are branded with being protectionists, with imposing restrictions upon trade, and yet, if you look at the customs you will find that the British Government collects from customs three times more in the year than we do, although they prate so much of free trade. Whether free trade is wise or not depends on the relation that one nation bears to another. What nation ever protected their commerce and their labor with higher restrictions than has Great Britain since up to within a very recent period? No nation in the world, until they had built up their manufacturing interest, their commerce, and became the manufacturers of the world by reason of their restrictions in favor of their own labor. All England is a perfect beehive of industry. Why? Because the statesmen of England have always had a realizing sense of the necessity of encouraging their labor, until they have built up such wealth and so perfected themselves in all branches of manufacture that there is hardly a nation in the world, and no young nation commencing its career, that can compete with them for an hour. Then they say, "Throw down the bars; now we are powerful enough to put down all competition; our wealth is such that we may by any kind of sacrifice undersell you, break down your manufactures, and we can very soon, after that is done, indemnify ourselves again." Yes, sir, when they have broken down your competition, undersold you until they have destroyed your ability to compete with them, they will turn around, and you will have to pay dearly for all that they threw off in order to attain to that position.

But, sir, I do not wish to enlarge. I say now, and I warn the Senate, and I warn the people of this Union, that with this vast accumulated debt upon our shoulders we must encourage our own labor. If we fail here we fail throughout, and your bonds are comparatively worthless. I proclaim it upon this floor, if the American people make a mistake here, as I fear they will, in my judgment your vast accumulated debt is good for nothing; you are a bankrupt nation; you throw away that predominance that the Almighty has given to the American people over every other portion of the world. It is in our power to be the great predominant nation of the earth, and this burden of debt upon us is nothing if we only trust our own laborers to work it out. But, sir, if we fail here, I fear that we shall fail throughout, and we shall bring down this nation from the height to which it ought to aspire to be secondary, and merely a dependence upon the European nations.

Mr. HALE. I was struck by the remark made by the Senator from Vermont, and it is certainly true, that so far as the newspapers are concerned, they have an advocate in every paper. A great deal has been said about this subject, but I take this simple view of it: I have looked at these papers, and have thought upon the subject somewhat, and according to the best information I can get the duty which these manufacturers pay upon the articles that enter into the composition of their paper is now over thirty per cent. It is difficult to get it accurately, but I apprehend by the best average it will be found, and I understand the chairman of the Committee on Finance agrees to that, to be thirty per cent. Then, sir, if you leave that so, every reduction of the duty

on paper is unjust to our manufacturers, and, as has been well argued by the Senator from Ohio, for the benefit of the foreign manufacturer.

As there seems to be no agreement or unity of sentiment among those who want this duty altered, some having named three per cent., some five, the chairman of the Committee on Finance ten, and I understand the Committee on Finance fifteen, I desire to test the sense of the Senate upon the subject, and I think we might as well do it now as at any time. If we indefinitely postpone this bill it will leave the duty twenty per cent.; and while we leave the tax upon the articles entering into the manufacture of paper as it now is, considerably more than thirty per cent., I think the wisest way would be to leave the duty just exactly where it is; and with that view I move that the further consideration of this resolution be indefinitely postponed.

Mr. FOSTER. Mr. President, I was very glad to hear the honorable Senator from Ohio [Mr. WADE] say that notwithstanding the instructions of his Legislature, for which he had high respect, he should vote against any reduction of the duty on paper. I was prepared to expect it from his known independence of character. I concur with him most fully in believing that he will better represent the people of his State, as well as promote the best interests of the country, in voting to have the duty remain as it is rather than in voting to reduce it. Why, sir, in his own State of Ohio, although not considered a manufacturing but an agricultural State, there was produced during the past year paper to the amount in value of \$1,808,966, and the manufacturers of that paper paid as duties to the Government on the mere manufacture \$54,269. No doubt more than \$2,000,000 worth of paper was manufactured in the State, and so of course more than \$54,269 of tax ought to have been paid by the manufacturers on the product; I do not suppose that the manufacturers of Ohio have evaded taxation more than those of other States; but in the commencement of a system of internal taxation the amounts assessed and the taxes paid are always less than the real amount which should be assessed and paid. Two million dollars is no doubt less than the amount in value of the paper manufactured in his own State of Ohio. Great as the State of Ohio is, and great as are its resources, it is certainly not statesmanlike to strike a blow at an interest so important as this paper interest, producing, unquestionably, more than \$2,000,000 in value of paper a year. It is a great interest, great even for the State of Ohio, and it is a growing interest in that State and in most of the States.

Sir, whether we consider this question in the light of the high price of paper, or as a revenue measure, or as part of a great system involving the general principle and policy of manufacturing our own paper instead of importing it from abroad, we come to the same certain result, that any reduction of the duty is inexpedient, unjust, and dangerous.

As it regards the high price of paper, it is relatively no higher than all manufactured commodities; and when we speak of its high price what do we mean? Printing paper is now from twenty-two to twenty-four cents per pound in the great markets. Before the war it was about ten cents per pound. Between the price ten cents, and twenty-two or twenty-four cents, there is certainly a very considerable rise, more than double; but has paper risen? Has it doubled in price to the purchaser within four years? No, sir. Compared with the same standard of value by which the purchaser in 1860 procured paper at ten cents per pound, there has been but little rise in paper. That standard, as we all know, in 1860, was gold. The present standard is not gold, but a paper currency, a depreciated paper currency. It takes from twenty-two to twenty-four cents of the paper currency to buy a pound of paper, which, when gold was the standard, could be bought for ten cents; but take gold as the standard now and paper has risen but very little. The highest price that paper has touched in the great markets of the country during the past year was, I believe, twenty-eight cents per pound; and the highest price to which it would have risen, taking gold as the standard of value, would have been twenty-eight and a half cents per pound. So that, instead of a rise, if we take gold as the standard, and take the highest price of gold and the highest price of

paper, paper has not risen in value at all, but is now lower than it was before we adopted paper as our currency and had gold as the standard. If we take the average rate at which gold has been selling during the past year, and take paper at ten cents per pound as the standard price, and let paper rise proportionately as gold rises, and compare the average, there has not been a rise in the price of paper during the past year; it has no more than maintained the average with the rise of gold.

Under these circumstances there is certainly no reason for our legislating to reduce the duty on paper to bring down the price. It has risen because the standard of value has changed; it has not risen if we adopt the same standard of value which existed in the country previous to the war.

Again, sir, as has been suggested, all the commodities which go into the manufacture of paper have risen as much, and I think more—certainly many of them much more—than paper has risen. Why, sir, rags, which until within a few years were almost the only commodity out of which paper was manufactured, have risen from two hundred to three hundred per cent. Straw, an article from which a good deal of paper is now made, has risen from two hundred and twenty to two hundred and seventy-five per cent. Soda ash has risen from two hundred and fifty to three hundred per cent. Bleaching powder has risen from three hundred to six hundred and fifty per cent.; sulphuric acid and alum from two hundred to three hundred and twenty per cent.; whale oil, which is used to some extent in the manufacture, has risen from two hundred and fifty to three hundred; rosin, for sizing, more than anything else, has risen from twelve hundred to seventeen hundred per cent.; coal from three hundred to four hundred per cent.; gum belting from two hundred to two hundred and fifty per cent.; wire-cloth from two hundred to two hundred and twenty-five per cent.; feltings from four hundred and fifty to six hundred per cent.; paper machinery at least two hundred and fifty per cent.; bar iron two hundred and fifty per cent.; white pine lumber over three hundred per cent.; bricks from two hundred to two hundred and fifty per cent. Paper has not risen during this time more, and I say not as much, as these several articles which either go into the manufacture of paper and are used in its manufacture, or which go into the construction of the machinery and mills; so that we are unreasonable if we expect that paper shall maintain the same price that it did formerly, when all the articles out of which it is manufactured have risen at this rate. Compare the price of paper, too, with the necessities of life—with meat and breadstuffs. Wheat has risen more than two hundred per cent.; Indian corn even more; beef and pork from two hundred to two hundred and fifty per cent.; sugar from two hundred and fifty to three hundred per cent.; and coffee over three hundred per cent. Under these circumstances, if paper has doubled in price, ought we to find fault with the manufacturers? Has not the whole increase of price been a necessity, an inevitable necessity?

The present rate of duty, as the honorable chairman of the Committee on Finance has suggested, is as low as it has been for forty years. By the tariff of 1846, which was adjusted on what was supposed to be an approach toward free-trade principles, the duty on paper was fixed at thirty per cent. By the tariff of 1857 it was reduced to twenty-four per cent; but connected with that reduction, the duties on chemicals were reduced as much and even more than the duty on paper; so that the twenty-four per cent. duty under the tariff of 1857 was a better protection to the manufacturer than the thirty per cent. duty of the tariff of 1846. It continued at twenty-four per cent. until 1861, when the duty on paper was again raised to thirty per cent. In 1862 it was raised to thirty-five per cent.; and in 1863 it was reduced to twenty per cent., where it now stands.

While in 1862 the duty was raised to thirty-five per cent., the duties on chemicals were then raised so as to be adjusted to a duty on paper of thirty-five per cent., raising the duties on chemicals, which previously had been very low, some of them merely nominal, to a very high rate, and at that high rate they now stand. By the tariff of 1857 the duty on soda ash, bleaching powders, and sulphuric acid was four per cent., a merely nominal duty, scarcely enough to pay the cost of

collecting; and the duty on alum was fifteen per cent. The duty on soda ash is now fifty cents on every one hundred pounds; on bleaching powders thirty cents on every one hundred pounds; on alum sixty cents on every one hundred pounds; and on sulphuric acid one cent per pound. These duties are perfectly enormous. They remain as they are, fixed to a duty on paper of thirty-five per cent.; and now, with paper at twenty per cent., it is proposed to reduce it, and still leave the duties on these commodities where they now are, adjusted, as I have stated, to a duty on paper of thirty-five per cent.

As the honorable Senator from Vermont suggests, articles of clothing have all increased quite as much in price as paper has increased. Those surely are quite as much necessities of life as paper; and however much we may regard paper as among the necessities, and however much we may say this is a tax on knowledge, a man who had no clothes to wear would pursue knowledge under difficulties, at least in this climate. We tax his clothes to such an extent that the duty on paper is greatly below the duty on his clothing.

There is, then, Mr. President, no reason on earth for reducing the duty on paper because of its high price. It is no higher than by the laws of trade under our currency it must be as a necessity.

Then as a revenue measure—and I agree that as a revenue question we should regard it, perhaps, rather than in any other light; for revenue is the vital question to the Government and to the country at this time. The honorable Senator from Ohio [Mr. SHERMAN] has given us some statistics on this subject, and has shown, perhaps sufficiently, that, so far as this is a revenue measure, a reduction of the duty to three per cent. would be exceedingly absurd, to say no more. The honorable Senator stated the amount which is now paid to the Government on a ton of paper manufactured here within our own country. He has stated it, I believe, at \$40 63. That is correct as to paper manufactured out of certain commodities, but it is not correct in regard to paper manufactured out of certain other commodities. Where paper is manufactured from wood or straw, flax or hemp-tow, the consumption of chemicals is very large; and, under those circumstances, a ton of printing paper pays to the Government on these several articles which go into its manufacture, together with the excise on lime, coal, feltings, war, and income-taxes, the sum named by that Senator. But where a ton of paper is manufactured from rags, the consumption of chemicals, which pay high duties, and of articles subject to tax, is much less; there is less labor in the manufacture, and therefore the manufacture of a ton of paper from rags does not produce to the Treasury of the country the amount of forty dollars, and but little more than half of it. A ton of paper manufactured from rags pays to the Government but \$21 24, instead of the larger sum of \$40 63 which it pays when it is manufactured from the other substances to which I have alluded.

As the honorable Senator showed to the Senate, a duty of three per cent. on a ton of paper imported from abroad at the price at which it can now be bought, \$160 per ton, is \$4 80, and that sum, reduced to the standard of our currency, makes the sum of \$10 80, reckoning gold at 225. So much is paid in duty on a ton of paper imported from abroad; and a ton of paper manufactured in the way I first stated pays to the Government \$40 63, showing a loss to the Government, between a ton so manufactured and one imported, of the round sum of \$29 83, and if it be made from rags the loss is \$10 44. In either event, therefore, whether the paper be manufactured from wood, straw, &c., or from rags, there is a great loss to the Treasury of the country. Without saying one word about the policy of having this work done at home rather than to have it done abroad, regarding it simply as a revenue measure, the loss is ruinous to the country.

But the honorable Senator from Ohio, from the Committee on Finance, proposes to raise the duty in the bill as it comes from the House from three to fifteen per cent.; and the question now is, or was when the motion was made to postpone indefinitely, upon the amendment making it fifteen per cent. If the duty be fifteen per cent. on the same rate of \$160 per ton, the Government would

receive \$24 per ton duty in gold, and that reduced to currency, with gold at 225, would be \$64, which the Government would receive on a ton of paper imported at fifteen per cent. That, I agree, is a larger sum than is paid to the Government from the manufacture of a ton of paper here, and so there would seem to be a gain to the Government. But let us see whether there would be. Of course, if we fix the duty at fifteen per cent., and mean to act honestly and fairly, we must give the manufacturer the benefit of fifteen per cent. upon his manufacture; otherwise our law is a delusion and a snare. In order that he may have the benefit of this fifteen per cent. protection, the several articles which he now imports from abroad to make his paper, and on which he pays a heavy duty, ought to come free; and he ought to make his paper out of free materials as it is made abroad, he being called upon to enter into competition with paper manufactured abroad.

Now, sir, during the year ending June 30, 1864, the amount of these several commodities imported into the country was as follows: we imported 75,879,706 pounds of soda ash, which was worth \$1,303,805. We imported of bleaching powders 14,932,688 pounds, worth \$309,904; and of alum we imported 1,503,088 pounds, worth \$26,015. We received for duties on these several articles at the custom-house \$433,214; nearly half a million of dollars duties on these chemicals which go into the manufacture of paper. I agree that these chemicals are used for other purposes besides the manufacture of paper; but if they are to be admitted duty free, this is the amount of duty which is lost to the custom-house, and which, as I stated, amounted last year to \$433,214.

Mr. FARWELL. In gold.

Mr. FOSTER. Yes, sir, in gold. I thank the honorable Senator for the suggestion. In currency it would be \$974,731, with gold at 225. We received last year from the three per cent. tax on paper manufactured \$895,528; and this sum, with the duties on the chemicals last named, in gold, make up the amount of \$1,328,742—two items only of the amount to be made up by duties on imported paper.

Then the value of the paper and manufactures of paper produced in this country during the last fiscal year, to wit, the year ending June 30, 1864, was \$29,850,933, as shown by returns at the Treasury. The profits on that business are said to be enormous; but I propose to take a very moderate figure; no more than what even those who attack the paper manufacturers agree is a fair profit; take ten per cent.; and that, on this amount of paper manufactured, shows a profit of \$2,985,093, and on that profit the five per cent. income tax is \$149,254 65. That, added to the former sums, makes, in three items, \$1,577,996; and that is very much below the amount which the Treasury now receives from the manufacture of paper with the duty as it now stands. Between two and three million dollars unquestionably now come into the Treasury from the paper made in the country; perhaps more than the larger sum.

I propose to take these figures, and if we stop the manufacture here at home, we have got of course to provide by an importation from abroad such an amount as will raise this sum in revenue, or else the Treasury will be a loser. Now, to raise this sum of \$1,577,996, which we now receive, we must import 29,222 tons of paper at fifteen per cent. in order to make up the sum, which I have shown to be less than the amount which the Government now receives. That number of tons costs \$4,675,520; so that to import paper enough, with the duty at fifteen per cent., to raise the amount which we now receive, we must export \$4,675,520 in gold. We should, it is true, get back about \$700,000 of that in duties at the custom-house; and taking those two transactions together, we should send away nearly \$5,000,000 in gold for the sake of getting back \$700,000; not a very wise speculation.

Mr. President, with the country in the condition it now is, with our exchanges as they now are, with gold at the price it now is, can we with safety send abroad \$5,000,000 in gold to buy our paper? Would not the picture which the Senator from Ohio [Mr. WADE] suggested of national bankruptcy be staring us in the face, and that speedily? Why, sir, it would be utterly impossible for the country to maintain its credit any

considerable length of time if we follow such a course of policy as that.

The whole amount of our domestic products exported last year was \$320,394,796, and of foreign products \$20,373,409, making an aggregate of \$340,768,205; and our imports the same year were \$328,514,559. We exported in gold the past year \$105,228,375. Of that the domestic production was \$100,228,375, and of foreign coin and bullion \$4,905,685. We imported \$13,155,706; and the excess of our exports of gold over the imports was \$92,072,669. We see what the condition of our country is as it regards the price of gold and our foreign exchanges, with an export of gold in excess of imports the past year of this sum of \$92,072,669.

If we add to that the amount which would be necessary to buy barely paper enough to bring to the Treasury at fifteen per cent. the same amount which is now brought to it by the manufactures of the country, it would not only cause gold to rise in price very considerably, but, as I say, it would go far toward shaking the credit of the country. Gold has risen in this country about as high as it is safe for us to have it rise; and while I do not suppose that we by legislation can regulate its price, although the votes of Congress on certain occasions would seem to indicate that we could, or at least thought we could, yet we can legislate so as to prevent our workshops from being in Belgium or France or England; we can legislate so that the people of our country shall be profitably employed at home, and that we shall manufacture those articles which can be manufactured as cheaply and made as well here as they can be made elsewhere. If we adopt the policy that is here suggested by a reduction of this duty on paper, instead of raising the credit of the country we should impair it if we did not destroy it.

Why, sir, the export of four or five millions more of gold, if it affected the gold market but for a week to raise it five to ten per cent., causing, as it would, the same rise of every commodity in the country for that space of time, would make ten times the loss to the country which could be gained by anything in the way of reduction of the price of paper for years. There is and can be no doubt but that any increase in the export of gold would affect public credit and cause the price to rise, and of course the price of everything else to rise; and that all for the purpose of getting paper a few cents in the pound cheaper! It would be a most ruinous experiment.

Sir, until our country is in a condition again to export rice, cotton, tobacco, and naval stores, we cannot hope greatly to increase the present amount of our exports. There is no reason, there are no grounds, for such an expectation. Whatever we buy, then, from abroad more than we now buy, we have got to pay for, not in the products of our country, but in gold, and that would be a downward, dangerous, ruinous policy.

It is said we must import to some extent in order to get gold to pay the interest on our gold-bearing bonds. Sir, if we manufactured all the commodities at home which we now purchase from abroad, and stopped this ruinous exportation of gold, how long would it be before our paper currency would be at par with gold? Let it once be understood that we produce here at home what we are now purchasing abroad, let us buy no more from abroad than we pay for in the products of our own industry, and keep the precious metals at home, and I say the day would be very near when the difference between our paper currency and the gold standard of the world would not be worth calculating.

There is then, Mr. President, no need of any legislation on the subject of the duty on paper, either as it regards its price, or as a question of revenue, or as a question of public policy. As a question of public policy it is interwoven with the great system of home industry, and there is no reason why the manufacturer of paper should be taken out of the catalogue of other great manufacturers and brought at once to a duty that shall be ruinous to the home production and cause our paper to be manufactured abroad.

The same policy, as the honorable Senator from Vermont suggests, should be applied, certainly, to all the necessities of life. Clothing, all cotton and woolen fabrics, every species of manufacture that is now protected in this country and made in this country, would, by this system, be made

abroad, and we should be a nation of idlers paying for the articles we consumed, not in the products of our own labor, not producing the articles necessary for our consumption, whether these articles were articles of luxury and elegance or articles of common convenience and necessity. Everything would be purchased abroad and paid for in raw materials, or the precious metals. The career of such a nation would be exceedingly short to national bankruptcy. Surely that would be the epitaph of this country at an early day if such a policy shall be adopted.

I know it is said that it is necessary to have a healthy competition, and that we must reduce the duty in order that our manufacturers should be brought in healthy competition with the manufacturers of paper abroad. Is this principle applied to any other article of domestic manufacture? Are not the duties on all these articles to which allusion has been made as nearly prohibitory at the present time as the duty on paper? The honorable Senator from Ohio [Mr. SHERMAN] said there had been imported not a pound for years. He is slightly mistaken. It is true the importation is small—the importation of printing paper last year amounted to something less than ten thousand dollars—a small sum, I agree; but still there was some importation.

Mr. JOHNSON. Of foreign paper?

Mr. FOSTER. Of foreign printing paper.

Mr. SHERMAN. When I said not a dollar, I meant that practically there were no importations.

Mr. FOSTER. I thought the Senator meant so. I agree this sum is no substantial correction.

Mr. JOHNSON. Have you got the number of tons?

Mr. FOSTER. I had the memorandum before me a moment since.

Mr. SHERMAN. The amount manufactured was \$107,000,000, and the amount imported, I think, ten or twelve thousand dollars; and therefore I said there had not been a dollar's worth imported.

Mr. FOSTER. In 1863-64 the amount was twenty-eight hundred and thirty reams of printing paper, valued at \$7,962; of writing paper, \$116,463; other manufactures of paper, \$272,638; making a total of \$389,101. That was the importation during the fiscal year 1863-64.

Now, Mr. President, I say the application of the principle of competition should be made in all other branches of manufacture as well as in this, and for the same reason; and I do not believe that we can at this time go into that competition without shutting up our mills. That there is any monopoly in the price of paper in this country by a combination among manufacturers I look upon as one of the idle fancies of the hour. Why, sir, there are between seven and eight hundred mills in the country, owned by as many men, scattered all over the country from the Atlantic to the Pacific. The idea that these persons are to combine and fix the price of paper above its real value and compel the people to buy it, is simply ridiculous. There is no such thing, and there can be no such thing. If paper making is a profitable business, the capitalists of this country are shrewd, discerning men, and they will go into the manufacture of paper; and if the price is too high it will be brought down, and brought down to a reasonable rate; and there is no danger and no possibility of a monopoly of a manufacture of this description.

In order to make an article cheap, there must be a competition in the sale; and that is just what these various paper manufacturers are doing. They are going about the country and competing with each other in the sale of their product; and that is what always makes an article cheap—competition in sale. If this policy should be inaugurated of reducing the duty on paper to three per cent., imposing in effect a penalty on the manufacture of paper here, our manufacturers could go abroad and manufacture cheaper than they could here. The effect of that policy would be to diminish all competition as regards sales, and make a competition only in the matter of purchase; and that is what raises the price of an article—competition in the purchase. Competition in the sale is what makes it cheap. Why do we not hear of a combination among the cotton manufacturers, or the woolen manufacturers, the iron manufacturers, or any other manufacturers, as well as a combination among the paper manufacturers?



Mr. JOHNSON. They were charged with it originally when the factories first started, but it was soon found to be unfounded.

Mr. FOSTER. So I apprehend will it be found in regard to this, for it is impossible in the nature of things that it should continue. The amount manufactured at different points and in different States is too wide-spread, the interests of the people who are engaged in the manufacture are too diverse to enable them thus to unite and monopolize an article of this sort. I have already stated that the amount produced in the country during the last year was almost thirty million dollars; and it is scattered over every State. I have returns from twenty-three States now before me, that paid taxes to this Government on the paper manufactured within them the last year. The idea that the manufacturers extended over twenty-three States are going to combine to make a monopoly is, as I have said, perfectly ridiculous. This is a great interest, and it is not to be struck at with impunity. I do not mean with impunity as regards the power of the manufacturers; they are in our hands no doubt; but I mean with regard to the interests of the country. We shall strike a blow at public prosperity when we strike a blow at so important a branch of industry as this.

I have spoken of the amount produced in the State of Ohio. The little State of Delaware produced last year the amount of \$675,033. The great State of New York produced \$8,014,900; the State of Massachusetts \$7,555,933; the State of Connecticut, a small State, contributed her quota in the sum of \$2,792,066.

Mr. JOHNSON. Have you Maryland there? Mr. FOSTER. No, sir, I have not; at least I do not put my eye upon it now. I say that these interests are too important and too large to be trifled with, and that any attempt to reduce the present duty is a blow at their prosperity.

Mr. President, I am quite free to avow myself a disciple in the school of Henry Clay of glorious memory in regard to the protection of domestic industry. I know that that doctrine found strong opposers and was jeered at and derided by the southern and southwestern States during all the life, or most of the life, of that great man; but unless I am greatly mistaken the experience of the last four years has taught the southern and southwestern States the wisdom and the sagacity of the policy taught and advocated by that ardent Kentuckian, but more ardent American, Henry Clay. The States in rebellion, if they had but adopted the system advocated so strongly by him, would have been in a condition to make a vastly better fight against us than they have done; and if the northern States had not to a considerable extent adopted that policy, we should have been beaten and driven ignominiously from the field long ago. Our Government would have been overthrown—prostrated. Unless I am greatly mistaken the day is not distant when our country, united again as it was, again having all the States represented here, no star fallen, the policy of domestic industry which was advocated as I have said by our great departed statesman, will have its strongest advocates and friends from the South and Southwest. The stern school of necessity, experience, has made converts in that region that reason and argument failed to make. This will be a tribute to the wisdom of the policy all the more valuable because it will come from most reluctant sources.

Mr. President, in order to raise the great amounts of money which we are now called upon to raise, we must develop our internal resources and cherish our home industry. The Senator from Ohio [Mr. WADE] is entirely right. We must open our mines (and they are inexhaustible) of coal and iron and lead and copper and silver and gold, not forgetting the ever-flowing fountains of oil. We must put into tillage and under cultivation our broad fields and vast prairies until they wave with golden grain, and echo with the song of the reaper. Then, sir, as the Senator from Ohio says, our debt, mighty as it is now in name, will never be felt as a burden. Our country will be united, happy, prosperous, glorious, and free, the joy of the whole earth. But if we adopt the contrary policy, if instead of employing our people at home and manufacturing the articles which we need as well as the articles of luxury and elegance which we now import from abroad, we purchase every-

thing abroad because we can there buy cheaper, the course of the country will be rapidly downward; between us and national bankruptcy, repudiation, and ruin, there will be but a few steps. I hope we shall not take the initial one-to-day by repealing this duty on paper, or indeed by meddling with it at all. Sound policy and wise statesmanship require us to leave it where it is.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question before the Senate is on the motion of the Senator from New Hampshire [Mr. HALE] to postpone the further consideration of this bill indefinitely.

Mr. SHERMAN. I hope the Senate will not postpone this matter, but meet it fairly by vote. There has been a great deal of discussion in the public prints and through the country and in the State Legislatures on the subject of the duty on paper, and I much prefer to decide it than to postpone it. In my own State the feeling is almost universally in favor of a reduction of the duty on paper. So strong was the feeling that when the subject was presented to the Ohio Legislature, the resolutions referred to by my colleague were passed by an almost unanimous vote, perhaps without a division. Occupying the position I did as chairman of the Committee on Finance, and not agreeing entirely with the opinion of the Legislature, I reexamined the whole question with the sincere desire to comply with their request. I do not regard their resolutions as controlling my vote, but only as an opinion entitled to great weight and conclusive on questions about which I have doubts. The preamble and resolution is as follows:

"Whereas the duty on imported paper amounts to prohibition, and produces no revenue, but costs the Government an amount estimated at \$500,000 per annum; and whereas said duty is an unprofitable tax upon the people, and a needless limitation upon the freedom of the press: Therefore,

"Resolved by the General Assembly of the State of Ohio, That our Senators and Representatives are hereby requested to exert their influence for the removal or diminution of said duty."

We are requested to remove or diminish the duty on paper. To remove the duty entirely, without removing the excise on domestic paper, could not have been contemplated by the Legislature, as its gross injustice is apparent. I am willing to diminish it, but not to the extent desired. If the question was presented to the members of the Legislature, for whom I have high respect, as it has been to me, I do not believe five members of either branch would vote in favor of a reduction of the duty to the rate of three per cent. They desired no doubt to see a reduction in the price of paper, because under the operation of the high price of paper many of the local country papers have been driven out of existence. I have received letters from editors and publishers in different parts of my State demanding and urging the repeal of the duty on paper. They say to me that the local papers are being driven out of existence, but this is by competition with the large papers in the cities of Cleveland, Columbus, and Cincinnati, and with the papers in New York, and not by the high price of paper. Without looking to the cause of this increased price, they naturally suppose that it is caused by the tariff laws.

When I came to examine this question in the first instance, I supposed that the duty on paper did in fact, to some extent, operate on the price of the paper; but on an examination of the laws I found that the rate of duty now is less than ever before. If the present rate of twenty per cent. would make the high price, what would the former rate of thirty-five per cent., and at one time forty per cent., make it? When I came to examine the price as compared with other commodities, I found that it has risen no more than anything else, and not as much as the necessities of life. The price of paper at the highest was about twenty-eight cents, and now it is about twenty cents, per pound. When coin was the standard, it was ten cents to ten and a half cents; so that it is not now more than double the former price, while iron, nails, cloth, and every commodity used by all classes of citizens are more than doubled in price. The complaint made by the consumers of paper, therefore, is the same complaint that might be made by the consumer of every commodity: owing to the inflation of paper money and the withdrawal of large numbers of laborers from the ordinary branches of industry, the price of every commodity has risen from two to three hundred per cent.

I observed also further, by a comparison of the price of paper and gold, that it only followed that invariable standard of value. At the commencement of the war, paper was ten cents per pound. When gold advanced to 280, it was twenty-eight cents; when it fell to 200 it was twenty cents per pound, and so on, governed by the invariable standard. I was satisfied under these circumstances, that the duty on imported paper did not create this large price. It was the price of gold; it was the price of the commodities that enter into the manufacture of paper; it was the price of labor; it was the price of iron and all the materials which enter into and formed a part of the expenses of the laboring man of the country. All these had advanced in proportion, and the duty had but little to do with it. When reduced from thirty-five to twenty per cent. paper still advanced with gold.

Then, again, when I came to examine the fact that we levied upon our own manufacturers ten per cent., and this could be demonstrated in figures so plain that every school-boy could see it, the proposition to levy only three per cent. on the foreign manufacturer was abhorrent to my sense of justice. The Legislature of Ohio has not, and would not, if here, vote for that proposition; a proposition to make a discrimination in favor of the Canada manufacturers, on the opposite side of our lakes, of at least seven per cent.; a proposition to make a discrimination in favor of the manufacturers in Belgium, where labor is cheap, of seven per cent. It was not only a departure from the principles advocated by the great body of the Legislative Assembly of Ohio, but it was a departure from any principle ever advocated by the free-trade men.

Mr. FOSTER. Except imposing a penalty for making paper in this country.

Mr. SHERMAN. What was the principle of the free-trade men of the country? All of them said that American industry ought to be placed on the same footing and with the same competition with foreign industry, so that if any occupation of life proved to be unprofitable by fair competition the people might go to some other employment. But, sir, the proposed tax of three per cent. on foreign paper was absolute discrimination against the home manufacturer.

I will take a case put by the figures. We manufacture now \$80,000,000 worth of paper as shown by the statistics. The amount now paid to the Government as internal revenue and as customs on that is about \$7,000,000; I mean including the duties on chemicals. There is, first, three per cent. on all manufactured paper. Then there is the duty of five per cent. for the income tax. Then there are all these chemicals, all the materials that enter into the manufacture. Taking these together, it is proven very plainly that on the average the duty is ten per cent. on the aggregate value of the paper; so that in one form or another, the internal duty on paper in its various forms—books, newspapers, &c.—is at least \$8,000,000. If we were to import that amount of paper into the country, instead of manufacturing it in our own country, what would be the effect? We would get three per cent. on \$40,000,000 in gold. Reduced to the foreign valuation that \$80,000,000 would be about \$40,000,000 in gold, and a duty of three per cent. on \$40,000,000 would be \$1,200,000 in gold, or, reduced to our standard of value, would be \$2,400,000 in the place of \$8,000,000; so that by this proposition, passed by the House of Representatives without much debate, the Government of the United States would lose in revenue five or six million dollars.

Who would be benefited by it? Would the newspapers be benefited? Not at all. They would destroy home competition, because under this discrimination against home industry no paper manufactory could be carried on here. They would destroy our mills at home, and then we would be at the mercy of the paper manufacturers abroad; and not only that, we would have to export \$40,000,000 in gold to pay for that which formerly was made at home, giving employment to our own people. Such a proposition as that, if submitted to the Legislature of Ohio, after full discussion, I venture to say would not have been approved by three members of that body.

And, sir, my own position on this subject has been misrepresented at home. All the newspapers in Ohio are naturally in favor of the largest possible reduction. There is scarcely a paper in

the State but what has, without examining the question critically, demanded a repeal of all duty on paper. Since this subject has been called up, in opening one of my letters, I find this extract inclosed to me by a friend:

"Senator SHERMAN does not deserve the thanks of the people of Ohio for his motion in the Senate the other day to amend the House resolution reducing the duty on paper, by striking out three and inserting fifteen. We hope the Senate will not sanction any such measure, even though backed up by the Finance Committee."

I have no doubt that this is a friendly criticism; and I have not the slightest doubt that the editor of that paper, whom I know personally, if he was here this day, and called upon to vote, as I am, would vote against the proposition to reduce the duty to three per cent.

In the first place, this extract misrepresents my position. I have never been in favor of a duty of fifteen per cent., because I think that is higher than is necessary. As the organ of the Committee on Finance, I reported it as an amendment. My position from the beginning has been that a duty of ten per cent. was ample for all the purposes of creating a healthy competition between the manufacturers abroad and the manufacturers at home. The article itself does not need any protection. I have no doubt the writer of this paper thought that a duty of three per cent. on the imported article would be ample protection and would yield us as much revenue, when it can be demonstrated by the plainest figures that it would be a surrender of at least \$5,000,000 of revenue and a discrimination against our own industry; that it would tend to destroy all the manufactories of paper in this country, and thus eventually lead to an increase of the price. I do not believe that either the Legislative Assembly or the newspaper editors of Ohio would favor such a result.

It is now manifest, Mr. President, that Congress must hereafter act upon new principles in framing revenue laws. No longer will we have controversies about protecting domestic industry. Our debt and the necessities of taxation will be ample protection. During war the inflation of paper money and the withdrawal into the Army of a vast number of operatives will leave ample and profitable employment for all others. We now need labor, and it wants no protection. It can protect itself. Everywhere it is profitably employed. But we want money. Our laws hereafter will be revenue laws. The only principle upon which they will be hereafter based will be to produce the largest revenue from sources least burdensome to the people. All interests must pay their fair share. I do not agree with my colleague that protection is now necessary, for the taxation indispensably necessary is protection enough. We may hereafter with many commodities wish to invite foreign competition, as we do now with printing paper. Whenever the tendency in any manufacture is to monopoly or an unreasonable advance of prices, it may be politic to induce some competition; but this should never be done by discriminating against home producers, and never by levying a higher tax on our manufacture than we do on the foreign one.

The principle to be adopted now, while we are so much in debt, is to levy that rate of duty which will yield the largest revenue. The great want of the Government now is revenue. Whether that revenue comes to us in the form of duty on imported goods, or whether it is yielded to us in the form of internal revenue, it equally sustains the public credit. There is no basis of public credit, there is no mode by which we can sustain the public credit, there is no mode by which we can pay the national debt, except by heavy taxes; I do not like any class of men to seek to evade their portion of the duty. Whoever they may be, they are the common enemies of the country. Those who during the last year evaded the income tax all over this country, those who seek in any way to evade their portion of the taxes, are the common enemies of the country.

I therefore am in favor of such a system, not only of tariff but of our revenue laws, as will yield the largest sum of money possible that can be collected from the people. It can be collected now better than at any other time. It can be collected now in the form of currency, which will answer our purpose; but if it be delayed two or three years longer it will have to be paid in gold. Therefore every proposition which reduces the

revenue, I do not care by whom demanded, I am opposed to; and every proposition that is reasonable in itself, that will increase the revenue, either in the form of gold or paper money, that I am in favor of. Our people must be prepared, and they are willing, to meet these large taxes; and no class of the community can evade them, however powerful they may be. I trust, therefore, sir, that the Senate will not postpone this bill, but will let us have a fair vote on the different propositions. I am informed by the honorable Senator from Indiana [Mr. LANE] that he desires to submit to the Senate a proposition to make the duty ten per cent. I was instructed by the Committee on Finance to submit an amendment making it fifteen per cent. I trust that we may have a vote and decide these questions, so that we shall close the matter to-night.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire, that the bill be indefinitely postponed.

Mr. COLLAMER. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I shall vote against the motion to postpone indefinitely, because I think it is much more advisable to take a vote upon each one of these propositions. I am in favor of retaining the duty of twenty per cent. just as it is, but, as I have stated, I shall vote against the indefinite postponement of this bill.

The question being taken by yeas and nays, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Collamer, Cowan, Dixon, Doolittle, Foot, Foster, Hale, Harris, Morrill, Nye, Sprague, Ten Eyck, Van Winkle, and Wade—14.

NAYS—Messrs. Brown, Buckalew, Clark, Conness, Davis, Farwell, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Powell, Ramsey, Richardson, Riddle, Sherman, Sumner, Trumbull, Willey, and Wilson—25.

ABSENT—Messrs. Anthony, Cardile, Chandler, Harding, Harlan, McDougall, Morgan, Sausbury, Stewart, Wilkinson, and Wright—11.

So the motion was not agreed to.

Mr. LANE, of Indiana. I move to amend the amendment of the committee by striking out the word "fifteen" in the fifth line, and inserting the word "ten," so as to make the duty ten per cent.

Mr. SPRAGUE. Should this amendment prevail, the whole cotton interest of this country will have reason for complaint. The causes that have operated to enhance the price of paper are the legitimate consequences of this war. Previous to the war, the cotton interest of this country consumed perhaps nine hundred thousand bales per annum. The paper interest, consuming the refuse of this cotton, used nearly twenty per cent. of that amount. To-day the cotton manufacturing of the country is reduced to twenty-five per cent. of its former value. This interest pays large sums into the Treasury; five per cent. of the gross amount of its product directly, and indirectly double this amount. My belief is that this interest has not accumulated a dollar of profit in the aggregate since the commencement of this war. Its only accumulation has been derived from the enhanced value of stock on hand. Newspaper interests may present as favorable a condition in this respect. The value of paper has been enhanced by the withdrawal from consumption of the cotton-waste of these manufactures. By this amendment, you virtually deprive this cotton interest of what remains of this source of their revenue, and thus advance the price of all commodities produced from cotton. It will be seen that if foreign manufactures are employed in the production of this paper—and such will be the legitimate result of the proposed amendment—this twenty per cent. of cotton, now sold to our paper manufacturers, will have no market, and cotton manufacturers must compensate themselves for this loss of revenue by increasing the price of other products.

I desire to call the attention of the Senate to one other phase of this question. This matter, upon its introduction, was first referred to the proper committee of the House of Representatives; but before they had opportunity to listen to the remonstrances of the manufacturers, or to consider the facts bearing upon this question, the subject was hurried before the House, and, without discussion, presented to the Senate. Whatever may be the result of the vote upon this question, I shall rejoice that the subject has received proper consideration from this body; for, sir, in the op-

erations of any interest, in the prosecution of any business, let the fear once become instilled that legislation unnecessarily interrupts the ordinary prosecution of business, and it will destroy confidence in trade. When the people begin to understand that they cannot depend upon the stability and justice of legislation, there is then no confidence, and no reward for labor. It has seemed to me that the cause for this legislation is synonymous with that of the king in the parable, who, not because he feared God or regarded man, listened to his petitioners. "Yet because this woman troubleth me I will avenge her, lest by her continual coming she weary me," said he. There is no interest in this country that has not as good claim to a hearing before the Senate as the newspaper or printing interest, which so strongly urges the adoption of this measure. It was because they were troubled and wearied by the newspaper press throughout the country that this measure received the assent of the other House, and it is now proposed to give to it the sanction of the Senate. The interest of the paper manufacturer, the laborer, and the Treasury, cannot be heard. They cannot say to their legislators, "Unless you defend and protect our interest we shall deny our aid when you feel the necessity for our favor."

Sir, this measure affects every interest in the country. The income to the Treasury is affected unfavorably by its adoption, as is the income derived from the prosecution of this business by the capitalist and employes. The men engaged in this manufacture pay heavy taxes to the Government; the operatives pay taxes upon everything necessary to their subsistence; and the farmer is furnished with a market for his produce proportionate to the number engaged in the development and prosecution of this interest. Now, it is proposed to introduce into this country, in competition with this interest, a foreign commodity, free from all Government taxes, and from all the burdens incident to this great war. Sir, this is no time for legislation unfavorable to the interests of the laborer, the interests that sustain the Government and support the war.

I do not believe that the newspaper interest of this country will derive the smallest advantage from the adoption of this measure to reduce the tariff. I have given my opinion as to one of the causes of the increased price of paper—the enhanced value of cotton-waste, increased by the small quantity necessarily produced. The cost of every other material that enters into its production, from the increased demand and Government imposts, has also advanced. When this clamor respecting the duty on paper was first raised cotton was at \$1 90 per pound. Now it is eighty cents, and the price of paper proportionately affected. It is not legislation that is needed to decrease the price of paper.

But, sir, the honorable Senator from Ohio has suggested the dangers arising from a monopoly. There is no doubt that at times there are temporary evils to be feared from monopoly; but the energy, the ingenuity, the enterprise, and the public spirit of the American people will never tolerate, for any length of time, such a system. It may not be known to Senators, but it is a fact, that previous to this war the products of manufactures that had had time to perfect themselves in this country could be produced here and were furnished to the people of this country nearly as cheap as were similar articles to the people of England and France, where their manufacture had been brought to the highest state of perfection. At that time our rate of duty was twenty-four per cent. So, in this case, we shall achieve the same result in the manufacture of paper, if we do not discourage and destroy our own manufactures by introducing as competitors with their products foreign products that are exempt from the duties and taxation imposed upon our own. I have before asserted that I did not think the newspaper interest would derive the least advantage from the proposed legislation; but this blow, aimed at the paper interest, strikes at the foundation of our strength. It strikes at our resources, and at the laboring and producing interests of the country. It is for these reasons I complain of it and resist it.

Mr. LANE, of Indiana. Mr. President, there are three theories on the subject of impost duties advocated by their respective believers. One is the system of free trade, which is wholly inap-

plicable to the present condition of the finances and debt of this country, and which, I think, would be impolitic even if we had no debt, in a time of peace. There is another theory, that we should tax for the purpose of revenue; and still a third theory, that we should tax to protect the American article. Let us test this matter of the paper tax in reference to the last two theories.

First, then, it is an admitted fact that as a revenue measure the twenty per cent. fails; it does not produce any revenue, because there are no foreign importations; in other words, the tax of twenty per cent. is a prohibition and not protection. So far forth as it may be necessary to raise revenue and pay the debts of the country, the whole argument has failed. Then how far should we protect, and what is the measure of protection? Surely not twenty per cent., because that is prohibition, and there is no competition with the foreign article at all; and I have introduced this amendment proposing ten per cent. supposing it would give ample protection and retain the market in the hands of our manufacturers, and at the same time lessen the price of paper to the paper consumer.

The distinguished Senator from Rhode Island [Mr. SPRAGUE] sets out with the proposition that there should be stability in our legislation. Doubtless stability is a good thing, but why do we tax at all? For the purpose of raising revenue to pay our debts. And what is the measure of that tax? Simply the necessities of the Government; and what it may be necessary to tax one day we may be compelled to increase the next, and the whole theory of taxation in a time of war, when debts are rapidly accumulating, implies change and instability, and nothing else, and manufacturers and all others must operate with a view to that continuing and shifting change in the debt of the country, for taxes are only necessary to pay the debt.

There is another position of the distinguished Senator from Rhode Island which I think answers itself. He says he does not believe the newspaper men will be benefited one cent by this reduction of the duty on paper. If not, why not? Because they will have to pay precisely as much for the paper then as they do now. Then if the manufacturer sells at the same price, he is not injured to the amount of a single cent. If the paper buyer pays the same price the manufacturer cannot be injured, for he gets the same price; and it seems to me that that argument thoroughly answers itself.

We have been told by the chairman of the Committee on Finance that a tax of ten per cent. will in his opinion be ample and afford sufficient protection to our manufacturers, but a tax of three per cent. would not be enough, because our paper manufacturers on the materials they use pay about seven per cent., and would enter the market that much worse than the foreign producers; but it seems to me that ten per cent. would retain the sale of the paper and the manufacture of the paper at home, and at the same time reduce precisely to that extent the price to the consumers, the paper buyers.

Gentlemen talk of protecting American labor. Here are fifty thousand people employed in manufacturing paper, while there are six or eight million, perhaps, habitually buying paper; and for the purpose of protecting the smaller number you enable that smaller number to extort from the larger, for it is nothing else. Whenever a tariff becomes prohibitory, whenever it excludes the foreign article, to that extent the home manufacturers are enabled to charge precisely, in an ordinary state of market, that much more to the consumer. I propose now to reduce to the consumer at the rate of ten per cent. upon paper, and at the same time give ample protection to the paper manufacturer, and with no view to leave unprotected American capital and American labor.

Mr. JOHNSON. Mr. President, I do not propose to enter into statistics in relation to this article of manufacture, but merely to state in a very few words the conclusions to which I have come. The proposition that the increased price paid by the American consumer who uses paper is to be attributed to the tax is, as I think, wholly unfounded. That increase is to be attributed, as is the increase upon every article, whether of necessity or of luxury, to the state of the currency. Gold itself is worth no more now than it was before

the war commenced. A dollar is yet but a dollar; and although a dollar in gold is equal now in point of value for all purposes to some two dollars or more in currency, it is not because its intrinsic value is any more than it was at first, but is owing to the fact that we have an inflated currency, and to the further fact that a great part of that inflated currency is made a legal tender.

The tax of twenty per cent. on the foreign manufacture has been in existence some time, and the effect of it has been to induce the domestic enterprise of our citizens to an extent which has led them to invest some eighty or ninety million dollars in paper factories, and they are producing now an annual product of about one hundred and seven million dollars. The honorable member from Indiana says that there are two things to be accomplished by means of a tariff. The first is to raise revenue, and the other is to protect domestic industry. He thinks that this tax of twenty per cent. is not a tax which can be supposed to be one to raise revenue, because the effect of the tax has been to exclude altogether the foreign article. That is true. We are not raising revenue, to be sure, by an impost upon the foreign article; but if the effect of the impost upon the foreign article has been to encourage the creation of the domestic article, and to such an extent that the taxes which we have imposed upon the domestic article amount to a sum much larger than would be the duty upon the foreign article, then the effect of the duty in its result is to raise revenue. If, for example, you were to reduce the duty, and the foreign article was imported, and the impost upon the foreign article would only be, as the chairman of the committee says, some two or three million dollars, and by doing so you prostrate the domestic article, the duty upon which is eight or ten million dollars, you are just a loser in revenue of the amount of the difference, and you must make that up in some other way.

Now, whatever doubt there may have existed originally, and particularly with those gentlemen at the South, and some at the North, who have contested the authority of Congress to protect directly the domestic manufacture by imposing a tax, yet I suppose it never has been doubted by anybody that you can so appropriate the taxes among the foreign articles as to operate indirectly to encourage the production of domestic articles; and the whole question is, to what extent will you go in that indirect encouragement? I do not doubt now, I never did doubt, that under the authority to levy imposts you might exclude the foreign article altogether. The debates in the Convention, the writings of Mr. Madison and Mr. Hamilton contemporaneously with it, the passage of the first tariff bill by the First Congress which was organized under the Constitution, and which upon its face professed to be a bill for the encouragement of manufactures, all in my judgment warrant the opinion that under the power to lay such taxes you may exclude altogether the foreign article.

But that is not the question here. The question here is, we being in a state of war, is it not better to keep the taxes as they are, the domestic tax as it is, and the foreign tax as it is, provided the result of the two is that we get a larger amount through the taxing power than we should do if we repealed the foreign tax?

But there is another consideration. If by your legislation you encourage the industry and enterprise of the country to appropriate its means to any particular article of manufacture, and by force of that encouragement millions and millions of dollars have been invested, it seems to me to be unjust, after men have made the investment, while they are in the course of realizing what they expected to realize by reason of the investment, and after they made the investment at your instance, under the protection of your legislation, that you should strike at once a blow that will render it either altogether or comparatively valueless.

If the object of those who are in favor of a reduction of this tax either to three per cent. or to ten per cent. is to produce what they call a fair competition between the domestic manufacturer and the foreign manufacturer, the way to do that is to reduce the duty upon every article which enters into the manufacture of paper. Do that and we shall start fair, and starting fair I have

no doubt that the skill and industry of the American artificer and manufacturer will be equal to compete successfully with the foreign manufacturer, although the price of labor is dearer here than it is abroad; but such a bill as this is to discriminate against the domestic manufacture; it is to encourage the foreign and to prohibit the domestic.

Mr. President, we can very readily imagine, or at least I think I can, why it is that the popular judgment, the judgment of the House of Representatives and the judgment of politicians generally, has been brought to doubt whether the complaint of these newspaper editors is not well founded. They seem to speak the public voice; they have got the exclusive possession of the public ear; and they are the men who in relation to this particular tax are now acting together. They are monopolizing the public judgment. They are very clever men; but how have they suffered? The daily papers have not suffered; they have raised the prices of their subscriptions and of their advertisements in an amount equal to the increased expense to which they have been subjected by the condition of the currency. The weekly papers suffer, but why do they suffer? A great many of them have gone out of existence a little sooner, perhaps, than they would otherwise have done; but it is to be remembered that we are in a state of war; every man desires to know in the morning in what condition is the country, what battles have been fought, what is the state of the market, what is going on in Washington; and he does not take a weekly paper, for that does not inform him; he takes the papers that come out every day, consults the telegraph, and has no occasion for a weekly paper. It falls not so much because it is unable to compete on account of the difference in the price of paper, but because it is unequal to compete with the daily papers in that kind of information which everybody wants to receive from day to day and hour to hour. A man wants to consult the telegraph, and that goes for those who can pay for it; the weekly papers cannot afford to pay for it.

Now, Mr. President, if we have established a system of manufacture in relation to this article and other articles so that they can compete now with like manufactures all over the world, let us preserve them in that condition. We ought to be able to compete with the world. We ought to encourage (if it can be done without loss of trade) every enterprise in which our citizens may engage. Our people having engaged in this business to the extent of eighty or ninety or a hundred million dollars, and making now just as much paper as is wanted, nobody complains that there is not paper enough in the country to answer the wants of the country; the whole objection is as to its price. Why interfere in this way? If you reduce the price by removing the tax upon the foreign article, and by so doing you destroy the domestic article altogether, put an end to the seven hundred mills which are in operation, how long do you think the price will be less than it is now? Never, except for a few months. Although it is true as a general thing that the tax which you impose upon the foreign article is added to the price which is charged for it to the consumer, we all know that the foreign manufacturer, the moment he gets a chance, if he sees that he can strike a blow upon the domestic manufacturer, will send the material in, and sell it at a loss, and he can afford to sell it at a loss for a year or two, if by so doing he can break down the domestic manufacturer, and himself afterward monopolize the market of the United States.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana [Mr. LANE] to the amendment reported by the Committee on Finance.

Mr. GRIMES called for the yeas and nays; and they were ordered.

Mr. COWAN. I beg Senators to remember that if they vote for this amendment they vote to reduce the revenue. A ton of paper with gold at 225 now yields to the Government \$40 63. Reduce the duty ten per cent., admit the foreign article, and then upon every ton of imported paper we shall get, with gold at 225, but thirty-six dollars; so that this proposition is fatal, even according to the argument of its own friends. The honorable Senator from Ohio states that he will treat as the enemy of the country him who endeavors to



duce the amount of revenue. I am not prepared to say that I will do that. If that be the true rule, this amendment ought not to prevail, because it will unquestionably reduce the revenue just to the amount I have stated, \$4 63 on every ton of paper when gold is at 225.

Mr. GRIMES. I do not understand that we are in such great straits for revenue as the Senator from Pennsylvania seems to imagine. Since we convened this morning we have passed a bill appropriating \$500,000 a year, I believe, for a steamship line, with the approbation, I think, of every member of the Committee on Finance except the chairman.

Mr. COWAN. I ask the honorable Senator from Iowa whether I did not vote with him on that bill.

Mr. GRIMES. I thought otherwise.

Mr. COWAN. If the Senator is of opinion that we are in such straits, I ought also to have credit for being of the same opinion.

Mr. GRIMES. All I have to say is that of the gentlemen who are going to treat all those who are willing to reduce any particular tax as enemies of the country—the Committee on Finance—five out of seven voted for the proposition.

Mr. HOWE. I wish the Senator from Iowa would except one more member of the Committee on Finance.

Mr. SHERMAN. I think a majority of the Committee on Finance voted against that bill.

The question being taken by yeas and nays, resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Grimes, Harlan, Henderson, Hendricks, Howard, Lane of Indiana, Morgan, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Sherman, Sumner, and Trumbull—18.

NAYS—Messrs. Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Farwell, Foot, Foster, Harris, Johnson, Morrill, Nye, Ramsey, Riddle, Sprague, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—22.

ABSENT—Messrs. Anthony, Carlile, Chandler, Hale, Harding, Howe, Lane of Kansas, McDougall, Stewart, and Wright—10.

So the amendment to the amendment was rejected.

The question recurring on the amendment of the Committee on Finance,

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 13; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Harris, Henderson, Howe, Johnson, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Stewart, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, and Wilson—30.

NAYS—Messrs. Brown, Buckalew, Grimes, Harlan, Hendricks, Howard, Lane of Indiana, Morgan, Powell, Richardson, Saulsbury, Trumbull, and Wilkinson—13.

ABSENT—Messrs. Anthony, Carlile, Hale, Harding, Lane of Kansas, McDougall, and Wright—7.

So the amendment was agreed to.

Mr. DAVIS. I offer the following amendment as a new section:

*And be it further enacted,* That from and after the 1st day of April next the duties on the following articles imported into the United States shall be as follows:

On teas of all kinds twelve and a half cents per pound.  
On all sugars not above No. 12, Dutch standard in color, one and a half cent per pound.

On all sugars above No. 12, and not above No. 15, Dutch standard in color, two cents per pound.

On all refined sugar in the form of loaf, lump, crushed, powdered, and pulverized granulated, and all stove-dried, and other sugar above No. 20, Dutch standard in color, two and a half cents per pound.

On molasses from sugar-cane, four cents per gallon.  
On syrup of sugar-cane juice, melado, concentrated melado, or concentrated molasses, one and three fourth cents per pound.

The present rates of duty on all imported coffees shall be reduced one half of their amounts respectively.

I ask for the yeas and nays on this amendment. The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 34; as follows:

YEAS—Messrs. Davis, Hendricks, Nesmith, Powell, Riddle, Saulsbury, and Wilkinson—7.

NAYS—Messrs. Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Farwell, Foot, Foster, Hale, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wiley, and Wilson—34.

ABSENT—Messrs. Anthony, Brown, Carlile, Grimes, Harding, Lane of Kansas, McDougall, Richardson, and Wright—9.

So the amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed, and the resolution be read the third time.

The resolution was read the third time, and the question being on its passage,

Mr. WADE called for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Davis, Farwell, Grimes, Harlan, Henderson, Hendricks, Howard, Howe, Lane of Indiana, Morgan, Nye, Powell, Ramsey, Sherman, Sumner, Trumbull, Wiley, and Wilson—21.

NAYS—Messrs. Clark, Collamer, Cowan, Dixon, Doolittle, Foot, Foster, Hale, Harris, Johnson, Morrill, Riddle, Saulsbury, Sprague, Stewart, Ten Eyck, Van Winkle, Wade, and Wilkinson—19.

ABSENT—Messrs. Anthony, Brown, Carlile, Harding, Lane of Kansas, McDougall, Nesmith, Pomeroy, Richardson, and Wright—10.

So the joint resolution was passed.

#### COMMITTEE ON THE CONDUCT OF THE WAR.

Mr. WADE. The committee on the conduct of the war, who were instructed to inquire into the character and efficiency of the heavy ordnance now provided for the armament of fortifications, and the mode of fabrication, and the amount of royalty paid, have instructed me to make a report, accompanied by the evidence on the subject. I move that the report and evidence be printed, and referred to the Committee on Naval Affairs.

The motion was agreed to.

#### NAVY-YARD ON THE MISSISSIPPI.

Mr. GRIMES. I move to print two thousand extra copies of the report of the commission authorized to inspect and report upon a site for a navy-yard on the Mississippi river or its tributaries.

The motion was referred to the Committee on Printing, under the rules.

#### BILL INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 443) to incorporate the Freedman's Saving and Trust Company; which was read twice by its title, referred to the select committee on slavery and freedmen, and ordered to be printed.

#### LOYAL EAST TENNESSEE.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Committee on Agriculture be instructed to inquire into the propriety of expending the sum of \$50,000 to pay for seeds and agricultural implements to be distributed among the loyal inhabitants of East Tennessee who have been stripped and impoverished on account of their devotion to the Government of the United States.

#### BRIDGE ACROSS THE OHIO.

Mr. POWELL. I move to take up the motion to reconsider the vote on the passage of the bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads." I will state that I do not ask to have it considered this evening, but simply to take it up that it may be left as the unfinished business for to-morrow.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 13, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Dr. E. H. GRAY.

The Journal of Saturday was read and approved.

#### COMMITTEE APPOINTED.

The SPEAKER stated that he had appointed as the committee on the part of the House to join the committee on the part of the Senate, to notify the President and Vice President-elect of their election, the gentlemen who were appointed tellers on the part of the House to count the electoral votes, namely: Mr. WILSON and Mr. DAWSON.

#### ORDER OF BUSINESS.

The SPEAKER stated that the first business in order during the morning hour was the call of States for bills and joint resolutions, to be referred and not to be brought back by motion to reconsider.

#### RAILROAD LAND GRANT TO MICHIGAN.

Mr. DRIGGS introduced a bill making a grant of public lands to the State of Michigan to aid in the construction of a railroad in said State; which was read a first and second time, and referred to the Committee on Public Lands.

#### ATTORNEY GENERAL'S OFFICE.

Mr. WOODBRIDGE introduced a bill amendatory of the acts relating to the Attorney General's Office, and to fix the compensation of his assistants and clerks; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SALARY OF DISTRICT JUDGE OF KANSAS.

Mr. WILDER introduced a bill to increase the salary of the district judge for the district of Kansas; which was read a first and second time, and referred to the Committee on the Judiciary.

#### PAY OF CERTAIN OFFICERS OF THE ARMY.

Mr. RICE, of Maine, introduced a bill for an act entitled "An act to amend an act to amend section nine of the act approved July 17, 1863, entitled 'An act to define the pay and emolument of certain officers of the Army, and for other purposes,'" approved April 9, 1864; which was read a first and second time, and referred to the Committee on Military Affairs.

#### THE PEACE CONFERENCE.

The SPEAKER. The call of States for bills and resolutions having been finished, during the remainder of the morning hour resolutions are in order. At the expiration of the morning hour on Monday last a resolution was pending, offered by the gentleman from Ohio, [Mr. Cox], on which no quorum voted. The question recurs on the passage of the resolution, which will be read.

The resolution was read, as follows:

*Resolved,* That the President of the United States, in endeavoring to ascertain the disposition of the insurgents in arms against the authority of the Federal Government, with a view to negotiations for peace and a restoration of the Union, is entitled to the gratitude of a suffering and distracted country; and that with a similar view he be respectfully requested to omit no honorable exertions which may lead to the desired object, to wit: peace and union.

The SPEAKER. The previous question is pending.

Mr. SCHENCK. Will the gentleman from Ohio withdraw his resolution for the present, and allow me to offer one?

Mr. COX. I withdraw it temporarily.

#### PICTURE FOR THE CAPITOL.

Mr. SCHENCK introduced a joint resolution authorizing a contract with William H. Powell for a picture for the Capitol; which was read a first and second time.

The joint resolution directs the Joint Committee on the Library to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory, the particular subject of the painting to be agreed on by the committee and the artist, provided that the entire expense of said picture shall not exceed \$25,000, \$2,000 to be paid to Mr. Powell in advance, to enable him to prepare for the work, and the remainder of the installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

Mr. SCHENCK. I demand the previous question.

On the second for the demand for the previous question, there were—ayes 55, noes 27; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. SCHENCK and HOLMAN as tellers.

The House divided, and the tellers reported—ayes 61, noes 32.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. DRIGGS. I move to lay the joint resolution on the table; and upon that motion I demand the yeas and nays.

Mr. HOLMAN. I trust the gentleman will allow the yeas and nays to be taken on the passage of the joint resolution.

Mr. DRIGGS. Well, I withdraw my motion.

The joint resolution was ordered to be en-

grossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. DRIGGS. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

Mr. BLAIR. I move to lay the joint resolution on the table.

Mr. HOLMAN. I trust the gentleman will let us take a direct vote on the joint resolution.

Mr. BLAIR. Very well; I withdraw my motion.

The question was taken, and it was decided in the affirmative; yeas 61, nays 60, not voting 61; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Arnold, Ashley, Bailey, Bliss, Brandegee, Brooks, James S. Brown, Chanler, Coffroth, Cole, Cox, Dawson, Deming, Denison, Eckley, Edgerton, Eldridge, Garfield, Griswold, Hall, Herrick, Hutchins, Ingersoll, Philip Johnson, Kelley, Francis W. Kellogg, King, Law, Lazear, Le Blond, Long, Mallory, Marvin, McAllister, McBride, McKinney, Moorhead, Morrill, Morrison, Nelson, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Alexander H. Rice, James S. Rollins, Schenck, Scott, Stiles, Strouse, Sweet, Wadsworth, Whaley, Joseph W. White, Wilder, Woodbridge, Worthington, and Yeaman—61.

NAYS—Messrs. Ames, John D. Baldwin, Baxter, Beaman, Blair, Bontwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Clay, Cobb, Dawes, Dixon, Donnelly, Driggs, Eliot, Finck, Ganson, Hale, Harding, Charles M. Harris, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Hulburd, William Johnson, Julian, Kaibfeisch, Orlando Kellogg, Littlejohn, Loan, Longyear, McClurg, McIndoe, Middleton, Samuel F. Miller, Daniel Morris, Amos Myers, Orth, Perham, Pruyne, William H. Randall, John H. Rice, Edward H. Rollins, Ross, Scofield, Shannon, Smithers, Spaulding, William G. Steele, Stevens, Thayer, Upson, Van Valkenburgh, William B. Washburn, Williams, Wilson, and Windom—60.

NOT VOTING—Messrs. Alley, Allison, Anderson, Augustus C. Baldwin, Blaine, Blow, Freeman Clarke, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dumont, Eden, English, Farnsworth, Frank, Gooch, Grider, Grinnell, Harrington, Benjamin G. Harris, Hooper, Hotchkiss, Jenckes, Kasson, Kernan, Knapp, Knox, Marcy, McDowell, William H. Miller, James B. Morris, Leonard Myers, Noble, Norton, Odell, Patterson, Perry, Pike, Price, Radford, Samuel J. Randall, Robinson, Rogers, Sloan, Smith, Starr, John B. Steele, Stuart, Thomas, Townsend, Tracy, Voorhees, Ward, Elihu B. Washburne, Webster, Wheeler, Chilton A. White, Winfield, Benjamin Wood, and Fernando Wood—61.

So the joint resolution was passed.

During the roll call,

Mr. WILSON stated that his colleague, Mr. GRINNELL, was detained from the House by indisposition.

The result of the vote was announced as above recorded.

Mr. COX. I move to reconsider the vote by which the joint resolution was passed; and to lay the motion to reconsider on the table.

Mr. UPSON. I demand the yeas and nays on the latter motion.

Mr. COX. I withdraw the motion.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate had passed bill of the House No. 649, making appropriations for the legislative, executive, and judicial departments of the Government, for the year ending June 30, 1866, with amendments, in which he was directed to ask the concurrence of the House.

#### PEACE CONFERENCE.

The SPEAKER. The next business in order is the resolution of the gentleman from Ohio, [Mr. Cox], which was temporarily laid aside this morning for the introduction of the joint resolution just disposed of. On this resolution the previous question has been moved.

Mr. COX. As we had a very satisfactory vote on this question the other day, I will not press the resolution further. I withdraw it.

#### DESTITUTION AMONG COLORED PEOPLE.

Mr. ASHLEY. I offer the following preamble and resolution, on which I demand the previous question:

Whereas it is reported that in consequence of the rebellion and since the proclamation of emancipation, a large number of women and children of the freedmen have, as a military necessity, been brought out of the States of Virginia, Maryland, and other States, and left in and around the national capital; and whereas it is reported that already many of such persons have died for want of food, clothing, and fuel; and whereas it is reported that many of the

husbands of said women and the fathers of said children are now in the service of the United States and fighting in defense of the Government: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the truth of such reports, and that said committee report what action, if any, is proper for this House to take in the premises; and that they have leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

Mr. ASHLEY moved to reconsider the vote by which the resolution and preamble were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL FREEDMEN'S RELIEF ASSOCIATION.

Mr. SPALDING. I offer the following resolution, on which I demand the previous question:

Resolved, That the use of this Hall be granted to the National Freedmen's Relief Association, on Sunday evening, the 26th instant, for the purpose of holding a meeting in aid of the object of said association, and especially to provide means of relief for the suffering men, women, and children of that class now in the city of Washington.

Mr. JOHNSON, of Pennsylvania. Would it be in order to move that the spring elections be held in this Hall? [Laughter.]

The SPEAKER. It would not.

The previous question was seconded; there being, on a division—ayes sixty-three, noes not counted.

The main question was ordered.

Mr. MALLORY. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 36, not voting 75; as follows:

YEAS—Messrs. Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Garfield, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Charles O'Neill, Orth, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smithers, Spaulding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—71.

NAYS—Messrs. James C. Allen, Ancona, Blair, Bliss, Brandegee, Clay, Henry Winter Davis, Dawson, Denison, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Benjamin G. Harris, Holman, Philip Johnson, William Johnson, Kaibfeisch, Le Blond, Long, Mallory, McKinney, William H. Miller, Morrison, Nelson, John O'Neill, Pendleton, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Thomas, and Joseph W. White—36.

NOT VOTING—Messrs. William J. Allen, Alley, Allison, Anderson, Baily, Augustus C. Baldwin, Blow, Brooks, Chanler, Coffroth, Cox, Cravens, Creswell, Thomas T. Davis, Dumont, Eden, English, Farnsworth, Frank, Gooch, Grinnell, Griswold, Hall, Harrington, Charles M. Harris, Herrick, Hooper, Hutchins, Jenckes, Kasson, Kernan, King, Knapp, Law, Lazear, Marcy, Marvin, McAllister, McBride, McDowell, Middleton, Morrill, James B. Morris, Amos Myers, Leonard Myers, Noble, Norton, Odell, Patterson, Perry, Price, Pruyne, Radford, Samuel J. Randall, Robinson, Rogers, Schenck, Scott, Sloan, Smith, Starr, Strouse, Stuart, Townsend, Voorhees, Wadsworth, Ward, Elihu B. Washburne, Wheeler, Chilton A. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—75.

So the resolution was adopted.

During the roll-call,

Mr. COBB stated that his colleague, Mr. SLOAN, was absent on account of sickness in his family.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution and bills of the following titles; when the Speaker signed the same:

Joint resolution (S. No. 91) appointing General Richard Delafield to be a regent of the Smithsonian Institution;

An act (H. R. No. 517) to incorporate the National Union Insurance Company of Washington; and

An act (S. No. 281) for the relief of Alexander J. Atocha.

#### RESTORATION OF THE UNION.

Mr. DAWSON submitted the following resolution, and demanded the previous question on its adoption:

Whereas the American people have now been engaged in a civil war of gigantic dimensions for nearly four years, which has resulted in frightful destruction of life, property, and treasure, creating an enormous public debt, imposing the most oppressive taxes, covering the land with affliction, corrupting the general morals, and putting in peril the liberties of the nation; and whereas on the part of the United States and the people of the States which adhere to this Government this is, and ought to be, a war solely to vindicate the Constitution and restore the laws to their just supremacy, and to that we are bound by our oaths and by our solemn pledges made in the face of the world when the war commenced: Therefore,

Resolved, That the President of the United States be requested to use all honorable and just means to bring about a lasting peace and the reestablishment of fraternal relations among all the people by a restoration of the Union upon the simple and just basis of the Constitution and laws, with every proper guarantee to the southern States that they shall be protected in the full enjoyment of their rights, and that undisturbed control of their own local affairs which the Federal Constitution was intended to secure to them and to us.

Mr. THAYER moved that the resolution be laid on the table.

Mr. DAWSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 44, not voting 65; as follows:

YEAS—Messrs. Alley, Anderson, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Garfield, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—73.

NAYS—Messrs. James C. Allen, Ancona, Bliss, Brooks, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Edgerton, Eldridge, Finck, Grider, Hall, Harding, Charles M. Harris, Herrick, Holman, Philip Johnson, William Johnson, Kaibfeisch, King, Lazear, Le Blond, Mallory, McAllister, Middleton, William H. Miller, James B. Morris, Morrison, Nelson, John O'Neill, Pendleton, James S. Rollins, Ross, William G. Steele, Stiles, Sweet, Wadsworth, Joseph W. White, and Yeaman—44.

NOT VOTING—Messrs. William J. Allen, Allison, Ames, Arnold, Augustus C. Baldwin, Baxter, Blair, Blow, James S. Brown, Creswell, Henry Winter Davis, Thomas T. Davis, Dumont, Eden, English, Farnsworth, Frank, Ganson, Gooch, Grinnell, Griswold, Harrington, Benjamin G. Harris, Hotchkiss, Hutchins, Jenckes, Kernan, Knapp, Law, Loan, Long, Marcy, McDowell, McKinney, Leonard Myers, Noble, Norton, Odell, Patterson, Perry, Pike, Price, Pruyne, Radford, Samuel J. Randall, Robinson, Rogers, Scott, Sloan, Smith, Spaulding, Starr, John B. Steele, Stevens, Strouse, Stuart, Townsend, Voorhees, Ward, Elihu B. Washburne, Wheeler, Chilton A. White, Winfield, Benjamin Wood, and Fernando Wood—65.

So the resolution was laid on the table.

#### PEACE.

Mr. WILLIAMS submitted the following resolution, and demanded the previous question on its adoption:

Resolved, 1. That there is no power under the Constitution, in any branch of this Government, to treat with the States confederated in rebellion against it, either for the severance of this Union or for the abrogation of any article of its fundamental law.

Resolved, 2. That inasmuch as the said confederated States have taken up arms against the Government of the United States without any just provocation, and for the avowed purpose of asserting and establishing their independence thereof, and still persist in maintaining that position by armed resistance to its authority: and inasmuch also as the public authorities of this nation have not only declared, as was their duty, that they can accept no terms and entertain no propositions for anything short of absolute and unconditional submission to its laws, and with a clemency and magnanimity almost without example in history have proclaimed a general amnesty, without limits as to time, to such of the malefactors as shall return to their duty, with the exception only of the chief conspirators:

It is hereby declared to be the sense of this House that this Government has already exhausted all the resources of a just and wise statesmanship—except so far as regards the further earnest and vigorous prosecution of the war for the enforcement of the laws—in the effort to restore peace to this nation, and has, to this end, done all that a proper regard for its own interests can allow, and all that a decent respect for the opinions of the world could demand of it; and that therefore any further overtures through embassies, public or private, official or unofficial, looking to treaty or compromise with the usurpers at Richmond, would be not only unprofitable, as they would be inconsistent with the rights and dignity of this nation, but are to be deprecated as absolutely mischievous, in giving encouragement to the insurgents and protracting their resistance, by exposing us to misconception, and giving color to the

delusion that we mistrust our ability to subdue them to obedience, and are ready to accept something short of the restoration of the Union and the unconditional submission of those who have rebelled against it.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays. Mr. HOLMAN asked that the resolution be divided.

Mr. MORRILL. As I consider this a resolution we ought to consider, and in order that we may see it in print, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That is not in order. The main question has been ordered and must now be put.

Mr. ASHLEY moved to reconsider the vote, by which the main question was ordered.

Mr. ELDRIDGE demanded the yeas and nays.

Mr. ARNOLD. If I get an opportunity I propose to offer an amendment.

Mr. ELDRIDGE moved that the resolution be laid on the table; and demanded the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 52, not voting 58; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Al-Jey, Aines, Ancona, Anderson, Bailey, Blair, Bliss, Boutwell, Brandegee, Brooks, James S. Brown, William G. Brown, Chanier, Ambrose W. Clark, Clay, Coffroth, Cox, Cravens, Dawes, Dawson, Denison, Dumont, Eckley, Edgerton, Eldridge, Eliot, Finck, Frank, Gooch, Grider, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Horrick, Holman, Hooper, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Orlando Kellogg, Law, Lazear, Le Blond, Long, Mallory, McKinney Middleton, William H. Miller, Morrill, James R. Morris, Morrison, Nelson, Pendleton, Pike, Pomeroy, Pruyn, Alexander H. Rice, James S. Rollins, Ross, Spalding, William G. Steele, Stiles, Townsend, Wadsworth, Webster, and Joseph W. White—72.

NAYS—Messrs. Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Broomall, Freeman Clarke, Cobb, Cole, Dixon, Donnelly, Driggs, Higby, Asahel W. Hubbard, Hubbard, Ingersoll, Julian, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, Marvin, McClurg, McIndoe, Daniel Morris, Morehead, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Starr, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburn, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—52.

NOT VOTING—Messrs. Allison, Arnold, Augustus C. Baldwin, Blow, Creswell, Henry Winter Davis, Thomas T. Davis, Denning, Eden, English, Farnsworth, Ganson, Garfield, Grinnell, Griswold, Hall, Harrington, Hotchkiss, Jenckes, Kerian, King, Knapp, Littlejohn, Marey, McAllister, McBride, McDowell, Samuel F. Miller, Leonard Myers, Noble, Norton, Odell, John O'Neill, Perry, Price, Radford, Samuel J. Randall, Robinson, Rogers, Scott, Sloan, Smith, John B. Steele, Stevens, Strouse, Stuart, Sweat, Thomas, Voorhies, Ward, Elihu F. Washburne, Whaley, Wheeler, Chilton A. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—58.

So the resolution was laid on the table.

Mr. ELDRIDGE moved that the vote by which the resolution introduced by Mr. Dawson was laid on the table be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXEMPTION FROM MILITARY SERVICE.

Mr. MILLER, of Pennsylvania, (the morning hour having expired,) asked unanimous consent to introduce the following resolution:

*Resolved*, That any person having served through the Mexican war and honorably discharged, and in addition having served a regular enlistment in the present rebellion, shall be forever exempt from military service.

Mr. BOUTWELL objected.

#### PORT IN SOUTHWEST MISSOURI.

Mr. BOYD, by unanimous consent, presented the memorial of the Legislature of the State of Missouri to the President, the Congress of the United States, and to the Secretary of War, asking for a fort or garrison to be established near the southwest corner of the State; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### COMPENSATION OF MEMBERS OF CONGRESS, ETC.

Mr. JOHNSON, of Pennsylvania, asked unanimous consent to introduce the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to bring in a bill increasing the compensation of members and employees of Congress, and of the clerks, messengers, and other similar officers and employees of the Government in this city, in proportion to the very largely in-

creased cost of living in this city over former rates and over the present cost of living in other cities of the United States.

Mr. BALDWIN, of Massachusetts, objected.

#### QUOTAS OF THE DIFFERENT STATES.

Mr. CHANLER asked unanimous consent to introduce the following resolution:

*Resolved*, That the Secretary of War be hereby directed to communicate to this House at an early day the basis upon which the quotas of the different districts of each State have been established and adjusted under each of the several calls for troops by the President of the United States, together with a detailed statement of the number of troops and seamen furnished by each State and district since the outbreak of the rebellion, with their respective terms of service.

Mr. SPALDING objected.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 705) for the relief of collectors and surveyors of the customs in certain cases; when the Speaker signed the same.

#### PRINTING BUREAU OF TREASURY DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House, a communication from the Treasury Department, giving additional information in reply to a resolution of the House, of January 24, 1865, calling for information in regard to the Printing Bureau of the Treasury Department; which was laid on the table, and ordered to be printed.

#### CLERKS IN TREASURY DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Treasury Department giving a list of clerks and other persons employed in the Treasury Department during the year 1864; which was laid on the table, and ordered to be printed.

#### CLERKS IN INTERIOR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior giving the names of clerks and others employed in the Department of the Interior during the year ending December 31, 1864; which was laid on the table, and ordered to be printed.

#### NATIONAL ACADEMY OF SCIENCES.

The SPEAKER also, by unanimous consent, laid before the House a communication from Professor A. D. Bache, transmitting a report of the operations of the National Academy of Sciences during the last year; which was laid on the table, and ordered to be printed.

Mr. PATTERSON. In connection with that communication I offer the following resolution:

*Resolved*, That in addition to the usual number, there be printed of the Annual Report of the National Academy of Sciences for 1864, five hundred extra copies, for the use of the Academy.

The resolution was referred, under the rules, to the Committee on Printing.

#### TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the tax bill.

The Clerk resumed the reading of the bill.

The following clause was read:

That section ninety be amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That any person, firm, company, or corporation, now or hereafter engaged in the manufacture of tobacco, snuff, or cigars of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff, flour, snuff, cigars, tin-foil, licorice, and stems held or owned by him or them on the day this act takes effect or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by him or them, and what was purchased from others, whether chewing, smoking, fine-cut, shorts, pressed plug, snuff flour or prepared snuff, or cigars, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and the said person, firm, company, or corporation, engaged as aforesaid, on the 1st day of January in every year here-

after shall make out and deliver to the said assistant assessor a true statement or inventory, in manner and form as aforesaid, and verified as aforesaid, of all such articles aforesaid then held or owned by him or them, setting forth all and singular what is required to be set forth in the statement or inventory first aforesaid; and every such person, company, or corporation shall keep in a book, in such manner and form as said Commissioner may prescribe, an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on or before the 10th day of each month, furnish to the assistant assessor of the district a true and accurate copy of the entries in said book during the preceding month, which copy shall be verified by oath or affirmation, on the receipt whereof an assessment of the duties due by said person, company, or corporation, shall be immediately made and transmitted to the collector of the district, to whom said duties shall be paid within five days thereafter; and in case the duties shall not be paid within the said five days, the said collector may, on one day's notice, distrain for the same, with ten per cent. additional on the amount thereof, subject to all the provisions of law relating to licenses, returns, assessments, payments of taxes, liens, fines, penalties, and forfeitures, not inconsistent herewith in the case of other manufacturers; and such duty shall be paid by the manufacturer or the person for whom the goods are manufactured, as the assessor may deem best for the collection of the revenue: *Provided*, That it shall be the duty of any manufacturer or vendor of tin-foil used in covering manufactured tobacco, on demand of any officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tin-foil sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act: *Provided*, That manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, may be transferred, without payment of the duty, to a bonded warehouse, established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such warehouse to a bonded warehouse used for the storage of merchandise at any port of entry, and may be withdrawn from bonded warehouse for consumption on payment of the duty, or removed for export to a foreign country without payment of duty in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, snuff, or cigars, in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, snuff, or cigars, upon which any excise duty has been paid, either before or after it has been placed in bonded warehouse.

Mr. MORRILL. I move to amend that clause by striking out in line two hundred and ninety-nine the words "the day this act takes effect," and insert in lieu thereof the words "the 1st day of January in each year."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the following words:

And the said person, firm, company, or corporation, engaged as aforesaid, on the 1st day of January in every year hereafter, shall make out and deliver to the said assistant assessor a true statement or inventory, in manner and form as aforesaid, and verified as aforesaid, of all such articles aforesaid then held or owned by him or them, setting forth all and singular what is required to be set forth in the statement or inventory first aforesaid.

Those words are not now necessary.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting the word "further" after the word "provided," in line three hundred and fifty-one. It is merely a verbal amendment.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after the words "tin-foil," wherever they occur, the words "or other materials."

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting on page 17, in line three hundred and ninety-seven, after the word "inspector" the words "unless otherwise provided;" so that the clause will read:

And any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed by the inspector, unless otherwise provided, shall be forfeited, and may be seized wherever found, and shall be sold, one half of the proceeds of such sale to be paid to the informer, and the other moiety to the United States.

The amendment was agreed to.

Mr. KASSON. I believe there is an omission in the same section to provide a penalty for the unauthorized use of inspection marks. I ask leave



of the committee to reserve an amendment in that particular if, on further examination, it shall appear necessary.

No objection was made.

Mr. NELSON. On page 19, I move to amend by inserting, after the word "conclusive," in line four hundred and forty-six, the following:

By inserting after the words "on molasses produced from the sugar-cane" the words "and on maple molasses;" and by inserting after the words "when removed from the plantation" the words "on maple sirup;" and by inserting after the words "other than those produced by the refiner" the words "and on maple sugar;" and by striking out the words "produced directly from the sugar-cane, and not," in the paragraph relating to refined sugars, and inserting in the place thereof the words "and not produced;" and also in the second paragraph, relating to refined sugars, by striking out the words "produced directly from the sugar-cane, and not," and inserting in the place thereof the words "and not produced."

I offer this amendment for the purpose of imposing taxation upon an article that seems to have been entirely forgotten, and that is, maple sugar, which is produced to the extent of upward of nine million pounds in the State of Vermont, and throughout the country, according to the census of 1860, to the extent of 38,863,568 pounds. That was the production of maple sugar in the United States at that time. I think it is the only article that entirely escapes from taxation under this bill.

I find further by looking at the census of 1860, that of maple molasses there was produced in the United States, in 1860, 1,944,299 gallons, upon which there is no tax whatever.

Mr. BOUTWELL. Where does the gentleman propose to insert his amendment?

Mr. NELSON. If the gentleman will look at page 51 of the internal revenue act, he will see.

Mr. BOUTWELL. In what line of this bill?

Mr. NELSON. After the word "conclusive" in line four hundred and forty-six, on page 19.

Mr. BOUTWELL. I suggest to the gentleman that his amendment, in order to follow the course of the existing law, should come in on the four hundred and thirty-second line, after the word "ten."

Mr. NELSON. I will move, then, to insert it at that point. If the gentleman will look at page 51 of the internal revenue bill, under the marginal note of "molasses," he will see that I propose to impose a duty of five cents a gallon upon maple molasses. After the words "molasses produced from the sugar-cane" I propose to insert "and maple sugar." And then, in the next paragraph, I propose to impose a tax of one cent and a quarter per gallon on sirups made from maple sugar. And in the next paragraph, where the marginal note is "brown sugar," I propose to insert "maple sugar," so that it shall pay a tax of two cents a pound. I propose also to amend the next paragraph by striking out the words "produced directly from the sugar-cane and not," and inserting in lieu thereof "not produced," so that it will include maple sugar when refined. I looked through the bill and found that nowhere in it was this production of nearly thirty-nine million pounds required to pay one cent into the Treasury, or this other production of nearly two million gallons. While everything else in that line is taxed, this article produced in some of the States seems, by an oversight, to have escaped the attention of the committee entirely.

Mr. MORRILL. I suppose that the gentleman from New York has accomplished his purpose by merely introducing his amendment. He evidently intended to be a little sweet upon me. [A laugh.]

Now, the State of Vermont is not any more interested in this question than many other States. The State of New York produces a much larger quantity of maple sugar than we do in Vermont. The State of New Hampshire produces nearly as much, and a little more maple molasses; and the same thing is true of Ohio, and of other western and northern States.

There is no desire to relieve New England from any proper taxation. I think we should regard the cultivation of sugar in any direction as an important matter. So far as I am concerned, I never have been in favor of taxing even southern sugar. It is an article of prime necessity to the poor man as well as to the rich. The average consumption of our country is much above thirty pounds for every man, woman, and child.

I think that we ought to encourage its production by all proper means. I am told that in California

and some of the western States beet sugar can be profitably cultivated. But, in the bill as it now stands, it never was the intention to collect any tax upon sorghum, or upon maple sugar, or upon the beet; and none has been levied. I presume it is not the purpose of this committee to change the policy of Congress in relation to this article.

Mr. HOLMAN. I desire to make an inquiry in reference to the produce from sorghum. Do I understand the gentleman to say that it is subject to no tax as a manufacture?

Mr. MORRILL. It is not, in the opinion of the committee, subject to any tax; but to prevent all doubt on this point, the bill now before the House proposes an amendment distinctly to exempt it. I understand that the Commissioner of Internal Revenue has ruled that it is subject to tax as a manufacture. To exclude, beyond all peradventure, such a construction, the committee recommend an amendment to the present law.

Mr. KASSON. I move, *pro forma*, to strike out the second clause of the amendment.

I am not certain that I understand fully the amendment proposed by the gentleman from New York, [Mr. NELSON.] If I do it proposes to tax the molasses made from sorghum or imphee. Am I correct?

Mr. NELSON. No, sir; my amendment leaves the present law stand just as it is in that respect.

Mr. KASSON. I ask the gentleman to state just what he proposes to tax.

Mr. NELSON. I propose to tax maple sugar and maple molasses.

Mr. KASSON. Then I leave the debate to other gentlemen.

Mr. STEVENS. Mr. Chairman, when the present bill was framed the committee very distinctly decided that they would not tax the product of sorghum, a growing interest which the committee decided it was essential to have cultivated. Just so with regard to maple sugar, the production of which costs more labor than even the production of sugar or molasses from sorghum. The present law provides as follows:

"On sirup of molasses or sugar-cane juice, when removed from the plantation, concentrated molasses or melado, and cistern bottoms, of sugar produced from the sugar-cane and not made from sorghum or imphee, a duty of one cent and one fourth of one cent per pound."

We supposed that that language made it very plain that no duty was to be levied upon the product of sorghum. But the learned head of the Internal Revenue department has decided that, under that provision imphee is subject to taxation, and he has accordingly required tax to be paid. In the amendments which we now propose we hope to make ourselves better understood, and we have declared that sorghum shall be among the things exempted. Nobody ever supposed that maple sugar should be taxed. I wonder, however, that has not been reckoned by the Commissioner among manufactures. We have in this bill taken great pains to exempt the product of sorghum, because it is an important growing interest, which in our view ought to be encouraged instead of being checked.

I have always been for taxing sugar; my colleague on the committee has not. I have been for taxing it while we are, as Jefferson Davis maintains, two nations. When we shall have become, by general agreement one nation, perhaps I shall be for exempting sugar, as we always did before the war. But so long as the southern rebellion continues, I am for taxing the sugar made outside of our lines, whether outside of our nation or not. But, as a substitute, I am in favor of encouraging the manufacture of sorghum and maple sugar and molasses.

I presume that the gentleman from New York does not know how troublesome it is to make sugar from maple. If he would go out on a cold morning and tap the trees and then carry the sap by a yoke upon his shoulder, a bucket full of sap at each end of it, and then if he would set about boiling this sap, he would come to the conclusion that maple sugar is sufficiently taxed.

Mr. NELSON. I desire to ask the gentleman a question. I see by the census of 1860 that New York produced upward of ten million pounds of maple sugar. Will the gentleman tell me what was the price of maple sugar in 1860, and what is its price in the market to-day? I also desire the gentleman to state whether maple sugar is not an article in general use, to be found in the markets,

and bought and sold not by small quantities; but by bulk, and whether the producers have not increased the price in proportion to the increased price of everything else.

Mr. STEVENS. Mr. Chairman, I do not know what it cost in 1860, but I dare say that it has gone up with everything else. As to this being made and brought to market, I think that it is not so: I find that it is considered as a special delicacy, and perhaps the boys in the cars may bring it about and sell it. I think that the House will agree with me that it ought not to be taxed.

Mr. KASSON, by unanimous consent, withdrew his amendment.

Mr. MALLORY. I renew it. Mr. Chairman, I hope that this article will be passed over by the House. It seems to me that the gentleman from New York [Mr. NELSON] is using microscopic powers to find out what ought to be taxed in this bill. Of all the articles produced in the United States I think that this is one which claims exemption from taxation.

I live in a State where a good deal of maple sugar is produced. It is not produced for sale, for it is scarcely ever sold at all; and I doubt whether what is produced in Vermont is for the purpose of being sold, for consumption out of the State, at all events. They transfer it from one to another in that State as they do in Kentucky. It is not raised as an article of sale at all. The women of our country, the little boys and girls, those in ordinary circumstances, from the 1st of February up to the middle of March, pack as they call it, the sugar water upon their heads in buckets from the troughs under the trees to the places where it is evaporated. They do it to eke out a subsistence in my State. It is done by persons in Kentucky—and I have no doubt all over the United States where the maple tree grows—by persons who are unable to procure or purchase other sugar. It is made for home consumption. It is a little article, and I hope that it will escape taxation, which seems to be visited upon almost everything. I hope that the amendment of the gentleman from New York will not be adopted.

Mr. COX. I wish simply to call the attention of my friend to the fact that by the present law all articles like maple sugar, made for home consumption and not for sale, are not taxed. There is a general provision in the tax law which excludes all such articles.

Mr. MALLORY. My friend mistakes me. I said that it was made for use in the State, and it is used there in considerable quantities.

Mr. COX. I suppose that the great bulk of maple sugar made in Kentucky is for the consumption of those who make it. Only some three hundred and eighty-one thousand pounds are made in that State.

Mr. MALLORY. I will say that it is used in this way: in Kentucky they take it to the store and exchange it for other articles, such as a little coffee, tea, tobacco, or whatever they may need. Therefore, under the provisions of the bill, it will be taxed.

Mr. COX. I do not want that to be taxed.

Mr. MALLORY. The same may be the case in the gentleman's State, although it may not be so in the part where he resides.

Mr. COX. In the State of Ohio we make three million three hundred and twenty-three thousand four hundred and ninety-two pounds. We have five times the population in the State of Ohio that there is in Vermont; and yet in the State of Vermont there are made some nine million pounds. Now the price is thirty cents a pound, and it used to be only eight cents a pound. I think that the great bulk of maple sugar made in Vermont is for the purpose of merchandise, and not to be used by those who make it. It seems to be a business in the State of the gentleman from the Committee of Ways and Means; and it does look as if the gentleman from Vermont was vigilant indeed as to the interests of his own State. I do not blame him. All I want is that the House may know what are the interests of the various States, and what is the paramount interest of the State of Vermont; and if we are to tax articles made in Ohio in superabundance, such as whisky, why not tax an article of such large manufacture in Vermont?

Mr. MALLORY, by unanimous consent, withdrew his amendment.

Mr. MORRILL. I move to amend by inserting after "maple" the words "or sorghum." If

this amendment pass it is obviously just to include all descriptions of sugar.

Mr. Chairman, if the gentleman from Ohio [Mr. Cox] had not discussed this amendment we certainly should have missed on this subject his usual amount of wit.

Now, in relation to this matter—to treat the subject seriously—in my opinion it is no more just to tax maple sugar as a production than it would be to tax butter, or cheese, or wool. We have in all cases endeavored to avoid taxation upon the products of the farm. It is only upon manufactures, as such, that we have endeavored to levy a tax.

Now, in relation to the point made by the gentleman from Ohio [Mr. Cox] about large quantities of this article being made, and particularly in Vermont. For a small State there is a large amount made; and our people are industrious. But to say that it is a profitable manufacture, no one who knows anything about the business will pretend. Some seasons are good and some bad, so that profits are always uncertain. It is made at a season of the year when the farmers in the North can do nothing else; when the hills are covered with snow and they cannot engage in cultivating the ground as they can do in the more genial climate of Ohio and Kentucky. With us it is the practice of almost every man, owning land or not, who has a family, to make a small quantity of maple sugar; because otherwise he might be unable to purchase and use it in his family. If he owns no sugar orchard he takes a certain number of trees of some neighbor who has and carries on the business on shares; and if it should be taxed it will be a tax bearing heavily upon the poor man.

But a very small quantity of this article is manufactured for the market. In country towns there may be a few individuals, perhaps, who will go to the expense of purchasing tin buckets, pans, &c., and thus make a superior article; and if they do, they send off a barrel or two to some city where they can obtain an extravagant price for an early-made superior article. As a general thing, even those who make it do not use it in their tea and coffee, but only for certain purposes of cooking, where it is as good and perhaps better than any cane sugars.

As to its being a marketable article, you may go into the various towns of the North, wherever it is made, and you will perhaps find at the village stores that two or three barrels have accumulated in the spring of the year, and which is sold at less price than the foreign article. And that is about the extent of the market. It is sold mostly as a lower-priced article, or, when made early, it is sold, as candy and confectionery are sold, as a luxury.

I think it will not be the purpose of this committee to reverse our whole action in reference to taxing the products of the soil. I think it will be the purpose of the committee to exempt from taxation all the products of the sorghum, the maple, and the beet.

Mr. JOHNSON, of Pennsylvania. I am not generally in favor of taxing every species of article we can lay our hands upon, but I must enter my protest against the discrimination attempted to be made in relieving from taxation an article of so extensive production as maple sugar. I cannot for the life of me see why a similar article, the product of a plant grown and cultivated by labor, should be taxed, while an article of this character, which is merely collected from the forests, and collected in great quantities, too, at great profit, but to the destruction many times of timber not belonging to the parties collecting it, is relieved from taxation.

The gentleman from Vermont tells us it is only used for confectionery purposes. But what of that? When gentlemen get hold of ale and porter, which are used only as beverages, do they not tax them? And ale and porter are produced by great labor, while the production of maple sugar yields largely in profits to those who collect the material. It seems to me the discrimination is very unjust, because in some portions of the country we raise grain, and maple trees do not abound. Gentlemen are anxious to tax every article of product. In this bill it is proposed to tax petroleum six cents per gallon, and when we get to that article the gentleman from Vermont will not tell us it is an article of luxury, because it enters

into the necessary consumption of all classes. He will tell us it is produced easily out of the earth, and with very little labor. So is maple sugar. Gentlemen may suppose that because they have seen maple sugar used in candy shops, and sold in small quantities in the country, that it is not used to a very large extent. But that is not so, and especially since the price of sugar has become so great and the production of sugar from the cane has been so completely destroyed by the rebellion.

Sir, if I had my way about it, I would release sorghum from taxation and tax maple sugar; I would relieve sugar made from the cane from taxation and tax the other, for the reason that I would encourage the production of those articles at this time.

Mr. MALLORY. If the gentleman wishes to enlarge the scope of taxation, I want to ask him if he is willing to include buckwheat and clover seed, which are produced very extensively, I believe, in Pennsylvania, to an extent greater than elsewhere, and better?

Mr. JOHNSON, of Pennsylvania. Well, I do not know that I am particular about those things. When the gentleman proposes to tax buckwheat, I will tell him. I can tell the gentleman that there is scarcely any buckwheat raised in the country I come from. His remarks about sugar-candy and sugar-plums must have taken his mind back to the time when he was a boy at school, and now he is thinking of buckwheat cakes and slap-jacks. [Laughter.] But it does seem to me that gentlemen are disposed in this matter to discriminate in favor of their particular localities, and as suggested by the gentleman from Ohio, the gentleman from Vermont [Mr. Morrill] has forgotten that his State produces this article so vastly; and even my venerable colleague [Mr. Stevens] seems to remember the State where he sucked his sugar in early life. [Laughter.] Now, I am opposed to discriminating against the productions of labor and in favor of those articles that produce largely and most profitably without labor at all.

The question was taken on Mr. MORRILL's amendment, and no quorum voted.

Tellers were ordered, and Messrs. MORRILL and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 47, noes 48.

So the amendment was rejected.

The question recurred on Mr. NELSON's amendment; and being put, the amendment was disagreed to.

#### MESSAGE FROM THE SENATE.

The committee at this point rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate had passed a bill (No. 407) to authorize the establishment of ocean mail steamship service between the United States and China, in which he was directed to ask the concurrence of the House.

#### TAX BILL.

The committee then resumed its session.

Mr. WHALEY. I move to add, at the end of line four hundred and fifty-three, the following:

That section ninety-four of said act shall be further amended by adding after the word "parties," where it occurs in the clause imposing a tax on mineral coals, as follows:

And provided further, That no tax shall be imposed on mineral coal mined and used by manufacturers of salt in such manufacture.

Mr. Chairman, I desire only to state to the committee that the manufacturers of salt now pay a license tax and a tax on barrels as well as a tax on the salt, and that the manufacturers of salt in many places, who use wood for fuel, instead of coal, pay no such tax as this. The manufacturers who use coal are compelled to pay a tax of five cents a ton upon the coal mined by them for the manufacture of salt. It has already put the price of salt in many places so high as to place the article beyond the reach of the poor. I was informed by an honorable gentleman upon this floor yesterday that salt is thirty-six dollars a barrel in Missouri, and it is impossible for the salt manufacturers who use coal to compete with those who use wood, which is not taxed. Now, salt is a necessary article, and one which the humblest families are compelled to use, and this tax which I propose to repeal really puts salt beyond the reach of the humblest classes in the Northwest.

Mr. MORRILL. All I have to say in relation to this amendment is that it is utterly impossible to discriminate in relation to this matter, even if it were just. I am not certain that it would be just. We now tax the coal by which iron is made, and I do not see why we should not tax that by which salt is made.

The amendment was disagreed to.

Mr. HOOPER. On the part of the Committee of Ways and Means I offer the following amendment:

At the end of line four hundred and twenty-one, insert the following:

By inserting after the word "naphtha," in the paragraph relating to coal illuminating oil, the word "distillate;" by inserting after the words "returns, assessments," the words "removing to and withdrawing from the warehouses."

The amendment was agreed to.

Mr. KALBFLEISCH. I offer the following amendment:

After the word "party," at the end of line four hundred and twenty-one, insert the following:

By inserting, in the last proviso in the paragraph on gas, after the words "coal-tar," where they first occur, the words "and ammoniacal liquor."

The present law provides:

"That coal-tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal-tar thus produced, shall be exempt from duty."

Ammoniacal liquor needs to be exempt as much as coal-tar, in order to encourage and assist those who are now trying to make some new products in the manufacture of illuminating gas.

Mr. MORRILL. This is a matter about which the gentleman from New York [Mr. Kalbfleisch] feels some interest. I confess that I am not particularly informed on the subject, but I am inclined to think that the amendment is proper.

The amendment was agreed to.

Mr. COX. I move to amend by inserting after the word "that," in line four hundred and thirty-seven, the words "Bibles and books printed exclusively as educational books." I offer this amendment to carry out what I suppose to be the principle adopted by the committee and to remove a doubtful construction to which I think the clause in its present form is liable. The section now provides that—

Arithmetics, spelling-books, geographies, grammars, and primary books of the kinds usually taught in common and primary schools, and all books printed by religious societies exclusively for the use of Sunday-schools, shall be exempt from any duty or tax.

To carry out that principle and place it beyond peradventure, I propose that we shall exempt from taxation Bibles and all educational books, whether used in primary schools, common schools, or academies. My object is to exempt from taxation, as far as possible, that which develops and improves the human mind.

Mr. KASSON. This question was considered by the Committee of Ways and Means, and we found that it would be entirely impracticable, if we used any such general language, to accomplish the object desired by the gentleman from Ohio without accomplishing a great deal more. So far as concerns Bibles, the provision can be made specific, and we have no objection to such a provision. The phrase "educational books" is, however, too broad. There is scarcely any book which in a certain sense may not be construed to be an educational book. Books used in theological schools, law schools, universities, &c., as well as those adapted for the gentleman's library, might be included under this designation. Such is the breadth of the term that it might include a very large portion, perhaps the largest portion, of the books published in this country or abroad.

Mr. COX. I am glad to have the support of the gentleman in favor of the idea which I have attempted mainly to express. I will include the words "class books or elementary books," or I will leave it to the construction of the Commissioner of Internal Revenue, who has power to construe the section. His idea is to save from taxation all books used for educational purposes. When we use that expression we know what it is. We do not mean books for libraries; we mean only books which are intended for schools, academies, or colleges. I will use the phrase "class books" or any other the gentleman may suggest.

Mr. HALE. I suggest that the gentleman from Ohio insert the words "educational or devotional books."

Mr. COX. I have no objection to that, and I

will accept that as a modification of my amendment.

Mr. KASSON. Mr. Chairman, I think that any enlargement of the definition it is evident will carry us into difficulty. Take devotional books, for example. There is hardly a religious book, or a book on a religious subject, that would not be included under that denomination. Many of them are elegantly bound, and are sold exclusively for gifts at Christmas and other occasions. While the committee desire, with other gentlemen of the House, to exempt those books which are really necessary as a part of the general education of the country, they do not think it safe to extend it beyond the common schools of the country.

I am willing to accept so much of the gentleman's amendment as refers to Bibles. I agree with him on that. I congratulate him on his desire to facilitate the reading of that Book. I trust that with that exception the amendment will be rejected, as it would lead us into extreme difficulty.

Mr. TOWNSEND. I am glad that the amendment of the gentleman from Pennsylvania [Mr. HALE] has been accepted by the gentleman from Ohio. In regard to what the gentleman on the Committee of Ways and Means says, that the amendment of the gentleman from Ohio would include an extensive number of books, I will reply that these books include but a small proportion of the aggregate number of books that are published. I think that the language of the bill is indefinite. It speaks of grammars, geographies, and spelling-books. We all know that there are various elementary books.

The CHAIRMAN. Does the gentleman move an amendment?

Mr. TOWNSEND. I was going to move to strike out the last word, but I have said all that I desire to say.

Mr. RICE, of Massachusetts. I propose to amend by inserting after "grammars" as follows:

Copy-books and school-books of the kinds commonly used in common and primary schools; and all books printed exclusively for the use of Sunday-schools.

I move it as a substitute for the amendment of the gentleman from Ohio.

Mr. COX. I do not think that the gentleman from Massachusetts has improved the original amendment. There are a number of books upon astronomy, botany, and kindred subjects, which are not included in the gentleman's amendment.

Mr. RICE, of Massachusetts. My amendment covers all books used in common and primary schools.

Mr. COX. Does the gentleman's expression of common or primary schools include academies or colleges?

Mr. RICE, of Massachusetts. I suppose not.

Mr. COX. Then suppose you insert academies and colleges.

Mr. KASSON. Will the gentleman let me make a suggestion?

Mr. COX. Certainly.

Mr. KASSON. When the subject was up in committee we understood that the proposition of the gentleman from Ohio would really include from three fourths to four fifths of the trade carried on in the country. We do not think it safe to make so broad an exception.

Mr. COX. Mr. Chairman, I adopt the principle of the committee, and I want it to be carried out, and that is to save education from taxation, whether in the common school, academy, or college. The suggestion of the committee here is to limit, not to exempt, these most valuable publications in respect to academies and colleges. And I think the House ought to come up and sustain that view of it. They exempt other articles of manufacture. They exempted to-day nine million pounds of maple sugar in one State, because it was a home manufacture. Now this thing is far more important in every sense of the word than your maple sugar—to the young mind. [Laughter.] The gentleman from Iowa accepts my amendment as to Bibles. I would like to know why the committee do not report on Bibles.

Mr. KASSON. We expected opposition on that point. [Laughter.]

Mr. COX. I want to make Bibles cheap in the State of Iowa, and I want an educational system established throughout the whole land so that the Bible may be appreciated; and if the committee will assist me we will make it so broad and extensive there will be no tax upon education. I

think the great difficulty in this country is a lack of education.

Mr. MALLORY. I move to amend the substitute by inserting "all other books used in all other places." In my anxiety to promote the cause of education I wish to be esteemed more catholic than the gentleman from Ohio, [Mr. Cox.] I go for sweeping away all obstruction. I am induced to do this almost by the possibility of the difficulty which the executors of the law will find in carrying out the provisions of the amendment proposed by the gentleman from Massachusetts. Who is to decide what books are educational, what would be used in colleges, and what in academies?

Mr. COX. I will answer the gentleman: the Commissioner of Internal Revenue.

Mr. MALLORY. You put into office in every district of the United States a man who has a very limited education, and who, in some instances, knows hardly how to read and write, and set him up as a censor of the books of this country, and empower him to decide what are properly educational books, and what are not. Now, I object to that policy. That is the very point in the case to which I object. What is to prevent the authors and publishers of books, if they understand that such books are to be exempt from taxation, from printing upon the title-page of any work, "This book is intended for the use of schools and academies?" They may do it with histories, with works of poetry, or with any work of literature; and yet the gentleman from Ohio says that these assessors, appointed by the President in the various districts, are to pass upon these books and say whether the author understands the purpose for which he wrote the book, or whether he himself does.

Mr. COX. The gentleman utterly misrepresents my view. My answer to him was that the Commissioner of Internal Revenue, and not the assessor, decided; I never argued that these various assessors should decide upon books because the title-page is printed so and so. When a question arises as to what class a book belongs, whether or not educational in the ordinary sense of the term, it is left for decision to the Commissioner of Internal Revenue. I stand by the committee.

Mr. MALLORY. I am not responsible for what the committee does. I am moving my amendment to the substitute of the gentleman from Massachusetts. The learned gentleman at the head of the Committee of Ways and Means stands responsible for the action of the committee, and I have no doubt the chairman will support the proposition of my friend from Ohio if he finds that the very learned and able man at the head of the Revenue Bureau is to decide in all cases, as censor of the press, what books are adapted for literary purposes, what for educational purposes, and what the character of every book is.

Mr. MORRILL. Upon the part of the committee, I will say that I propose to move to strike out all that.

Mr. MALLORY. Let me put in what I have indicated, and that will strike it all out. I insist upon my amendment.

The CHAIRMAN. Will the gentleman again indicate what his amendment is?

Mr. MALLORY. I want to include all other books used in all other places. I do not want to include books used in certain cases and not include others.

Mr. INGERSOLL. Is an amendment to the original amendment in order?

The CHAIRMAN. It is.

Mr. INGERSOLL. I move then to amend the original amendment by inserting after the word "books" the words "and all other printed books and magazines, the production of American authors." I desire to call the especial attention of this committee and of the Committee of Ways and Means to one branch of the publishing business in the United States, and that is the publication of magazines. And I desire this Committee of the Whole to determine whether the Government, by this system of taxation, receives sufficient revenue to compensate for the burdens imposed upon publishers and the evils inflicted on authors.

Mr. MALLORY. It does not.

Mr. INGERSOLL. I say it does not. Well said by the gentleman from Kentucky.

Now, let me give the committee some facts in regard to this business. In 1863 and a portion of 1864 the leading magazines of the country were circulating to the extent of nearly five hundred thousand copies; but since the adoption of this system of taxation, which makes the publishers of magazines manufacturers, and imposes a tax of five per cent. upon their earnings, the reduction in the number of copies of magazines published for distribution in this country is nearly two hundred thousand. Why? Because the publishers have had to advance the price of the magazines to news dealers and news agents and subscribers, by reason of the advanced price of paper; by reason of the three per cent. tax on paper; and the tax on stereotypes and engravings; by reason of the income tax; and last and worst of all these taxes, by classifying them as manufacturers and taxing them as such.

One leading magazine in this country has had its subscription list cut down thirty-five thousand since the 1st day of January; and if this system of taxation goes on against the publishers of magazines and against American authors, it will not be long before we shall have no magazines worthy of being read by an American public. The tax of five per cent. upon the gross receipts of the publishers of magazines in this country did not amount in 1863 to more than sixty-five thousand dollars; yet the infliction of that tax, in addition to other taxes, has run the business down until many of the magazines are now struggling for existence; and I feel that it is unjust to thus burden a business which has done so much in promoting the best interests of the country. I am proud of American authors, and I wish to do all that I can, and to have this House do all that it can, to maintain the superiority of American genius, and of American contributors to American literature.

There is one class of contributors to our magazines which every man in Congress should be proud of, and those are our American women. Some of the most elegant, cultivated, and refined women of the country, who are not blessed with wealth, but who are blessed with that which is better than wealth, genius, have contributed to our magazines until they have placed them side by side with the best productions of England. Let us maintain that position, and recognize in these American women the matrons of our American literature, and in our American authors of both sexes a class of authors possessing genius, intelligence, and cultivation, whose productions are calculated to elevate and refine the American people. I would like to see those magazines and those books which are the productions of American authors free from taxation, and to place our American authors, male and female, upon the highest pinnacle of literary fame to which their genius entitles them. The permanency of our republican form of Government depends mainly upon the intelligence of the people. To be intelligent, they must be educated; and the best and cheapest way to educate them is to encourage the printing of books and magazines, and removing all obstacles in the way of a general circulation. In my opinion, had the great mass of the southern people possessed the same amount of intelligence, and their education been equal to the northern people, this rebellion would never have been inaugurated, and our common country would have been spared the ravages and desolations of war.

[Here the hammer fell.]

Mr. PRUYN. Is debate exhausted?

The CHAIRMAN. It is not, if the gentleman wishes to oppose the amendment.

Mr. PRUYN. No, sir; I am in favor of the amendment of the gentleman from Illinois.

Mr. INGERSOLL. I hope every other gentleman is.

Mr. KASSON. Before the vote is taken, I want to understand distinctly from the gentleman from Illinois [Mr. INGERSOLL] if this is, in point of fact, a proposition to levy no tax on any kind of books whatever produced in this country?

Mr. INGERSOLL. Yes, sir; so far as American authors are concerned.

Mr. KASSON. Well, sir, I want that the vote shall be given understandingly on this subject.

Mr. INGERSOLL. So do I.

Mr. KASSON. There are books selling as high as from ten to forty dollars apiece, cultivating the luxurious habits of the country, appeal-



ing to the luxury of the country, and as capable of taxation as the article of tobacco or whisky. For my part, I am disposed to favor legitimately American literature, although I have not been inspired from the same admirable source as the gentleman from Illinois. [Laughter.]

Mr. INGERSOLL. I regret that you have not been.

Mr. KASSON. Still, I am bound to object to this proposition from the fact that it is altogether too sweeping, and would exempt a great deal of the wealth and luxury of the country from its legitimate share of taxation. I trust that the subject will be passed over now, and considered at some other portion of the bill.

Mr. COX. Before the gentleman from Iowa is through, I desire to ask him a question.

The CHAIRMAN. Debate on the subject is utterly exhausted.

Mr. MALLORY. I should think so.

Mr. PRUYN. I trust the gentleman from Illinois will strike out of his amendment the words "printed books," and let it apply to magazines alone.

Mr. INGERSOLL. Oh, no.

The question was taken on Mr. INGERSOLL's amendment, and it was rejected.

Mr. GARFIELD. I move to amend the amendment of the gentleman from Ohio by inserting "Bibles, Testaments, or volumes consisting only of parts of either." What calls my attention particularly to this is the fact that there is a society in the city of New York which for the last seven or eight years has been carrying on the work of translating the books of the Old and New Testaments, and publishing a volume at a time, till there are now some forty or fifty publications, some consisting of one book of the Old Testament, some of two or more books, and some of the whole of the New Testament.

Mr. COX. I have no objection to that. I accept the modification.

Mr. BROOKS. Mr. Chairman, I do not see any reason why we should distinguish between any particular class of publications. There are books, not printed by Sunday-school or Bible societies, that are full of religious sentiments and religious ideas. I hold that this tax on literature is unworthy of the age. If honorable gentlemen would direct their attention to the appropriation bills that are passed without discussion they would find that it costs us three times more every year to take the parallax of Mars, to triangulate the Pleiades, and calculate the stars for 1880, than the amount of the revenue which we get from this tax on books. I hope that this whole tax on knowledge will be struck out. We are unwilling to impose the tax on maple sugar, a luxury which everybody can do without, on sorghum or molasses, which everybody can do without; and yet we propose to hold on to a tax on books, a tax on intelligence, and to throw ourselves in the face and eyes of all the literature of the country. I have not the courage to face the denunciation which, in my judgment, will come down on us from all the writers, all the litterateurs, if, after all this, we persist in the enforcement of this tax.

I repeat, Mr. Chairman, that the distinction taken between religious and other books is not a proper distinction. The exemption of the publications of certain religious societies is not a reasonable exemption. There are books just as religious, and doing as much or more good, that are printed by ordinary publishing houses, and that are not proposed to be exempted. I hope that the committee will not insist upon this tax which it is the policy of the people of all countries—of Germany, of England, and France—to do away with as much as possible. I hope we will strike out of the bill this tax on books and magazines, and impose it on other articles on which the people are more willing to pay it.

The CHAIRMAN. The question now is on the amendment proposed by the gentleman from Kentucky [Mr. MALLORY] to the substitute proposed by the gentleman from Massachusetts, [Mr. RICE.]

Mr. COX. Is debate exhausted on that?

The CHAIRMAN. It is.

The question was taken, and Mr. MALLORY's amendment was rejected.

Mr. RICE, of Massachusetts. Is it in order for me to withdraw my amendment?

The CHAIRMAN. It is.

Mr. RICE, of Massachusetts. I withdraw it.

Mr. ARNOLD. I move to amend the amendment of the gentleman from Ohio by striking out the words "arithmetics, spelling-books, geographies, grammars, and primary books of the kinds usually taught in common and primary schools, and all books printed by religious societies exclusively for the use of Sunday-schools," and inserting in lieu thereof the words "books and magazines," so that it will read:

*Provided, That books and magazines shall be exempt from any duty or tax, &c.*

Mr. COX. Is that amendment in order?

The CHAIRMAN. It is not, unless offered in the nature of a substitute.

Mr. ARNOLD. I offer it as a substitute for the amendment of the gentleman from Ohio. I am in favor of the amendment of the gentleman from Ohio, if I cannot procure the adoption of this substitute. My proposition is to repeal all taxes upon books and magazines, not only Bibles and school books, but all others. We get very little revenue from that source. I understand that the amount of the tax derived from books and magazines is less than fifty thousand dollars. I submit that the entire tax upon books and magazines should be repealed, and that they should be entirely free. That is what I propose by my amendment.

Mr. COX. I am opposed to the substitute of the gentleman from Illinois, as I was to the amendment of the gentleman from Kentucky. The effect of both is to break down the amendment which I offer. I propose to exempt from taxation these necessities in education, while the gentleman proposes to exempt what I consider the luxuries of literature, for which we ought to pay. That is the distinction which I make. I hope that the House will vote down all these other propositions, and will adopt my amendment.

Mr. BROWN, of Wisconsin. In order to say a few words on this subject, I move, *pro forma*, to amend the amendment of the gentleman from Ohio by striking out the last word.

I favor the amendment offered by the gentleman from Illinois. I believe that in a country where the basis of our Government is the intelligence of the people we ought not to tax knowledge. The various States are encouraging the formation of libraries in each school district; our people in various localities are uniting for the purpose of forming circulating libraries. We are taxing the people of the United States to-day for the publication of congressional documents, together with Patent Office reports, agricultural reports, &c. Our only justification for appropriating the public moneys in this way is that we thus promote the dissemination of knowledge. Yet, while with the one hand we take money from the public Treasury for the purpose of printing and circulating these books, we with the other are taxing, and thus repressing, private enterprise in the same direction. I believe, Mr. Chairman, that no species of knowledge should be taxed. Our object should be to encourage by our legislation everything that conduces to the intelligence of the people.

I hope that the substitute proposed by the gentleman from Illinois will be adopted. I withdraw my amendment.

Mr. MORRILL. For the purpose of terminating debate on this paragraph, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union, having had under consideration as a special order the tax bill, had come to no resolution thereon.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union resumes the consideration of the tax bill, all debate upon the paragraph under consideration be terminated in one half minute.

The motion was agreed to.

Mr. MORRILL. I move that the House again resolve itself into the Committee of the Whole on the state of the Union to resume the consideration of the tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair), and resumed the consideration of the special order, the tax bill.

The question being upon the substitute of Mr. ARNOLD for the amendment of Mr. Cox, it was not agreed to; there being, on a division—ayes twenty-two, noes not counted.

Mr. INGERSOLL moved to amend the amendment by adding "and magazines."

The amendment was not agreed to; there being, on a division—ayes twenty-three, noes not counted.

The question recurred on Mr. Cox's amendment.

Mr. HALE. I move to amend, as follows:

Strike out all after "that," in line four hundred and thirty-seven to "shall" in line four hundred and forty-one and insert, "and all books intended for educational or devotional purposes."

The amendment was disagreed to.

Mr. ARNOLD moved to insert the words "prayer-books, hymn-books, and psalm-books."

Mr. COX. I accept the amendment of the gentleman from Illinois.

Mr. SPALDING moved to add "and all materials used in the manufacture of printing paper."

The amendment was disagreed to.

Mr. ROSS. I move to add, "and all Democratic papers." [Laughter.]

Mr. COX. I have no objection to have the Democratic party connected with the Bible at any time.

The amendment was disagreed to.

Mr. COX. My amendment as it has been modified is as follows:

In line four hundred and thirty-seven, after the word "that," insert, "Bibles and Testaments, or volumes consisting only of parts of either; prayer-books, hymn-books, and psalm-books, and other books printed exclusively as educational books."

Mr. HOLMAN. I move to add the words, "the price of which may not be more than two dollars per volume."

Mr. ANCONA. Put it a little higher.

Mr. HOLMAN. I will say three dollars per volume, then.

The amendment was disagreed to.

Mr. MORRILL. I move to strike out the words, "and other books printed exclusively as educational books."

The committee divided, and there were—ayes 44, noes 13; no quorum voting.

The CHAIRMAN ordered tellers, and appointed Messrs. HOOPER and COX.

The committee again divided, and the tellers reported—ayes 61, noes 31.

So the amendment was agreed to.

The question then recurred on Mr. Cox's amendment as amended, and it was disagreed to.

Mr. MORRILL. I move the following amendment:

Strike out the words, "and in any case of doubt or dispute as to what shall be exempt from duty under this act, the decision of the Commissioner of Internal Revenue, approved by the Secretary of the Treasury, shall be final and conclusive."

The amendment was agreed to.

Mr. KASSON. I ask that that part of the paragraph which reads, "by striking from the paragraph relating to photographs the words 'being copies of engravings or works of art, or,'" shall be reserved for the consideration of the Committee of Ways and Means. The language is thought to be too broad.

There was no objection, and it was agreed to accordingly.

Mr. A. MYERS. I move the following:

On coal illuminating oil, refined, and naphtha, benzine, and benzole produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock-oil, and all other bituminous substances used for like purposes, a duty of ten cents per gallon: *Provided*, That such oil, refined and produced by the distillation of coal, asphaltum, or shale, exclusively, shall be subject to pay a duty of five cents per gallon, anything to the contrary notwithstanding: *And provided further*, That distillers of coal-oil or naphtha, benzine, or benzole, shall be subject to all the provisions of law applicable to distillers of spirits, with regard to licenses, bonds, returns, assessments, liens, penalties, drawbacks, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may, in the judgment of the Commissioner of Internal Revenue, and under regulations prescribed by him, be deemed necessary for that purpose: *And provided also*, That naphtha of specific gravity exceeding eighty degrees, according to Baume's hydrometer, and of the kind usually known as gasoline, shall be subject to a tax of five per cent. *ad valorem*.

Mr. MORRILL. I make the point of order that the amendment is not germane.

The CHAIRMAN. The Chair overrules the point of order.

Mr. A. MYERS. Is debate in order?

The CHAIRMAN. It is not.

The amendment was disagreed to.

Mr. THAYER. I move to amend by inserting the words "Bibles, prayer-books;" so that it will read:

*Provided*, That Bibles, prayer-books, arithmetics, spelling-books, geographies, grammars, and primary books of the kinds usually taught in common and primary schools, and all books printed by religious societies exclusively for the use of Sunday-schools, shall be exempt from any duty or tax, anything to the contrary notwithstanding.

Mr. KASSON. That has been done.

Mr. THAYER. It was voted down.

Mr. MORRILL. I ask the gentleman to modify his amendment so as to read "Bibles or Testaments, or parts of either."

Mr. THAYER. I cannot accept that.

Mr. COX. I move to insert after "primary schools" the words "academies and colleges."

The CHAIRMAN. The amendment is not in order.

Mr. THAYER. I modify my amendment so as to insert after "Bibles" the word "Testaments."

Mr. GARFIELD. I move to amend the amendment of the gentleman from Pennsylvania [Mr. THAYER] by inserting after the word "Testaments" the words "or volumes consisting of only parts thereof."

The question being put, and no quorum voting—

The CHAIRMAN ordered tellers; and appointed Messrs. GARFIELD, and STEELE of New Jersey.

The committee divided; and the tellers reported—ayes sixty-seven, noes not counted.

So the amendment to the amendment was agreed to.

The question recurring upon the amendment as amended, and no quorum voting—

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. THAYER and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 60, noes 22; no quorum voting.

Mr. HOLMAN. Rather than break up the committee, I withdraw the demand for a division. So the amendment as amended was agreed to.

Mr. MORRILL. I move to amend by striking out of line four hundred and thirty-nine the words "usually taught" and inserting in lieu thereof the word "used;" so that the clause shall read, "and primary books of the kinds used in common and primary schools."

The amendment was agreed to.

Mr. MORRILL. I move to amend the same clause by striking out the word "primary" where it first occurs and inserting in lieu thereof the word "school."

The amendment was agreed to.

Mr. GARFIELD. I move to amend by inserting after the sentence "shall be exempt from any duty or tax, anything to the contrary notwithstanding," the following proviso:

*Provided further*, That this exemption shall not apply to any volume which is valued at more than two dollars.

The amendment was agreed to.

Mr. COX. I now move to amend by inserting in line four hundred and thirty-nine, after the words "in common and primary schools," the words "academies and colleges."

The amendment was not agreed to.

Mr. TOWNSEND. In order to carry out the amendment of the gentleman from Vermont [Mr. MORRILL] in the last sentence amended on his motion by striking out the word "primary" before "books," I move to amend by striking out the words "and primary" before "schools;" so as to make the sentence read, "and school books used in common schools."

The amendment was not agreed to.

Mr. MORRILL. Line four hundred and fifty-four is as follows:

On wrought iron, railroad chairs, and railroad and boat spikes, five dollars per ton.

I move to amend the same by striking out the words "wrought iron" and inserting after the word "spikes" the words "made of wrought iron," and by striking out the comma after the word "chairs."

The amendment was agreed to.

Mr. MORRILL. I move to amend on page 22 by inserting after line five hundred and thirteen the words:

By striking out, in the paragraph relating to diamonds,

precious stones, and imitations thereof, and all other jewelry the word "ten," and inserting in lieu thereof the word "five."

The clause of the tax bill thus proposed to be amended is as follows:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent. *ad valorem*, &c.

Mr. HOLMAN. I suppose the effect of that will be to reduce the amount of duties.

Mr. MORRILL. Nominally; but, in the opinion of the Committee of Ways and Means, it will actually increase the duties.

Mr. HOLMAN. It is an actual reduction of one half.

Mr. MORRILL. From the manner in which the law is now administered, there is a diversity of opinion as to what the tax really applies to, and there is as much fraud as in the manufacture of cigars.

The amendment was agreed to.

Mr. MORRILL. Lines five hundred and fourteen to five hundred and seventeen, inclusive, read as follows:

By striking out of said section the several paragraphs from the words "on cavendish, plug, twist," down to the words "exclusive of the tax," inclusive, and inserting in lieu thereof the following:

That relates to several sections of the original bill relating to the tax on tobacco, cigars, &c. In order that it may include a further portion of the bill, I move to amend the clause by striking out the words "down to the words 'exclusive of the tax,' inclusive," and inserting in lieu thereof the words "down to and including the words 'and the other to the United States.'" The first amendment did not include as much of the bill as was intended to be stricken out.

The amendment was agreed to.

Mr. A. W. CLARK. In the bill to which these amendments are being made there is the following clause:

On steam engines, including locomotive and marine engines, a duty of three per cent. *ad valorem*.

This bill, in lines four hundred and sixty-one and four hundred and sixty-two, proposes to amend that by inserting after the words "steam engines" the words "exclusive of the boiler, in case a duty has been paid thereon." I move to amend that so that the clause in the tax bill shall read as follows:

On steam engines, including locomotive and marine engines, with their boilers, a duty of three per cent. *ad valorem*.

Mr. Chairman, under the present law steam engines are charged three per cent., but their boilers, not being included, are charged five per cent. I understand that the Committee of Ways and Means are willing to accept this amendment, which allows the whole to go at three per cent. I understood the committee to concur with me that this amendment ought to be made.

Mr. MORRILL. I am not sure about that. The subject has not been acted on by the Committee of Ways and Means, and I think that this amendment changes the law so as to reduce the tax. There is no objection to relieving the article from a double tax, but the object of this bill is mainly to increase the revenue.

Mr. A. W. CLARK. I think that if the House will give me one moment's attention not a single member will vote against my amendment. The present law provides that steam engines, including locomotives and marine engines, shall pay a duty of three per cent. *ad valorem*. Nothing is said there about boilers. The manufacturer of a locomotive, including, of course, a boiler, has to take it apart to ascertain the weight of the boiler, that it may be taxed separately, being included among "other manufactures." The Committee of Ways and Means tell me that they considered the boiler an essential part of the locomotive, and had no idea that the law would be so construed as to impose a separate tax upon it; but the Commissioner of Internal Revenue has seen fit to make that construction, and now the manufacturers ask that the boiler and locomotive shall be put upon a par, and that a higher tax shall not be demanded on the boiler than is imposed on the engine, which is a much more highly finished article than the boiler.

Mr. GANSON. The Commissioner of Internal Revenue has published a decision the result of which is to impose a double tax upon boilers. That is unjust and ought to be remedied, and I

have no doubt that the Committee of Ways and Means will concur in the amendment on examination.

Mr. MALLORY. I suggest to the gentleman from New York [Mr. A. W. CLARK] that he should raise the tax on engines to five per cent.

Mr. A. W. CLARK. My object is to have the tax on engines and boilers equal.

Mr. MALLORY. Well, do it in that way; increase the tax on engines.

Mr. MORRILL. The bill as proposed by the Committee of Ways and Means will avoid the very double tax of which the gentleman from New York [Mr. GANSON] complains. We do not propose to levy a tax upon a boiler that has been once taxed. It has been done heretofore, under a construction given to the law by the Commissioner of Internal Revenue.

Mr. A. W. CLARK. I cannot see that the amendment proposed by the Committee of Ways and Means at all obviates the difficulty. Under the construction of the Commissioner of Internal Revenue of the present law, the manufacturer is put to great trouble and expense, after his machinery is completed, to ascertain the exact value of the boiler. He has to take the whole thing to pieces and weigh it, and then he has to pay five per cent. on the boilers while he only pays three per cent. on the engine.

Mr. STEVENS. My only objection to this amendment is that the tax ought to be five per cent. instead of three. We are raising duties now.

Mr. A. W. CLARK. If the Committee of Ways and Means propose an increase, I am willing that the boilers shall pay the same amount as the locomotive.

Mr. STEVENS. Your amendment reduces it to three per cent.

Mr. A. W. CLARK. It reduces it to the same amount that is paid on engines.

Mr. HOOPER. I would suggest to the gentleman from New York that he change his amendment so as to move to insert after "steam engines" the words "and steam boilers." I think that will reach his object.

Mr. A. W. CLARK. I accept that as a modification of my amendment. The main difficulty is that boilers are not now inserted among the articles manufactured, but are included by the Commissioner of Internal Revenue among other manufactured articles and taxed five per cent. What we propose is that the boiler shall pay the same duty as the locomotive does.

Mr. HOOPER. The amendment which I propose is to strike out the words "exclusive of the boiler, in case a duty has been paid thereon," and insert in lieu thereof the words "steam boilers."

Mr. A. W. CLARK. I accept the amendment.

Mr. STEVENS. Then I move to amend by making the duty of three per cent. five per cent.

Mr. A. W. CLARK. I ask the gentleman from Pennsylvania if that increases the duty on steam engines.

Mr. STEVENS. On all manufactures.

Mr. A. W. CLARK. I have no objection to that. My object was that boilers and steam engines should pay the same duty.

Mr. STEVENS. The object was right. The construction of the Commissioner was not such as the Committee of Ways and Means supposed it would be.

Mr. KASSON. Mr. Chairman, with the approval of my colleagues of the Committee of Ways and Means, I suggest that the few lines relating to iron and to steam engines be passed over until to-morrow, that the Committee of Ways and Means may adjust the matter.

There being no objection, the paragraph was passed over informally.

Mr. SPALDING. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the tax bill, and had come to no conclusion thereon.

MAIL SERVICE TO CHINA.

Mr. COLE, of California. I ask unanimous consent to have taken from the Speaker's table,

and referred to the Committee on the Post Office and Post Roads, the act (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China.

Mr. WILSON. I object; and move that the House proceed to the business on the Speaker's table.

#### EVENING SESSION DISPENSED WITH.

Mr. MALLORY. I move to dispense with the evening session this evening, and that after to-morrow the House shall meet at eleven o'clock and adjourn at half past five.

Mr. STEVENS. Oh, I hope not. The Committee of Ways and Means would have no time to transact its business.

Mr. MALLORY. I suggest that the House would do more business between those hours than it would by having a recess and an evening session.

Mr. STEVENS. Mr. Speaker, the gentleman from Kentucky must know that the Committee of Ways and Means meets every morning, and that it cannot possibly get along with its business if the House meets at eleven o'clock.

Mr. MALLORY. I am aware that the Committee of Ways and Means does meet in the morning, but it can meet at nine o'clock.

Mr. STEVENS. I am afraid that if it did the gentleman from Kentucky would be a little behind time occasionally. [Laughter.]

Mr. MALLORY. Not at all. I will be there at half past eight.

The SPEAKER. The question must be first on the motion to dispense with the evening session.

The question was taken, and it was decided in the affirmative; there being, on a division—ayes 75, noes 25.

Mr. MALLORY. I now ask unanimous consent to move that, after to-morrow, the House shall meet at eleven o'clock and adjourn at half past five.

Several MEMBERS objected.

Mr. WILSON. I move to proceed to the business on the Speaker's table.

Mr. KELLOGG, of Michigan. I move that the House do now adjourn.

Mr. COX. I ask the gentleman from Michigan to withdraw that motion, that I may submit a resolution, and let it lie over.

Mr. STEVENS. I think we had better adjourn now.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act for the relief of the heirs of Almon D. Fiske, deceased; when the Speaker signed the same.

Mr. WILSON called for the yeas and nays on the motion to adjourn; and for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion was agreed to; and thereupon (at twenty-five minutes past four, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, February 14, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a copy of a dispatch of the 12th ultimo, addressed to the Secretary of State, by the minister resident of the United States at Stockholm, relating to an international exhibition to be held at Bergen, in Norway, during the coming summer; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a message from the President of the United States communicating correspondence in relation to the opening of an international exhibition in the city of Oporto, Portugal, during the coming summer; which was referred to the Committee on Foreign Relations, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. COWAN presented a resolution of the Board of Trade of Philadelphia, in favor of an amendment to the Constitution of the United States which shall confer upon Congress the power to assess duties upon exports; which was referred to the Committee on the Judiciary.

He also presented a resolution of the Legislature of Pennsylvania in favor of the repayment by the United States of certain moneys advanced by that State to pay the volunteer militia of 1863; which was ordered to lie on the table.

Mr. HOWE presented the petition of Easton & Gage, contractors with the Navy Department to supply at the different navy-yards of the United States certain quantities of rice, beans, and sugar, during the year ending on the 30th day of June, 1864, praying to be relieved from the contract, and that it be settled upon just and equitable principles, and that they may be paid the twenty per cent. reserved on the contract; which was referred to the Committee on Naval Affairs.

Mr. CHANDLER presented a petition of citizens of the State of Michigan, praying remuneration to John M. Stanley for the loss of his collection of Indian portraits, destroyed by fire at the Smithsonian Institution; which was referred to the Committee on the Library.

He also presented a petition of members of the Legislature of the State of Michigan, praying remuneration to J. M. Stanley for the loss of his collection of Indian portraits destroyed by fire at the Smithsonian Institution; which was referred to the Committee on the Library.

He also presented a petition of citizens of Detroit, praying for the establishment of a navy-yard at Detroit; which was referred to the Committee on Naval Affairs.

He also presented resolutions of the Legislature of Michigan, in favor of the establishment in the city of Detroit of a general naval recruiting and muster-in office for the State of Michigan; which were referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. POMEROY presented a petition of citizens of Kansas, praying that the mail route from Kansas City, Missouri, to Lawrence, Kansas, by way of Westport, Missouri, may be changed so as to run on the river road from Kansas City, Missouri, to Lawrence, Kansas, by way of the Junction House; which was referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY presented resolutions of the Legislature of the State of Minnesota, in favor of the location of the north or Sioux City branch of the Pacific railroad westwardly as near as it may be along the parallel of forty-two and one half degrees of north latitude to a point of junction with the main trunk of the road; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. DIXON presented a memorial of a committee appointed by the Mutual Fire Insurance Company of the District of Columbia, incorporated June 10, 1855, praying that the act incorporating that company be so amended in the fourth line of the third section as to read "fifty thousand," instead of "twenty thousand;" which was referred to the Committee on the District of Columbia.

Mr. HOWARD presented a petition of provost marshals in the State of Michigan, praying for an increase in the rank and pay of provost marshals; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Michigan, praying that remuneration may be made to John M. Stanley for the loss of his collection of Indian portraits by fire in the Smithsonian Institution; which was referred to the Committee on the Library.

He also presented a resolution of the Legislature of Michigan in favor of the establishment of a general naval recruiting and muster-in office for the State of Michigan, to be located in the city of Detroit; which was referred to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom were referred five petitions of citizens of Missouri, praying the establishment of a daily mail route from Macon City, Missouri, to Keosauqua, Iowa, asked to be discharged from its further consideration,

the route being already a post road; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of citizens of Boston, praying the enactment of a law preferring the appointment to all inferior offices of persons honorably discharged from military or naval service of the United States, submitted a report accompanied by a joint resolution (S. R. No. 111) to encourage the employment of disabled and discharged soldiers. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a bill (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1863, reported it with amendments.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes, reported it with amendments.

#### A MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution of the Senate (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, with an amendment in which the concurrence of the Senate was requested.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 112) for the relief of the heirs of Almon D. Fisk, deceased, which thereupon received the signature of the President *pro tempore* of the Senate.

#### FUNERAL OF SENATOR HICKS.

Mr. JOHNSON. I move that the Chair appoint a committee of arrangements to superintend the funeral of my late colleague, which will take place to-morrow.

The motion was agreed to; and the President *pro tempore* appointed Messrs. FOOT, ANTHONY, MORGAN, BUCKALEW, WADE, and WILLEY, as the committee.

#### ARMY RATION.

Mr. WILSON. I offer the following resolution:

*Resolved*, That the Secretary of War be directed to report to the Senate if any increase in the quantity of the Army ration is required for the comfort of the men or the efficiency of the service.

It will be remembered that at the last session of Congress we made a change of the ration, and there has been from some parts of the country complaint in regard to it. Some suggestions have been made that modifications are necessary. In order to know whether any change is really necessary, and if so, what, I desire to get a report from the Commissary General of Subsistence, and then we can have something official on which to act.

The resolution was considered by unanimous consent, and agreed to.

#### STATE AND POLITICAL PRISONERS.

Mr. POWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate whether or not he has furnished the judges of the circuit and district courts of the United States, and of the District of Columbia, a list of the names of the persons held as "State or political prisoners, or otherwise than as prisoners of war, as required by the second section of the act entitled 'An act relating to habeas corpus, and regulating judicial proceedings in certain cases,'" approved March 3, 1863.

#### INTEMPERANCE IN THE ARMY.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to inquire if the peculiar facilities afforded to officers of the Army to procure spirituous and intoxicating liquors does not tend to the increase of intemperance in the Army, and create insubordination and demoralization incompatible with the wholesome discipline of the soldier and detrimental to the public service, and report by bill or otherwise.



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

WEDNESDAY, FEBRUARY 15, 1865.

NEW SERIES....No. 50.

## MINE EXPLOSION AT PETERSBURG.

Mr. HARRIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested, if not incompatible with the public interest, to furnish to the Senate a copy of the report of the committee of inquiry ordered by him in respect to the explosion of the mine in front of Petersburg.

## FREEDMEN'S BUREAU.

Mr. STEWART. I desire to call up a resolution which I offered several days ago, to amend the 34th standing rule by adding to the committees authorized by it a Committee on Mines.

Mr. SUMNER. I must ask the Senate now to proceed with the consideration of the unfinished business of the morning hour of yesterday, being the report of the conference committee on the disagreeing votes of the two Houses with regard to the bill establishing a Bureau of Freedmen.

Mr. STEWART. I think that report is the special order for half past twelve o'clock, and my resolution can be disposed of by that time.

The PRESIDENT *pro tempore*. The Chair does not understand the report referred to to be a special order for half past twelve o'clock; but the motion to take it up is a privileged question, and it has precedence of the motion of the Senator from Nevada.

Mr. DOOLITTLE. I shall not oppose the proposition of the Senator from Massachusetts, for the matter that he wishes to take up has been under discussion for a day or two; but I desire to give notice to him and to other Senators that I hope they will allow me on Thursday, in the morning hour, to take up some Indian bills that will consume but little time, but which it is necessary should be acted upon as early as that day. On Thursday morning, with the leave of the Senate, I shall hope to be able to take up some Indian bills and have them disposed of.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. DAVIS. Mr. President, at the last session the House of Representatives passed a bill "to establish a Bureau of Freedmen's Affairs." That bill was reported to the Senate, and the Senate passed what it denominated a substitute for the House bill. Although called a substitute, it was, in substance, simply an amendment. The main idea of the House bill was to establish a separate and distinct bureau on the subject of the freedmen and abandoned lands; the bill of the Senate called a substitute accepted almost literally that idea of the House bill, which is the pith and the substance of both bills.

The question, then, arises, to what extent is the bill of the Senate, although it is called a substitute, an amendment for the bill of the House? I think this proposition is true, logically, and according to parliamentary law, that where either House has passed a bill or joint resolution, and it is sent to the other House for its action, so far as the other House does not dissent from the bill or joint resolution that is sent to it, the measure is adopted by it. Upon that principle, then, the Freedmen's Bureau being the principal subject of the House bill, being its leading idea, and that being accepted by the Senate's amendment, which is called a substitute, there was no question of disagreement between the two Houses in relation to that leading idea of a separate Freedmen's Bureau, no amendment to that provision of the House bill establishing the Freedmen's Bureau.

Then this question arises: was the idea and the provision of the House bill establishing a Freedmen's Bureau accepted and agreed to by the Senate or not? If it was agreed to by the Senate, then the question of this bureau was closed by the accordance, although there might be other provisions of the House bill to which the Senate had

offered antagonizing provisions, or from which it had otherwise dissented in its amendment. These latter matters being embodied in the amendment would be the pending questions between the two Houses, but not the question of establishing the bureau, because both Houses had agreed to that. It is only points of disagreement between the two Houses that are or can be referred to committees of conference. The matter, then, of the creation of this bureau was not referred to or before the committee of conference. That committee had no power to withdraw the bureau from the bill, to recommend to the two Houses its withdrawal, and to substitute a Department for it. It would have been as competent for the committee to have thus retired the bureau and to have recommended a court in its stead.

I read from the report of the committee:

"The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled 'An act to establish a Bureau of Freedmen's Affairs,' having met, after full and free conference have agreed to recommend to their respective Houses as follows:

"That the Senate recede from their amendment to the said bill."

It was simply an amendment, although it was on its face called a substitute—

"and the committee agree to the following as a substitute."

I will now read from the first section of the House bill and the Senate's amendment, both of the last session, for the purpose of showing that upon the matter of establishing a separate bureau for freedmen there was no dissent between the two Houses; that the provision in the House bill establishing the bureau was accepted by the Senate taking no negative action upon it, and passing an amendment which contained in substance the same provision to establish that bureau. Here is the first section of the House bill:

"That an office is hereby created in the War Department, to be called the Bureau of Freedmen's Affairs, and the President of the United States is hereby authorized to nominate, and with the advice and consent of the Senate to appoint, a Commissioner of Freedmen's Affairs, with an annual salary of \$4,000, to whom shall be referred the adjustment and determination, under the direction of the Secretary of War, of all questions arising under this act, or under any laws now existing or hereafter to be enacted, concerning persons of African descent."

In the Senate's amendment, which in this report is truly termed an amendment, there is this provision in the first section:

"That an office is hereby created in the Treasury Department, to be called the Bureau of Freedmen, meaning thereby such persons as have become free since the beginning of the present war, under the care of a Commissioner, with an annual salary of \$4,000, who shall be appointed by the President, by and with the advice and consent of the Senate; and there shall be a chief clerk, acting also as disbursing officer."

And then it goes on to create an authority to the Commissioner of this bureau precisely parallel and equivalent to that which was instituted by the first section of the House bill.

The position which I now state is this: that the House bill having established a separate and distinct bureau, not a Department, for freedmen, and that being the main idea and object of the bill, and the Senate substituted an amendment having accepted the same, and having agreed to the establishment of this bureau, there is no dissent between the two Houses, and consequently both sections of the two bills establish the same bureau. Either House may adopt a bill or joint resolution passed by the other, in whole or part; and, although its agreement was not in the same words, if it were in substance, there could be a conference between them for no other purpose than to make their language harmonize. The substance, sense, and meaning of their action being already in accordance, as to that there would be nothing to harmonize. The only substantial point in which the Senate's amendment differed from the House bill is that the latter created the bureau as of the War Department, the former as of the Treasury Department. Upon this point the action of the Senate was an amendment offered to the House bill; but as to the establishment it was no amendment—it was the same thing in different words.

The two Houses agreeing substantially in their action to establish the Freedmen's Bureau, and no conference being asked to harmonize the differing language by which they had severally done it, the question of the bureau was not before the committee of conference for any purpose whatever; certainly not for its repudiation. In recommending the establishment of a separate and independent Department for it, the committee acted on a matter *coram non judice*, and the Senate repudiated that action and the committee's report of it.

In support of this position I will read the first joint rule of the two Houses:

"In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed upon by their chairmen, meet in the conference chamber, and state to each other, verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon."

Now, sir, according to this rule, what matter comes before a committee of conference? It is only the matter of the amendment which has been proposed in one House to a bill or joint resolution passed by the other. The rule is express, that upon this amendment the conference shall take place; and that amendment, so far as relates to the main and essential object and provision of the measure, I have attempted to analyze.

Now, sir, I will read the first clause of the report of the committee of conference:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An act to establish a Department of Freedmen and Abandoned Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established at the seat of Government of the United States a Department of Freedmen and Abandoned Lands, whose object shall be the good of the freedmen, and the administration of lands and other property falling to the national Government in the rebel States not heretofore appropriated to other uses. And this Department shall be under the care of a Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate, with an annual salary of \$4,000.

It is thus shown that the committee transcended their authority by repudiating the bureau upon which the two Houses had accorded; and recommended in lieu of it a Department of which no mention had been made either in the bill passed by the House or in the Senate's amendment.

If the main subject of a bill can thus be shuffled out, a new, different, and more important one slipped in by the report of a committee of conference, and that report cannot be referred to a committee or divided like other propositions when the two Houses vote on its adoption, does it not change the essential forms of legislation as established by the Constitution and the rules of the two Houses? If this report should be adopted by the two Houses, I ask Senators if a bill to establish another Department of the Government, "a Department of Freedmen and Abandoned Lands," has ever been introduced into either House of Congress, referred to one of its standing committees, read three several times, passed, and then reported to the other House and there referred to one of its standing committees, read three several times, and passed? Who can tell the mischief that would result from such a radical change in the forms of legislation?

So much, sir, upon that branch of the subject. Now I will proceed to an analysis and examination of the bill under consideration, and as I deem the twelfth section of most importance, I will first make my objections to it. That section is in these words:

SEC. 12. And be it further enacted, That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony; for any act of embezzlement, or willful misappropriation of

public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity; or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act; or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

That is a clause in the substitute bill; it is highly penal in its character; it creates a large class of offenses that are not military offenses, that are not cases arising in the land or naval forces of the United States, but that are civil offenses, to be perpetrated not by the soldiers or seamen of the United States in the military or naval service, but by civilians; and those offenses, with all of the severe punishments which are denounced against them, are not to be tried by the appropriate constitutional tribunals, the civil courts, according to the municipal laws, but by this section of the bill are handed over to the jurisdiction of military tribunals appointed by the commanding officer. Is it competent for Congress to pass a bill with such a provision in it? The honorable Senator from Pennsylvania [Mr. COWAN] a few days ago brought up this question before the Senate, and with a power and force of argument far beyond anything that I can command, so far won its reason and judgment as that it voted by a decided majority to strike out a similar provision in another; and in lieu of it gave to the civil courts the trial of such offenders.

What has the Senate to do in order to reject this bill, with such a provision in it, but to follow up its action and the encouraging precedent which it set on that occasion? The learned Senator's reasoning and constitutional objections are more pointed and cogent in their application to the bill now under consideration than they were to the section which was assaulted with so much vigor and success by him. But, sir, I propose to examine this question a little myself. My honorable and early friend near me, [Mr. HOWARD,] whose ability as a lawyer, logician, and statesman, it is my pleasure to concede, and whose purity and patriotism of purpose I am far from questioning, differs so essentially from me in relation to what I conceive to be the most fundamental and vital principles of the Constitution—without which, or which practically overruled and disregarded, I would not give a farthing for the Constitution itself—that I feel it incumbent upon me to examine at some length these principles, and the provisions of the Constitution which bear upon this section of the bill.

Sir, the Senate is often engaged in the consideration of great questions, questions of permanent and immeasurable interest to the American people, to the present generation and to all posterity. In my humble judgment it never was engaged in the consideration of one of more essential and inappreciable importance than that now before it. Where had this important provision of the Constitution its paternity? What people devoted to constitutional liberty and jealous of their rights, and especially of the absorbing and domineering tendencies of military courts, suggested the first provision of the fifth amendment to the Constitution? It originated in the State of Massachusetts. It was prominent among the constitutional amendments which that great State, I will say in that early day of our history that enlightened and patriotic State, but now how deplorably fallen, presented for the adoption of all the States as an amendment to the Constitution, and is in these words:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces," &c.

Now, sir, let us examine this provision. My honorable friend from Michigan attempted a definition of the term "case" used in it a few days since. That is one of the essential words in this clause, the meaning of which ought to be clearly ascertained if practicable. Then the other important phrase "forces," a correct understanding of which is equally necessary to a proper construction of this important provision of the Constitution. What are cases arising in the land or naval forces? What is a case? All lawyers understand what a case in court is. I admit that the

term "case" here has a larger significance than the term "case" as it is applied to proceedings in court, but still "cases" here means "questions relating to persons or things." That is the import, the meaning of the term, as it is used in this section of the Constitution. That is Johnson's definition of the term "case." That of Webster is "a state of facts involving a question for discussion or decision." Now, sir, I do not know how, with my limited knowledge of language, I could give a more precise and correct definition of the term "case" than is expressed in these two definitions. I should adopt the latter. It is a state of facts involving a question for discussion or decision. It seems to me that that was the sense in which the framers of the Constitution used the term, and I take it for true that that is sense. Now, with that definition of a "case," there were and necessarily would arise in the operations of the country and of the Government two great classes of cases, one civil and the other military. I hold that it was the purpose of our wise and watchful fathers who made this fundamental law of government to draw a clear distinction between the two classes of cases, and to provide a radically different treatment of the two classes of cases. In their distrust of and aversion to the tyranny of military power they chose to adopt this important principle, which in the language of Mr. John Quincy Adams, in my judgment "will abide the test of time, of talents, and of human scrutiny," that a mere civilian, at no time, upon no charge, under no state of case, should ever be put upon trial, for a capital or otherwise infamous offense, before a military court, where the law is the mere will of the court itself, or of the commanding officer who convenes it, where there is an utter, reckless abnegation of constitutional and of all the provisions of civil law, where, in the language of Wellington, "martial law is only the will of the commander-in-chief, and its effect is to overthrow all other law—to make the will of the commander-in-chief the supreme, unquestionable, unappealable law of the case."

#### BRIDGE ACROSS THE OHIO.

The PRESIDENT *pro tempore*. The Chair must now interrupt the Senator and call up the special order, being the unfinished business of yesterday, which is the motion to reconsider the vote on the passage of the bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads."

Mr. SUMNER. I hope the Senator from Kentucky may have the privilege of finishing his remarks to-day on this matter.

Mr. CHANDLER. There is a special order for to-day at one o'clock, House bill No. 307, regulating commerce among the several States, which I hope will be taken up. The report which has been under discussion this morning will evidently lead to a long debate, *pro* and *con.*, and I desire to have this bill considered to-day. It has already gone over several times, and I am anxious to have it disposed of. I move that all other orders be laid aside and that the Senate proceed to the consideration of the bill which was made the special order for to-day.

Mr. POWELL. I hope the unfinished business will not be postponed. It is a matter of very great importance to have that bill passed. It is pending here on a motion to reconsider, and unless it be passed very soon there will not be time to get it through the House of Representatives. I hope it will not be postponed but will be acted upon. I do not think it will lead to much debate. The Senator from Pennsylvania [Mr. COWAN] will make a speech in favor of the motion to reconsider, and I propose to speak not over ten or fifteen minutes in reply, and then I am willing to submit the question to the vote of the Senate.

Mr. CHANDLER. I hope the Senate will proceed to the consideration of the bill which was made the special order for to-day.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan to postpone all prior orders and proceed to the consideration of House bill No. 307.

Mr. HENDRICKS. I hope that motion will not be agreed to. The measure referred to by the Senator from Kentucky need not occupy much of the time of the Senate. It is very important that that bill shall be passed at this session, so that the railroads interested in the important work

which it provides for may be enabled to progress with the work during the coming summer. It is of prime importance to our States that it should be considered.

Mr. CHANDLER. I am in favor of that bill, but I hope that the Senators will not antagonize it with the measure in my charge, which has been laid aside for the consideration of bills from the Committee on Finance. Now, it is the special order for to-day, and I hope it will be proceeded with.

Mr. DOOLITTLE. Allow me to suggest to my honorable friend from Michigan that the bill referred to by the Senator from Kentucky passed the Senate, and I made a motion to reconsider in order to allow the Senator from Pennsylvania to be heard. I understand that when he has been heard, and the Senator from Kentucky shall have replied, that subject will at once come to a vote, and then we can take up the bill which the Senator from Michigan desires to consider, and go on with it. I think that course will expedite business.

Mr. CHANDLER. I withdraw my motion, with the understanding that the bill to which I have referred shall be taken up next.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the motion of the Senator from Wisconsin [Mr. DOOLITTLE] to reconsider the vote by which the Senate passed the bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads."

Mr. COWAN. This bill, Mr. President, provides for the construction of a bridge across the Ohio river at Louisville. It provides that its height shall not be less than fifty-six feet above low-water mark; that it shall be constructed with three draws sufficient to pass the largest boats navigating the Ohio river, one over the Indiana chute, one over the middle chute, and one over the canal. The spans of the bridge are not to be less than two hundred and forty feet, except over the Indiana and middle chutes, and the canal. The bridge is to be constructed with draws of one hundred and fifty feet wide on each side of the pivot-pier over the Indiana and middle chutes, and ninety feet wide over the canal.

It is not necessary that I should remind the Senate of the importance of the Ohio river as a highway to the commerce of the great valley of the Mississippi. A thousand miles in length, carrying upon its current more in a single day than all the railroads of the country can carry in a month, it becomes of the greatest importance that that navigation should be free and unobstructed. Senators will remember that in 1862 this question came before the Senate upon a proposal to construct a railroad bridge across the Ohio river at Steubenville. It was very much investigated at that time, and a very considerable amount of testimony was adduced before the Committee on Post Offices and Post Roads in order to ascertain in what way such a bridge might be constructed without injury to the navigation. The bill which passed on that occasion, and which was approved on the 14th of July, 1862, authorizing the Steubenville bridge, provided that it should be at least three hundred feet wide, and I think it was shown pretty conclusively before the committee that any other construction than that there would be an impediment to the navigation of the river.

That bridge was constructed there, nine hundred miles above the mouth of the Ohio river, with spans of three hundred feet and an elevation of ninety feet above the water. It was supposed at that time to be a final settlement of the question, so far as it could come before this Legislature. Here, however, we find a bill now which proposes to throttle this river, to narrow its capacity, some five hundred miles below, and the effect of which will be to compel the whole navigation of the river above to accommodate itself to the narrow passage under this proposed bridge.

The place where this bridge is proposed to be located is one of great importance. It will be observed by Senators that it is to be located at the head of the falls of the Ohio river, the most difficult and dangerous piece of navigation upon the whole river. It is to be located at a place where it requires great care and circumspection to achieve the channel at all, a place where it is impossible at certain stages of the water to land

heavy floats in order to prepare them for a passage through the draws which are to be constructed in this bridge; and I have no hesitation in saying that, if this bridge be erected, it will operate to cripple the navigation of the whole river above, and that for most obvious reasons. The ordinary boats on the river require a space of eighty-five or ninety feet high in order to enable them to pass under it—that is to say, a first-class boat, with its chimney, is from eighty to ninety feet high. It is not pretended that such boats can pass under this bridge; and, as a matter of course, they will be obliged to pass through the draw, and this draw—wide enough, perhaps, to allow them to pass—is to be opened and shut, and these boats have to detain themselves until that is done, and to detain themselves upon the very brink of the falls, the very place where it would be most difficult of all others to stop, and wait the adjustment of the draw; and if they are coming up the falls I cannot see how it would be possible that they could stop on such a place as that for such a purpose. I believe there are Senators who know something about a bridge that was built across the Mississippi river at Rock Island, and know something about the accidents which occurred there from the very causes to which I am now referring. At that bridge a very large amount of property was destroyed; and I believe it was considered by the country so much of a nuisance as required that it should be finally abated.

So far as the draws are concerned in this bridge at the falls, one hundred and fifty feet in width would do if it were possible and not dangerous to open and shut a draw of such length. If the Senate will suppose an arm of one hundred and fifty feet long to be stretched each side of a central pier, they will have an idea of the time that will be necessary to swing that draw, to open it, to turn those arms in the direction of the current, and then close them across the stream afterward. I suppose the larger boats, the passenger-carrying boats of the river, might stop to await this opening and shutting of the draw, and I suppose there is enough space so that they could get through; but the objection comes more particularly from a large number of people who are engaged in a different kind of carrying trade, coal and lumber. The passage that will be open to them at the widest—and that is not in the channel because the draws occupy the channel—the spans over other parts of the river where they will be obliged to run through are limited here and cut down to two hundred and forty feet. It will be utterly impossible to conduct the navigation and trade of that river upon the same principle which is now adopted if you narrow these spans to two hundred and forty feet. The tows themselves are often wider than that; and they range from one hundred and eighty to two hundred and twenty feet. One not conversant with this kind of navigation might suppose it would be very easy to run a boat two hundred feet wide between a pair of piers that were two hundred and forty feet wide; but Senators must remember that the pilot who undertakes to achieve this task must begin a mile away from the passage, and then he must begin with the enormous weight of tows, some three or four hundred feet long and some two hundred feet wide, carrying the heaviest of all commodities, bituminous stone coal. These barges are one hundred feet long, six or seven feet draught, and twenty feet wide, all tied to a small tug-boat calculated simply to give the whole mass weight or momentum enough for the ordinary navigation of the river, but utterly unable to turn it readily and quickly so as to correct any error that the pilot might make in his calculation at that distance. I venture to say that nine out of every ten of the pilots upon that river, unless it is those who are constantly engaged in running it—I mean the ordinary pilots who run it in times of freshets when alone these heavy cargoes can go down the river—cannot strike that passage, or know whether they are going to strike it until they are close to it. Even if you get the bow or fore part of this tow within that narrow strait, if you come into it askant, before your boats get through, your sideways with the whole tow will be against the pier.

We have had some experience with regard to the Steubenville bridge where the spans are three hundred feet wide, and where the river is comparatively smooth and unobstructed, and without

any very rapid current, and the consequence there is that it requires the greatest skill and the greatest care to avoid accidents even with less cargoes than those that I have described.

Mr. President, I think it would be exceedingly unjust to the people inhabiting the States of Ohio, West Virginia, and the upper part of Pennsylvania, that this obstruction should be put here, particularly when you come to ascertain how very easy it would be to avoid all this difficulty.

The other day we authorized the construction of a bridge across the Ohio river at Cincinnati. That was a suspension bridge with a span of a thousand feet, and instead of being ninety feet above the water, as the Steubenville bridge is, it was one hundred feet. Nobody complained of it. Why not build this bridge in that way? Where is the necessity of narrowing the span upon this bridge to two hundred and forty feet, when it is obvious, and a matter of actual experiment, that the span can be made a thousand feet? Where is the necessity of putting it down to fifty-six feet above low-water mark when that at Cincinnati is built one hundred feet above low-water mark? I know the answer to these questions; but what does it amount to? Simply this, that such a bridge would cost \$200,000 more. I have no doubt that the trade of the Ohio river, with one mill upon its tonnage for a single year, would pay for that difference; and yet the whole trade and travel upon that river is to be obstructed and impeded, for the sake of what? To save that which, compared with the whole trade, is the merest mote in the sunbeam.

The honorable Senator from Vermont [Mr. COLLAMER] tells me that the length of this bridge is to be four thousand seven hundred feet. If that be so, it is only another argument in favor of the ease with which it can be made one hundred feet high. It is said that the banks of the Ohio river are so low at this point that the bridge cannot be built more than fifty-six feet above the level of the water. Why, sir, is there any difficulty about trestling up at the ends or embanking at the ends? In order to preserve such an immense interest at stake as the people of the three or four States I have named have in the free navigation of the Ohio river, an embankment of a mile on either side of the river, in order to attain the necessary elevation, would be the merest bagatelle in the world compared with the effect that this bridge will have upon all the navigation of that river. I have not a doubt about it in the world; and I speak, to some extent, knowingly upon this subject. I know the difficulties of the navigation of this river, and I know how immensely they would be increased by a wall across it, such as is proposed here. I know, too, what will be the feelings of the free citizen when he comes to an obstruction of that kind, which is utterly and totally unnecessary. It may be very convenient to the railroad company that builds it; it may save them two or three hundred thousand dollars, but it will save them that at a loss of millions upon millions on the trade of that river, and in all time, as long as it lasts. It is not to be a mere temporary obstruction; it is not to remain there for a month or a year, but it is to remain there for all time. This privilege, this right, which we are about to give away to private corporations and take from the whole people, is to endure and remain forever.

We may sit here and take no interest in this subject; we may suppose that it is a trifle; but if we remember the thousands and thousands of people with their property upon that river for more than six months in the year, and the stake they have in that property, oftentimes their all embarked in a single boat or tow, then it becomes another question, and it becomes us to protect them. They have a right unquestionably to the free navigation of the river. It is public property. It belongs to the whole people. It belongs to you and me and all of us; and are we to give it away? To whom? To give it away to private corporations to our own detriment. There might be some argument for it if it was absolutely necessary; but it is proposed to give it away to them to our own detriment, in order that they may be able to cross it by means of a cheap structure.

Now, I ask Senators what is to prevent them making a bridge of three hundred feet span just as well as they made such a bridge at Steubenville? What is to prevent these companies from constructing a bridge, that will meet with no op-

position from anybody, of a thousand feet span and ninety feet above the water? Nobody has shown and nobody can show that such a thing is impossible.

It is said the banks of the river are low. I do not care how low they may be. This bridge now, it seems, can be fifty-six feet above the water. What you want, then, is to elevate it forty-four feet higher, to make it according to the Steubenville standard. What distance will you require in order to attain that elevation upon an easy grade of railroad? Ninety feet to the mile is not a very heavy grade on a railroad. This river itself is over four thousand feet wide, four fifths of a mile, and even upon the bridge itself, by elevating it in the center, you might attain, perhaps, almost the elevation you require. But that is not necessary. It is not necessary that your railroad shall run at a dead level until you come to the bank of the river. You may commence half a mile back, if you please, and trestle up until you get to the proper elevation.

I take it that this Senate would be recreant to its duty here if it allowed any company to put a bridge across there that would obstruct the navigation when it is possible to put one there that would protect the navigation. I think that is not a question that Senators should be in doubt about at all. They should not come here and ask that a general right may be set aside to subserve a private interest, however much that private interest may connect itself with the public; but they ought to come with such evidence as would leave to every member of this Senate no doubt but that the great public right would be preserved.

Suppose these companies were to begin half a mile from the river bank on each side, in order to raise an embankment to get forty-four feet of elevation, what would that cost? By embankment itself it would not cost \$200,000; and by trestle-work it would not cost near so much; and shall you impede or impair or even threaten the navigation of this great highway for such a consideration as that? I hope not, sir. I should be exceedingly sorry to believe that such a thing would be agreed to by Senators who have had an opportunity of knowing these things, particularly when they have once been investigated here at great length, as the honorable Senator from Vermont [Mr. COLLAMER] will testify when his memory is refreshed by the provisions of the law of July 14, 1862, in relation to the Steubenville bridge, when it was absolutely shown that nothing short of a span of three hundred feet would satisfy the requirements of the navigation of that river; and since that time, as I have before stated, there is the most conclusive evidence in the world that a bridge can be built there that will be unexceptionable to everybody. I hope, therefore, that this bill will be reconsidered.

Mr. COLLAMER. Do you want to amend it? Mr. COWAN. I wish to make it precisely the same as the bill for the bridge across the Ohio river at Steubenville. It is manifest to everybody that all the people navigating this river must accommodate themselves to its narrowest passages. If you make the passage only one hundred feet wide, then they must cut down their floats to one hundred feet. There is no use in having a three hundred feet span at Steubenville if you have a two hundred and forty feet span below in one part of the river. There is no use of having a bridge with ninety feet elevation at Steubenville and one hundred feet at Wheeling and one hundred feet at Cincinnati, if at Louisville there is to be a bridge with but fifty-six feet elevation.

I propose to read the action of the Pittsburgh Coal Exchange upon this subject; and this is the opinion of men who are engaged in this trade, and who understand this subject much better than men not engaged in it might be supposed to understand it:

"Whereas there is a bill now before Congress to authorize the construction of a railroad bridge across the Ohio river at the falls, near Louisville, on a plan which, in our opinion, would be ruinous to the navigation of the river, more particularly to those engaged in towing coal: Therefore,

"Resolved, That we respectfully but earnestly protest against the erection of said bridge on the plan mentioned in said bill, for the following reasons, namely:

"First. It does not specify at what point they intend to cross the falls."

I might remark that that very omission is fatal in this bill for a reason that they give below.

"This is a serious matter, as there are points where the



erection of a bridge would stop navigation, while there are other points where it might be possible to place piers without interfering much with the navigation."

There are points where the erection of a bridge would not only hinder and impede the navigation but absolutely stop it entirely. If the bridge was located at a particular point on the falls where the river runs with almost lightning rapidity, it would be utterly impossible to stop a boat if the draw was not open, and if a railroad train was just passing, it would be impossible to open the draw in order to let the boat through, and then you would have the same accidents which have characterized the bridge at Rock Island across the Mississippi.

"Second. The height proposed is too low; there is no low-water mark on the falls."

Which may seem to be a paradox, but the water runs away so rapidly over the falls that the rise there, however much it may be above and below, amounts to nothing. It is very much like pouring molasses out of a pitcher; the stream may be as thick as your wrist at the spout, and yet by its accelerated velocity in falling, when it gets near the floor it is almost as thin as a hair from going so much more rapidly.

"The river rises sometimes thirty feet; and when it is safe for heavy boats to run over the falls it would not give forty feet above water, which would not let a steamer under without chimneys."

It would not let the boats on the Ohio river through even if they were to take off their chimneys entirely, and the chimneys themselves are from forty to fifty feet above the hurricane deck of the boats.

"Third. The proposed width of piers at the scutes of one hundred and fifty feet is entirely too little. Our tow-boats with their barges frequently require a width of two hundred feet, and seldom less than one hundred and twenty."

All this may seem strange to Senators, and yet it is nevertheless true, and sometimes they not only reach two hundred feet, but they have even gone down with a width of two hundred and seventy feet. There will be, perhaps, twenty or twenty-five of these barges all tied together, presenting a front of ten, twelve, and fourteen barges, and in the inside of them a tug-boat with an engine, driving that immense mass down the river, and when it has taken them down it returns and another set of barges are taken down in the same way. Can it be supposed that a boatman on one of these floats in a dark night, if you please, in a fog, in a storm, or in any of the thousand contingencies which assail the boatman in his perilous way, can hit with a boat two hundred feet wide a passage two hundred and forty feet wide? If he did hit it with an ordinary boat he would not be doing a bad business; but certainly he could not do it with the old broad-horn, the old flat-boat. He might do it if he was out upon the land, if he was in a forest where he had plenty of landmarks, but when you throw him out in the midst of a river over four thousand feet wide, with nothing but the current, nothing but the smooth glassy surface of water to guide him, he may be two hundred and forty feet out of his way and he may be five hundred out of it, and he cannot know it until he is almost upon the obstruction.

It is not only the case with the piers in the river, but it is the case with islands in the river. Go down the river at any time you please, and at the head of these islands you will find wreck after wreck of boats; and why? Were they only two hundred and forty feet wide? The pier will be only twenty-five or thirty feet. But it is impossible to avoid these islands, presenting as they do for a long distance this immense front, and the boats run upon them; and yet here you suppose that men can safely narrow themselves down to a two hundred and forty feet channel in a river of this width. Sir, it is impossible; it is not in the nature of things. You may get up to it, because you come up very slowly, and if you do not happen to come up right, you can go back on the falls as fast as you want to do; but if you are coming down you cannot stop; you cannot change your direction; you are at the mercy of this enormous mass of floating matter, while your boat has not power enough and you cannot give it momentum enough to enable you to guide it or to turn it.

"Now the danger of running the falls without any artificial obstruction is very great; and we are satisfied that with piers placed as proposed, it would be nearly impossible to run with any safety. We have come to this conclusion, from our experience in running the piers of the Steu-

benville bridge, which are three hundred feet apart; and this over a part of the river which does not run so wild as it does at the falls."

"Resolved, That we do not wish to say or do anything that would tend to hinder the erection of a railroad bridge at a proper place over or near the falls; but for the foregoing reasons we earnestly request our Representatives in Congress to use all their interest and powers to stop the passage of said bill until the party asking for the privilege shall locate it in such a place as those who are interested in the navigation of the river shall consider it safe."

Now, Mr. President, one word more. What is this question? What is the length and breadth of it measured in a pecuniary point of view? It is the carrying trade and travel of the Ohio river on the one side, and the cost of raising this bridge forty-four feet more on the other side. Compare the two—a mountain to a molehill, or rather a mountain to that which vanishes away into nothingness by the comparison. What would be \$200,000 or \$300,000 or \$500,000, if you please, invested by these companies to raise the bridge above the water one hundred feet, as it is at Cincinnati, with a span of a thousand feet, compared with the navigation of this great highway? What right have they to claim it? As I said before, I have no doubt that in a single day that river, when it is in freshet, would carry and does carry more tonnage than all the railroads of the West in a month. Then there is the lumber trade, too, from western Pennsylvania; the rafts which go down the Ohio are more than one hundred and fifty and sometimes two hundred feet wide, and sometimes containing acres with houses, horses, and almost all the materials of civilized life on these great rafts. They are frequently compelled to go down the river in the night, because they cannot land; there are times when it is utterly impossible for them to land; when the shore is unsuited to them; when the wind is high; and they must go on, no matter whether it is in the fog or darkness or what may be the surrounding circumstances, and you propose to build a wall across it for the purpose of their running through two hundred and forty feet of space! Why, Mr. President, if this bill shall pass you might just as well say that six hundred miles of that river is to be cut off from the people above this bridge or else they must all go to work and adapt themselves to its restriction; they must wear its strait-jacket in order to accommodate themselves to it for the simple purpose of saving to these railroad companies perhaps two or three hundred thousand dollars which would enable them to put a bridge there which nobody would complain of, and one that would affect no public right.

I hope, therefore, that the bill will be reconsidered; and if it is reconsidered I shall move, as I was obliged to do in the case of the Steubenville bridge, as I had not notice of it, to recommit it to the Committee on Post Offices and Post Roads, when we can have an opportunity to show, as we did show when that bill was smuggled through the Senate, that it was a violation of the rights of the people, and have it so altered as to preserve those rights.

Mr. POWELL. I fully concur with the honorable Senator from Pennsylvania as to the great advantage and importance of the Ohio river being free and unobstructed, but I am very confident that the construction of this bridge in the manner indicated will not in any manner whatever affect or obstruct the navigation of the river. If I believed that it would I would not be the advocate of the bridge and the plan of construction proposed.

I live two hundred and twenty miles below the falls of the Ohio, on the banks of that river. I have been familiar with its navigation from my earliest boyhood. I have inquired of a large number of the oldest and most intelligent steamboat men concerning this bridge, and they all tell me that a bridge constructed in the mode prescribed in this bill will not obstruct the navigation of the river. The importance of the navigation of the river being kept unobstructed is a matter that must be well known to every Senator. I suppose there is not a Senator in this Chamber who would be for passing any law authorizing a bridge to be built across that stream that he thought would obstruct its navigation; but being entirely confident that the bridge will not obstruct the navigation of the river, I trust the Senate will refuse to reconsider it, and will let the bill go to the House for their consideration.

It is a matter of the very greatest importance

to the public interest that this railway bridge be constructed across the falls of the Ohio river. It is at that point that the roads from the Northwest and the roads from Kentucky running south meet. I have no doubt that every year since this war commenced this Government has lost over a million dollars in consequence of the obstruction of transportation of freight and munitions of war at that point. The two depots, the one of the Jeffersonville railroad and the other of the Louisville and Nashville railroad, are distant some half a mile or a mile from the river. The vast amount of provisions and other Army supplies that pass by rail to the Army south goes over the Louisville and Nashville railroad and reaches that point. Then you have to employ wagons to carry them to the river, and then they have to be ferried over the river, and from thence to be carried to the depot of the Louisville and Nashville road for transportation south. There have been as many as a thousand wagons employed at one time in hauling the Government trains across that river. The impediment, the delay, and the cost is immense. That is known to every gentleman who lives upon that border. The Senate will bear in mind that there is no railway having connection with the South, Nashville for instance, that connects with the Northwest, other than the Louisville and Nashville railroad, and all the Government supplies, all the freights, and all the passengers that pass there, other than those connected with the Government that go by rail, have to pass over the river at this point. Hence it is a matter of very great importance and of great public interest that a bridge be built there, and built speedily.

The Senator from Pennsylvania is of the opinion that it will obstruct the navigation of the river. He is of the opinion too that the bridge is located in the wrong place; that the currents are swift there, and consequently the navigation will be more impeded by such a bridge there than it would be if built elsewhere. Allow me to tell the Senator that in that matter he is very greatly mistaken. I have investigated this matter in every aspect in which it could be presented. I have taken the opinions of the most sensible men who have been engaged in the navigation of the river; and since this motion to reconsider has been entered I have talked with some of the steamboat men who have been for thirty years engaged in the navigation of the Ohio. I have called their attention to the plan of this bridge, and they all tell me that it will not interfere with the navigation.

The Senate must bear in mind that there is a very small portion of the year when the navigation over the falls is open for boats ascending or descending. Much the larger portion of the year, in consequence of the obstruction created by the falls, there is no navigation of any kind there at all except through the canal.

So far as the rapidity of the current there is concerned, allow me to tell the Senator that whenever the river is of sufficient height to allow boats to ascend and descend the river at the falls, there is no more current there, or very little more, than at other places. When the river is seven feet high at the head of the falls, then it is some fifteen or sixteen feet high below the falls. When the river is ten or twelve feet high at the head of the falls, then there is no greater current in consequence of the falls, because at that height the current is level. The falls of the Ohio are about two and a half miles in length. At that distance the fall is some twenty-six feet; but in consequence of the rapidity of the water passing over the falls at low tide, when the river rises, and in consequence of the narrows in the Ohio river, just below the falls where the river passes through tortuous rocky-bound hills, the river rises something over two feet below the falls, while it rises one foot at the head of the falls; and consequently a rise of ten or twelve feet obliterates entirely the increased current in consequence of the falls, because twelve feet at the head of the falls is over twenty-six feet below the falls.

I hold in my hand a petition accompanied by affidavits and statements upon that subject. The petition is signed by Mr. Guthrie, the president of the Louisville and Nashville Railroad Company, and by Mr. Ricketts, president of the Jeffersonville Railroad Company, two very intelligent gentlemen, both of whom have lived for many years

at that very point. It is accompanied by the affidavit of Mr. Enoch Lockhart, a gentleman of the strictest integrity, and a man of ability in his line, who has been a falls pilot on that river for thirty-three years. This Lockhart examined this petition, as he states in his affidavit, and examined the plan of the bridge that was before the Committee on Post Offices and Post Roads, and he swears that that structure will not obstruct the navigation at the falls. I will read one or two brief extracts from this paper on that subject.

Before doing so, however, I will state to the Senate why it is not practicable to construct this bridge at a greater height at that point. That fact is set forth in the memorial and in the evidence which was before the Committee on Post Offices and Post Roads. The banks of the river are low at that point. If you would arrange the bridge to the height indicated by the Senator from Pennsylvania, the grades would be such that it would be utterly useless as a railway bridge. This bridge will be nearly five thousand feet long; and it would be useless attempting to raise it to the height indicated by the Senator, in consequence of the grades. The Senator wishes to know why this bridge cannot be constructed with as much span as that across the river at Cincinnati. He tells you that there the span is a thousand feet. Allow me to tell the Senator that that is not a railroad bridge, and I do not believe it would be practicable to construct a railroad bridge with any security, with that immense span. That is a suspension bridge, and was not constructed for railway purposes.

The Senator wishes to know, again, why we do not put it at the height of the Steubenville bridge. The reason is stated. The reason was considered by the Committee on Post Offices and Post Roads. It is in consequence of the formation of the banks of the river at that point. A bridge built in that way, such would be the heavy grades, would be almost useless. There is a difference in this bridge from the one at Steubenville. This bridge is to be constructed with draws, which is not the case with the Steubenville bridge. This bridge is to have four draws across the Ohio river, of one hundred and fifty feet each—two across the Indiana chute, and two across what is called the middle chute, at the falls. Those draws have to be not less than one hundred and fifty feet from the pivot pier, and that will give you four draws across this river one hundred and fifty feet wide. Then there is another draw across the canal of ninety feet. The draw across the canal is of the very same width as the other draws over that canal; and consequently there is, and can be, no objection to the width of the draw over the canal.

The Senator says that the steamboats will not be able to get down that river with their chimneys on if this bridge should be constructed in this way. Why, sir, cannot the steamboats go through these draws? There are four of them, each one hundred and fifty feet wide. The company will have to keep those draws always open at such times as to give free access to ascending and descending boats. Instead of the high chimneys, of which the Senator speaks, touching the bridge in any way whatever, he can make them high enough to kiss the very clouds, if he desires, and there would be no obstruction; for everybody knows that a draw of one hundred and fifty feet is large enough to admit any boat that ever navigated the river.

But the Senator rather concedes that it will be no objection to the river being navigated by steamboats. The objection, he states, rests upon these floats and coal barges. I have a good deal of acquaintance with that river, and with a great many of the floats and a great many of the steamboats with the coal barges in tow, of which the Senator has spoken, and so far as I am advised, and indeed I know the fact to be so, there is never one of them below the falls of the width indicated by the Senator. I brought that matter especially to the notice of our oldest and most experienced steamboat men, and they tell me that these spans will admit any barges bearing coal or any floats to pass down the river without obstruction to the navigation.

The Senator says the boats which carry coal and lumber are very unwieldy, and that they cannot be landed. They are all towed by steamers commonly called tugs. It is not like a barge; it is not a boat not propelled by steam, and there

will be no difficulty whatever in those boats passing through the spans.

Now, sir, I will read a few brief extracts from this document. The length of the bridge as proposed by the companies, in the first place, would be about fifty-two hundred feet. The bridge, according to the bill, is not to be quite that length, but some forty-seven hundred feet, with a rocky foundation for the abutments of both sides and for all the piers. The fall is twenty-six feet in extreme low water, from the head to the foot of the falls, in a distance of about two miles and a half. The memorial, speaking of the currents there, says:

"The river is diminished in width to Leavenworth, Indiana, a distance of sixty miles below the falls; and for a distance of about twenty miles further it passes through a narrow gorge with projecting highlands on both sides; in consequence of which a rise of one foot at the head of the falls makes a rise of over two feet at the foot, until the rise at the foot of the falls overcomes the descent. This takes place when the rise at the foot is from twenty-six to thirty feet; and when there is twelve feet water at the head of the falls there is always over twenty-six feet at the foot; and the current is not greater at the falls than in any other part of the river.

"When there is seven feet or less at the head of the falls in the Indiana chute but few steamboats pass up the falls; and when there is less than two and a half feet few or none descend except through the canal. In high stages the river or the canal is used, according to the draught of the vessel and the discretion of the navigator.

"The Indiana chute, near the north side, is very narrow in low water, and steamboats cannot descend when there is less than two feet in that channel, which is but fifty feet wide for a distance of some three hundred feet. When there is seven feet in that channel there is only about three feet in what is termed the middle chute, and to the Kentucky shore, except in the canal. From seven feet to twelve feet at the head of the falls, there is no channel for ascending or descending boats but the Indiana chute, the middle chute, and the canal."

The Indiana chute for three hundred feet is but fifty feet wide. At this point this bridge is to have draws at each place of one hundred and fifty feet. How, then, can the navigation be interrupted when the water is that height? When the water is higher than that, there is no current more than there is at other points of the river. The draws are to be a hundred feet wider than the Indiana chute at the time when water is at anything like the low stage, so that boats can go through there except at these three points, the Indiana and the middle chutes, and the canal, unless the water is from ten to twelve feet high, and then they will have to pass just where the draws are, and the draws being wider than the Indiana or the middle chute, of course when they are raised there can be no obstruction to the navigation. The memorial says:

"When the rise in the river reaches sixteen feet at the head of the falls, a bridge fifty-six feet above low-water mark will give a space of forty feet between the lower chords and the water in the river."

And again:

"It will be seen, by reference to the register, that a bridge fifty-six feet above low water would be forty feet above the stage of water in the river, on the average, during each month of those years, and that it would have been less than forty feet but for twenty-one days in the three years."

This paper is accompanied by a register kept by Mr. Lockhart of the exact depth of the water there for three successive years, and it is clear from that register that there were only twenty-one days in three years when there was not forty feet from the water to the lower portions of this bridge. Is not that height enough? And is not two hundred and forty feet space enough for these boats to go through? Mr. Lockhart states in this paper that he has been a pilot there for thirty-three years:

"He states that he has seen and read the petition of the two railroad companies to Congress for authority to build a bridge at the head of the falls, fifty-six feet above low-water mark, with the spans and draws as stated in the petition, and concurs in the facts stated in it, and thinks such a bridge would be a great public convenience, and does not believe it would injure the navigation of the falls."

There is the sworn testimony of a man who has a larger experience on the subject than perhaps any man that now lives; a man of the highest integrity and intelligence.

"The river at the falls is about one mile wide, and so continues to near the foot of the falls, a distance of two and one half miles."

Mr. Lockhart further says:

"The Indiana chute on the north side, at the head of the falls, is not more than fifty feet wide at low water, and extends down the river the same width some three hundred feet, and when there is seven feet of water in that chute there is not more than three feet in what is called the mid-

dle chute, there being a depression in the rocky bed of the river to the north side.

"From the time ascending and descending steamboats can pass the falls there will be no impediment or delay in having to take the chutes where the proposed draws are to be, while boats without high chimneys can pass under the bridge and between the spans anywhere.

"The bridge would be a great public convenience by lessening the cost and delays of passage and transportation between the north and south side of the river, which has greatly increased within a few years, with a prospect of still greater increase in the future."

From that showing I do not think this bridge, if constructed, will at all interfere with the navigation of the Ohio; but there is a special provision in the bill that it shall be so constructed as not to interfere with navigation. It is expressly provided "that said bridge and draws shall be so construed as not to interrupt the navigation of the Ohio river." It is a matter of very great importance to the public interest that this bridge be speedily constructed. Every person who has traveled in that region must know the obstruction, expense, and delay occasioned by the railroad communication being broken at the head of the falls. I do not believe this bridge will obstruct the navigation of the river in any particular.

The Senator from Pennsylvania talks a great deal about floats and rafts. I know that some rafts go down the river of very great size; from my earliest boyhood I have seen them; but I have confidence that rafts of the size which pass below the falls of the Ohio can go through these spans. The largest sized rafts do not pass over the falls; they stop above; but I have never seen one upon the Ohio river that could not get through a space of two hundred and forty feet; and as to the coal barges towed by tugs, there are no boats I know of that cannot go between a space of two hundred and forty feet. The Senator tells you that these boats are very unwieldy. I know that sometimes in dark fogs steamboats with nothing in tow run up against the bank; but whenever it is safe to take a boat over the falls it will be very easy for it to strike between these spans.

But, Mr. President, there is one fact which should be remembered in regard to the transportation of lumber on the Ohio river. The Senator well knows that it is now being carried in barges and steamboats. The taking of it in rafts has greatly diminished within the last few years, and I have no doubt will soon be superseded entirely by beam navigation. It is now put on barges and towed by steamboats, and it is sometimes put on steamboats themselves. One raft does not float down the river now where ten or twenty used to float seven or eight years ago.

I am as deeply interested in keeping the navigation of the Ohio unobstructed as the Senator from Pennsylvania. I have made the most strict and minute inquiry of men of the greatest intelligence and practical knowledge on this subject, and I am firmly of opinion that this bridge will not in any particular interrupt the navigation of the river. While I believe that, I know it to be a matter of the greatest importance to the public generally that the railroads of Indiana and the Northwest should be connected with those in Kentucky going south. I know the construction of the bridge will save to this Government every year an amount of money sufficient to build it. I therefore think this bill should be passed here speedily, so that, if it has the concurrence of the other House, it may be passed there at this session, and then the railroad companies will go on at once to build the bridge. I am told that they can have it constructed by next summer, for they have the means and intend to put a strong force on it at once. If, however, the bill is delayed here, the result probably will be that it will be defeated in the House of Representatives for want of time. I hope, therefore, the motion to reconsider will be voted down.

Mr. COWAN called for the yeas and nays, and they were ordered.

Mr. COLLAMER. I merely wish to say that inasmuch as the Senator from Pennsylvania wishes a reconsideration of this, I shall sustain the motion to reconsider to give him an opportunity to offer amendments which he may desire to present, without considering that in voting for the reconsideration I commit myself in any way to vote against the bill.

Mr. COWAN. I can merely say that I make the motion to reconsider so that I may have an opportunity to amend the bill, the bill having

been passed when I was absent. I wish to amend it as to the width of the spans.

Mr. ANTHONY. If that is the object of the reconsideration, I think the call for the yeas and nays may as well be withdrawn and there will be no objection to the reconsideration.

The question being taken by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Hale, Johnson, Morgan, Morrill, Ramsey, Ten Eyck, Willey, and Wilson—18.

NAYS—Messrs. Chandler, Davis, Harlan, Henderson, Hendricks, Howe, Lane of Indiana, Nesmith, Nye, Pomeroy, Powell, Richardson, Riddle, Sprague, Sumner, Trumbull, and Van Winkle—17.

ABSENT—Messrs. Brown, Buckalew, Carlile, Doolittle, Harding, Harris, Howard, Lane of Kansas, McDougall, Salsbury, Sherman, Stewart, Wade, Wilkinson, and Wright—15.

So the motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the passage of the bill.

Mr. COWAN. I move now to amend the bill.

The PRESIDENT *pro tempore*. The Chair will suggest that another vote must be reconsidered before it will be in order to amend the bill—the vote ordering the bill to be engrossed for a third reading.

Mr. COWAN. I move to reconsider the vote by which the bill was ordered to be engrossed. The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now open to amendment.

Mr. CHANDLER. I now move to postpone this bill for the purpose of proceeding with the bill which was fixed as the special order for one o'clock.

Mr. POWELL. I hope the Senator will allow us to dispose of this bill. We shall vote on the amendments without discussion.

Mr. COWAN. It will not take long.

Mr. CHANDLER. Then I withdraw the motion.

Mr. COWAN. In the sixteenth line of the first section I move to amend the bill by striking out the words "two hundred and forty" and inserting "three hundred," so as to make the spans the same width with those of the Steubenville bridge above, so that the spans may be uniform and of the same width. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 21; as follows:

YEAS—Messrs. Cowan, Farwell, Foot, Foster, Grimes, Hale, Harris, Henderson, Ramsey, Trumbull, Wade, Willey, and Wilson—13.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Davis, Dixon, Harlan, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Nesmith, Nye, Pomeroy, Powell, Richardson, Riddle, Sprague, Stewart, and Van Winkle—21.

ABSENT—Messrs. Brown, Buckalew, Carlile, Collamer, Doolittle, Harding, Howard, Lane of Kansas, McDougall, Morrill, Salsbury, Sherman, Sumner, Ten Eyck, Wilkinson, and Wright—16.

So the amendment was rejected.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. I now move to take up the special order for one o'clock.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that it comes up as a matter of course, the unfinished business of yesterday having been disposed of. That bill is now before the Senate as in Committee of the Whole, being House bill No. 307, to regulate commerce among the several States.

Mr. SUMNER. Mr. President, the question before us concerns the public convenience to a remarkable degree. But it concerns also the unity of this Republic. Look at it in its simplest form, and you will confess its importance. Look at it in its political aspect, and you will recognize how vital it is to the integrity of the Union itself. On one side we encounter a formidable Usurpation with all the pretensions of State rights, hardly less flagrant or pernicious than those which have ripened in bloody rebellion. On the other side are the simple and legitimate claims of the Union under the Constitution of the United States.

Thus stands the question at the outset. Public convenience and the Union itself in its beneficent powers on the one side. Public inconvenience and all the discord of intolerable State pretensions on the other side.

The proposition on its face is applicable to all

the States throughout the Union, and in its *vital principle* it concerns every lover of his country. But it cannot be disguised that the interest which it has excited in the other House, and also in the Senate, must be referred to its bearing on the railroads of New Jersey. Out of this circumstance springs the ardor of opposition; perhaps, also, something of the ardor of support. Therefore pardon me if I glance for one moment at the geographical position of this State, and its railroad Usurpation in the name of State rights.

Look on the map, or better still, consult your own personal experience in the journey from Washington to New York, and you will find that New Jersey lies on the great line of travel between the two capitals of the country, political and commercial. There it is, directly in the path. It cannot be avoided except by a circuitous journey. On this single line commerce, passengers, mails, troops—all must move. In the chain of communication by which capital is bound to capital—nay, more, by which the Union itself is bound together, there is no single link of equal importance. Strike it out, and where are you? Your capitals will be separated and the Union itself will be loosened. But the evil sure to follow, if this link were struck out, must follow also in proportionate extent from every interference with that perfect freedom of transit through New Jersey which I now ask in behalf of commerce, passengers, mails, and troops.

Such is the geographical position of New Jersey. And it is here on this highway of travel that pernicious pretensions have been set up which can be overthrown only by the power of Congress. The case is plain.

New Jersey, in the exercise of pretended State rights, has undertaken to invest the Camden and Amboy Railroad Company with unprecedented prerogatives. These are the words of the Legislature: "It shall not be lawful, at any time during the said railroad charter, to construct any other railroads in this State without the consent of the said companies, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad authorized by the act to which this supplement is relative." (New Jersey Session Laws for 1854, page 387.) Here, in barefaced terms, is the grant of a monopoly in all railroad transportation, whether of commerce, passengers, mails, or troops, between New York, a city outside of New Jersey, and Philadelphia, another city outside of New Jersey. Or, looking at this grant of monopoly again, we shall find that while it leaves the local transportation of New Jersey untouched, it undertakes to regulate and appropriate the transportation between two great cities outside of New Jersey, constituting, from geographical position, the gates through which the whole mighty movement, north and south, must pass.

If this monopoly is offensive on its face, it becomes still more offensive when we consider the motive in which it had its origin. By the confession of its supporters, it was granted in order to raise a revenue for the State out of men and business not of the State. It was an ingenious device to tax commerce, passengers, mails, and troops in their transit across New Jersey, from State to State. Here is a confession, which will be found in the legislative journal of New Jersey, as long ago as 1841, in a document from the executive committee of the coalesced railroads, represented by the Camden and Amboy Company:

"It seems plain, from the acts incorporating these companies and the testimony of those best conversant with the history of their incorporations, that it was the policy of the State, taking advantage of the geographical position of New Jersey, between the large States and cities of the Union, to create a revenue by imposing tax or transit duty upon every person who should pass on the railroad across the State between those cities from the Delaware river to the Raritan bay; but that it was not their design to impose any tax upon citizens of their own State for traveling between intermediate places." \* \* \* "Here, again, the policy and intention of the State is most clearly indicated in exempting her own citizens from the operation of this system of taxation."—Page 29.

And here are the words of another functionary equally frank, belonging to the same railroad connection:

"The company believe that a careful consideration of the whole matter, as well from the provisions of the charter as from a recurrence to the period when it was granted, will produce the conviction that the transit duty was intended to be levied only on citizens of other States passing through New Jersey."

The spirit in which this tax has been laid will appear from another incident which cannot be without interest to the Senators from New York. The Erie railroad, which is so important to transportation in the great State which they represent on this floor, has been compelled, in addition to the usual tax on that part of the road in New Jersey, to pay an extra tax in the shape of "a transit duty of three cents on every passenger and two cents on every ton of goods, wares, and merchandise, except passengers and freight, transported exclusively within this State." This imposition was as late as 1862, and it is a part of that same system which constitutes the railroad Usurpation of New Jersey.

But the character of this Usurpation becomes still more apparent in the conduct adopted toward another railroad in New Jersey. It appears that a succession of railroads has been constructed, under charters of this State, from Raritan bay, opposite New York, to Camden, opposite Philadelphia, constituting a continuous line, suitable for transportation, across New Jersey and between the two great cities of New York and Philadelphia. This continuous line is known as the Raritan and Delaware Bay railroad. On the breaking out of the rebellion, when Washington was menaced by a wicked enemy, and the patriots of the land were aroused to sudden efforts, the Quartermaster General of the United States directed the transportation of troops, horses, baggage, and munitions of war, from New York to Philadelphia over this line. The other railroad, claiming a monopoly, filed a bill in equity, praying that the Raritan and Delaware Bay railroad "be decreed to desist and refrain" from such transportation, and also praying "that an account may be taken to ascertain the amount of damages." The counsel of the monopoly openly insisted that, by this transportation, the State was "robbed of her ten cents a passenger;" and then cried out, "I say it is no defense whatever if they have succeeded in obtaining an order of the Secretary of War, when we call upon them to give us the money they made by it; and that is one of our calls. They have no right to get an order to deprive the State of New Jersey of the right of transit duty, which is her adopted policy." Such was the argument of Mr. Stockton, counsel for the monopoly, November 12, 1863. The transit duty is vindicated as the adopted policy of New Jersey. Surely, in the face of such pretensions, it was time that something should be done by Congress.

Such, sir, are the pretensions of New Jersey to interfere with commerce, passengers, mails, and troops from other States, on their way, it may be, to the national capital, even with necessary succors at a moment of national peril. Such pretensions, persistently maintained and vindicated, constitute a Usurpation not only hostile to the public interests, but menacing to the Union itself. Here is no question of local taxation, or local immunities, under State laws; but an open assumption by a State to tax the commerce of the United States on its way from State to State.

From the nature of the case, and according to every rule of reason, there ought to be a remedy for such a grievance. No usurping monopoly ought to be allowed to establish itself in any State across the national highway, and, like a baron of the middle ages perched in his rocky fastness, levy tolls and tribute from all the wayfarers of business, pleasure, or duty. The nuisance should be abated. The Usurpation should be overthrown. And happily the powers are ample under the Constitution of the United States. Following unquestionable principles and authentic precedents, the committee have proposed a remedy which I now proceed to discuss.

The bill under consideration was originally introduced by me into the Senate. It was afterward adopted and passed by the other House as a substitute for a kindred bill which was pending there. Beyond the general interest which I take in the public business, this is my special reason for entering into this discussion.

The bill is arraigned as unconstitutional. But this objection is a common-place of opposition. When all other reasons fail, then is the Constitution invoked. Such an attempt on such an occasion attests to my mind the weakness of the cause. It is little better than the assertion of an *alias* in a criminal case.

The entire and unimpeachable constitutionality



of the present measure is apparent in certain familiar precepts of the Constitution, which were brought to view in the title and preamble of the bill as introduced by me, but which have been omitted in the bill now before us. The title of the bill as introduced by me was, "to facilitate commercial, postal, and military communication among the several States." This title opens the whole constitutional question. This was followed by a preamble, as follows:

"Whereas the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies: Therefore, *Be it enacted*." In these few words three sources of power are clearly indicated, either of which is ample; but the three together constitute an overrunning fountain.

First. There is the power "to regulate commerce among the several States." Look at the Constitution and you will find these identical words. From the great sensitiveness of States this power has been always exercised by Congress with peculiar caution; but it still lives to be employed by an enfranchised Government.

In asserting this power I follow not only the text of the Constitution, but also the authoritative decisions of the Supreme Court of the United States. Perhaps there is no question in our constitutional history which has been more clearly illustrated by our greatest authority, Chief Justice Marshall. In the well-known case where the State of New York had undertaken to grant an exclusive right to navigate the waters of New York by vessels propelled by steam, the illustrious Chief Justice, speaking for the court, declared the restriction to be illegal, because it interfered with commerce between the States precisely as is now done by New Jersey. In his opinion commerce was something more than traffic or the transportation of property. It was also "the commercial intercourse between nations and parts of nations in all its branches," and it embraced by necessary inference *all inter-State communications* and the whole subject of intercourse between the people of the several States. It was declared that the power of Congress over the subject was not limited by State lines, but that it was coextensive with commerce itself according to the enlarged signification of the term. Here are the words of Chief Justice Marshall:

"But in regulating commerce with foreign nations, the power of Congress does not stop at the jurisdictional lines of the several States. It would be a very useless power if it could not pass these lines. The commerce of the United States with foreign nations is that of the whole United States. Every district has a right to participate in it. The deep streams which penetrate our country in every direction pass through the interior of almost every State in the Union, and furnish the means for exercising this right. If Congress has the power to regulate it, that power must be exercised wherever the subject exists. If it exists within the States, if a foreign voyage may commence or terminate at a port within a State, then the power of Congress may be exercised within a State."—*Gibbons vs. Ogden*, 9 Wheaton, 196.

This important decision of the Supreme Court was before railroads. It grew out of an attempt to appropriate certain navigable thoroughfares of the Union. But it is equally applicable to these other thoroughfares of the Union, where the railroad is the substitute for water. It is according to the genius of jurisprudence, that a rule once established governs all cases which come within the original reason on which it was founded. Therefore I conclude confidently that the power of Congress over internal commerce by railroad is identical with that over internal commerce by water. But this decision does not stand alone.

Mr. Justice Story, who was a member of the Supreme Court at this time, in a later decision thus explains the extent of this power:

"It does not stop at the mere boundary line of a State; nor is it confined to acts done on the water, or in the necessary course of the navigation thereof. It extends to such acts done on land as interfere with, obstruct, or prevent the free exercise of the power to regulate commerce with foreign nations and among the States."—*United States vs. Coombs*, 12 Peters, 78.

From various cases illustrating this power, I call attention to that known as the Passenger case, where the Supreme Court declared that the statutes of New York and Massachusetts imposing taxes upon alien passengers arriving at the ports of those States was in derogation of the Constitution. On this occasion Mr. Justice McLean said:

"Shall passengers, admitted by act of Congress without a tax, be taxed by a State? The supposition of such a

power in a State is utterly inconsistent with a commercial power either paramount or exclusive in Congress."

Mr. Justice Grier said, with great point:

"To what purpose commit to Congress the power of regulating our intercourse with foreign nations and among the States, if these regulations may be changed at the discretion of each State?" "It is, therefore, not left to the discretion of each State of the Union either to refuse a right of passage to persons or property or to exact a duty on permission to exercise it."—7 Howard, 464.

But this is the very thing that is now done by New Jersey, which "exact a duty" from passengers across the State.

Mr. JOHNSON. Do I understand the Senator to be quoting from the passenger case?

Mr. SUMNER. Yes, sir.

Mr. JOHNSON. That was a case where the legislation of Massachusetts was brought before the court.

Mr. SUMNER. I have already stated that there were two States offenders at that time; there is now only one.

I call attention also to the case of the Wheeling bridge, where Congress, under peculiar circumstances, exercised this identical power. In this case the State of Pennsylvania claimed the power to limit and control the transit across the Ohio river to the State of Ohio, and this power was affirmed by the Supreme Court so long as Congress refrained from legislation on the subject. But under the pressure of a public demand, and in the exercise of the very powers which are now invoked, Congress has declared the Wheeling bridge to be a lawful structure, anything in any State law to the contrary notwithstanding. The Supreme Court, after the passage of this act, denied a motion to punish the owners of the bridge for a contempt in rebuilding it, and affirmed that the act declaring the Wheeling bridge a lawful structure was within the legitimate exercise by Congress of its constitutional power to regulate commerce. (13 Howard, 528.) But it is this very power which is here invoked in a case more important, and far more urgent, than that of the Wheeling bridge.

There is also another case where Congress has exercised this power precisely as is now proposed. I refer to the Steubenville bridge and Holiday's Cove railroad across the Ohio, in what is called the Panhandle of Virginia. This bridge was at first attempted under a charter granted by Virginia, but Congress at last interfered and enacted:

"That the bridge partly constructed across the Ohio river at Steubenville in the State of Ohio, abutting on the Virginia shore of said river, is hereby declared to be a lawful structure."

"That the said bridge and Holiday's Cove railroad are hereby declared a public highway and established a post road for the purpose of transmission of mails of the United States."—12 Statutes at Large, 559.

Such are the precedents of courts and of statutes showing how completely this power belongs to Congress in the regulation of internal commerce. The authorities are plain and explicit. They cannot be denied. They cannot be explained away. It would be superfluous to dwell on them. There they stand like so many granite columns, fit supports of that internal commerce which in itself is a chief support of the Union.

Secondly. There is also the power "to establish post roads," which is equally explicit. Here, too, the words are plain, and they have received an authoritative exposition. It is with reference to these words that Mr. Justice Story remarks that "constitutions of government do not turn upon ingenious subtleties, but are adapted to the business and exigencies of human society; and the powers given are understood, in a large sense, in order to secure the public interests. Common sense becomes the guide and prevents men from dealing with mere logical abstractions." (Story, Commentaries on Constitution, vol. 2, sec. 1134.) The same learned authority, in considering these words of the Constitution, seems to have anticipated the very question now under consideration. Here is a passage which may fitly close the argument on this head:

"Let a case be taken when State policy"—

As, for instance, in New Jersey at this time—"or State hostility shall lead the Legislature to close up or discontinue a road, the nearest and the best between two great States, rivals, perhaps, for the trade and intercourse of a third State; shall it be said that Congress has no right to make or repair a road for keeping open for the mail the best means of communication between those States? May the national Government be compelled to take the most

inconvenient and indirect routes for the mail? In other words, have the States the power to say how, and upon what roads, the mails shall and shall not travel? If so, then, in relation to post roads, the States, and not the Union, are supreme."—Story, Commentaries on the Constitution, vol. 2, sec. 1144.

Thirdly. Then comes the power "to raise and support armies;" an unquestionable power lodged in Congress. But this grant carries with it, of course, all incidental powers necessary to the execution of the principal power. It would be absurd to suppose that Congress could raise an army, but could not authorize the agencies required for its transportation from place to place. Congress has not been guilty of any such absurdity. Already it has by formal act proceeded "to authorize the President of the United States in certain cases to take possession of railroads and telegraphs, and for other purposes." (12 Statutes at Large, p. 334.) By this act the President is empowered "to take possession of any or all the railroad lines in the United States, their rolling stock, their offices, shops, buildings, and all their appendages and appurtenances," and it is declared that any such railroad "shall be considered as a post road and a part of the military establishment of the United States." Here is the exercise of a broader power than any which is now proposed. The less must be contained in the greater.

Mr. President, such are the three sources of power in the Constitution, each and all applicable to the present case. Each is indisputable. Therefore the conclusion, which is sustained by each, is three times indisputable.

So plain is this power that it has been admitted by New Jersey in a legislative act, as follows:

"SEC. 6. *Be it enacted*, That when any other railroad or roads for the transportation of passengers and property between New York and Philadelphia across this State shall be constructed and used for that purpose under or by virtue of any law of this State or the United States authorizing or recognizing said road, that then and in that case the said dividends shall be no longer payable to the State, and the said stock shall be retransferred to the company by the treasurer of this State."

Thus, in formal words, has New Jersey actually anticipated the very measure now under consideration. All that is now proposed so far as New Jersey is concerned is simply to recognize other railroads for the transportation of passengers and property between New York and Philadelphia across this State.

Such is the argument in brief for the constitutionality of the present bill, whether it be regarded as a general measure applicable to all the railroads of the country, or only applicable to the railroads of New Jersey. The case is so plain and absolutely unassailable that I should leave it on this simple exhibition if the Senator from Maryland, [Mr. JOHNSON,] who always brings to these questions the authority of professional reputation, had not most zealously argued the other way. According to him, the bill is unconstitutional. Let me say, however, that the conclusion of the learned Senator is only slightly sustained by the reasons which he assigns. Indeed his whole elaborate argument, if brought to the touchstone, will be found inconclusive and unsatisfactory.

The Senator opened with the proposition that the internal commerce of a State is within the exclusive jurisdiction of the State, and from this he argued that the present bill is unconstitutional. But the Senator will allow me to say that his proposition is not sufficiently broad for his conclusion. The present bill does not touch the internal commerce of a State, except so far as it may be a link in the chain of "commerce among States," which is committed by the Constitution to the jurisdiction of Congress. Mark this distinction, I pray you; for it is essential to a right understanding of the case.

From this inapplicable proposition the Senator passed to another equally inapplicable. He asserted that the jurisdiction of a State over all territory within its limits was exclusive, so that the United States cannot obtain jurisdiction over any portion thereof, except by assent of the State; and from this again he argued the unconstitutionality of the present bill. But this very illustration seems to have been anticipated by Mr. Justice Story in his learned Commentaries, where he shows conclusively, first, that it is inapplicable, and secondly, that so far as it is applicable, it is favorable to the power. Here are his words:

"The clause respecting cessions of territory for the seat of Government, and for forts, arsenals, dock-yards, &c.,

has nothing to do with the point. But if it had, it is favorable to the power."

"But surely it will not be pretended that Congress could not erect a fort or magazine in a place within a State unless the State should cede the territory. The only effect would be that the jurisdiction in such a case would not be exclusive. Suppose a State should prohibit a sale of any of the lands within its boundaries by its own citizens, for any public purposes indispensable for the Union, either military or civil, would not Congress possess a constitutional right to demand and appropriate land within the State for such purposes, making a just compensation? *Exclusive jurisdiction over a road is one thing; the right to make it is quite another.* A turnpike company may be authorized to make a road, and yet may have no jurisdiction, or at least no exclusive jurisdiction, over it."—2 *Story on Constitution*, sec. 1146.

Had the distinguished commentator anticipated the argument of the Senator from Maryland, he could not have answered it more completely.

Passing from these constitutional generalities the Senator came at once to an assumption, which, if it were sustained, would limit essentially the power of Congress with regard to post roads. According to him the words of the Constitution authorizing Congress "to establish post roads," mean only that it shall designate roads already existing; and in support of this assumption he relied upon the message of Mr. Monroe in 1822, on the Cumberland road. The learned Senator adds that this is "the received opinion uniformly acted upon and since recognized as the correct opinion by the judiciary." Of course his testimony on this point is important; but it is overruled at once by the authority I have already cited, which says that "the power to establish post offices and post roads has never been understood to include no more than the power to point out and designate post offices and post roads." (*Story's Commentaries*, vol. 2, sec. 1136.) In the face of Mr. Justice Story's dissent, expressed in his authoritative Commentaries, it is impossible to say that it is "the received opinion," as has been asserted by the Senator. But the learned commentator insists that "the Constitution itself uniformly uses the word *establish* in the general sense and never in this peculiar and narrow sense," and after enumerating various places where it occurs, says, "it is plain that to construe the word in any of these cases as equivalent to *designate* or *point out* would be absolutely absurd. The clear import of the word is to create and form and fix in a settled manner." "To establish post offices and post roads is to frame and pass laws, to erect, make, form, regulate, and preserve them. Whatever is necessary, whatever is appropriate to this purpose, is within the power." (*Ibid.*, sec. 1131.) I might quote other words from the same authority; but this is enough to vindicate the power which the Senator has denied.

But here it is my duty to remind the Senate that the argument of the Senator from Maryland on this head is not only false in its assumption, but that the assumption, even if correct, is entirely inapplicable on the present occasion. The bill now before the Senate does not undertake to create, but simply to *designate* or *point out*, certain roads. Therefore it does not fall under the objection which the Senator has adduced. Even by his own admission it is constitutional.

But the Senator, not content with an erroneous assumption concerning post roads, which, even if correct, is entirely inapplicable, made another assumption concerning another clause of the Constitution which was equally erroneous and inapplicable. The Senator argued that the railroad charters in New Jersey were grants in the nature of a contract, and that they were protected by "the constitutional inhibition upon States interfering with contracts;" and here he referred to several decisions of the Supreme Court of the United States. I do not trouble you with the decisions. It will be enough if I call attention to the precise text of the Constitution, which is: "No State shall pass any law impairing the obligation of contracts."

Look at these words, and it appears, in the first place, that this prohibition is addressed to the States and not to Congress, whose powers are not touched by it. Look still further at the railroad charters, and even admit that they were grants in the nature of a contract; but you cannot deny that the contract must be interpreted with reference to the Constitution of the United States. Learned judges have held that the law of the place where a contract is made not only regulates and governs it, but constitutes a part of the contract itself. (Stur-

gis vs. Crowninshield, 4 Wheat. 122.) But if the law constitutes a part of the contract, still more must the Constitution. Apply this principle and the case is clear. Every railroad charter has been framed subject to the exercise of the acknowledged powers of Congress, all of which are implied in the grant as essential conditions, not less than if they were set forth expressly. The Supreme Court has decided that "all contracts are made subject to the right of eminent domain, so that they cannot be considered as violated by the exercise of this right." (*The West River Bridge vs. Dix*, 6 Howard, 507.) But the powers of Congress, invoked on the present occasion to regulate commerce among the several States, to establish post roads, and to raise and equip armies, are in the nature of an *eminent domain*, to which all local charters are subject. Therefore, I repeat again, nothing is proposed "impairing the obligation of a contract," even if that well-known prohibition were applicable to Congress.

From these details of criticism the Senator jumped to a broader proposition. He asserted that the pending measure was destructive of the sovereignty of the States, and he even went so far as to say that it was the same as if you said that all State legislation is null and void. These, sir, were his exact words. How the Senator, even in any arduous advocacy, could have ventured on this assumption, it is difficult to comprehend. Here is a measure, which, as I have already demonstrated, is founded on three different texts of the Constitution, which is upheld by three unsailable supports, and which is in essential harmony with the Union itself; and yet we are told that it is destructive of the sovereignty of the States. Such an assumption seems uttered in the very wildest of unhesitating advocacy. If it is anything but a phrase, it must be condemned, not only as without foundation, but as hostile to the best interests of the country.

Sir, the pending measure is in no respect destructive of the sovereignty of the States; nor does it in any sense say that all State legislation is null and void. On the contrary, it simply asserts a plain and unquestionable power under the Constitution of the United States. If in any way it seems to touch what is invoked as State sovereignty, or to set aside any State legislation, it is only in pursuance of the Constitution. It is simply because the Constitution, and the laws made in pursuance thereof, are the supreme law of the land.

But the assumptions of the Senator bring me back to the vital principle with which I began. After exhibiting the public convenience involved in the present question, I said that it concerned still more the unity of the Republic. It is in short that identical question, which has so often entered this Chamber, and which is now convulsing this land with bloody war. It is the question of the Union itself. In his arduous that vampire monopoly which, brooding over New Jersey, sucks the life-blood of the whole country, the Senator from Maryland sets up most dangerous pretensions in the name of State rights. Sir, the Senator flings into one scale the pretensions of State rights. Into the other scale I fling the Union itself.

Sir, the Senator from Maryland is a practiced lawyer, and he cannot have forgotten that Nathan Dane, whose name is an authority in our courts, tells us plainly that the terms "sovereign States," "State sovereignty," "State rights," and "rights of States," are not constitutional expressions. Others of equal weight in the early history of the country have said the same thing. Mr. Madison, in the Convention which framed the Constitution, said, "Some contend that States are sovereign, when, in fact, they are only political societies. The States never possessed the essential right of sovereignty. These were always vested in Congress." Elbridge Gerry of Massachusetts, in the same Convention, said: "It appears to me that the States never were independent. They had only corporate rights." General Pinckney, of South Carolina, said: "I hold it for a fundamental point, that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty." (Madison Papers, page 631.) Both Patrick Henry and George Mason, in the Virginia convention, opposed the Constitution on the very ground that it superseded State rights.

But, perhaps, the true intention of the authors of the Constitution may be best found in the letter of General Washington, as President of the Convention, transmitting it to Congress. Here are his words:

"It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the safety of all. Individuals entering into society must give up a share of liberty to preserve the rest." \* \* \* "I call our deliberations we kept steadily in view that which appears to us the greatest interest of every true American—THE CONSOLIDATION OF OUR UNION—in which is involved our prosperity, safety, perhaps our national existence." "GEORGE WASHINGTON."

I content myself on this head when I find myself with the support of this great name.

By the adoption of the Constitution the people of the United States constituted themselves a nation, one and indivisible, with all the unity and power of a nation. They were no longer a confederation, subject to the disturbing pretensions, prejudices, and whims of its component parts, but they became a body-politic, where every part was subordinate to the Constitution, as every part of the natural body is subordinate to the principle of life. The sovereignty then and there established was the sovereignty of the United States, where the States were only "parts of one stupendous whole." The powers then and there conferred upon the nation were supreme. And it is those very powers which I now invoke, in the name of the Union, and to the end that pretensions in the name of State rights may be overthrown.

I have already presented a picture of these intolerable pretensions. But they must be examined more minutely. They may be seen, first, in their character as a monopoly; and, secondly, in their character as a Usurpation under the Constitution of the United States. I need not say that in each they are equally indefensible.

If you go back to the earliest days of English history, you will find that monopolies have from the beginning been odious, as contrary to the ancient and fundamental laws of the realm. A writer, who is often quoted in the courts, says: "Monopolies by common law are void, as being against the freedom of trade and discouraging labor and industry, and putting it in the power of particular persons to set what prices they please on a commodity." (Hawkins's Pleas of Crown, vol. 1.) But without claiming that the present monopoly is void at common law, it is enough to show its inconsistency with the Constitution. And here I borrow Mr. Webster's language in his famous argument against the monopoly of steam navigation granted by the State of New York, as follows:

"Now I think it very reasonable to say that the Constitution never intended to leave with the States the power of granting monopolies either of trade or of navigation; and therefore, that as to this, the commercial power is exclusively in Congress."

Then again he says:

"I insist that the nature of the case and of the power did imperatively require that such important authority as that of granting monopolies of trade and navigation should not be considered as still retained by the States."

And then, again, he adduces an authority which ought to be conclusive on the present occasion. It is that of New Jersey at an earlier day:

"The New Jersey resolutions [on forming the Constitution of the United States] complain that the regulation of trade was within the power of the several States within their separate jurisdiction, to such a degree as to involve many difficulties and embarrassments; and they express an earnest opinion that the sole and exclusive power of regulating trade ought to be with Congress."

And yet, in the face of these principles we have a gigantic monopoly organized by New Jersey, composed of several confederate corporations, whose capital massed together is said to amount to more than \$27,537,977—a capital not much inferior to that of the United States Bank, which once seemed to hold "divided empire" with the national Government itself. *Divisum imperium cum Jove Cæsar habet.* And this transcendent monopoly, thus vast in resources, undertakes to levy a toll on the commerce, the passengers, the mails, and the troops of the Union in their transit between two great cities, both of which are outside of New Jersey. In its attitude and in its pretension the grasping monopoly is not unlike Apollyon in Pilgrim's Progress, whose usurpation is thus described:

"But now in this Valley of Humiliation poor Christian was hard put to it; for he had gone but a little way before

he espied a foul fiend coming over the field to meet him; his name was Apollyon. Then did Christian begin to be afraid, and to cast in his mind whether to go back or to stand his ground."

"Now, the monster was hideous to behold; he was clothed with scales like a fish, and they are his pride; he had wings like a dragon, feet like a bear, and out of his belly came fire and smoke, and his mouth was as the mouth of a lion. When he was come up to Christian, he beheld him with a disdainful countenance, and thus began to question him:

"APOLLYON. Whence come you, and whither are you bound?

"CHRISTIAN. I am come from the city of Destruction, which is the place of all evil, and am going to the city of Zion.

"APOLLYON. By this I perceive that thou art one of my subjects; for all that country is mine, and I am the prince and god of it."

New Jersey is the Valley of Humiliation through which all travelers north and south must pass; and the monopoly, like Apollyon, claims them all as "subjects," saying, "for all that country is mine, and I am the prince and god of it."

The enormity of this Usurpation may be seen in its natural consequences. New Jersey claims the right to levy a tax for State revenue on passengers and freight in transit across her territory from State to State; in other words, to levy a tax on "commerce among the several States." Of course the right to tax is the right to prohibit. The same power which can exact "ten cents from every passenger" according to the cry of the Camden and Amboy railroad, by the voice of its counsel, may exact ten dollars or any other sum, and thus effectively close this great avenue of communication.

But if New Jersey can play successfully this game of taxation, and compel tribute from the domestic commerce of the Union as it traverses her territory on the way from State to State, then may every other State do likewise. New York, with her central power, may build up an overshadowing monopoly and a boundless revenue, while all the products and population of the West traversing her territory on their way to the sea, and all the products and population of the East, with the contributions of foreign commerce, traversing her territory on their way to the West, are compelled to pay tribute. Pennsylvania, holding one of the great highways of the Union; Maryland, constituting an essential link in the chain of communication with the national capital; Ohio, spanning from lake to river, and forming a mighty ligament of States, East and West; Indiana, enjoying the same unsurpassed opportunities; Illinois, girdled by States with all of which it is dovetailed by railroads east and west, north and south; Kentucky, guarding the gates of the Southwest; and finally, any one of the States on the long line of the Pacific railroad may enter upon a similar career of unscrupulous exaction until anarchy sits supreme, and there are as many different tributes as there are States. If the Union should continue to exist, it would be only as a name. The national unity would be destroyed.

The taste of revenue is to a Government like the taste of blood to a wild beast, quickening and maddening the energies, so that it becomes too deaf to all suggestions of injustice; and the difficulties must increase where this taxation is enforced by a far-reaching monopoly. The State, once tasting this blood, sees only an easy way of obtaining the means it desires; and other States will yield to the same temptation. The poet, after picturing vice as a monster of frightful mien, tells us in familiar words—

"Yet seen too oft, familiar with her face,  
We first endure, then pity, then embrace."

A profitable Usurpation, like that of New Jersey, would be a tempting example to other States. "It is only the first step which costs." Let this Usurpation be sanctioned by Congress, and you hand over the domestic commerce of the Union to a succession of local imposts. Each State will be a tax gatherer at the expense of the Union. Each State will play the part of Don Quixote, and the Union will be Sancho Panza, compelled to receive on his bare back the lashes which were the penance of his master. If there be any single fruit of our national unity, if there be any single element of the Union, if there be any single triumph of the Constitution which may be placed above all others, it is the freedom of commerce among the States, under which that free trade, which is the aspiration of philosophers, is assured to all citizens of the Union, as they circulate through our whole broad country, without hinderance from

any State. But this vital principle is now in jeopardy.

Do not forget that it is the tax imposed on commerce between New York and Philadelphia, two cities outside of the State of New Jersey, which I denounce. I have denounced it as hostile to the Union. I denounce it also as hostile to the spirit of the age, which is everywhere overturning the barriers of commerce. The robber castles, which once compelled the payment of toll on the Rhine, were long ago dismantled, and exist now only as monuments of picturesque beauty. Kindred pretensions in other places have been overthrown or trampled out. The duties levied by Denmark on all vessels passing through the Sound and the Belts; the duties levied by Hanover on the goods of all nations at Stade on the Elbe; the tolls exacted on the Danube in its protracted course; the tolls exacted by Holland on the busy waters of the Scheldt, and all transit imposts within the great Zoll-Verein of Germany, have all been abolished; and in this work of enfranchisement the Government of the United States led the way, insisting, in the words of President Pierce, in his annual message, "on the right of free transit into and from the Baltic." But the right of free transit across the States of the Union is now assailed. Strange that you should reach so far to secure free transit in the Baltic and should hesitate in its defense here at home!

Thank God! within the bounds of the Union, under the national Constitution, commerce is free. As the open sea is the highway of nations, so is this Union the highway of the States, with all their commerce, and no State can claim any exclusive property therein. The Union is a *mare liberum* beyond the power of any State; and not a *mare clausum*, subject to as many tyrannies as there are States. And yet the State of New Jersey now asserts the power of closing a highway of the Union.

Such a pretension, so irrational and destructive, cannot be dealt with tenderly. Like the serpent, it must be bruised on the head. Nor can there be any delay. Every moment of life yielded to such a Usurpation is like the concession once in an evil hour yielded to nullification, which was kindred in origin and character. The present pretension of New Jersey belongs to the same school with that abhorred and blood-bespattered pretension of South Carolina.

Perhaps, sir, it is not unnatural that the doctrines of South Carolina on State rights should obtain a shelter in New Jersey. Like seeks like. There is a common bond among the sciences, among the virtues, among the vices, and so, also, among the monopolies. The monopoly which was founded on the hideous pretension of property in man obtained a responsive sympathy in that other monopoly which was founded on the greed of unjust taxation, and both were naturally upheld in the name of State rights. Both must be overthrown in the name of the Union. South Carolina must cease to be a slave State; and so must New Jersey. All hail to the genius of universal emancipation! All hail to the Union, triumphant over the Rebellion, triumphant also over a Usurpation which menaces the unity of the Republic!

Mr. HALE. Mr. President, of course I am not prepared with an elaborate answer to the profound and critical speech that has just been made on this subject, but there are a few common-sense suggestions which I desire to make. In the first place, let me say that the image, beautiful as it was, appealing to every patriotic sentiment of every man in the Senate, of the different interests that were represented here was very fine; but I do not admit that it belongs entirely to the side of the question which has been argued by the Senator from Massachusetts. He represents the Union and commerce and peace and all the kindred arts as enlisted on one side, and monopoly on the other; and not content with the profundity of his own suggestions he goes to that old English classic, the Pilgrim's Progress, to illustrate the Heavenly City and the City of Destruction. Which he would represent as the City of Destruction and which the Heavenly City, I do not know; but I suppose from their names, Philadelphia would represent the Heavenly City, and New York must represent the other. [Laughter.]

Mr. President, like the Senator from Massachusetts, I could draw a picture, not so eloquent,

but as truthful, representing the various interests that are contending here; and if I were to do so I might represent a railroad, a bad speculation, paying no dividends, nor even the interest on its bonds; its stock being worth nothing. I might represent such a railroad, by the magic influence of this act, short and simple as it is, raised to be one of the best stocks in the market. That, I think, would be as near the practical effect that would be brought about (not to say designed) by this bill as any which have been pictured by the Senator from Massachusetts. This would be the immediate and the tangible effects: the Raritan and Delaware Bay road, if that is the name of the corporation, would suddenly find themselves, from being below a fancy stock, raised to a considerable advance in the market; and, as one of the newspapers which advocate this bill says that there are at least twenty men in the Senate that make speeches for money, the wicked world outside perhaps would stop to inquire which side paid the most money.

Mr. President let me say that I want to put down this rebellion; I want this Union to succeed, I trust, with an ardor and a sincerity of conviction not second even to that which animates the Senator from Massachusetts; but when the war is over, as I believe it will be, when the rebellion is put down, as I have no doubt it will be; I want there to be something left of the Constitution for which we profess to be contending. I do not want to strike giant blows at the rebellion which, when they put that down shall annihilate the Constitution and all State rights, so that everything shall be consolidated into one despotism. I undertake to say that the right of controlling the railroads within their own limits is one, notwithstanding everything that has been said about it and a great many decisions that have been had, that has been always maintained, preserved, and protected by the Legislatures and by the courts of the several States, and by none more so than by the State of Massachusetts. If you pass this bill you strike a blow at the cherished policy of Massachusetts to-day as it exists upon her statute-books and is enforced by her judiciary.

It is easy to talk about the great rights of the Union on this subject; but, sir, what is our history? What is the history of Massachusetts? Let me take that State as an illustration. When the people of New Hampshire and Maine go to Boston, they generally go, at least from the eastern part of New Hampshire and all Maine, to Boston over the Charles river bridge. At first there was a ferry there. Massachusetts, from the earliest period of her history up to the time when the bridge was destroyed by the charter of a free bridge there, exacted toll from everybody that passed over, and those who passed over were principally persons from Maine and New Hampshire; and from the results of that toll she gave an annuity, I think, of £200 per annum to Cambridge College. When the ferry was abrogated and a toll bridge put up, the toll bridge was put there on the express condition that the £200 given to Cambridge College should be collected and paid, and it was paid until the bridge was destroyed by an act of the Legislature putting up a free bridge. Thus for years the people of New Hampshire and Maine were taxed by the State of Massachusetts when they wanted to go to Boston, to help to support Cambridge College.

There is existing at this moment a still more striking instance, and as it is a case which is parallel with the one before the Senate and illustrates it exactly, I hope I may be pardoned if I dwell on it at some length. The State of Massachusetts on the 5th of June, 1830, passed an act chartering a corporation called the Boston and Lowell Railroad Company, with the powers usually incident to such corporations, with the right to charge toll, and all the privileges and emoluments usually given, with this provision in the charter:

"SEC. 12. Be it further enacted, That no other railroad than the one hereby created shall within thirty years from and after the passage of this act be authorized to be made leading from Boston, Charlestown, or Cambridge, to Lowell, or from Boston, Charlestown, or Cambridge to any place within five miles of the northern termination of the railroad hereby authorized to be made."

The Boston and the Lowell railroad was just as much a road leading from State to State as the railroad spoken of in New Jersey.

Mr. SUMNER. I am familiar with that road; I am familiar with the bridges; they are all local;



there is no question of inter-State commerce that was ever raised there or considered applicable. Those roads do not go between two cities outside of Massachusetts.

Mr. HALE. Let us see how that is. I know that since this Administration has come into power, in the distribution of Federal officers all New England has been considered as part of Massachusetts, [laughter:] but I believe that is not geographically or logically true. Concord, New Hampshire, is outside of Massachusetts geographically if not politically, and the railroad from Boston to Lowell is a part of the road by which a great portion of the travel goes to New Hampshire, to northern Vermont, and to Canada; and the connecting roads, I think, so manage trade that freight can be put on at Boston, going on the Boston and Lowell railroad, without being broken or disturbed until it gets to Rouse's Point in New York, near the Canada line. So that the Boston and Lowell railroad is just as much a road for the transit of travel from State to State as any railroad in New Jersey.

The State of Massachusetts enacted by this provision that for thirty years all that travel should go over the Boston and Lowell railroad, and that there should be no other competing road created within thirty years. By and by the Legislature of Massachusetts chartered another railroad leading from Boston to Portland—that is outside of Massachusetts—called the Boston and Maine railroad, and that ran not exactly parallel, but diverging a little from the Boston and Lowell railroad. Subsequently the State of Massachusetts passed another railroad charter for a road running from Salem to Lowell, intersecting with the Boston and Maine railroad, and thus made another line to Lowell only about a mile and a half or a mile and six tenths longer than the Boston and Lowell railroad. By this junction between the Boston and Maine and the Salem and Lowell railroads a new route was created to Lowell, and passengers, of course, began to go over it. In that state of things the Boston and Lowell Railroad Company applied to the supreme court of Massachusetts for an order enjoining, prohibiting, and forbidding the new railroad thus created between Boston and Lowell by the new route from carrying passengers, upon the idea that it was in contravention of the right before granted by the Massachusetts Legislature to the Boston and Lowell Railroad Company. The case is found reported in the second volume of Gray's Reports at very considerable length, and anybody who wants to hear an answer to the argument of the Senator from Massachusetts, by reading the decision in this case, and the rest of the *Pilgrim's Progress*, which is utterly at war with the doctrine he drew from it, [laughter:] will find the answer to the speech. And that, sir, is the law of Massachusetts to-day. I know it, because the Boston and Maine railroad runs through the city in which I live, and the people there are somewhat interested in it; and this source of revenue which that railroad had from carrying passengers to Lowell was taken away by the decision of the supreme court of Massachusetts, and is the law there to-day.

Massachusetts has not been alone in this policy. It is essential to every State that it should have the power to exercise this right. There is the great State of New York, what has been her action? She incorporated by a series of acts what is now known as the New York Central railroad, leading from Albany to Buffalo, a distance of between three and four hundred miles. That road was prohibited from carrying certain articles of merchandise, I think wheat, one of the great necessities of life—almost as necessary to life as paper, [laughter:] except upon condition that a certain toll was paid upon the wheat, and I think it was a toll equal to the amount of the whole freight received, to the Erie canal. That was the law of New York for a long time. It was a question of policy for the State of New York whether that prohibition should be continued or not; but I believe in all the discussions that took place between the advocates of the prohibition and those who were for its repeal, it was never suggested that it was a thing with which Congress had any right to meddle, with which Congress could interfere, in regard to which Congress had any right to exercise any power, but left it for the State of New York to settle for herself, and to settle exclusively as a question affecting her own State policy.

If this matter is argued upon the ground of military necessity, it seems that it is not wanted there, because, according to the speech of the Senator from Massachusetts, the General Government have taken the right and have exercised it, and the Raritan railroad have carried troops and munitions of war for the Government of the United States. The Senator did not tell us what was the result of that application made to the court to compel them to account to the Camden and Amboy railroad. Does the Senator know what it was? The Senator from New Jersey thinks it was not sustained, but it makes no odds whether they were compelled to account or not; that was a matter between two corporations in the State of New Jersey, with which this General Government have nothing to do. Whenever the Raritan and Delaware Bay Railroad Company was wanted for the transportation of troops or munitions of war, the Government had it. The Secretary of War ordered the troops to be conveyed in that way, and they were conveyed; and whether they by that invaded any of the rights of the Camden and Amboy railroad for which they were compelled to account, is a matter with which the United States certainly have nothing to do, because the United States, with all their great powers, have not got to run a Quixotic expedition into every State in the Union to see that equal and exact justice is meted out by them to all their citizens and all their corporations. Whenever a State violates any grant or any right secured by the Constitution of the United States, then, and not till then, have the United States a right to interfere.

But what is this provision? The bill is very brief in its character. It provides:

That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from any State to another State, and to receive compensation therefor.

I should have no sort of objection to this bill if it confined itself to what its friends profess that it is, and that is a bill to enable the General Government to carry on and exercise the powers which the Constitution confers upon it. I should say that they should not only be authorized, but compelled, to carry "all freight, property, mails, passengers, troops, and Government supplies" that are necessary and requisite for the General Government to carry out the purposes for which it was created, and to exercise the powers conferred upon it by the Constitution; but it is manifest this looks beyond that; it looks beyond the public weal, beyond the public interest. It is not the post office that is concerned; it is not the transportation of troops, for that you have; it is not any or all of these interests combined; but the real gist of this bill is to raise the stock of a bankrupt corporation, to make it above par. That is the whole of it, and we might just as well look it in the face and call it by its right name as not. That is to be the effect, and that is what the interference of the General Government is invoked for; and it is invoked, and its exercise is called for, in a manner that will be utterly destructive of every doctrine that has ever been heretofore practiced upon in reference to corporations created by the States.

I know, sir, that there are certain general propositions which a wide and latitudinarian construction of the Constitution may so construe that there shall not be a single thing which can be proposed that Congress may not do. The "general welfare" clause of the Constitution is familiar to all. If somebody gets up and by some ingenious sophism demonstrates that in his judgment a particular thing might be for the general welfare, these broad constructionists may find that the Constitution gives them the power to do that thing for that reason.

Then there is the power to establish post offices and post roads. If you want to establish a post office or a post road, why not do so? Why not say that all these companies shall be compelled to carry the mail over their roads? Have they ever refused to do so? Is there anything in the provisions of the legislation of New Jersey that prohibits any of these railroads from carrying the mail? If there be anything which prohibits their carrying the troops of the United States, you have the evidence from the advocates of the bill that it

has been utterly disregarded by the Government of the United States, and the Government has used the Raritan road for that purpose, and has transported troops over it.

So you may take the power to regulate commerce with foreign nations and among the several States and with the Indian tribes, and that may be carried to an indefinite extent. If that authorizes the interference proposed by this bill with every railroad in the United States, it is difficult to conceive anything that it would not reach; it would reach everything and swallow up every power that has been heretofore supposed to be vested in the States, and would leave nothing to the States, but make this a consolidated Government.

Mr. President, it may well be asked, if this be a power residing in the General Government, why in the whole history of the States and the Union has it not been invoked before? During the whole history of this Camden and Amboy monopoly, why has not the power of Congress been invoked until this time? Why was it not invoked in the State of Massachusetts? Why has it not been invoked in New York? Why was it not invoked somewhere else? Why, until the Raritan and Delaware Bay Railroad Company found that they had sunk thousands and hundreds of thousands in their road, and it was a losing concern, that they could not pay dividends on their stock or interest on their bonds, did not these patriotic gentlemen, governed by these public interests, these high motives, these great considerations relating to the Union, enlist the eloquence of my learned friend from Massachusetts to come in here with grandiloquent pæns in praise of the Union, and to excite public sentiment and public opinion in favor of the Union—

Mr. SUMNER. How have they "enlisted" me?

Mr. HALE. Why, Mr. President, in a hundred ways. They enlisted him by articles in the New York Tribune, [laughter:] they enlisted him by various articles scattered all over the country; they enlisted him by all the ways and means by which men that have a selfish and a private object to effect appeal to great objects, high considerations, and moral sentiments, and thus operate upon the judgment and the sympathies of the generous, the impulsive, and the unreflecting. [Laughter.] That is the way they enlisted him.

Mr. President, as I said before, I have not examined this measure in detail, though I have thought upon it somewhat. I should deprecate as one of the greatest evils that could grow out of our present controversy if we should deem it necessary to stretch forth our hand in this way and usurp to ourselves the control of all the railroads and other corporations in the United States; for the bill not only applies to railroads but to boats, bridges, ferries, everything—all are brought by one sweep, by the operation of this small bill, within the scope of Federal authority, Federal jurisdiction.

Mr. President, I have not been one of those who have been loud or strenuous or persevering in the assertion of the rights of the States; but I believe that the existence of the States and the proper preservation of State sovereignty, State rights, and State power are as necessary to the successful operation of the system of our Government as the Union; and if one or the other is to be destroyed, it had better be the Union than the States, because if the Union is destroyed and the States left, we then have civil government and institutions left for recuperating and reconstructing a Union; but if the States are destroyed and all swallowed up in one military despotism, there is nothing left, there is no nucleus around which the friends of free institutions may rally—

Mr. HOWARD. You speak only for yourself.

Mr. HALE. I am not in the habit of speaking for anybody on earth but myself; but I trust the sentiment I have just expressed commends itself to the Senator from Michigan.

Mr. HOWARD. No.

Mr. HALE. It certainly does to me; but I trust the time will never come when either the Senator or myself will have to choose either horn of that dilemma. The prosperity of the country depends upon the preservation of the just powers of each, and not encroaching on the other. We are in this rebellion mainly and principally owing to the encroachments of the States on the Union.

If we come out of this rebellion with an equal usurpation on the part of the Union on the States, we shall not have gained much by the result.

I hope that this bill, and all bills of a similar character growing out of the supposed necessities of the evil times in which we live, will not be passed in this hour, and at this time, to make examples and precedents for the coming future; but that we shall vindicate our Constitution from the reproach that was employed in a remark which was well made by the distinguished Senator from Vermont [Mr. COLLAMER] at the last session of Congress, in which he said—I am not quoting his words, but his sentiment—that if the Constitution of the United States is not competent to deal with the questions which are presented to us in this controversy; if the Constitution does not confer ample power to enable us to deal with the existing realities which this struggle presents to us, then our Government is a failure, and we have failed.

Sir, I apprehend there never was a time in the history of this Government, until the emergencies of this war had operated on public opinion, when a proposition like this would be tolerated—a proposition that goes at one swoop into all the States, and touches with the wand of Federal power every corporation owning a railroad, a bridge, a ferry-boat, or a canal, and subjects them all to the sweeping jurisdiction of the Federal Government. If the times have presented such a necessity as that, then I may say, and I will say, on the authority of the distinguished Senator from Vermont, that the Government is a failure; it has failed; and it has failed because it was necessary or adjudged necessary by those who administered the Government to trench upon those rights which heretofore have always been considered as belonging exclusively to the States.

Mr. TEN EYCK. I move that the further consideration of this bill be postponed until Friday next at one o'clock. I understand it is probable that several Senators may speak upon it, perhaps on both sides of the question, and I do not know but that I shall say something myself on this subject, inasmuch as direct allusion has been made to my State pretty significantly, and inasmuch as the people of that State are directly interested in this question. I move a postponement until Friday at one o'clock, for the reason that I understand the death of our colleague, the Senator from Maryland, is to be announced to-morrow.

Mr. CHANDLER. I suggest Thursday.

Mr. TEN EYCK. Yes; I mean Thursday.

Mr. WILSON. Before the motion is put, I desire to offer an amendment to the bill as a second section, which I should like to have read.

The Secretary read the amendment, as follows:

And be it further enacted, That no citizen of the United States shall be excluded from travel upon any railroad or navigable water within the United States on account of or by reason of any State law or municipal ordinance, or of any regulation, or usage of any corporation, company, or person whatever; and all citizens of the United States shall be subject and amenable to the same laws, regulations, and usages; and any corporation, company, or person offending against the provisions of this act, shall, upon conviction in any court of the United States, be punished by a fine of not less than \$500, and by imprisonment not less than six months: *Provided*, That nothing herein contained shall interfere with any executive order made under the laws of the United States.

Mr. HALE. The amendment of the Senator from Massachusetts provides that no one shall be excluded on account of any regulation of any State. They have a regulation on some of the railroads of my State that no intoxicated person shall be admitted. This amendment would abrogate that, for it would amount to that.

Mr. COWAN. Let me ask the Senator, do they allow people who have the small-pox to ride in his State?

The PRESIDENT *pro tempore*. The question will be on the motion to postpone the further consideration of the bill to and make it the special order of the day for Thursday next at one o'clock.

Mr. CHANDLER. I hope the motion will prevail, as I understand the death of the Senator from Maryland will be announced to-morrow; and let the amendment be printed.

The motion was agreed to.

Mr. CHANDLER. I move that the Senate do now adjourn.

The motion was agreed to.

Mr. COLLAMER. I understand we are to have an evening session.

The PRESIDENT *pro tempore*. The Senate stands adjourned until half past seven o'clock this evening.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock, p. m.; and, in accordance with the resolution adopted on Saturday last, setting apart Tuesday and Wednesday evenings of this week for executive business, proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

Mr. GRIMES. I move to rescind so much of the resolution adopted on Saturday as provides for an evening session to-morrow.

The motion was agreed to.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 14, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Dr. E. H. GRAY.

The Journal of yesterday was read and approved.

#### ENLISTMENTS FOR UNEXPIRED TERMS.

Mr. ORTH. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Military Affairs be directed to inquire what legislation is necessary to secure the muster-out of such men as enlisted for the unexpired term of their respective regiments, in accordance with their understanding at the time of enlistment, and that the committee have leave to report at any time by bill or otherwise.

The SPEAKER. Is there any objection to the introduction of this resolution?

Mr. HOLMAN. I do not wish to object; but I desire that its language shall be made somewhat stronger, so that the committee shall be required to report at the earliest practicable moment. The subject is already before the committee.

The SPEAKER. The modification suggested will be made, if there be no objection.

There was no objection.

The resolution, as modified, was agreed to.

#### PAPERS WITHDRAWN.

Mr. HOLMAN. I desire unanimous consent to withdraw from the files of the House the papers relating to the case of S. B. Colby.

There was no objection, and leave was granted.

#### SHIP-CANAL IN WISCONSIN.

Mr. JULIAN. I demand the regular order of business.

The SPEAKER. The first business in order is the consideration of Senate bill No. 241, an act granting to the State of Wisconsin a donation of public land to aid in the construction of a ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State. This bill was reported from the Committee on Public Lands on the 9th instant, by the gentleman from Wisconsin, [Mr. SLOAN.] After an amendment by the House, the gentleman from Wisconsin demanded the previous question, upon seconding which no quorum voted. The pending question is upon seconding the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and was accordingly read the third time.

The question being on the passage of the bill—

Mr. SPALDING demanded the yeas and nays.

Mr. HOLMAN called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. McINDOE and MIDDLETON were appointed.

The House divided; and the tellers reported—ayes twenty-six, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 54, not voting 76; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Allison, Ames, Anderson, Bailey, Augustus C. Baldwin, Baxter, Blaine, Boyd, James S. Brown, Cole, Donnelly, Driggs, Eldridge, Garfield, Higby, Asahel W. Hubbard, Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Le Blond, Littlejohn, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Amos Myers, Leonard Myers, Nelson, Charles O'Neill, Perham, Pomroy, Wil-

liam H. Randall, Scott, Shannon, Smithers, Townsend, Upson, Wadsworth, Whaley, Wheeler, Williams, Wilder, Windom, Worthington, and Yeaman—52.

NAYS—Messrs. Alley, Aucona, John D. Baldwin, Beaman, Bliss, Boutwell, Brandegee, Broomall, Coffroth, Cravens, Henry Winter Davis, Dawes, Dawson, Deming, Denison, Edgerton, Eliot, Finck, Ganson, Grider, Hale, Benjamin G. Harris, Herrick, Holman, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Kaibfeisch, Orlando Kellogg, King, Lazear, Long, McKinney, Middleton, William H. Miller, Morrill, John O'Neill, Orth, Pendleton, Radford, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Spalding, William G. Steele, Stiles, Strouse, Sweat, Thayer, William B. Washburn, Wilson, and Winfield—54.

NOT VOTING—Messrs. Arnold, Ashley, Blair, Blow, Brooks, William G. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cox, Creswell, Thomas T. Davis, Dixon, Dumont, Eckley, Eden, English, Farnsworth, Frank, Coeh, Grinnell, Griswold, Hall, Harding, Harrington, Charles M. Harris, Hooper, Hotchkiss, Julian, Kasson, Kernan, Knapp, Knox, Law, Loan, Mallory, Marcy, McDowell, Monrothead, Daniel Morris, James R. Morris, Morrison, Noble, Norton, Odell, Patterson, Perry, Pike, Price, Pruyn, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Schenck, Scofield, Sloan, Smith, Starr, John B. Steele, Stevens, Stuart, Thomas, Tracy, Van Valkenburgh, Voorhees, Ward, Elihu B. Washburne, Webster, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Woodbridge—76.

So the bill was rejected.

Mr. HOLMAN moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELDRIDGE. I demand the yeas and nays on the motion to lay on the table.

The SPEAKER. The demand comes too late.

#### LEAVE OF ABSENCE.

Mr. J. C. ALLEN. I move that leave of absence be granted to my colleague, Mr. W. J. ALLEN, on account of the death of his brother.

There was no objection; and it was ordered accordingly.

#### CHARLES H. TITUS, AND OTHERS.

Mr. JULIAN, from the Committee on Public Lands, moved that that committee be discharged from the further consideration of the petition of Charles H. Titus, Thomas W. Faran, Peter Zinn, and others, asking Congress to devise some means for the sale of reserved mineral lands, and that it be laid on the table.

The motion was agreed to.

#### SALE OF MINERAL LANDS.

Mr. JULIAN. I ask, by unanimous consent, that House bill No. 730, in reference to the subdivision and sale of mineral lands, be set apart for consideration as a special order on Thursday next.

Objection was made.

#### PERE MARQUETTE AND FLINT RAILROAD.

Mr. DRIGGS, from the Committee on Public Lands, reported back Senate joint resolution No. 42, to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, with an amendment.

The amendment was read, as follows:

Strike out the words "and a railroad from Little Bay de Noquette to Marquette, and thence to Ontonagon."

Mr. DRIGGS. Mr. Speaker, this joint resolution only extends the grant to the Pere Marquette and Flint Railroad Company, made in 1856, for five years. It provides for no additional grant of lands. The road is now completed and running cars upon some forty miles of the road. It has received the sanction of the Committee on Public Lands. I think it is just, and I demand the previous question.

Mr. HOLMAN. Do I understand that this resolution makes no additional grant of lands?

Mr. DRIGGS. It makes no additional grant of lands.

Mr. HOLMAN. It only extends the time for the completion of this road?

Mr. DRIGGS. That is all.

Mr. LE BLOND. What is the road?

Mr. DRIGGS. It runs from Flint, in the State of Michigan, to Pere Marquette. The road is about one hundred and seventy-five miles long, and some forty miles have been completed.

Mr. BROWN, of Wisconsin. This resolution does no more than provide for the extension of time for the completion of the road.

Mr. DRIGGS. I insist on the demand for the previous question.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The joint resolution as amended was ordered to be read a third time; and it was accordingly read the third time, and passed.

#### MINNESOTA LAND-GRANT RAILROAD.

Mr. MILLER, of New York, from the Committee on Public Lands, reported a bill to extend the time for the completion of certain land-grant railroads in the State of Minnesota, which was read a first and second time.

The bill was read in *extenso*.

Mr. MILLER, of New York. Mr. Speaker, I will only say that this bill merely extends the time for the completion of these roads.

Mr. HUBBARD, of Iowa. I would inquire whether they are not required to complete twenty miles each and every year.

Mr. MILLER, of New York. They are.

Mr. HUBBARD, of Iowa. If they do not construct twenty miles each year, what forfeiture is provided?

Mr. MILLER, of New York. A forfeiture of the land to the Government of the United States.

Mr. STEVENS. Are additional lands granted?

Mr. MILLER, of New York. Four additional sections of land are granted, which is in accordance with the legislation of last year. It will be evident to the House, as it was to the committee, that since railroad iron, labor, and everything else has doubled in price, these roads could not be completed unless some additional grant of land was made.

Mr. STEVENS. I thought we provided for that when last year the House refused to increase the tax on railroad iron.

Mr. MILLER, of New York. Mr. Speaker, unless there is some encouragement it is evident that we cannot induce foreign or eastern capitalists to invest in these roads. I think that the best interests of the Government will be subserved by this additional grant of lands.

Mr. SPALDING. How extensive were the grants in the first place, and how much is now added?

Mr. MILLER, of New York. We make it ten sections, whereas it was only six before. They do not get the whole ten sections in many cases, as they have been taken up by settlers. They are limited to within twenty miles of the road.

Mr. HUBBARD, of Iowa. Does this not relate exclusively to Minnesota roads?

Mr. MILLER, of New York. It does.

Mr. WINDOM. I wish to say a single word upon this subject, and principally in reply to the suggestion of the gentleman from Ohio, [Mr. SPALDING.] Originally six sections per mile were granted to these roads. The paper grant is very large; but owing to settlements the amount of land actually received is very small. On one road running from Winona westward they run one hundred and fifty miles before they received one hundred and thirty thousand acres of land; whereas the paper grant was six sections to the mile. I ask to have read a memorial from the Legislature of Minnesota. It is short.

Mr. SPALDING. This bill embraces one half of all the land we have in that section.

Mr. MILLER, of New York. I will say to the gentleman from Ohio that many of these roads will not get as much land with this additional grant as they would have got if they could have received the whole original grant of six sections to the mile.

Mr. WINDOM. I ask that the memorial be now read.

The memorial was read, as follows:

To the Congress of the United States:

The Legislature of the State of Minnesota would respectfully memorialize your honorable body to grant to this State additional lands to aid in the completion of the several lines of railroads and branches provided for by the act of Congress approved March 3, 1857, and by the joint resolution approved July 12, 1862, so as to make the quantity of land equal in all to two hundred sections for each twenty miles therein named, for the reasons following:

First. That although a large amount of work has been done, and iron rails and other materials procured for the construction of said roads and branches, and two of them have been put into actual operation for forty and fifty miles respectively, their extension or the further prosecution of work upon them has become impossible on account of the greatly enhanced prices of iron, and locomotives, and labor, and, in fact, of all the materials necessary for the construction and completion of railroads.

Second. That similar increased grants have been made

to aid in the completion of other railroads in the northwestern States; their securities possess advantages in the money markets of the world as ten to six over those of the railroad lines in question.

Your memorialists, therefore, cannot for a moment entertain the belief that Congress would intentionally withhold the same relief for the aid of the various railroad lines in this State that it has granted to the lines in other States similarly situated.

It is equally important that the time limited for the completion of our roads should be extended, as it has now but two years to run.

Finally. Considering that this is a food-producing State, and that it has no connection by railroad with the system of railroads leading to the Atlantic States, and the avenues to our foodstuffs being thus locked up from the seaboard, except those consisting of wagon roads and six months uncertain navigation of the Mississippi of each year; and considering the financial revulsion of 1857, from which we had scarcely recovered when the rebellion called our not unwilling young men from home to aid in its suppression, your memorialists ask with confidence of your honorable body for the prompt consideration of this appeal.

And your memorialists will ever pray.

CHARLES D. SHERWOOD,

President of the Senate.

THOMAS H. ARMSTRONG,

Speaker of the House of Representatives.

Approved January 24, 1865.

S. MILLER.

STATE OF MINNESOTA,  
OFFICE OF THE SECRETARY OF STATE.

I certify the foregoing to be a true and correct copy of the original, on file in this office.

Witness my hand, and the great seal of the State, this 30th day of January, A. D., 1865.

D. BLAKELY, Secretary of State.

Mr. MILLER, of New York. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time.

Mr. HOLMAN. I call for the reading of the engrossed bill.

The SPEAKER. The bill is not engrossed, and therefore it goes to the Speaker's table.

Mr. WINDOM, at a subsequent period, moved that the vote by which the bill was ordered to be engrossed be reconsidered.

The motion was entered.

#### LAND-GRANT ROADS IN MICHIGAN.

Mr. ALLISON, from the Committee on Public Lands, reported a bill (H. R. No. 710) relating to certain grants of lands made to the State of Michigan in the year 1865.

Mr. KELLOGG, of Michigan. I call for the reading of the bill.

The bill was read in *extenso*.

Mr. ALLISON. I desire to say a single word in reference to the purposes of this bill. They are, first, to extend the time for their completion five years, and also to adjust the conflict existing between the roads, beginning at Marquette, in the State of Michigan, by the land-grant act of 1856. Three of these roads had their beginning at Marquette. By this bill boundaries are fixed as to the extent of the grant to each road, with reference to the others, so that in the future there can be no conflict in addition to the provisions adjusting these differences. There is granted to the State of Michigan four additional sections per mile in alternate sections. The Committee were of opinion that this additional grant would enable these roads to progress with their roads, and thus develop the region through which they pass. The effect of this proposition is to make two land grants instead of four.

Mr. SPALDING. I wish to know how many railroads this bill includes.

Mr. ALLISON. It includes only two roads. There were originally three roads, all beginning at the city of Marquette and extending, one to Bay de Noquette; another to Ontonagon; another to the mouth of the Menomonee river, at the State line dividing Wisconsin and Michigan; in addition to these, there is a grant to what is called the Peninsular railroad, extending along the shore of Green bay in the State of Wisconsin, and thence through Michigan to Lake Superior.

Mr. SPALDING. I wish to know if it affects in any way more than two roads.

Mr. ALLISON. Only two roads at this time. There were originally four roads; now really consolidated into two, although nominally there are three roads, still affected by the bill.

Mr. SPALDING. Through what States do these roads run?

Mr. ALLISON. The North western road, ex-

tending through the States of Illinois, Michigan, and Wisconsin, now owns in part a portion of this line. But the grant made by this bill is all in the State of Michigan; further time is given to that part of the road in Wisconsin, but no additional grant.

Mr. SPALDING. I wish to know if for the benefit of any part of the Northwestern road.

Mr. ALLISON. It is.

Mr. SPALDING. Is not that one of the wealthiest companies in the Northwest?

Mr. ALLISON. It is a large corporation, how wealthy, I do not know. I do know that its stock is not worth more than thirty-five cents on the dollar.

Mr. SPALDING. How many States are affected by the grant contained in this bill?

Mr. ALLISON. Really only one State is affected by the grant.

Mr. SPALDING. How is Iowa affected?

Mr. ALLISON. Not at all.

Mr. SPALDING. How much surplus land is granted by this bill?

Mr. ALLISON. It is impossible for me to say.

Mr. SPALDING. I want to know if four additional sections per mile are not given to these railroads.

Mr. ALLISON. I have already stated that four additional sections are given to this railroad in the State of Michigan.

Mr. SPALDING. Beyond the previous grant?

Mr. ALLISON. Yes, sir; but it is well known that very little land is obtained under the original grant, from the fact that the lands were taken up by settlers and by corporations of the State of Michigan.

Mr. ARNOLD. This bill is designed to enable the company to fill up a gap between two railroads already constructed, and the effect of this grant, so far as the Government is concerned, will be to enhance the value of the lands belonging to the Government immensely beyond the value of the lands granted by this bill. Those lands, as every gentleman well knows, are comparatively worthless to the Government, and will continue to be unless you open a way to the minerals, the timber, and other products of those lands by means of this railroad. This railroad will open communication from Lake Michigan to the Superior country and to the vast amount of Government lands which lie around that great inland sea. The amount of lands granted by this bill is comparatively small. I think that every gentleman who investigates the subject will readily acknowledge that the enhanced value of the Government lands lying around the lake in consequence of this grant will be of immensely more importance to the public Treasury than the value of the lands granted by the bill under consideration. I therefore hope that it will receive the favorable consideration of those who desire to enhance the value of the public domain in the Northwest and open direct communication with that vast territory.

Mr. ALLISON. Unless some gentleman desires some further explanation, I will move the previous question.

Mr. SPALDING. I should be indisposed to vote against this bill if I supposed that it was really intended for the good of the country through which the proposed railroads are to run; but I do happen, from certain circumstances, to conclude that this extra donation of four sections of land to the mile, through the whole peninsula of Michigan, is intended to help certain stock speculators rather than the people of the country through which the roads run. The gentleman from Iowa cannot even tell us the amount of this enormous grant.

Mr. ALLISON. I will state to the gentleman that the Marquette and Ontonagon railroad extends one hundred and thirty miles, and twenty miles of the road are already built.

Mr. HIGBY. I hope the gentleman from Iowa will not yield any more. There are other reports to be made from the Committee on Public Lands.

The SPEAKER. The committee have two minutes and a half of their time left.

Mr. ALLISON. I demand the previous question.

Mr. BROWN, of Wisconsin. I call for the yeas and nays on seconding the previous question.

The SPEAKER. Under the rules of the House the yeas and nays cannot be had upon seconding the previous question.



Mr. BROWN, of Wisconsin. Then I call for tellers.

Tellers were not ordered.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time.

Mr. HOLMAN. I demand the reading of the engrossed bill.

The SPEAKER. The morning hour has expired.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting the report of the commissioner appointed under the act of Congress of July 2, 1864; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### TERRITORY OF WYOMING.

Mr. ASHLEY. I ask the unanimous consent of the House to report from the Committee on Territories a bill to establish a temporary government for the Territory of Wyoming, for the purpose of having it printed.

Mr. SPALDING. I object.

Mr. HOLMAN. Will the gentleman from Vermont yield to me for a moment to enable me to report a bill?

Mr. BALDWIN, of Massachusetts. I must object to any further yielding of the floor.

#### TAX BILL.

The question was taken on Mr. MORRILL's motion, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The CHAIRMAN stated the question to be upon the amendment proposed yesterday by Mr. A. W. CLARK, on page 20, lines four hundred and sixty-one and four hundred and sixty-two, to strike out "exclusive of the boiler in case a duty has been paid thereon," and to insert in lieu thereof "and steam boilers," so that the clause will read:

By inserting after the words "steam engines" the words "and steam boilers."

Mr. MORRILL. I move to amend the amendment by striking out lines four hundred and sixty, four hundred and sixty-one, and four hundred and sixty-two, as follows:

By inserting after the words "steam engines" the words "exclusive of the boiler in case a duty has been paid thereon;"—

And inserting in lieu thereof the following:

On steam locomotives and marine engines, including boilers and all other parts, a duty of five per cent. *ad valorem*. *Provided*, That when such boiler or part thereof shall have been once assessed and the duty previously paid thereon, the amount so paid shall be deducted from the finished engine.

On boilers of all kinds, water tanks, sugar tanks, oil stills, sewing machines, lathes, tools, planes, planing machines, shafting and gearing, a duty of five per cent. *ad valorem*.

Mr. KASSON. Mr. Chairman, I offer the following as an amendment to the substitute of the gentleman from Vermont:

Add the following:

On iron railing, gates, fences, furniture, and statuary, a duty of five per cent. *ad valorem*.

The amendment was adopted.

The question recurred on the substitute, as amended, and it was adopted.

The question recurred on Mr. A. W. CLARK's amendment, as amended, and it was adopted.

Mr. BOUTWELL. I move to amend by inserting after line five hundred and six, as follows:

And by striking out in the same paragraph all after the words "does not exceed the sum of," and inserting the words "\$1,000 per annum shall be exempt from duty."

So that it will read:

By inserting in the paragraph relating to "ready-made clothing," after the word "dress," the words "not otherwise assessed and taxed as such;" and by striking out, &c.

The CHAIRMAN. The Chair will state to the gentleman from Massachusetts that the words "as such" have been inserted after the word "taxed." His amendment will come in after the words "as such."

Mr. BOUTWELL. Very well. I wish to call the attention of the committee to this fact. As the law now stands a manufacturer of clothing who makes for a gentleman a nice coat pays to the Government a duty of three per cent., while a manufacturer of ready-made clothing, such as pea-jackets and overalls for laboring men, pays a tax of five per cent., which is manifestly unjust. The object of my amendment is to remedy that inequality by putting a tax of five per cent. on clothing of all sorts, allowing those persons who make custom work exclusively, and whose annual product does not exceed \$1,000, to be exempted altogether. These are the two effects of the amendment which I propose.

Mr. BOUTWELL's amendment was adopted.

#### MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. COBB, one of its clerks, announced that the Senate had passed an act (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads," in which he was directed to ask the concurrence of the House.

#### TAX BILL—AGAIN.

The committee resumed its session.

Mr. KASSON. I move to amend, on line five hundred and thirty-two, by striking out the words "except as hereinafter otherwise provided for" and inserting in lieu thereof the words "of all kinds," and by striking out the following:

On smoking tobacco made exclusively of stems, and not mixed with leaf or stem, and on fine-cut, and shorts, and scraps of tobacco, the refuse of cigars manufactured, and also on all scraps or refuse of plug manufactured, when sold for smoking tobacco, or for consumption, or otherwise, twenty cents per pound.

So that it will read:

On smoking tobacco of all kinds, thirty-five cents per pound.

I will state the object of my amendment, so that it may be fully understood. The Committee of Ways and Means has endeavored, throughout this revision of duty on tobacco and its manufactures, to evade the great temptation to fraud and false swearing resulting from the numerous and unnecessary discriminations of quality to which different grades of tax are affixed. The second paragraph, which I propose to strike out, makes a new kind of smoking tobacco, to be taxed at a less rate, and in my judgment it will be found to embrace all the smoking tobacco manufactured when the returns come to be made to the assessors. The object of my amendment is, therefore, to impose, in the case of tobacco as in the case of cigars, a uniform rate of taxation, moderate but certain in amount, so that there shall be no temptation to fraud or false swearing except simply as to the amount of the tobacco produced. For that purpose the two paragraphs are confined in one, so as to read "on smoking tobacco of all kinds, thirty-five cents per pound."

Mr. MORRILL. Mr. Chairman, if the gentleman from Iowa had proposed merely to strike out all of the description in the second paragraph in reference to smoking tobacco except that made exclusively from stems, I do not know that I would have objected. But I do believe that it is important that we allow this sort of tobacco—made of stems only—to go into consumption at a less rate than other sorts; otherwise it will be wasted. Before we levied so high a tax on tobacco, the stems were not used, or were used only as a manure for the ground on which tobacco is raised. But since the advance in price, stems are not only used here at home, but are shipped abroad. This amendment, if adopted, will compel the parties having any quantity of stems to ship them and not use them at home. I think there can be no difficulty about detecting frauds where the smoking tobacco is made exclusively of stems. If the gentleman will modify his amendment by striking out of the second paragraph all but that, I will not object to it.

Mr. KASSON. I ask the gentleman from Vermont whether there is not a mode of manufacturing the stems into smoking tobacco so as make it

difficult to detect the manufactured article from the superior species of smoking tobacco.

Mr. MORRILL. I know that some tobaccoists are in the habit of coloring these stems and grinding them; but I believe it is not difficult for any expert to detect the difference between the two articles.

#### MESSAGE FROM THE PRESIDENT.

The committee at this point rose informally; and the Speaker having resumed the chair, several messages in writing were received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

#### TAX BILL—AGAIN.

The Committee of the Whole on the state of the Union resumed its session.

Mr. KASSON. As my colleague on the committee states that he believes there will be no difficulty in the discrimination, I will modify my amendment so that the first paragraph will read, "on smoking tobacco of all kinds not otherwise herein provided for, thirty-five cents per pound," and by striking out in the second paragraph all from the word "stem" in line five hundred and thirty-four to the word "otherwise" in line five hundred and thirty-nine.

Mr. MALLORY. I cannot understand the propriety of the gentleman's amendment.

Mr. KASSON. The gentleman will permit me to state that the object of the entire amendment is to enable the assessors to have a correct report in reference to smoking tobacco, and to prevent the temptation to false swearing which would result from an unnecessary discrimination in the quality of the smoking tobacco. To accomplish this purpose, I proposed in the first instance to make the rate uniform on all kinds of smoking tobacco. But since my colleague from Vermont has stated that there is no difficulty in detecting smoking tobacco made exclusively of stems, I think that this kind ought to be subject to a lower rate of taxation, in order that the manufacture may be continued, and I have modified my amendment so as to make the second paragraph read: "on smoking tobacco made exclusively of stems, twenty cents per pound."

Mr. MALLORY. If that is the amendment proposed, I submit that it is no amendment at all. It is provided in lines five hundred and thirty-two and five hundred and thirty-three: "on smoking tobacco, except as hereinafter otherwise provided for, thirty-five cents per pound." Now it is proposed to strike out the words "except as hereinafter otherwise provided for." Then the tax on stem tobacco in the next paragraph is left precisely as it stands now—twenty cents per pound.

Mr. KASSON. This amendment confines the lower rate exclusively to the stem tobacco. The other did not. I preferred a uniform rate, but yielded to the opinion of my colleague.

Mr. MALLORY. Then I submit my objection becomes stronger. For what will become of these scraps and other refuse materials? Does the gentleman propose that these shall be thrown away? They cannot be manufactured, if the tobacco made from them is to be taxed thirty-five cents per pound. Does the gentleman propose such a rate of taxation?

Mr. KASSON. I think that the price of tobacco to the consumer should be determined alone by the grade of the tobacco, and that the tax should be as far as possible uniform. The consumer pays high in proportion to the purity of the tobacco, and low in proportion to its adulteration. By making the rate uniform you obviate the temptation to put in a little of the inferior article, and then swear that the tobacco is adulterated to the lower grade.

Mr. MALLORY. Let me state what I think will be the effect of the amendment.

If it is proposed to tax tobacco to such an extent as to raise from it a large revenue, I do not know that I have any right to object. We now tax cigars very high. Cigars are smoked by the wealthy classes; and perhaps, if any description of smoking tobacco is to be taxed high, it should be cigars. But the other article, smoking tobacco, in the common acceptance of the term, as understood in the market, is used by the great mass of the people of the country; by those who do not smoke cigars, not being able to indulge in that luxury. And I submit that the lowest rate of tax we can impose upon this article the better it

will be for the interest in the country and for the revenue of the Government. If you tax it so high, you will stop the practice of smoking which now prevails so extensively in the country, and which uses up this sort of tobacco. If you tax it so high, men who use no cigars and who use this, will stop using it, and the result will be that the Government will derive no revenue from it. I think that it is better for the producer, better for the manufacturer, and better for the Treasury of the United States, to impose upon every description of smoking tobacco made from stems, scraps, &c., the lowest rate of taxation. By reducing the tax from twenty cents to ten cents, I think that we will procure more revenue, and I believe that the consumption of the article would be ten times as great as it is now.

Now, one other remark before I sit down.

The CHAIRMAN. The gentleman's time has expired.

Mr. KASSON. I want to call the gentleman's attention to the fact that the great discrimination between cigars and smoking tobacco is cutting us off from revenue.

The CHAIRMAN. Debate upon the amendment has been exhausted, and the gentleman is not in order.

Mr. MALLORY. I move to strike out the last line of the amendment.

Mr. Chairman, the difficulty suggested by the gentleman from Vermont [Mr. MORRILL] is the discrimination between tobacco made from stems and tobacco made from fine leaf. I submit that the discrimination is very easy to be made. I doubt whether there is an inspector in the United States who will hesitate in reference to the character of tobacco as to what is made from stems and scraps and what is made from leaf. Tobacco made from scraps and tobacco made from leaf can easily be discriminated. One is of such inferior quality that it can be distinguished at once. In my judgment there is no difficulty in making a discrimination under this bill. I hope that the distinction will be reserved; and I hope that the tax will be reduced from twenty cents to ten cents per pound.

Mr. MORRILL. Mr. Chairman, I would be content to have the bill remain as it is, without amendment, but believing there was something in the amendment of the gentleman from Iowa; that is to obtain a uniform system, and as far as possible to put it out of the power of the manufacturer to practice fraud or evasion, I was willing for one to accept his proposition with the modification suggested by myself. I do believe that so far as it is made of scraps and refuse of cigars, and scraps and refuse of plug tobacco, there may be a door open for considerable fraud. At the same time I will say to the gentleman from Kentucky that this kind of tobacco is much superior and worth more per pound than stems. It is good tobacco, but not in good shape. I think that the proposition of the gentleman from Iowa is a safe and practicable one.

Mr. MALLORY, by unanimous consent, withdrew his amendment.

Mr. INGERSOLL. I move to strike out "twenty" and insert "ten."

The CHAIRMAN. That is not now in order.

Mr. MALLORY. I hope that the gentleman from Illinois will move to reduce the tax from twenty cents to ten cents per pound.

The CHAIRMAN. That paragraph is not now before the committee.

Mr. KASSON's amendment was agreed to.

Mr. KASSON. I move to strike out the words, "and not mixed with leaf or leaf and stems, and on fine-cut, and shorts, and scraps of tobacco, the refuse of cigars manufactured, and also on all scraps or refuse of plug manufactured, when sold for smoking tobacco, or for consumption, or otherwise;" so that the paragraph will read: "On smoking tobacco made exclusively of stems, twenty cents per pound."

Mr. MALLORY. I move to amend the original text by inserting "fifteen" instead of "twenty."

#### MESSAGE FROM THE SENATE.

The committee informally rose; and the House received a message from the Senate, by Mr. COBB, one of their clerks, announcing that the Senate had passed a joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, and used for books and newspapers exclusively, with

an amendment, in which the concurrence of the House was requested.

#### TAX BILL—AGAIN.

The committee resumed its session.

Mr. INGERSOLL. Is it in order to offer an amendment to the amendment of the gentleman from Kentucky?

The CHAIRMAN. The Chair is of opinion that the question should first be taken upon the motion of the gentleman from Iowa [Mr. KASSON] to strike out.

The question being put, and no quorum voting—Mr. MALLORY demanded tellers.

Tellers were ordered; and Messrs. KASSON and MALLORY were appointed.

Mr. MALLORY. I withdraw my call for a division, as I see a majority are in favor of the amendment.

The amendment was agreed to.

Mr. MALLORY. I withdraw my amendment.

Mr. INGERSOLL. I move to amend by striking out "fifteen" and inserting "five," so that it will read "five cents a pound." This is the lowest grade of tobacco manufactured; in fact, it is so low that it has no grade. It seems to me that twenty cents a pound is too large a tax to put upon this quality of tobacco. Those who use this quality are a class of people who are not able to buy the better qualities, owing to the high price of the better grades. It is the poor man who buys this grade, and he does this from necessity; he prefers the best, but cannot afford to buy it. Smoking is to the poor man a luxury of which I do not desire to see him deprived; and I can imagine for him no greater luxury, which costs so little, than, after a day of toil at a dollar and a half or two dollars a day, he comes home, and, after the evening repast is over, he smokes his pipe by his cheerful fireside, with his wife and little ones around him. While you may be realizing all the anticipations of youth, this poor man, with the wreaths of smoke ascending and circling above him, only hopes to see happier and brighter days; but those hopes turn to ashes in the bowl, and this vision of happier and brighter days vanishes with the smoke. I hope this quality of tobacco will not be taxed more than five cents per pound. I would rather see it free, so that the poor man can enjoy this one comfort without feeling the burden of taxation. Let us not take away from the poor man this luxury, when at best he is permitted to enjoy so few.

Mr. STEVENS. I move to amend the amendment by striking out "five" and inserting "ten." I think that anybody that wishes to smoke can afford to pay a ten-cent tax a pound. I understand it is a very delicious luxury, and I know, from what I have heard about this House, that everybody is anxious to be taxed, and that there is very great complaint that we do not tax enough. If, therefore, the gentleman will say ten cents, that will include stems, and then the old women of the country, making their pipes out of corn-cobs, can use it by paying only ten cents. This is a great reduction from what we proposed, and I am almost afraid the committee will be reproached if we refuse to impose a proper tax.

Mr. MALLORY. I hope the gentleman from Pennsylvania will not insist upon his amendment, but accept the amendment of the gentleman from Illinois. This description of tobacco is comparatively worthless; it is very little better than that which is made of the stalks after the tobacco leaf is stripped off; and that, I suggest to the gentleman, is left entirely untaxed by this bill; and if he is determined to hunt up tobacco of every form to impose a tax on, he should tax the stalk. Yes, and walking-canes are made of the stalks, and he should tax them.

I think, however, that this stem tobacco should be left with a tax of only five cents at highest. I do not believe it will now, if untaxed, sell for that much in the market. This is the only anomaly in the bill of an article being taxed more than it is worth. Gentlemen have set free a very large class of people in our country—I will not call them *niggers*, for fear of offending somebody—but a large class of people whose almost entire solace—I suggest to the gentleman from Illinois, [Mr. INGERSOLL,] in order to finish his picture of the smoking wretch—is derived from smoking this lowest grade of tobacco; and now,

in the very beginning, you propose to take from the downtrodden African almost the only pleasure and solace left since you have made him a freedman.

Mr. STEVENS. Our object is to correct his taste and elevate him, so that he may equal his master in—smoking tobacco. [Laughter.]

Mr. MALLORY. That remark proves that the gentleman from Pennsylvania desires to make the freedmen superior to the common laboring men of the country who have to confine themselves to the use of common tobacco. They must be invested at once with the pecuniary power of purchasing and using the very finest description of tobacco sold at the highest price.

Mr. INGERSOLL. One word more. As the gentleman has put a finish upon my picture, I desire to improve the color of his.

Mr. MALLORY. Mine was colored sufficiently.

Mr. INGERSOLL. I want to tone it down by suggesting that there are five hundred thousand of our soldiers around their camp-fires who constantly use tobacco, and I would not compel them to pay ten cents a pound.

Mr. STEVENS. Let me suggest to the gentleman that a tax of ten cents a pound, considering the time a pound of tobacco will last, will not be a mill a day to the person who smokes it.

The question was taken on the amendment to the amendment proposed by Mr. STEVENS, and it was disagreed to.

Mr. MORRILL. I move to amend the amendment by inserting "twenty-five cents" in place of "five cents." I offer the amendment *pro forma*, for I desire to have the clause remain as it is. This subject was very fully considered by the Committee of Ways and Means. All the experts who were before the committee were persuaded that an infinite amount of fraud would arise under this section unless the tax was very considerable, and it was under the idea that it would prevent frauds and that the article would bear this amount of tax that the twenty cents was inserted. This is but about half the amount that we impose upon regularly manufactured smoking tobacco. The price of the article, in the first instance, is very much below that of good tobacco, and we impose only a little more than half the tax. I submit, therefore, that we have given sufficient consideration, not only to our soldiers, but to the colored friends of the gentleman from Kentucky, [Mr. MALLORY,] about whom he manifests such great solicitude. I hope that we shall allow the amount of the tax to remain as it is in the bill.

Mr. CHANLER. Mr. Chairman, I rise to oppose the amendment for the simple reason that a cheap luxury in crowded communities is an absolute necessity. It is impossible that the laboring classes in our crowded cities can do without the ordinary stimulants which make life tolerable under the excessive burdens of taxation which we impose upon them. The laboring classes in our cities find it almost impossible now to furnish fuel and clothing for themselves and families, and they need as much as any of us the solace of a stimulant. By this excessive taxation you will drive them to the use of an injurious, and, it may be, fatal system of stimulants, and by which our revenue will be lessened.

It is a well-known fact that the records of the efforts for temperance in the cities show that with the exclusion of spirituous liquors they introduced the excessive use of opium, and men and women who are forced to work many more hours a day than laboring men in the country districts, are forced, as the books of the apothecaries in the populous sections of New York city show, to take for a stimulant a liquor made up principally of opium. If you lay an excessive tax upon this cheap article of tobacco, the result may be that the poorer classes will be forced into the adoption of a vice which has become national in some countries, and the use of opium may be the fate of the laborers of this country. With regard to the fraud on the revenue just alluded to, I have only to say you have already forced those who sell cigars to cheat you by putting false stamps upon their boxes of cigars and selling them at an increased price, while at the same time the Government loses its revenue. I appeal, therefore, to the Committee of Ways and Means not to take this further step in the same direction by over-taxing this cheap and popular luxury.

Mr. MORRILL. I withdraw my amendment to the amendment, and in order to accommodate all parties, as there seems to be a disposition to make a little change in this provision, I move to amend the amendment of the gentleman from Kentucky by inserting fifteen cents instead of five.

The amendment to the amendment was agreed to—aye 47, nays 46.

Mr. MALLORY's amendment, as amended, was then adopted.

Mr. MALLORY. I move an amendment that the tax on cigars be reduced from fifty to forty cents per pound. I have no hope, Mr. Chairman, that this amendment will prevail, because I know it is the purpose of members to load this product of our country with the very heaviest tax that they think it can possibly bear. I believe that they have gone so far toward the attainment of this object as to have now loaded it with a tax that it cannot bear. I believe that the product will break down under the tax. If I thought it possible to achieve my purpose I would have moved an amendment reducing the tax on manufactured tobacco in every form in which it is spoken of in this bill, because my conviction is fixed—and I believe the operation of the law will prove the correctness of that view—that the rate of taxation now imposed on tobacco in its various forms will result in diminishing its production to an extent so large as to lessen the revenue materially that would be derived from a tax on this product at a much lower rate than the committee proposes to impose upon it. I merely protest now against the system which, it seems, is to be fixed on this country, of taxing whisky and tobacco, the two great products of the growing and flourishing West, at a rate greater than the products of any other section of the Union are taxed.

I know that when an individual or country is supposed to be able to bear a good deal, a good deal is apt to be imposed upon him or it. Gentlemen seem to rely on the fertility of that great western region, on the industry and energy of its people, as being sufficient to redeem them from the consequences of any amount of taxation inflicted on them by this bill. But I suggest to gentlemen that it is the last feather that breaks the camel's back, and that they may, in this practice, go so far as to render patience no longer a virtue on our part. The time will come when the strength of that region will give it the preponderance in the Halls of Congress. And I admonish gentlemen who are now so busy in inflicting on us every species of burden and oppression, to beware of the day when our strength will enable us to turn upon them and revenge ourselves for the injury which they are now inflicting upon us. I had rather that this system were abandoned. I had rather that fairness, equality, and justice should characterize our legislation, so that that people, when they attain this degree of power which they will reach, will look upon you with kindness and regard, will have nothing to retort upon you, will have no injury to redress, no rankling wrongs to remember. I admonish the gentleman from Pennsylvania [Mr. STEVENS] that the time will come when the great West, having legislative power in these Halls, will perhaps lay a stronger hand upon iron than he is disposed to have done, or upon coal, or upon petroleum, although we are using the latter so much in the West that I do not think we should punish you as much as ourselves by taxing it heavily.

But, Mr. Chairman, I do not wish that this discrimination shall be persevered in. I have no hope, however, of seeing it abandoned. But I must be permitted, nevertheless, to enter my solemn protest against it here.

Mr. STEVENS. Mr. Chairman, I am very sorry that my friend from Kentucky has got into the minatory humor this morning. It always makes me feel bad to hear threats.

Mr. MALLORY. I beg to correct the gentleman. I am in a minatory humor, not a minatory one. My remarks were simply minatory.

Mr. STEVENS. Well, sir, the gentleman's words are sometimes strong. When Jove nodded everything trembled; but lesser deities had to strike several times.

But, sir, the gentleman is mistaken in supposing that we are over-taxing the products of the West. Tobacco is becoming a product of every portion of our country. It is a large and increas-

ing product in my own district. Last year, according to the accounts that I have, my county raised and sold over two million dollars' worth of tobacco. Connecticut raises a very large quantity of tobacco in proportion to her other crops—much larger than her wheat crop.

The gentleman must see that the system of taxation all over the world reduces the taxes to the fewest possible number of articles, and those generally articles of luxury. England now raises her vast revenue, not from five or six hundred articles of taxation, but from seventy or eighty. Is tobacco heavily taxed by this bill? The highest rate is sixty cents a pound. The tax on tobacco in England is \$2 25 per pound. The tax now on cigars ranges from eight dollars per thousand, which is the lowest practical amount, up to forty dollars per thousand. This bill reduces the tax to ten dollars per thousand on the average. To be sure, it includes a certain class of cigars not included in our present tax; that is, Havana cigars, the foreign article; for we were of opinion that, without some such system as this, the frauds which are now practiced to such an extent as almost to render the tax a nullity, could not well be avoided. We have, therefore, reduced very materially the tax upon cigars from its present amount; yet we believe that this reduced rate of taxation will produce three or four times the amount of our present revenue from this source. We do not see how it will be possible to escape the payment of this taxation, where no frauds in counting can occur, where the question is simply one of weight. Under the present law, large quantities of cigars manufactured in this country are passed off as Havana cigars.

We believe, therefore, that the system proposed in this bill will produce, not perhaps as much revenue as the present system would if it could be enforced, but vastly more than we can ever realize under the present system. We believe that we have reduced the rate to the lowest figure possible, if we are to raise sufficient revenue to carry on this war and pay the interest on the public debt.

I am sure that the gentleman from Kentucky is willing that the products of his section shall pay their full proportion of taxation. I do not object that my constituents, largely engaged in tobacco raising, should bear their full proportion, nor do I believe that they will complain or think themselves unjustly burdened because many of the States raise no tobacco at all.

Mr. MALLORY. The distinguished chairman of the Committee of Ways and Means, in replying to what I had the rashness to say a few moments ago, spoke of Jove giving his nod. I do not suppose the gentleman could have alluded to me when he made that remark. He knows that he is regarded by the House and the country as the *Jupiter Tonans* of this body. The time was when he

"Shook his ambrosial curls and gave his nod,  
The stamp of fate, the sanction of a god."

He did have an influence in this House, and it trembled before him. But I must say that I think that time is passing away. I observed the other day an intimation from the distinguished gentleman himself which showed that the power of Jove was diminishing. I saw, too, that his nod had ceased to produce its accustomed effect in this House when the gold bill failed here so remarkably. If, therefore, the appellation used by the gentleman was intended for anybody, it must have been for himself. It must have been one of those lessons which, I have no doubt, the gentleman often gives himself to correct his ways, if those ways need correction.

Mr. Chairman, the gentleman from Pennsylvania says that the true theory of taxation is to impose taxes upon one or two articles for the purpose of raising revenue.

Mr. STEVENS. I did not say that. I said upon the fewest number.

Mr. MALLORY. Well, the fewest number. I take issue with the distinguished gentleman on that subject. The great purpose of taxation should be to make it equal and uniform; to distribute it as largely as possible throughout the whole land, and make it operate as far as possible upon every individual in proportion to his ability. That I regard as the true theory of the Government. For his protection by the Government, he must support the Government by his

contribution in the shape of taxes. That is my theory of taxation.

I never go to England, sir, to borrow philosophy on this subject. If I did, I would fail to impose upon any production of this kind any tax at all. That is the English system. Tobacco is taxed enormously in England, some \$2 45 per pound; but the gentleman must recollect that tobacco is not raised in England. Spirits and wines in all forms are taxed high in England, but they are not produced there. There is a high tax upon whisky, brandy, and wines. They contribute for that reason largely to the revenue of the Government.

Mr. STEVENS. Does the gentleman say that they do not produce whisky in England?

Mr. MALLORY. They do to a limited extent. I suggest to the gentleman from Pennsylvania that England does not produce to a sufficient extent the material out of which whisky is made, for the population cannot spare it, as they need it for food.

Mr. STEVENS. The excise duty upon the domestic article there is very high now.

Mr. MALLORY. That results from the enormous excise imposed upon small quantities.

The gentleman supposes that Pennsylvania will become a large producer of tobacco. He says that it is a large producer now. Let me say to him that that will not continue long, because everybody knows that tobacco is an exhaustive crop. You cannot continue to raise tobacco in a region where cereals are valuable. When labor in his State becomes dearer and land higher in price, the production of tobacco will be abandoned. It will only be produced where the land is fertile and where the deterioration of it is not so objectionable as it is in Pennsylvania.

[Here the hammer fell.]

Mr. L. MYERS. Mr. Chairman, I am opposed to the amendment offered by the gentleman from New York, [Mr. Brooks,] but in reality rise more for the purpose of asking the Committee of Ways and Means a question upon a subject of great interest to the people, before we have passed by the section altogether. I am surprised that the matter has not been mentioned before.

There is a general belief that the interests of the Government would be best subserved in this particular by levying a tax upon tobacco in the leaf. Such a tax would in a great measure avoid the large frauds on the revenue, which it is on all hands admitted have been practiced under the present law, and which the bill before us evidently contemplates will again be attempted—frauds which injure the honest manufacturer as well as the Government. It would obviate the need of passing a multiplicity of taxes on tobacco in its various forms, and a multiplicity of regulations which the assessor and inspector will find it difficult to carry out successfully; and still further, it would enable us to repeal a section which imposes upon cigar makers an obligation not required of any other class of employes. I allude to the provision requiring cigar makers to return monthly, upon oath and under severe penalties, an account of all cigars made by them as employes or otherwise. It is contended that this business cannot be assimilated to any other, and that to prevent fraud the paragraph must stand. A tax upon the raw tobacco will certainly enable us to do away with it, and as I believe, its assessment, with the establishment of bonded warehouses to receive this product, and an allowance of a drawback equivalent to the tax upon all leaf tobacco exported, will add to the revenue. I now ask the gentleman from Vermont [Mr. Morrill] why the many recommendations for such a tax have passed by unheeded.

Mr. BROOKS. I withdraw my amendment.

Mr. MALLORY. I renew it. The gentleman from Pennsylvania inquires why the Committee of Ways and Means have not responded to the call of the country, which he seems to regard as almost unanimous, to lay the tobacco tax on the leaf. I will state to the gentleman, in the first place, that we were not so well satisfied as he is that that call is unanimous. Nor do I believe it is at all extensive when you compare it with the call made upon us by the country not to tax the leaf. The Committee of Ways and Means in coming to the decision to which they arrived, consulted the purchasers of tobacco, the manufacturers of tobacco, and the inspectors and collectors



of the Government all over the country; and I will state as the result of that inquiry that the impression was made upon the committee that it was impossible so to impose a tax upon the leaf as to derive as much revenue to the Government as would be derived by laying the tax upon the manufactured article.

Mr. L. MYERS. Of course in case of exportation there would be a drawback allowed equivalent to the amount of the tax.

Mr. MALLORY. Even allowing a drawback, the difficulty of going to the producer of tobacco, of counting the number of plants, of inquiring, when cut, whether the producer had disposed of any of it in order to evade the tax, the following the tobacco to the stripping-house and the press-house, seemed so insuperable to the committee that they abandoned the idea of taxing in the leaf.

The principle of the bill now before the House, and which the committee wished to follow and preserve, as far as they could, intact, was to place the tax as far from the producer of every article as possible, and in no instance, if it could be prevented with anything like justice to the revenue, to impose a tax to be paid by the producer before the article is exposed in the market. Various means were suggested to get over this difficulty, but none of them were deemed by the Committee of Ways and Means practicable. The committee were of the opinion that, if the planter were compelled from his own pocket to pay the tax upon the tobacco before he was allowed to expose it for sale and consumption in market, the annoyance, trouble, and vexation would be so great as to compel him to abandon the cultivation and engage in some other of the profitable pursuits opened to farmers and planters. They believed that a tax on the leaf would lessen the production of the article in the country, and in that way not only injure the general prosperity of the country, but diminish the revenue of the Government expected to be derived from this article. These, so far as I know, were the reasons which compelled the committee to take one of the wisest steps the committee did take in respect to the tax on tobacco, and that was not to tax in the leaf.

Mr. KASSON. Before submitting the motion that the committee rise, since this proposition of taxing the leaf has been raised, I desire briefly to state the converse of the views now presented by the gentleman from Kentucky. I concur in the action of the Committee of Ways and Means not at this time to amend the law by transferring the tax to the article in the leaf; but I am equally unwilling that my colleague upon the committee [Mr. MALLORY] should present the other view and send it forth to the country against any future change by the Committee of Ways and Means upon this question without having an opportunity to state briefly the advantage of the other system. And let me therefore say to him, and to the committee, that the burden upon the producer does not consist in the stage between consumption and production where you put the tax, but in the amount of the tax imposed, and its conformity or non-conformity with the customs and usages of commerce. If the consumer gets his article at so much cost, whether smoking or chewing tobacco, or cigars, it is immaterial to him in what stage between the producer and the consumer the tax is imposed. The consumer will buy if the article does not cost too much. If it does cost too much the consumer will stop or diminish the consumption. I am anxious, therefore, that the planters should further consider this question against another meeting of Congress; and they may possibly find that by the course we are now pursuing we more endanger the amount of consumption, and the market they now have for their tobacco, than by the course proposed by the friends of taxation on the leaf. Transfer the tax to the leaf without interference with the ordinary course of trade and you will find the market more uniform. The large manufacturers who furnish a reliable market to the producer, often accumulating large stocks, are restored, instead of being nearly ruined as now, and driven from the market by fraudulent dealers who evade the law without benefit either to the producer or the Government. You impose the tax solely upon the manufactured article, subject to all the frauds that characterize the collection of that tax at this day, and you practically prohibit the large manufacturers from the purchase of the large amounts which they

formerly assumed even when the market was overburdened, and thus relieved the producer from the accumulation of stock on his hands.

I maintain, therefore, not that you should tax the producer—by no means—but, as proposed in one of the bills offered in the House and referred to the Committee of Ways and Means, that you should take the ordinary channels of trade, and collect the tax after the article passes from the producer's hands for consumption, placing it in warehouses if necessary in the mean time. In that way you do not count the number of plants raised by the producer, nor require permits to produce, nor in any way embarrass production; you collect no tax from the producer; you simply say that after it gets into the market, and before consumption, the tax shall then be paid before manufacture, thus making it uniform on all manufacturers.

Having said so much by way of reply to the gentleman from Kentucky, I now, at the request of my colleague on the Committee of Ways and Means, [Mr. MORRILL], move that the committee do now rise for the purpose of closing debate on this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the tax bill, and had come to no resolution thereon.

Mr. MORRILL moved that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill be closed in three minutes after the committee should resume the consideration of the same.

The motion was agreed to.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the tax bill.

Mr. MORRILL. Mr. Chairman, I desire to say a word or two in relation to the subject which has just been discussed by the gentleman from Kentucky [Mr. MALLORY] and the gentleman from Iowa, [Mr. KASSON], the expediency of taxing leaf tobacco on hand. I know that the difficulties now are very great, and that such a provision could not be carried into effect without imposing upon the country a vast amount of expenditure, for we should have to establish warehouses and appoint inspectors in almost every town and county in the country. Such a system as that over our country would involve a vast amount of expense, for this article is not only cultivated in Pennsylvania and Connecticut, but there is not a single State in the Union where it is not now cultivated, and cultivated profitably.

A MEMBER. Do they cultivate it in Vermont?

Mr. MORRILL. Yes, even in Vermont.

Mr. Chairman, there is another great objection to the system which will be found in practice. In a country like England, where all of this article is imported, they can, of course, levy any amount of duty on the article; but in our own country, where every one may produce it if he pleases, if he merely owns a garden patch, it would be almost impossible to make every individual in the country render an accurate account of all that he produces; and if you interfere with this article by compelling the producer to carry this produce from the place of production to some place where it must be warehoused and inspected, in my judgment you will cripple the production of it.

[Here the hammer fell, the time allowed for debate having expired.]

Mr. MALLORY's amendment was disagreed to.

Mr. STEVENS. I now renew my amendment to insert after line five hundred and eighty-one, at the close of this paragraph, the following:

On vinegar, or acetic acid, there shall be levied and paid a tax of six cents per gallon: *Provided*, That no duty shall be levied on the material from which the vinegar shall be made.

Mr. MORRILL. I am aware that that amendment in some form has received the sanction of the Committee of Ways and Means, but believ-

ing, as I do, that it will be very mischievous, I hope that it will not be adopted.

The CHAIRMAN. No debate is in order. All debate upon this paragraph has been closed by the order of the House.

Mr. MORRILL. With all due deference to the Chair, I think that this amendment comes in at a point subsequent to that paragraph upon which debate was closed. It is upon an entirely different subject—is an independent proposition, and it is therefore in order to debate it.

The CHAIRMAN. The amendment, if adopted, would form part of the paragraph.

Mr. MORRILL. I then hold that it is not in order, not being germane to the paragraph.

The CHAIRMAN. That the Chair cannot tell, because he does not know what is in the section of the original law.

Mr. MORRILL. The amendment of the gentleman from Pennsylvania does not apply to any thing in the paragraph.

The CHAIRMAN. The Chair cannot determine that, because the Chair does not know what is in the original section.

Mr. STEVENS. I withdraw my amendment. Mr. THAYER. I move to amend by striking out the following:

By inserting in the last paragraph relating to cigars, after the words "imprisonment not exceeding thirty days," the words, "and any person furnished with such permit may apply to the assistant assessor or inspector of the district to have any cigars of their own manufacture weighed; and on receiving a certificate of the weight, for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the duty. A copy of the certificate shall be retained by the assistant assessor, and an inspector shall return the same to the assistant assessor of the district. The purchaser shall pack such cigars in boxes, and have the same inspected and marked or stamped according to the provisions of this act, and shall make a return of the same as inspected to the assistant assessor of the district, and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them, and before the same have been removed from the store or building of such purchaser or from his possession; and any such purchaser who shall neglect for more than five days to pack and have such cigars duly inspected, and pay the duties thereon according to this act, or who shall purchase any cigars from any person not holding such permit, the duties thereon not having been paid, shall be deemed guilty of a misdemeanor, and be fined not exceeding five hundred dollars, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars shall be forfeited and sold, one fourth for the benefit of the informer, one fourth for the officer who seized or had them condemned, and one half shall be paid to the Government."

There is a very good reason for this, as the Treasury would find, but as the committee has cut off debate, I cannot state it.

The amendment was rejected.

Mr. THAYER. I move to amend by inserting in line five hundred and sixty-nine, after the word "them," the words "to the collector of the district wherein they were manufactured," so that it will read, "and shall make a return of the same, as inspected, to the assistant assessor of the district; and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them, to the collector of the district wherein they were manufactured."

The amendment was adopted.

Mr. STEVENS. I now renew my amendment:

On vinegar, or acetic acid, there shall be levied and paid a tax of six cents per gallon: *Provided*, That no duty shall be levied on the material from which the vinegar shall be made.

The CHAIRMAN. Debate has been exhausted on the pending paragraph.

Mr. STEVENS. Then I move it as a new paragraph.

Mr. MALLORY. I move to amend the amendment by inserting in the proviso "and vinegar made from apples and grapes." I want to exclude that description of vinegar from taxation altogether.

The amendment to the amendment was rejected.

Mr. HOOPER. I move to amend the amendment of the gentleman from Pennsylvania by striking out the first word.

The CHAIRMAN. No debate is in order on the amendment.

Mr. STEVENS. Under the ruling of the Chair, which I dare say is right, I am disposed to withdraw the amendment.

The Clerk read the next paragraph of the bill.

Mr. STEVENS. I now renew my amend-

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ment, to insert it at the commencement of the paragraph. I offer it for this reason: a large quantity of vinegar is made out of what is called "singlings," a coarse kind of distillation, which is used for nothing else. Upon that article, which is afterward converted into vinegar, a duty of two dollars per gallon is levied, calling it "whisky." When it is converted into vinegar, it sells at thirty-three cents a gallon. Hence any one can see that in large distilleries no vinegar can be possibly made. It is to prevent the consequent enormous waste and breaking up of business that I have offered my amendment. The gentleman from Vermont [Mr. MORRILL] thinks it would open the door for fraud. I cannot see that. I cannot see how that article can be used in any other way than in the manufacture of vinegar. Hence it is that I have proposed to tax vinegar, but not to tax the second time the material out of which it is manufactured.

Mr. MORRILL. The gentleman from Pennsylvania says he cannot see how frauds will be practiced under the proposed amendment which he has offered. I will endeavor to show to the committee how they will be practiced, even though the gentleman from Pennsylvania may fail to see it. Under the amendment which he proposes the material from which the vinegar is made is not to be taxed. Of course, any person who holds a quantity of singlings has only to say, whether truly or falsely, that he holds it for the purpose of manufacturing vinegar, which will leave it exempt from taxation. It travels free, and cannot afterward be traced or followed. I think that, under these circumstances, we should have a great many vinegar manufacturers. The Committee of Ways and Means, in this bill, have already proposed that these singlings, if used for this purpose, shall be subject to duty only according to their actual proof, instead of paying a tax of two dollars per gallon; that is to say, if the singlings contain only thirty or forty per cent. of whisky, instead of the usual proof, they shall be subject to a *pro rata* duty, and not a duty of two dollars per gallon. That is all the relief that the Committee of Ways and Means at first thought it wise to give to this article; and all that I think it is now safe to give.

Now, let me state how fraud may be practiced in another way in this article. The committee will understand that it may be redistilled and made into whisky. Parties may therefore hold it for the very purpose of redistilling and making it into whisky; while to the collector and assessor they disavow or do not disclose any such purpose.

Mr. PENDLETON. If it is redistilled, does it not pay the tax of two dollars?

Mr. MORRILL. I conceive that, if parties be thus enabled to hold it for such a purpose, while disguising that purpose, we thereby lose the control of it. Once beyond our control, it will be impossible to recover it. Under the present circumstances, we have the control of it.

Then, again, Mr. Chairman, we are not only opening a wide door for the perpetration of frauds, but we are establishing a precedent, and a bad one. If one manufacturer has the right to demand that his whisky shall be exempted from tax, so has another. The vinegar manufacturer has no more right to demand that this article shall be free of tax than the maker of hats, who uses a large quantity of alcohol or whisky for the purpose of dissolving the gum employed in stiffening hats. So I might specify a large number of uses to which it is now devoted, and which equally demand relief, if any is given. I would, if it were practicable, cheerfully adopt some means by which we could relieve all who use it for another and a different manufacture. But, under the circumstances, I do think that scarcely anything would open so wide a door to frauds and evasions of all kinds as the proposition of the gentleman from Pennsylvania.

Mr. L. MYERS. Mr. Chairman, I do not wish to oppose the amendment offered by my distinguished colleague; but I trust that he will accept the amendment which I shall send to the

Clerk's desk; otherwise I shall offer it as an independent proposition. It covers, I think, the whole ground of what was originally intended. I do not know whether my colleague's amendment will be adopted; but if it should be I desire that my proposition shall be incorporated with it.

My colleague's amendment proposes to tax this vinegar directly. Probably it is the fairest way. Then the gentleman adds a proviso that the article from which the vinegar is made shall not be taxed. But, sir, there is a new process by which vinegar is manufactured from corn; and in view of this I think that the amendment would leave a loophole for misconstruction hereafter. The article from which the vinegar is made, the corn, would not be taxed; but the Commissioner of Internal Revenue would in all probability decide that under the law the fluid generated in the process of distillation in making this vinegar would be liable to be taxed. In the process of what has been termed by the Commissioner distillation, there is produced what he calls a "low wine," which has scarcely an appreciable relation to whisky—not further certainly than one and a half or two to fifty-five. It is an article useless for any other purpose, and which in reality should not be taxed. But by a previous section of this bill we have provided that the duties on it "shall be collected on the basis of the actual proof." I agree with my colleague that this is really in no degree a spirit or whisky which should be taxed. I hope, therefore, that his amendment will prevail if it includes in it what I suppose he meant, that neither the article from which this vinegar is made nor the fluid produced in the process of manufacture shall be taxed.

Mr. MORRILL. I desire to ask the gentleman from Pennsylvania [Mr. L. MYERS] whether this article could not be obtained from distilleries at this low proof, then mixed with other liquor of very high proof, and sold as whisky, without having paid any duty at all on the low proof.

Mr. L. MYERS. In reply to the gentleman I would state that this is in reality not spirits. It is, in fact, a different article—more like rain water than spirits. True, it was adjudged by the Commissioner of Internal Revenue to be a distillation, but it is not spirits within the intent of the term, is only produced in the process of this manufacture, and it is useless to suppose could be obtained from distilleries and mixed with liquors of high proof. Such a course would not benefit the party taking it, for it is not proposed to exempt this fluid where not made in the manufacture of vinegar, and the fraud would be detected and punished. Beside this, if distilled further or mixed with other distillations to make it spirits or whisky the tax upon it as such would have to be paid. I only desire to prevent the misconstruction which might arise hereafter, should we pass the amendment exempting the article from which vinegar is made, and not the fluid produced in the manufacture.

Mr. STEVENS. I see no objection, and will accept the amendment of my colleague, [Mr. L. MYERS.]

Mr. WILSON. Mr. Chairman, I desire to state a difficulty which it seems to me may arise under this amendment. Suppose a person applies to a distiller for the purchase of a large amount of whisky which he alleges he intends to convert into vinegar. If the sale is made for the purpose of having that whisky converted into vinegar no tax is paid. When it has passed into the hands of the purchaser and he sells it without converting it into vinegar, who is to pay the tax?

Mr. L. MYERS. I will answer the gentleman. He is wrong in his premises, and therefore wrong in his conclusions. It is not in this instance made from whisky. It is made from corn and other articles.

Mr. WILSON. My question was more to the gentleman's colleague than to himself. The amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] chairman of the Committee of Ways and Means, exempts all material used in the manufacture of vinegar. The manufacturer

may purchase from the distiller a large amount of whisky, alleging that it is for the purpose of making vinegar, and he will pay no tax upon it. If, then, instead of putting it into the market as vinegar, he puts it there as whisky, nobody pays a tax upon it. It seems to me that there is a difficulty which does open the door to fraud wider than the gentleman from Vermont has indicated.

Mr. STEVENS. In order to avoid that difficulty I will withdraw my amendment. Instead of saying the materials out of which it is made I will say "singlings."

The question recurred on Mr. STEVENS's amendment.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. STEVENS and MORRILL were appointed.

The committee divided; and the tellers reported—ayes 47, noes 49.

So the amendment was rejected.

The Clerk read, as follows:

That section ninety-six be amended by inserting, after the words "concentrated milk," the words "cider, sugar, and molasses, made from other articles than the sugar-cane."

The ninety-sixth section is as follows:

Sec. 96. And be it further enacted, That newspapers, boards, shingles, laths, and other lumber, staves, hoops, shooks, headings, and timber partially wrought and unfinished for chairs, tubs, pails, hubs, spokes, felloes, snaths, lasts, shovel and fork handles, match-wood, umbrella stretchers, alcohol made or manufactured of spirits or materials upon which the duties imposed by law shall have been paid, bone dust, plaster or gypsum, malt, burning fluid, printers' ink, flax prepared for textile or felting purposes until actually woven, marble and slate or other building stones in block, rough and unwrought, charcoal, coke, all flour and meal made from grain, bread, and breadstuffs, butter, cheese, concentrated milk, paraffine, whale and fish oil, value of the bullion used in the manufacture of silver ware, silver bullion rolled or prepared for platers' use exclusively, materials prepared for the manufacture of hoop skirts exclusively and unfit for other use, (such as cut tapes and small wares for joining hoops together,) shall be, and hereby are, exempt from duty. And also all goods, wares, and merchandise, and articles made or manufactured from materials which have been subject to and upon which internal duties have been actually paid, or materials imported upon which duties have been paid or upon which no duties have been imposed by law, where the increased value of such goods, wares, or merchandise, and articles so made or manufactured, shall not exceed the amount of five per cent. *ad valorem*, shall be, and hereby are, exempt from duty.

Mr. HOOPER. I move to strike out "sugar and," and insert "cider vinegar, sugar, or."

The amendment was agreed to.

Mr. HOLMAN. I move to add the following:

That the Secretary of the Treasury is directed to refund to the persons entitled to receive the same the taxes which have been collected from manufacturers of molasses from sorghum, under the act to which this is an amendment.

Mr. Chairman, I understood the gentleman from Vermont [Mr. MORRILL] to say yesterday that the principal object was to exempt molasses made from sorghum, or imphee, and that that was effected by the act of July, 1864. There is no question whatever but the gentleman from Vermont is correct. Section ninety-three provides that molasses produced from sugar-cane, and not from sorghum or imphee, shall pay a tax of five cents per gallon. In spite of this clear exception, the Commissioner of Internal Revenue has construed the act, and imposed this duty of five cents upon it, and it has been paid all over the country. These manufacturers have been required to pay it. Whatever the Commissioner may suppose to be the law, undoubtedly will be carried out. In this there has been a clear misapprehension of the law, and I think that the tax which has been collected ought to be refunded.

I know of no interest which under the circumstances is entitled to so much encouragement. I indorse the views expressed by the gentleman from Vermont in reference to a tax upon maple sugar. It was most ridiculous to suggest it, and I think that it was rather suggested for amusement than otherwise. Yet there is tenfold the reason for the encouragement of the manufacture of this article, which enters so largely into the social and domestic necessities. It needs encouragement, not by direct means, but by relieving it as far as may be from the burdens of taxation. I

hope we will do what is right in this matter, and refund the money which has been improperly paid.

Mr. MORRILL. I think if we were to go into the matter of executing the law, we should find plenty of business on our hands. In this case, as in all others, parties paying the tax have their proper remedy. They can appeal from the decision to the Commissioner of Internal Revenue. I trust the gentleman will not persist in his proposition, and if he does that the committee will vote it down. I think, however, that the parties to whom the gentleman alludes, as well as all others, will be entirely content if the law shall be so fixed that they shall not hereafter pay a tax upon this article.

The amendment was not agreed to.

The Clerk read the following clause:

That section one hundred and three be amended by inserting, after the words "foreign port," the words "and the amount actually paid for canal tolls by any person or company owning or possessing or having the care or management of any canal-boat or other vessel shall be deducted from their gross receipts," and by inserting, after the word "fare" wherever it occurs in the proviso to said section, the words "or freight."

Mr. STROUSE. I move to amend that clause by striking out all after the words "foreign port," the words "down to and including the word "freight," and inserting in lieu thereof the following:

And the amount actually paid for canal tolls, towing, and expenses of running or sailing any canal-boat, barge, or other vessel, shall be deducted from their gross receipts.

I offer this amendment for the purpose of doing justice to a very meritorious class of our citizens. I had the honor of introducing a resolution, which was referred to the Committee of Ways and Means, some time ago, embodying the principles of this amendment. The committee reported to some extent favorably upon it; but I believe they labored under some misapprehension in regard to it. I cannot better or more forcibly bring this matter to the attention of the committee than by having read one of the many memorials received by me from men engaged in boating upon our internal waters, but received too late to have them referred to the Committee of Ways and Means.

The Clerk read the memorial, as follows:

To the honorable the Senate and

House of Representatives of the United States:

The undersigned owners or lessees of boats engaged in the business of carrying coal on the waters of the Schuylkill canal, in Pennsylvania, respectfully represent, that under the provisions of section one hundred and three of the act of Congress, approved June 30, 1834, entitled "An act to provide ways and means for the support of the Government, and for other purposes," (the section referring to railroads, steamboats, ferry-boats, and bridges,) and the construction placed upon the same by the Commissioner of Internal Revenue, the tax imposed upon them is unduly burdensome, and in their view disproportionate with other subjects of taxation specified in said act, and operates greatly against the owners and lessees of canal-boats.

Those engaged in the business of carrying in canal-boats, for hire, are subject to the following expenses:

First. The investment in boat, mules, and gearing. Second. An annual taxation of ten cents per ton on the tonnage of the boat, payable at the custom-house in Philadelphia. Third. The expense of keeping the boat in repair; the feed and care of the mules or horses; the cost of loading, unloading, and wharfage; in trips to New York, the cost of towage and the expense and hire of workmen and boatmen to run the boat. Fourth. The toll due the canal company. Fifth. The general State and United States taxes.

Your petitioners represent that they do not object to a just and reasonable tax upon their earnings, but that under the provisions of said act, and the construction thereof by the Commissioner of Internal Revenue, they are compelled to pay a tax of two and one half per cent. on the gross amount which they collect, including all expenses of running the boat, loading and unloading, the amount of tolls and towage.

Your petitioners further represent that such taxation operates in such manner as to increase their tax in proportion to the increase of their expenses, a principle of taxation which they believe to be unjust. Your petitioners make the following estimate average of receipts and expenses of a canal barge of from one hundred and seventy-five to one hundred and eighty tons for the year 1864:

From Pottsville to New York about eight trips can be made in one season.  
For this the boatmen receive, per trip, about.....\$550 00  
Expenses of tolls, wharfage, labor, &c..... 485 00

Making net, per trip..... 65 00  
Which would make for eight trips, gross.....4,400 00  
And for eight trips, net..... 520 00  
But the internal revenue, two and a half per cent.  
on \$4,400, is..... 110 00

Which would make, for eight trips, net..... \$410 00

The cost of a canal barge of one hundred and seventy-five to one hundred and eighty tons is from \$2,300 to \$2,600.

The above sum of \$410 includes the personal services of the owner or lessee in running the boat. The wear and tear of the boat is not included in the above estimate.

Your petitioners therefore pray your honorable bodies to repeal the said section one hundred and three in said act, and to make such other just and reasonable legislation in lieu thereof as will not operate as against them.  
And we will ever pray, &c.

Mr. STROUSE. I do not know that I can add anything to this truthful statement made by the memorialists to the House and Senate. Although the memorial I have had read comes to me from the State of Pennsylvania, the statement of their complaints and grievances applies not only to Pennsylvania, but equally to the New York canal, the Ohio river, the Northwest, and the East.

It will be observed that, under the present law, the captain, the owner, or the contractor of the boat, pays two and a half per cent. upon the gross earnings of the boat; that is the entire amount, not excluding the amount paid out for tolls, for the hands, the bowman, the steersman, the driver, and other employes. Thus he is taxed two and a half per cent. upon money which is not his earnings, but which is paid out for the purpose of keeping the vessel in a condition to carry freight. Such an act is unjust, and I seek by my amendment simply to have the tax paid upon the net earnings only of the boat.

Mr. BROWN, of Wisconsin. I move a substitute for the entire amendment; I move to amend section one hundred and three of the tax bill, to which the pending clause refers, by striking out the words "shall be subject to and pay a duty of two and one half per cent. upon the gross receipts," and insert in lieu thereof the words, "shall be subject to an income tax of five per cent. upon the net receipts." I will explain my object. I have received numerous communications from the owners of vessels in my own State—and I know similar complaints are made elsewhere—that under the provision of the law by which you tax the gross receipts of vessels, you frequently tax parties who really derive no profit from the use of such vessels. The owner of a vessel may receive \$10,000 a year from its use as his gross receipts, and yet there may not be a single dollar of profits. A case of that kind was related to me in connection with this very provision.

Now, it seems to me that the taxation should be upon the profits derived from the use of the vessel. A man makes \$10,000 during the summer season perhaps, but in the fall his vessel encounters a storm and is partially wrecked. The repairs will eat up all his profits, and it will be adopting a new principle to refuse to deduct such charges and expenses.

I will change the language of my amendment, so as to make the words to be inserted read, "shall be subject to an income tax of two and a half per cent. upon all net receipts under \$3,000, and five per cent. upon all net receipts over \$3,000."

The CHAIRMAN. The Chair will state to the gentleman that the amendment proposed by him is not in order, as there are no such words as those he proposes to strike out.

Mr. BROWN, of Wisconsin. The amendment in the bill relates to section one hundred and three of the tax bill, and I move an entire substitute for that amendment.

Mr. MORRILL. Mr. Chairman, the amendment of the gentleman from Pennsylvania [Mr. STROUSE] and the amendment of the gentleman from Wisconsin [Mr. BROWN] are both designed to reach ultimately the same purpose. We have already made the experiment of trying to collect some revenue upon the net receipts of canal-boats, steamboats, &c., and found it a failure; we could not collect any considerable amount of revenue. The law was, therefore, changed so as to impose a tax of a smaller amount upon the gross receipts. The same principle was adopted in relation to railroads. The Committee of Ways and Means, upon representations from various parts of the country, thought that to include the tolls which these canal-boats actually pay was rather oppressive; and they have therefore proposed to relieve them from that part of the tax, and they do not propose to go further and include the various expenditures which the gentleman from Pennsylvania has included in his amendment. I think the parties generally will be satisfied with the proposition of the Committee of Ways and Means, and I hope that neither of the amendments will prevail.

Mr. PIKE. I appeal to the gentleman from

Wisconsin [Mr. BROWN] to withdraw his amendment until we can take a vote on the amendment of the gentleman from Pennsylvania, [Mr. STROUSE], and then I will offer a proposition repealing the duty on gross receipts altogether.

Mr. BROWN, of Wisconsin. I will withdraw my amendment for that purpose.

The question now being on Mr. STROUSE's amendment,

Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. MORRILL and STROUSE were appointed.

The committee divided; and the tellers reported—ayes 67, noes 47.

So the amendment was agreed to.

Mr. PIKE. I now move to insert after the words "foreign ports," in line five hundred and ninety-eight, the words "nor upon the receipts of any vessel subject to tonnage duty." The act of July last provided for a tax of two and a half per cent. on the gross receipts of coasting vessels. I am told that the amendment of the gentleman from Pennsylvania [Mr. STROUSE] embraces my amendment. I would like to have the clause read as it now stands.

The Clerk read the clause as amended.

Mr. PIKE. That does not answer my purpose. My proposition is entirely different. The proposition which has been adopted by the committee is to tax the net receipts. My proposition is to exempt coasting vessels altogether from the taxation of two and a half per cent., in order to have the tax placed upon tonnage as a tonnage duty. The present tax of two and a half per cent. upon the earnings of coasting vessels does not apply to foreign vessels. The provincial vessels which come into our markets with similar cargoes to our coasting vessels do not pay the two and a half per cent., while our vessels running alongside of them have to pay the two and a half per cent. On the river upon the banks of which I live a vessel casts off from the wharf on one side of the river and carries her cargo to Boston or New York, and she pays a duty of two and a half per cent. upon her freight; but a vessel which casts off from the other side of the river does not pay it. It is consequently a bounty to provincial vessels. A large amount of foreign shipping, made so by transferring American shipping to the amount of five hundred thousand tons, is, by the act of July last, exempt from taxation. My proposition is that it shall pay a tonnage tax, and in that way we shall obtain more revenue than under the present system, and lay the tax upon foreign as well as upon domestic tonnage.

Of course in this bill we cannot lay a tonnage tax; but the Committee of Ways and Means propose to bring in a bill to revise the tariff, and in that way we can lay a tonnage tax. It is a matter of considerable moment. A tonnage tax of twenty cents a ton would yield \$3,500,000 annually. I am not satisfied of the amount that this two and a half per cent. tax will yield; but I have no idea that it will yield one third that amount, for, according to the decision of the Commissioner, this result comes to pass: if a man owns the vessel and cargo he pays no tonnage tax, because the Commissioner decides that the vessel does not earn money separately from the ownership, and that consequently she is not liable to be taxed. But if a man does not happen to own both vessel and cargo, and he sends his vessel abroad for hire, he is obliged to pay a tonnage tax.

Mr. SPALDING. Mr. Chairman, I am opposed to the amendment, and for this reason: an act was passed at the last session of Congress regulating the admeasurement of vessels, and the effect of it has been that many of our screw-propeller freight vessels on the lakes, that would carry perhaps four hundred and fifty tons of freight, are made to measure eighteen hundred or two thousand tons; and now, if this tax be laid on the tonnage, we shall be "jumping from the frying-pan into the fire."

I would not object to the tax on tonnage if the tonnage were made up under the old law. I believe that the evils under which transportation companies labor are remedied by the amendment proposed by the gentleman from Pennsylvania, [Mr. STROUSE], and, as representing the commercial interests of the lakes, I am content with that.

Mr. BLAINE. I desire to add a single word, Mr. Chairman, in support of the pending amendment, and I shall consume the brief time allowed



me in illustrating the point at issue by a practical example, the details of which are personally known to me.

During the past summer a ship-owner in my district—a highly responsible and intelligent gentleman—chartered to Government a vessel of four hundred and fifty tons to carry a cargo of coal from Philadelphia to New Orleans, for the gross sum of \$6,000. For the vessel's disbursements in Philadelphia for painting, calking, repair of sails, manning, provisions, and port charges, the captain drew on the owners for \$3,075 35. For the vessel's disbursements in New Orleans for various charges the captain drew for a further sum of \$1,410 70. Procuring no business in New Orleans she was compelled to proceed to Boston in ballast, where to pay off her crew and meet other expenses there was a further disbursement of \$1,176. At Boston the vessel chartered to go to Philadelphia in ballast for cargo, and at Philadelphia, before a dollar of the new charter was available or even earned the captain again drew for \$576. Total disbursements from time of leaving Philadelphia to return for another cargo, \$6,238 05.

At this point the Government paid the \$6,000 in certificates of indebtedness, then selling at ninety-four, the owners thus receiving but \$5,640 in cash for the period during which the actual disbursements in cash were \$6,238 05, showing a net cash loss for the time of about six hundred dollars, or, to be precisely accurate, \$598 05, besides the interest on advance, nearly two hundred dollars more.

And now, sir, after this melancholy experience the tax collector came forward and demanded of the owner of the vessel two and a half per cent. on the \$6,000 which the Government paid as above, and on top of all losses already incurred actually compelled him to pay \$150 under that section of the internal revenue law which we are now seeking to amend. And the example I have given, sir, is by no means solitary. The experiences of very many ship-owners engaged in the coasting trade would show similar dismal results, and the conviction among that entire class of men—as honorable and patriotic citizens as the Republican boast—is that the law is oppressive in the extreme and based on radically erroneous principles of taxation.

There is no analogy between this tax on the gross receipts of vessels and the tax on the gross receipts of railroad companies. In the case of the railroads the law allows them to add the tax directly upon the regular rates of fare, and many of the companies have construed this in the scriptural sense of liberality—being asked for one mile, they readily go the "twain." But this mode of relief, or of shifting the burden upon the general public, is not practicable in the case of vessels. There is no way in which it can be evaded or dodged or placed on other shoulders or divided between other parties. It comes remorselessly upon the enterprising ship-owner, and whether his voyage has been a profit or a loss, whether it enriches or impoverishes him, the tax is all the same, without discrimination and without mercy. A man's profit in business affords a fair basis of taxation; but it is a cruel mockery of one's misfortune to assess a tax upon losses. I trust, therefore, Mr. Chairman, that this unwise and unjust tax will be repealed, and that the commercial men of the country who do so much to sustain our finances and our honor will be relieved from its oppressive exactions.

Mr. BROWN, of Wisconsin. I move an amendment in the nature of a substitute, to strike out the whole clause, and insert in lieu thereof the following:

That section one hundred and three be amended by striking out the words "two and a half per cent. upon gross receipts" and inserting "two and a half per cent. upon the net receipts under \$3,000, and five per cent. upon the excess."

The amendment of the gentleman from Maine, in favor of which I withdrew my substitute, does not reach the evil as regards the lakes. The evil, as the gentleman from Maine has just remarked, is that the vessel-owners pay a tax upon their losses and also upon their expenses; whereas the true foundation of the tax should be the net earnings. I propose, in my amendment, to adopt the principle of taxing the net earnings of those vessels; and this obviates as well the ob-

jection which the gentleman from Maine raises as applied to coasting vessels, as the objection raised by the vessel-owners on the lakes.

Mr. BLAINE withdrew his amendment.

The amendment of Mr. PIKE was agreed to.

The substitute of Mr. BROWN, of Wisconsin, was adopted.

Mr. WORTHINGTON. I move to amend by adding the following:

That section one hundred and three be amended by adding the following after the word "vehicle:"

*Provided*, That this section shall not apply to those teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufacture, or to the teams or vehicles used in the transportation of ores from the mines where the same are excavated to the place where they are reduced or worked.

Mr. Chairman, I offer this amendment to obviate any difficulty that might arise from the uncertainty of the phraseology of section one hundred and three of the law of 1864. The revenue officers in the State of Nevada are already collecting from the teamsters and those engaged in hauling logs as well as mineral ores a general tax of one half of one per cent. upon the gross proceeds, necessarily collectible only after the reduction of the ores. This operates as a hardship, and if continued will involve the suspension of that sort of business; for it is frequently a greater percentage than the teamsters receive for their labor. No one can know the value of the rock until after its reduction. Very often rock that is considered valuable fails to pay the necessary expenses of reduction.

I do not suppose that the imposition of this tax was contemplated when the act was passed; but as the Commissioner of Internal Revenue has decided that this tax is properly levied in such cases, I think it eminently just that this amendment should be adopted, in order to remedy the hardship that now exists.

The amendment was agreed to.

Mr. HOOPER. I move to amend by inserting, after line six hundred and ten, the following:

That section one hundred and ten be amended by inserting after the words "1st day of July, 1864," the words, "*Provided*, That on and after the 1st day of July, 1865, in lieu of the rates of duty on circulation prescribed by this section, there shall be levied, collected, and paid, a duty of one quarter of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person; and from and after the 1st day of January, 1866, a duty of one half of one per cent. each month upon the average amount of such circulation as aforesaid. And whenever the outstanding circulation of any bank, association, corporation, company, or person, shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital, said circulation shall be free from taxation. And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its circulation; or, in case a national banking association shall become the owner or possessor of the assets, or liable for the redemption of the circulation of any State bank that has surrendered its charter or ceased to exist, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per cent. of the capital of such State bank or banking association."

Mr. HOLMAN. I rise to a point of order. My point is, that this is not properly an amendment to the pending bill, but is an amendment to the original act. I submit that it is not germane to any provision of the bill now before the House.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HOLMAN. I very respectfully appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Massachusetts [Mr. HOOPER] proposes to insert at the end of line six hundred and ten an amendment to section one hundred and ten of the original act. Upon that the gentleman from Indiana raises the point of order that section one hundred and ten not being embraced within the amendments presented by the committee, it is not now in order to amend that section of the original act. The Chair holds that the pending bill brings up the whole of the original act, and therefore he overrules the point of order. The gentleman from Indiana appeals from the decision of the Chair.

Mr. HOLMAN. I withdraw the appeal.

Mr. HOOPER. Mr. Chairman, I wish to say, in regard to that amendment, that it has been prepared with some care to carry out the recommendation of the Secretary of the Treasury in his annual report, and also the recommendation

of the Comptroller of the Currency. One object is to put a tax upon the circulation of the State banks which have been converted into national banks, or which have gone out of existence and their circulation assumed by the national banks, which shall be sufficient to put a stop to their circulation. The other, and I may say the principal object, is to bring about one system of currency or bank paper throughout the country. So long as State banks continue to issue circulation it is intended to put a larger and disproportionate tax upon it. Another object is to require national banks which have assumed the circulation of State banks that have gone out of existence to make returns, as there seems no one now required by law to make such returns.

Mr. WILSON. I propose the following as a substitute:

That section one hundred and ten be amended by inserting after the words "1st day of July, 1864," the words, "*Provided*, That on and after the 1st day of April, 1865, in lieu of the rates of duty on circulation prescribed by this section, there shall be levied, collected, and paid, a duty of one half of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person; and from and after the 1st day of September, 1865, a duty of one per cent. each month upon the average amount of such circulation as aforesaid. And whenever the outstanding circulation of any bank, association, corporation, company, or person, shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital said circulation shall be free from taxation. And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its circulation; or, in case a national banking association shall become the owner or possessor of the assets or liable for the redemption of the circulation of any State bank that has surrendered its charter or ceased to exist, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per cent. of the capital before such conversion of such State bank or banking association; and no national banking association after it shall have received from the Comptroller of the Currency any of its notes for circulation, shall pay out the notes of any State bank or banking association; and no State bank or banking association shall issue for circulation any notes of its own or of any other State bank or banking association after the 1st day of April, 1865."

Mr. Chairman, I was not one of those who in the Thirty-Seventh Congress voted for the adoption of the present national banking law. I did not believe that it was for the interest of the country to adopt that system of banking. I did, however, vote for the amendatory act because I thought that was an improvement of the original one. But it is now the established policy of the Government, and I think that it should be made the exclusive policy of the country so far as banks of issue are concerned. In order to arrive at that end I propose by this substitute to prohibit State banks or banking associations issuing notes for circulation after the 1st day of April, 1865.

I regard as next in importance to taxation the reduction of the volume of the currency, because it will make our taxes of greater value, although the same in amount, and reduce the price of everything the Government has to purchase. Now, sir, I do not think that it is owing to the issue of paper currency that the price of everything in the country is so inflated, for I presume that a like amount of gold and silver in circulation would produce the same effect. We have an example of the effect produced in California where the circulation is gold and silver. I will read, in illustration of this idea, an extract from a work on foreign and domestic commerce:

"It is contended by the commercial journals of San Francisco that the currency of California, which is mostly coin, is more abundant in proportion to population and wealth than that of the Atlantic States. The *Mercantile Gazette* of February 12, 1864, represents the amount in circulation on the Pacific coast at \$25,000,000; that the population of California with adjoining State (of Oregon) and Territories is six hundred thousand; which gives \$41 60 per capita. The total value of real and personal property on the Pacific coast is estimated by the *Gazette* to be \$340,000,000, of which \$25,000,000 is about seven percent. The currency of the loyal States east of the mountains, notwithstanding its expansion to meet the exigencies of the nation, is below those ratios to population and property. The population of the loyal States and of the insurrectionary districts which are held by the Army (in June, 1864) is twenty-four million. If the currency was at the California standard—forty-one dollars per capita—its aggregate amount would be \$984,000,000; and a proportion of seven per cent. upon the total valuation of property would give an equal aggregate."

This shows that the amount of specie circulation on the Pacific coast is greater per capita than is the paper circulation in the remainder of the

loyal States. The effect on prices produced by an inflated specie currency in the Pacific States is the same as that produced by the expansion of a paper circulation in the Atlantic States. When we have too much money, of whatever kind, prices will advance. It is not the kind of circulation, but the quantity, of whatever kind, which produces the effect which it is our duty to remedy. I have in my possession a list of prices, showing the cost of almost every article which enters into the consumption of every family in the markets of San Francisco, and which illustrates the effect of an expansion of the specie currency better than I could do by any argument which I could present to the committee. The statement is as follows:

"I will give you a list of the prices of the leading articles in our family markets at the present time, to enable your readers to form an idea of the cost of living in San Francisco: Porter-house steaks, 20 cents; sirloin steaks, 15 cents; pork, 15 cents; flour, per barrel, \$12; potatoes, 5 cents per pound; California butter, choice fresh, \$1 per pound; in rolls, 75, 60, and 50 cents per pound, for Nos. 1 and 2; Oregon butter, 40 to 45 cents, as in quality; Isthusus butter, 40 to 50 cents for choice Orange county, New York, and 37½ to 45 cents for cooking butter. Lard, 25 cents per pound for city rendered, and 20 cents for old Eastern. Cheese, 30 cents per pound for all grades ordinary, and 35 cents for choice dairies. Sage, 50 cents per pound. Eggs, 80 cents per dozen for good. Honey, 40 cents per pound for old, and 50 cents for new comb and strained. Cranberries, 35 cents for Eastern, and 30 cents per quart for new crop Oregon. Oysters, 50 cents per can, or \$5 per dozen for McMurray's. Hams, 20 cents; bacon, 20 cents; and dried beef, 20 cents per pound. Chickens, so poor that they could not be given away in Chicago, 75 cents to \$1 each. Brent geese, (wild), 37½ cents each. Swans, \$1 each. Canada geese, (wild), 75 cents each. Ducks, (wild), 25 to 37½ cents each. Quail, \$2 25 to \$3 50 per dozen. Turkeys, 25 to 30 cents per pound, live weight. Tame ducks, \$1 25 each. Apples, \$1 50 to \$2 50 per box of 50 pounds; No. 1, 5 to 8 cents per pound; pears, cooking, \$1 50 to \$2 50 per box; pears, table, 4 to 10 cents per pound; dried plums, 10 to 25 cents per pound; dried peaches, 10 to 15 cents per pound; quinces, 6 to 9 cents per pound; California grapes 4 to 10 cents per pound; foreign do, 15 to 37½ cents per pound; figs, 6 to 15 cents per pound; strawberries, 40 to 75 cents per pound; codfish, 6 cents per pound; rockfish, 6 cents per pound; snicels, 6 cents per pound; tomcods, 18½ cents per pound; sturgeon, 3 cents per pound; sea bass, 5 cents per pound; flounders, 15 cents per pound; shrimps, 10 cents per pound; salmon, 10 cents per pound; halibut, 25 cents per pound; herrings, 5 cents per pound; perch, 6 cents per pound; whole sea bass, weighing 25 to 50 pounds each, \$1 each.

"These prices, it must be borne in mind, are for coin, not paper money, and the price of the fish is only one half what it usually is, owing to a strike of the Italian fishermen, who have risen *en masse* recently against the regular markets, and have established one of their own, in which they sell as above, in order to drive their opponents out of business. Wood is \$11 to \$12 per cord, and coal in proportion."

Now, I find that those prices correspond with the prices we have in Washington, Baltimore, Philadelphia, New York, Boston, and other eastern cities, showing that the same effect is produced in California by the expansion of gold that is produced in the eastern States by the use of paper. The only remedy we can have is a reduction of the volume of the currency in order that it may be brought down to the standard required by the legitimate demand of the business of the country. This remedy we ought to apply without delay, and in the most effective way. Every interest demands this at our hands.

[Here the hammer fell.]

Mr. DONNELLY. I offer the following amendment to the amendment offered by the gentleman from Massachusetts, [Mr. Hooper:]

Provided, That banks incorporated under State authority, with a less capital than \$50,000, whose circulating notes are secured wholly by deposit of bonds of the United States, at their par value, to the amount of ten per cent. beyond the amount of their circulating notes, shall be taxed upon their circulation and deposits in the same manner, and at the same rates, as are or may be prescribed for the taxation of national banks.

The purpose of the amendment offered by the gentleman from Massachusetts is to compel a demand for the purchase of United States bonds. The banking law, however, fixes the limit of the amount of capital necessary for one of these banks at \$100,000, with a proviso that banks with a capital of \$50,000 may be established upon special permission being granted by the Secretary of the Treasury. That permission is, however, very difficult to obtain. I offer this amendment because in our western States, particularly in such States as Wisconsin and Minnesota, where banking associations are necessary for the convenience of the people and for the movement of our grain crops to the eastern markets, capital is necessarily scarce; and it is difficult to procure in our smaller towns a sufficient amount to estab-

lish a bank under the requirements of our national banking law. Our State banking system, however, requires a deposit of United States stocks or State stocks, with a margin of ten per cent. beyond the amount of circulation. Most of our banks are established upon United States stocks, and their capital does not usually exceed, for each bank, \$25,000.

It is impossible in the condition of our country—and this remark applies equally to Wisconsin, Iowa, and other western States—to obtain in the smaller towns capital enough to comply with the national banking law. Therefore the failure of these banks to become national banks does not spring from any resistance to the national banking law, but from the circumstances of the case. It seems to me that if these banks are founded, as nearly all of them are in my State, upon United States stocks, they afford to that extent a market for these bonds, and they should not be discriminated against in our tax laws. In other words, their not entering under the national banking law is due to the difficulties which surround the circumstances of the case, and which pertain to all new communities, sparsely settled and with little capital; and I take it that if they comply as fully as they can by the purchase of United States stocks with the spirit of the national banking law, they should not be discriminated against in the matter of taxation. They do not strictly come within the intention of the amendment offered by the gentleman from Massachusetts, which is to force out of existence banks founded upon State stocks, and to compel them to purchase the stocks of the United States and establish national banks.

Mr. WILSON. I rise to oppose the amendment. I think that might be a proper amendment, if offered to the national banking law, but not to the amendment offered by the gentleman from Massachusetts.

Now, sir, as I remarked when my time expired, I think it our duty to reduce, so far as we can, the volume of the currency now in the country, which has led to the enormous inflation of prices of all commodities. While we are imposing burdens upon our people by taxation, and sorely afflicting many of the industrial interests of the country, I think we should accompany such legislation with some provision which will tend to increase the value of the money we are using for the purpose of carrying on the affairs of the Government and the trade and commerce of the country in every department. I know of no other way than to prohibit the issue of notes for circulation by the local banks of the States. National banking associations are increasing every day, and in this way millions are being added to the circulation. This will go on until notes representing the entire \$300,000,000 of national banking capital shall be put in circulation. We must, then, look to a destruction of the issues of the State banks as the only remedy we can apply at the present time.

Certainly there can be no question about our power to do this under the power conferred upon Congress to regulate commerce, and to do whatever is necessary and proper to carry into effect the powers delegated to the legislative department of the Government. From that power we derived the authority to establish a system of national banking; and having assumed jurisdiction with reference to the currency of the country, we have a right to prohibit the States from authorizing the issuance of bank notes, as a means necessary to preserve the value of the circulating medium authorized by Congress. I think the sooner we apply the remedy the better it will be for all concerned; and instead of postponing, as the gentleman from Massachusetts proposes, the operation of the tax until the 1st of January next, increase the rate, shorten the time, and prohibit new issues, as my substitute contemplates. The Government and the people need relief now, not next year.

In order to make the remedy more perfect than that proposed by the gentleman from Massachusetts, I have somewhat modified his amendment, and added thereto the provision that after the 1st of April, 1865, those State banks shall issue no notes of their own or the notes of other State banks. That will drive home all the issues of State banks and relieve us to the extent of the amount of currency now in circulation and issued by the State banks. If this amendment should be adopted now, the provision of the section es-

tablishing the tax upon circulation would have but little to operate on, for the reason that all local and national banks being prohibited from paying out the currency of State banks, it will be driven home for redemption, and in a few months all this class of notes will have disappeared from circulation.

Mr. CLAY. I would ask the gentleman if his mode of relieving the currency is to kill one State bank in my town and start three national banks in its place?

Mr. WILSON. The question which the gentleman propounds only opens up a broader field, exhibiting the difficulties under which the nation is now laboring more fully than I have yet presented. Of course there may be banks created in the town in which the gentleman resides under the national banking system whether we prohibit the issue of notes for circulation by local banks or not. The only question is, whether, having determined to establish national banks, we will not do something to curtail the volume of the currency, instead of increasing the number of banks and thereby increasing the volume of the currency, without any check on the local State institutions.

I will suggest also that the bank to which the gentleman from Kentucky refers may change its organization and carry on its operations under the national banking law. This amendment offers them a choice between operating under the charter granted by the State and organizing under the national banking system. If they continue under the State charter, under the provisions of this amendment, they will be prohibited, after the 1st of April next, from issuing notes under and by virtue of the powers they derive from the State. My sole purpose is to reduce the volume of the currency of the country, thereby adding to the value of that which is left; not to make war upon any bank or any banking system, but simply to apply a remedy which shall reduce the volume which is now disastrously affecting every interest in the whole country. While I am voting taxes on the people I want to make the money worth something more than it is, so as to prevent as far as practicable an unnecessary accumulation of the national debt.

[Here the hammer fell.]

Mr. HOOPER. I rise to oppose the amendment of the gentleman from Iowa, [Mr. Wilson.] I concur entirely in the views of the gentleman, but I think his measure is too sharp upon the banks; that more time should be given to them to draw in their circulation before this law takes effect upon them. If the gentleman would change the dates in his amendment, so as to make them the same as those in mine, I should be better satisfied with it, although I think that both the times and the rates in the original amendment are quite sufficient to answer the purpose that he has in view as well as myself.

Mr. STEVENS. Is an amendment to the text still in order?

The CHAIRMAN. An amendment to the substitute is still in order.

Mr. STEVENS. Not to the text?

The CHAIRMAN. Not to the text. There is an amendment to the amendment already pending.

Mr. STEVENS. I supposed that an amendment to the text would be in order, as the pending amendment is to strike out the whole text.

The CHAIRMAN. Not at the present stage.

Mr. STEVENS. Well, as it is nearly half past four o'clock, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS. I intend to offer at the end of this bill some additional sections to regulate the course of the planets. [Laughter.] I ask that my amendments may be printed.

It was so ordered.

EVENING SESSION DISPENSED WITH.

Mr. MALLORY moved that the evening session be dispensed with for to-day.

Mr. ASHLEY demanded tellers.

Tellers were ordered; and Messrs. GARFIELD and MALLORY were appointed.

The House divided; and the tellers reported—ayes 66, noes 40.

Mr. MORRILL demanded the yeas and nays. The yeas and nays were ordered.

Mr. COX. Can we conclude the call of the roll before the time for taking the recess arrives?

The SPEAKER. The usage always is that if a roll-call is commenced it has to be completed. If the vote results in dispensing with the evening session, then the House will be ready to adjourn forthwith; if it should not be dispensed with, the House would immediately, on the completion of the call, take a recess until seven o'clock.

Mr. KASSON. Will it be in order to state to the House that to-morrow our session will necessarily be interrupted? [Cries of "I object!" "Order!"]

The SPEAKER. Debate is not in order.

The question was taken, and it was decided in the affirmative—yeas 70, nays 56, not voting 56; as follows:

YEAS—Messrs. Ancona, Anderson, Bailly, Augustus C. Baldwin, Brooks, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Cobb, Cox, Dawson, Denison, Eckley, Edgerton, Eldridge, Farnsworth, Finkel, Frank, Ganson, Grider, Griswold, Hale, Hall, Harding, Charles M. Harris, Herrick, Holman, Ingersoll, Philip Johnson, Kalbfleisch, Law, Lazear, Le Blond, Loan, Long, Mallory, McKimney, Middleton, William H. Miller, Daniel Morris, James R. Morris, Leonard Myers, Nelson, Odell, John O'Neill, Orth, Pendleton, Pruyn, Radford, William H. Randall, James S. Rollins, Ross, Schenck, Smithers, Spalding, John B. Steele, William G. Steele, Stiles, Strouse, Sweet, Townsend, Tracy, Wadsworth, Ward, Webster, Whaley, Williams, and Winfield—70.

NAYS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Broomall, Cole, Dawes, Deming, Dixon, Donnelly, Driggs, Eliot, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Julian, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Shannon, Stevens, Thayer, Upson, Van Valkenburgh, William B. Washburn, Wilder, Wilson, Windom, and Worthington—56.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Arnold, Blaine, Blair, Bliss, Boyd, Brandegee, Ambrose W. Clark, Coffroth, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dumont, Eden, English, Grinnell, Harrington, Benjamin G. Harris, Hotchkiss, Hutchins, Jencks, William Johnson, Francis W. Kellogg, Keruan, King, Knapp, Marcy, McAllister, McDowell, McIndoe, Morrison, Noble, Norton, Perry, Price, Samuel J. Randall, Robinson, Rogers, Scofield, Scott, Sloan, Smith, Starr, Stuart, Thomas, Voorhes, Elihu B. Washburne, Wheeler, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—58.

So the evening session was dispensed with.

#### CORRECTION OF ERROR.

Mr. BEAMAN, by unanimous consent, offered a resolution directing the Clerk to request the Senate to return to this House the joint resolution (S. No. 42) in order to correct an error in the engrossment of an amendment thereto; which was read, considered, and agreed to.

#### TERRITORY OF WYOMING.

Mr. ASHLEY, by unanimous consent, reported from the Committee on Territories a bill to provide a temporary government for the Territory of Wyoming; which was ordered to be printed and recommitted.

#### BRIDGE OVER THE OHIO.

Mr. HOLMAN. I rise to a privileged question. I call up the motion to reconsider the vote by which Senate bill No. 413, to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road, was referred to the Committee on the Post Office and Post Roads.

The question was taken, and the vote was reconsidered.

The question recurring on referring the bill to the Committee on the Post Office and Post Roads, Mr. HOLMAN said: I hope the bill will not be referred, but that the House will pass it now. The motion to refer was not agreed to.

The bill was then read the third time.

Mr. ALLEY. I desire to say that the subject has been under consideration in the Committee on the Post Office and Post Roads, and that the passage of the bill is recommended.

Mr. HOLMAN moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered, and under its operation the bill was passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HOUR OF MEETING TO-MORROW.

Mr. MORRILL. As the House will be able to sit but a short time to-morrow, in consequence of an obituary announcement, I ask, at the request of several gentlemen, that, by unanimous consent, we meet to-morrow morning at eleven o'clock.

Mr. COX. I object.

#### TRANSFER OF DISABLED SURGEONS.

Mr. INGERSOLL, by unanimous consent, introduced a bill to provide for the transfer of regimental surgeons, who have been disabled while in the line of their duty, to duty as post and hospital surgeons; which was read a first and second time, and referred to the Committee on Military Affairs.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS. I move that the legislative appropriation bill, which has been returned from the Senate with amendments, be taken from the Speaker's table, and referred to the Committee of Ways and Means.

The motion was agreed to.

#### WAR-VESSELS ON THE LAKES.

Mr. KELLOGG, of Michigan. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing the Secretary of the Navy to purchase or construct one or more vessels of war on the northern and northwestern lakes.

Objection being made, the resolution was not received.

#### BUREAU OF LIFE INSURANCE.

Mr. ALLEY. I move that the Committee on the Post Office and Post Roads be discharged from the further consideration of the petition of C. B. Smith and others, for the establishment of a Bureau of Life Insurance, and that said petition be referred to the Committee of Ways and Means.

The motion was agreed to.

Mr. HOOPER. I move that the petition be printed.

The motion was agreed to.

#### BRIDGE AT LOUISVILLE.

Mr. MALLORY. I ask that, by unanimous consent, the House take from the Speaker's table and consider Senate bill No. 392, an act supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads."

There being no objection, the bill was read a first and second time. It authorizes the Louisville and Nashville Railroad Company, and the Jeffersonville Railroad Company, stockholders in the Louisville Bridge Company, to construct a bridge over the Ohio river at the head falls of the Ohio, and specifies the conditions and restrictions under which the work shall be executed. It also provides that the bridge when erected shall be a lawful structure, and shall be recognized and known as a post route.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MALLORY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

And then, on motion of Mr. ELDRIDGE, the House (at a quarter before five o'clock, p. m.) adjourned.

#### IN SENATE.

WEDNESDAY, February 15, 1865.

Prayer by the Chaplain, Rev. THOMAS BOWMAN, D. D.

The Journal of yesterday was read and approved.

#### DEATH OF SENATOR HICKS.

Mr. JOHNSON. Mr. President, it is my painful duty to announce to the Senate the death of my late colleague and friend, THOMAS HOLLIDAY HICKS. The sad event occurred at his lodgings in this city on Monday morning, the 13th instant, at seven o'clock. A few days of indisposition, so apparently slight as to give his friends no uneasiness, was, without any seeming premonition,

followed on the Friday before his death by a sudden attack of paralysis, so severe that its fatal result was at once seen to be inevitable and near at hand. It rendered him speechless, but did not so affect his mind but that he recognized the friends around him, and by whom, to the last, he was carefully and affectionately attended, until within a few hours of his decease. Governor HICKS (a title by which he is best known and will be ever gratefully remembered, not only by Maryland but by the nation) was born in Dorchester county, Maryland, on the 2d of September, 1798. His parents were highly respectable, but with a large family and limited means they were unable to give their son a collegiate education. What he was taught was merely rudimental, and this was acquired in one of the common schools of the county.

His father being a farmer, Governor HICKS assisted him in that occupation until his minority terminated, when he commenced a career of his own. With manners and disposition that were native to him, and well calculated to win esteem and confidence, he was at an early age made a constable of his county, an office humble but trustworthy, and discharged its duties so satisfactorily that in 1824, at the early age of twenty-six, he was elected its sheriff, an office of high grade and of much importance and responsibility. This office also he conducted with an intelligence and integrity that commanded general approval, and gave him even a stronger hold on the popular judgment. Its term expired, he engaged in mercantile business in Vienna, a village in his county, and in this position his diligence and integrity were again exhibited. In 1836 he was elected a member of the electoral college which at that period appointed the Senators of the State, and in the proceedings which ensued, and which for a time filled our citizens with solicitude, and attracted the attention of the whole country, he conducted himself with his accustomed discretion and firmness, and evinced his inherent love of law and order. He was at one time one of the Governor's Council, a station of the greatest trust and honor, and for several years was elected by the people of Dorchester a member of the House of Delegates of the State; and on each occasion so discharged his duties as to retain their confidence. In 1838 he was appointed by the Governor register of wills of the county, and when the office was made elective by the people he was twice elected to it, and would have been a third time if he had not declined it. In this official and important trust he again displayed business capacity and perfect integrity. In 1849 and 1850, by the choice of his uniformly confiding constituents, he was elected to the constitutional convention of the State, and discharged its duties faithfully and with ability. He was afterward chosen by popular vote Governor of the State, and held that station when the present rebellion commenced and until 1862.

It is his official conduct in that office that has made his name so well and favorably known to every loyal man in the Union.

During this period his responsibility was such as to task his firmness and his judgment, and to test his patriotism. They proved equal to the emergency. With a people whose feelings, from their locality and sameness of habits and institutions, were so well calculated to cause them to sympathize with our southern brethren, and who were sensitively alive to any interference with that particular institution they had known and possessed from the colonization of the States, and in which their pecuniary means were largely invested, with business and social relations closely binding them to the South, it was not surprising that they should for a time forget the paramount duty which they owed to the General Government, or be blind to the consequences that were sure to follow an attempt to dissolve the Union which that Government created, and was wisely designed, and endowed with powers amply adequate, if properly exerted, to preserve forever.

In this interval of temporary forgetfulness an excitement amounting to madness threatened the State with a fraternal war, and with driving her into the rebellion, that would have made her soil the battle-ground of the strife which has deluged every seceding State in blood, and would certainly have involved her in ruin. Against every effort that ignorance or ambition could essay to effect the insane and wicked purpose, Governor



Hicks interposed the whole power of his office, and succeeded in defeating it. Nor was this accomplished without personal peril. In April, 1861, when the blood of the loyal soldiers of Massachusetts was treasonably shed in the streets of our chief city, and its power for some days was wielded by men who, for the most part, were resolved on rushing the State into rebellion, it was obvious to those who witnessed the scenes of the day, and moved among the parties who engaged in them, that Governor Hicks was an object of such intense animosity that his safety was not assured. This is not the occasion to dwell on these events. It is consoling to her loyal sons, to whom the good name of the State and city is so dear, that they terminated without effecting their design; and gladly would they have them forever forgotten. In these trying moments the Governor was true to his duty. Throughout his term of office he devoted himself with untiring industry and an ever-watchful patriotism, by every legal means, to crush out the spirit of secession and to retain the State in her allegiance to the Union; and he succeeded. When he ceased to be her Governor she was loyal in all the departments of her government, and the people, by a voice approaching unanimity, proclaimed their fixed resolve to stand by the Union, not only as a matter of almost holy duty, but as indispensable to their safety and prosperity; and so she and they have been ever since. It is not going too far to declare that this result is in a great measure to be referred to the conduct of Governor Hicks. Had he listened to those who counseled a different policy; had he lent the power of his office to accomplish their object; had he even failed to devote it entirely to their frustration, Maryland might this day have been a desert, and her name dishonored in the estimation of all good and wise men. To lose such a citizen at any time would be cause of general sorrow; to lose him now, before the rebellion is terminated, is to be the more lamented, even on his own account. Who can fail to regret that a public servant so faithful, so patriotic, and so efficient in his efforts to maintain the authority of the Union in his own State, had not been permitted to survive until that authority had been securely extended over every other State?

Such was his own prayer. In an address to the people of the State, of the 7th of January, 1861, he said:

"In the course of nature I cannot have long to live, and I fervently trust to be allowed to end my days a citizen of this glorious Union. But should I be compelled to witness the downfall of that Government inherited from our fathers, established as it were by the special favor of God, I will at least have the consolation at my dying hour that I neither by word or deed assisted in hastening its disruption."

His prayer was not granted; but his last days of intelligence on earth were cheered by the sanguine hope that the time was fast approaching when we should all be again citizens of that glorious Union; and if he apprehended that that hope might be defeated and the Union destroyed, he certainly had the consolation, so faithfully secured to himself, that no word or deed of his could have assisted or hastened the catastrophe. To this body it is unnecessary to say anything of his official conduct as one of its members. Ever courteous, kind, and attentive, he possessed the esteem and confidence of us all. Endowed with a sound judgment and animated by a fervent patriotism, he supported every measure that promised, in his opinion, to benefit the country in its existing emergency. In private life, too, he was always highly appreciated; and by those who knew him intimately, loved as a brother. By the society of his country his loss especially will be long and keenly felt, and to his immediate family be irreparable. Their consolation will be in knowing that he leaves behind him an unstained name that will ever live and be honored, and that his last thoughts were devoted to that religious faith on which he relied with humble but Christian confidence for future happiness.

I move the adoption of the following resolutions:

*Resolved unanimously,* That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of Hon. THOMAS HOLLIDAY HICKS, deceased, a Senator from the State of Maryland, will go into mourning for the residue of the present session by the usual mode of wearing crape on the left arm.

*Resolved unanimously,* That the members of the Senate will attend the funeral of the deceased from the Senate

Chamber at two o'clock p. m. to-day, and that the committee of arrangements superintend the same.

*Ordered,* That the Secretary communicate these proceedings to the House of Representatives, with the request that that House unite in the ceremonies of this occasion.

Mr. HALE. Mr. President, one of the effects of that civil strife which now afflicts and rends our unhappy country is found in the indifference to human suffering, and to death itself, consequent upon the frequency and rapidity with which our daily narrative of blood presents to our view scenes of carnage and slaughter such as the history of the world has not hitherto disclosed.

As the panorama moves on, we are only relieved from the contemplation of the mangled limbs and mutilated bodies of the dead and the dying by the appalling spectacle of our more unfortunate brethren languishing and dying in the hopeless and helpless condition of prisoners of war, where manhood is worn out, hope crushed, and life destroyed by the cruel and heartless privation of the necessary provision of that scanty supply of food and clothing by which human life can be sustained.

It is a most melancholy and humiliating fact that pictures such as these, sketched from no creation of the imagination, but drawn in the crimson hues of the best blood of our bravest and best, and proclaimed to us on every breeze from the South in the agonizing cry of our languishing brethren, reëchoed by the wail of the widow and the orphan in our midst, have failed to move our hearts as but a little while since they would have been, even had they been representations of what was occurring among strangers of another country, and we look upon them almost as the natural and necessary consequences of the war we are waging for our national life.

To-day we are called upon to witness another phase of human experience by which it would seem that divine Providence would try upon us the experiment of a more quiet, and, if it may be so expressed, a more unobtrusive exhibition of the frailty of life and the certainty of death than in the havoc and destruction of battle. Death has now come, not clothed in the pomp and circumstance of war, numbering his victims by hundreds and thousands; but in the peace, the quiet and serenity of a sick chamber, an old man, full of years and of honors, has gone to his reward.

But, although his years were not few, still they were not so many that friendship might not have reasonably hoped that they might have been extended yet longer, and he been permitted to have witnessed in the future history of his country which he had loved and served so well the fruits of his labors and sacrifices.

When the history of our great struggle shall be written, when the story of the toils, the sufferings, the sacrifices, and the efforts by which our political salvation was attained shall be told, and impartial posterity shall inscribe on immortal tablets the illustrious names of those by whose clear sagacity, unshaken firmness, and patriotic devotion to duty in a great crisis of our country's history, her integrity was preserved and her ultimate triumph secured, second to none on that proud roll of fame shall stand the name of THOMAS HICKS, late Governor of Maryland.

The political and especially the geographical position of his State was such as to give preëminent consequence at that very critical period of our history to the course which she might take. The intense interest which was excited all over the country in regard to the position of affairs in Maryland cannot have escaped the recollection of those who hear me. The extremely doubtful character of her Legislature, to say the least, and the position to which her people might be driven by popular appeals of disloyal men to her prejudices and her supposed interests, filled the hearts of patriots throughout the land with the most painful solicitude. Whatever may be thought now, it is not too much to say that at that time it was felt and feared that upon the decision which she might make between loyalty and treason, in no small degree depended the safety and salvation of the Republic. In saying this, I entirely disclaim any impeachment of the loyalty and integrity of the great masses of the people of Maryland. I have no doubt they are true and loyal now, and that they were so then; neither have I the slightest doubt that that was equally true then of the great body of the people in numbers of those

States that are now, and for nearly four years have been, in open rebellion against the Government of the country; but by the bold and decisive action of bad men, forgetting the claims of country, the obligations of loyalty, and the duty of patriotism, they were driven in an evil hour into the vortex of treason, the crime of rebellion, and the horrors of civil war.

From such a state of things it was the good fortune of the people of Maryland to be saved in no small degree by the peculiar sagacity and devoted patriotism of her most excellent Governor whose death we are now called upon to deplore. It was most providential and fortunate, both for the State and the Union, that Maryland at that time had a Governor fully equal to the emergencies of the hour. He saw and comprehended the danger from a distance, and although we may not all of us approve the wisdom of every step which he took and every measure which he recommended, yet no one, it is believed, will now doubt the unsullied integrity of his conduct, the purity of his motives, or the entire devotion of his patriotism.

Like the prophet standing on Mount Carmel, he saw the cloud yet a great way off, while it was no bigger than a man's hand, and did not wait till its portentous blackness had shrouded the whole heavens in its gloom. Of him, and in reference to his conduct in that hour, it may with emphasis be said that

"Peace hath her victories  
No less renowned than war."

Such in brief was the course of our friend in that interesting and momentous period of our country. His must be an overweening ambition that will not be satisfied with such a record.

Of the early history of Governor Hicks, of the discipline and experience which formed the character so admirably and exactly fitted for the extraordinary part which Providence assigned him to perform in the great drama of his country, I have no knowledge. My personal acquaintance with him commenced about the time of the beginning of those troubles which have culminated in the present civil war; and I hope I may be permitted, without the imputation of unwarrantable egotism, to add that that acquaintance originated in a request communicated to me by his direction on the occasion of a visit on his part to this city, that I would call and consult and confer with him on the engrossing questions of the day. That acquaintance thus commenced continued without interruption to the day of his death.

When he was elected to this body, by the action of the Senate he was assigned to a place on the Committee on Naval Affairs, of which I was then chairman.

Our intercourse from that circumstance became more intimate and familiar, and I will add that, in the course of a life now numbering many years, I have never met a more kind, genial, and courteous gentleman.

No man more sincerely sympathized with that awakened philanthropy which seeks in overthrowing the rebellion also to destroy its cause, than he. But he entertained such a deep faith in the humanity and Christianity of his own people that he preferred to have the work done by them, unawed and uninfluenced by any outside interference. Still, I speak from perfect knowledge derived from frequent interviews and conversations with him, when I say that the abolition of African slavery had no more sincere supporter.

Such was our friend. As death approached, no retrospect of misspent time, of neglected opportunities for good, cast fearful shadows on the future, but with a consciousness that he had been permitted in the good providence of God to do something, yea much, for a great and good cause, to have his name written among the benefactors of his country, and by his influence to add strength to the cause of the weak, the oppressed, and the humble, at peace with the world, and, as we humbly and trustfully hope, with his God, he has gone to his rest.

Mr. WILLEY. Mr. President, I had no personal acquaintance with Governor Hicks until he took his seat as a member of this body. But I had learned to honor and respect him before I knew him. During the session of the Virginia convention which passed the unfortunate ordinance which assumed to renounce the allegiance due from that State to the national Government,

the noble position maintained by Governor Hicks as the Chief Magistrate of Maryland won the confidence and admiration of the loyal people of Virginia. Especially did we of West Virginia feel grateful to him; for, if Maryland had seceded, it would, we well knew, have greatly increased our perils and embarrassed our efforts to preserve our integrity.

I shall not, Mr. President, attempt to review the connection of Governor Hicks with the events of that dark day in our country's history. The distinguished colleague of the deceased has appropriately and eloquently done so. Suffice it for me to say that the page on which those events shall be recorded will be illustrious in the history of Maryland, and will entitle the name of Governor Hicks to be honored and revered as long as that State or the nation endures.

It has been my privilege to occupy a seat by the side of Governor Hicks ever since he entered this Hall. I had, therefore, an opportunity not only to witness his course in relation to public affairs, but also to observe more closely the spirit and principles, the heart and motive (so to speak) which seemed to prompt and control his conduct. And I declare to you, sir, that I never knew a man whose simplicity and singleness of purpose—whose evident sincerity, purity, and unselfishness of aim to promote the honor and welfare of his country, commanded more of my confidence and respect. I know not if he ever aspired to win the personal distinction and renown which men of great intellectual parts sometimes seem to seek with an ardor hardly secondary to the promotion of the national welfare; but to me he ever appeared to forget himself in the higher and holier purpose of securing the public good.

When he resumed his seat here in the earlier part of this session, the ravages of disease upon him were painfully apparent; and in conversation with him on different occasions, he more than intimated to me his presentiment that death was at his door. And, sir, you will allow me to express my gratification that in his zeal for his country he did not forget his obligations to his Creator. And here, I think, we shall find the explanation of his singular conscientiousness in the discharge of his duty. He feared God; and therefore he was true to his country. Therefore it was that the hand so affectingly raised by him in the dying hour, in token of the favor and friendship of Heaven, refused, while strong with vigor of health and manhood, to strike at the life of the nation when surrounded by both friends and foes, vehemently urging him to perpetrate the deed.

Mr. President, I am a believer in the assertion that pure and practical Christianity is a political necessity under our form of Government. I believe that it is essential to the perpetuity of our free institutions. Christian morality is the only sure basis of our civil liberties; and I trust I may be pardoned for saying that the Christian statesman is the only safe guardian of the people's rights. Had the spirit and power of the gospel controlled the conduct of the eminent and highly accomplished men who occupied the seats immediately surrounding me in 1861, I feel assured that the horrors of the present civil war would never have cursed the land.

I therefore think it is the highest tribute which could be paid to the memory of the deceased to say, here in this high place of the nation, that he was a conscientious, Christian statesman.

The resolutions were unanimously adopted.

At two o'clock the corpse, attended by the committee of arrangements, pall-bearers, mourners, and escort of Knights Templar, was removed from the late residence of the deceased, the Metropolitan Hotel, and placed in the area in the center of the Senate Chamber, where seats were provided for the remaining Senator and Representatives from Maryland. The judges and officers of the Supreme Court of the United States, the President of the United States, and heads of the various Departments, the members of the House of Representatives, preceded by their Speaker and officers, the Governor and aids, Lieutenant Governor, Senate and House of Delegates and Court of Appeals of Maryland, and the Mayor and City Councils of the city of Baltimore, entered the Senate Chamber at intervals, and were conducted to the seats assigned to them.

On the entrance of the corpse into the Senate

Chamber, Rev. Dr. McMurdy, Chaplain of the Order of Knights Templar, read the ritual for the dead of that Order, the responses being made by the Knights, who were in full regalia. Prayer was then offered up by Rev. THOMAS BOWMAN, D. D., Chaplain of the Senate. Rev. B. H. Nadal delivered a discourse from the text, 2 Samuel, third chapter, thirty-eighth verse: "And the king said unto his servants, know ye not that there is a prince and a great man fallen this day in Israel?" Rev. THOMAS BOWMAN, D. D., closed the ceremonies by an impressive prayer, and after a dirge from the band of the Knights Templar the funeral procession left the Senate Chamber to convey the body to the place of interment in the following order:

The Chaplains of Congress for the occasion.  
The Physicians who attended the deceased.

#### Committee of Arrangements.

Mr. FOOT, Mr. BUCKALEW,  
Mr. ANTHONY, Mr. MORGAN,  
Mr. WILLEY, Mr. WADE.

Escort of Knights Templar.

#### Pall-Bearers.

Mr. COLLAMER, Mr. LANE of Ind.,  
Mr. DAVIS, Mr. FOSTER,  
Mr. DOOLITTLE, Mr. HALE.

The family and friends of the deceased.

The Senators and Representatives from the State of Maryland, the Governor and aids, Lieutenant Governor, Senate and House of Delegates and Court of Appeals of that State; the Mayor and City Councils of the city of Baltimore, as mourners.

The Sergeant-at-Arms of the Senate of the United States.

The members of the Senate, preceded by the President *pro tempore* and the Secretary of the Senate.

The Sergeant-at-Arms of the House of Representatives.

The members of the House of Representatives, preceded by its Speaker and Clerk.

The President of the United States.

The Heads of Departments.

The Diplomatic Corps.

Judges of the United States.

Officers of the Executive Departments.

Officers of the Army and Navy.

The Mayor of Washington.

Citizens and Strangers.

After the funeral, the Senate returned to their Chamber, and, on motion of Mr. FARWELL, adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 15, 1865.

The House met at twelve o'clock, m. Prayer by Rev. Dr. E. H. GRAY.

The Journal of yesterday was read and approved.

#### RECORDING VOTES.

MESSRS. PRUYN, STROUSE, and TOWNSEND, having asked and obtained leave to record their votes on the motion of Mr. THAYER, on Monday last, to lay on the table the resolution of Mr. DAWSON relative to the restoration of the Union, voted in the negative.

#### MINOR CHILDREN OF DECEASED SOLDIERS.

Mr. HUBBARD, of Iowa, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire what further legislation, if any, is necessary to secure pensions to the minor children of deceased soldiers, in case of the death or marriage of the widow; with leave to report by bill or otherwise.

#### INTERNATIONAL EXHIBITION AT OPORTO.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a copy of a note of the 2d instant, addressed to the Secretary of State, by the commander J. C. de Figniere & Mora, envoy extraordinary and minister plenipotentiary of his most faithful Majesty the King of Portugal, calling attention to a proposed international exhibition at the city of Oporto, to be opened in August next, and inviting contributions thereto of the products of American manufactures and industry. The expediency of any legislation on the subject is submitted for your consideration.

ABRAHAM LINCOLN.

WASHINGTON, February 13, 1865.

The message, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### INTERNATIONAL EXHIBITION IN NORWAY.

The SPEAKER also laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a copy of a dispatch of the 12th ultimo, addressed to the Secretary of State by the minister resident of the United States at Stockholm, relating to an international exhibition to be held at Bergen, in Norway, during the coming summer. The expediency of any legislation upon the subject is submitted for your consideration.

ABRAHAM LINCOLN.

WASHINGTON, February 13, 1865.

The message, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### PORTRAIT OF LIEUTENANT GENERAL GRANT.

Mr. INGERSOLL, by unanimous consent, introduced a joint resolution authorizing the purchase of a portrait of Lieutenant General U. S. Grant; which was read a first and second time, and referred to the Joint Committee on the Library.

#### LAND-GRANT RAILROADS IN MICHIGAN.

The SPEAKER. The regular order is the bill (H. R. No. 710) to extend the time for the completion of certain railroads, to which land grants have been made, in the States of Michigan and Wisconsin. Yesterday, when the Clerk was about to read the engrossed bill, the morning hour expired. The bill will be read.

The Clerk then read the engrossed bill.

Mr. ALLISON demanded the previous question on the passage of the bill.

Mr. HOLMAN. I hope that the previous question will not be called upon a bill which appropriates over two million acres of the public land.

Mr. STEVENS. I hope that at least opportunity will be afforded to us to move an amendment. I am willing to grant the extension of time for the completion of the roads, but I want to strike out that part of the bill which makes a grant of additional lands. We ought to do that or repeal the homestead law.

The SPEAKER. The bill has passed beyond the point when it can be amended.

Mr. HOLMAN. It can be recommitted to the Committee on Public Lands.

Mr. ALLISON. I insist on the demand for the previous question.

The House divided; and there were—ayes 45, noes 44; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. ALLISON and DAWSON.

The House again divided; and the tellers reported—ayes 49, noes 49.

The SPEAKER voted in the affirmative.

So the previous question was seconded.

Mr. HOLMAN moved that the bill be laid on the table.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 60, not voting 68; as follows:

YEAS—Messrs. Alley, Ancona, John D. Baldwin, Boutwell, Brooks, Broomall, James S. Brown, William G. Brown, Cobb, Dawson, Denning, Denison, Dixon, Dumont, Eckley, Edgerton, Elliot, Finck, Ganson, Grider, Hale, Harrington, Herrick, Holman, John H. Hubbard, Marey, Philip Johnson, Kalbfleisch, Kernan, Lazenby, Midleton, William H. Miller, Morrill, Daniel Morris, Morrison, Odell, Charles O'Neill, John O'Neill, Orth, Pike, Ross, Schenck, Seefeldt, John B. Steele, Stevens, Sules, Strouse, Thomas, Townsend, Tracy, Elihu B. Washburne, Webster, and Winfield—54.

NAYS—Messrs. Allison, Arnold, Ashley, Bailey, Augustus C. Baldwin, Baxter, Besman, Blaine, Blair, Bliss, Blow, Cole, Cox, Donnelly, Eldridge, Farnsworth, Frank, Higby, Asahel W. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Francis W. Kellogg, Knox, Le Blond, Littlejohn, Loan, Long, Longyear, Mallory, Marvin, McAllister, McBride, McClurg, McKinney, Samuel F. Miller, Moorhead, James R. Morris, Amos Myers, Leonard Myers, Nelson, Perham, William H. Randall, Alexander H. Rice, Edward F. Rollins, Scott, Shannon, Smithers, William G. Steele, Thayer, Upson, Wadsworth, William B. Washburn, Whaley, Wilder, Wilson, Windom, Woodbridge, Worthington, and Yeaman—60.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Ames, Anderson, Boyd, Brandegee, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Driggs, Eden, English, Garfield, Gooch, Grinnell, Griswold, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hooper,

Hotchkiss, Jenckes, William Johnson, Kasson, Orlando Kellogg, King, Knapp, Law, McDowell, McDoe, Noble, Norton, Patterson, Pendleton, Perry, Pomeroy, Price, Pruyn, Radford, Samuel J. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Sloan, Smith, Spalding, Starr, Stuart, Sweat, Van Valkenburgh, Voorhees, Ward, Wheeler, Chilton A. White, Joseph W. White, Williams, Benjamin Wood, and Fernando Wood—68.

So the bill was not laid on the table.

During the vote,

Mr. COBB stated that his colleague, Mr. SLOAN, was absent from the city on account of illness in his family; and that his colleague, Mr. MCINDOE, was absent on account of indisposition.

The vote was then announced as above recorded.

The main question was then ordered.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 58, not voting 68; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, Baily, Augustus C. Baldwin, Baxter, Beaman, Bliss, Blow, Cole, Cox, Donnelly, Dumont, Eldridge, Farnsworth, Frank, Higby, Hooper, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Knox, Le Blond, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McKinney, Samuel F. Miller, Daniel Morris, James R. Morris, Amos Myers, Nelson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Scott, Shannon, Smithers, Thayer, Upson, Wadsworth, William B. Washburn, Whaley, Wilder, Windom, Worthington, and Yeaman—56.

NAYS—Messrs. Alley, Ames, Ancona, John D. Baldwin, Blair, Boutwell, Brooks, Broomall, James S. Brown, William G. Brown, Cobb, Dawes, Dawson, Deming, Denison, Dixon, Eckley, Edgerton, Eliot, Finck, Ganson, Gilder, Hale, Harrington, Herrick, Holman, John H. Hubbard, Hutchins, Philip Johnson, Kaibfeisch, Kernan, Lanza, Long, Marcy, Middleton, William H. Miller, Moorhead, Morrill, Morrison, Leonard Myers, Odell, Charles O'Neill, John O'Neill, Patterson, Ross, Schenck, Scofield, John B. Steele, Stevens, Stiles, Strouse, Thomas, Townsend, Tracy, Van Valkenburgh, Elihu B. Washburne, Wilson, and Winfield—58.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blaine, Boyd, Brandegee, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Briggs, Eden, English, Garfield, Gooch, Grinnell, Griswold, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Asahel W. Hubbard, William Johnson, Kasson, Orlando Kellogg, King, Knapp, Law, Mallory, McDowell, McDoe, Noble, Norton, Orth, Pendleton, Perry, Pike, Price, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Sloan, Smith, Spalding, Starr, William G. Steele, Stuart, Sweat, Voorhees, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Woodbridge—68.

So the bill was rejected.

#### DEATH OF SENATOR HICKS.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, in reference to the death of THOMAS HOLLIDAY HICKS, a Senator from the State of Maryland.

The message was read, as follows:

*Resolved unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of Hon. THOMAS HOLLIDAY HICKS, deceased, a Senator from the State of Maryland, will go into mourning for the residue of the present session, by the usual mode of wearing crape on the left arm.

*Resolved unanimously*, That the members of the Senate will attend the funeral of the deceased from the Senate Chamber at two o'clock p. m. to-day, and that the committee of arrangements superintend the same.

*Ordered*, That the Secretary communicate these proceedings to the House of Representatives, with the request that that House unite in the ceremonies of this occasion.

Mr. WEBSTER. I desire to say, preceding my remarks on this sad occasion, that my colleague [Mr. DAVIS] is detained from the House by indisposition; otherwise he would take part in these proceedings.

Mr. Speaker, it becomes my painful duty to announce to the House of Representatives the death of Hon. THOMAS HOLLIDAY HICKS, a Senator in Congress from the State of Maryland. He died at the Metropolitan Hotel, in this city, on Monday last, February 13, 1865.

In the winter of 1864 Mr. Hicks received a severe injury to his left ankle, which, a few weeks later, compelled the amputation of his foot above the ankle joint. From the effects of this loss he never entirely recovered, and though he continued to attend to the laborious duties of his position, yet his friends perceived that much of his former physical vigor was gone, and that he was greatly overtaxing his strength. About two weeks before his death he ceased to occupy his seat in the Senate Chamber, and a skillful physician was

called to see him. His friends still believed that rest and quiet would restore to a considerable degree his strength, and fondly hoped that his life might be spared for many years to come. But on Friday morning last he was entirely prostrated by an attack of paralysis, and though he maintained his consciousness until within a few hours of his death, yet all hope of his recovery was then abandoned. From this time he sank gradually until the hour of his dissolution, when calmly, without a struggle or a groan, his spirit passed from earth.

It will be consoling to his afflicted children who were unable to reach this city before his death, as well as his numberless friends, to know that loving hearts and skillful hands assiduously ministered to all his wants, and strove, as far as human agency could, to alleviate all his sufferings. Nor were the consolations of our holy religion wanting. An eminent divine and his personal friend (Rev. Dr. Nadal) piously attended at his bedside and pointed his thoughts to "the world that is to come." To him my dying and lamented friend, even after the power of speech was gone, by hand upraised to heaven, and face glowing with celestial light, unmistakably declared his faith in a crucified Redeemer, and his implicit trust in His promises and atonement.

Governor Hicks was born in Dorchester county, Maryland, September 2, 1798. His father was a respectable farmer, with limited means and a large family, able to give his son little advantages of education. As a boy, he attended the common country schools of the neighborhood, then even more indifferent than now. As a youth, he assisted his father in the cultivation of the farm; and when manhood came, he went forth from the paternal roof to struggle unaided against the rude buffetings of the world, and by the fierce contests he thus waged with the pride and prejudices and position of those around him, to fit himself for that fiercer contest which he was long after to wage with the passions and prejudices of the enemies of his country. Shortly after arriving at his majority he was appointed a constable, and so diligently, so faithfully, and with such uprightness did he discharge the duties of this humble office, that in 1824, then in the twenty-sixth year of his age, he was elected sheriff of his native county, a position of importance and respectability, which he filled much to his own credit and to the entire satisfaction of the community.

After this he was several times elected to the Legislature of his State, and in 1836 was chosen a member of the senatorial electoral college of Maryland. He took a prominent part in the efforts to organize that body, which attracted so much attention throughout the country. Shortly afterward he was selected as one of the members of Governor Vezey's Council, and in 1838 was appointed by that gentleman the register of wills for Dorchester county. This office, under the testamentary system of Maryland one of great importance, he occupied for nearly twenty years, being reappointed by Governor Pratt in 1844, and elected by the people in 1850. Never did a faithful officer more ably discharge the responsible duties of this position. The widow and the orphan always found in him a friend, who spared no labor to protect their interests and defend them from injustice and wrong. He soon became perfectly familiar with the testamentary laws of the State, and so completely did the people of his county rely upon the wisdom of his official decisions, and the purity and fairness of his friendly counsels, that it was rare indeed that litigation grew out of his settlement of the estates of deceased persons. In 1850 he took part in the constitutional convention of Maryland, which framed the constitution of that date, and was known as a laborious and influential member of that body.

His reputation had now extended over his entire State, and in 1857 he was elected Governor of Maryland, and entered upon the discharge of the duties of this high office in January, 1858. For four years he occupied the gubernatorial chair. A few months after the conclusion of his term, in December, 1862, by the death of the late lamented James A. Pearce, a vacancy occurred from the State of Maryland in the Senate of the United States. To this, Governor Bradford, representing the wishes of the Union people of the State, appointed Governor Hicks, and a year later, on the assembling of the Legislature, he was

elected to fill the balance of the unexpired term ending March 4, 1867.

This, in brief, is the history of my late lamented colleague. There is one portion of his life, however, that deserves, ay demands, at my hands more extended notice. It was during his term as Governor of Maryland that the present wicked rebellion was inaugurated; and well was it for Maryland and her people, well was it for the capital of the nation, and the national honor, if not life, that THOMAS HOLLIDAY HICKS was then the Governor of Maryland. Sir, as I sat in grief by his dying bedside, and saw "the strong man bowed," palsied with disease and helpless as an infant, in my inmost soul I thanked God that that divine visitation had not come while his hand yet held the helm of my native and beloved State. What scenes of anarchy, of confusion, of bloodshed, and desolation to her fair fields would have followed my heart sickens to contemplate. But his natural vigor was not then abated. The lessons of self-reliance which he had learned in his early and maturer manhood, that decision of character and firmness of purpose which had become a part of his nature, and above all his instinctive and unquenchable love of country—that country under whose benign institutions he had risen, and all others might rise, from the humblest walks of life—had fitted and prepared him to resist all efforts, coming from what quarter soever, which looked to a disruption of the Union and placing Maryland by the side of her rebellious sisters. Any one who will recall the history of the four months which immediately preceded Mr. Lincoln's inauguration in 1861 will remember how repeated and persistent these efforts were.

The plan of the original conspirators, as has since become apparent, was to unite, if possible, all the slaveholding States in one common movement, seize the capital and the public archives before the inauguration of Mr. Lincoln, overthrow the Government, establish a southern confederacy, and then admit such of the non-slaveholding States as might be willing to introduce the institutions of the South among them.

It was essentially necessary to secure the coöperation of Maryland to succeed in these infamous purposes. The capital stood upon the ancient soil of that State, and according to the peculiar views of these conspirators, Maryland had the right not only to sever her connection with the Union, but also to reclaim her grant of the District of Columbia. This would have given them color of authority in holding on to the capital, establishing here the seat of their government, and demanding recognition from foreign Powers. It was also of the first importance to these conspirators that their friends in Maryland should be organized and armed, ready for the emergency, that when the time for action came they might swoop down upon the capital before assistance could be obtained from the northern States. All this could only be done through the Legislature of that State. Fortunately the sessions of the Legislature were biennial. It had been in session the winter before, and would not again assemble until January, 1862.

The great majority of this Legislature was known to be in sympathy with the southern leaders. At its session in 1860 it had passed the most obnoxious law on the subject of slavery ever placed on the statute-books of Maryland. Contrary to the wishes of a great majority of the people, contrary to their practices from time immemorial, and contrary to their conscientious convictions of right, they enacted that thereafter no slaves should ever be emancipated by their owners in that State. More than this. Taking advantage of the excitement produced by John Brown's invasion of Virginia, they had appropriated \$70,000 for the purchase of arms, and provided for their distribution throughout the State. I repeat, a great majority of this Legislature was known to be in favor of Maryland taking her position with the other slaveholding States.

In Maryland the Governor has no power of veto, so that when assembled the Legislature is entirely beyond his control; but he alone had the authority to assemble it in special session. It was then of the highest importance to the conspirators that he should exercise this authority. Soon after Mr. Lincoln's election in 1860, the public efforts to induce him to take this step began to be made. Some of the most prominent men in that part of the



State in which Annapolis, the capital of the State, is situated, assembled in that city and requested that this should be done. Governor Hicks emphatically declined. Public meetings were then called in those portions of the State where the slaveholding interest predominated, demanding the assembling of the Legislature. Governor Hicks refused to notice their demands. Shortly afterward the President of the Senate of Maryland and the Speaker of the House of Delegates, for themselves and in the name of their respective bodies, addressed him, urging that they should be convened. Governor Hicks stood like adamant, declaring that he saw no good reason for such action, and that Maryland was, and would be forever, for the Union. While thus beset at home he was also approached from beyond the limits of the State. After the Congress assembled here in December, 1860, the leading southern men who had seats in these Halls used all their efforts to inflame the minds of the people of Maryland to compel the Governor to assemble the Legislature. Commissioners were sent to him directly from the States of Alabama, Mississippi, and South Carolina, all urging that Maryland should move in the same column with them; but to no purpose. The polar star to Governor Hicks was his country, the union of these States. The waves of sectional strife rose higher and higher. State after State fell away from its allegiance. He stood firm. The day of the inauguration came. President Lincoln assumed the robes of office, and entered upon the discharge of the high duties of the Chief Magistrate of the United States. From many hearts in the loyal States, as well as from the loyal people of his own State, earnestly watching his course, and full of apprehensions, there rose up the prayer, "God bless Governor Hicks." The capital was still in the hands of the friends of the Union. The noble ship which soon was to drive into the storm and tempest of civil war, which have not and shall not destroy her, then, indeed, had made her most narrow escape from destruction on the hidden rocks of treachery and of treason. Sir, I doubt not that the impartial historian who shall hereafter write the story of the perils of the Republic will declare that the most critical period in its history was that which immediately preceded the inauguration of President Lincoln; that THOMAS HOLLIDAY HICKS, by the blessing of God at that time the Governor of Maryland, did more than any other man to save it from destruction.

I am aware, sir, that a few weeks later, when an infuriated mob, excited by rebel emissaries, and armed, took possession of the city of Baltimore, murdering the soldiers of the United States passing through to the capital, and raising a great commotion throughout the State, that Governor Hicks, having gone to that city to secure the peaceful passage through it of these troops, found himself in the power of this mob, and seemed to yield for a time in part to their demands. But never, even then, for a moment did he give up his devotion to his country, or counsel resistance to its laws. True, for a few days he besought the President not to pass troops through the State. This was done alone through apprehension that the scenes of that bloody day just passed would be again reenacted while he was powerless to prevent it, and that his beloved State and city would be laid waste with fire and sword, destroying the innocent with the guilty. I confess he was in error. I may safely say that subsequent events convinced him that he was in error; but it was an error of judgment only; and who is infallible? Never for the briefest space of time did he desire to aid the cause of the rebels, or intend to do ought to injure his country, or resist its laws. It is true, too, that he then convened the Legislature of Maryland; but this was done only after a revolutionary call for it to assemble in the city of Baltimore, similar to that which put the State of Texas into the attitude of rebellion, had been issued by one of the most influential members of the State Legislature, Coleman Yellott, now in the rebel confederacy. Governor Hicks, to prevent this revolutionary session which would have taken place in Baltimore, then in the hands of the secessionists, convened the Legislature at Frederick city, in the midst of a loyal population thoroughly roused, and with a local organized military force of nearly four hundred muskets. I have always thought that the assembling of the

Legislature at that time and under those circumstances was a wise exercise of executive authority. It at once produced quiet in Maryland. It gave time for many who had been swept away by the first fierce gust of passion to indulge in "the sober second thought," and to return to their allegiance. The Legislature, too, was powerless for mischief. They dared not, even if they had desired, while the loyal citizens of western Maryland thronged in their halls, and scowled defiance in their faces, put the State of Maryland into an attitude of hostility to the General Government. As my venerable colleague who sits behind me [Governor THOMAS] once said in this House, they would have been hurled from their windows upon the glistening bayonets below; and well they knew it.

Within ten days after the massacre of the troops in Baltimore Governor Hicks was in cordial and earnest cooperation with the national authorities in this city, and a few days later issued his proclamation calling for four Maryland regiments to march to its defense.

Mr. Speaker, however much others may have doubted or may now doubt the loyalty of Governor Hicks because of this one error during that terrible week, the Union-loving people of Maryland, who knew him well, never for one moment lost confidence in his patriotism. No man, since the days of the Revolution, has lived in Maryland who has had so entirely the confidence and affection of the patriotic people of that State as Governor Hicks. They have loved him with a pure and an ardent affection. They have trusted him without an apprehension or a doubt. He was their pilot in the hour of deepest gloom and most threatening danger. They gathered around him as the exponent of their principles and the worthy representative of their love of country; and when the sad news went out from this city that he was no more there were thousands of eyes in his native State, that had never seen him, dimmed with tears, and thousands of hearts filled with sorrow for his loss. And to-day the Governor and Legislature of his State, as well as the corporate authorities of its great metropolis, fully representing the people in their action, are here in the Capitol of the nation to pay the last tribute of respect to his memory, not as a matter of form, not to join in an empty pageant, but as exhibiting the love and reverence of the entire people of the State for his character and their sincere sorrow for his death. With them I desire to pay my humble tribute to his worth, and to drop a sorrowing tear on his grave.

A few words more in regard to the character of my colleague and I am done. Governor Hicks was entirely a self-made man. He toiled up the mountain-side unaided, and reached height after height through his own manly exertions; but never did he break the bond which bound him to the people on the plain. He was essentially a man of the people; of them and from them, his instincts, his sympathies, his affections, were all with them, and his exertions and labors in their behalf. The poorest and most friendless boy received from him as kindly a welcome as the men who held the most influential and important stations. The last note that I ever received from him, only a few days before his death, was written to ask my aid for a poor man, a sailor disabled in the service of his country, and in which he regretted that his health would not permit him personally to render him such assistance as he desired. Governor Hicks, from the character of his early pursuits, had no opportunity for cultivating a taste for books, and was consequently not a man of general reading or information; yet he possessed great natural sagacity, had a broad and well-balanced mind, and easily mastered any subject to which he turned his attention. He thoroughly understood the political history of the country. There was nothing narrow or illiberal in his character, and his catholic spirit showed itself in almost every action of his life. He was generous and sincere, quick to forgive, and never cherished resentments. Though his mind was not quick in its perceptions and conclusions, yet when he had reached such conclusion, he was as firm as a rock, fixed as the hills. No word of suspicion has ever been breathed against his integrity. He was an honest man,

"The noblest work of God."

That, however, which has most distinguished

him and endeared him to the people of Maryland was his unselfish and unyielding patriotism. In him was illustrated that patriotism which burned so purely in the hearts of the men of '76. There was no personal sacrifice which he deemed too great to be made for his country. This was particularly illustrated in his course on the question of emancipation. Though holding a considerable number of slaves at the breaking out of the rebellion, and entering into the war with the impression that it ought to be so conducted as not to interfere with slavery, yet when he became convinced, as he afterward did, that the most vulnerable point in the rebellion was slavery, and that if we would crush the rebellion we must strike at and crush slavery, he did not hesitate to favor this policy both by the General Government and by his own State. A year ago he favored the constitutional amendment lately passed abolishing slavery throughout the United States, and was the earnest friend of immediate emancipation in Maryland, voting himself for the free constitution and urging others to unite with him in its support.

But he has gone, never to return. To-day the grave will close on his mortal remains. For the monument which shall rise above his remains, he has prepared his own epitaph. Addressing the people of Maryland by proclamation, in the midst of the dangers which encircled them in June, 1861, he said:

"In the course of nature I cannot have long to live, and I fervently trust to be allowed to end my days a citizen of this glorious Union. But should I be compelled to witness the downfall of that Government inherited from our fathers, established as it were by the special favor of God, I will at least have the consolation at my dying hour that I neither by word nor deed assisted in hastening its disruption."

Sir, let this sublime paragraph be engraved on his tomb. It shall live when the marble shall have crumbled and mingled with his dust. And let us, the living, learn lessons of patriotism from his proud example, for though dead he yet liveth.

I offer the following resolutions:

*Resolved*, That this House has heard with deep sensibility the announcement of the death of Hon. THOMAS HOLLIDAY HICKS, a Senator in Congress from the State of Maryland.

*Resolved*, That as a testimony of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

*Resolved*, That the proceedings of this House, in relation to the death of Hon. THOMAS HOLLIDAY HICKS, be communicated to the family of the deceased by the Clerk.

*Resolved*, That this House will, as a body, repair to the Senate Chamber to attend the funeral of the deceased, and upon its return to the Hall that the Speaker declare the House adjourned.

Mr. CRESWELL. Mr. Speaker, duty imposes no unwilling task when it demands my humble tribute to the memory of the lamented deceased. The praises due to a long career of honor and usefulness are always freely lavished upon the grave. The stranger in seeking to give utterance only to his admiration for the public life and character of the dead, will be content with the employment of merely formal and conventional terms of respect. But the hand of affection in its anxious desire to keep fresh and green a cherished memory, would fain pluck from heaven a sprig of the immortal amaranth, and plant it upon the grave where the loved one sleeps, in the hope, fond though vain, that even the tomb may be thus clothed with the freshness and the bloom of eternal beauty.

My colleague, who has preceded me, has spoken of what Governor Hicks has accomplished for his State and country. It is eminently proper that the record of his public life should on this occasion be reviewed and commended. But mine is a more sacred office. I represent the county of his nativity, wherein he spent his long life, surrounded by the friends and associations of his youth. Among my constituents are those who were captivated by his generous heart long before the days of his political triumphs; those who regarded him, when living, with unselfish love, and who, now that death has stricken him down, will receive the sad tidings with tears of profound regret. It is my duty to attempt in some measure to soothe the grief and to mitigate the sorrow of his family and personal friends.

I have not known Governor Hicks as long as my friend who to-day has made the formal announcement of his decease. My personal acquaintance began late in the year 1861, but long before

the day of his death, notwithstanding our disparity in years, his many generous qualities, combined with his fervent patriotism, had won my affection and sincere esteem. I am not ashamed to confess to the humblest of his friends that I, too, have wept over his unexpected and painful death.

We who knew him well, who freely mingled with him in social intercourse, who think we understood his nature and fairly appreciated his faults as well as his virtues, are unwilling that posterity, in making an estimate of the character of Governor Hicks, shall be confined to the dry details of the historian.

"History preserves only the fleshless bones  
Of what we are, and by the mocking skull  
The would-be wise pretend to guess the features!  
Without the roundness and the glow of life  
How hideous is the skeleton! Without  
The colorings and humanities that clothe  
Our errors, the anatomists of schools  
Can make our memory hideous."

THOMAS HOLLIDAY HICKS was no scholar, no orator. Notwithstanding the many disadvantages under which he labored, it is safe to say that no man has exerted a greater influence on the politics of Maryland, or has accomplished more for the good of his State and fellow-citizens in his day and generation than he. He chose his party because of his approval of the principles which it proclaimed, and then gave it his entire and cordial support. A disciple of Henry Clay, he accepted the teachings of the Sage of Ashland as the axioms of his political creed. He was first a Democrat of the old school, then a Whig, then an American, and on the formation of the Union party he threw his whole soul into that movement and labored unceasingly to promote its success. To all the parties to which he was successively attached he rendered the most important services. He was always looked up to as a leader, and always did the work of a leader.

Yet he was not a brilliant man in any respect. His great distinguishing mental characteristic was his intuitive knowledge of human nature, and his great capacity for the management of men. His mind was eminently practical, and he dealt with men and things as they were. He sometimes entered into public discussions on the hustings, and frequently exhibited great tact and astuteness in debate. He proclaimed his sentiments everywhere, and never ceased to inculcate what he believed to be the truth. But the great arena of his triumphs was the social circle. Wheresoever known, he had so completely the confidence of men of every position in life, high as well as low, that his views were often quoted as having the weight of authority. The people of his own county seemed to hang with pleasure on his words and to delight in paying him honor.

His house at Appleby was open to all the world, and especially was it the refuge of the afflicted. He was the friend and counselor of all in trouble. His purse was open to every meritorious demand for assistance. Although free from all ostentation and for many years in receipt of a respectable income, his boundless charities and his disposition to aid others kept him continually in straitened circumstances. He was in truth the friend and benefactor of the poor, not only ministering to their wants, but ever lending them a willing sympathy.

"When that the poor have cried, Cæsar hath wept."

Even his political enemies acknowledged his manifold and unwearied kindnesses, and his excellent qualities as a man and a neighbor. So clear and pure was he in all the relations of private life that even malice was compelled to bear witness to his exalted worth.

THOMAS HOLLIDAY HICKS was Governor of his native State in the early stages of the rebellion. His management of State affairs during that period has been subjected to the severest scrutiny and to the most unfair criticism. It has been the habit to talk of him and his conduct as if he had nothing to do but to call his friends around him and summon the military of the State to the defense of the national capital. Alas! in that hour of sore trial his friends were beyond the sound of his voice, and the military were in arms against their country. Those who clustered about him to proffer advice were his life-long enemies. The host which gathered at his hotel was a hooting mob, yelling like demons and threatening to hang him to the nearest lamp-post. Blood had already been shed; treason was rife; civil war was fla-

grant. The dead of a sister State, foully slain by traitors in the streets of Baltimore, had been counted as the first mangled and blood-stained victims of rebellion. Secession was fully armed. Much of the machinery of government was in the hands of rebels. Everything was uncertain. Men in high places were no longer to be trusted. The Union sentiment was utterly without organization and was taken totally by surprise. The Governor stood alone among his foes. Then the tempters said to him, "Let us avoid bloodshed among Marylanders, let us prevent war in our streets, let us have peace among ourselves." He cared not for himself, and they knew it; but they appealed to his love for his people, and exhorted him to quiet the excitement and prevent further strife and massacre. It was a time of great doubt and peril, such as comes but once in centuries. He postponed the demands of the national Government until the loyal sentiment of the people should gain confidence and find its voice. Of all those who censure him, who would have done better? Our sturdy old Governor never for a single moment sympathized with treason in any form, or even doubted as to the plain path of duty. His was never the heart of a traitor. The best evidence of his fidelity may be found in the unwavering devotion of all his life. He had not a hope for himself, his children, his friends, or his country, that was not based upon the integrity and perpetuity of the Union. If it be true that the eye when glazing in death is endowed with prophetic vision, I doubt not that his dying moments were cheered by the joyful prospect, soon to be revealed to us, of peace and happiness won by valor and restored by victory.

His days are numbered. The whole of his career is before the world. Men may now pass judgment upon another fellow-mortal who has gone from earth. If we approach his bier and look down upon the mortal remains of THOMAS HOLLIDAY HICKS, and then recount the whole story of his life and death, we must in justice say,

"Nothing is here for tears, nothing to wait  
Or knock the breast; no weakness, no contempt,  
Dispraise, or blame; nothing but well and fair,  
And what may quiet us in a death so noble."

MR. SMITHERS. Mr. Speaker, a good man has been gathered unto his fathers, and it is meet that I should lay upon his bier a simple testimonial of respect and gratitude.

Though it may not be permitted me to call him great, yet if incorruptible integrity, unostentatious piety, and unwavering devotion to his country be worthy to be imitated or admired, then may it be truly said that THOMAS HOLLIDAY HICKS has not lived in vain. Born with no accidental advantage of wealth, blessed with no culture of liberal education, he so demeaned himself in all the relations of life as to secure the affection and confidence of his fellow-men, who having committed to him the discharge of minor official duties, elevated him to the position of Governor of Maryland; and in the darkest hour of the peril of the Republic he held in his hands the welfare of his native State.

How well he executed his trust, how faithfully he administered his high office, the appreciation of the living manifests, and the approval of posterity will attest. Had he yielded to the blandishments of base conspirators, had he blenched before the storm of indignation that assailed him, no human power could have averted from Maryland the miseries of civil strife. His fidelity baffled the designs of domestic traitors and checked the progress of rebellion; his temporizing policy held treason in suspense, and gave opportunity to the loyal North to rush to the succor of this threatened capital; and that we sit here to-day, in this Council Chamber of the nation, is due, perhaps, under the favor of the Almighty, to the faithfulness of him whom we mourn. Over the grave of such a man it is pardonable to linger with unwonted regret; but while we pay this tribute of honor to his memory, let us rest in confidence that history will record his virtues, and in assurance that, after a well-spent life, he has calmly passed to the enjoyment of a Christian immortality.

MR. KELLEY. It has, by their kindness, been my privilege to participate with some frequency in the protracted and sometimes intense struggle of the people of Maryland for the Union and free-

dom; and my State is largely indebted to the late Senator THOMAS HOLLIDAY HICKS. It has therefore been thought fitting that I should add my humble word to what has been so appropriately said on this occasion.

In my many visits to Maryland during this trying period I became somewhat familiar with Senator, or Governor HICKS, as he was when I first knew him. I found him ever frank and courteous to his peers, and kind, kind but without condescension, to the young, the poor, and the humble. His intercourse with all was easy and natural, and his manners were but the fit expression of his manly nature. This is well attested by the constancy with which honors attended him. He whose death we mourn, dying as a Senator of the United States, was once a constable, and doubtless proud of the confidence in him exhibited by his fellow-citizens in electing him to this humble office; and from the day he entered upon its duties to the moment in which he breathed his last, and passed gladly to the bosom of his Maker, the badge of office attested how fully he enjoyed the confidence, the increasing confidence, of the people among whom he lived. It has been said, and I apprehend with perfect truth, that during this long career no man ever doubted his integrity.

It seemed to me, sir, as I listened to the rapid sketch of his biography, that he was a chosen instrument in the hands of Providence for our good. The Almighty sees the end from the beginning. It is not so with men; and the wealthy, the powerful, the arrogant, and the aristocratic land and slave owners among whom this poor child was born did not foresee, when they gave him their confidence, and made him first constable, then sheriff, and then promoted him from stage to stage, that they were qualifying him to be the power to curb their aspirations and control the destiny of their descendants. They did not foresee that they were training in that honest farmer boy a man who, by his will, should contravene their ambitious purposes and determine whether the capital of the country should remain so, or become the capital of a foreign and despotic confederacy. Yet more potent than any hundreds of men was Governor HICKS in the decision of that question.

It is said that he wavered about the time that that question was pending in nicest balance. No man will say that his loyalty yielded. The utmost that can be said is, that in a period of revolutionary excitement, when the armed men around him were all the foes of his cause, when those whom the people of his State had invested with power and indicated as his counselors all entertained views different from his, and when those who loved the Union came to him with multiplied and diverse counsels, his judgment was for a moment bewildered. His instincts, his purposes, were ever true and patriotic. His caution, his courage, his will, his devotion to the cause, saved Maryland to the Union, in the crisis, and so secured the inauguration of the President of the country in its capital, and enabled the North to maintain him there without interval. In doing this he saved Maryland, Delaware, and southeastern Pennsylvania from becoming the Belgium of this terrible war; and his name will be dear to the future people of Pennsylvania and of Delaware, as it is to-day to those of his native State.

I shall not attempt a sketch of his biography. I shall utter no formal words of eulogy. His life, his character, his deeds, are among the richest treasures of his native State. Let them be faithfully told. History has been to me through life valuable only as it gave me an insight into the characters and motives of its actors. Let Maryland tell with pride the story of THOMAS HOLLIDAY HICKS. Let her speak of his humble origin. Let her say that slavery denied him the advantages even of the cheap country school. And let her show how, in spite of all the curses inflicted on man by that institution, he became what he was; and she will not only illustrate the beneficence of our republican institutions, but gladden the heart of many a poor father and mother and quicken the pulse and embolden the spirit of the poor and aspiring boy through countless generations. THOMAS HOLLIDAY HICKS was a poor farmer's boy. He entered on his official career a constable. He died a Senator; and a grateful nation mourns his death. I apprehend that rhetoric can add no force and eulogy no power to these brief words.

The question was taken, and the resolutions were unanimously adopted.

The SPEAKER. The Chair will state that, by the operation of the resolutions, there will be no evening session to-day. The Chair is requested by the committee of arrangements on the part of the Senate to state that carriages have been provided for all the members of the House who may desire to go to the Cemetery to perform the last sad rites to the deceased Senator from Maryland.

Thereupon the members of the House, headed by the Speaker and Clerk, and preceded by the Sergeant-at-Arms, marched, two by two, to the Senate Chamber.

After the return from the Cemetery the House adjourned.

## IN SENATE.

THURSDAY, February 16, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain of the Senate.

The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War communicating, in compliance with a resolution of the Senate of December 19, 1864, copies of reports made by Major General Herron of inspections in the department of Arkansas; which was read, and ordered to lie on the table.

## PETITIONS AND MEMORIALS.

Mr. GRIMES. I present a petition signed by Rear Admiral David D. Porter and divers and sundry lieutenant commanders and commanders on the active list of the United States Navy, who represent that the pay of their respective grades and duties as established by law for a naval peace establishment, prior to and at the beginning of the present war with rebels, was greatly reduced by the act of Congress approved July 16, 1862, which was passed while they, or nearly all of them, were engaged in the arduous duties consequent upon an extended blockade, or in active hostilities with the enemy. They therefore pray that so much of the act of Congress to "establish and equalize the grades of the line officers of the Navy," approved July 16, 1862, as relates to the pay of captains and commanders, and of the pay at sea of lieutenant commanders, (previously recognized as lieutenants commanding,) may be repealed so as to restore to their respective grades and duties the pay to which they were entitled and received prior to the passage of that act. I move the reference of this petition to the Committee on Naval Affairs.

The motion was agreed to.

Mr. POMEROY. I present the petition of Richard Foster, a colored man, who represents that he has been in the United States service for two or three years and has lost a leg, but he was never mustered into the service, so that he cannot claim a pension; but he asks for some compensation in order that he may be able to procure a cork leg; and he also asks for a further consideration to enable him to go to school. I move that the petition be referred to the committee on slavery and freedmen.

The motion was agreed to.

Mr. BROWN. I present a memorial from the State convention of Missouri, asking Congress to make an appropriation to pay the amount expended by the State of Missouri in military equipments. I will state in presenting this memorial that a bill to that effect has already passed the Senate, and I therefore move that the memorial lie on the table.

The motion was agreed to.

Mr. MORGAN. I present a petition of citizens of New York, in which they respectfully pray for the enactment of a law preferring for appointments to all inferior offices persons honorably discharged from the military or naval service of the United States, who shall have served for a period of three years during the present rebellion, or who shall have suffered permanent disability while in the service, or who shall be held one year as prisoners of war, and that the tenure of such office be for life or during good behavior. This petition is signed by General Winfield Scott, Peter Cooper, General Dix, and three thousand six hundred other persons in the

city of New York. I move that it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. LANE, of Kansas, presented a petition of officers of the seventh Army corps, praying for an increase of the pay of Army officers; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILKINSON presented a memorial of the Legislature of the State of Minnesota in favor of the extension of the mail route from Red Wing to Mantoville, so that there may be a tri-weekly mail from Red Wing via Mantoville, Ashland, Madison, and Lansing; to Austin, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of the State of Minnesota in favor of a mail route from Rochester via Salem, Union Springs, Ashland, and Oak Glen, to Geneva, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARRIS presented a petition of citizens of Suffolk county, New York, praying for the establishment of a mail route from Manorville, via Eastport and Speonk, to Westhampton; which was referred to the Committee on Post Offices and Post Roads.

Mr. HENDERSON presented a memorial of citizens of the State of Missouri praying for the establishment of a fort or garrison near the southwest corner of that State; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the constitutional convention of the State of Missouri in favor of the payment by the General Government of the military debt of that State incurred in the defense of the General Government; which was ordered to lie on the table.

Mr. COWAN presented a petition of manufacturers of paper, praying for a reduction of the duty upon all imported articles entering into the manufacture of paper equal to that on printing paper; which was referred to the Committee on Finance.

## PAPERS WITHDRAWN.

On motion of Mr. POMEROY, it was

Ordered, That the petition and papers of Irwin P. Long, on behalf of the Wyandotte Indians, praying for an allowance for discount and interest on bonds held by the United States in trust for that tribe, be withdrawn from the files of the Senate.

## BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 449) making a grant of public lands to the State of Michigan to aid in the construction of a railroad along the mineral range in that State; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 445) making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of a ship-canal to connect Lake Superior with Portage lake in the upper peninsula of that State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 446) to increase the efficiency of the staff of the Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 447) to provide for the sale of rejected private land claims; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

## REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred a petition of citizens of Kansas, praying that the mail route from Kansas City, Missouri, to Lawrence, Kansas, by way of Westport, Missouri, may be changed so as to run on the river road from Kansas City, Missouri, to Lawrence, Kansas, by way of the Junction House, asked to be discharged from its further consideration, it having been already provided for by law; which was agreed to.

He also, from the same committee, to whom was referred a memorial of John Graham, of New York, praying for compensation for services rendered in the transportation of the United States mail between New Orleans, Louisiana, and Key West, Florida, during the quarter ending July 1, 1865, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the petition of the Mutual Fire Insurance Company of the District of Columbia, praying for an amendment of their charter, reported a bill (S. No. 444) to amend an act entitled "An act to incorporate the Mutual Fire Insurance Company of the District of Columbia," approved January 10, 1855; which was read, and passed to a second reading.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 145) for the relief of Major McFarland, reported it adversely.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 409) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia, reported it with an amendment.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of John Ericsson, praying for compensation for services in the construction of the machinery and propeller of the United States steamer Princeton, submitted a report accompanied by a bill (S. No. 448) for the relief of John Ericsson. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 379) for the sale of timber lands in the State of California, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 657) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States, reported it with an amendment.

Mr. FOSTER. I am directed by the same committee, to whom was referred the bill (S. No. 362) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," approved July 2, 1864, to report it without amendment, and to move that it be indefinitely postponed, inasmuch as it is provided for in the House bill which I have just reported.

The motion was agreed to.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S. No. 380) to give title to the occupants of lots in cities and towns in the State of California, reported it with an amendment.

## SUPPORT OF RECAPTURED AFRICANS.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Africans in Liberia, have had the same under consideration, and have directed me to report it back to the Senate with a recommendation that it pass. As I presume there can be no objection to it—it is simply to direct the Secretary of the Interior to audit certain accounts—I ask that it may be acted upon at once.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which directs the Secretary of the Interior to adjust and settle the accounts of the American Colonization Society for the support of recaptured Africans in Liberia, under contracts made for that purpose, under the authority of an act of Congress, approved June 16, 1860, on the principles of equity.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.



## PORT OF PHILADELPHIA.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia, have directed me to report the same back with an amendment in the form of a substitute; and as it is merely to enlarge that collection district, I ask the unanimous consent of the Senate to consider it at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendment of the Committee on Commerce to be strike out all of the original bill after the enacting clause, in the following words:

That the port of entry and delivery for the district of Philadelphia shall be bounded on the river Delaware by the present existing corporate limits of the city of Philadelphia, anything in any former law to the contrary notwithstanding.

And to insert in lieu thereof:

That the port of entry and delivery for the district of Philadelphia shall be bounded on the river Delaware by Frankford creek on the north and Broad street on the south. And be it further enacted, That all acts or parts of acts conflicting with the provisions of this act be, and the same are hereby, repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

## DEATH OF SENATOR HICKS.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President *pro tempore* of the Senate be requested to communicate to the Executive of the State of Maryland information of the death of Hon. THOMAS H. HICKS, late a Senator from said State.

## BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed the following bill and joint resolutions:

A joint resolution (S. R. No. 91) appointing General Richard Delafield to be a regent of the Smithsonian Institution;

An act (S. No. 281) for the relief Alexander J. Atocha; and

A joint resolution (S. No. 106) providing for the compilation of a Congressional Directory.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House requested the return of the joint resolution (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, for the purpose of correcting an error in the engrossment of the amendment of the House to the joint resolution.

The Secretary was directed to return the resolution, in conformity with the request of the House of Representatives.

The message also announced that the House of Representatives had rejected the bill (S. No. 241) granting to the State of Wisconsin a donation of public land to aid in the construction of a ship-canal at the head of Sturgeon bay in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State.

The message further announced that the House had passed the following bills of the Senate:

A bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads;" and

A bill (S. No. 413) to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road.

## COURTS IN NEVADA.

Mr. FOSTER. I ask the Senate to take up House bill No. 640, reported from the Committee on the Judiciary.

Mr. SUMNER. What is the bill?

Mr. FOSTER. It is a bill providing for a district and circuit court of the United States for the district of Nevada, and for other purposes. There are special reasons why it should be considered at once.

Mr. DOOLITTLE. I desire to say to my friend from Connecticut that I intended this morning, during the morning hour, to call up two or three Indian bills. I do not wish to occupy any more time than is necessary; but there are some matters relating to the Indians of pressing importance.

Mr. FOSTER. I will say, in regard to this bill, that it is one that ought to be acted upon, because there are causes now pending in the Supreme Court which have been postponed by the court twice already, and are now postponed to the 27th of this month, which will drop unless we have this legislation.

Mr. DOOLITTLE. I will not object to it; but I wish to notify the Senate that I desire, after the passage of this bill, to occupy its attention for a very short time with Indian bills.

Mr. STEWART. When this bill is taken up there are various matters connected with it upon which I wish to be heard, and it will take some little time. It is a matter of great importance to the locality where we reside; it affects our State materially; but I presume there is no objection to its being taken up now.

The motion of Mr. FOSTER was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes. It provides that the State of Nevada shall hereafter constitute one judicial district, to be called the district of Nevada; and a district judge, a marshal, and a district attorney of the United States are to be appointed for the district. The district of Nevada is to be attached to and constitute a part of the tenth circuit. A term of the circuit court of the United States for the district is to be held in the city of Carson, in the State of Nevada, on the first Monday of March, and on the first Monday of August, and on the first Monday of December of each year. A term of the district court of the United States for the district is to be held at the city of Carson on the first Monday of February, and on the first Monday of May, and on the first Monday of October of each year.

The district court of the United States for the district of Nevada, and the judge thereof, are to possess the same powers and jurisdiction possessed by the other district courts and district judges of the United States, and be governed by the same laws and regulations. The circuit court of the United States for the district of Nevada, and the judge thereof, are to possess the same powers and jurisdiction in the district which are possessed by them in the other districts of the tenth circuit. Whenever the circuit judge of the tenth circuit is absent or from any cause is unable to hold in any district of his circuit a term of the circuit court appointed by law, it is to be the duty of the district judge of the district to hold such term; and the circuit courts held by the district judges are to possess the same jurisdiction and powers in all respects as when held by the circuit judge; but they are not to possess any jurisdiction to hear and determine any case or matter on appeal or writ of error, or transferred from the district court or any proceedings therein.

The district judge appointed for the district of Nevada is to receive as his compensation the sum of \$3,500 a year, payable in four equal installments, on the 1st days of January, April, July, and October, of each year. The marshal and district attorney of the United States for the district of Nevada, and also for the district of Oregon, are severally to be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes, approved February 26, 1853; but the aggregate compensation allowed them is not to exceed the amount provided for such officers by that act. The third, fourth, and fifth sections of the act of February 19, 1864, entitled "An act amendatory of and supplementary to an act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 3, 1863, are to be applicable to the appointment of special sessions of the circuit courts in the districts of Nevada, and to the appointment of clerks and deputy clerks of the circuit courts of the districts of Ne-

vada and Oregon. The clerk of the circuit court in the districts of Nevada, Oregon, and California is to be also clerk of the district court in those districts, and receive for like services the same fees and compensation which are allowed by law to the clerks of the circuit and district courts of the United States for California; but the clerk in each of those districts is to be allowed by the Secretary of the Interior to retain of the fees and emoluments received by him as clerk of both courts, over and above the necessary expenses of his offices and necessary clerk hire included, to be audited and allowed by the proper accounting officers of the Treasury, only such sum per annum as is now allowed by law to the clerk of one of those courts, and is to pay the remainder into the public Treasury, under oath, in the manner and under the regulations now prescribed by law. This act is to take effect on the 1st day of April next.

The Committee on the Judiciary reported the bill with amendments. The first amendment of the committee was in section four, line four, to strike out the words "which are possessed by them," and to insert "which are vested in said court and said judge," so that the section will read:

That the circuit court of the United States for the said district of Nevada, and the judge thereof, shall possess the same powers and jurisdiction in said district which are vested in said court and said judge in the other districts of the tenth circuit.

The amendment was agreed to.

Mr. STEWART. I am opposed to all the amendments reported by the committee. So far as this one is concerned, it is a mere matter of verbiage; I think the bill as it came from the House of Representatives is as near perfect as we shall be able to get it, and the amendments are so unimportant that I think it unnecessary to send the bill back to the House.

The PRESIDENT *pro tempore*. The next amendment will be read.

Mr. STEWART. Did the Chair declare the first amendment adopted?

The PRESIDENT *pro tempore*. It did; but it will come up again in the Senate.

Mr. CONNESS. That will necessarily confine the discussion that may be had to the terms of the amendment that has been adopted.

The PRESIDENT *pro tempore*. The whole bill will come up afterward in the Senate, and will be open for discussion in every point as it progresses.

Mr. CONNESS. I understand that the Senator from Nevada was on the floor before the Chair had declared the result.

The PRESIDENT *pro tempore*. The Chair had declared it; but the Chair will put the question again if it is desired.

Mr. CONNESS. I feel some interest in this bill, and I prefer that the discussion should take place upon it before the vote shall be taken upon the adoption of the amendments reported by the committee.

The PRESIDENT *pro tempore*. The Chair will regard the vote on the first amendment as reconsidered, and it is now open for discussion.

Mr. STEWART. Mr. President, I should like to hear from the members of the committee who have reported these amendments their reasons for wishing to change the original bill in such important particulars. I should like to know the reasons, so that we may have some further light on the subject, because the amendments seem to me liable to grave objection. I do not think the bill is improved by the amendments.

The PRESIDENT *pro tempore*. The question now is on the first amendment.

Mr. FOSTER. It may be quite impossible for me to satisfy the honorable Senator from Nevada that either one of these amendments ought to be adopted. As it regards the one now before the Senate, which is to amend the fourth section by striking out the words "which are possessed by them," and inserting in lieu of them the words "which are vested in said court and said judge," I can only say that any gentleman who had in his early life an opportunity of reading a book called Lindley Murray's Grammar, will see, I think, the great propriety of that amendment. The section now reads thus:

That the circuit court of the United States for the said district of Nevada, and the judge thereof, shall possess the same powers and jurisdiction in said district which are possessed by them in the other districts of the tenth circuit.

I believe the distinguished author to whom I have referred—Lindley Murray—does not consider that good grammar; and to strike out the words "which are possessed by them" and insert in lieu thereof "which are vested in said court and said judge" of the other districts of the tenth circuit, will make it good grammar, and will make it mean precisely what the writer intended it to mean when he wrote it as it stands.

The amendment was agreed to.

The next amendment was to strike out sections five, six, seven, eight, and nine, as follows:

SEC. 5. *And be it further enacted*, That whenever the circuit judge of the tenth circuit is absent or from any cause is unable to hold in any district of his circuit a term of the circuit court appointed by law, it shall be the duty of the district judge of the district to hold such term; and the circuit courts held by the district judges shall possess the same jurisdiction and powers in all respects as when held by the circuit judge: *Provided*, That they shall not possess any jurisdiction to hear and determine any case or matter on appeal or writ of error, or transferred from the district court, or any proceedings therein.

SEC. 6. *And be it further enacted*, That the district judge appointed for the district of Nevada shall receive as his compensation the sum of \$3,500 a year, payable in four equal installments, on the 1st days of January, April, July, and October, of each year.

SEC. 7. *And be it further enacted*, That the marshal and district attorney of the United States for said district of Nevada, and also for the district of Oregon, shall severally be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853: *Provided*, That the aggregate compensation allowed said officers shall not exceed the amount provided for such officers by said act.

SEC. 8. *And be it further enacted*, That the third, fourth, and fifth sections of the act of February 19, 1864, entitled "An act amendatory of, and supplementary to, an act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 3, 1863, shall be applicable to the appointment of special sessions of the circuit courts in the districts of Nevada, and to the appointment of clerks and deputy clerks of the circuit courts of the districts of Nevada and Oregon. And that the clerk of the circuit court in the districts of Nevada, Oregon, and California shall be also clerk of the district court in said districts, and shall receive for like services the same fees and compensation which are allowed by law to the clerks of the circuit and district courts of the United States for California: *Provided*, That the clerk in each of said districts shall be allowed by the Secretary of the Interior to retain of the fees and emoluments received by him as clerk of both courts, over and above the necessary expenses of his offices and necessary clerk hire included, to be audited and allowed by the proper accounting officers of the Treasury, only such sum per annum as is now allowed by law to the clerk of one of said courts, and shall pay the remainder into the public Treasury, under oath, in the manner and under the regulations now prescribed by law.

SEC. 9. *And be it further enacted*, That this act shall take effect on the 1st day of April next.

And to insert in lieu thereof the following:

SEC. 5. *And be it further enacted*, That the salary of the district judge for the district of Nevada shall be \$3,500 per annum, payable in four equal installments on the 1st days of January, April, July, and October of each year; and the marshal and district attorney of the United States for said district shall severally be entitled to charge and receive, for the services they may perform, the fees and compensation now allowed by law, to wit, by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853, for similar services. The clerks of the said district and circuit courts shall be appointed in the manner now prescribed by law for the appointment of such officers. They shall be subject to the same rules and regulations, shall perform the same duties, and be entitled to charge and receive the same fees and compensation as officers of like character in the other districts and circuits of the United States for like services.

SEC. 6. *And be it further enacted*, That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of the Territory of Nevada, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Nevada, or to the supreme court of the State of Nevada, as the nature of said appeal or writ of error may require, and each of these courts shall be the successor of the supreme court of Nevada Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nevada, prior to its admission into the Union as a State, the parties to said judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they would have had under the laws of the United States if this act had been passed simultaneously with the act admitting said State into the Union.

Mr. FOSTER. In regard to these amendments, the Committee on the Judiciary recommend the striking out of the fifth, sixth, seventh, eighth, and ninth sections of the bill as it came from the other House, and to insert in lieu thereof two other sections, which added to the first four sec-

tions of the bill will in the judgment of the committee make the bill fit and proper for the purpose for which it was intended. The fifth section, one of those which they propose to strike out, provides that whenever the circuit judge of the tenth circuit is absent and cannot hold the circuit court for the term, the judge of the district court shall hold the circuit court in lieu of the circuit judge. That is provided for by the general law. That is the law now. In regard to all the circuits in the United States, if the judge of the circuit court is unable to attend, the district judge holds the circuit court; so that the fifth section is unnecessary, because the law now is the same as it will be if that section stands.

The sixth section, which it is proposed to strike out, provides for the salary of the district judge, but that is provided for by the amendment and put in another connection; it is not necessary, therefore, that that section should stand. It was stricken out merely for the purpose of having the sections together stricken out, and not because the committee do not embody the same provision in the amendment which they report. The salary is provided for in the amendment in the same manner precisely that it is in the sixth section.

Then the seventh section, which the committee propose to strike out, provides that the marshal and district attorney of the United States for the district of Nevada and also for the district of Oregon shall severally be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act "to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853. The committee were not satisfied with the marshal and district attorney of the United States for the district of Nevada should be entitled to double the fees provided for those officers in the other portions of the United States. No doubt to some extent the expenses of living in that State are greater than they are in some other States of the Union; but the committee thought that it was not now a good time to increase salaries, even where it might be necessary to increase them, and especially that it was not a good time to put such a provision as that into this bill, it being very desirable that this bill should pass without having in it matter which would provoke discussion. It also was objectionable to the committee on the ground that it provides this same thing for the district of Oregon. We saw no reason why the affairs of the State of Nevada, so far as the district and circuit courts are concerned, should be mingled with any question about the fees which should be charged by the marshal and district attorney for the district of Oregon. We thought it was matter not germane to this bill, and that it ought not to be in it. That was the reason why we thought the seventh section ought to be stricken out.

The eighth section provides that certain sections of a prior law, which are enumerated and described, shall be made applicable to the clerks and deputy clerks of the circuit court and district courts of Nevada and Oregon, and makes some other provisions in regard to the fees of these officers; but inasmuch as the committee thought that the fees of these officers should be the same as the fees of like officers in the other States, there was no occasion for that section to stand in the bill, and therefore they recommend that it be stricken out.

Then the only remaining section is the ninth, which provides that the act shall take effect on the 1st day of April next. We thought it exceedingly objectionable, because, as I have suggested, there are causes now pending in the Supreme Court of the United States coming from the territorial courts of Nevada, which, the State having been admitted, have expired judicially; and if this act does not take effect until April next, all these causes must fall.

I have thus stated the reasons why the committee thought these several sections should be stricken out, and I come now to explain the sections which we recommend in lieu of them. These two sections will make the fifth and sixth sections of the bill if they shall be acceptable to the Senate, and if the bill shall pass.

The proposed fifth section provides for the district judge a salary of \$3,500, the amount which is provided in the House bill. It then provides for the

fees of the marshal and district attorney, declaring that they shall be entitled to charge and receive for the services they may perform the fees and compensation now allowed by law to officers of the same character in the other districts and States of the United States, and the same in regard to the clerks of the district and circuit courts; that these officers shall be subject to the same rules and regulations, and perform the same duties and be entitled to charge the same fees as officers of like character in the other districts and circuits of the United States for like services.

Then the new sixth section provides that all cases of appeal or writs of error heretofore prosecuted and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nevada, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Nevada, or to the supreme court of the State of Nevada, as the nature of the appeal or writ of error may require. This section further provides that from all judgments and decrees of the supreme court of the Territory of Nevada prior to the admission of that Territory into the Union as a State, the parties to those judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they would have had under the laws of the United States if this act had been passed simultaneously with the act admitting the State of Nevada into the Union.

These are in substance the two sections recommended by the committee in lieu of those stricken out, and to some extent these two sections introduce new matter into the bill. It is, however, in regard to causes now pending in the Supreme Court of the United States, in reference to which the House of Representatives passed a bill some weeks since and sent it to us, the provisions of which bill we propose to embody in this, and to go somewhat further, thinking that the House bill providing that the Supreme Court of the United States might go on and hear and determine causes pending until United States courts were created in Nevada would not by any means give to parties their rights. In this bill we propose to create the proper district and circuit courts for that State, and then provide that the causes now pending in the Supreme Court may be proceeded with according to law, and remanded either to the district court of the United States or to the supreme court of the State of Nevada as the necessities of the case may require; and it is also provided in the amendment, which was not provided for by the House bill, that the parties to judgments or decrees which have been rendered or passed by the former territorial courts, although they have not yet taken a writ of error or made an appeal, may, notwithstanding the fact that they have not yet availed themselves of their right in that particular, still avail themselves of that right as if these courts had been created in the bill which admitted Nevada as a State; because, without this legislation, parties who have had their causes tried and disposed of in the territorial courts would not have any right to bring a writ of error or take an appeal from those courts, but their judgments would be final. The law of the United States is that parties have a certain period of time, in some cases some years, to prosecute a writ of error or an appeal; and the committee saw no reason why the parties to judgments or decrees in the territorial courts of Nevada should not have the same right and the same privilege. It was the fault of Congress (in which, of course, the Senate had its share) in not giving to the State of Nevada a district and circuit court when the Territory ceased to be a Territory and became a State. It was an inadvertence, an omission; and the State ought not to suffer, neither ought parties who have been litigating their rights in the Territory to suffer by this omission or inadvertence on the part of Congress. The committee deemed it but simple justice that the causes which are pending and now in court should be provided for, and also that the rights of parties as existing under the law over the country everywhere else should be made the same within this State, and that they should have their rights during the same period of time to prosecute appeals and writs of error.

That, Mr. President, is the bill, and the whole bill, as it now stands. It is disembarrassed of any question as regards any other State. It gives to this State the same district and circuit courts that are given to every other State in the Union. It gives the same officers to those courts. It gives to those officers the same fees and emoluments, and subjects them to the same laws and regulations. It lets Oregon alone; it lets California alone; it is a simple bill unconnected with any other thing than simply the creation of a district and circuit court, providing for the officers of those courts and their salaries; and simply adding to that a provision that the causes pending in the Supreme Court of the United States may be proceeded with, and that the rights of parties to prosecute appeals or writs of error from judgments that would otherwise be final shall not be lost to them. That is all there is of the bill.

Mr. STEWART. Mr. President, in regard to the statement that this bill interferes with California and Oregon, I will only say that the delegations from both those States are desirous that the bill should be passed as it came from the House of Representatives; the Pacific delegation, I believe, is unanimous in this desire, so that the matter may be entirely disembarrassed from that consideration.

As to the fifth section, it is proposed to strike it out, because it is said that it is not necessary, inasmuch as it is now the duty of the district judges in the absence of the circuit judge to hold the respective circuit courts. Perhaps it would be unnecessary, so far as giving that power is concerned, to insert the fifth section; but there is an important matter in the section which in connection with that provision makes it very proper to retain the section, and reenact what the Senator says is now the law. The proviso to that section is as follows:

*Provided*, That they shall not possess jurisdiction to hear and determine any case or matter on appeal, or writ of error, or transferred from the district court, or any proceeding therein.

It may be said that that is the law as it now stands, that it is not contemplated by the law that a judge shall hear on appeal a case that has been tried before him; but in answer to that, we say we are informed that that very thing has occurred, that the judge who presided over the court and tried the cause has been found making orders in the same cause on appeal. I am confident that it is not the law; but it has been so construed, and it is well to make it entirely plain. There can be no objection to that; it certainly avoids a difficulty that exists now in the city of San Francisco. I am informed by the delegation from California that such is the fact. That is a full answer, it seems to me, to the proposition to strike out that section.

As to the sixth section, that simply fixes the judge's salary, and the same provision is put into the amendment. Of course it may as well be here as in another form in the amendment reported by the committee.

The seventh section involves the question of the compensation of the marshal and district attorney. That is a question purely local in its character. It has been suggested that we want uniformity in our judicial acts. Of course we do. We want uniformity in the administration of all the departments of the Government; for instance, in the administration of the military department I presume; but yet I suppose it would not be contended that the supplies for the Government should be furnished at all points at the same price. I do not suppose that by legislation here we can make flour or pork sell for the same in Nevada as in Connecticut. In employing persons to discharge duties which are paid by fees, it is necessary to give such a compensation as will enable them to discharge the duties. We are the best judges of that. We know best what it costs to live in that country. The delegations from those different States understand that proposition perfectly well. There can be no law passed by Congress that will compel a storekeeper to furnish provisions at less than the market rates.

The seventh and eighth sections but reenact and make applicable to Nevada a law which was passed last winter, allowing to the clerks, marshals, and district attorneys of the courts in California and Oregon double the fees allowed to the

same officers in the other districts of the United States. The delegations from California and Oregon agree to these sections; they desire them to be passed. Even now, with double fees, the compensation is extremely meager. In order that the clerk shall live, it will be necessary that he be made master in chancery and commissioner, and have all the duties assigned to him that can be assigned. The marshal is not situated as that officer is in the city of New York; he has no great sales to make; there is no shipping interest there from which he may derive fees. He has very little to do. It is doubtful whether even with this provision we can support a marshal. I do not see why gentlemen should object to litigants in the courts there being charged what we deem necessary to support the officers. Uniformity in that respect is not now observed; an exception has already been made with regard to California and Oregon; and I do not see that this is an innovation, or that anybody has a right to complain of it.

Again, the eighth section contains a provision that the district court clerk and the circuit court clerk shall be the same person. In this there is a great saving of expense. It will not be necessary to rent more than one clerk's office. The rent of a clerk's office is a matter of considerable importance there. It will cost \$100 a month in gold to get a decent clerk's office. Consolidate the two offices, and one man can attend to both with perfect ease. Give the compensation we ask for here, and the office can be attended to properly, and in a manner satisfactory to all. No harm can be done by it; it is no innovation on what has already occurred. It is only doing what ought to be done in different sections of the country; because I say it is unjust and unfair to charge the same fees in the city of New York—where with a very small compensation in each case the office of marshal would be worth a large amount of money, figuring up among the thousands, forty or fifty thousand dollars, perhaps, a very lucrative office—as in a country where there is but little litigation, and where living is extremely expensive.

#### COMMERCE AMONG THE STATES.

The PRESIDENT *pro tempore*. The Senator from Nevada will pause. It becomes the duty of the Chair to call up the special order, being the bill (H. R. No. 307) to regulate commerce among the several States. The pending question is on the amendment of the Senator from Massachusetts, [Mr. WILSON,] and the Senator from New Jersey [Mr. TEN EYCK] is entitled to the floor.

Mr. FOSTER. I hope we may be allowed to proceed with the bill which has been discussed this morning, unless the Senator from New Jersey prefers to go on.

Mr. TEN EYCK. I should prefer to go on if it is agreeable to the Senate.

Mr. SHERMAN. My friend from New Jersey will allow me to state that after he has addressed the Senate I shall endeavor to get up the naval appropriation bill for the purpose of having action on it to-day.

Mr. TEN EYCK. Mr. President, the bill now before the Senate is very unassuming in its dimensions, consisting of only about eight or nine lines, but it involves questions of the utmost magnitude and importance. It is true they are presented in a shape somewhat novel; yet they are in fact as old as the Government itself. They agitated the Convention which framed the Constitution, and they may be traced down all along the pathway of our history to the present time. They are questions of power as between the national and State Governments worthy of our calmest and gravest consideration. They are contested, controverted, and delicate. They are not questions of mere expediency, of policy, of politics, nor are they confined to a mere locality; but they are questions of law, constitutional, organic law, broad and extensive as the country itself. They are not questions merely for to-day and for ourselves, but for all time and for our posterity. No interest should control them; no passion should affect them; they will continue to exist after the causes now disturbing them shall have passed away, when passion shall have found new forms in which to flash its heat, and interest new food on which to feed itself.

This bill is in the following words: it is short, and I prefer to read it as preliminary to my re-

marks. It is entitled "An act to regulate commerce among the several States:"

That every railroad company in the United States whose road is operated by steam, its successors and assigns, he, and is hereby authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from any State to another State, and to receive compensation therefor.

Sir, it authorizes every railroad company in the United States whose road is operated by steam to carry over and upon its road, connections, boats, bridges, and ferries, from one State to another, and to receive therefor compensation—first, all mails; second, troops and Government supplies; third, property, freight, and passengers. Now, sir, the question is whether the bill shall receive the sanction of Congress for the purposes declared in its body. I shall consider shortly, very shortly, the two first objects named, and the third object more at length.

Is this bill necessary to authorize the carrying of the mails over all the railroads in the United States operated by steam? It is not necessary for me to discuss the constitutional question involved in this. The Senator from Massachusetts, [Mr. SUMNER,] if I understood him aright, stated that he deemed the passage of this bill necessary for this purpose. I do not so regard it. He states that there is no doubt about the power, and he refers to acts of Congress in which the power has been declared and the authority conferred. Without stopping to argue the constitutional question involved in this point of the case, I say there is no necessity for the passage of this bill for this purpose. I beg leave to refer very shortly indeed to the statute passed on this subject, simply to refer to it in order that it may be incorporated in my remarks. By an act passed on the 3d of March, 1853, in addition to a former act passed on the subject—it is to be found in the Statutes at Large, volume ten, page 255—it is provided that—

"All railroads and parts of railroads which are now or hereafter may be in operation, be, and the same are hereby, declared to be post roads; and the Postmaster General may contract for carrying the mails thereon according to existing laws."

If the power were undisputed, and I do not stop to question it either one way or the other, it is unnecessary to pass this bill, because we have a statute full and complete on that subject now upon the statute-book, and the Government is using these roads for the purpose of the transportation of the mails throughout the length and breadth of the Union. It is not necessary to spread any such statute as this among our laws for the purpose of doing or authorizing that to be done which now is authorized by law and is not disputed at the present time.

How is it with respect to carrying troops and Government supplies? Is the passage of this bill necessary for this purpose? By an act of Congress passed on the 30th of January, 1862, to be found in the Statutes at Large, volume twelve, page 334, it has been declared by Congress "that the President of the United States, when in his judgment the public safety may require it, be, and he is hereby, authorized to take possession of any or all the railroad lines of the United States, so that they shall be considered post roads and part of the military establishment of the United States." It is unnecessary to pass this bill for the purpose of authorizing the Government to transport troops and munitions of war over these railroads, because we have an act now passed authorizing that to be done. Under the provisions of that act, troops and munitions of war are being transported over railroads throughout the length and breadth of the land, even over the railroads of New Jersey, whether they are entitled to exclusive privileges or not, each and all of them, leading from the city of New York toward the capital of the Union. It would be a work of supererogation to pass this bill for either of the two purposes to which I have referred.

Then, sir, how is it with regard to the third object, the authority sought to be conferred on every railroad in the United States operated by steam, to carry passengers, property, and freight in the way proposed? This is the grand and absorbing question, the real and only object of this bill. The other purposes, if the Senator from Massachusetts will allow me to borrow a word frequently used by him on the day before yester-



day, are mere "pretenses" for the exercise of the power of Congress as invoked in this bill. Sir, before authorizing this to be done I, at least, consider it proper to inquire first what rights and interests are involved in it; and second, what rights and interests will be invaded by it. I deem them to be as sacred and important as the Government itself, or at least as important as the existence of the State governments themselves. Pass this bill, and it will confer on railroad companies chartered by the States authority to do that which by the laws of the States creating them they have no right to do, which laws, in fact, constitute a part of their contracts with the States, and were accepted by them as such when they took their charters from the States.

State railroad charters I understand to be contracts entered into by the companies with the States creating them, and by which not only the companies themselves but the States creating them are bound—contracts as solemn and as obligatory on the parties thus contracting as any other contracts between any other and different parties. Sir, the object of this bill is to discharge State railroad corporations from the obligations they are under to the States creating them, and to which they owe their very being. This, I submit most respectfully and emphatically, Congress, in all the plenitude of its power, has no right or authority to do under either of the three powers referred to by the distinguished Senator from Massachusetts, and especially under the power to regulate commerce between the several States, to which he has especially adverted.

I do not propose to enter into an elaborate discussion of the constitutional question involved in this bill. I think the argument submitted by the honorable Senator from Maryland [Mr. Johnson] some two or three weeks ago was complete and sufficient upon that subject; and if the Senator from Massachusetts will allow me to use the expression, notwithstanding the air of triumph with which he seemed to consider that he had overthrown the argument of the Senator from Maryland, I do not think that he touched it in any material point. I think he failed utterly in attempting to refute the positions assumed and taken by the Senator from Maryland. I have too much respect for the opinions and for the patience of this body to undertake to repeat and reiterate the discussion in full upon that subject. But, sir, I may be permitted perhaps to call the attention of the Senate to some of the phases involved in this question. I have no feeling about it; I can have no personal feeling on this subject, although much has been said about my State, and although the question involves the interests of the people of my State. I know that the people of my State are divided, from Sussex to Cape May, upon this subject. I know there is a great, wide, and radical difference of opinion between them in relation to this measure, so far as my own State is concerned, and I think it but frank, manly, and fair in me to give the opinions which I entertain and which will influence me in giving the vote I expect to give, let the consequences be to me as they may, or to any conflicting interest that may be running wild in the State from which I come, and which I honor and reverence.

Mr. President, I hold that Congress cannot absolve a State corporation from the conditions, limitations, and restrictions imposed upon it by the State creating it, and involved in its very charter, in a matter solely within the jurisdiction of the State, as I claim it to be in the case of the State more particularly interested in the question now before the Senate. I admit that Congress may pass laws establishing a uniform system of bankruptcy, under the powers conferred upon it by the Constitution of the United States, and thus discharge pecuniary obligations; but where is the power enabling it to authorize a corporation created by a State, with conditions, limitations, and restrictions on its franchise, to accept and use the charter not only without regard to those restrictions, limitations, and conditions, but in utter violation of them? Congress cannot abridge or enlarge the franchises of a State charter; it is not within the powers conferred upon it. If so, I should like to see where the authority is to be found; I should like to have it referred to by some of the advocates of the bill now before the Senate.

This is not a bill to authorize the construction of a new road by the Government of the United

States. That is not the question now before the Senate. It is a bill to authorize the seizure of charters granted by the States, and their conversion to other purposes different from those for which they were granted, and to arm the managers of State corporations with a power antagonistic to and in contravention of the very law of their existence. This cannot be done; it is against both law and reason. It has been uniformly held that Congress cannot build a road within the limits of a State without the consent of that State. What has been the history of our Government on that subject? I beg leave to call the attention of the Senate for a few minutes to the history and action of Congress on the subject of constructing public improvements within the limits of the several States of the Union.

Shortly after the commencement of the present century this movement was set on foot, and it was agitated more or less by Congress and the General Government down to a period as late as 1830. About the year 1806 the great question which agitated Congress was not whether Congress could make internal improvements contrary to the wishes of the several States through which it was proposed they should be made or constructed, but whether the Government of the United States had the power to make internal improvements at all; whether it was within the power of Congress; whether it was constitutional. A reference to the State Papers will show the opinions of Mr. Jefferson and Mr. Madison on that point. There was great doubt entertained; that was the battle; that was the controversy. About that year Congress stood somewhat committed to the doctrine of internal improvements in the case of the Cumberland road, but that road was established by and with the consent of the State of Maryland, through which it was constructed. The controversy was not whether it could be constructed with or without the consent of the State, but whether it was within the power of the General Government to construct this work of internal improvement at all. However, it was determined to do so, the consent of the State being obtained for that purpose. In 1822 this road got out of repair and Congress passed a law to erect toll-gates on it for the purpose of collecting toll in order that it might be repaired. This brought up the question of internal police, whether the Government of the United States had the right and power to police the road. A controversy grew out of that, and eventually the road was abandoned; it returned to the use of the State, the Government of the United States having relinquished all control over it as a public road and surrendered its right to levy toll for the purpose of keeping it in repair.

Proceeding in the short and concise history I am giving, in 1825 Congress subscribed money for building the Chesapeake and Ohio canal, and so far as that went stood committed to the aid of internal improvements within the States. But this was not in opposition to the wishes of the States through which this public work ran. Subsequently to that, General Jackson vetoed the famous Maysville road bill, which seemed to settle the policy of the Government in relation to this matter, and from that time there has been no great work of public improvement in this country carried on under the fostering care and protection of the Government of the United States; and about that time, from 1830 to 1833, that system of internal improvements which has brought out and developed the resources of this country in the shape of railroads and canals sprang into existence, under the fostering care and aid of the States and the people of the several States. It was at that time that the policy of public improvements was surrendered, so to speak, by the General Government, and taken up by the several States; and we have seen the glorious results everywhere arising from wise, judicious, public-spirited, and patriotic action on the part of the individual citizens of the several States, who could better understand and better regulate and manage the affairs of public improvements within their own borders and within their own limits.

And, Mr. President, the Pacific railroad bill goes upon this same principle, and recognizes this right of the States to construct works of public improvement by themselves within their own limits, because by the very charter we have passed incorporating the Pacific Railroad Company we have taken especial care and pains to confine its

beginning, its termination, and its passage, to the Territories of the United States, and not to invade the limits of either of the States of this Union; privilege being of course afforded and some assistance also held out to the several States in the construction of branch roads to run in like so many smaller streams to supply the great current which is to unlock for the purposes of trade and commerce the recesses of the great center to the eastern and to the western coasts of this country.

But, sir, the bill before us is vastly different from this. It is, as I said, to seize the charter of a State and alter its provisions, and to absolve the corporation from its contract with the State creating it and the contract entered into by it with the State when it was created. Now, sir, I ask you what effect this will have upon a State charter. Pass this bill and what effect will it have upon State charters? Will it be an amendment to State railroad charters? Will it be a repeal of State railroad charters, or will it be a new charter for these companies, or partly both? What kind of corporation will it be, State or national? It will be a kind of hybrid, with a foundation resting upon State authority, and its superstructure authorized and erected by Federal authority.

Again, of all who are carried away by the splendid pageant of Federal supremacy, I would ask, what effect will it have on the amenability of such corporations to the States creating them? They have duties to perform and liabilities to meet. Will the passage of this bill make them creatures independent of their creator, and authorize them to cast themselves loose from all the bonds they voluntarily assumed when they entered into their contract, which they did on the acceptance of their charter? How as to taxes which they are required to pay by the terms of their charter upon their acceptance? How as to the repeal of this charter, most of them having terms in their acts of incorporation authorizing the Legislature of the State to withdraw the chartered rights and privileges conferred on them by the charter? How are they to be answerable for abuse of their franchise? Is the great remedy of *quo warranto* to be withdrawn? May they not be called upon in any way to respond for misfeasance, malfeasance, non-user, or abuse? According to the theory of gentlemen who are the advocates of this extreme Federal power, it would seem so. Sir, grant that the argument of the Senator from Massachusetts is to be carried to the extent that it plainly implies, these creatures of State authority may flaunt the very power which gave them a body if it did not confer upon them a soul. Under this bill, I ask, what may these State corporations not do? The Pennsylvania Central, the New York and Erie, the Raritan and Delaware Bay, with limitations, and with termini fixed in their charters, to convey passengers and freight between certain points, Pittsburgh and Philadelphia in the one instance, Lake Erie and New York in the other, or from a little place on the Raritan bay called Port Monmouth down to Cape May, may start a line of steamers in connection with their roads, send them across the ocean, or around the world. These companies are authorized to build a road in one locality; by the pretension set up they may build it in another. They are authorized to carry passengers and freight between two points; they may, according to this pretension, carry them between other and different points. They are restricted by their charters to charge certain prices for transportation; by this pretension they may charge any other price for transportation or passage that they may see fit, unless restricted by this bill, and there is no restriction upon the face of it with respect to charge. They are limited and required by their charters to do a particular kind of business prescribed; if Congress has power to authorize what is now asked, they may be authorized to do another kind of business than that prescribed, and in any other way. Sir, to what will this lead, and where will it end? It will lead to the destruction of the internal improvements of every State in this Union or several of the States of this Union, or may do it, and it will tend to the ruin and bankruptcy of tens of thousands of true and loyal citizens, men, women, widows, children, whose estates have been invested in incorporated companies of this kind, under the plighted faith of the several States within the limits of which they are citizens.

Now, sir, how will it operate more particularly

in practice? The States of this Union have each a railroad system of their own. I will refer to my own State by way of illustration. I do not know that a reference to that State and to the injury and evil which may be inflicted upon her will have any influence upon the mind of the Senator from Massachusetts. During the discussion of this question of constitutional authority, that Senator indulged in strong, if not violent, terms of denunciation against my State. I infer that he has but little love for her. He likens her to the State of South Carolina; "like," he says, "begets like;" and this "pretense," as he calls it, on the part of my State he characterizes as a species of nullification like nullification in the State of South Carolina. Sir, he undertakes to say that of a State whose children have shed their blood upon almost every battle-field of this rebellion. He has pronounced her conduct as a usurpation and a pretense!

It was my intention to dwell somewhat at length on that branch of the subject, but the Senator from Massachusetts will excuse me when I say that knowing that my State is alike indifferent to his censure and his praise, I shall not enter into any unseemly contest of that kind on this occasion. This bill is meant to bear upon my State and to trample her rights under foot. It has so been declared by the Senator from Massachusetts, not in so many words, but he claims that it was a usurpation and a pretense on her part to do what she has done. Permit me to examine this question a little. I am compelled to ask the indulgence of the Senate while I investigate it, and, as shortly as I possibly can, lay before the Senate the true history of this contest in my State for the purpose of calling upon the judgment of the Senate for their opinion as to the propriety as well as the legality of the measure now asked to be enforced against that State.

The bill now before the Senate is a House bill, House bill No. 307; it is identically the same as Senate bill No. 102, introduced by the Senator from Massachusetts. It is the same in effect as is the original House bill No. 307, and the present bill was proposed in the other House by Mr. Wilson, the chairman of the Committee on the Judiciary of that House, as a substitute for that bill, making it in its general terms applicable to all the States, instead of confining it to the State of New Jersey. For the purpose of making my remarks more understandable, and as the original bill is not long, I desire to refer to it. This is the way in which the measure was first introduced, this is the key that unlocks the object and purpose of the bill now before the Senate. It is entitled "A bill to declare certain roads military and post roads, and to regulate commerce," and it goes on to say:

*Be it enacted, &c., That the railroad of the Camden and Atlantic Rail Company, and the branches thereof, built and to be built, and the railroad of the Raritan and Delaware Bay Rail Company, and the branches thereof, built and to be built, are hereby declared to be lawful structures and public highways of the United States.*

*Sec. 2. And be it further enacted, That the said railroads and branches, with a ferry or ferries from Camden, in the State of New Jersey, to Philadelphia, in the State of Pennsylvania, and steamboats and other vessels from Port Monmouth, in the State of New Jersey, to the city of New York, running in connection with said roads, are hereby established as a post route, military road, and public highway of the United States for the purpose of transmission of the mails, troops, and munitions of war of the United States, and for the transportation of goods, wares, and merchandise of foreign growth across the State of New Jersey, under permits granted by the collectors of ports of the United States authorized to grant the same, and for commerce among and between the several States of the United States.*

*Sec. 3. And be it further enacted, That the Camden and Atlantic Railroad Company, and the Raritan and Delaware Bay Railroad Company, chartered by the State of New Jersey, or either of them, or their assigns, are hereby authorized and empowered to complete, maintain, and operate the said railroads and branches, and to establish, maintain, and run the said ferries, steamboats, and other vessels, as a line of transportation for goods, wares, and merchandise of all descriptions, and passengers between the cities of New York and Philadelphia, and between the intermediate places and said cities, respectively, and for commerce between and among the several States of the United States, anything in any law or laws of the above-named States to the contrary notwithstanding.*

That shows the object, clear, distinct, and well defined, which was in view at the time of the introduction of that original bill. I may be allowed to say that that bill was introduced at the instance of the Raritan and Delaware Bay Railroad Company. It was introduced upon the presentation of their petition, which was referred to the several

Committees on Commerce who had charge of these measures. The General Government tasked for the passage of no such bill. In a report made by the Postmaster General, a year or two ago, it was stated that no additional postal facilities were required between the city of Washington and the city of New York. The House of Representatives regarded this as a measure striking at the State of New Jersey, and the State of New Jersey alone. The chairman of the Committee on Military Affairs, in a discussion before the House on that subject, stated:

"I shall be willing to vote for the amendment of the gentleman from Iowa, [Mr. Wilson,] because that commends itself to many gentlemen here on account of the general character of the legislation it proposes. But if that substitute should fail, I will go with equal cheerfulness for the original bill, with a view to the correction of the particular evil at which that is aimed."

"I look at this matter as the committee looked at it, from an outside point of view. I look at it as a citizen of Ohio or of any other State than New Jersey, and for that reason I will be drawn into no argument here in relation to the rights of natural or artificial persons as they exist under and by virtue of the laws of New Jersey. I care nothing about what questions may have been raised in the Legislature of New Jersey. I care not what may have been the different opinions of the courts of New Jersey. It is not for me, if the people of New Jersey are willing to submit to the dictation and rule of a selfish corporation, to interfere for the protection of that people. They must take care of themselves. They must be left to their own Legislature and their own courts."

It would seem that the Senator from Massachusetts [Mr. Sumner] cares as little about the decision of the courts of my State or the action of its Legislature as the honorable chairman of the Committee on Military Affairs of the House of Representatives. That was the object; that was the design. It was to interfere with what they are pleased to call an odious monopoly and a usurpation of my State as against the rights and privileges of the other States of this Union.

Sir, I make no apology, I make no excuse for my State. I stand here as her humble representative on this floor and simply ask that I may be permitted to present the facts as they are. If she stands in the light of an enlightened public judgment, she will stand; if she falls in the view of an enlightened public judgment, she must fall. My feeble arm can neither hold her up, nor perhaps aid in casting her down.

Mr. President, suffer me to say, to run back through a period of some thirty or forty years, that New Jersey was among the first, if not the very first State in this Union to establish a railroad of chief magnitude and importance in this country. Railroadage was then in its infancy. It was undetermined whether it was to be a success or not. The project was a new one. It was regarded by the majority of the people of my State, and I know not but by the majority of the people of the United States, as chimerical. Although young then, I have a lively recollection of hearing it said, that the men who invested their capital in the stock of this company were silly and were casting away the patrimony that their fathers had bestowed upon them. About the year 1830 the Camden and Amboy Railroad Company was incorporated; and among other things it was invested with all the rights, powers, and privileges necessary to perfect an expeditious and complete line of communication from Philadelphia to New York; and for that purpose to lay out and construct a railroad or roads from the Delaware river, between Cooper's and Newton's creek, which is on the New Jersey side of the Delaware river, to Raritan bay, a distance of some twenty or twenty-five miles from the city of New York, and to provide suitable steam or other vessels at either extremity for the transportation of passengers and produce from city to city.

That was the extent of the charter, and that declared the termini of the road. In 1831, this same road and the Delaware and Raritan canal, which had been incorporated about the same time, were united and formed into a joint-stock company, it having been discovered that the stock of the two, separately, could not receive the favorable consideration of the money market. The Senator from Massachusetts spoke of "confederated railroads." I know of no confederated railroads in New Jersey. I do know of the consolidation of this Railroad and Canal Company by an act which is familiarly known in the State of New Jersey as the marriage act. After that union of the two corporations, both were proceeded in and resulted in a successful completion. In 1832, the

Legislature of New Jersey passed the act containing the exclusive privilege granted to the Camden and Amboy Railroad Company referred to by the Senator from Massachusetts the day before yesterday. In order to be certain, I will read the terms of that act. By that act of 1832 it was enacted:

"That it shall not be lawful, at any time during the said railroad charter, (to wit, the Camden and Amboy,) to construct any other railroads in this State without the consent of the said company, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad authorized by the act to which this supplement is relative."

I state the act in its length and in its breadth in the way the Senator from Massachusetts stated it, in order that the friends of this bill may have the full benefit of it in this discussion, and also when they come to vote upon the question.

Now, Mr. President, the question at this time is not whether that grant of the exclusive privilege to the Camden and Amboy Company was wise or unwise, whether it was politic or impolitic. It makes, I may be permitted to remark, a great difference when you judge from different standpoints, or different periods of time. Standing here at this day I have not the slightest idea that the Legislature of New Jersey in 1865 would have granted an exclusive privilege of that kind to any company to construct a railroad across that State; but, sir, if we go back to 1830, in the infancy of this measure, when it was an experiment, when the men who embarked in it, and who had the bold and hazardous enterprise to risk their fortunes in it were denounced as hair-brained and madmen, we may find some little reason for it growing out of the desire of the Legislature of that State to procure the establishment of internal improvements there, at the nick of time when the General Government, under the veto by General Jackson of the Maysville road bill, had declared they did not intend to embark in any such enterprise any more. It was desirable for the purposes of commerce and trade and the transportation of passengers at that early day that there should be such lines of communication even across the insignificant State of New Jersey, as the Senator from Massachusetts would have it.

I may be permitted to remark here that this exclusive privilege granted to the Camden and Amboy Company will expire in 1869. It is now the year of grace 1865; and if this exclusive privilege has had a long life it is approaching its last sands. The limit will expire in 1869, and then I doubt not it will end, and end forever.

The road was built and put in operation more or less successfully, and so matters stood until 1852, a period of twenty years, without impeachment, without rivalry, without question, without particular complaint, so far as I know, from anybody. In 1852 the Camden and Atlantic—not the Camden and Amboy—Railroad Company was chartered by the Legislature of New Jersey. This was twenty years subsequent to the grant of this exclusive privilege to the Camden and Amboy Company. By their charter this company was authorized to construct a railroad from Camden, opposite the city of Philadelphia, in a southeasterly direction to a place called Absecon, on the sea-coast, on the Atlantic ocean, running at right angles with the route of the Camden and Amboy railroad between Philadelphia and New York. This company was authorized, in addition to the construction of a direct line of railroad between these points, to build two little lateral branches, one to a place called Batsto, which is about half way down the line of the road, about six miles northerly, and another to a place called May's Landing, about six miles south of the road, toward Cape May, southerly. That road was built, and its corporate powers were limited to the right to carry passengers and trade between those two points and upon these lateral branches. Now you will observe that this charter was granted in 1852 to this Camden and Atlantic Company, and accepted by them with full knowledge of, and subject to, the exclusive privilege which had been granted twenty years before to the Camden and Amboy Company; and it was not designed, from its route, and the privilege conferred upon it, to interfere in any way with the privileges conferred upon that company.

On the 3d of March, 1854, the Raritan and Delaware Bay Railroad Company was incorporated.